THE RIGHT TO EDUCATION AS CULTURAL IMPERIALISM: THROUGH THE LENS OF THE ONE LAPTOP PER CHILD PROJECT

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Abstract

This research uses the One Laptop per Child (OLPC) information technology educational project as a lens to examine the right to education. It was chosen as it purports to empower the children of the developing world to learn. The research looks at the ideological underpinnings and embodiment of Western values in the right to education. Specifically it looks at how those values are disseminated through human rights education and the imposition of a school system through which hegemonic power is exercised. It also enquires into the connection between information technology and education, through Information and Communication Technologies for Development (ICT4D), in order to assess the values which are embodied and promoted through this area of education. As educational development projects are specifically aimed at developing world countries, the methodological approach employed is the use of third world approaches to international law (TWAIL) as the conceptual framework of this critique. It depicts the cultural imperialist oppression of the developing world by the developed world shrouded under the promise of empowerment and development. It portrays this neo-colonialist device as part of the broader structure of international law which is built on economic disparity, subjugation and a colonial heritage.

The OLPC project is a useful lens in that it encompasses the rhetoric and ideology of ICT4D: education, development and technology, which are examined separately and together. Through TWAIL this research explores the argument that international perpetuates inequality in relation to development. It identifies cultural imperialism as a form of oppression in an educational context. It then attempts to assess whether empowerment is possible through an ICT4D approach. It uses the largest implementation of the OLPC project in Uruguay as the basis for this enquiry. As a result it finds that there is a strong correlation between education and cultural imperialism.

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Contents

Table of Authorities

Cases

D v. Refugee Appeals Tribunal Ireland [2011] IEHC 431

R (Ali) v Head Teacher and Governors of Lord Grey School [2006] 2 AC 363

R (Williamson and Ors) v Secretary of State for Education and Employment [2005] UKHL 15, [2005] 2 AC 246

Belgian Linguistics Cases (Nos 1 & 2) (No 1) (1967), Series A (5) (1979-80) 1 EHRR 241 (No 2) (1968), Series A (6) (1979-80) 1 EHRR 252

Campbell and Cosans v United Kingdom (1982) 4 EHRR 293

Costello-Roberts v United Kingdom (1993) 19 EHRR 112

D.H. and Others v The Czech Republic 57325/00 (ECHR, 13 November 2007-IV)

Dojan and Others v Germany Application Nos 319/08, 2455/08, 7908/10, 8152/10 and 8155/10 (2011) ECHR 153

Folgerø and Others v Norway Complaint No 15472/02 (2008) EHRR 47

Hasan and Eylem Zengin v Turkey Complaint No 1448/04 (2008) 46 EHRR 44

Kjeldsen, Busk Madsen and Pedersen v Denmark (1976) 1 EHRR 711

Leyla Şahin v Turkey (2007) 44 EHRR 5

Appel-Irrgang v Germany Application No 45216/07 (ECHR, 6 October 2009)

Association for the Protection of All Children (APPROACH) v France Complaint No 92/2013 (ECSR, 12 September 2014)

International Centre for the Legal Protection of Human Rights (INTERIGHTS) v Croatia Complaint No 45/2007 (ECSR, 9 April 2009)

Leirvåg and Ors v Norway Comm. 1155/2003, UN Doc. A/60/40, Vol II, at 203 (HRC 2004)

Oršuš and Others v Croatia Application No 15766/03, Application No 15766/03 (ECHR 16 March 2010)

Roma Children D.H. and Others v The Czech Republic Application No 57325/00 (ECHR 13 November 2007)

Antoine et al v. Winner School District US Civ. 06-3007 (United States District Court, South Dakota Central Division 12 December 2007)

Oliver Brown et al. v Board of Education of Topeka et al (1954) 347 US 483

Plessy v Ferguson (1896) 163 US 537

Agnes Wanjiru Kiraithe & Another v Attorney General & 2 Others (2014) Petition No 536 [2014] eKLR

Institute for Human Rights and Development in Africa (IHRDA) and Open Society Justice Initiative (on Behalf of Children of Nubian Descent in Kenya) v the Government of Kenya Decision No 002/Com/002/2009 (2011) ACERWC

Mitu-Bell Welfare Society v Attorney General and Two Others Kenya High Court [2013] eKLR

R. W. T. v S.N.S. School (2012) Petition No 290 [2012] eKLR

BLAST v Secretary of the Ministry of Education and Others (2011) Supreme Court of Bangladesh, High Court Division Writ Petition No. 5684 of 2010

Christian Education South Africa v Minister of Education (2000) 4 SA 757

Dzvova v Minister of Education Sports and Culture and Others Case No (91/06) [2007] ZWSC 26 J

Naushad Ali v. State of Fiji (2002 Lautoka High Court, Criminal Appeal No HAA 0083 of 2001)

Sawhoyamaxa Indigenous Community v. Paraguay (2006) IACHR Series C No 146

Sentencia No. T-440/92 Colombia (1992) Second Section of the Constitutional Court

The Centre for Human Rights (University of Pretoria) and la Rencontre Africaine pour la Défense des Droits de l'Homme (Senegal) against the Government of Senegal (2014) Decision No 003/Com/001/2012 ACERWC

Western Cape Forum for Intellectual Disability v Government of the Republic of South Africa & Government of the Province of Western Cape (Case no 18678/2007) High Court of South Africa, Western Cape

Legislation

Treaty of Westphalia 1648 (M̈unster and Osnabruck, Germany, entered into force 24 October 1648) 1 Parry 271; 1 Parry 119

International Convention for the Suppression of Traffic in Women and Children and Slavery (concluded at Geneva on 30 September 1921, as amended by the Protocol signed at Lake Success, New York, on 12 November 1947) 53 UNTS 39

League of Nations Slavery Convention 1926 (adopted 25 September 1926, entered into force 9 March) CHAPTER XVIII 60 UNTS 254

Minimum Age Convention 1919 (adopted 26 June 1973, entered into force 19 June 1976) C138

The Convention on the Rights of the Child 1989 (CRC) (adopted 20 November 1989, entered into force on September 2nd 1990) 1577 UNTS 3

Third Optional Protocol to the Convention on the Rights of the Child adopted by General Assembly Resolution 66/138 19 December 2011, in force on 14 April 2014) A/RES/**66/138**

The International Covenant on Civil and Political Rights (ICCPR) (adopted 16 December 1966 entered into force on 23 March 1976) 999 UNTS 171

The International Covenant on Economic Social and Cultural Rights (ICESCR) (adopted 16 December 1966 entered into force on 3 January 1976) 993 UNTS 3

African Union (AU) Convention on Cybersecurity and Personal Data Protection (adopted 27 June 2014) EX.CL/846(XXV)

 Charter of Organization of African Unity (OAU) (adopted 25 May 1963) 47 UNTS 39

The African Charter on the Rights and Welfare of the Child 1990 (ACRWC) (adopted July 1990, entered into force 29 October 1999) OAU Doc CAB/LEG/TSG Rev.1

The European Convention on Human Rights Protocol 1 1952 (adopted 20 March 1952, entered into force 18 May 1954) 213 UNTS 262, ETS 9

Declaration on the Granting of Independence to Colonial Countries and Peoples adopted by resolution 1514 (XV) 14 December 1960) UN Doc A/4684

GATs (General Agreement on Trade) in Services (15 April, 1994, Agreement Establishing the World Trade Organization Annex 1B, 1869) UNTS 183

Geneva Declaration of the Rights of the Child 1924 (adopted 26 September 1924, League of Nations) UN Doc A/4354

Identification of the Least Developed among the Developing Countries (United Nations resolution 2768 (XXVI) 18 November) 1971 A/RES/2768

Secretary-General report on Plan of Action for United Nations Decade for Human Rights Education beginning 1 January 1995, by resolution 49/184 of 23 December 1994 https://documents-dds-ny.un.org/doc/UNDOC/GEN/N97/008/02/PDF/N9700802.pdf?OpenElement accessed 6 December 2018

The Declaration of the Rights of the Child 1959 (United Nations General Assembly in Resolution 1386 (XIV) 20 November 1959) A/RES/14/1386

The United Nations Decade for Human Rights Education (General Assembly resolution 49/184, 23 December 1994) A/RES/49/184

The Universal Declaration of Human Rights 1948 (UDHR) (adopted 10 December 1948 General Assembly Resolution 217A (III) UN Doc A/810

Transforming our world: the 2030 Agenda for Sustainable Development (UN Resolution 70/1 adopted by the General Assembly 25 September 2015) A/RES/70/1

TRIPs (Agreement on Trade-Related Aspects of Intellectual Property Rights) 869 UNTS 299; 33 ILM 1197 (1994)

UNESCO Convention against Discrimination in Education 1960 (adopted 14 December 1960, entered into force 22 May 1962) 429 UNTS 93

United Nations Declaration on the Right to Development (adopted by the United Nations General Assembly resolution 41/128 1986) UN Doc A/RES/41/128

United Nations Millennium Declaration UN (Resolution 55/2 adopted by the General Assembly 8 September 2000) A/RES/55/2

Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights On 25 June 1993 A/CONF.157/23

World Child Welfare Charter (adopted 26 November 1924, League of Nations General Assembly)

The Data Protection Directive 95/46/EC

European Union RoHS Directive (2002/95/EC)

United States Privacy Act of 1974 (5 U.S. Code § 552a) www.justice.gov/opcl/overview-privacy-act-1974-2015-edition

List of Abbreviations

AAPC All-African Peoples' Conference

ACER Australian Council for Educational Research

ACRWC African Charter on the Rights and Welfare of the Child

AGESIC Agency for the Development of Electronic Government and the Information and Knowledge
Society

ANEP National Public Education Administration

ANII National Research and Innovation Agency

ANTEL National Telecommunications Administration

AS/COA (American Society) (Council of the Americas)

AU African Union

BIOS Basic input/output System

CDP Corporation for Productive Development

CEIBAL Conectividad Educativa de Informática Básica para el Aprendizaje en Línea

CEP Primary Education Council

CEPAL Comisión Económica para América Latina y el Caribe

CLS Critical legal studies

CODICEN Central Directing Council

CRC Convention on the Rights of the Child

CROC Convention on the Rights of the Child

CSR Corporate Social Responsibility

ECH Encuesta Continua de Hogares

ECHR   European Court of Human Rights

ECLAC   Economic Commission for Latin America and the Caribbean

ECOSOC   United Nations Economic and Social Council

EFA   Education for All

eLAC   Action Plan for the Information Society of Latin America and the Caribbean

EU   European Union

EVI   Economic Vulnerability Index

FOSS   Free Open Source Software

G1G1   Give one, Get one

GATT   General Agreement on Tariffs and Trade

GEV   Global Electronic Village

GNI   Gross National Income

GNP   Gross National Product

HAI   Human Assets Index

HRBA   Human Rights Based Approach to Development

ICCPR   International Covenant on Civil and Political Rights

ICESCR   International Covenant on Economic and Social and Cultural Rights

ICT   Information and Communication Technologies

ICT4D   Information and Communication Technologies for Development

ILO   International Labour Organization

IMF   International Monetary Fund

INE   Instituto Nacional de Estadística

IZA   Institute for the Study of Labour

LATU   Technological Laboratory of Uruguay

LDCs   Least Developed Countries

LEDC   Least Economically Developed Countries

LMG   Like-Minded Group

MDG   Millennium Development Goals

MEC   Ministry of Education and Culture

MIT   Massachusetts Institute of Technology

MLC   Methodist Ladies' College

NAIL   New Approaches to International Law

NAND   Not And (electronic logic gate)

NGO   Non-Governmental Organisation

NIEO   New International Economic Order

NSGTSs   Non-Self-Governing Territories

OAU   Organization of African Unity

OLPC   One Laptop per Child

OPEC   Organization of Petroleum Exporting Countries,

OSILAC   Observatory for the Information Society in Latin America and the Caribbean

PEAID   Programa de Equidad para el Acceso a la Información Digital

PISA   Programme for International Student Assessment

RoHS   Restriction of Hazardous Substances

SCIU   Save the Children International Union

TED   Technology, Entertainment and Design

TWAIL   Third World Approaches to International Law

UDHR   Universal Declaration of Human Rights

UIS   UNESCO Institute of Statistics

UK   United Kingdom

UN   United Nations

UNCT   United Nations Country Team

UNCTAD   UN Conference for Trade and Development

UNDP   United Nations Development Programme

UNESCO   United Nations Body of Education Science and Cultural Organisation

UNICEF   United Nations Children's Fund

UPE   Universal Primary Education

VOIP   Voice over Internet Protocol

WHO   World Health Organisation

Wiki   What I Know Is

WSIS   World Summit on the Information Society

WTO   World Trade Organisation

XO   Name of OLPC laptop symbolising the human form

XP   Windows operating system

Chapter 1: Introduction

Education is generally regarded as being very beneficial to society providing a means of acquiring knowledge, skills and overall development. In the International sphere education has had a lot of attention, particularly regarding access to schooling, focused largely on enrolment rates and equality of access. As a human right, education is considered to be an empowerment right, helping to develop the human personality to reach one's fullest potential, to lift one out of poverty and is also considered to be a vehicle for accessing other rights. As a right it covers all levels of education, but regarding State duty it obliges States to provide free and compulsory primary education as the minimum and then further fulfilment of the right according to the availability of the State's resources. This last aspect pointing to the disparity between developed and developing world nations regarding resources overall and specifically for education. This narrative in the international sphere has led to educational campaigns such as Education for All (EFA)[1] and others, as well as humanitarian aid in the form of school building, teacher training etc. It has also been about providing educational resources, and with technological developments this has meant the supply of Information and Communication Technologies (ICT) for education in developing world countries, such as computers, under the umbrella of ICT for development (ICT4D). Of many such educational initiatives, this research has specifically chosen the One Laptop per Child (OLPC) to use as a lens through which to examine the basis as well as the implications of combining the right to education with ICT4D.

Development is a central theme running throughout the thesis and binding the various elements together while maintaining the division between the developed and the developing world. It is thus the reason behind why the critical theory chosen to serve as the conceptual framework is one which calls attention to the inequalities suffered by the developing world through an international law order which maintains its colonialist roots; and that is Third World Approaches to International Law (TWAIL). As such the functionality of right to education is also explored as a

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[1] A UNESCO campaign to meet educational goals set in 2000 by 2015.

tool of international law for establishing a schooling system through which homogenising, culturally-loaded human rights values are exported to the developing world. Furthermore, this research aims to analyse the extent to which this amounts to a cultural imperialist tool of oppression, engaging as such with TWAIL theory in order to question the legitimisation of international law; focusing on a right which is not often called into question.

1.1 The One Laptop per Child Project

Initial interest in the One Laptop per Child as a choice of lens was that of the various information and communication technologies (ICT) educational projects which are being implemented around the world, this one aimed to be on a very large scale and with a further educational particularity. The project aimed to give all children a laptop computer as a means of access to education in the developing world countries. As such it would be contributing to developing states, which were initially to be the buyers of the '$100 laptop,'[2] to realise the right to education at least partially in terms of providing a portable medium even in remote areas where an organised learning environment, namely school, may not be available. The feature of the project, however, which set it most apart from other ICT projects and which made it most appealing to use, was that it aimed to provide 'technology-driven constructionist education,'[3] or empowered learning, meaning that it was based on the educational theory of 'constructionism'. This educational theory will be set out with more detail in chapter 3, as well as a more detailed description of the project. Briefly summarised, however, 'constructionism' is an empowering educational theory whereby the learner navigates through the learning process, constructing knowledge as they go. They are the key active participant as opposed to the passive recipient, the latter being the traditional model of education that is encountered more frequently. The OLPC project therefore should be understood as one aiming to not only provide developing world children with computer technology to learn but aims to change the educational method of learning in the developing world.

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[2] A term referring to the initially intended price.

[3] Walter Bender and others, *Learning to Change the World; The Social Impact of the One Laptop per Child* (Palgrave Macmillan 2012) 24.

The OLPC opened up various important issues in reference to the right to education and what it entails. First of all it raises the question of the definition of education and how ICT education fits into, expands or perhaps alters it. Related to this is also the question of the purpose of education, in terms of ICT education there is the argument that this education provides people with I.T. skills which are valuable in terms of the job market and economic investment of having an I.T. skilled population. The OLPC further raises the question regarding schooling and how the right to education can be realised without it. That is to say, it allows for a critical look at the degree to which education and schooling are synonymous in terms of the right to it, as the OLPC provides for an alternative setting of a virtual school of peers through a mesh network.[4] Furthermore as set out above the OLPC in setting out a different educational theory which is constructive, learner-focused, child-centric and personalised raises questions concerning the scope of the right and the various implementations of it in terms of a variety of educational theories. Moreover, it opens up the question of the educational theory's relation to the purpose which education is to serve, within the scope of human rights law, and whether it is a means to empower or disempower and condition peoples; a freedom or oppression dichotomy. These issues are addressed as they relate to the research question, and not on an individual basis which would require a much further depth.

The OLPC project as mentioned above began on the basis of being a large scale project. In that there was a minimum requirement of countries putting in orders of 1 million laptops, the reasoning for which that was initially presented[5] was that this would drive the price down both in terms of manufacturing and sales. It is a project set up by the founder of the Massachusetts Institute of Technology (MIT) Lab Nicholas Negroponte. The organisation has a non-profit status which was purposefully chosen in order for the 'clarity of purpose'[6] according to Negroponte.

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[4] Meaning that the XO computers can connect with one another and the children can collaborate using them. In some cases if there is a school with a server they can access the internet, providing signal even for those further away.

[5] Nicholas Negroponte, 'One Laptop per Child' *TED 2006* <www.ted.com/talks/nicholas_negroponte_on_one_laptop_per_child?language=en> accessed 6 December 2018.

[6] Nicholas Negroponte, 'One Laptop per Child, Two Years On' *TED 2007* <www.ted.com/talks/nicholas_negroponte_on_one_laptop_per_child_two_years_on?language=en> accessed 6 December 2018.

This was the reason he cites for having access to the Heads of States to whom he wished to convince to implement the project 'because I'm not selling laptops.'[7] It was the reason, he claims, that the OLPC entered into a Partnership with the United Nations (UN) and that the project was announced with Kofi Annan in 2005 at the Davos World Economic Forum which allowed them to reach all the countries. This partnership with the UN Development Programme, meant that the OLPC had the approval and status of partnering with the UNDP which also undertook to design and develop programmes for the OLPC to be implemented in schools in Least Developed Countries.[8] This was a significant endorsement of the OLPC as an ICT for development project. Negroponte stated during a TED (Technology, Entertainment and Design) talk in 2008 that as a non-profit 'You look at children as a mission not as a market.'[9] This approach of the project having a form of elevated moral standing, a feature common with the language of development in international human rights law, was a further reason behind choosing this project to be the lens through which to look at the right to education. This claim to moral superiority of international human rights law is criticised and analysed more closely by Mutua who sets it out as the Western constructed three dimensional compound metaphor of Savages-Victims-Saviours, which he argues is the damning metaphor which marks the human rights movement.[10] In this metaphor, very broadly stated, he argues, that the first dimension, the savages are depicted barbarically as savage states which have savage, evil, undemocratic culture preventing their development. The second dimension, the victims are human beings whose worth and dignity are violated by the savage state. Lastly the third dimension of saviours are the redeemers and civilisers who provide for the creation of the new society built upon a new culture free of tyranny and barbarianism. The Western construct of human rights law being the civilising saviour culture and the non-Western developing world being the savage states with the evil culture suppressing their victim members.

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[7] ibid.

[8] UNDP, '$100 Laptop Project Moves Closer to Narrowing Digital Divide' (28 January 2006) <www.mondialisations.org/php/public/art.php?id=22404lan=FR&lan=EN> accessed 4 January 2019.

[9] TED 2007 (n 6).

[10] Makau Mutua, 'Savages, Victims, and Saviors: The Metaphor of Human Rights' (2001) 42 (1) Harvard International Law Journal 201.

Negroponte stated in the first TED talk about the OLPC in 2006 that 'People really don't want to criticise this because it is a humanitarian effort'[11] which is the second aspect of this paradox which becomes apparent in the savages-victims-saviours metaphor for human rights; that the well-meaning intentions mean that questioning, let alone opposing such efforts is morally questionable itself and such criticisms will either be overlooked or outwardly rejected. In fact the OLPC project has received a number of criticisms, which will be set out in this thesis, and international human rights law has too, and as both appeal to an elevated morality, they open the door to moral questioning and criticism.

In terms of the OLPC project, Negroponte felt the need to redirect criticisms to whether or not it would be practically feasible to achieve, as this was what he perceived to be the biggest obstacle.[12] Almost ten years on there is more evidence by which to address this and assess the extent of the OLPC's achievement. Although in this talk, it appears that the scepticism at the time was mostly based on the physical aspect of the project, namely the XO Laptop. The various developments and the project's evolution, in terms of both the technological and educational components are presented in this thesis in order to provide a clear and accurate picture of the project. Although, it is the project's first and biggest deployment which is set out in chapter 7, as the paradigm OLPC project in terms of an ICT education project.

1.2 Third World Approaches to International Law
1.2.1 Methodology
The research question which this thesis poses is whether the Right to Education is used as a cultural imperialist tool of oppression as it is viewed through the lens of the OLPC. As set out above, the OLPC brings to light a number of aspects of the right to education which will be looked at critically in this thesis. The choice of the approach, and more specifically the critical legal discourse this research aims to participate in, was again guided by the OLPC project. The OLPC project was specifically aimed at a particular target group, namely it presented itself as an educational project for children in the developing world. Everything, beginning with the custom

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[11] TED Talk 2006 (n 5).
[12] ibid.

design of the laptop computer, designed as such to withstand living conditions in the developing world, to the explicit mission statement about empowering 'the children of the developing world to learn'[13] makes this apparent. Thus in deciding the critical theory which was to be employed in looking at the right to education, it followed that Third World Approaches to International Law (TWAIL) theory was the most appropriate. This choice was based on the rationale that the Western construct of ICT education as a proposed solution to the education 'problem' and its legitimisation in international law should be critically questioned before deciding whether to accept this view. The legitimisation being that many international bodies which serve to set, implement and monitor the international goals such as that of development are running and supporting ICT for development programmes. An example being the aforementioned UNDP partnership with the OLPC, despite the argument that many of the international organisations, such as the world bank, are acknowledging, that ICT has not been proven to be a solution that 'works'. The theory chosen therefore is representative of those for whom this approach is considered to be the proposed 'best solution' that is the third world.

TWAIL as a critical theory of international law is an approach which views 'international law as a regime and discourse of domination and subordination, not resistance and liberation'[14] and TWAIL serves as a 'dialectic of opposition'[15] to this view. Anghie and Mutua contend that it is a response to the decolonisation of the third world which took place after the Second World War. The domination which is addressed as being exercised by the developed world to the developing world is no longer in the form of colonisation but now takes the form of imperialism. In applying TWAIL to critique the right to education it follows that the aspect of imperialism focused on is that of cultural imperialism. Furthermore, the existence of cultural imperialism is not the point at which this thesis stops, as is set out in the research question. After all this is not where a TWAIL approach would stop in order to prove the hegemony of international law. Therefore, the thesis

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[13] Bender (n 3) 2.
[14] Makau Mutua and Antony Anghie, 'What is TWAIL?' 94 (Proceedings of the Annual Meeting American Society of International Law, April 2000) 31.
[15] ibid.

sets out to determine if and how this cultural imperialism through the right to education is oppressive, and to suggest how this may change.

The promise of Human Rights as set forth in the Universal Declaration, is that it is an embodiment of core values of and for all humans. According to Mutua, 'If human rights are to represent a higher human intelligence, they must overcome the seemingly incurable desire to universalize Eurocentric values by repudiating that which is different and non-European.'[16] The solution proposed by Mutua is that of 'inclusion- not exclusion- is the key to legitimacy;[17] and the first step toward inclusion, this thesis argues, is that the '*other*'[18] is given a voice. It is the disparity between the utopian vision of international human rights law and the reality of a world plagued by war, famine, poverty[19] and terror, which leads to this vision being questioned. This disparity is not only in the vision of what the world 'ought to be' but also in perpetuating the experience of the present.

The choice of conceptual framework is also a reflection of the author's own moral values put to question through the study of human rights, as well as the political views which have influenced the choice not only of the critique theory but also the choice of materials and method of analysis. The use of TWAIL is also based on an aim to further and contribute to the theory in order to strengthen the developing world's position in international law. Although TWAIL was initially omitted from the recognized methods of international law as set out in the symposium which appeared in the special edition of American Journal of International Law (AJIL) in 1999[20] as TWAIL scholars were not asked to participate. The symposium sought to provide a grasp of the major theories of international law and to see 'how they establish what the law is, where it might be

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[16] Makau Mutua, 'A Noble Cause Wrapped in Arrogance' *Boston Globe* (Boston, 29 April 2001).

[17] ibid.

[18] For a closer look at the cultural relativist argument of this see Sonia Harris-Short, 'Listening to 'the Other'? The Convention on the Rights of the Child' (2001) 2 Melbourne Journal of International Law 304.

[19] For an in depth look at poverty and its relation to human rights see Thomas Pogge, World poverty and human rights (Cambridge Polity Press 2002 reprinted 2005).

[20] Steven Ratner and Anne-Marie Slaughter, 'Appraising the Methods of International Law: A Prospectus for Readers' (1999) 93 American Journal of International Law 291.

going, what it should be, why it is the way it is, where the scholar and practitioner fit in, how to construct law-based options for the future, and whether it even matters to ask those questions.'[21] After the symposium and its subsequent publication, when the TWAIL scholars Anghie and Chimni were given the opportunity to contribute[22] it was included in the symposium's edited book.[23] Okafor concludes that TWAIL 'offers both theories of and methodologies for, analysing international law and institutions.'[24] In this article he assesses whether TWAIL fits into the definition of a theory and concludes that it undoubtedly amounts to such as it describes the behaviour of a set of social phenomena as well as predicting results in the future treatment of the third world by international law, as without a change it keeps producing the same oppressive results. Furthermore, it satisfies the testability requirement by providing arguments and propositions which are logical and testable, whether or not one chooses to adopt them. There is a diversity of opinions and approach within TWAIL which means that as a theory it is not entirely self-consistent. This, Okafor argues, is similar to other critical legal theories such as feminist[25] and Marxist legal theory.[26] A variety of TWAIL theories are used in this thesis to demonstrate various points, such as Anghie's theory as to the origins of international law[27] and contemporary empire set out in chapter 4 and Mutua's theory of human rights[28] in chapter 5 to name but a few. Charlesworth, who was asked to participate in the symposium on method in international law, as the feminist voice said 'Feminist methods seek to expose and question the limited bases of international law's claim to objectivity and impartiality and insist on the importance of gender

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[21] ibid 292.

[22] A. Anghie and B. S. Chimni, 'Third World Approaches to International Law and Individual Responsibility in Internal Conflicts' (2003) 2 Chinese Journal of International Law 77.

[23] Steven R. Ratner and Anne-Marie Slaughter (eds), The Methods of International Law (American Society of International Law, 2004).

[24] O. C. Okafor, 'Critical Third World Approaches to International Law (TWAIL): Theory, Methodology, or Both?' (2008) 10 International Community Law Review 377.

[25] "to proliferate "feminisms" (a white racist feminism?) in the face of women's diversity is the latest attempt of liberal pluralism to evade the challenge women's reality poses to theory, simply because the theoretical forms those realities demand have yet to be created." Catharine A. MacKinnon, *Toward a Feminist Theory of the State* (Harvard University Press 1989) xii.

[26] Okafor (n 24) 375.

[27] Antony Anghie, *Imperialism, Sovereignty and the Making of International Law* (Cambridge University Press 2005).

[28] As referenced above in his S-V-S metaphor of human rights.

relations as a category of analysis.'[29] As has been set out above TWAIL seeks to question international law's claim of impartiality and neutrality, and to expose the harmful effect this has on the third world, thus highlighting the third world as a category of 'others' warranting consideration and analysis. In using TWAIL theory to critically examine the right to education, this research aims to draw attention to the opposition of this particular world order which it argues is oppressive for the third-world. In order for the law to reflect a more realistic world view which will not be easily challenged by the perpetuation of Western views, culture and morality as the sole, superior voice; it needs to become more receptive and inclusive of voices providing for a wealth of cultures, experiences and realities. That is to say in denying such voices to be heard we become complicit in this perpetuation.

According to Bartlett 'A question becomes a method when it is regularly asked;'[30] this method means asking the 'woman question'[31] by identifying and challenging the areas of legal doctrine which exclude or hinder women as a group. In respect of TWAIL this is achieved by asking the Third-World question. TWAIL calls international law into question by conducting an analysis into a 'global (as opposed to merely West-centric) historicisation; on identifying continuities amidst the discontinuities that we behold; on centering the Third World (i.e. "the Rest and not merely the West"[32]); on being wary of glib universality narratives.'[33] In undertaking a critique of the right to education, there is also a critique of the OLPC project in order to determine the extent to which it can fulfil this very large promise it began with. Following the TWAIL approach, it becomes apparent that there are more similarities with the problematic nature of international human rights law, and less of this realisation of justice and fairness. Thus TWAIL is used both as a conceptual framework, and the material is approached by asking the third world question. This approach is taken consistently throughout the thesis, beginning from the analysis of the law and

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[29] Hilary Charlesworth, 'Feminist Methods in International Law' (Symposium on Method in International Law American Journal of International Law) (1999) 93, 379.

[30] KT Bartlett, 'Feminist Legal Methods' Harvard Law Review (1990) 4 (103) 837.

[31] Ibid 831.

[32] Obiora C. Okafor, 'Newness, Imperialism, and International Legal Reform in Our Time: A Twail Perspective' (2005) 43 (1) & (2) Osgoode Hall Law Journal 171, 178.

[33] Okafor Critical Third World Approaches to International Law (TWAIL) (n 24).

its underlying ideology which is perpetuated by the implementation of both international law and the non-binding goals and declarations set by the international bodies. It is further carried out regarding the various components of the research question, which is sought to be answered following the method which is set out by Mutua and Anghie.[34] According to this method, the aspect of international law which is causing injustice is first identified, and in doing so the next step is to focus on how this justice can be overcome to alleviate third world powerlessness, as is set out in more detail in chapter 4. Kasthala writes about the methodology of TWAIL in order to inform and develop ICL (International Criminal Law) methodology, and in doing so he points out that TWAIL does not have a single unifying methodology but rather various differing methodologis dependent on the historical context of each, but unified by the resistance to third world subjugation.[35] He also points out that TWAIL, much as Feminist Approaches to International Law are openly political and intellectual movements. That is to say, it is a clear from its stance of wanting to liberate the Global South from the perceived hegemonic and oppressive practices of international law, as to what the political views are.

The sources used within the thesis to answer the research question, are an unconventional mixture of academic and non-academic sources due to the nature of the 'marriage' of information technology and education through ICT4D. The use of non-academic sources was mainly employed in providing an account of the technological lens in chapter 3 and the assessment of the ICT4D paradigm of Uruguay in chapter 7. Regarding the former, the sources were generally the OLPC contributors and media reports, as there was a great effect on the technological market by the OLPC project. In regards to the latter, the sources were provided by governmental agency assessments, state university research and international agency assessments. The validity of these is necessarily therefore, is given due weight according to the context and 'agenda' of each. Though this is set out in the research and is a limiting factor, it was used as an opportunity to draw out and connect to the themes alluded to by the research question and to the academic analyses which are discussed within the thesis. That is to say, the

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[34] Mutua and Anghie (n 14) 36.
[35] Michelle Burgis-Kasthala, 'Scholarship as Dialogue? TWAIL and the Politics of Methodology' (2016) 14 Journal of International Criminal Justice 921, 932.

ideological basis for the right to education in human rights law, the developmental rhetoric of international law, and the opposition to the ever-established injustices pointed out by TWAIL.

 The material available in regards to the OLPC project was a decisive factor in terms of focusing on the single biggest deployment of the project to date. Although scholars have engaged with the project writing various assessments of it in different countries, there is a lack of uniformity and consistency in the approach and evaluation; and the OLPC team has admitted that 'Evaluating impact of projects this diverse is difficult, if not impossible. As it stands, if you believe in our approach, there are data to support your view; if you want to show that we're coming up short, you can find anecdotal data to support that position as well.'[36] Much of the research regarding the OLPC was therefore internet resources written by those directly engaged in the various deployments, raising various points which were not always considered by the sometimes governmentally funded and other times internationally funded research. It was considered appropriate to use the OLPC project as a lens, a platform of discussion rather than a case study trying to draw conclusions from inconsistent evidence[37]. The deployment in Uruguay concentrated the largest pool of evidence, although as most of it was provided for by the governmental body implementing the project. It is therefore, treated within the context of the Uruguayan aim for development and digitisation which is aligned with ICT4D and yet differs to the aims of education which are being explored in the present.

It is not possible to include all the voices and various sub-groups of *others* to whom the human right to education applies. Therefore the groups focused on are the neo-coloniser and the neo-colonised, and the transmission of ideas from the first group to the second by means of ICT education to the children. That is not to say that references are not made to sub-groups in order to attempt to ensure that a further biased narrative is not inadvertently created, particularly as the group is indeed very large and far-reaching. Furthermore the choice of the method would

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[36] Bender (n 3) 121.
[37] Neil Selwyn, '"Empowering the World's Poorest Children"? A critical Examination of One Laptop Per Child' in Neil Selwyn, Keri Facer (eds), *The Politics of Education and Technology: Conflicts, Controversies, and Connections* (Palgrave MacMillan 2013) 101.

differ had a different critical theory been chosen, such as a feminist approach for example. Although other critical methods have been insightful, this limitation in method is an inevitable one. Despite this limitation the theory chosen is also large and inclusive of the group, while leaving the room for further research to be carried out which would benefit this very large group of third world voices.

1.3 Structure

The thesis is structured by way of eight chapters; this introduction being the first chapter setting out the main themes of the thesis and connecting elements which may appear disjointed at first, as well as setting out the methodology employed to answer the research question. The second chapter sets out the development of the right to education through the various related international human rights instruments in order to highlight the ideology underlying these instruments and calling attention to the importance of schooling as an establishment by law of a system of power through which education is to be realised. Also it serves to link the right with ICT and the direction of development in international law which serves to demonstrate what the aims of education are and therefore how the right can be defined. Chapter 3 is devoted to the OLPC project in order to set out and clearly emphasise the project's relation to the right to education. Particularly as the title of the project emphasises the word laptop, and the organisation has repeatedly claimed that it is an 'education project not a laptop project' it was deemed necessary to adjust this preconception. The fourth chapter presents the concept of development in relation to the colonial structure of international law and points out the connection of the human right to education to the overall structure; in effect demonstrating Foucault's knowledge/power. In doing so it also aims to point out the necessity of the TWAIL theory applied. It draws on Mutua and Anghie's work on TWAIL as the fundamental basis of analysis of the research question and methodology. Chapter five is concerned with demonstrating cultural imperialism as a form of oppression according to Iris Young's five categories[38]. It also uses Freire's work[39] to show the manner and effect of this oppressive practice by schools. Chapter 6, follows on the discussion of cultural imperialism in chapter five and

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[38]Iris Young, 'Five Faces of Oppression' in Lisa Heldke and Peg O'Connor (eds) *Oppression, Privilege, & Resistance: Theoretical Perspectives on Racism, Sexism, and Heterosexism* (McGraw-Hill 2004).

[39] Paulo Freire, *Pedagogy of the Oppressed* (Penguin Books 1996).

discusses its relation to the wider umbrella of neo-colonialism. It uses the OLPC's theory of constructionism in order to establish whether it is possible for this process of cultural imperialism to be circumvented or overturned through the use of ICT education. The penultimate chapter 7 uses the OLPC deployment in the entire country of Uruguay, heralded as an example for other countries to focus ICT education[40] to assess the validity of the hypothesis that the right to education as seen through ICT for development is a form of cultural imperialism. The concluding chapter is some final observations as well as suggestions for a way forward to end cultural imperialism through the right to education.

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[40] Such as the South-South Knowledge Exchange and Study Tour on the Use of ICTs in Education. Uruguay – Armenia – Tatarstan (Russia) - Argentina <http://go.worldbank.org/LGN9SGCEL0> accessed January 3 2019.

Chapter 2: The Right to Education

2.1 Introduction

This chapter aims to introduce and critically engage with the legal instruments setting out the right to education in international law. As well as treaty law, it will outline related non-binding instruments such as the Geneva Declaration[1] and the Millennium Development Goals (MDGs)[2] as to offer further insight in the formulation and development of the right to education. The overall purpose of this chapter is to highlight the ideological underpinnings of the right to education in international law and to consider the developments which have ensued. That is to say, all the legal instruments set out below, many of which, to reiterate, are not binding, do contribute to an overall culture of the meaning, purpose and significance of education within international human rights law. The building of this culture is traced through the development of these mainly soft-law instruments and are of particular importance to this research, as it then narrows down to focus on an aspect of education which is indicative of the effects, trends and interpretations of the law as it is influenced by international bodies. That is to say, this research has chosen a technological project to use as a lens through which to look at the right to education and discuss the ideological basis upon which it is constructed. In doing so, it is aiming to further demonstrate the economic agendas and policies of the international bodies which are being furthered through education. The position taken herein is that such policies, when enshrined in legal instruments, lead to the maintenance of inequalities and a hegemonic world order.

In order to best serve the aims of this chapter, it has been structured by a small section briefly setting out the concept of childhood which the right to education is premised upon. This is followed by the main section setting out the international legal instruments concerning the right to education. The international instruments are analysed in three parts, based on Verhellen's

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[1] Geneva Declaration of the Rights of the Child 1924.

[2] United Nations Millennium Declaration UN Resolution 55/2 adopted by the General Assembly 18 September 2000; now replaced by Sustainable Development Goals UN Resolution 70/1 adopted by the General Assembly 25 September 2015.

conceptualisation of the right to education, according to which the right can best be understood as consisting of the right *to* education, rights *in* education and rights *through* education.[3] This structure, allows for methodological consistency, as the chapter takes a critical approach to the law and the literature related to it, rather than being a historical account or following a doctrinal approach. The documents are presented chronologically for the purpose of clarity as well as to guide through the development of the right to education in international law, providing insight into the ideological foundation of that right. It is preceded by a section briefly setting out the concept of childhood within international law, with which the right to education is inextricably linked. This too helps to enhance awareness and understanding of the ideological basis of the right, as it demonstrates the specific mind-set of the how children came to be viewed as a separate category of rights holders and the role of education regarding this perception.

2.2 The Concept of Childhood

Prior to setting out the underlying ideological basis of the right to education, it is worth briefly looking at the concept of childhood to which it relates. The reason being that the ideology behind the necessity for the right to education becomes apparent when one is aware of the Western concept of childhood which it enshrines. As Van Bueren reminds us, 'Childhood is a relative concept which changes according to local culture, the geographical environment and the prevailing social and economic conditions.'[4] Childhood as well as education and other related concepts are terms with very significant and yet varying meanings according to the determining factors set out above, and they are also concepts which can fluctuate or develop over time. Nonetheless, it becomes apparent as one chronologically follows the human rights instruments that the law has ascribed definitions to those concepts according to the dominant culture which it embodies. For example, prior to the Convention on the Rights of the Child 1989, there was no international law instrument which viewed children as a separate category of humans, entitled to be rights bearers. This is indicative of the social structure in other parts of the world, in the

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[3] Eugene Verhellen, 'Children's Rights and Education: A Three-Track Legally Binding Imperative' (1993) 14(3) School Psychology International 199.

[4] Geraldine Van Bueren, *The International Law on the Rights of the Child* (Martin Nijhoff 1994) 6.

middle ages, where children were not viewed as a separate social group.[5] Such a distinction became present in the eighteenth century and was geographically located in the global North, where the child was viewed as a not-yet-formed, adult.[6] The first piece of legislation presented below, the Geneva Declaration 1924, which first declares the rights of the child, does not encompass a right to education and is more telling as to the change in Western mind-set regarding childhood. It is thus the instrument which best demonstrates the concept of childhood which is foundational to the right to education.

2.2.1   The Geneva Declaration of the Rights of the Child 1924 (Declaration of Geneva)

The Geneva Declaration of the Rights of the Child 1924 predates the Universal Declaration of Human Rights 1948 and was the first International document to provide welfare to children who were orphaned or displaced by World War I. It is not created as a binding treaty, yet its significance lies in the fact that it contains five basic principles to provide children with the means for 'normal development'[7] in order for them to become fully functional adults: 'The child must be brought up in the consciousness that its talents must be devoted to the service of fellow men'.[8] This last principle, sketching out the role of education in instilling principles as a means of social control. The extreme opposite of this, principle which was meant to educate the not-yet-formed adults in social responsibility can be demonstrated later in history, by Hitler's youth who according to Baldwin in his 'Talk to Teachers',[9] 'when educated to the purposes of the Third Reich, became barbarians.' The paternalistic approach is apparent in this Declaration, as the five principles are directed at what the adults should do, is an indication of the period[10] and the place

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[5] E. Verhellen 'The Convention on the Rights of the Child: Reflections from a Historical, Social Policy and Educational Perspective' in W Vandenhole, Ellen Desmet, Dider Reynaert, Sara Lembrechts (eds) *Routledge international handbook of children's rights studies* (Routledge London 2015).

[6] ibid at p 45.

[7] (spiritual and material) Geneva Declaration of the Rights of the Child 1924, Principle 1.

[8] Geneva Declaration Principle 5.

[9] James Baldwin, 'A Talk to Teachers' Delivered 16 October 1963, as 'The Negro Child – His Self-' *The Saturday Review* (New York, 21 December 1963) reprinted in *The Price of the Ticket, Collected Non-Fiction 1948-1985* (Saint Martins 1985) 325.

[10] Geraldine Van Bueren (ed), *International Documents on Children* (2nd edn, Martin Nijhoff 1998) xv argues that this and other international instruments of the 1960's regard children as objects of international law in need of adult protection.

of its origin.[11] That is apart from the principles aimed at development, and upbringing, there are also the duties to feed the hungry, care for the sick, orphaned and disabled child, to offer the child first, relief in a time of distress and finally to enable the child the position to earn a livelihood without being exploited.[12] That is to say, it was drafted by Eglantyne Jebb, the founder of the United Kingdom's Save the Children Fund in the aftermath of World War I.[13] She had documented the effect of that war on children, and had wanted to tend to every child regardless of the side their parents had fought on, believing that there was no such thing as 'an enemy child'.[14] The principles of the Save the children Fund were adopted by the Save the Children International Union (SCIU) in Geneva, on 23 February 1923; they were then endorsed by the League of Nations General Assembly on 26 November 1924 as the World Child Welfare Charter. It is also important to note that the Declaration does not place the obligation on states to uphold these five principles but on the 'men and women of all nations' treating children as 'objects and not the subjects of international law'.[15] Nonetheless, as Van Beuren points out this Declaration is a very significant part of international law as it established the rights of the child at an international level and, furthermore, it did so 24 years before the codification of human rights.[16] It can be said that children were identified by international law as being in need of protection regarding labour in 1919 by the Minimum Age (Industry) Convention as well as sexual exploitation in 1921 by the International Convention for the Suppression of Traffic in Women and Children and slavery by the League of Nations Slavery Convention of 25 September 1926,[17] which is carried forth in principle 4. The first view of children as a separate category of human beings by the Declaration of Geneva, arose from a period of the aftermath of war, in which they were seen as vulnerable objects in need of adult protection and welfare rather than the holders of rights. Setting children

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[11] Although this argument is limited to this specific instrument and not all the international law instruments where, as Trevor Buck, *International Child Law* (3rd edn, Routledge 2014) 5 argues the aim of universal norm-creation 'may not necessarily be consistent with the core notion of childhood prevalent at any one time in history'.

[12] Geneva Declaration Principles 2, 3 and 4.

[13] <www.savethechildren.org/site/c.8rKLIXMGIpI4E/b.6354847/k.2DD5/The_Woman_Who_Saved_the_Children.htm> accessed 6 December 2018.

[14] <www.fundinguniverse.com/company-histories/united-nations-international-children-s-emergency-fund-unicef-history/> accessed 6 December 2018.

[15] Van Bueren (n 4) 8.

[16] ibid.

[17] Van Bueren (n 10).

apart in a separate category and delineating their relationship to the adult category of men and women as one of complete dependence, imported a notion of childhood which, although characteristic of the time and place it arose from, was not universal at the time. This, lack of universality, however, did not prevent the Declaration from providing the basis upon which subsequent international child law was built.

2.3 The International Instruments Regarding the Right to Education

2.3.0 Methodological approach to the Analysis of the Instruments

The international instruments will be analysed in relation to Verhellen's three-part conceptualisation of the right to education, though always with a view to draw out the ideology behind the way each instrument envisages the right. The first part regarding the right *to* education, will look at the article within the international instrument, conferring it.

It is worth mentioning the purpose of the right to education according to Nowak, reflects two key matters central to all peoples and cultures, these being 'to transmit to the young the technical skills necessary, to master the tasks of daily life as well as the religious, philosophical, cultural and social values of the respective peoples and societies.'[18] The burden of transmitting these values fell on the parents and the church, and this only changed with socialism which moved the burden of education to the state and was first set out as an explicit right[19] by Stalin's Soviet Constitution, in 1936.[20] This was the trend in the European States in the 19th Century where the right to education figured prominently, according to Nowak, as a human right 'in all constitutions of socialist States as well as in the socialist theory of human rights'.[21] Thus the right to education is a demonstration of the dominant philosophical, political and economic visions of the time, and tracing the international instruments, we gain insight as to the changes in the underlying ideology. The three-part conceptualisation helps to delineate the right in each instrument more fully.

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[18] Manfred Nowak, 'The Right to Education' in Eide, Asbjorn (eds) *Economic, Social and Cultural Rights: a Textbook* (Martinus Nijhoff, 1994) 190.
[19] Article 121.
[20] Constitution adopted at the Extraordinary Eighth Congress of Soviets of the U.S.S.R. 5 December 1936.
[21] Manfred Nowak, 'The Right to Education' (n 18) 192.

The second part related to rights *in* education is concerned with children's rights within education and within the institutions providing them with an education. An example of this is the right to free from the use of corporal punishment in schools[22], as well as the right to be afforded particular opportunities in education, such as access for special education needs.

The third part of the conceptualisation, looking at rights *through* education addresses what is often call human rights education, which is the case of educating adults about children's rights, as well as educating children about their rights. This three-part view of the right to education, helps to briefly disassemble it and view the various parts which it is made up of and the manner with which they relate together to operate. All three parts, are drawn on in this thesis, with heavier emphasis being placed on the first part in this chapter in order to best present the right to education and demonstrate the ideology enshrined in the right.

To compliment the above conceptualisation, there will be reference to the Special Rapporteur Katarina Tomaševski's Right to Education Primer No. 3 which she sets out governmental obligations into a widely recognised 4-A Scheme.[23] This was written to clearly set out State obligations under the right to education in the Convention on the Rights of the Child, yet it is the best analysis of these four elements and thus included here. Again these are draw on in respect to the three-part division of the right *to* education, rights *in* and *through* education. Regarding the right *to* education, the two A's relevant are Availability and Accessibility.[24] In terms of Availability, governments are to make funds available to fulfil their obligations, provide schools proportionate to the number of children ensuring that both state and private institutions provide for a quality of education.[25] In providing schools they must also provide teachers who are suitably trained to teach, let alone in the language of instruction, who have been fairly recruited without

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[22] Campbell and Cosans v United Kingdom (1982) 4 EHRR 293.
[23] K. Tomaševski, *Right to Education Primers No. 3: Human rights obligations: making education available, accessible, acceptable and adaptable* (Raoul Wallenberg Institute of Human Rights and Humanitarian Law 2001).
[24] ibid Box 1, 12.
[25] ibid 23.

discrimination, gender or otherwise and whose labour and trade union rights are respected.[26] Accessibility is governed by the human rights principle of non-discrimination, therefore it focuses mainly on the elimination of legal and administrative barriers, financial obstacles, discriminatory denials of access and obstacles to compulsory schooling. The focal point in this primer is making education accessible to girls, which it is suggested can be achieved by providing parents with incentives to invest in their daughters' education.[27] These will be set out in more detail, according to their relevant sections. In interpreting the States obligations the Committee states that the right to education imposes three types or levels of obligations 'the obligations to respect, protect and fulfil. In turn, the obligation to fulfil incorporates both an obligation to facilitate and an obligation to provide.'[28]

2.3.1 The Universal Declaration of Human Rights 1948 (UDHR)
The Universal Declaration of Human Rights is an aspirational document, in that it sets 'a common standard of achievement for all peoples and all nations'[29] without being legally binding. It was adopted by the UN General Assembly on 10 December 1948, as a result of the experience of World War II.[30] It has been widely recognised as having played a significant part in influencing subsequent human rights instruments and it is said to have inspired states to have implemented human rights in their national legislation, promoting peace, developing friendly relations among nations as well as helping to guide courts in interpreting law both in national and international courts.[31] It has particular significance for this study, as it was the first international instrument which encompassed the right to education, albeit without imposing a specific legal obligation on states. It includes all three aspects of Verhellen's conceptualisation of the right to education as will be indicated.

The right to education is set out in Article 26, whereby:

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[26] ibid 24, 25.
[27] ibid at p27.
[28] ibid.
[29] Preamble of the UDHR 1948.
[30] Malcolm Shaw, *International Law* (fourth edition) (Cambridge University Press 1997) at p 201 and 202.
[31] Asbjørn Eide, 'The historical significance of the Universal Declaration' (1998) 50 International Social Science Journal p 475.

(1)   Everyone has the right to education. Education shall be free, at least in the elementary
and fundamental stages. Elementary education shall be compulsory. Technical and professional
education shall be made generally available and higher education shall be equally accessible to
all on the basis of merit.

As the significance in this chapter is the ideological aspect which is envisaged by the various instruments, the background of the UDHR is regarded as pertinent to the demonstration of this ideology. The UN member states who voted on the UDHR numbered 56 states, with 48 states voting in favour and 8 abstentions.[32] UN membership currently stands at 193 member states,[33] an increase of 137 member states, which is illustrative of a more decolonised representation of states. Consequently the dependent territories at the time in Africa and Asia did not participate in the drafting process.[34] Furthermore the defeated Axis (Japan, Germany, Italy and their allies) were also excluded from drafting of the UDHR.[35] Therefore in discussing this instrument, foundational to all universal human rights, it is recognised herein as being 'universal in the sense that adoption is open to states from all parts of the world', but not universal in the sense of being representative of all states of the world.[36] This point of the universality of human rights is the basis of contention amongst legal scholars regarding the true universality of rights,[37] and led to the polarised debate between Universalists and Cultural Relativists.[38] Mutua argues, that denial of the fact that the UDHR core is representative of Western European Liberal values, and the resistance to openly address them as such, 'is the greatest obstacle to the efforts to bring about

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[32] Saudi Arabia, South Africa, the Soviet Union, Poland, Ukraine Soviet Socialist Republic (SSR), Yugoslavia, Czechoslovakia and Belorussian (SSR).

[33] <www.un.org/en/member-states/index.html> accessed 6 December 2018.

[34] Makau Mutua, 'The Ideology of Human Rights' (1995-1996) 36 Virginia Journal of International Law 589, 590.

[35] Steiner (ed), Alston (ed), Goodman (ed), *International Human Rights in Context* (3rd edn Oxford University Press 2008) 141.

[36] Louis Henkin, 'International law: politics, values and functions' in Steiner(ed), Alston(ed), Goodman(ed) ibid 135.

[37] Dianne Otto, 'Rethinking the Universality of Human Rights Law' (1997) 29 Columbia Human Rights Law Review 1.

[38] The description set out here is the position which can be characterised as radical universalism and radical cultural relativism according to Jack Donnelly, 'Cultural Relativism and Universal Human Rights' (1984) 6 Human Rights Quarterly 400.

true universalisation'.[39] The point of relevance to this chapter is to draw attention to the underrepresentation of nations thus calling to question the misrepresentation of universality in ideological concepts, in that a word such as education may have a very different meaning relative to the culture which is interpreting it.[40]

Regarding to rights *in* education, the Rapporteur's primer No. 3 specifies that it is to be achieved through Acceptability.[41] This is concerned with parental choice of education for their children according to their own religious and philosophical convictions. The third part of article 26, states '(3) Parents have a prior right to choose the kind of education that shall be given to their children.' The debate in drafting this part of the article was centred on a choice between the parents or the State being responsible for determining the kind of education.

The choice of the Parents over the State was made on the basis of the WWII experience with the Nazi youth having received an education by the State, and yet in a 'spirit' which was 'contrary to the human rights idea,'[42] therefore leading to consequences demonstrated by the case law in reference to the European Convention on Human Rights mentioned below.

Verhellen, focuses on the promotion of human rights *through* education, otherwise known as human rights education. That is to say where States are under the obligation to make their citizens familiar with the rights conferred to them by the human rights instruments, but also to nurture an overall human rights culture. The second part of article 26 sets out what the right is aimed at, and apart from this being limited to the individual person it affects, it adds a crucial element which has been reproduced in subsequent instruments, and that is the emphasis on human rights education.

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[39] Makua Mutua, 'The Complexity of Universalism in Human Rights' in András Sajó (ed) *Human Rights with Modesty* (Martinus Nijhoff 2004) 54.
[40] Such as 'democracy' having a relative meaning, as argued by Martti Koskenniemi, 'The Police in the Temple, Order, Justice and the UN: A Dialectical View' (1995) 6 European Journal of International Law 325, 343.
[41] Tomaševski (n 23) 12.
[42] Kate Halvorsen, 'Notes on the Realization of the Human Right to Education' (1990) 12(3) Human Rights Quarterly 341, 352.

(2) 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.

This aspect is of great importance to the role of the right to education, as is demonstrated this inclusion in article 26 and the campaigning to this end by the international bodies. The United Nations General Assembly, close to the UDHR's fiftieth anniversary proclaimed the United Nations Decade for Human Rights Education beginning 1 January 1995, by resolution 49/184 of 23 December 1994.[43] This also included a plan of action by which State, institutional, Non-governmental actors would engage, in the formulation and implementation of effective strategies to further human rights education.[44] Subsequently in 2004, the General Assembly proclaimed the World Programme for Human Rights Education (2005-ongoing),[45] whereby efforts would be targeted at specific groups and the efforts would be carried out in consecutive phases. This element of the right to education is inextricably and fundamentally attached to human rights as it provides for the means of the pursuance of the furtherance of such rights and their universal dissemination. The very reasoning fuelling such efforts to educate people in the language and culture of human rights, otherwise referred to as rights through education, implies that the universality of rights does not yet exist substantially[46] despite the image portrayed by international law, and even more so that it does not exist at a universal level conceptually either. That is to say that it is a culture and a set of values which needs to be taught and incorporated into various cultures around the world as it is not already present, and was not already present at the time of the UDHR. As an extension of this argument, if human rights are not already present in the multitude of cultures around the world, then it becomes reasonable to question whose

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[43] <www.ohchr.org/EN/Issues/Education/Training/Pages/Decade.aspx> accessed 6 December 2018.
[44] Secretary-General report on Plan of Action <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N97/008/02/PDF/N9700802.pdf?OpenElement > accessed 6 December 2018.
[45] <www.ohchr.org/EN/Issues/Education/Training/Pages/Programme.aspx> accessed 6 December 2018.
[46] 53 per cent of children out of school are girls according to the *Global Education Monitoring Report 2016 Gender Review* (UNESCO 2016) 15.

culture they are an embodiment of, and why should humans be so accepting of standards borne out of power politics which many did not participate in. The debate as to the universality or cultural relativity of human rights, is indirectly related to the thesis question which is concerned with whether the right to education is a form of cultural imperialism, developed further in subsequent chapters.

2.3.2 The European Convention on Human Rights Protocol 1 1952

In terms of human rights law in Europe, which are safeguarded by the European Convention on Human Rights binding its State Parties, and specifically in regards to education, the right is addressed in Protocol 1 of this Convention on Human Rights Article 2 which states:

> No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

In respect to the first sentence of the article, this negative phrasing[47] reflects the fact that at the time all the European Member States had an established educational system. The UK Parliamentary Under-Secretary of State, Department for Education and Skills (Lord Adonis)[48] stated that 'Its primary objective has therefore been held to be to guarantee a right of equal access to the existing educational facilities.' Therefore setting out the two fundamental elements of the right *to* education which are Availability and Accessibility.

The case law of the European Court of Human Rights has played a significant role[49] in interpreting and clarifying the meaning of article 2, and further addressing the rights *in* education. An example of this is the case law concerning corporal punishment, which was addressed in the case of

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[47] Which States, including the UK argued to establish as a negative as opposed to a positive obligation, see Lord Bingham in R. (Ali) v. Head Teacher and Governors of Lord Grey School [2006] 2 AC 363.
[48] HL Deb 17 Oct 2006, vol 685, col 656.
[49] Also noted by Lord Adonis ibid.

Campbell and Cosans v United Kingdom,[50] in which state schools in Scotland retained the use of corporal punishment, and the Court explained the terms 'education' and 'teaching' as follows: 'the education of children is the whole process whereby, in any society, adults endeavour to transmit their beliefs, culture and other values to the young, whereas teaching or instruction refers in particular to the transmission of knowledge and to intellectual development'.[51] The Court found there had been both a violation of the first sentence of the Protocol by the boys being prevented from attending school by reason of suspension, and there was also a violation of the second sentence by which the State did not respect the parents' objection to the corporal punishment at school. Lord Bingham in *R. (Ali) v. Head Teacher and Governors of Lord Grey School,*[52] where the claim concerned unlawful exclusion from school for a period, in attempting to determine the content of the right to education and the scope of the obligation, also made reference to this negative formulation and the fact that it does not impose an obligation on the State to establish a particular system of a particular type or standard, rather that the persons subject to it, 'avail themselves of the means of instruction existing at a given time'.[53] Despite the negative phrasing the ECHR addressed the issue in *Leyla Şahin v. Turkey*[54] where the question was whether the right to education applied also to higher and university education. The court held that due to the importance of the right to education in furthering human rights, and thus rights *through* education, 'it would be hard to imagine that institutions of higher education existing at a given time do not come within the scope of the first sentence of Article 2 of Protocol No 1'.[55]

The second sentence concerns the State's respect for the parent's right to have their children educated according to their own religious and philosophical convictions. As far as that provision is concerned, the leading case in ECHR case law is the *Belgian Linguistics Case*[56] which concerned

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[50] (n 22).
[51] ibid § 33.
[52] [2006] 2 AC 363.
[53] ibid.
[54] (2007) 44 EHRR 5.
[55] ibid para 137.
[56] Belgian Linguistics Case (Nos. 1 & 2): (No.1) (1967), Series A(5) (1979-80) 1 EHRR 241; (No.2) (1968), Series A(6) (1979-80) 1 EHRR 252.

French-speaking Belgian parents who wanted their children to be taught in French. The court held that as the right to education is phrased negatively, it does not as such provide for the right for children to be taught in a language of their own or their parent's choice, as French was not even the official language of the region. In cases addressing the second sentence of P1-2, the Court has applied a test whereby the State 'must ensure that information or knowledge included in the curriculum is conveyed in an objective, critical and pluralistic manner. If this is not the case, the State authorities are under an obligation to grant children full exemption from the lessons in accordance with the parents' religious or philosophical convictions'.[57] This reasoning has been applied in cases concerning sex education;[58] ethics classes which offended parent's religious beliefs;[59] a refusal to exempt a State school pupil whose family was of the Alevi faith from mandatory lessons on religion and morals;[60] and refusals by domestic authorities to grant children full exemption from a compulsory subject in Christianity, Religion and Philosophy clashing with the convictions of non-Christian parents.[61]

In Europe, the right to education effectively means access to the established educational system of each State, without any evaluation, judgement or intervention on the established State system. This has been safeguarded well by the developed world states as evidenced by the phrasing of the law. Furthermore, it carries forth the European experience of the Second World War, in regards to the State having to respect the parent's religious and philosophical convictions. When we regard the broader international law system, it is apparent that Europe was a strong proponent of securing the aspect of schooling, as will also be demonstrated by the Millennium Goals and EFA, which was its established system. This is not the case for the developing world, to which this system was to be exported, despite Europe's previous efforts of exporting this system to its colonies. This aspect of goal setting, regarding the right to education, in international law which is unequal from the outset will be discussed further in later chapters.

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[57] Folgerø and Others v. Norway [GC], no. 15472/02, EHRR (2008) 47.
[58] Kjeldsen, Busk Madsen and Pedersen v Denmark (1976) 1 EHRR 711.
[59] Appel-Irrgang v. Germany App 45216/07 (ECHR, 6 October 2009).
[60] Hasan and Eylem Zengin v. Turkey, (2008) 46 EHRR 44.
[61] Folgerø (n 57).

2.3.3   The Declaration of the Rights of the Child 1959

This Declaration was adopted unanimously by all 78 Member States of the United Nations General Assembly in Resolution 1386 (XIV) on 20 November 1959. This was the date chosen by the General Assembly by resolution 836 (IX) of 14 December 1954 to be Universal Children's Day, which is also the date that the subsequent Convention on the Rights of the Child 1989 was adopted. It contains ten principles, as opposed to the five contained in the Geneva Declaration. The principles regarding education are: Principle 5, which refers to the child who is 'physically, mentally or socially handicapped'[62] who shall be given the education 'required by his particular condition'.[63] According to Principle 7 the child is 'entitled to receive education, which shall be free and compulsory, at least in the elementary stages'.[64] This Declaration provided the basis[65] for the subsequent Convention on the Rights of the Child. Although non-binding, its significance lies in the call for recognition of these principles and for their incorporation into legislative and other related measures. As set out in the introduction, declarations such as this are included in this account of the right to education, in order to follow the development and establishment of it in international law. This Declaration provides for a further account of the right based on the established Western European model already in place. The two principles enshrining both Availability, in requiring education to be free and compulsory in principle 7 and Accessibility in making education accessible to all by way of principle 5 limits this declaration's scope to the right *to* education.

2.3.4 UNESCO Convention against Discrimination in Education 1960

This convention was adopted[66] after the right to education was secured in international law as an added emphasis on the principle of non-discrimination in education. The necessity of this separate Convention highlighting a significant amount of disparities in access to education. It has been particularly influential in setting out the various forms of discrimination which need to be protected against within the right to education and is referred to in the Education Primer no. 3.

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[62] The Declaration of the Rights of the Child 1959.
[63] ibid.
[64] ibid.
[65] Termed the 'conceptual parent' by Van Bueren (n 4) 14.
[66] General Conference eleventh session (Paris, 14 December 1960).

It also promotes one of the fundamental values of human rights, which is that rights ought to be enjoyed without discrimination and thus relates to rights *in* and *through* education. Thus it creates moral and political responsibilities, more than any legal ones, although it is significant in standard-setting.

According to Article 4 (a) States party undertake:

> To make primary education free and compulsory; make secondary education in its different forms generally available and accessible to all; make higher education equally accessible to all on the basis of individual capacity; assure compliance by all with the obligation to attend school prescribed by law.

With respect to rights *in* education, we are addressing matters of Acceptibility, such as minimum safety standards regarding the educational facilities, language of instruction, freedom from censorship and such. It is also concerned with Adaptability, as set out in the Primer, and refers to the evolution of the education process regarding both content and process.[67] The primer makes direct reference to children who the State is obliged to include in the educational system such as minority children, indigenous children, working children, children with disabilities, child migrants and travellers. As well as these groups of children to have their own right to education realised, the Rapporteur also states 'The way in which children perceive their own community and the world at large is influenced by the presence and absence of particular people and phenomena within the system of education.'[68] The State in realising this obligation touches on the overlap of Adaptability in rights *through* education.

The provision for human rights education can be found in Article 5(1). This Article begins with the familiar provision about human rights education 5(1)(a):

> 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

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[67] Tomaševski (n 23) 31.
[68] ibid.

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;

The significance of this Convention, regarding the right to education, as it relates to the thesis is unfortunately limited. That is to say, it addresses matters of discrimination within the right to education, whereas this thesis questions whether the right to education is culturally imperialistic, and hence discriminatory. The underlying ideology within this convention is that the right to education itself is beneficial, and as a tool for the promotion of human rights, it is a means of resistance and resilience to the various forms of discrimination. Nonetheless, this follows a narrative which uses language 'as a point of reference'[69] to promote a very specific ideology which this thesis aims to question. Peters, for example, discusses education of disabled children and youth, using Foucault's effective history[70] to review this convention and other such policy setting documents, to reveal the educational inequalities for people with disabilities. This convention contributes to the furtherance of an underlying ideology foundational to education, which overlooks the inherent contradiction that human rights culture may be dominant but is not universal. It applies a very specific approach to 'discrimination' overlooking the discriminatory effect on the 'others' who are excluded or marginalised by the economic policies of development,[71] which the international institutions are promoting under the umbrella of human rights culture.

2.3.5 The ICCPR and ICESCR 1966

The International Covenants on Civil and Political Rights and Economic and Social and Cultural Rights were both adopted and opened for signature on 16 December 1966 by the General Assembly, and they entered into force on 23 March 1976, and 3 January 1976 respectively. Under the International Covenant on Civil and Political Rights the only article which makes mention of the right to education, article 18(3), states:

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[69] Susan J Peters, '"Education for All?" A Historical Analysis of International Inclusive Education Policy and Individuals with Disabilities' (2007) 18(2) Journal of Disability Policy Studies 98, 100.
[70] Michel Foucault, 'Nietzsche, Genealogy, History' in D. F. Bouchard (ed), *Language, Counter-Memory, Practice: Selected Essays and Interviews* (Cornell University Press 1977).
[71] Peters (n 69) 106.

The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.[72]

As a civil and political right, the entitlement belongs to the parents, and the children are completely passive. While it is a legally binding Covenant, regarding the right to education, States are limited to respecting parents' convictions. The International Covenant on Economic and Social and Cultural Rights in Article 13, sets out a broader account, falling under all three parts of Verhellen's conceptualization. As will be demonstrated, the significance of this Covenant is in standard-setting and is a very influential piece of soft law. It recognizes the right of everyone to education 'Primary education shall be compulsory and available free to all.'[73] It addresses rights in education by making reference to the minimum standards which are to be laid down by the states and makes provisions for secondary and higher education. Furthermore, it provides for rights through education by relating the right to education with the promotion of human rights and fundamental freedoms.[74] Article 14 compels state parties 'to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all' in the case where they do not already have free primary education. In terms of the parents it takes a similar approach:

The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as

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[72] Article 18 (3) ICCPR.
[73] Article 13 (2) (a) ICESCR.
[74] Article 13 (1).

may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.[75]

This is a more balanced approach to the right of education, in terms of the balance between the rights of the parents and the power of the state, and although the provisions are much more 'child friendly' they are not particularly 'child-centric'. Briefly put, child-centric education is based on the educational theories of Vygotsky[76] and Piaget, which view the child at the center of the educational experience, actively learning and constructing his or her own knowledge, which will be looked at in more detail in the following chapters. It is not after all the children's philosophical or religious beliefs which are taken into account let alone that govern their choice of education. However, we must emphasize that although the State is under an obligation to respect the parent's religious and moral convictions, it is not under a duty to provide schools which offer instruction in such. Also the 'duty to respect parental preferences in the matter of religious and moral education, does not extend to other aspects of the curriculum.[77] This approach has also been followed under the European Convention of Human Rights Protocol 1 Article 2, as the case law evidences.[78] Article 2 (1) also imposes the obligation on the states to take steps:

individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

When this is read in line with article 14, it puts states which have not secured free primary education in the difficult position of doing so within a period of two years, at least in terms of a

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[75] Article 13 (3) ICESCR.
[76] Lev S Vygotsky, *Mind in Society* (Harvard University Press 1980).
[77] Van Bueren (n 4) 241.
[78] *Kjeldsen, Busk Madsen and Pedersen v. Denmark* (Application no. 5095/71; 5920/72; 5926/72) (1976) 1 EHRR 711 where parents claimed a breach of the duty to respect their religious and philosophical convictions in reference to compulsory sex education which was being introduced.

'detailed plan of action'.[79] The Committee on Economic, Social and Cultural Rights, provided an interpretation and clarification of Article 14 through its General Comment 11, in May 1999.[80] In this, the Committee recognized the difficulty of States to provide this plan, although it states that this does not exempt them from having such a plan. In appropriate cases, it advises States to seek the assistance of other international agencies such as the International Labour Organization (ILO), the United Nations Development Programme (UNDP), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the United Nations Children's Fund (UNICEF), the International Monetary Fund (IMF) and the World Bank, to help secure this right. This, and many other such examples, demonstrate the close relations of international law and the international agencies, which are very influential actors in this sphere. These international agencies, have their own agendas and do not in some cases even recognize education as a human right, 'often imposing charges on public primary education'[81] as Special Rapporteur Tomasevski[82] pointed out and which is discussed further below. Therefore, when States are encouraged to seek assistance from such agencies, it is allowing for other factors related to these institutional agendas to influence education,[83] and contributes to a long established neo-colonial financial dependence.[84] Aspects of such influences on the right to education, are demonstrated herein through the central examining lens of the One Laptop per Child project. This provision of available resources, and therefore the obligation of a primary educational system are similarly present in the International Convention on the Rights of the Child which is discussed in detail below.

The Committee on Economic, Social and Cultural Rights, provided an interpretation and clarification of Article 13 through its General Comment 13, in December 1999.[85] According to this comment, education should exhibit certain features, such as availability, accessibility (separated

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[79] Article 14 ICESCR.
[80] E/C.12/1999/4, 10 May 1999.
[81] K Tomaševski, 'Has the Right to Education a Future Within the United Nations? A Behind-the-Scenes Account by the Special Rapporteur on the Right to Education 1998-2004' (2005) 5 (2) Human Rights Law Review 205, 233.
[82] K Tomaševski, 'Not Education for All, Only for Those Who Can Pay: The World Bank's Model for Financing Primary Education' (2005) 1 Law, Social Justice & Global Development Journal 1.
[83] Karen Mundy, 'Educational Multilateralism and World (Dis)Order' (1998) 42(4) Comparative Education Review 448, 457.
[84] Antony Anghie, 'Time Present and Time Past: Globalization, International Financial Institutions, and the Third World' (2000) 32 New York University Journal of International Law and Politics 243.
[85] E/C.12/1999/10, 8 December 1999.

by non-discrimination, physical accessibility and economic accessibility) acceptability and adaptability. These can best be understood according to Right to Education Primer No. 3 authored by the Special Rapporteur Katarina Tomaševski in which she sets out the governmental obligations into a widely recognised 4-A Scheme.[86] It also interprets what is meant by Article 13(1) of the ICESCR, which states:

> The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

General Comment 13 sets out what it is that article 13(1) adds to article 26 of the UDHR. These are three elements: a 'sense of dignity', an enabling of 'all persons to participate effectively in a free society,' and the promotion of understanding among all 'ethnic' groups, as well as the other groups present. Furthermore, General Comment 13 recognises that other international law instruments have elaborated further on the right of education after this Covenant and therefore, encourage a contemporary interpretation of article 13 according to these new elements. This is indicative of human rights language which takes ideals, not easily contested by Universalists or Cultural Relativists and presents them in a manner which shrouds the denial of the 'other'. That is to say, as was elaborated in reference to the UNESCO Convention against discrimination in education above, where the complicity and perpetuation of discrimination is denied by international instruments which appear to aspire to ideals, such as non-discrimination, which few would disagree with. It is hard to imagine for example that anyone would choose to be educated without a sense of dignity, though this becomes an empty ideal if they are denied dignity on the basis of their 'otherness'. In the case of disabled persons regarding the aforementioned convention, higher education is to be 'equally accessible to all on the basis of individual

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[86] Tomaševski (n 23).

capacity'[87] which Peters argues limits access to the disabled, as the term capacity excluded many on the basis of IQ tests.[88] This point regarding the denial of 'others' will be elaborated on further in later chapters.

2.3.6 UNESCO Recommendation concerning Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms 1974

The concept of 'international education,'[89] or rights through education, grew under International law after the First World War 'when it was realized that the school could be effectively used as a medium of international understanding.'[90] It is further argued that this understanding was extended in 1946 by the founding of UNESCO.[91] Once more, this emphasises the recognition of education as a tool and the international understanding which it brings about is based on its use in the shaping of international human rights culture, or as Resnik argues how the international organisations become 'coproducers of this world education culture,'[92] a culture she argues which takes an education-economic growth approach. This approach uses economic theories, such as human capital theory[93], as justifications for the expansion of education systems throughout the world. This association is very strong and has been recognised by academics such as Resnik as well as the former Special Rapporteur for Education.[94] This association of economic 'progress' with education is central to this thesis, and will be looked at in depth as a justification for development in later chapters. In relation to this international instrument, the significance is that the aspect of the right to education which it directly addresses and which is present in most of

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[87] Article 4(a) UNESCO Convention against Discrimination in Education 1960.

[88] Peters (n 69) 101.

[89] Herein referred to as human rights education, which aims at promoting international understanding, peace, co-operation and respect for human rights and fundamental freedoms.

[90] Brigitte Reich, Valeri Pivovarov (eds), 'International Practical Guide on the implementation of the Recommendation concerning Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms' (UNESCO 1994) 7.

[91] ibid.

[92] Julia Resnik 'International Organizations, the "Education–Economic Growth" Black Box, and the Development of World Education Culture' (2006) Comparative Education Review 173, 178.

[93] For a discussion of how this is of importance in education, see Gary S. Becker, *Human Capital: A Theoretical and Empirical Analysis with Special Reference to Education* (3rd edn, The University of Chicago Press 1994).

[94] Tomaševski, Not Education for All (n 82)

the international instruments concerning the right to education, namely human rights culture, is a very strong underlying ideology which the right to education is laden with. Tomaševski for example makes the argument that the Education for All (EFA) campaign[95] and the Millennium Development Goals (MDGs)[96] 'vary and neither fully includes the right to education as defined in international human rights law.'[97] Similarly she is critical of international institutions such as the World Bank and the IMF for not recognising a right to education as a human right.[98] These institutions which through their policies and role as international bodies, deem and treat human rights and specifically the right to education as a means of creating human capital. Although categorically opposed to this 'The human-capital approach moulds education solely towards economically relevant knowledge, skills and competence, to the detriment of human rights values'[99] this approach has in fact gained more ground. The focal point of this thesis, is an aspect of education, that of Information Technology, which does appear to have gained increasing influence based on this aspect of creating human capital and also suffers from a lack of state obligation, thus straying from human rights, and potentially directing towards 'economically relevant knowledge.'[100] Although one[101] may argue that this falls outside the scope of the right to education, it has in fact become incorporated in the international arena as part of a means towards development and therefore is having a significant effect on the right to education in parts of the developing world. This will be developed somewhat below, but more fully in the following chapters.

The UNESCO General Conference adopted this Recommendation on November 19th, 1974[102] which is still valid, and which was drafted during the Cold War. It is a result of political

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[95] Set up by UNESCO, in cooperation with UNDP, UNFPA, UNICEF and the World Bank at the World Education Forum (Dakar, 2000) 164 governments pledged to achieve EFA and set out six goals to be met by 2015 <www.unesco.org/new/en/archives/education/themes/leading-the-international-agenda/education-for-all/> accessed 2 January 2019.

[96] ibid (n 2).

[97] Tomaševski 'Not Education for All (n 82) also see Klaus Dieter Beiter, *The Protection of the Right to Education by International Law* (Martinus Nijhoff 2005) 328.

[98] Tomaševski (n 3), and Beiter (n 97).

[99] Progress report of the Special Rapporteur Tomasevski K, CHR 56th Session, UN Doc. E/CN.4/2000/6 2000a, para. 67, 23.

[100] Beiter (n 97) 609.

[101] Such as the Special Rapporteur and Beiter (n 97).

[102] 18th Session.

compromise, and it was the instrument which widened the scope of the term 'international education' by adding its relation to human rights and fundamental freedoms. It defines human rights 'in terms of normative instruments, particularly the Universal Declaration of Human Rights'[103] and under this recommendation it defines 'education' very broadly, past the limits of formal schooling, be it primary or otherwise, to encompass the:

> entire process of social life by means of which individuals and social groups learn to develop consciously within, and for the benefit of, the national and international communities, the whole of their personal capacities, attitudes, aptitudes and knowledge.[104]

The preamble calls our attention to an implied lack of 'international understanding' which this UNESCO recommendation was seeking to fill.[105] The standard-setting recommendation focuses on certain actions which should be taken 'to develop and infuse an international and inter-cultural dimension at all stages and in all forms of education,'[106] particularly through teacher preparation, educational equipment and materials, research and experimentation, and international co-operation. The aims and purposes which this recommendation suggests 'education' is infused with are the 'Charter of the United Nations, the Constitution of UNESCO and the Universal Declaration of Human Rights, particularly Article 26, paragraph 2.'[107] The response on the part of member states to report to UNESCO in relation to this, was that a significant number of them did not do so and the ones that did claimed to be implementing these principles already[108] which contradicts and denies the implication mentioned above, that this 'international understanding' was missing on the part of the member states. Following this came the Declaration and integrated framework of action on education for peace, human rights and

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[103] Audrey Osler, Hugh Starkey and Kerry Vincent, 'An Evaluation of UNESCO Publications on Human Rights Education' Centre for Citizenship Studies in Education at the University of Leicester, (UNESCO 2002) 11.
[104] At 1(a).
[105] Kaisa Savolainen, 'Education as a Means to World Peace: The Case of the 1974 UNESCO Recommendation' (Jyväskylä University Printing House 2010) 44.
[106] UNESCO Recommendation, 1974 VI 22.
[107] UNESCO Recommendation, 1974 III Guiding principles 3.
[108] Savolainen (n 105) 143.

democracy 1995[109], which as the title indicates was a plan of action. This was adopted after the Cold War, with new influential concepts such as the 'the culture of peace' and 'sustainable development' being incorporated in relation to education. Thus the normative definition and application of education were seen as means of achieving these two goals[110] within the realm of international law.

2.3.7   The Convention on the Rights of the Child 1989 (CRC)

The most detailed provision as to the aims and purpose of the right to education can be found in the International Convention on the Rights of the Child which was adopted by the United Nations General Assembly in 1989 and came into force on September 2nd 1990. This Convention was the first to recognise the child as a subject of international law and rights bearer.[111] It has been ratified by 196 countries rendering them legally bound by it, with the only exception being the United States of America. The United States have signed and ratified the two optional Protocols to the CRC. Although it signed the CRC in 1995, the US has not ratified it having put forward arguments concerning sovereignty, federalism, reproductive and parental concerns.[112] This is of significance in that it is an extremely powerful Western state taking a very strong stance in respect to children's rights, specifically when the question of sovereignty is raised as a concern. Anghie[113] reminds us that the concept of Sovereignty in international law emerged from the Treaty of Westphalia 1648, where those states deemed sovereign were recognised as having absolute power over their territory and equal amongst themselves.[114] Thus sovereignty was a gift which was bestowed upon those territories which were previous lacking it under colonial rule. Anghie argues that it was 'only because of colonialism that international law became universal'[115]

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[109] adopted at the 44th session of the International Conference on Education (Geneva, 1994) and endorsed by the General Conference of UNESCO at its 28th session (Paris, 1995).
[110] Savolainen (n 105) 172.
[111] Geraldine Van Bueren (n 10).
[112] L. Rutkow and J.T. Lozman, 'Suffer the Children? : A Call for the United States ratification of the United Nations Convention on the Rights of the Child' (2006) 19 Harvard Human Rights Journal 178.
[113] Antony Anghie, 'The evolution of international law: Colonial and postcolonial realities' (2006) 27(5) Third World Quarterly 739.
[114] ibid 740.
[115] ibid 742.

and that there remains a 'dynamic of difference'[116] which 'the civilising mission'[117] produced as a result. The stance that the United States takes therefore in this respect, which authors such as Davidson suggest stem from the 'U.N. conspiracy-theorist wing of America's conservative movement, those that fear a socialist plot';[118] is significant for the purposes of this thesis in that it follows the perception that the intrusion on the United States would be such as to outweigh the benefits of the convention. It suggests then that the principles enshrined in the convention are not universally held, and the rights which are set out in it, are not ones that one of the world's superpowers is willing to confer upon its children. The CRC, unlike the international law instruments set out above, includes civil and political, as well as social, economic and cultural rights, without placing them in any hierarchy. That means that the right to education is not considered to be carrying more or less weight depending on the category of rights it is placed in, nor the prescribed significance of that category.

Once more the major players in international law participated in the working group in far larger numbers than the developing states, to the extent that in 1985 a statement pertaining to this was submitted to the Commission by a group of NGOs.[119] There were no child representatives in the working group. However, a high level of female participation was noted.[120] The NGO's came together and formed the 'Informal NGO Ad Hoc Group on the Drafting of the Convention on the Rights of the Child' in 1983, which took a very active part in the drafting process evidenced by practically every article.[121] A negative aspect of the drafting process was the power politics involved, in that 'The industrialized countries were significantly over-represented at all stages.'[122] There were certain developing countries which took part and in 1988 were joined by 'a last

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[116] ibid.
[117] ibid.
[118] Howard Davidson, 'Does the U.N. Convention on the Rights of the Child Make a Difference?' (2014) 22(2) Michigan State International Law Review 497, 505.
[119] Sonia Harris-Short, 'Listening to 'the Other'? The Convention on the Rights of the Child' (2001) 2 Melbourne Journal of International Law 304, 311.
[120] ibid 9.
[121] ibid.
[122] Nigel Cantwell, 'The Origins, Development and Significance of the United Nations Convention on the Rights of the Child' in Sharon Detrick (ed) and Jaap Doek (ed) *The United Nations Convention on the Rights of the Child* (Martinus Nijoff Publisers 1992) 23.

minute surge of delegates from the South, many from States with Islamic law.'[123] This account evidences that this Convention, is in line with the other examples such as the UDHR drafting, where representation and participation, are dominated by developing countries and therefore, what is produced is predominantly reflective of such views.

Under the Convention the main monitoring body established to observe state parties in the fulfilment of their obligations is the Committee on the Rights of the Child. This Committee consists of eighteen experts elected for a term of four years. The monitoring process which the Convention sets out mandates that State Parties submit to the Committee 'reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights'[124] within two years of the entry into force of the Convention and thereafter every five years.[125] As this process requires States to report their own violations of the Convention which is a rather relaxed method of monitoring one of society's more vulnerable groups. In order therefore, to prevent state parties 'sugar-coating' the situation in their countries; and in the spirit of cooperation, the Committee, following article 45[126] invited other UN bodies and NGO's in the monitoring process. According to which they are asked to submit reports in areas falling within the scope of their work. This has been further contributed to by the General Assembly's Resolution 66/138[127] adopting the Third Optional Protocol to the Convention on the Rights of the Child on a communications procedure which entered into force

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[123]ibid.

[124] Article 44 CRC 1989.

[125] There are treaty-specific guidelines regarding the form and content of periodic reports to be submitted by States parties under article 44, paragraph 1 (b) which were adopted by the Committee on the Rights of the Child at the Fifty-fifth Session, CRC/C/58/Rev.2, 13 September- 1 October 2010 specifically for children in disadvantaged and vulnerable situations, in relation to articles 28, 29, 30 and 31.

[126] Article 45 (a) 'The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, the United Nations Children's Fund, and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;'

[127] 19 December 2011.

on 14 April 2014. It has to date been signed by 51 states and ratified by 34.[128] This opens the means by which individual petition can be brought before the Committee.[129]

Under the Convention on the Rights of the Child there are four main principles which the articles must be read in line with. The first of these is the *best interests of the child* which is contained within article 3(1) which ensures that in all actions concerning the children themselves, it is given primary consideration.[130] The second principle is the *views of the child* set out in article 12(1) which gives the child a chance to voice his or her own opinion and to be heard by the adult decision makers. This, though originally part of article 3 was now included in article 12 highlighting the child's political right of freedom of expression, as can be seen in the first draft of the article.[131] It is an article which is very necessary for the enjoyment of rights *in* education. In order to protect from undue influence, this is dependent on whether the child is 'capable of forming his or her own views'[132] and due weight to its opinion will be given[133] 'in accordance with the age and maturity of the child.'[134] This article once again included in the Convention specifically addressed to children's rights, to which children were not given the chance to express an opinion. Furthermore, as addressed by Lundy[135] 'children's enjoyment of Article 12 is dependent on the cooperation of adults, who may not be committed to it or who may have a vested interest in not complying with it.'[136] Hence she suggested a model to be followed in order to achieve successful implementation of article 12 which has been named 'The Lundy model of

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[128] <https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11-d&chapter=4&clang=_en> accessed 2 January 2019.
[129] Article 1.
[130] Changed from being the paramount consideration in the original Polish draft E/CN.4/1349:2. A Quennerstedt, 'Balancing the Rights of the Child and the Rights of the Parents in the Convention on the Rights of the Child' (2009) 8(2) Journal of Human Rights 166, argues that this amounted to degradation and invisibility of education as a matter on which the child was to be heard. Similarly she argues that as age and maturity were added to further restrict the rights of freedom of speech and to 'influence the exercise of power.' 167.
[131] E/CN.4/1349.
[132] Article 12(1) CRC.
[133] Though according to the text now, this is on all matters, in the revised Polish draft there was a list of matters which education was specifically included in E/CN.4/1349:3.
[134] ibid.
[135] Laura Lundy, ''Voice' Is Not Enough: Conceptualising Article 12 of the United Nations Convention on the Rights of the Child' (2007) 33 (6) British Educational Research Journal 927.
[136] ibid 929.

child participation' and has been included in the Irish National Strategy on Children and Young People's Participation in Decision-Making 2015 – 2020.[137] According to this model the four elements necessary are:

    * Space: Children must be given the opportunity to express a view

    * Voice: Children must be facilitated to express their views

    * Audience: The view must be listened to.

    * Influence: The view must be acted upon, as appropriate.[138]

The above model is meant to be a guidance to adults to create the empowering space necessary for children to be able to enjoy their rights, rather than having them ignored or even worse having them being given simply the appearance of being heard. Having the necessity for this model in the developed world in the present day points to the lack of implementation of article 12 on a substantial level particularly in the field of education, yet. Empowerment is viewed in this thesis as a crucial element for the enjoyment of the right to education, and it is one of the determining factors in the choice of educational project which is being used as a lens to examine this right. Therefore, it is of importance to recognise that the developed world has not yet secured this element, which as will be demonstrated later in the thesis, it is purporting to be in a position to lead the developing world toward.

The third principle is the *right to survival and development* which is the second part of Article 6 concerning the right to life. This adds a qualitative dimension to the right and as it requires states to ensure this 'to the maximum extent possible,'[139] meaning that they are required to take affirmative action and therefore relating to the economic, social and cultural rights of children within this convention. However, this wording simply leaves states with the legal excuse to do what they please in this respect. The fourth and final principle is *non-discrimination* as defined

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[137] Published by the Department of Children and Youth Affairs 21 June 2015 <www.dcya.gov.ie/documents/playandrec/20150617NatStratonChildrenandYoungPeoplesParticipationinDecision Making2015-2020.pdf> accessed 2 January 2019.
[138] Lundy (n 135) 933.
[139] Article 6(2) CRC.

by the Convention, and therefore all the rights contained within the convention should be enjoyed by all children regardless of their own as well as their parent/guardian's 'race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.'[140]

In terms of the right to education therefore, the principles it enshrines are non-discrimination and the right to development. The aspect of non-discrimination is provided for by article 28(1)(a) 'Make primary education compulsory and available free to all' which does not only mean discrimination in terms of socio- economic factors but also race, sex, religion, language etc. . The principle of development, however, extends the meaning of an educational system to mean more than the learning of facts and figures to a wider, more abstract concept. It is to be directed at the 'development of the child's personality, talents and mental and physical abilities to their fullest potential' according to article 29(1)(a) as well as to prepare the child for 'responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin'.[141] In terms of non-discrimination, Article 23(2) also provides for another group which according to UNESCO[142] has hardly any access to education and those are disabled children. There are other vulnerable groups of children, who do not have equal access to education and are not expressly mentioned in international law such as children in prison,[143] although in theory, of at least what the CRC is claiming through its principles, article 28 should include all children even if not expressly mentioned, therefore leaving the law open to interpretation.

A brief look at the case law relating to the rights *in* education reveals that cases related to articles 28 and 29, the right and aim of education, fall under familiar categories. There are those related

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[140] Article 2(1) CRC.
[141] Article 29(1)(d) CRC.
[142] '98% children with disabilities in developing countries do NOT attend schools' United Nations, 'From Exclusion To Equality Realizing the rights of persons with disabilities' Handbook for Parliamentarians on the Convention on the Rights of Persons with Disabilities and its Optional Protocol No 14 Geneva 2007 HR/PUB/07/6 1.
[143] Van Bueren (n 4) 248.

to the use of corporal punishment in schools[144] which make up the largest group, sex education,[145] religious education,[146] discrimination,[147] disabled children[148] to name some. These categories are related to those categories which we saw in the case law relating to the ECHR, and which are seen in relation to the African Charter set out below.

Education is also seen as a means of preparing the child to be a member of society, therefore referring to rights through education and indirectly referring to human rights education, through,

> The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own.[149]

An overall respect for the natural environment and human rights are also to be part of a child's education according to Article 29(1)(b) and (e). The inclusion of respect for human rights in this very important piece of international law as an aim of education raises the issue that it may later 'be used as a diplomatic tool to argue for the inclusion of human rights in school curricula.'[150] This was affirmed by the Committee General Comment 5 on General measures of

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[144] *Naushad Ali v. State of Fiji* (2002 Lautoka High Court, Criminal Appeal No. HAA 0083 of 2001); *Campbell and Cosens v. The United Kingdom* (1982) 4 EHRR 293; *Costello-Roberts v. United Kingdom* (1993) 19 EHRR 112; *BLAST v. Secretary of the Ministry of Education and others (*2011) Supreme Court of Bangladesh, High Court Division Writ Petition No. 5684 of 2010; *R (Williamson and Ors) v Secretary of State for Education and Employment* UKHL 15 [2005] 2 A.C. 246; *Christian Education South Africa v Minister of Education* (4) SA 757*; Association for the Protection of All Children (APPROACH) v. France* Complaint No. 92/2013 (ECSR, 12 September 2014).

[145] *Sentencia No. T-440/92 Colombia* (1992) Second Section of the Constitutional Court; *Dojan v. Germany (application nos. 319/08, 2455/08, 7908/10, 8152/10 and 8155/10)* (2011) ECHR 153; *Kjeldsen, Busk Madsen and Pedersen v. Denmark* (1976) 1 EHRR 711; *International Centre for the Legal Protection of Human Rights (INTERIGHTS) v. Croatia* Complaint No. 45/2007 (2009) ECSR.

[146] *Leirvåg and ors v Norway* (2004) 1155/2003, U.N. Doc. A/60/40, Vol. II, at 203 (HRC 2004).

[147] Of indigenous children *Antoine et al v. Winner School District* US Civ. 06-3007 (United States District Court, South Dakota Central Division 12 December 2007); *Sawhoyamaxa Indigenous Community v. Paraguay (2006)* IACHR Series C No 146; *Roma children D.H. and Others v. The Czech Republic App. No. 57325/00 (ECHR 13 November 2007); Oršuš and others v. Croatia* Application No. 15766/03, Application No. 15766/03 (16 March 2010 ECtHR).

[148] *Western Cape Forum for Intellectual Disability v. Government of the Republic of South Africa & Government of the Province of Western Cape* (Case no: 18678/2007) High Court of South Africa, Western Cape.

[149] Article 29 (1)(c) CRC.

[150] Van Bueren (n 4) 254.

implementation of the CRC,[151] which states that 'the Committee places special emphasis on incorporating learning about the Convention and human rights in general into the school curriculum at all stages.'[152] This is not limited to school, and therefore the Committee calls for training of 'all those working with and for children'[153] in order to make children aware of their rights, and human rights. This is evidence of a significant infiltration of human rights culture into all states party to this convention which, as was pointed out is practically universal.

In terms of solidarity or group rights (the third generation),[154] mentioned above, in as far as the call for 'international co-operation' creating an 'educational community,' the right to education can be seen as such through Article 28(3) of the Convention on the Right to the Child 1989 which says:

> States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

The implication of this being that developing countries have a greater need in this respect than developed countries. This argument is usually cloaked in the term development which will be looked at in greater in depth in chapter 3.

The law in terms of the definition of education is described in very vague language, leading to even more broad interpretations, such as the Committee's General Comment No 1 (2001) which states:

> Article 29 (1) not only adds to the right to education recognized in article 28 a qualitative dimension which reflects the rights and inherent dignity of the child; it also insists upon the need

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[151] Adopted at the Thirty-fourth Session, CRC/GC/2003/5, 27 November 2003.

[152] ibid 68.

[153] ibid 69.

[154] Based on Karel Vasak 'A 30-year struggle; the sustained efforts to give force of law to the Universal Declaration of Human Rights' (UNESCO Courier XXX, 11 1977) 29 where he divides rights into three categories. First generation rights being civil and political rights, second generation rights economic, social and cultural rights, and third generation rights being what he describes as solidarity rights. Following the French Revolution slogan of: Liberty, Equality, Fraternity.

for education to be child-centred, child-friendly and empowering, and it highlights the need for educational processes to be based upon the very principles it enunciates.[155]

This Committee interpretation of education as an empowerment right, is an eloquent set of inspiring yet vague principles, which in fact does not help clarify the concept from a legal perspective. This simultaneously creates the appearance of providing an explanation which one would be hard-pressed to oppose, and yet it is suggestive of the underlying human rights ideology it is trying to promote. It maintains the international law perspective of emphasising the importance of human rights, and stressing its critical importance in relation to education:

> The education to which every child has a right is one designed to provide the child with life skills, to strengthen the child's capacity to enjoy the full range of human rights and to promote a culture which is infused by appropriate human rights values.[156]

A 'culture infused with appropriate human rights values' is a common value judgement contained within human rights instruments. Regarding this aspect, Article 29(1)(b) is added to by Article 42, which states that 'States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.' The basic assumption of such a culture being, that the more human rights values it contains, the more appropriate a culture it becomes. However, when we begin to look more closely at where these human rights values emanate from, and which cultures are seen as being richer in terms of these values, we are confronted with a developed/developing world dichotomy. This value judgement, which is implanted in a cultural setting by human rights law itself, then provides for the basis criticisms which call this assumption into question. This assumption then provides the basis for questioning whether in terms of the human right to education, there can be a case made that it promotes cultural imperialism.

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[155] CRC/GC/2001/1.
[156] ibid.

2.3.8 The African Charter on the Rights and Welfare of the Child 1990 (ACRWC)

Following the Convention on the Rights of the Child, came the African Charter on the Rights and Welfare of the Child 1990, the only region-specific treaty directed towards children's rights, which entered into force on November 29th 1999. As of February 12th 2009, the Charter has been ratified by 48 out of the 55 African states.[157] There were a number of aspects for which it was felt that this was necessary, particularly as 'African states had been underrepresented in the drafting process of the CRC.'[158] Furthermore, there were issues which were related specifically to the African context:

> NOTING WITH CONCERN that the situation of most African children, remains critical due to the unique factors of their socio-economic, cultural, traditional and developmental circumstances, natural disasters, armed conflicts, exploitation and hunger, and on account of the child's physical and mental immaturity he/she needs special safeguards and care.[159]

Some of the issues therefore which needed to be addressed were those to be expected, such as children living under apartheid, harmful practices against the girl child, such as female genital mutilation (FGM),[160] the definition of a child. There are a number of similarities with the CRC, it has even been said that it is modelled on it,[161] and it shares the same basic principles by which all the articles must be read. However, the differences are in fact notable. The need for an African context was also due to 'the perception is that international norms with respect to the promotion and protection of children's rights are heavily tilted to a 'Western' rights ideology therefore lacking a meaningful African influence.'[162] This differentiation in the realm of international

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[157] ACRWC <https://au.int/sites/default/files/treaties/7773-sl-african_charter_on_the_rights_and_welfare_of_the_child_1.pdf > accessed 2 January 2019.

[158] Buck (n 11) 44, Stephen Nmeregini Achilihu, *Do African Children Have Rights?: A Comparative and Legal Analysis of the United Nations Convention on the Rights of the Child* (Universal-Publishers 2010) 68, and others.

[159] ACRWC 1990 Preamble.

[160] Case under ACRWC concerning the wrongful expulsion of girls from centre due to having undergone FGM: *Agnes Wanjiru Kiraithe & another v Attorney General & 2 others Kenya* (Petition No 536) [2014] eKLR .

[161] Amanda Lloyd, 'A theoretical analysis of the reality of children's rights in Africa: An introduction to The African Charter on the Rights and Welfare of the Child' (2002) 2 (1) African Human Rights Law Journal 11.

[162] Osifunke Ekundayo, 'Does the African Charter on the Rights and Welfare of the Child (ACRWC) only Underlines and Repeats the Convention on the Rights of the Child (CRC)'s Provisions?: Examining the Similarities and the Differences between the ACRWC and the CRC' (2015) 5 (7)(1) International Journal of Humanities and Social Science 143.

human rights law does point out the fact that despite the Universalist approach, there is in various contexts a lacuna in international law reflective of culture and context, of an entire continent in this example, which a separate charter has come to fill.

In both the CRC and the ACRWC, the sole determinant of who constitutes a child, is age. '[In] the African sense, the definition of a child is a communal assessment'.[163] '[E]ach community in the cultural settings have different age ranges for childhood'[164] and the one reflected in the charter is a point of mutual agreement amongst regions. This agreement at 18 years is specifically important in regards to the right to education on the basis that it implicitly prohibits marriage below the age of eighteen. In the African context this is important, because, particularly for females, who are married young, marriage is regarded socially as the end of childhood. Thus more females would have been precluded from the right to education, particularly as the CRC does not protect this group, allowing States the caveat of defining childhood ending at age 18 'unless under laws applicable to the child, majority is attained earlier.'[165]

A very significant difference is that the child is not simply the bearer of rights but the bearer of duties and responsibilities as well. These are contained in article 31, which states that the child has the duty to work for the cohesion of the family, to respect his parents, superiors and elders, to serve his national community, to preserve and strengthen social and national solidarity, African cultural values and such. Of course this is a reciprocal relationship with the parents who also have duties toward the child. More specifically, these duties are laid out in article 20 of the ACRWC and state:

> (a) to ensure that the best interests of the child are their basic concern at all times; (b) to secure, within their abilities and financial capacities, conditions of living necessary to the child's development; and (c) to ensure that domestic discipline is administered with humanity and in a manner consistent with the inherent dignity of the child.

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[163] ibid.
[164] ibid.
[165] Article 1 CRC 1989.

In relation to the right to education, it is contained within Article 11 and is broken down into numbered parts, relating to the various persons to whom it relates. That is to say, it begins much as the CRC 'Every child shall have the right to an education.'[166] Article 11.2 sets out what this education should be directed to with a list from a-h, with (a) being 'the promotion and development of the child's personality, talents and mental and physical abilities to their fullest potential;' and (b) relating to 'fostering respect for human rights and fundamental freedoms with particular reference to those set out in the provisions of various African instruments on human and peoples' rights and international human rights declarations and conventions;' and again unlike the CRC (c) 'the preservation and strengthening of positive African morals, traditional values and cultures;'. The list of aims of the right to education therefore, is once again closely related to the aspect of rights *through* education, according to Vehellen's conceptualisation, by Article 11(2) (b) and (c), with the regional aspect of this convention particularly highlighted by the emphasis on African instruments, morals, values and cultures. As the latter are separated from the respect from human rights and fundamental freedoms, it appears to suggest that these do not cover African cultures and values entirely.

Regarding rights *in* education, Article 11(3) addresses how the State is to undertake the realisation of this right,[167] for instance like the CRC 11 (3)(a) 'provide free and compulsory basic education;', but unlike the CRC it separates out certain groups for whom special measures are to be taken 11 (3)(e) 'female, gifted and disadvantaged children, to ensure equal access to education for all sections of the community.' Article 11 (4) imposes an obligation on the State to 'respect the rights and duties of parents, and where applicable, of legal guardians to choose for their children's schools, other than those established by public authorities, which conform to such minimum standards may be approved by the State, to ensure the religious and moral

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[166] Article 11(1)(i).
[167] For instance in Institute for Human Rights and Development in Africa (IHRDA) and *Open Society Justice Initiative (on behalf of Children of Nubian Descent in Kenya) v. the Government of Kenya* Decision No 002/Com/002/2009 (2011) ACERWC the Committee found a violation of this article 'The affected children had less access to educational facilities for the fulfilment of their right to free and compulsory primary education than comparable communities who were not comprised of children of Nubian descent'.

education of the child in a manner with the evolving capacities of the child.' This is reminiscent of the Article 2 Protocol 1 ECHR, in terms of parental choice, although it focuses on alternative to State schooling. 11 (5), considers the case of school or parental discipline and imposes the obligation that it be carried out with humanity. This is to combat another often occurrence which is corporal punishment. 11(6) imposes an obligation on the State to deal with a situation which is met with frequently in the region,[168] that is children who become pregnant before completing their education, and ensure that they 'shall have an opportunity to continue with their education on the basis of their individual ability'. In the case of *Dzvova v Minister of Education Sports and Culture and Others*[169] the Supreme Court of Zimbabwe held that the child must return to school and must not be discriminated against on the basis of his religion (Rastafari) or hairstyle (dread locks) as it is contrary to his constitutional rights. Another case related to children being denied schooling arose in the case of *Mitu-Bell Welfare Society v Attorney General and two others*[170] where the demolishment of a village without provisions made for the children, stood in the way of their constitutional rights and their right to education according to the High Court of Kenya. Another case in Kenya with the applicant being deprived of the right to education is *R. W. T. versus S.N.S. School*[171] where the child was suspended for breaking the school rules.

Finally 11(7) states that:

> No part of this Article shall be construed as to interfere with the liberty of individuals and bodies to establish and direct educational institutions subject to the observance of the principles set out in paragraph I of this Article.

Unlike article 28(1)(b) CRC the ACRWC does not separate secondary education into general and vocational education. Osifunke argues that this is a 'serious omission,'[172] reasoning that 'vocational secondary education is useful in Africa education as it will have enabled the child to

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[168] Ekundayo (n 162).
[169] Case No: (91/06) [2007] ZWSC 26 J.
[170] Kenya High Court, 2013 eKLR.
[171] High Court of Kenya, 2012.
[172] Ekundayo (n 162) 150.

learn a trade on completion of his or her secondary education.'[173] The African Committee of Experts on the Rights and Welfare of the Child, took a slightly different view during a commemoration of the Day of the African Child (DAC) in 2014[174] which is that, in the broader definition of education, which extends past the concept of schooling, the concept includes 'cultural education, vocational training, apprenticeships and craftsmanship.'[175] It also calls upon state parties to develop secondary education in various forms, including Technical and Vocational Education and Training (TVET).[176] The views expressed by the Committee in this respect, making reference to EFA and MDG's precludes the argument, that this difference from the CRC was based on the reasoning that a different ideology of the term 'education' was being presented in the African sense. Therefore, it appears that the Committee is affirming and following the traditional international rhetoric in line with the ideology, which a regional instrument arguably could provide a different perspective to.

Article 29(1) of the CRC, as we saw above, states that one of the various features which education should be directed to, is the 'development of respect for the child's parents'. It was actually Senegal which suggested during the 1989 Working Group that there be a duty on the part of the child to respect its parents and assist them in case of need.[177] 'Whilst not openly hostile to the idea of children having a duty to respect their parents, those members felt this was a moral, not a legal obligation and would be impossible for the state to police.'[178] This is why this aspect came to be incorporated into Article 29 of the CRC. The concern about Article 29 therefore is twofold; the first part being concerned with the compromise between countless countries on the one hand and the heavily influential Western States on the other; and the second is the watering down of the importance of Article 29 which is supposed to if not define 'education' at least to give us a sense of what it is to entail. This begs the question whether this dismissal as a moral

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[173] ibid.

[174] The African Committee of Experts on the Rights and Welfare of the Child, Concept Note on the Day of the African Child 2014 Theme: 'A child friendly, quality, free and compulsory education for all children in Africa.'

[175] ibid paragraph 8 p 4.

[176] ibid paragraph 41 p 13.

[177] Report of the Working Group on a Draft Convention on the Rights of the Child, UN Doc E/CN.4/1989/48 (2 March 1989).

[178] Harris-Short (n 119) 11.

rather than a legal obligation amounts to the lack of importance given to economic/social rights, or whether it is an implication of a dismissal of values which are of importance in developing world countries.

The explanation has been left at the fact that this is a cultural point of contention which in the spirit of reaching a consensus we have this compromise and that there is a positive side, in that 'This ensured that the central principle lying behind the Senegalese proposal – the importance of instilling within the child a sense of responsibility and duty towards its parents and community – was not completely absent from the final CROC text.'[179] In terms of the power struggle and the diplomatic relations which play the defining role in all such international conventions, it can in some small way be seen as a victory in such an unfair battle for the non-western states both in terms of incorporating a duty on the part of the child as well as a duty on the part of the parents towards the child, contained in Article 18 of the CRC. However, objections were raised on the basis that such responsibilities 'for private individuals was rather strange for an international covenant which, after all, could only create binding obligations for ratifying Governments.'[180] This claim, however, is not exactly true. For instance even under the ICCPR we are told that 'the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant.'[181] Despite this, the fact that these principles or moral obligations are present in the Convention on the Rights of the Child does not mean much in terms of the law, at least not in a direct application of it. The Committee being aware of this, states in paragraph 17 of its General Comment No 1 (2001) that:

> The aims and values reflected in this article are stated in quite general terms and their implications are potentially very wide ranging. This seems to have led many States parties to assume that it is unnecessary, or even inappropriate, to ensure that the relevant principles are reflected in legislation or in administrative directives. This assumption is unwarranted. In the

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[179] ibid.
[180] Report of the Working Group on a Draft Convention ibid.
[181] Preamble ICCPR 1966.

absence of any specific formal endorsement in national law or policy, it seems unlikely that the relevant principles are or will be used to genuinely inform educational policies. The Committee therefore calls upon all States parties to take the necessary steps to formally incorporate these principles into their education policies and legislation at all levels.[182]

Article 31 sets out the responsibility of the Child as:

> Every child shall have responsibilities towards his family and society, the State and other legally recognized communities and the international community. The child, subject to his age and ability, and such limitations as may be contained in the present Charter, shall have the duty.

We have looked at the two Decisions issued by the ACRWC Committee regarding violations of the right to education in Kenya and Senegal by the State for not providing adequate provisions for securing the right. Nonetheless, these decisions are limited in number as is the ACRWC case law.

2.4 Conclusion

In setting out the International law instruments pertaining to the right to education, they have also been situated within their respective historical and cultural contexts. The aim was to draw out the ideological and cultural underpinnings enshrined in the seemingly broad language of the right to education as presented by each instrument, most of which are standard-setting and not legally binding. The right was approached from Verhellen's perspective of the right to education, and further complimented by the Education Primer No. 3 demonstrating how the various elements within the right interrelate, and or dominate, according to international instrument. When looked at separately, these instruments leave a margin of interpretative space provided for by the broad language and aspirations set contained in this specific right. Rather than this space having allowed for a variety in interpretations according to cultural contexts with the utmost differences between them, when looked at as a body of international law, this space

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[182] CRC/GC/2001/1.

appears dominated by the international institutions which further establish a very specific and normative definition according to the Western cultural ideology of education. In looking at the law, it becomes apparent that this is an area which has engaged the international bodies, as is evidenced by UNESCO's contributions of legal instruments for example. The other contributors which may have and continue to play a very significant role in assisting states to secure the right to education which are the ILO, UNDP, IMF and the World Bank to name a few, have mandates which are inextricably linked to economic policy; and it is precisely this financial strength which was the basis of their involvement in this area. This observation becomes even stronger when one looks at ICT education and the 'developmental' role ascribed to it in the international sphere, and specifically in respect to developing countries. Although when looking at terms such as development and sustainability in international law, these policies are much more apparent and harder to overlook than in the human rights rhetoric and specifically in regards to the right to education. The significance of this chapter, to reveal the often overlooked intrinsic values enshrined in international law, and the close ties of influence which were and continue to be present between education and economic policy, maintaining as such a well-established world order. The following chapter will therefore serve to set out how the OLPC relates to the right to education, and to what extent it embodies the right in order to discuss the relationship between ICT and the right to education. The subsequent chapters will also look in more depth at the suggestion made in this chapter of cultural imperialism in relation to the international law instruments.

Chapter 3: The One Laptop per Child Project

3.1 Introduction

This chapter sets out the educational project entitled 'One Laptop per Child' which as has been set out in the introduction as being the choice of lens through which to critically discuss the right to education. As this thesis is a critical examination of the right to education and more specifically the aspect of ICT education is the focal point; this ICT education project has been deemed the suitable choice. It is also 'one of the most ambitious, most publicized and most lauded educational technology initiatives of the past 30 years'[1] and therefore provides a very potent project to use as a lens for the requirements of this thesis. It has been chosen both for the reasons why it is representative of ICT education and the reasons which make it stand out from others, both as low-cost computing and constructivist learning.[2] Specifically, it is the child-centricity and the embodiment of this notion in all aspects of the project, from the hardware design to the software content coupled with the promise of empowerment. These features are indicative of how this project fits into the international law context of ICT4D (ICT education for development) and they also raise issues of cultural imperialism on developing states which is relevant to TWAIL theory as is set out in the following chapter. It is also a project which due to its name, evokes assumptions as to what it is and what it is about; therefore this description is necessary in order to create a common understanding of this project, and by extension a common interpretation of how it acts as a lens for the right to education.

The One Laptop per Child project (OLPC) which is being carried out by the One Laptop per Child non-profit association has been characterised as 'an education project, not a laptop project' by its founder.[3] That is to say the laptop computer is the means rather than the end. The project's mission is to create educational opportunities for children, particularly those in the developing world where education resources are scarce, through what they characterise as a self-

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[1] Neil Selwyn, *Education in a Digital World: Global Perspectives on Technology and Education* (Routledge 2013) 127.

[2] Joyojeet Pal and others, 'The Case of the Occasionally Cheap Computer: Low-cost Devices and Classrooms in the Developing World' (2009) 5(1) Information Technologies & International Development Journal 49, 55.

[3] Nicholas Negroponte (chairman of the OLPC association), <http://laptop.org/en/vision/index.shtml> accessed 2 January 2019.

empowering tool, namely a low cost laptop. The role of education in relation to poverty and development are central to the thesis as the OLPC claims are in line with the institutional claims such as that made by UNICEF 'It is education that will provide the next generation with the tools to fight poverty and conquer disease'.[4] The most valuable resource of this project is viewed to be the children themselves, who according to the OLPC will engage themselves with a tool which will enable them to learn in a very different and broader sense than what is currently typical of an educational system. The OLPC project is being used as a lens to study the right to education and the direction it is developing revealing as such the culture it embodies. In order therefore to understand how the project is representative of this, this chapter will first examine the underlying educational theory of the project. It will then provide a more technical description of the laptop in terms of its hardware and then software characteristics as they are directly linked with the theoretical basis of the project. The sources used to do so have been a combination of information provided by the OLPC through its website and its Wiki, as well as technology media reports of the project. This is due to the fact that the nature of the project, that is, as it falls under the ambit of information technology, initially caught the interest of the technology community who reported on it extensively, as there field was greatly impacted by the announcement of a 100$ Laptop. Many of the concerns which were expressed within this community, had interesting parallels in the educational and legal scholar communities as will be demonstrated in the following chapters. This chapter also reviews the way in which the project aims and has so far been implemented, while at the same time mentioning the various obstacles which have stood in the way of this realisation. In terms of objections to the project and the various educational criticisms surrounding this project, although they are mentioned within this chapter in order for a broader explanation of it, these aspects are elaborated on much more fully in later chapters.

3.2 The OLPC Mission

The One Laptop per Child Project was founded by Nicholas Negroponte, who is also the founder of the MIT Media Lab. The project was presented at the World Economic Forum in Davos, Switzerland in 2005.[5] It is a project whereby a specialized laptop is provided to the children of

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[4] UNICEF <www.childinfo.org/education.html> accessed 10 June 2008.
[5] K. L Kraemer, J Dedrick, P. Sharma, 'One Laptop per Child: Vision vs. Reality' (2009) 52(6) Communications of the ACM 66.

the third world. Countries were originally chosen on the basis of having large populations without access to digital technology in order to ensure large orders with a minimum of one million laptops.[6] The One Laptop per Child Foundation is a non-profit organisation, and this they claim makes the children their mission and not their market.[7] The OLPC project does not propose to come in and transplant teacher directed education but to be a parallel method[8] where there is a teacher available but also a stand-alone method where there is none. On the 28th of January 2006, once more at the World Economic Forum in Davos, the OLPC signed a partnership agreement with the United Nations Development Programme, by which the UNDP undertook to 'work with local and international partners to design and develop programmes to deliver OLPC technology and learning resources to schools in the Least Developed Countries'.[9] Although it stands to reason that a non-profit information technology project would need a great deal of financial backing, it is telling that this forum was the one chosen to present what claims to be an education project as opposed to presenting it at an educational forum first.

The OLPC's Mission Statement states:

> To create educational opportunities for the world's poorest children by providing each child with a rugged, low-cost, low-power, connected laptop with content and software designed for collaborative, joyful, self-empowered learning. When children have access to this type of tool they get engaged in their own education. They learn, share, create, and collaborate. They become connected to each other, to the world and to a brighter future.[10]

ICT projects which involve computers typically supply children with computers according to a 'one-to one' model, with the machines being set up in a static place such as a school and whether

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[6] Sylvia Smith, 'The $100 laptop—Is it a wind-up?' *CNN* (1 December 2005) <http://edition.cnn.com/2005/WORLD/africa/12/01/laptop/> accessed 2 January 2019.
[7] Originally posted on the OLPC website in a video no longer available <http://laptop.org/en/vision/index.shtml> accessed 22 January 2009, Wade Roush, 'One Laptop Foundation Blasts Intel, Says World's Children are Mission, Not Market' *Xconomy* (4 January 2008) <https://xconomy.com/boston/2008/01/04/one-laptop-foundation-blasts-intel-says-worlds-children-are-mission-not-market/> accessed 4 January 2019.
[8] <http://wiki.laptop.org/go/Mission> accessed 4 January 2019.
[9] PNUD/UNDP, '$100 Laptop Project Moves Closer to Narrowing Digital Divide' Germ (28 January 2006) <www.mondialisations.org/php/public/art.php?id=22404lan=FR&lan=EN> accessed 4 January 2019.
[10] <http://laptop.org/en/vision/index.shtml> accessed 4 January 2019.

portable or not are then locked away. As the UNESCO report[11] sets out in reference to Uruguay, which is the OLPC paradigm used in this thesis, providing a laptop to every child only secures access 'democratisation should also be present in how the equipment is used'.[12] The five principles which the OLPC infuses its project with are indicative of a computer culture, closer to that of the West. It is also part of the educational ideology that learning is not exclusively carried out in school, and to encourage peer to peer learning, as well as learning through play. The five core principles[13] which must be adhered to as recommended by the OLPC for each deployment are the following. The first is 'Child Ownership', this simply means that the children must be able to have the laptop in their possession at all times, in order for this new learning environment to extend past the confines of school. The second principle is 'Low Ages', that is to say the laptop is designed for children aged 6-12 years old; although this does not preclude children of an older or younger age from playing with it. The third principle is 'Saturation' or 'digital saturation' whereby the aim is to involve as much of the population with the project in order to better integrate it within a given population as well as these populations to then connect and grow together creating a solid connection amongst them leaving no-one out. The fourth principle is 'Connection', by which is meant that the laptop is designed so that the laptops are constantly connected to one another and the internet where there is such a connection available. This allows the users of the machine to 'connect' to one another in many ways encouraging sharing and developing. The fifth and final core principle is 'Free and Open Source' which is indicative of the software element of the project that is aimed at providing knowledge which is accessible at all levels, free from restrictions both in terms of content and use. As will be set out later in this chapter it is this the abandoning of this principle which caused the greatest rift within the organisation itself and certainly affected the project's acceptance in certain cases. There have of course been issues raised in the actual deployments regarding these core principles, which reminds us that one size does not fit all, and that the theoretical principles developed by the West are not actually relative to those living in the developing world. Examples of problems with

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[11] UNESCO, 'Plan CEIBAL in Uruguay from Pedagogical Reality to an ICT Road Map for the Future' (UNESCO Montevideo 2011).

[12] ibid 34, 35.

[13] <http://wiki.laptop.org/go/Core_principles> accessed 4 January 2019.

these core principles have been mentioned particularly in terms of the first one relating to child ownership as theft and therefore child endangerment has certainly played an important role in deployments where the crime rate is high such as Brazil.[14] Other concerns relative to these core principles are mentioned later on in this chapter.

The choice of a laptop computer as the means to create educational opportunities to the developing world is due to the fact that it is generally accepted as being an extremely efficient tool in terms of managing, manipulating, accessing and transmitting information. It is a relatively inexpensive way of providing children in very remote areas with infinite resources. The OLPC project sees this as a necessary aspect of an educational tool, but chooses the computer because of a second level of potential which it then is regarded as adding in terms of revolutionising education. That is to say, it enables an entire world within which one can construct and reflect on certain concepts, engaging in this way with the computer and actively learning. A more complete understanding of this can be gained when examining the educational theory discussed below.

3.3 The Educational theory of the OLPC Project

This 'education project', although revolutionary in its manifestation, must be understood on the basis of the educational principles which it embodies in order for it to be assessed according to its contribution to the right to education as ICT4D. As stated by the OLPC association, the XO (the name of the OLPC laptop), embodies the theories of 'constructionism' first developed by MIT Media Lab Professor Seymour Papert in the 1960s, and later elaborated upon by Alan Kay, complemented by the principles articulated by Nicholas Negroponte in his book, *Being Digital*.[15] In order to understand 'constructionism' we must first take a brief look at theory on which this was built, which is Piaget's theory of Constructivism[16]. Seymour Papert had worked with Piaget in Geneva before moving to America in the 1960's where he co-founded the MIT Artificial

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[14] Valdemar W. Setzer, 'A Critical View of the "One Laptop per Child" Project' (12th World Multiconference on Systemics, Cybernetics and Informatics WMSCI Orlando, Florida, U.S.A 2008) <www.ime.usp.br/~vwsetzer/OLPC-WMSCI.pdf> accessed 4 January 2019, 3.3 Theft.

[15] Nicholas Negroponte, Being Digital (1st ed, Vintage Books 1996).

[16] Jean Piaget, *The Origin of Intelligence in the Child* (Volume 3 of Jean Piaget: selected works Jean Piaget Routledge, 1997), Jean Piaget, *The Construction of Reality in the Child* (Routledge 1999).

Intelligence Lab, and where he worked with a team toward the development of the programming language Logo.[17] According to Piaget's theory, children have views of the world which are constantly evolving, however these are not changed when simply given a 'better' theory or explanation but rather when the child constructs this knowledge on the basis of some form of experience. Therefore learning occurs through an active process of 'digesting' new pieces of information as well as building upon previous knowledge experiences thus expanding their views[18]. Papert's 'Constructionism' 'shares constructivism's connotation of learning as "building knowledge structures" irrespective of the circumstances of learning. It then adds the idea that this happens especially felicitously in a context where the learner is consciously engaged in constructing a public entity, whether it's a sand castle on the beach or a theory of the universe.'[19] The difference between these two theories lies in that Constructivism focuses on how mental conclusions are built, where the children become progressively more detached whereas Constructionism focuses on how constructing physically is a good method to doing so mentally and emphasizes becoming progressively attached and connected.[20]

One of the fundamental ideas to the theory of Constructionism is that different people learn in different ways, and this becomes evident when one looks at the results of an 'exercise' where it is applied. An example of this theory being used in education would be through the use of the computer language logo[21] where children engage in mathematical and scientific concepts in order to create various results such as making a snake[22]. The results of this were that each child created something very different from the other, as each child engaged with this object to a varying degree.

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[17] Logo <http://el.media.mit.edu/logo-foundation/what_is_logo/index.html> accessed 4 January 2019.

[18] Wesley A. Hoover, 'The Practice Implications of Constructivism' *SEDL Letter* IX (3) (Texas August 1996).

[19] Seymour Papert and Idit Harel, 'Situating Constructionism' in *Constructionism* (Ablex Publishing Corporation, 1991).

[20] Edith Ackerman, 'Piaget's Constructivism, Papert's Constructionism: What's the difference?' Constructivism: Uses and Perspectives in Education, Volumes 1 & 2 (Conference Proceedings, Research Center in Education, Geneva September 2001).

[21] The Logo Foundation, 'What is Logo' (n 17).

[22] Papert and Harel (n 19).

In order to understand this concept more fully in the context of education, it can and often is contrasted with *Instructionism.*[23] Most people are familiar with the latter, and it is this formula which has been applied in most school systems thus far, where the emphasis or action is on the part of the teacher who instructs the passive pupil who 'learns'. Gatto argues that schools as systems of power were designed 'by Horace Mann and Barnard Sears and Harper of the University of Chicago and Thorndyke of Columbia Teachers College and some other men'[24] in order to serve a particular function in society. 'To be instruments of the scientific management of a mass population. Schools are intended to produce through the application of formulae, formulaic human beings whose behavior can be predicted and controlled.[25] This line of argument is followed throughout the thesis, and an explanation of how this feature of education amounts to oppression is provided for in chapter 5. An interesting example of the opposite of this can be found in Seymour Papert's article entitled 'Computer as Condom'[26] in which he describes a situation where reluctance was a given in the nature of the subject of education and there was a clear need to get around this barrier which was what led to such an effective change in approach; something which he envisioned the computer being able to do in education.

In order for us to draw a further difference between instruction and construction it is necessary for us to view more than a difference in the method or transmission of knowledge. It is to look at the epistemological difference 'it is tangled with central issues of radical thinking in feminism, in Africanism, and in other areas where people fight for the right not only to think what they please, but to think it in their own ways.'[27] Understanding the difference between the two concepts of learning, leads us to understand not that this is a new proponent for a method of education, but rather a way for children to learn to learn or 'learning learning' as the phrase has been coined.[28]

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[23]A term coined by Seymour Papert in 1993 to describe the main classroom activity on the part of the teacher. Sawyer (n 19).

[24] John Taylor Gatto, (New York City Teacher of the Year Award on 31 January 1990) 'Why Schools don't educate', <www.naturalchild.org/guest/john_gatto.html> accessed 4 January 2019.

[25] ibid.

[26] Seymour Papert, 'Computer as Condom' <www.papert.org/articles/ComputerAsCondom.html> accessed 4 January 2019.

[27] Papert and Harel (n 19).

[28] Seymour Papert, <http://laptop.org/en/vision/mission/index2.shtml> accessed 3 January 2019.

In order for us to then use the laptop computer as the condom in the above example, we have to think of it very differently from of the way in which we normally do according to today's 'information superhighway'.[29] Thereby putting 'construction (not information) at the centre of the analysis. It views computer networks not as a channel for information distribution, but primarily as a new medium for construction, providing new ways for students to learn through construction activities by embedding the activities within a community'.[30] This is not to say that the computer will not also be used in searching and accessing all kinds of information which was not accessible or as easily accessible before. It is just that as a tool in itself this is not its most interesting, innovative or helpful attribute. The computer in this sense of a medium for construction will create all kinds of environments in which children will learn through a variety of activities. It will allow the child to discover the way to learn, and will provide a multitude of opportunities for development much as logo with a 'low threshold and no ceiling'.[31] It changes the dynamic between the student and the teacher, as the student is no longer a passive receptor of knowledge but is actively engaged in the learning process. Education therefore need not depend on the ability of the teacher and children who may have been perceived as being 'learning disabled' may in fact flourish in this environment.[32]

3.4 Laptop Specifications Relative to the Educational Theory

These specifications are included to serve two very important functions. The one is to describe how unlike other ICT projects this one was, not simply a case of applying given technology to a new market. It is a project where a computer has been specifically designed to match and serve the perceived needs of the target audience for which it is meant. Its design is meant to take into account difficult weather and living conditions of the third world as well as being designed to appeal and be user friendly to young children. The content of the laptop demonstrates the principles of the educational theory which the OLPC wanted to disseminate to the third world.

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[29] This term originally attributed to the United States Vice-President Al Gore whereby it was to be used to enhance education irrespective of income level, and which commonly refers to the internet.
<www.pcmag.com/encyclopedia/term/44962/information-superhighway> accessed 4 January 2019.
[30] Mitchel Resnick, 'Distributed Constructionism' Proceedings of the International Conference on the Learning Sciences Association for the Advancement of Computing in Education (Northwestern University, 1996).
[31] Logo (n 17).
[32] Nicholas Negroponte, *Being Digital* (1st Vintage Books Edition 1996) 200.

The second function is to clearly set out the parameters of the lens which is being used in order to critically examine the right to education; and the laptop was designed in a manner as to embody the educational theory of constructivism which the project was at least initially promoting and which it was chosen for.

The XO laptop was designed both in terms of hardware and software on the basis of the theory of 'constructionism' mentioned above. In fact, the initial name for the XO was the children's machine 1, which was a reference to Papert's book entitled 'The Children's Machine: Rethinking School in the Age of the Computer,'[33] which discusses constructionist learning through computers. The laptop is called the XO, because when the logo is turned at a 90 degree angle it looks like a child. In fact the screen can also be rotated, as well as there being a hinge which can change it from its standard laptop use to a form more suitable for gaming or e-book reading.[34] The laptop is made of shiny green and white plastic and looks like a toy making it both appealing to its target audience and distinct in order to deter 'grey market' traffic. When it is closed the plastic casing protects it from dust and rain and it is relatively light in order for it to be transported easily by a child. It has a spill-proof keyboard with keys made for a child's hands, and a screen which is of liquid crystal display in order for it to have a dual mode of display. That is to say for outdoor use in direct sunlight it has a reflective mode where everything appears in black and white in order for it to be readable, and indoors it has a colour-backlight mode where it is like a conventional laptop screen.[35] It also has a built in camera and microphone and speaker, a game pad, a touch pad, and is VOIP-enabled (meaning that it is possible to make telephone calls over the internet). It comes with a built-in wireless card and two rubber bunny- ear like antennas since wireless connectivity and mesh networking is included which enables the children to communicate amongst themselves through the laptop, as each laptop connects with one another thus creating a far reaching 'classroom'. As it provides for children in a rural area who may be further spread away from each other to remain in contact. At the same time it offers the potential of connecting to the internet in areas where there is little or no connectivity

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[33] Seymour Papert, *The Children's Machine: Rethinking School in the Age of the Computer* (Basic Books 1993).
[34] <http://wiki.laptop.org/go/XO> accessed 4 January 2019.
[35] <http://wiki.laptop.org/go/Hardware_specification> accessed 4 January 2019.

infrastructure. It does not include an internet package in itself and therefore leaves this choice up to each government to decide on the internet connection and perhaps even the type of resources that the will be available for the children to view.[36] The planned ratio of laptops to servers for each school aims to be at more than a 100:1 ratio in order to support these mesh networks, as well as other shared resources.[37] It runs on batteries which are fully compliant with the European Union RoHS Directive,[38] in that they do not contain hazardous materials. They are also capable of withstanding charging at much higher temperatures up to 45 degrees C[39] as well as withstanding charging from alternative power sources. Of course as access to power supplies are not always an option there are a number of features which take this into account to make the batteries last, as well as an alternative for the children to top up the battery power themselves. The laptop therefore comes with at least two of the three alternatives which are a crank, a pedal and a pull cord. The estimated life of this laptop is more than five years.

The name of the XO's security platform is Bitfrost, a name from Norse mythology for the bridge which keeps mortals form entering the realm of gods. The significance of this comes however, in a story about this bridge in the Prose Edda by the poet Snorri Sturluson written in the 13th Century in which there comes the recognition that there is no such thing as a perfect security system.[40] Although the objective of any security platform is to provide security, and despite the efforts and intentions of the programmers to provide a 'superior' security system, they have gone about doing so with a sense of pragmatism. The XO laptop security was also originally designed on the basis of constructionist principles. The first being that the 'laptop's security must not depend upon a secret design implemented in hardware or software'.[41] The second is that there must be 'no lockdown' meaning that default security settings can be changed or disabled to allow the user full control. In terms of protection against theft, which is an obvious concern, the OLPC has a system for deterring thieves targeting the laptops upon their entry to the country of

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[36] <http://wiki.laptop.org/go/Internet> accessed 4 January 2019.

[37] <http://wiki.laptop.org/go/School_server> accessed 4 January 2019.

[38] (2002/95/EC) <www.rohs.gov.uk/ > accessed 4 January 2019.

[39] <http://wiki.laptop.org/go/Laptop_Batteries> accessed 4 January 2019.

[40] Snorri Sturluson, and Arthur Gilchrist Brodeur (trs), *The Prose Edda* (Forgotten Books 1929) 24.

[41] <http://wiki.laptop.org/go/OLPC_Bitfrost#P_THEFT:_anti-theft_protection> accessed 4 January 2019.

destination.[42] When the XO is booted for the first time it then asks for the child's name, takes its picture and in the background it creates a key, all of which make up the child's 'digital identity' which is then sent to the server. This remains within the country/region's authority for protection against theft, and it is not sent to the OLPC.[43] The question of theft seems to have troubled a number of countries, and therefore when a country requests it, the OLPC provides an 'anti-theft daemon'.[44] This runs as a process that cannot be disabled or terminated even by a user who has complete access to all commands and files. It detects access to the internet and performs a 'call-home request' approximately once a day. In doing so, if the laptop is stolen it will mark it as stolen in the country's master database and execute a hard shutdown locking the laptop which can then only be activated according to the initial process. The only way that the XO is left unprotected therefore, is in the case where it is stolen to be broken down into parts. The most valuable parts are soldered onto the motherboard in order to protect against theft as much as possible. In terms of the Uruguay deployment which is gone into in depth later on in the thesis, they have made much use of the laptop's ability to call home and the greatest deterrent against theft is the wide distribution of laptops in the entire country. The third is that no reading should be required, in terms of security messages; this takes into account that the target audience is very young children who cannot be expected to read or make informed security decisions. The final principle is unobtrusive security, which simply means that issues of security permissions should not be getting in the children's way, with security acting unobtrusively in whatever way it has been set up by the user to respond. These principles are coupled with certain goals, such as that of 'out-of-the box-security' so that no updates will be necessary for the security system to work effectively. The next is that of no permanent data loss in the case where the laptop is somehow damaged, stolen or lost. Another is in terms of not having any user passwords, following the same logic as security messages, in terms of younger children. Also no authentication in terms of either the users or the laptops will depend upon identifiers that are sent unencrypted over the network. Also the keys which are sent along with each deployment will be used solely for the purposes of

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[42] ibid.
[43] Ibid.
[44] ibid.

verifying the integrity of bundled software and content, and not to validate the identity of the laptop users.

In terms of protection from harm to the user this is a matter of a security platform[45]. It must be noted that 'objectionable' content filtering or 'parental control' does not fall under the scope of the security platform as it 'lacks any kind of technical definition, and is instead a purely social construct.'[46] The security platform is there to prevent anyone from attacking the software in such a way as to do serious damage to the laptop's hardware either by harming the BIOS or NAND, or by degrading the laptop's performance or draining of its battery. People may also attempt to violate the user's privacy by accessing and sending the user's information[47] and documents over the network, or even monitoring the user through the laptop's camera and microphone. An extension of this malice would then be to damage or destroy the user's work and data. A person may even attempt in some cases to impersonate the user. These types of malice may be common knowledge to people who engage in technology in their daily lives, however, in countries where the introduction of this technology is new, so are the dangers. As this security system gets older, and technological developments continue, dangers of this sort ought to be considered as carrying the respective weight, some more than others.

The choice of software, is a fundamental aspect of what sets this educational project apart from others, and a demonstration of its commitment to the educational theory of constructionism. The software on the XO is localized in order to match the country of deployment. The kind of software which was to be used initially on the laptop was to be Linux, an operating system which is free open source software. 'Free software is a matter of liberty, not price. To understand the concept, you should think of free as in free speech, not as in free beer'[48] Therefore when one uses free software they are afforded the freedom to 'run, copy, distribute, study, change and improve the software'.[49] In the case where someone wishes to distribute this software they are

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[45] ibid.
[46] ibid.
[47] José van Dijck, 'Datafication, dataism and dataveillance: Big Data between scientific paradigm and ideology' (2014) 12(2) Surveillance & Society 197.
[48] 'Free Software Definition' <www.gnu.org/philosophy/free-sw.en.html> accessed 4 January 2019.
[49] ibid.

also bound to afford the same freedoms to those whom they make the software available to, whether they distribute it freely or for a price.[50] In order to protect this freedom, the software produced is protected under 'Copyleft'. This essentially means that the Copyright is used the other way around, to guarantee rather than restrict the user's freedoms; hence the name 'Copyleft'.[51] The Kernel or core of the computer operating system is Fedora Linux which enshrines all the above principles. The reason for this choice as stated on the One Laptop per Child website is that 'Our commitment to software freedom gives children the opportunity to use their laptops on their own terms.'[52] On top of the Fedora[53] Linux kernel, the user interface 'Sugar', as well as the other child-friendly activities and software components are built.[54] Although not all children are expected to become programmers the OLPC did not want to impose a ceiling on those who 'choose to modify their machines. We are using open document formats for much the same reason: transparency is empowering. The children—and their teachers—will have the freedom to reshape, reinvent, and reapply their software, hardware, and content'[55]. As an educational experience, if we assume that the children are in possession and control of their laptop, it then allows them freedoms beyond what usual commercial educational software allows them to do. Not only does it guarantee them the freedom to adapt their computer's interface to suit them but they have free access to the programs themselves. Furthermore, the sugar software applications, which are addressed in more detail in chapter six, are specifically designed programs according to constructionist theory, whereby children construct their own knowledge structures by constructing various virtual structures, in the sense of virtual building blocks.

On May 15th 2008, the OLPC announced collaboration with Microsoft, to run Windows XP on the XO laptop on a 'dual-boot' configuration. That essentially means that the choice of operating system is available to the customers; the customers being the governments rather than the children. It should be noted that in an interview Seymour Papert says that Microsoft was initially

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[50] ibid.
[51] Free Software Foundation, GNU Project- What is Copyleft? <www.gnu.org/copyleft/> accessed 4 January 2019.
[52] <http://laptop.org/en/laptop/software/> accessed 4 January 2019.
[53] This being one of many Linux distributions.
[54] <http://wiki.laptop.org/go/Software_components> accessed 4 January 2019.
[55] <http://wiki.laptop.org/go/XO> accessed 4 January 20198.

offered the opportunity to develop an operating system for the OLPC on the condition of course that it was open source, which was the reason they declined.[56] Let it also be noted that Windows XP, even in its current form of availability for the XO is not by any means free open source software. Also, it is no longer software which is supported by Microsoft. It is unfortunate that the language was twisted around in order for Negroponte to persuade people that this change was only an alteration of the laptop and not the project. 'It would be hard for OLPC to say it was 'open' and then be closed to Microsoft. Open means open.'[57] In light of the previous analysis of free software, we understand that this change has a number of implications. The first of which is that where Windows is the chosen operating system, all the potential for viewing, studying, changing, improving or personalizing the computer in any way is no longer possible. It has also increased the cost of the laptop, in order for it to be altered to support this added technology. It also makes the computer much more susceptible to viruses and other malicious attacks as it will now be choosing the system most prone[58] to such. The reason for this change was said to be the necessity of gaining global acceptance of the laptop, as the project had not initially caught on the way they had predicted[59]. Another closely related reason which is put forward in the words of Andrés Gonzalez Díaz, governor of Cundinamarca, Colombia as quoted on the Microsoft's news page[60] 'As I plan my region's investment in technology, I must evaluate the best way to provide quality education and prepare my citizens for the work force'. This was an argument put forward by many countries, amongst which was Egypt.[61] However, this argument of Windows being a requirement for the children's future defies logic, as it would not be the requirement if more children were educated with a better alternative. This decision has a number of effects both

[56] Professor Papert Discusses One Laptop per Child Project, *USINFO Webchat* transcript, 14 November 2006 <www.america.gov/st/washfile-english/2006/November/20061114160233xjsnommiS0.2487299.html> accessed 21 November 2007 (no longer available).

[57] Jo Best, 'Negroponte: Windows key to OLPC philosophy' *CNET News* (October 29, 2007) <http://news.cnet.com/Negroponte-Windows-key-to-OLPC-philosophy/2100-1016_3-6215837.html> accessed 4 January 2019.

[58] Linda Smith Tabb, 'A Chicken in Every Pot; One Laptop per Child: the trouble with global campaign promises' E–Learning (2008) 5(3) E-Learning 337.

[59] David Talbot, 'OLPC Laptop gets Windows' *MIT Technology Review* (2008) <www.technologyreview.com/Infotech/20788/?a=f> accessed 4 January 2019.

[60] <https://news.microsoft.com/2008/05/15/microsoft-and-one-laptop-per-child-partner-to-deliver-affordable-computing-to-students-worldwide/ > accessed 4 January 2019.

[61] <http://wiki.laptop.org/go/Windows> accessed 4 January 2019.

within the OLPC Foundation and outside. Within the OLPC a number of the basic team left due to this change of direction.[62] Former OLPC president of software, Walter Bender, resigned and went on to launch an organization called Sugar Labs. The director of security architecture Ivan Krstic also resigned,[63] claiming that the reason in doing so was that the OLPC had radically changed its goals and vision. 'In fact, I quit when Nicholas told me — and not just me — that learning was never part of the mission. The mission was, in his mind, always getting as many laptops as possible out there.'[64] Outside the organisation, it placed the project at the heart of the on-going controversy on software between advocates for free/open source and those who wish to keep source codes secret. On the one hand Negroponte appears to have expressed frustration at dealing (within the organisation) with 'open source fundamentalism'[65] and on the other 'It's like Greenpeace cutting a deal with Exxon. You're sleeping with the enemy, but you do it'[66] The only way to understand these conflicting opinions is if in the first statement free open source software (FOSS) is not the means but the end. In this respect, one must agree that the focus would no longer be an education project; that said however, means that according to the second statement, from that moment on the OLPC was already resigned to becoming a laptop project. The government of Peru was the first to receive the XO laptop running Windows XP.[67] The pilot projects, in two towns in Colombia were the next to run XP. The change toward proprietary software also affected the present thesis as it rendered the overall OLPC project closer to the

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[62] Agam Shah, 'OLPC switch to Windows on XO is 'muddled,' developers say' *InfoWorld News* (23 April 2008) <www.infoworld.com/article/2652012/operating-systems/olpc-switch-to-windows-on-xo-is--muddled---developers-say.html> accessed 4 January 2019.

[63] Ryan Paul, 'OLPC Security expert resigns over reorg as project flounders' (21 March 2008). <http://arstechnica.com/hardware/news/2008/03/olpc-security-expert-resigns-over-reorg-as-project-flounders.ars> accessed 4 January 2019.

[64] Ivan Krstic, Blog entry <http://radian.org/notebook/sic-transit-gloria-laptopi> accessed 22 January 2009 (no longer available) quoted in Terry Hancock, 'The Bittersweet Facts about OLPC and Sugar' *Free Software Magazine* (25 April 2009) <http://freesoftwaremagazine.com/articles/bittersweet_facts_about_olpc_and_sugar/> accessed 4 January 2019.

[65] Ryan Paul, 'Exodus of key figures from OLPC a troubling sign for project' A*rs Technica* (2008) <http://arstechnica.com/hardware/news/2008/04/exodus-of-key-figures-from-olpc-a-troubling-sign-for-project.ars> accessed 4 January 2019.

[66] Negroponte quoted as saying in Steve Hamm and Geri Smith, 'One Laptop Meets Big Business' *BusinessWeek IN Focus* (June 5, 2008) < www.businessweek.com/print/magazine/content/08_24/b4088048125608.htm> accessed 22 January 2009 (no longer available) cited in Neil Selwyn, *Education in a Digital World: Global Perspectives on Technology and Education* (Routledge 2013) 137.

[67] Dan Nystedt, 'Peru to be first with new OLPC laptop with Windows' *Computerworld* (2008) <www.computerworld.com.au/article/260500/peru_first_new_olpc_laptop_windows> accessed 4 January 2019.

other ICT projects aimed at the developing world, from which up unto that point it had appeared to differ.

3.5 The OLPC and ICT education

ICT education has become increasingly used in the field of education as a means of empowerment which is enshrined by the right to education and as a means of furthering development.[68] It takes the element of access to education and it ties it to the notion of access to technology.[69] This view is supported by many international institutions such as the World Bank and UNESCO. Despite the acknowledgements on the World Bank website that ICT in education has not produced conclusive data indicating whether or not it furthers or hinders the education process. As we all that there has not been an adequate correlation between the measurement tools such as standardised testing, and the skills or empowered learning that the ICTs are claiming.[70]

Both Papert and Kay, mentioned above in relation to constructionism, were amongst pioneers in the field of one-to one computing programs for children in schools.[71] This is significant in that, one-to-one computing is the model of the OLPC but is also the main trend in ICT education, as it is considered educationally significant for there to be a computer for every child;[72] as significant as every child having their own pencil according to Negroponte. If seen from a financial perspective, there is also a much greater number of machines which are to be bought/sold and then later maintained and/or upgraded. This view, however, is not commonly accepted 'Articulated design needs and requirements, in this case individual control and ownership, reflect a series of often unquestioned ontological, political, and economic commitments that are integral to the design'.[73] The scepticism of one-to-one computing, a sub-category of ICT education, is part of the wider criticism of the effectiveness of computer-based learning addressed by this thesis.

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[68] ECOSOC 2000 Ministerial Declaration: Development and international cooperation in the twenty-first century: the role of information technology in the context of a knowledge-based global economy (11 July 2000) E/2000/L.9.
[69] Neil Selwyn, 'Reconsidering political and popular understandings of the digital divide' (2004) 6 New Media Society 341.
[70] <www.worldbank.org/en/topic/edutech> accessed 4 January 2019.
[71] Papert (n 33).
[72] For the merits of shared computers see Pal et al (n 2).
[73] Irani and others, 'Postcolonial Computing: A Lens on Design and Development' (2010) CHI 10 (Proceedings of the SIGCHI Conference on Human Factors in Computing Systems ACM Press) 1311, 1318.

It is nonetheless, noteworthy that Papert's educationally theory is the basis of the OLPC but also that he was actively involved in the project himself.[74] Negroponte, therefore joined forces with not only the co-founders of the Media-Lab at MIT but also proponents of ICT education.

On Monday February 12, 1990 the first one-to-one laptop program was launched at the Methodist Ladies' College (MLC), in Melbourne, Australia, implemented by the school's headmaster David Loader.[75] The school supplied all the 10-year-old girls in the Fifth Year with laptops Toshiba T1000SE running Logo and LogoWriter software based upon Papert's constructionist theory, paid for by parents, under a structure of compulsory ownership. The principal introduced the computers not as an experiment but because 'he believed it would empower his students'.[76] 'The impetus behind the laptop investment at MLC was David Loader's sense that school was becoming increasingly irrelevant in the lives of kids.[77] It did in fact have a very significant impact on the students, and the success was observed by those both near and far. This initiative was replicated soon after by some other schools in Australia, where the children were supplied with notebooks, and were noticed by Microsoft executives who were so impressed by what the students could do, that they invited teachers back to the United States to speak at a conference which was attended by representatives from 250 schools in the US. This gave rise to the Anytime Anywhere Learning initiative[78] and many subsequent 1:1 computing programmes.

The purpose of the MLC example, is to define a very specific category of ICT education which the OLPC, at least initially purported to represent. That is to say, to think of the technology in a un-techno centric manner, where computers are not considered to be themselves anything more than a means or a tool. The example demonstrates that the aim was empowerment and this was

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[74] <www.theguardian.com/education/2016/aug/03/seymour-papert-obituary> accessed 5 January 2019.
[75] Jing Lei, *The Digital Pencil: One-to-One Computing for Children* (Routledge 2008) 16.
[76] Bob Johnstone, Never Mind the Laptops: Kids, Computers, and the Transformation of Learning (iUniverse Inc 2003) 3.
[77] Gary Stager, 'Laptops in School — A Wonderfully Cautionary Tale' 2000
<www.stager.org/articles/laptopbookchapter.html> accessed 5 January 2019.
[78] <www.aalf.org/cms/?page=AALF%20-%20About> accessed 5 January 2019.

effected by 'entrusting'[79] the girls with a powerful tool which allowed them the space and freedom to create and construct and engaging them in their own education. According to Papert, 'The context for human development is always a culture, never an isolated technology. In the presence of computers, cultures might change and with them people's ways of learning and thinking. But if you want to understand (or influence) the change, you have to center your attention on the culture -- not on the computer'.[80] He goes on to say that in trying to remove the technocentric[81] notion when thinking about computers in education we may find ourselves re-evaluating notions and preconceptions which we had about education before the inclusion of computers. The culture which he means is affected is then the educational culture which is changed with the inclusion of the computer; which depending upon the human factors may be far-reaching. The objective one can argue in the MLC example was an educational one, and therefore it seems plausible this is what Negroponte meant when he characterised the OLPC as an education project as opposed to a laptop project; despite this assessment of the project not having universal acceptance.

There are certainly many ICT projects running, both in the developed and the developing world where, a technocentric view is held and therefore the focus is on the technological tool, the computer which is then seen as directly affecting thinking and learning. The measurement of its effectiveness is possible as the results are quantifiable. The introduction of a computer to effect the same rote tasks which were done in a restricted learning environment will be restricted themselves. The results which are usually focused on are specific skills which then are seen as translating into a more valuable human capital. This is a very common trend amongst international institutions and the legal frameworks behind ICT education as will be seen in greater depth in later chapters, and which are deeply rooted in the theme of 'development'.

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[79] Johnstone (n 76).

[80] Seymour Papert, 'Computer Criticism vs. Technocentric Thinking' (1987) 16(1) Educational Researcher 22.

[81] Papert's Technocentric is likened to Piaget's Egocentric stage of childhood whereby the 'child has difficulty in understanding anything independently of the self' ibid.

3.6 Implementation of the OLPC Project

There are two ways in which the OLPC project has brought the XO laptop to various countries. The first is as has been mentioned above, that governments place an order for their country, and the OLPC sells them an amount of laptops. The government then distributes the laptops through the ministry of education to the school(s) to be given to each student. Most countries initially have placed an order for a small test pilot program and then gone on to place much larger orders. The first country to officially place an order for the XO laptop (100,000) was Uruguay in October 2007.[82] The countries which followed were Ghana, Colombia, Mexico (the laptops were bought by the billionaire Carlos Slim), among others.

The second type of deployment, occurred in countries which were on the receiving end of the 'Give one, Get one' (G1G1) program which took place during the years 2007[83] where it was only available to U.S. and Canadian citizens and 2008[84] where it was expanded to be available to EU citizens as well as those of Switzerland, Russia and Turkey. It is interesting to note that the laptops in the G1G1 campaign were laptops with the sugar on Fedora Linux distribution and not the dual boot version with windows.[85] The reasons suggested for this approach is primarily that Microsoft does not want to make Windows available at no cost in the 'developed world' and secondly that they do not want to make it available without offering any tech support.[86] Countries which received laptops on the basis of this donation campaign were Rwanda in 2007,[87] Ethiopia, Haiti, Afghanistan, Cambodia, Mongolia and Vanuatu among others. In addition to these, a number of laptops were deployed to various countries for pilot projects, such as Iraq, Lebanon, Mozambique, Nigeria, Brazil, Pakistan and Thailand among others. The G1G1 program was problematic in terms of its customer support. That is to say, there were problems with delivery, as problematic software led to misaddressed packages. Also there were not enough volunteers to reply to e-mails and speak to people over the phone to offer tech-support, within an

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[82] <http://wiki.laptop.org/go/Countries> accessed 5 January 2019.
[83] <http://wiki.laptop.org/go/G1G1_2007> accessed 5 January 2019.
[84] <http://wiki.laptop.org/go/G1G1_2008> accessed 5 January 2019.
[85] ibid.
[86] Video in Erica Ogg, 'OLPC's Give One, Get One program to be rekindled Nov. 17' *CNET News* (11 November 2008) <http://news.cnet.com/8301-17938_105-10094521-1.html> accessed 5 January 2019.
[87] OLPC Wiki Countries (n 82).

appropriate amount of time.[88] This aspect of the program where computers are provided as a form of aid is further discussed in chapter 6.

On May 20th 2008, at a Country Meeting the OLPC announced its plans for the next generation laptop the XO2 or XOXO.[89] Its expected release date was 2010, and it was expected to cost much less than the XO at 75$. It was designed to have two touch sensitive displays and look like a book.[90] It was designed to act primarily as an e-book reader with the capacity of holding more than 500 e-books. The differences between the two laptops are that the XO2 would be about half the size, consume much less power with no crank- handle. It would not have the ear-like antennae as they will be internal, yet it will still have mesh-networking architecture. 'One important thing about the XO-2 is that we're going to do it as an open source hardware programme.'[91] It was a design which was eventually abandoned in place of the XO-3 tablet, which was shown in 2012. At the end of that year that model was also abandoned for the XO-4 which came out in 2013, and which is available in two models, the XO-4 and the XO-4 touch.[92] As the other versions past the initial XO laptop are mentioned in this thesis in order to demonstrate points about the OLPC, it was considered necessary to briefly set them out.

3.7 Obstacles

The OLPC has faced a number of obstacles in the ten years that it is operating. The first is that it has not accomplished its goal of supplying Third World children with 100-150 million laptops a year by the year 2007.[93] It also was not able to provide the XO for $100 as it had anticipated. The

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[88] Ryan Paul, 'Olpc angering donors: Give 1 Get1...someday...probably' *ArsTechnica* (25 January 2008) <http://arstechnica.com/hardware/news/2008/01/olpc-angering-donors-give-1-get-1-some-day-probably.ars> accessed 5 January 2019.

[89] Christoph Derndorfer, 'XOXO: OLPC announces details about the XO-2, G1G1 comeback in summer OLPC News (20 May 2008)
 <www.olpcnews.com/laptops/xo2/olpc_announces_xoxo.html> accessed 5 January 2019.

[90] Thomas De Maesschalck, 'OLPC XO-2 Laptop Previewed' *Dark Vision Hardware* (21 May 2008) <www.dvhardware.net/article27360.html> accessed 5 January 2019.

[91] Negroponte quoted in Wayan Vota, 'What Does "Open Source Hardware" Mean for the XO-2?' *OLPC News* (30 January 2009) www.olpcnews.com/hardware/production/open_source_hardware_xo-2_laptop.html accessed 5 January 2019.

[92] <http://wiki.laptop.org/go/XO-4_Touch> accessed 5 January 2019.

[93] 'Sub-$100 laptop design unveiled' *BBC News* (29 September 2005) <http://news.bbc.co.uk/2/hi/technology/4292854.stm> accessed 5 January 2019.

OLPC also lost a number of its core people, over various controversies, the biggest of which was regarding Microsoft, as was mentioned above. For a number of years the OLPC has been struggling to prove how a non-profit organisation 'made up largely of academics to operate like a business and compete with powerful companies'.[94] It has also been criticised for having depended too heavily on 'economy of scale',[95] selling the laptops in very large numbers in order to maintain the low price, which has led to the current turn of events.

On January 7th 2009, the OLPC announced that due to tough economic times it must downsize with a 50% reduction in staff, reduction in pay for remaining staff, and a restructuring, giving the OLPC a new direction.[96] The restructuring focused on certain technological developments, which are fundamentally linked to the educational principles. The first was that attention was to be turned to the development of the XO2. As set out above, the XO2 apart from being the newer model essentially seemed to be changing the educational focus of 'constructionism' to 'instructionism' as its primary function was to be that of an e-book reader. This was conflicting with the OLPC assertion that laptops must be 'more than electronic substitutes for textbooks if they are to profoundly effect learning'.[97] The second was a no-cost connectivity program. This was more by means of a business agreement whereby the laptops would be able to access the internet for no cost.[98] The third was a million digital books and lastly the passing of the development of the Sugar Operating System on to the community. In fact many of the staff cut-backs were the software engineers working on Sugar for the XO. This move does not come as much of a surprise after the announcement to work closely with Microsoft;[99] but it does bring to the surface many of the questions relating to education. There was also some restructuring in terms of certain deployments. That is to say the projects running in Latin America were spun off

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[94] Hamm and Smith (n 66).

[95] Ryan Paul, 'OLPC downsizes half of its staff, cuts sugar development' *ArsTechnica* (7 January 2009) <http://arstechnica.com/business/news/2009/01/olpc-downsizes-half-of-its-staff-cuts-sugar-development.ars> accessed 5 January 2019.

[96] <http://wiki.laptop.org/go/January_2009_restructuring> accessed 5 January 2019.

[97] Hamm and Smith (n 66).

[98] Robert Buderi, 'After Layoffs One Laptop per Child Reboots with New Focus and Big Plans' *Xconomy* (2009) <www.xconomy.com/boston/2009/01/29/olpc-20-after-layoffs-one-laptop-foundation-reboots-with-new-focus-and-big-plans/2/> accessed 5 January 2019.

[99] Paul (n 95).

into a separate unit. This was criticised by some as meaning that the OLPC was losing interest in such areas because they had already a number of laptops and were no longer interested in buying many more.[100] However, when asked Negroponte said that the OLPC simply could not supply support for the projects, and the governments in these areas wanted to take over the responsibility anyway, which he believed was really the only way for such projects to succeed.[101] Sub-Saharan Africa was to become a major area of learning and the Middle East, Afghanistan and North-western Pakistan were to become a major area of focus. Finally, the OLPC was looking to supply 'least-developed countries' at zero cost.[102] This restructuring was attributed to the failure of the G1G1 program of 2008 which generated 93% less than it had the year before, earning a total of $2.5 million and thus forcing a budget cut back of $12million, according to Negroponte.[103] The reason for the failure of the 2008 G1G1 was said to be the plethora of mini-notebooks available on the market, at a lower price. Interestingly it seems the profits which were generated by the 2007 G1G1 which amounted to $37 million in only six weeks, is what seems to have inspired commercial manufactures of these notebooks.[104] It is not surprising that this announcement was called the 'Keep one, fire one'[105] by critics. In addition to this certain corporate sponsors also withdrew their support, due mainly to the financial difficulty of the times.[106] Having more than some suspicions raised by the OLPC teaming up with Microsoft, this restructuring which comes with this statement can perhaps be seen as the solidifying factor in making this a laptop project rather than an education project. 'While we are saddened by this development, we remain firmly committed to our mission of getting laptops to children in developing countries'.[107]

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[100] Wayan Vota, 'Breaking News: OLPC just got gutted, 50% of staff gone' (2008) <www.olpcnews.com/people/negroponte/olpc_just_got_gutted.html> accessed 5 January 2019.

[101] Buderi, (n 98).

[102] Wiki.laptop (n 92).

[103] Hiawatha Bray, 'Fund loss staggers group giving laptops to poor children' *The Boston Globe* (9 January 2009) <www.boston.com/business/technology/articles/2009/01/09/fund_loss_staggers_group_giving_laptops_to_poor_children/?page=full> accessed 5 January 2019.

[104] Wayan Vota, 'The real Olpc bust: G1G1 2008 XO laptop sales' (9 January 2009) <www.olpcnews.com/sales_talk/g1g1_2008/olpc_bust_g1g1_2008_sales.html> accessed 5 January 2019.

[105] John Paczkowski, 'Olpc Foundation announces "keep one, fire one" employee drive' *Digital Daily* (8 January 2009) <http://digitaldaily.allthingsd.com/20090108/olpc-foundation-annouces-%E2%80%9Ckeep-one-fire-one%E2%80%9D-employee-drive/> accessed 5 January 2019.

[106] Buderi (n 98).

[107] Wiki.laptop (n 92).

Another setback was in the form of a patent infringement lawsuit against the organisation by the Nigerian company LANCOR which managed to get a temporary injunction against the distribution of the OLPC XO laptop in Nigeria and sought a permanent injunction as well as $20 million in damages.[108] This was based on the claim that the OLPC has infringed the patent by reverse engineering the multi-lingual keyboard. Nigeria had ordered 1 million laptops in July 2006, but began to review this order in light of this case. However, it seems this lawsuit may have been premature in that the OLPC had not yet begun to sell the XO at the time of the suit.[109] The patent also had not been filed according to the date asserted by LANCOR, and the case seemed to have been generally without merit. Nonetheless, it did mean that Nigeria, put an end to the pilot project which was in place at the time of the injunction, and eventually discontinued the OLPC project altogether.[110]

3.8 Objections to the OLPC Project

There have been many objections to the OLPC Project, one of the most often raised objections, is that of many people's initial reaction to hearing about this project, that surely the children of the developing world have much more pressing needs such as alleviating hunger, having access to water, being free from disease and war.[111] If this criticism is made specifically to this project then it can be responded to by the OLPC's claim that it is a grass roots education project and the technical expertise which it has to offer is in the area of technology and education. The OLPC also puts forth a second part to its response[112] to this criticism, one which is commonly mentioned by such ICT projects which in the words of the Chinese Proverb 'Give a man a fish; feed him for a

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[108] Ryan Paul, 'Lancor sues non-profit charity olpc for $20 million' A*rs Technica* (2 January 2008) <http://arstechnica.com/old/content/2008/01/lancor-sues-non-profit-charity-olpc-for-20-million.ars> accessed 5 January 2019.
[109] Mike Elgan, 'Company suing OLPC asked for $20 million' *Computerworld* (2 January 2008) <www.computerworld.com.au/article/201246/> accessed 5 January 2019.
[110] Wayan Vota, OLPC Nigeria One Year Later: Hard Lessons Learned (2008) <www.olpcnews.com/countries/nigeria/olpc_nigeria_one_year_later.html> accessed 5 January 2019.
[111] 'It's impossible to read this stuff without wondering whether the folks who wrote it have any understanding of what it's like to live in a society where the average income is less than $2 a day and the notion of children's rights is as theoretical as time travel'. John Naughton, 'The $100 laptop question' *The Guardian* (2005) <www.theguardian.com/business/2005/dec/04/olpc.theobserver> accessed 5 January 2019.
[112] OLPC Mission (n 8).

day. Teach a man to fish; feed him for a lifetime.'[113] Therefore, according to the OLPC the problems, some of which are set out above; will best be overcome through more effective education. 'To eliminate poverty and create world peace by providing education to the poorest and most remote children on the planet by making them more active in their own learning, through collaborative and creative activities, connected to the Internet, with their own laptop, as a human right and cost free to them'.[114] This view, also fits into the broader view supported by international institutions, about the role of education in relation to poverty.[115] These two arguments which will be treated as indicative of ICT4D projects[116] and international law, are based upon the culturally imperialist mind-set that the developed states are in possession of knowledge and expertise which the developing states lack and to whom the developed states will bestow such knowledge/expertise as a gift. It is a claim of expertise, when even this expertise is contested by experts in ICT and education. There is an inherent indifference as to the cultural context and relevance of this 'expertise' to those deemed needy, and it instantly creates a one-way traffic paradigm[117] whereby values and knowledge are exported from the heavenly parts of the world to the hellish parts. It can also be described according to TWAIL theorist Mutua's Savages-Victims-Saviours metaphor[118] which was set out in the introduction. It is indicative of a notion of superiority used to characterise the developing states as inferior, while characterising the developed states as morally superior for carrying out a 'civilising mission' of neo-colonialism. It is criticised throughout the thesis as being the hegemonic practice of international human rights law presented as *apology.*[119] These points are developed further in the following chapters,

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[113] <https://quoteinvestigator.com/2015/08/28/fish/> accessed 5 January 2019.

[114] Nicholas Negroponte's e-mail to the OLPC Sugar list serve <http://lists.laptop.org/pipermail/sugar/2008-May/005795.html> accessed 5 January 2019.

[115] Jandhyala B G Tilak, Mia Melin (ed), Education and Poverty' in Education– a Way out of Poverty? (The Poverty Conference, Sweden 2001) SIDA Issue 12 of New Education Division documents.

[116] As the UK ICT organization dedicated to spreading the School Business Model indicates <www.teachamantofish.org.uk/> accessed 5 January 2019. Also see Joyojeet Pal, 'Computers and the Promise of Development: Aspiration, Neoliberalism and 'Technolity' in India's ICTD enterprise' Confronting the Challenge of Technology for Development: Experiences from the BRICS, (University of Oxford 29-30 May 2008).

[117] Obiora Okafor and Shedrack Agbakwa, 'Re-Imagining International Human Rights Education in Our Time: Beyond Three Constitutive Orthodoxies' (2001) 14 Leiden Journal of International Law 563.

[118] Makau Mutua, 'Savages, Victims, and Saviors: The Metaphor of Human Rights' (2001) 42 (1) Harvard International Law Journal 201.

[119] Martti Koskenniemi, *From Apology to Utopia The Structure of International Legal Argument* (Cambridge University Press 2005).

as they are drawn from and aim to further contribute to Third World Approaches to International Law.

Criticism of the OLPC has also come from other organisations running IT projects in developing countries, which see the project as a very expensive endeavour and whose proposed alternatives are computer labs in schools with recycled computers.[120] To begin with, as an educational tool it must be noted that it was designed by computer engineers. There were not many 'educational experts' working on this, as Edith Ackermann is quoted as saying 'The hackers took over'.[121] This is quite a heavy criticism for a project which at least started off by calling itself an education project. Also on the subject of leaving those concerned out, and perhaps in a very western/imperialist manner, those who the XO was designed for were not consulted nor did they participate in its design in any way. A 'participatory design' would strive to achieve an understanding of the children and their lives in order to provide a more effective tool, which is likely to gain much more acceptance and will therefore be less likely to fail.[122] Nevertheless, this was not the approach taken by the OLPC when designing the XO1 and the subsequent models. This does not mean that they have not received feedback from governments, educators and of course the children themselves, which they have taken into account in order to improve the laptop. Although this question has not been put or has not been officially responded to by the OLPC; one can argue that the response would be along the lines that the way in which the XO has been designed, at least in terms of its software, that it is in such a malleable structure for it to be formed by the both the individual user and the community within which the user is part of. That is that it is not tailored in any one particular way, and can therefore be immersed more easily into these very diverse countries and communities which it is being given to and left to them to shape.

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[120] Stan Beer, 'War of words between aid organization and Olpc erupts' *IT Wire* (2007) <www.itwire.com/your-it-news/home-it/8894-war-of-words-between-aid-organization-and-olpc-erupts> accessed 5 January 2019.
[121] Hamm and Smith (n 66).
[122] Teemu Leinonen 'Participation Design' *OLPC news* (2007) <www.olpcnews.com/laptops/xo2/participation_design_xo-2.html> accessed 5 January 2019.

As a technological tool, it has from the beginning, been cause for concern in terms of how it may be used to cause harm in various ways. This is the case with most tools after all, however, in terms of specific technological threats, a number of those were discussed in advance, in order to prepare for such occurrences. One such discussion was related to something which those of us who use computers regularly, have become quite accustom to facing, is that of spam or 'flood netting' which is the program used to overload certain websites in order to render them inaccessible. This has not been a big problem in deployments as was predicted.[123] A more serious concern which was raised about the potential for abuse of this tool in order to cause harm to others, was the potential for abuse of the XO's security system Bitfrost. This would be an abuse on the part of the government(s) which may choose to monitor individual's activity[124] by taking advantage of the digital signature which the laptop has and sends along with any content, as was set out in detail above. A further step which a government may choose to take in the case that it wants to end this individual's activity is to perhaps deny the user a new activation key which the laptop will request when contacting the server next. The fact that the security system is not designed to be used in such a way, or that 5-10 year old children are unlikely to cause their government's concern/interest are not really valid responses to this concern. Under paragraph 2 of article 17of the International Covenant on Civil and Political Rights everyone has the right to the protection of the law against unlawful or arbitrary interference with their privacy. In fact, specifically for violations of privacy through the use of ICT legislative measures have been taken in order for people to be protected against such.[125] In the United States they have the Privacy Act of 1974 regulating personal data processing. In Europe there is a data protection directive for EU citizens which has recently been updated;[126] on 14 April 2016 the Regulation and the Directive were adopted by the European Parliament which shall apply from 25 May 2018.[127] Africa lacked

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[123] Bitfrost (n 41).

[124] Colin Barras, 'Laptops could betray users in the developing world' *New Scientist* (2008) <www.newscientist.com/article/mg19826596.100-laptops-could-betray-users-in-the-developing-world.html?page=2> accessed 5 January 2019.

[125] Esharenana E. Adomi, *Frameworks for ICT Policy: Government, Social and Legal Issues* (Information Science Reference 2011) 139.

[126] Cynthia O'Donoghue and others, 'What Will Data Protection Look Like in a Post-Brexit Britain?' *Technology Law Dispatch* (29 June 2016) <www.technologylawdispatch.com/2016/06/data-cyber-security/what-will-data-protection-look-like-in-a-post-brexit-britain/> accessed 5 January 2019.

[127] Directive 95/46/EC.

regulatory legislation in this area until recently, where the African Union (AU) adopted its Convention on Cybersecurity and Personal Data Protection. However, to date it has been signed by only 10 out of 55 countries and ratified by two.[128] In response to the second assertion, it is twofold; firstly that within the countries where the XO is to be deployed may consider children of those ages to have very 'adult' capabilities i.e. child soldiers.[129] The second is that, the XO is not capable nor is it designed to exclude adult use. The perhaps slightly more comforting thought is that there is work being done on the security system in order for the laptops to identify each other without breaching the privacy of their users. Having said that, there is no technological tool which does not have the potential of such forms of abuse, and it therefore is certainly a matter of great concern, as very young children may not be suspicious of such potential harm.

A number of people have voiced the concern that the OLPC project, although claiming to be based on previous experience, seems to be somewhat of an empty claim as there have not been any studies proving there to be any verifications of the hardware or software it employs to establish its educational method.[130] The choice of 'constructionism' as being the educational theory of choice has even been called 'hubris', a term which tends to be associated with 'development' work. The fact remains that 'Constructionism' as a theory has years of work to support it, however, 'constructionism' in practice has no large scale study to prove that it does. In fact one of the first studies carried out by Papert and Negroponte in 1983 in Senegal is mentioned on the OLPC Wiki[131] as a computer immersion program, actually turned out to be a failure[132] although that part is not mentioned in the Wiki. In fact the most extensive study which has been carried out to date, as stated in the Wiki, is a study conducted by Saul Rockman for a duration of four-years in 50 schools across the U.S. which ratifies constructionism. The 'findings' of this study or other studies in this area have not really produced concrete results by which to

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[128] <https://au.int/sites/default/files/treaties/29560-treaty-0048_-_african_union_convention_on_cyber_security_and_personal_data_protection_e.pdf> accessed 5 January 2019.

[129] Barras (n 124).

[130] Jon Camfield,' A Hubris Model of One Laptop Per Child Implementation' *OLPC News* (1 July 2008) <www.olpcnews.com/people/leadership/hubris_model_of_olpc.html> accessed 5 January 2019.

[131] Wiki.laptop (n 8).

[132] Dray and Memosky, 'Computers and a New World Order' *MIT Technology Review magazine* (Boston, No. 13 May/June 1983, in Jon Camfield. 'OLPC History: Senegalese Failure in Implementation' *OLPC News* (June 2007) <www.olpcnews.com/people/negroponte/olpc_history_senegal_failure.html> accessed 5 January 2019.

evaluate them in any scientific manner. In fact it seems that 'constructionism's' biggest study will be the OLPC project.

The scientific manner of assessment, however, Papert claims, whereby a 'rigorous' 'treatment' assessment is carried out, where two groups are tested, one given the 'treatment' in this case the XO laptop, the other not, and all other factors are kept constant, then a test is carried out in order to clearly assess whether specific skills have been developed,[133] is not one that will work for this type of project. Even though in his article, Papert was referring to the constructionist programming language logo, the argument can also be made in reference to constructionist hardware. Furthermore, despite having chosen a relatively simplified paradigm of scientific testing, it nonetheless demonstrates that many of the enquiries as to whether computers in education work, or specifically whether or not the OLPC program works are approaching ICT education from a point which overemphasises the tool itself and disregards the surrounding factors[134], and most importantly the human actors involved. 'Educational technology will always be subservient to the educational tasks required and the values that underlie them[135].' Papert likens this to trying to assess whether or not ice is a good building material, by trying to build an igloo in Boston in the summer[136]. This difference in approach plagues the field of ICT education overall, and is also a recurring point throughout the chapters of this thesis. However, if we are to accept the premise that everyone learns in different ways, we must also allow for the room for this medium not to be used in an appealing way or simply not be an appealing means for some. Many countries have objected to the OLPC project on the grounds that children should not be used as the basis of experimentation. India was one of the countries which initially rejected[137] the project on these grounds, calling the project 'pedagogically suspect'.[138] It has since gone on

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[133] Papert (n 80).

[134] Gary McCulloch (ed) and David Crook (ed), *The Routledge International Encyclopedia of Education* (Routledge 2008) 211.

[135] ibid.

[136] ibid.

[137] Akshaya Mukul, 'HRD rubbishes MIT's laptop scheme for kids' *The Times of India* (3 July 2006) <http://timesofindia.indiatimes.com/articleshow/msid-1698603,curpg-1.cms> accessed 5 January 2019.

[138] John Oates, 'India rejects one laptop per child' *The Register* (26 July 2006) <www.theregister.co.uk/2006/07/26/india_says_no_to_olpc/> accessed 5 January 2019.

to carry out certain pilot projects. Despite India and China's different approaches, it would be hard to accuse either country of not achieving some impressive educational outcomes and economic growth by following their current path. One aspect of this change in dynamic of a teacher-centric education to a student-centric education, it is argued may lead to a lack of socialisation, which would have otherwise be provided by the school system, and its lack thereof would lead to a loss of social cohesion.[139] However, India's latest move proves that the objections it had were more likely financial as the National Mission on Education has announced on 3rd February 2009 the launch of India's $10 (500Rs) laptop.[140] Nonetheless, educational systems are evidence of an educational culture, and therefore the countries which the OLPC was not able to penetrate are also a very important element in discussing the question of cultural imperialism in the research question.

Many critics of this type of intervention on core aspects of development in third world countries view such interference as cultural imperialism or neo-colonialism. The OLPC project is a project which targets third world countries in particular and more specifically their educational system which it can be argued is the most if not one of the most fundamental aspects of development for any country. It is unsurprising therefore, that it has attracted this form of criticism by various people. William Easterly, who has authored many books on this subject, has been quoted as saying about the OLPC 'It's arrogant of them. You can't just stampede into a country's education system and say, Here's the way to do it'.[141] Although, this is an argument which will be developed more fully in a later chapter, it interesting to get a first view at the answer which has been put forward in the OLPC's defence. This answer lies in the core principle which underlies the entire project, from its first conception, and that is in 'constructionism'. 'In fact, since the Instructionism educational philosophies of many Third World countries were bequeathed to them by their former colonial masters, you can argue that the OLPC offering up its Constructionist philosophy

[139] Eduardo Villanueva Mansilla, 'Building One Laptop Per Socialized Child' *OLPC news* (12 June 2007) <www.olpcnews.com/use_cases/community/building_laptop_socialized.html> accessed 5 January 2019.
[140] Akshaya Mukul, 'Rs 500 laptop display on Feb 3' *The Times of India* (3 February 2009) <http://timesofindia.indiatimes.com/India/Rs_500-laptop_display_on_Feb_3/articleshow/4049914.cms> accessed 5 January 2019.
[141] Hamm and Smith (n 66).

as an antidote is anti-colonialist.'[142] Not only is constructionism unlike instructionism in method, but it also allows paths to be drawn in a number of directions and places the initiative in the learner's hands.[143]

For many people it seems to be of great concern that as it is a project there must be a way of evaluating the 'results' of it, in order to assess its success. Increased attendance rates is not convincing critics who believe that no matter which technological gadget was being handed out in schools that this would be the effect.[144] Although there are a number of facts reported on the OLPC Wiki in terms of particular countries and their projects or pilot projects, or in reports carried out by other researchers;[145] the conclusions which can be offered at this stage are and can only be very broad generalisations. It is understandably so, as it needs time to assess the progress the children make in their education and a means by which to do so, in the form of a test or whichever means the country's educational system employs. This is further limited by the fact that the OLPC, once having deployed the laptops, and helped with the initial setup, leaves the rest up to the country. We are therefore left unsure as to the impact and outcome which the project has, unless the countries themselves provide any such reports. Also the assumption put forth by the OLPC being that more laptop/children equates to more progress, is perhaps in the minds of many, merely an unfounded assumption. On the other hand, if this assumption is correct, even if it does not seem to be an adequate answer to the 'cultural imperialism' criticism it certainly should be to the 'technological determinism' criticism (that a given technology will lead to the same outcome, no matter where it is introduced, how it is introduced, or when).[146]

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[142] Steve Hamm, 'The educational philosophy controversy' *BusinessWeek* (2008) <www.businessweek.com/globalbiz/blog/globespotting/archives/2008/06/olpc_the_educat.html> accessed 22 January 2009 (no longer available) cited in Edward Cherlin, 'Controversial Constructionism' OLPC news (16 June 2008) <http://www.olpcnews.com/content/education/controversial_constr.html> accessed 5 January 2019.
[143] ibid (Cherlin).
[144] Wayan Vota, 'OLPC Nigeria's Progress with XO Computers in Classrooms' *OLPC news* (27 June 2007) <www.olpcnews.com/countries/nigeria/progress_computers_classroom.html> accessed 5 January 2019.
[145] Juan Pablo and others, 'Early OLPC Experiences in a Rural Uruguayan School' (CHI 2008 Proceedings Florence, Italy 2008).
[146] Benjamin Cohen, 'UVA Students On OLPC's Technological Determinism' *OLPC news* (22 January 2009) <www.olpcnews.com/commentary/academia/uva_students_on_olpcs_technolo.html> accessed 5 January 2019.

Selwyn argues that since discussions of educational technology have meant looking at its sociotechnical characteristics, we are inevitably raising questions of 'how, why and whose interests these devices and artifacts are used'[147] thus rendering the subject of educational technology a political one. Out of all the various objections to the OLPC, the most significant one in terms of this thesis is the one related more closely to the research question and that is the project has been criticized as being an embodiment of Western culture. This culture is then deemed as a necessity not only within the developed Western but one which according to a 'unilinear model of technological progress, one in which the problems of the developing world are framed as a series of absences, specifically of the furniture of Western life, viz., digital technology, and in particular, the personal computer'.[148] There is a reference to principal author of the programming language Python, Guido Van Rossum in the Brabazon's book[149] where he equates sending laptops to developing countries with sending bibles to the colonies[150] which is a very exaggerated criticism, and yet one originating from within the technological community. In Mike Annany and Nial Winters article, they explore how ICT4D projects such as the OLPC, are not to be perceived exclusively as 'technology projects, development projects or education projects but, rather, as historically situated *computerization movements* (a particular kind of social movement) that achieve ideological goals through the design and use of particular technologies'.[151] The movements are effected by the humans and the technologies working together in the construction of 'the social meanings of progress; technologies have the potential to enact social change beyond the intended scope of a particular movement or technology; and, especially in Western ideologies, technological innovation can sometimes be mistaken for social progress'.[152] Therefore, in the following chapters, it will be considered whether in light of progress and development, it is not technology which is being exported, but in fact a means of Western ideology.

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[147] Selwyn (n 1) 127.
[148] Irani and other (n 73).
[149] Tara Brabazon, *Digital Dieting: From Information Obesity to Intellectual Fitness* (Routledge 2013).
[150] ibid 72.
[151] Mike Ananny and Niall Winters, 'Designing for Development: Understanding One Laptop per Child in its Historical Context' *Proceedings of IEEE/ACM International Conference on Information and Communication Technologies and Development,* (Bangalore, India, 2007).
[152] ibid.

The OLPC has been described by Negroponte and Bender[153] as a type of 'Trojan Horse'. By this they mean that since many people react to the constructionist principles behind the XO, for marketing purposes to these reluctant governments may be in the guise of something very different such as an e-book reader. Once people have then opened their mind to it, and children have a chance to get their hands on them, the anticipated (by the buyer's) results will likely be wholly different. This view has very polarised reactions, depending largely on the degree of support for the OLPC. 'Neither context sounds appropriate for a new technology developed in the USA, built in China, and sold to developing countries as a multi-million dollar cure-all for primary education'.[154] In respect to this idea of a Trojan horse, this thesis aims to determine whether or not the OLPC and other such ICT projects are in fact acting as such in the developing world, equipped with culturally imperialist soldiers inside.

3.9. Conclusion

The choice of the OLPC project as a lens for looking at the right to education is therefore made on the basis that it is, or primarily set out to be, an education project. It is part of the wider ICT direction of education as has been demonstrated above and it also provides a basis to critically discuss the issues of ICT for development in international law. It is hoped that this chapter has achieved providing a clear outline of the One Laptop per Child project, and brought to the surface the objections which have been raised specifically in terms of this project but which are common objections to ICT education projects. This has been done in order to critically discuss the implications of ICT education on the right to education.

Furthermore, the purpose of this chapter was to demonstrate that the OLPC embodies a certain set of moral principles which are fused with the technology in regards to the educational theory and therefore has implications about the values which it enshrines and transmits and the values behind the purpose. This is not unique to the OLPC, as it is widely recognised that technology is not free of values as there is the human element underlying the technology, as this chapter has

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[153] Wayan Vota, 'One Laptop Per Child "Trojan Horse" Comparison' *OLPC News* (11 May 2007) <www.olpcnews.com/people/negroponte/laptop_child_trojan_horse.html> accessed 5 January 2001.
[154] ibid.

highlighted. The most significant criticism of the OLPC project, which is of particular importance in discussing the role of ICT education for development (ICT4D) in international law, is the one aimed at the values which are characterised as being particularly Western and the implications of the transmission of such. This is further exacerbated by the fact that this project and others like it offer themselves to governments of third world countries, permitting and inviting one to look more closely at the role of international law particularly with reference to the right to education, and to the values which are consider to be important to further development. This criticism is the basis of the choice of critique theory set out in the following chapter, which is Third World Approaches to International Law (TWAIL). It is also the basis of the research question which this thesis is looking at, and therefore aiming to contribute to TWAIL, which is whether this amounts to cultural imperialism.

Chapter 4: Development as Cultural Imperialism and Third World Approaches to International Law (TWAIL)

4.1 Introduction

Having provided an account of both the right to education in chapter 2 and the lens of the OLPC which is being used to look more closely at the right to education, in chapter 3, this chapter aims to specify the research question and the critical theory which is used to answer it. It aims to bridge the relationship between the first two chapters by drawing attention to the concept of 'development' as it relates to both the right to education and Information Technology. As such it attempts to highlight how development is embodied in human rights law and by extension the right to education as it enshrines human development, while at the same time viewing the right to education as a tool of development for its promotion and implementation by the international bodies which is being demonstrated by the use of the lens of the OLPC ICT4D project. Furthermore, it investigates how the aspect of development is used in international law to differentiate between states which are categorised according to the parameters set by the governing international bodies as being either developed or developing. Development is the therefore a binding ingredient in and for education as illustrated by international law.

This chapter aims to clearly set out the research question and the specific critical theory which has been utilised in doing so. Third World Approaches to International Law (TWAIL) is the most convincing choice, although other critical theories and perspectives have offered valuable insights, as will be demonstrated in this chapter. It is the critical theory which is specifically bound to the discriminatory dichotomy of states in international law; and is representative of the opposition to the inherent discrimination in humanitarian international law, as well as its discriminatory outcomes. That is to say, as the title suggests there are first and third world states in international law and, the voices of the third world are voicing opposition both to the categorisation and treatment in international law. This theory is demonstrative of strong

opposition, calling this structure hegemonic,[1] although international law, is called this by many of its critics. Nonetheless, Third World Approaches to International Law, is the most representative critical theory and method for discussing the research question posed in this thesis.

4.2 Development

As has been demonstrated, the concept of development is a recurring one, although with differing meaning according to the varying areas of application. According to the Cambridge dictionary the everyday use of development is indicative of 'the process in which someone or something grows or changes and becomes more advanced.'[2] It is therefore indicative of a process by which there is the inherent implication of a more primitive state which following this evolutionary process attains advancement. This section therefore looks at the areas of application of the binding element of development in this thesis such as individual development as it relates to the child and to the future adult-self and to education, and to state development in international law also relating this to the role of ICT education for the furtherance of development.

4.2.1 Child Development

As was as was previously argued, human rights law is built upon the premise that childhood is a period of transition[3] until one attains adulthood. According to Peleg, 'the difficulty in understanding children's development in terms of human rights is situated within the difficulty of translating children's psycho-social development into human rights norms.'[4] Once again the construction of the universal 'child' suffers from similar contentions to that of the universal 'human'; that it stumbles against the antilogy of diversity and cultural relativity.[5] Hence the

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[1] Nico Krisch, 'International Law in Times of Hegemony: Unequal Power and the Shaping of the International Legal Order' (2005) 16(3) European Journal of International Law 369, 379, and Martti Koskenniemi, 'International Law and Hegemony: A Reconfiguration' Cambridge Review of International Affairs (2004) 197.

[2] *Cambridge Advanced Learner's Dictionary & Thesaurus* (Cambridge University Press 2016).

[3] Nick Lee, *Childhood and society: Growing up in an age of uncertainty* (Open University Press 2001) 8.

[4] Noam Peleg, *The Child's Right to Development* (University College London 2013) 10.

[5] Sally Lubeck, 'Deconstructing 'Child Development Knowledge" and "Teacher Preparation"' 1996 Early Childhood Research Quarterly 147, 155.

'development' of the child increases the difficulty of defining such concepts, as it would be tantamount to claiming that all children are formulaic beings who develop in the same linear way. Some of the influential developmental theories are mentioned below, regarding the learning process. Regarding these theories, Lubeck aptly reminds us that the theorists such as Piaget, had a Western, white middle-class child, as the basis of his definition. Furthermore, Lubeck cautions that there are various different theories regarding development with varying points of emphasis, be it cognitive, social, emotional etc. without any one theory having being proven to be the correct one. That, however, does not preclude theories becoming dominant, and it is this point where child development and international development intersect. In that the concept of development 'embodies the modernist notion that individuals, like the "First World" societies of the West, are part of the great march of human progress.'[6] It is this commonality which highlights 'development' as the reoccurring theme of this thesis and which validates the choice of Third World Approaches to International Law as the theory to critique it.

The approach of evolving capacity was strongly refuted by the children's liberation movement. As a liberationist movement, it was fundamentally opposed to the Western social-construct of childhood deemed oppressive, in that it provided the basis for which to control and exploit children;[7] also that although initially this may have been an 'ignorant domination'[8] it has now[9] evolved into 'sophisticated domination'[10] as we have become more knowledgeable and aware of child development. Supporters of this movement, rejected the view that children are lesser humans and the welfare approach to them, and were proponents for children to have equal rights[11] which would allow for a certain amount of autonomy and control over one's life. Regarding the education of children, this movement found schools to be oppressive institutions

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[6] ibid 156.

[7] Paul Adams et al, *Children's Rights: Towards the Liberation of the Child* (Panther Books 1972) 2.

[8] Richard Evans Farson, *Birthrights* (Macmillan 1974) 27.

[9] Referring to the 1970's, when this movement is historically situated.

[10] Farson (n 8).

[11] John Holt, *Escape From Childhood: The Needs and Rights of Children* (E.P. Dutton 1974).

which prolonged dependence,[12] and proposed homeschooling[13] and unschooling[14] as alternatives. Though this movement was controversial at the time, and according to Peleg it has 'virtuously vanished'[15] today, these proposed alternatives to education have gained increasing popularity over the years and have become legal alternatives in countries such as the United States for example.[16] Though Peleg was more likely referring to the position taken by the liberation movement which regarded the capacity approach taken by developmental psychology as a faulty means of determining accessibility of children's rights. Although this is a point of agreement amongst proponents of this movement who considered this approach as depriving children of their rights, there was a difference in reasoning across a broad spectrum. This ranged from a rejection of the capacity approach based on a lack of criteria to identify 'development'[17] to the position that a right to development is unnecessary as there is no distinction between childhood and adulthood.[18] Daiute, also shares this point regarding capacity criteria in the law, that if they are left undefined, as the circumstances under which they occur and develop, then the protection they offer is weakened.[19] Despite the range of developmental theories, the lack of defined capacity criteria, and the position held by the child liberationists, this is nonetheless the position enshrined in the law.

The position regarding child development in law follows the aforementioned capacity approach, and specifically regarding children's rights in the international sphere, the right to individual

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[12] John Holt, *How Children Learn* (rev ed, Merloyd Lawrence 1982).

[13] Grace Llewellyn, *The Teenage Liberation Handbook: How to Quit School and Get a Real Education* (rev ed, Lowry House 1998).

[14] John Holt and Patrick Farenga, Teach Your Own: The John Holt Book of Homeschooling (Merloyd Lawrence 2003). For a review of these methods see Peter Gray, 'Self-Directed Education—Unschooling and Democratic Schooling' Oxford Research Encyclopaedias [2017] <http://education.oxfordre.com/view/10.1093/acrefore/9780190264093.001.0001/acrefore-9780190264093-e-80> accessed 5 January 2019.

[15] Peleg (n 4) 48.

[16] Janice Aurini and Scott Davies, 'Choice without Markets: Homeschooling in the Context of Private Education' (2005) 26(4) British Journal of Sociology of Education 461.

[17] Ann Palmeri, 'Childhood's End: Toward the Liberation of Children' in William Aiken and Hugh LaFollette (eds) *Whose Child?* (Rowman and Littlefield 1980) 110.

[18] Holt (n 11).

[19] Colette Daiute, 'The Rights of Children, the Rights of Nations: Developmental Theory and the Politics of Children's Rights' (2008) 64(4) Journal of Social Issues 701, 705.

development is first enshrined in international law by way of the CRC 1989 as set out below. The Child's individual right to development is specifically addressed by Article 6(2) CRC which requires that state parties 'ensure to the maximum extent possible the survival and development of the child.' According to the UN Committee on the Rights of the Child, development is to be interpreted as a 'holistic concept, embracing the child's physical, mental, spiritual, moral, psychological and social development.'[20] Certain aspects of development are highlighted by other articles in the convention Article 18(1) focuses on the parents' responsibilities for the development of the child, Article 23(3) focuses on providing access to education and services to the disabled child in order to achieve individual development, Article 27(1) recognises 'the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development', Article 32(1) protects the child from economic exploitation which may be harmful to the child's moral or social development and regarding the right to education, the child's education is directed at the development of the 'child's personality, talents and mental and physical abilities to their fullest potential'[21] as was set out in Chapter 2.

Daiute identifies that a number of differing developmental theories are incorporated into the CRC and argues that as the term development is not defined, it leads to 'diverse interpretations across cultures'[22] which she cautions may lead to children's rights being overridden by cultural and political powers. She qualifies this, giving examples of children exposed to various contentious issues in their environment such as conflict and demonstrating that children's rights-based reasoning is more evolved than expected regarding these types of issues. She thus suggests that child development be regarded 'as a social–cultural–political process, rather than as a maturational or socialization processes.'[23] Even Peleg, whose analysis examines the drafting process of the Convention, does so in order to discern what this approach can add to ones understanding of development, rather than identifying the 'one true meaning' which he does not

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[20] General comment no. 5 (2003): General measures of implementation of the Convention on the Rights of the Child27 November 2003, adopted at the 34th Session CRC/GC/2003/5
[21] Article 29 (1) (a) CRC 1989.
[22] Daiute (n 19) 704.
[23] ibid 721.

believe exists.[24] There is, however, the sense that development is crucial for the future adult-self which will emerge from childhood. This is reinforced by Peleg who interprets the right to development contained in Article 6 of the CRC on the positive end of the spectrum, which begins with the negative obligation to ensure the right to life, subsequently followed by the right to survival which lies in the middle, before the look to the future which needs to be invested in.[25] Peleg offers five possible interpretations[26] of the right to development, which as he himself recognises, assists us in recognising the components of the concept rather than a singular definition. The first is based on the protection of the child in order for the child to reach the endpoint of adulthood. The second is to view it as a process of growth, the third combines the facilitation of growth with the desired result of fulfilled potential evidenced by adulthood. The fourth, that as a right it is broad and indeterminate without a substantial meaning, more than the right to survival for example. The fifth and final interpretation is that as a right it is made up of specific components which can be separated into material and non-material needs which must be met in order for the child to grow and develop in a healthy way. Peleg concludes that this interpretation 'is informed by 'human becomings' model of childhood, and rejecting this model of childhood pulls down its normative ground, leaves it without substantial meaning.'[27] This brings us back full-circle to the problems of international human rights law which this thesis is trying to address, and it furthers the ambiguity posed by education as a component of child-development, as clear definitions lead to normativity and thus exclude 'others' whereas broad definitions leave what are identified by the law as necessary elements for a 'human being' as being devoid of meaning.

4.2.2 Educational Development

In reference to the right to education, the first aspect to consider development is the category of persons who are entitled to this right; who are children. It is commonly accepted that a child develops from childhood to adulthood in a variety of ways, physically, cognitively and socially.

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[24] Peleg (n 4) 62.
[25] ibid 96.
[26] ibid 97.
[27] ibid 98.

This is demonstrated through the developmental theories which are broken down into stages such as Freud's Psychosexual Stages,[28] Erikson's eight Stages of theory of development.[29] Development is usually marked by milestones, indicating the transition from the one stage to the next. International law accepts this aspect of development as can be demonstrated in the CRC as seen above, for example under article 12(1) by principle 2 'the views of the child', whereby the age and maturity of the child are taken into account when giving due weight to the views expressed by the child.

There are a number of educational theories which attempt to demonstrate how children learn and acquire knowledge. They span as far back as antiquity with Plato believing that knowledge was innate, and Aristotle who understood knowledge to be empirical, and have offered many explanations to this effect, some following a functionalist paradigm such as Thorndike, Skinner and Hull, some following an Associationistic Paradigm, such as Pavlov, Guthrie and Estes, others following a cognitive paradigm, such as Gestalt theory, Piaget, Tolman, Bandura and Norman.[30] It is not possible, nor desirable to go into all such theories in the detail they each deserve, in the present thesis. It is important to mention in slightly more detail the work of Piaget, referenced earlier, as it relates to the basis of the educational theory of constructionism which is, the one used by the OLPC. Jean Piaget, developed the theory of cognitive development, according to which development occurs in four stages, sensorimotor stage (birth -2), preoperational stage (2-7), concrete-operational stage (7-12), and formal-operational stage (11 -12 onwards). Both Piaget and Vygotsky, the Russian scholar who developed social development theory, posited that children construct knowledge structures. However, Vygotsky, argued that such knowledge stems from social interactions in which guided learning takes place within the 'zone of proximal development', and the children co-construct knowledge with their adults in a manner akin to 'scaffolding'. Piaget, on the other hand believes, as has been reiterated that children learn independently, building their own structures of knowledge. The differences between the two theories also run deeper, touching on other aspects of cognitive development such as language,

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[28] Sigmund Freud, *On the Sexual Theories of Children* (Read Books Ltd 2013).
[29] L.S. Vygotsky*, Mind in Society* (Harvard University Press 1980).
[30] B.R Hergenhahn, *An introduction to theories of learning*, (3rd ed Prentice Hall 1988).

but they are not relevant here. Finally, Piaget's work revealed that childhood is not simply a state where the child is in possession of less knowledge than an adult, but more significantly that the knowledge structures in the child's mind are built differently, or put simply that children think in a different way. The difference being qualitative as opposed to quantitative as it is often presented.[31] As cautioned above by Lubeck, many of these educational theories, such as Piaget's, which present the 'universal child' are based on a child which is white, Western and middle class.[32] This was demonstrated by Dasen who looked at a number of studies which attempted to apply Piaget's stages to non-Western cultures and found that cultural factors had an impact, sometimes to extent where the non-Western samples fell short.[33] It is of significance that such influential theories provide the basis for educational practices, projects such as that of the OLPC, and international human rights law such as the CRC mentioned above. It contributes to the approach taken in chapter 2 which looked at the ideological basis of the law regarding the right to education. The aim of which is to highlight the dominance of Western ideology which has and continues to shape, the process by which we are to enable a 'child' to develop into a 'human'. It is important as Daiute argued above, that such processes of development be given a cultural context, but it is argued here that it is also necessary to be aware of the culturally biased[34] ideology which is set out as the normative standard which must be overcome to achieve inclusivity.

Under international law, the right to education is applied differently according to the stages of child development which are separated according to the schooling system. That is to say, according to Art. 28 CRC, primary education is compulsory, secondary education (general and vocational) should be encouraged for all, and higher education should be made accessible to all on the basis of capacity. Primary education therefore is the only compulsory element, and the

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[31] R. Keith Sawyer, 'Optimising Learning: Implications of Learning Sciences Research' (OECD/CERI International Conference Learning in the 21st Century: Research Innovation and Policy 2008).
[32] Sally Lubeck (n.5).
[33] Pierre R. Dasen, 'Cross-Cultural Piagetian Research: A Summary' (1972) 3(1) Journal of Cross-Cultural Psychology 293.
[34] Sonia Harris-Short, 'International Human Rights Law: Imperialist, Inept and Ineffective – Cultural Relativism and the UN Convention on the Rights of the Child' (2003) 25 Human Rights Quarterly 130, 181.

lowest common denominator to be achieved by all States, for children. This is further articulated in international law under the standard-setting United Nations Millennium Goals[35] which had a target date of 2015, and under which Goal 2 was to achieve universal primary education. This goal for countries of the developed world was already set out as a national goal, and to a great extent already achieved according to the statistics in the United Nations Millennium Development Goals Report 2015[36] and therefore the focus fell more heavily on the developing countries, which in as far as the goal was framed as an 'end-goal', unlike the CRC which encourages States to achieve this progressively, it meant that ultimately the developing world would be perceived as having failed.[37] This is a negative portrayal of the developing world which reached 91 per cent in 2015, up from 83 per cent in 2000.[38] Furthermore, it is pointed out by Clemens[39] that developed countries achieved the rates of primary schooling they had today over a number of years, whereas developing countries were not given an analogous time frame in order to achieve this goal, nor were they in the analogous financial position.[40] Despite the disparity, African countries increased their primary enrolment in the last fifty years faster than the developed country counterparts did. In many ways Africa has been a success story in terms of the progressive achievement of this goal, yet it is not looked at in these terms as it needs a 100% completion rate, and therefore, Africa ends up having failed to achieve the goal. Since, in achieving universal primary schooling, we must not approach this simply quantitatively but qualitatively as well, the latter of which takes time. Therefore, completion of the schooling system is the element which is taken into consideration in tandem with enrolment rates. 'A rise in enrollment based in its majority on failing students cannot be considered an exportable best practice of any kind'.[41] Africa has also increased completion rates significantly, and has achieved

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[35] United Nations Millennium Declaration UN Resolution 55/2 adopted by the General Assembly 8 September 2000.

[36] (United Nations, New York 2015).

[37] William Easterly, 'How the Millennium Development Goals are Unfair to Africa' (2009) 37(1) World Development 26, 29.

[38] UN Millennium Goal Report (n 36).

[39] Michael A. Clemens, 'The Long Walk to School: International education goals in historical perspective' (March 2004) Center for Global Development Working Paper 37 <www.cgdev.org/publication/long-walk-school-international-education-goals-historical-perspective-working-paper-37> accessed 5 January 2019.

[40] ibid 23.

[41] ibid 27.

all this, having started significantly further away from the achievement of this goal.[42] Nonetheless, as was articulated in chapter 1, schooling is all too often treated as synonymous to education in international law as is demonstrated by the development model, and yet this overlooks the point that 'mass schooling emerged as an aspect of colonial domination although this took a different form depending on the type of colonialism involved.'[43] This argument concerning the connectivity of schooling and domination will be argued in more depth in the following two chapters.

The trend of setting goals for education in international law continues with the United Nations Resolution 70/1 'Transforming our world: the 2030 Agenda for Sustainable Development'[44] under which Goal 4 is to 'Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all'. To this end Member States are encouraged, though not obliged, to take steps of implementation and amongst others, 'By 2030, ensure that all girls and boys complete free, equitable and quality primary and secondary education leading to relevant and effective learning outcomes.'[45]Once again this is framed in absolute terms, as 'all girls and boys' must 'complete' primary education, which, once again sets the developing world further away from this, and particularly highlights the discrimination between the genders in access to education. This discrimination has been addressed by developing world States already to a great extent, and has increased the number of girls in education although transitions of this sort take time and a number of which affect this are 'beyond the control of education policymakers'.[46] Clemens found that amongst the many variables which contribute to the closing of the gender gap are having an a priori more educated population, higher fertility (as more children in the household means that the household labour is covered and therefore, children need not be kept home from school), also in populations with high proportions of 'Christian, Muslim, or indigenous/animist faith have

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[42] Easterly (n 37) 30.
[43] Leon Tikly, 'Globalisation and Education in the Postcolonial World: Towards a Conceptual Framework' (2001) 37 (2) Comparative Education 151, 163.
[44] adopted by the General Assembly on 25 September 2015.
[45] UN Resolution 70/1, 4.1.
[46] Clemens (n 39) 22.

been slower to make the transition'[47] and that all others despite the wealth of the country have been able to be equally effective in closing the gap. It is also important to mention that a significant factor affecting education is the presence of a strong incentive; 'families and individuals invest in education only insofar as the private benefit from doing so exceeds the private cost. They stop investing when the cost is prohibitive, or when the benefit is insufficient'.[48] Therefore, policies which are looking to effect change in education have to approach the issue holistically, as do the assessments of these changes which States are expected to undertake.

Furthermore, according to the 2030 Agenda, besides primary education, States are now directed to take measures to ensure free secondary education and to ensure completion of it; not simply enrolment. This aspect brings back the criticism set out above which emphasises the disparity amongst developed and developing world states in respect to the distance to be covered to achieve the set goal and the time-frame by which to do so. This maintained approach of goal-setting appears to pay little regard to factors such as wealth, political stability, war, and natural disasters which continue to be significant factors which stand in the way of the achievement of the goals set by the international bodies which are largely dominated by the developed world. The contribution to those hindering factors by the developed world, from politics to environmental pollution leading to natural disasters in the developing world is not at all addressed with the focus being on the maintenance of the perception of inability of the developing world.

Under the 2030 Agenda for Sustainable Development' goal 4 which asks of states to ensure quality early childhood development (4.2), equal access for all women and men to vocational and tertiary education (4.3), substantially increase the number of youth and adults who have relevant skills (4.4), eliminate gender disparities in education and ensure equal access to all levels of education (4.5), ensure that all youth and a substantial proportion of adults, both men and

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[47] ibid.
[48] ibid.

women, achieve literacy and numeracy (4.6), ensure that all learners acquire the knowledge and skills needed to promote sustainable development (4.7), Build and upgrade education facilities that are child, disability and gender sensitive and provide safe, non-violent, inclusive and effective learning environments for all (4.a). It makes specific reference to developing countries in 4.b and 4.c in that:

4.b By 2020, substantially expand globally the number of scholarships available to developing countries, in particular least developed countries, small island developing States and African countries, for enrolment in higher education, including vocational training and information and communications technology, technical, engineering and scientific programmes, in developed countries and other developing countries

4.c By 2030, substantially increase the supply of qualified teachers, including through international cooperation for teacher training in developing countries, especially least developed countries and small island developing States

This mention of ICT education, differs from the Millennium declaration which ensured that the benefit of such technologies would be available to all, now according to 4.b of the 2030 Agenda, the ICT training is to be made available through scholarships in developed countries for people from developing countries, as well as scholarships in developing countries. In as far as the developed countries have a technical advantage it follows that the scholarships offered there will be more in number and the ones most coveted by students wanting to enter this field. Therefore, there will be a gravitation of students towards these developed countries and then a percentage of those will likely stay to pursue work in this field which is further developed there. This therefore, although appearing to be beneficial to the developing world would in fact be a benefit which the developed world would be more likely to reap. Interestingly according to 4.c teachers are to be imported to the developing countries in order to 'increase the supply of qualified teachers'. This element of qualification is based upon a developed world standard of education. That is to say, developed country teachers gain their qualification in their countries according to the system and standard set within them, and which have likely attained recognition by governing

bodies which again are created and made up of developed world standards. Nonetheless, their own education has occurred in the developed world and therefore their teaching methods and content are in line with the system they have been trained in. Conversely, there is the implication in this Agenda, that developing country teachers are under-qualified in line with these standards, and that they are in need of this foreign expertise. An infusion of this educational expertise into the developing world according to international law, effects two things. It does portray the image of international co-operation as the article sets out, particularly as it implies a lack of quality in the developing world which it is appearing to remedy, and it imports developed world education (values, culture, methods, practices and of course 'quality') into the developing world which is portrayed as lacking it.

4.2.3 Human right to Development

The right to development has fuelled the evolution of an overall development policy, and it is one which is geographically limited to developing countries.[49] That is to say, an empowerment right has turned out to be a basis for which international law has designed a framework of goals, standards and values through which development is to be realised. Prior to 1990 the concept of development was rarely addressed in relation to human rights, for a multitude of reasons ranging from human rights being too political, to standing in the way of 'free market' policy[50] and such. The reasons for its inclusion according to Uvin[51] are the end of the cold war[52] which he argues 'opened the door to greater missionary zeal',[53] the second being the lack of success of structural adjustment programmes, and third development thinkers seeking 'to redefine development as being about more than economic growth'.[54] The right to development was considered to be an effort on the part of the developing world, brought about in 1972 during the UN conference for

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[49] Hans-Otto Sano, 'Development and Human Rights: The Necessary, but Partial Integration of Human Rights and Development' (2000) 22 Human Rights Quarterly 734, 741.

[50] Steiner(ed), Alston(ed), Goodman(ed), *International Human Rights in Context* (3rd ed, Oxford University Press 2008) 1433.

[51] Peter Uvin, 'From the right to development to the rights-based approach: how 'human rights' entered development' chapter 15 in Andrea Cornwall (ed) and Deborah Eade (ed) *Deconstructing Development Discourse Buzzwords and Fuzzwords*, (Oxfam GB 2010)

[52] Hans-Otto Sano, (n 49) 736.

[53] ibid 174.

[54] ibid.

Trade and Development (UNCTAD III) where the 'governments of the South claimed the right to development as part of a new more just and egalitarian economic world order'[55] a New International Economic Order (NIEO). An effort which is said to be brought about by 'Third World nationalists, emboldened by the success of the OPEC oil embargo'.[56] This effort was then afforded the 'rhetorical victory'[57] of being embodied in a non-binding resolution, and worded ambiguously in 1986, when the right to development was proclaimed by the United Nations in the 'Declaration on the Right to Development'.[58] Nonetheless, it was a change which the Northern States were opposed to, as is evidenced by the votes which were 146 votes in the affirmative, 1 negative vote from the United States and 8 abstentions from Japan, Germany, the United Kingdom and other Western industrial States,[59] since it was regarded that according to this, obligations were created for the Northern States to afford benefits in the form of aid, to the Southern States. Under Article 2 it ambiguously assigns the human person as the 'central subject of development and should be the active participant and beneficiary of the right to development'. Whereas Article 4(1) it is the States which 'have the duty to take steps, individually and collectively, to formulate international development policies with a view to facilitating the full realization of the right to development.' Thereby leading some scholars to argue that it is both an individual and collective right.[60]

On 25 June 1993, the Vienna Declaration and Programme of Action was adopted by the World Conference on Human Rights and stating that 'Democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing'.[61] Unlike the previous Declaration, children are explicitly mentioned as having the right to development, as is addressed by Articles 18, 21, 29 and 45-53, and the monitoring of such by Article 89. Nonetheless, the right to development has brought much disagreement amongst scholars with regard to its

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[55] Brigitte I. Hamm, 'A Human Rights Approach to Development' (2001) 23 (4) Human Rights Quarterly 1005, 1008.
[56] Uvin (n 51) 164.
[57] ibid.
[58] adopted by the United Nations General Assembly resolution 41/128.
[59] Celestine Nyamu-Musembi and Andrea Cornwall, 'What is the "rights-based approach" all about? Perspectives from international development agencies' (2004) IDS Working Paper 234 citing I. Brownlie, 'The human right to development' Human Rights Unit Occasional Paper (1989) Commonwealth Secretariat.
[60] Alston, Philip, 'Making Space for New Human Rights: The Case of the Right to Development' (1988) 1 Harvard Human Rights Yearbook 3.
[61] Article 8 in Declaration.

validity, with some taking the view that 'it is the alpha and omega of human rights,'[62] others that

it is a point of confusion[63] and even some such as Donnelly[64] who claims that this right does not

exist. He argues that although development is and should be an important subject in

international law, it does not follow that this arises to a right, particularly when this claim is

weakened by a moral claim.[65] According to Marks, States can also be roughly grouped into four

groups of varying political positions[66] in relation to this right. The 'Like-Minded Group' (LMG)

(comprised of Algeria, Bangladesh, Bhutan, China, Cuba, Egypt, India, Indonesia, Iran, Malaysia,

Myanmar, Nepal, Pakistan, the Philippines, Sri Lanka, Sudan, and Vietnam),[67] who wish to use the

right to 'reduce inequities of international trade, the negative impacts of globalization,

differential access to technology, the crushing debt burden, and similar factors they see as

detrimental to the enjoyment of human rights and development'.[68] The group of 'more moderate

developing countries,' who the author claims want to incorporate human rights policies and

preserve a good relationship with the international bodies from which they are receiving aid. The

group he names 'countries in transition', amongst which the author puts the European Union,

are states he claims take the position that the right to development be used in order to 'improve

the dialogue between developed and developing countries'.[69] Finally, the fourth group of states

is that which consistently opposes resolutions to this end and is led by the United States with

Japan, Denmark and Australia following the lead.[70] These rough categories mentioned by Marks

are brought up to demonstrate the very wide ranging receipt of this international law construct,

ranging from zealous proponents mainly in the developing world, to strong opponents in the

developed world. This political position appears to be contradictory with the rhetoric of the

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[62] Mohammed Bedjaoui, 'The Right to Development', in Muhammed Bedjaoui (ed), *International Law Achievements and Prospects* (Martinus Nijhoff 1991) 1182.
[63] Brownlie, (n 59).
[64] Jack Donnelly 'In Search of the Unicorn. The Jurisprudence and Politics of the Right to Development' (1985) 15 California Western International Law Journal 473.
[65] ibid 491.
[66] Stephen Marks, 'The Human Right to Development: Between Rhetoric and Reality' (2004) 17 Harvard Human Rights Journal 137, 139, 141.
[67] The author cites these countries from a list circulated by the Secretariat at the Open-ended Working Group on the Right to Development (Feb.10, 2003) which he has on file, and the political groups are his interpretation.
[68] Marks (n 66).
[69] ibid 141, 142.
[70] ibid 142.

international bodies, and other aspects of international law such as trade for example, where development is championed by developed states. Although rather than be contradictory, it may simply be indicative of the financial gains for developed states in certain spheres as opposed to others.

The many international agencies responded to the Vienna Declaration by issuing policy statements, incorporating human rights into their mandates, Uvin caustically describes these statements as claims that 'human rights is what these development agencies[71] were doing all along. Case closed; high moral ground safely established'.[72] A Working Group on the Right to Development was established[73] in 1998 to ensure the promotion and implementation of the Declaration. The Indian economist Dr. Arjun Sengupta, was appointed the Independent Expert and he produced eight reports. He served as Executive Director and Special Adviser to the Managing Director of the International Monetary Fund between the years 1985–1990, which is indicative, that the approach to development in terms of appraisal and recommendations were still inextricably linked to financial evaluations, and yet dressed up in the language of human rights. According to the Jakarta Declaration adopted at the International Conference on the Right to Basic Education as a Fundamental Human Right and the Legal Framework for Its Financing[74] 'We emphasize that the right to education is an internationally recognized right in its interrelationship with the right to development.'[75] The right to education has provided fertile ground for furthering this inextricable link as it is viewed as the means through which other human rights are realised. This can be contrasted with the position expressed in the recommendation section of the Declaration of Amsterdam on the Right to and the Rights in Education, 'bearing in mind that the right to education and human rights education are two distinct, though interrelated, dimensions of the right to education as provided for in the Universal

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[71] UNDP Human Development Report 1990, The World Bank World Development Report 1990.
[72] Uvin (n 51) 165.
[73] by the Commission on Human Rights, in its resolution 1998/72, and by the Economic and Social Council, in its decision 1998/269.
[74] UNESCO Conference held in Jakarta, Indonesia, 2–4 December 2005.
[75] I, 5.

Declaration of Human Rights.'[76] The positions expressed in the Amsterdam declaration are overall with a much stronger sense of diversity and human rights based approach set out below, in contrast with the streamlining of the Jakarta declaration which appears to have prevailed.

In the new millennium, there emerged the 'human rights based approach' to development (HRBA), a direction which was built towards, in the manner shown above. According to this approach, human rights norms and methodologies are to be first and foremost in the process of development, from decision making to evaluating. It is often referred to as the process of *mainstreaming* human rights. Accountability is thus and often proclaimed a necessity in reference to the human rights based approach, as violations would not amount to anything if there was no-one to hold accountable.[77] The Human Development Report 2000 published by the United Nations Development Programme (UNDP) emphasises the importance of human rights and development. It states 'progress toward a democratic society that respects human rights will be consolidated if laws and institutions to protect civil and political rights are accompanied by investments in accelerating human development and poverty eradication'. One of the most influential pieces of work in relation to this is authored by Sen[78] who argues that development is a process of 'expanding the real freedoms that people enjoy',[79] this then situates freedom as both the primary means and end of development, as opposed to development as a means to freedom. However, as Uvin reminds us, to date the human rights based approach to development has not brought about a 'fundamental reshuffling of the cards of power, or a redistribution of resources,'[80] although he retains the optimism that change begins on a small scale.

Following the Vienna Declaration, came the Millennium Declaration[81] which was adopted in September 2000, on the basis of which the eight Millennium Development Goals (MDGs) were

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[76]ELA 'The World Conference on the Right to and the Rights in Education' (Amsterdam 25-30 November 2004).
[77] Miriam Hird-Younger, 'Accountability in Rights Based Approaches to Development: The Emergence of Transnational Forms of Governmentality' (2010) 7(3) Undercurrent Journal 44.
[78] Amartya Sen, *Development as Freedom* (Oxford University Press 1999).
[79] ibid 35.
[80] Uvin (n 51) 171.
[81] UN resolution 55/2.

created, with education being the second and the OLPC falling under the ninth[82] if there were one. MDG 8 focuses particularly on the global partnership to development. Alston argues that the MDGs were the most important international effort focused on human development,[83] at the time of his writing. Unlike the approach to development prior to this, these goals were specific, measurable to provide for accountability, had a set time frame for implementation and had an extensive institutional framework set up for their promotion.[84] According to Baxi, this development in the right to development is particularly demonstrative of how it is a human rights business.[85] In covering up a system of global governance with 'the lived unreality of the human right to development'[86] effected by the human rights rhetoric. This framework of goal setting as an expression of human rights,[87] as was discussed in the section above, takes an approach to development where the historically evidenced parasitic relationship between the developed and the developing world is portrayed in reverse, with the developing world being in need. Thus it situates the problems in the developing world and the solutions in the developed world. Or as will be discussed later in this thesis, it fits Mutua's analogy of 'Savages, Victims, and Saviors'.[88] That is not to say that there is not a significant relationship between the areas of development specified in the millennium goals, such as the eradication of hunger, and disease, or the importance of education, it is the misuse of these aspects providing the developed world with a moral high ground as well as the portrayed superiority in the possession of knowledge, finances and expertise in relation to development which is being opposed to in the present. Tikly argues that the traditional legitimatory role of education is under threat and that drop-out rates and low enrolment partially attest to this view that education does not lead to a reduction of poverty and sustainable growth. He argues further that this is not because it cannot, but that 'education can

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[82] The proposed goal of OLPC for every child aged 6-12 having a laptop, by the UK member of the European Parliament Nirj Deva.

[83] Philip Alston, 'Ships Passing in the Night: The Current State of the Human Rights and Development Debate seen through the Lens of the Millennium Development Goals' (2005) 27 (3) Human Rights Quarterly 755.

[84] ibid.

[85] Upendra Baxi, *Human Rights in a Post Human World: Critical Essays* (Oxford University Press 2007) 126. Baxi sets out the interrelated ways in which the development of the right to development leads to the 'emergent international law regimes of development' 127.

[86] ibid 125.

[87] According to the UNDP Human Development Report 2003 'reflect a human rights agenda' 29.

[88] Makau Mutua, 'Savages, Victims, and Saviors: The Metaphor of Human Rights' (2001) 42 (1) Harvard International Law Journal 201.

only begin to play such a role if there is a fundamental change in the nature of the West's economic relationship with Africa and to the global (and national) division of labour'.[89] This exercise is more evident of pitting the North against the South than fostering the indivisibility and interrelatedness proclaimed.

Nonetheless, following the Millennium Development Goals, the UN Development Group adopted the UN Statement of Common Understanding on Human Rights-Based Approaches to Development Cooperation and Programming (the Common Understanding) in 2003,[90] in order to provide a consistent interpretation of the Human Rights-Based Approach taken by UN agencies, funds and programmes. The Statement of Common Understanding provides that:

1. 'All programmes of development co-operation, policies and technical assistance should further the realisation of human rights as laid down in the Universal Declaration of Human Rights and other international human rights instruments.
2. Human rights standards contained in, and principles derived from, the Universal Declaration of Human Rights and other international human rights instruments guide all development cooperation and programming in all sectors and in all phases of the programming process.
3. Development cooperation contributes to the development of the capacities of 'duty-bearers' to meet their obligations and/or of 'rights-holders' to claim their rights'.

It further provides two sets of recommendations, the first of which are 'necessary, specific and unique'[91] to human rights based approaches followed by 'other elements of good programming practices.'[92]

Human Rights based Approaches have been contrasted with the right to development, with the former being viewed by some scholars as an empowering approach[93] whereby people are the

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[89] Tikly (n 43) 162.
[90] Interagency Workshop on a Human Rights based Approach in the context of UN reform May, 2003.
[91] UN Statement of Common Understanding on Human Rights-Based Approaches to Development 2003
[92] ibid.
[93] Nyamu-Musembi and Cornwall (n 59) 46.

'active agents of their own development'[94] as is set out by the Statement of Common Understanding above, as well as emphasising an increased accountability on the part of the organisations providing or facilitating the development programme. It has also been viewed as strengthening the law by infusing the human rights principles in it such as universality and inalienability and so on.[95] Gready claims that the human rights based approaches re-politicise development by 're-defining development work as being based on rights rather than on benevolence or charity (or needs-based or involving essentially technical assistance).'[96] Thus when dealing with issues of poverty, for example, Gready argues that one begins to seek accountability when one views the issue of poverty as something which has been done to people by others who are responsible for it.[97]

Alston[98] makes certain criticisms of the human rights based approach as set out by this Statement of Common Principles in order to strengthen this approach, his criticisms include the broad language of the Criteria as potentially leading to glossing-over complexity and potential real-world trade-offs,[99] difficulty in identifying the underlying cause of the human rights dilemma, the structural causes and the corresponding obligations of the duty bearers,[100] that some of the principles set out in the second list which are essential to the approach are not human rights principles but the authors' interpretation of them,[101] and so on. His recommendations for improving this approach include prioritising the human rights elements deemed necessary in context rather than as a fixed hierarchy,[102] shifting the paradigm on the part of the development

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[94] Chris Jochnick and Paulina Garzon, 'Rights-Based Approaches to Development an Overview of the Field' (CARE and Oxfam-America funded by the Ford Foundation 2002) 10.
[95] Iraj Rezaeenezhad and Hasan Kordnaeij, 'Rights-Based Approach to Development' (2012) 3(5) OIDA International Journal of Sustainable Development 47, 50.
[96] Paul Gready, 'Rights-based approaches to development: what is the value-added?' (2008) 18(6) Development in Practice 735, 742.
[97] ibid.
[98] Alston (n 83).
[99] ibid 802.
[100] ibid 803.
[101] ibid 804.
[102] ibid 807.

community by having insightful and sympathetic inquiries as to the efforts which have been less successful to date, which will have to be undertaken gradually rather than abruptly.[103]

Alston's criticism of identifying the underlying cause and the corresponding duties of the duty bearers, which are often-times difficult to pinpoint and to hold institutions, states and or people accountable for, points out a significant problem in the human rights based approach to development which is meant to result in accountability. This appears to be dependent on the assumption that human rights have not had a part to play in the maintenance of the status quo. The process in itself then works as a glossing-over of the violence with which this power was acquired in the first place and which it is maintained. Furthermore it is presented as a peaceful means of reconciliation whereby power is handed back to those denied it, in order to empower them to solve their problems with it. This further denies the 'violence' of the process of empowerment which is exercised by those seeking to take back their own power (as opposed to have it bestowed upon them as a gift)[104] as well as denying the lack of willingness on the part of the powerful Western States to do so.[105] For accountability to be genuinely achieved, it would appear necessary to first acknowledge human rights as part of the problem before attempting to use them as a solution; the denial of such renders the human rights based approach significantly less empowering than it is purported to be.

4.2.4 State Development

This section seeks to explore the use of the classification of states according to the concept of development. There are a few terms that seem to be used interchangeably with the term 'developing country' both in the literature as well as in everyday use. All these terms provide us with a deeper insight into what is meant and implied by 'development' and it is the dichotomy of 'developed/developing country' which has been chosen to be used consistently throughout this thesis. This choice, was made on the basis of emphasising the world view which is inherent in this

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[103] ibid 809.
[104] This concept will be further explored in chapter 5.
[105] See Pogge on poverty, Thomas Pogge, 'Eradicating Systemic Poverty: brief for a global resources dividend' (2001) 2(1) Journal of Human Development 59.

term, and which is called into question in the present thesis. According to Sen 'one of the difficulties in adequately characterizing the concept of development arises from the essential role of evaluation in that concept. What is or is not regarded as a case of 'development' depends inescapably on the notion of what things are valuable to promote.'[106] It is noteworthy that the progression of this terminology has changed from a three or four-part division of the world, to a two-part division, the emphasis on an economic partition of the world of 'haves' and 'have-nots'. To begin with we have the term 'third-world country' which was first used by the French man Alfred Sauvy in the magazine L'Observateur in 1952, in reference to countries which were not aligned with either the Communist Soviet bloc (Second World) or the Capitalist NATO bloc (First world) during the Cold War. The segregation of the world into these three parts had social, political, and economic connotations, without having a single definition. In many cases the 'third-world' countries were the ones with a colonial past, or ones with a high level of poverty.

According to the World Bank, which claims to be 'working for a world free of poverty', the classification of whether a country is 'developed' or 'developing' is based upon the criterion of classifying economies based upon gross national income (GNI) per capita, which previously was referred to as gross national product, or GNP.[107] According to the World Trade Organisation (WTO), although no definitions are made available for these terms they are used as such: 'Members announce for themselves whether they are 'developed' or 'developing' countries. However, other members can challenge the decision of a member to make use of provisions available to developing countries.'[108] These provisions include 'special and differential treatment'[109] in the form of 'longer transition periods'[110] and such.

Another term which separates the world into two parts is the 'North-South' divide which does not refer to a geographical division of the world but again the economic and developmental

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[106] A. Sen, Edited by H. Chenery and T.N. Srinivasan, *Handbook of Development Economics*, (Volume L Elsevier Science Publishers B V 1988) 20.
[107] <http://data.worldbank.org/about/country-classifications> accessed 5 January 2019.
[108] <www.wto.org/english/tratop_e/devel_e/d1who_e.htm> accessed 5 January 2019.
[109] ibid.
[110] ibid.

factor is all-defining. It is indicative of the share of the global wealth, the development of the country in terms of whether the country has raw material or the technological know-how and again based on these factors it gives us insight as to whether it has a colonial past, meaning it had resources worth exploiting.

A different term appeared from the United Nations since resolution 2768 (XXVI) of 18 November 1971[111] where a list of the Least Developed Countries (LDCs) first appeared. According to the UN in order for a country to fall under this definition it needs to satisfy all three of the following criteria:

> a low-income criterion, based on a three-year average estimate of the gross national income (GNI) per capita (under $750 for inclusion, above $900 for graduation);
>
> a human resource weakness criterion, involving a composite Human Assets Index (HAI) based on indicators of: (a) nutrition; (b) health; (c) education; and (d) adult literacy; and
>
> an economic vulnerability criterion, involving a composite Economic Vulnerability Index (EVI) based on indicators of: (a) the instability of agricultural production; (b) the instability of exports of goods and services; (c) the economic importance of non-traditional activities (share of manufacturing and modern services in GDP); (d) merchandise export concentration; and (e) the handicap of economic smallness (as measured through the population in logarithm); and the percentage of population displaced by natural disasters.[112]

In order for a country to graduate out of this status it must 'meet the thresholds for two of the three criteria in two consecutive triennial reviews by the CDP. In addition, since the fundamental meaning of the LDC category, i.e. the recognition of structural handicaps, excludes large economies, the population must not exceed 75 million'.[113] Three countries have managed to 'graduate' thus far and these have been Botswana, Cape Verde and the Maldives in order of their 'graduation'.

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[111] A/RES/2768.
[112] ibid.
[113] ibid

This term has also been used with a slight variation, making it Least Economically Developed Countries (LEDCs). Once again these two aforementioned terms have clear socio-economic criteria, as well as of course the political one, which though still present, is no longer mentioned expressly. It is interesting that education and adult literacy make up part of a human resource weakness criterion which is part of the broader UN categorisation of development in countries. This points to the significance of education, in the socio-economic and political sphere.

'Denial of the right to education triggers exclusion from the labour market and marginalisation into the informal sector, accompanied by the exclusion from social security schemes because of the prior exclusion from the labour market.'[114] But beyond the economic promise of educating the developing world there are other features which the Developed world find attractive in this context. 'The unjust distribution of educational opportunities worldwide, along with the perceived importance of education for national development, have led to sustained international attention.'[115] It is after all the second Millennium Development Goal of the United Nations to achieve universal primary education, as well as having sparked the Education for All (EFA) movement, as was set out in earlier chapters, in 1990 which was an inter-Agency Commission (UNDP, UNESCO, UNICEF, World Bank). 'Europeans have come of age, whereas their Southern neighbours have not. It is only natural, therefore, that the former should treat the latter as subjects to be developed. Additionally, it can only be natural that the former should control the global institutions, in collaboration with their transatlantic peers.'[116] The fact that so many of the global institutions have taken an express interest in aiding development in the field of education begs further inquiry. The line of inquiry in the present is in relation to the global institutions promoting development through the field of ICT education as will be addressed below.

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[114] Katarina Tomasevski 'Not Education for All, Only for Those Who Can Pay: The World Bank's Model for Financing Primary Education'2005 (1) Law, Social Justice & Global Development Journal.
[115] Tristan McCowan 'Reframing the universal rights to education' (2010) 46 (4) Comparative Education 509.
[116] Teivo Teivainen 'The Pedagogy of Global Development: the promotion of electoral democracy and the Latin Americanisation of Europe' (2009) 30 (1) Third World Quarterly 163, 171.

4.2.5 International development

Development in International law has a definition and a 'road map' to achieve it by way of the right to development, as has been set out, and the aforementioned Millennium Development Goals which were established to secure it. MDG 8 is aimed at the Global level to 'Develop a global partnership for development' which is made up of 7 different targets (12-18). As it is aiming to 'making the right to development a reality for everyone and to freeing the entire human race from want'[117] it is focused on parts of the world where the United Nations have identified a lack of development, and therefore the resolution and the subsequent goals make explicit reference to developing and least developed countries. There is merit however, in the essentialist critiques of this approach as that expressed by Pogge.[118] Pogge uses the example of the first MDG of halving extreme poverty worldwide by 2015, as a medium to demonstrate that 'the imposition of this global order constitutes the largest (though not the gravest) crime against humanity ever committed'.[119] He draws to our attention the 1996 World Food Summit commitment which superseded the MDG and which was a much greater commitment. The effect of the 2000 goal then 'raises the number of extremely poor people deemed acceptable in 2015 by 335 million'.[120] It would appear that the commitment to development aims to achieve a better state for the world's poor when looking at the Millennium Goals, but for the facts highlighted by scholars that the numbers indicate otherwise.

Within the sphere of international law, which defines such a concept as development in a quantifiable delineated manner it is overlooking the reasons behind this disparity of capital and resources which are prerequisites of this form of development which international law promotes. It places responsibility on the developing world and it portrays the developed world in a financial and knowledgeable position to aid and lead the developing world into development. However,

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[117] Resolution 55/2.
[118] Thomas Pogge, 'The First UN Millennium Development Goal: A Cause for Celebration?' (2004) 5 (3) Journal of Human Development 377.
[119] ibid 24.
[120] ibid 7.

development as demonstrated through the millennium goals and their relationship with human rights, may in fact be as Alston puts it just 'ships passing in the night'.[121]

4.2.6 ICT education development

There has been a development in terms of education with ICT gaining an increasingly important role, and at the same time it is increasingly being viewed as a means of development. In the UNSECO report 2012[122] it is argued that the reason behind the monitoring and measurement of ICTs is that educational policy-makers are making reforms in education on the basis of ICT and are setting goals and making achievements to that end. As mentioned above, there are ICT goals set at a global level regulated by the soft law Millennium Development Goals, contained within MDG 8.[123] The more specific goals at the global level of ICT and education were set out by the World Summit on the Information Society (WSIS) which were held in Geneva (2003) and Tunis (2005) and set out ten targets in the Geneva Plan of Action.[124] Target 2 sets out 'connecting all primary and secondary schools to ICT' which is described by the UNESCO report[125] as a precondition of Target 7 which calls to 'Adapt all primary and secondary school curricula to meet the challenges of the information society, taking into account national circumstances'. As was emphasised by the 2005 World Summit and the WSIS, 'information and communication technology must be effectively integrated into development activities if the internationally agreed development goals, including the Millennium Development Goals, are to be achieved within the agreed time frame.'[126] It was this same Summit in which Kofi Annan introduced the OLPC, from which the OLPC went on to sign a partnership agreement with the UNDP. In regards to the OLPC project, and other such ICT projects it ought to be mentioned that although only States are parties to the treaty obligations of international law, non-state actors have played a significant role in the law's development,[127] and it is this status of non-state actor which the OLPC

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[121] Alston (n 83).
[122] UNESCO and UNESCO Institute for Statistics, 'ICT In Education in Latin America and The Caribbean a regional analysis of ICT integration and e-readiness' (UNESCO 2012).
[123] United Nations 2000.
[124] Document WSIS-03/GENEVA/DOC/5-E.
[125] Unesco Report (n 75).
[126] United Nations Press Release (17 April 2006) DEV/2572-PI/1707.
[127] Steiner(ed), Alston(ed), Goodman(ed) (n 50) 1385.

project enjoys. In fact the OLPC has, unlike many other 'civil society groups', partnered with many States as well as naming the United Nations Development Programme as its Global Development Partner.[128] These partnerships, therefore allude to rather a strong non-state actor, even though as mentioned elsewhere in the present thesis this has been hard to verify. The involvement of Non-state actors such as the OLPC also emphasizes the overall globalization process which is circumventing the state as the principal actor of international law making.[129] Since, many businesses seek to dissipate the stigma of capitalism by pronouncing certain codes of conduct and having certain standard form contracts by which they enter business relations with, in order to have an appearance of 'law and human rights observance when the contrary is true'.[130] For the most part, this appearance benefits the corporations in promoting their business, gaining acceptance in other parts of the world and very importantly in avoiding taxation. In regards to international law, there are rules which govern the sale of goods and market access, but as Chimni argues 'Many of these rules are designed to protect the corporate actor in the first world from efficient production abroad even as third world markets are being pried open for its benefit'.[131] This would be one explanation for the growth in ICT education projects for development a means to reap an economic benefit, which would also be furthering an older form of domination.[132] The significance of this is to point out that the values which are embodied and being promoted by the non-profit organisation in this case, are stemming from Western values and are being approached by a particular mind-set of identifying 'the problem' in education in the third world and of 'solving' it with first world means. A 'TWAIL analysis helps scholars to critique the oft-proclaimed high moral ground occupied by the West and mainstream international law, especially as it relates to social and economic under-development in Third World states'.[133] The moral high ground is therefore embodied in the OLPC's mission to go forth

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[128] OLPC Partners <http://laptop.org/en/utility/people/partners.shtml> accessed 5 January 2019.

[129] B.S. Chimni, 'Third World Approaches to International Law: A Manifesto' (2006) 8 International Community Law Review 3, 4.

[130] ibid.

[131] ibid 10.

[132] James Thuo Gathii, 'TWAIL: A Brief History of its Origins, its Decentralized Network, and a Tentative Bibliography' (2011) 3(1) Trade Law & Development 26, 34.

[133] O.A. Badaru, 'Examining the Utility of Third World Approaches to International Law for International Human Rights Law' (2008) 10 International Community Law Review 379.

and educate the children of the developing world which is very much in line with the spirit of International development, and the method of TWAIL analysis set out below will provide for an alternative narrative.

4.3 The 'Third World'

In setting out the parameters of TWAIL, it is necessary to look into the reasoning which lies behind this name, and the choice to use such a term. Furthermore, the reasoning is grounded in a historical account which is representative of the struggle in international law which is present till today. It begins in 1648, according to the Treaty of Westphalia which was concluded at Munster and Osnabruck, Germany and which ended the Thirty Years' War. The concept of Sovereignty was proclaimed, by which each State is sovereign over its own territory. This was something that non-European States lacked until this development in International law. The process of the non-European States progressively achieving this 'sovereignty', however, occurred mainly after World War II. This view is problematic according to Anghie who argues that the newly achieved sovereignty is based upon the European view which held that the non-European world was not sovereign in the first place.[134]

This is yet another dichotomy present in International law that there are two versions of 'sovereignty', one for European States and another for the non-European States.; 'the mechanisms of exclusion that deprive the non-European world of 'Western' sovereignty persist and endure despite the official end of the colonial period'.[135] This exclusion was based upon the fact that during the colonisation process the European states entered into 'treaties' which transferred the territories into their power with the rulers of those territories but in a rather paradoxical sense, since 'European international lawyers at the time defined international law as the law of/among civilized nations, and did not recognize most Asian and African political entities

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[134] 'This is then a prelude to the grand redeeming project of bestowing sovereignty on the dark places of the earth.' Anghie based on Martti Koskenniemi, *The Gentle Civilizer of Nations: The Rise and Fall of International Law 1870–1960* (Cambridge University Press, 2001).

[135] Antony Anghie, 'The evolution of International Law: Colonial and postcolonial realities' (2007) 27(5) Third World Quarterly 739, 741.

as subjects of international law'.[136] At the time 'International lawyers granted the natives such status, quasi-sovereignty, for the purposes of enabling them to transfer rights, property and sovereignty'.[137] This 'quasi-sovereignty' appears to be one which continues to the present, always with the view of the Third World being able to be sovereign enough to transfer rights, goods and property out of its hands but not sovereign enough to exercise any power over these relations with the First World. In the words of a contemporary international lawyer 'contrary to many fears expressed in the early years of the decolonisation saga, international law has not been discarded nor altered beyond recognition. Its framework has been retained as the new states, too, wish to obtain the benefits of rules such as those governing diplomatic relations'.[138] Similarly Historicism takes the view that human rights is not benevolence reflected in law, yet it 'understands the emergence of human rights as it is connected to the larger, complex and specific histories of humanism and religious reformation, nationalism, capitalism, colonialism and imperialism, and the contemporary globalization of American economic and legal forms.' Both these approaches, indicate that the contemporary reading of international law particularly in connection to hegemonic claims of power disparities invariably lead us to historical events,[139] which led to the formation of the current state-of affairs.

The 'third world' is a category of countries which have been tied together regardless of their differences on a multitude of levels, cultural, historical, linguistic and such. 'But too much is often made of numbers, variations, and differences in the presence of structures and processes of global capitalism that continue to bind and unite. It is these structures and processes that produced colonialism and have now spawned neo-colonialism.'[140] Therefore, despite the much diversity, there is an overall binding element amongst the 'Third World' which is aptly expressed by Okafor, and is the basis of the TWAIL dialectic: 'As long as the inevitable contingency of this expression is understood, and the expression is not inflexibly moored to a fixed geographic

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[136] Yasuaki Onuma, 'When was the Law of International Society Born? –An Inquiry of the History of International Law from an Intercivilizational Perspective' (2000) 2 Journal of the History of International Law 1.
[137] Anghie (n 135) 745.
[138] Malcolm Shaw, *International Law* (4th ed, Cambridge University Press 1997) 35.
[139] Krisch (n 1) 377.
[140] Chimni (n 129).

space—but rather to a self-expressed and shared sense of subordination within the global system—it does retain much relevance even today, even in this moment of ferment, even in this 'post-modern" world'.[141] This global system is not only unfettered it is also unapologetic and defiant 'the World Bank, the IMF, and the GATT/WTO regime-Western control of the global economy and resources is a matter of public record. This disparity between the West and the Third World is so ingrained in public consciousness that it is rarely a matter of serious public debate'.[142] This position is similar to that taken in Critical race theory which was looked at above. Rather than rectifying the past and addressing the issue of why the Third World is dependent economically on the West, it is simply being pushed in the direction of economic policies which continue to ensure this relationship. This direction is that of 'development'. 'Development' is viewed as the 'missing ingredient' in the coming of age process for 'third world' states to become adult 'first world' states. 'This focus on economic development and efficiency had a radical effect on colonial policies in general; more particularly, it led colonial powers to view natives in terms of the labor, the economic wealth they represented. Simply put, the native was no longer to be merely conquered and dispossessed; he was rather, to be made more productive.'[143] Economic exploitation therefore, is the reality which is being dressed up and promoted by the international institutions seeking to preserve rather than change the world order of first and third world states. The difference between colonialism and neo-colonialism in this sense, is that the latter strives to make the third world state complicit in this form of exploitation by the first world defining 'development' and urging the third world to achieve it. The economic and legal structures in international law were 'established by the colonial powers and that operated largely in the interests of these powers'[144] which systematically impoverish[145] the third world state. This

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[141] Obiora C. Okafor, 'Newness, Imperialism, and International Legal Reform in Our Time: A Twail Perspective' (2005) 43 1 & 2 Osgoode Hall Law Journal 171, 175.

[142] Makau Mutua and Antony Anghie, 'What is TWAIL?' 94 (Proceedings of the Annual Meeting American Society of International Law, Cambridge University Press April 2000) 31, 37.

[143] Antony Anghie, Globalization and its discontents International Institutions and the Colonial Origins of Law and Development1' (lecture at New York University Law School, NY February 2005) 15 <www.iilj.org/wp-content/uploads/2016/11/Anghie-International-Institutions-and-the-Conolial-Origins-of-Law-and-Development-2005.pdf> accessed 5 January 2019.

[144] ibid 23.

[145] Susan Marks, 'Human Rights and the Bottom Billion' (2011) 1 European human rights law review 37, 44.

essentially places the third world state between Scylla and Charybdis, either 'failing' to achieve 'development' or succeeding being completely colonised/globalised.

4.4 The emergence of Third World Approaches to International Law (TWAIL)

The symbolic birthplace of TWAIL is said to be in Bandung, Indonesia in 1955 during a conference held to create a coalition of Third World states, without the presence of any European states, where the 29 states discussed issues affecting them on which the West was not consulting them as well as expressing their opposition to colonialism.[146] Colonialism after all was a European phenomenon imposed upon non-European states lacking, according to the former, in sovereignty.[147] Even once the third world state was given its sovereignty free from colonial rule and so called equality 'it did not translate into the real power the Third World states had hoped for.[148] International Law is also viewed as 'a predatory system that legitimizes, reproduces and sustains the plunder and subordination of the Third World by the West'.[149] Thus a necessity for opposition to the legitimacy of domination and subordination through international law, and as a means of response to it, produced the dialectic of TWAIL.

The name TWAIL however, was coined in 1997 by a group of scholars at a conference held at Harvard University. 'One of the primary aims of the 1997 conference was to develop new ways of thinking about the relationship between international public law and international economic law, and issues of global wealth and poverty'.[150] The vision statement for TWAIL which was drafted during this conference states that:

> (i) first, we need to context international law's privileging of European and North American
> voices by providing institutional and imaginative opportunities for participation from the third

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[146] Vik Kanwar, 'Not a Place, But a Project: Bandung, TWAIL, and the Aesthetics of Thirdness' in Luis Eslava, Michael Fakhri and Vasuki Nesiah (eds), *Bandung, Global History and International Law: Critical Pasts and Pending Futures* (Cambridge University Press 2015)
[147] For an in depth analysis of this point see Antony Anghie, (n 143) as well as an interesting critique by Upendra Baxi, 'New Approaches to the History of International Law' [2006] Leiden Journal of International Law 554.
[148] Mutua and Anghie (n 142) 199.
[149] ibid 31.
[150] Gathii (n132) 29.

world; and (ii) second, we need to formulate a substantive critique of the politics and scholarship of mainstream international law to the extent that it has helped reproduce structures that marginalize and dominate third world peoples.[151]

It is admitted by Mickelson that a re-writing of this vision if re-written to reflect a more modern vision of what it is that TWAIL entails would differ in parts from the original version. Nonetheless, its main emphases of it being a scholarly and political project still are central to TWAIL.[152]

4.5 TWAIL the critical theory

Critical International legal Scholarship which is the broader umbrella of legal theory which is being used in this thesis is one which challenges accepted norms and standards in the theory and practice of the law. There are many branches of this and one of the most central is Critical legal studies (CLS) which holds as one of its main themes that law is politics, and that though law may have the appearance of neutrality it is actually a tool used to maintain power and domination. Critical Legal Scholars view law as a 'significant constituent in the complex set of processes which reproduces the experience and reality of human subordination and domination; thus the wider concern with the conditions and possibility of human emancipation forms the extended political perspective of the movement'.[153] This view of hegemony in the law is common in many of the criticisms of the law, although there are countless differences and variations in all of these. This provides for a very rich and diverse dialogue of aspects of the law which preserve domination and normativity, and in these critiques we can envision change.[154]

Before relating this thesis with the critical legal theory of TWAIL which has been a very significant development in the critique of international law, demonstrating the varying ways in which the Western States have used it as a powerful tool to achieve and preserve dominance over non-

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[151] Karin Mickelson, 'Taking Stock of TWAIL Histories' (2008) 10 International Community Law Review 355, 357, 358

[152] ibid 360.

[153] Alan Hunt, 'The Theory of Critical Legal Studies' (1986) 6(1) Oxford Journal of Legal Studies 1, 43.

[154] Although this may not be a common opinion, for instance 'Critical race theory thus reflects a distinctive mix of reformist zeal and critical pessimism Angela P. Harris, 'Critical Race Theory' *in International Encyclopedia of the Social & Behavioral Sciences* (Elsevier 2012) 7.

Western States; there is the necessity to put forth the following 'disclaimer'. Since Third world approaches to International law, according to scholars, are about 'giving a voice to the suffering' it is not intended in this thesis to appropriate this right nor is it a claim to know what is 'best' for the third world; It is meant as a contribution to the opposition of an international law structure, and its symbiotic relationship with the international bodies, which were established under a specific world-order. This world-order is historically situated in a period of time which where, the sovereign state, was not a democratic one, but one ruled over by a sovereign, king or prince as the Treaty of Westphalia demonstrates and in a world divided up by empires. Under this division of the world, both the construction of the sovereign state and the doctrine and principles which governed both the state and its relations with its neighbours, was a European construct. This construct was, what we recognise as international law and it was extended to the territories outside Europe, which were previously lacking sovereignty, governed by European colonial rule.[155] It is noteworthy that we are currently (2010-2020) in what the United Nations has named the 'third International Decade for the Eradication of Colonialism' as there still remain 17 Non-Self-Governing Territories (NSGTs),[156] close to 2 million people, yet to be decolonized. The process of decolonisation, may be viewed as a process of rectification of this international law oppression, as the UN General Assembly calls it 'the process of liberation'.[157] This very big step is viewed as necessary since 'the peoples of the world ardently desire the end of colonialism in all its manifestations'[158] nonetheless, it is a limited liberation based upon a limited view of oppression and exclusion. It is therefore argued that even when we speak of the parts of the developing world which have been decolonised formally, colonisation still remains present in many forms. That is to say, by way of the universalist human rights process of homogeneity or as Beckett describes the 'the universalist claims of liberal millenarianism are problematised and exposed as nothing more than solipsistic moral imperialism of the West; a quest for hegemony through homogeneity'.[159] As this touches upon the long-standing debate about the nature of

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[155] Anghie (n 135) 740.
[156] <www.un.org/en/decolonization/nonselfgovterritories.shtml> accessed 5 January 2019.
[157] Declaration on the Granting of Independence to Colonial Countries and Peoples adopted by resolution 1514 (XV) of 14 December 1960.
[158] ibid.
[159] Jason Beckett, 'Conflicting orders: How peace is waged' (2007) 1 Leiden Journal of International Law 281, 283.

human rights law and the polarity of universalism and cultural imperialism, it will be dealt with in greater depth in the following chapters, although delimited to the parameters of the present thesis, of TWAIL and the right to education.

There are after all many critical theories which share the basis of criticism that International law maintains a biased world-order. These approaches not only in many cases reveal there are grave injustices occurring daily, but that under the current international law regime that this violence[160] is viewed as 'normal' and 'natural'.[161] Those human beings whose existence is excluded by and from the international humanitarian law world order, is 'other'. This ever-growing[162] category of 'others' in international law is evidenced by all these marginalised voices which surface in critical legal scholarship.[163] Therefore utilising the critical theory of TWAIL, is done so on the basis of joining and by extension strengthening those third world voices calling for a more inclusive and less oppressive international world order. Particularly as it is not an exclusionary theory, since TWAIL scholars are not necessarily limited to a particular geographical part of the world.[164] Moreover, as Feminist critique points out, a diversity of voices is necessary[165] to demonstrate more fully the reality of international law in its practice. Furthermore, if we look at the vision statement we will see that TWAIL embraces diversity of opinion even within its boundaries.

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[160] Jason Beckett, ibid at 284, Antony Anghie, 'Finding the Peripheries: Sovereignty and Colonialism in Nineteenth-Century International Law' (1999) 40 (1) Harvard International Law Journal 1,7.

[161] Gloria Ladson-Billings 'Race Still matters Critical Race Theory in Education' in Michael W. Apple (ed), Wayne Au (ed), Luis Armando Gandin (ed) *The Routledge International Handbook of Critical Education* (Routledge 2009) 113.

[162] Madhav Khosla, 'The TWAIL Discourse: The Emergence of a New Phase' (2007) 9 International Community Law Review 291, 292.

[163] Anne Orford (ed), *International Law and its Other*s (Cambridge University Press 2009).

[164] Khosla (n 162) 294. According to Gathii who organised the third annual Third World and International Law (TWAIL) conference 'the Third World is not simply a temporal geographical or political-ideological space outside the West. Rather, the Third World for purposes of this conference is conceptualized as a contingent and shifting space of engagement and interaction of differences that are irreconcilable sometimes, and overlapping and reinforcing in others.

[165] Hilary Charlesworth, Christine Chinkin and Shelley Wright, 'Feminist Approaches to International Law' (1991) 85(4) The American Journal of International Law 613.

4.6 TWAIL characteristics

In setting out to delineate TWAIL, it is important to bear in mind that it is a 'political project'[166] without a 'fixed and established set of rules.[167] According to Rajagopal, although Third world resistance to international law exists in many forms, only resistance in the area of human rights have been granted any legitimacy,[168] despite other such forms worthy of merit. In its application to International Human Rights law as a means of critique, TWAIL has been separated into two periods[169] TWAIL I and TWAIL II. These two periods of TWAIL are separated by the time of their origination, the former in the 1960s- 1970s and the latter in the 1990s. Although, it appears that since 2001 there has been an emergence of TWAIL III focusing on the pre-emptive force of international law, illustrated by examples such as the war in Iraq, in order to demonstrate how 'principles in international law are selectively used and moulded for the interests of the first world'.[170] TWAIL I took a more state-centric approach to international human rights law and in how it could be used to alleviate 'human hardships in the third world'.[171] Whereas TWAIL II critique is mostly centred on the tendency of international human rights to 'promote a sort of universal culture without adequate Third World input'.[172] Also TWAIL II discourse 'arose to meet the challenges of a changed world order – an order in which international financial institutions played an important role.'[173] That is to say, it also focuses on the economic policy of the 'free market' and globalisation and the role that international law has in establishing and implementing these policies, furthering this hegemonic vision. Having said that, TWAIL is without a set of rules, this does not preclude the fact that there is a distinct set of interests and several formulations. It is these formulations which are presented in the joint article by Mutua and Anghie[174] which will be set out here and applied to the thesis in order to justify my claim of joining

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[166] Antony Anghie, 'TWAIL: Past and Future' (2008) 10 International Community Law Review 479, 480.
[167] ibid.
[168] Balakrishnan Rajagopal, *International Law from Below: Development, Social Movements and Third World Resistance* (Cambridge University Press, 2003) 9.
[169] Although some scholars resist this separation as it "implies a linear conception of the history of Third World scholarship on international law, a gradual progression towards some glorious enlightened future" Mickelson (n 151) 361.
[170] Khosla (n 162) 300.
[171] Badaru (n 133) 380.
[172] ibid
[173] Khosla (n 162) 298.
[174] Mutua and Anghie (n 142) 36.

my voice to those of the Third World. The three main features I have identified in this piece of work are:

1. There must be 'an important question in international law'[175] which any TWAIL scholarship must be opposed to.

2. The purpose of the work 'must be to eliminate or alleviate the harm or injury that the Third World would likely have suffered as a result of the unjust international legal, political, and economic order'.[176]

3. The work must be 'concerned with justice or fairness of norms, institutions, processes, and practices in the transnational arena. Its overriding purpose must be the elimination of an aspect of Third World powerlessness'.[177]

4.7 TWAIL and the Research Question

The question which the present thesis is seeking to answer is whether the Right to Education is a cultural imperialist tool of oppression as seen through the lens of the One Laptop per Child Project. It has been demonstrated by the previous chapters and above sections that the right to education is the broader umbrella under which ICT education and in particular ICT4D falls. Within this question the elements of education and development are brought together through ICT4D, as has already been established, in order to ascertain whether ICT education embodies and transmits western culture. Furthermore, the research questions the relationship between the right to education and schooling in respect to establishing a system through which Western values and culture are exported, and whether this amounts to cultural imperialism as a form of oppression. As each contributing element is set out in this thesis, it is also critically analysed in line with TWAIL, and therefore every chapter contributes and furthers this line of analysis. In regards to the three main features delineated above, the research question can be briefly set out according to the three elements of TWAIL as such:

(i) The *important question in international la*w the thesis is fundamentally opposed to

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[175] ibid.
[176] ibid.
[177] ibid.

In determining whether the right to education is a reflection of Western Values, there is an in-depth analysis of the right as we have seen in Chapter 2 which examines the varying international human rights law instruments which set out this right and the differences which can be identified between them. In taking a TWAIL approach, the fact that many third-world states were not as involved in the drafting process of the Convention on the Rights of the Child and led for instance to the African Charter on the Rights and Welfare of the Child 1990 in order to be more representative of the values and culture of the region. Regarding the drafting process, there is the related issue of the embodiment of Western values within international law which determine normative definitions of childhood further elaborated below, and education. But the scope of opposition is not limited to the drafting process of the particular human rights instrument. It is also the development of ICT education and its legitimisation as an element and means of *development* in international law which is regarded in the present analysis as an embodiment of Western values, culture, politics and economic policy which is being imposed in a surreptitious manner through the right to education. 'The regimes of trade, development and human rights endow with content, the 'universal' embedded in contemporary calls for the international, just as the trilogy of Civilisation, Commerce and Christianity did before them'.[178] That is to say, if the importance of the right to education is overlooked and not safeguarded, there is the threat of imperialism and the erosion of sovereignty through universalisation; in a manner which renders the third world state complicit in this act. Once again internal sovereignty is being challenged since 'international law is coming to define the meaning of a "democratic State" and relocating sovereign economic powers in international institutions, greatly limiting the possibilities of third world States to pursue independent self-reliant development.'[179] This reiterates the former criticism that the Third World States have only really achieved a quasi-sovereignty under international law. Furthermore we have yet more evidence of a marriage of 'democracy' and the 'free-market'. This being a Western construct which is arguably more beneficial to developed states than developing states who are less likely to gain benefits from neo-liberal policies. 'International financial institutions such as the IMF and the World Bank played an increasingly

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[178] L. Eslava and S. Pahuja, 'Between Resistence and Reform: TWAIL and the Universality of International Law' (2011) 3 (1) Trade Law and Development 103, 206.
[179] Chimni (n 129) 7.

intrusive role in the economies of Third World states, and attempted to use their considerable powers to reform the political and social structures of these states, this in the name of promoting 'good governance'.'[180] The acknowledged financial crisis which has affected the developed world states by following these neo-liberal policies suggest that, much like ICT4D and aid, it is not a system proven to work. 'Since the fall of Communism, free markets and free people have been packaged as single ideology that claims to be humanity's best and only defense'.[181] However in the Third World where it has been 'applied' 'it did not bring democracy; it was predicated on the overthrow of democracy in country after country'.[182]

II) How does this thesis attempt to *eliminate or alleviate the harm or injury that the Third World has and will likely suffer as a result of the unjust international legal, political and economic order*? In choosing the TWAIL dialectic, this thesis is drawing attention to potential harm or injury with the view that a lack of opposition not only maintains but also strengthens the current order which is unjust. The choice of the particular project as a lens, is used in order to examine the extent to which this injustice can be overturned by the very means of its oppression, which in this case is ICT4D. It is examining the potential of the OLPC project acting as a *Trojan horse* of empowerment, within an international regime of disempowerment. That said, it is not necessarily possible, as the project does enshrine aspects of Western culture which may undermine empowerment. The OLPC project for example focuses on the individual by placing the individual child at the centre of his or her own learning, even though peer-to peer learning is also encouraged. Nevertheless, when ingraining this individualist culture into education and imposing it, explicitly in the letter of the law and implicitly in its application, with a cloak of universality, amounts once again to hegemony. 'Collaborative, shared experiences are an important characteristic of local use of technologies. One Laptop per Child emphasizes in its very name the opposite—individual ownership and use of technologies. Will this disrupt the local web of relationships that allow people and technologies to coexist in a stable mutual dependence?'[183] On the one hand the

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[180] Anghie (n 135) 749.
[181] Naomi Klein, *The Shock Doctrine* (Penguin Books 2007) 102.
[182] ibid.
[183] Christopher Hoadley, Social Impacts of Mobile Technologies for Children: Keystone or Invasive Species? In Allison Druin (ed), *Mobile Technology for Children* (Morgan Kaufmann 2009) 78.

answers to these questions, which very likely will differ amongst the various States are surely very important, however troubling on the other, is the fact that these questions are not asked at all neither by the example of the OLPC project nor is this question raised in the law. It is a given that this Western notion of individualism is universal or best.

(III) In what sense is the thesis concerned with *justice or fairness* and the *elimination of an aspect of Third World powerlessness*?

Regarding this very important feature both of TWAIL critique and the research question, the powerlessness of the third world is examined in greater detail in the next chapter, which defines the terms empowerment and oppression, and explains how both can be related to ICT education. This thesis chooses the OLPC 'educational project' specifically for this feature. That is to say that its initial claim is to empower third world children. It is specifically the feature of empowerment which set this project apart from other educational projects, which resemble *civilising missions* which seek to build schools and *teach* third world children. This choice is based on the belief that empowered people are in the position to take the actions necessary to effect the changes and achieve the goals they have chosen to strive for. This means that if the OLPC project could live up to its promise of empowering the children of the Third World and to direct education to borrow the words of Article 29 (1) (a) to 'The development of the child's personality, talents and mental and physical abilities to their fullest potential',[184] then it would certainly effect change in the global world order as it stands and is embodied by international human rights law today. Not the project itself of course but rather the empowered people of the Third World. This aim of the thesis in line with TWAIL methodology is also representative of how the charge of nihilism is unfounded when it comes to TWAIL. TWAIL critics 'critique with a view to build on and transform the egalitarian aspects of international law, and do not critique to derive satisfaction out of deriding the work'.[185] That is to say, the critique contained within the right to education is looked at with the view of 'remedying' the law in a way to remove the domination and exclusion

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[184] CRC 1989.
[185] Gathii (n 132) 43.

produced by globalisation. The extent to whether this aim is achieved will be assessed in the overall conclusion.

Third World resistance to the universality of international law is a characteristic of TWAIL as we saw from the three main features set out by Chimni and Anghie above. 'Third World practices of resistance articulate themselves increasingly in the technical dimension of dispute resolution and commercial arbitration.'[186] But resistance is not limited to the state or institutional levels it is also resisted by people in a multitude of settings and has even used human rights in a counter-hegemonic way.[187] Yet Philips raises the point that 'Rajagopal analyzes development, social movements, and Third World resistance from a mind set in which social movements predominantly represent the interests of the assimilated within the Third World. The interests of the unassimilated or less assimilated across the globe (not just in the Americas) remain marginalized'.[188] Whether this can ever truly be rectified is doubtful without reproducing a 'world order' without Koskenniemi's warning. This is why empowerment is such an important feature in getting as close to 'fairness and justice' as the TWAIL dialectic seeks for the third world.

4.8 Conclusion

As the account above provides, the critical theory of TWAIL is a dialectic borne out of opposition to the international order which is viewed as a disparate division of power and resources which is unjust and unfair and which subjects the third world to domination and subordination. It is a wide dialectic which is not bound by geographical space and which includes a diversity of voices under an overreaching umbrella of ideas binding these voices together. It is not a nihilistic approach to international law, as its aim is inclusivity and change in the world order in order to become more just with respect to the third world which it views to be marginalised. As such it is

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[186] Upendra Baxi, 'What may the 'Third World' expect from International Law?' (2006) 27(5) Third World Quarterly 713, 720

[187] Balakrishnan Rajagopal, 'Counter-Hegemonic International: Law Rethinking Human Rights and Development as a Third World Strategy' (2006) 27 (5) Third World Quarterly 767, 773.

[188] Valerie Phillips, 'Indigenous Rights, Traditional Knowledge, and Access to Genetic Resources - New Participants in Future International Law Making' (Research Paper No. 2008-05, University of Tulsa Legal Studies 2008) 22.

the appropriate choice for the research question with which this thesis engages, which approaches the subject of education, and very specifically the subject of ICT4D education through the OLPC project in order to identify and question this aspect of international law, with regard to the third world. In line with TWAIL theory, and so to avoid being nihilistic, it further seeks to propose means by which third world powerlessness can be eliminated. The use of TWAIL therefore, is twofold, it is both the theoretical and conceptual framework which frames the research question as well as the methodological approach or analytical technique applied to law and the respective research.

The concept of development has been set out in this chapter in order to demonstrate its significance in shaping the direction which international law is following and its relation to the various elements central to this thesis. As this chapter demonstrates, it is a concept of transition and it comes up in various ways, as it relates to the transitional state of childhood, the transition through the learning process, and the as a human right to do so. It then relates to the transition of states and the international order which the international bodies are striving towards. Lastly it is related to the transition in education which acts as a type of bridge between the two main categories of development. It is thus a concept which highlights the process from primitive to developed, child-like to adult-like, savage to civilised always with a Western perspective of what each state is identified by and ought to be like. It is such a representative term, which is why it is the one used throughout the thesis to name the dichotomy of the world's States as opposed to 'third world' which is the one indicative of the critical theory. In this way it is a constant reminder that the international order was formed and continues to maintain a status quo which is hegemoncially built on money and power. This order becomes particularly oppressive when the rich and powerful become morally superior saviours. In order for an international order to become *just* and *fair* it must strive to be inclusive. This is the driving force behind the choice of the TWAIL perspective, which is to offer an alternative narrative, otherwise silenced and overlooked. This is not to say, that inclusivity will necessarily bring about an international law utopia, it is simply that a lack of inclusivity amounts to a form of imperialism and oppression in the developing world. The element of oppression is one which has a significant role and meaning

in relation to the research question. It is therefore, an element which will be looked at in greater depth in the following chapter and it will be related to various aspects of the argument being put forth herein.

Chapter 5: Cultural Imperialism as a form of Oppression

5.1 Introduction

In applying a TWAIL critique to the research question, we are faced with overwhelmingly contradictory terms and realities. That is to say on the one hand there is the characterisation of the right to education as an empowerment right[1] in international law, and one which is a necessary means of development, and on the other hand concepts such as that of imperialism and oppression. The aim of this chapter is therefore to bring these two polarised views closer together by demonstrating what each represents, as well as briefly addressing the degrees in between the two opposing views. This is not to say that new terminology or views are suddenly being presented, simply that a greater depth is aimed at in order to further establish the critique. Therefore this chapter takes a closer look at empowerment and oppression in education in order to further qualify the hypothesis set out by the research question in the previous chapter, that the right to education though promising empowerment is delivering oppression in the form of cultural imperialism.

The OLPC project in its many deployments around the world and specifically in many varying parts of the developing world has had differing effects, which in many ways is reflective of, amongst others, the differences 'between and within Third World countries.'[2] This potential pitfall of thinking of the developing world as a homogenised part of the world, with a homogenised culture and response to ICT education is acknowledged as it amounts to an act of oppression itself and therefore contradicts the pluralistic aim of TWAIL theory altogether. This chapter aims to demonstrate the view that education can be a means to empower or oppress and all the shades in between. That is to say in liberation it can produce empowered critical thinkers, whereas as a form of oppression it can produce disempowered and reliant followers. In order to provide an inclusive analysis, the chapter begins with the positive point of the spectrum which is empowerment and works down to cultural imperialism.

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[1] According to the CRC Committee's General Comment No 1 (2001).

[2] Karin Mickelson, 'Rhetoric and Rage: Third World Voices in International legal Discourse' (1998) 16 (2) Wisconsin International Law Journal 353, 359.

5.2 Empowerment

Not only is there no single definition to encompass all people's empowerment and there are also a multitude of factors which play a significant part in shaping and influencing it. This is an acknowledgement that empowerment, as many like terms used in relation to human rights education are subject to a multitude of interpretations rendering universality a utopia. Or perhaps it should serve as a cautionary reminder that much as the figurative concepts need localised reality, so do the human subjects of this reality. Thus the terms we use to define the parameters of learning lead us to a more Cultural Relativist than Universalist approach.

5.2.1 Empowerment and Education

The link between empowerment and Education is argued by human rights law itself. The UDHR for example states that as a common standard of achievement for all peoples and all nations, all organs and members of society should strive to promote respect for the rights and freedoms by teaching and education.[3] In fact the importance of Human Rights Education, that is educating people of their rights as human beings, is mentioned in all the human rights law instruments regarding education cited within this thesis. The reasoning being that in educating people of their rights, this becomes the vehicle through which they are empowered in order to hold their states accountable when they are not present and enjoy them when they are. Thus education, has been acknowledged by international law explicitly in this sense, and implicitly in respect to the research question. That is to say, there is an implicit acknowledgement that 'knowledge is power' as the proverb says, and therefore it stands to reason that in controlling knowledge, one controls power. Human rights law as is criticized within the present thesis, is a part of an international law 'culture' which promotes certain values and interests over others to the benefit of the developed at the detriment of the developing *others*. This is achieved through education seeking to *empower* people as to their rights in this international order, while substantially oppressing all that is *other*. There is a differential treatment of education in relation to its empowerment, however, in international human rights law. On the one hand the right to be educated in human rights has the notion of empowerment embedded in it, as set out above. It is not limited to a

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[3] UDHR 1948 preamble.

certain level of education, as the right to education, and it is aimed at 'strengthening the respect of human rights and fundamental freedoms'[4] universally in 'all learning institutions in formal and non- formal settings'.[5] On the other hand, the right to education, appears to be inextricably linked to the concept of development as argued in the previous chapter. Therefore as education investment which 'has a venerable tradition in economics'[6] is assessed in terms of human capital,[7] the returns of such an investment are measured in relation to the state. Empowerment in regards to this investment, are a more highly educated workforce, which can produce more wealth for the state, furthering its development and making it more powerful. This argument can be made despite the wording of article 29(1)(a) which states that education should be aimed at 'The development of the child's personality, talents and mental and physical abilities to their fullest potential'. The reason being that this vague and abstract wording does not preclude the human capital approach, even though it is this aspect of the child's empowerment through the fulfilment of his or her own potential, which this thesis is most concerned with. An example of this is depicted in the UNICEF publication entitled 'A Human Rights-Based Approach to EDUCATION FOR ALL'[8] which recognises the conflicting agendas for education[9] naming governments as those with the human rights capital agenda, and contrasting this with parental demands of the education system. This approach denies the responsibility of the international agenda as well as proposing that international law offers a solution to this by providing parental rights to choose, which further vilifies the developing world for not being able to provide such choice. It offers some interesting recommendations for education 'beyond the more traditional

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[4] Vienna Declaration 1993.

[5] ibid.

[6] Michael A. Clemens, 'The Long Walk to School: International education goals in historical perspective' (March 2004) Center for Global Development Working Paper 37 <https://ssrn.com/abstract=1112670> accessed 5 January 2019 quoting Adam Smith, An Inquiry into the Nature and Causes of the Wealth of Nations. Methuen and Co., Ltd. V.1.182, 1904.

[7] George Psacharopoulos and Harry Anthony Patrinos, 'Returns to Investment in Education: A Further Update' (2004) 12 (2) Education Economics 111.

[8] A framework for the realization of children's right to education and rights within education (UNICEF 2007) E.08.XX.2

[9] Ibid 20.

model of schooling'[10] such as children's governments,[11] which have had little implementation eleven years on.

5.2.2 Empowerment through ICT Education viewed through the OLPC

The OLPC is an ICT project whose mission is to 'empower the children of developing countries to learn by providing one connected laptop to every school-age child'.[12] The reasons behind this stance have been explained as being based on the belief that the human development has up until now been completely reliant on socio-economic factors where mobility has been 'strictly limited by political, social and economic oligarchies that condemn large swaths of the population to limited existences and unrealized potential.'[13] Setting it apart from other ICT projects, it is not the use of technology which the OLPC project views as the vehicle to empowerment. It is the emphasis on constructionism which is believed to 'have the potential to break down these oligarchies'[14] depending on whether or not it is 'deployed correctly'.[15] Unfortunately, the use of the word *correctly*, particularly as it plays such a decisive role, is not explained, although the OLPC did provide a Deployment Guide in 2011[16] setting out amongst other things a pyramid illustrating the hierarchy of the various domains affecting the sustainability of the project.[17] It is this aspect which the OLPC project envisions that will result in empowered and 'better' educated peoples who have the ability to 'drive necessary social change, in particular in the context of developing countries. And children who have developed entrepreneurial skills are more apt to persevere and succeed in contexts where there is not a level playing field'.[18] Although, the recognition of a lack of equal opportunity is important it is only one part of a more complex reality which in its omission becomes oppressive as will be analysed in more depth below. Nonetheless, the OLPC contends, to be based upon filling what it identifies as three gaps. The first is a lack of access for

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[10] ibid.

[11] ibid 80.

[12] <http://laptop.org/en/vision/mission/ > accessed 4 January 2019.

[13] Walter Bender and others, *Learning to Change the World; The Social Impact of the One Laptop per Child* (Palgrave Macmillan 2012) 24.

[14] ibid.

[15] ibid.

[16] <http://wiki.laptop.org/go/Deployment_Guide> accessed 4 January 2019.

[17] Bender and others (n 13) 6.

[18] ibid 24.

children to tools and information they require 'to unlock their learning potential'.[19] The second is a lack of 'appropriate' hardware 'low-cost, low-power, ruggedized, and portable'[20] for children to access the information with. Third and last is the lack of 'appropriate' software for younger children which would enable children to learn in a constructionist manner of 'authentic problem solving and room for innovation and creativity'.[21]

In terms of the OLPC project, as one would expect with any project of this scale and nature, the question most commonly posed is whether or not it 'worked'. The response varies as there is evidence available to support both points of view, this being due to the number of deployments around the world, not all which would be successful and not all which would fail. The 'OLPC has not to date marshalled evidence of educational gains from computer usage. For example, only rhetorical arguments, not data, have been provided to support laptop use in Nepal and Ethiopia.'[22] The OLPC itself admits that in evaluating their many deployments has been a point of failure for lack of data or poor data in many cases.[23] 'However, if the criterion was achieving its sales goals, the project would have to be judged a failure, despite some recent glimmers of progress.'[24] In general 'learning outcomes' are being used by international agencies in order to track the furthering of the educational goals. This is carried out by the age-old Western method which is part and parcel of the schooling system. 'Yet while these indicators facilitate international comparison, it is clear that a gauge of the specific skills based on written tests at a single point in time is an inadequate measure of educational outcomes'.[25] This has not prevented studies of the OLPC stating for instance that despite the 1,710 laptops deployed to the Philippines, 'After 3 years of supporting OLPC in the Philippines, the jury is still out as to whether the programme has made an impact on the children, classrooms, and communities'.[26] A similar

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[19] ibid 150.
[20] ibid 24.
[21] ibid.
[22] Emmanuel Yujuico, 'Cautions from one laptop per child in marketing technological innovation to LDCs' (2011) 53 (2) California Management Review 50.
[23] Bender and others (n 13) 120.
[24] Yujuico (n 22).
[25] Tristan McCowan, 'Reframing the universal rights to education'(2010) 46 (4) Comparative Education 509, 516
[26] Peter Wallet 'ICT in Education and how a Philippine non-profit does it via the OLPC programme' Information Paper No 22 (April 2014) UNESCO Bangkok <www.unescobkk.org/education/ict/online-resources/databases/ict-in-

view is expressed about an experiment in implementing the OLPC with 300 third-grade students in 13 migrant schools in Beijing where 'despite the fact that OLPC currently has distributed more than two million laptops in more than 40 countries, there is little empirical evidence that is available to help us understand the impacts of the program.'[27] This lack of evidence reminds us that the pedagogic validity of ICT has not been proven, although there is also a lack of adequate assessment of education beyond written tests as will be explored further in the following chapter.

An example of a successful experience is in a deployment[28] in the United States in Croton-on Hudson, New York, 'The study demonstrated that the independence of the learners was positively impacted.'[29] 'The teachers responded to this student independence in two ways. First, they empowered the student-student helping interactions, frequently redirecting questions directed at them by students to other students. Second, they developed curricular projects and activities that allowed the students to make effective use of the XO Laptops and their Sugar software, as well as work in a collaborative fashion.'[30] This experience can be contrasted by another deployment of the OLPC in the United States which focused contrarily to the previous one on the achievement of students through tests. 'No significant differences were found on national test scores between students who received XOs and a comparable group of students who did not'.[31] This was in response to the first program implemented in the United States where 'over 95% of the students in Birmingham schools are African American, and poverty levels are very high, with 80% of students qualifying for free or reduced-price lunch.'[32] Not having provided a plethora of overwhelming test scores, it is understandable that objections to the project then

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education-database/item/article/ict-in-education-and-how-a-philippine-non-profit-does-it-via-the-olpc-programme/> accessed 5 January 2019.

[27] Di Mo and others 'Can One Laptop per Child Reduce the Digital Divide and Educational Gap? Evidence from a Randomized Experiment in Migrant Schools in Beijing' [2013] 46 World Development 14.

[28] Where 114 fifth-grade students and their five teachers were trained to use the XO Laptops, for a four month period.

[29] Gerald P Ardito, 'The shape of disruption: XO laptops in the fifth grade classroom' (January 1, 2010) ETD Collection for Pace University <http://digitalcommons.pace.edu/dissertations/AAI3530269/> accessed 5 January 2019.

[30] ibid.

[31] Mark Warschauer, Shelia R. Cotten, Morgan G. Ames, 'One Laptop per Child Birmingham: Case Study of a Radical Experiment' (2011) 3 (2) 2 International Journal of Learning and Media 61, 64.

[32] ibid 65.

focus on the expenditure aspect, be it for developed or developing countries. 'First, public funds and aid may be better spent on standard educational fare such as building classrooms, training teachers, and purchasing textbooks. Such investments may well be less prone to obsolescence. Second, expenditures to improve education outcomes may better focus on more immediate challenges of poverty alleviation including hunger, illness, homelessness, and the like.'[33] The latter point is one which certainly has validity in asking, although the OLPC's response to this has been demonstrated earlier on in the thesis.

5.3 Disempowerment

Throughout the thesis the term 'empowerment' has had a positive meaning, where the child is infused with a spirit of strength and can with a degree of self-assurance, exert some control over his or her own learning. That is to say that it allows the student to have and exhibit critical thinking and not succumb to an indoctrinating education which is interpreted as being oppressive. It is apparent in the literature that even this term does not have a positive connotation for all. For Fajebe et al[34] empowerment is divided up into two categories, positive and negative. In positive empowerment students become 'better learners',[35] whereas in negative empowerment, which is a description provided for by the teachers, students 'had actually become emboldened to be rude and disruptive in the classroom'.[36] It is comprehensible that teachers may feel threatened particularly in settings where a very 'traditional' model of teaching is followed. To exhibit 'critical thinking' in these circumstances is to question that said by the all-knowing authority figure, and thus perceived by the teacher as insolence on the part of the empty-vessel student. Nonetheless, though this is mentioned as a category of empowerment, it is not one which is recognised within the meaning of 'empowerment' in the present thesis. In fact the examples cited in this article to exemplify negative empowerment as they have termed it are ones from teachers relating to 'obedience'. In this thesis such a term would be used more to demonstrate oppression than it would empowerment of a student. It is representative of a view where education is seen as

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[33] Yujuico (n 22) 1256.
[34] A. Fajebe, M. Best and T. Smith, 'Is the One Laptop per Child Enough? Viewpoints from Classroom Teachers in Rwanda' 2013 9 (3) Information Technologies & International Development 29, 35.
[35] ibid.
[36] ibid.

having the potential to empower and thus suddenly it becomes threatening to the teacher who interprets the students' gain as the teacher's loss. It is paradoxical that teachers feel personally challenged and undermined, by students who are questioning in order to find truth for themselves. It could be representative of a cultural difference in regards to the meaning of empowerment, although it appears more likely that it is representative of disempowered teachers. Whether or not disempowered teachers are able to empower students is beyond the scope of this thesis, but whether an ICT project can, despite a disempowered teacher, is relevant. Yet in this example of the OLPC project in Rwanda, where the ICT project was incorporated within the school system the project was viewed as having a negative effect on the student-teacher relationship by the teachers who felt that the students were disrupting the classroom. The ICT project which was actively being implemented by the teachers was being rejected by the implementers as the cause of disruption. It follows that if the cultural setting is perceived to be challenged in such a manner, it will be rejected as an interference on the people and the culture.

5.4 Oppression

As is demonstrated by the research question and the discussion thus far, it is evident that the kind of oppression referred to in the present, is not based on the traditional sense of 'prolonged cruel or unjust treatment or exercise of authority'.[37] Despite the fact that this carries 'a strong connotation of conquest and colonial domination,'[38] and neo-colonialism which is a concept discussed here, is the modern version of 'systemic' oppression where the oppression is exercised because of the everyday practices of a well-intentioned liberal society.'[39] This after all is the focal point of this chapter and the meaning of oppression in the research question. In the article 'Five Faces of Oppression' by Iris Young, Young sets out five types of oppression which she uses as a type of criteria in order to view whether or not people are oppressed. These are: exploitation, marginalization, powerlessness, cultural imperialism, and violence. These five broad categories are chosen by Young so as not to exclude or reduce the oppressed. In all five versions the lowest

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[37] Oxford English dictionary definition
[38] Iris Young, 'Five Faces of Oppression' in Lisa Heldke and Peg O'Connor (eds) *Oppression, Privilege, & Resistance: Theoretical Perspectives on Racism, Sexism, and Heterosexism* (McGraw-Hill 2004) 38.
[39] ibid 39.

common denominator is an inability to exercise and develop capacities and to express needs, thoughts and feelings.[40] Young contends that it in order to find the reasoning behind a group's oppression is to 'trace the history and current structure of particular social relations'[41] and that by doing so the causal connections between the different forms of oppression will become apparent. In carrying out a TWAIL critique in order to determine whether or not the right to education in ICT is culturally imperialist and therefore oppressive, both the colonial history of the developing world and the current structure of international law become significant evidence.

Young aptly points out that when one speaks of oppression, one does so in relation to a particular social group who it affects directly, and that they are differentiated from other groups by means of their 'shared identity'. In relation to the thesis question, which is looking at the Right to Education as a cultural imperialist tool of oppression, it follows that the groups which are being looking at are the neo-coloniser and the neo-colonised, whereby ideas are being transferred through from the first group to the second by virtue of ICT education by way of the children. In Jane Fortin's book[42] she cites O'Neill [43] who stated that 'the fundamental difference between children and groups of oppressed adults is that children emerge from their powerless state' and therefore in order for them to emerge from this state all they need is to 'grow up'. This is not cited by Fortin in agreement, nor is there any shared here, quite the opposite, as the literature cited here indicates that oppressed children, emerge out of this state of oppression, into the next, to become oppressed adults.

5.4.1. Exploitation

Iris Young's five categories are briefly set out in order to discuss which is best suited as the one applied to this thesis. The first is 'Exploitation', which occurs when there is a systematic transfer of profit to a group from the labour of another and there is no fair compensation awarded to the working group. Young uses Marxist theory to separate this in to two: in pre-capitalist societies where the groups are representative of the classes and the notion of distinction, and capitalist

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[40] ibid 38.

[41] ibid 60.

[42] Jane Fortin, *Children's rights and the developing law*, (2nd edn, Cambridge University Press 2005) 14.

[43] Jeremy Roche, 'Children's Rights and Children's Lives' in P Alston, Parker, Seymour J. (eds), *Children, Rights and the Law* (Clarendon Press 1992)

societies. In the latter the class distinctions have been dispelled and people 'freely' contract with one another and yet the separation of those 'have' and those who 'have-not' is perpetuated. In the present thesis, there are many references to the division of wealth, not within a particular society, but in the division of the world into developed and developing world countries. This aspect although present and oppressive in the international world order, is not the focal point of this thesis. Nonetheless, if we consider how it relates to ICT education as a business sector it would be in relation to the International governing bodies which establish the rules and regulations for ICT in the international law framework.

The World Trade Organisation (WTO) is very much involved in IT governance, by providing a rules-based trading system e-commerce. The 'WTO can be understood as indirectly regulating IT by establishing a broad policy framework for its member states.'[44] Many of these policies are made in the effort to bridge the digital divide, however many of the agreements in place such as the GATs (General Agreement on Trade) and TRIPs (Agreement on Trade-Related Aspects of Intellectual Property Rights) have achieved the opposite.[45] The rules and regulations of such governing bodies are framed with the view to protect the interests of transnational corporations (TNCs as they are commonly referred to). As ICT is now playing an important role in the globalisation process, it is not unusual that the WTO is the international body attempting to regulate it.

In fact the WTO has an agreement named the ITA (Information Technology Agreement) which is specifically aimed at I.T. products and their liberalisation, essentially eliminating tariffs related to them. In 2015 the agreement was expanded to include 201 new products which amount to 7% of global trade and are valued at $1.3 trillion per year.[46] According to Wunsch-Vincent[47] Developing countries have raised three major concerns in respect to joining the ITA, these are 1.

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[44] Sacha Wunsch-Vincent, 'WTO, E-Commerce and Information Technologies from the Uruguay Round to the Doha Development Agenda' Markle Foundation, (A Report for the UN ICT Task Force May 31, 2003).

[45] Y.Z Ya'U, 'The New Imperialism and Africa in the Global Electronic Village' (2004) 31(99) Review of African Political Economy 11.

[46] <www.wto.org/english/tratop_e/inftec_e/inftec_e.htm> accessed 5 January 2019.

[47] Wunsch-Vincent (n 44).

They argue that there are barriers, physical infrastructure and other human and legal barriers to global e-commerce. 2. Under the Doha Ministerial Declaration Developing countries are to have differential treatment in terms of tariff reductions etc. however, the member states are 'struggling to find ways to make this happen.'[48] 3. The Committee on Trade and Development (CTD) which significantly influences the definition of the development potential of e-commerce and works closely with other international bodies governing trade such as the United Nations Commission on Trade and Development (UNCTAD), the International Trade Center (ITC), the International Telecommunications Unions (ITU) and finally the World Intellectual Property Organisation (WIPO). It was reported by the CTD that developing nations will benefit economically and develop, from e-commerce but that 'trade liberalization under the WTO is not sufficient to guarantee developing countries' participation in global digital trade.'[49]This is because under the current system there are perceived barriers to trade in place by the WTO and the other International bodies can do more to facilitate developing countries in achieving this end.[50]

Despite specific ways in which the ITA is failing the developing countries specifically, it appears that as a WTO agreement, it is also failing overall as it is not keeping up with the technological advancements and consequently the issues which arise for them in order to effectively regulate this aspect of global trade.[51] The ITA does not seem to be an exception to the WTO's overall politics, particularly when factors such as these are considered to be barriers to trade: 'language barriers for non-English speaking countries, inadequate education, and restrictions on movement of natural persons'[52] and particularly when aspects such as these are deemed to be 'essential'. It becomes apparent that 'global trade' has specific characteristics which are in line with the characteristics of the developed world and which are being presented as global while clearly

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[48] ibid 34.
[49] ibid 27.
[50] ibid 37.
[51] Iana Dreyer and Brian Hindley, 'Trade in Information Technology Goods: Adapting the ITA to 21st Century Technological Change' (June 2008) ECIPE Working Paper 06/2008 <http://ecipe.org/publications/trade-in-information-technology-goods-adapting-the-itata-to-21st-century-technological-change/> accessed 3 January 2019.
[52] This was put forth at the WTO Work Programme on E-Commerce and quoted by Wunsch-Vincent (n 44) 29.

recognising that they are not global in the least. These then take on the role of a global standard to be attained, which appears to make the argument for those arguing in favour of cultural relativism.

Ya'U argues that the inclusion of education in the GATS agreement, opens up the 'education sector to transnational corporations'[53] as well as commoditising education in that it would be essentially controlled by the market rather than a product of and for national culture. It is not expected that transnational corporations will exercise any benevolence due to the importance of this public good once it is turned into a market good. It is the case that the ICT sector is of growing importance, and as such the WTO is attempting to not simply regulate but configure this sector with very powerful players, and a structure which maintains the current power allocation. It would be a fallacy to deny that by extension ICT Education does not also have a predefined role to play within this power construct.

In terms of the TRIPS agreement, although the patent period which was originally set at 90 years has now been lowered, it does not change the fact that the playing field is not a level one as Thomas Friedman argues. It is one which maintains inequality by protecting the intellectual property in the form of patent protection, as it is set out in article 27 of TRIPS. This inequality is based not only on preserving the body of knowledge but also on the market division and therefore power division where the developed world is the producer and the developing world is the consumer of this lucrative ICT market. Furthermore the anti-protectionism stance of the WTO specifically and the international bodies generally, means that states are prevented from having local monopolies which cannot survive when competing against multinational companies, as the example of telecommunications companies in Africa presented by Ya'U. They have traded a local monopoly for that of foreign TNC's which amounts to a monopoly as the national companies do not have the economic strength to compete. Telecommunications are but one aspect of ICT's, however, this role of the WTO in supporting this world view of power disparity between the developing and the developed world is validly characterised as imperialistic.

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[53] Ya'U (n 45) 18.

5.4.2 Marginalisation

The second category of oppression Young mentions is 'Marginalisation', where people are 'pushed out' of participating in society mainly in the labour market, often, although not exclusively, based on their race. This point is demonstrated by the choice of the critical theory of TWAIL which is being applied in the present thesis. The 'third world voices' which are struggling to be heard, let alone be taken into account of by international law, are those who feel marginalised and pushed out by the international world order. Interestingly in the 1960's when *marginalised* people in the United States 'sought to enter the public arena, where they had no right to be, as all right- thinking aristocrats understand'[54] it caused the 'Crisis of Democracy'.[55]

 In regards to the element of race, although relevant to TWAIL it is not a defining factor as there is not a singular third-world race. This aspect of marginalisation is better and more fully demonstrated by Critical Race Theory. Similarly to TWAIL, CRT was started by a group of students and teachers at Harvard University in 1985. It is of particular interest, for the purposes of this thesis, that CRT has been used to critique inequity in education. The prime example of this is Derrick Bell's[56] critique of the case of *Oliver Brown, et al. v. Board of Education of Topeka, et al*. 347 US 483, where the United States Supreme Court found state laws establishing separate public schools for black and white students unconstitutional. This decision came to overturn the decision in *Plessy v. Ferguson* decision 1896, which allowed state-sponsored segregation in public education. In Bell's critique, he calls people to question the reasons behind the Supreme Court's ruling and its beneficial qualities for Whites.[57] 'The Court's decision in Brown, by these lights, was not motivated by a desire to redress black suffering under racial segregation; instead, the United States eliminated Jim Crow in order to improve its international image during the Cold War.'[58]

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[54] Noam Chomsky, Donaldo Macedo (ed), *Chomsky on MisEducation* (Rowman & Littlefield Publishers Inc. 2000) 46.

[55] Michel Crozier, Samuel P. Huntington, and Joji Watanuki, *The Crisis of Democracy: On the Governability of Democracies* (New York University Press 1975) Report on the Governability of Democracies to the Trilateral Commission <www.trilateral.org/download/doc/crisis_of_democracy.pdf> accessed 5 January 2019.

[56] Viewed as the first critical race theorist

[57] Richard Delgado, *Critical Race Theory: An Introduction* (NYU Press 2001) 22.

[58] Justin Driver, 'Rethinking the Interest-Convergence Thesis' (2011) 1 Northwestern University Law Review 149, 151.

This line of critique, is valuable in adding insight to the oppression suffered by a portion of the Third world group even though it is not complete. Marginalisation, can be argued in regards to a number of aspects of international law, such as the point that the 'third world' was marginalised in the drafting of the UDHR, as was set out in chapter 2. It can also be demonstrated by the overall limited influence in shaping international law. It is relevant in demonstrating how the third world experiences aspects of international law as 'other'.

Children as a group have always been marginalised, in a sense, as to their participation in civil society as equal citizenship. They have their own international convention setting out their human rights, which implicitly were not adequately represented by the UDHR. It has been said that the rights set out in the Convention on the Rights of the Child 1989 contains provisions which 'describe how children should be treated and what they should be granted, were governments to take their rights seriously'.[59] In respect to children this capacity, it is addressed by the CRC in Article 5 which states that,

> States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child

Marginalisation regarding children and the right to education can be demonstrated by the case law[60] which deals with aspects discrimination and marginalised groups of children set out in detail in chapter 2. Although these are alluded to, it is not marginalisation which is the main aspect of oppression relevant to this thesis, and research question.

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[59] Fortin (n 42) 12.

[60] Such as *Antoine et al v. Winner School District* US Civ. 06-3007 (United States District Court, South Dakota Central Division 12 December 2007); *Sawhoyamaxa Indigenous Community v. Paraguay* (2006) IACHR Series C No 146; *Roma children D.H. and Others v. The Czech Republic* (57325/00) (2007) ECHR 2007-IV; *Oršuš and others v. Croatia* (Application No. 15766/03) 16 March 2010 ECtHR.

5.4.3 Powerlessness

The third category is 'Powerlessness' which Young describes as the 'inhibition in the development of one's capacities, lack of decision-making power in one's working life, and exposure to disrespectful treatment because of the status one occupies.'[61] Here once more Young refers to the divisions of class in society to indicate that there is a division among people to those who have power and those who do not according to the division of labour.

In regards to ICT education and the so called development of the developing world, we have seen under the category of Exploitation how the developed world benefits monetarily by the ICT education market to the detriment of the developing world. In regards to powerlessness we examine the division of labour which this produces and perpetuates. In regards to this aspect, Stromquist and Monkman[62] discuss how technological knowledge is being used in order to provide countries with economic competitiveness.[63] This aspect, is very important in terms of explaining the willingness of developing world countries who have incorporated, or are looking to incorporate ICT education in their educational systems as the example of Uruguay in chapter 7 will serve to demonstrate. It is a great selling point for ICT educational programmes, as states do not want to be on the 'wrong' side of the digital divide. It is also the reason why the OLPC project, ended up in a partnership agreement with Microsoft to make the project more marketable and more widely accepted. Nonetheless, the authors warn about the dangers of the knowledge society which is ICT is being used to build in that it segregates society and the division of labour. For example, this is evident in the developed world where, those more highly skilled and trained are in possession of jobs which these skills are necessary and they then 'transfer menial forms of service to others'.[64] Also, as was argued in the previous chapter, many of the jobs where these technical skills are valued are found in countries whose economies are stronger, and therefore this leads to a migration from the developing to the developed world, what is

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[61] Young (n 38) 54.
[62] N. Stromquist and K. Monkman, 'Defining Globalisation and Assessing its Implications for Knowledge and Education, Revisited' in Nelly P. Stromquist (ed) and Karen Monkman (ed), *Globalization & Education; Integration and Contestation Across Cultures* (Roman & Littlefield 2014).
[63] ibid 9.
[64] ibid.

termed as the 'brain-drain' phenomenon. According to the Organisation for Economic Co-operation and Development (OECD) 'low-income countries suffer disproportionately from the brain drain. In parts of sub-Saharan Africa and Central America, sometimes more than half of all university graduates migrate to OECD countries.'[65] Even though the right to education does not yet include higher education, training a percentage of the population at the primary level of education in ICT, increases the potential of this phenomenon occurring in the future. This may be unintentional on the part of the developing world states and may not be on the part of the developed world states who are likely to reap the benefit of this phenomenon. As is evidenced by this work prepared for the National Bureau of Economic Research 'developed economies have actively and openly set out to poach talent'.[66] The possible explanations for this, contained within this report include, 'skill shortages resulting from rapid skill-biased technical change as well as educational failures'[67] and 'heterogeneity'[68] amongst others. This report also suggests that the effects of this brain drain phenomenon 'may not be negative for the sending country'[69] by arguing for instance that this may stimulate growth in the sending country by motivating others to acquire a high level of education. Although there is merit in seeing the benefits as well as the detrimental effects and therefore gaining a more pluralistic understanding of such phenomena, the language used in this report reveals the hegemonic tendencies of promoting economic development at all and any cost. It oppresses all those whose experience is negative, and it is indicative of a developed world perspective on a wide–spread if not global phenomenon.

Powerlessness, however, is not only a form of oppression, but it is also a condition of it. That is to say when the oppressed feels powerless due to the oppression he or she suffers and then begins to internalise the image of the oppressor he or she begins to fear freedom, from this

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[65] <www.oecd.org/dev/poverty/migrationandthebraindrainphenomenon.htm> accessed 3 November 2015 (no longer available) cited by the University of Malta, 'Spotnomics' Newsletter (January 2017) <www.um.edu.mt/__data/assets/pdf_file/0018/301086/Migration.pdf> accessed 5 January 2019.
[66] Simon Commander, Mari Kangasniemi, and L. Alan Winters, 'The Brain Drain: Curse or Boon? A Survey of the Literature' in Robert E. Baldwin and L. Alan Winters (eds), *Challenges to Globalization: Analyzing the Economics* (University of Chicago Press 2004) 236.
[67] ibid.
[68] ibid.
[69] ibid.

dehumanised form.[70] Thus in this sense powerlessness becomes a form of oppression which the oppressed exercises upon themselves, by preferring to remain in a state of 'un-freedom'. According to Freire 'In order for the oppressed to be able to wage the struggle for their liberation, they must perceive the reality of oppression not as a closed world from which there is no exit, but a limiting situation which they can transform.'[71] His writing was based on his work with adults, accompanying them in transforming this state of powerlessness. This by extension to the tender stage of childhood is not an oppression one can easily 'grow-out of' as seen above. That is to say when one is still forming a sense of self, to also be engaged in internalising the image of the oppressor, it logically follows that these two are interrelated if not fused together to a great extent, and therefore deeply embedding a state of powerlessness.

5.4.4 Cultural Imperialism

The fourth category is 'Cultural Imperialism' which according to Young is the 'universalization of a dominant group's experience and culture, and its establishment as the norm.'[72] In doing so it has the effect of rendering subordinate groups as invisible, stereotyped and '*Other*'. Young discusses how the stereotype is somehow attached to their bodies by virtue of the nature attributed to them rendering it hard to deny. 'Just as everyone knows that the earth goes around the sun, so everyone knows that gay people are promiscuous, that Indians are alcoholics, and that women are good with children. White males, on the other hand, insofar as they escape group markings, can be individuals.'[73] In this respect the *others* are clearly characterised while at the same time becoming completely invisible in terms of who they really are. The inferiorised images of themselves projected on them by the culturally dominant group become internalised by the *others* in respect to their interaction with people who are predisposed by those projections. For the culturally dominant group, the world-view is made up of similar experience and is simply re-affirmed by those who share these experiences. The same is not true for the culturally dominated

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[70] Paulo Freire, *Pedagogy of the Oppressed* (Penguin Books 1996) 47.
[71] ibid 49.
[72] Young (n 38) 54.
[73] ibid 55.

who experience a 'double consciousness' according to Young;[74] where they are defined by two cultures, the dominant and the subordinate one, the latter defining their own experience of life and the former defining what it ought to be. Their experiences differ from those of members of the culturally dominant group as their *otherness* determines a very different set of experiences in their segregated lives. Interestingly, this category of oppression is said by Young that nearly all groups of oppressed people as said by contemporary social movements suffer cultural imperialism[75]. According to Young the injustice of Cultural Imperialism is that the oppressed's 'experience and interpretation of social life finds little expression that touches the dominant culture'[76] although the dominant culture imposes its experience and interpretation of social life on the oppressed.[77]

5.4.5 Violence

Young discusses violence in regards to oppressed groups as being a social injustice by its systemic existence as a social practice.[78] She argues that group-directed violence is 'institutionalized and systemic' in that they tolerate and perpetuate violence against specific groups of people. She also claims that violence and cultural imperialism intersect when the culturally imperialised reject the claim of universality by the dominant culture or its cultural interpretations. She claims that this conflict against the hegemonic cultural interpretations gives rise to an irrational violence. If one therefore struggles against this, in order to liberate oneself, how does this potential 'violence' of the struggle become irrational? Perhaps the explanation is provided by Freire who calls this struggle an 'act of love' which is the antidote to the oppressor's loveless violence.[79] He does, however, describe that at the initial stage of the struggle against the oppression, that the oppressed have a tendency to become sub-oppressors themselves. This is based on the identifying the oppressors form with that of the form they are struggling to achieve.

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[74] ibid where Young borrows the phrase from W. E. B. Du Bois, *The Souls of Black Folk* (New American Library 1903) 45.
[75] ibid 59.
[76] ibid 56.
[77] ibid.
[78] ibid 57.
[79] Freire (n 70) 45.

Freire believes that 'with the establishment of a relationship of oppression violence has *already* begun',[80] even when it is sweetened with false generosity as it stands in the way of the oppressed being more fully human. The false generosity in reference to the example is based on the teacher's false generosity toward the students. In reference to this thesis, however, the false generosity is implicit of the apparent generosity of the developed world toward the developing world states, regarding their stance toward aiding development. After all Freire warns that in order for the oppressors to 'have the continued opportunity to express their "generosity," the oppressors must perpetuate injustice as well'.[81] This can be paralleled by the examples which Pogge[82] sets outs in regards to poverty, in that the developed world appears to be generous by providing aid to the developing world while perpetuating the problem of poverty in the developing world. If we accept Freire's perspective that 'Violence is initiated by those who oppress, who exploit, who fail to recognise others as persons',[83] then it comes in direct conflict with human rights rhetoric.

Freire also tells us that the struggle against oppression is not one which can be initiated by the oppressor but by the oppressed. 'Freedom is acquired by conquest, not by gift. It must be pursued constantly and responsibly.'[84] Furthermore, it is 'an act which is always, or nearly always as violent as the initial violence of the oppressors'.[85] It calls for the breaking of rules as it calls the authority of those who have been oppressing into question. It is a struggle to be heard after having been strangled into silence and therefore it manifests with great force and perhaps even with the polemic language such as that seen in TWAIL criticisms. Although the violence in language is no more forceful and polemic than that employed by those arguing the universalism

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[80] ibid 55.
[81] ibid.
[82] Thomas Pogge, *World Poverty and Human Rights: Cosmopolitan Responsibilities and Reforms* (Cambridge: Polity Press 2002).
[83] Freire (n 70).
[84] ibid 47.
[85] ibid 56.

of human rights. Furthermore, this act of violence by the oppressed is the means by which they achieve humanity it is also the means by which the oppressors have theirs restored also.

In terms of children facing oppression as violence through the right to education, the first institution which they are immediately faced with is school. The form of physical violence which children incur in schools is corporal punishment which is the infliction of pain as punishment for a crime or infraction. In terms of the 'civilised' Western world, corporal punishment is still permitted in schools in 19 states in the United States[86] but then, this country still has not ratified the CRC. In England it was abolished in State schools in 1987 although on 28 January 1997 the UK parliament debated reinstating it in State schools[87] despite having ratified the CRC in 1990 which came into force in the UK in 1992, but this did not go through parliament. It then abolished corporal punishment in private schools in 1999 in England and Wales, 2000 in Scotland, and 2003 in Northern Ireland.[88] In regards to the CRC case law we see that much of the case law is concerned with this aspect of violence in schools. Regarding physical violence, it is important to acknowledge that international law through the CRC has been striving to provide protection against this form of violence as well as to provide education of the detrimental effects this form of violence has on children generally and in education specifically. Unfortunately, violence that is not physical and which does not leave marks on the body, is under-represented in the case-law and is harder to establish under international law, particularly if it is international law which is perpetuating aspects of it. These aspects are discussed in more detail in the following section.

5.4.2.1 Oppression and Education

In regards to education, one of the most influential writings, the purpose of which was to give the third world a voice, is entitled The Pedagogy of the Oppressed, cited extensively above, as it is representative of the research method as well as the research question. Freire based his writing

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[86] Elizabeth T. Gershoff and Sarah A. Font, 'Corporal Punishment in U.S. Public Schools: Prevalence, Disparities in Use, and Status in State and Federal Policy' (2016) 30(1) Social Policy Report 1.
[87] Corporal Punishment Lawful with Parental Consent, HC Deb 28 January 1997 vol 289 cc212-40.
[88] World Corporal Punishment Research <www.corpun.com/counuks.htm> accessed 5 January 2019.

on the illiterate adults of Brazil with whom he worked, struggling against a 'culture of silence',[89] his writing was widely recognised by peoples struggling against colonialism and other forms of totalitarianism, but were also accepted by people living in the United States of America and Western Europe.[90] In many ways, therefore a 'third world approach' to education as it was established under colonialism.

Freire criticises the relationship between teachers and students where the child is viewed as an empty vessel to be filled, which provides the basis for his concept of *banking of knowledge.* According to this concept, knowledge is bestowed as a gift 'by those who consider themselves knowledgeable upon those whom they consider to know nothing'.[91] He characterises this act of 'depositing knowledge' by the teacher as 'Projecting an absolute ignorance onto others, a characteristic of the ideology of oppression, negates education and knowledge as a process of inquiry.'[92] As a result the world is not one which the recipient or oppressed has discovered rather it is one which has been pieced together and projected by the 'oppressors' whose interests are to create and maintain this altered consciousness rather than alter that which is oppressive; for in this way the oppressed can be led to adapt to that situation, and then more easily they can be dominated.[93] In international human rights law this aspect of domination is achieved by dominant social forces in society maintaining their 'domination not through the use of force but through having their worldview accepted as natural by those over whom domination is exercised.'[94]

In many ways the educational experience set out by Freire is a reflection of the oppressive educational experience of many. It is used here to reflect the International law stance particularly

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[89] Juma E. Nyirenda, 'The Relevance of Paulo Freire's Contributions to Education and Development in Present Day Africa' (1996) 10 (1) Nairobi African Council for Communication Education 1, 5.

[90] Donaldo Marcedo, Introduction to the Anniversary Edition of Paulo Freire, *Pedagogy of the Oppressed* (Penguin Books 1996) 15.

[91] Freire (n 70) 72.

[92] ibid 53.

[93] ibid 74.

[94] B.S. Chimni, 'Third World Approaches to International Law: A Manifesto' (2006) 8 International Community Law Review 3, 15.

through ICT education, of the developed world being in possession of knowledge which the developing world does not and without which it cannot attain development. This can be understood by the story of the twelve-year-old boy David Spritzler, in the United States, at the Boston Latin School who refused to recite the pledge of allegiance, as he found the pledge to be a hypocritical exhortation to patriotism and in his view, there is no 'liberty and justice for all'.[95] This young boy faced disciplinary action for being enlightened or rather not blinded to the fact that the Pledge 'is an attempt to unite the oppressed and the oppressors.'[96] In fact this is a modern version of The Emperor's New Clothes,[97] in that the teacher and administrators at the school were unable to see the hypocrisy which was clearly understood by the young boy. For a young boy was able to see and recognise that not everyone in the United States enjoys the freedom and justice as the pledge of allegiance presented and in stating that they are enjoyed by all rendered those who do not *invisible others* which the child courageously refused to do. Rather than recognising these others and their separate experience, through the voice of the brave boy, the representative members of society and the State (the teachers and school administrators) reacted by singling out this student and branding this voicing as an act of deviance. In doing so, they sent the message to this boy, but also to all other like-minded children that this line of thinking is not to be tolerated. Chomsky explains this occurrence by saying that schools have through history 'played an institutional role in a system of control and coercion,'[98] as opposed to encouraging children to think for themselves; and as paid functionaries of the State, the teachers' job is to mould students in the dominant image of society. In order to so, children are controlled by disciplinary measures, as those taken in the case above, and by rewards for students who can abandon critical thinking to regurgitate the contents of what they are fed, which makes the students complicit in their own stupification,[99] a process which Freire calls 'necrophyllic'.[100] But besides this process applying to the students, it could also be said of the teachers who ironically

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[95] Diego Ribadeneira ,'Taking a stand, seated For Latin School student, Pledge of Allegiance rings false' (The Boston Globe 14 November 1991).
[96] Donaldo Macedo, in Chomsky (n 54) 2.
[97] short tale by Hans Christian Andersen, published 1837.
[98] Chomsky (n 54) 16.
[99] ibid 5.
[100] Freire (n 70) 77.

need to become dumb in order to achieve this type of 'teaching'.[101] That is to say, that in teaching in a manner which requires students to abandon critical thinking, teachers must first abandon it themselves in order to perform this task. This point was demonstrated above in the section headed disempowerment in the example of 'negative empowerment'. The teachers are not, however, the ones who are solely responsible for necrophyllic process. It is a process which is also part of perpetuating segregations, stereotypes, hierarchies based on socio-economic and political factors present and often institutionalised in the State. For example as Tawil, the UNESCO Education Programme Specialist at the time of the report, points out 'official curricular content may also contribute to maintaining and reproducing stereotypes and prejudice towards certain minority groups through the languages of instruction used (or not used), the teaching of history and geography, citizenship education and so forth.'[102] The case law relevant to the CRC right to education, has indicative examples of this, such as the exclusion of Roma children from school as was set out in chapter 2. Watkinson calls this type of violence which Freire sets out as 'systemic violence'.[103] She describes it as such on the basis that there is a 'school culture which is created by educators through practices, conventions and policies which is termed as violent in that it prevents 'a large number of students from learning'.[104] She suggests that an antidote to authoritarian schools which have a culture of systemic violence is a culture of supportive connectedness and empathy.[105] This remedial approach which may possibly be achieved within a school setting would likely not be achieved in international law. This is because international law requires the inherent contradiction which lies in that to achieve international compliance it becomes necessarily hegemonic; in that must impose the dominant view.

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[101] ibid.

[102] Sobhi Tawil (ed), 'Responding to Social exclusion through Curriculum Change' in Curriculum Change and Social Inclusion: Perspectives From the Baltic and Scandinavian Countries Final Report of the Regional Seminar Held In Vilnius, Lithuania UNESCO (2008) 9.

[103] Juanita Ross Epp (ed), Ailsa M. Watkinson (ed), *Systemic Violence in Education: Promise Broken* (State University of New York Press 1997).

[104] ibid 3.

[105] ibid 17.

5.5 Cultural Imperialism

In Freire's book he compares two different approaches and therefore experiences of when cultures come into contact with one another. 'In cultural invasion, the actors draw the thematic content of their action from their own values and ideology; their starting point is their own world, from which they enter the world of those they invade. In cultural synthesis, the actors who come from 'another world' to the world of the people do so not as invaders. They do not come to teach or to transmit or to give anything, but rather to learn, with the people, about the people's world.'[106] Although, according to the rhetoric of human rights law, cultural synthesis would be the expected experience, it is in fact cultural invasion which is being expressed as the experience of the developing world. Cultural invasion is both an instrument and a result of cultural domination. In respect to culture invasion, Freire states that it is not necessary for the physical presence of the actors of this invasion, and that it can be achieved by 'technological instruments'.[107] ICT education, therefore which this thesis is specifically concerned with provides such a means through which it is possible to achieve this cultural invasion without physical presence. The OLPC was chosen specifically to whether cultural synthesis can be achieved in spite of this.

Okafor and Agbakwa[108] contend that the world is split by the so-called universal human rights charter into a heaven and hell dichotomy, even though they clearly recognise that there is 'no place which is a human rights heaven'.[109] Whereby the heavenly parts of the world are represented by the developed states where human rights are upheld as opposed to the counterpart made up of developing states which are completely lacking in human rights. On this basis the 'one-way traffic paradigm' [110]is established whereby, the conceptualisation of human rights occurs in the West in shaping and drafting the conventions etc. which are then exported to the 'hellish' parts of the world where they are to be implemented. By this means the hellish

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[106] Freire (n 70) 178.
[107] ibid 180.
[108] Obiora Okafor & Shedrack Agbakwa, 'Re-Imagining International Human Rights Education in Our Time: Beyond Three Constitutive Orthodoxies' (2001) 14 Leiden Journal of International Law 563.
[109] ibid 571.
[110] ibid 575.

states can 'better themselves' and strive to attain the grace of the heavenly sphere. This Okafor and Agbakwa[111] compare with the traditional teacher-student relationship which Freire sets out, where the information flows in only one direction, from the teacher who knows to the student who does not. Thus human rights activism in the 'third-world' mirrors the 'civilising missions' carried out in the past. 'Third-world peoples are endemically viewed as much more intellectually inferior (both generally, and in the specific area of human rights praxis).'[112] It is this form of oppression which the research question is concerned with, as the problem of an absence of the right to education is situated within the third world and the solution is provided by the first world export of ICT education.

5.5.1 Cultural Imperialism and Homogeneity

Human rights law is the epitome of moral imperialism in this sense, and the right to education is crucial in playing its part. Beckett goes on to make the point that 'homogeneity must always be imposed: whether by force, education, or 'persuasion' is irrelevant. The imposition is a basic wrong in itself.'[113] Although this point is in line with the views expressed within the present, the point of disagreement is based on his conclusion about the method of imposition, which for the purposes of this thesis, the method of homogeneity is very relevant; particularly in terms of the OLPC project. It stands to reason that as a reaction to this process of homogeneity imposed by the Western culture is an increase of cultural relativism. Rajagopal argues that this strategy is carried out by three-stage process the first of which is the based on a belief of first world superiority 'in knowledge, in morals, in political organization, in military might and in science'[114] the second, that on the basis of this so-called *deficiency* 'they could judge the rest of world as deficient, their life forms as provisional'.[115] Finally the Third, they could decide on a teleological direction that these deficient life forms should take in order to become universal, and that is by

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[111] ibid.

[112] ibid at 581.

[113] Jason Beckett, 'Conflicting orders: How peace is waged' (2007) 20(1) Leiden Journal of International Law 281, 283.

[114] Balakrishnan Rajagopal, 'Counter-Hegemonic International: Law Rethinking Human Rights and Development as a Third World Strategy' (2006) 27(5) Third World Quarterly 767, 777.

[115] ibid.

following the liberal model'.[116] Anghie vehemently argues according to a TWAIL approach that 'The pretence of law's neutrality, impartiality, and rationality as a promotor of social and other forms of equality was lost as it crossed the oceans to form the cement of *pax* colonalia'.[117] In discussing the presence of cultural imperialism in international law, it is through the implementation of normative values in order to bring a false homogeneity.

5.5.2 Universalism and Cultural Relativism

The Universalist v Cultural Relativist debate about the nature of human rights, is long-standing amongst legal scholars; and although there are aspects of this debate which are relevant to the thesis question its application is limited. 'On their face, human rights instruments (which in their treaty form mean to impose legal obligation, to convert moral rules into legal rules) are surely on the 'universalist' side of the debate.'[118] The emergence and growth of cultural relativism in the South is 'not simply linked to the conditions of domination and patriarchy, but is directly related to the increasing differentiation third world communities are experiencing under current global economic and political policies'.[119] When juxtaposed against cultural relativism, Universalists 'claim that all cultural value and, in particular moral norms are not historically and territorially bound but should pass a test of universal consistency'.[120] Whereas 'Relativists start from the obvious observation that values are context-bound and use it to justify atrocities against those who disagree with the oppressiveness of tradition. But the cultural embeddedness of self is an unhelpful sociological truism; the context, as history tradition and culture, is malleable, always under construction rather than given and unchanging.'[121] The polarisation of these views is distinct and extreme. Rajagopal demonstrates both these sides by saying that the 'idea that human rights can be hegemonic can strike its core believers as nothing less than sacrilege.'[122]

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[116] ibid.

[117] J. Oloka-Onyango and Sylvia Tamale, '"The Personal Is Political," or Why Women's Rights Are Indeed Human Rights: An African Perspective on International Feminism' (1995) 17 (4) Human Rights Quarterly 691, 723.

[118] Steiner, Alston, Goodman (eds*), International Human Rights in Context* (3rd ed, Oxford University Press 2008) 518.

[119] Oloka-Onyango and Tamale (n 117) 702.

[120] Costas Douzinas, *The end of human rights* (Hart Publishing 2007) 136.

[121] ibid 137.

[122] Rajagopal (n 114) 770.

It has been said that the fact that many third world countries and Asian states have been opposed to the universal nature of human rights is an attempt to undermine the notion of human rights because they want to be held to different standards from those of the West.[123] The US administration expressed the view during the UN World Conference on Human Rights, which was held in June 1993, that this position was a 'screen behind which authoritarian governments can perpetuate abuses'.[124] While there is merit to this argument, and cases of extreme cultural relativism, where the ethnocentric social view does not tolerate difference and breeds violence, it does not negate the cases where there is a valid case to be made regarding cultural relativism. Mutua claims that 'The forceful rejection of dialogue also leads to the inevitable conclusion that there is a hierarchy of cultures, an assumption that is not only detrimental to the human rights project but is also inconsistent with the human rights corpus' commitment to equality, diversity, and difference.'[125] A lack of dialogue on the part of the developed world from States as the U.S. can be construed as an authoritarian stance on their part also.

Douzinas unconventionally and caustically sums up the problematic nature of both sides of the debate with examples of actual violence in Kosovo, 'Serbs massacred in the name of threatened community, while the allies bombed in the name of threatened humanity'.[126] This demonstration of both principles in their absolute form reveals their unforgiving and unyielding nature which finds 'everything that resists them expendable';[127] and of course by everything in practice we mean everyone. 'Any legal rule, principle or world order project will only seem acceptable when stated in an abstract and formal fashion. When it is applied, it will have overruled some interpretation, some collective experience and appear apologist.'[128] This criticism is can be made not only of the world order view of human rights but also extended to the theoretical debates such as universalism vs cultural relativism which are evidence of 'apology'.

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[123] Christina M. Cerna, 'Universality of Human Rights and Cultural Diversity: Implementation of Human Rights in Different Socio-Cultural Contexts' 1994 Human Rights Quarterly 740

[124] ibid 741.

[125] Makau Mutua, 'The Complexity of Universalism in Human Rights' in András Sajó (ed.) *Human Rights with Modesty* (Martinus Nijhoff, 2004) 56.

[126] ibid 136.

[127] ibid

[128] Martii Koskenniemi, 'The politics of International Law' (1990) 1 European Journal of International Law 4, 31.

As Beckett reminds us international law is 'neither neutral amongst competing substantive political commitments; nor does it embody a universal truth'.[129] This point can be demonstrated by the fact that human rights rhetoric is used by powerful states in order to justify violence, as in the example of Kosovo above and the case of Iraq cited below. Chomsky demonstrates this by pointing out that 'if we were to follow the line of argument of the Universal Declaration of Human Rights cited by NATO as justification for bombing Kosovo, NATO would be more than justified in bombing Washington'.[130] As this has not occurred to date, one can argue that the powerful power structures which shape the international are not in fact universal. This can also be demonstrated by a second example, one explicitly mentioning children once again used by Chomsky, 'Secretary of State Madeleine Albright commented on national television in 1996, when asked for her reaction to the killing of half a million Iraqi children in five years, that "we think the price is worth it."'[131] What it was worth of course was an extremely profitable energy resource business which the United States could not afford to lose. It is difficult to use the UDHR as an *apology* for war, terror and torture against so many parts of the world and then to present it as the moral high ground which all nations should strive to achieve. This disregard or denial of a lack of a universal truth reduces international law to *kitsch* according to Beckett,[132] who borrows this discussion from Koskenniemi.[133] He explains that *Kitsch* is 'the use of intellectual structures (like law, humanity, consensus, universality, etc.) to convince *ourselves* that what we want is what everyone wants'.[134] This is used by Beckett to critique international law and to demonstrate Koskenniemi's position that it is favoured over that of a state of conflict. 'The impossibility of the universal, or just, position is a feature of reality. It is not a reason, however, to abandon law.'[135]

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[129] Jason Beckett, 'Rebel Without a Cause? Martti Koskenniemi and the Critical Legal Project' (2006) 7(12) German Law Journal 1045.
[130] Chomsky (n 54) 30.
[131] ibid 31.
[132] Beckett (n 129).
[133] Martti Koskenniemi, 'International Law in Europe: Between Tradition and Renewal' (2005) 16(1) European Journal of International Law 113.
[134] ibid 103.
[135] Beckett (n 129) 105.

Beckett himself, suggests that disagrees that this is the only alternative and proposes 'empathy'[136] instead.

5.5.3 Cultural Imperialism through the right to Education

The Right to Education has two purposes: the first purpose is to place a positive obligation on States to provide a system of education; the second is that every individual and every organ of society, with the UDHR in mind, 'shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance.'[137] By means of human rights education the significance of the educational system as a tool becomes apparent. That is to say, the educational system is used as a powerful means through which values and culture become embedded in people. Its effectiveness in achieving this is evident in examples where there has been a vicious attack of strong educational systems in place, as for the example that of Iraq. A country where the education system was a strong barrier which was deemed necessary to be removed 'before the sanctions strangled the country, Iraq had the best education system in the region, with the highest literacy rates in the Arab world'.[138] It is not that these systems are being replaced with the complete naiveté that the new systems are better in achieving a higher level of education, but that they are better in achieving the indoctrination of values that the imposers find to be of importance, in order for the society/country and future to be developed according to these teachings. 'The indoctrination is necessary because schools are, by and large, designed to support the interests of the dominant segment of society, those people who have wealth and power'.[139] Therefore by supplanting the systems and teachings, cultural imperialism is effected through the embedding of a 'new' culture. This is termed 'the abolitionist paradigm' which Okafor and Agbakwa mention in regards to the abolishment of cultural traditions which contravene the conceptualization of human rights law.[140]

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[136] ibid 141.
[137] UDHR 1948 preamble.
[138] Naomi Klein, *The Shock Doctrine*, (Penguin Books 2007) 338.
[139] Chomsky (n 54) 17.
[140] Okafor and Agbakwa (n 108) 563, 584.

The definition which Okafor and Agbakwa provide for this type of education 'includes, but is not limited to, human rights teaching, human rights proselytization, and other formal and informal modes of international human rights education'.[141] These are exclusive modes which are transferred by nature of the 'one-way traffic paradigm' set out above. In this there is no cross-cultural dialogue in which to create and foster an environment of mutual understanding despite all efforts to conceal this with many shiny words. This is akin to what Chomsky says in reference to democracy in schools. 'The less democratic schools are, the more they need to teach about democratic ideals. If schools were really democratic, in the sense of providing opportunities for children to experience democracy through practice, they wouldn't feel the need to indoctrinate them with platitudes about democracy.'[142] Similarly platitudes about development, which are being provided through education, are masking the experience of both the developed and the developing nations in the globalisation/homogenisation process.

5.6 Globalisation and education

Apart from examining education from the perspective of universalism and determining the claims of universal validity, ICT education guides the examination of it as a technological commodity which is looking to be globally disseminated. It is this aspect of physical presence in the developing world which when matched with the Universalist framework makes up the basis of the argument that it is a tool of cultural imperialism, which will be analysed in greater depth in the following chapter. However, this has been an effect which has not only been brought about by the rise of ICT in education, but also by education becoming increasingly linked with economic development. As Stromquist and Monkman argue the global market has affected formal schooling in four significant ways.[143] The first, is the criteria of efficiency and productivity once applied to businesses are now being applied to schooling. The second, is that child-centred pedagogy is being altered to vocational training. Third, 'education is losing ground as a public good to become simply another marketable commodity'[144] and the pedagogies linked to it are becoming less important, while pedagogies linked closely with the market are gaining

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[141] ibid 565.
[142] Chomsky (n 54) 27.
[143] Stromquist and Monkman (n 62) 9.
[144] ibid.

importance. 'Issues of equality and equity concerning women and ethnic minorities are losing ground to the consideration of efficiency (often reduced to performance in math and reading tests).'[145] This is being done, according to the authors, by the fact that the State is only responsible for basic primary school access and then extracts fees from students for higher education as any other service. The fourth and final effect is that the control over curriculum and control over their work is progressively being taken out of teacher's hands and being placed in those of administrators. These four effects of ICT and economic development are all significant points of criticism and relevant to this thesis. In their total they paint a picture whereby globalisation is translating schooling from a system through which one gains knowledge into a system through which one gains technical and vocational knowledge.

The effects of globalisation and development have been incorporated and to a great extent effected by the international bodies as was argued in the previous chapter. This can be demonstrated by an example from the international body for children, UNICEF, which has followed this trend in spite of the evidence that this is detrimental to children. 'The business community needs peace to see economic growth… They need kids to be educated to be consumers and workers. The rule of law, good governance, is important for creating an environment that will probably also be good for investment.' [146] This is indicative of a clear political and economic 'free-market policy' with clear ties to the air of development in the year 2000. It is strikingly contradictory to the position held by UNICEF some years prior in its 1993 UNICEF publication entitled Child neglect in rich nations, by Sylvia Ann Hewlett. In this publication the author found that one of the major problems for children in Anglo-American societies is a lack of public resources and that families have increasingly less time to spend with them in order to make financial ends meet. She finds that 'free-markets American style, have not 'worked' for children',[147] and that we must invest in children who are 100 percent the future. One of the

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[145] ibid.

[146] Carol Bellamy, the executive director of Unicef, quoted at the UN Millennium Summit September, 2000 by Barbara Crossette, 'UN: Globalization Tops Agenda for World Leaders at Millennium Summit' *New York Times* (NY, 3 September 2000).

[147] Sylvia Ann Hewlett, *Child neglect in rich nations* (UNICEF 1993) 53. <www.unicef.org/about/history/files/child_neglect_rich_nations.pdf> accessed 5 January 2019.

suggestions which Hewlett makes is that rich nations need to begin by making a turn from 'political cultures whose political commitment to free market leads them to oppose so profoundly the regulation of the employer intervention in family life and the spending of public money on children's problems.'[148] She feels so strongly about this position that in the text she quotes a phrase she attributes to John Maynard Keynes 'Capitalism is the extraordinary belief that the nastiest of men, for the nastiest of reasons, will somehow work for the benefit of us all.' Let's reiterate that this report was written about children in 'rich nations' with results such as a declining performance in school noted along with a rise in social and health care problems, substance abuse etc. Despite a plethora of evidence and warnings, from a variety of sources, economic analyses, social science reports etc. which all came before the financial crises; free-market policy is still being championed as the best policy to be followed in the West and the one which must be exported to the rest of the world.

5.7 Conclusion

ICT is an integral part of the developed world economy[149] and yet despite it having such an influential role in developed world life, there remain sizeable parts of the developed world which are marginalised by the digital literacy divide.[150] The developing world on the other hand, according to the paper is largely excluded from the influence of ICT. The authors therefore warn that in order for ICT not to be used in a manner which will enhance, colonise or exclude various 'lifeworlds'[151] it is important to identify and become aware of this potential. As this chapter has demonstrated the potential of ICT through education is not prescribed by the technology and therefore it has the potential to provide for a wide range of experiences from empowerment to oppression. It is not to be demonised as it is not a one-dimensional tool and therefore, it is necessary for this to be acknowledged and addressed. As the powerful tool that it is, it has the potential to empower users of that technology. As a technological tool in education particularly in the OLPC context, this empowerment is aimed at the individual learner by helping to situate

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[148] ibid 51.
[149] David O'donnell and Lars Bo Henriksen, 'Philosophical foundations for a critical evaluation of the social impact of ICT' (2002) 17(2) Journal of Information Technology 89, 90.
[150] ibid 98.
[151] ibid.

the child at the centre of the learning process providing a plateau on which he or she can build learning structures; and as was cited above it can play a role in bringing the learning community together in order for this to be a shared and inclusive process where children co-operate. The question whether this is possible to be achieved by way of ICT education in the developing world, or whether this is possible in a limited part of the developed world, remains to be examined more closely in chapter 7. However, in looking at depth to Young's five categories of oppression and relating ICT education to each, it is apparent that in more cases, an oppressive experience may be more likely an outcome, or a significant enough proportion of people may have an oppressive experience, the denial of which amounting to *kitsch* at the least. In fact the two categories most relevant to this thesis are powerlessness and culture imperialism, although undeniably relevant are violence, exploitation and marginalisation as was demonstrated above. Freire's work, is a very significant contribution in demonstrating the oppressive experience in education, and in providing the hope that an alternative *lifeworld* is possible. The relationship of ICT as an instrument of globalisation, however, reminds us that this alternative at the international level is not going to be easily achieved as there are extremely significant financial motives behind this, which are also maintaining the current world order. The following chapter, therefore will investigate whether the physical presence through ICT education and the culture embodied in it, does in fact amount to imperialism or even be claimed to be a form of neo-colonialism, or whether ICT through the example of the OLPC can offer an antidote.

Chapter 6: Cultural Imperialism and Neo-Colonialism

6.1 Introduction

In order to implement a TWAIL analysis as set out in chapter 4 according to the three features set out by Mutua and Anghie,[1] one must identify the important question in international law which warrants a TWAIL approach (feature 1), set out ways in order to alleviate such an injustice (feature 2) and be concerned with justice or fairness and the elimination of an aspect of Third World powerlessness.[2] This chapter is concerned with features 2 and 3, as TWAIL is not a nihilistic critical theory, although it has been important to firmly establish the necessity for a TWAIL critique by enquiring into the concept of powerlessness as a form of oppression in the previous chapter.

A familiar aphorism, originally attributed to Jomo Kenyatta, has been recounted many times in reference to colonialism 'when the missionaries came to Africa, we had the land and they had the Bible. Then they said, 'Let us pray... ,' and asked us to close our eyes. By the time the prayer was over, they now had the land and we had the Bible.'[3] This chapter as the title suggest, takes a closer look at the secular version of pillage which has followed, which is neo-colonialism. It is necessary to further the inquiry into the cultural imperialist aspect of the conceptual framework of ICT4D, before considering whether this can be remedied by an ICT4D project such as that of the OLPC. The element of the project which is regarded as having some such possible potential is the aspect of Constructionism.

6.2 Neo-colonialism

In order for this chapter to consider the argument that the use of ICT education amounts to cultural imperialism which falls under the wider umbrella of neo-colonialism, it makes it necessary for the concept to be looked at more closely. Neo-colonialism is the use of capitalism, globalisation, and cultural imperialism by the developed world to control developing world

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[1] Makau Mutua and Antony Anghie, 'What is TWAIL?' (Proceedings of the Annual Meeting American Society of International Law Vol. 94 April 5-8, Cambridge University Press 2000) 31, 36.

[2] ibid.

[3] Owen Willis, 'The Study Abroad Experience: Where Does Religion Fit?' (2012) 2(1) Journal of Global Citizenship & Equity Education 17.

countries either by direct force or indirectly through political control such as imperialism and hegemony as argued by Sartre[4] and which has been discussed in the previous chapter. It is no longer a strict link to the maintained dependence of a previously colonised state on its colonizer, it reflects the more general exploitation likening it to the colonised experience of states which suffered from colonisation.

The term is attributed to the president of Ghana (1960-1966) which he sets out in 'Neo-colonialism, the last stage of Imperialism,[5] based on Lenin's writing on imperialism being the highest stage of capitalism.[6] The term neo-colonialism was also incorporated in the establishing Charter of Organization of African Unity (OAU)[7] made up of 32 African states which had achieved their independence and which aimed to assist each other to defend and preserve this independence from colonialism and neo-colonialism. 'Determined to safeguard and consolidate the hard-won independence as well as the sovereignty and territorial integrity of our states, and to fight against neo-colonialism in all its forms.'[8] The OAU was replaced by the African Union (AU) by the Durban Summit (2002), the vision of which was to continue the OAU's work 'by establishing a body that could accelerate the process of integration in Africa, support the empowerment of African states in the global economy and address the multifaceted social, economic and political problems facing the continent.'[9] As the decolonisation of Africa increased, the term neo-colonialism gained use by scholars and State leaders, as can be seen in the Pan-Africanist Movement for example. This term was also discussed during the Bandung Conference in 1955, the birthplace of TWAIL as reiterated in chapter 4, which also led to the Non-Aligned Movement (1961). The All-African Peoples' Conference[10] (AAPC) formally defined neo-colonialism in a resolution as 'the survival of the colonial system in spite of formal recognition of

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[4] Jean-Paul Sartre, Azzedine Haddour, Steve Brewer (trs), Terry McWilliams (trs), *Colonialism and Neocolonialism* (first published 1964, English translated first published, Routledge 2001).
[5] Kwame Nkrumah, *Neo-Colonialism, the Last Stage of imperialism* (Thomas Nelson & Sons, Ltd. 1965).
[6] Vladimir Lenin, *Imperialism, the Highest Stage of Capitalism* (pamphlet, Petrograd 1917).
[7] May 25 1963 in Addis Ababa, Ethiopia.
[8] OAU Charter preamble.
[9] Assembly of the African Union First Ordinary Session 9 – 10 July 2002 Durban, South Africa <www.au.int/en/history/oau-and-au> accessed 5 January 2019.
[10] Conference Cairo, 25- 31 March 1961.

political independence in emerging countries which become the victims of an indirect and subtle form of domination by political, economic, social, military or technical'.[11] This resolution also set out manifestations of Neo-Colonialism including '(f) Economic infiltration by a foreign power after independence, through capital investments, loans and monetary aid, or technical experts under unequal concessions, particularly those extending for long periods'.[12] It includes Agents of Neo-colonialism, amongst which are '(b) So-called foreign and United Nations technical assistants who ill-advise and sabotage national political, economical, educational and social development'.[13] Finally the resolution provides for 'means of fighting' of it realising that the struggle against it is 'associated with the struggle against all forms of opportunism which is the mask of the accomplices of imperialism'.[14] Regarding the resolution it is helpful in providing a clearer understanding of the term, however, it is apparent from the maintained world order that this struggle against neo-colonialism is still on-going and freedom from it has not yet been achieved.

Many scholars have also contributed to the understanding of the concept of neo-colonialism, as Sartre mentioned above whose writing focused on it approached not from the realm of politics but ethics. He criticised France for its treatment of its former colonies specifically Algeria.[15] In this book he includes what the preface to the 'Wretched of the Earth'[16] originally printed in 1961, a book by Fanon in which the colonisers and colonised are intertwined through the element of violence. Sartre argues as Freire mentioned in the previous chapter, that reforms to neo-colonialism can only come from the colonised themselves to deliver both, and all we can do is fight alongside them when they do.[17] Noam Chomsky has also been an influential critic of the West, specifically the United States when it comes to demonstrating how it 'has organised under its sponsorship and protection a neo-colonial system of client states ruled mainly by terror and

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[11] Resolution on Neocolonialism, All- African Peoples' Conference Cairo, March 25– 31, 1961.
[12] ibid.
[13] ibid.
[14] ibid.
[15] Sartre (n 4).
[16] Fanon, Frantz and Richard Philcox (trs), *The Wretched of the Earth* (Grove Press 2004).
[17] Sartre (n 4) 18.

serving the interests of a small local and foreign business and military elite'.[18] While doing so under the ideological pretence 'that the United States is dedicated to furthering the cause of democracy and human rights throughout the world, though it may occasionally err in the pursuit of this objective.'[19] This ideological pretence, as is indicated by the many scholars around the world is certainly not limited to the Unites States, though it may have a leading role, is worth continuously questioning as long as it exists.

6.2.1 Dependency based on Aid

Aid is one of the very powerful means of dependency, which as we have seen above is a vital feature of neo-colonialism. According to Kwame Nkrumah it is evidence of the contradiction inherent in the practice of it. In order for it to be made attractive upon those whom it is practised it

> 'must be shown as capable of raising their living standards, but the economic object of neo-colonialism is to keep those standards depressed in the interest of the developed countries. It is only when this contradiction is understood that the failure of innumerable 'aid' programmes, many of them well intentioned, can be explained.'[20]

The manner by which the provision of aid, stands in the way of actual development is by creating a dependence on the part of the recipients which prevents them from providing local solutions from within the community. 'The notion that aid can alleviate systemic poverty, and has done so, is a myth. Millions in Africa are poorer today because of aid; misery and poverty have not ended but have increased. Aid has been, and continues to be, an unmitigated political, economic, and humanitarian disaster for most parts of the developing world.'[21] Of course Moyo focuses on financial aid much more so than what she terms 'charity-based aid', under which the developmental projects such as the OLPC, fall. Nevertheless, aid-dependency can be understood

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[18] Noam Chomsky and Edward S. Herman, *The Washington Connection and Third World Fascism* (The Political Economy of Human Rights - Volume I) (South End Press 1979) ix.
[19] Ibid.
[20] Kwame Nkrumah (n 5).
[21] Dambisa Moyo*, Dead Aid. Why Aid is Not Working. And How There is a Better Way for Africa* (Penguin Books 2010) XIX.

in regards to development projects and education projects, and the danger lies in the passive role which is imposed upon the communities. This passivity is demoralising and is perpetuated by ineffectiveness as no substantial solutions are implemented. The local communities are characteristically portrayed as the ones posing the problem and are not part of the solution. For the developed world 'the reason for pointing out failure is not to hold anyone accountable, but to document the continuing 'aid needs,' i.e. to give a rationale for further expansion of aid. The UN and the World Bank reports do not explain why the poor have a need for more of the same thing that previously failed to address the needs of the poor.'[22] Those reports usually, contain contradictions as they champion the effectiveness of aid while citing underuse or misuse to explain its ineffectiveness as pointed out by Easterly[23] which he names bipolarity. He dedicates part of his book to set out the arguments which are put forth in defence of the use of aid which will be set out, however, these arguments reveal the truth in Marks' argument that 'we are prone to do anything to avoid contemplating the idea that prosperity may be linked to poverty, and even in some way dependent upon it.'[24] The first of the claims of defence is based upon expertise,[25] in that the experts who were assigned the eradication of poverty previously, failed on the basis of a lack of knowledge and technology. As these progress, this can no longer be the claim and thus it shifts to a claim of affordability[26] whereby the claim is that more money must be accumulated and spent on aid by the international community in order for it to be effective. Easterly frames his responses to these claims in polemical language which he argues is useful in aid debates 'because too often the aid policymaking community tolerates approaches that go against common sense and basic economics'.[27] He discusses what he terms the 'latest instalment of philosophical divide in Western intellectual history about social change'[28] whereby he describes the approaches according to Planners and Searchers. However, it is the elements of feedback and accountability which are missing from the plans provided for by the two

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[22] William Easterly, 'Planners vs. Searchers in Foreign Aid' (2006) 23 (2) Asian Development Review 1.
[23] William Easterly (ed), *Reinventing Foreign Aid* (The MIT Press 2008)
[24] Susan Marks, 'Human Rights and the Bottom Billion' (2009) 1 European human rights law review 37, 49.
[25] Easterly (n 22) 5.
[26] ibid.
[27] ibid 6.
[28] ibid 13.

aforementioned groups the lack of which is used by Easterly to point out that not only are the developing countries not participating in the problem identification and solving, they are also not given a chance to comment on whether or not they are satisfied with aid they are receiving. The reason for that being that the incentive for accountability is to those providing the aid in the developed countries rather than those receiving it in the developing countries.

6.2.2 Aid ICT4D

Aid has come in many forms from the developed world, money and medication being the usual examples. In regards to development, and ICT4D, aid has come in the form of computer technology. However, when ICT was being discussed in the 1990's the technology and the source were different to what followed. Then, the technology being invested in was telecenters[29] in developing countries which were run by the state or NGO's, and supported by the international agencies as the digital divide was concerned with the concept of access public expenditure on information was seen as a means of social welfare'.[30] In the following decade computers were the technology of choice. Heeks argues that two factors changed in ICT sparking ICT4D, which were the Internet and the Millennium Goals.[31] It is also important to consider that as technology companies grew in this period, it coincided with the period of growth of Corporate Social Responsibility (CSR)[32] and therefore these companies took initiatives which 'supported computer donations or other technology projects as their social initiatives;'[33] examples of such companies include Dell, Cisco, Microsoft, Intel, Hewlett Packard, British Telecom, Vodaphone, Motorola and IBM to name but a few. The international legal framework which promoted ICT4D and which led to development programmes and aid in for developing countries, has been set out in chapter 3. The international agencies such as the World Bank have promoted and funded such digital

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[29] Marshall, Stewart (ed), Wal Taylor (ed), Xinghuo Yu (ed), *Encyclopedia of Developing Regional Communities with Information and Communication Technology* (Idea Group Reference 2006) 665.

[30] Joyojeet Pal, 'Computers and the Promise of Development: Aspiration, Neoliberalism and 'Technolity' in India's ICTD enterprise' (Confronting the Challenge of Technology for Development: Experiences from the BRICS, University of Oxford 29-30 May 2008) 10.

[31] Richard Heeks, 'The ICT4D 2.0 Manifesto: Where Next for ICTs and International Development?' (2009) Manchester Centre for Development Informatics Working Paper 42, 3 <www.oecd.org/ict/4d/43602651.pdf> accessed 3 January 2019.

[32] Pal (n 30) 12.

[33] ibid.

development programmes while they themselves have discussed the failure of these technologies to deliver what they promise.[34] Indicatively the European Parliament Study stated that 'ICTs acquired more prominence within the EU aid policy framework in 2011 with the Agenda for Change where ICTs are identified as powerful drivers for change with respect to job creation, economic growth, and poverty reduction.'[35] This study reveals that a further communication released in 2015 'acknowledges that technical progress does not automatically benefit the poor.'[36] It is interesting that despite these reports which reveal the shortcomings if not failure of the ICT4D approach, have not led to an abandonment of such but follow the logic exposed by Easterly above, which is that what we need is in fact an increase in these programmes and more money needs to be spent to this end.

Regarding the aspect of dependence which aid creates, in terms of ICT4D, computers create a two-fold dependence. This is set out by Wade who warns that developing countries are being inescapably tied by hardware and software creating a 'new form of international digital dependence'.[37] In respect to hardware, it establishes the physical presence of computing machines, which inevitably leads to part replacement as the machines get degraded over time and eventually need to be replaced. In terms of software, this is done by the use of proprietary software, with the obvious example being that of Microsoft, with new versions of its software being released rapidly leaving older versions incompatible. This was a substantial point for choosing the OLPC as a lens which was initially made to run open software LINUX, and therefore not to trap the developing states into a dependence in terms of software.

6.2.3 OLPC as ICT4D

The OLPC has been presented by the organisation with rhetoric akin to that of ICT4D which led to criticisms such as that it has been agnostic from the start, citing that it was first presented in

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[34] *World Development Report 2016: Digital Dividends* (Washington, World Bank 2016).
[35] Laura Delponte and others, 'European Parliament Research Service study 'ICT in the developing world' IP/G/STOA/FWC/2013-001/LOT4/C3 (STOA 2015) 12.
[36] ibid.
[37] Robert Hunter Wade, 'Bridging the Digital Divide: New Route to Development or New Form of Dependency?' (2002) 8(4) Global Governance 443, 452.

Davos at the World Economic Forum not to educators or computer experts to assess, but rather to the 'elite decision makers'[38] as the article describes them. 'It was instead presented as a fait accompli— not in technical terms, but as an inevitable end result, as 'the computer that will change education forever'—notwithstanding educators' opinions on how to use computers in the classroom, or development experts' recommendations on using resources to enhance the quality of life in the target countries.'[39] It stands to reason that as a project which required governments to make large purchase orders, would have to market itself well to world leaders and the market. This target audience was arguably correctly identified by Negroponte and his team considering the project was launched in 2005 shortly after WSIS 2003 and in time to show a prototype at the WSIS in November 2005. 'Negroponte becomes a Marie Antoinette, but, instead of advising the French 18th century poor to eat cake as a substitute for bread, he proposes letting the South's huddled masses have little computers rather than life's other more obvious necessities'.[40] Winston brings this point up as an example of technicist hyperbole, in that technology is viewed as a tool of social change. In Baggaley's article he recounts that Negroponte's initial promises of the OLPC project were 'knowingly hyperbolic'[41] in order to promote the project both to the governments he was selling to and of course for corporate investments and partnerships. These criticisms point out two very important aspects, the first being the language which is used by this specific project and others like it, whether we classify it as technicist hyperbole or development rhetoric, raises expectations extraordinarily and also that although ICT4D is a multidisciplinary area[42] it is not representative of the other disciplines necessary such as the ICT and educational with which to back such claims. This has led to criticisms of the OLPC such as that of Warschauer and Ames that the 'provision of individual laptops is a utopian vision for the children in the poorest countries, whose educational and social futures could be more effectively improved if the same investments were instead made on more

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[38] E. Villanueva-Mansilla, P. Olivera 'Institutional Barriers to Development Innovation: Assessing the Implementation of XO-1 Computers in Two Peri-Urban Schools in Peru' (2012) 8(4) Information Technologies & International Development (Special Bilingual Issue: Research on ICT4D from Latin America) 177, 180.
[39] ibid.
[40] Brian Winston, 'Let them Eat Laptops: The Limits of Technicism' (2007) 1 International Journal of Communication Feature 170.
[41] Jon Baggaley, 'When Prophecy Fails' (2013) 34 (1) Distance Education 119, 124.
[42] Mark Warschauer, *Technology and Social Inclusion* (MIT Press 2003).

sustainable and proven intervention.'[43] This is due to the importance given to the campaign of bridging the digital divide as if it were a higher priority of development which according to Wade is built on a false representation that the digital divide is very large, and that if one were to look at availability relative to income one would conclude that it hardly exists; whereas the divide which does is in fact one of income.[44] This then circles back to the common sense criticism which is that the world poor living on 1$ a day, surely have more pressing needs than to have ICT made available to them.

6.3 Cultural Imperialism as Neo-Colonialism

Having determined that cultural imperialism is a form of oppression as the imposition of a dominant culture upon another as set out in the previous chapter, it is now being looked at as a form of neo-colonialism, and specifically the variations of this notion in relation to ICT Education. The examples used are indicative of the technological advancement of the time as a means of exporting the dominant culture. It is not meant to provide a historical account of each technology and its use, it is merely to point out that just as culture is not a fixed notion, nor are the technological means of transmitting it. In his book McPhail[45] discusses cultural imperialism through what he terms to be 'electronic colonialism', focusing on the effect of mass media messages around the world. According to him:

> Electronic colonialism represents the dependent relationship of poorer regions on the post industrial nations caused and established by the importation of communication hardware and foreign-produced software, along with engineers, technicians, and relevant information protocols, that establish a set of foreign norms, values, and expectations that, to varying degrees, alter domestic cultures, languages, habits, values and the socialization process itself.[46]

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[43] Mark Warschauer and Morgan Ames, 'Can one laptop per child save the world's poor?' (2010) 64 (1) Journal of International Affairs 33.

[44] Wade (n 37) 444.

[45] Thomas McPhail, *Electronic Colonialism: The Future of International Broadcasting and Communication* (Sage Publishing 1987).

[46] ibid 18.

This was based on a similar notion in an earlier book by Schiller[47] in which he provided a definition of cultural imperialism reflecting the processes carried out in 1975, the public media being the one he identifies as one of the most penetrative processes as it occurs through broadcasting. Siu-Nam Lee explains communication imperialism as the process by which 'ownership and control over the hardware and software of mass media as well as other major forms of communication in one country are singly or together subjugated to the domination of another country with deleterious effects on the indigenous values, norms and culture.'[48] The common denominator amongst these variations is the domination of one country over another through the means of mass media. The dominant country which is wealthier (developed) and has access to the form of media through which to exports the values, world-view, customs and practices which are adopted by the *lesser* culture thus eroding it in the process. The complicity in the oppressive act, being in the oppressed internalising this image of the oppressor and viewing themselves as lesser; thus accepting the oppressor's world-view and perpetuating its domination.

6.3.1 Theoretical Framework of Cultural Imperialism

The theoretical writings which form the basis of these later writings on cultural imperialism through ICT are Foucault's Knowledge/Power[49] for example. Briefly stated, Foucault argued that a system of power is based on knowledge and uses it, though knowledge too can produce a system of power. This can be better explained by the example of a school as a system of power and the knowledge gathered on the basis of observing this, reinforces the power of the school. The Palestinian writer Said, in his book Orientalism[50] argued the demonstration of cultural imperialism through a postcolonial critique of Western scholars' writings of the Middle East and India through thereby reinforcing 'reductive images'[51] of the Middle East and to justify Western control over it. He describes it as 'a multicultural critique of power using knowledge to advance

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[47] Herbert Schiller, *Communication and Cultural Domination* (International Arts and Sciences Press 1976).

[48] Paul Siu-Nam Lee, 'Communication imperialism and dependency: A conceptual clarification' International Communication Gazette 41(2) 1988 74.

[49] Michel Foucault, Colin Gordon (ed.) *Power/Knowledge: Selected Interviews and Other Writings 1972-1977* (Pantheon Books 1972).

[50] Edward Said, *Orientalism* (Pantheon Books 1978)

[51] ibid 11.

itself.'[52] Said makes specific reference to Gramsci and his writings on hegemony,[53] which he drew[54] from. Hegemony for Gramsci was a distinction between power exercised for domination or direction, otherwise termed hegemony, thus drawing a distinction between state and civil society.[55] Domination therefore is exercised by the State whereas direction or hegemony is exercised by civil society through culture. The domination of the State is enforced legally where the groups dominated do not *'consent'* actively or passively. Conversely, in civil society hegemony is imposed with '*consent*' of the masses to the dominant group 'this consent is "historically" caused by the prestige (and consequent confidence) which the dominant group enjoys because of its position and function in the world of production'.[56] Said therefore uses Gramsci's hegemony to demonstrate the hegemonic culture of Europe both within and outside Europe that it is superior to that of all non-Europeans.[57] Following this piece of work, Said also authored Culture and Imperialism[58] in which he extended the ideas of his earlier work to encompass more than just the Middle East which Orientalism was limited to. Said argues that imperialism is the practice, theory and attitudes of the dominating centre over territories far-removed, and that colonialism which is almost always the result of imperialism 'implanting of settlements'[59] in those territories. 'In our time, direct colonialism has largely ended; imperialism, as we shall see, lingers where it has always been, in a kind of general cultural sphere as well as in specific political, ideological, economic, and social practices.'[60] It is this cultural sphere, referred to by Said which education and ICT belong to, and which both encompass and shape specific political, ideological, economic, and social practices.

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[52] ibid 336.

[53] Quentin Hoare and Geoffrey Nowell Smith (eds), *Prison Notebooks of Antonio Gramsci* (ElecBook 1999).

[54] Freire was also influenced by Gramsci and his description of working class culture to combat bourgeois culture.

[55] Gramsci (n 53) 145.

[56] ibid.

[57] Said Orientalism (n 50) 7.

[58] Edward Said, *Culture and Imperialism* (Vintage Books 1994).

[59] ibid 9.

[60] ibid.

6.3.2 Cultural Imperialism and Schooling

It is interesting to apply the theory of cultural imperialism to the school as an institutional model which Foucault demonstrated as a system of power, which reproduces knowledge that reinforces its power. As a system of power 'throughout the centuries European colonial domination has been intertwined with a *mission civilisatrice*, based on the convictions that Europeans have a duty to educate and civilise non-Europeans.'[61] Following this argument of the school as a system Teivainen applies a school analogy to the international world order. In this analogy he asks that we envisage the world as a global school where the adult teachers represent the governments of developed countries and transnational capitalist elites and the World Bank's Board of Governors make up one group of teachers who have designed a curricula of structural programmes and who have structural constraints on the basis of an availability of resources. The students represent the developing states who are marginalised within the world economy, and who have little influence over the curricular content of their own education.[62] This analogy, serves to demonstrate the argument that the international world order is based on a system of cultural imperialism where the developed states use power to create knowledge, and knowledge based on observing the system produces and reinforces its power.

School offers another basis for which one to argue that the right to education can be understood as a tool of cultural imperialism. That is to say, the right to education in the CRC article 28, as we saw in detail in chapter 2, imposes an obligation on States in terms of securing this right through free and compulsory primary level education. Education's use in furthering development and even more so through ICT has turned the focus on 'schooling or other forms of educational praxis in the areas with which the ministries of education are typically concerned'.[63] This has led scholars to comment that 'All too often education is taken to be synonymous to schooling, and even then without an acknowledgement of the complexities of the school experience'.[64] One of the most basic aspects of the school experience is the educational method used to impart

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[61] Teivo Teivainen 'The Pedagogy of Global Development: the promotion of electoral democracy and the Latin Americanisation of Europe' (2009) 30(1) Third World Quarterly 163, 165.

[62] ibid 174.

[63] ibid.

[64] Tristan McCowan Reframing the universal rights to education' (2010) 46(4) Comparative Education 509, 510.

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knowledge, a phrase used in order to demonstrate the continuation of the concept of power/knowledge above. The conventional method to bring this about has been 'instruction' being the formal method of 'educating', otherwise known as the banking method, set out in chapter 5. As has been reiterated features of this educational experience include 'less savoury aspects such as social control and indoctrination'.[65] This educational approach is not specific to the developing world although it is the developing world that this thesis is concerned with. McCowan also highlights other infringements on the students by the formal education system which is that they are 'at best unresponsive to and worst actively repressive of their cultures.'[66] In an article by Patricia Ames which focused on the indigenous children of Peru, she describes that although the law states that the indigenous children have a right to be educated in their own language, in practice there weren't enough teachers trained in this bilingual capacity and therefore the teacher did not speak the same language as the students.[67] In this way the Millennium goal of primary education is being met and many indigenous children are having their 'right to education' fulfilled at the expense of their culture all of which is detrimental to their individual personalities and social identity. The aspect of this hegemonic practice according to Gramsci's concept of *hegemony* set out above, is that this is carried out with the element of *consent.* That is to say, despite the marginalisation of language and culture that goes on in the school, parents choose to send their children anyway, in order for their children to learn Spanish and urban manners in order to have a better future and interact better in cities, thus *consenting* to the hegemony of the dominant culture. This specific example of cultural domination is not necessarily the experience in all cases of cultural imperialism, however, it is indicative of the intricate web which culture imperialism weaves forcing those subjected to it to become complicit in their oppression.

Another aspect depicted through an example from Ames mentions an indigenous child in Peru where 'the school is offering Ana a deficient image of herself, focusing on her limitations (her

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[65] ibid 512.

[66] ibid 513.

[67] Patricia Ames 'Language, Culture and identity in the transition to primary school: Challenges to indigenous children's rights to education in Peru' (2012) 32 International Journal of Educational Development 454, 456.

poor command of Spanish, her difficulties in writing), and not in what she is capable of doing. And Ana is in fact a very skilful girl.'[68] This seems to be a common feature which this formal schooling method achieves as has been argued in the previous chapter. That is to say that the people of the developing world are often made to feel this way, fuelling an overall image of deficiency. It is after all the point which needs to be driven home before the developed world can 'step in' in all senses (colonial included), and provide the knowledge and expertise for the *barbarians* to be *civilised*. 'Countries with tribal or 'primitive' nations are perceived to be incapable of being innovative or utilizing development since they are often viewed at the mental capacity of children. This leaves them helpless with an embedded mentality that they are disempowered to progress.'[69] One is left wondering whether progress and development are the goal, or if disempowerment is the means to a neo-colonialist end.

6.4 OLPC's Constructionist learning

According to the TWAIL critique, it is necessary to inquire as to whether or not it is possible to rectify the harm done to the third world in international law. Therefore this section is focused on the potentially redeeming qualities of the OLPC project as it was initially presented, which were taken into account when assessing the suitability of the OLPC project as the lens used in this thesis. The following are an account of the qualities which were originally considered to be fundamental by the project, though as has and will be demonstrated, have not enjoyed the same consideration in practice; the reasons for which are set out in chapter 3. That is to say, some have been renegotiated by the OLPC organisation itself, in other cases they have not been implemented, either by choice or omission, and this is not always clear from the material available regarding the assessment or critique of the various deployments. This lack of a uniform body of material from which one can conduct quantitative and qualitative analysis has been limiting for the scope of use of the OLPC project in this thesis. This contributed to the choice of a single deployment as the basis of critique in the following chapter. Nonetheless, the fragmented evidence and variations of assessment and interpretations, such as the example of

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[68] ibid 458.

[69] Erika Lal, 'A Hurting Hand: Why Foreign Aid Does Not Work' (2011) Azusa Pacific University 1, 12.

empowerment in the previous chapter demonstrates, opens up the scope for many critical studies to be carried out as ICT4D continues to grow.

The learning platform for constructionist learning is 'Sugar'[70] which is a collection of activities which the learner does, and that is why each activity is named with a verb. Interestingly it has a feature, where the learners are able to reflect upon what they did after having done it. That is to say the computer records what the learners do with screen captures of their work, and afterwards they are 'encouraged to write their observations and reflections',[71] all of which are kept in journals.[72] This feature provides for a very powerful tool, for the children themselves in that they can go over not only what they have learned but how they went about doing so. Furthermore, it provides teachers with an in depth assessment tool as they can see in depth what and how the student has learned. In this sense it is better than testing, as the student's steps can be traced to see exactly what has been learned and the construction process provides for an engagement by the student as they are challenged to think about concepts in a number of different ways, which is much deeper than learning something 'by heart' simply to be repeated at a later date. If this feature is used in the way described above by both students and teachers for assessment, then it would also provide teachers with valuable insight on how to guide the student through the learning process.

The second aspect of Constructionist learning which is that 'learning is not a solitary undertaking'[73] is further enhanced and supported through the Sugar platform with features which encourage the children to collaborate and share. For example the children can 'Write' together by editing the same story, 'Record' enables them to exchange photos in real time etc. 'Interestingly in many traditional school environments, this collaboration capability might be called cheating.'[74] In the 2013 Final Report entitled 'Pedagogy, Curriculum, Teaching Practices

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[70] "Sugar provides the appropriate platform to achieve OLPC's learning strategies and mission." OLPC Deployment Guide 2011: OLPC Learning Strategy
<http://wiki.laptop.org/go/Deployment_Guide_2011/OLPC_Learning_Strategy> accessed 4 January 2019.
[71] Walter Bender and Others, *Learning to Change the World; The Social Impact of the One Laptop per Child* (Palgrave Macmillan 2012) 59.
[72] <http://wiki.laptop.org/go/Journal> accessed 5 January 2019.
[73] ibid 15.
[74] ibid 60.

and Teacher Education in Developing Countries'[75] it says that although group work is characteristic of child-centred pedagogy, the evidence of this in practice is inconclusive as to whether or not this practice is in fact effective. Perhaps in this aforementioned case the reason the evidence is inconclusive is for reasons which relate more to the parameters used to measure the effectiveness. 'To learn something from someone else, i.e. to share his or her knowledge, an act of reconstruction is needed. It takes knowledge to acquire knowledge and, therefore, to share knowledge.'[76] It is this understanding of knowledge sharing which calls the conclusion in the report above into question. It should be said that Microsoft, which is proprietary software, does not offer this feature of collaboration; and the reason for this is not that collaboration would be ineffective, but the contrary, based on the notion of 'property' within the term 'proprietary software', which Microsoft does not want to share.

Although Constructivism is listed by UNESCO as one of the most influential theories of learning,[77] upon which Papert's Constructionism is based there is no evidence to support that it is effective. The Department for International Development, University of Sussex, Report looked at which pedagogic practices, in which contexts and under what conditions, most effectively support all students to learn at primary and secondary levels in developing countries,[78] as it is this 'variable' which is viewed as being crucial[79] to ensuring the Education for All (EFA[80]) goal of ensuring that all children have access to, and complete, good quality, free and compulsory basic education,'[81] to be achieved by the year 2015. As the report identifies there have been many pedagogical reforms which have been made in 'developing' countries in order to achieve the EFA goal, and as such, the pedagogic practice which was once centred around the teacher, it has now moved to a

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[75] ibid 53.

[76] Paul Hendriks, 'Why Share Knowledge? The Influence of ICT on the Motivation for Knowledge Sharing' (1999) 6(2) Knowledge and Process Management 91, 92.

[77] Most influential theories of learning< www.ibe.unesco.org/en/geqaf/annexes/technical-notes/most-influential-theories-learning> accessed 5 January 2019.

[78] Westbrook J and others 'Education in Developing Countries' (2013) Final Report. Education Rigorous Literature Review. Department for International Development, (London UK 2013).

[79] Christopher Colclough and others, 'Education for All The Quality Imperative' EFA Global Monitoring Report 2005 (UNESCO, France 2004) 152.

[80] The EFA goals are a UNESCO contribution to the UN Millennium Development Goals, particularly MDG no. 2 to achieve universal primary education.

[81] Westbrook (n 78) 5.

more child-centred approach with the child being a more 'active learner'. The report focused on papers published after the year 2000 in order to reflect contemporary realties in 'developing countries'. 'Many commonly used teaching styles do not serve children well: they are often too rigid and rely heavily on rote learning, placing students in a passive role.'[82]It appears that this is a rather widely accepted perspective, and since the year 2000 in lieu of reform, the report now provides us with a significantly different picture, that where 'Constructivism was the most frequently cited theory underpinning pedagogy, with active learning and more student-centred practices cited as the most-promoted pedagogies in national reforms and interventions.'[83] This, however, though a somewhat legitimising acknowledgement of the OLPC approach, was not the same as the reality of the pedagogic practice. Both lack of knowledge and 'teachers' resistance to change, attributed to ingrained cultural beliefs or difficulty in 'letting go' in order for students to learn more independently'[84] are cited as the reasons for this reality to differ.

The sugar platform is no longer the sole or standard platform that the XO comes with. The reason, to briefly reiterate, is that, there was a strategic change which occurred when Microsoft became involved with the project and the 'Windows' platform, which is closed source and not constructionist, became available as either an alternative or sole platform. This led Walter Bender, the OLPC creator of Sugar to separate and continue forth with Sugar Labs[85] which still collaborates with the OLPC and yet provides a learning platform which is open source and runs on 'most computers'.[86] In fact the OLPC were urged by many ministries of education to run Microsoft Windows on the XO laptop, and eventually in 2008 they decided to do so, pushing the open source software 'Sugar' to the wayside in the name of growth. In doing so, more laptops may have been deployed but as the whole basis of the project's 'educational' aspect was pinned on constructionism of the project was gone. Furthermore, proprietary software which is closed sourced means that a country must endure the extra burden of paying for licences as well as no longer having access to the computer code. This latter point may mean little to most, who are

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[82] EFA Global Monitoring Report 2005 (n 94) 17.
[83] Westbrook (n 78) 31.
[84] ibid.
[85] <https://sugarlabs.org/> accessed 5 January 2019.
[86] ibid.

happy to use their computer within the parameters it comes with, but for those who are inclined to 'hack' their own system and customise it to their own preference, while sharing this knowledge with others are no longer in the position to do so. That said, not all deployments of XO computers were condemned by this move, but not to the credit of the OLPC. The community who worked on Sugar went on to create Sugar Labs who encouraged the creation of local labs in the regions where XO's were being deployed 'to ensure that Sugar meshed with the local culture and to give local communities a channel for contributing to Sugar's ongoing evolution.'[87] This approach removes the colonialist element in that it situates the project within the community and its development is then completely in the hands of the local community. 'The constant flow of information back and forth between the global and local Sugar labs is mutually beneficial, reinforcing the mission and core principles and circulating new ideas and new energy as new challenges are encountered.'[88] When this sharing occurs on a mutually respectful plateau, then the 'global' community which arises from that is not one where everyone is the same but rather one that is all inclusive and where people do not need to be alike to be 'as one'.

6.4.1 Child Centricity

In seeking to break the trend in education of vocational schooling which perpetuates ruling or subordination[89] Gramsci describes an alternative which he terms the 'common school' in which a person can become 'capable of thinking, studying, and ruling—or controlling those who rule'.[90] The 'creative school' which is the later stage of the 'common school' is described as being one where 'learning takes place especially through a spontaneous and autonomous effort of the pupil, with the teacher only exercising a function of friendly guide—as happens or should happen in the university.'[91] This description is very similar to the notion of child-centred pedagogy which is a feature of both constructionist and constructivist learning. It is also proposed in this thesis as the aspect which can overcome cultural imperialism.

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[87] ibid 69.
[88] ibid 70.
[89] Gramsci (n 53) 186.
[90] ibid.
[91] ibid 175.

The OLPC project was initially designed to be child-centric as opposed to adult-centric, in terms of its hardware design, constructionist software and its core principles as is set out in chapter 3. This has not necessarily been implemented and used as it was initially envisioned as was demonstrated by the deployments set out in chapter 3. Nevertheless, according to the chosen educational approach, 'children's educational development is not understood in terms of things that should be known, rules that must be followed, or adult characteristics that ought to be adopted.'[92] On the contrary, children's development is seen as a 'gradual and 'natural' progression which is best aided by adults who have an appreciation of and a respect for the ways of children. Childhood, it is insisted, is not a defective version of adulthood: if it were, all schooling would have to be thought of as one long remedial course.'[93] The constructionist approach with child-centred pedagogy is not, however, culturally pluralistic[94] as the following comment reminds. Yujuico argues that OLPC's constructionist design 'reflects Western biases toward individual agency, but studies in social psychology and anthropology have found meaningful differences in Eastern and Western cognitive processes. Unsurprisingly, then, governments and educators with other cultural orientations expressed doubts about the compatibility of OLPC with prevailing methods of instruction.'[95] In order for child-centricity to be thought of as an alternative to cultural imperialism it is argued that the concept of child-empowerment is at the centre of the OLPC model and that an empowered child does not mean one with no regard of the society the child is situated in and the local culture, to the contrary the child will be a successful learner and teacher. Furthermore, it should be said that the child-centric view put forth by the OLPC aims to shift Western instructionist learning to a constructionist model; rejecting in this way the system by which the developed world learns today to a great extent. Perhaps the Western construct of individuality, will evolve to a collective one or perhaps this model altogether will only be appealing to countries with similar pedagogical approaches.

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[92] John Darling, *Child-Centred Education: And its Critics* (Paul Chapman Publishing Ltd. 1994) 3.
[93] ibid.
[94] As this notion is based on Western theories of child development, addressed in chapters 2 and 4.
[95] Yujuico, Emmanuel, 'Cautions from one laptop per child in marketing technological innovation to LDCs' (2011) 10 California Management Review 1.

6.4.2 Play with Purpose

Another way in which Constructionism differs from Instructionism is by incorporating a teaching method which may be familiar to other parts of the world, this educational concept is based on 'play with purpose'. An example of this can be seen in Andean cultures, where 'children learn a good deal through playing, participating, observing and imitating. Play is therefore not a strange way of learning for Andean people. Even adults exhibit a playful culture, by sometimes devising competitive games when working in groups.'[96] In the United Kingdom there has been a campaign called 'Too Much, Too Soon'[97] by the Save Childhood Movement which is requesting a 'series of reforms, including a new 'developmentally appropriate', play-based early years framework for nurseries and schools, covering children between the age of three and seven.'[98] However the word 'play' it seems is not to be associated with education much as the word 'fun', as they somehow imply that serious work is not being done. The opposite of course is something that may be backed by evidence from many different fields of psychologists,[99] anthropologists and pedagogues but it makes politicians very nervous. Play is seen as necessary for children's intellectual and social development while at the same time making children feel happy. 'When a child plays, he is in command. He establishes the conditions of the experience by using his imagination, and he exercises his powers of choice and decision as the play progresses.'[100] Michael Gove, the UK Education Secretary (2010-2014) is a prime example of political opposition as is evidenced by his view that 'These people represent the powerful and badly misguided lobby who are responsible for the devaluation of exams and the culture of low expectations in state schools,' a spokesman said. 'We need a system that aims to prepare pupils to solve hard problems in calculus or be a poet or engineer – a system freed from the grip of those who bleat bogus pop-psychology about 'self- image', which is an excuse for not teaching poor children how to add

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[96] Patricia Ames (n 67) 458.
[97] <www.toomuchtoosoon.org/> accessed 5 January 2019.
[98] Graeme Paton, 'Start schooling later than age five, say experts' *The Telegraph* (11 Sep 2013).
[99] Dr David Whitebread, senior lecturer in psychology of education at Cambridge University signatory of the movement's letter.
[100] J. Hendrick, P. Weissman, *The Whole Child: Development Education for the Early Years and Early Childhood Settings and Approaches* (Pearson Education Inc. 2006) 54.

up.'[101] This of course is juxtaposed by the position held by Wendy Ellyatt, the founding director of the movement, who said:

> Despite the fact that 90% of countries in the world prioritise social and emotional learning and start formal schooling at six or seven, in England we seem grimly determined to cling on to the erroneous belief that starting sooner means better results later. There is nothing wrong with seeking high educational standards and accountability, but there is surely something very wrong indeed if this comes at the cost of natural development.[102]

This certainly highlights the void between how the word 'education' is defined and viewed by those involved in education and those who are involved in the political application of what 'education' should appear to be. Unfortunately the law suffers from the same disjuncture, both on the national and international level, as political agendas have much more to do with forming the law than the actual views of what is best by those who are called to directly apply it. This in fact was a tension which the OLPC claimed to face, the OLPC board itself 'had serious doubts about the ability of OLPC to penetrate the education market without offering a more conventional approach to software and pedagogy.'[103] As we saw above the OLPC eventually gave in to this pressure in order to increase sales.

As this section demonstrates, the OLPC project in its initial form had more features embedded to effect a child-centred, collaborative learning, play with purpose, constructivist experience which was slowly eroded to increase sales. It now can offer a range of educational experiences depending on the features a government or community choose to have in regards to the software specifications they opt to buy and much more importantly the choices made regarding its implementation in the educational setting it is used. It is after all a tool which can be used in a variety of ways and as thus its use can produce a range of different results. As it is a means by which cultures meet and interact, producing a 'new culture' the following section of cultural

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[101] Shiv Malik, 'Early schooling damaging children's wellbeing, say experts' *The Guardian* (12 September 2013).
[102] David Wilcock, 'Children should not start school until age six or seven, experts warn' *The Independent* (12 September 2013).
[103] Bender and others (n 71) 67.

synthesis is included to discuss the alternative to a cultural imperialist experience of ICT education, before the next chapter which focuses on the example of Uruguay which chose to implement the project in the entire country.

6.5 Cultural synthesis and Implementation

According to Freire, cultures can interact with each other either in terms of cultural invasion or cultural synthesis, as was set out in the previous chapter. Although much has been said in this thesis regarding cultural invasion, it is necessary to examine the alternative view and particularly in reference to ICT education. Furthermore, not all the deployments are the same, and the implementation method of the project has definitely been identified as making a crucial difference in respect of having a colonialist nature. That is to say whether the community has been initially accepting of the project or has had it imposed upon them as was the case in Birmingham, Alabama, where the project was imposed upon the school by the City Council with 15,000 XO computers being distributed to impoverished students, makes a significant difference. Furthermore, where the local community is involved and is essentially put in control of their own project and the directions that the 'learning' evolves, rather than be left out and simply have the project applied on to them is crucial. 'For an effort of that sort to be successful, it requires an understanding of how to organize large-scale social improvement efforts involving technology and how best to support learning in diverse contexts. Racing ahead without this understanding can waste precious resources required for development and divert attention from more promising approaches to educational and social reform.'[104] In order for this laptop to live up to all its promise, it needs many variables to be in place, and unfortunately too many vital pieces fragmented off along the way. Lastly, is the case where there is no involvement with Sugar labs, meaning that the system on the computer is a version of Windows and then the project is just about getting 'low-cost' laptops, to the world's poor.

In regards to these two points, these were addressed in the implementation of this particular project under a specific process called 'participatory emergent design'. The characteristics of which are 'an emergent process of deliberations with no best structure or sequence;

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[104] Warschauer and Ames (n 43) 46.

requirements for knowledge that are complex (both general and situational), distributed across people, and evolving dynamically; and an actor set that is unpredictable in terms of job roles or prior knowledge.'[105] In this way rather than dropping off computers and giving the teachers some basic training, the local people are involved to identify the needs and problems which need to be addressed in the community and to find a way to construct solutions. There is no set plan fixed abroad to be implemented, rather it is an ever evolving process in which all participants learn from each other. Therefore the 'intervention' in this sense does not assume that the 'know-how' is coming from an external source, it has been identified that the success depends on the role of the teachers[106] who in the example below were positioned as 'partners'.[107] 'These examples illustrate the importance of adapting laptop deployment to local practices and constraints. The OLPC deployments that simply tried to hand out laptops, such as Birmingham,[108] have failed because they ignored local contexts and discounted the importance of curriculum and ongoing social, as well as technical, support and training.'[109] In fact rather than having the teachers involved and in support of the project, it was imposed upon them by the Mayor and unlike the students they did not own their XO computers. This understandably led to an end result unlike that of Nicaragua below. The results indicate that factors are dependent upon the type of use or attitudes being examined and lead to variations. 'Teachers' use of the XO laptop in the classroom is a primary factor that is related to the frequency of XO activity use and students' attitudes toward the XOs, while teachers' ability is related to the hours of XO usage in school. These results highlight the importance of having well-trained teachers who embrace using the XO laptop in the classroom in order to facilitate positive attitudes toward technology and its use among students.'[110] In order for there to be any sort of meaningful development all the participants need to be made to feel involved and to share their experiences. The opinions of the children, as well as the teachers and the parents, contrary to the practices of the way international child law is

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[105] M. Lynne Markus, Ann Majchrzak and Les Gasser 'A Design Theory for Systems That Support Emergent Knowledge Processes' (2002) 26(3) Management Information Systems Quarterly 179.
[106] Bender and others (n 71) 24.
[107] Nathaniel Popkin 'Seeds of a Quiet Revolution' *The Pennsylvania Gazette* (May/June 2013) 40, 46.
[108] OLPC first implemented in the United States in 2008 in Birmingham Alabama set out above.
[109] Warschauer and Ames (n 43) 33.
[110] Shelia Cotten and others, 'Using Affordable Technology To Decrease Digital Inequality Results from Birmingham's One Laptop Per Child XO laptop project' (2011) 14(4) Information, Communication & Society 424.

framed, must be voiced. In this way they can come together in a type of 'mosaic'[111] and the most fulfilling and successful results will ensue; as everyone is in the position to learn from one another.

In an article by Popkin entitled 'Seeds of a Quiet Revolution'[112] the author describes an experiment in rural education called 'Semillas Digitales' (Digital Seeds) which took place in a rural coffee farm community in Nicaragua. The project involved providing a primary school and where the students were provided with XO laptops as the OLPC project had been implemented in various parts of Nicaragua for several years already. The principal investigator Sharon Ravitch when asked to run the project initially said that the project would fail and her reasoning was 'that implementing OLPC alone would repeat the same colonialist pattern that has dominated the field of international applied-development for decades and which proceeds with the assumption that Western outsiders bring expertise to infantile and incompetent (and even disinterested) locals.'[113] What is highlighted by this rationale is echoed by the OLPC in the 'lessons and reflections' section[114] which is that 'there are no shortcuts' and that for a deployment to be successful an entire learning ecosystem needs to be created.

6.6 Conclusion

It is not possible to apply a 'one-size fits all' approach to education or much else, particularly within human rights law, without being criticised of cultural imperialism or neo-colonialism. Furthermore, when it is combined with developmental aid and the dependency which it creates, it becomes all the more important to recognise the validity of such criticisms as a means of countering the hegemonic tendencies being created in the right to education through ICT4D projects. Foucault's Knowledge/Power[115] as demonstrated through the example of a school can serve as a very strong warning regarding international law, as the knowledge which is gathered

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[111] To borrow the term from Ames (n 67) 456.
[112] Popkin (n 107) 40.
[113] ibid 44.
[114] Bender and others (n 71) 114, 115.
[115] Foucault (n 49).

and applied by a system of power reinforces the power of the system. It stands to follow that in keeping with rhetoric of the educational solutions stemming from the developed world we are contributing to the strengthening and dissemination of this world view. This is the view which as has been discussed so far is being put forth by the international bodies and the implementing organisations such as the OLPC either directly or impliedly. Nonetheless, in working toward a more inclusive world order or system of power,   in reconciling ICT4D with the right to education to include the developing world others we must be rid of the fallacy of the one-way knowledge traffic paradigm. This would have to include a multitude of components. The freedom of the community to recognise and identify their own needs regarding education. The recognition of the value and significance of local knowledge as a basis of respect for the local culture which will be affected but will also affect the up to now dominant culture in the process of cultural synthesis. The 'solutions' will stem from developing states to address what they themselves consider to be the local 'problems' which they themselves are striving to address. As the OLPC itself concludes 'regrettably, there is no magic laptop that can solve the educational problems of the world's poor.'[116] Therefore it would appear that although there is potential for the project to circumvent the cultural imperialist traps of ICT4D, it was not an aim of the project itself, but rather an aim of this thesis in order to provide a fair and just alternative to the international law question posed. In reality the OLPC's potential to this end appears to be at a theoretical level and even there it is problematic. It would appear that there is a 'utopian trap' in attempting to find a remedy and reinstate justice for the third world peoples in satisfaction of the TWAIL method, one which leads to more imperialism which is fundamentally anti-TWAIL and which is constantly being fought.

The following chapter is a last attempt to demonstrate whether the OLPC project can provide an alternative to cultural imperialism as a form of neo-colonialism exercised through ICT4D on the developing world. It is a study of the OLPC's biggest deployment in the country of Uruguay, which has been heralded as a successful deployment, one to be studied.

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[116] ibid.

Chapter 7: The OLPC paradigm and Cultural Imperialism

7.1 Introduction

The aim of this chapter is to look more closely at the largest implementation of the OLPC project which took place in Uruguay. It begins by setting out the background of this initiative which was taken by the Government of Uruguay and implemented in a top-down manner. This unique deployment will then be described and the specifics of it will be related to the OLPC, and ICT education projects. The objective of this chapter is to demonstrate how much of the rhetoric surrounding ICT and the OLPC were effected through this specific deployment. Furthermore, to look at how this deployment was received and assessed by the people and education bodies in Uruguay and abroad; in doing so to contribute findings to answering the questions posed by this research. Once again ICT education is considered more holistically in regard to its relationship with globalization and bridging the digital divide, as well as its relationship to empowerment and oppression, as it is a compound subject of research. It assesses the means and results of the measurements, calling attention to the definition of 'empowerment' which this evidences, as a stark contrast to the definition of empowerment provided for in previous chapters. Finally the manner by which ICT education does or does not amount to cultural imperialism will be assessed after the discussion is situated in the context provided for by the rest of the chapter, and certain conclusions will be drawn before the next chapter which is devoted to drawing conclusions pertaining to the overall research question.

7.2 Uruguay CEIBAL

Although the OLPC project designed a laptop for the developing world, envisioning a country with little or no resources available to or for children for learning, let alone operating a laptop, Uruguay was a country which had the financial resources to be making a wider ICT investment. In fact the Uruguay paradigm is truly unique in that it is a country that built an entire ICT network and it involved a great number of people in either a paid or volunteer capacity,[1] performing

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[1] For example the volunteer group Red de Apoyo al Plan Ceibal (Support Network for Plan Ceibal) <http://rapceibal.blogspot.gr/> accessed 5 January 2019.

maintenance, training or other facilities. It therefore combined a variety of new ICT features in the community and engaged a multitude of people in it, also creating new employment positions. The volunteers role is vital in 'helping to 'fill in the (inevitable) gaps' in official initiatives, and through empowering large numbers of people and local communities who become important agents of both support and change'.[2] Furthermore, the literacy rate in Uruguay was very high at about (98%) as most children complete primary education.[3] The cost of the project was less than 5% of the country's education budget with a sum of $260 per child, this includes maintenance, training and connectivity expenses.[4]

Uruguay was the first country in the world to make a large order of XO computers and provide one laptop to every primary-school student from 1st to 6th grade (395,000 children) in 2332 public schools.[5] This national project was called CEIBAL Conectividad Educativa de Informática Básica para el Aprendizaje en Línea, which is translated as 'Basic Informatic Educational Connectivity for On-Line Learning'.[6] The acronym was chosen for the Ceibo tree and flower which is the national Tree of Uruguay and the OLPC XO laptops used, were nicknamed 'ceibalitas'. It was incorporated into a broader ICT equity program, entitled Programa de Equidad para el Acceso a la Información Digital (PEAID), which is translated as 'Access to Digital Information Equity Program'.[7] This initiative of President Vázquez was based on addressing existing inequalities regarding access to ICT's and was 'presented as a project for social inclusion'.[8] It was the opinion of President Vázquez that as well as the positive effects it was expected to have in the direct application of the project, namely the school, the aim was also 'to broaden society's access to information and knowledge.'[9]

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[2] Michael Trucano, 'What's next for Plan Ceibal in Uruguay?' *EduTech* 6 October 2011 <http://blogs.worldbank.org/edutech/planceibal2 > accessed 5 January 2019.
[3] Christoph Derndorfer, 'OLPC in Uruguay: Impressions of Plan Ceibal's Primary School XO Laptop Saturation' *Education Technology Debate* 12 October 2010 <http://edutechdebate.org/olpc-in-south-america/olpc-in-uruguay-impressions-of-plan-ceibal/> accessed 5 January 2019.
[4] Verónica Psetizki, 'Laptop for every pupil in Uruguay' *BBC News* 16 October 2009 <http://news.bbc.co.uk/2/hi/technology/8309583.stm> accessed 5 January 2019.
[5] <http://one.laptop.org/map/uruguay> accessed 5 January 2019.
[6] <http://wiki.laptop.org/go/OLPC_Uruguay/Ceibal> accessed 5 January 2019.
[7] ibid.
[8] Lucía Pittaluga and Ana Rivoir, 'One Laptop per Child and Bridging the Digital Divide: The Case of Plan CEIBAL in Uruguay' (2012) 8(4) Information Technologies & International Development 147.
[9] Dr. Tabaré Vázquez 'Digital Democracy' (2009) Americas Quarterly Connectivity and the Digital Divide <www.americasquarterly.org/node/370> accessed 5 January 2019.

In this sense, namely access, the deployment is very characteristic of an ICT project. It was also to be combined with initiatives of e-government.

In terms of the country's infrastructure, electricity and connectivity were made available to all schools and WIFI hotspots were made readily available to the public. A collaboration with ANTEL, Uruguay's largest telecommunications (government-owned) company provided the internet connectivity at a subsidized price. Plan Ceibal also has a programme broadcast on a cable channel, entitled Canal Ceibal demonstrating how to use the XO's for learning and videos of which are posted on its YouTube Channel.[10] An NGO was also started by volunteers in order to develop educational content in the form of Sugar activities.[11] This organisation also holds workshops on a variety of topics and has contributed to the educational software content of the XO.

7.3 Deployment Description

Implementation of the project began in Uruguay in 2007 and by the end of 2009 laptops were distributed to every child in public primary schools in four stages with rural communities being first and the capital last; this was then extended in 2010 to include secondary schools, as students brought computers they had received in primary school with them. It was implemented through an interinstitutional co-operation between the Presidency of the Republic, the Technological Laboratory of Uruguay (LATU), the National Public Education Administration (ANEP), the Central Directing Council (CODICEN), the Primary Education Council (CEP), the Ministry of Education and Culture (MEC), the Agency for the Development of Electronic Government and the Information and Knowledge Society (AGESIC), the National Research and Innovation Agency (ANII) and the National Telecommunications Administration (ANTEL).[12]

'The CEIBAL project, which is financed by the Presidency of Uruguay, is being implemented in cooperation with several national institutions, United Nations Country Team (UNCT) and

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[10] <www.youtube.com/user/canalceibal> accessed 6 January 2019.
[11] <http://wiki.laptop.org/go/Ceibal_Jam> accessed 6 January 2019.
[12] UNESCO, Plan CEIBAL in Uruguay from Pedagogical Reality to an ICT Road Map for the Future, October 2011.

UNESCO.'[13] The Ceibal Research Center whose mission is 'To recognize, foster and support excellence in research promoting the development and use of scientific knowledge in areas of knowledge-integrating social inclusion, education and technology',[14] is not only a body which has been set up to provide guidance to the Ceibal project itself but also to provide such guidance to other countries looking to learn and perhaps adopt this or similar models of education. It does so in the form of implementation blueprints, the lessons they learned as well as their experience in bidding for the computer.[15]

In April 2012, the World Bank sponsored a study tour for policymakers[16] from Armenia and Russia and a World Bank education sector team to visit Uruguay in order to 'exchange practical lessons, insights and perspectives related to the use of information and communications technologies (ICT) in education between policymakers and practitioners'.[17] The program in Uruguay is heralded as a very large success and has led the country to be 'seen by many as a world leader in ICT implementation in the education sector'.[18] The study visit was made up of knowledge exchange meetings and onsite visits to schools to see the implementation. The World Bank team identified four main challenges that the Uruguay and Argentina face in their respective ICT education programs. These being first that the teachers need to have more involvement with the pedagogical content and that the plan be handled by the educational system. Second, that in 2012 both projects were viewed as not having demonstrated positive impacts yet, although they were anticipated to do so in terms of offering better learning opportunities and accessing to the students and their families. The third observation made by the World Bank team was that more

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[13] <www.unesco.org/new/en/brasilia/about-this-office/single-view/news/unesco_launches_guidebook_on_the_use_of_computer_for_parents/> accessed 6 January 2019.

[14] <www.fundacionceibal.edu.uy/en/page/mission> accessed 6 January 2019.

[15] Anna Prusa and Elizabeth Plotts, 'Uruguay's Plan Ceibal: Can Laptops in the Hands of Primary School Students Reduce the Digital Divide, Improve Education, and Increase Competiveness?' (George Washington University Capstone Project 2011) 32.

[16] The World Bank has also helps co-ordinate an ideas festival where educators participated across Latin America as well as an annual global symposium on ICT and education issues for senior policymakers in South Korea.

[17] South-South Knowledge Exchange and Study Tour on the Use of ICTs in Education. Uruguay – Armenia – Tatarstan (Russia) - Argentina <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTEDUCATION/0,,contentMDK:23387111~pagePK:210058~piPK:210062~theSitePK:282386,00.html> accessed 3 January 2019.

[18] ibid.

innovations need to be made in order to make the ICT accessible to children with special education needs at school. Finally to provide logistic and technical support to both students and teachers as well as to supply the necessary infrastructure such as electricity and connectivity to the schools particularly those in rural areas. These observations demonstrate what the ICT sector considers a successful program. It also sets out what constitutes a 'world leader' in this sector. It is not that there are not positive things to be said about the Uruguayan example, and a lot of hard work and investment which has actually produced some wonderful results as can be seen on the various websites cited above. However, in looking at these observations there is an extreme antithesis in the portrayal of the project which comes to the surface, that is, if the example were being evaluated from an educational or pedagogic perspective perhaps it would not be characterised as such a positive example. Having presented this ICT educational project as role model to set an example for others, the first two challenges have a lot to say as to the relationship between education and ICT education. The latter being constructed by policy-makers without knowledge and input by those who are trained and entrusted with this office, and have a certain amount of experience to offer. Where the teachers are excluded, there is very little hope to mention those directly concerned who are the children themselves and who are viewed in this model, not as empty vessels but a market. The teachers thus have to be trained in both this new tool and this pedagogic approach, which have to be absorbed and entrenched in the educational system. When this is coupled with the second observation that although the specific project was being implemented since 2007 and in the year 2012 Uruguay was a leader despite the point that there were only positive impacts which were to be anticipated is confusing. However, the latter two observations remind us that this perspective is representative of what the World Bank deems necessary and beneficial in education, as the next two points are advice on how to make the market as wide as possible both in terms of not excluding any groups of children as well as in terms of the expensive parameters which are an entire prerequisite market of infrastructure and maintenance to sustain this evolving technological investment. This approach is only troublesome if the interest is in the children and the effects of a technological tool on their educational experience with any and all repercussions that this entails. However, the World Bank has clear financial interests which it is furthering, along with other international

organisations, as has been addressed in previous chapters. These financial interests are of the powerful Western states they represent and the policies which they promote are supportive of these interests which are hegemonic and undemocratic. The World Bank sponsors dialogues amongst the promotion of such notions but does not sponsor dialogues with those directly involved in education to produce an empowering engagement with it. In embedding this specific power construct into a pedagogic approach to be implemented and shared around the developing world, is the basis on which this thesis argues that it is a form of cultural imperialism. Furthermore the use of education as the means by which to embed and instill this Western power construct is the basis for education being viewed as a tool of oppression within this present thesis.

Regarding the example of Uruguay it has been said that 'its design and implementation have been adapted to the Uruguayan context'.[19] According to this deployment, the differences being that this ICT initiative was more than an ICT initiative for education, and therefore internet connectivity and engaging with computers was aimed at involving more than the just children and educators, but parents and all other members of Uruguayan society. This report also says that the teachers were recognised as having a central role rather than a secondary role as the OLPC project is viewed as taking, and that on this basis much emphasis was placed on teacher training. Lastly a difference cited is that Plan Ceibal considered a multitude of factors for the implementation of the social inclusion policy, which amongst others were additions to the software content by e-learning through the internet, software development, training and technical support, as well as other features mentioned above. However, despite these aspects being based upon cultural aspects of the 'Uruguayan context' they are more characteristic of large-scale ICT reforms made in accordance with the recommendations of international bodies embodying Western values regulating this form of development, as is discussed in more detail below.

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[19] J.E. Hinostroza, Ignacio Jara and Mario Brun, 'Case study: Uruguay' in Robert B. Kozma (ed) '*Transforming Education: The Power of ICT Policies*' (UNESCO France 2011) 139.

According to the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, the internet is an 'important vehicle for children to exercise their right to freedom of expression and can serve as a tool to help children claim their other rights, including the right to education'.[20] The Ceibal Plan is specifically mentioned within the report as a good example of internet promotion through education.[21] This use of the internet was viewed by the Committee on The Rights of the Child as particularly significant for children in areas where access to school is limited.[22] Yet as was set out in the previous chapter, the promotion of the internet may be for far greater interests than that of accessing and exchanging information for educational purposes, the cost of which may be more detrimental than beneficial.

7.4 Empowerment and ICTs

The term empowerment is often associated and used in the realm of ICT. The association which is usually made is that the implementation and use of ICTs will produce empowerment in societies.[23] The societies targeted are usually those of developing countries which governments and International Agencies fund the various ICT projects carried out therein.[24] Thus the OLPC in claiming empowerment as its objective, as well as its main target group being the developing world offers nothing new in either of these two respects. In fact it has been described as being shaped by 'the digital utopian beliefs of project founder Nicholas Negroponte (1995), former director of the MIT Media Lab, and the do-it-yourself learning philosophy of constructionism developed by Seymour Papert (1980, 1993).'[25] This latter learning philosophy is the one element that can be said to set this project apart from other ICT projects.

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[20] Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue in the Human Rights Council Seventeenth session Agenda item 3 Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development (16 May 2011) A/HRC/17/27.

[21] ibid.

[22] UN Committee on the Rights of the Child, General comment No. 11 (2009): Indigenous children and their rights under the Convention [on the Rights of the Child] 12 February 2009, CRC/C/GC/11.

[23] Bernd Carsten Stahl, *Information Systems: Critical Perspectives* (Routledge 2008) 90.

[24] ibid.

[25] Mark Warschauer, *Technology and Social Inclusion Rethinking the Digital Divide* (MIT Press 2003).

As the article by Villanueva-Mansilla, and Olivera[26] about the OLPC project in Peru[27] points out, the OLPC project is in conflict with both the intent and capabilities of the Peruvian educational system, which, may not be limited to this case but maybe so for many other developing countries which it is aimed at. The article differentiates between a learning outcome and an education outcome, as set out below. It states that the capabilities of the educational system work toward achieving a collective goal which is measured as a collective result. The goal in terms of Peru is set out as such, 'to guarantee baseline educational capabilities for all who attend school, and to integrate children into society as citizens.'[28] Contrary to this the article states that the OLPC project focuses on empowering the individual, therefore, the intent is individual, 'and the achievement is one of learning only, without consideration of the societal benefits of either integration of citizens or baseline defined achievement'[29] thus the focus is on learning and not education. This differentiation of the empowerment of the individual as opposed to the empowerment of the group is perhaps, as has been suggested in other parts of the thesis, indicative of a Western mind-set. However, this interpretation, of empowerment suggests that individual empowerment and group empowerment are mutually exclusive. Whereas, in the present it is argued that the individual is empowered to attain a 'critical consciousness'[30] without precluding collective empowerment through cooperation not competition.

The OLPC project was also cited in the 2013 UNESCO Global Report Opening New Avenues for Empowerment ICTs to Access Information and Knowledge for Persons with Disabilities[31] as an educational project which included special education schools from the outset. As is set out in the forward by the Director General of UNESCO Irina Bokova, 'To empower persons with disabilities is to empower societies as a whole – but this calls for the right policies and legislation to make information and knowledge more accessible through information and communication

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[26] E. Villanueva-Mansilla, P. Olivera 'Institutional Barriers to Development Innovation: Assessing the Implementation of XO-1 Computers in Two Peri-Urban Schools in Peru' (2012) 8(4) Information Technologies & International Development (Special Bilingual Issue: Research on ICT4D from Latin America) 177.
[27] Executed by the Ministry of Education, through its Directorate General of Educational Technologies (DIGETE)
[28] Villanueva-Mansilla and Olivera (n 26) 181.
[29] ibid.
[30] Paulo Freire, *Pedagogy of the Oppressed* (Penguin Books 1996) 183.
[31] (UNESCO Paris 2013) 95.

technologies.'[32] The inequities which were being attempted to be overcome, therefore were not limited to the gap between socio-economic groups but also for children with special needs. Though certain adjustments needed to be made to the computer in order to better provide for these special needs.[33] This example of empowerment is part of the wider merging of *access* to technology with *access* to education. For the purposes of this thesis, though it is accepted that access to education is important, it is not accepted that one necessarily brings about the other.

The increasing trend of ICT projects being viewed as empowering can be seen as part of the development rhetoric which market Western imperialism. This is a very potent marketing ploy since power is hard to resist. Particularly when it is being supplied by those who have kept it to themselves for so long. It is an offer which masterfully ties the victim up with a rhetoric that is not easy to escape. The offer of power through emancipation and empowerment means that the developing state buys the means through which it is offered empowerment. Thus accepting the burden of the lack of power as if the developed state is simply a neutral observer. The developed state then has the burden of responsibility lifted from it, the newly acquired financial power of having expanded the ICT market further in the world and thus strengthening the power order that already exists.

7.5 The Digital Divide
The introduction of technology is not something new to our lives. In terms of computer use, there is a marked increase in its use in the developing world in the last few years, as is the increase in ICT education. It appears that as development programs are used to effect imperialism, education has been given the further purpose of bridging the digital divide, particularly focusing on the school setting.[34] This divide is not confined to the wider context of nations and the developed/developing dichotomy but within states between the individuals who do access and use digital technology with those who do not. This too has not escaped the proposed assumption that it is explained according to financial factors affecting accessibility, even though it has been

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[32] ibid.

[33] E. Baran, 'A Usability Study with Children: Testing OLPC (One Laptop per Child) XO (Proceedings of Society for Information Technology & Teacher Education International Conference, Chesapeake, VA 2009).

[34] Warschauer (n 25) 1555.

shown that other factors may explain this difference[35]. Mark Warschauer addresses this point in his book[36] encouraging us to examine the degree of digital inclusion rather than readily accept the access dichotomy. Nonetheless, most of the literature concerning the digital divide is focused on access, and the other parameters are not mentioned. Although there is a development in the literature in reference to this trend, with a more inclusive definition and understanding of engagement[37] with ICT.

In terms of the Uruguay example the digital divide to be overcome was not only in the developed world, but also to unite the villages in the rural parts of the country with the capital Montevideo, which was the reason why the project began in the rural areas first and was implemented in the capital last. According to President Vasquez 'overcoming the digital divide is more than just a matter of technology, budgets or infrastructure. It is also about creating a culture of citizenship with clearly defined rights and responsibilities.'[38] This kind of argument is inherently common when it comes to ICT education programs and development programmes with the aim to create a neo-liberal democratic society. It is also part of the rhetoric set out in the eLAC 2010 Plan of Action as well as the subsequent 2015 version.

7.6 Assessment and Measurement

The educational reforms regarding ICT's and the setting of goals to that end at the international level have already been set out in earlier chapters. As the MDG Goal 8: Develop a global partnership for development[39] and the more specific goals targets in the Geneva Plan of Action.[40] Target 2: connecting all primary and secondary schools to ICT, which is described by the UNESCO report[41] as a precondition of Target 7: Adapt all primary and secondary school curricula to meet

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[35] ECLAC, 'Road Maps Towards an Information Society in Latin America and the Caribbean' July 2003 LC/G.2195/REV.1-P at 11.

[36] Warschauer (n 25).

[37] Neil Selwyn, 'Reconsidering Political and Popular Understandings of the Digital Divide' (2004) 6(3) New Media Society 341.

[38] Dr. Vázquez (n 9).

[39] United Nations 2000.

[40] Peter Wallet and Beatriz Valdez Melgar 'Information and Communication Technology (ICT) In Education In Sub-Saharan Africa A comparative analysis of basic e-readiness in schools' Information Paper No. 25 (UNESCO August 2015).

[41] ibid.

the challenges of the information society, taking into account national circumstances. However, there are also regional efforts made in the field of ICT specifically to the region of the world where this chapter is focused. The Comisión Económica para América Latina y el Caribe (CEPAL) Economic Commission for Latin America and the Caribbean (ECLAC) also incorporated ICT in its agenda in 2000 'which states that information and communication technologies (ICTs) are tools for economic development and social inclusion'.[42] In 2005 it set out the Action Plan for the Information Society of Latin America and the Caribbean (eLAC) which specifically associates ICT with education. According to the Action plan, the line of action was to develop and implement ICT in order to provide an inclusive education. The priority was to 'provide universal access to ICT for education and expand their use in this field' which was specifically set out in four goals (23-26).[43] Both the OLPC deployment in Peru and the Ceibal implementation in Uruguay were specifically mentioned as new initiatives undertaken in fulfilment of the plan as set out in the December 2009 evaluation.[44]

The monitoring body created due to a lack of ICT statistical data was the 'Observatory for the Information Society in Latin America and the Caribbean' (OSILAC).[45] Statistical harmonisation was key to the objectives of the monitoring body as was the support to countries in order for the statistics to be collected by the countries. The monitoring and analysing of these statistics was also among the objectives in assessing whether countries were taking steps towards becoming 'information societies'.[46] These objectives and their implementation differ,[47] as not all countries have supplied statistics, and the statistics have been gathered with chronological differences rendering them incomparable, to name but a few examples. Even when the statistical data is available, Winocur & Aguerre argue that it is analysed 'without considering the social

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[42] <www.cepal.org/es/proyectos/elac2020> accessed 6 January 2019.
[43] 'Plan of Action for the Information and Knowledge Society in Latin America and the Caribbean (eLAC2015)' Third Ministerial Conference on the Information Society in Latin America and the Caribbean (Lima, 21-23 November 2010) DDR/1(eLAC.4) at 13.
[44] Rosalía Winocur & Carolina Aguerre, 'A paradigmatic case: the 'Plan CEIBAL' (2011) 5 Infoamérica 59, 60.
[45] <www.cepal.org/cgi-bin/getprod.asp?xml=/socinfo/noticias/paginas/8/44988/P44988.xml&xsl=/socinfo/tpl-i/p18f-st.xsl&base=/socinfo/tpl-i/top-bottom.xsl> accessed 6 January 2019.
[46] ibid.
[47] Winocur & Aguerre (n 44) 61.

representations nor the symbolic aspects of the experience of appropriation that are key to evaluate its influence in the development of cultural, emotional and cognitive of the subjects from the point of view of human development.'[48] It is difficult to make educational assessments because 'Plan Ceibal has no educational baseline against which it can measure educational results.'[49] It is argued by the authors of this report that it is only when the primary school students reach university level will educational assessments of social and digital impact be possible by digitally skilled markets. This would appear to offer a reasonable amount of time on the basis of a sizeable amount of the population being in the position to afford to be in the education system up to university level, which would not be indicative of the developing world. Furthermore, the author's interest in digital markets is not one shared in the present. Certainly if the assessment of empowerment is being carried out in relation to this factors, the findings even at the university level will be of limited relevance.

In order to evaluate and monitor Plan Ceibal's progress the state gathered data from a national survey together with in-depth interviews with children and their families and published its first report on the basis of those finding in 2009.[50] The positive impacts noted were on children who did not have previous access to a computer and the internet. On people who had an interest in learning particularly in a school setting. In the same spirit, positive impacts were also found in communities looking to make the most out of the challenge, and which had a support system. The feeling that new opportunities were being made available to society benefited it in general. Moderate levels of impact were noted on those who had previous contact with computers, or those who were more passive or only moderately supported. Thirdly those who could not use the technology to its full potential, including those unaware of its potential. Finally negative or no impact at all was identified for children who did not possess an XO in a setting where the other children did, due to damage to the machine. Those who used the device excessively with no supervision. In contexts where the XO is used mainly for recreational as opposed to learning

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[48] ibid 62.
[49] Prusa and Plotts (n 15) 24.
[50] Ana Laura Martínez, Diego Díaz and Serrana Alonso, First national monitoring and evaluation report on Plan Ceibal social impact, 2009 Executive Summary (Plan CEIBAL, Montevideo, Uruguay 2009).

purposes.[51] It is interesting that this first state progress report is focused on a narrow interpretation of the technological impact, rather than the educational aspect of the Plan. Nonetheless this can be explained as the state was looking to assess the implementation aspects and to remedy any problems related to this. Although the validity of the experiences depicted within this study are not doubted some of the interpretations seem questionable, when they seem to be reinforcing stereotypes surrounding technology such as requiring close adult supervision and being more about learning and less about fun. As has been discussed elsewhere in this thesis, the value of play has gained increasing acceptance in education has become less demonised in the field of pedagogy. Such stereotypes as mentioned above suggest that less learning is occurring.

The Institute for the Study of Labour (IZA) in Bonn published a discussion paper[52] to present data on impact on student́ maths and reading scores. The main data came from a group of students who were tracked from 2006-2009 (third grade to sixth grade). The findings indicated that the Plan had no effect on maths or reading. These results were interpreted as being in line with literature concerned with the assessment of computers on learning,[53] where no effect or a negative effect is found.[54] The report mentions that daily use of the computer was not common amongst all schools and that in its class-use, the computer was used to access information from the internet. These are not offered as concrete explanations in response to the data. The study highlights the importance of teacher training, as it is a feature which has changed in the subsequent years of the Plan's implementation with training having been significantly increased as well as having an additional teacher appointed to each school to train the others in the use of the laptop in their teaching. Furthermore, the report cites a report by Fullan and Langworthy[55] which emphasises that technology cannot impact learning unless the process of teaching-

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[51] ibid 27.

[52] Gioia de Melo, Alina Machado and Alfonso Miranda, 'The Impact of a One Laptop per Child Program on Learning: Evidence from Uruguay' IZA Discussion Paper No. 8489 (Germany, September 2014).

[53] ibid 8.

[54] J. P. Cristia, P. Ibarrarán, S. Cueto, A. Santiago and E. Severín, 'Technology and Child Development: Evidence from the One Laptop per Child Program' (2012) Inter-American Development Bank IDB-WP-304.

[55] M. Fullan and M. Langworthy, 'Towards a New End: New Pedagogies for Deep Learning' (Collaborative Impact Washington, 2013) <www.newpedagogies.nl/images/towards_a_new_end.pdf> accessed 6 January 2019.

learning is transformed. However, this report talks about a change in pedagogical method and describes the teacher as a facilitator of the learning process. It also is a notion that touches on the constructionism aspect of the OLPC project which has little to do with maths and reading scores. Although the report does accept this argument and leaves the possibility for other cognitive skills to be influenced by the use of this technology. Despite this, the argument for the limited results of ICT education remains, we are reminded that most studies are focused on the developed world where children are more likely to have previous experience with a computer at home. Furthermore, all the studies follow the same methodological approach in the nature and quality of the research design, and not all technologies are the same, rendering comparisons difficult.[56]

The most common means of assessment of an educational system are language and mathematics as we will see below with reference to measurement boards such as PISA. As part of the Ceibal program it has 'implemented the Online Formative Assessment (SEA), which allows online mathematics, language and science evaluations'.[57] It conducts routine assessments of as many as 20,000 students simultaneously and is viewed as a positive feature which enables teachers to conduct comparisons in order to identify problem areas and offer solutions form improvement. In terms of the subject of mathematics, it may not be obvious how a subject which has 'universal truths' may be viewed as culturally imperialistic. Nonetheless even this seemingly neutral subject may not be as innocent as initially perceived. Mathematics, less often viewed as a means of cultural imperialism, though there are critics such as Bishop who argues that it is a 'product of cultural history'[58] where the teaching of what he calls Western mathematics was a process of cultural invasion in colonised countries effected through trade, administration and education. Language, perhaps more often than mathematics is viewed as representative of culture, and Bishop also calls our attention to the language of hierarchy which is also imposed as a means of

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[56] Nina Hansen and others, 'Laptop usage affects abstract reasoning of children in the developing world' (2012) 59 Computers & Education 989.

[57] Antonio M. Battro and Cecilia De La Paz, 'Sustainable Education: Uruguay's Plan Ceibal' (2014) 41 Pontifical Academy of Social Sciences 1.

[58] Alan J. Bishop,' Western Mathematics: the Secret Weapon of Cultural Imperialism' (1990) 32(2) Race & Class 51, 53.

structuring societies based upon function. There certainly is a lot to be said about the English language and its part in colonialism, as well as its continued use and therefore its part in neo-colonialism. The English language is also dominant in world-wide territories of trade and commerce not only territories of land. The imbalance of 'the structural and ideological underpinning of global linguistic hegemony tends to be regarded as legitimate, despite the massive economic and cultural advantages this gives the English-speaking world'.[59] However, despite these observations being a stark example of cultural imperialism, and the case can certainly be made of English[60] being the dominant language in reference to ICTs and specifically with reference to the computer and the internet; it is nonetheless a limitation of this thesis not to be able to focus on this aspect of cultural imperialism in depth. Within this chapter and the thesis generally, there are many references to the language of human rights, and/or international bodies which are using language to impose concepts and hegemonic power structures. The most significant example concerned in this thesis is the language of development. Both in terms of how this language is used to characterise the world as developed, lesser developed and developing (read savage, lesser savage and saviour), but also in terms of terms defining the civilising linear process to achieve development. It is interesting therefore that both language and mathematics are presented as neutral, non-political, culturally unbiased indices to measure educational achievement in children. As well as the specific state provided structure of school in which this specific achievement is meant to take place. It is perhaps a positive criticism that the OLPC with its constructionist empowerment theory seeks to affect the learner's educational experience in a manner which removes these two indices from the top of the hierarchy.

As it has been raised repeatedly in this thesis, the OLPC had initially presented itself as an empowering project, and they had based this attribute of the project on the educational theory of constructionism. Chapter 3 examined the possibility that the project could achieve this empowerment even in cases where the educational system was based on an instructionist

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[59] R. Philipson, 'Language Policy and Linguistic Imperialism' in Thomas Ricento (ed) *An Introduction to Language Policy Theory and Method* (Blackwell Publishing 2006) 10.
[60] Mistakenly in Uruguay the "first 50,000 laptops were delivered with English-language software and not Spanish" Prusa and Plotts (n 15) 19.

system, acting as a Trojan horse[61] and situating the child at the centre of the educational model. However, Cervantes et al, demonstrated that in a field study in Mexico of an ICT education program where the children received either XO laptops representative of constructionism, or Intel's ClassmatePC, which Intel had described as a tool to enhance traditional teaching, a different argument emerged. The results of their study indicated that the ClassmatePC was used for more constructionist purposes than the XO computer, and they concluded 'that the way a device is used depends greatly on its adoption by a community in local context, according to its sociotechnical infrastructure, rather than just the intent of the designers.'[62] This highlights an important point which is that the intention behind any tool, be it educational or other, may or may not be used for those intended purposes. This perspective, however, puts emphasis on the intentions of the party who is not at all part of the process, rather than putting emphasis on the intentions of the user, obliterating the latter's existence and importance; not recognising or seeing the *other*. It is further oppressive to the *other* to make the argument that even in the case where the others intentions are clearly defined and set out, that these can be circumvented and be replaced by a Trojan horse. This criticism is not limited to the OLPC project and has been made in reference to a number of different contexts within this thesis. As it has been argued this is a generally problematic aspect of a culturally limited human rights law regime. The right to education, has certain aspects which provide for the space for the other to exist, as was set out in chapter 2. Nonetheless, when it comes to ICT education we are directing our attention to the designer's/manufacturer's intentions which once again stem from the developed world, irrespective of the intentions and motivations of the developing world which is expected to implement it. This is even the case in projects such as the OLPC which is seemingly 'non-invasive' in that it does not outwardly dictate educational use.

A study carried out by the Australian Council for Educational Research (ACER), with the aim to review the existing approaches of evaluation of the OLPC project globally revealed that there is

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[61] Walter Bender Interview on Radio Open Source 2007 <http://radioopensource.org/one-laptop-per-child/> accessed 6 January 2019.
[62] Ruy Cervantes and others, 'Infrastructures for low-cost laptop use in Mexican schools' (Proceedings of ACM CHI 2011 Conference on Human Factors in Computing Systems, Vancouver, BC, May 2011) 945, 950.

a great disparity amongst the various deployments around the world in terms of their implementation and therefore uniform evidence in order for evaluations to be made and conclusions to be drawn is not readily available.[63] This report, also concludes that the project was at the time of the report, relatively new and this was cited as a reason for the lack of evidence from which one could draw conclusions as to the effectiveness of the project. As there is the benefit of hindsight to examine this argument, it can be said that this was partially true. That is to say there was and is a lack of data for a global assessment of the OLPC project. There is and was a lack of consensus as to the object of evaluation, or rather the educational perspective underlying the project. Therefore, perhaps there is more data available now in terms of measuring PISA (Programme for International Student Assessment) requirements to education such as maths and literacy, but there is an extremely obvious lack of data in measuring the success of constructionist empowerment. That said, amongst the test score data, there are mentions of 'educational and attitudinal impacts on students, effects on teacher-student relations, and impact on the wider community.'[64] But these effects are rarely analysed and given greater weight, other than being mentioned as positive by-products of ICT education projects.

In respect to this incompatible data, it is aptly stated by Coomar and Ryzhov, that the OLPC's mission statement says nothing about improving test scores, and yet almost all the research articles assessing the project in the various countries it has been implemented in have used maths and language scores to draw conclusions as to the efficacy of the project in education. 'The success should have been evaluated through the passion for learning and the ability to learn how to learn for the children and not their test scores.'[65] It does not follow that although the intentions of the designers are focused on, they are then not used to measure the results. Furthermore, the results are not focused on socio-economic and cultural context of the users, and how they themselves define success. The fact that data collection is being encouraged in regards to ICT education is positive. The approach to this, however, is being encouraged along

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[63] Dita Nugroho and Michele Lonsdale, 'Evaluation of OLPC programs globally: a literature review' Australian Council for Educational Research (ACER) Version 4 August 2010 <http://research.acer.edu.au/digital_learning/8/> accessed 6 January 2019.
[64] ibid 12.
[65] Sonika Coomar and Ilia Ryzhov, 'A Short Case Study of the Impacts of the OLPC Project around the World' (Department of Informatics, University of Zurich 2015) 8.

the lines of the same perspective of the creators of the ICT technology, even as this technology is being manufactured progressively more in the developing world. That is to say, the developed world has not only exported ICT education devices to the developing world and created a new 'market'; it is also exporting a pre-defined ICT culture which the developing world is expected to implement.

In Vinas-Forcade and Leuven's article they juxtapose the OLPC's principles and objectives with those of the Ceibal deployment[66] and found that there were differences. Contrary to the OLPC's alleged negative views[67] on pilot programs, staged implementation, and formal evaluation have all been part of the Uruguayan deployment. The Ceibal Plan also extended the one laptop per child to include one laptop per teacher, and in creating an IT –friendly environment outside the classroom, whereas the OLPC only partially had this as an objective since it was more specifically looking at the child's use of the computer rather than the family or society at large. Thus the Ceibal plan is committed to a bridging the digital divide 'by having their laptops effect their households.'[68]

In an article by L. Pittaluga and A. Rivoir[69] which used the annual household survey called 'Encuesta Continua de Hogares (ECH), prepared by the Instituto Nacional de Estadística (INE) of Uruguay, and interviews conducted among relevant local officers and adult persons from households equipped with Plan CEIBAL laptops. The reason for this choice is that it is the most detailed research article on this deployment in the English language which draws much information from the CEIBAL website itself[70] which is mainly in Spanish. As the research is focused on the question of the project bridging the digital divide, the conclusions are positive as they

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[66] Jennifer Vinas-Forcade and K.U. Leuven, 'Environmental Concerns and Parental Participation in Plan CEIBAL The Case of the Pedal Charger' <www.flordeceibo.edu.uy/sites/default/files/1.edu/Vinas-Forcade_Leuven-Environmental%20concerns%20and%20parental%20participation%20in%20Plan%20Ceibal.pdf> accessed 6 January 2019.
[67] Mark Warschauer, 'Plan Ceibal: A Better Designed and Supported XO Laptop Implementation Program' *OLPC news* (6 May 2010) <www.olpcnews.com/countries/uruguay/plan_ceibal_a_better_designed.html#sthash.V8bXQ5qh.dpuf> accessed 6 January 2019.
[68] Vinas-Forcade (n 66) 7.
[69] Pittaluga and Rivoir (n 8).
[70] <www.ceibal.edu.uy/en/institucional> accessed 6 January 2019.

focus mainly on how the project has achieved social inclusion, although it appears that in this article the term is used as representative of access. In respect to learning benefits the use of the computers shows that there is some, and the report also supplies evidence of adults using the computer as well. This scope is limited to such brief mentions and it warns 'If schools fail to fulfil their roles-especially those in the least favoured areas-children may not make the most of the opportunities that this policy gives them through the access to computer and internet connectivity.'[71]

7.7 ICT Education and Globalisation

Globalisation is being furthered by the use of ICT's, and thus it follows by the use of ICT education. The internet has had a tremendous effect on the world in the creation of the Global Electronic Village (GEV), a term based on Marshal McLuhan's term 'global village' in his book 'Understanding Media' in 1964. McLuhan was using it then to describe how human experience is changing as we become aware by the media about events happening in other parts of the world in real-time, which he equated with the human experience of living in a village.[72] It is interesting to note that in a later interview he clarified his position that in the creation of these village-like conditions it is not uniformity which is created, rather 'the more discontinuity and division and diversity. The global village absolutely ensures maximal disagreement on all points.'[73] The significance of this point of view is that it highlights an effect of globalisation which is overlooked or denied when we discuss people being 'brought together' by globalisation. It is also a denial of the violence inherent in this social reconstruction of the world; one so apparent to the author and yet so often misinterpreted by those using the term.

The term globalisation, as has been discussed earlier in this thesis, is one which can be defined in a number of ways, depending on the perspective from which one is examining it, be it culture, economics or politics. In this thesis, globalisation is a term viewed as relating to all three and yet

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[71] Pittaluga and Rivoir (n 8) 158.

[72]Marshal McLuhan, *Understanding Media The Extensions of Man* (McGraw-Hill1964) 34.

[73] Marshall McLuhan, Gerald E. Stearn (ed), *McLuhan Hot and Cool: A Primer for the Understanding of McLuhan* (Mass Market Paperback 1968) 272.

emphasizing individual aspects as they relate to the various parts of the thesis. According to the World Health Organisation (WHO), chosen to be representative of one of the International Law institutions, and yet not directly one focused on economic policy unlike the World Bank:

> Globalization, or the increased interconnectedness and interdependence of peoples and countries, is generally understood to include two interrelated elements: the opening of borders to increasingly fast flows of goods, services, finance, people and ideas across international borders; and the changes in institutional and policy regimes at the international and national levels that facilitate or promote such flows. It is recognized that globalization has both positive and negative impacts on development.[74]

This highlights the aspect of 'facilitation' which is expected on the part of States in order to not put up barriers to policies which are being imposed on them, and as such reducing the role of the State, to an economic surrender. This undermines democracy at the state level in terms of not being part of the policy-making procedure, taking on the role of simply implementing such policies. This undermining of democracy is extended down to citizens who are not participating in the democratic process of influencing the decisions and policies which their respective countries are being told to implement. The international institutions which are making and imposing the economic policies are not themselves democratic or democratically run with limited accountability and transparency.[75] They are also subject to the influence of political lobbying which is in fact representative of the financial interests of large corporations and wealthy individuals who have the financial power to further their interests.[76] That is not to say that this lobbying takes place directly but certainly influences the heads of state participating in these various international bodies, which further limits the accountability and transparency of these institutions. It is important to note that despite the complicity which is imposed by the influence of the international organisations, the developing states do not have the bargaining power at any

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[74] <www.who.int/topics/globalization/en/> accessed 6 January 2019.
[75] Robert A. Dahl, 'Can international organizations be democratic? A skeptic's view' in Ian Shapiro and Casiano Hacker-Cordon (eds) *Democracy's edges* (Cambridge University Press 1999) 19; a differing view is put forth in the following chapter by James Tobin, 'A comment on Dahl's skepticism' 37 who argues that a lack of democracy is beneficial in international institutions.
[76] The political system of the United States is a prominent example of this.

stage, from the policy making to the rule imposition to resist the force. Surely this version of 'complicity' is not enough to make the argument that developing states are democratically facilitating an economic which hinders their development.

In Roberts's article[77] he examines two opposing views of globalisation of Thomas Friedman and Naomi Klein in their corresponding books, The World is Flat[78] and The Shock Doctrine[79]. Friedman, is in favour of globalisation and in his book argues that this description of the world as flat refers to 'flat playing field' he perceives the world to be. It is a world where Milton Friedman's laissez-faire capitalism is the way of the flat world, and in order for people to keep up and benefit from this capitalist schema is to get educated in order to have the competitive edge in the market. Klein, as discussed earlier in this thesis has a very different opinion of globalisation and sets out in her book to describe with particular reference to disaster capitalism, the means by which markets and barriers to free-trade are broken down to be replaced by predatory investors creating their self-serving markets. Roberts finds that the two authors raise common points, despite their very opposing views. The central one of which is that national economies have been radically affected and altered due to neo-liberal policies which set about to do so.[80] As both of these authors are writing from an American perspective and in examining it, they arrive at a further point of agreement, which is that globalisation is not necessarily beneficial to all Americans. Klein's analysis of globalisation, through shock and awe tactics is very aware of the element of conflict, where physical military force is used to impose economic policies on resistant states. Whereas Friedman, acknowledges the element of conflict, as an aspect of globalisation which must exist in order for it to be successful, and for America to be successful within it, he wants it 'to be regarded by Americans as war.'[81] Robert's demonstrates that both authors are proponents and opponents of globalisation, and acknowledge that globalisation is not a game played on a level playing field with an equal set of rules abided by all. 'It's not a game, the rules

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[77] Geoff Roberts, 'Tug of War: Opposing views on the processes of globalization' (2008) 1(2) International Journal of Social Inquiry 69.

[78] Thomas Friedman, *The World is Flat* (Farrar, Straus and Giroux 2005).

[79] Naomi Klein, *The Shock Doctrine* (Penguin Books 2007).

[80] Roberts (n 77) 78.

[81] ibid 19.

are made to be broken and war has become an acceptable means of imposing neo-liberal processes on the hapless nations stunned by 'shock and awe'.'[82] Roberts uses this point of agreement and emphasises it as such, in the hope that the detriments of this element of conflict will be acknowledged and will serve as lessons to at the least curb the enthusiasm of being repeated. It certainly helps to make the argument that violence is not only part of the world order but also part of what maintains and/or changes the world order, therefore there is a great significance in recognising its existence.

Economic integration is a very significant aspect of globalisation; and in furthering this feature it is recognised that ICT has played an important role in it. The 'global' feature of globalisation, however, is a construct. As Jimmy Carter is quoted as saying in 2001 'I think that globalization, as defined by rich people like us, is a very nice thing, because you're talking about the Internet, about cell phones, about computers. This doesn't affect two-thirds of the people in the world who are living on less than $2 a day. They are never touched positively by globalization.'[83] Since 2001, there has been an increase in the number of people who are touched by ICT's and yet it is a vital point for us to retain that the term globalisation does not apply to everyone. The evidence of which exists in the numbers of people living in poverty, both indirectly in terms of their political rights and directly in respect of their socio-economic rights.[84] 'Sometimes when people talk about globalisation they confuse the means which allow greater economic integration – electronic communications and the internet- with the thing itself.'[85] The thing itself according to George is 'the latest stage of capitalism and the political framework that helps it thrive.'[86] In that sense, the effects of globalisation are truly global in that they do affect everyone. The effect on the wealthy may be to increase their wealth whereas the effect on the poor may be to increase or perpetuate their poverty.

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[82] ibid.
[83] UNESCO, Teaching and Learning for a Sustainable Future Programme <www.unesco.org/education/tlsf/mods/theme_c/mod18.html> accessed 6 January 2019.
[84] For a more in depth analysis of this point see Thomas Pogge, *World Poverty and Human Rights: Cosmopolitan Responsibilities and Reform* (Polity Press 2002).
[85] Susan George, 'Another World is Possible If..' (Verso, 2004) 12.
[86] ibid 11.

There appears to be a close intertwined relationship between capitalism, imperialism, and international law, and it is a basic argument amongst TWAIL scholars that this 'accounts for the fact that it has always disadvantaged Third World peoples, especially its subaltern groups.'[87] It is the aim of this thesis to demonstrate how this argument includes education. As we saw above, there are a number of ICT educational goals which are set out by the various international bodies, which once again are linked to development. The claim that was specifically identified and attributed to the OLPC project, in as far as ICT being the proposed solution, or a significant part of it, for the education problem, which will positively affect development, is not one which originates from the OLPC organisation. It is in fact, part of a much wider, powerful and influential international agenda. The development argument where the developing world in its child-like state shall progress to the developed state following the evolutionary, linear globalisation path to adulthood. This is 'essentially a discourse of power and subjugation',[88] as it is not a developmental model built upon an inclusive discourse it is 'Western hegemony and dressing it up as a new ubiquitous force in global development'.[89] According to Ya'U the resurgence of imperialism which is being imposed by the international bodies as part of the globalisation process effected by ICT's 'is represented by knowledge dependence'.[90] This representation of knowledge is based upon a construct which connects knowledge to development, and hence in this argument underdevelopment is based upon a lack of knowledge. This argument is set out by Schech[91] who demonstrates how the World Bank had taken it upon itself to become the knowledge bank by an initiative named the 'Global Development Gateway'[92] to promote ICT for

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[87] B.S. Chimni, 'Capitalism, Imperialism, and International Law in the Twenty-First Century' (2012) 14 (1) Oregon Review of International Law 17.

[88] Catherine Odora Hoppers, 'Globalization and the Social Construction of Reality: Affirming or Unmasking the "Inevitable"?' in Nelly P. Stromquist (ed) and Karen Monkman (ed), *Globalization & Education; Integration and Contestation Across Cultures* (Roman & Littlefield 2014) 104.

[89] ibid.

[90] Y.Z Ya'U, 'The New Imperialism and Africa in the Global Electronic Village' (2004) 31(99) Review of African Political Economy 11, 12.

[91] Susanne Schech, 'Wired For Change: The Links Between ICTs And Development Discourses' (2002) 14(1) Journal of International Development 13.

[92] This has since become an independent entity with the mission to empower 'practitioners, governments, and citizens with the knowledge they need to improve lives. We co-create information solutions and cultivate skills to turn information into lasting results'. <www.developmentgateway.org/about/> accessed 6 January 2019.

development. She does not attribute this argument to the World Bank, but rather to the Modernization School of Development of the 1960's which held and promoted the vision of the Western state as an idealised evolution of economic, social and political development which the developing world desired and could attain through the process of communication in order for those ideas to be attractive and effective.[93] 'Modernization theory did not notice imperialism and colonialism as significant variables in the condition of underdevelopment.'[94] It simply regarded underdevelopment as failure on the part of the underdeveloped to possess the necessary attributes to achieve it. This vision which Mutua has described with his Savage-Victim-Saviour analogy which is common in human rights law discourse and is promoted by international bodies, is one which is also embedded in ICT discourse particularly when it is presented as being part of a linear path to development. Uruguay's president Vasquez stated that he has argued that 'development is a right, not a privilege. That is why I have focused on creating a twenty-first century educational system'.[95] It would appear that the ICT educational project was in fact a means of Uruguay following the path to development.

As Escobar reminds us, from the time the World Bank defined poverty as an insufficiency of income, specifically annual per capita below $100 in 1948, suddenly two thirds of the world were transformed into poor subjects whose problem was to be solved by economic growth.[96] This monetary definition is then carried forth to the definitions of developed and developing as seen in chapter 4. Furthermore, this narrative has the effect of situating the problem in the developing world and the solution in the developed world, thus taking on the roles of the savage and the saviour. In terms of ICT there is a knowledge deficiency fallacy built, which situates knowledge in the developed world, as if it is the sole possessor. Schech raises an interesting point that all the well intentioned programmes looking to bring ICT technology to the developing world, are perpetuating this perception when it is left unaddressed. The OLPC project certainly fits this

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[93] Schech (n 91) 15.
[94] Susanne Hoeber Rudolph, 'The Imperialism of Categories: Situating Knowledge in a Globalizing World' (2005) 3(1) Perspectives on Politics 5, 9.
[95] Dr. Tabaré Vázquez (n 9).
[96] Arturo Escobar, *Encountering Development The Making and Unmaking of the Third World* (Princeton University Press 1995) 24.

depiction, as it does not address this question at all, and takes on the saviour rhetoric in its mission statement. 'While education is the goal, the OLPC strongly believes that technology is the, best, perhaps only mechanism to close the educational and digital gaps between LDCs and developed countries.'[97] It is not simply an exportation of the means through which one accesses knowledge, the knowledge content is also to a great extent supplied by the West[98] or perhaps just by presenting it without attribution to its source, thus creating this image of being the source of knowledge. This is not to say that cyberspace and e-learning are solely contributed to by the West, nor that technological mediums have not been used for the transmission of knowledge which has been beneficial or even been the medium for emancipation and resistance (Zapatista Army of National Liberation, the Arab Spring movement being examples of that). There is much evidence, however, that ICT empowerment as it stands will be limited or resisted, as wealthy interests are setting a biased and oppressive basis for it in the developing world.

7.8 ICT Education and Cultural Imperialism

In reading opinions of various members of the Uruguayan government, as well as several business leaders at a conference held by the AS/COA (American Society) (Council of the Americas) in August 2010, entitled Uruguay: Innovation and Social Development,[99] the praise for the country in terms of social and economic development viewed as stemming from this technological pedagogy was laden with the development rhetoric of international bodies as set out above. President Mujica stated that 'A unique characteristic of the markets is to encourage teaching of innovation techniques to apply them into development.'[100] Plan Ceibal has most definitely advanced Uruguay in terms of factors such as the country's GDP etc. however, when education and development are so closely associated with financial goals and evaluations, as well as the perceptions of what accounts for poverty and social exclusion and how it can be alleviated, then we ought to bear in mind that there are strong financial interests of the developed world

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[97] J. Camfield, A. Kobulsky and J. Paris, 'A Report Card for One Laptop per Child Closing the Digital Divide via ICTs and Education: Successes and Failures' IAFF 229 (Multidisciplinary Seminar in Science Technology and Global Affairs, May 2007) 24.

[98] For a strong demonstration of this argument see Ziauddin Sardar (ed), Jerome R. Ravetz (ed), *Cyberfutures: Culture and Politics on the Information Superhighway* (NYU Press 1996).

[99] <www.as-coa.org/articles/uruguay-innovation-and-social-development> accessed 6 January 2019.

[100] ibid.

for this view to be marketed. In this sense ICT education facilitates this to a great extent, as we are suddenly concerned with implementing effective programs which will 'help individuals to compete in a global economy by creating a skilled work force and facilitating social mobility.'[101] Thus narrowing the scope of education, and disregarding the numerous benefits which are suddenly becoming readily available for the developed world to profit from, deepening and perpetuating divisions and inequalities. A simple example of this, is that ICT education requires for countries to be able to provide a stable electrical source to all schools[102]. In fact the UNESCO Institute of Statistics (UIS) in its questionnaire to assess e-readiness on ICT in education, 'which is a measure of the degree to which a country is ready, willing or prepared to benefit from ICT in education'[103] includes this as a basic parameter.

If we accept that 'The type of technology we use and the purposes we use it for are in large parts determined by our culture';[104] and therefore 'Conversely, cultures can be classified by the type of technologies they use'[105] then ICT education projects which are being promoted to bring about development should be viewed with caution as cultural exports of the West. The promise of plurality of voices and opinions in McLuhan's 'global village' is in reality more characteristic of a homogenising process. It used to be the case that imperialism needed a physical presence in order to achieve a dominant presence which imposed subjugation, however, it is now possible to export Western culture in terms of ICT devices and even stream it directly into the homes and schools of the developing world. ICT education has a specific role to play where there is already a well-established presence and content by the developed world looking to shape and entrench values. As has been said many times in this thesis, education is a very strong embodiment and transmission of culture, it has historically been a very effective tool in acting as a form of cultural imperialism.

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[101] As is stated by ECLAC regarding ICT in Education in Latin America and the Caribbean <http://caribbean.cepal.org/content/ict-education-latin-america-and-caribbean> accessed 6 January 2019.
[102] Wallet and Melgar (n 40).
[103] UNESCO and UNESCO Institute for Statistics, 'ICT in Education in Latin America and the Caribbean a regional analysis of ICT integration and e-readiness' (UNESCO Institute for Statistics 2012).
[104] Stahl (n 23) 5.
[105] ibid.

The culture in the classroom itself has been remarked as being affected in that the source of information, which was previously viewed as the teacher can now be accessed through the computer.[106] The computer thus is viewed as encouraging a collaborative culture of children working together both inside and outside school with the help of the mesh-network feature. The culture of the family by extension is also affected when the children are expected to train family members, siblings, parents etc. The impact on technology in respect to the great many cultural changes which will be brought about in Uruguayan society, and will be more noticeable in the near future, will make for an interesting sociological study; as it will be the test of the willingness of the society to adopt the cultural changes which it is trading for digital development.

7.9 Conclusion

It is important to bear in mind that the Uruguay deployment of the OLPC project, went well beyond implementing the XO laptop in the classroom and lives of primary school children. It even went beyond training teachers in the use of computers in education. It was a much more far-reaching ICT reform of the country which involved and changed many aspects of everyday life. However, it would be misleading to conclude that this 'success' would be able to be replicated without factoring in the economic, political and socio-cultural elements which contributed to it and continue to do so. In examining the implementation of the OLPC project which took place in Uruguay, there are many positive accounts of a country which has invested in a variety of ways to successfully implement ICT into the Uruguayan way of life. It is not necessarily proven by the material that the motives behind this were educational, nor does it appear that the country was investing in the empowering constructionist approach of education on the basis of the educators wanting to try a new approach for Uruguayan primary school children to enjoy a learning experience. It does seem to be the case that the policy makers and the President had a specific ICT agenda, which they found a way to bring into effect, having the funding, they subsequently involved educators and overall members of society, debugging the plan as they went. They did this with the praise and assistance of the International institutions such as the World Bank and

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[106] Prusa and Plotts (n 15) 28.

UNESCO, and marketed the country well, in setting an ICT education paradigm for other developing countries to follow. The question that arises is whether within this culturally imperialist ICT education set up there is the space or potential for the experience to be the opposite, and be empowering as opposed to oppressive? The information that we have as to the effects are not conclusive, on the learning effects of the program and whether the students are experiencing empowerment. The answer will be demonstrated in the future as to what the Uruguayan experience really is and not what it is represented as. The answer which we assume is based on our political beliefs and experiences, whether we believe that this imperialism can be overcome or circumvented. The significance lies less in the answer and more within the question, and the critical journey of questioning the international legal norms regarding the right to education in relation to ICT education.

Chapter 8: Conclusions

This conclusion will set out what this thesis has accomplished and what it has not, the latter of which can be perhaps remedied by the fact that it has set the grounds for further research. Overall this work has sought to demonstrate the role which international law plays in maintaining a current distribution of power which is rooted in a colonial past while at the same time masking this with the promise of development and empowerment. It has attempted to expose the disempowering structure and highlight the injustice of the current order as experienced by the developing world in order to contribute to the restoration of humanity in both the oppressor and the oppressed through the inevitable violence of struggling against the oppression as set out by Freire.[1]

It has pursued to reveal the conflict in international law which effects cultural domination by means of furthering development; by uniquely illustrating this with the example of ICT4D education through the One Laptop per Child project. The suitability of this lens, is that it is the largest ICT educational project to date targeting the developing world which seeks to empower and educate. It serves as an appropriate paradigm of developmental promise and rhetoric which both despite and because of its well-intentioned language perpetuates the Western, globally-capitalised, myopic view of the world. This thesis has tried to remain true to the critical theory of TWAIL by exposing the suffering and oppression which this has on the developing world *others*; whilst at the same time not inadvertently contributing to the hegemonic views or by constructing a utopian image which international law cannot by its nature live up to. The thesis has employed allies such as Foucault, Gramsci, Said, Chomsky and Freire in order to achieve such resistance. Chapters 3 and 4 aimed to demonstrate the reasoning behind the choice of method which will be briefly summarised. The method has been to use the OLPC project as a lens for examining the Right to Education and specifically ICT education. The choice of this specific project was made on the basis of its alignment with the Millennium Development Goals, its acceptance and support

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[1] Paulo Freire, *Pedagogy of the Oppressed* (Penguin Books 1996) 45.

from the various International Law Institutions such as UNESCO, as well as its initial educational approach as a project. The OLPC encompasses the two developments in the field of education, thus broadening the initial interpretation of the right to education. These two are the development of the use of technology in and for education, and the other is a child-centric constructivist view of education which does not necessarily follow a traditional school model. The suitability of this choice, after having satisfied the basic requirements of a large-scale ICT education project, then becomes a matter of personal preference which the reader may or may not agree with. The explosive growth and expansion of computer technology has had a revolutionary effect on a vast percentage of people around the world, particularly in the way we communicate and access information. This has led to a consideration and in many instances an implementation in the field of education, predominantly in the developed world, as the cost of this means of dissemination is significantly higher than paper. Television, telephony and radio which are also means of technology which have been used in the field of education for a significantly larger portion of years in comparison to computer technology have also been used in the developing world but again to a lesser extent than in the developed world. The technologies are not mutually exclusive and there are a great deal of innovative ICT education projects from which one can choose. The choice of the One Laptop per Child project as the choice of lens is supported also in part due to its controversial and provocative claims which led this work to question this seemingly less scrutinised and very significant human right. The arguments which are put forth, however, are less about the project itself as it is simply acting as a lens; one which has achieved to be implemented in a top-down approach as was demonstrated in chapter 7. It is also a suitable lens in terms of having been coupled with TWAIL in order to look at the inequalities which are being perpetuated under a cloak of the Universalist approach of the right to education to produce homogenous results through schooling. Initially it was considered that the OLPC project had the potential to be the Trojan horse which the founder Negroponte and the head of Sugar, Bender described it as. However, rather than offering such an example, and serving as the redemptive feature which TWAIL methodology seeks, it has achieved the opposite. That is to say it can be described as being the project which can be used as the paradigm for setting out clearly what ICT4D education looks like and achieves. As to its appearance, it calls for

an investment to be made in purchasing the computers and then to set up the whole ecosystem which is necessary to achieve its success; at least this is what has been demonstrated by the Uruguayan example. Also based on the example, there is the presence of the characteristic in development which is that, the results are of a nature which take time before they can be accurately assessed. Another point which was brought up through the literature and which was verified in Uruguay was that, the focus is not on empowerment in the sense which was promised through the theory of constructionism, conversely, technical training of the upcoming workforce is the means to the empowerment end. According to this empowerment, the strong technically skilled workforce can provide for a stronger economy and a stronger State in terms of the international power structure. This is the investment plan which the developing world is being exposed to.

The choice of TWAIL as the critical legal theory to be applied through the OLPC lens was made again on the basis that it was the most appropriate one for the project for a number of reasons. The first is that it is a theory which specifically addresses the inherent inequality of human rights law. It is only if we identify and accept that we have a structure of international law built on a colonial past that we can then strive to rectify the injustice of and avert the perpetuation of this neo-colonialist form. In connection to this point, it should be noted that due to the OLPC's target audience, developing world children, not uncommon in ICT projects, was also a determining factor in choosing this critical theory; in as far as it can be said that TWAIL is representative of their voices as well. Furthermore, it was with the recognition of the significance of Mutua's argument for inclusion[2] as a means of rectifying the injustice of international human rights law, which has fuelled my reasoning for implementing this critical legal theory in this thesis. That is to say, that if we are truly interested in having a universal right to education we need to have a more inclusive narrative of what this is, as it is the basis upon or the parameters within which society is structured. If the Universal Declaration and human rights law is to claim democratic principles, then inclusion is an element to be welcomed. It is only in the case where, as Chomsky

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[2] Makau Mutua, 'A Noble Cause Wrapped in Arrogance' *Boston Globe* (Boston, 29 April 2001).

argues,[3] that democracy is talked about so much to cover up the fact that it is not actually practiced, that a critical discussion of inclusivity will be perceived as hostile.

Chapter 5 aimed to explain how cultural imperialism can be a tool for oppression according to the definition of oppression provided by Iris Young's five categories[4] in order to provide a more inclusive depiction of the term as it is a part of the hypothesis which this thesis has endeavoured to test. The homogenising nature of the right to education is looked at in this chapter as is the achievement of this through ICT education. An aspect of the right to education includes human rights education, which although not central to the question of ICT education, is relative to the research question, and therefore briefly addressed in this chapter. The significance of this is that part of the right is by definition culturally imperialist in that wherever in the world the right to education is to be implemented it carries with it the specific human rights culture, which is to be taught and embedded. If one is open to the criticism presented by TWAIL that this human rights culture is not in fact as universal as we are meant to accept, then it follows that the embedding of this is an imposition of one culture upon another[5].

In seeking to answer the research question as to whether the Right to Education is an oppressive method of cultural imperialism regarding its relationship with ICT4D, it was first deemed necessary to demonstrate the relative concept of development to education. Development as an overall concept was therefore discussed in relation to education, the state, human rights law and international law, in order to demonstrate what the aims within international law are and the manner by which they are to be effected through the dissemination and use of ICT. However, the concept of development is also relative to the world-view which is promoted through a developed/developing world dichotomy which is emphasised in the thesis by use of these terms

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[3] Noam Chomsky, Donaldo Macedo (ed), *Chomsky on MisEducation* (Rowman & Littlefield Publishers Inc. 2000) 27.
[4] Iris Young, 'Five Faces of Oppression' in Lisa Heldke (ed) and Peg O'Connor (ed) *Oppression, Privilege, & Resistance: Theoretical Perspectives on Racism, Sexism, and Heterosexism* (McGraw-Hill 2004) 38.
[5] Obiora Okafor and Shedrack Agbakwa, 'Re-Imagining International Human Rights Education in Our Time: Beyond Three Constitutive Orthodoxies' (2001) 14 Leiden Journal of International Law 563.

to draw attention to what TWAIL theorist Mutua, sets out in his 'Savages, Victims, and Saviors'[6] analogy. The term 'oppression' is also one which may be evidenced in a number of different contexts as well as manifest itself in various forms, as was set out in Young's five categories[7] described in chapter 5.

The OLPC project is one of many education projects which sets out an alternative to traditional education. That is to say it is not only based upon an alternative perhaps narrowly accepted educational theory, that of constructionism, but it also provides for education to take place outside the confines of a formal school forum. The aim of chapter 2 was to set out what the right to education entails. To illustrate how and why it may be problematic by using TWAIL theory. To draw out the cultural differences contained within the varying human rights instruments pertaining to the right to education. To illustrate the importance of the right, and to set out ICT education projects in the wider human rights context of development.

The main implementation of the OLPC project in the entire country of Uruguay which was the focal point of chapter 7 is the largest ICT education project to date and therefore almost entirely explains the choice of not only the presentation of the deployment but also the OLPC project. It provides the medium through which the OLPC project can be judged in terms of the technological and features it offers. It is also a deployment which was heralded as paradigmatic by various international bodies and which is being showcased to be adopted by other developing nations. This invited deeper investigation into what the developing world was being offered in adopting ICT educational projects such as this one. It also encouraged an attempt to identify what the developed world was and is to gain from the use of ICT education. Therefore, to examine the role of ICT education within the wider context of education and how education is used in orchestrating the maintenance of a very specific hegemonic power construct.

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[6] Makau Mutua, 'Savages, Victims, and Saviors: The Metaphor of Human Rights' (2001) 42 (1) Harvard International Law Journal 201.
[7] Young (n 4).

There are certain limitations that were faced in the present thesis. The primary difficulty was the amount of scientific data and scholarly assessments which are available in respect to the OLPC project. These have been significantly limited despite the much publicity which the project has received and number of deployments around the world which one would expect to find more information on. There are accounts provided for by members of the OLPC organisation and contributions from teachers on the country pages of the OLPC Wiki as well as the discussion forums, which were used as background research but generally omitted from the thesis. There have been articles written by reporters for the press with varying fields of interest such as business, technology and education which have been used in some circumstances where the OLPC invoked the media's attention. There are articles used herein by academics, some written on behalf of International organisations such as UNESCO, the World Bank, the Inter-American Development Bank and so on. The data and findings of which have been mixed regarding there scientific weight, for example the data provided for in the Inter-American Development Bank[8] research was based on statistics computed using a sample of the students' last four laptop sessions. Nonetheless as Easterly[9] points out this is part of an overall lack of data and resources for such developmental projects which lead to faulty conclusions being drawn on the basis of the amount of resources marketing development. It is noted that this has not been overly problematic as the OLPC project is used as a lens, therefore as a means to open up discussion in this area, as opposed to a case study where empirical evidence would be necessary to evaluate the project. Thus this was less significant in most of the chapters with the exception of chapter 7, which was the governmental initiative to implement the project in all the schools in the country of Uruguay. As we saw in that chapter, there was an evidence collection system in place in order for assessments of the project to be made, which focused on technological aspects more than empowerment. As is demonstrated by chapter 5, this research was focused on finding evidence of empowerment in education, which differs to that of empowerment as defined by development rhetoric. Also much of the evidence was collected on behalf of the implementing governmental bodies, and therefore was necessarily treated as such.

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[8] Julián P. Cristia et al, 'Technology and Child Development: Evidence from the One Laptop per Child Program' (2012) Inter-American Development Bank IDB-WP-304.
[9] William Easterly (ed), *Reinventing Foreign Aid* (The MIT Press 2008).

The aim to contribute to TWAIL has been achieved by the fact that this thesis has provided arguments for how the power structure of international law which is not representative and inclusive, yet only serves the purpose of the developed world continues to marginalise the developing world. Despite this critical approach having specific political views and values relating to capitalism and neo-colonialism, it was an aim to make arguments and engage the reader in a dialogue set out by TWAIL to motivate change within international law. The thesis focuses on a right which for some reason, though often engaged with by other disciplines has been left relatively untouched by scholars, specifically those writing about international law from a TWAIL perspective. It is hoped that this research will encourage more engagement by scholars with the right to education, as it is established through the literature and through the attestations of those who have been in contact with it the schooling system that it has a very important functional role to play in society. As the right to education incorporates and establishes the power of the schooling system as part of the wider power structure in international law, it is indicative of the effectiveness of this system.

The significance of the research, is based on uncovering and questioning imperialist features related to education and more specifically that of ICT education. Portions of the developed world have been developing and using information technology at a significant rate and everyday it is itself becoming part of the culture, with its symbols and it is even shaping parts of language. In fact the technological market has been such an explosive phenomenon, the market is close to being saturated, leading to a number of innovative ways for this market to be extended to the developing world. In examining ICT use in education, as the literature suggests the experiences of each the developing and the developed world are bound to be very different, as thus far there has been a digital divide which follows the financial divide quite closely. The International law structure which facilitated colonialism, has not changed despite a rhetoric of bridging divides and development. We are reminded by Pogge that we still have world poverty because it is in the developed world's interest. 'Never has poverty been so avoidable.'[10] This power order which

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[10] Thomas Pogge, *World poverty and human rights* (Cambridge Polity Press 2005).

seeks to maintain its power, and denies the responsibility of its participation, adds insult to injury by presenting the power inequality as something that the developing world can develop itself out of. This research has attempted to show how that although this is a gross misrepresentation of history there is an idea within it which is positive; the suggestion that emancipation and liberation are possible. If we accept Foucault's Knowledge/Power[11] that mechanisms of power produce different types of knowledge, then the empowerment of the developing world to produce its own knowledge power and to contribute it to produce a more plural power construct is positive. This is not to say that all the developing world is one entity with a single and unifying knowledge. In fact the more contributions will produce more power, if we accept this theory. TWAIL scholarship is about shedding light on inequality but also aims at reparation of this inequality. As we saw in Freire's Pedagogy of the Oppressed 'No pedagogy which is truly liberating can remain distant from the oppressed by treating them as unfortunates and by presenting for their emulation models from among the oppressors. The oppressed must be their own example in the struggle for their redemption'.[12] This is a valuable notion which is important to bear in mind to counter the civilising approach of human rights law and the well-meaning ICT educational projects which make children their mission and not their market.[13] Good intentions, even where they are truly present, can still be responsible for oppressive effects and practices. The struggle of freedom from oppression as a 'solution' will come from the developing world and will not be one exported from the developed world.

Having brought the injustice to light, TWAIL theory dictates that the critical analysis does not have a nihilistic ending but proposes ways in which the harm and injustice can be rectified. Therefore it is necessary to make recommendations in order for ICT4D to avoid the criticism of cultural imperialism in its use to further development as well as for human rights to avoid the criticism of cultural imperialism in the implementation of the right to education. The common denominator underlying the choice of the human right to education as well as the choice of the

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[11] Michel Foucault, Colin Gordon (ed), *Power/Knowledge: Selected Interviews and Other Writings 1972-1977* (Pantheon Books 1972).
[12] Freire (n 1) 54.
[13] Nicholas Negroponte, 'One Laptop per Child' *TED 2006* <www.ted.com/talks/nicholas_negroponte_on_one_laptop_per_child?language=en> accessed 6 January 2019.

OLPC project was the promise of the aim of empowerment and all the potential which can ensue from such child empowerment. Empowerment is also the aim of TWAIL critique as a means of rectifying the harm to the people of the third world, as such it provides for the basis for the following recommendations.

Before making the recommendations, it is important to reiterate the use of the notion of empowerment as a means of gaining wide-spread consensus for the right to education as well as ICT4D projects such as the OLPC which beyond the theoretical scope has presented a Pandora's Box[14] dilemma. This metaphor is meant to demonstrate the ease with which international law and the international bodies express the promise of empowerment whilst ensuring that the current balance of power is maintained. Rowlands[15] explains that power means 'power over' and that is not changed by empowerment which comes as a gift from those who hold power, but a struggle, as we have seen earlier in the thesis, by those seeking to gain it. The means by which empowerment has been 'offered' through ICT4D has thus far served to strengthen the power imbalance which is in place and much as *others* are excluded from the enjoyment of other human rights, so too are they excluded from the promised empowerment. If we identify bias- find this bias to be problematic- can we then effect change in order to eradicate, reduce or confine the bias. For example, to briefly summarise the arguments set out in the previous chapters regarding the right to education, if we apply Foucault's knowledge/power, the right to education reinforces the power of the human rights system through the implementation of primary schooling and human rights education. Human rights reinforce the power of the international law system representative of a world order which is comprised of an unequal distribution of power between developed and developing states. This aspect of empowerment is therefore indisputably present and necessary for the perpetuation of this system power, despite being arguably exclusionary or marginalising of the third world which is largely disadvantaged by this hegemony. It is therefore necessary to recognise that as there is violence in oppression there is also violence in empowerment. It is also necessary to recognise that it is not a gradual, predictable or linear

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[14] The Greek myth about the wedding gift bestowed by Zeus to Pandora and Epimetheus, a 'box' containing all the evils which plague the world such as disease, hate, greed but also the one arguably positive element of hope.
[15] Jo Rowlands, 'Empowerment examined' 1995 (5) (2) Development in Practice 101.

process, as is presented in regards to development, with which it is often related.[16] It is also premised on a sense of self-esteem and confidence on the part of those empowered which if it is to be facilitates requires respect and confidence in those who are empowered, otherwise it becomes a term which cloaks oppression.

For ICT4D to avoid cultural imperialism in striving for development, the recommendations which are viewed necessary to empower the people of the third world are ones where ICT projects break the one-way traffic paradigm. Where they are based upon needs identified by the developing world and replaced by a 'participatory design' is used where the developing world participates in addressing those needs rather than playing the role of passive recipients. In terms of the ICT4D in the area of education this would further include child participation as well as teacher participation in order to ensure that the solutions are tailored to those directly involved. This may require smaller implementations or perhaps an open ended customisation for larger projects. Empowerment in this respect is not a result which is to come at the end, once the project has been implemented, but rather at the beginning and self-confidence and strength are a cumulative result acquired along the various stages of involvement with the project from its conception to its fruition. It is also not limited to the children as 'beneficiaries' but a more collective effect whereby the teachers and the community at large are empowered as well. This is suggested on the basis of the examples of the grass roots initiatives such as the 'digital seeds' initiative, and of course the inclusive aspects of the Uruguayan example.

For human rights to avoid cultural imperialism in the implementation of the right to education, once again it is necessary to acknowledge the cultural bias set out in chapter 2 regarding the right to education, from its underlying ideology to its means of implementation. It is therefore, not a rejection of the right to education but an acknowledgement that it is not free of cultural bias in some respects. It is further necessary to acknowledge the thus far very influential fallacy which has been used to inextricably link education with development. That is the mistaken perception that it is a lack of schooling which is responsible for the inequality between the developed and

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[16] ibid at 104.

the developing world. 'Thus, it appears that greater equality does not result from the expansion of schooling, but rather from fundamental structural changes that reduce dependency on foreign capital.'[17] This point has been further illustrated in chapters 4, 5 and 6, and has been the basis for the golden thread of development running through the thesis binding the right to education, ICT4D and TWAIL. It is this reason why it is not possible to make the recommendation that ICT4D and the right to education be clearly distinguished and separated from each other much as binding law and non-binding recommendations. It is after all this rhetoric and non-binding declarations such as the Millennium Development Goals followed by the Sustainable Development Goals and the Education for All Campaign, and all the projects conducted to these ends which limit the plausible deniability of the strong ties between education and development. Once this is addressed in a more open manner can true inclusivity and dialogue begin which in itself will be an act of empowerment for the disempowered unseen *others*. It is a recommendation of this thesis that such egalitarian change can be effected by recognising the injustice and harm suffered, primarily by those who suffer the injustice and thus empowering them to change this power dynamic. The oppression, however regarding children in the developing world, through the right to education occurs at the international level and the national, and thus empowerment must occur at the national level in order to then have such an effect at the international level. It is suggested that at the national level a child-centred education where children participate to define their education according to their own needs would facilitate such empowerment. Specific prescription, however, contradicts the meaning of the term empowerment, and would only serve to further oppress by giving the false appearance of empowerment. At the International level, much in the same way that the end of colonisation is attributed to the developing world, so too will neo-colonisation be countered by strengthening the voice of the third world which opposes it.

There are many aspects within the right to education which upon further investigation would provide us with insight on the various means by which it is used for the purpose to dominate and

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[17] Gerald Fry, 'Schooling, Development, and Inequality: Old Myths and New Realities' (1981) 51 (1) Harvard Educational Review 107.

oppress. As such research in this area would be useful in learning to perhaps protect from such practices and even to find means to engage with them in such a way as to produce the opposite result. ICT education, although intended to export Western education and broaden the very lucrative technological market, provides a new means by which empowerment can be exercised in the hands of those given the opportunity to do so. This is the utopian vision of international law which this thesis holds against and in spite of the cynical backdrop of the current world order. As a final remark to borrow the words of Trifonas 'The desire to control and rearticulate the formation of subjectivity and direct its agency toward predetermined ends, after all, is what relates education to imperialism in a cycle of violence that is predicated on a destruction and appropriation of what is Other'.[18] It has therefore been the aim of this thesis to call attention to the significance of this act of violence which is occurring in the name of development in education.

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[18] Peter Trifonas, 'Monstrous Lessons: The educational legacy of imperialism' (2001) 22(1) Discourse: Studies in the Cultural Politics of Education 105,106.

Bibliography

Books

— — *Cambridge Advanced Learner's Dictionary & Thesaurus* (Cambridge University Press 2016)

Achilihu S N, *Do African Children Have Rights?: A Comparative and Legal Analysis of the United Nations Convention on the Rights of the Child* (Universal-Publishers 2010)

Adams P and Others, *Children's Rights: Towards the Liberation of the Child* (Panther Books 1972)

Adomi E E, *Frameworks for ICT Policy: Government, Social and Legal Issues* (Information Science Reference 2011)

Anghie A, *Imperialism, Sovereignty and the Making of International Law* (Cambridge University Press 2005)

Apple M W, Au W and Gandin L A (eds), *The Routledge International Handbook of Critical Education* (Routledge 2009)

Baldwin J, 'A Talk to Teachers' Delivered 16 October 1963, as 'The Negro Child – His Self-' *The Saturday Review* (New York, 21 December 1963) reprinted in *The Price of the Ticket, Collected Non-Fiction 1948-1985* (Saint Martins 1985)

Baxi U, *Human Rights in a Post Human World: Critical Essays* (Oxford University Press 2007)

Becker G S, *Human Capital: A Theoretical and Empirical Analysis with Special Reference to Education* (3rd edn, The University of Chicago Press 1994)

Bedjaoui M (ed), *International Law Achievements and Prospects* (Martinus Nijhoff 1991)

Beiter K D, *The Protection of the Right to Education by International Law* (Martinus Nijhoff 2005)

Bender W and others, *Learning to Change the World; The Social Impact of the One Laptop per Child* (Palgrave Macmillan 2012)

Brabazon T, *Digital Dieting: From Information Obesity to Intellectual Fitness* (Routledge 2013)

Brown P, Lauder H, and Ashton D, *The Global Auction The Broken Promises of Education, Jobs and Incomes* (Oxford University Press 2011)

Buck T, *International Child Law* (3rd edn, Routledge 2014)

Chomsky N, and Herman E S, *The Washington Connection and Third World Fascism* (The Political Economy of Human Rights - Volume I) (South End Press 1979)

Chomsky N, Macedo D (ed), *Chomsky on MisEducation* (Rowman & Littlefield Publishers Inc. 2000)

Crozier M, Huntington S P, and Watanuki J, *The Crisis of Democracy: On the Governability of Democracies* (New York University Press 1975)

Darling J, *Child-Centred Education: And its Critics* (Paul Chapman Publishing Ltd. 1994)

Delgado R and Stephancic J, *Critical Race Theory: An Introduction* (NYU Press 2001)

Douzinas C, *The end of human rights* (Hart Publishing 2007)

Druin A (ed), *Mobile Technology for Children* (Morgan Kaufmann 2009)

Du Bois W E B, *The Souls of Black Folk* (New American Library 1903)

Easterly W (ed), *Reinventing Foreign Aid* (The MIT Press 2008)

Epp J R and Watkinson A M (eds), *Systemic Violence in Education: Promise Broken* (State University of New York Press 1997)

Erikson E, *Childhood and society* (1st edn, Norton 1950)

Escobar A, *Encountering Development The Making and Unmaking of the Third World* (Princeton University Press 1995)

Fanon f, and Philcox R (trs), *The Wretched of the Earth* (Grove Press 2004)

Farson R E, *Birthrights* (Macmillan 1974)

Fortin J, Children's rights and the developing law, (2nd edn, Cambridge University Press 2005)

Foucault M, Gordon C (ed), *Power/Knowledge: Selected Interviews and Other Writings 1972-1977* (Pantheon Books 1972)

Freire P, *Pedagogy of the Oppressed* (Penguin Books 1996)

Freud S, *On the Sexual Theories of Children* (Read Books Ltd 2013)

Friedman T, *The World Is Flat; A Brief History of the Twenty-first Century* (Farrar, Straus and Giroux 2005)

George S, *Another World is Possible If..* (Verso, 2004)

Hendrick J, Weissman P, *The Whole Child: Development Education for the Early Years and Early Childhood Settings and Approaches* (Pearson Education Inc. 2006)

Hergenhahn B R, *An introduction to theories of Learning*, (3rd edn, Prentice Hall 1988)

Hewlett S A, *Child Neglect in Rich Nations* (UNICEF 1993)

Hoare Q and Smith G N (eds), *Prison Notebooks of Antonio Gramsci* (ElecBook 1999)

Holt J, *Escape From Childhood: The Needs and Rights of Children* (E.P. Dutton 1974)

—— *How Children Learn* (rev ed, Merloyd Lawrence 1982)

—— and Farenga P, *Teach Your Own: The John Holt Book of Homeschooling* (Merloyd Lawrence 2003)

Johnstone B*, Never Mind the Laptops: Kids, Computers, and the Transformation of Learning* (iUniverse Inc 2003)

Klein N, *The Shock Doctrine* (Penguin Books 2007)

Koskenniemi M, *From Apology to Utopia The Structure of International Legal Argument* (Cambridge University Press 2005)

Kozma R B (ed), *Transforming Education: The Power of ICT Policies* (UNESCO 2011)

Lee N, *Childhood and society: Growing up in an age of uncertainty* (Open University Press 2001)

Lei J, *The Digital Pencil: One-to-One Computing for Children* (Routledge 2008)

Lenin V, *Imperialism, the Highest Stage of Capitalism* (pamphlet, Petrograd 1917)

Llewellyn G, *The Teenage Liberation Handbook: How to Quit School and Get a Real Education* (rev edn, Lowry House 1998)

MacKinnon C A, *Toward a Feminist Theory of the State* (Harvard University Press 1989)

Marshall S, Taylor W and Yu X (eds), *Encyclopedia of Developing Regional Communities with Information and Communication Technology* (Idea Group Reference 2006)

McCulloch G, Crook D (eds), *The Routledge International Encyclopedia of Education* (Routledge 2008)

McLuhan M, Understanding Media The Extensions of Man (McGraw-Hill 1964)

——, Stearn G E (ed), *McLuhan Hot and Cool: A Primer for the Understanding of McLuhan* (Mass Market Paperback 1968)

McPhail T L, *Electronic Colonialism: The Future of International Broadcasting and Communication* (Sage Publishing 1987)

Moyo D, *Dead Aid. Why Aid Is Not Working. And How There Is. A Better Way for Africa* (Penguin Books 2010)

Negroponte N, *Being Digital* (1st ed, Vintage Books 1996)

Nkrumah K, *Neo-Colonialism, The Last Stage of Imperialism* (Thomas Nelson & Sons, Ltd. 1965)

Orford A (ed), *International Law and its Others* (Cambridge University Press 2009)

Papert S and Harel I, *Constructionism* (Ablex Publishing Corporation, 1991)

—— *The Children's Machine: Rethinking School in the Age of the Computer* (Basic Books 1993)

Peleg N, *The Child's Right to Development* (University College London 2013)

Piaget J, *The Origin of Intelligence in the Child* Vol 3 of *Selected Works Jean Piaget* (Routledge, 1997)

—— *The Construction of Reality in the Child* (Routledge, 1999)

Pogge T, *World Poverty and Human Rights* (Cambridge Polity Press 2005)

Rajagopal B*, International Law from Below: Development, Social Movements and Third World Resistance* (Cambridge University Press 2003)

Ratner S R and Slaughter A M (eds), *The Methods of International Law* (American Society of International Law 2004)

Ricento T (ed), *An Introduction to Language Policy Theory and Method* (Blackwell Publishing 2006)

Said E W, *Orientalism* (Pantheon Books 1978)

—— *Culture and Imperialism* (Vintage Books 1994)

Sardar Z, Ravetz J R (eds), *Cyberfutures: Culture and Politics on the Information Superhighway* (NYU Press 1996)

Sartre JP, Haddour A (trs), Brewer S (trs), McWilliams T (trs), *Colonialism and Neocolonialism* (first published 1964, English translation first published Routledge 2001)

Schiller H, *Communication and Cultural Domination* (International Arts and Sciences Press 1976)

Selwyn N, *Education in a Digital World: Global Perspectives on Technology and Education* (Routledge 2013)

Sen A, Chenery H (ed) and Srinivasan T N (ed), *Handbook of Development Economics* (Volume L Elsevier Science Publishers BV 1988)

—— *Development as Freedom* (Oxford University Press 1999)

Shaw M, *International Law* (4th edn, Cambridge University Press 1997)

Stahl B C, *Information Systems: Critical Perspectives* (Routledge 2008)

Steiner J, Alston P and Goodman R (eds), *International Human Rights in Context* (3rd edn, Oxford University Press 2008)

Stromquist N, Karen Monkman (eds), *Globalization & Education Integration and Contestation Across Cultures* (Roman & Littlefield 2014)

Sturluson S, and Brodeur A G (trs), *The Prose Edda* (Forgotten Books 1929)

Van Bueren G (ed), *International Documents on Children* (2nd edn, Martin Nijhoff 1998)

Vygotsky L S, *Mind in Society* (Harvard University Press 1980)

Warschauer M, *Technology and Social Inclusion Rethinking the Digital* (The MIT Press 2003)

Book Chapters

Cantwell N, 'The Origins, Development and Significance of the United Nations Convention on the Rights of the Child' in Detrick S, Doek J (eds) *The United Nations Convention on the Rights of the Child* (Martinus Nijoff 1992)

Commander S, Kangasniemi M, and Winters L A, 'The Brain Drain: Curse or Boon? A Survey of the Literature' in Baldwin R E and Winters L A (eds), *Challenges to Globalization: Analyzing the Economics* (University of Chicago Press 2004)

Dahl R A, 'Can International Organizations be Democratic? A Skeptic's View' in Shapiro I and Hacker-Cordon C (eds), *Democracy's edges* (Cambridge University Press 1999)

Foucault M, 'Nietzsche, Genealogy, History' in Bouchard D F (ed), *Language, Counter-Memory, Practice: Selected Essays and Interviews* (Cornell University Press 1977)

Fouché R, 'From Black Inventors to OLPC' in Nakamura L and Chow-White P A (eds), *Race After the Internet* (Routledge 2012)

Harris A P, 'Critical Race Theory' in *International Encyclopedia of the Social & Behavioral Sciences* (Elsevier 2012)

Henkin L, 'International Law: Politics, Values and Functions' in Steiner J, Alston P and Goodman R (eds), *International Human Rights in Context* (3rd edn, Oxford University Press 2008)

Hoppers C O, 'Globalization and the Social Construction of Reality: Affirming or Unmasking the "Inevitable"?' in Stromquist N P and Monkman K (eds), *Globalization & Education; Integration and Contestation Across Cultures* (Roman & Littlefield 2014)

Kanwar V, 'Not a Place, But a Project: Bandung, TWAIL, and the Aesthetics of Thirdness' in Eslava L, Fakhri M and Nesiah V (eds), *Bandung, Global History and International Law: Critical Pasts and Pending Futures* (Cambridge University Press 2015)

Marcedo D, Introduction to the Anniversary Edition of Freire P, *Pedagogy of the Oppressed* (Penguin Books 1996)

Mutua M, 'The Complexity of Universalism in Human Rights' in Sajó A (ed), *Human Rights with Modesty* (Martinus Nijhoff 2004)

Newman D G, 'Africa and the United Nations Declaration on the Rights of Indigenous Peoples' in Dersso S (ed), P*erspectives on the rights of minorities and indigenous peoples* (Pretoria University Law Press (PULP) 2010)

Nowak M, 'The Right to Education' in Eide A, Krause C and Rosas A (eds), *Economic, Social and Cultural Rights: a Textbook* (Martinus Nijhoff, 1994)

Palmeri A, 'Childhood's End: Toward the Liberation of Children' in Aiken W and LaFollette H (eds), *Whose Child?* (Rowman and Littlefield 1980)

Philipson R, 'Language Policy and Linguistic Imperialism' in Ricento T (ed), *An Introduction to Language Policy Theory and Method* (Blackwell Publishing 2006)

Roche J, 'Children's Rights and Children's Lives' in Alston P, Parker P and Seymour J (eds), *Children, Rights and the Law* (Clarendon Press 1992)

Selwyn N, '"Empowering the World's Poorest Children"? A critical Examination of One Laptop Per Child' in Selwyn N, Facer K (eds), *The Politics of Education and Technology: Conflicts, Controversies, and Connections* (Palgrave MacMillan 2013)

Stromquist N and Monkman K, 'Defining Globalisation and Assessing its Implications for Knowledge and Education, Revisited' in Stromquist N and Monkman K (eds), *Globalization & Education; Integration and Contestation Across Cultures* (Roman & Littlefield 2014)

Tobin J, 'A comment on Dahl's skepticism' in Shapiro I and Hacker-Cordon C (eds), *Democracy's Edges* (Cambridge University Press 1999)

Tomlinson J, 'Globalization and Cultural Identity' in Held D and McGrew A (eds), *The Global Transformations Reader An Introduction to the Globalization Debate* (2nd edn, Polity Press and Blackwell Publishing Ltd. 2003)

Uvin P, 'From the Right to Development to the Rights-Based Approach: How 'Human Rights' Entered Development' in Cornwall A and Eade D (eds), *Deconstructing Development Discourse Buzzwords and Fuzzwords* (Oxfam 2010)

Verhellen E, 'The Convention on the Rights of the Child: Reflections from a Historical, Social Policy and Educational Perspective' in Vandenhole W, Desmet E, Reynaert D and Lembrechts S (eds), *Routledge International Handbook of Children's Rights Studies* (Routledge London 2015)

Young I, 'Five Faces of Oppression' in Heldke L and O'Connor P (eds) *Oppression, Privilege, & Resistance: Theoretical Perspectives on Racism, Sexism, and Heterosexism* (McGraw-Hill 2004)

Journal Articles

Alston P, 'Making Space for New Human Rights: The Case of the Right to Development' (1988) 1 Harvard Human Rights Yearbook 3

—— 'Ships Passing in the Night: The Current State of the Human Rights and Development Debate seen through the Lens of the Millennium Development Goals' (2005) 27 (3) Human Rights Quarterly 755

Ames P, 'Language, Culture and Identity in the Transition to Primary School: Challenges to Indigenous Children's Rights to Education in Peru' (2012) 32 International Journal of Educational Development 454

Anghie A, 'Finding the Peripheries: Sovereignty and Colonialism in Nineteenth-Century International Law' (1999) 40 (1) Harvard International Law Journal 1

—— 'Time Present and Time Past: Globalization, International Financial Institutions, and the Third World' (2000) 32 New York University Journal of International Law and Politics 243

—— and Chimni B S, 'Third World Approaches to International Law and Individual Responsibility in Internal Conflicts' (2003) 2 Chinese Journal of International Law 77

—— 'The Evolution of International Law: Colonial and Postcolonial Realities' (2006) 27 (5) Third World Quarterly 739

—— 'TWAIL: Past and Future' (2008) 10 International Community Law Review 479

Asbjørn E, 'The Historical Significance of the Universal Declaration' (1998) 50 (158) International Social Science Journal 475

Aurini J and Davies S, 'Choice without Markets: Homeschooling in the Context of Private Education' (2005) 26 (4) British Journal of Sociology of Education 461

Badaru O A, 'Examining the Utility of Third World Approaches to International Law for International Human Rights Law' (2008) 10 International Community Law Review 379

Baggaley J, 'When Prophecy Fails' (2013) 34 (1) Distance Education 119

Bartlett K T, 'Feminist Legal Methods' (1990) 4 (103) Harvard Law Review 829

Battro A M and De La Paz C, 'Sustainable Education: Uruguay's Plan Ceibal' (2014) 41 Pontifical Academy of Social Sciences 1

Baxi U, 'New Approaches to the History of International Law' [2006] Leiden Journal of International Law 554

— — 'What may the 'Third World' expect from International Law?' (2006) 27 (5) Third World Quarterly 713

Beckett J, 'Rebel Without a Cause? Martti Koskenniemi and the Critical Legal Project' (2006) 7 (12) German Law Journal 1045

— — 'Conflicting orders: How peace is waged' (2007) 1 Leiden Journal of International Law 281

Bishop A J,' Western Mathematics: the Secret Weapon of Cultural Imperialism' (1990) 32 (2) Race & Class 51

Burgis-Kasthala M, 'Scholarship as Dialogue? TWAIL and the Politics of Methodology' (2016) 14 Journal of International Criminal Justice 921

Cerna C M, 'Universality of Human Rights and Cultural Diversity: Implementation of Human Rights in Different Socio-Cultural Contexts' [1994] Human Rights Quarterly 740

Charlesworth H, Chinkin C and Wright S, 'Feminist Approaches to International Law' (1991) 85 (4) The American Journal of International Law 613

— — 'Feminist Methods in International Law' (Symposium on Method in International Law) (1999) 93 American Journal of International Law 379

Chimni B S, 'Third World Approaches to International Law: A Manifesto' (2006) 8 International Community Law Review 3

— — 'Capitalism, Imperialism, and International Law in the Twenty-First Century' (2012) 14 (1) Oregon Review of International Law 17

Cotten S, Hale T, Moroney M H, O'Neal L, Borch C, 'Using Affordable Technology To Decrease Digital Inequality Results from Birmingham's One Laptop Per Child XO Laptop Project' (2011) 14 (4) Information, Communication & Society 424

Daiute C, 'The Rights of Children, the Rights of Nations: Developmental Theory and the Politics of Children's Rights' (2008) 64(4) Journal of Social Issues 701

Dasen P R, 'Cross-Cultural Piagetian Research: A Summary' (1972) 3 (1) Journal of Cross-Cultural Psychology 293

Davidson H, 'Does the U.N. Convention on the Rights of the Child Make a Difference?' (2014) 22 (2) Michigan State International Law Review 497.

Derrick A. Bell, Jr, 'Brown v. Board of Education and the Interest-Convergence Dilemma' (1980) 93 Harvard Law Review 518

Dijck J V, 'Datafication, dataism and dataveillance: Big Data between scientific paradigm and ideology' (2014) 12(2) Surveillance & Society 197

Donnelly J, 'Cultural Relativism and Universal Human Rights' (1984) 6 Human Rights Quarterly 400

—— 'In Search of the Unicorn. The Jurisprudence and Politics of the Right to Development' (1985) 15 California Western International Law Journal 473

Driver J, 'Rethinking the Interest-Convergence Thesis' (2011) 1 Northwestern University Law Review 149

Easterly W, 'Planners vs. Searchers in Foreign Aid' (2006) 23 (2) Asian Development Review 1

—— 'How the Millennium Development Goals are Unfair to Africa' (2009) 37(1) World Development 26

Ekundayo O, 'Does the African Charter on the Rights and Welfare of the Child (ACRWC) only Underline and Repeat the Convention on the Rights of the Child (CRC)'s Provisions?: Examining the Similarities and the Differences between the ACRWC and the CRC' (2015) 5 (7) (1) International Journal of Humanities and Social Science 143.

Eslava L and Pahuja S, 'Between Resistance and Reform: TWAIL and the Universality of International Law' (2011) 3 (1) Trade Law and Development 103

Fry G, 'Schooling, Development, and Inequality: Old Myths and New Realities' (1981) 51 (1) Harvard Educational Review 107

Gathii J T, 'TWAIL: A Brief History of its Origins, its Decentralized Network, and a Tentative Bibliography' (2011) 3 (1) Trade Law & Development 26

Gershoff E T and Font S A, 'Corporal Punishment in U.S. Public Schools: Prevalence, Disparities in Use, and Status in State and Federal Policy' (2016) 30 (1) Social Policy Report 1

Gready P, 'Rights-Based Approaches to Development: What is the Value-Added?' (2008) 18 (6) Development in Practice 735

Halvorsen K, 'Notes on the Realization of the Human Right to Education' (1990) 12 (3) Human Rights Quarterly 341

Hamm B I, 'A Human Rights Approach to Development' (2001) 23 (4) Human Rights Quarterly 1005

Hansen N and others, 'Laptop Usage Affects Abstract Reasoning of Children in the Developing World' (2012) 59 Computers & Education 989

Harris-Short S, 'Listening to 'the Other'? The Convention on the Rights of the Child' (2001) 2 Melbourne Journal of International Law 304

— — 'International Human Rights Law: Imperialist, Inept and Ineffective – Cultural Relativism and the UN Convention on the Rights of the Child' (2003) 25 Human Rights Quarterly 130

Hendriks P, 'Why Share Knowledge? The Influence of ICT on the Motivation for Knowledge Sharing' (1999) 6 (2) Knowledge and Process Management 91

Hird-Younger M, 'Accountability in Rights Based Approaches to Development: The Emergence of Transnational Forms of Governmentality' (2010) 7 (3) Undercurrent Journal 44

Hoeber R S, 'The Imperialism of Categories: Situating Knowledge in a Globalizing World' (2005) 3 (1) Perspectives on Politics 5

Hunt A, 'The Theory of Critical Legal Studies' (1986) 6(1) Oxford Journal of Legal Studies 1

Khosla M, 'The TWAIL Discourse: The Emergence of a New Phase' (2007) 9 International Community Law Review 291

Koskenniemi M, 'The politics of International Law' (1990) 1 European Journal of International Law 4

— — 'The Police in the Temple, Order, Justice and the UN: A Dialectical View' (1995) 6 European Journal of International Law 325

— — 'International Law and Hegemony: A Reconfiguration' [2004] Cambridge Review of International Affairs 197

— — 'International Law in Europe: Between Tradition and Renewal' (2005) 16 (1) European Journal of International Law 113

Kraemer K L, Dedrick J, Sharma P, 'One Laptop per Child: Vision vs. Reality' (2009) 52 (6) Communications of the ACM 66

Krisch N, 'International Law in Times of Hegemony: Unequal Power and the Shaping of the International Legal Order' (2005) 16 (3) European Journal of International Law 369

Lal E, 'A Hurting Hand: Why Foreign Aid Does Not Work' [2011] Azusa Pacific University 1

Lloyd A, 'A Theoretical Analysis of the Reality of Children's Rights in Africa: An introduction to The African Charter on the Rights and Welfare of the Child' (2002) 2 (1) African Human Rights Law Journal 11

Lubeck S, 'Deconstructing 'Child Development Knowledge" and "Teacher Preparation"' 1996 Early Childhood Research Quarterly 147

Lundy L, ''Voice' Is Not Enough: Conceptualising Article 12 of the United Nations Convention on the Rights of the Child' (2007) 33 (6) British Educational Research Journal 927

Marks S, 'The Human Right to Development: Between Rhetoric and Reality' ((2004) 17 Harvard Human Rights Journal 137

— — 'Human Rights and the Bottom Billion' (2009) 1 European human rights law review 37

Markus M L, Majchrzak A and Gasser L, 'A Design Theory for Systems That Support Emergent Knowledge Processes' (2002) 26 (3) Management Information Systems Quarterly 179

McCowan T, 'Reframing the Universal Rights to Education' (2010) 46 (4) Comparative Education 509

Mickelson K, 'Rhetoric and Rage: Third World Voices in International legal Discourse' (1998) 16 (2) Wisconsin International Law Journal 353

Mo D and others, 'Can One Laptop per Child Reduce the Digital Divide and Educational Gap? Evidence from a Randomized Experiment in Migrant Schools in Beijing' [2013] 46 World Development 14

Mundy K, 'Educational Multilateralism and World (Dis)Order' (1998) 42 (4) Comparative Education Review 448

Mutua M, 'Savages, Victims, and Saviors: The Metaphor of Human Rights' (2001) 42 (1) Harvard International Law Journal 201

— — 'The Ideology of Human Rights' (1995-1996) 36 Virginia Journal of International Law 589

Nyirenda J E, 'The Relevance of Paulo Freire's Contributions to Education and Development in Present Day Africa' (1996) 10 (1) Nairobi African Council for Communication Education 1

O'Donnell D and Henriksen L B, 'Philosophical Foundations for a Critical Evaluation of the Social Impact of ICT' (2002) 17 (2) Journal of Information Technology 89

Okafor O and Agbakwa S, 'Re-Imagining International Human Rights Education in Our Time: Beyond Three Constitutive Orthodoxies' (2001) 14 Leiden Journal of International Law 563

— — 'Newness, Imperialism, and International Legal Reform in Our Time: A Twail Perspective' (2005) 43 (1 & 2) Osgoode Hall Law Journal 171

— — 'Critical Third World Approaches to International Law (TWAIL): Theory, Methodology, or Both?' (2008) 10 International Community Law Review 371

Oloka-Onyango J and Tamale S, '"The Personal Is Political," or Why Women's Rights Are Indeed Human Rights: An African Perspective on International Feminism' (1995) 17 (4) Human Rights Quarterly 691

Onuma Y, 'When was the Law of International Society Born? –An Inquiry of the History of International Law from an Intercivilizational Perspective' (2000) 2 Journal of the History of International Law 1

Orford A, 'Feminism, Imperialism and the Mission of International Law' (2001) 71 Nordic Journal of International Law 275

Otto D, 'Rethinking the Universality of Human Rights Law' (1997) 29 Columbia Human Rights Law Review 1

Pal J et al, 'The Case of the Occasionally Cheap Computer: Low-cost Devices and Classrooms in the Developing World' 2009 5(1) Information Technologies & International Development Journal 49

Papert S, 'Computer Criticism vs. Technocentric Thinking' Educational Researcher (1987) 16 (1) Educational Researcher 22

Peters S J, '"Education for All?" A Historical Analysis of International Inclusive Education Policy and Individuals with Disabilities' (2007) 18 (2) Journal of Disability Policy Studies 98

Pittaluga L and Rivoir A, 'One Laptop per Child and Bridging the Digital Divide: The Case of Plan CEIBAL in Uruguay' (2012) 8(4) Information Technologies & International Development 147

Pogge T, 'Eradicating Systemic Poverty: Brief for a Global Resources Dividend' (2001) 2(1) Journal of Human Development 59

— — 'The First UN Millennium Development Goal: A Cause for Celebration?' (2004) 5 (3) Journal of Human Development 377

Psacharopoulos G and Patrinos H A, 'Returns to Investment in Education: A Further Update' (2004) 12 (2) Education Economics 111

Quennerstedt, A 'Balancing the Rights of the Child and the Rights of the Parents in the Convention on the Rights of the Child' (2009) 8 (2) Journal of Human Rights 162

Rajagopal B, 'Counter-Hegemonic International: Law Rethinking Human Rights and Development as a Third World Strategy' (2006) 27 (5) Third World Quarterly 767

— — 'The International Human Rights Movement Today' (2009) 24 Maryland Journal of International Law 56

Ratner S and Slaughter A, 'Appraising the Methods of International Law: A Prospectus for Readers' (1999) 93 American Journal of International Law 291

Renteln A D, 'International Human Rights. Universalism Versus Relativism' (1991) 85 The American Journal of International Law 416

Resnik J, 'International Organizations, the "Education–Economic Growth" Black Box, and the Development of World Education Culture' [2006] Comparative Education Review 173

Rezaeenezhad I and Kordnaeij H, 'Rights-Based Approach to Development' (2012) 3 (5) OIDA International Journal of Sustainable Development 47

Roberts G, 'Tug of War: Opposing Views on the Processes of Globalization' (2008) 1(2) International Journal of Social Inquiry 69

Rowlands J, 'Empowerment examined' 1995 (5) (2) Development in Practice 101

Rutkow L and Lozman JT, 'Suffer the Children? : A Call for the United States Ratification of the United Nations Convention on the Rights of the Child' (2006) 19 Harvard Human Rights Journal 178

Sano H-O, 'Development and Human Rights: The Necessary, but Partial Integration of Human Rights and Development' (2000) 22 Human Rights Quarterly 734

Schech S, 'Wired For Change: The Links Between ICTs And Development Discourses' (2002) 14(1) Journal of International Development 13

Selwyn N, 'Reconsidering political and popular understandings of the digital divide' (2004) 6 New Media Society 341

Tabb L S, 'A Chicken in Every Pot; One Laptop per Child: the Trouble with Global Campaign Promises' (2008) 5 (3) E–Learning 337

Teivainen T, 'The Pedagogy of Global Development: the Promotion of Electoral Democracy and the Latin Americanisation of Europe' (2009) 30 (1) Third World Quarterly 163

Tikly L, 'Globalisation and Education in the Postcolonial World: Towards a Conceptual Framework' (2001) 37 (2) Comparative Education 151

Tomaševski K, 'Has the Right to Education a Future Within the United Nations? A Behind-the-Scenes Account by the Special Rapporteur on the Right to Education 1998-2004' (2005) 5 (2) Human Rights Law Review 205

—— 'Not Education for All, Only for Those Who Can Pay: The World Bank's Model for Financing Primary Education' (2005) 1 Law, Social Justice & Global Development Journal 1

Trifonas P, 'Monstrous Lessons: The educational legacy of imperialism' (2001) 22 (1) Discourse: Studies in the Cultural Politics of Education 105

Verhellen E, 'Children's Rights and Education: A Three-Track Legally Binding Imperative' (1993) 14(3) School Psychology International 199

—— 'Facilitating Children's Rights in Education: Expectations and Demands on Teachers and Parents' (1999) XXIX (2) Prospects 223

Villanueva-Mansilla E and Olivera P, 'Institutional Barriers to Development Innovation: Assessing the Implementation of XO-1 Computers in Two Peri-Urban Schools in Peru' (2012) 8 (4) Information Technologies & International Development (Special Bilingual Issue: Research on ICT4D from Latin America) 177

Wade R H, 'Bridging the Digital Divide: New Route to Development or New Form of Dependency?' (2002) 8 (4) Global Governance 443

Warschauer M and Ames M, 'Can One Laptop per Child Save the World's Poor?' (2010) 64 (1) Journal of International Affairs 33

—— 'Digital Divide' 2010 (1) (1) Encyclopaedia of Library and Information Sciences Third Edition 1551

—— , Cotten S R, Ames M G, 'One Laptop per Child Birmingham: Case Study of a Radical Experiment' (2011) 3 (2) 2 International Journal of Learning and Media 61

Westbrook J and others, 'Education in Developing Countries' [2013] Final Report. Education Rigorous Literature Review. Department for International Development (London UK 2013)

Willis O, 'The Study Abroad Experience: Where Does Religion Fit?' (2012) 2 (1) Journal of Global Citizenship & Equity Education 17

Winocur R and Aguerre C, 'A Paradigmatic Case: the 'Plan CEIBAL' (2011) 5 Infoamérica 59

Winston B, 'Let them Eat Laptops: The Limits of Technicism' (2007) 1 International Journal of Communication Feature 170

Ya'U Y Z, 'The New Imperialism and Africa in the Global Electronic Village' (2004) 31 (99) Review of African Political Economy 11

Yujuico E and Gelb B, 'Marketing Technological innovation to LDCs: Lessons from One Laptop per Child' (2011) 53 (2) California Management Review 50

Official Publications

Brownlie, I, 'The human right to development' Human Rights Unit Occasional Paper, Commonwealth Secretariat (London 1989)

Clemens M A, 'The Long Walk to School: International education goals in historical perspective' (2004) Center for Global Development Working Paper 37/2004 www.cgdev.org/publication/long-walk-school-international-education-goals-historical-perspective-working-paper-37 accessed 5 January 2019

Colclough C and others, 'Education for All The Quality Imperative' EFA Global Monitoring Report 2005 (UNESCO, France 2004)

Committee General Comment 5 on General measures of implementation of the CRC, adopted at the Thirty-fourth Session, CRC/GC/2003/5, 27 November 2003

Corporal Punishment Lawful with Parental Consent, HC Deb 28 January 1997 vol 289 cc212-40

CRC Committee's General Comment No 1 (2001) CRC/GC/2001/1

Cristia J P, Ibarrarán P, Cueto S, Santiago A and Severín E, 'Technology and Child Development: Evidence from the One Laptop per Child Program' (2012) Inter-American Development Bank IDB-WP-304

De Melo G, Machado A and Miranda A, 'The Impact of a One Laptop per Child Program on Learning: Evidence from Uruguay' IZA (Germany, September 2014) Discussion Paper 8489

Declaration and integrated framework of action on education for peace, human rights and democracy 1995 (adopted at the 44th session of the International Conference on Education (Geneva, 1994), endorsed by the General Conference of UNESCO at its 28th session (Paris, 1995) www.unesco.org/education/pdf/REV_74_E.PDF accessed 20 May 2018

Delponte D and others, 'European Parliament Research Service study 'ICT in the developing world' (STOA 2015) IP/G/STOA/FWC/2013-001/LOT4/C3

Dreyer I and Hindley B, 'Trade in Information Technology Goods: Adapting the ITA to 21st Century Technological Change' (2008) ECIPE Working Paper 06/2008 http://ecipe.org/publications/trade-in-information-technology-goods-adapting-the-itata-to-21st-century-technological-change/ accessed 3 January 2019

ECLAC, 'Road Maps Towards an Information Society in Latin America and the Caribbean' (July 2003) LC/G.2195/REV.1-P

UNESCO, Global Education Monitoring Report 2016 Gender Review (UNESCO GEM Report 2016)

Heeks R, 'The ICT4D 2.0 Manifesto: Where Next for ICTs and International Development?' (2009) Manchester Centre for Development Informatics Working Paper 42/2009 www.oecd.org/ict/4d/43602651.pdf accessed 3 January 2019

Jochnick C and Garzon P, 'Rights-Based Approaches to Development an Overview of the Field' (CARE and Oxfam-America funded by the Ford Foundation 2002)

La Rue F, Human Rights Council Seventeenth session Agenda item 3 Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development (16 May 2011) A/HRC/17/27

Martínez A L, Díaz D and Alonso S, First national monitoring and evaluation report on Plan Ceibal social impact 2009, Executive Summary (Plan CEIBAL, Montevideo, Uruguay 2009)

Nyamu-Musembi C and Cornwall A, 'What is the "rights-based approach" all about? Perspectives from international development agencies' (2004) IDS Working Paper 234/2004 www.ids.ac.uk/publications/what-is-the-rights-based-approach-all-about-perspectives-from-international-development-agencies/ accessed 3 January 2019

Progress report of the Special Rapporteur Tomasevski K CHR 56th Session, UN Doc. E/CN.4/2000/6 2000a, para. 67, 23

Reich B (ed), Pivovarov V (ed), 'International Practical Guide on the implementation of the Recommendation concerning Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms' (UNESCO 1994) 7

Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression in the Sixty-ninth session of the United Nations General Assembly 21 August 2014

Resolution on Neocolonialism, All- African Peoples' Conference (AAPC) Cairo, March 25– 31, 1961

Sawyer R K, 'Optimising Learning: Implications of Learning Sciences Research' (OECD/CERI International Conference Learning in the 21st Century: Research Innovation and Policy 2008)

Tawil S (ed), 'Responding to Social exclusion through Curriculum Change' in Curriculum Change and Social Inclusion: Perspectives From the Baltic and Scandinavian Countries Final Report of the Regional Seminar Held In Vilnius, Lithuania UNESCO (2008)

The African Committee of Experts on the Rights and Welfare of the Child, Concept Note on the Day of the African Child 2014 Theme: "A child friendly, quality, free and compulsory education for all children in Africa"

The Committee on Economic, Social and Cultural Rights, provided an interpretation and clarification of Article 14 through its General Comment 11, in May 1999 E/C.12/1999/4, 10 May 1999

The Committee on Economic, Social and Cultural Rights, provided an interpretation and clarification of Article 13 through its General Comment 13, in December 1999 E/C.12/1999/10, 8 December 1999.

The Committee on the Rights of the Child at the Fifty-fifth Session, CRC/C/58/Rev.2, 13 September- 1 October 2010

The United Nations Millennium Development Goals Report 2015 (United Nations, New York 2015)

Tomaševski K, *Right to Education Primers No. 3: Human rights obligations: making education available, accessible, acceptable and adaptable* (Raoul Wallenberg Institute of Human Rights and Humanitarian Law 2001)

UK Parliamentary Under-Secretary of State, Department for Education and Skills (Lord Adonis) on fundamental elements of the right to education, HL Deb 17 Oct 2006, vol 685, col 656

UN Committee on the Rights of the Child General Comment no. 11 (2009): Indigenous children and their rights under the Convention [on the Rights of the Child] 12 February 2009, CRC/C/GC/11

UN Committee on the Rights of the Child General Comment no. 5 (2003): General measures of implementation of the Convention on the Rights of the Child 27 November 2003, CRC/GC/2003/5

UN Development Group adopted the UN Statement of Common Understanding on Human Rights-Based Approaches to Development Cooperation and Programming (the Common Understanding) in 2003

UNESCO and UNESCO Institute for Statistics, 'ICT in Education in Latin America and the Caribbean a regional analysis of ICT integration and e-readiness' (UNESCO Institute for Statistics 2012)

UNESCO Global Report Opening New Avenues for Empowerment ICTs to Access Information and Knowledge for Persons with Disabilities (UNESCO Paris 2013)

UNESCO Recommendation Concerning Education for International Understanding, Co-operation and Peace and Education Relating to Human Rights and Fundamental Freedoms (adopted by the General Conference of the UNESCO at its 18th session on 19 November 1974)

UNESCO, 'Plan CEIBAL in Uruguay from Pedagogical Reality to an ICT Road Map for the Future' (UNESCO Montevideo 2011)

United Nations, 'From Exclusion to Equality Realizing the Rights of Persons with Disabilities' Handbook for Parliamentarians on the Convention on the Rights of Persons with Disabilities and its Optional Protocol No 14 (Geneva 2007)HR/PUB/07/6

United Nations, 'Global Alliance for Information Technologies and Development to be Launched' Press Release (17 April 2006) DEV/2572-PI/1707

Wallet P 'ICT in Education and how a Philippine non-profit does it via the OLPC programme' UNESCO Information Paper No 22 (Bangkok April 2014)

— — and Melgar B V, 'Information and Communication Technology (ICT) In Education in Sub-Saharan Africa A comparative analysis of basic e-readiness in schools' Information Paper No. 25 (UNESCO August 2015)

Westbrook J and others, 'Education in Developing Countries' (2013) Final Report. Education Rigorous Literature Review. Department for International Development (London UK 2013)

Working Group on the Right to Development established 1998 by Commission resolution 1998/72, and by the Economic and Social Council, in its decision 1998/269 to ensure the promotion and implementation of the Declaration on the Right to Development

World Development Report 2016: Digital Dividends (Washington, World Bank 2016)

World Summit on the Information Society (WSIS) held in Geneva (2003) and Tunis (2005) set out ten targets in the Geneva Plan of Action (Targets 2,7) Document WSIS-03/GENEVA/DOC/5-E

Wunsch-Vincent S, WTO, E-Commerce and Information Technologies from the Uruguay Round to the Doha Development Agenda, Markle Foundation, A Report for the UN ICT Task Force May 31, 2003

Other Print Sources

Bray H, 'Fund loss staggers group giving laptops to poor children' *The Boston Globe* (Boston, 9 January 2009)

Crossette B, 'UN: Globalization Tops Agenda for World Leaders at Millennium Summit' *New York Times* (NY, 3 September 2000)

Dray J and Memosky J, 'Computers and a New World Order' *MIT Technology Review magazine* 13 (Boston, May/June 1983)

Hoover W A, 'The Practice Implications of Constructivism' *SEDL Letter* IX (3) (Texas, August 1996)

Malik S, 'Early schooling damaging children's wellbeing, say experts' *The Guardian* (London, 12 September 2013)

Mutua M, 'A Noble Cause Wrapped in Arrogance' *Boston Globe* (Boston, 29 April 2001)

Paton G, 'Start schooling later than age five, say experts' *The Telegraph* (London, 11 Sep 2013)

Popkin N, 'Seeds of a Quiet Revolution' *The Pennsylvania Gazette* (Philadelphia, May/June 2013)

Ribadeneira D, 'Taking a stand, seated For Latin School student, Pledge of Allegiance rings false' *The Boston Globe* (Boston, 14 November 1991)

Wilcock D, 'Children should not start school until age six or seven, experts warn' *The Independent* (London, 12 September 2013)

Ackerman E, 'Piaget's Constructivism, Papert's Constructionism: What's the difference?' 2001 (1) and (2) Constructivism: Uses and Perspectives in Education (Conference Proceedings, Research Center in Education, Geneva, September 2001)

Allen L, 'Using a Cultural Lens to Critique the One Laptop Per Child Program' Proceedings of Global TIME 2012 (1) 207 Association for the Advancement of Computing in Education (AACE) Online Conference 2012)

Annany M and Winters N, 'Designing for Development: Understanding One Laptop per Child in its Historical Context' (Proceedings of IEEE/ACM International Conference on Information and Communication Technologies and Development*, Bangalore, India, 2007)

Baran E, 'A Usability Study with Children: Testing OLPC (One Laptop per Child) XO (Proceedings of Society for Information Technology & Teacher Education International Conference, Chesapeake, VA 2009)

Camfield J, Kobulsky A and Paris J, 'A Report Card for One Laptop per Child Closing the Digital Divide via ICTs and Education: Successes and Failures' IAFF 229 (Multidisciplinary Seminar in Science Technology and Global Affairs, May 2007)

Cervantes R, Warschauer M, Nardi B, and Sambasivan N, 'Infrastructures for low-cost laptop use in Mexican schools' (Proceedings of ACM CHI 2011 Conference on Human Factors in Computing Systems, Vancouver, BC, May 2011)

Coomar S and Ryzhov I, 'A Short Case Study of the Impacts of the OLPC Project around the World' (Department of Informatics, University of Zurich 2015)

ELAC, 'Plan of Action for the Information and Knowledge Society in Latin America and the Caribbean (eLAC2015)' Third Ministerial Conference on the Information Society in Latin America and the Caribbean (Lima, 21-23 November 2010) DDR/1(eLAC.4)

Irani L, Vertesi J, Dourish P, Philip K and Grinter R, 'Postcolonial Computing: A Lens on Design and Development' (2010) CHI 10 (Proceedings of the SIGCHI Conference on Human Factors in Computing Systems ACM Press Atlanta, GA, USA 2010)

Klebl M, 'Explicating the Shaping of Educational Technology: Social Construction of Technology in the Field of ICT and Education' (Readings in Education and Technology, Proceedings of ICICTE Corfu, Greece 2008)

Mutua M and Anghie A, 'What is TWAIL?' (2000) 94 (Proceedings of the Annual Meeting American Society of International Law, Cambridge University Press April 2000)

Pablo J and others, 'Early OLPC Experiences in a Rural Uruguayan School' (CHI 2008 Proceedings Florence 2008)

Pal J, 'Computers and the Promise of Development: Aspiration, Neoliberalism and 'Technolity' in India's ICTD enterprise' Confronting the Challenge of Technology for Development: Experiences from the BRICS, (University of Oxford 29-30 May 2008)

Phillips V, 'Indigenous Rights, Traditional Knowledge, and Access to Genetic Resources - New Participants in Future International Law Making' (Research Paper No. 2008-05, University of Tulsa Legal Studies 2008)

Prusa A and Plotts E, 'Uruguay's Plan Ceibal: Can Laptops in the Hands of Primary School Students Reduce the Digital Divide, Improve Education, and Increase Competiveness?' (George Washington University Capstone Project 2011)

Resnick M, 'Distributed Constructionism' Proceedings of the International Conference on the Learning Sciences Association for the Advancement of Computing in Education (Northwestern University, 1996)

Sawyer K R, 'Optimising Learning: Implications of Learning Sciences Research' (OECD/CERI International Conference Learning in the 21st Century: Research Innovation and Policy Paris, 2008)

Tilak J B G, Melin M (ed), Education and Poverty' in Education– a Way out of Poverty? SIDA 2001 (12) New Education Division documents (The Poverty Conference, Sweden 2001)

Internet Articles
— — 'Sub-$100 laptop design unveiled' *BBC News* (29 September 2005) http://news.bbc.co.uk/2/hi/technology/4292854.stm accessed 5 January 2019

Anghie A, Globalization and its Discontents International Institutions and the Colonial Origins of Law and Development1' (lecture at New York University Law School, NY February 2005) www.iilj.org/wp-content/uploads/2016/11/Anghie-International-Institutions-and-the-Conolial-Origins-of-Law-and-Development-2005.pdf accessed 5 January 2019

Ardito G P, 'The Shape of Disruption: XO Laptops in the Fifth Grade Classroom' (January 1, 2010) ETD Collection for Pace University http://digitalcommons.pace.edu/dissertations/AAI3530269/accessed 5 January 2019

Barras C, 'Laptops Could Betray Users in the Developing World' *New Scientist* (2008) www.newscientist.com/article/mg19826596.100-laptops-could-betray-users-in-the-developing-world.html?page=2 accessed 5 January 2019

Beer S, 'War of Words Between Aid Organization and OLPC Erupts' *IT Wire* (2007) www.itwire.com/your-it-news/home-it/8894-war-of-words-between-aid-organization-and-olpc-erupts accessed 5 January 2019

Best J, 'Negroponte: Windows Key to OLPC Philosophy' *CNET News* (October 29, 2007) http://news.cnet.com/Negroponte-Windows-key-to-OLPC-philosophy/2100-1016_3-6215837.html accessed 4 January 2019

Bray H, 'Fund Loss Staggers Group Giving Laptops to Poor Children' *The Boston Globe* (January 9 2009) www.boston.com/business/technology/articles/2009/01/09/fund_loss_staggers_group_giving_laptops_to_poor_children/?page=full accessed 5 January 2019

Buderi R, 'After Layoffs One Laptop per Child Reboots With New Focus and Big Plans' *Xconomy* (2009) www.xconomy.com/boston/2009/01/29/olpc-20-after-layoffs-one-laptop-foundation-reboots-with-new-focus-and-big-plans/2/ accessed 5 January 2019

Camfield J, 'OLPC History: Senegalese Failure in Implementation' *OLPC News* (June 2007) www.olpcnews.com/people/negroponte/olpc_history_senegal_failure.html> accessed 5 January 2019

— — 'A Hubris Model of One Laptop Per Child Implementation' *OLPC News* (1 July 2008) www.olpcnews.com/people/leadership/hubris_model_of_olpc.html accessed 5 January 2019

Cherlin E, 'Controversial Constructionism' *OLPC news* (16 June 2008) www.olpcnews.com/content/education/controversial_constr.html> accessed 5 January 2019

Churchill S, 'XO-2 Laptop: Open Everything' *dailywireless.org* (30 January 2009) www.dailywireless.org/2009/01/30/15781/ accessed 2 February 2009

Cohen B, 'UVA Students On OLPC's Technological Determinism' *OLPC news* (22 January 2009) www.olpcnews.com/commentary/academia/uva_students_on_olpcs_technolo.html accessed 5 January 2019

Derndorfer C, 'XOXO: OLPC Announces Details About the XO-2, G1G1 Comeback in Summer' *OLPC News* (20 May 2008) www.olpcnews.com/laptops/xo2/olpc_announces_xoxo.html accessed 5 January 2019

—— 'OLPC in Uruguay: Impressions of Plan Ceibal's Primary School XO Laptop Saturation' *Education Technology Debate* (12 October 2010) http://edutechdebate.org/olpc-in-south-america/olpc-in-uruguay-impressions-of-plan-ceibal/ accessed 5 January 2019

Elgan M, 'Company Suing OLPC Asked for $20 Million' *Computerworld* (2 January 2008) www.computerworld.com.au/article/201246/ accessed 5 January 2019

Fullan M and Langworthy M, 'Towards a New End: New Pedagogies for Deep Learning' (Collaborative Impact Washington 2013) www.newpedagogies.nl/images/towards_a_new_end.pdf accessed 6 January 2019

Gatto J T, (New York City Teacher of the Year Award on January 31, 1990) 'Why Schools Don't Educate' www.naturalchild.org/guest/john_gatto.html accessed 4 January 2019

Gray P, 'Self-Directed Education—Unschooling and Democratic Schooling' *Oxford Research Encyclopaedias* [2017] http://education.oxfordre.com/view/10.1093/acrefore/9780190264093.001.0001/acrefore-9780190264093-e-80 accessed 5 January 2019

Hamm S, 'The Educational Philosophy Controversy' *BusinessWeek* (2008) www.businessweek.com/globalbiz/blog/globespotting/archives/2008/06/olpc_the_educat.html accessed 22 January 2009 (no longer available)

—— and Geri Smith, 'One Laptop Meets Big Business' BusinessWeek IN Focus (June 5, 2008) www.businessweek.com/print/magazine/content/08_24/b4088048125608.htm accessed 22 January 2009 (no longer available)

Hancock T, 'The Bittersweet Facts about OLPC and Sugar' Free Software Magazine (25 April 2009) http://freesoftwaremagazine.com/articles/bittersweet_facts_about_olpc_and_sugar/ accessed 4 January 2019

Hewlett S A, *Child Neglect in Rich Nations* (UNICEF 1993) www.unicef.org/about/history/files/child_neglect_rich_nations.pdf accessed 5 January 2019

Krstic I, Blog entry http://radian.org/notebook/sic-transit-gloria-laptopi accessed 22 January 2009 (no longer available)

Leinonen T 'Participation Design' *OLPC news* (2007) www.olpcnews.com/laptops/xo2/participation_design_xo-2.html accessed 5 January 2019

Maesschalck T D, 'OLPC XO-2 Laptop Previewed' *Dark Vision Hardware* (21 May 2008) www.dvhardware.net/article27360.html accessed 5 January 2019

Microsoft, 'Microsoft and One Laptop per Child Partner to Deliver Affordable Computing to Students Worldwide' *Microsoft News* (15 May 2008) https://news.microsoft.com/2008/05/15/microsoft-and-one-laptop-per-child-partner-to-deliver-affordable-computing-to-students-worldwide/ accessed 4 January 2019

Mukul A, 'HRD Rubbishes MIT's Laptop Scheme for Kids' *The Times of India* (3 July 2006) http://timesofindia.indiatimes.com/articleshow/msid-1698603,curpg-1.cms accessed 5 January 2019

—— 'Rs 500 Laptop Display on Feb 3' *The Times of India* (3 February 2009) http://timesofindia.indiatimes.com/India/Rs_500-laptop_display_on_Feb_3/articleshow/4049914.cms accessed 5 January 2019

Naughton J, 'The $100 Laptop Question' *The Guardian* (4 December 2005) www.theguardian.com/business/2005/dec/04/olpc.theobserver accessed 5 January 2019

Nugroho D and Lonsdale M, 'Evaluation of OLPC Programs Globally: a Literature Review' Australian Council for Educational Research (ACER) Version 4 August 2010 http://research.acer.edu.au/digital_learning/8/ accessed 6 January 2019

Nystedt D, 'Peru to be First with New OLPC Laptop with Windows' *Computerworld* (2008) www.computerworld.com.au/article/260500/peru_first_new_olpc_laptop_windows accessed 4 January 2019

O'Donoghue C and others, 'What Will Data Protection Look Like in a Post-Brexit Britain?' *Technology Law Dispatch* (29 June 2016) www.technologylawdispatch.com/2016/06/data-cyber-security/what-will-data-protection-look-like-in-a-post-brexit-britain/ accessed 5 January 2019

Oates J, 'India Rejects One Laptop per Child' *The Register* (26 July 2006) www.theregister.co.uk/2006/07/26/india_says_no_to_olpc/ accessed 5 January 2019

Ogg E, 'OLPC's Give One, Get One Program to be Rekindled Nov. 17' *CNET News* (11 November 2008) http://news.cnet.com/8301-17938_105-10094521-1.html accessed 5 January 2019

Paczkowski J, 'Olpc Foundation Announces "Keep One, Fire One" Employee Drive' *Digital Daily* (8 January 2009) http://digitaldaily.allthingsd.com/20090108/olpc-foundation-annouces-%E2%80%9Ckeep-one-fire-one%E2%80%9D-employee-drive/ accessed 5 January 2019

Papert S, 'Computer as Condom' www.papert.org/articles/ComputerAsCondom.html accessed 4 January 2019

Paul R, 'Exodus of Key Figures from OLPC a Troubling Sign for Project' A*rs Technica* (2008) http://arstechnica.com/hardware/news/2008/04/exodus-of-key-figures-from-olpc-a-troubling-sign-for-project.ars accessed 4 January 2019

— — 'Lancor Sues Non-Profit Charity OLPC for $20 Million' *ArsTechnica* (2 January 2008) http://arstechnica.com/old/content/2008/01/lancor-sues-non-profit-charity-olpc-for-20-million.ars accessed 5 January 2019

— — 'OLPC Angering Donors: Give 1 Get1...Someday...Probably' *ArsTechnica* (25 January 2008) http://arstechnica.com/hardware/news/2008/01/olpc-angering-donors-give-1-get-1-some-day-probably.ars accessed 5 January 2019

— — 'OLPC Security Expert Resigns over Reorg as Project Flounders' *ArsTechnica* (21 March 2008) http://arstechnica.com/hardware/news/2008/03/olpc-security-expert-resigns-over-reorg-as-project-flounders.ars accessed 4 January 2019

— — 'OLPC Downsizes Half of its Staff, Cuts Sugar Development' *ArsTechnica* (7 January 2009) http://arstechnica.com/business/news/2009/01/olpc-downsizes-half-of-its-staff-cuts-sugar-development.ars accessed 5 January 2019

PNUD/UNDP, '$100 Laptop Project Moves Closer to Narrowing Digital Divide' *Germ* (28 January 2006) <www.mondialisations.org/php/public/art.php?id=22404lan=FR&lan=EN > accessed 4 January 2019

Psetizki V, 'Laptop for Every Pupil in Uruguay' *BBC News* (16 October 2009) http://news.bbc.co.uk/2/hi/technology/8309583.stm accessed 5 January 2019

Roush W, 'One Laptop Foundation Blasts Intel, Says World's Children are Mission, Not Market' *Xconomy* (4 January 2008) https://xconomy.com/boston/2008/01/04/one-laptop-foundation-blasts-intel-says-worlds-children-are-mission-not-market/ accessed 4 January 2019

Setzer V W, 'A Critical View of the "One Laptop per Child" Project' (12th World Multiconference on Systemics, Cybernetics and Informatics WMSCI Orlando, Florida, U.S.A 2008) www.ime.usp.br/~vwsetzer/OLPC-WMSCI.pdf accessed 4 January 2019

Shah A, 'OLPC Switch to Windows on XO is 'Muddled,' Developers Say' *InfoWorld News* (23 April 2008) <www.infoworld.com/article/2652012/operating-systems/olpc-switch-to-windows-on-xo-is--muddled---developers-say.html> accessed 4 January 2019

Smith S, 'The $100 Laptop—Is it a Wind-Up?' *CNN* (1 December 2005) http://edition.cnn.com/2005/WORLD/africa/12/01/laptop/ accessed 2 January 2019

Stager G, 'Laptops in School — A Wonderfully Cautionary Tale' 2000 www.stager.org/articles/laptopbookchapter.html accessed 22 January 2009

Talbot D, 'OLPC Laptop gets Windows' *MIT Technology Review* (2008) www.technologyreview.com/Infotech/20788/?a=f accessed 4 January 2019

Trucano M, 'What's Next for Plan Ceibal in Uruguay?' *EduTech* (6 October 2011) http://blogs.worldbank.org/edutech/planceibal2 accessed 5 January 2019

Vázquez T, 'Digital Democracy' (2009) Americas Quarterly Connectivity and the Digital Divide www.americasquarterly.org/node/370 accessed 5 January 2019

Villanueva Mansilla E, 'Building One Laptop Per Socialized Child' *OLPC news* (12 June 2007) www.olpcnews.com/use_cases/community/building_laptop_socialized.html accessed 5 January 2019

Vinas-Forcade J and Leuven K U, 'Environmental Concerns and Parental Participation in Plan CEIBAL The Case of the Pedal Charger' www.flordeceibo.edu.uy/sites/default/files/1.edu/Vinas-Forcade_Leuven-Environmental%20concerns%20and%20parental%20participation%20in%20Plan%20Ceibal.pdf accessed 6 January 2019

Vota W, 'One Laptop Per Child "Trojan Horse" Comparison' *OLPC News* (11 May 2007) www.olpcnews.com/people/negroponte/laptop_child_trojan_horse.html accessed 5 January 2019

— — 'OLPC Nigeria's Progress with XO Computers in Classrooms' *OLPC news* (27 June 2007) www.olpcnews.com/countries/nigeria/progress_computers_classroom.html> accessed 5 January 2019

— — 'Breaking News: OLPC Just Got Gutted, 50% of Staff Gone' *OLPC News* (2008) www.olpcnews.com/people/negroponte/olpc_just_got_gutted.html accessed 5 January 2019

— —'OLPC Nigeria One Year Later: Hard Lessons Learned *OLPC News* (2008) www.olpcnews.com/countries/nigeria/olpc_nigeria_one_year_later.html accessed 5 January 2019

— — 'The Real Olpc Bust: G1G1 2008 XO Laptop Sales' *OLPC News* (9 January 2009) www.olpcnews.com/sales_talk/g1g1_2008/olpc_bust_g1g1_2008_sales.html accessed 5 January 2019

—— 'What Does "Open Source Hardware" Mean for the XO-2?' *OLPC News* (30 January 2009) www.olpcnews.com/hardware/production/open_source_hardware_xo-2_laptop.html accessed 5 January 2019

Warschauer M, 'Plan Ceibal: A Better Designed and Supported XO Laptop Implementation Program' *OLPC news* (6 May 2010) www.olpcnews.com/countries/uruguay/plan_ceibal_a_better_designed.html#sthash.V8bXQ5qh.dpuf accessed 6 January 2019

(CEPAL) Economic Commission for Latin America and the Caribbean (ECLAC) incorporated ICT in its agenda in 2000 www.cepal.org/es/proyectos/elac2020 accessed 6 January 2019

ACRWC ratifications https://au.int/sites/default/files/treaties/7773-sl-african_charter_on_the_rights_and_welfare_of_the_child_1.pdf accessed 2 January 2019

Anytime Anywhere Learning initiative www.aalf.org/cms/?page=AALF%20-%20About accessed 5 January 2019

AS/COA (American Society Council of the Americas) 'Uruguay: Innovation and Social Development' (Conference Uruguay, August 2010) www.as-coa.org/articles/uruguay-innovation-and-social-development accessed 6 January 2019

Assembly of the African Union First Ordinary Session 9 – 10 July 2002 Durban, South Africa www.au.int/en/history/oau-and-au accessed 5 January 2019

Canal Ceibal www.youtube.com/user/canalceibal accessed 6 January 2019

Ceibal http://wiki.laptop.org/go/OLPC_Uruguay/Ceibal accessed 7 January 2015

Ceibal partnered with United Nations Country Team (UNCT) and UNESCO
www.unesco.org/new/en/brasilia/about-this-office/single-
view/news/unesco_launches_guidebook_on_the_use_of_computer_for_parents/ accessed 6 January
2019

Ceibal Research Centre www.fundacionceibal.edu.uy/en/page/mission accessed 6 January 2019

Ceibal website www.ceibal.edu.uy/en/institucional accessed 6 January 2019

Chinese Proverb https://quoteinvestigator.com/2015/08/28/fish/ accessed 5 January 2019

Countries receiving G1G1 Donations http://wiki.laptop.org/go/Countries accessed 5 January 2019

ECLAC regarding ICT in Education in Latin America and the Caribbean
http://caribbean.cepal.org/content/ict-education-latin-america-and-caribbean accessed 6 January 2019

Education for All (EFA) www.unesco.org/new/en/archives/education/themes/leading-the-international-
agenda/education-for-all/ accessed 2 January 2019

Free Software Definition www.gnu.org/philosophy/free-sw.en.html accessed 4 January 2019

Free Software Foundation, GNU Project- What is Copyleft? www.gnu.org/copyleft/ accessed 4 January
2019

General Assembly World Programme for Human Rights Education 2004
www.ohchr.org/EN/Issues/Education/Training/Pages/Programme.aspx accessed 6 December 2018

Give 1 Get 1 2007 http://wiki.laptop.org/go/G1G1_2007 accessed 5 January 2019

Give 1 Get 1 2008 http://wiki.laptop.org/go/G1G1_2008 accessed 5 January 2019

Global Development Gateway www.developmentgateway.org/about/ accessed 6 January 2019

Irish National Strategy on Children and Young People's Participation in Decision-Making 2015 – 2020
www.dcya.gov.ie/documents/playandrec/20150617NatStratonChildrenandYoungPeoplesParticipationinD
ecisionMaking2015-2020.pdf accessed 2 January 2019

Jebb E, Save the Children
www.savethechildren.org/site/c.8rKLIXMGIpI4E/b.6354847/k.2DD5/The_Woman_Who_Saved_the_Children.htm accessed 6 December 2018

LOGO http://el.media.mit.edu/logo-foundation/what_is_logo/index.html accessed 4 January 2019

Most influential theories of learning www.ibe.unesco.org/en/geqaf/annexes/technical-notes/most-influential-theories-learning accessed 5 January 2019

Negative effects of Globalization www.who.int/topics/globalization/en/ accessed 6 January 2019

Negroponte N, 'One Laptop per Child' *TED 2006*
www.ted.com/talks/nicholas_negroponte_on_one_laptop_per_child?language=en accessed 6 January 2019

Negroponte N, 'One Laptop per Child, Two Years On' *TED 2007*
www.ted.com/talks/nicholas_negroponte_on_one_laptop_per_child_two_years_on?language=en accessed 6 January 2019

Negroponte N, e-mail to the OLPC Sugar list serve http://lists.laptop.org/pipermail/sugar/2008-May/005795.html accessed 5 January 2019

Negroponte N, http://laptop.org/en/vision/index.shtml accessed 2 January 2019

No enemy child www.fundinguniverse.com/company-histories/united-nations-international-children-s-emergency-fund-unicef-history/ accessed 6 December 2018

Non-Self-Governing Territories (NSGTs) www.un.org/en/decolonization/nonselfgovterritories.shtml accessed 5 January 2019

Observatory for the Information Society in Latin America and the Caribbean (OSILAC) www.cepal.org/cgi-bin/getprod.asp?xml=/socinfo/noticias/paginas/8/44988/P44988.xml&xsl=/socinfo/tpl-i/p18f-st.xsl&base=/socinfo/tpl-i/top-bottom.xsl accessed 6 January 2019

OECD on brain drain phenomenon
www.oecd.org/dev/poverty/migrationandthebraindrainphenomenon.htm accessed 3 November 2015
(no longer available)

OLPC Core Principles http://wiki.laptop.org/go/Core_principles accessed 4 January 2019

OLPC Deployment Guide http://wiki.laptop.org/go/Deployment_Guide accessed 4 January 2019

OLPC Deployment Guide 2011

http://wiki.laptop.org/go/Deployment_Guide_2011/OLPC_Learning_Strategy accessed 4 January 2019

OLPC Journal http://wiki.laptop.org/go/Journal accessed 5 January 2019

OLPC Mission http://wiki.laptop.org/go/Mission accessed 4 January 2019

OLPC Partners UNDP http://laptop.org/en/utility/people/partners.shtml accessed 6 January 2019

OLPC restructuring http://wiki.laptop.org/go/January_2009_restructuring accessed 5 January 2019

OLPC Video http://laptop.org/en/vision/index.shtml accessed 22 January 2009 (no longer available)

OLPC Vision http://laptop.org/en/vision/index.shtml accessed 4 January 2019

Papert S, http://laptop.org/en/vision/mission/index2.shtml accessed 4 January 2019

Papert's Obituary www.theguardian.com/education/2016/aug/03/seymour-papert-obituary accessed 5 January 2019

Professor Papert Discusses One Laptop per Child Project, *USINFO Webchat* transcript, 14 November 2006 www.america.gov/st/washfile-english/2006/November/20061114160233xjsnommiS0.2487299.html 21 November 2007 (no longer available)

Red de Apoyo al Plan Ceibal (Support Network for Plan Ceibal) http://rapceibal.blogspot.gr/ accessed 5 January 2019

Report on the Governability of Democracies to the Trilateral Commission www.trilateral.org/download/doc/crisis_of_democracy.pdf accessed 5 January 2019

Save the Children 'Too much too soon' www.toomuchtoosoon.org/ accessed 5 January 2019

Signatories to Third Optional Protocol to the Convention on the Rights of the Child https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11-d&chapter=4&clang=_en accessed 2 January 2019

Signatures and Ratifications of African Union Convention on Cyber Security and Personal Data Protection https://au.int/sites/default/files/treaties/29560-treaty-0048_-

_african_union_convention_on_cyber_security_and_personal_data_protection_e.pdf accessed 5 January 2019

Sugar Educational Activities for CEIBAL http://wiki.laptop.org/go/Ceibal_Jam accessed 6 January 2019

Sugar Labs https://sugarlabs.org/ accessed 5 January 2019

The Logo Foundation, 'What is Logo' http://el.media.mit.edu/logo-foundation/what_is_logo/index.html accessed 7 October 2008

UK based charity 'Teachamantofish' www.teachamantofish.org.uk/ accessed 5 January 2019

UN membership www.un.org/en/member-states/index.html accessed 6 December 2018

UNDP partnership with OLPC http://content.undp.org/go/newsroom/2006/january/100-dollar-laptop-20060128.en?categoryID=349437&lang=en accessed 5 January 2019

UNESCO, Teaching and Learning for a Sustainable Future Programme www.unesco.org/education/tlsf/mods/theme_c/mod18.html accessed 6 January 2019

UNICEF importance of education www.unicef.org/factoftheweek/index_48042.html accessed 2 January 2019

Uruguay Order of XO http://wiki.laptop.org/go/Countries accessed 5 January 2019

Uruguay Schools http://one.laptop.org/map/uruguay accessed 5 January 2019

Walter Bender Interview on Radio Open Source 2007 http://radioopensource.org/one-laptop-per-child/ accessed 6 January 2019

Windows on XO http://wiki.laptop.org/go/Windows accessed 4 January 2019

World Bank Country Classifications http://data.worldbank.org/about/country-classifications accessed 5 January 2019

World Bank South-South Knowledge Exchange and Study Tour on the Use of ICTs in Education http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTEDUCATION/0,,contentMDK:23387111~pagePK:210058~piPK:210062~theSitePK:282386,00.html accessed 3 January 2019

World Bank Support of ICT's www.worldbank.org/en/topic/edutech accessed 4 January 2019

World Corporal Punishment Research www.corpun.com/counuks.htm accessed 5 January 2019

World Trade Organisation (WTO) 'Developing Country'
www.wto.org/english/tratop_e/devel_e/d1who_e.htm accessed 5 January 2019

XO 4 http://wiki.laptop.org/go/XO-4_Touch accessed 5 January 2019

XO Anti-theft http://wiki.laptop.org/go/OLPC_Bitfrost#P_THEFT:_anti-theft_protection accessed 4 January 2019

XO Battery http://wiki.laptop.org/go/Laptop_Batteries accessed 4 January 2019

XO Internet http://wiki.laptop.org/go/Internet accessed 4 January 2019

XO Laptop http://wiki.laptop.org/go/XO accessed 4 January 2019

XO Laptop http://wiki.laptop.org/go/XO accessed 4 January 2019

XO Laptop Specifications http://wiki.laptop.org/go/Hardware_specification accessed 4 January 2019

XO School Server http://wiki.laptop.org/go/School_server accessed 4 January 2019

XO Software http://laptop.org/en/laptop/software/ accessed 4 January 2019