

# Master of Law: Advanced Studies in International Children's Rights



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**Can the CRC protect children from a gender biased education?**  
The case for eliminating gender stereotyping in the school environment as part of implementing the right to education under articles 28 and 29 CRC.

*by Nietta Keane*

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## Executive Summary

The idea for this thesis came to me on a plane, while reading Laura Bates' book entitled "Misogynation".<sup>1</sup> The book is a collection of essays authored by Bates, who also founded the Everyday Sexism Project<sup>2</sup>, an initiative aiming to create a digital record and platform of "small, so-used-to-it-you-almost-just-accept-it sexism".<sup>3</sup> Reading the book and scrolling down the (endless) list of submissions to the project, it dawned on me that gender discrimination greatly affects children, perhaps even to a greater degree than adults and that the education children receive is interwoven with heteronormative, gendered narratives. This begged the question whether international human rights law acknowledges gender stereotyping in the school environment as an underlying cause of gender discrimination and to what extent the CRC provides protection in that regard.

A chapter in Bate's book particularly stood out to me: one where she discusses the persistent prevalence of gender bias in education.<sup>4</sup> Given that it would take several books to comprehensively cover the myriad of ways children are affected by sexism, I decided to focus this research on the issue of gender bias in education and how gender stereotypes perpetuate harmful, violence and discrimination. Through researching and writing this paper, I have discovered that minute, seemingly innocuous instances of gender stereotyping in schools are harmful to children and hinder them from realising a multitude of rights under the CRC, especially articles 28 and 29. The research has also shown that subtle, everyday, ingrained gender biases may in fact lead to graver violations of children's rights, such as structural and even physical violence. Through this paper I hope to clearly and articulately demonstrate these findings.

In the analysis that follows, I shall investigate whether and to what extent the CRC can protect children from a gender biased education and will attempt to make the case in favour of eliminating gender stereotyping in the school environment as part of improving the implementation of the right to education under articles 28 and 29 CRC. Chapter one elaborates on this research question and poses several sub-questions before providing the methodology and several definitions in order to make some necessary clarifications and create a basis upon which to delve into the analysis of the subject matter. Chapter two examines the international human rights framework as a whole, paying particular attention to the CRC itself as well as the CRC Committee's commentary and how it adds to the broader corpus of the right to (non-discriminatory) education under international law. In doing so, the chapter aims to tackle the first three sub-questions, exploring the international legal conception of gender discrimination in education and whether gender stereotyping falls within that conceptualisation. By examining the children's rights legal framework, I will attempt to pinpoint the international obligations of States in that regard. In addition to reviewing the soft and hard law, this chapter also looks into the regional (European) level, before selecting some particular examples of domestic implementation of the right to (non-discriminatory) education.

A significant portion of this paper is devoted to socio-legal research findings about the extent of gender biased education. I believe it is legally relevant to look at the evolution of education and curriculum in order to understand how we ended up at the present status quo and how to move

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<sup>1</sup> Bates, L, *Misogynation : the true scale of sexism*, Simon & Schuster UK Ltd, 2018

<sup>2</sup> [Everyday Sexism Project](#)

<sup>3</sup> *Ibid*, [about](#)

<sup>4</sup> Bates, L, [Young children must be protected from ingrained gender stereotypes](#). The Guardian, 23 Feb 2015 [accessed 6 May 2020]

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forward through (legislative) reform. To that effect, chapter three investigates the extent to which gender-biased education is prevalent by providing a brief history of the evolution of children's education. This thesis proposes and elaborates upon three main culprits behind the perpetuation of gender stereotyping in the school environment: teachers' communication with students, the inherent biases within school curriculum and strict school dress codes. It must be noted, however, that this is by no means an exhaustive list as there are undoubtedly many factors that contribute to gender biased education. These three culprits can be regarded as a starting point to further research into how the right to education can be best implemented.

Beyond the economic, social and cultural context in which the right to education is usually depicted, I also wanted to explore how, through gender stereotyping, gender-biased education can amount to violence (both physical and structural). Chapter four, thus, looks into whether gender stereotypes in the school environment are capable of amounting to structural and/or physical violence against children and whether that triggers CRC child protection provisions.

Moving away from the realm of theory and into that of practice, chapter five delves into the divergent interpretations of the notion of non-discriminatory education and provides examples of good practices from Sweden and the United Kingdom.

Chapter six offers potential multidisciplinary solutions to the issue of gender-biased education. Beyond the clear need for each State to reform laws and policies around education, this paper also considers that in order for States to holistically fulfil their obligations under articles 28 and 29 CRC, educational systems must integrate human rights education, gender neutrality and critical pedagogy within their national curricula. The multidisciplinary solutions proposed in that chapter are not intended to be taken in isolation from one another but rather as a whole. Each State should arguably strive for a school system that includes comprehensive sexuality education and human rights education (in line with commentary by international human rights treaty bodies) while enforcing norm critical pedagogy in an environment of appropriate and proportional gender neutrality.

Chapter seven aims to bring the reader's attention back to the sub-questions and, in light of the analysis conducted in previous chapters, will try to conclude by providing some answers.

In researching this thesis I have found that most people will agree that the large-scale, glaring consequences of gender discrimination, namely rape and sexual assault, are legal issues worthy of criminal sanction. Also, few will contest the notion that gender discrimination does not belong in the school environment. However, it appears that matters get rather more complicated when the question is whether the "small, so-used-to-it-you-almost-just-accept-it" instances of gender stereotyping in schools constitute human or more specifically children's rights violations. Things get even trickier when trying to determine whether and to what extent States are insufficiently meeting their obligations under the CRC when they do not actively take (legislative) measures against gender stereotyping in the school environment. I have also discovered that attempting to reconcile the divergent interpretations and opinions over how States should address this issue is an extensive and complex undertaking that still needs more work.

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## List of abbreviations

CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
CoE	Council of Europe
CRC	Convention on the Rights of the Child
EC	European Commission
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EIGE	European Institute of Gender Equality
EP	European Parliament
GC	General Comment
HRC	Human Rights Council
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
MDG	Millenium Development Goals
OHCHR	Office of the High Commissioner of Human Rights
SDG	Sustainable Development Goals
STEM	Science, technology, engineering and mathematics
UDHR	Universal Declaration on Human Rights
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
WHO	World Health Organisation

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# 1. Introduction

According to a recent study, all our lives continue to be affected, to some degree, by gender norms and children are no exception.<sup>5</sup> Our society thrives on people staying in their (gender) lane, performing their gender roles and meeting the expectations to which they were assigned on the basis of a biological gamble. Like any other social construct, gender (as opposed to biological sex) is learned behaviour and we really do “start ‘em early”.<sup>6</sup> International organisations like CEDAW have found that children are taught early on about gender roles through gender-biased curricula and teachers (inadvertently) engaging in gender stereotyping.<sup>7</sup> Therefore, when we speak of disrupting gender norms in order to eliminate gender-based discrimination and violence, we must necessarily speak of the school environments’ role. Education can be a catalyst for positive societal change but can also serve to perpetuate discrimination and inequality through, *inter alia*, gender stereotyping.

It is crucial to talk about gender stereotyping within the school environment, as it is evident that harmful gender stereotypes and double standards appear to be bleeding into digital social interactions among children and adolescents.<sup>8</sup> As a result, youngsters could be becoming even more desensitised to (not so) subtle instances of sexism, taking them for granted or as lighthearted jokes. As such, it is clear that (gender) discrimination is not a thing of the past, which makes discussions about gender stereotyping within the school environment ever more pertinent.

The OHCHR has expressly correlated gender stereotyping with gender discrimination and has recognised that gender stereotyping is capable of having an adverse effect on the enjoyment of human (and therefore children’s) rights, identifying education as the most impacted right.<sup>9</sup> It is also universally accepted that the right to non-discrimination is a fundamental right, widely protected by every human rights instrument on the globe. This includes the CRC, wherein the principle of non-discrimination constitutes one of the four pillars of the convention, underpinning the realisation of all other rights under the CRC.<sup>10</sup> In that regard, it is conceivable that an educational system that permits heteronormative gender stereotyping, enables gender discrimination and thus runs contrary to the right to education under articles 28 and 29 CRC, in conjunction with the right to non-discrimination under article 2.

However, a specific, in-depth examination into how gender stereotyping in the school environment impacts children has not yet been launched. Most recently gender stereotyping has been addressed by the OHCHR within the framework of girls’ education, whereby gender

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<sup>5</sup>United Nations Development Programme, [TACKLING SOCIAL NORMS](#), 2020, at page 6 [accessed 20 June 2020]

<sup>6</sup> Halim, M., Ruble, D., & Tamis-LeMonda, C, *Four-year-olds’ beliefs about how others regard males and females*, *British Journal of Developmental Psychology*, 31(1), 2013, 128-135

<sup>7</sup> UN Committee on the Elimination of Discrimination Against Women (CEDAW), *CEDAW General Recommendation No. 36: The right of girls and women to education*, 2017, at para 4; Human Rights Council, Review of promising practices and lessons learned, existing strategies and United Nations and other initiatives to engage men and boys in promoting and achieving gender equality, in the context of eliminating violence against women, 19 April 2018, at para 18; [Realisation of the equal enjoyment of the right to education by every girl](#), at para 10; [European Institute for Gender Equality, The 4th Review of the Implementation of the Beijing Platform for Action in the EU Member States](#), 2015, at page 92

<sup>8</sup> Ringrose, J., & Harvey, L, “BBM is like match.com”: social networking and the digital mediation of teen’s sexual cultures?, In J. Bailey & V. Steeves (Eds.), *eGirls, eCitizens: putting technology theory, policy & education into dialogue with girls’ and young women’s voices*, 2015

<sup>9</sup> OHCHR, [How gender stereotyping affects the enjoyment of human rights](#) [accessed 4 June 2020]

<sup>10</sup> [Child Rights - CRC and its Four Guiding Principles](#) [accessed 5 June 2020]

stereotypes were identified as an obstacle to girls' access to education.<sup>11</sup> Although undeniably true, this is arguably only one side of the equation. It might be worth exploring whether or not the OHCHR missed a great opportunity to address not just the glaring rights violations rooted in gender bias, but also the more subtle, day-to-day biases that adversely affect both boys' and girls' education.

Although the gender dimensions of children's rights have been extensively researched and written about, existing literature seems to primarily focus on grave gender-based violations and harmful cultural practices such as female genital mutilation, virginity testing<sup>12</sup> and (forced) child marriage. These issues are undoubtedly pressing and deserve boundless coverage. However, it is posited that gender discrimination runs far deeper than that and is far more entrenched in day-to-day living. The impact of gender stereotyping on the persistence of gender-based children's rights violations is arguably a highly under-examined issue. This may come as a surprise given that the right to education has been characterised as a doorway to the realisation of other rights under the CRC.<sup>13</sup>

Although discussions about gender within the field of education are definitely not new, much of the existing work relevant to the school environment and curriculum deals with LGBTQIA+ children's issues<sup>14</sup>, which is of course critically important. But gender non-conformity does not automatically determine sexual orientation or gender identity: not all gender-non-conforming children identify themselves as LGBTQIA+.<sup>15</sup> In that regard, it is also important to pay attention to how heteronormative gender stereotypes affect male and female cisgender, heterosexual children.

The educational system is considered to be an institution of social and cultural reproduction and thus a reflection of society.<sup>16</sup> Sociologists have established that children learn and replicate behaviour which they observe, becoming aware of gender roles and stereotypes as early as kindergarten and primary school.<sup>17</sup> It has also long been considered fact that children, especially young children, learn about and assimilate to gender stereotypes by observing the behaviour of those around them, particularly those whose gender they identify with.<sup>18</sup> It only stands to reason, then, that existing patterns of gender inequalities are reproduced within the school environment through formal and informal processes.<sup>19</sup> Feminist theorists such as Myra and David Sadker have contended that even though children may be "sitting in the same classroom, reading the same textbook, listening to the same teacher, boys and girls receive very different

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<sup>11</sup> UN Human Rights Council, *Realization of the equal enjoyment of the right to education by every girl*, 5 April 2017, A/HRC/35/11, at para 10

<sup>12</sup> World Health Organisation, UN Office of the High Commissioner of Human Rights, UN Women, [Eliminating Virginity Testing: An Interagency Statement](#), 2018 [accessed 7 June 2020]

<sup>13</sup> A. Quennerstedt, 'Balancing the Rights of the Child and the Rights of Parents in the Convention on the Rights of the Child', *Journal of Human Rights* 8, no. 2 (2009), p. 162-76, at page 162

<sup>14</sup> Blaise M, *Playing It Straight: Uncovering Gender Discourse in the Early Childhood Classroom*, 2005, Routledge

<sup>15</sup> Gottschalk, L, *Same-sex Sexuality and Childhood Gender Non-conformity: A spurious connection*, 2003, *Journal of Gender Studies*, 12(1), 35-50.

<sup>16</sup> Dalal, J, *Pierre Bourdieu: The Sociologist of Education*, 2016, *Contemporary Education Dialogue*, 13(2), 231-250, at page 238

<sup>17</sup> [Bandura A, \*Social Learning Theory\*, 1971, General Learning Corporation](#)

<sup>18</sup> Bem, S, *Gender Schema Theory: A Cognitive Account of Sex Typing*, *Psychological Review*, 1981, 88 (4): 354-364

<sup>19</sup> Ritzer G, [The Blackwell Encyclopedia of Sociology](#), Blackwell Publishing, 2007, at page 1859 [accessed 12 June 2020]

educations."<sup>20</sup> Therefore, one may conclude that education plays a formative role in children's development of gender identity and it is arguably a major determinant in reinforcing harmful notions around gender stereotypes. In addition, perhaps if binary gender roles and heteronormative gender stereotyping were eliminated from the school environment, all forms of discrimination (homophobia, sexism and racism) could conceivably be incrementally eradicated, in light of the intersectionality of discrimination.<sup>21</sup>

A multitude of international human rights organisations, including UN Women and the CoE, consider education as the primary weapon against gender stereotyping.<sup>22</sup> But what happens when the curriculum in and of itself is gender biased? What are the solutions for educators who engage in the practice of gender stereotyping in class?

In addition, gender bias in children's education may not only be an economic, social and cultural rights issue but it may also be a child protection issue. Gender bias within education is a (oftentimes) subtle, nuanced form of sexism, so intrinsic and internalised that it borders normalcy. However, it is contended that a gendered education is a form of structural and cultural violence that has the potential to incite physical forms of gender-based violence. It is conceivable then, that gender stereotyping could be regarded as a child protection issue under article 19 of the CRC.

This paper aims to examine how and to what extent gender stereotyping in the school environment contributes to discrimination/inequality among children and conceivably adults. The analysis that follows can be construed to be part of a bigger question: is there a causal link between sexism among adults in our society and the arbitrary gender stimuli children are exposed to from the very beginning of their lives? By investigating gender stereotyping within formal education through a legal, human rights lens, perhaps we can begin to answer a substantial portion of this question.

## 1.1 Research Question

This thesis will look into whether or not (and to what extent) the CRC provides any form of protection against gender stereotyping in schools. Considering that education has been identified as the "springboard"<sup>23</sup> to the realisation of other rights, articles 28 and 29 CRC will be the focal points of the present analysis, in conjunction with article 2 CRC.

Children spend a considerable part of their day in school<sup>24</sup> and since education has been identified as the primary tool for eliminating gender discrimination<sup>25</sup>, it is necessary to focus on gender stereotyping within children's educational environment. It is contended that gender discrimination is fed by stereotypes which are subtly and structurally instilled in children's minds from the very beginning of their schooling and stay with them well into adulthood.

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<sup>20</sup> Sadker, D, Sadker, M, *Failing at Fairness: How Our Schools Cheat Girls*, Toronto, Simon & Schuster Inc, 1994

<sup>21</sup> [Crenshaw K, \*Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Anti-discrimination Doctrine, Feminist Theory and Antiracist Politics\*, 1989, The University of Chicago Legal Forum](#)

<sup>22</sup> UN Women [What we do: Ending violence against women: Focusing on prevention to stop the violence](#); Council of Europe [COMBATING GENDER STEREOTYPES IN AND THROUGH EDUCATION](#), 2014 [accessed 1 June 2020]

<sup>23</sup> A. Quennerstedt, 'Balancing the Rights of the Child and the Rights of Parents in the Convention on the Rights of the Child', *Journal of Human Rights* 8, no. 2 (2009), p. 162-76, at page 162

<sup>24</sup> UNESCO, [School-centred HIV and AIDS Care and Support in Southern Africa: Technical consultation report](#), 22-24 May 2008, Gaborone, Botswana. Paris, UNESCO [accessed 19 June 2020]

<sup>25</sup> UN Committee on the Elimination of Discrimination Against Women (CEDAW), *CEDAW General Recommendation No. 36: The right of girls and women to education*, 2017, at page 2; UN Committee on the Rights of the Child (CRC), *General comment No. 1 (2001), Article 29 (1), The aims of education*, 17 April 2001, CRC/GC/2001/1

This thesis intends to explore whether gender stereotyping, which contributes to a gender-biased education, amounts to discrimination and a violation of a child's right to education under the CRC. Thus, the central question of this thesis becomes: To what extent can the CRC protect children against a gender-biased education? In order to investigate the extent to which international children's rights condemns gender stereotyping in schools within the framework of the non-discrimination principle, the following sub-questions must be answered:

- What is the CRC's legal conceptualisation of gender discrimination in education?
- Does gender stereotyping fall within that conceptualisation?
- What, then, are the international obligations of States?
- When does gender stereotyping amount to a gender biased education?
- When does gender stereotyping in the school environment amount to violence?
- What are the best practices to eliminate gender stereotyping and bias in education?

This first chapter will proceed by elaborating on the research methodology, before providing several definitions in order to make some necessary clarifications and create a basis upon which to delve into the analysis of the subject matter.

Chapter two aims to provide a legal framework of gender-biased education and discrimination in the school environment. Espousing the human rights philosophy that all legal instruments mutually reinforce one another and each should be regarded as part of a whole, this paper investigates State duties under the right to non-discriminatory education in all relevant international human rights treaties, including the CRC. Subsequent to the analysis of soft and hard law, some examples of how individual States have implemented the international framework will be given. The chapter ends with some concluding thoughts on the current international legal framework.

Chapter three is devoted to the analysis of the extent to which gender-biased education is prevalent. A brief history detailing the evolution of children's education will be provided in order to elucidate just how ingrained gender discrimination is within the school environment. This paper identifies three main culprits behind the perpetuation of gender stereotyping in the school environment: teachers' communication with students, the inherent biases within school curriculum and strict school dress codes.

Chapter four elaborates further on the assertion that gender stereotypes in the school environment are capable of amounting to structural and/or physical violence against children, which in turn arguably triggers child protection provisions under the CRC. Chapter five delves into the divergent interpretations of the notion of non-discriminatory education and provides examples of good practices from Sweden and the UK.

Chapter six offers potential multidisciplinary solutions to the issue of gender-biased education. Beyond the clear need for each State to reform laws and policies around education, this paper also considers that in order for States to holistically fulfil their obligations under articles 28 and 29 CRC, educational systems must integrate human rights education, gender neutrality and critical pedagogy within their national curricula.

Chapter seven aims to bring the reader's attention back to the sub-questions and, in light of the analysis conducted in previous chapters, will try to conclude by providing some answers.

## **1.2 Methodology**

In an attempt to tackle the main research question, legal, social, pedagogical and historical research will be conducted in order to form a contextualised socio-legal argument and provide socio-legal solutions. This thesis will also delve into comparative legal research in order to

provide a more practical dimension to the recommendations made herein, by reflecting on various approaches taken by several States. In light of the word limitation for this paper, comparative analysis has been limited to the European region, although an inter-regional analysis on gender biased education is an extremely interesting prospect for future research.

The research method used in writing this thesis has been desktop research. Primary legal sources include international, regional and domestic legislation as well as international case law. Secondary legal sources include journal articles, official publications by human rights monitoring bodies, international organisations and NGOs. In the spirit of multidisciplinary endorsed by international human rights law, this thesis also cites research and contributions by psychologists, historians, sociologists and educators. Finally, documentaries, news articles and blog posts complement and build on the findings of this thesis.

Conscious of the word limit and for the purposes of specificity, this thesis focuses on heteronormative gender stereotyping and builds its analysis on the narrow interpretation of gender as a socially constructed binary. This decision was taken in order to narrow down the scope of the research, taking into consideration the general topic of gender in education is a widely researched topic with many subdivisions. During initial research stages it became apparent that the existing literature on the topic was mainly about LGBTQIA+ children (which is much needed) and authors did not use heteronormative gender stereotyping as a starting point. This apparent gap in the research is exactly why this particular topic is worth writing about and researching further.

In addition, this thesis recognises that the role of parents can be critical in either dismantling or reinforcing the heteronormative stereotypical education of their children. Again, for the purposes of sustaining a focused line of reasoning, the school environment was chosen as a focal point. Although it is acknowledged that parents form part of the school environment, this thesis has refrained from discussing the role of parents in children's education as that topic in and of itself merits another thesis. In that regard, the present research and analysis can be regarded as a starting point for a series of research papers delving into each aspect of children's education. This thesis covers the school environment and subsequent research can similarly discuss the roles of parents, peers, media and digital technologies in children's right to education under the CRC.

### **1.3 Some clarifications**

Before looking at the international legal framework and delving into the extent of gender bias in education, some clarifications are in order. Firstly, how this thesis conceptualises the terms "education" and "school environment" must be established, as it forms the basis of the analysis. Then, it is important to define gender stereotyping, gender bias and gender discrimination in order to then elaborate on the role they play within education and the school environment. Finally, it must be clarified what is meant by harm and violence, how they relate to gender discrimination and how the right to (access) education connects to all the aforementioned.

#### **Defining education and school environment**

The term education may be defined and interpreted in a multitude of ways, depending on the discipline through which it is being examined. In other words, by choosing a specialist, you choose a definition. Etymologically, the word education is derived from the latin *educatio* which means to rear or to bring up, which already connotes that education at its very core is so much more than just transferring information through prescribed curricula in a formal classroom setting. Dictionary definitions of the term depict education as an act or process of instruction, training or study through which general or specific knowledge or skills are acquired and

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reasoning and judgment are developed.<sup>26</sup> The CoE refers to education in the broadest sense as “any act or experience that has a formative effect on the mind, character, or physical ability of a person”.<sup>27</sup> This author fully espouses a broad conception of education, as it arguably allows for a more holistic interpretation and implementation of the legal provisions surrounding the right to (access) education. However, for the purposes of this paper, we must narrow it down.

The title of the thesis includes the term “school environment”. The CoE’s broad definition of education plays an important role in defining the school environment and distinguishing the formal education system from the wider, more holistic conception of learning. As such, for the purposes of this paper, the school environment can be understood as the context in which formal education is delivered. This includes the content of State-approved curricula, the classroom where there is a teacher-student interaction as well as the school playground where peers interact with one another. It is important to stress that education does not end when school does. This thesis considers the school environment as one of many contexts in which children can be educated. Informal education begins long before formal education and arguably never ends. This is why it is prudent to devote this paper to gender stereotyping within the confines of the school environment first, prior to branching out to address other ways in which children receive gender-biased educational stimuli in their own homes and surrounding environments.

### Defining gender stereotypes and gender bias

The OHCHR defines a stereotype as a “generalised view or preconception about attributes or characteristics that are or ought to be possessed by members of a particular social group or the roles that are or should be performed by, members of a particular social group.”<sup>28</sup> Thus, a gender stereotype can be understood as a “generalised view or preconception about attributes, or characteristics that are or ought to be possessed by women and men or the roles that are or should be performed by men and women.”<sup>29</sup>

As such, a gender stereotype is best characterised as a belief and gender stereotyping as the practice of projecting that belief on people, including children.

The EIGE describes gender bias as “prejudiced actions or thoughts based on the gender-based perception that women are not equal to men in rights and dignity.”<sup>30</sup> Legal definitions of the term seem to focus on gender bias in the workplace, defining the term as “unequal treatment in employment opportunity...and expectations due to attitudes based on the (gender) of an employee or group of employees. Gender bias can be a legitimate basis for a lawsuit under anti-discrimination statutes.”<sup>31</sup> Both definition make reference to “thoughts” or “attitudes” that contribute to the discrimination and unequal treatment that amounts to gender bias. Those “thoughts” and “attitudes” arguably emanate from the practice of gender stereotyping, that begins from childhood within the school environment.

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<sup>26</sup>Education (n.d), in *Merriam-Webster's Collegiate Dictionary*, available at <https://www.merriam-webster.com/dictionary/education> [accessed 3 April 2020]

<sup>27</sup>Council of Europe, *Compass: Manual for Human Rights Education with Young People*, 2015 Edition, Education, available at <https://www.coe.int/en/web/compass/education> [accessed 3 April 2020]

<sup>28</sup> [Gender stereotypes and Stereotyping and women's rights](#), OHCHR, September 2014 [accessed 1 Jun 2020]

<sup>29</sup> *ibid*

<sup>30</sup> [Definition of gender bias | European Institute for Gender Equality](#) [accessed 7 June 2020]

<sup>31</sup> [Legal definition of gender bias](#) [accessed 7 June 2020]

## Defining (gender) discrimination

At this point it is necessary to set out what exactly is meant by (gender) discrimination for the purposes of the analysis that follows. All international instruments enshrine the right to non-discrimination. Notwithstanding the widespread recognition of non-discrimination, the exact meaning and scope of the principle continues to be contested and some of its aspects still remain unclear.<sup>32</sup> Hard law seems to broadly outline the grounds upon which an individual may be discriminated against, identifying sex/gender as one such ground. The Human Rights Committee has provided the following definition in one of their GCs:

“any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms.”<sup>33</sup>

Article 1 of CEDAW adopts the above definition and provides a specific definition of gender discrimination:

“any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise...of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”<sup>34</sup>

This paper adopts CEDAW’s all-encompassing conception of gender discrimination as it is capable of being applied to the present research analysis. This paper contends that gender stereotyping can be considered a distinction made on the basis of sex. Although the intended purpose of gender stereotyping in the school environment is not to violate the rights of children, that is arguably the ultimate effect.

The notion of equality has been strongly identified with the principle of non-discrimination, as it constitutes the flip side of the same coin.<sup>35</sup> Equality is achieved where there is no discrimination and one is discriminated against when they are not treated equally due to their gender, race, religion and the list goes on. For this reason, the two terms will be used interchangeably throughout this thesis.

## Defining harm

According to moral philosopher Bernard Gert, one can understand harm as inflicting one of the following: pain, death, injury (transient or permanent), loss of freedom or loss of pleasure.<sup>36</sup> From this definition we can derive a rather wide spectrum of acts or omissions that result in various adverse effects. However, one must not infer that one is in any way worse than the other. It can be argued that the practice of gender stereotyping is capable of inflicting any of the

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<sup>32</sup> ICJ, *South West Africa, Second Phase*, (1966) ICJ 3, 6, per Tanaka J

<sup>33</sup> Human Rights Committee’s General Comment 18 on Non-Discrimination, 10/11/1989, HRI/GEN/II/Rev. 5, reproduced in *Compilation of General Comments and General Recommendations adopted by Human Rights Treaty Bodies*, UN Doc. HRI/GEN/1 (1992).

<sup>34</sup> UN General Assembly, *Convention on the Elimination of All Forms of Discrimination Against Women*, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13, Article 1

<sup>35</sup> Besson S, *The Principle of Non-Discrimination in the Convention on the Rights of the Child*, *The International Journal of Childrens Rights*. 13: 433-461, 2005, at page 434

<sup>36</sup> Bernard Gert, *Common Morality*, Oxford University Press, 2004

aforementioned suffering. Not only do gender stereotypes result in the psychological and emotional suffering that loss of freedom and pleasure bring but can also be responsible for physical suffering, as will be elaborated later on in this paper. Gender stereotypes form the roots from which systemic violence against women and girls arise, namely domestic violence, female genital mutilation, forced marriage and femicide<sup>37</sup>, to name a few. The OHCHR has stated that a gender stereotype becomes harmful when it limits the capacity for personal development, recognising that even “benign” stereotypes can be harmful.<sup>38</sup> It also contends that gender stereotyping is wrongful (and therefore worthy of legal sanction) when it results in a violation of fundamental rights.<sup>39</sup>

Legal philosopher Joel Feinberg perceives harm as any setback of interests, distinguishing two different types of interests: welfare interests which influence the quality of one’s life (physical and emotional integrity) and ulterior interests which influence one’s goals and aspirations.<sup>40</sup> Based on this rationale, education arguably falls under both welfare and ulterior interests. Gender-biased education clearly affects children's emotional integrity (anxiety and pressure to conform to a particular gender identity) as well as their physical integrity (although extensively taught to perform their respective genders, children are unsatisfactorily taught how to navigate their own bodies and respect the bodies of others, which arguably results in future physical harm). Discriminatory education also affects children’s ulterior welfare: receiving an education which is biased based on the sex of the receiver undoubtedly has an impact on personal goals and aspirations. Gender inequity in the classroom transforms into a gender imbalance in the labour market. Therefore, it is argued that from every angle, gender-biased education results in some type of harm or the perpetuation of harmful practices. This thesis thus considers Feinberg’s conception of harm to be most relevant for the purposes of the present analysis.

It is put forward by this thesis that a gender biased education, proliferating gendered and stereotypical attitudes, is harmful to children in several ways. Stereotypes within the school environment amount to structural inequalities later on, with gender gaps in higher education and the labour market. Gender stereotyping also serves to perpetuate gender discrimination and can even fuel gender-based violence in the school environment and beyond.

## Defining violence

The OHCHR has linked gender stereotyping to gender-based violence, citing “rigid constructions of femininity and masculinity and stereotyped gender roles”<sup>41</sup> as a root cause of said violence. Beyond physical violence, however, this thesis espouses Johan Galtung’s conception of structural violence, which he defines as an “avoidable impairment of fundamental human needs”.<sup>42</sup> Based on Galtung’s theory, this thesis considers gender stereotyping to be a form of cultural violence, which refers to aspects of a culture that, in effect, legitimise structural violence by providing excuses for it (e.g tradition or humour). According to Galtung, cultural violence is what makes structural violence “appear or feel right, or at least not wrong.”<sup>43</sup> This is

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<sup>37</sup> UN Women, [What we do: Ending violence against women: Focusing on prevention to stop the violence](#) [accessed 1 June 2020]

<sup>38</sup> OHCHR, [Gender stereotypes and Stereotyping and women's rights](#), 2014

<sup>39</sup> *ibid*

<sup>40</sup> Feinberg, Joel, *The Moral Limits of the Criminal Law, Volume 1: Harm to Others*, New York: Oxford University Press, 1984

<sup>41</sup> OHCHR, [How gender stereotyping affects the enjoyment of human rights](#) [accessed 7 June 2020]

<sup>42</sup> Ho, K, *Structural Violence as a Human Rights Violation*, Essex Human Rights Review Vol. 4 No. 2 September 2007, at page 106

<sup>43</sup> Galtung J, *Cultural Violence*, Journal of Peace Research, August 1990, Vol.27(3), pp.291-305

precisely how many perceive gender stereotyping: inconsequential and harmless. The key to the legitimisation of structural violence is the internalisation of cultural violence<sup>44</sup>, which is arguably what continues to take place daily in school environments. Children absorb and internalise narrow conceptions of gender norms through stereotypes, which then legitimises the structural violence that takes place later on in their lives: gender disparities in the labour market and the gender pay gap, among others. This paper thus asserts that cultural (and ultimately structural) violence is contrary to the right to education under articles 28 and 29 CRC.

This paper also adopts the more nuanced interpretation of mental violence by the CRC Committee, which describes it as “psychological maltreatment, mental abuse, verbal abuse and emotional abuse or neglect”<sup>45</sup> which includes denying educational needs. Based on the CRC Committee’s interpretation, it is argued that gender stereotypes amount to a form of mental/psychological maltreatment and that gender-biased education constitutes a denial of children’s educational needs.

With these clarifications in mind, let us now turn to the relevant international human rights legal framework that attempts to protect children from gender stereotypes in education.

## 2. The Law

This section will unpack the relevant legal framework with regards to the right to education free of discrimination and explore the extent to which the hard and/or soft laws make reference to gender stereotyping within the school environment. The chapter begins by looking into the international human rights framework before moving on to examine how the right to (non-discriminatory) education is applied at the regional and domestic levels.

The text of the CRC itself makes it clear that its provisions form part of a broader international and regional human rights system. Article 41 states that where a provision of another instrument (domestic, regional or international) is “more conducive to the realisation of the rights of the child”, then that provision supersedes the CRC. Albeit brief, article 41 should not be overlooked because it illustrates the holistic manner with which human rights and children’s rights must be approached. Moreover, the 1993 Vienna Declaration emphasises the interdependence and indivisibility of human rights as well as their mutually reinforcing nature.<sup>46</sup>

This is precisely why it is important to look closely at how all human rights instruments interact with each other and perhaps, at times, contradict each other, when it comes to children’s right to non-discriminatory education.

### 2.1 International Instruments

#### Hard Law

No international legal text makes explicit reference to gender stereotypes, let alone in the specific context of education. Rather, most texts utilise the umbrella term of discrimination when it comes to reiterating the right to education, which of course has a gender dimension.

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<sup>44</sup> Galtung J, *Cultural Violence*, Journal of Peace Research, August 1990, Vol.27(3), pp.291-305

<sup>45</sup> UN Committee on the Rights of the Child (CRC), *General comment No. 13 (2011): The right of the child to freedom from all forms of violence*, 18 April 2011, CRC/C/GC/13, at para 21

<sup>46</sup> UN General Assembly, *Vienna Declaration and Programme of Action*, 12 July 1993, A/CONF.157/23, at paras 5 and 8

The earliest reference to the right to education without discrimination can be found in article 13 of the Charter of the United Nations (1945).<sup>47</sup> Shortly thereafter, the right to education was reaffirmed in the UDHR. Although not binding in and of itself, the rights set out in the UDHR have been incorporated in the text of other legally binding international human rights instruments. The UDHR preamble states that “teaching and education”<sup>48</sup> is to be regarded as the mechanism through which all other rights and freedoms can be promoted. Article 26(2) UDHR goes on to highlight that the provision of education aims to promote the “full development of the human personality”<sup>49</sup> and strengthen mutual respect for individual human rights. Although article 26(3) UDHR provides for parental autonomy with regards to children's education, the difference in the tone of the two sub-clauses is arguably quite palpable. While article 26(2) UDHR takes a rather decisive stance on what the right to education entails, article 26(3) seems to temper that assertiveness by making parents’ subjective opinions and values the decisive factor in children’s realisation of their right to education. It is perhaps this very hesitation of international law to take a firm stance on fundamental matters that allows for the persistence of subtle, systematic sexism within children’s educational environment. The ICCPR also seems to echo that same hesitation. Article 18(4) ICCPR (the only instance where education is mentioned) clarifies that States are obliged to respect the autonomy of parents to provide their children with the “moral” education...(which is) in conformity with their own convictions”.<sup>50</sup>

The ICESCR seems to expand on the provisions of the UDHR, elaborating more extensively on the right to education and its aims. Although, once again, much autonomy is given to parents to decide on the mode and type of education their children will receive, article 13(4) seems to attempt a balancing act between parental autonomy and the authority of the State to intervene if the “minimum standards” of education are not met. The international consensus on what the minimum standard should be is that education should “enable all persons to participate effectively in a free society (and) promote understanding, tolerance and friendship”.<sup>51</sup> One could argue that, without addressing the subtle gender discrimination that persists within the schooling environment, education will never be able to truly facilitate effective participation in a free society nor will it achieve tolerance among citizens (which includes both adults and children alike).

As a general principle, non-discrimination is mentioned several times throughout the text of the CRC. So much so that it seems to underpin the interpretation and implementation of all other CRC provisions, including the right to education, which is the focal point of the present analysis. The right to non-discrimination can be found in the CRC’s preamble as well as in articles 2, 22, 23, 28, 29 and 30.<sup>52</sup> However, for the purposes of this paper, only the provisions relevant to education will be cross-examined with the overarching principle of non-discrimination, namely articles 2, 28 and 29. Article 2 CRC prohibits any form of discrimination (including sex-based discrimination presumably in any context) against children in their realisation of all rights under

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<sup>47</sup> United Nations, *Charter of the United Nations*, 24 October 1945, 1 UNTS XVI, Article 13

<sup>48</sup> UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III)

<sup>49</sup> *Ibid*, Article 26(2)

<sup>50</sup> UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, Article 18(4)

<sup>51</sup> UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), article 26(2); UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, article 13(1)

<sup>52</sup> Besson, S, *The Principle of Non-Discrimination in the Convention on the Rights of the Child*, The International Journal of Children's Rights, 2005, 13(4), 433-461.

the Convention. In fact, article 2 has been established as one of the four pillars of the CRC.<sup>53</sup> In particular, article 2(2) appears to be quite promising as it ensures the protection of children from discrimination even if said discrimination emanates from the beliefs of their own family.<sup>54</sup> This is in stark contrast to the aforementioned international instruments, which arguably allow parents to influence their children's education, sometimes to a (gender) discriminatory degree. The idea that a State not only has the discretion, but is obliged to protect a child from being discriminated against on the basis of their sex in an educational context is a rather novel and, in the opinion of this author, a very optimistic aspect of the CRC. Articles 28 and 29 are the provisions solely dedicated to children's right to education, with article 28 affirming the right to education "on the basis of equal opportunity"<sup>55</sup> and article 29 elaborating on the aims of education, among which is preparing the child to live in a free society that enjoys gender equality.<sup>56</sup> That being said, the drafters' choice of the word "sex" as opposed to "gender" is noteworthy and arguably limits the grounds of discrimination to biological factors as opposed to structural or societal ones. This is potentially a considerable oversight, as a State may take measures to secure children's rights to freedom from sex-based discrimination within education (i.e the glaring rights violations) and technically be considered fully CRC compliant without addressing the more nuanced, structural gender-related educational issues that perpetuate systems of oppression.

This paper shares the view of academic commentators that there is a historic link between women's rights and children's rights.<sup>57</sup> This link is arguably testimony that discrimination against women has an adverse effect on children and the realisation of their own rights. Of course, that is not to say that women are simply conduits to the realisation of their children's rights, as has been asserted by authors like Christine Sylvester.<sup>58</sup> That is not the line of reasoning adopted by this paper. Instead, this paper focuses on the "interconnecting standards"<sup>59</sup> of CEDAW and the CRC as well as the "shared commitment"<sup>60</sup> of the respective Committees in the context of identifying, preventing, responding to and eliminating harmful and discriminatory practices. Indeed, there are significant advantages to reading the two instruments in conjunction, as they mutually reinforce each other in areas including the facilitation of access to state resources.<sup>61</sup> Access to (non-discriminatory) education is arguably one such state resource. When used together, the CRC and CEDAW better facilitate a comprehensive human rights-based approach while recognising the historical connection between women and children as victims of patriarchy

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<sup>53</sup> [Child Rights - CRC and its Four Guiding Principles](#) [accessed 30 June 2020]

<sup>54</sup> UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, Article 2(2)

<sup>55</sup> *ibid*, Article 28

<sup>56</sup> *Ibid*, Article 29(d)

<sup>57</sup> Burman E, *Beyond 'Women vs. Children' or 'Women and Children': Engendering Childhood and Reformulating Motherhood*, *International Journal of Children's Rights*, 16 (2008), at page 182

<sup>58</sup> C. Sylvester, *Homeless in International Relations: Women's Place in Canonical Texts and Feminist Re-Imagings*, (1998) pp. 44 - 66 in Phillips, A. (Ed.) *Feminism & Politics*. Oxford : Oxford University Press

<sup>59</sup> UNICEF, *CRC and CEDAW: Making the Connection Between Women's and Children's Rights: Facilitator's Guide*, at page 154

<sup>60</sup> UN Committee on the Rights of the Child (CRC) and UN Committee on the Elimination of Discrimination Against Women (CEDAW), *Joint general recommendation/general comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on harmful practices*, 14 November 2014, CEDAW/C/GC/31/CRC/C/GC/18, at para 1

<sup>61</sup> UNICEF, *CRC and CEDAW: Making the Connection Between Women's and Children's Rights: Facilitator's Guide*, at page 153

and discrimination.<sup>62</sup> In fact, CEDAW and the CRC need to be implemented in conjunction now more than ever, since it is set forth by this paper in chapter three that blatant gender discrimination has not at all been eradicated but has merely evolved into a subtler, more nuanced form that requires an equally delicate and nuanced approach.

Articles 2 and 3 of CEDAW (read also in conjunction with article 2 CRC) both impose a positive as well as a negative duty on State Parties, in that they are obliged to refrain from (in)directly perpetuating discrimination while taking positive steps to protect through policies and legislation. It is, thus, conceivable that CEDAW's core provisions of non-discrimination and equality also underpin the four pillars of the CRC: non-discrimination, best interests, the right to development and the right to participate. In that regard, it can be argued that if State signatories fail to correctly implement the core principles of one instrument (the CRC for example), the State has also failed on behalf of all other human rights instruments that impose the same obligations.

Although not child-specific, the provisions of CEDAW do address discrimination and education to some extent in articles 1, 5, 10. Article 1, as aforementioned, defines gender discrimination quite eloquently while article 5(a) obliges states to “modify the social and cultural patterns of conduct” in order to eradicate prejudices as well as discriminatory practices and stereotypes. Education is undoubtedly a vital part in the realisation of such an aim. If states are to affect meaningful changes in social and cultural norms, they must ensure that children are receiving a holistic, comprehensive education (both within the school environment and beyond) that rises above gender stereotypes. This is something that Sweden appears to have achieved with its norm-critical pedagogy model, which will be discussed in chapter five. Article 10 is exclusively devoted to non-discrimination in the context of education. States are obliged, *inter alia*, to ensure that children receive equal access to educational institutions as well as equal access to the same curricula and facilities.<sup>63</sup> Of particular interest for the purposes of this paper is article 10(c) that stipulates States' duty to eliminate “any stereotyped concept of the roles of men and women at all levels and in all forms of education”.<sup>64</sup> To achieve this, States are required to take any appropriate measures, including but not limited to, co-education<sup>65</sup> and reforming text-books and teaching methods. Article 10(c) CEDAW is the only hard law provision that mentions gender stereotyping in education and points to States as the primary duty bearers.

In addition to examining gender-biased education as a violation of children's fundamental and ESC rights, this paper also seeks to explore such bias as a form of mental violence or neglect which is covered by article 19 CRC. Article 19 sets out a positive obligation on States to take “all appropriate measures” in protecting children from such treatment. This analysis is based on the interpretations and guidance provided by the CRC Committee in GC 13, which will be elaborated on in the next section.

## Soft Law

It appears that within the non-binding, soft legal framework there is much more explicit and extensive reference to gender bias and gender stereotyping in the school environment.

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<sup>62</sup> UNICEF, *CRC and CEDAW: Making the Connection Between Women's and Children's Rights: Facilitator's Guide*, at page 158

<sup>63</sup> UN General Assembly, *Convention on the Elimination of All Forms of Discrimination Against Women*, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13, Article 10

<sup>64</sup> UN General Assembly, *Convention on the Elimination of All Forms of Discrimination Against Women*, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13, Article 10(c)

<sup>65</sup> Whereby male and female children are educated in the same classroom and receive the same curriculum

To begin with, the choice of the CRC Committee to devote its very first GC on the aims of education truly illustrates the importance of that right. Among other things, the GC builds on the provision in article 29(1)(d) that obliges State Parties to acknowledge that children's education is to be directed to the preparation for life in a society where there is, inter alia, gender equality. The Committee recognises that gender discrimination can be perpetuated by biased school curricula and school practices/policies that result in an educational environment inconsistent with articles 2, 28 and 29 CRC.<sup>66</sup> Although this thesis agrees with the CRC Committee's finding that girls are disproportionately affected by gender stereotyping in school environments<sup>67</sup>, this thesis would like to focus on both girl children and boy children, something that the Committee has not done. Gender biased education serves to discourage girls from pursuing subjects which are perceived to be "masculine" such as engineering, mathematics and natural sciences while at the same time, serves to discourage boys from studying "feminine" classes such as languages and social sciences.<sup>68</sup>

In the CRC's joint GC with CEDAW, both Committees declare childhood as the entry point for changing gender discrimination, identifying school as one of the avenues through which that can be achieved.<sup>69</sup> The GC also encourages schools (among other actors) to facilitate discussions on gender-linked stereotypical roles of men and women, social norms, attitudes and expectations. The Committees contend that highlighting the importance of education will trigger "personal and social change aimed at eliminating gender inequality"<sup>70</sup> and other harmful practices. To that effect, they recommend eliminating gender stereotypes from school curricula in the framework of empowering women and girls.<sup>71</sup> Although the joint GC does recognise the underlying causes of gender discrimination, it does not delve deeply into gender biases within the school environment, choosing rather to focus on educational realities of children (especially girls) in developing countries. Although such prioritisation is perhaps justified, this thesis argues that it is not the complete picture.

The CRC Committee has also stated that within their strategies to prevent gender-based violence, States must address all forms of gender discrimination in all settings, which includes gender stereotypes in schools and educational environments.<sup>72</sup> By mentioning such a State duty in a GC on the right to freedom from all forms of violence, it can be argued that the Committee recognises gender discrimination as a form of violence and gender stereotyping as a conduit to its perpetuation.

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<sup>66</sup> UN Committee on the Rights of the Child (CRC), *General comment No. 1 (2001), Article 29 (1), The aims of education*, 17 April 2001, CRC/GC/2001/1, at para 10

<sup>67</sup> *Ibid*; Joint general recommendation/general comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on harmful practices, 4 November 2014, CEDAW/C/GC/31-CRC/C/GC/18

<sup>68</sup> European Institute for Gender Equality, [A study of collected narratives on gender perceptions in the 27 EU Member States](#), 2013, at page 50; Protivínský T, Münich D, *Gender Bias in teachers' grading: What is in the grade*, Studies in Educational Evaluation, December 2018, Vol.59, pp.141-149

<sup>69</sup> Joint general recommendation/general comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on harmful practices, 4 November 2014, CEDAW/C/GC/31-CRC/C/GC/18, at para 67

<sup>70</sup> Joint general recommendation/general comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on harmful practices, 4 November 2014, CEDAW/C/GC/31-CRC/C/GC/18, at para 67

<sup>71</sup> *Ibid*, at para 69

<sup>72</sup> UN Committee on the Rights of the Child (CRC), *General comment No. 13 (2011): The right of the child to freedom from all forms of violence*, 18 April 2011, CRC/C/GC/13, at para 72

CEDAW has highlighted that “education plays a pivotal transformative and empowering role in promoting human rights values and is recognised as the pathway to gender equality”.<sup>73</sup> To that effect, the Committee sets out a tripartite framework of the right to education: the right to, within and through education<sup>74</sup>, identifying educational systems as an area through which the structural dimensions of gender discrimination can be addressed, in accordance to article 5(a) CEDAW.<sup>75</sup> Looking into the rights within education, which is the focus of this thesis, the CEDAW Committee reiterates the importance of school curricula that challenge social and gender norms but regrettably acknowledges that the school environment very often serves to reinforce gender stereotypes instead of working towards eliminating them.<sup>76</sup> As such, this thesis shares the views of the CEDAW Committee that gender stereotyping in curricula, textbooks and teaching processes<sup>77</sup> can act as a significant barrier to children claiming their right to education. The Committee also addresses the structural dimension of the implementation of article 5(a), stating that discrimination rooted in “prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women”.<sup>78</sup>

In a recent resolution, the HRC also recognised the importance of eliminating gender stereotypes from the school environment in order to ensure the equal enjoyment of the right to education by every girl.<sup>79</sup> The accompanying report elaborates further by identifying gender stereotypes about women as a huge obstacle to girls’ access to education.<sup>80</sup>

The ICESCR Committee has stated that the principle of non-discrimination forms part and parcel of the accessibility element of the right to education (the four A’s of the right to education).<sup>81</sup> Thus, in meeting their obligations under the right to education in the Convention, States must “remove gender and other stereotyping”<sup>82</sup>, which impedes children’s access to the right.

One of the MDGs’ goals was the promotion of gender equality and non-discriminatory education by addressing “gender parity in primary and secondary education”.<sup>83</sup> The SDGs have sought to expand on the foundations laid by the MDGs, arguably in a more children’s rights-based manner. Goal 4 of the SDGs foresees inclusive and quality education for all. Gender equality is

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<sup>73</sup>UN Committee on the Elimination of Discrimination Against Women (CEDAW), *CEDAW General Recommendation No. 36: The right of girls and women to education*, 2017, at para 1

<sup>74</sup>*ibid*, at para 14

<sup>75</sup>*ibid*, at para 26

<sup>76</sup>*ibid*, at para 16

<sup>77</sup>*ibid* at para 4

<sup>78</sup>*ibid*, at para 26

<sup>79</sup>Human Rights Council, Resolution 32/20, *Realizing the equal enjoyment of the right to education by every girl*, 30 June 2016, A/HRC/32/L.30/Rev.1, at page 4

<sup>80</sup> OHCHR, [Realisation of the equal enjoyment of the right to education by every girl](#), at paras 10-14

<sup>81</sup>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, E/C.12/1999/10, at para 6

<sup>82</sup>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, E/C.12/1999/10, at para 55

<sup>83</sup> [Millennium Development Goals](#), Goal 3

a large component of sustainable development and the targets of goal 4 attempt to reflect that. Although no explicit reference is made to gender stereotyping in the school environment, the targets seek to address “gender disparities in education”<sup>84</sup> and facilitate a “gender sensitive”<sup>85</sup> school environment in the spirit of inclusive and effective learning.

In general, it can be said that the CRC Committee has begun to pay more attention to the intersectionality of the principle of non-discrimination.<sup>86</sup> It appears that there is an increasingly noticeable attempt on behalf of the CRC Committee, as well as other treaty monitoring bodies to dismantle the “single-axis thinking”<sup>87</sup> that the international human rights framework has been engaging in thus far. This shift in perception on the international level seems to validate the notion that, in order to truly eliminate gender discrimination, all the pathways that lead to it must be examined so as to address the causes and not the effect. It is conceivable, then, that the child’s right to education can be considered one such pathway, making it even more crucial to pay attention to gender stereotyping within the school environment.

## 2.2 At the regional level

It appears that at European level, there seem to be more targeted efforts to encourage Member States to review and amend gendered, stereotypical school curricula that perpetuate discrimination.

The right to non-discrimination is mentioned twice in the ECHR, once in the main body of the Convention<sup>88</sup> and again in much more detail under Protocol 12.<sup>89</sup> Although the Convention makes no explicit mention of non-discrimination within education, it is made clear both times that the principle of non-discrimination underpins all other provisions under the ECHR, including the right to education under Article 2, Protocol 1. Interestingly, the right to education under the Convention has a negative formulation in that “no person shall be denied”<sup>90</sup> the right, which arguably implies a direct connection to the principle of non discrimination.<sup>91</sup> In order for the principle to be triggered, the differential treatment must be without legitimate aim and disproportionate.<sup>92</sup>

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<sup>84</sup> [Transforming our world: the 2030 Agenda for Sustainable Development](#), Goal 4, Target 4.5

<sup>85</sup> *Ibid*, Goal 4, Target 4.7(a)

<sup>86</sup> Joint general recommendation/general comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on harmful practices, 4 November 2014, CEDAW/C/GC/31-CRC/C/GC/18, at para 15; UN Committee on the Rights of the Child (CRC), *General comment No. 20 (2016) on the implementation of the rights of the child during adolescence*, 6 December 2016, CRC/C/GC/20, at para 21; Freeman M, “Introduction” in Michael D A Freeman (ed), *Law and Childhood Studies: Current Legal Issues Volume 14*, Oxford University Press, 2012

<sup>87</sup> Truscan I, Bourke-Martignoni J, *International Human Rights Law and Intersectional Discrimination*, Equal Rights Review, 2016

<sup>88</sup> Council of Europe, *European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14*, 4 November 1950, ETS 5, Article 14

<sup>89</sup> *Ibid*, Protocol 12

<sup>90</sup> Council of Europe, *Protocol 1 to the European Convention for the Protection of Human Rights and Fundamental Freedoms*, 20 March 1952, ETS 9, Article 2

<sup>91</sup> [Council of Europe, European Convention for the Protection of Human Rights and Fundamental Freedoms](#), Article 14

<sup>92</sup> *Belgian Linguistic case (No. 2)* (1968) 1 EHRR 252, at para 32; *Altınay v. Turkey* (2013), Application no. 37222/04

Although the ECtHR has not yet ruled on the specific question of whether or not gender stereotyping is illegitimate and disproportionate enough to be considered discrimination, it has given an inkling of guidance on what *can* constitute discrimination within the school environment. The Grand Chamber decision in *Lautsi*<sup>93</sup> provides that, when it comes to regulating religious symbols, Member States enjoy a considerable margin of appreciation in which the ECtHR or other supranational bodies will not intervene unless said regulations lead to violations of the ECHR or amount to indoctrination.<sup>94</sup> To that effect, the ECtHR found that the inclusion of a crucifix on the classroom wall, a symbol which the judges considered passive<sup>95</sup>, did not amount to indoctrination.<sup>96</sup> Although the subject matter in *Lautsi* has nothing to do with gender stereotyping, if the same judicial reasoning is applied when questioning whether gender stereotyping in the school environment amounts to discrimination, one may reasonably assume the ECtHR would find that it does not. However, what escaped the judges' analysis in *Lautsi* is that the influence of a religious symbol on children is not limited to the object itself but to the meaning assigned to it. In addition, the fact that the school council in question considered the presence of a crucifix in classrooms important enough to mandate its inclusion, alludes to the importance of both the object and its meaning, namely that of christianity. Conceivably, a likely outcome of such practice is children's internalisation of christianity as the default, making all other faiths deviations from the norm. It can be argued that an environment which enables "othering"<sup>97</sup> practices through religious symbolism or gender stereotyping is a breeding ground for discrimination and is contrary to the international and regional human rights framework. As will be elucidated in chapter three, children learn just as much from the non-verbal (behavioural or visual) messages around them, as they do from formal curricula.

The right to education under the ECHR also obliges States to respect the religious, ideological and philosophical views of parents. *Prima facie*, it can be interpreted that under the ECHR the primary rights holder when it comes to access to education is not the child but the parent, who will decide on behalf of the child what their education will look like, in line with their own beliefs and values. The ECtHR has attempted to temper the provision by stating that parental rights must be balanced with other ECHR rights and that there is no direct State duty to create schools congenial to parental beliefs.<sup>98</sup> On the contrary, the ECtHR has long maintained that States, in meeting their obligations surrounding the right to education, must ensure that the curriculum is taught in an objective, critical and pluralistic manner<sup>99</sup>, even if that goes against parental values.

The Istanbul Convention<sup>100</sup>, similarly to article 10(c) of CEDAW, elaborates on the importance of education not only in the realisation of non-discrimination and equality but also in the efforts to eliminate gender-based violence. This is very clearly stated in article 14:

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<sup>93</sup> *Lautsi and others v Italy* (2011) Application no. 30814/06

<sup>94</sup> *Ibid*, at para 68

<sup>95</sup> *Ibid*, per Judge Rozakis

<sup>96</sup> *ibid*, at para 71

<sup>97</sup> "a set of dynamics, processes, and structures that engender marginality and persistent inequality across any of the full range of human differences based on group identities. Dimensions of othering include, but are not limited to, religion, sex, race, ethnicity, socioeconomic status (class), disability, sexual orientation, and skin tone.", in [The Problem of Othering: Towards Inclusiveness and Belonging](#) [accessed 30 June 2020]

<sup>98</sup> *Appelrang v. Germany*, (2009) Application No. 45216/07

<sup>99</sup> *Kjeldsen, Busk Madsen and Pedersen* (1976) 1 E.H.R.R. 737

<sup>100</sup> Council of Europe, *The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence*, November 2014, ISBN 978-92-871-7990-6

"Parties shall take, where appropriate, the necessary steps to include teaching material on issues such as equality between women and men, non-stereotyped gender roles, mutual respect, non-violent conflict resolution in interpersonal relationships, gender-based violence against women and the right to personal integrity, adapted to the evolving capacity of learners, in formal curricula and at all levels of education."<sup>101</sup>

Therefore, the Istanbul Convention appears to really echo the international children's rights framework in that it obliges Member States to not only guarantee the right to education is met but to also ensure that the content of such education is in line with the principle of non-discrimination and gender equality. The Convention arguably also encourages States to introduce norm critical thinking into national educational models, always in light of children's evolving capacities. Perhaps it can be said that the Istanbul Convention was drafted with the provisions of the CRC and CEDAW in mind.

Furthermore, the European Parliament has recognised that "(gender) stereotypes are conveyed both by teachers (willingly or not) and by the educational support material teachers are given"<sup>102</sup>, identifying gender biased curriculum as a very influential factor on gender discrimination and, consequently, access to other (children's) rights. The Parliament also stated that the gender stereotypes still persisting within the school environment have "serious repercussions on the labour market, limiting career diversification".<sup>103</sup>

To that effect, the education and training 2020 strategic framework (ET2020) was adopted in 2009 as a guideline for Member State education policy up to the year 2020.<sup>104</sup> Although the framework shows quite some promise, the level of this strategy's success remains to be seen, pursuant to the data collected in the past decade. Nevertheless, it is the view of this paper that ET2020 was a considerable improvement from the EC's 2008 Communication<sup>105</sup> regarding non-discrimination and equal opportunities. Even though the Communication recognised the harm of gender stereotypes and acknowledged that education and training can be a tool to eradicate such practices in every setting<sup>106</sup>, the content was arguably very adult-centric, with little to no focus on children. On top of that, the Communication gave complete discretion to Member States to tailor their own discrimination policies and decide what constitutes discriminatory practice. While recognising the importance of the margin of appreciation in adapting international human rights principles to the individual domestic reality of each State, this paper contends that the margin here is far too wide, contradicting the EU philosophy of commonality. In contrast, ET2020 devotes a considerable section to early childhood education (which is beyond the scope of this thesis) and schools (primary and secondary education). Within the school policy, the main focus is on "lifelong learning" which is rooted in inclusivity. Strategies include redesigning curricula, training teaching staff and enhancing access to learning tools and resources.<sup>107</sup>

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<sup>101</sup> Council of Europe, *The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence*, November 2014, ISBN 978-92-871-7990-6, Article 14

<sup>102</sup> [European Parliament, Committee on Women's Rights and Gender Equality, Report on eliminating gender stereotypes in the EU \(2012/2116\(INI\)\), 2012](#), at page 6

<sup>103</sup> *Ibid*

<sup>104</sup> [ET2020 Framework](#) [accessed 10 June 2020]

<sup>105</sup> [Commission of the European Communities, Communication From The Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Non-discrimination and equal opportunities: A renewed commitment, {SEC\(2008\) 2172}](#)

<sup>106</sup> *Ibid*, at page 6

<sup>107</sup> [About school policy | Education and Training](#) [accessed 10 June 2020]

Most recently, the EC has initiated a campaign to encourage girls to undertake STEM subjects<sup>108</sup> and pledged to fund the Rights, Equality and Citizenship Programme and focus on “overcoming rigid gender roles and stereotypes”<sup>109</sup> in all settings. The EU Education Ministers and the Commissioner for education also pledged to take more meaningful actions to promote gender equality in education.<sup>110</sup>

### 2.3 Reality on domestic levels

Despite the multitude of binding and persuasive legal instruments calling on States to take action against discriminatory and gender biased education within their own territories, there are several States that continue to impose gender stereotypes on children directly through school curricula and indirectly by unconsciously enabling gender biased attitudes within the school environment to persist. This section will briefly illustrate this by providing some examples of measures implemented by some States to tackle gender stereotyping within the school environment. Of course, efforts have had varying degrees of success.

In Cyprus, the Pedagogical Institute of the Ministry of Education and Culture has reformed the training of teaching staff in order to foster a model of inclusive education, which includes training teachers on how to dismantle gender stereotypes in the classroom.<sup>111</sup> This initiative forms part of the national action plan on gender equality<sup>112</sup> which strives to implement a holistic and systematic approach to gender equality policies in education. As promising as all that sounds, however, the latest country report on Cyprus shows considerable underachievement in areas of gender equality<sup>113</sup> and quality of education<sup>114</sup>, which reflects underperformance vis-a-vis SDGs 4 and 5.

The prevalence of school subjects such as home economics have declined over the years, mainly due to the gender biases associated with the curriculum. Ireland is one of the States which have chosen to amend the home economics curriculum to be more inclusive and use the subject as a tool to address gender stereotyping.<sup>115</sup> However, recent national statistics have shown that girls were much more likely to undertake home economics than boys, with 8,068 girls compared to 687 boys.<sup>116</sup> Although this paper espouses the view that home economics has the potential to be a highly useful subject for children of any gender who may not otherwise

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<sup>108</sup> ['Science: it's a girl thing!': Launch of 'Women in Research and Innovation' campaign](#) [accessed 10 June 2020]

<sup>109</sup> [European Commission, Strategic Engagement for Gender Equality 2016-2019](#) [accessed 10 June 2020]

<sup>110</sup> [Declaration on Promoting citizenship and the common values of freedom, tolerance and non-discrimination through education](#), 2015 [accessed 10 June 2020]

<sup>111</sup> [Cyprus Pedagogical Institute and Teachers' Professional Learning on citizenship, inclusive and antiracist education](#) [accessed 10 June 2020]

<sup>112</sup> [Στρατηγικός Σχεδιασμός για την Ισότητα Ανδρών και Γυναικών 2018-2020](#) [accessed 10 June 2020]

<sup>113</sup> [2020 European Semester: Assessment of progress on structural reforms, prevention and correction of macroeconomic imbalances, and results of in-depth reviews under Regulation \(EU\) No 1176/2011, Country Report Cyprus, 26 February 2020](#), at page 44

<sup>114</sup> *ibid*, at page 14

<sup>115</sup> [Home Economics Guidelines for Teachers; Home Economics Scientific & Social Syllabus - Leaving Certificate Syllabus](#) [accessed 10 June 2020]

<sup>116</sup> [Central Statistics Office, Women and Children in Ireland 2016: Education](#) [accessed 10 June 2020]

have an opportunity to learn useful life and household skills<sup>117</sup>, the Irish statistics are quite troublesome.

## 2.4 Concluding thoughts

This chapter has attempted to tackle the first three sub-questions posed in chapter one:

- What is the CRC's legal conceptualisation of gender discrimination in education?
- Does gender stereotyping fall within that conceptualisation?
- What, then, are the international obligations of States?

With regards to the first sub-question, the CRC (like all other binding international human rights instruments) adopts a rather generalised and broad conception of discrimination, which of course includes gender-based discrimination. That being said, unlike in other treaties, non-discrimination forms one of the CRC's four guiding principles<sup>118</sup>, which means all other provisions are to be interpreted and implemented in light of the principle of non-discrimination. It can therefore be said that non-discrimination on the basis of sex underpins the right to education under articles 28 and 29 CRC. However, the breadth of non-discrimination conceivably comes at the expense of addressing the more nuanced, institutional and internalised forms of gender discrimination, of which gender stereotyping in the school environment arguably forms a considerable part. In the soft international legal framework, the CRC Committee seems to be increasingly vocal about eliminating the underlying causes of gender discrimination, including gender stereotyping in schools, highlighting the importance of education in that regard.<sup>119</sup> It can therefore be said that gender stereotyping does indeed fall within the scope of the CRC's legal conceptualisation of gender discrimination in education, albeit in the non-binding commentary.

Nevertheless, it can be said that the international hard law in general, including the CRC, seems to hit a rather low ceiling when it comes to addressing the more structural and inherent forms of gender discrimination in education, like gender stereotyping. In turn, it becomes quite difficult for a State to intervene in matters that are not manifestly clear violations of a right. As such, it can be considered that as long as there is no explicit and binding duty to eradicate gender bias and stereotyping within the school environment, States do not have a clear international obligation in that regard and thus cannot be held accountable for not doing so. As a result, subtle forms of gender bias continue to be perpetuated in school environments, teaching children to think in binaries and norms, arguably limiting their capacity to realise their full identity and potential<sup>120</sup>, based solely on the fact that they were born male or female. To navigate around this matter, one must look at how far the hard law takes us, how much further the soft law takes us and then zoom out to the bigger societal picture, examining any further (academic) commentary, in order to paint a complete picture of how to evolve beyond this status quo. For this reason this thesis will now move on to provide the perspectives of sociologists, psychologists as well as pedagogists and attempt to relate their findings back to the legal, children's rights framework.

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<sup>117</sup> Amato E, [Want to break gender stereotypes? Teach boys home economics](#). 2014 [accessed 9 June 2020]

<sup>118</sup> [Child Rights - CRC and its Four Guiding Principles](#) [accessed 5 July 2020]

<sup>119</sup> UN Committee on the Rights of the Child (CRC), *General comment No. 1 (2001), Article 29 (1), The aims of education*, 17 April 2001, CRC/GC/2001/1; Joint general recommendation/general comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on harmful practices, 4 November 2014, CEDAW/C/GC/31-CRC/C/GC/18

<sup>120</sup> [Realisation of the equal enjoyment of the right to education by every girl](#), at para 52; Committee on the Rights of the Child, general comment No. 20 (2016), paras. 33-34, 48 and 70; A/ HRC/29/23, paras. 55-57

It is also worth noting that the current framework aiming to dismantle gender biased educational systems is largely “premised upon the notion of gender as a fixed, unitary category and nurture(s) dichotomous, dualistic concepts of masculinity and femininity.”<sup>121</sup> It is argued here that the conceptualisation of gender as a binary rather than a fluid spectrum only takes the advancement of the right to (non-discriminatory) education so far. By limiting efforts for equality to the masculine-feminine binary, the issue of gender-based violence rooted in stereotyping is not completely addressed as the children who are not represented by the binary are left out of this equation.

### 3. The extent of gender biased education

This section aims to explore just how deeply ingrained gender norms are within formal education by providing some historical context to school curricula, before moving on to comment on school textbooks as well as dress code policies. This section will also elaborate on the effect teachers’ own stereotypical attitudes about gender can impact the education of children.

In 2014, the EIGE conducted a survey<sup>122</sup> about gender stereotyping across several European countries (see Appendix 3). The question posed was a simple one: “Where are gender stereotypes most widespread?”, with schools as one of the possible options. Sweden scored the highest percentage by voting the most for schools as the top location where gender stereotyping takes place. 30.9% of Swedish women and 24.4% of Swedish men believe that the school environment is where gender stereotypes are most widespread. Although *prima facie* a surprising finding, this thesis interprets from EIGE’s survey that it is perhaps due to Swedish citizens’ recognition of the issue that the Swedish government was able to better respond by approving a norm critical educational model. With this model, which will be discussed further in chapter five, this thesis finds that Sweden has gone some way to align itself with the international legal framework of non-discriminatory education.

Across Europe, boys appear to be underachieving in reading (see Appendix 4) compared to girls<sup>123</sup>, but appear to excel more than girls at processing computer-based information, shorter, non-continuous text such as newspaper articles or comics.<sup>124</sup> Gender stereotyping in the school environment, dictating which school subjects are “masculine” or “feminine”, has perhaps had some influence on these statistics.<sup>125</sup>

The rational follow-up question to the above findings is how? How do children end up perceiving some school subjects or activities as masculine or feminine? It has been firmly established that gender-specific behaviour is not a biologically predetermined factor.<sup>126</sup> This means that children

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<sup>121</sup>Jackson S, ‘*She might not have the right tools... and he does*’: children’s sense-making of gender, work and abilities in early school readers, *Gender and Education*, 2007 19:1, 61-77

<sup>122</sup> [European Institute on Gender Equality. Were are gender stereotypes more widespread?, 2014](#) [accessed 10 June 2020]

<sup>123</sup> [PISA 2018 and the EU - Striving for social fairness through education \(research note\)](#) [accessed 10 June 2020]

<sup>124</sup> Smith, M. and Wilhelm, J. (2012). ‘Reading don’t fix no Chevys’: Literacy in the lives of young men, Portsmouth: Boynton/Cook.

<sup>125</sup> Pansu, P. Regner, I. Max, S. Cole, P., Nezelek, J. B. and Huguet, P. (2016). A burden for the boys: Evidence of stereotype threat in boys’ reading performance. *Journal of Experimental Social Psychology*, 65, pp. 26-30. Marcenaro-Gutierrez, O. Lopez-Agudo, L. Ropero-Garcia, M. (2018). Gender Differences in Adolescents’ Academic Achievement. *Young*, 26 (3), pp. 250-270.

<sup>126</sup> Burke, J, *He, she, and me: How elementary children construct gender and race in the context of an anti-bias curriculum*, 2017, at page 12

*learn* to perform their assigned genders and it is only from surrounding social stimuli that they begin to identify things as inherently masculine or feminine.<sup>127</sup>

### 3.1 Brief history

Taking a glance at the history of women's education offers a way to understand how gender stereotypes have endured throughout the evolution of curricula.<sup>128</sup> While education is arguably the main channel through which societies propagate dominant beliefs and values, it paradoxically also serves as a catalyst for change.

In the United States, the blueprint of the school curriculum still used today was developed "by men for the public life of men".<sup>129</sup> Approximately until the 20th century, the main objective of primary and secondary education was to prepare young, privileged boys for higher education. The girl child was largely left out of this equation.

In medieval Europe, girls' education was typically accessed through a convent and the information was rooted in religious ideology.<sup>130</sup> This remained the case until the late 16th century, by which time the Reformation movement sparked concerns for the lack of compulsory, secular education for girls.<sup>131</sup> Despite debates on the matter, girls remained largely deprived of education until the 18th century and even then, religious doctrine still underpinned European curricula.<sup>132</sup> By the 19th century there was still an immense literacy gap between boys and girls, as boys' education continued to be prioritised over girls' throughout Europe.<sup>133</sup> Well into the 19th century, education for the girl child was reserved for those privileged enough to afford private tutors.<sup>134</sup> By the 1800's, industrialisation gave rise to the need for an efficient, docile workforce and women were increasingly becoming crucial to meeting this need. This meant that girls could access education, mostly in single-sex schools, in order to learn how to be a good wife, mother and worker.<sup>135</sup> Although girls' access to education showed incremental improvements over the centuries, the curriculum girls received was based on what historians refer to as domestic ideology, which was designed to emphasise women's qualities, namely sensitivity, emotionality and maternal instincts, all of which pointed to the notion that a woman's natural place is within the family.<sup>136</sup> This is, by definition, gender biased curriculum. It can be said that female-specific curriculum was never formally repealed but was gradually diluted, with the prevalence of gendered curricula waxing and waning in intensity, according to the dominant socio-political

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<sup>127</sup> [European Commission, \*Gender and Education \(and Employment\): Gendered imperatives and their implications for women and men lessons from research for policy makers, 2009\*](#), at page 13

<sup>128</sup> Rogers R, *Learning to be Good Girls and Women: Education, Training and Schools*, in Simonton D, *The Routledge History of Women in Europe since 1700*, First Edition, 2007

<sup>129</sup> Noddings N, *Education and Democracy in the 21st Century*, Teachers College Press, 2013, Chapter 6, at page 67

<sup>130</sup> Schulenburg, J, *Forgetful of their Sex: Female Sanctity and Society, ca. 500-1100*, University of Chicago Press, 1998. p. 98-99

<sup>131</sup> Sascha O. Becker, Ludger Wößmann, [Luther and the Girls: Religious Denomination and the Female Education Gap in 19th Century Prussia](#), 2008 [accessed 11 June 2020]

<sup>132</sup> Rogers R, *Learning to be Good Girls and Women: Education, Training and Schools*, in Simonton D, *The Routledge History of Women in Europe since 1700*, First Edition, 2007, at page 102

<sup>133</sup> *ibid*, at page 103

<sup>134</sup> *Ibid*

<sup>135</sup> Rogers R, *Learning to be Good Girls and Women: Education, Training and Schools*, in Simonton D, *The Routledge History of Women in Europe since 1700*, First Edition, 2007, at page 94

<sup>136</sup> *ibid*, at page 107

reality.<sup>137</sup> Indeed, around the middle of the 20th century, during conservative authoritarian regimes, domestic ideology curricula experienced a resurgence with the subordination of women being explicitly part of the political agenda.<sup>138</sup>

Across Europe, girls were largely educated in single-sex schools well into the 20th century and single-sex education still continues today, although it is, for the most part, associated with the private sector.<sup>139</sup> Single-sex education goes slightly beyond the scope of this thesis, but it is, nevertheless, worth mentioning that the persistence of single-sex schools is arguably rooted in gender bias and stereotypical attitudes. For instance, the notion that female brains process information differently than males which warrants segregated, gender specific education<sup>140</sup>, is a commonly cited justification for single-sex education and has been refuted innumerable times.<sup>141</sup>

Taking into consideration that, *ab initio*, education was not designed to be accessed by girls, it can be said that gender-bias in education is indeed deeply rooted in gender stereotypes and that gender discrimination has always been intersectional.

### 3.2 Teacher-student interactions

The gender gap identified in STEM subjects, with more boys pursuing practical, scientific fields compared to girls<sup>142</sup>, has been primarily attributed to the stereotypical manner in which young students are socialised in the school environment. Teachers appear to be encouraging boys to pursue STEM more than girls.<sup>143</sup> In that regard, an additional gap has been identified, namely that (on average) girls appear to outperform boys in languages while boys outperform girls in mathematics.<sup>144</sup> This gender bias in grading can be attributed to stereotypical teacher-student interactions.<sup>145</sup> These findings are extremely important, as they can influence children's later-life outcomes such as choices in higher education and career.<sup>146</sup> Perhaps then, it is not such a stretch of the imagination to conclude that the gender gaps in school subjects and grading are directly related to the persisting gender pay gap between men and women. This thesis argues that gender gaps in the school environment amount to gender discrimination which negatively

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<sup>137</sup> Rogers R, *Learning to be Good Girls and Women: Education, Training and Schools*, in Simonton D, *The Routledge History of Women in Europe since 1700*, First Edition, 2007, at pages 117, 122

<sup>138</sup> *ibid*

<sup>139</sup> *ibid*, at pages 123-124

<sup>140</sup> [How Boys and Girls Learn Differently](#), 2007 [accessed 11 June 2020]

<sup>141</sup> Elliot L, *Single-Sex Education and the Brain*, *Sex Roles* (2013) 69, 363–381; Pahlke, E, Shibley-Hyde J, Carlie A.M, *The effects of single-sex compared with coeducational schooling on students' performance and attitudes: A meta-analysis*, 2014, *Psychological Bulletin*, 140 (4): 1042–1072

<sup>142</sup> Organisation for Economic Co-operation and Development, *Closing the Gender Gap: Act Now*, 2012 [accessed 12 June 2020]

<sup>143</sup> Carlana M, *Implicit Stereotypes: Evidence from Teachers' Gender Bias*, *The Quarterly Journal of Economics*, Volume 134, Issue 3, August 2019, Pages 1163–1224, at page 1165; UNDP, [TACKLING SOCIAL NORMS](#), 2020 [accessed 14 June 2020]

<sup>144</sup> Protivínský, T ; Münich, D, *Gender Bias in teachers' grading: What is in the grade*, *Studies in Educational Evaluation*, December 2018, Vol.59, pp.141-149

<sup>145</sup> Falch, T., & Naper, L, *Educational evaluation schemes and gender gaps in student achievement*, 2013, *Economics of Education Review*, 36(C), 12-25.

<sup>146</sup> Carlana M, *Implicit Stereotypes: Evidence from Teachers' Gender Bias*, *The Quarterly Journal of Economics*, Volume 134, Issue 3, August 2019, Pages 1163–1224, at page 1168

affects children's access to education on an equal basis. It is contended that the CRC and international human rights law in general, need to more explicitly address these educational gender gaps as soon as they arise during childhood. It is thus put forward by this thesis that, in order for States to fulfil their obligations under articles 2, 28 and 29, they must have an explicit duty to address the root causes of gender discrimination through curricular amendments and better training of teaching staff.

Teachers' own biases communicated (consciously or unconsciously) in the classroom can also play a significant role in reinforcing gender stereotypes and discriminatory norms in the minds of young children.<sup>147</sup> A study conducted by Katherine Clarricoates revealed that, in an effort to control and discipline students, teachers tend to “draw upon their underlying assumptions about sex-roles”.<sup>148</sup> Clarricoates found that teachers seemed to accept or even commend certain stereotypical patterns of behaviour, at times “gearing the...content of lessons in favour of boys”<sup>149</sup>, all the while being completely unaware they are doing so. She terms the subtle, mundane and implicit biases of teachers as the “hidden curriculum”. Clarricoates further contends that male and female students pick up on behavioural cues from their teachers' stereotypical attitudes and gender differentiations, which lead to the “unfolding of a self-fulfilling prophecy”<sup>150</sup> that students' educational interests and academic performance are inherently determined by their sex.<sup>151</sup> In addition, the stereotypical language used by teachers when disciplining or praising their students also serves to shape children's perceptions of gender. Teachers seem to elevate what is perceived as masculine behaviour and condemn what is typically associated with feminine behaviour, referring to boys who misbehave as “boisterous” or “assertive” and calling misbehaving girls “fussy” or “catty”.<sup>152</sup> This thesis fully espouses Clarricoates' conclusion that “teachers must come to terms with their worst failing, that of not challenging the categories and perception of what behaviour is appropriate for girls and boys.”<sup>153</sup> However, as will be elaborated in the next section, this thesis does not completely agree with her assertion that official curricula are not inherently biased in and of themselves.

This thesis thus contends that teachers' practices, despite the aforementioned pan-European initiatives to encourage otherwise, amount to gender-bias which negatively affects student performance and, to a certain extent, makes access to certain educational content conditional upon gender. This is contrary to the vision outlined in the international human rights framework and particularly goes against articles 28 and 29 CRC in conjunction with article 2.

### 3.3 Curriculum: women erased from history

In her study, Clarricoates also identified another way in which the formal school environment proliferates gender bias through stereotyping: linguistic sexism. This refers to the language which is contained in school books as well as the terms and pronouns used by teachers while presenting the formal curriculum. Clarricoates asserts that “girls see through the school-book world and subject content that they do not create history, man does; thereby they assume that

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<sup>147</sup> [Education | European Institute for Gender Equality](#) [accessed 10 June 2020]

<sup>148</sup> Clarricoates, K, *'Dinosaurs in the classroom'-a re-examination of some aspects of the 'hidden' curriculum in primary schools*, 1978, *Women's Studies International Quarterly*, 1(4), at page 353

<sup>149</sup> *Ibid*, at page 356

<sup>150</sup> *Ibid*, at page 359

<sup>151</sup> *ibid*

<sup>152</sup> *Ibid*

<sup>153</sup> *ibid*, at page 357

they cannot transform their world, whereas man can.”<sup>154</sup> Although it may not exactly look like discrimination per se in the classroom, it certainly seems that such practices amount to gender discrimination, in contravention of article 2 CRC.

But, it is not just the language of school books that amounts to a gender-biased curriculum. It is also their content, or rather, the lack thereof. It has been asserted that women and their contributions have been systematically erased from history books.<sup>155</sup> Amanda Foreman’s groundbreaking documentary “The Ascent of Woman”<sup>156</sup> arguably illustrates how meaningful societal roles played by women have been ignored and left out of the global historical narrative. The fact that this considerable part of history is not mainstreamed in national curricula only serves to perpetuate structural gender discrimination within education.<sup>157</sup> A UK study conducted in 1994 found that visual images of men in primary school history books far exceeded images of women.<sup>158</sup> This finding is in spite of the wealth of resources that document the lives and contributions of women, which raises the question of the extent and depth of textbook authors’ own research as well as the willingness to produce a gender-balanced account of history with which to inform children.<sup>159</sup> An interesting point raised by the study is that the majority of history textbook authors are male and “until more women are encouraged to write history textbooks, students in school are likely to continue to see history largely through the eyes of men”.<sup>160</sup>

Although the aforementioned study is not extremely recent, this thesis contends that it remains relevant. On the contrary, much of what has been said in the study arguably still holds true today. For instance, in the UK Department of Education’s national history curriculum for ages 5-14, which outlines what topics children should be taught in history class, women are only mentioned once (specifically, the women’s suffrage movement) and in the non-statutory (i.e non-mandatory) examples.<sup>161</sup> More recent studies also corroborate the findings of gender bias in textbooks, noting that history textbooks “largely portray women as passive bystanders in the world’s events.”<sup>162</sup> Some textbooks devote a chapter to women’s history under the subheading “women” in their index, but do not do the same for men.<sup>163</sup> This arguably communicates to young students that women’s history is an interesting digression but not important enough to form part of the main text.<sup>164</sup> It can be argued that a complete overhaul and redrafting of history

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<sup>154</sup> Clarricoates, K, *‘Dinosaurs in the classroom’-a re-examination of some aspects of the ‘hidden’ curriculum in primary schools*, 1978, *Women’s Studies International Quarterly*, 1(4), at page 360

<sup>155</sup> [“Women’s historical contributions are still ignored” I Kilden; The women we erased from history](#) [accessed 13 June 2020]; Olser A, *Still Hidden from History? The representation of women in recently published history textbooks*, *Oxford Review of Education*, 01 January 1994, Vol.20(2), pp.219-235; Fry T, Hofelt B. S, *Where Are All the Women? Gender Bias Persists in Social Studies Texts*, *The Advocate*, 2012, Vol.20(2)

<sup>156</sup> [The Ascent of Woman](#) [accessed 13 June 2020]

<sup>157</sup> [Education | European Institute for Gender Equality](#) [accessed 10 June 2020]

<sup>158</sup> Olser A, *Still Hidden from History? The representation of women in recently published history textbooks*, *Oxford Review of Education*, 01 January 1994, Vol.20(2), pp.219-235, at page 223

<sup>159</sup> *Ibid*, at page 227

<sup>160</sup> *Ibid*, at page 230

<sup>161</sup> [National curriculum in England: history programmes of study, 2013](#) [accessed 13 June 2020]

<sup>162</sup> Hickey, G. M. & Kolterman, D. L, *Special Women in My Life: Strategies for Writing Women into the Social Studies Curriculum*, 2006, *Social Education*, 70(4), 190- 196.

<sup>163</sup> Fry T, Hofelt B. S, *Where Are All the Women? Gender Bias Persists in Social Studies Texts*, *The Advocate*, 2012, Vol.20(2)

<sup>164</sup> *ibid*

textbooks is an extremely necessary but costly procedure.<sup>165</sup> However, this thesis contends that, like many other under-implemented ESC rights, the issue lies not with concerns for lack of funding or resources but rather with a lack of priority on behalf of States to invest in the egalitarian education of their citizens.

How will children learn to challenge gender stereotypes if they do not read about individuals in history who have risen to that same challenge? This thesis posits that State approved history curricula that relay events from one perspective should be construed as incomplete fulfilment of the obligations in articles 28 and 29 CRC.

### 3.4 School dress codes

This section will briefly discuss yet another way in which gender bias and stereotyping is perpetuated in the school environment: dress codes. The general term “dress code” is preferred over the term “uniform” because this thesis considers that schools which do not mandate specific uniforms also engage in the unnecessarily gendered regulation of children's sartorial choices.

It has been contended that even seemingly neutral school dress code policies “disproportionately target, shame, and punish girls”.<sup>166</sup> Particularly problematic is the most common justification for controlling children's and especially girls' clothing. In many schools, leggings, shorts or tank-tops are banned for being “too distracting” to male students.<sup>167</sup> These regulations trigger concerns of gender stereotyping, the sexualisation of female children and institutionalised gender discrimination. This sexualisation, which is a direct consequence of gender dress codes, has an adverse effect on girls' “cognitive and physical function, mental and physical health, sexuality and their attitudes and beliefs about gender and sexual roles.”<sup>168</sup> It is argued that strict policing of children's bodies through heteronormative dress codes “increase(s) the overall incidence of sexism and bias, limit(s) girls' educational aspirations and performance, and contribute(s) to the harassment, violence, and exploitation of girls.”<sup>169</sup>

Through the imposition of gendered dress codes, children of both sexes are arguably obliged to perform the stereotypes they are told to abide by and are taught to think of themselves (and the world) in binary terms. By unnecessarily policing children's bodies and self-expressions, it is argued that the right to education is negatively affected in several ways. For instance, spending too much time scrutinising students' appearance and disciplining contraventions means less time to concentrate on improving the content and delivery of educational curricula. Consequences for breaking school rules result in a loss of meaningful school time, ranging from hours of detention to even a full day suspension.<sup>170</sup>

Most school dress codes are inherently gendered, which encourages students to behave and learn in a gendered way, which arguably goes against articles 28 & 29 CRC. The CRC Committee has stressed that States, in implementing the right to education, must ensure that

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<sup>165</sup> Fry T, Hofelt B. S, *Where Are All the Women? Gender Bias Persists in Social Studies Texts*, The Advocate, 2012, Vol.20(2)

<sup>166</sup> Valenti J, [Enforcing school dress codes teaches girls to be ashamed, not 'modest'](#), 2014; Pavlakis A, Roegman R, [How dress codes criminalize males and sexualize females of color](#), 2018 [accessed 13 June 2020]

<sup>167</sup> Valenti J, [Enforcing school dress codes teaches girls to be ashamed, not 'modest'](#), 2014 [accessed 14 June 2020]

<sup>168</sup> Harbach M. J, *Sexualization, Sex Discrimination, and Public School Dress Codes*, University of Richmond La Faculty Publications, 2016, at page 1042

<sup>169</sup> *ibid*

<sup>170</sup> Pavlakis A, Roegman R, [How dress codes criminalize males and sexualize females of color](#), 2018 [accessed 14 June 2020]

the school environment must “reflect the freedom and the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all people”.<sup>171</sup> In that regard, the connection between education and non-discrimination has never been clearer. The Committee stresses that intolerance and discrimination “thrive where there is ignorance (and) unfounded fears of (any) form of difference”.<sup>172</sup> Gendered dress codes seem to send the complete opposite message to children: they will be punished for deviating from established norms. This arguably creates ample breeding ground for intolerance and discrimination.

#### 4. The role of education in gender-based violence

This section will investigate whether a school environment in which gender stereotyping and bias prevail, is an environment that enables both physical and structural forms of violence, against which the CRC Committee has extensively spoken.

Article 19 CRC provides for the right of the child to be free from “all forms of violence”<sup>173</sup> and the CRC Committee has highlighted the need for a holistic child protection system which includes, inter alia, “participation and non-discrimination”.<sup>174</sup> The Committee has therefore recognised that discrimination is a form of violence that children need to be safeguarded from.

Other international human rights bodies also seem to acknowledge that stereotypical attitudes in education create an enabling environment for gender-based violence, harassment and bullying. The CRC and CEDAW joint GC makes the connection between gender stereotypes and discriminatory practices that often involve (physical) violence.<sup>175</sup> The CRC Committee has highlighted that discrimination and violence often have a gender component<sup>176</sup> and that “States should address all forms of gender discrimination (including gender stereotypes) as part of a comprehensive violence-prevention strategy”.<sup>177</sup> The Committee stressed the importance of “challenging attitudes which perpetuate the tolerance and condoning of (gender-based) violence”<sup>178</sup> in the efforts to address the root causes of gender-based violence, recognising that the school curriculum is one such way to do so.<sup>179</sup> The CoE has made the role of education abundantly clear in the efforts to eradicate gender-based violence, highlighting in particular that States’ teaching materials and curricula must emphasise non-stereotypical gender roles.<sup>180</sup> This

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<sup>171</sup> UN Committee on the Rights of the Child (CRC), *General comment No. 1 (2001), Article 29 (1), The aims of education*, 17 April 2001, CRC/GC/2001/1, at para 19

<sup>172</sup> *ibid*, at para 11

<sup>173</sup> UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3

<sup>174</sup> UN Committee on the Rights of the Child (CRC), *General comment No. 13 (2011): The right of the child to freedom from all forms of violence*, 18 April 2011, CRC/C/GC/13, at para 11(d)

<sup>175</sup> Joint general recommendation/general comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on harmful practices, 4 November 2014, CEDAW/C/GC/31-CRC/C/GC/18

<sup>176</sup> UN Committee on the Rights of the Child (CRC), *General comment No. 13 (2011): The right of the child to freedom from all forms of violence*, 18 April 2011, CRC/C/GC/13, at para 19

<sup>177</sup> *ibid*, at para 72(b)

<sup>178</sup> *ibid*, at para 47(a)(i)

<sup>179</sup> UN Committee on the Rights of the Child (CRC), *General comment No. 13 (2011): The right of the child to freedom from all forms of violence*, 18 April 2011, CRC/C/GC/13, at para 44

<sup>180</sup> Council of Europe, *The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence*, November 2014, ISBN 978-92-871-7990-6, Article 14

provision is very much in line with the philosophy of the CRC as a whole and article 29 in particular and arguably elaborates on the foundations set by the CRC Committee.

It is conceivable that gender-based violence can take physical (bullying, sexual harassment and abuse), mental (sexist language, verbal harassment, bullying) and structural forms (gender biased curriculum, performance gaps). All of this can result in school dropouts, increased absenteeism and low academic performance as well as long term physiological trauma, low self-esteem, depression and self harm.<sup>181</sup> Research has revealed that children of both sexes are vulnerable to the effects of school related gender-based violence and that gender norms, perpetuated by gender stereotypes, underpin such violence.<sup>182</sup> This in turn prevents the realisation of the right to quality education for all.<sup>183</sup>

## 5. Divergent interpretations and implementation

Few will contest the idea of school environments being spaces free of (gender) biases, discrimination and stereotypes. However, there are a multitude of opinions on how that should be achieved and what such a school environment should look like. How should States amend school curricula? How should teachers be trained? What kind of interactions and connections should be facilitated between peers in order to instil this philosophy in the minds of young school children?

This section will delve into how several States have implemented their own interpretations of a gender-sensitive school environment.

### 5.1 Interpretations

Despite the decades of efforts to advance women's rights and gender equality, gender bias is on the rise in some countries (see Appendix 5, "Figure 7").<sup>184</sup> Worldwide, attitudes and views from both sexes, but especially from women, have been notably regressive (see Appendix 5, "Table 3"). It can therefore be inferred that many societal structures, at their core, are still not ready to accept the notion of a non-gendered education. Gender stereotypes are still far too ingrained and bias far too internalised. This is rather paradoxical, given that when asked, most people today will say discrimination is wrong and access to education should be ensured regardless of sex.<sup>185</sup>

This brings us to the crux of the matter. It can be said that many will not make the connection between subtle instances of gender stereotyping in schools with gender-based discrimination and violence, dismissing efforts to create non-gendered, norm-critical school environments as unnecessary, an overreaction or too extreme. Critics have argued that encouraging children to critique oppressive ideologies and positions of privilege rooted in discrimination, turns children into "political radicals".<sup>186</sup> Others have contended that the goal of education is to equip children with skills to *gain* positions of privilege rather than *critique* them.<sup>187</sup> It is argued that this precise

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<sup>181</sup> [Education | European Institute for Gender Equality](#) [accessed 14 June 2020]

<sup>182</sup> UNESCO, [School-related gender-based violence is preventing the achievement of quality education for all](#), at pages 2-3 [accessed 14 June 2020]

<sup>183</sup> *Ibid*, at page 10 [accessed 14 June 2020]

<sup>184</sup> UNDP, [TACKLING SOCIAL NORMS](#), 2020, at page 9 [accessed 14 June 2020]

<sup>185</sup> [Ford L, Nine out of 10 people found to be biased against women, The Guardian, 2020](#) [accessed 14 June 2020]

<sup>186</sup> Searle J, *The Storm Over the University*, The New York Review of Books, December 6, 1990.

<sup>187</sup> Smith, S, *Students' Goals, Gatekeeping, and Some Questions of Ethics*, College English, 1997, 59: 299–320.

line of reasoning is responsible for the complacency and complicity of educational systems in the palpable perpetuation of gender stereotyping and discrimination in the school environment.

Thus far, this paper has attempted to make that connection and prove that an education free from gender stereotypes is a vital step in the holistic, meaningful implementation of all rights under the CRC. The rest of the analysis herein will be dedicated to providing tangible examples of good practices and various nuances of potential solutions.

## 5.2 Implementation

### Sweden

Reform of the Swedish Education Act in 1998 requiring all schools to work against gender norms and stereotypes led to the establishment of two gender neutral schools in Stockholm.<sup>188</sup> Teachers address their students by their name or as “friends”, instead of “boys and girls” and organise playtime in such a way that prevent students from grouping themselves according to gender.<sup>189</sup> In 2012, a gender-neutral pronoun “hen” was introduced which quickly became a part of mainstream Swedish culture in a linguistically unprecedented manner.<sup>190</sup> A small study<sup>191</sup> evaluating the effects of Sweden’s gender-neutral pedagogy model found that when teachers de-emphasised gender stereotypes, children were less likely to be influenced by culturally enforced gender norms and did not engage in gender-based assumptions. Although more research is needed, the results of this study suggest that while gender-neutral pedagogy in and of itself may not reduce children’s tendency to use gender to categorise people, it definitely reduces their tendency to gender-stereotype and gender-segregate.<sup>192</sup>

Beyond gender neutrality, the Swedish National Agency for Education promotes what is known as norm critical pedagogy as a means to eradicate degrading treatment and prevent discrimination in the school environment. Norm critical pedagogy can be understood as a teaching method that makes restrictive norms, such as heteronormativity, visible in order to encourage children to challenge them.<sup>193</sup>

By applying norm critical pedagogical principles to school curriculum and approaching all interactions within the space of the school environment with gender neutrality, it is conceivable that gender stereotyping can be eradicated, allowing for gender gaps in education to be closed. Although it is unclear whether the aforementioned policies and practices were implemented in light of the CRC, it can be said that the Swedish model of education is very promising in terms of complete implementation of the right to education under the CRC’s provisions.

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<sup>188</sup> Scott K, [These gender-neutral schools want to crush stereotypes](#), CNN, 2018 [accessed 14 June 2020]

<sup>189</sup> Barry E, [In Sweden’s Preschools, Boys Learn to Dance and Girls Learn to Yell](#), The New York Times, 2018 [accessed 14 June 2020]

<sup>190</sup> Gustafsson Sendén, M; Bäck, E A; Lindqvist, A; Senden, M. G, *Introducing a gender-neutral pronoun in a natural gender language:: the influence of time on attitudes and behavior*, *Frontiers in Psychology*, 2015, Vol.6

<sup>191</sup> Shutts, K., Kenward, B., Falk, H., Ivegran, A., & Fawcett, C, *Early preschool environments and gender: Effects of gender pedagogy in Sweden*, 2017, *Journal of Experimental Child Psychology*, 162, 1-17.

<sup>192</sup> Uppsala University Research News, [Children at Swedish “gender-neutral” preschools are less likely to gender-stereotype](#), 2017 [accessed 14 June 2020]

<sup>193</sup> Edvinsson C, Hammarström S, [Norm Critical Pedagogy in the Second Language Classroom](#), 2017 [accessed 14 June 2020]

## United Kingdom

The Equality Act 2010<sup>194</sup> serves to unify several pre-existing discrimination laws, making equality law simpler to understand and easier to implement.<sup>195</sup> The Act, among many other things, explicitly outlaws direct and indirect forms of discrimination, which of course extend to school curricula and the way in which they are delivered.<sup>196</sup> Schools now have a legal obligation to review their practices, policies and curricula in order to ensure that no gender stereotyping or bias takes place within the school environment.<sup>197</sup> This legislative reform arguably brings national practices much more in line with the right to education as envisioned by the CRC Committee.

There are also several promising projects that seem to be bolstering the implementation of the Act and bridging the gap between policy and good practice. One such project is “Breaking the Mould”<sup>198</sup> initiated by the National Education Union<sup>199</sup>, which focuses on supplying schools with books that challenge gender and heterosexual stereotypes, encouraging students to expand their understanding beyond the socially constructed and generally accepted norms.<sup>200</sup> In addition, the project also offers free publications with guidelines and approaches for teachers on how to facilitate conversations with their students about the impact of gender stereotyping.

In addition to (and perhaps partly due to) the streamlined legal framework, hundreds of primary schools across the UK are beginning to implement gender neutral policies.<sup>201</sup> These include gender neutral bathrooms and not limiting the school uniform according to gender, which allows boys to wear skirts and girls to wear trousers if they so choose. Some teachers have begun addressing their students as “pupils” instead of “boys and girls”, similar to the Swedish model.

Both Sweden and the UK have arguably demonstrated excellent practices in aligning their national legislation with international and regional standards of access to (non-discriminatory) education.

## 6. What are the solutions?

To begin with, this thesis echoes the UNDP in calling for States to introduce binding legislation and policies that address ingrained (gender) prejudice<sup>202</sup>, particularly in schools. The issue of gender bias in education is a multifaceted issue which requires a multi-level approach. This thesis thus proposes a tripartite approach similar to that of UNESCO’s framework of prevention, response and accountability<sup>203</sup>, in order to tackle the issue from several angles. It is based on this UNESCO policy model that this thesis will structure its recommendations.

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<sup>194</sup> [Equality Act 2010](#) [accessed 15 June 2020]

<sup>195</sup> [Equality Act 2010: guidance - GOV.UK](#) [accessed 15 June 2020]

<sup>196</sup> Equality and Human Rights Commission, [What equality law means for you as an education provider: schools](#), 2014, at page 40

<sup>197</sup> *Ibid*, at page 41

<sup>198</sup> [Breaking the Mould](#) [accessed 15 June 2020]

<sup>199</sup> [About the NEU](#) [accessed 15 June 2020]

<sup>200</sup> NEU, [Challenging gender stereotypes through reading](#), 2014 [accessed 15 June 2020]

<sup>201</sup> Ross A, [At least 120 schools adopt gender-neutral uniforms, charity says](#), 2017 [accessed 15 June 2020]

<sup>202</sup> UNDP, [TACKLING SOCIAL NORMS](#), 2020 [accessed 14 June 2020]

<sup>203</sup> [UNESCO, School-related gender-based violence is preventing the achievement of quality education for all, 2015](#) [accessed 16 June 2020]

The Committee on Women's Rights and Gender Equality submitted a motion to the EP for a resolution on eliminating gender stereotypes in the EU.<sup>204</sup> Therein, the Committee stressed the importance of introducing specified courses in primary schools in order to inform children "about the negative consequences of gender stereotypes and encourage them to study for and embark on careers...considered as typically masculine or feminine".<sup>205</sup> In addition, the Committee highlighted that awareness-raising should not be isolated to just one specified course but rather, gender sensitivity must be mainstreamed into all school curricula.<sup>206</sup> In tandem with awareness-raising among young students, the Committee called upon EU Member States to implement gender sensitivity training for teachers and policies that ensure the school environment is a safe space for all children regardless of gender.<sup>207</sup>

Likewise, the CEDAW Committee urges States to challenge and change patriarchal ideologies and structures that hinder children from fully enjoying their rights to, within and through education by actively implementing article 5(a) CEDAW. To do so, the Committee recommends developing policies and programmes at all levels of schooling about gender relations and gender equality as well as promoting awareness-raising and educational campaigns to teach children about their rights under CEDAW. The Committee also called upon States to revise and develop "non-stereotypical educational curricula, textbooks and teaching materials to eliminate traditional gender stereotypes that reproduce and reinforce gender-based discrimination against girls and women and to promote more balanced, accurate, healthy, and positive projections of female images and voices".<sup>208</sup> Finally, the CEDAW Committee also stresses the critical importance of introducing mandatory training for teaching staff of all levels, in order to bolster their understanding of how their gendered behaviours affect teaching and learning processes. Training also equips teachers with ways in which to navigate around gender issues in the classroom in a conscious and gender sensitive manner.

Curriculum researchers have found that, when trying to create a gender-equitable school environment, the following factors must be taken into consideration: the school syllabus, the teachers' training as well as the teachers' awareness of their own gendered attitudes. Syllabus and teaching materials must acknowledge and affirm variation, in that they must be "inclusive, accurate, affirmative, representative, and integrated, weaving together the experiences, needs, and interests of both male and female" students.<sup>209</sup> It is necessary to critically examine the narratives being fed to young children and replace the textbooks that convey to children a world in which "boys and men are bright, curious, brave, inventive, and powerful, but girls and women are silent, passive, and invisible"<sup>210</sup>, with more empowering resources. Teachers can also facilitate the development of children's critical minds by helping them identify gender-bias in texts and discuss root causes of bias. In addition, qualified teachers as well as teachers in training must take mandatory gender-equity courses in order to equip themselves with the necessary vocabulary. Educators must also be made aware of their own biases which they may

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<sup>204</sup> [Committee on Women's Rights and Gender Equality, Report on eliminating gender stereotypes in the EU \(2012/2116\(INI\)\)](#)

<sup>205</sup> *Ibid*, at page 10

<sup>206</sup> *Ibid*, at page 11

<sup>207</sup> *ibid*

<sup>208</sup> UN Committee on the Elimination of Discrimination Against Women (CEDAW), *CEDAW General Recommendation No. 36: The right of girls and women to education*, 2017, at para 27

<sup>209</sup> Bailey, S, *How Schools Shortchange Girls: The AAUW Report*, 1992, New York, NY: Marlowe & Company

<sup>210</sup> McCormick, P, *Are girls taught to fail?*, 1995, U.S. Catholic, 60, (2), 38-42.

be reinforcing in their students through the ways in which they structure the lessons and socialise their students.<sup>211</sup>

This thesis finds that the Sadkers' conclusion from nearly three decades ago still rings true today: until States take positive, holistic action to eradicate gender stereotyping from the school environment, "more than half our children will be shortchanged and their gifts lost to society."<sup>212</sup> What follows are several recommendations which this thesis considers to be extremely promising when implemented in conjunction with one another. In the spirit of multidisciplinary, some of the following recommendations are rooted in international human rights law while others are rooted in social pedagogy. These recommendations are presented as a collective network of mutually reinforcing changes and are not to be interpreted simply as a list of choices.

## 6.1 Gender-neutral education

Although a gender neutral model has shown promise in Sweden, it appears that changing school policy may not be enough. The study evaluating the effects of gender neutrality in Swedish primary schools posits that "once gender categories are identified, gender encoding may be very difficult to modulate (e.g., via gender-neutral pedagogy)...(G)ender encoding, unlike race encoding, is hard—if not impossible—to suppress even when participants are given other ways to classify people."<sup>213</sup> That being said, it is contended that gender categorisation in and of itself is not harmful. Rather, it is the assumptions and expectations attached to those categorisations that must be addressed.

Nevertheless, this thesis tends to agree that simply making the school environment non-gendered is not enough. Children's ideas of gender norms and sex-roles come from a multitude of other sources outside of the school. It has been established that popular culture, social media and children's own families play a critical role in shaping gender perceptions. It can therefore be concluded that simply removing the problem from the equation in one setting will only take progress so far. This thesis contends that, in addition to non-gendered socialisation within the school environment, children also need to be taught to think critically. They must learn to confront gender stereotypes, critically evaluate them and take from the societal message what they choose, if they so choose. It is thus posited by this thesis that gender neutral pedagogy and critical pedagogy must go hand in hand.

## 6.2 Critical Pedagogy

Critical pedagogy is an educational philosophy developed by Paulo Freire, rooted in the idea that life itself is never politically neutral and as such, education should reflect and respond to that. Advocates of critical pedagogy assert that issues of social justice and democracy should not be absent from the learning environment and that the act of teaching is inherently a political act. Critical pedagogy aims to achieve emancipation from oppression through critical consciousness and encourage individuals to affect change in their communities through social

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<sup>211</sup> Carlana M, *Implicit Stereotypes: Evidence from Teachers' Gender Bias*, The Quarterly Journal of Economics, Volume 134, Issue 3, August 2019, Pages 1163–1224; Protivinsky T, Münich D, *Gender Bias in teachers' grading: What is in the grade*, Studies in Educational Evaluation, December 2018, Vol.59, pp.141-149

<sup>212</sup> Sadker, D., Sadker, M, *Failing at Fairness: How Our Schools Cheat Girls*, 1994, Toronto, ON: Simon & Schuster Inc.

<sup>213</sup> Shutts, K., Kenward, B., Falk, H., Ivegran, A., & Fawcett, C, *Early preschool environments and gender: Effects of gender pedagogy in Sweden*, 2017, Journal of Experimental Child Psychology, 162, 1-17, at page 12

critique and political action.<sup>214</sup> In that regard, critical pedagogy models use teaching as a tool to combat social injustices such as racism and sexism.

An example of critical pedagogy is the anti-bias education model developed by Louise Derman-Sparks, based on Freire's pedagogical principles.<sup>215</sup> Sparks found that children are harmed when explicit and subliminal messages about difference are allowed to be internalised, without giving children the opportunity to consider and question them. Anti-bias education is not a formalised curriculum but rather an invitation to teachers to combat the biases of their students by intervening upon witnessing such attitudes or behaviour. As such, this approach can be embedded into every aspect of schooling. Anti-bias education is premised on four goals:

- Identity: Each child will demonstrate self-awareness, confidence, family pride, and positive social/group identities.
- Diversity: Each child will express comfort and joy with human diversity, accurate language for human differences, and deep, caring human connections.
- Justice: Each child will increasingly recognise unfairness (injustice), have language to describe unfairness, and understand that unfairness hurts.
- Activism: Each child will demonstrate a sense of empowerment and the skills to act, with others or alone, against prejudice and/or discriminatory actions.<sup>216</sup>

An essential part of implementing all of the above goals is arguably discussion. Teachers must find ways in which to facilitate daily discussion about bias and discrimination with their students. Teachers must encourage children to verbalise their ideas and not just speak about how gender stereotyping is harmful. Instead, children should be the leaders of this discussion, basing the dialogue on their own experiences, with teachers providing information if and where necessary.

Anti-bias education can be said to stimulate a critique of present (oppressive) circumstances in an attempt to overcome them. By facilitating an examination and critique of gender stereotypes, children would be able to rid themselves of that which does not represent their own identity. The anti-bias model is arguably very much in line with the CRC's philosophy, as it seems to adequately prepare children for a "responsible life in a free (non-discriminatory) society"<sup>217</sup> while at the same time allowing children to freely express their views and taking them into account.<sup>218</sup> This educational model recognises that the rights to education, non-discrimination and participation under the CRC are interdependent.

### 6.3 Human rights education

A human rights education is "a form of education that takes seriously the view that children are rights-holders and citizens, that schools are democratic communities where children learn (or fail to learn) the values and practice of citizenship, and that educating children about their basic human rights...is a legal obligation of the (CRC)".<sup>219</sup> Much like critical pedagogy, human rights education is not limited to one subject but rather, it is something to be incorporated into the

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<sup>214</sup> Giroux, H., *Utopian thinking in dangerous times: Critical pedagogy and the project of educated hope*, in *Utopian pedagogy: Radical experiments against neoliberal globalization*, 2007, pp.25-42, at page 31

<sup>215</sup> Derman-Sparks L, Olsen-Edwards J, *Anti-bias Education for Young Children and Ourselves*, 2010, National Association for the Education of Young Children

<sup>216</sup> *ibid*

<sup>217</sup> UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, Article 29(1)(d)

<sup>218</sup> *Ibid*, article 12(1)

<sup>219</sup> Covell, K., Howe, R., & Mcneil, J, *Implementing children's human rights education in schools*, 2010, *Improving Schools*, 13(2), 117-132, at page 118

curricula at all learning stages and should constitute “the core of school mission statements, behaviour codes, and school policies and practices.”<sup>220</sup>

Merits of children receiving a human rights education, aside from the obvious benefit of being informed of their rights, include imparting the values of respecting others’ rights, living in a socially responsible way and respecting justice and equality. Indeed, there is much evidence to corroborate the idea that a human rights education nurtures an “adult-like understanding”<sup>221</sup> of the wide scope and deep implications of human rights, as opposed to when children do not learn about their rights, which results in a shallow understanding of rights and a lack of appreciation of their interdependence.<sup>222</sup> It has been asserted that in order to integrate human rights education into the school environment, the “commitment, leadership, and strategic planning”<sup>223</sup> of States (ministries of education in particular) and of school administrators is vital.

Children's rights advocates and scholars contend that decisions affecting children should not be taken from an adult-centric interpretation of the best interests principle.<sup>224</sup> However, in order to truly realise this assertion and for a child to participate in matters affecting their lives, they must necessarily possess the tools and ability to do so. In order to be active participants in seeking their rights, they must first know what those rights are and what they mean. This correlation has been recognised by multiple human rights bodies<sup>225</sup>, including but not limited to the CRC Committee.<sup>226</sup> If children are not given the information necessary to enable their meaningful participation, they will not be able to critically engage with and challenge socially constructed norms like gender stereotypes. It is, thus, argued that without integrating a human rights education within national curricula, State implementation of article 28 CRC will always be incomplete.

In light of the intersectionality of the principle of non-discrimination as well as the interdependence of human rights, it is contended that school curricula and environments must ensure that children receive a human rights education, beyond addressing specific issues such as gender stereotyping.

## 6.4 Comprehensive sexuality education

Comprehensive sexuality education (CSE) can be described as a “curriculum-based process of teaching and learning about the cognitive, emotional, physical and social aspects of

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<sup>220</sup> Covell, K., Howe, R., & Mcneil, J, *Implementing children’s human rights education in schools*, 2010, *Improving Schools*, 13(2), 117-132, at page 118

<sup>221</sup> *Ibid*, at page 120

<sup>222</sup> *ibid*

<sup>223</sup> *ibid*, at page 127

<sup>224</sup> J. Eekelaar, *The Role of the Best Interests Principle in Decisions Affecting Children and Decisions about Children*, in *International Journal of Children’s Rights* 23 (2015), 3-26

<sup>225</sup> Committee on the Elimination of Discrimination against Women, general recommendation 34 (2016), para. 43; UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 16: The Equal Right of Men and Women to the Enjoyment of All Economic, Social and Cultural Rights (Art. 3 of the Covenant)*, 11 August 2005, E/C.12/2005/4, para. 30; General Assembly resolution 66/137.

<sup>226</sup> UN Committee on the Rights of the Child (CRC), *General comment No. 1 (2001), Article 29 (1), The aims of education*, 17 April 2001, CRC/GC/2001/1, at paras. 2-3

sexuality.”<sup>227</sup> It is referred to as comprehensive because it aims to empower children to become agents in their own health, wellbeing and dignity, to develop respectful social and sexual relationships, to become aware of how their choices have an impact on themselves and others and to understand how to claim their rights in the broader sense.<sup>228</sup> CSE thus goes beyond the basic reproduction, risks and disease sex-ed model and puts sex, gender (identity), sexuality and interpersonal relationships into their proper socio-cultural contexts by using an equality and rights-based approach.

The OHCHR has identified CSE as a vital part of eliminating gender stereotyping from the school environment.<sup>229</sup> Several submissions to the HRC have also pointed to CSE as a “key strategic intervention”<sup>230</sup> to disrupt gender norms and stereotypes within education. This thesis espouses that view and contends that in order for children to have a holistic understanding of sex and gender, thus demystifying and debunking gender stereotypes, they must consistently receive comprehensive sex and relationships education at all stages of schooling.

According to UNESCO, the school environment is the perfect space to provide CSE to children, given that the school provides the practical means by which to deliver the curriculum: the infrastructure is there, the teachers are (or can be trained to be) skilled in communicating with their students and the information can be relayed to a large number of children from diverse backgrounds.<sup>231</sup> Additionally, it is important to address CSE during school years, as this is the moment when most children start to become aware of their physicality and perhaps, sexuality. It is thus, important to equip children with the necessary tools to embark on this journey, from the very beginning. UNESCO also highlighted a substantial practical advantage of delivering CSE in schools, namely that school-based CSE programmes are very cost-effective<sup>232</sup>, considering that the school environment also acts as a social support centre, linking children with parents and wider communities with other services, creating a protective and supportive environment for information-sharing. Therefore, it is argued that States who do not endorse CSE in schools cannot cite their favourite explanation for not fulfilling their responsibilities vis-a-vis the right to equal and quality education, as CSE is not a question of resources.

Critics have attempted to argue that CSE is not a human right, contrary to what several international human rights bodies have stressed over the years.<sup>233</sup> It is true that under international human rights treaties like the CRC and CEDAW, States are under no positive obligation to provide CSE.<sup>234</sup> The treaties make no explicit mention to any form of sex education

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<sup>227</sup> UNESCO, [International technical guidance on sexuality education: an evidence-informed approach](#), at page 16 [accessed 19 June 2020]

<sup>228</sup> *ibid*

<sup>229</sup> OHCHR, [Realisation of the equal enjoyment of the right to education by every girl](#), 2017, at page 26 [accessed 18 June 2020]

<sup>230</sup> Human Rights Council, *Review of promising practices and lessons learned, existing strategies and United Nations and other initiatives to engage men and boys in promoting and achieving gender equality, in the context of eliminating violence against women*, 19 April 2018, A/HRC/38/24, at para 19

<sup>231</sup> UNESCO, [International technical guidance on sexuality education: an evidence-informed approach](#), at page 19 [accessed 19 June 2020]

<sup>232</sup> UNESCO, [Emerging evidence, lessons and practice in comprehensive sexuality education: a global review, 2015](#) [accessed 20 June 2020]

<sup>233</sup> UNESCO, [Emerging evidence, lessons and practice in comprehensive sexuality education: a global review, 2015](#), at page 13

<sup>234</sup> Curvino M & Grizzle-Fischer M, *Claiming Comprehensive Sex Education is a Right Does Not Make It So: A Close Reading of International Law*, 20 *The New Bioethics* 72-98 (2014)

at all. This, however, does not mean that the provision of CSE should not be interpreted into State implementation duties of explicit rights such as the right to health or education.<sup>235</sup> Treaties are intentionally broad and vague, so as to afford States a margin of appreciation in integrating international human rights standards to national contexts. What international human rights law does not permit, however, is for the broad and vague standards to be interpreted in a way that furthers a State's own political and ideological agenda. It is therefore posited by this thesis, that this is the precise reason why treaty bodies exist: to provide guidance to ratifying States and point them in the general direction of a particular right's intended outcome. General comments and concluding observations, albeit non-binding, are of persuasive value and aim to add practical meaning to an abstract right. If States were to take treaty provisions in isolation and at face value, as Curvino and Fischer seem to contend<sup>236</sup>, international human rights implementation would arguably be even more toothless and inadequate. This thesis posits that the commentary and guidance offered by treaty monitoring bodies add clarity and direction to binding legal provisions, thus forming an extensive corpus of legislation that is the international human rights framework.

It is thus contended that a curriculum formed on the basis of CSE in conjunction with critical pedagogy and human rights education, delivered in a school environment which aims for gender neutrality, is the most effective way for States to meet their obligations under article 29 CRC.

## 7. Conclusions

From the above analysis, it can be concluded that gender stereotypes are indeed omnipresent, particularly in the school environment which often serves to perpetuate them. This has insidious, intersectional and intergenerational effects on people, including children.<sup>237</sup> It can also be said that the main reason why gender inequality has not yet been completely eradicated is because gender stereotyping in education and its impact often flies under society's radar. The majority of society is often unaware that something is a stereotype and even when a stereotype can be identified, it is quickly brushed off as humour or harmless.<sup>238</sup> However, it is contended that stereotypes form the root of gender discrimination within the school environment and beyond. Further, gender stereotyping arguably creates an enabling environment for severe gender-based children's rights violations.

In a nutshell, this thesis has argued that school environments must provide the space and opportunity for children to challenge heteronormative gender stereotypes. In doing so, children will be able to understand that gender is a spectrum rather than a binary and become aware of non-heteronormative (gender) identities. Otherwise, children who find themselves outside of the stereotypical gender mould in any way, risk feeling isolated which arguably affects their ability to learn. This paper has contended that this amounts to discrimination and that the persistence of this curricular status quo inhibits the complete implementation of the right to education under the CRC.

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<sup>235</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), *General comment no. 22, The right to sexual and reproductive health (article 12 of the International Covenant on Economic, Social and Cultural Rights)*, 2 May 2016, E/C.12/GC/22, at paras 28 and 63; UN Committee on the Elimination of Discrimination Against Women (CEDAW), *CEDAW General Recommendation No. 36: The right of girls and women to education*, 2017, at para 68

<sup>236</sup> Curvino M & Grizzle-Fischer M, *Claiming Comprehensive Sex Education is a Right Does Not Make It So: A Close Reading of International Law*, 20 *The New Bioethics* 72-98 (2014)

<sup>237</sup> European Institute for Gender Equality, *Synthesis Report: A study of collected narratives on gender perceptions in the 27 EU Member States*, 2013, at page 184

<sup>238</sup> *ibid*

So, to answer the question with which we began: Can the CRC protect children from a gender-biased education? The answer is, frustratingly, yes and no. The CRC, along with several other human rights instruments sets out a framework that foresees a right to non-discriminatory education for all, including children. However, there are limitations to this framework of protection:

- Gender appears for the most part as binary in international legal texts.
- Most binding law makes no reference to nuanced, institutional and internalised forms of gender discrimination, of which gender stereotyping in the school environment forms a considerable part.
- There is a gaping chasm between the law, its implementation and policy.
- There is a significant margin of appreciation for each Member State to structure its own educational system to fit its own cultural ideology.
- Teachers lack the level of gender-sensitivity and training is currently inadequate.

Ultimately, the main takeaway of this paper is that as long as gender stereotyping is allowed to be practiced within the school environment and educational curricula, the right to education and the right to non-discrimination under the CRC are not being met or implemented to the fullest. It is contended that gender discrimination is rooted in and perpetuated by inundating young school children with gender stereotypes. In turn, the perpetuation of even the most subtle forms of gender discrimination arguably means that true equality can never be achieved. This paper also espouses the view of the CRC Committee that (gender) discrimination constitutes a form of structural violence and puts forward that such discrimination is capable of resulting in physical violence.

### **7.1 What is the CRC's legal conceptualisation of gender discrimination? Does gender stereotyping fall within that conceptualisation?**

It can be said that States are, in general, bound by international human rights law to take legislative, policy and practical measures against discrimination in all its forms. Under article 2 CRC, State duties can be construed as both positive and negative in that States are obliged to prevent any discrimination from taking place while actively promoting equality. Discrimination on the basis of sex is explicitly included within the scope of article 2 CRC but it is contended that sex is a biological manifestation (i.e male female) whereas gender constitutes a societal manifestation (ie masculine feminine), which are arguably two distinct phenomena which require separate attention. While children are no longer excluded from or included in education on the basis of their biological sex, their gender continues to be a determinant in the content of education, the way in which they receive it and how they are socialised within the school environment. It is the finding of this thesis that perhaps the lack of any explicit reference to gender in the body of the CRC (and international human rights law in general) is partly to blame for the current chasm between law and practice.

Although the CRC does provide some degree of protection against sex-based discrimination, the hard law is considerably lacking in acknowledging deep rooted societal attitudes regarding gender norms and roles that are perpetuated through gender stereotyping. The soft law seems to elaborate considerably on the connection between gender stereotyping, the school environment and gender discrimination. The only issue is that States are under no positive obligation to take soft law into account and there are zero consequences for States who choose to completely ignore it. Jurisprudentially, soft law can potentially have some effect when cited in court decisions. For instance, the ECtHR has been known to use international soft law instruments to interpret legal obligations under the ECHR. But again, it is up to the judges' discretion whether and to what extent the soft law shapes the decision. Whether this is satisfactory or at the very least enough really depends on the individual degree of optimism. This author maintains that currently, international soft law instruments remain rather toothless,

leaving much more to be desired in questions of creating positive duties to implement and affect change.

## 7.2 What, then, are the international obligations of States?

As has been previously established, the majority of binding international legislation affords considerable autonomy to parents in meeting their child's right to education. States have the provision duty to ensure that primary education is mandatory, free and accessible. The type of education children receive appears to be largely in the hands of parents. The CRC is the only instrument that provides that in order for States to meet their obligations under article 28, all measures must be taken "on the basis of equal opportunity".<sup>239</sup> Therefore, it is the view of this paper that the CRC affords States more control (and thus a duty) over the type and mode of education children receive. If gender discrimination is rooted in the practice of gender stereotyping, it is conceivable that gender biased education is contrary to equal opportunity. To boot, the CRC envisions protection from discrimination even if doing so is contrary to parental wishes.

Outside of the present analysis, there is heavy debate surrounding State paternalism and the threshold of intervention. The debate crosses over to the children's rights field in matters of child protection: what actions or omissions justify State intervention in the private lives of families? Many will argue that the type of education a child receives is up to their parents, thus falling in the private sphere in which States should play a minimal role. However, as this thesis has already alluded to and will shortly elaborate on, gender stereotyping in the school environment arguably triggers a domino effect which results in gender discrimination and in some cases, gender-based violence. This thesis, therefore, considers gender biased education as a considerable contributing factor to the prevalence of gender-based violence (both structural and physical), putting such practices as gender stereotyping within the scope of article 19. In doing so, perhaps States would be more incentivised to intervene and regulate school curricula, removing any inherent gender bias and invest more in the training of teaching staff to become more gender sensitive in the classroom. However, for this to happen, many factors need to be in alignment: the law must reflect that aim and social norms must reinforce it. Currently, the binding legal framework does not explicitly reflect an aim to interpret violence in such a nuanced way and social norms definitely do not reinforce that notion.

## 7.3 When does gender stereotyping amount to gender-biased education?

As has been previously established, teachers' own internalised stereotypical attitudes may (unintentionally) find themselves into the way they deliver school curriculum. Empirical studies have also found that teachers' own predispositions have an effect in the gender gap in STEM subjects as well as grading. What's more, as per Clarricoates' study, teachers may inadvertently commend gender stereotypical behaviour in their students.

More importantly however, there are concerns that teachers may be delivering curriculum that is in and of itself biased, under-representing women and selectively acknowledging their contributions to history. It is the view of this thesis that tailoring the dissemination of information to a particular status quo or to suit a specific gendered agenda is the very definition of a gender biased education. This imbalance in the curriculum paints a stereotypical image of women's role in society which in turn corroborates and feeds gender stereotyping in the school environment.

## 7.4 When does gender stereotyping in the school environment amount to violence?

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<sup>239</sup> UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, Article 28

This thesis has argued that gender stereotyping in the school environment gives rise to two types of violence: physical and structural violence. It has been contended that gender stereotyping is one of the root causes of gender-based violence in schools. For instance children who do not conform or comply with heteronormative, binary gender roles are subjected to bullying and harassment by their peers both within the physical confines of the school environment and online. In order for children to vilify difference and engage in “othering”, they must first be taught that a norm exists and that those who deviate from that are abnormal. Gender stereotyping arguably goes some way to accomplish that. Therefore it can be said that gender stereotyping amounts to physical violence when said physical violence is rooted in gendered preconceptions of masculinity and femininity.

It has also been argued herein that gender stereotyping amounts to what Johan Galtung has defined as structural/cultural violence. It is contended that by its very nature, gender stereotyping is a form of cultural violence, as it serves to justify the structural violence that emanates from the practice of stereotyping, namely gender gaps and discrimination.

### **7.5 What are the best practices to eliminate gender stereotyping and bias in education?**

Chapters five and six have highlighted some examples of good practices from Sweden and the United Kingdom. In both States, school policies have been revised in order to give children the freedom to express themselves as they wish through their sartorial choices and encourage students to think critically about their surroundings and the information they receive. This thesis has also proposed a multifaceted, interdisciplinary reform of national curricula, mainstreaming and integrating comprehensive sexuality education, human rights education and critical pedagogy principles in an environment of gender neutrality. When enforced together, all four of the above reforms will foster a school environment that is inclusive, non-discriminatory and empowering for all children.

### **7.6 Final thoughts**

At the beginning of this paper, a very specific question was posed: is there a causal link between sexism among adults in our society and the arbitrary gender stimuli children are exposed to from the very beginning of their education? The short answer to this question is that we still don't know. What is certain is that children are socialised from the very beginning of their education to think and perceive in a gendered, binary manner which is arguably one of the factors that amount to gender discrimination. This thesis considers that this indeed constitutes sexism and at the very least, is in violation of the right to education under the CRC. Having reached the end of this paper, having gone through the above analysis, it can be concluded that much more research needs to be conducted in this area and there are a lot of questions that cannot currently be answered. There is much more research needed in this area.

It can be concluded that the school environment is very impactful when it comes to shaping children's identities<sup>240</sup> and equipping them with the necessary tools to become informed, open-minded and conscious citizens who respect the rights of others and are not afraid to claim their own rights. It is clear that children enter the school environment with preconceived ideas of sex roles and gender norms. The duty of the school environment is to lovingly counteract those preconceptions rather than reinforce them and empower children to think critically about the way in which the society around them works.<sup>241</sup> Each generation of school children is an opportunity to trigger a ripple of systematic and structural change that ultimately has an effect on the way

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<sup>240</sup> [European Parliament, Committee on Women's Rights and Gender Equality, Report on eliminating gender stereotypes in the EU \(2012/2116\(INI\)\), 2012](#), at page 5

<sup>241</sup> Clarricoates, K, 'Dinosaurs in the classroom'—A re-examination of some aspects of the 'hidden curriculum in primary schools, 1978, *Women's Studies International Quarterly*, 1(4), 353-364.

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children (and adults) enjoy their fundamental human rights. To create a global society free of gender discrimination, what children learn and how they learn it needs to be fundamentally reassessed, with a view to eliminate the ingrained gender biases within education systems and curricula.

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# Appendices

## Appendix 1

The Everyday Sexism Project's website has a dedicated section for the Netherlands whereby any individual (including children) who experience casual sexism can write about it.<sup>242</sup> There are indeed many submissions, most of which are made by adolescents and young adults.

### Gender stereotyping in school:

Anonymous

17th March 2015

My high school history teacher only checked the homework of the boys in my class because 'most girls do their homework anyway and it is a waste of time to check this'.

Man

21st January 2015

Mathematics teacher finds that the girls have taken the test just as well as the boys and says: 'Actually, the girls have done better, because math is more difficult for girls.'

Rosie

4th December 2014

At my school I have a teacher who says girls are more stupid than boys. E.g. If a girl asks a question because she didn't understand something, he says 'you should have known that...? Oh, no wait... You're a girl.' And so it goes on. Every lesson he has something to say about how stupid girls are.

...

9th June 2015

At school we had a chapter of history where an -ism was discussed per paragraph. There was extensive talk about socialism, conservatism .. etc. But we skipped paragraph feminism .. (because that is not important enough .. ?? Not worth it .. ???)

<sup>242</sup> <https://everydaysexism.com/country/nl> [accessed 26 May 2020]

## Christina

9th September 2019

Sport project at school. We were all allowed to choose a sport (football, volleyball, golf horse riding etc). I had chosen rugby together with a few friends, since this is my favorite sport, it turned out that it was only for boys .. I think it is a bit strange because the boys are not stronger than us. This also applies to horseback riding, not a single boy is classified, even though a few have opted for it.

Deeply ingrained gender stereotypes bleed into the teaching methodology of even the most qualified educators, which in turn serves to perpetuate debilitating, limiting and unnecessary binaries. Gender stereotyping does not belong in school curricula nor should teaching techniques enable them, no matter how lighthearted the delivery. This is why it is extremely important to train teaching staff who work with children to question their own conditioning and encourage them to be aware of the messages they transfer (purposely or inadvertently) to impressionable young minds.

It is the view of this paper that experiences of gender stereotyping such as the ones detailed above by children, pave the way for more glaring instances of sexism and gender discrimination against children both within the school context and beyond.

## Sijtje

18th August 2019

That I'm not allowed to gym with a sleeveless shirt at school, because with mixed gym and boys we apparently get excited from the shoulders and then we can no longer concentrate on the lesson. Not only at the gym by the way, there are schools where girls are suspended because they were dressed too naked. If I understand correctly, girls are blamed for boys and teachers who sexualize ordinary female body parts. Ridiculous.

This is an example of how female children's bodies are sexualised (exposing female arms is deemed inappropriate) which leads to discrimination (excessive policing of female student's clothing as opposed to male). These school regulations also normalise the idea that women and girls are responsible for how men and boys react to their bodies based on their sartorial choices.

## Paula

7th August 2014

**They whistled at my daughter. She is twelve.**

## She

24th March 2015

My daughter (7) has a best friend in class. They like to play together, holding hands. She says he understands her. The parents of other children at the school make it quite a situation: "Gosh, it is thick between the two say!" The kids in the class are also making a big deal of it: "Now you're dating! You have to kiss each other!" We are talking about children 6 and 7 years old, damn it. Are they not allowed to just remain children and enjoy each other's company without all kinds of adult interpretations being given? When my daughter was 5 years old, her best buddy was a girl. They also always went hand in hand. However, all this type of comment was nowhere to be found..

### **Gender stereotyping in children's broader environment:**

The following examples are not necessarily directly aimed at children nor are they instances that take place within the school environment. Nevertheless, children will undoubtedly come across this information in one way or another. As a result, even on a subliminal level, children grow up normalising gender stereotypes and performing them well into adulthood, perpetuating the cycle.

## Liselotte

14th July 2015

CPP advertising "Prepare for a long summer" has two campaign images: man in suit and mother with pram. Isn't that even a little less role-fixing?

## Marijke

5th March 2015

A car advertisement that talks about the "most beautiful girl" in the class, and the "best boy". Can't a girl be the best / smartest? Does it only matter to girls if they are beautiful?

## Tim

29th November 2013

As a child, and still by the way, I can only be compared to the 'male ideal image' of strong and tough. Every time I indicated that I liked something or had an opinion that did not fit that image, I was told 'but that can also be very tough' by my parents. As if there is something wrong with being non-macho and, in their view, feminine behavior is something to be ashamed of.

## Anonymous

3rd September 2013

When I was 12, I went to a party in our village with my parents. We stood a little to the side listening to the music, when suddenly a drunk guy pulled me into the audience. He put his hands on my buttocks. My father withdrew me with a smiling face: "You're still too young for that, aren't you?" Yes, I was too young for that. But wasn't it my fault that the man was on me?

## Hanneke Felten

27th September 2013

Sinterklaas marzipan seen from Albert Heijn? There is a girl and boy variant: for the girls lipstick and high heels in marzipan and for the boys a football shirt and football in marzipan... Stgh...

## Appendix 2

What follows are images posted on the Everyday Sexism twitter thread. Looking at these images one after the other it becomes clear that children are indeed surrounded by debilitating gender stereotypes which shape how they develop and perceive themselves. When children are systematically inundated with information that is so inherently guided by a gender binary, it becomes relevant to talk about it within the wider context of education. To omit this aspect and focus solely on a formal school setting paints an incomplete picture and arguably goes against the CRC's conception of a holistic approach.



It is not just curricula and school books that are capable of perpetuating gender biases in education. The literature that children consume outside school grounds also amount to sources of education and so long as there are books such as the one above, it is argued that the right to education under the CRC is not truly met.

**Dr Bethany Usher**

@bethanyusher



@LetToysBeToys Little girl's beautician outfit, little boy's doctor's outfit. From @ELCtoys #everydaysexism



6 5:09 PM - Apr 1, 2015

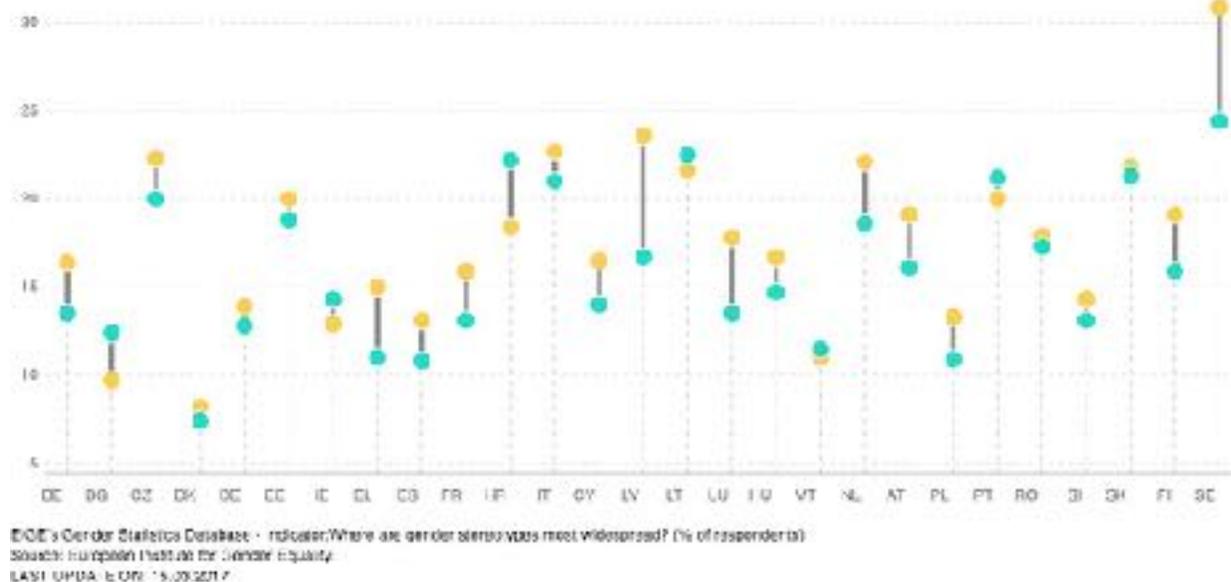


[See Dr Bethany Usher's other Tweets](#)



It is arguable that children's toys and costumes also belong in the wider conception of education. The toys children are given the opportunity to play with serve to greatly shape their ideas of the world around them and themselves. Arbitrarily dictating that a girl child cannot wear the doctor's costume or a boy child cannot wear the beautician costume (see the images at the bottom right of the costume package) establishes an unnecessary gender biased binary in the developing minds of children which they will carry with them into adulthood. This binary that is fed to children may be partially responsible for the perpetuation of male and/or female dominated fields. The gender stereotypes instilled during childhood (explicit or subliminal) arguably shape children's career and perhaps life trajectories.

## Appendix 3

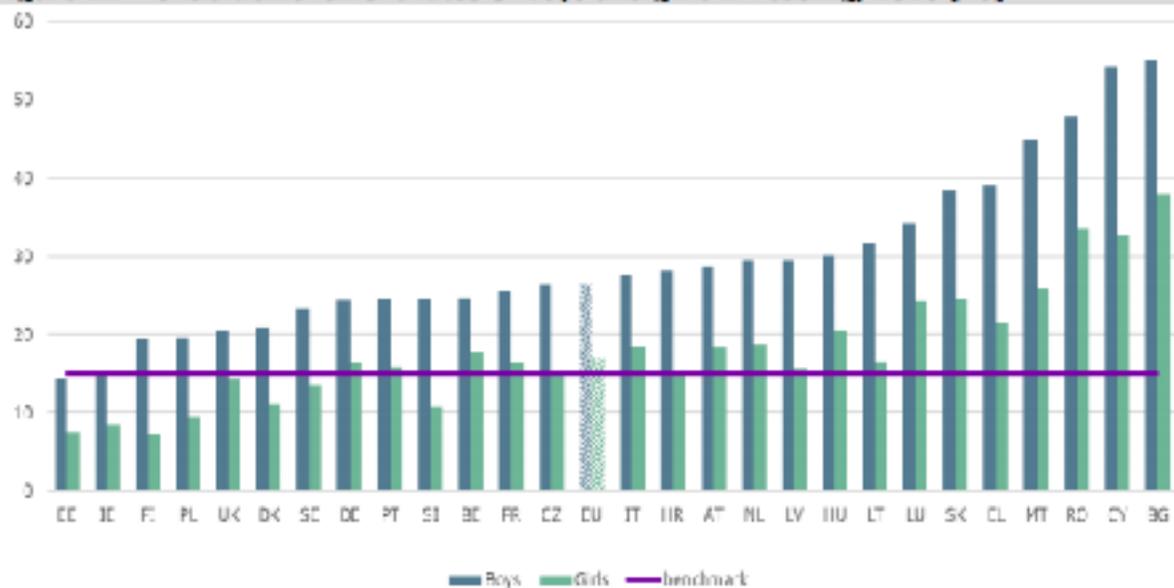


For more details and metadata please visit the following link:

[https://eige.europa.eu/gender-statistics/dgs/indicator/ta\\_pubopn\\_geneq\\_eb\\_spec\\_where/bar/year:2014/geo:BE,BG,CZ,DK,DE,EE,IE,EL,ES,FR,HR,IT,CY,LV,LT,LU,HU,MT,NL,AT,PL,PT,RO,SI,SK,FI,SE/sex:M,W/ANSWER:PCT\\_MENTIONED/LOCATION:IN\\_SCHOOLS](https://eige.europa.eu/gender-statistics/dgs/indicator/ta_pubopn_geneq_eb_spec_where/bar/year:2014/geo:BE,BG,CZ,DK,DE,EE,IE,EL,ES,FR,HR,IT,CY,LV,LT,LU,HU,MT,NL,AT,PL,PT,RO,SI,SK,FI,SE/sex:M,W/ANSWER:PCT_MENTIONED/LOCATION:IN_SCHOOLS)

## Appendix 4

**Figure 11 – Underachievement rates of boys and girls in reading, 2018 [%]**



Source: PISA 2018, OECD.

Note: Data not available for ES. All gender differences in 2018 are statistically significant.

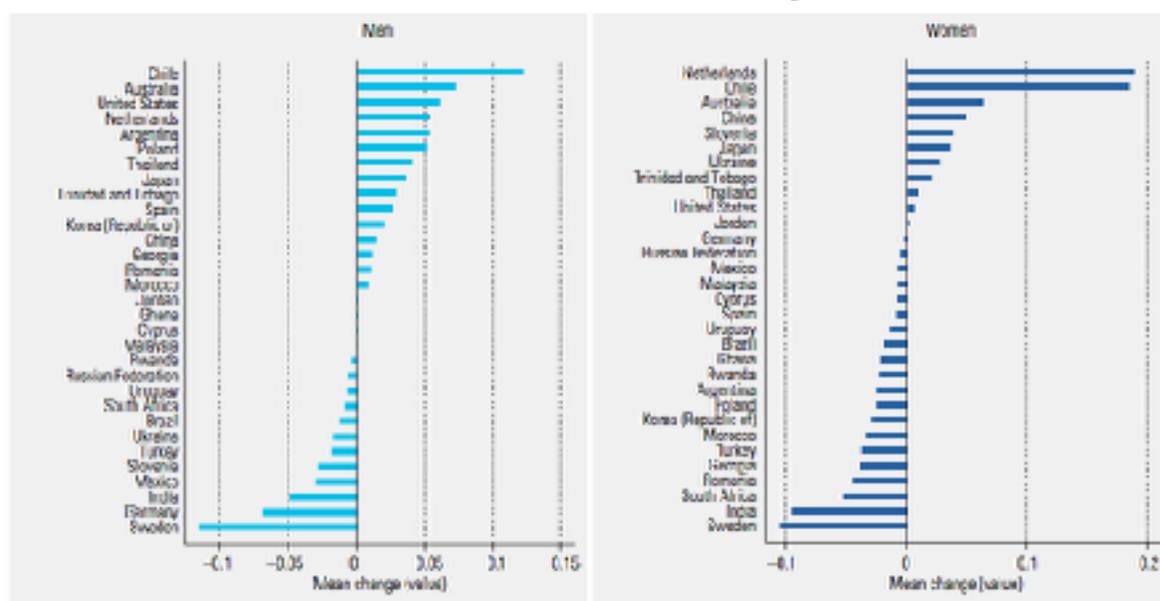
Link to report:

[https://ec.europa.eu/education/sites/education/files/document-library-docs/pisa-2018-eu\\_1.pdf](https://ec.europa.eu/education/sites/education/files/document-library-docs/pisa-2018-eu_1.pdf)

## Appendix 5

**FIGURE 7**

Progress in the share of men with no gender social norms bias from 2006–2009 to 2010–2014 was largest in Chile, Australia, the United States and the Netherlands, while most countries showed a backlash in the share of women with no gender social norms bias



Note: Balanced panel of 31 centralized territories with data from both wave 6 (2006–2009) and wave 6 (2010–2014) of the World Values Survey, accounting for 64 percent of the global population. Source: Mueggenstern, Kerner and Geyer (2015). Data on data from the World Values Survey.

**TABLE 3**

### Bias against gender equality is on the rise

Index	Description	Group	% of people		
			2004–2009	2010–2014	Change
BSN1	With some bias	Women	83.4	84.8	1.2
		Men	89.4	89.9	0.5
BSN2	With moderate to intense biases	Women	56.6	59.7	3.1
		Men	70.0	70.8	0.8

Source: Human Development Report (2015) calculations based on World Values Survey for 31 countries with time series data, representing 59 percent of the global population.

Link to UNDP Gender Social Norm Index: [http://hdr.undp.org/sites/default/files/hd\\_perspectives\\_gsni.pdf](http://hdr.undp.org/sites/default/files/hd_perspectives_gsni.pdf)

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