

QUEEN'S UNIVERSITY BELFAST

European Master's Programme in Human Rights and Democratisation
A.Y. 2021/2022

Give Education a Chance: The Right to Primary Education as Tool to
Foster Reconciliation following the 2020 Nagorno-Karabakh War

The intersection of the goals of education, curriculum building, and truth commissions

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Abstract

Children have the unique position, or arguably the unique burden, in playing a central role in both advocating for and participating in the bottom-up transition to a viable peacetime. Centering a child's rights perspective, this thesis argues that education should be used as a building block in order for societies to progress and seek reconciliation after conflict. Analyzing Articles 28 and 29 from the Convention on the Rights of the Child (CRC) this thesis will assess the goals of primary education, including the development of respect for human rights, cultural identity and national values and the way these are implemented in curricula. Additionally, it is argued that Article 12 CRC:the right to express views and those to be given due weight; is crucial both in developing curricula and in post-conflict reconciliation mechanisms. Part of the analysis will be to utilize frameworks for education such as the rights to, in, and through education, as well as the Lundy Model of Child Participation. Scaling in on transitional justice mechanisms in order to achieve reconciliation and accountability, this thesis examines the practice of truth commissions. It is argued that truth commissions are well suited as a basis for curricula development to provide nuanced narratives of history. Through using the 2020 Nagorno-Karabakh War as a case study, this thesis seeks to identify the importance of a child's rights approach to education, participation in decision making, and ultimately long-term conflict resolution.

Key Words: children's rights; transitional justice; right to education; right to participation; truth commissions

Acknowledgements

Writing this thesis has been challenging, exciting, at times frustrating and yet always interesting. The support I received throughout the process has been immeasurable and has ensured that the process as a whole will be remembered as a positive one.

I have immense gratitude to my supervisor Prof. Laura Lundy, whose guidance and unwavering support has been a pillar of my writing process. I am also grateful to the EMA team, in particular Prof. Thérèse Murphy, for their support.

I would be remiss not to thank my friends and family who listened to my questions, doubts, ideas, and thought processes throughout the past months. I am also grateful to Established Coffee and the whole Belfast café scene for keeping me caffeinated and socialized throughout the writing process.

Finally, my sincere appreciation for children everywhere who continue to express their voice and envision a more peaceful world.

List of Abbreviations

CRC: Convention on the Rights of the Child

ICESCR: International Covenant on Economic, Social, and Cultural Rights

IHRL: International Human Rights Law

OHCHR: Office of the United Nations High Commissioner for Human Rights

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1. Introduction

“The legacies of conflict not only shape the way in which the new social order is conceived, but also the ways in which traumatic knowledge is passed on from one generation to another thereby potentially fostering recurring cycles of hatred and violence”.¹ Post-conflict expert Weldon here identifies that the manner in which knowledge is transmitted can either have restorative or degenerative effects within society. Education “offers the chance to shape minds, hearts, and behaviour of succeeding generations.”² Similarly, Minow has suggested that education specifically can have a long-term impact and contribute to peace restoration in post-conflict societies. Education programmes carry the potential to “promote mutual understanding, peace and tolerance, and that help to prevent violence and conflict.”³ The former UN Special Rapporteur on the Right to Education, Katarina Tomaševski, equally identifies the unique position which education holds, either as a factor which can lead societies to become conflict-prone, or as a key element in addressing the intergenerational causes of conflict.⁴

Much has been written about the right to primary education, as provided for in Articles 28 and 29 of the Convention on the Rights of the Child (CRC). The CRC is the most pertinent human rights treaty on which a discussion on the role of education in post-conflict societies should be framed, as it has attained near universal ratification – the United States of America being the exception.⁵ Whereas Article 28 CRC enshrines the right to education, Article 29 elaborates the goals of what that education should achieve. Specifically of note is Article 29(1)(b), which articulates the desire to develop “respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations.”⁶ Further, Article 29(1)(c) identifies 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”.⁷ There is thus an inherent assumption that the development of both a cultural and a national identity

¹ Clara Ramírez-Barat, and Roger Duthie, ‘Education and Transitional Justice, Opportunities and Challenges for Peacebuilding’ (International Centre for Transitional Justice and UNICEF, 2015) 5.

² Martha Minow, ‘Education for Co-Existence’ (2002) 44/1 Arizona Law Review <<https://dash.harvard.edu/handle/1/3113767>> accessed 13 October 2021.

³ UN Committee on the Rights of the Child, ‘General Comment No. 1 (2001) Article 29(1): The Aims of Education’ (17 April 2001, UN Doc: CRC/GC/2001/1) para 16.

⁴ Katarina Tomaševski, *Human Rights Obligations: Making Education Available, Accessible, Acceptable and Adaptable* (Right to Education Primers 3, Lund: Raoul Wallenberg Institute of Human Rights and Humanitarian Law, 2001) 17.

⁵ OHCHR, ‘Status of Ratification Dashboard’ (OHCHR)< <https://indicators.ohchr.org/> > accessed 14 October 2021.

⁶ Convention on the Rights of the Child (Adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS (CRC) Article 29(1)(b).

⁷ CRC (n6) Article 29(1)(c).

can occur simultaneously. With this in mind, it is relevant to consider that the foundation of public schooling developed alongside the development of the nation-state.⁸ A key role of education was then the forming of a coherent national identity.⁹ It is thus essential to remember that modern institutionalised education was not born from the ideology of providing for a universalist, humanitarian account of human dignity.¹⁰

Importantly, the right to education has been identified as a multiplier right; it serves as a foundation for a multitude of other rights within the CRC.¹¹ As Tomaševski identifies, education “enhances all rights and freedoms when it is guaranteed, while jeopardising them all when it is violated.”¹² As the Committee of the CRC (the Committee) identifies, the right to education cannot be separated from the CRC in its entirety, as the provisions within are interconnected and interrelated.¹³ The importance of the right to education is thus only increased in post-conflict contexts when societies need to rebuild.

One such provision within the CRC which is interrelated with Articles 28 and 29 is Article 12, which stipulates the right to voice an opinion and for it to be given due weight. Historically, there was great opposition to the notion that children should be able to voice their opinion and contribute to decision making in matters affecting them, due to children being viewed as property, rather than fully endowed with their own rights.¹⁴ Article 12 seeks to address the gap in children’s civil and political rights as it “addresses the legal and social status of children, who, on the one hand lack the full autonomy of adults, but on the other, are subjects of rights.”¹⁵ Multiple attempts have been made at conceptualising what is to be understood by Article 12 CRC, the most prominent being the Lundy Model.¹⁶

⁸ Ben Conisbee Baer *Indigenous Vanguard: Education, National Liberation, and the Limits of Modernism* (Columbia University Press, 2009) 23.

⁹ Barnita Bagchi, and others *Connecting Histories of Education: Transnational Cross-Cultural Exchanges in (Post)Colonial Education* (Berghahn Books, 2014) 262.

¹⁰ Alişan Akpınar and others, ‘History Education in Schools in Turkey and Armenia, A Critique and Alternatives’ (History Foundation and Imagine Center for Conflict Transformation, 2017) 72.

¹¹ Laura Lundy and Patricia O’Lynn in Ursula Kilkelly and Ton Liefaard (eds) *The Education Rights of Children*, (International Human Rights of Children, Springer, 2019) 260.

¹² Tomaševski (n4) 17.

¹³ CRC Committee (n3) para 6.

¹⁴ Laura Lundy, ‘Art. 12 The Right to Respect for the Views of the Child’ in Tobin J (ed) *The UN Convention on the Rights of the Child: A Commentary* (Oxford University Press, 2019) 432.

¹⁵ UN Committee on the Rights of the Child, ‘General Comment No. 12 (2009) Article 12: The Right of the Child to be Heard’ (20 July 2009, UN Doc: CRC/C/GC/12) para 1.

¹⁶ 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 <<https://www.tandfonline.com/doi/abs/10.1080/01411920701657033>> date accessed 12 November 2021.

The tension between national identity and respect for human rights is acutely felt within the conflict between Armenia and Azerbaijan surrounding the contentious Nagorno-Karabakh region. Nagorno-Karabakh is a roughly 4,400km squared region located in a landlocked mountainous area between Armenia and Azerbaijan.¹⁷ Although the conflict has its historical origins in the early 20th century, the conflict as it is known presently was initiated in 1988.¹⁸ The conflict is entrenched in ethnic and territorial control, which ruptured during the collapse of the USSR when the region, in which an Armenian ethnic majority resided, was declared to be Azerbaijani territory, spurring on decades of war.¹⁹ In 2020 on September 27th, a new wave of conflict erupted lasting until the 9th of November 2020, when a peace deal negotiated by the Russian Federation was signed.

It is precisely this distinction that education has the potential to address; namely, focusing education on peace, respect, and tolerance, rather than on deals. As aptly identified by Eastern Europe and Caucasus region specialist Thomas de Waal, the brokered agreement allowing for the ceasefire in Nagorno-Karabakh is “much more a deal, than it is peace”.²⁰ Although it would be naïve and unrealistic to assume that education alone could solve such a conflict, it is equally naïve to undermine the crucial role it could play. Education is dynamic and can effectively be used to convey emerging and established conflicts from new perspectives.²¹ One such method is to re-examine school curricula to identify whether and how the knowledge being transmitted to new generations promotes “universal values of tolerance and social cohesion, but also on the sensitivity of reforms and programs to the legacies of past injustices in the education sector and the public culture”.²² This focus on respect and tolerance is not only fundamental for individual societies and States, but is critical for the global community at large. Yet, it is naïve to think that education exists independently of the political context in which it is provided, and thus can ever be a neutral source of information.²³

¹⁷ BBC, ‘Nagorno-Karabakh Profile’ (18 November 2020 BBC) < <https://www.bbc.co.uk/news/world-europe-18270325> > accessed 7 December 2021.

¹⁸ RULAC, ‘Military Occupation of Azerbaijan by Armenia’ (1 February 2022, Geneva Academy) < <https://www.rulac.org/browse/conflicts/military-occupation-of-azerbaijan-by-armenia> > accessed 13 March 2022.

¹⁹ Zia Weise and others, ‘The Armenia-Azerbaijan Conflict Explained’ (28 September 2020, Politico) < <https://www.politico.eu/article/the-nagorno-karabakh-conflict-explained-armenia-azerbaijan/> > accessed 9 October 2021.

²⁰ European Forum for Democracy and Solidarity, ‘Interview with Thomas de Waal’ (29 March 2021).

²¹ Philip Gamaghelyan ‘Towards an Inclusive Conception of Best Practices in Peace and Conflict Initiatives: The Case of the South Caucasus’ (2020) 26/1 International Negotiation < https://brill.com/view/journals/iner/26/1/article-p125_7.xml > accessed 3 March 2022 126.

²² Ramírez-Barat and Duthie (n1) 1.

²³ Sobhi Tawil and Alexandra Harley, in Sobhi Tawil and Alexandra Harley (eds) *Identity-based Conflict: Assessing curriculum policy for social and civic reconstruction* (UNESCO International Bureau of Education, 2004) 11.

Despite the great potential which education can provide in a post conflict setting, such as in the Nagorno-Karabakh region, the majority of scholarship in the fields of sociology, political science, and law has not examined from a child's right perspective the role that curricula can have in promoting reconciliation in a post-conflict society. It is the aim of this thesis to provide a child's rights perspective on the legal framework of the right to primary education as established by the CRC and its implementation within Armenia currently, exploring how it can more effectively be used as a tool to foster peace and reconciliation. One goal is to allow for curricula to be created which cater to children to "develop a morally and ethically sound value system based on internationally recognised principles of equality and human rights."²⁴ The central research question is thus: what role can the right to primary education as per Article 28 and 29 CRC and child participation as per Article 12 CRC therein form in fostering reconciliation between Armenian and Azeri ethnic groups following the 2020 Nagorno-Karabakh war. Specific attention will be afforded to the aims of education identified within Article 29 CRC, and how they can be implemented in school curricula within Armenia and the Nagorno-Karabakh region, with a particular focus on child participation

To this end, it is essential to assess and deconstruct in detail Armenia and Azerbaijan's international legal obligations under the CRC in this regard. With this in mind, attention will first be paid to the right to a primary education generally, identifying its core characteristics. Thereafter, an in-depth discussion on the role of education in addressing conflict in a post-conflict society will be pursued, with a specific focus on the role of school curricula. Reference will be made to the concluding observations of the Committee in other post-conflict societies and their approach to administering education in post-conflict societies. Third, the right to child participation will be addressed, including the value of child participation in curriculum building, with a specific focus on the implementation of the Lundy Model. Fourth, the relationship between education and transitional justice and how it might be more effectively used as a long term conflict resolution tool will be addressed. Fifth, the Nagorno-Karabakh conflict will be presented as the case study for the application of the importance of education in a post-conflict society. Sixth, specific attention will be given to the role of the state in the administration and creation of primary education, and how this can best be adapted to reflect a more peaceful, tolerant, and respectful education. Lastly, the ideal use of curricula will be

²⁴ Laura Lundy, 'Mainstreaming Children's Rights in, to and through Education in Society Emerging from Conflict' (2006) 14 International Journal of Children's Rights < <https://heinonline.org/HOL/LandingPage?handle=hein.journals/intjchrb14&div=27&id=&page=> > accessed November 12 2021.

presented with application of the Lundy Model, and the fulfilment of Armenia's obligations under the CRC will be evaluated. The observations made in relation to Armenia will be used as a platform to provide perspective on how proper implementation of child's rights focused curriculum can be used in other States transitioning out of conflict and seeking to make and sustain a culture of peace.

2. The Right to a Primary Education

2.1 Defining Primary Education

In order to evaluate the role which primary education plays in a post-conflict society, it is important to first determine what falls under the term 'education'. Notably, the international human rights instruments which protect the right to education do not clearly identify what education *is*.²⁵ As Hodgson identifies, the core element which is acknowledged by human rights instruments is the formal institutionalised aspect of an education system.²⁶ Coomans similarly offers a definition that focuses on the administrative elements of education when stating that education is "instruction imparted within a national, provincial or local education system, whether public or private".²⁷ Although factually accurate, such definitions evidently limit themselves to purely formal education. This is not to discredit these particular definitions, however, they should not qualify as the sole definition of education as they exclude the underlying importance of education.

Another element of education which is often identified is the more ideological foundation of what education seeks to achieve.²⁸ The Committee clarifies that the kind of education that a child has a right to, should be "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"²⁹ This overriding objective of promoting human rights values was first articulated in 1948, in Article 26(2) of the Universal Declaration of Human Rights.³⁰ The Committee on Economic, Social, and Cultural Rights

²⁵ Jootaek Lee, 'The Human Right to Education: Definition, Research and Annotated Bibliography' (2020) 34 *Emory Int'l L Rev* 757, 764.

²⁶ Douglas Hodgson, Education, Right To, International Protection, In Max Planck Encyclopedia Of Public International Law (2006) 12.

²⁷ Fons Coomans, *International Human Rights Law* (2nd ed. Oxford: Oxford University Press, 2014) 246.

²⁸ Lee (n25) 765.

²⁹ CRC Committee (n3) para 1.

³⁰ Laura Lundy, 'Family Values in the Classroom? Reconciling Parental Wishes and Children's Rights in State Schools' (2005) 19/3 *International Journal of Law, Policy and the Family* <<https://ssrn.com/abstract=915436>> accessed 12 June 2022 360.

(CESCR) correspondingly identified the broader importance of education by stating that education “goes far beyond formal schooling to embrace the broad range of life experiences and learning processes which enable children, individually, and collectively, to develop their personalities, talents and abilities and to live a life full and satisfying within society.”³¹ The CESCR identifies that education extends beyond institutional and formal settings, but equally includes learning which children do within family settings, their communities, and society more generally. The World Declaration on Education for All, published in 1990 as a result of the World Conference held in Jomtien Thailand, ascribed a broader definition for education.³² The Declaration names basic education as “the foundation for lifelong learning and human development on which countries may build, systematically, further levels and types of education and training”.³³ The Declaration further identifies the importance of taking into account the greater context in which children are influenced, for example through kinship ties, their culture, and their own needs.³⁴ These broader conceptions of education demonstrate that providing any singular definition of education is highly complicated due to its multi-faceted, highly context-dependent nature.³⁵

The right to education is the “only human right which is administered compulsorily”.³⁶ That is, it is a right that all children are not only entitled to, but which they are obligated to practice. Further, States are obliged to take positive measures to see its implementation through, thus making it a positive right. The importance of education as a positive right is confirmed by The Global Education Monitoring Report – initiated by the United Nations Educational, Scientific, and Cultural Organisation (UNESCO) – which has found that “the human right to education is not an optional provision that can be waived or suspended until more propitious circumstances arise. It is an entitlement that comes with binding commitments and obligations on governments.”³⁷ As such, Dickson and McCormick argued that the right to education is central to the corpus of international human rights law, as it allows for the development of “citizens of

³¹ UN Committee on Economic, Social, and Cultural Rights (CESCR), ‘General Comment No. 13: The Right to Education (Art. 13 of the Covenant)’ (8 December 1999, UN Doc: E/C.12/1999/10) para 2.

³² Lene Buchert, ‘The Concept of Education for All: What Has Happened after Jomtien?’ (1995) 41/6 *International Review of Education* <<http://www.jstor.org/stable/3445167>> accessed 3 April 2022 537.

³³ World Conference on Education for All, ‘World Declaration on Education for All and Framework for Action to Meet Basic Learning Needs’ (UNESCO, 1990) 3.

³⁴ *Ibid.*

³⁵ Lee (n25) 764.

³⁶ Lundy (n24) 353.

³⁷ UNESCO, ‘The Hidden Crisis: Armed Conflict And Education’ (UNESCO 2011). <<http://unesdoc.unesco.org/images/0019/001907/190743e.pdf>> accessed 17 January 2021. 187.

the world”.³⁸ Dickson and McCormick argue that this is crucial because it creates an opportunity for those who receive such an education to effectively and fully contribute to the greater international community, regardless of their local context, culture, familial or social background.³⁹

UNESCO, furthermore, set up the International Standard Classification of Education (ISCED), which identifies essential criteria to assess the quality of primary education through factors such as pedagogy, content, and curricula.⁴⁰ Identifying these ‘objective’ criteria opens up the possibility of drawing comparisons between the primary educations provided in different States. ISCED defines primary education as something which “provides learning and educational activities typically designed to provide students with fundamental skills in reading, writing and mathematics and to establish a sound foundation for learning and solid understanding of core areas of knowledge and personal development, preparing for lower secondary education”.⁴¹ This definition, however, also focuses largely on the formal elements, rather than providing a more rounded definition of primary education. A key element of the definition is personal development. Schools are typically children’s first introduction to voicing opinions and advocating for themselves beyond the family context.⁴² Specifically in societies that are moving from violence or social turbulence to a more stable environment, education and the learning processes involved in vocalising opinions and being in communication with others constitute key elements of self-development.⁴³

2.2 International Instruments Protecting the Right to Education

2.2.1 From the UDHR to the CRC

The right to a primary education has a long history starting with the UDHR in 1948, specifically Article 26. The right to education has thus been incorporated in the very first human rights treaties, with many of the same essential elements falling under its ambit as do now.⁴⁴ Article 26 UDHR set forth the importance of education as a tool for “persons to participate effectively

³⁸ Brice Dickson and Conor McCormick, ‘The Right to Education for Humanity’ (2016) 67/4 Northern Ireland Legal Quarterly < <https://nilq.qub.ac.uk/index.php/nilq/article/view/128>> accessed 23 March 2022 409.

³⁹ Dickson and McCormick (n38) 412.

⁴⁰ UNESCO, ‘Primary Education (ISCED 1)’ (Glossary, 2011) <http://uis.unesco.org/en/glossary-term/isced-1-primary-education> accessed 20 January 2022.

⁴¹ UNESCO (n40).

⁴² Lundy and O’Lynn, (n11) 270.

⁴³ Lundy (n24) 342.

⁴⁴ Klaus Beiter, *The Protection of the Right to Education by International Law* (Nijhoff, 2006) 15.

in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic, religious groups”.⁴⁵ Although not legally binding, the UDHR is of significant cultural and symbolic value, demonstrating how peoples of the world ought to be treated and ought to treat each other. As such, it is highly symbolic that a right to education was included within it.

The UDHR has greatly inspired subsequent human rights treaties, including the International Covenant on Economic, Social, and Cultural Rights (ICESCR) of 1966. Article 13(1) ICESCR largely uses the same language as Article 26 UDHR, confirming again the value of education and the goals it wishes to impart to younger generations. Importantly, prior to the adoption of the CRC, Article 13 ICESCR provided for the most elaborate and nuanced articulation of the multi-faceted right to education.⁴⁶

2.2.2 *Convention on the Rights of the Child*

The CRC holds a unique space in the history of the right to education. This is because it is the first legally binding instrument that captures the depth and scope of rights with which children are endowed.⁴⁷ Beyond the increased number of rights inherent to children, the CRC “marked a turning point in the social construction of childhood and in the legal interpretation of children’s rights.”⁴⁸ That is, the CRC represents a transition in the way that children are presented as legal entities which, rather than ‘belonging’ to their parents or legal guardians, firmly establishes them as independent rights holders.⁴⁹ Consequently, the CRC does not merely constitute another codification of the right to education, but provides a new normative framework focusing on the intrinsic autonomy and active role of children in exercising their own rights and responsibilities.⁵⁰ Specifically in the case of education in post-conflict contexts, it is crucial to highlight the role children have as active agents of change. Additionally, the importance of children’s own input is the very crux of Article 12 CRC – one of the revelations

⁴⁵ Universal Declaration of Human Rights (Adopted 10 December 1948 UNGA Res 217 A(III) Article 26.

⁴⁶ Laura Lundy, ‘Children’s Rights and Educational Policy in Europe: the implementation of the UNCRC’ (2012) 38/4 Oxford Review of Education < <https://www.tandfonline.com/doi/abs/10.1080/03054985.2012.704874> > accessed 23 March 2022, 395.

⁴⁷ Saudamini Siegrist, ‘Child Rights and Transitional Justice’ in Parmar S and others (eds) *Children and Transitional Justice; Truth-Telling, Accountability and Reconciliation* (Harvard University Press, 2010) 6.

⁴⁸ Philip Veerman, *The Rights of the Child and the Changing Image of Childhood* (Nijhoff, 1992) 5.

⁴⁹ Benedetta Faedi Duarmy and Tali Gal, ‘Understanding and Implementing Child Participation: Lessons from the Global South’ (2020) 119 *Children and Youth Services Review* < <https://www.sciencedirect.com/science/article/abs/pii/S0190740920320685> > accessed 6 June 2022 1.

⁵⁰ Jessica Selby, ‘Ending Abusive and Exploitative Child Labour through International Law and Practical Action’ (2008) 15/1 *Australian International Law Journal* 174.

of the CRC.⁵¹ As Freeman writes “the language of rights makes visible what has been suppressed”.⁵² The right of children to voice opinions was not incorporated in any previous human rights instruments, and this right is central not only to the right to education, but to the CRC as a whole.⁵³

Further, the Committee has demonstrated how Article 29 is intimately connected to the rest of the CRC, holding that “it draws upon, reinforces, integrates and complements a variety of other provisions and cannot be properly understood in isolation from them.”⁵⁴ To fully understand the scope of the right to education under the CRC, it is therefore important to delve into the multitude of ways in which the provisions interconnect, as well as how they relate to the four guiding principles that undergird the Convention. These principles are as follows; the principle of non-discrimination (Article 2), the best interests of the child (Article 3), the right to life, survival and development (Article 6), and the right to express views and to have them be taken into account with due weight (Article 12).⁵⁵ Each of these guiding principles imparts its own values, which should not only be respected in education, but which should be imparted *through* education.⁵⁶ Hodgson argues that where efforts are made to improve any one right, the other rights within the CRC will benefit due to their interconnected nature.⁵⁷ Lundy, for instance, demonstrates the interconnectedness of Articles 6, 12 and 29 when stating that “meaningful participation can also increase children’s confidence and communication skills and contribute to their intellectual, social, and emotional development, thus contributing to the implementation of both Article 6 and Article 29”.⁵⁸

Beyond the guiding principles, Article 29 connects with the full range of provisions of the CRC. For example, Article 4 requires States to implement administrative and legislative measures to further children’s rights, thereby also requiring the effective implementation of measures that further the realisation of the right to education.⁵⁹ Article 42 places on States the

⁵¹ Lundy (n14) 398.

⁵² Michael Freeman, “Why It Remains Important to Take Children’s Rights Seriously” (2007) 15/1 *The International Journal of Children’s Rights* < https://brill.com/view/journals/chil/15/1/article-p5_2.xml?language=en > accessed 10 March 2022, 6.

⁵³ Janette Habashi and others, ‘Patterns of Human Development Indicators Across Constitutional Analysis of Children’s Rights to Protection, Provision, and Participation’ (2012) 105/1 *Social Indicators Research* < https://www.jstor.org/stable/41409401#metadata_info_tab_contents > accessed 3 April 2022, 71.

⁵⁴ CRC Committee (n3) para 6.

⁵⁵ *Ibid.*

⁵⁶ CRC Committee (n3) para 8.

⁵⁷ Hodgson (n26) 16.

⁵⁸ Lundy (n14) 419.

⁵⁹ Laura Lundy, ‘Art. 29 The Aims of Education’ in Tobin J (ed) *The UN Convention on the Rights of the Child: A Commentary* (Oxford University Press, 2019) 1124.

obligation to “make the principles and provisions of the Convention widely known”.⁶⁰ This is closely related to Article 29, as the education which children receive should foster respect for human rights, thus making children’s rights a component of that broader field.⁶¹ Hodgkin and Newell have argued that Article 42 was developed to allow for a greater and concentrated focus on human rights education.⁶² A further important link which deserves attention is that of Article 8 (the right of the child to preserve their identity), Article 30 (the right of minority or indigenous children to enjoy their culture), and Article 29(1)(c) which holds that one of the aims of education is the respect of culture and identity. The importance of these three provisions cannot be understated, as they provide a counter-argument to the oft lobbied critique that the CRC only promotes Western values of childhood.⁶³ Ultimately, it is important to remain aware that education as envisioned under Article 29 CRC further promotes and links with the other CRC provisions.

Article 28 and 29 CRC stipulate what is meant by ‘education’. Article 28 focuses on access to education; as specified by Article 28(1)(a), for instance, ensuring that primary education is both free and compulsory for all children. Articles 28 and 29 are closely related, as merely having access to education does not mean that the right to education is fulfilled. As Lundy expresses, “the distinction between access and aims, or means and ends is not entirely clear cut i.e. the requirement to promote regular school attendance in Article 28(d) is dependent to a large extent on schools providing an engaging and relevant curriculum that meets the objectives of Article 29”.⁶⁴ Similarly, where the aims of education as presented in Article 29 are denied, this can lead to the same damaging effect as a denial of the right of access to education.⁶⁵ It is fundamental that both Article 28 and 29, in light of the CRC, present a child rights-based perspective, and it is this perspective which is often sorely lacking or outright ignored within national administrations and policies.⁶⁶

⁶⁰ CRC Article 42.

⁶¹ Robert Howe, and Katherine Covell, *Empowering Children: Children’s Rights Education as a Pathway to Citizenship* (University of Toronto Press, 2005) 133.

⁶² Rachel Hodgkin and Peter Newell, *Implementation Handbook for the Convention on the Rights of the Child* (3rd edn, UNICEF 2007) 48.

⁶³ Lundy (n59) 1117.

⁶⁴ Lundy (n59) 1119.

⁶⁵ UNICEF, ‘A Summary of the Rights Under the CRC’ (UNICEF 2016) <https://www.unicef.org/montenegro/en/reports/summary-rights-under-convention-rights-child#:~:text=The%20four%20core%20principles%20of,harmonious%20development%20of%20every%20child> Para 10

⁶⁶ Neville Harris, Playing Catch-up in the Schoolyard? Children and Young People’s Voice and Education Rights in the UK’ (2009) 23/3 International Journal of Law, Policy and the Family < <https://academic.oup.com/lawfam/article-abstract/23/3/331/1048384> > accessed 3 February 2022, 331.

One argument for failing to implement the aims of Article 29 is that, at its core, this Article is a utopian provision.⁶⁷ This critique has been levelled at both Article 28 and Article 29; commentators argue that neither provision provides enough detail and that they are generally too vague.⁶⁸ However, it is worth noting again that the aims of education listed in Article 29 seek to go beyond merely what is meant to occur within a formal educational setting and prescribed curricula, and address a greater vision of education.⁶⁹ Nonetheless, a serious consequence of the broad language used in Article 29 is that States have interpreted it such that they do not need to implement the underlying principles of the goals articulated.⁷⁰ However, because education is a positive right, States *do* need to undertake measures to implement the goals identified in Article 29 within their own jurisdiction.⁷¹ When closely examining the terminology used, it is evident that Article 29(1) instructs States that “education of the child *shall* be directed to” different ends. The use of the word ‘shall’ implies that there is no discretion in this matter; this is what the education of children must be directed to.⁷² Thus, if States are not implementing the goals of education as listed in Article 29 in some form, they are actively undermining or refusing the obligations to which they voluntarily agreed when signing the CRC. The Committee has furthermore identified these goals as not only important in relatively peaceful societies, but as even more so for children in regions which are experiencing conflict.⁷³ It needs to be recalled that the aims of education as listed were agreed upon specifically because they reflected foundational attitudes to the importance of education, thereby not only benefiting children themselves, but also the State as these children grow and develop within and with its society.⁷⁴ Ultimately, it is crucial that States implement both Article 28 and 29 so that children are legally entitled to and protected by all the facets within these Articles in all circumstances.

Despite States being obligated to implement all the goals of education, there is tension between some of these goals, which can be hard to rectify through legislation or administrative action.⁷⁵ The relationship between Article 29(1)(b), “the development of respect for human rights and fundamental freedoms” and Article 29(1)(c), “development of respect for the child’s parents,

⁶⁷ Lundy (n59) 1117.

⁶⁸ UNICEF (n65) para 17.

⁶⁹ Lundy (n59) 1123.

⁷⁰ CRC Committee (n3), para 17

⁷¹ *Ibid.*

⁷² Lundy (n59) 1124

⁷³ CRC Committee (n3) para 16.

⁷⁴ Beiter (n44) 26.

⁷⁵ Lundy (n59) 1121.

his or her own cultural identity, language and values, and for the national values of the country in which the child is living” are the primary example.⁷⁶ It is significant that Article 29 includes explicit reference to cultural identity, as this has not previously occurred in the context of primary education.⁷⁷ It poses a significant challenge in identifying how such cultural and national value can be taught in an objective and open way, especially since there should not be one dominant set of values that is transmitted, but space should be made for multiple values systems to interact in education.⁷⁸

The Committee identifies the necessity for a balanced education, which can be attained through open and respectful discussions.⁷⁹ In context, it can be difficult for children to actively learn about respect and tolerance for other cultures, identities, and ethnicities when their classrooms do not reflect such diversity.⁸⁰ Despite this, it is especially important for tolerance and respect to be taught in regions that are entrenched in conflict rooted in ethnic differences. As the Committee notes, “children are capable of playing a unique role in bridging many of the differences that have historically separated groups of people from one another”.⁸¹ Specifically when considering that individual identities are formed through what is recognised as the national identity, how and with what intention this national identity is taught is vital.⁸²

As Silova argues, “education is one of the primary sites through which predominant construction of nationhood and childhood are disseminated and maintained”.⁸³ Arguably then, where the national identity is taught in a rights-respecting way, it will have a more positive long-lasting impact on generations and diffuse into society as children mature and implement more balanced views of identity. This is because national identity and norms accompanying it are promulgated through various mediums in primary schools, such as books, images, poems, and syllabi.⁸⁴ Children are not solely introduced to the political nature of national identity in their day to day life at school, but also on a subliminal level, which is recognised as the ‘hidden

⁷⁶ CRC, Article 29(1).

⁷⁷ Lundy and O’Lynn (n11) 267.

⁷⁸ Lundy (n59) 1134.

⁷⁹ CRC Committee (n3) para 4.

⁸⁰ Lundy (n30) 363.

⁸¹ CRC Committee (n3) para 4.

⁸² Silova I and others, ‘Pedagogies of Space: (Re)Imagining Nation and Childhood in Post-Soviet States (2014) 4/3 Global Studies of Childhood < <https://journals.sagepub.com/doi/10.2304/gsch.2014.4.3.195> > accessed 5 January 2022, 195.

⁸³ Ibid.

⁸⁴ Silova I and others (n82) 196.

curriculum'.⁸⁵ This is an important realisation, as it reveals that children are put in contact with the political agendas instilled into their school curricula, and the ways in which national identity is presented within them, even though children themselves have few political rights that could impact how and why those ideas are communicated.⁸⁶

2.2.2.1 Obligations of the State

The political element of education cannot be understated, as it is the political will of those in government which has the greatest influence on how and to what extent obligations placed upon States are implemented.⁸⁷ When a State signs a human rights instrument, the obligations contained therein are endowed to the individuals of the State and not to the State itself.⁸⁸ Moreover, human rights are “universal, indivisible, interrelated, and interdependent”.⁸⁹ In order for one human right to be fully actualized, related rights need to be addressed as well.⁹⁰ When observing education and conflict, an obvious interrelated feature is that, in order to utilize their right to an education, this right must be protected during conflict as well. Thus, Articles 28(1) and 38(4) of the CRC are linked; the right to a primary education is indivisible from the obligation on a State to “ensure protection of children who are affected by an armed conflict”.

2.2.3.2 Progressive Realisation of Education

A key article within the CRC is Article 4, which stipulates the progressive realisation of a certain number of the economic, social, and cultural rights within the CRC.⁹¹ Several of the rights in the CRC cannot be implemented immediately, but require new legislative, administrative or policy initiatives in addition to significant investment – financial and otherwise.⁹² As such, States are under an obligation to demonstrate how they are progressively realising the rights which are enshrined within the CRC rather than evidencing the direct

⁸⁵ John Portelli. ‘Exposing the Hidden Curriculum’ (1993) 25/4 *Journal of Curriculum Studies* < <https://www.tandfonline.com/doi/citedby/10.1080/0022027930250404?scroll=top&needAccess=true> > accessed 11 June 2022, 345.

⁸⁶ Silova and others (n82) 196.

⁸⁷ Akpınar (n10) 72.

⁸⁸ Daniel Moeckli et al, *International Human Rights Law* (2nd ed. Oxford: Oxford University Press, 2014) 98.

⁸⁹ UNGA, ‘Vienna Declaration and Programme of Action’ (12 July 1993) UN Doc A/CONF.157/2 5.

⁹⁰ Julia Sloth-Nielsen in Ursula Kilkelly, Ton Liefwaard (eds) ‘Monitoring and Implementation of Children’s Rights’ in Kilkelly U, Liefwaard T (eds) *International Human Rights of Children* (Springer 2019) 32.

⁹¹ Seamus Byrne, ‘Reclaiming Progressive Realisation: A Children’s Rights Analysis’ (2020) 28, *The International Journal of Children’s Rights* 750.

⁹² CRC/GC/2003/5 para 7 (AND AOIFE NOLAN ARTICLE)

application and implementation of each and every provision.⁹³ However, this does not entitle States to take a *laissez-faire* approach to their obligations. States are instead required to produce evidence in the form of, for example, plans or policies that will be implemented, and demonstrate that they are utilising the “maximum extent of their available resources and where necessary, have sought international cooperation”.⁹⁴ This also brings to the fore the obligations to which the international community is bound: namely, that the generally available resources be considered.⁹⁵ Since it is the heavy investment required for the social, economic, and cultural rights that allows for their progressive realisation, it is crucial that States are not expending their available resources on secondary responsibilities which deplete the available resources for their obligations under the CRC.⁹⁶ Similarly, there is no margin given for retrogression on obligations already in place.⁹⁷ It is an immediate duty to ensure that those standards, policies, and legislation already in place which meet the obligations under the CRC remain in place, and that their funding or resources are not removed.⁹⁸

2.3 Models Describing the Right to Primary Education

Due to the breadth of the language used in Article 28 and Article 29, various models have been created which attempt to provide a methodological presentation and understanding of the relationship between human rights and education.⁹⁹ Through the application of such a typology of obligations, a better assessment can be made of the situation within signatory States of the CRC. Two of the most widely used models are the ‘To, In, and Through Education’, as authored by Eugene Verhellen in 1993, and the 4-A Model, as created by former UN Special Rapporteur on the Right to Education Katarina Tomaševski in 2001.

2.3.1 To, In, and Through Education

Verhellen described a “three-track legally binding imperative”, which has become more renowned by the model of ‘To, In, and Through Education’.¹⁰⁰ The first of the three tracks, that

⁹³ Seamus Byrne, ‘Reclaiming Progressive Realisation: A Children’s Rights Analysis’ (2020) 28/4 *International Journal of Children’s Rights* < <https://livrepository.liverpool.ac.uk/3103119/> > accessed 20 June 2022, 750.

⁹⁴ UN Committee on the Rights of the Child, ‘General Comment No. 19 (2016) On Public Budgeting for the Realisation of Children’s Rights (Art.4) (20 July 2016, UN Doc: CRC/C/GC/19) para 29.

⁹⁵ Aoife Nolan, ‘Children’s Economic and Social Rights’ in Kilkelly U, Liefaard T (eds) *International Human Rights of Children* (Springer 2019) 246.

⁹⁶ UN Committee on the Rights of the Child, ‘General Comment No. 5 (2003) (27 November 2003, UN Doc: CRC/GC/2003/5) para 7.

⁹⁷ CRC Committee (n94) para 29.

⁹⁸ *Ibid.*

⁹⁹ Lundy and O’Lynn (n11) 261.

¹⁰⁰ Eugene Verhellen, ‘Children’s Rights and Education: A Three-Track Legally Binding Imperative’ (1993) 14/3 *School Psychology International* < <https://journals.sagepub.com/doi/10.1177/0143034393143002> > accessed 20 March 2022, 202.

of rights *to* education, encompasses the organisational and more technical elements of education.¹⁰¹ Article 28 identifies the majority of those elements, such as free education, parents' right to choose the form of education for their child, and non-discrimination within education, while Article 29 provides the outcome of that access to education. However, the right *to* education goes beyond mere technicalities and also encompasses derivative factors, such as equality of chances within education.¹⁰² Where a state is experiencing or has recently experienced conflict, a child's ability to utilise the right *to* education is limited, as there may not be physical school facilities, sufficient teachers, or enough school resources, such as learning materials, readily available.¹⁰³ Comparably, children who belong to a minority group may have difficulty in utilising the right to education in States that separate their schooling from others, matched as this often is with a general lack of development, funding, and care for these education systems provided for minority groups.¹⁰⁴

The second element of the three-track system established by Verhellen is the right *through* education. This is most related to Article 29(1)(b), or the "development of respect for human rights and fundamental freedoms". Naturally, where children are taught about their rights, and human rights more generally, they become familiar with these ideas and are more likely to readily adopt such stances within their daily lives.¹⁰⁵ Key to this is that education is used as a form of socialisation; it is not that children should necessarily be able to recite what their rights are, but that they assume the attitudes which underly these rights.¹⁰⁶ Arguably, this goes beyond an introduction of a module or class which seeks to explain and identify what human rights are, but should cause a shift within the educational system in its entirety.¹⁰⁷ Such a shift should be visible in the pedagogy, the choice and content of the learning materials used, and the driving force behind motivations to educate children, so that throughout the entire learning process a respect and adherence to human rights is communicated.¹⁰⁸ When bringing the right *through* education into a conflict or post-conflict context, its importance becomes clear. Its ability to break the cycle of ideological causes which perpetuate conflict within a society demonstrates the importance of a 'bottom-up' change in attitude to the human rights of not only children, but

¹⁰¹ Verhellen (n100) 203.

¹⁰² Verhellen (n100) 204.

¹⁰³ Lundy (n24) 196.

¹⁰⁴ *Ibid.*

¹⁰⁵ Verhellen (n100) 205.

¹⁰⁶ *Ibid.*

¹⁰⁷ *Ibid.*

¹⁰⁸ *Ibid.*

all generations.¹⁰⁹ As Lundy and O’Lynn note, “the related concept of rights *through* education was thought to encapsulate the idea that education is the key site where children learn how to promote human rights, not just their own but more generally”.¹¹⁰

The third and final element of Verhellen’s typology is the rights *in* education. At the centre of this reading is that children are to be a central component in the discussion and determination of the structural elements of their own education.¹¹¹ Essentially, this entails allowing the child to enact his or her full participation rights and is thereby closely linked with Article 12 CRC. Elements that need to be considered include transparent guidelines for children’s role in the educational system, their active involvement within decision making and education, and ensuring the general sincere respect for their human rights.¹¹²

When taking a broader view, rights *in* education seek to guarantee that schooling is experienced and acknowledged as a ‘safe space’ for children, one in which all their rights are upheld, not just their right to education.¹¹³ This interrelates with Article 29, as the teaching of human rights should be done in a respectful manner, one in which both global and local contexts are identified and respected.¹¹⁴ Children should not be at risk of traumatising or re-victimisation at the cost of learning about their human rights and fundamental freedoms.¹¹⁵ One way of mitigating harmful effects in a post-conflict classroom setting is to create an open and honest discussion of the events which occurred. Arguably, a variety of media and sources could be highlighted and discussed rather than children being spoon-fed a pre-determined and state approved narrative of events that occurred.¹¹⁶ Again, this underscores the relevance of Article 12, as they would be actively encouraged to participate, to ask questions, to trigger their critical thinking, and to foster a sense of democratic debate within a safe space that would allow an expanding of their understanding of their shared history and heritage.¹¹⁷

¹⁰⁹ Lundy (n24) 210.

¹¹⁰ Lundy and O’Lynn (n11) 269.

¹¹¹ Verhellen (n100) 206.

¹¹² Ibid.

¹¹³ Sam Underwood, *The Second Opportunity: Education, Peacebuilding, and Transformative Justice in Colombia* (Rights! 2015) < <https://rightsblog.net/2015/11/19/the-second-opportunity-education-peacebuilding-and-transformative-justice-in-colombia/> > accessed 3 October 2021

¹¹⁴ GC 1 2001, para 18

¹¹⁵ Underwood (n113)

¹¹⁶ Lundy (n59) 1134.

¹¹⁷ Ibid.

Lundy and O’Lynn find that “children’s experience of their own rights being respected or denied in school is crucial not just in itself, but also because of its pedagogical significance for children learning about their own human rights”.¹¹⁸ Thus, where an educational institution can actively demonstrate that there will be no stigmatisation, disrespect, or exclusion of children in discussing highly personal, contentious and in some regards traumatic shared histories, children are able to more expertly apply such attitudes in their own lives.¹¹⁹ This is essential to limiting intergenerational traumas that perpetuate conflict, thus reifying the interrelatedness of the three tracks described by Verhellen.

2.3.2 *Tomaševski’s 4A Model*

Tomaševski’s 4A typology has similar features to Verhellen’s three-track model, but with a different emphasis on various elements. Tomaševski delineates four elements which should be identified and applied when assessing the manifestation of the right to education within a state. These include the availability, accessibility, acceptability, and adaptability of education.¹²⁰

Firstly, Tomaševski reads availability as the fundamental component of the right to education. Availability has two central features.¹²¹ First, governments are under an obligation to expend the necessary licenses and resources for enough educational institutions to actually be established to meet the demands of a population.¹²² This element demands that governments disburse enough funding to ensure that education is actually available within the established institutions.¹²³ It must thus be ensured that there is enough qualified teaching staff, learning materials, and other technical requirements to ensure that quality education is available.

The second element Tomaševski identifies is that education be accessible.¹²⁴ With regards to primary education, this is defined by whether education is compulsory and free. For the later stages of education, the discussion centres around whether education is affordable, and on hidden costs that might hamper the accessibility of further education for certain groups of the population.¹²⁵

¹¹⁸ Lundy and O’Lynn (n11) p 270.

¹¹⁹ Underwood (n113).

¹²⁰ Lundy and O’Lynn (n11) 261.

¹²¹ Tomaševski (n4) 13.

¹²² *Ibid.*

¹²³ *Ibid.*

¹²⁴ *Ibid.*

¹²⁵ *Ibid.*

Thirdly, the 4A model addresses the acceptability of education. This element seeks to address education beyond technical factors, looking more at the quality of education that is provided at the educational institutions which ought to be available and accessible.¹²⁶ Specifically, the learning materials used are a key element of the quality of education. One indicator is the extent to which a state might be censoring education or presenting a biased curriculum.¹²⁷ Especially in post-conflict settings, it is crucial to assess what is being taught in order to ensure there is no preservation of falsehoods as a result of censorship. Similarly to Verhellen's identification of the importance of children having an active participatory role within education, Tomaševski furthermore articulates that where children increasingly take up a role in the more normative elements of education, they can articulate what they deem acceptable.¹²⁸

The final element identified by Tomaševski is that of adaptability. This is especially relevant to contexts where children with disabilities are enrolled in an educational institution.¹²⁹ On a broader scale, it needs to be ensured that education can be adapted to local contexts, cultures, and individual needs.¹³⁰ Thereby, where one region or county is more impacted by a conflict, for example through geographic proximity, it should be possible to address that through the educational curriculum.

3. Education, Conflict, and National Identity: A Dynamic Relationship

3.1 Education, Conflict and Social Cohesion

The International Bureau of Education, established by UNESCO in 1925 in order to champion peace through education, has stated, “that the monopoly of legitimate education in modern nation-states may be more important than the monopoly of legitimate violence.”¹³¹ This illustrates the inextricability of education from the formation of national identity in modern nation States. Delbrack goes so far as to assert that States historically, and arguably contemporarily in some societies, use education to indoctrinate their authoritarian ideas and values to the youngest population, children.¹³² Historically, part of the catalyst for States to

¹²⁶ Ibid.

¹²⁷ Tomaševski (n4) 13.

¹²⁸ Tomaševski (n4)15.

¹²⁹ Ibid.

¹³⁰ Lundy and O'Lynn (n11) 261.

¹³¹ Tawil and Harley (n23) 11.

¹³² Jost Delbrack 'The Right to Education as an International Human Right' (1992) 35/92 German Yearbook of International Law < <https://www.repository.law.indiana.edu/facpub/2824/> > accessed 3 June 2022, 102.

centralise education stems from the possibilities education presents for propagating established ideas of the State and thus increasing the influence of the State throughout society.¹³³ Essentially, the influence which a State has over education can be wielded either to exacerbate conflicts or to provide long-term steady reconciliation through a varied perspective.¹³⁴ Essentially, education is an ingredient which is prescribed to every generation – so long as this ingredient remains unchanging, it contributes to a longer lasting problem, or, where used effectively and diligently, can help provide a solution.¹³⁵ It was not until the promulgation of the UDHR and Article 26 that international law could effectively begin to be used to delve into how education was being disseminated within States, and to attempt to regulate what exactly the content of this education was.¹³⁶ As Lee asserts, “uniform indoctrination of authoritarian ideas – whether racial, religious, or communistic – should be regulated within the definition of education.” With the aims of education as presented under Article 29, this regulation has become identified and therefore more attainable.¹³⁷

3.2 The Use of Curriculum to Aggravate or Appease Conflict

The importance of education in a post-conflict or transitioning society has become increasingly noted both by practitioners and scholars in the field of humanitarian aid.¹³⁸ This increased recognition has led, among other things, to the development of the ‘Minimum Standards for Education in Emergencies, Chronic Crises and Early Reconstruction’ in 2004, later updated in 2010.¹³⁹ Regarding the role that education plays, it is arguably through the vessel of curriculum that the most apparent impact is made.¹⁴⁰

Despite the importance of curriculum, there is no universally agreed definition on what this entails. Priestley argues that “it is more helpful to view the curriculum as the multi-layered social practice, through which education is structured, enacted and evaluated.”¹⁴¹ Curriculum goes beyond the administrative elements of what needs to be taught and in what ways.

¹³³ Akpınar (n10) 72.

¹³⁴ Tawil and Harley (n23) 6.

¹³⁵ Diana Saltarelli and Kenneth Bush, ‘The Two Faces of Education in Ethnic Conflict: Towards a Peacebuilding Education for Children’ (UNICEF Innocenti, 2000) 6.

¹³⁶ Delbrack (n132) 96.

¹³⁷ Lee (n25) 762.

¹³⁸ Graca Machel, *The Impact of War on Children* (Orient Black Swan, 2001) 171.

¹³⁹ Sultan Barakat and others, ‘The Role of Basic Education in Post-Conflict Recovery’ (2013) 49/2 *Comparative Education* < <https://www.tandfonline.com/doi/abs/10.1080/03050068.2012.686259> > accessed 10 April 2022, 125.

¹⁴⁰ Lindsay McLean, ‘The Role of Education in Driving Conflict and Building Peace: the case of Rwanda’ (Education for All Global Monitoring Report, 2010) 7.

¹⁴¹ Mark Priestley, ‘What does it mean to make a curriculum?’ (Teaching Scotland, 2021) < <https://mrpriestley.wordpress.com/2021/01/14/what-does-it-mean-to-make-a-curriculum/> > accessed 10 June 2022

Curriculum touches upon “educational philosophy, values, aims and objectives” in addition to pedagogy and lived experiences of teachers and practitioners.¹⁴² The Committee strongly advocates the centrality of a child-centred education to Article 29 CRC, in which curriculum plays a principal role.¹⁴³ The Committee provides that, “the curriculum must be of direct relevance to the child’s social, cultural, environmental and economic context”, hereby describing the proximity of curriculum to children’s lived experiences.¹⁴⁴ As such, curriculum is a key mode of disseminating national identity and building the idea of nationhood.¹⁴⁵ When taking into account the hidden curriculum and the “complex social processes in play as teachers translate policy into practice”, there is considerable space given to the way content is taught which can impact a sense of national identity.¹⁴⁶ Curricula usually exist out of various documents, ranging from policy directives to syllabi, learning materials, pedagogy, and assessment guidelines.¹⁴⁷ Yet even without any direct political instruction imparted through the curriculum, it carries substantial political significance, cultural importance and symbolic influence.¹⁴⁸

Any curriculum must prompt children to think critically and encourage the development of creative and rational thought.¹⁴⁹ It is worth repeating that education is also a socialisation tool, and, for most children, their first introduction to forms of democracy and public dialogue.¹⁵⁰ Thus, children work on their ability to build arguments, rationalise, critique and evaluate information in the safe space of the classroom, to later be able to replicate and apply these skills in their own lives.¹⁵¹ It is specifically here that pedagogy reflects a crucial element of curriculum, as an appropriate pedagogy will allow for the development of critical thinking skills, active engagement and an overall child-centred schooling setting.¹⁵²

¹⁴² Valerie Drew and others, ‘Curriculum Development Through Critical Collaborative Professional Enquiry’ (2016) 1/1 *Journal of Professional Capital and Community* < <https://www.stir.ac.uk/research/hub/publication/585091> > accessed June 13 2022, 1.

¹⁴³ CRC Committee (n3) para 9.

¹⁴⁴ *Ibid.*

¹⁴⁵ Julia Paulson, ‘Truth Commissions and National Curricula: The Case of Recordádonos in Peru’ in Parmar S and others (eds) *Transitional Justice; Truth-Telling, Accountability and Reconciliation* (Harvard University Press, 2010) 333

¹⁴⁶ Drew (n42) 2.

¹⁴⁷ Priestley (n141).

¹⁴⁸ Paulson (n145) 333.

¹⁴⁹ Karina Korostelina, ‘The Tblisi Initiative: The Story of an Unpublished Textbook’ in Korostelina and Lässig (eds) *History Education and Post-Conflict Reconciliation* (Routledge 2013) 193.

¹⁵⁰ Laura Lundy and O’Lynn (n11) 270.

¹⁵¹ *Ibid.*

¹⁵² Drew (n142) 4.

When placing the importance of curriculum for school-age children in a post-conflict or transitional context, it is imperative to understand that they are already exposed to said conflict through numerous informal channels such as media, friends and/or family.¹⁵³ This is reflective of the broader definition of education discussed previously, where education extends beyond the formal schooling systems to include extensive life experiences and processes as they are lived by children within their families and communities.¹⁵⁴ As Saltarelli and Bush assert, “Children do not come to the classroom as blank slates. They bring with them the attitudes, values and behaviours of the societies beyond the classroom walls.”¹⁵⁵ Therefore, it is through curricula that educational institutions should offer a space and framework in which children are able to be active participants in learning through open and child-centred debate which promotes a nuanced narrative of the lived experiences of the child. This is reflected in the ways in which events are portrayed through curriculum, thus effectively generating a narrative that “does not stigmatise, discriminate or exclude” those children who might feel othered.¹⁵⁶ It is also important to take note of the ‘hidden curriculum’ which imitates the mainstream thoughts and opinions held within local societies, especially in how teachers might approach these discussions.¹⁵⁷ It is thus essential that the actual curriculum creates space to address the concerns, questions, and opinions of children, most crucially when those might feel counter to what permeates the hidden curriculum which children are exposed to.

Curricula have the potential to effectively address the risk of ‘othering’ in educational institutions. Nationalism studies, an interdisciplinary field which seeks to assess the origins and impacts of nationalism within and between States, has long sought to address the concept of ‘othering’.¹⁵⁸ The nationalism studies perspective suggests that, in conflicts that are entrenched in binary ‘us vs. them’ narrative, which is often the case in conflicts rooted in ethnic differences, there is no clear or correct resolution to such a conflict.¹⁵⁹ It would be far too reductive to claim that curricula can resolve the risk such narratives present to children, but educational curricula do present a real potential to re-humanise what is taught and how. By

¹⁵³ Portelli (n85) 345.

¹⁵⁴ CESCR (n31) para 2.

¹⁵⁵ Saltarelli and Bush (n135) 2.

¹⁵⁶ Underwood (n113).

¹⁵⁷ Portelli (n85), 345.

¹⁵⁸ Eric Storm ‘A New Dawn in Nationalism Studies? Some Fresh Incentives to Overcome Historiographical Nationalism’ (2018) 48/1 *European History Quarterly* < <https://journals.sagepub.com/doi/full/10.1177/0265691417741830> > access 3 July 2022 113.

¹⁵⁹ Philip Gamaghelyan and Sergey Romyantsev, “The Road to the Second Karabakh War: the role of ethno-centric narratives in the Nagorno-Karabakh Conflict” (2021) 9/3 *Caucasus Survey* < https://brill.com/view/journals/casu/9/3/article-p320_8.xml?ebody=Abstract%2FExcerpt#access-options2 > accessed 8 May 2022, 322.

having curricula present a conflict as multi-faceted and nuanced, it allows for the reduction of the divisive binary nature of ‘right vs. wrong’ or ‘us vs. them’ narratives. The work of Padilla, Ruiz and Brand, for instance, has shown that prejudices and biases as reflected in attitudes towards ethnicity –for one– develop early in childhood, and that they are not prone to develop or change, but rather exacerbate throughout childhood and into adulthood.¹⁶⁰ Thus, a more child-centred and rights focused curriculum would allow for more open communication, critical discussion, and an attempt to limit the intergenerational transmission of conflict aggravating narratives throughout curricula. The foundation for such a shift could be the publication of an alternative view of the conflict, one that reassesses the origins, for example rather than singling out ethnic tension, taking a step back and assessing where this division in ethnicity originates, such as a shared colonial history.¹⁶¹ Interestingly, Apple does not argue for an ‘objective’ curriculum as he asserts that there is no such thing.¹⁶² Rather, Apple contends that curricula ought to be ‘self-aware’ and that “a democratic curriculum and pedagogy must begin with a recognition of the different social positionings and cultural repertoires in the classrooms, and the power relations between them.”¹⁶³

The place where curricula become most vital is arguably related to its contents, in the form of the textbooks and learning materials assigned.¹⁶⁴ Specifically, Saltarelli and Bush contend that the content of curricula can “construct and impose a common culture, founded on a common language, a shared sense of history and destiny, and more broadly, a common set of expectations and behaviours rooted in a sense of civic loyalty”.¹⁶⁵ In the same way that States centralise education in order to disseminate knowledge, textbooks are identified as the conveyors of what is considered to be “legitimate knowledge”.¹⁶⁶ Apple elaborates on the importance of recognizing what is determined as legitimate knowledge by stating that “the decision to define some groups’ knowledge as the most legitimate, as official knowledge, while other groups’ knowledge hardly sees the light of day, says something extremely important about who has power in society”¹⁶⁷ Textbooks have been highly debated as political tools for

¹⁶⁰ Elaine Brand, ‘Ethnic Identification and Preference: A Review’ (1974) 81/11 *Psychological Bulletin* < <https://psycnet.apa.org/record/1975-05025-001> > accessed 9 May 2022, 863.

¹⁶¹ Gamaghelyan and Rummyantsev (n159) 322.

¹⁶² Michael Apple, ‘The Politics of Official Knowledge: Does a national curriculum make sense?’ (1993) 14/1 *Discourse: Studies in the Cultural Politics of Education* < <https://www.tandfonline.com/doi/abs/10.1080/0159630930140101> > accessed 10 May 2022 232.

¹⁶³ *Ibid.*

¹⁶⁴ Michael Apple and Linda Christian-Smith, *The Politics of the Textbook* (Routledge 1991) 1.

¹⁶⁵ Saltarelli and Bush (135) 6.

¹⁶⁶ Gamaghelyan and Rummyantsev (n159) 322.

¹⁶⁷ Apple (n162) 222.

decades, yet there is vast agreement that textbooks function as “sources of official knowledge which is perceived by the public as valid and legitimate”.¹⁶⁸ The tension in describing the textbook as ‘official knowledge’ springs from the idea that textbooks, too, reflect a preconceived notion and national narrative that is often aligned with the formation of certain political beliefs.¹⁶⁹ Customarily, as identified within national studies, textbooks have been a source of creation and maintenance of narratives of ‘cultural homogeneity’.¹⁷⁰ What is important to consider is that these curricula, and therefore narratives, do not appear out of nowhere, but are created by people, and it is this group’s vision of what is legitimate that permeates throughout children’s education.¹⁷¹ Most commonly it is the Ministry of Education or the national Board of Education which exercises this power, making it intrinsically formulated with political undertones.¹⁷²

The Committee has identified the risk of textbooks in promoting racism or “reinforcing negative stereotypes”.¹⁷³ It is especially within States transitioning out of conflict, or in post-conflict situations, that the potential of textbooks reinforcing negative stereotypes is immense.¹⁷⁴ The Committee actively identified the necessity of ensuring curricula comply with the CRC by “calling for the fundamental reworking of curricula to better encapsulate the various aims of education, the systematic revision of textbooks and other teaching materials, the technologies, as well as school policies, the provision of human rights education, and the necessity of teaching children about racism as it has been practiced historically, and particularly manifests or has manifested itself within particular communities.”¹⁷⁵ Although the Committee specifically identifies racism, this is not the only form of discrimination which rests on negative stereotypes. Conflicts which are ethno-centric are equally responsible for disseminating negative stereotypes. Thus, when applying the sentiment of the comments of the Committee to an ethnic-centric conflict, it is clear that the discrimination practiced between the ethnic groups, whether historically or presently, needs to be addressed, including the modes by which it continues to be identified in their own communities.

¹⁶⁸ Garine Palandijan, ‘The ABC’s of Being Armenian’ in Williams J H (ed) *(Re)Constructing Memory* (Sense 2014) 250.

¹⁶⁹ Denise Bentrovato and Martina Schulze, Teaching about a violent past: Revisiting the role of history education in conflict and peace’ in Bentrovato and others (eds) *History Can Bite: History Education in Divided and Postwar Societies* (V&R Unipress 2016)18.

¹⁷⁰ Saltarelli and Bush (n135) 6.

¹⁷¹ Apple (n162) 222.

¹⁷² Falk Pingel, ‘A Clash of Communication? Intervening in Textbook Writing and Curriculum Development in Bosnia and Herzegovina After the War of 1992 – 1995’ in Psaltis and others (eds) *History Education and Conflict Transformation* (Palgrave Macmillan 2017) 231.

¹⁷³ CRC Committee (n3) para 10.

¹⁷⁴ Apple and Christian-Smith (n164) 1.

¹⁷⁵ CRC Committee (n3) para 18.

It is unquestionably difficult to update textbooks and what it is they seek to teach, largely because not only are they deemed official knowledge, but because they are largely reflective of how a society has been taught to identify itself both amongst its members, and in an outward projection of identity to the rest of the international community.¹⁷⁶ Therefore, a textbook is not just the representation of how the State uses its monopoly of power, but how this is acquiesced within society. Arguably, no (democratic) State could push forward its own education if it were in complete opposition to the society which it seeks to teach. Therefore, to alter a textbook is not just a question of convincing a state to have a radical overhaul of what is taught, but slowly allowing a society to progress and re-evaluate what it wants to learn.

3.2.1 Conflict Transformation as a Process through History Education

Narrowing down further from curriculum to textbook, a key form of textbook is the one used for teaching history. Arguably, history has played the central role in ascertaining what a national identity is. Prominent historian Renan wrote his capstone ‘What is a nation?’ in 1882, in which he identifies the imperative role played by collective memory and history in ascertaining nation building and national identity.¹⁷⁷ A century later, in 1983, Benedict Anderson expanded on what a nation is in his defining work “Imagined Communities”, finding that “above all, most of the formation and forgetting of common memories that are the basis of national identity is established by the official history narrative and school history curriculum”.¹⁷⁸

There has been a multitude of attempts at theorising on how States bring into fruition a shared sense of identity, yet chief amongst them is the identification of history as the most basic and central tenet to creating such an identity. Within this, it is the passing on of a collective memory and a shared understanding of the past which seems to stand at the core of history education. As Carretero argues, “history education is a fundamental strategy used to achieve: a positive assessment of the past, present and future of one’s own social group, both local and national, and an identification with the country’s political history”.¹⁷⁹ Yet these collective memories and understandings are often engrained in political interests in forgone generations, which makes

¹⁷⁶ Palandijan (n168) 250.

¹⁷⁷ Akpınar (n10) 72.

¹⁷⁸ Ibid.

¹⁷⁹ Mario Carretero, ‘The Teaching of Recent and Violent Conflicts as Challenges for History Education’ in Psaltis and others (eds) *History Education and Conflict Transformation* (Palgrave Macmillan 2017) 348.

it immensely difficult to tackle the way representations within a history education context have been manipulated.¹⁸⁰ When considering the continuity of this narrative within society, challenging and questioning the predominant narrative is clearly not only difficult but personal.¹⁸¹

What is crucial to the understanding of history education is that, at its core, it is a presentation of a pre-selected and determined narrative.¹⁸² It is important to recognize who the core subject of the narrative is, which oftentimes is a ‘people’.¹⁸³ Importantly, education and all its derivatives always present a certain narrative, regardless of whether this is being presented in a country experiencing peace, transitioning out of a conflict, or a post-conflict society.¹⁸⁴ Thus, part of addressing the curriculum is also addressing the extent to which this narrative is mouldable, or how and to what extent it can be critiqued or interacted with. Predominant within this moulding is the importance of ascertaining if students are able to deconstruct the main protagonist of the narrative; the identifiable ‘people’.¹⁸⁵ From a child-rights-based lens, it is important to know if children have been involved in the creation of the narrative being presented, whether they are able to voice their opinions on these narratives, and whether the narrative is presented in a rights respecting manner. It is by addressing the narratives in this manner that they – and therefore curricula and education generally – can be used to break the intergenerational transfer of preconceived notions of conflict, starting with the youngest generations. As Saltarelli and Bush argue, “only when young people realise that histories are constructed rather than given, can they even begin to contemplate challenging and changing the behaviour that poisons inter-group relation”.¹⁸⁶

History education has been increasingly singled-out as an effective peacebuilding tool which has the capacity to moderate the binary divisions present within those countries with a conflict past.¹⁸⁷ The best articulation of the process history education undertakes is through the way it “targets basic beliefs in the causation of violence, reducing biases and prejudice towards the

¹⁸⁰ Saltarelli and Bush (n135) 20.

¹⁸¹ Carretero (n179) 358.

¹⁸² Pinar Sayan, ‘Civil Society Education Initiatives in Conflict Contexts: Reflections on an Example from Armenia and Turkey’ in Rath I and others (eds) *Zivilgesellschaft in Zeiten militärischer Bedrohung* (Georg Eckert Institut 2019) 138.

¹⁸³ Carretero (179) 358.

¹⁸⁴ Sayan (182) 139.

¹⁸⁵ Carretero (n179) 360.

¹⁸⁶ Saltarelli and Bush (n135) 20.

¹⁸⁷ Karina Korostelina, ‘Peace Education and Joint History Textbook Projects’ in Korostelina K and Lässig S (eds) *History Education and Post-Conflict Reconciliation* (Routledge 2013)19

other party in a conflict and developing shared perceptions and overarching identities”.¹⁸⁸ It is important to reiterate that education has always been used as a vessel for collective memory, but the question which is crucial now is how to shape and develop this collective memory to enable shared perceptions to form. Still, forming a collective memory through history education faces its own specific set of challenges. Conflicts are undeniably emotionally charged, and therefore, much care and consideration must be applied when addressing conflict to ensure it is done in a sensitive and rights-respecting manner.¹⁸⁹

With Verhellen’s typology in mind, it is crucial to respect the rights of children *in* education. It is crucial that every effort is made to ensure that children are not re-traumatised through history education.¹⁹⁰ It cannot be understated that tackling the history of any conflict is imperative to transcending both current entrenched divisions within a society, but also to alter future relations.¹⁹¹ Yet doing so has the potential risk of further aggravating tensions if done carelessly, with anything other than mutual understanding and respect at the core of the discussion. It is the implementation of mutual respect which could and should elevate the internal diversity within a society, rather than suppressing it.¹⁹² Specifically in the context of conflicts dominated by ethnic tensions, the purpose of history education is not to validate one ethnicity at the cost of the other. Rather, the goal, according to Apple, ought to be ‘regulated subjectivity’, identifying that each party to the conflict holds their own valid and personal truths and experiences.¹⁹³ Through such mutual understanding, the door is opened to sensitive, rights-centred discussions, which lead to deliberation and open communication. Ultimately, history education should not merely portray one parochial narrative, but an open and balanced perspective allowing for further discussion.¹⁹⁴

An additional challenge to utilising history education in a way which allows for conflict reconciliation, is the vast politicisation and manipulation of history education to centre one form of identity.¹⁹⁵ Traditionally, “schools have transmitted monolithic truths, showing convenient selection, emphases, silences, and denials to preserve a positive image of the self

¹⁸⁸ Korostelina (n187) 19.

¹⁸⁹ Korostelina (n187) 22.

¹⁹⁰ Robert Strandling, *Teaching 20th Century European History* (Council of Europe, 2001) 4.

¹⁹¹ Bentrovato and (n169) 16.

¹⁹² Carretero (179) 364.

¹⁹³ Apple (162) 232.

¹⁹⁴ Carretero (n179) 364.

¹⁹⁵ Bentrovato and Schulze (n169) 18.

while demonizing and delegitimizing designated others”.¹⁹⁶ What should instead be instilled through history education is precisely that it is not rigid, but that it can be challenged and discussed.¹⁹⁷ This touches upon the argued tension felt within the aims of education presented in Article 29(1)(b) of the CRC; namely, how to balance the allowance and arguably even encouragement of fostering a national identity, while simultaneously championing respect for human rights and fundamental freedoms. History education could be the mode in which national identity can be discussed in a more open, rights respecting way, if done through the presentation of multiple perspectives of the presented history.¹⁹⁸ As the youngest generation, children provide the greatest possibility for refreshing entrenched divisions within a society, if assisted and given the possibility to address mistrust, misunderstandings, and false prejudices.¹⁹⁹ The question may be raised, at what age and how children should begin to engage with history, but it is argued that it should be sooner rather than later, and actively rather than passively, in order to most effectively and efficiently make deep and meaningful impact.²⁰⁰

3.3 Analysis of The Committee’s Concluding Observations: Identification of Importance Curriculum in a Post-Conflict Society

The Committee itself has identified, through the use of its General Comment on Education, the importance it places on the aims of education as listed in Article 29. However, it is equally enlightening to ascertain whether attention is brought to Article 29 in the Concluding Observations which the Committee publishes in response to the periodic reporting of States. In order to assess this, 10 countries were chosen which have a history of or are currently experiencing some form of conflict – whether internal or international. The 10 countries selected were: Georgia, Azerbaijan, Armenia, Cyprus, Israel, Palestine, China, Rwanda, South Africa and The United Kingdom, specifically Northern Ireland. These States were chosen due to their own history of conflict and the availability of sources which delved into how their post-conflict transition occurred. The periodic reports of these countries were studied, and consequently, three major themes were identified to which the Committee has made consistent

¹⁹⁶ Ibid.

¹⁹⁷ Saltarelli and Bush (n135) 20.

¹⁹⁸ Carretero (n179) 364.

¹⁹⁹ Bentrovato and Schulze (n169) 16.

²⁰⁰ Elizabeth Cole and Karen Murphy History Education Reform, Transitional Justice, and the Transformation of Identities’ (International Centre for Transitional Justice, 2009) 1.

reference, namely: the participation rights of children as per Article 12 CRC, human rights education, and the quality of education.

Firstly, with the exception of the concluding observations for Cyprus, the remaining 9 States listed above each received commentary in some form of the importance of ensuring legal or administrative frameworks which would ensure the right of children to express their views on the education they receive and the contents of that education. For example, in the concluding observations of Rwanda from 2004, the Committee stated that “owing to traditional attitudes, respect for the views of the child remains limited within the schools”.²⁰¹ Similarly, in the four concluding observations for Northern Ireland, under the umbrella of the concluding observations for the United Kingdom, consistent reference was made to the importance of participation rights of children. The four concluding observations did note the developments and the steps that had been taken, or the lack thereof, by Northern Ireland. This becomes apparent when comparing the first concluding observation in 1995, which called for the introduction of procedures for participation, to the latest concluding observation from 2016, which critiqued the need for structures which would allow for the meaningful participation of children.²⁰² Interestingly, there was no direct or indirect comment provided by the Committee that touched upon the relationship between education and conflict in Northern Ireland.

Secondly, the Committee has been relatively vocal about the importance of Article 29, both in terms of educational content and pedagogical methods employed within schools, in its concluding observations to the 10 chosen States. However, it is noteworthy that aside from mentioning the importance of the aims of education as presented in Article 29, there was no attempt made in any of the concluding observations to provide guidance or commentary on how best to reconcile possibly contradicting aims. Crucially, where there is no explicit mention of the significance of Article 29, such as for China and Rwanda, the Committee does identify the need for education on the Convention and human rights education. In its 2012 concluding observation for Cyprus, the Committee does explicitly identify religion as a triggering factor for division within Cypriot society and educational institutions, stating that religious education “does not sufficiently contribute to a spirit of understanding, tolerance, and friendship among

²⁰¹ CRC Committee ‘Concluding Observations Rwanda’ (1 July 2004, UN Doc: CRC/C/15/Add.234) para 28.

²⁰² CRC Committee, ‘Concluding Observations: United Kingdom of Great Britain and Northern Ireland’ (15 February 1995, UN Doc: CRC/C/15/Add.34)

all ethnic and religious groups”.²⁰³ The Committee does not request for the complete removal of religious education within Cypriot schools, however, and rather recommends that it become an optional subject. Interestingly, no similar recommendation is made to Armenia in the concluding observations of 2013. Here the Committee recommended that Armenia “revise the curriculum of schools in order to reflect the freedom of religion of all children and eliminate the compulsory subject of the History of the Armenian Church from the curriculum”.²⁰⁴

The Committee explicitly identified the link between education and conflict resolution for three countries; Azerbaijan, Israel and Palestine. For Azerbaijan, the link was only identified in the first concluding observation in 1997, where the Committee stated: “In light of Article 29(d), the Committee recommends that education on conflict resolution and education for peace, tolerance and friendship among all people be promoted in all schools.”²⁰⁵ Although it is noteworthy that the Committee identifies this link, it is perhaps disappointing that it was only done once, and that stronger language was not used.

In comparison, both the language used and the consistency of mentioning the importance of Article 29 is highly remarkable in the concluding observations for Israel. In the first concluding observation in 2002, the Committee notes its concern with the curricula missing the explicit mention of the aims of education as identified withing Article 29.²⁰⁶ The Committee comes back to this recommendation in its 2013 concluding observations in which it stipulates its “recommendation of systematic inclusion of peace education both in the Israeli and Palestinian school system, and again encouraging joint initiatives” for peace education.²⁰⁷ The Committee in their 2013 concluding observation also comment on the importance of information being provided and discussed regarding “Palestinian history, heritage, flag and cities”, as they had been removed from textbooks since 2011.²⁰⁸ The removal of these cultural indicators from textbooks seems in direct contradiction to Article 29(1)(d) CRC. However, the Committee does not address whether the prohibition of these items within textbooks is merely an infringement of the right to a cultural identity, or if it is a contributing factor for the continued conflict within

²⁰³ CRC Committee, ‘Concluding Observations on the Combined Third and Fourth Periodic Reports of Cyprus’ (24 September 2012, UN Doc: CRC/C/CYP/CO/3-4) para 4.

²⁰⁴ CRC Committee, ‘Concluding Observations on the Combined Third and Fourth Periodic Reports of Armenia’ (14 June 2013, UN Doc: CRC/C/ARM/CO/3-4) para 46(d).

²⁰⁵ CRC Committee ‘Concluding Observations: Azerbaijan’ (18 June 1997, UN Doc: CRC/C/15/Add.77) para 36.

²⁰⁶ CRC Committee, ‘Concluding Observations: Israel’ (9 October 2002, CRC/C/15/Add.195) para 56.

²⁰⁷ CRC Committee ‘Concluding Observations on the second to Fourth Periodic Reports of Israel’ (4 July 2013, CRC/C/ISR/CO/2-4) para 65.

²⁰⁸ Ibid.

the region. Palestine, in the first concluding observation in 2020, similarly received concern from the Committee as “the contents of some textbooks do not promote peace and tolerance”.²⁰⁹

The third and final theme which can be identified throughout the concluding observations is the Committee’s comments on the importance of a ‘quality education’ without ever explicitly identifying what is meant by ‘quality’. It could be inferred that a quality education is one that meets all the aims of education, yet it could then be argued that no State would be able to definitively offer such an education. In the context of Northern Ireland, the Committee spends considerable time discussing the importance of integrated education.²¹⁰ In comparison, the concluding observations for China discuss the importance of education in minority languages, specifically identifying the Uighur population.²¹¹ The concluding observation for Armenia also emphasise the importance of education being provided in minority languages.²¹²

What is crucial to recognise is that in no concluding observations of any of the selected States is there an explicit reference made to national values, as provided in Article 29(1)(c). As highlighted above, there is reference to the importance of the inclusion of minorities and the promulgation of tolerance and respect, but only in reference to the Palestinian experience within Israel is there reference to cultural identity. Yet, it is striking that with 10 States that have a history of or a contemporary relation to conflict, there is no attempt to discuss the plausible link between the education of tolerance, respect, and peace and the building of a national value and identity.

3.4 A Correct Implementation of Curriculum – Re-shaping Foundations for Conflict

In order to attempt to assess what a correct implementation of children’s rights within the context of prescribed curricula would look like, the very aims of education need to be reiterated. Beyond the classic learning of reading, writing and arithmetic, education is a key form of socialisation. It allows children their first experiences with vocalising dissent and agreement outside the family context, exchanging ideas and forming a cooperative culture.²¹³ What is

²⁰⁹ CRC Committee ‘Concluding Observations on the Initial Report of the State of Palestine’ (6 March 2020, CRC/C/PSE/CO/1) para 54(e).

²¹⁰ CRC Committee (n202) para 47.

²¹¹ CRC Committee Concluding Observations on the Combined Third and Fourth Periodic Reports of China’ (29 October 2013, CRC/C/CHN/CO/3-4) para 75.

²¹² CRC Committee Concluding Observations: Armenia’ (26 February 2004, CRC/C/15/Add.225) para 46(d).

²¹³ Gerison Lansdown, ‘Promoting Children’s Participation in Democratic Decision-Making’ (UNICEF Innocenti Insight, 2001) 10.

clear is that learning should not be a static process but filled with dynamic conversations, encouragement of critical thinking, and honest reflection on what is being placed before children or asked of them in their classes.

Naturally, every child will be confronted with a curriculum which communicates an evident narrative, often one that is chosen or at least sponsored by the State. Yet, in the same way that education in its entirety ought to be a dynamic environment, curricula, especially for history education, ought to be dynamic too. It is therefore perhaps discouraging that the Committee has not come out more vocally in favour of identifying the way that the aims of education in Article 29 must be incorporated into curricula. The vague notion of a ‘quality’ education and merely referencing the importance of Article 29 does not galvanise States to actively take initiative in altering their prescribed curricula. Yet, it is precisely this alteration that is necessary in order to address both the importance of a national identity and simultaneously the multitude of perspectives of a conflict in order to prevent the continuity of entrenched conflicts. This should include assessing different peoples as the protagonists of the historical narrative, as each subject will have their own sets of morals and values attached to a conflict, and by addressing the variations within that, and through fostering mutual respect and understanding of the complexities of how conflict originates, that both a national value can be presented, in combination with respect for other beliefs held.²¹⁴

The Committee ought to be more insistent and direct in their concluding observations and more vocal in their critique. By doing so, States could re-shape their curricula to actually reflect Article 29 CRC, and in this way re-shape the foundations of not only how and what children learn, but how this learning is transformed into their behaviour at home and in their communities, with the long-term goal of interrupting the inter-generational transmission of the hostilities and prejudices which elicit conflict.

²¹⁴ Carretero (n179) 364.

4. Article 12: Child Participation

4.1 Child Participation in Developing Peace

It has been stated that “for peace to be sustainable, the adults of tomorrow need to feel a sense of ownership and responsibility for the creation and maintenance of a climate of peace”.²¹⁵ One method in creating such sense of ownership is through the participation of children in both learning about the conflict and, arguably, in vocalising what such an education should consist of. Children are key stakeholders in ensuring that a peaceful society is not only created but sustained. It is this unique position which provides a nuanced and different perspective when addressing how to not only achieve peace but to have that disseminated throughout society.²¹⁶ Additionally, the sheer number of young people and children –“over 60% of the population of many conflict-affected countries are under 25 years old”, simply requires that their opinion and input is not only sought out but is actively listened to.²¹⁷ Gow recognises this and argues that children in particular are the group which has the biggest potential to interrupt the cyclical nature of a conflict.²¹⁸ Gow suggests that “children’s participation in peace processes is an essential part of their learning” and will ensure that in the future they will be able to act as peaceful, dialogue-oriented, democratic citizens.²¹⁹ Yet, despite various other scholars similarly acknowledging it, the role of children in peacebuilding initiatives is vastly underutilised.²²⁰ Naturally, it would be reductive to claim that any one factor alone, such as education, could solve or –alternatively– trigger a conflict. Nevertheless, it is also naïve to assume that education, and children’s active participation therein, cannot in a very real way alleviate predispositions present in a society prone to conflict.²²¹

4.2 Article 12 CRC: Children’s views being given due weight

It is with the conviction of the importance of child participation and its role as a multiplier right that it was included within the CRC in Article 12.²²² Markedly, no other human rights treaty

²¹⁵ Fumiyo Kagawa, ‘Peacebuilding Education for a Sustainable Future’ in Selby D and Kagawa F (eds) *Sustainability Frontiers: Critical and Transformative Voices from the Borderlands of Sustainability Education* (Verlag Barbara Budrich, 2015) 148.

²¹⁶ Giorgio Brucato, ‘Children of Societies Transitioning to Peace: An Instance for Moral Recognition’ (2019) 15/3 *Journal of Global Ethics* < <https://www.tandfonline.com/doi/full/10.1080/17449626.2019.1695650> > accessed 12 May 2022, 238.

²¹⁷ Kagawa (n215) 147.

²¹⁸ Brucato (n216) 238.

²¹⁹ Melanie Gow, ‘Partnering with Children for Peace’ in Elliot H (ed) *Children and Peacebuilding: Experiences and Perspectives* (WorldVision, 2002) 3.

²²⁰ Brucato (n216) 238.

²²¹ Kagawa (n215) 150.

²²² Nadine Correia and others ‘Children’s Participation in Early Childhood Education: A Theoretical Overview’ (2021) *Contemporary Issues in Early Childhood* < <https://journals.sagepub.com/doi/abs/10.1177/1463949120981789> > accessed 20 May 2022 2.

within the UN framework provides a similar right.²²³ Within the CRC there are other participation rights, which include the right to freedom of expression under Article 13 and the right to freedom of assembly as per Article 15.²²⁴ These rights are categorized as civil and political rights.²²⁵ Every State that has signed the CRC has thereby also willingly and voluntarily accepted that the right to participation in all matters affecting the child will be upheld.²²⁶ Where States fully implement Article 12, Correia argues, it would allow for a transition into a child's rights respecting culture throughout society.²²⁷ An adherence to Article 12 by State parties demonstrates their commitment to democracy for every population group, and to the trust in children's capability to encourage their own development and well-being.²²⁸

Article 12 has a dual function. Firstly, it identifies children as being their own fully legal persons that hold a right to be involved in the decisions that affect their lives; and it functions as a right through which other rights are actualized.²²⁹ The significance of children having the right to participate and voice their opinions in all matters affecting them cannot be understated, as historically children were seen as an extension of their guardians and derived their rights from that relationship.²³⁰ However, the CRC was the capstone of development of children's rights as the convention in its entirety showcased how children are right bearers and citizens of their own right. Article 12 CRC is arguably a direct response to the lack of social decision-making opportunities that children had prior to the enactment of the CRC.²³¹ Historically, the presumption was that children were not competent nor capable of voicing their own views. The Committee acknowledges this by stating that "State parties should presume that a child has the capacity to form her or his own views and recognize that she or he has the right to express them".²³² Beyond the required presumption that a child can express their own views, the *travaux préparatoires* of the CRC indicate that there ought to be no internal qualifiers for a child

²²³ Noam Peleg 'International Children's Rights Law: General Principles' in Kilkelly U, Liefwaard T (eds) *International Human Rights of Children* (Springer 2019)148.

²²⁴ Brucato (n216) 237.

²²⁵ Ann Quennerstedt , 'Children, But Not Really Humans? Critical Reflections on the Hampering Effect of the "3 p's'(2010) 18/4 The International Journal of Children's Rights < https://brill.com/view/journals/chil/18/4/article-p619_9.xml?language=en > accessed 13 February 2022, 622

²²⁶ Martin Ruck and Jennifer Tang, 'Making Children's Rights and Participation Central in Children's Political Development' (2019) Monograph Matters < <https://monographmatters.srca.org/2019/09/10/commentary-ruckandtang-84-3/> > accessed 12 January 2022, 2.

²²⁷ Correia (n222) 3.

²²⁸ Gerison Lansdown and others, 'Children's Rights and School Psychology: Children's Right to Participation' (2014) 52/1 Journal of School Psychology < <https://psycnet.apa.org/record/2014-02773-001> > accessed 23 March 2022, 6.

²²⁹ Brucato (n216) 238.

²³⁰ Peleg (n223) 148.

²³¹ Michael Freeman, 'Whiter Children: Protection, Participation, Autonomy' (1994) 22/3 Manitoba Law Journal < <https://canlii.ca/t/sgdh> > accessed 15 June 2022, 319.

²³² CRC Committee (n15) para 20.

to do so;²³³ Article 12 cannot be interpreted in a way that suggests that a child is only capable of expressing their views if they have the same level of expertise as an adult.²³⁴ As Lundy states, “it is sufficient that a child demonstrates that he or she understands that he or she is expressing their own view, to the extent possible, on a particular matter”.²³⁵

Article 12 further presents an interesting midway for children’s political lives. Children do not have the right to vote, and Article 12 functions as a response to that lack of political right by catering to a shift to a participatory standard.²³⁶ Article 12 activates many of the elements of a political life, for example by encouraging the voicing of opinions and the formation and expression of (political) views, which underly democratic debate and dialogue.²³⁷ Simply because children do not have the right to vote does not necessitate that they do not, or cannot, form their own views and opinions on matters affecting them. Essentially, Article 12 provides for a legal obligation for children to be given a seat at the decision making table, specifically when that table is discussing matters that impact the child’s life, such as the education which they receive.²³⁸ Lundy argues that the “implementation of Article 12 within education may be one of the most significant children’s rights in any society in the process of reconstruction”.²³⁹ It is particularly in States which are currently embroiled in a conflict or transitioning out of one that children’s ability and opportunity to practice their political participation skills is crucial,²⁴⁰ as these political participation skills are vital in sustaining peace in the long run.²⁴¹

A limit which seems to be applied to the participation of children is that guardians and adults generally are still capable of implicitly exerting control over when and how children use this right.²⁴² Article 12 specifies that the weight given to the child’s participation is contingent on the age and maturity of the child, which is something that adults will assess.²⁴³ Yet, it is crucial that age and maturity do not become excuses to be deployed every time it is inconvenient or uncomfortable for children to be included in the decision making process.²⁴⁴ An important

²³³ UN Commission on Human Rights, ‘Report of the Working Group on a Draft Convention on the Rights of the Child’ (17 February 1981, UN Doc: E/CN.4/L.1575) 438.

²³⁴ Lundy (n14) 400.

²³⁵ Lundy (n14) 402.

²³⁶ Thomas Nigel, ‘Towards a Theory of Children’s Participation’ (2007) 15/2 The International Journal of Children’s Rights < <https://doi.org/10.1163/092755607X206489> > accessed 19 January 2022, 203.

²³⁷ Brucato (n216) 238.

²³⁸ Lansdown (n228) 4.

²³⁹ Lundy (n24) 355.

²⁴⁰ Lundy (n24) 352.

²⁴¹ Lundy (n24) 355.

²⁴² Lansdown and others (n228) 4.

²⁴³ Peleg (n223) 149.

²⁴⁴ Peleg (n223) 149.

distinction that must be made is that while children are to be involved in the decision making process, that they alone will not have the final say in every matter impacting them.²⁴⁵ Children should, either on their own or with the help of an adult, be able to contribute meaningfully and participate in the decision making. As such, the responsibility lies with adults in ensuring that the space and opportunity exist for children to voice their opinions.²⁴⁶

4.3 The Lundy Model

Article 12 may furthermore be used as a litmus test of the attitude that a State generally has towards children's rights and the way that these have been implemented in a State.²⁴⁷ Despite the heightened importance of Article 12, it is an arguably convoluted provision. Consequently, there have been various attempts to identify the various elements of what is meant by the right to participation. Professor Laura Lundy has proven most prominent in recent history, with the Lundy Model quickly gaining traction within scholarship and practice.

However, Lundy was not the first to attempt to provide a schematic representation of what falls under Article 12. First, Arnstein's 1969 'Ladder of Citizen Participation' formed the basis for Hart's 'Ladder of Participation', which could be argued was the starting point for conceptualizing Article 12.²⁴⁸ Hart's theory was criticized for the way participation was placed in a hierarchy, with the lowest rungs of the ladder being reserved for children being manipulated and tokenized, to the highest levels of decision making where children took the lead in decision making.²⁴⁹ Second, Treseder's 1997 'Circles of Participation' were established based on Hart's Ladder of Participation, attempting to move away from a hierarchical conception of participation.²⁵⁰ Rather than eight ladder rungs as presented by Hart, Treseder uses Hart's top five rungs, and represents them as five modes of participation.²⁵¹ Third, Shier presented a new model of participation in 2001, which conceptualized Article 12 as five levels of participation, starting with children being listened to and culminating in shared responsibility

²⁴⁵ Peleg (n223) 150.

²⁴⁶ Lansdown and others (n228) 5.

²⁴⁷ Lundy (n24) 355.

²⁴⁸ Kay Tisdall 'Children and Young People's Participation' in Vandenhoe and others (eds) *Routledge International Handbook of Children's Rights* (Routledge 2015) 188.

²⁴⁹ Herbots, Katrien, and Johan Put. 'The Participation Disc' (2015) 23/1 *The International Journal of Children's Rights* < <https://doi.org/10.1163/15718182-02301007> > accessed 24 June 2022, 163.

²⁵⁰ Correia (n222) 4.

²⁵¹ Mary Kellet (Children and Young People's Participation' in Montgomery H and Kellet M (eds) *Children and Young People's Worlds: Developing Frameworks for Integrated Practice* (Policy Press 2009) 45.

and power of adults and children in decision making.²⁵² Shier's contribution appears in their incorporation of three points of action; openings, opportunities, and obligations, which ought to be present at all five levels of participation.²⁵³ Fourth, Kirby et al presented a four level model in 2003 which also adhered to the non-hierarchical view of participation.²⁵⁴ Kirby et al argued for assessing the form of participation in light of the context in which the decision is taken, what form of decision is being taken, the actors involved in decision-making, and the associated activities within decision-making.²⁵⁵ Evidently, the discussion regarding how to ensure that children are effectively involved in decision-making and that their voices are being given due weight is one with considerable history. Each model presents an improvement upon or adaptation from the last, with the ultimate goal of ensuring a method of aiding and assessing the implementation of Article 12, ultimately for the betterment of a child's ability to utilize their right of voicing their opinion.

Lundy identifies four interrelated elements that are central to Article 12. These are: space, voice, audience and influence. The Lundy Model also identifies that the right to participation cannot be observed separately from other relevant CRC provisions such as non-discrimination, the best interests of the child, right to guidance, freedom of expression and protection from violence and abuse.²⁵⁶ These elements can be seen in the below diagram of the Lundy Model as conceptualized by Lundy in a 2007 article.

²⁵² Harry Shier, 'Pathways to Participation: Openings, Opportunities and Obligations' (2001) 15/2 Children and Society < <https://doi.org/10.1002/chi.617> > accessed 15 October 2022, 111.

²⁵³ Ibid.

²⁵⁴ Perpetua Kirby and others *Building a Culture of Participation* (UCL 2003) 60.

²⁵⁵ Ibid.

²⁵⁶ Lundy (n16) 933.

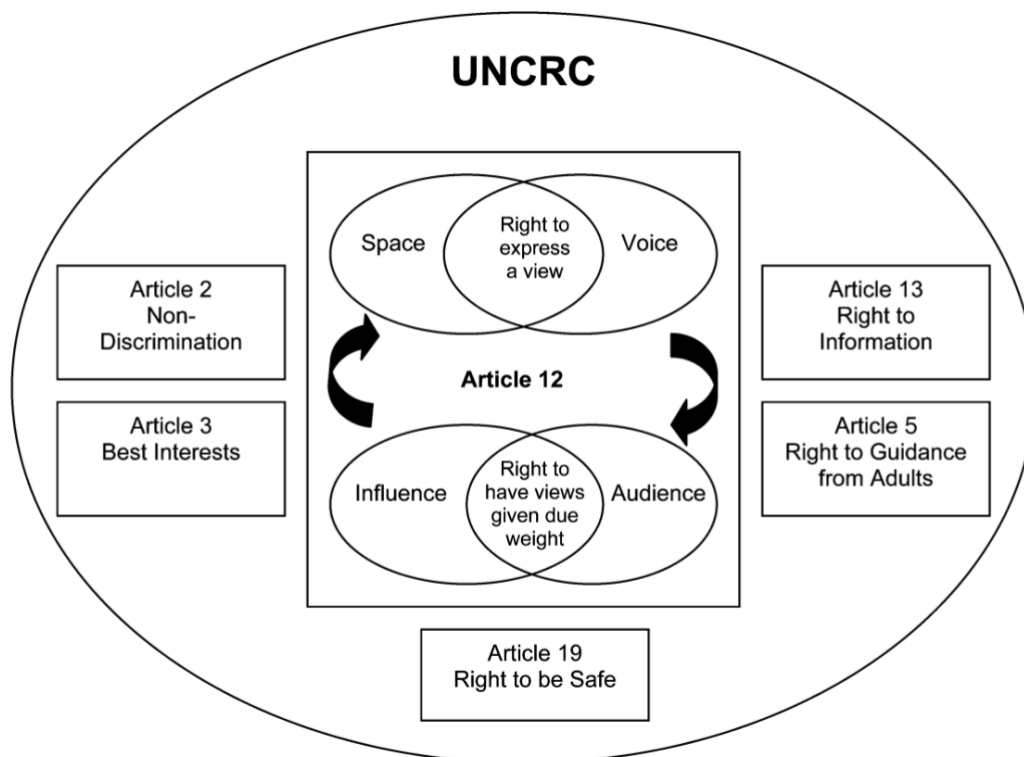


Figure 1: The Lundy Model, used with permission from Laura Lundy (Laura, Lundy (2007) "Voice' is not enough: conceptualising Article 12 of the United Nations Convention on the Rights of the Child', British Educational Research Journal, 33:6, 927 — 942)

The first element of the model is space, which entails creating occasions and opportunities for children to express their views.²⁵⁷ Children should not have to *ask* to participate or to have the possibility of expressing their voice or opinion.²⁵⁸ Rather, there should be intentional steps taken by those involved in decision-making processes to ensure that children are actively involved. As the Committee states, “States parties must ensure conditions for expressing views that account for the child’s individual and social situation”.²⁵⁹ Additionally, the space created must be a safe one, ensuring that children are not afraid to express their views but feel confident in sharing their opinions.²⁶⁰ It is important that children have no fear of rebuke in any setting, specifically in transitioning and post-conflict societies, but that they feel safe in expressing their concerns, questions, thoughts and whatever other input they might have. Further, the space should not only welcome one type of child, but should be tolerant and inclusive for the diversity of children present within society.²⁶¹ This relates back to the link between Articles 12 and 2 CRC, in that there should be no discrimination within child participation in who may or may

²⁵⁷ Lundy (n16) 933.

²⁵⁸ Correia (n222) 383.

²⁵⁹ CRC Committee (n15) para 23.

²⁶⁰ Ibid.

²⁶¹ Lundy (n16) 934.

not voice their opinion.²⁶² Again, in the context of conflicts with ethnocentric origins, it is crucial that children of all ethnicities, especially minorities, are given the space to participate in decision making.

The second component of the Lundy Model is voice. Children should be given the opportunity to express their views in accordance with their maturity and age.²⁶³ However, it is imperative that these two criteria, especially age, are not used as stumbling blocks for children to express their views.²⁶⁴ As the Committee states, “research has shown that information, experience, environment, social and cultural expectations, and levels of support all contribute to the development of a child’s capacities to form a view”.²⁶⁵ Rather, this should trigger Article 5, which is the right of children to receive guidance from their guardians in accordance with their evolving capacities.²⁶⁶ Therefore, children have the right to express their views and adults should facilitate their ability to do so, as it is their direction and guidance which can “compensate for the lack of knowledge, experience and understanding of the child”.²⁶⁷ Ultimately, the component of voice appears to engage with the conviction that children ought to be acknowledged as competent and respectful of their dignity and ability to carry responsibility in formulating their own opinions and vocalizing them.²⁶⁸

The third component of the Lundy Model is audience. This entails guaranteeing a means of communication to those who are involved in the decision making, and in a way that there is active listening, rather than mere requirement fulfilling.²⁶⁹ Those who are listening should be in tune with not just what children might be saying verbally, but in all forms of their communication.²⁷⁰ This is reflective of the idea that the audience is engaged with the voice and opinion of the child.²⁷¹ Article 12 is equally and fully applicable regardless of the political context a State might find itself in, such as transitioning out of conflict.²⁷² Not only does Article 12 remain applicable, but the Committee “encourages States parties to support mechanisms which enable children, in particular adolescents, to play an active role in both post-emergency

²⁶² CRC Committee (n15) para 75.

²⁶³ Lundy (n16) 935.

²⁶⁴ CRC Committee (n15) para 20.

²⁶⁵ CRC Committee (n15) para 29.

²⁶⁶ Lundy (n16) 935.

²⁶⁷ CRC Committee (n15) para 84.

²⁶⁸ Gerison Lansdown *The Evolving Capacities of the Child* (UNICEF Innocenti Insight, 2005) 58.

²⁶⁹ Lundy (n16) 936.

²⁷⁰ *Ibid.*

²⁷¹ Correia (n222) 390.

²⁷² Alison Bisset, “Building Resilience in Post-Conflict Disaster Contexts: Children and Transitional Justice” in Breau SC and Samuel KLH (eds) *Research Handbook on Disasters and International Law* (Edward Elgar 2016) 483.

reconstruction and post-conflict resolutions processes”.²⁷³ The audience in a post-conflict setting can be varied, such as setting up a child’s forum which might speak directly to community leaders.²⁷⁴

The final component of the Lundy model is influence. Although there is no legal obligation for children’s views to be the only ones considered, it is imperative that they are considered.²⁷⁵ This ought to be communicated to children, through explanations of who heard their opinions, how they were taken into account and what the final outcome of their participation was.²⁷⁶ By requiring adults to demonstrate how they have actively given due weight to the participation of children, it prevents adults merely keeping up the appearance of listening, which could eventually lead to tokenism.²⁷⁷ Specifically in the context of a transitioning or post-conflict society, having to account for the decisions made can also force the adult decision-makers to look more strenuously at their actions and choices, and how these impact the youngest generations.

Ultimately, Article 12 is crucial in the context of educational institutions, as it has the real potential of creating a powerful contribution to not only the administrative elements of education, but to the pedagogy and contents of the curricula as well, as all of these elements have an impact on the lives of children.²⁷⁸ One of the most notable expressions of Article 12 within educational settings is the creation and support for ‘school councils.’²⁷⁹ As Tisdall notes, school councils were initially seen as “laboratories of democracy, where children and young people could practice formal democratic practices.”²⁸⁰ Notably, research has steadily demonstrated that those children who participate in school forums and councils feel an increased sense of confidence in their skills and ability to vocalise and present their opinions.²⁸¹ Specifically when assessing education in post-conflict States or States transitioning out of conflict, Article 12 plays a crucial role in that rehabilitation process. As the Committee provides, “children’s participation helps them to regain control over their lives, contributes to

²⁷³ CRC Committee (n15) para 126.

²⁷⁴ CRC Committee (n15) para 126.

²⁷⁵ Correia (n222) 393.

²⁷⁶ CRC Committee (n15) para 28.

²⁷⁷ Lundy (n16) 938.

²⁷⁸ Lundy (n16) 940.

²⁷⁹ Tisdall (n248) 193.

²⁸⁰ *Ibid.*

²⁸¹ *Ibid.*

rehabilitation, develops organizational skills and strengthens a sense of identity”.²⁸² Thus, the intersection of participation in education in post-conflict settings ought to be highlighted.

5. Education and Transitional Justice

5.1 *The Importance of Transitional Justice*

Transitional Justice (TJ) has been a growing field of interest for decades, developing from local, national and international actors who recognized “the need to reckon with human rights abuses of the past in order to secure democracy, stability, and non-violence in the present and future”.²⁸³ This reckoning is necessary in the context of those States that are transitioning out of some form of conflict, with some identifying the Nuremberg Trials as the founding point of TJ.²⁸⁴ McEvoy describes TJ as an “upwards trajectory”, whereby progress is being sought away from conflict.²⁸⁵ Sriram identifies that although TJ as a field originated from one world event and trying to progress beyond this, it is now a much larger field which touches upon elements of democratization, peace-building, the safeguarding and implementation of human rights, and theories and processes of state-building.²⁸⁶ A long-lasting impact of the Nuremberg Trials is the idea of ‘never again’, which is pervasive within the rhetoric of TJ.²⁸⁷ Encapsulated within this idea is that, in order to ensure events such as the Holocaust are never repeated, constructive dialogue, action and lessons taken from and about past events are necessary.²⁸⁸ While any type of conflict is best avoided, Sommers and Buckland do identify in the transition out of a conflict a distinctive opportunity for States to use the instability and implement key transformations within society – such as the contents and framework of education.²⁸⁹

There is no one agreed definition of transitional justice. However, the definition presented by former UN Secretary General Kofi Annan has proven popular; TJ refers to “the full range of processes and mechanisms associated with society’s attempts to come to terms with a legacy of large-scale past abuses in order to ensure accountability, serve justice and achieve

²⁸² CRC Committee (n15) para 125.

²⁸³ Michelle Bellino and others, Working Through Difficult Pasts: Toward Thick Democracy and Transitional Justice in Education’ (2017) 53/3 Comparative Education < [10.1080/03050068.2017.1337956](https://doi.org/10.1080/03050068.2017.1337956) > accessed 24 May 2022 315

²⁸⁴ Ibid at 314.

²⁸⁵ Kieran McEvoy, ‘Beyond Legalism: Towards a Thicker Understanding of Transitional Justice’ (2007) 34/4 Journal of Law and Society < <http://www.jstor.org/stable/20109761> > accessed 26 March 2022 412.

²⁸⁶ Chandra Sriram, ‘Justice as Peace? Liberal Peacebuilding and Strategies of Transitional Justice’ (2007) 21/4 Global Society < <https://doi.org/10.1080/13600820701562843> > accessed 17 April 2022 at 581.

²⁸⁷ Bellino and others (n283) 317.

²⁸⁸ Ibid.

²⁸⁹ Marc Sommers, and Peter Buckland, ‘Parallel Worlds: Rebuilding the Education System in Kosovo’ (IIEP 2004) 317

reconciliation”.²⁹⁰ The processes and mechanisms used range from judicial means such as criminal tribunals, to non-judicial means such as truth commissions which seek to investigate the abuses committed.²⁹¹ Davies lists three identifying elements of TJ which distinguish it from other post-reconciliatory methods. Firstly, TJ is not a response to individual or ‘small-scale’ action but to “sustained violence that harms large cohorts”.²⁹² Secondly, there is a distinctive element which seeks to uncover and identify the truth.²⁹³ As Guinn suggests, oftentimes within a conflict the “reality is distorted, as moral norms are turned upside down and replaced by corrupted vision of the culture of the regime”.²⁹⁴ Thus Davies contends that one of the core aims of TJ is to unveil the ‘true’ reality of a culture during conflict. Lastly, as originally understood within the ‘never again’ rhetoric, a basic premise of TJ is that in order to foster a peaceful and stable State and society in the future, past abuses and violations need to be recognized and addressed.²⁹⁵ Therefore, arguably any framework which only seeks to address the immediate repercussions of conflict hinders the long-lasting impact of full reconstruction to a society which promotes peace, tolerance, and respect.²⁹⁶ It is therefore imperative to use a range of mechanisms which address those with personal responsibility in addition to identifying and remedying the root causes of the conflict, such as looking at the way curriculum is used in schools.

5.2 Children and Transitional Justice

Children have the unique position or, arguably, the unique burden of playing a central role in both advocating for and participating in the bottom-up transition to a viable peacetime.²⁹⁷ A key element of reconciliation is that children take an active role in it.²⁹⁸ Children’s involvement in TJ processes is an opportunity to engage with democracy building, active debate, and dialogue.²⁹⁹ These are all elements that are also important to fulfil Article 12 CRC obligations. The dynamic between children being involved with transitional justice mechanisms and their

²⁹⁰ UN Secretary-General, ‘The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies’ (23 August 2004, UN Doc: S/2004/616) 4.

²⁹¹ S Garnett Russell, *Becoming Rwandan: Education, Reconciliation, and the Making of a Post-Genocide Citizen* (Rutgers, 2020) 30.

²⁹² Lynn Davies (Justice-Sensitive Education: The Implications of Transitional Justice Mechanisms for Teaching and Learning’ (2017) 53/3 *Comparative Education* < <https://doi.org/10.1080/03050068.2017.1317999> > accessed 12 June 2022, 334

²⁹³ *Ibid.*

²⁹⁴ David Guinn, ‘Human Rights Education: The Third Leg of Post-Conflict / Transitional Justice’ (2007) *Human Rights and Human Welfare* < https://ciaotest.cc.columbia.edu/wps/hrhw/0001940/f_0001940_946.pdf > accessed 12 June 2022,10.

²⁹⁵ Davies (n292) 334.

²⁹⁶ Ramírez-Barat and Duthie (n1) 5.

²⁹⁷ Underwood (n113).

²⁹⁸ Davies (n292) 338.

²⁹⁹ *Ibid.*

rights under the CRC amplify that children are persons in their own right, and are personally invested in the reconciliation processes being discussed and implemented.³⁰⁰ It is not merely that children are the benefactors of any peace processes, but that they are key stakeholders in its creation and implementation. Either on their own merit, or with guidance from their guardians as per Article 5 CRC, children should be given a seat at the table in voicing how they want post-conflict construction and transition to develop and provide a unique perspective on what is significant to them.³⁰¹

5.2.1 *Education and Transitional Justice*

A potentially critical part of children's role within transitional justice is in the framework of education and its enabling function for children.³⁰² Keynes contends that the role which education has within the framework and success of TJ is still under conceptualised, but that it is well suited to the aims and processes of TJ,³⁰³ specifically as education can act as a means to catalyse dialogue surrounding truth, critical thinking, and remembering of the past.³⁰⁴ As Cole states, "education itself can be considered a justice institution, as it is where students first come into contact with official structures of their society, its basic narratives and its values."³⁰⁵ It is crucial, therefore, that in the period directly after conflict, investments are made into the lives of children, whereby education should be a key priority. It is naïve to assume that education alone will allow for reconciliation either intra-state or inter-state, but it is equally naïve not to invest in broader peace-keeping strategies which have the potential of holding reconciliatory effects.³⁰⁶ Smith and Vaux identify how education specifically acts as solidifier, either in bolstering conflict or as a tool of reconciliation – the lack of attention education has garnered within the greater discourse surrounding TJ processes is thus glaringly obvious.³⁰⁷

Education systems, pedagogies, and curricula can each be identified under the broad umbrella of non-judicial transitional justice means of reconciliation.³⁰⁸ Says Russell: "changes to education systems or to educational policies may directly respond to past grievances or seek to

³⁰⁰ Siegrist (n47) xxv.

³⁰¹ Siegrist (n47) 15.

³⁰² Underwood (n113).

³⁰³ Matilda Keynes, 'History Education for Transitional Justice? Challenges, Limitations and Possibilities for Settler Colonial Australia' (2019) 13/1 <<https://doi.org/10.1093/ijtj/ijy026>> accessed 3 March 2022, 113.

³⁰⁴ Keyibid.

³⁰⁵ Cole and Murphy (n200) 3.

³⁰⁶ Paulson (n145) 332.

³⁰⁷ Alan Smith and Tony Vaux, 'Education, Conflict and International Development' (Department for International Development 2003) 24.

³⁰⁸ Russell (n291) 38.

rectify socioeconomic inequalities across formal, nonformal and informal education spaces”.³⁰⁹ It has been identified that specifically where conflict has stemmed from racial or ethnic divisions, it is key to address these differences within an educational setting, and to adapt education where necessary to reflect the discussions surrounding these divisions.³¹⁰

History education is a key subject within education that ought to be used as a tool to address conflict, and the transitional justice process could take advantage of this channel of communication to society.³¹¹ Persistent within most history teaching is a specific national narrative and lens that presents past conflicts within a State.³¹² As Zembylas and Beckerman ascertain, this covers not just the content of what is taught – which events are identified as being worthy of remembering – but also the way in which it is taught.³¹³ It is through the lens of a chosen narrative and the way that narrative is taught that “history education can contribute to violent conflict, for instance, by reinforcing sectarian identities, offering negative and stereotypical images of the ‘other’ and naturalizing the victimhood or superiority of particular groups.”³¹⁴ Crucially, therefore, one of the first steps that ought to be taken in utilizing education for TJ is changing the narrative; from one of victory or victimhood to one which allows for various interpretations, and the presentation of a multitude of actors, perspectives, and consequences.³¹⁵ Carretero and Borellie build on this need for change in school history education by not only looking at the actual events that occurred, such as the outbreak of conflict, and the range of variables involved within that, but to address the complex foundation and various social structures which lead to such an outbreak.³¹⁶ Ultimately, school history should not be a simple reduction of right and wrong or us versus them narratives, but a multi-layered representation of the actors, complexities, and elements which lead to a moment of crisis considered worth remembering.³¹⁷

³⁰⁹ Russell (n291) 38.

³¹⁰ Russel (n291) 39.

³¹¹ Cole and Murphy (n200) 3.

³¹² Julia Paulson, ‘Whether and How? History Education About Recent and Ongoing Conflict: A Review of Research’ (2015) *Journal on Education in Emergencies* 1/1 < <https://archive.nyu.edu/handle/2451/39649> > accessed 24 May 2022, 116

³¹³ Michalinos Zembylas, and Zvi Bekerman. ‘Education and the Dangerous Memories of Historical Trauma: Narratives of Pain, Narratives of Hope’ (2008) 38/2 *Curriculum Inquiry* < <https://www.jstor.org/stable/30053166> > accessed 3 May 2022, 126.

³¹⁴ Paulson, (312)115.

³¹⁵ Eleazar Barkan, *The Guilt of Nations: Restitution and Negotiating Historical Injustices* (WW Norton & Company 2000) 314.

³¹⁶ Mario Carretero and Marcelo Borelli, ‘Recent Memories and Pasts in Conflict: How to Teach Recent History at School’ (2008) 20/2 *Culture and Education*, 204.

³¹⁷ Davies (n292) 337.

History education is one key component of the active role education can take. Two other such elements are the access to education that every group within a society has, specifically compulsory primary education, as well as the intentional and subconscious imparting or instruction of what are identified as national and cultural values.³¹⁸ As Cole iterates “education has the potential to reach both the first generation emerging from conflict and subsequent generations that become increasingly responsible for nurturing and protecting civil society, and in some cases, democracy and democratic institutions”.³¹⁹ However, as Bellino identifies, when the need for reforming education is vocalized, there is the risk of focusing on factors that, though equally important, are perhaps less comprehensive in the long-term.³²⁰ These factors include a focus on access to education, the physical buildings in which formal education takes place, and, often, chronic underfunding.³²¹ While it is undeniably crucial that these factors are addressed and given due attention, if attention is not given to *what* children are being taught, then there exists a real risk of perpetuating learned practices with undertones of negative stereotypes, violence, victimization, and othering.³²² Bush and Saltarelli’s defining work in this regard needs to be remembered; that is, the duality history education can take – to either incite violence or to construct peace.³²³

Addressing both the impact of the conflict and doing so through education will allow for a more complete fulfilment of the right to education, as under Article 29 CRC. If the impact that generational transmission of knowledge and narratives of conflict are taught is not identified – in what ways and for what reasons it occurred, then the underlying elements of conflict present in this transmission will continue to persist despite any other transitional mechanisms employed. Another more formal and technical TJ mechanism is, for example, the establishment of an international tribunal for crimes committed. However, if the trials proceeding from such a tribunal are disseminated throughout society and potentially even schools, the risk is taken that children are presented with one side as entirely responsible and the other as the victim, with no space for nuance. If this happens, the more technical forms of reconciliation will remain just that – mere technicalities. It will not allow for deep generational mindset shifts necessary to attain sustainable peace. By redefining narratives and knowledge of the conflict and the

³¹⁸ Russell (n291) 40.

³¹⁹ Ibid.

³²⁰ Bellino and others (n283) 319.

³²¹ Ibid.

³²² Andrea Lawrence, *Lessons from an Indian Day School: Negotiating Colonisation in Northern New Mexico 1902 – 1907* (University Press of Kansas 2011) 128.

³²³ Saltarelli and Bush (n135) 20.

historical factors contributing to the eruption of the conflict, a greater sense of ownership is placed on collective knowledge and memory in addition to allowing for more balanced views and discussion. Furthermore, even besides the fact that children are entitled to fully exercise their right to an education, it is a worthwhile investment for the State in general as it will lead to the development of generations who are well-educated, rights-respecting citizens who revere the importance of democratic values within a State.³²⁴

5.2.2 *National Curricula and Truth Commissions*

The key question is therefore how to update the education system and the curricula and pedagogies used therein in a way that would allow for the full respect and implementation of Article 29 CRC. A truth commission could offer a possible solution, by providing an objective and nuanced base on which curricula can be formulated. Brahm argues that specifically for those States whose conflict came to a close “through negotiation rather than due to outright victory by one side of the conflict, the truth commission has become an attractive option.”³²⁵ A truth commission is an “official, ad-hoc, non-judicial fact-finding body that investigates patterns of political and systemic failures, abuses of power over long periods of time, or context-specific investigations into national tragedies.”³²⁶ The key advantage of a truth commission to i.e. a trial is that it takes away the context of individuality and focuses on the broader contextual elements which led to the conflict. Therefore, the findings of such a truth commission also have the potential of being disseminated to a greater audience, as they pertain to a greater part of society.³²⁷ The findings of a truth commission can help to create a more nuanced narrative of the conflict and the contributing factors. Specifically in the context of history education, it provides a third-party objective report on which facts can be based, and education is the ideal form in which the findings of such a commission could begin to be disseminated throughout society.³²⁸ This unique position of truth commissions in education is widely acknowledged, as previous truth commissions themselves have recommended reviewing existing curricula and advocating for either the establishment or development of peace and human rights education within schools.³²⁹

³²⁴ Lundy (n24) 340.

³²⁵ Eric Brahm, ‘Uncovering the Truth: Examining Truth Commission Success and Impact’ (2007) 8/1 *International Studies Perspectives* < <https://www.jstor.org/stable/44218484> > accessed 11 November 2021, 16.

³²⁶ Nerses Kopalyan, ‘Postmortem of a Catastrophe’ (EVN Report, January 8 2021) < <https://evnreport.com/politics/postmortem-of-a-catastrophe/> > accessed 29 November 2022

³²⁷ Brahm (n325) 2.

³²⁸ Paulson (145) 329.

³²⁹ Ibid.

In order to assess the relationship between curriculum change and truth commissions, a selection of truth and reconciliation committees will be presented which make reference to curriculum change in varying degrees. Specific attention will be given to Peru, Guatemala, and South Africa, due to the completeness and accessibility of information pertaining to their respective truth commissions. The truth commission from Rwanda will also be referenced.

The Truth and Reconciliation Commission (Comisión de la Verdad y Reconciliación, CVR) was established in Peru in 2001 after the end of a nearly 20-year long conflict.³³⁰ After the presentation of the CVR report in 2003, a series of learning materials, known as the Recordándonos, was published on the basis of its findings.³³¹ These learning materials are now implemented both in primary and secondary schools and include human rights education as well as history lessons. Julia Paulson, on behalf of UNICEF, conducted a study into the ways in which the CVR findings were used and the impact they had on the national curriculum and found that, what was crucial alongside the adaption of the findings, is a clear policy on how it ought to be taught.³³² However, Theidon also produced work on assessing the CVR and came to the conclusion that “in trying to redress an individual’s innocence, the Peruvian State distorted the content and practice of citizenship”, and that this distortion would have filtered down through to the Recordándonos, thereby limiting their effectiveness.³³³

The Guatemalan Commission for Historical Clarification (CEH) was established in 1994 after the UN peace accords ended the civil war that had plagued the country for decades.³³⁴ The final report of the commission was presented five years later, and with it several recommendations on how to foster a culture of peace.³³⁵ Firstly, there was strong recommendation that the report be disseminated and promoted amongst all of Guatemalan society.³³⁶ Secondly, specifically pertaining to education, the report recommended that there needed to be “an educational campaign to promote a culture of mutual respect and peace”, and that this campaign has to be

³³⁰ United States Institute of Peace, ‘Truth Commission: Peru’ < <https://www.usip.org/publications/2001/07/truth-commission-peru-01> > accessed 10 March 2022

³³¹ Paulson (n145) 333.

³³² Ibid.

³³³ Kimberly Theidon, Histories of Innocence: Postward Stories in Peru’ in Shaw R and Waldorf L (eds) *Localizing Transitional Justice* (Stanford University Press 2010) 109.

³³⁴ ICHRP, ‘Negotiating Justice? Human Rights and Peace Agreements’ (International Council on Human Rights Policy 2010) < <https://ssrn.com/abstract=1551237> > accessed 16 June 2022, 28.

³³⁵ Commission for Historical Clarification Conclusions and Recommendations, ‘Guatemala Memory of Silence’ (February 25 1999) para 32.

³³⁶ Ibid.

based on principles such as democracy, tolerance, respect for human rights and on the use of dialogue as an instrument for the peaceful resolution of disputes”.³³⁷ Murga contends that the knowledge gained of the history of the conflict through the dissemination of the report was key for developing within the Guatemalan society the willingness and potential to move forward.³³⁸ However, a notable omission from the report is any reference to the CRC or specifically Article 29 and the goals of education, and how those could be incorporated within a new curriculum. Therefore, although the CEH does identify the need to create an educational campaign founded in respect, peace, tolerance and human rights, but establishes no such link to the CRC.

South Africa’s Truth and Reconciliation Commission (TRC) was created in 1995 as a response to apartheid policy within the country, with the TRC addressing the time period from 1960 until Nelson Mandela’s inauguration in 1994.³³⁹ The TRC report was published in 1998.³⁴⁰ The report did not function as the basis for a new curriculum, but it did recommend that “human rights curricula to be introduced in formal education”. These should “address issues of, amongst others, racism, gender discrimination, conflict resolution, and the rights of children.”³⁴¹ Here too, despite there being a desire to form a culture of peace and a direct mention of the rights of children, no distinct reference is made to the goals of education under Article 29 CRC, which strongly aligns with the goals of the TRC. This seems like a blatant omission of a valuable legal link and basis for enacting these desires. The TRC was used in subsequent policy changes within South Africa, evident in the National Curriculum Document and the National Assessment Document.³⁴² Interestingly, the first curriculum designed and disseminated after apartheid did not include history.³⁴³ Within South Africa, as happens in many post-conflict societies, there is immense debate about how to present history, when to introduce recent conflicts within history curriculums, and how to present such recent conflicts.³⁴⁴ In the two decades since the end of apartheid, the history curriculum has now adapted and changed multiple times in how it presents apartheid and how it discusses South

³³⁷ Guatemala Truth Commission (n335) para 37.

³³⁸ Gustavo Palma Murga History, Memory, and Education: Is it possible to consolidate a culture of peace in Guatemala’ in Ramírez-Barat C, and Duthie R (eds), *Education and Transitional Justice, Opportunities and Challenges for Peacebuilding* (International Centre for Transitional Justice and UNICEF, 2015, 105.

³³⁹ Anthea Jeffery, ‘The Truth About the Truth Commission’ (2000) 27/7 Human Rights < <http://www.jstor.org/stable/27880199> > accessed 23 June 2022, 19.

³⁴⁰ Ibid.

³⁴¹ Commission of Truth and Reconciliation (TRC) ‘The Truth and Reconciliation Report’ (October 29 1998) Vol 5-Chpt 8-sub-section-4, para 21.

³⁴² Cole and Murphy (n200) 3.

³⁴³ Murphy K, ‘Education Reform Through a Transitional Justice Lens. The Ambivalent Transitions of Bosnia and Northern Ireland’ in Ramírez-Barat C, and Duthie R (eds), *Education and Transitional Justice, Opportunities and Challenges for Peacebuilding* (International Centre for Transitional Justice and UNICEF, 2015 At 67

³⁴⁴ Cole and Murphy (n200) 3.

Africa's violent past, with the focus being on how to learn from this history in order to preserve and protect human rights, democracy, and a culture of peace.³⁴⁵

In the same manner in which the Committee has recommended to States to improve and develop their rights education through their concluding observations, truth commissions call on States to develop cultures of peace, often times through information campaigns and changes to the education system. However, as King has identified in the recommendations of the Rwandan truth commission, there is often a difference between what is planned, and what is occurring on the ground.³⁴⁶ Rather than allowing for free discussion and reflection on the genocide, there seems to be one single narrative replaced by another. Freedman echoes King's concerns by stating that the absence of alternative narratives emanating from various peoples and only highlighting certain lived experiences and memories is limiting the "so-called modern democratic teaching methods that foster skills such as critical thinking and debate".³⁴⁷ Similarly to how the Committee's concluding observations are only as effective as the reporting State allows them to be by engaging with the recommendations, truth commission recommendations hold the same (limited) potential.

It is striking how well suited truth commissions are to aligning with the goals of education as presented in Article 29 CRC with their strong pedagogical potential.³⁴⁸ The development of findings from a truth commission into curricula also offers an answer to the often critiqued lack of long-term impact of truth and reconciliation commissions.³⁴⁹ Rather than producing a report following which little is done to implement it, the transformation or adaptation into learning materials ensures continued relevance of the findings of a report and guarantees dissemination in an accessible way to the general public.³⁵⁰

³⁴⁵ Linda Chishold, 'The Making of South Africa's National Curriculum Statement' (2005) 37/2 *Journal of Curriculum Studies* < <https://doi.org/10.1080/0022027042000236163> > accessed June 3 2022, 204.

³⁴⁶ Elisabeth King, 'Memory Controversies in Post-Genocide Rwanda: Implications for Peacebuilding' (2010) 5/3 *Genocide Studies and Prevention* < <https://digitalcommons.usf.edu/cgi/viewcontent.cgi?article=1095&context=gsp> > accessed 04 May 2022 297.

³⁴⁷ Sarah Freedman, 'Teaching History after Identity-Based Conflicts: The Rwanda Experience' (2008) 52/4 < <https://doi.org/10.1086/591302> > accessed 6 May 2022 664.

³⁴⁸ Paulson (n145) 332.

³⁴⁹ Murphy (343) 65.

³⁵⁰ Bellino and others (n283) 317.

5.3 Missing Gap: Education as a Preventive Tool for Entrenched Conflict

Ultimately, it is evident that the goal is to not only use the field of transitional justice to allow accountability to be taken for past actions, but to utilise a mechanism like truth commissions and effectively implement their recommendations for long term impact. This long-term impact can be supported through education as a primary means. As has been evidenced above, the truth commissions identified are vocal in their recommendations about the need to foster a culture of peace, identifying values such as mutual respect and tolerance, and upholding human rights. While education is consistently identified as a vehicle for transmitting these values, in none of the recommendations is Article 29 CRC referenced or identified as a basis for changing curricula to reflect the goals of education as envisioned by the CRC. Further, although reference is made to the need for instilling democratic and civic education and/or critical thinking, Article 12 CRC is not articulated as a basis for children's civil and political lives, or the basis for enacting their right to voice an opinion within decision making. It is precisely these rights which a truth commission and its respective reports and recommendations could, and arguably should, be promoting. As highlighted previously, the CRC has near universal ratification, therefore most any State which establishes a truth commission already has the legal obligation to enact Articles 12 and 29 CRC. Truth commissions ought to be making more explicit and vocal use of these legal obligations when recommending amendments to education, curriculum, and pedagogy.

6. Parameters of the Conflict

6.1 Historical Context

6.1.1 Geo-Political Context and National Values

Nagorno-Karabakh is an enclave region located between Armenia and Azerbaijan. Various names are used to describe the region, such as Artsakh, predominantly used by the Armenian community, Larnayin Gharabagh a neutral description, and Dagha Qarabag, predominantly used by the Azerbaijani community.³⁵¹ Nagorno-Karabakh is the least politically charged name used, and will therefore also be used throughout this text. Nagorno-Karabakh has been highly tumultuous and contested region since antiquity, due to various invasions of the South Caucasus region by the Romans, Turks, and Russians, amongst others.³⁵² Nagorno-Karabakh is roughly 4,400 km² in size, but its borders and territory have shifted throughout the past

³⁵¹ Emil Souleimanov, *Understanding Ethnopolitical Conflict: Karabakh, South Ossetia, and Abkhazia Wars Reconsidered* (Palgrave Macmillan 2013) 97.

³⁵² Korostelina (149) 194.

centuries as a result of its incorporation into various greater ruling constellations, the longest lasting amongst them being the Russian Empire throughout the 19th century.³⁵³

One of its most transfiguring moments came when Armenia and Azerbaijan were incorporated as Republics into the Soviet Union.³⁵⁴ During this time, the Soviet Union categorised Nagorno-Karabakh as a semi-autonomous region *within* Azerbaijan, despite the majority of people living there being ethnically Armenian.³⁵⁵ As the Soviet Union started to collapse, the semi-autonomous region made use of its greater political freedoms by holding a referendum in 1988, which led to a declaration that the enclave should rather join Armenia.³⁵⁶ As of 1979, Nagorno-Karabakh had a population of roughly 162,000 people, 123,000 of whom classified themselves as ethnically Armenian.³⁵⁷ This led to a great push for unification both from the Armenian population as well as the majority Armenian ethnic people living within Nagorno-Karabakh.³⁵⁸ Naturally, this led to counter-protests throughout Azerbaijan.³⁵⁹ When the region declared its independence as the Republic of Nagorno Karabakh, with the intention of uniting with Armenia, in 1991, this was not recognised by any international legal personalities, such as the UN, or any of the member States of the UN.³⁶⁰ With the collapse of the Soviet Union in 1991, Armenia and Azerbaijan both declared their independent republics which triggered a war between them over the region.³⁶¹ War continued for three years, ending in 1994 with a Russian-brokered peace deal, after roughly 30,000 lives were lost and the territorial borders had been altered again.³⁶² By the time the peace deal was signed, Armenia had gained control of the Nagorno-Karabakh region and gained an additional 20% of Azeri territory which surrounded the Nagorno-Karabakh enclave.³⁶³

The aim here is to provide a historical understanding into the tumultuous and contested history of the Nagorno-Karabakh region with the goal of assessing how this has manifested itself in

³⁵³ Azer Babayev, 'Nagorno-Karabakh: The Genesis and Dynamics of the Conflict' in Babayev and others (eds) *The Nagorno-Karabakh Deadlock* (Springer 2020) 17.

³⁵⁴ Vox, 'The Armenia and Azerbaijan War Explained' (Vox 2020) <https://www.youtube.com/watch?v=YU2v38hRRbg> accessed 23 October 2021.

³⁵⁵ Ibid.

³⁵⁶ Ohannes Geukjian, 'Ethnicity, Nationalism and Conflict in the South Caucasus' (Routledge 2016) 129.

³⁵⁷ Gamaghelyan and Rumyantsev (n159) 322

³⁵⁸ Vox (n354).

³⁵⁹ Ibid.

³⁶⁰ Bill vanEsveld and Tanya Lokshina, 'Lessons of War – Attacks on Schools During the Nagorno-Karabakh War' (Human Rights Watch 2021).

³⁶¹ Center for Preventive Action, 'Nagorno-Karabakh Conflict' (Global Conflict Tracker 12 may 2022) < <https://www.cfr.org/global-conflict-tracker/conflict/nagorno-karabakh-conflict> > accessed 23 November 202.

³⁶² Babayev (n353) 21.

³⁶³ CPA (n361).

the national curricula of Armenian primary schools. What can be concluded, however, from the vast amount of shifts in territory and ruling political entities is that the consequent development of national identities has been critical in forming national values and has largely been done in opposition to the other State.³⁶⁴ Armenia, Azerbaijan, and the people of Nagorno-Karabakh have consistently had to re-define and re-assert their national identity, and identity generally has therefore become a significant feature of those in the South Caucasus region.³⁶⁵

6.1.2 *Ethno-Centric and Religious Narratives as a Contributing Factor to the Conflict*

Babayev identifies that “the long conflict between Armenia and Azerbaijan over Nagorno-Karabakh is perhaps the single most complicated ethno-territorial conflict in the post-Soviet space”.³⁶⁶ One of the fundamental points of tension in the Nagorno-Karabakh conflict is that the region is seen as central to both the Armenian and the Azeri sense of identity.³⁶⁷ Conflict resolution scholar specialised in the Nagorno-Karabakh conflict, Philip Gamaghelyan, identified that “ethno-nationalist discourses and historic narratives were utilised to justify the rights of Armenians and Azerbaijanis to the exclusive ownership of a single territory”.³⁶⁸ Despite Armenians and Azerbaijanis both belonging to the South Caucasus and being neighbouring countries, they each have their own distinct and distinguishable identity.³⁶⁹ As Souleimanov ascertains, the ethnicity of the respective States and peoples within the South Caucasus was seen as elemental to their being, due to the central role it occupied as linked to the survival of the respective States and peoples.³⁷⁰

Gamaghelyan argues that Armenian identity “was consolidated as a unique, identifiable, ethno-religious community when they adopted an exclusive form of Monophysite Christianity and a common language in the fourth century A.D”.³⁷¹ In contrast, Azerbaijani people find their identity origins in the Ottoman Empire and Caucasian Albanians.³⁷² Additionally, they differ

³⁶⁴ Korostelina (n149) 194.

³⁶⁵ Thomas de Waal: *The Elusive Search for Resolution of the Nagorno-Karabakh Dispute* in Anton Bebler. “*Frozen Conflicts*” in *Europe*. Verlag Barbara Budrich; 2015. At 125

³⁶⁶ Babayev (n353) 17.

³⁶⁷ deWaal (n365) 129.

³⁶⁸ Gamaghelyan and Rumyantsev (n159) 322.

³⁶⁹ Stuart Kaufman, *Modern Hatreds: The Symbolic Politics of Ethnic War* (Cornell University Press 2001) 53.

³⁷⁰ Souleimanov (n351) 94.

³⁷¹ Philip Gamaghelyan, *Rethinking the Nagorno-Karabakh Conflict: Identity, Politics, Scholarship* (2010) 15/1 *International Negotiation* <<https://doi.org/10.1163/157180610X488173>> accessed 12 January 2022, 37.

³⁷² Kaufman (369) 62.

from Armenians due to their traditionally and culturally Islamic beliefs.³⁷³ The distinction in ethnicity between the two groups was also recognised and acted upon by the Russian Empire in the 19th century, when Tsars systematically relocated vast numbers of mostly Christian Armenians into majority Azerbaijani areas, enacting mass displacement.³⁷⁴ Another defining moment in the collective memory of Azerbaijanis came in 1918, when Russian attacks and massacres of Azerbaijanis were carried out, in which Armenians were involved.³⁷⁵

Azerbaijan began to develop a national identity as *against* Armenia, whom they saw as an aggressor and expansionist.³⁷⁶ This was solidified in 1994 when Armenia claimed Nagorno-Karabakh; the event manifested as a massive loss to Azerbaijani identity, as the enclave was “remembered as the birthplace of Azerbaijani identity, the centre of Azerbaijani culture, and the home to many Azerbaijani poets and musicians.”³⁷⁷ Thereby, Armenia was placed in the collective memory of Azerbaijan not only as an aggressor but as responsible for the loss of a fundamental physical element of its national identity. It is essential to keep in mind that historically, Armenia and Azerbaijan have seemingly always existed in opposition to one another, and have thus developed their national identities in this dynamic.³⁷⁸ The legacies of the Soviet Union are still deeply entrenched within both political leaders within the States and within the ‘ordinary’ citizens. As De Waal explains, “many ordinary people accept the passive role they are given: they still expect a higher arbiter to rule in their favour rather than seeking to engage in dialogue with people on the other side of their conflict.”³⁷⁹ Thus, not only has there then been a development of national identity in opposition to the other, but there has been little discourse between the two societies since.³⁸⁰

In the same way that historic events curated and aligned with the formation of an Azerbaijani identity, the Armenian collective memory has its own set of assumptions and retentions of how Azerbaijan impacted Armenia. A key element of the way that Azerbaijanis are perceived by Armenians is by their lack of separation from the Turks, thereby not identifying Azerbaijani as an individual ethnic group.³⁸¹ Consequently, in the collective memory of the Armenian people,

³⁷³ Gamaghelyan (n371) 38.

³⁷⁴ Ibid.

³⁷⁵ Kaufman (n369) 60.

³⁷⁶ Gamaghelyan (n371) 39.

³⁷⁷ Ibid.

³⁷⁸ deWaal (n365) 125.

³⁷⁹ deWaal (n365) 128.

³⁸⁰ deWaal (n365) 128.

³⁸¹ Gamaghelyan (n371) 37.

Azerbaijanis were actively involved in and responsible for the Armenian genocide lasting from 1915 to 1923.³⁸² The genocide is a focal point in the development of Armenian identity, with various studies identifying that it is a continuous source of pain and identification for the Armenian people.³⁸³ This legacy of permeating pain and distrust has an impact on how the Armenian population carries itself now – namely, in fear of a similar ethnic cleansing or genocide to occur again, but this time around in the Nagorno-Karabakh region.³⁸⁴ This largely comes from two prevailing factors. Firstly, Armenians through their collective memory have viewed themselves as being dominated by the Azeri people;³⁸⁵ and secondly, this domination is exacerbated by their experience of being a minority group within Azerbaijan.³⁸⁶ The combination of these two factors have in themselves progressed the fear, which grips large parts of Armenian society, that without taking measures a second genocide or ethnic cleansing would take place.

6.1.3 ‘Us vs. Them’ Dynamic

The impact of these historic events, both from the Azerbaijani and the Armenian perspectives, are foundational to the creation and endurance of national identity – they also lend to a dangerous pattern of ‘us vs. them’ thinking.³⁸⁷ The ‘us vs. them’ dynamic is recounted within their respective historical narratives. As Babayev et al explains more generally, “national narratives, traditions, and myths prove to be arbitrary constructs which are selectively stored within the collective memory”.³⁸⁸ Since the end of the war in 1994, there have been no active measures taken by political leaders in either State to attempt to re-humanize the opposing population.³⁸⁹ In fact, in a televised interview the Azerbaijani president, Ilham Aliyev, referred to Armenian prime minister Nikol Pashinyan, as a ‘drunken dancing cow’.³⁹⁰ Gamaghelyan conducted a series of interviews in 2015 in Nagorno-Karabakh amongst the civil society organisations which reflected “not only the rejection of a particular epistemology or approach to peace, but the rejection of conflict resolution in general, and an acceptance of perpetual war

³⁸² Neil Hauer, ‘Armenia is Still Grieving, Losing a War has Reopened Old Wounds in a Battered Nation’ (Foreign Policy 2021)

³⁸³ Kaufman (n369) 60.

³⁸⁴ Gamaghelyan (n371) 49.

³⁸⁵ Kaufman (n371) 60.

³⁸⁶ Ibid.

³⁸⁷ Babayev (n353) 52.

³⁸⁸ Babayev (n353) 41.

³⁸⁹ Gamaghelyan and Rumyantsev (n159) 323.

³⁹⁰ Hind Hassan, ‘On the Frontlines of the Fighting in Azerbaijan’ (Vice News 12 November 2020) <<https://www.youtube.com/watch?v=AW6IgzE MjpE>> accessed 12 October 2021.

as the norm.”³⁹¹ The Human Rights Ombudsman of Nagorno-Karabakh, understandably somewhat biased due to its connection to Armenia, has stated that, “[t]he anti-Armenian hate policy in Azerbaijan has a long history and is strongly conducted and encouraged by authorities”.³⁹² The impact of a hostile, government-sponsored narrative has a very tangible impact on society.

Yet, it is not exclusively politicians who use emotionally charged language, but this is prevalent within both societies as portrayed in media. In news interviews conducted on the streets of Baku, civilians have provided statements such as, “Armenians always wage war against Muslims. They have always been a bloodthirsty nation. They’ve never wanted our country to develop. They’ve always wanted us to bend the knee.”³⁹³ A civilian in Yerevan similarly commented on Azerbaijanis by stating that, “they shoot and kill our kids, but they will not break our identity”.³⁹⁴ The Human Rights Ombudsman of Nagorno-Karabakh equally identified a range of public statements made on social media such as Twitter, one such example stating that: “An Armenian child should not be pitied, as the Armenian child grows up and becomes an Armenian boy.”³⁹⁵ As Gamaghelyan notes, “research and textbooks, but also poems, novels, films and documentaries, theatrical performances, and musical performances continually de-humanized the ‘enemy’ and heightened the level of patriotic emotion.”³⁹⁶ It is crucial to understand that these prevailing prejudices, misperceptions and strong emotions from both sides do not appear out of nowhere in society, but are already reflected within the curricula used in primary schools. It is thus fundamental to balance the desire to promote national values and identity, while simultaneously respecting and demonstrating tolerance toward others, and to reject such outward disdain.

³⁹¹ Philip Gamaghelyan ‘Towards an Inclusive Conception of Best Practices in Peace and Conflict Initiatives: The Case of the South Caucasus’ (2020) 26/1 International Negotiation < https://brill.com/view/journals/inet/26/1/article-p125_7.xml > accessed 3 March 2022 132.

³⁹² Human Rights Ombudsman of the Republic of Artsakh, ‘*Ad hoc* report on the children rights affected by the Azerbaijani attacks against the Republic of Artsakh (Nagorno-Karabakh)’ (9 November 2020) < <https://artsakhombuds.am/en/document/766>> accessed 12 June 2022 22

³⁹³ Hassan (n390).

³⁹⁴ *Ibid.*

³⁹⁵ Ombudsman (n392) 22.

³⁹⁶ Gamaghelyan and Romyantsev (n159) 323.

6.2 The 2020 Nagorno-Karabakh Conflict

The continuous tension between Azerbaijan and Armenia has led to several outbursts and skirmishes throughout the past near three decades, such as a four day war in 2016.³⁹⁷ However, the greatest such outbreak occurred from the 27th of September 2020 until a peace deal was signed on the 10th of November 2020.³⁹⁸

It is beyond the scope of this work to delve into the legalities of the armed conflict or its greater geo-political implications. What is important to note, however, is that it led to greater re-alignment of national values and identities for both Armenia and Azerbaijan. For example, Azerbaijan portrayed itself as an open-minded State committed to fostering tolerance, placing itself in direct opposition to Armenia, which Azerbaijan continued to portray as a monoculture of Christianity.³⁹⁹ Additionally, Azerbaijan presents itself as a gas and oil power, one which is ‘crucial’ for the European continent.⁴⁰⁰ Notably, the religious element proved imperative in the 2020 war, with Armenia choosing to present itself as the final stronghold of Christianity bordering the ‘Muslim world’.⁴⁰¹

The peace deal which was agreed proved “incredibly painful both for me (Pashinyan) and both for our people”, found Armenian prime minister Pashinyan.⁴⁰² One of the sore spots and sources of anger for Armenia was the considerable loss of territory of Nagorno-Karabakh as Azerbaijan was allowed to have control of those territories which they took over during the conflict.⁴⁰³ Further, Armenia agreed to remove its troops from the surrounding area of Nagorno-Karabakh.⁴⁰⁴ The peace deal led to significant crisis within Yerevan, where protests and riots broke out.⁴⁰⁵ What is noteworthy in the peace deal is precisely what it is lacking: namely, any identifiable long term peace solutions, such as transitional justice mechanisms. As Babayev notes, “in an atmosphere of deep-seated mistrust and persistent hostilities, no formulas have been found to reconcile the two opposing positions.”⁴⁰⁶

³⁹⁷ Carey Cavanaugh, ‘Eruption of Conflict Over Nagorno-Karabakh’ (Council on Foreign Relations, 28 September 2020) < <https://www.cfr.org/blog/eruption-conflict-over-nagorno-karabakh> > accessed 12 March 2022

³⁹⁸ vanEsveld and Lokshina (n360).

³⁹⁹ Gamaghelyan and Rumyantsev (n159) 329.

⁴⁰⁰ deWaal (n365) 130.

⁴⁰¹ Gamaghelyan and Rumyantsev (n159) 329.

⁴⁰² BBC News, ‘Armenia, Azerbaijan and Russia Sign Nagorno-Karabakh Peace Deal’ *BBC News* (10 November 2020) < <https://www.bbc.co.uk/news/world-europe-54882564> > accessed 23 October 2021

⁴⁰³ *Ibid.*

⁴⁰⁴ *Ibid.*

⁴⁰⁵ *Ibid.*

⁴⁰⁶ Babayev (n353) 28.

Two years on from the 2020 conflict, in May 2022, the first real step was taken for any form of conflict resolution, in the form of talks and negotiations held in Brussels. The outcome of these negotiations was an agreement on creating a border commission.⁴⁰⁷ However, these meetings did not go unnoticed within Yerevan, where protests broke out in retaliation to the public believing that Pashinyan was relinquishing too much of the culturally significant area.⁴⁰⁸ It cannot be overstated that, regardless of any other peace talks or action undertaken, one of the most fundamental elements which needs to be addressed is not only the way that the historical narratives surrounding the conflict are being taught in primary schools, but also how recent outbreaks of violence are portrayed as a confirmation of popular historical narratives. Where this is done in a prejudiced manner, prejudice will continue to be sown throughout society.

7. Primary Education in Armenia: A Medium for Transmitting Collective Memory and Building Identity

7.1 General Role of Primary Education in Armenia

Education within Armenia consists of three phases: the first of these is primary, consisting of four years and lasting from roughly age 6 until age 10.⁴⁰⁹ The following phase is the intermediate level, consisting of a five year phase from the ages of 10 until 15.⁴¹⁰ The final phase is secondary education, which is a three year period, typically from the age of 15 until 18.⁴¹¹ It is especially in the first four years of primary education that children are susceptible to subliminal messaging through the way that learning materials are used and presented, and through the content of those learning materials.⁴¹² It is no coincidence, therefore, that learning materials and the primary education system have been used for two functions besides the actual educating of children. First, primary education is the first encounter for most children with the institutional understanding and presentation of Armenia as a ‘nation’.⁴¹³ Second, it is also the

⁴⁰⁷ Aljazeera, ‘Armenia, Azerbaijan take small step towards peace deal’ *Aljazeera* (24 May 2022) < <https://www.aljazeera.com/news/2022/5/24/armenia-azerbaijan-take-small-step-towards-peace-deal> > 13 June 2022.

⁴⁰⁸ Ibid.

⁴⁰⁹ Open Society Foundations, ‘Education Inequalities in Armenia: The Role of Education Policy’ (OSF Armenia 8 November 2018) 1.

⁴¹⁰ Ibid.

⁴¹¹ Ibid.

⁴¹² Wegemer CM and Vandell DL, ‘Parenting, Temperament, and Attachment Security as Antecedents of Political Orientation: Longitudinal Evidence from Early Childhood to Age 26’ (2020) 56/7 *Developmental Psychology* <<https://doi.org/10.1037/dev0000965>> accessed 1 July 2022, 1363.

⁴¹³ Newman David and Anssi Paasi Fences and Neighbors in the Postmodern World: Boundary Narratives in Political Geography’ (1998) 22/2 *Progress in Human Geography* < <https://doi.org/10.1191/030913298666039113> > accessed 30 March 2022, 189.

first encounter for most children with the foundations which are identified as being Armenian, and in that way become involved in the process of transmitting a collective identity.⁴¹⁴

The context in which Armenian primary education needs to be placed includes the way in which it developed after Armenia's independence from the Soviet Union. There were great efforts to include more 'Western' values within the curricula, evidenced through the inclusion of subjects which touched on 'civic education'.⁴¹⁵ Within this process, primary education began to include topics covering the ideals of open-mindedness, tolerance, respect, and human rights.⁴¹⁶ Simultaneously however, Armenia was committed to establishing itself as a newly independent State and did so by presenting and strengthening its sense of unique identity.⁴¹⁷ Palandijan is forming a new path within scholarship, identifying the ways that primary education is reflecting and reinforcing Armenian identity. She identified that "nationalist discourse is not limited to history studies but begins with the primary school textbooks."⁴¹⁸ This is not an inherently negative combination — it is preferred. It should be possible to balance views of respect, tolerance, and harmony and promote a national Armenian identity.

However, where some of the difficulty lies in reconciling respect, tolerance, and harmony and the importance placed on the Armenian identity, is the predominant form of pedagogy used within primary education. This pedagogy has an almost exclusive reliance on memorization and passive learning from children, which is still remnant of the Soviet manner of teaching.⁴¹⁹ This is reflective of a lack of substantial adherence to Article 12 CRC. There is no real involvement or participation from children, not just in the creation or discussion of the author's text, but also in the way in which the text is used. Through mere memorization and repetition, there is no active space provided for children to question, assess, or analyse the material presented to them. This fundamentally hinders their ability to exercise their critical thinking, and thus leaves with a skewed understanding of the importance of Armenian identity and how it relates to the greater set of values children are taught.

⁴¹⁴ Palandijan (n168) 247.

⁴¹⁵ Iveta Silova and Garine Palandijan 'Soviet Empire, Childhood, and Education' (2018) 31 *Revista Española de Educación Comparada* < DOI:10.5944/reec.31.2018.21592 > accessed 13 May 2022' 158.

⁴¹⁶ Palandijan (n168) 247.

⁴¹⁷ Silova and others (n82) 197.

⁴¹⁸ Akpınar and others (n10) 45.

⁴¹⁹ Akpınar and others (n10) 42.

7.2 Administration and Content of Primary Education

7.2.1 Legal Framework

The 1995 Constitution is the starting point when assessing the legal framework of education within Armenia. Under Article 15(1) Armenia guarantees to “promote the development of culture, education, and science.”⁴²⁰ The 1995 Constitution also specifically addresses its preservation of the Armenian identity in Article 19(2), which prescribes that “The Republic of Armenia shall, based on international law, contribute to the preservation of the Armenian language, Armenian historical and cultural values and the development of Armenian educational and cultural life in other states.” This is strengthened through Article 56(1), which gives the right to preserve national and ethnic identity. Thus, there is a legal protection for the national values and cultural identity as identified in Article 29(1)(c) and a basis for the development of the Armenian identity through primary education. Article 37(1) is fundamental in its inclusion of Article 12 CRC within the constitution, providing that “a child shall have the right to freely express his or her opinion which, in accordance with age and maturity of the child, shall be taken into consideration in matters concerning him or her.” It is critical that the right to participation has a legal foundation and protection within Armenia. However, while Article 38(1) proscribes the right to education, it does not center children in its language.

On the basis of Article 38(1), the Law on Education was adopted by the Ministry of Education and Science in 1999.⁴²¹ This was updated with a new Law on Education being promulgated in 2015. The main instrument which regulates the scope and content of the subject areas is the State Standard for General Education, also produced by the Ministry of Education and Science.⁴²² This document is updated semi-regularly, with the latest guidelines being published in 2012.⁴²³

7.2.2 History Textbooks, Curriculum, and the Promotion of Armenian Identity

The subject most relevant for the assessment of tension between the promotion of human rights and national values is ‘Society and Social Science’.⁴²⁴ The underlying motivation for this subject is to “promote the value of lifelong learning, underline the importance of equality,

⁴²⁰ Constitution of the Republic of Armenia 1995 as Amended to 2020 (Adopted July 5 1995, entered into force 5 July 1995) Article 15

⁴²¹ Akpınar and others (n10) 45.

⁴²² Serob Khachatryan and others, ‘Assessment of Teacher Professional Development and Educational Content in the Context of General Education Reforms in Armenia’ (Open Society Foundations 2013) 10.

⁴²³ Ibid.

⁴²⁴ Akpınar and others (n10) 45.

justice, friendship and peace among individuals, gender equality and prevention of discrimination based on sex, acceptance of the differences between peoples, religions, individuals and their lifestyles, respectful attitude towards the cultures of other peoples”.⁴²⁵ Newman and Paasi elaborate on how these attitudes are reflected within the various learning materials, ranging from books, to art, to posters hung on walls.⁴²⁶ Simultaneously however, Palandijan has identified through her work that by the time a child has gone through the entire school system, from primary to secondary, they leave with “state thinking and way of acting, being patriotic and ready to defend the fatherland.”⁴²⁷ Palandijan has further assessed that the pedagogy puts the child in a passive role as a recipient of pre-determined information.⁴²⁸ As Kallio and Hakli identify, the daily lives of children become political spaces through the way they are introduced to and engage with materials within their classrooms.⁴²⁹

Consequently, even though there is the right of Article 12 present in the 1995 Constitution, and the promotion of the goals of harmony through courses such as Society and Social studies, there seems to be a disconnect with the actual role of children and their learning of these values. Where children are positioned in a passive role, it is difficult for them to break that boundary and engage or question the importance of ‘the fatherland’ while simultaneously respecting, accepting and maintaining harmony between different cultures. It is vital to draw the line between healthy nationalism and oppressive nationalism.⁴³⁰ Arguably, one of the ways to do so is the strong encouragement of child participation through the encouragement of questioning, assessing and critical thinking from children, both in the actual classroom and in the determination of the content of the curriculum. However, the curriculum, the content, the learning goals, and the hours per lesson are predominantly all pre-determined, restricting teachers from influencing what they teach or how, let alone the children at hand.⁴³¹

The subject ‘Society and Social Sciences’ is part of the greater umbrella of subjects of ‘Me and the World Around’ which is taught throughout Grades 2, 3, and 4.⁴³² This then lends into subjects from fourth grade onwards: Country and Fatherland Studies, the History of the

⁴²⁵ Akpınar and others (n10) 47.

⁴²⁶ Newman and Paasi (n413) 189.

⁴²⁷ Akpınar and others (n10) 47.

⁴²⁸ Ibid.

⁴²⁹ Kallio, Kirsi Pauliina, and Jouni Häkli, ‘Young People’s Voiceless Politics in the Struggle over Urban Space’ (2011) 76/1 *GeoJournal* < <https://www.jstor.org/stable/41148436> > accessed 19 May 2022, 64.

⁴³⁰ Geukjian (n356) 13.

⁴³¹ Khachatryan and others (n422) 9.

⁴³² Akpınar and others (n10) 46.

Armenian Church, and Armenian and World History.⁴³³ Importantly, it cannot be forgotten that the Committee has already provided rather strong comments on the prescription and content of the subject History of the Armenian Church, whereby they stated that Armenia ought to “revise the curriculum of schools in order to reflect the freedom of all children and eliminate the compulsory subject of the History of the Armenian church from the Curriculum.”⁴³⁴ Although this comment was provided in the concluding observations of 2013, the latest concluding observations for Armenia, it is more relevant than ever when considering the 2020 Nagorno-Karabakh war. As identified, religion took up a greater role in the latest conflict, with Armenia identifying itself as the last ‘stronghold’ of Christianity in the region. This strong sense of identity and value has been strengthened throughout society’s understanding, as instructed through education amongst other factors, specifically the history of the Armenian Church. This is especially evident in the greater context of primary education, where Armenian history is taught to children as “an inexhaustible source of patriotism, selfless struggle, and proofs of national dignity and claim the fight for the liberation of Armenia is the perpetual companion of our people”.⁴³⁵ This language shows that there is little nuance available within the sources. While there is a legal right to include cultural values and identity, more objectivity or room for dialogue can alter the arguably skewed vision of history presented to the children.

The Armenian identity has been recognized by scholars as “one of the world’s most stable and persistent national identities”.⁴³⁶ Further, they acknowledge that school curricula and their manifestation within learning materials have actively contributed to the reframing of the increased importance of ethnonationalism for the Armenian identity.⁴³⁷ This increased importance within the curriculum is also reflective of the weight which identity carries in the Nagorno-Karabakh conflict, and reproduces the continued hostility and distrust of the other’s historical experiences.⁴³⁸ Gamaghelyan argues that “entire generations have been raised on this propaganda during the 20 years of conflict.”⁴³⁹ It is undeniable that this ‘propaganda’ is partly done through education. Through the creation of a very strong sense of ‘fatherland’ and ‘struggling against oppressors’, a population is moulded that is ready to ‘fight’, whether figuratively or literally. Therefore, any peace or conflict resolution efforts need to address the

⁴³³ Akpınar and others (n10) 46.

⁴³⁴ CRC Committee (n204) para 46(d).

⁴³⁵ Akpınar and others (n10) 47.

⁴³⁶ Edmund Herzig and Marina Kurkchyan *The Armenians: Past and Present in the Making of National Identity* (RoutledgeCurzon 2005) 1.

⁴³⁷ Palandijan (n168) 253.

⁴³⁸ Gamaghelyan (n371) 40.

⁴³⁹ Ibid.

role of identity within society and how primary education acts as a mode of diffusion of historical memory. Further action must take place via curriculum adaptation, given Armenia's obligation from the Committee to alter its curriculum. The international obligations to provide a well-rounded and nuanced education already exist under Articles 28 and 29 CRC, and greater efforts should be made to hold Armenia accountable to that.

Although subjects such as Society and Social Sciences have been identified as transmitters of values and cultural identity, it is not the first encounter children have with the presentation of Armenia's history. Palandijan identifies that this process of transmission already begins in early childhood. Especially when considering how important identity is to the Nagorno-Karabakh conflict, it is critical to assess when, how, and why children are introduced to the national values and identity in a State-sponsored way, as these are also the foundations on which later teaching is based. Palandijan refers to "lullabies, songs, and aybenarans (alphabet books) defining the homeland as 'belonging to our ancestors' claiming a historical link to the land".⁴⁴⁰ Additionally, imagery is used in books which outline Armenia and refer to it on maps, which unwaveringly include the Nagorno-Karabakh within the borders of Armenia.⁴⁴¹ Actions such as these remove the nuance and sensitivities surrounding the area. Further, it also undermines children's ability by assuming that children will not be able to grasp the complexities surrounding the area. Rather, there should be encouragement of critical thinking and participation of children.

7.2.2.1 Prevailing Narrative in the Learning Materials

The narrative present within curricula has already been touched upon, but it requires further assessment. The most prevalent narrative found in curriculum centers around the oppressors and the oppressed. This is reflective of the 'us vs. them' dynamic which is present within the conflict itself. There is a distinct correlation between the dynamics of the fighting and the dynamics which are communicated within the curricula. A large part of this reframing and sustaining of the Armenian identity is done by presenting Armenia and its people as uniform and homogenous, each sharing one history, one perspective and one collective future.⁴⁴² Nonetheless, what this fails to consider is that revered preservation of national values and cultural identity does not have to be unwavering or unchanging. There needs to be a greater

⁴⁴⁰ Palandijan (n168) 253.

⁴⁴¹ Palandijan (n168) 256.

⁴⁴² deWaal (n365) 129.

look at the context of how the Armenian society and population, and its position within the greater international community, have changed and will continue to change, and how these fluctuations ought to be presented through the curricula presented in primary schools. Palandijan notably recognizes that learning materials “interchangeably uses the words ‘ethnos’ ‘nation’ ‘people’; molds time and space together; and applying the historic explanatory schemes eschews discontinuities in history, blurs inconsistencies and silences alternative views.”⁴⁴³ Palandijan’s observation demonstrates how the curriculum and history education can be manipulated in the goal of creating an identity. Yet in doing so there is no nuance or space given for alternative or dissenting views, which inherently harms the ability of tolerance, peace, respect.

Notably, the narrative presented is also laced with strong reliance on and high evaluation of militarism.⁴⁴⁴ History is presented through losses and wins by various foreign occupiers with the red thread being the continuous struggle of Armenia to free itself from unjustified and unrelenting persecution.⁴⁴⁵ Yet throughout this presentation, Armenia’s own responsibility and information that does not support the presented history are excluded from the narrative. For example, an extract from a textbook used in the secondary schools only a few months after the Four Day War in Nagorno-Karabakh of 2016 is as follows “this new phase of the Artsakh (Nagorno-Karabakh) war proved that the Armenian people in its unity and determination to stand beside their soldiers and the army is deathless and ready to self-organize, enroll as soldiers for the holy task of defending the fatherland and continue our triumphant campaign of the Artsakh War”⁴⁴⁶ This provides a crucial insight into how events are perceived, processed and presented to children. Evidently, every major event is taken and used in a way to provide identification value, and reason to protect, defend and fight for the Armenian identity, without any nuance asserted or discussed regarding the actual events or placing it within a greater geopolitical context.

7.2.2.2 Collective Memory and National Identity

The narrative is present and transmitted through the collective memory which is cultivated. One of the major elements of collective memory within Armenia is its complete isolation from

⁴⁴³ Akpınar and others (n10) 51.

⁴⁴⁴ Akpınar and others (n10) 55.

⁴⁴⁵ Akpınar and others (n10) 54.

⁴⁴⁶ Akpınar and others (n10) 55.

other nations in the South Caucasus.⁴⁴⁷ This is noteworthy as many of the States have a similar history of occupation from various empires, and the experience of being part of the Soviet Union. This has led to collective memories developing in vacuums from one another. As Maria Abrahamyan, officer at the International Centre for Transitional Justice in Armenia, identifies, “formation of a national identity is based on establishing a selective memory and forgetfulness”.⁴⁴⁸

One of the central ways a selective memory is nurtured is through the recognition and reliance on the idea of a ‘homeland’. As Palandijan describes, a homeland is “the myth of a sacred, set-aside land to which particular people native to that soil belong.”⁴⁴⁹ Critically, both Azerbaijan and Armenia have rooted their identity and sense of homeland to include the Nagorno-Karabakh region and, as such, it holds a central position in the preservation of the cultural and national identity and underlies many of their values.⁴⁵⁰

Within learning materials used in primary education, the homeland is presented and recognisable to children through “the interweaving metaphors of blood and earth reflected in numerous references to grapes and wine-making in the Armenian countryside.”⁴⁵¹ Further, the imagery which is used also include physical geographic identifiers, such as Mount Ararat, which is not within the physical territory of Armenia.⁴⁵² Such representations perpetuate the manipulation of facts of the current state — and to a certain extent promote falsehoods — in order to further a one-sided version of history and current geo-politics. Armenia is not in the wrong to want recognition of wrongdoing from Azerbaijan or other States, specifically in relation to the Armenian genocide, which continues to be unrecognised by various States, including Turkey. However, throughout the process of seeking recognition, Armenia must reconcile with its own faults and responsibilities.⁴⁵³ Without addressing its own wrongdoings, there is little room provided for nuance, understanding, and ultimately a long-lasting and stable peace. Changing educational curricula to present this nuance and allow for open discussion would be a crucial first step in garnering traction to greater reconciliation.

⁴⁴⁷ Korostelina (n149) 195.

⁴⁴⁸ Carranza R and Abrahamyan M, ‘Now Is the Time to Make Transitional Justice Possible in Armenia’ (ICTJ, 1 July 2021) < <https://www.ictj.org/news/now-time-make-transitional-justice-possible-armenia> > accessed 23 November 2021

⁴⁴⁹ Silova and others (n82) 202.

⁴⁵⁰ Silova and others (n82) 210.

⁴⁵¹ Silova and others (n82) 205.

⁴⁵² Ibid.

⁴⁵³ Carranza and Abrahamyan (n448).

8. Ideal Use of Curriculum and Incorporation of the Lundy Model for Education as a Form of Transitional Justice for Armenia

8.1 Previous Attempts of Curriculum Reform

An interesting attempt at curriculum reform came at the high school level through a joint effort by scholars from Azerbaijan, Armenia and Georgia, known as the Tblisi Initiative.⁴⁵⁴ The aim of the Tblisi Initiative as to “present the history of the region in a more positive light and to encourage future generations in these States to learn how to live together as peaceful neighbours.”⁴⁵⁵ The Tblisi Initiative was positioned within the broader context of a policy from the Council of Europe, which sought to promote and aid member States to transition to fully democratic States.⁴⁵⁶ Part of the formation of the textbook was to try and present commonalities in identity which could unify the people of the South Caucasus, due to the awareness of the strict separation which exists between their individual collective memories.⁴⁵⁷ The Tblisi Initiative commenced in 1997 and had the intention of publishing in 2006.⁴⁵⁸ However, this target was never reached, as the project grew stagnant due to sharp disagreements, specifically between the representatives from Armenia and Azerbaijan.⁴⁵⁹ The contention surrounding the Nagorno-Karabakh region proved too much, as it impacted every facet of the project, from border questions to national identity.⁴⁶⁰ Ultimately, it was politics that proved stronger than the desire to enact educational reform. This is significant from a rights-based perspective as each government is a signatory of the CRC and thereby each bound by Article 29. Consequently, under progressive realisation of their obligations, these governments should have been working with the scholars and representatives to promote the values of peace, tolerance, and respect for human rights through education. The absence of this governmental action is especially pertinent, given how the State has the greatest capacity and opportunity to reach all school children, and as signatories of the CRC, have the legal obligation.

An example stemming from civil society is found when history teachers from Armenia and Turkey came together to assess the secondary level history curriculum and learning materials

⁴⁵⁴ Korostelina (n149) 192.

⁴⁵⁵ Ibid.

⁴⁵⁶ Ibid.

⁴⁵⁷ Ibid.

⁴⁵⁸ Ibid.

⁴⁵⁹ Ibid.

⁴⁶⁰ Korostelina (n149) 197.

used in the respective countries.⁴⁶¹ The goal, similarly to the Tblisi Initiative, was to “develop alternative principles for a more inclusive and conflict-sensitive history education.”⁴⁶² This was ultimately to be presented through the production of learning materials which could be used in the secondary schools both in Armenia and Turkey. Dr. Pinar Savan, a scholar in ethnic politics in Turkey and the Caucasus, identified that through the interpersonal dialogue and involvement of history teachers from Armenia and Turkey, there is greater development than merely creating alternative learning materials. Savan provides that “when the ‘work’ component is combined with personal socialisation as well as a better understanding of daily life and circumstances facing the ‘other’ country through the country visits, this work has the ‘potential to deconstruct negative stereotypes, facilitate perspective taking and forgiveness, reduce threat and intergroup anxiety, and more importantly build trust.”⁴⁶³ It is key that this development is undergone by history teachers, as it also enriches their ability to provide this same level of nuance and appreciation of complexity of many historical events.

This undertaking uniquely involved a broad range of stakeholders, including students, which the organisers identified to be an immeasurably valuable source of perspective and input.⁴⁶⁴ The organisers recognised that students were often excluded from the conversations surrounding learning materials and were therefore inspired to include them.⁴⁶⁵ However, it should not be solely based on civil society initiatives like this to have children involved. States should be consistently encouraging and creating spaces so that children are able to vocalise their opinions and participate in meaningful ways, as identified by Article 12 CRC.⁴⁶⁶

The two previous attempts outlined above were done in the context of secondary school systems. If another curriculum reform is attempted, it must be aimed at primary education, with the inclusion of civil society but most importantly the inclusion of children. There is immense value in having the youngest part of society be involved within this, as children are arguably *the* relevant stakeholders. Moreover, beyond the value that children would add, it is their *right* to be included, to voice their opinion, and to have this be given due weight.

⁴⁶¹ Savan (n182) 138.

⁴⁶² Ibid.

⁴⁶³ Charis Psaltis and others, ‘Conflict Transformation and History Teaching: Social Psychological Theory and Its Contributions’ in Psaltis C, and others (eds) *History Education and Conflict Transformation: Social Psychological Theories, History Teaching and Reconciliation* (Palgrave Macmillan 2017) 10.

⁴⁶⁴ Savan (n182) 144.

⁴⁶⁵ Savan (n182) 144.

⁴⁶⁶ CRC Committee (n15) para 129.

8.2 Viability of a Truth Commission as Basis for History Education Reform

Truth commissions are a valuable source of objective representations of events, because their goal is to identify what happened, what the complications were, what went wrong, and to take this information and provide answers to society.⁴⁶⁷ From this, it allows for space for healing and potentially for institutional reform, which could lead to the alleviation of tensions and future catastrophic events, such as another war. When assessing the Tblisi Initiative, a major part of its failure comes from the lack of an agreed basis of knowledge. Arguably, if there had been a truth commission, there would have been an available source which fully assessed the situation without any politicisation or bias.⁴⁶⁸ This could have provided an even and equal framework from which greater reform could be brought.

Ruben Carranza and Maria Abrahamyan from the International Centre for Transitional Justice have argued that this current era of Armenian history is the most viable for the creation of a truth commission. They provide that “A truth-seeking process could help Armenians come to know and understand the hard truths about their recent history, including the history of the conflict over Nagorno-Karabakh, in the same way they have confronted and to some extent come to terms with the painful experiences of genocide and forced displacement of Armenians in the early 20th century.⁴⁶⁹ This is true, especially when taking into consideration that the Ministry of Justice in 2019 adopted a new four-year judicial reform strategy.⁴⁷⁰ The dominant motivation for this reform is to seek clarity on previous human rights violations, which are systemic within Armenian politics and society. One of the elements is the establishment of a truth commission, which took place from 1991, when Armenia gained independence, until the Velvet Revolution in 2018.⁴⁷¹ Tigran Dadunts is the head of the Centre for the Development of Legislation and Legal Research within the Ministry of Justice, which is spearheading the reform.⁴⁷² Dadunts has provided that the theme of the truth commission is centered on election and political rights and their violations, including the deaths of those in the military when they were not on active duty.⁴⁷³ The truth commission is not welcomed with open arms by all the political elites. Currently within the opposition and formerly the Minister of Justice, Arpine

⁴⁶⁷ Civilnet, ‘Explaining a Truth Commission Into the 2020 Karabakh War: A Talk with Professor Kopaylan’ (Civilnet 18 March 2021) < <https://www.civilnet.am/en/news/573738/explaining-a-truth-commission-into-the-2020-karabakh-war-a-talk-with-professor-kopaylan-2/?lang=en> > accessed 9 June 2022.

⁴⁶⁸ Paulson (n145) 331.

⁴⁶⁹ Carranza and Abrahamyan (n448).

⁴⁷⁰ Arshaluys Mgdesyan, ‘Does Armenia Need a Truth Commission?’ (Institute for War and Peace Reporting 13 March 2020) < <https://iwpr.net/global-voices/does-armenia-need-truth-commission> > accessed 18 November 2021.

⁴⁷¹ Ibid.

⁴⁷² Ibid.

⁴⁷³ Ibid.

Hovhannisyan has criticised the establishment of the truth commission for being too focused on past events, rather than seeking active measures to improve future generations. However, Hovhannisyan perhaps is misinterpreting a truth commission as a punitive measure. The very design of a truth commission seeks to remove any inkling of a ‘witch hunt’ for someone to blame for previous wrongdoings. At its core, this truth commission, if conducted correctly, seeks to identify the facts, address the found information, and recommend reforms on the basis of these facts.⁴⁷⁴

What is crucial about the establishment of this truth commission is that it provides a sense of familiarity to both the political groups within Armenia, as well as Armenian society generally. Although this truth commission is not addressing the Nagorno-Karabakh war and historical conflict specifically, it can still provide a valuable source of information for curriculum reform in how history is presented. By utilizing the findings and implementing these into curricula, it will give nuance, understanding and discussion to the past. This particular truth commission is seeking to address past human rights violations, mostly of a civil political nature, but this could at least be a stepping stone to uncovering what is happening in Nagorno-Karabakh more generally as systemic problems require systemic solutions. Ideally, a truth commission would be created for Nagorno Karabakh specifically so that it can form a real comprehensive understanding and representation of the history and complexity of the region in an objective manner.

8.2.1 Application of the Lundy Model in the Truth Commission and Curriculum Reform

Ideally, were a truth commission to be set up by the Armenian government to provide an objective report on the Nagorno-Karabakh conflict and region, children should be involved from the creation. Children similarly would need to be participants through the dissemination of how the outcome of the truth commission should be implemented for curriculum reform. Utilizing the Lundy model, it can be theoretically demonstrated what a rights-complaint form of child participation would be.

The first component of the Lundy model is space.⁴⁷⁵ Hereby, the establishment of a truth commission would provide the opportunity of an established framework in which children

⁴⁷⁴ Civilnet (n467).

⁴⁷⁵ Lundy (n16) 933.

would be able to participate and express their views. It is crucial that children be involved in this truth commission from the beginning, and not only invited to participate once the report has been all but completed. It is important to remember that truth commissions consist of independent experts whose sole task is to uncover facts, assess these facts and provide recommendations accordingly. Children in this regard do not need to meet the qualifications of an independent expert.⁴⁷⁶ The contribution of children throughout the process could consist of providing personal experience testimony, personal reflections, or as a soundboard of what they deem important for investigation and focus. What is crucial about this space is that children feel welcomed and safe. Their participation and involvement should be seen as a positive and highly necessary addition, and not a strain or impediment to the process. In the same vein, the participants should go beyond children living in Yerevan belonging to families of the political elite. A broad range of children should be able to participate, ranging from age, geographical location (importantly including children living *in* Nagorno-Karabakh), socioeconomic status, religion, and ethnicity.⁴⁷⁷

It is key that these children, or an equally diverse group of children, are also actively welcomed to participate in the process of using the reporting and findings in creating curriculum reform. The space component should not be limited to one occurrence, but a continuous process whereby children are a continuous feature. Specifically when children are the ones who will be using the learning materials and are the key stakeholders in wanting a stable and peaceful future, it is critical they are also involved in the space of curriculum reform. This can take various forms, but at the least it should be a space where children are free to question what is included, what they have concerns about, what they feel is important to include and more.⁴⁷⁸

The second component of the Lundy Model is voice.⁴⁷⁹ Here, in accordance with their age and maturity, children should be able to express their views and opinions. The risk is that in a truth commission, or the space created for curriculum reform, children's involvement may be curtailed because they are deemed too young or immature to participate. Article 12 identifies that the due weight which is given to the voice of children can be limited by age and maturity, but it cannot exclude their participation.⁴⁸⁰ However, rather than being seen as an obstacle for

⁴⁷⁶ CRC Committee (n15) para 29.

⁴⁷⁷ CRC Committee (n15) para 134.

⁴⁷⁸ Priestley (n141).

⁴⁷⁹ Lundy (n16) 933.

⁴⁸⁰ CRC Committee (n15) para 29.

involvement, children have the right to be supported in their participation through guidance from parents or another adult figure. Within a truth commission, children do not need to be the source of all knowledge and experience, but they should be able voice their opinion throughout the process, even if it might be above what adults think they are capable of. Rather than ending the participation, attempts should be made to explain and incorporate children in a way that is accessible and understandable for them. The same is true for disseminating the outcome of the truth commission into curriculum reform.

The third component of the Lundy Model is audience.⁴⁸¹ Hereby, there needs to be confirmed channels of communication between the children and those who are actively involved in the decision making. Within a truth commission, this could be in the form of regular meetings between the independent experts and the children, not only for their input, but to keep them informed on the ongoings of the truth commission. Similarly, in the dissemination of the reporting and recommendations derived from the truth commission and used for curriculum reform, children should be involved with those who are articulating the curricula. This could be multiple actors, ranging from those in the Ministry of Education and Science who have the central task of creating curricula, to those teachers and educators who will be using the learning materials. For real participation to occur, children cannot be brought in once with no further communication; that exacerbates the risk of tokenisation. Rather, through the sustained and guaranteed interaction with audience, children will arguably feel more confident in the materials they use and more connected to what they are learning.

The fourth and final component of the Lundy Model is influence.⁴⁸² This understanding is central for those who might oppose the participation of children both in a truth commission or as members of the curriculum reform process. Children being involved and given the possibility to enact their right of participation does not result in children having any form of veto power or final word on what is presented, included, or articulated. It is important that children's opinions and voice are taken seriously as a consideration, but it is not that their participation is the ultimate determinant of outcome. In order to not ostracise child participation, it is key to ensure that those involved in the decision making process inform the children on how their opinion was listened to, used, and ultimately what the reasoning was for

⁴⁸¹ Lundy (n16) 933.

⁴⁸² Ibid.

the final incorporation or non-incorporation of their contributions.⁴⁸³ So those representatives of the Ministry of Education, teachers, and independent experts, will need to communicate with the children throughout the truth commission and the curriculum reform process how their participation was incorporated into both elements, and if it wasn't incorporated, why not.

Although the actualization of a truth commission into the Nagorno-Karabakh conflict may be years away, its potential alone is powerful. If the way that the conflict and region is taught about in primary schools is done from a place of objectivity, nuance and appreciation for significant complexity of the situation, it creates the opportunity to produce citizens who also approach the conflict and region with that lens. This could lead to changes in the way the conflict is broached and a sustainable form of real conflict resolution.

8.3 Has Armenia Upheld their obligations under the CRC?

Aside from assessing whether a truth commission could provide the necessary objectivity and basis for curriculum reform, it is important to assess how Armenia is currently upholding its obligations under Article 28 and 29 CRC. In order to do so, the current primary education framework and contents will be assessed, firstly under the Verhellen model of to, through, and in education, and secondly through Tomaševski's 4A Model of availability, accessibility, acceptability, and adaptability.

Firstly, when assessing Armenia's obligations through the Verhellen three-track model, the first element which needs to be considered is whether the right *to* education has been fulfilled. Simultaneously, it can be assessed whether education is deemed available and accessible under Tomaševski's 4A Model, due to the similarity in the criteria. This incorporates the technical elements, mostly found within Article 28, such as the provision of free and compulsory primary education. This is identified through Article 38(1) of the 1995 Constitution. Additionally, the 2015 Law on Education provides under Article 4(2)(4) that "the basic general education shall be compulsory, except for the cases prescribed by law".⁴⁸⁴ Further, the Committee has not identified any particular shortcomings in the availability of primary education through its concluding observations over the years. One cause for concern is the damage to schools which occurred during the 2020 Nagorno-Karabakh war, however there is no current data available

⁴⁸³ Lundy L, 'In Defence of Tokenism? Implementing Children's Right to Participate in Collective Decision-Making' (2018) 25/3 *Childhood* < <https://doi.org/10.1177/0907568218777292> > accessed 3 March 2022, 347.

⁴⁸⁴ Law of the Republic of Armenia on Education (Adopted on 14 April 1999, Entered into Force 29 May 2015) Art 4.

which can cater for a full assessment of the impact thereof on the availability of education. It should be concluded that this element of the obligations incumbent upon Armenia have been fulfilled.

Secondly, when assessing the second element of Verhellen's model, the rights *through* education should be assessed. This correlates with Tomaševski's criteria of acceptability. Here the focus is on the quality of education and the way that it presents and educates on human rights. Elements of this are found in the 1995 Constitution which protects the right of non-discrimination under Article 29. However, the most central legislation surrounding this is found in Article 5 of the 2015 Law on Education which prescribes that "general education shall be aimed at; intellectual, mental, physical and social development of each learner; respect for human dignity of each learner; development of his or her personality as a future citizen"⁴⁸⁵ However, here there seems to be a disconnect between the law in theory, and the law in practice. Although the course "Society and Social Sciences" does acknowledge and recognise the respect and tolerance necessary, there does not seem to be the actual implementation of this in practice. Through the aforementioned pedagogy, aspects of the learning process are done in a manner of repetition and memorisation, with no real space provided for critical thinking or discussion.

Additionally, the learning materials have strongly skewed narratives of history and current events, whereby any dissenting or diverging narratives are excluded. Thereby, there seems to be no practical application of these values within a school environment. This highlights the necessity of finding an equilibrium between the promotion of national values and identity and the fostering of respect for human rights. Moreover, the Committee has been vocal about the subject 'The History of the Armenian Church'. Yet, the 2015 Law on Education under Article 4(8) provides that "engaging in political activities or carrying out political propaganda at educational institutions shall be prohibited. Religious activities and religious advocacy shall be prohibited at educational institutions, except for the cases prescribed by law".⁴⁸⁶ It seems that although there is a prohibition both on political propaganda and religious instruction, both are occurring within the school setting. It is on the basis of this discrepancy between law in theory and the law in practice that the Armenian State is not fulfilling its obligations of rights *through* education or the acceptability of it.

⁴⁸⁵ Law of the Republic of Armenia on Education (Adopted on 14 April 1999, Entered into Force 29 May 2015) Art 5.

⁴⁸⁶ Ibid, Art 4(8).

Finally, Verhellen's third element of the three-track system is rights *in* education. This has similarity to Tomaševski's criteria of adaptability. Both criteria address the necessity of child involvement within the educational system, and the permeability of the educational system to change in accordance with needs. This is a difficult consideration, as the curriculum has changed, as evidenced previously with the quick incorporation of updates to the Nagorno-Karabakh conflict after the Four Day War. However, this presented a skewed version of events, and was done without any influence or participation from children.⁴⁸⁷ The motive was to further spur the formation of national values and identity, but sacrificed a balanced and informed discussion to do so. Hence, it cannot be stated with confidence that the obligations have been met, either under Verhellen's model or Tomaševski's, and the legal standards as presented under Article 29(1) have not been attained.

Ultimately, only one of the elements of the Verhellen model has been met, namely the right *to* education. Two of the elements of Tomaševski's model have been met; the availability and accessibility of education. Yet, the other components have not been fulfilled. With such an outcome, Armenia is not fully complying with the right to education.

8.3.1 Greater Pressure Needed from the Committee for Curriculum Reform in Armenia

Having concluded that Armenia is not currently meeting its obligations under Article 29, it is surprising that not more attention is being paid to these shortcomings by the Committee through their Concluding Observations. One of the elements which the Committee ought to be more critical of is the role of curriculum. Rather than merely assessing the subjects taught generally, attention needs to be given to the specific learning materials used. Due to their role as official sources of knowledge and information it is crucial there is more guidance given on their formation. Potentially, even their function needs to be recognised more explicitly, not just as a source of information, but as a tool through which learning and teaching is done.⁴⁸⁸

Part of the commentary necessary from the Committee is looking into *who* creates these curriculum and with what purpose. There is an exclusive almost impenetrable group of individuals who decide what will be in the curriculum for every phase of education within

⁴⁸⁷ Palandijan (n168) 253.

⁴⁸⁸ Paulson (n145) 76.

Armenia.⁴⁸⁹ There is no real diversity within the group currently creating the curriculum. Attention should be primarily on including children within this group, with various professionals, such as primary school teachers, specialists in certain topics, members of civil society and government workers, child psychologists, and educational specialists — all ranging from various ethnicities, religions, and socio-economic groups. Palandijan has commented in her research that currently “if a teacher is included in the co-authorship of textbooks, it is albeit a symbolic nominal presence or one limited to the teaching methodology of the textbook but not the development of its central content.”⁴⁹⁰

9. Conclusion

A child-rights centred approach to education would require that rights of children are respected to education, in education and enable them to enact the other interrelated and connected rights through education. A rights respecting implementation of education is especially crucial in a post-conflict society; primary education through curriculum provides a pivotal opportunity for conflict transformation.

The foregoing work has identified the necessity of having a curriculum, specifically of history, which provides objective, nuanced and multifaceted perspectives through the case study of the Nagorno-Karabakh conflict. This work has argued that truth commissions provide the opportunity for objective and fully informed assessment of facts of events, such as the Nagorno-Karabakh conflict. Through independent experts who act as commissioners, a well-articulated report and recommendations can be used as a basis for curriculum reform. These reformed curricula and the truth commissions will only gain value when child participation is not only used, but actively welcomed and encouraged. The reformed curricula have the potential to effectively address the tensions present in learning materials which seek to promote both national values and human rights. Ensuring that a collective memory is not preserved at the cost of fostering peace, tolerance, and respect for human rights. Through the use of curricula which place priority on such values, it provides a very real and tangible method of long-term and stable conflict resolution.

Although the establishment of a truth commission addressing the Nagorno-Karabakh conflict might be years away from being a reality, time, effort, and resources must preliminarily be

⁴⁸⁹ Khachatryan and others (n422) 9.

⁴⁹⁰ Paulson (n145) 78.

invested. Specifically the Committee plays a fundamental role therein. Through Concluding Observations, they can focus on how national history curricula are currently lacking nuance and appreciation for the complexity of the ongoing tensions surrounding the Nagorno-Karabakh region. The international community at large can assert similar pressure through their relations with each other. Ultimately, children's rights as human rights are not solely dependent on the State creating opportunities and possibilities for their enactment. There is a universal desire to have educated children which will foster, develop, and thrive within democratic, peace-loving, tolerant and respectful societies.

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