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**Lack of Equal Access to Higher Education between Men and Women
in Cambodia**

and How It Connects with Leadership Positions:

An Analysis of Scope of Right to Education and Social Studies

JAMM07 Master Thesis

International Human Rights Law

30 higher education credits

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Term: Spring 2022

ACKNOWLEDGMENT

This publication has been produced during my study at Lund University, in which the scholarship of the study programme was funded by the Swedish Institute. Swedish Institute has become part of my study journey through this scholarship grant. The funding has helped me to achieve my dream of pursuing higher education in human rights law. This opportunity is not just for me to earn a degree with better quality of education, but for the sake of my life objectives in contributing to my communities. Reading legal documents in a second language was tough for me. This has been improved through a reading group initiated by Prof. Valentin Jeutner. His time and efforts have made me, and other students have better critical legal analysis. With the support of my supervisor, Alejandro Fuentes, for this thesis supervision, I have learned so much in processes of research writing and can produce this paper regardless of limited experience in research and circumstances. I am thankful that I have a loving family, my special grandmothers and friends having supported me in this challenging time. I have come this far through kindness, understanding and support from them and other surrounding people.

ABSTRACT

Gender equality in education is vital both for the sustainable and economic growth of the country as well as for the protection and promotion of basic women's rights. One can never imagine a prospering country, a welfare state, and a happy society without considering gender as a key to success. One aspiring example is Sweden where girls and boys have the same rights when accessing higher education and at the same time having a high percentage of women filling leadership positions in corporations, governmental structures, and communal services. Although there might exist criticisms towards the Nordic models, the Nordic countries set a high standard for other countries. Unfortunately, this is not yet true for Cambodia, where corruption still prevails and where women are discouraged to study even at elementary schools. Entrenched stereotypes about women's roles in the society, especially in the rural areas, as well as deep-set narratives about masculine roles in the society negatively impact the growth of the country. Gender equality is on lower levels, whereas poverty and corruption have become a normalized state of affairs.

Drawing on personal experiences from her childhood, the author of the thesis aims to deconstruct the legal, social, economical as well as local realities to point out the reasons behind the low numbers of women accessing higher education in Cambodia. By doing so she draws on international legal and human rights standards on the right to education, how to measure equality of access as well as places a special focus on accessibility of higher education for women. In the next chapter the author underlines the importance of equal access to education and draws analytical connections between women's unequal access to higher education and possibility for leadership roles for women in the society. And finally, the author sets her analysis into the local context of Cambodia by critically examining existing legal regulations, frameworks and policies, legal and other barriers that hinder women in fully accessing higher education in Cambodia and compares how labor status and higher education are connected and mutually reinforcing. The author gives the conclusions after each chapter and discusses possible solutions in the final chapter.

Keywords: right to education, equal access, higher education, discrimination, leadership

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CHAPTER 1: INTRODUCTION

This chapter of introduction provides a general understanding of the 'background' leading to the research topic and literature review to find research gaps. Then, form 'research questions and methods' by placing them together for a better understanding of how the research questions of legal analysis and social observation or studies can be found and interrelated. It is followed by beneficiaries of this research project, which are written as 'research purposes'. Time constraint, availability of data, limited relevant literature on Cambodia's context in addition to the research purposes are the reasons setting scope of the study elaborated in 'delimitation'.

1.1 BACKGROUND

Cambodia is a South-East Asian country with a total population of 17.61 million.¹ More than of the population is female.² The territory of Cambodia is 181,035 square kilometers. Between 17th April 1975 and 06th January 1979, Cambodia was under the Khmer Rouge Regime and during these times there was no education.³ When authorities (Angka/organization) of the

¹ Worldometer. (2022). *Cambodia population*. Retrieved May 25, 2022, from <https://www.worldometers.info/world-population/cambodia-population/>

² Countrymeters. (2022). *Cambodia's population*. Retrieved May 25, 2022, from <https://countrymeters.info/en/Cambodia>

³ Pich, S. (n.d). *Educational destruction and reconstruction in Cambodia*, p.44, para.1. Retrieved from http://www.ibe.unesco.org/fileadmin/user_upload/archive/Publications/free_publications/Tawi15e.pdf

regime brought certain people to “re-educate”, it means they were brought to be killed.⁴ It was called “Year Zero”.⁵ Moreover, people who spoke “foreign” or “minority languages” could be brought to be killed.⁶ Until now, education access has still been an issue.⁷ Cambodia was ranked 95th among 138 countries on gender inequality.⁸ Studies show that in Cambodia the number of women who drop out from school is higher than men.⁹ There are several factors which hinder women from accessing higher education including, lack of school facilities, gender roles and poverty.¹⁰ In other words, gender roles are seen as a pattern of

⁴ Path, K., & Kanavou, A. (2015). Converts, not ideologues? The Khmer Rouge practice of thought reform in Cambodia, 1975–1978, p.313, para.1. *Journal of Political Ideologies*, 20(3), 304-332.

⁵ Clayton, T. (1998). Building the new Cambodia: Educational destruction and construction under the Khmer Rouge, 1975–1979, p.1. *History of Education Quarterly*, 38(1), 1-16.

⁶ Clayton, T. (1998). Building the new Cambodia: Educational destruction and construction under the Khmer Rouge, 1975–1979, p.2, continued para. *History of Education Quarterly*, 38(1), 1-16.

⁷ See Chea, N. (2015). *HIGHER EDUCATION IN CAMBODIA Poor rural female students’ challenges, motivations, and coping strategies*, p.5, para.5. Retrieved from https://gupea.ub.gu.se/bitstream/handle/2077/39995/gupea_2077_39995_1.pdf;jsessionid=843132C6B8DB7790255D5ECC8998C65C?sequence=1

⁸ Chea, N. (2015). *HIGHER EDUCATION IN CAMBODIA Poor rural female students’ challenges, motivations, and coping strategies*, p.5, para.5. Retrieved from https://gupea.ub.gu.se/bitstream/handle/2077/39995/gupea_2077_39995_1.pdf;jsessionid=843132C6B8DB7790255D5ECC8998C65C?sequence=1

⁹ Chea, N. (2015). *HIGHER EDUCATION IN CAMBODIA Poor rural female students’ challenges, motivations, and coping strategies*, p.6, para.1. Retrieved from https://gupea.ub.gu.se/bitstream/handle/2077/39995/gupea_2077_39995_1.pdf;jsessionid=843132C6B8DB7790255D5ECC8998C65C?sequence=1

¹⁰ See Chea, N. (2015). *HIGHER EDUCATION IN CAMBODIA Poor rural female students’ challenges, motivations, and coping strategies*, p.6. Retrieved from https://gupea.ub.gu.se/bitstream/handle/2077/39995/gupea_2077_39995_1.pdf;jsessionid=843132C6B8DB7790255D5ECC8998C65C?sequence=1; Tuy, S. (2019). Discrimination against

“discrimination” and in certain cases, parents prioritize the education of their sons over their daughters.¹¹

For these reasons, the enrollment rates for women are lower than for men. In 2019, there were only 14 percent of females in higher education.¹² Males were also only 15 percent of the total number of males whose ages are supposed to be in higher education.¹³ Despite progressive increases in the number of women in higher education, women can still be seen to face ‘discriminatory acts’ in this area.¹⁴

Education is important for reducing poverty since it helps people to improve their employability and income.¹⁵ It contributes to improvements on an individual level and national level.¹⁶ Education is seen as “human capital” and as an approach to fight against poverty.¹⁷ As 17.8 percent of the total population in Cambodia is under the “poverty line” in 2019, it can

women in accessing higher education in cambodia, p.102, para. 1. *Journal of Southeast Asian Human Rights*, 3(1), 101-123. doi: 10.19184/jseahr.v3i.8402

¹¹ Tuy, S. (2019). Discrimination against women in accessing higher education in cambodia, p.166, para.2. *Journal of Southeast Asian Human Rights*, 3(1), 101-123. doi: 10.19184/jseahr.v3i.8402

¹² The World Bank. (2021). *School enrollment, tertiary, female (% gross) - Cambodia*. Retrieved May 25, 2022, from <https://data.worldbank.org/indicator/SE.TER.ENRR.FE?locations=KH>

¹³ The World Bank. (2021). *School enrollment, tertiary, male (% gross) - Cambodia*. Retrieved May 25, 2022, from <https://data.worldbank.org/indicator/SE.TER.ENRR.MA?locations=KH>

¹⁴ The World Bank. (2021). *School enrollment, tertiary, female (% gross) - Cambodia*. Retrieved May 25, 2022, from <https://data.worldbank.org/indicator/SE.TER.ENRR.FE?locations=KH>

¹⁵ Tilak, J. B. (2002). Education and poverty, p.192, para.1. *Journal of human development*, 3(2), 191-207.

¹⁶ Tilak, J. B. (2002). Education and poverty, p.192, para.2. *Journal of human development*, 3(2), 191-207.

¹⁷ Tilak, J. B. (2002). Education and poverty, p.196, para.2, first sentence. *Journal of human development*, 3(2), 191-207.

be seen as significant to improve access to higher education.¹⁸ Particularly, for women who hold half of the total labor force. Chea raises Fiske's idea that having more women in leadership positions can be inspirational for other women to pursue higher education.¹⁹

Cambodia is a conservative country on gender roles and level of education towards women. This creates challenges and barriers that limit the opportunities for women to access higher education. Moreover, achieving leadership positions requires sufficient education. Thus, the topic of research thesis has been selected and constructed to study the right to education, accessing higher education and the relationship between higher education and leadership.

1.2 LITERATURE REVIEW

Sean who is professor of "poverty and inequality" at Stanford University wrote an article in relation to "education" and equal "opportunity" in practice rather than focusing on legal implication.²⁰ Another study notes "gender equality in education" with an implication to "right to education" through an assessment tool such as "number" of student enrolling and "literacy rate".²¹ It does not focus on the theory of rights and law. It just points out a brief connection with legal instruments on "right to education" and "gender equality" within general perspectives.

¹⁸ See Asian Development Bank. (n.d.). *Poverty data Cambodia*. Retrieved May 25, 2022, from <https://www.adb.org/countries/cambodia/poverty>

¹⁹ Chea, N. (2015). *HIGHER EDUCATION IN CAMBODIA Poor rural female students' challenges, motivations, and coping strategies*, p.6, para.4.

²⁰ Reardon, S.F. (2020). Education and equality of opportunity. In Tach, L., Dunifon, R., & Miller, D. L. (Eds). *Confronting inequality: how policies and practices shape children's opportunities* (pp. 237-240). doi: <http://dx.doi.org/10.1037/0000187-012>

²¹ Subrahmanian, R. (2005). Gender equality in education. *International Journal of Educational Development*, 395–407. doi:10.1016/j.ijedudev.2005.04.003

That “right to education” is needed for states to look at the perspective of legislation is required in order for citizens to enjoy right to education, practical commitments and obligations is written by Singh, a special rapporteur of the UN on education rights.²² It elaborates legal instruments that enshrine “right to education”, “equality of education” to everyone without discrimination including people with disability and live in rural areas. It provides some guidance indirectly on what states can do or should do to fulfill “right to education”. Education has been proved as an essential step for empowering women. For example, in Nigeria, Fapohunda has shown that there is a gap between genders in education, and it specifies the importance of education for women in societal development, income and managerial positions.²³ It stresses that the higher number of women in “leadership positions” and “managerial positions” has been and will further depend on the “level of education”. It includes data of primary, secondary schools and universities. Leadership has been studied beyond a connection of education perspective by investigating more into psychological behaviors. Madden views that stereotyping of genders in leadership and how leaders and others expect them to behave in certain ways because of genders influences their own perception and leadership patterns.²⁴ However, the study figures out that women can also have “effective leadership”; “higher education” is a milestone for women in reaching “leadership positions”.

There are seven journals studying the context of Cambodia that have been analyzed. A topic on “gender and the effectiveness in leaders: a meta-analysis” seems to be relevant.²⁵ However, its substance has a different research frame from this thesis research writing’s. In another article regarding leadership, Vong and others has found how a connection between “gender norms” and societal situations, including education opportunities that are provided is less

²² Singh, K. (2014). Right to education and equality of educational opportunities. *International Cooperation in Education*, 16(2), 5-19.

²³ Fapohunda, T.M (2011). Empowering women through higher education in Nigeria. *European Journal of Humanities and Social Sciences*, 9(1), 2011.

²⁴ Madden, M. (2011). Gender stereotyping of leaders: do they influence leadership in higher education?. *Wagadu*, Vol.9 Fall, 55-88.

²⁵ Alice, H.G., Steven, J.K., Mona, G.M. (1995). Gender and the effectiveness of leaders: a meta-analysis. *Psychological Bulletin*, 117(1), 125-145.

prioritized for women than men in families, have impeded women in gaining leadership positions in “health sector”, particularly law makers in parliaments.²⁶ “Higher education” is not only a key to “leadership positions”, but also to address challenges in “gender roles” raised by Vannak Dom.²⁷ Another reason influencing numbers of women in “leadership positions” is “low salary”, which is raised by Chhoeun and others.²⁸ This journal has found an additional concern that “low” remuneration in managerial positions such as commune/Sangkat chief is a contributing factor to low number of women in manager positions in commune /Sangkat levels. In this regard, this concern might not reflect the reality since women receive the same amount of salary compared to men within the same positions in public services, unlike private organizations that pay the salary rates based on different criteria that they think of and set.

A deeper analysis on human rights law and practice on right to education and “discrimination” has been written by a Cambodian researcher of the Center for the Study of Humanitarian Law. Sophorn Tuy has identified the existence of discrimination in education between men and women in Cambodian society.²⁹ She found challenges hindering women and girls from

²⁶ Vong, S., Ros, B., Morgan, R., & Theobald, S. (2019). Why are fewer women rising to the top: a life history gender analysis of Cambodia’s health workforce. *BMC Health Services Research*, 1-9. doi: <https://doi.org/10.1186/s12913-019-4424-3>

²⁷ Dom, V. (2019). I pursue higher education for reasons: exploring the demand for higher education in Cambodia. *American Journal of Education and Learning*, 4(2), 314-324. doi: 10.20448/804.4.2.314.324

²⁸ Chhoeun, T., Sok, P., & Byrne, C. (2008). Citadel of women: strengthening female leadership in rural Cambodia. *Gender & Development*, 16 (3), 535-547. doi:10.1080/13552070802465433

²⁹ Tuy, S. (2019). Discrimination against women in accessing higher education in Cambodia. *Journal of Southeast Asian Human Rights*, 3(1), 101-123. doi:10.19184/jseahr.v3i1.8402

getting education such as financial constraint, a perspective of gender roles that women are expected to do household work instead of contributing to economic development for families, security, insufficient legal instruments in the region and lack of knowledge in human rights law that women enjoy.

Overall, there has been a similar direction of study in Nigeria, but it focuses on different geographical areas, and is limited to education chances and leadership. It does not provide an analysis from legal perspective, theoretical point of view, and why education really impacts numbers of “managerial positions” in its actual circumstances. Hence, there has not been any literature investigating theoretically on the connection between the definition of “equality of right” to education and its ‘access’ to higher education, and how it effects leadership positions in Cambodia although several journals analyze on legal grounds and lack of access to education.

1.3 RESEARCH QUESTIONS AND METHODS

After finding the research gap, four research questions are formed. Question 1: What is the scope of right to education? What is 'equal access' to higher education? State obligations? Doctrinal research of legal methodology through qualitative research is used to find Research Question 1. Question 2: What is the importance of higher education? Why is it important to have 'equal access' to higher education connected with leadership positions? Qualitative research through secondary data and primary data (1 interviewee from Sweden, 2 from Vietnam, 1 from Thailand) collection is suited for answering Question 2. Question 3: Does Cambodia have sufficient law or legal framework to support 'equal access to higher education' between men and women? Doctrinal research of legal methodology through qualitative research is used to answer Research Question 3. Question 4: What are the barriers that women face in 'accessing' higher education in Cambodia? How does "unequal access to higher education affect leadership/managerial positions in the country? To answer Question 4, socio-legal research through mix-methods (qualitative and quantitative) is needed to find the correlation of previous findings in Question 1 and 3, previous literature, personal observation, actual circumstances, actual numbers of women enrolling higher education and numbers of women in managerial or leadership positions in Cambodia. Data collection of Question 4 is secondary data (journals, etc) and primary data (interview 12 people from Cambodia; survey:

71 responses). Accordingly, the methods of seeking the answers to these research questions are as follows.

Philosophically, the research study is “positivism” since this philosophical approach can be suited for legal interpretation and study of legal influence towards human behaviors. In terms of “approaching theory”, “abduction” is used since there is no plan to make a new theory or test theories, but exploring the legal instruments and its implementation. The methodology choice of study is a mixed method combined between quantitative and qualitative research. Doctrinal research of legal methodology through qualitative research method is necessary to use in order to point out the legal concepts and to apply them with reality and human behavior.³⁰ Then, socio-legal research is essential in legal application with human behaviors, policy, influence and connection between equal access to higher education and leadership or managerial positions. The socio-legal research is a type of mixed-methods between qualitative and quantitative methods.³¹ It is useful for validity and reliability of findings. For instance, qualitative research methods such as existing literature identifies that there is insufficient law regarding equal access to higher education and non-discrimination towards women in higher education in the region, which refers to Cambodia, the doctrinal research is conducted again in order to figure out whether it is really the issue of insufficient law. Once finding out that it is actually because there is sufficient international law, but insufficient domestic law in that regard, it is important to understand its impacts and violation of the international legal instruments. To understand its impacts and violations, despite existing literature studies the impacts, there is still a need to use quantitative research methods in assessing the equal access of higher education between men and women through statistics of enrollment data between the two genders to see if it is consistent with the previous research finding. Moreover, another qualitative research method through interview is like the third time of clarification before reaching a conclusion on whether or not there is unequal access to higher education between men and women in Cambodia, discrimination in this aspect and violation of international law by the state. Drawing the connection between unequal access to higher education and low

³⁰ See McConville, M., & Chui, W.H. (Eds). (2017). *Research methods for law*, p.20, last para. UK: Edinburgh University Press.

³¹ See McConville, M., & Chui, W.H. (Eds). (2017). *Research methods for law*, p.23, para.1, first and second sentence. UK: Edinburgh University Press.

numbers of leadership positions in Cambodia, mix-methods are used since it compares numbers of female students in higher education with female managers or leaders through available secondary data. Then, analyze their consistency between the secondary data and primary data (interviews).

The data collection is through collecting archival documents on enrollment data of students and leadership positions and primary data such as surveys and semi-structured interviews. There are 71 people responding to the survey. Most of them are females, and they are employees and university students. There are twelve interviewees from Cambodia: two researchers and two female directors, one mid-manager level, seven employees and students. One from Sweden, 2 from Vietnam, and 1 from Thailand. 'Content analysis' method works for this type of qualitative data since it entails meanings of words that need to be analyzed whereas descriptive and inferential analysis is used to study numbers of enrollment on equal access to higher education and its relationship with managerial positions.

1.4 RESEARCH PURPOSES

Explore the scope of the right to education to see whether higher education is an absolute right. If it is not, to what extent the state has obligations to address discrimination and equal access to higher education between men and women. The legal analysis of the paper might be slightly different from the EU's perspective since Cambodia's system, social security and labor markets seems to cause dependency of higher education chances for adults on parents' decisions, and state's support.

Address the importance of higher education in order to arouse a thinking for women and girls in Cambodia to demand equal access to higher education and fight against discrimination against them, which is necessary for their life development and independency. Moreover, it is under the scope of right to education.

This research is useful for readers to understand legal perspectives applicable for accessibility of higher education whereas let readers or human rights practitioners understand various

measures or tools in assessing human rights in practice in the context of equal accessibility and non-discrimination in higher education in Cambodia.

More importantly, the author hopes to expose the importance of higher education and how it is part of the right to education's scope that women in Cambodia should be treated equally in the education sector in order for them to create and utilize potential and contribute back to the society in the time that Cambodia is a developing country that needs human resources. Gender roles or norms shall not be condoned to dominate legal concepts and the need for individual and collective development. Further, the paper connects numbers of women in higher education and numbers of females in leadership positions because a literature study by Feldman in 1995 points out that level of education has most effects on income and labor status.

1.5 DELIMITATION

Scope of the right to education is broad. The study just explores and describes the scope of right to education that is considered as most related to 'accessibility'. Moreover, the analysis is based on available data and resources. Regarding the importance of education, it has a wider scope, but the author just wants to highlight key concepts to connect with access to higher education and leadership positions. The study does not go deep into the theory of equality. The study does not focus on females from minority groups in Cambodia owing to limited literature, knowledge, and resources in the study. It uses socio-legal research to seek information on what ways that human rights practitioners can measure practice with legal perspective and analysis.

CHAPTER 2: RIGHT TO EDUCATION: EQUAL ACCESS BETWEEN MEN/BOYS AND WOMEN/GIRLS: ANALYSIS OF INTERNATIONAL LEGAL STANDARD

This Chapter describes scope of right to education, accessibility to higher education attaching the principle of non-discrimination and equality. Also, it has concluding remarks at the end of the chapter. Observation and overall conclusion of the chapter is written in concluding remarks.

2.1 SCOPE OF RIGHT TO EDUCATION

Right to education is the obligation of the territorial states to provide resources and possibilities for citizens to receive education, and not to impede their rights.³² These can be called “positive” and “negative” obligations.³³ ‘Positive obligation’ requires states to “protect” and “fulfill”.³⁴ ‘Negative obligation’ is to “respect” by not obstructing someone’s right to education.³⁵ ‘Positive obligation’ includes obligations to enact laws, provide facilities, resources and all “means” to recognize the right to education benefiting citizens’ lives, independence

³² Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), para.46.

³³ Kalantry, S., Getgen, J.E., & Koh, S.A. (2010). Enhancing enforcement of economic, social, and cultural rights using indicators: a focus on the right to education in the ICESCR, p.262, para. 3. *Human Rights Quarterly*, 32(2), 253-310. doi: 10.1353/hrq.0.0144

³⁴ See connected ideas of [Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), para.47, second sentence.] & [Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), para.47, third sentence.].

³⁵ See Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), para.47, first sentence.

and chances of “development”.³⁶ “These “obligations are designed to make sure citizens can exercise full scope of the right to education by targeting ‘4As’ perspectives such as “availability”, “accessibility”, “acceptability” and “adaptability”.³⁷

2.1.1 AVAILABILITY

“Availability” refers to providing the school facilities needed for education such as school buildings, water, toilets, whiteboards, lights and other necessary equipment including study materials.³⁸ States have obligations to provide ‘adequate’ educational institutions since limited numbers of schools affects the ‘quality’ of learning.³⁹ A former UN Special Rapporteur Katarina Tomasevski expresses a concern over the lack of schools in ‘remote areas’ affecting enjoyment of the right.⁴⁰ As to this matter, in line with principles of ‘equality of right’ and ‘equal access’, states shall build schools, especially in remote areas, located in a “safe” and “reachable”

³⁶ See connected ideas of [Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), para.6(b), “non-discrimination”.] & [See concepts of 4As in Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant).] & [Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), para.1.].

³⁷ See connected ideas of [Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant).] & [Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), para.1.] & [International Covenant on Economic, Social and Cultural Rights 1966, article 2(1).].

³⁸ Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), 6(a).

³⁹ Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), 6(a).

⁴⁰ Tomasevski, K. (1999). *Preliminary report of the special rapporteur on the right to education* (E/CN.4/1999/49), p.18, para.51. Retrieved from United Nation website: <https://digitallibrary.un.org/record/1487535>

distance to fulfill the concept of “availability” regarding the right to education.⁴¹ School equipment and teaching tools shall be maintained and improved to provide quality teaching and learning environment.⁴² Regardless of these obligations, states shall not prevent private institutions from being established.⁴³

‘Free of charge’ and ‘compulsion’ for primary education are legal and substantial principles of the right to education. However, I am skeptical if these concepts should be interpreted as part of “availability”. ‘Free of charge’ should be classified as a concept of “economic accessibility” and ‘compulsion’ is most related to ‘physical access’ since it requires parents to bring their children to school. Kalantry and co-authors interpreted the right to education written in ICESCR that the “availability” includes the concept of “free” primary education.⁴⁴ Likewise, literature such as “Human Rights Obligations in Education: The 4-A Scheme” composed by Tomasevski, and “The Right to Education: The Work of Katarina Tomasevski” written by Klees and Thapliyal, convey that “availability” entails the concept of obligating the government to provide “free” and implement “compulsory” education for primary education.⁴⁵ On the other hand, General Comment No.13 on right to education, which is the

⁴¹ See connected ideas of [Concept of equal rights, equal ‘access’ and equal “opportunity” between “men” and “women” in *International Covenant on Economic, Social and Cultural Rights 1966*, article 3.; *International Covenant on Economic, Social and Cultural Rights 1966*, article 13(2)(c); Committee on the Elimination of Discrimination against women. (2017). General recommendation No.36 on the right of girls and women in education, para.16, second sentence.] & [Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), 6(a) & 6(b).].

⁴² *International Covenant on Economics, Social and Cultural Rights 1966*, article 13(2)(2).

⁴³ *International Covenant on Economics, Social and Cultural Rights 1966*, article 13(4).

⁴⁴ Sital, K. Jocelyn, E.G., & Steven A.K. (2010). Enhancing enforcement of economic, social, and p.275, para.2. *Human Rights Quarterly*, 32 (2), 253-310. doi: <https://doi.org/10.1353/hrq.0.0144>

⁴⁵ Steven, J.K., & Nisha, T. (2007). The right to education: the work of Katarina Tomasevski, p.507. *Comparative Education Review*, 51(4), 497-510. doi: 0010-4086/2007/5104-0004\$10.00;

source, elaborates the key concept of “availability”, and article 13 of ICESCR do not seem to mention directly or indirectly that “compulsory” and “free” education as parts of “availability”. ‘Compulsion’ might be actually “physical access” rather than “availability” since it is literally a conceptual tool for parents to physically bring children to ‘attend’ school.⁴⁶ Noticeably, Tomasevski also notes that effectiveness of “compulsory” education in primary education of a state can be assessed through a comparison between ‘numbers of children’, whose group ages are supposed to be in ‘primary education’, and actual numbers of students ‘enrolling’ in primary schools.⁴⁷ “Free” education is a substance of “economic accessibility” that helps children and guardians to “afford” children’s education.⁴⁸ Hence, according to General Comment No.13, article 13 of ICESCR and the assessment tool of effectiveness in implementing ‘compulsion’ is linked with “physical access” instead of “availability” whereas the concepts of “free” education shall be part of “economic accessibility”.⁴⁹

A constraint in available resources is not a legal ground for states not to take actions or measures in providing “availability”, particularly to the most vulnerable groups.⁵⁰ States shall promote “availability” through strategic planning to find possible solutions that can be offered

Tomasevski, K. (2006). *Human rights obligations in education: The 4-A scheme*, p.24, para.1. Nijmegen, the Netherlands: Wolf Legal Publishers (WLP).

⁴⁶ See Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), 6(b), “physical accessibility, “attendance”.

⁴⁷ Tomasevski, K. (1999). *Preliminary report of the special rapporteur on the right to education* (E/CN.4/1999/49), p.18-19. Retrieved from United Nation website: <https://digitallibrary.un.org/record/1487535>

⁴⁸ See Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), 6(b).

⁴⁹ See connected concepts of [*International Covenant on Economic, Social and Cultural Rights 1966*, article 13(2)(a).] & [Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), 6(b), “physical accessibility, “attendance”.] & [6(b), “economic accessibility”, “free to all”.].

⁵⁰ Economic, U. N., & Council, S. (1999). General comment no. 11: Plans of action for primary education (Art.14 of the covenant), para.9.

through domestic and/or international support.⁵¹ Providing “availability” shall be equal to everyone without distinctions of legal and social status since “availability” is a part of the scope of right to education, and the general principle of rights shall be equal and non-discriminating.⁵² That is the reason leading to the establishment of the Convention on the Rights of Persons with Disabilities (CRPD) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).⁵³

In order to reach ‘availability’, Beeckman suggests multiple methods such as paying attention to, differences in “capacity” between “public” and “private” educational institutes, “competence” and remuneration of educators/instructors, and whether resources of state allocates ‘equitably’ for “public” education system, “private” educational institutions, remote and “urban”.⁵⁴ Nevertheless, “availability” is not the only factor to ensure effectiveness in having all “age school girls” to attend school.⁵⁵

⁵¹ Economic, U. N., & Council, S. (1999). General comment no. 11: Plans of action for primary education (Art.14 of the covenant), para.9.

⁵² See *International Covenant on Economics, Social and Cultural Rights 1966*, article 2(2); Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), para.32 - 34; *Universal Declaration on Human Rights 1948*, article 1&2.

⁵³ *Convention on the Rights of Persons with Disabilities 2006*, “preamble”; *Convention on Elimination of All Forms of discrimination against Women 1979*, “introduction”.

⁵⁴ Beeckman, K. (2004). Measuring the implementation of the right to education: educational versus human rights indicators, p.77. *International Journal of Children's Rights*, 12(1), 71-88. Retrieved from <https://heinonline.org/HOL/Page?handle=hein.journals/intjchrb12&id=79&collection=journals&index=>

⁵⁵ Tomasevski, K. (1999). *Preliminary report of the special rapporteur on the right to education* (E/CN.4/1999/49), p.19. Retrieved from United Nation website: <https://digitallibrary.un.org/record/1487535>

2.1.2 ACCESSIBILITY

“Physical accessibility”, “economic accessibility” and “non-discrimination” are concepts to follow to ensure “accessibility” of right to education.⁵⁶ “Physical accessibility” is to make sure that there are schools where students can travel ‘safely’ to receive education and within ‘proper distance’.⁵⁷ A quantitative research data analysis shows that distance affects students in continuing their study: educational institutions become further when they enter secondary, high school and higher education.⁵⁸ Students who face a distance barrier from families having low income might not be able to access higher education since the education would be more costly.⁵⁹ In relation to this, another research in 1997 by Vasconcellos regarding ‘transportation’ and ‘school access’ suggests states to create policy in providing “transportation” in order to improve the ‘physical access’ to education in “rural areas”.⁶⁰ According to the findings of his research ‘geographical areas’ is a key issue for ‘children’ to ‘access’ schools in ‘developing countries’. Moreover, the author regards “transportation” as a “right” where it is “necessary” for them to ‘access’ ‘schools’ and that the ‘right to

⁵⁶ Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant).

⁵⁷ Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant).

⁵⁸ Das, B., & Das A. (2021). Is Distance to secondary school a barrier to secondary and higher education in India?. *Millennial Asia*, 1-25. doi: <https://doi.org/10.1177/09763996211035073>

⁵⁹ Frenette, M. (2004). Access to college and university: does distance to school matter?, p.428. *University of Toronto Press*, 30(4),427-443. Retrieved from https://www.jstor.org/stable/pdf/3552523.pdf?casa_token=HmfxjYtsWzMAAAAA:JDhhomVxHFP-gPP4_p7mnjajqu4gcC9TiM6HK2DVMUJglz8ilXRVISUglcajn-R6SV4L9SuHcByCf-3KKICEMBPP82xujQ_yZ33mi33__oBFkCdcg6l

⁶⁰ Vasconcellos, E. A. (1997). Rural transport and access to education in developing countries: policy issues, p.135, para.1, first and second sentence. *Journal of transport geography*, 5(2), 127-136.

transportation' should be 'legislated'.⁶¹ Later, in 2011, a high court in South Africa issued a judgment 'ordering' the "Department of Education" to 'offer' 'free school bus' for schooling children in "Siga village" to travel to their school that was located around 2.5 miles away from home.⁶² In the context of 'transportation', women encounter challenges differently from men.⁶³ An article on "Gender, Inclusive Transport and Sustainable Development Goals: A Legal Perspective to Transport Policies" recommends states to provide "gender responsive transport" to respond to women's "safety" by including the implementation plan into states' "policies".⁶⁴ Authors of the article produce this recommendation based on the legal concept of the "right to equality".⁶⁵ "Safety" as written in General Comment No.13 of ICESCR and the article's suggestion, states' obligations on 'safety' are not written 'directly' in right to education under ICESCR, UDHR, European Convention on Human Rights, African Charter

⁶¹ Vasconcellos, E. A. (1997). Rural transport and access to education in developing countries: policy issues, p.135, para.3, first and second sentence. *Journal of transport geography*, 5(2), 127-136.

⁶² Coggin, T., & Pieterse, M. (2015). A right to transport? Moving towards a rights-based approach to mobility in the city, p.11, last para. *South African Journal on Human Rights*, 31(2), 294-314.

⁶³ Singhai, A., & Singhai, K. *Gender, Inclusive Transport and Sustainable Development Goals: A Legal Perspective to Transport Policies*, p.2, continued para. Retrieved from https://www.unescap.org/sites/default/d8files/2021-11/Article%20_Gender%20Inclusive%20Transportation%20and%20SDGs-%20A%20Legal%20Perspective%20to%20Transport%20Policies_0.pdf

⁶⁴ See Singhai, A., & Singhai, K. *Gender, Inclusive Transport and Sustainable Development Goals: A Legal Perspective to Transport Policies*, p.2, continued para. Retrieved from https://www.unescap.org/sites/default/d8files/2021-11/Article%20_Gender%20Inclusive%20Transportation%20and%20SDGs-%20A%20Legal%20Perspective%20to%20Transport%20Policies_0.pdf

⁶⁵ See Singhai, A., & Singhai, K. *Gender, Inclusive Transport and Sustainable Development Goals: A Legal Perspective to Transport Policies*, para.2, in p.1 and continued para. in p.2. Retrieved from https://www.unescap.org/sites/default/d8files/2021-11/Article%20_Gender%20Inclusive%20Transportation%20and%20SDGs-%20A%20Legal%20Perspective%20to%20Transport%20Policies_0.pdf

on Human and People's Rights and Universal Declaration of Human Rights. However, students might not be able to access school if they face dangers.⁶⁶ States shall ensure there is a "social security" because it is a right stipulated in the International Covenant on Civil and Political Rights and a factor that affects 'physical access' of the right to education.⁶⁷ In certain cases of 'necessity', digital teaching is introduced when there are justifiable reasons such as Covid-19 as a meaning of "physical accessibility".⁶⁸ Another factor hinders girls and women from education is parents' decision in keeping girls and women at home to do housework.⁶⁹ This will be discussed in section "2.2" on 'non-discrimination' and 'equality'.

"Economic accessibility" means education shall be "affordable" for citizens to "access" education at all levels.⁷⁰ General Comment No.13 uses the key term "affordability" for all levels of education, which is different from the International Covenant on Economic, Social and Cultural Rights.⁷¹ "Affordability" has no specific legal definition. However, where an

⁶⁶ Tuy, S. (2019). Discrimination against women in accessing higher education in Cambodia, p.114. *Journal of Southeast Asian Human Rights*, 3(1), 101-123. doi:10.19184/jseahr.v3i1.8402; Tanye, M. (2008). Access and barriers to education for Ghanaian women and girls, p.178. *Interchange* 39, 167–184. Retrieved from <https://link.springer.com/article/10.1007/s10780-008-9058-z>

⁶⁷ See *International Covenant on Civil and Political Rights 1966*, article 9(1) & *International Covenant on Economics, Social and Cultural Rights 1966*, article 13(1), sentence 2. See also *Universal Declaration of Human Rights 1948*, article 3; *ASEAN Human Rights Declaration 2012*, para.12; *European Convention on Human Rights 1950*, article 5.

⁶⁸ See Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), 6(b).

⁶⁹ Tomasevski, K. (2009). *Human rights obligations: making education available, accessible, acceptable and adaptable*. CLACSO. Retried from <http://biblioteca.clacso.edu.ar/Argentina/lpp/2010042609081111.pdf>

⁷⁰ Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), 6(b).

⁷¹ Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), 6(b).

education fee is introduced, it would lead to 'unequal access' between children from poor and rich families.⁷² Failure of "fee" payment can be used discretionarily as a reason to deny children's right to primary education.⁷³ In this regard, Tomasevski expresses her concern over conflicting legal norms and lack of political will. She mentions there is an issue of understanding states' obligations when human rights law considers 'education' a right whereas international trade law defines it as "a service".⁷⁴ From her human rights point of view, "free education" shall be implemented for all "children".⁷⁵ Yet, it is a challenge in implementation caused by different factors including political will. When states fail to provide certain standards of education and scope of right, citizens in most countries cannot access "justice" or court remedy.⁷⁶ In a sense, "affordability" can also be interpreted to imply that states shall seek adaptive solutions to balance between resources and how citizens can afford to access their education. Barr has introduced three possibilities for states in financing higher education based on economic perspective such as: "the days of central planning have gone", sharing the cost of higher education through tax payment, and "student loans".⁷⁷ "The days of central planning have gone" refers to inefficiency and the complication of "control" in "price", "quality" and "quantity" in the education system by states.⁷⁸ Johnstone puts the second and third methods

⁷² Tomasevski, K.. (2006). *Free or fee: 2006 global report*, p.21-22. Retrieved from http://www.katarinatomasevski.com/images/Global_Report.pdf

⁷³ Tomasevski, K. (2003). *Education denied: Costs and remedies*, p.75. Zed books.

⁷⁴ Tomasevski, K. (2006). *Human rights obligations in education: The 4-A scheme*, p.56, para.3. Wolf Legal Publishers.

⁷⁵ Tomasevski, K. (2006). *Human rights obligations in education: The 4-A scheme*, p.56, para.3. Wolf Legal Publishers.

⁷⁶ Tomasevski, K. (2006). *Human rights obligations in education: The 4-A scheme*, p.64, figure 7. Wolf Legal Publishers.

⁷⁷ Barr, N. (2004). Higher education funding, p.267. *Oxford review of economic policy*, 20(2), 264-283.

⁷⁸ Barr, N. (2004). Higher education funding, p.267. *Oxford review of economic policy*, 20(2), 264-283.

that Barr suggests into one: “cost-sharing in higher education”.⁷⁹ He identifies four factors that contribute to the sharing cost in education: “government”, “parents”, “students” and “individuals”. Government may impose tax on profits, “goods”, salaries, and income to distribute the state’s income to fund education.⁸⁰ Second, with partial support from states in education, parents pay some amount of tuition fee to schools. Third, it can be done through loans that students contribute to funding their own education. Four, scholarships provided to students by either individuals or organizations.

According to the International Covenant on Economics, Social and Cultural Rights and the Universal Declaration of Human Rights, “primary education” is ‘free’ whilst secondary and higher education is on the “progressive introduction” to “free education”.⁸¹ “Free” education means students can study without having to pay any charge. Free of charge education means students and guardians do not need to pay “direct/indirect cost” or administrative fee for their education.⁸² The UN committee on Economic, Social and Cultural Rights notes in General Comment no.11 that “indirect cost” is contrasted with the “free of charge” principle. For instance, it is an obstacle in realization of the meaning of “free education” in primary education when there is a lack of mechanism and effective practice to fight against corruption

⁷⁹ Johnstone, D.B. (2004). The economics and politics of cost sharing in higher education: comparative perspectives, p.404. *Economics of Education Review* 23, 403–410. Retrieved from https://www.sciencedirect.com/science/article/pii/S0272775703001171?casa_token=_5msc8vi7SsAAAAA:bMGYuew2B-ol4yP2AgXqTFnWzJd0MvUU8KD8uvjx3HNou9_DKGJgXtzpCRpdd6bWjmi05tJTswA

⁸⁰ Johnstone, D.B. (2004). The economics and politics of cost sharing in higher education: comparative perspectives, p.404, para.2. *Economics of Education Review* 23, 403–410. Retrieved from https://www.sciencedirect.com/science/article/pii/S0272775703001171?casa_token=_5msc8vi7SsAAAAA:bMGYuew2B-ol4yP2AgXqTFnWzJd0MvUU8KD8uvjx3HNou9_DKGJgXtzpCRpdd6bWjmi05tJTswA

⁸¹ *Universal Declaration on Human Rights 1948*, article 26; *International Covenant on Economics, Social and Cultural Rights 1966*, article 26.

⁸² Economic, U. N., & Council, S. (1999). General comment no. 11: Plans of action for primary education (Art.14 of the covenant), para.7.

in the “indirect cost” in educational institutions, impeding children from exercising their rights to education.⁸³ A clash between conventional thinking towards gender roles and the “indirect cost” affects the access of girls’ education more than boys’ as in Pakistan’s community in the 1990s.⁸⁴ Those girls were required to pay for “teacher’s attendance” and “textbooks” in addition to ‘school tuition fee’. When they could not pay, they had to “do domestic chores” for their teachers in ‘exchange’.⁸⁵ Poor families prefer to pay “less” for girls’ education than boys.⁸⁶

“Progressive introduction to free education” obligates states to adopt the mechanisms needed to achieve free of charge access for secondary and higher education.⁸⁷ In relation to the principle of states’ margin of appreciation as in Ponomaryov case of the European Court of Human Rights, Tomasevski, on the other hand, finds that the key challenge in imposing ‘free education’ is lack of ‘commitment’ by politicians or government other than ‘limited available resources’.⁸⁸ For example, the United Kingdom has changed its commitment in higher education by imposing from 25 percent of tuition fee to almost 100 percent of the tuition fee.⁸⁹ Receiving the same effect of legal binding of ICESCR, governments instead perceive the concept in higher education in five directions: availability of education exists when there is

⁸³ Tomasevski, K. (2003). *Education denied: Costs and remedies*, p.13. Zed books.

⁸⁴ Tomasevski, K. (2003). *Education denied: Costs and remedies*, p.13. Zed books.

⁸⁵ See Tomasevski, K. (2003). *Education denied: Costs and remedies*, p.13, para. 3. Zed books.

⁸⁶ Herz, B., Herz, B. K., & Sperling, G. B. (2004). *What works in girls' education: Evidence and policies from the developing world*, p.47, “Box 6”. Council on foreign relations.

⁸⁷ *International Covenant on Economics, Social and Cultural Rights 1966*, article 13(2); Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), para.14; Tomasevski, K. (2006). *Human rights obligations in education: The 4-A scheme*, p.51, para.2. Wolf Legal Publishers.

⁸⁸ Katarina, T. (2006). *Free or fee: 2006 global report*, p.1. Retrieved from http://www.katarinatomasevski.com/images/Global_Report.pdf

⁸⁹ Tomasevski, K. (2006). *Human rights obligations in education: The 4-A scheme*, p.50, para.2. Wolf Legal Publishers.

payment, practice requires payment regardless of what the law requires, state' subsidy, loans provided by state and "free of charge education".⁹⁰

Beeckman addresses that the three concepts of 'accessibility' can be gauged through "availability" of the "free public" education system and differences in enrollment rates between all genders.⁹¹ His journal does not specify which level of public educational institutes shall be "available" for free. In connection with this, Tomasevski observes that the assessment through "enrolment" rate is NOT sufficient to detect "discrimination". It requires the evaluation that include "drop-out" rates which divides 'information on genders', especially if one studies 'gender' discrimination.⁹²

Accordingly, "accessibility" can be assessed firstly through enrolment rates, secondly through drop rates (gender specification), thirdly through "availability" of free of charge education (primary education) and fourthly through affordability, as well as options that states provide for students to set their own levels of education. The first and second tools are 'physical access' and to see if there is effectiveness of principle of 'non-discrimination' in education. The third and fourth are 'economic accessibility' so called 'affordability'.⁹³ Lastly, the concept of "non-discrimination" is written as another part of "accessibility". However, "non-

⁹⁰ Tomasevski, K. (2006). *Human rights obligations in education: The 4-A scheme*, p.51-55. Wolf Legal Publishers.

⁹¹ Beeckman, K. (2004). Measuring the implementation of the right to education: educational versus human rights indicators, p.77. *International Journal of Children's Rights*, 12(1), 71-88. Retrieved from <https://heinonline.org/HOL/Page?handle=hein.journals/intjchrb12&id=79&collection=journals&index=>

⁹² Tomasevski, K. (1999). *Preliminary report of the special rapporteur on the right to education* (E/CN.4/1999/49), p.11, para.29. Retrieved from United Nation website: <https://digitallibrary.un.org/record/1487535>

⁹³ See connected ideas of [Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), para. 6(b), "Economic accessibility".] & [*International Covenant on Economic, Social and Cultural Rights 1966*, article 13(2).].

discrimination” is also applicable for the whole scope of the ‘right to education’, this will be discussed in section 2.2.

2.1.3 ACCEPTABILITY

“Acceptability” is the third characteristic to education’s scope in article 13 of ICESCR.⁹⁴ It entails ‘quality’, ‘morality’ and ‘religion’.⁹⁵ ‘Quality’ exists in the “minimum standards” required for the approval of educational establishments.⁹⁶ The existence of ‘morality’ is reflected through the acknowledgement that education shall be provided to promote “understanding”, “tolerance”, “friendship” among people from different ‘nationalities’ and ‘ethnicity’ for “peace”.⁹⁷ This acknowledgment also includes the ability of “tolerance” among people believing in various “religions”.⁹⁸ States have a positive obligation in improving and setting minimum standards of education, and ensuring that course curriculum is inclusive and not against any religion.⁹⁹ At the same time, states also have a negative obligation not to interfere with parents’ choices in ‘choosing’ schools for their children.¹⁰⁰

⁹⁴ See Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), para. 6(c); *International Covenant on Economic, Social and Cultural Rights 1966*, article 13(3), “...minimum standard.....”.

⁹⁵ *International Covenant on Economics, Social and Cultural Rights 1966*, article 13(3).

⁹⁶ *International Covenant on Economic, Social and Cultural Rights 1966*, article 13(4).

⁹⁷ *International Covenant on Economic, Social and Cultural Rights 1966*, article 13(1), last sentence.

⁹⁸ *International Covenant on Economic, Social and Cultural Rights 1966*, article 13(1), last sentence.

⁹⁹ See *International Covenant on Economic, Social and Cultural Rights 1966*, article 13(3).

¹⁰⁰ See *International Covenant on Economic, Social and Cultural Rights 1966*, article 13(3).

In either formal or informal education programmes, 'quality' shall be taken into account to drive profits from education.¹⁰¹ A territorial state has the obligation to regulate and set a minimum standard of quality of education before approval of educational establishment.¹⁰² General Comment No.13 of the right, ICESCR, UDHR, ECHR, CRC and ACHPR do NOT mention directly if school facilities shall be in certain ways to be 'acceptable' under the concept of right to education. However, it requires states to provide or make sure there are "minimum educational standards" under the concept of 'acceptability'.¹⁰³ The idea "minimum educational standards" can be understood through a book written by Tomasevski, a former special rapporteur of the UN. She includes explanations on the needs of setting minimum standards in numbers of students in a classroom and good conditions of school buildings (without water leaking), as part of 'acceptability' since they influence the ability of gaining knowledge in education.¹⁰⁴ Educational environments should be where students 'feel safe' and 'comfortable' to 'raise questions' and 'answer'.¹⁰⁵

¹⁰¹ See connection between [Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), (6)(c) & 16(b) & (1)] & [*Convention on the Rights of the Child 1989*, article 29.].

¹⁰² *International Covenant on Economics, Social and Cultural Rights 1966*, article 13(3)&(4); Tomasevski, K. (2006). *Human rights obligations in education: The 4-A scheme*, p.73, para.1 & p.72, para.3. Wolf Legal Publishers.

¹⁰³ *International Covenant on Economics, Social and Cultural Rights 1966*, article 13(3); Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), 6(c).

¹⁰⁴ Tomasevski, K. (2006). *Human rights obligations in education: The 4-A scheme*, p.76, para.2. Wolf Legal Publishers.

¹⁰⁵ *International Covenant on Economics, Social and Cultural Rights 1966*, article 13(1): "they further agree that education shall enable all persons to participate effectively in a free society"; *Convention on the Rights of the Child 1989*, article 29(1)(b); *International Covenant on Civil and Political Rights 1966*, article 19(2); Tomasevski, K. (1999). *Preliminary report of the special rapporteur on the right to education (E/CN.4/1999/49)*, p.23, para.67. Retrieved from United Nation website: <https://digitallibrary.un.org/record/1487535>.

Within “minimum educational standards”, Tomasevski and Kalantry view that it entails which language shall be instructed in the education system as part of “acceptability”.¹⁰⁶ In relation to this, General Comment No.13 does not seem to show inference in order to interpret that ‘acceptability’ includes ‘language’, but ‘availability’ does. Furthermore, Verheyde comments on the Convention on the Rights of the Child regarding right to education, and there is no ‘language’ implication in “acceptability”.¹⁰⁷

It is a common practical option that states use ‘dominance language’ in the state as the language of instruction. Whether the practice is ‘acceptable’ that a territorial state does not make other languages ‘available’, it might be more deliberately implied in ‘availability’ and ‘resources’. Moreover, ‘availability’ encompasses various aspects of ‘facilities’ and ‘training’ that ‘language of instruction’ should instead be interpreted as part of ‘availability’.

‘Morality’ acceptability requires a teaching curriculum that integrates ‘social’ and ‘traditional’ values.¹⁰⁸ “Discipline” for child educational development shall be in accordance with human

¹⁰⁶ Tomasevski, K. (2006). *Human rights obligations in education: The 4-A scheme*, p.86. Wolf Legal Publishers. & Kalantry, S., Getgen, J.E., & Koh, S.A. (2010). Enhancing enforcement of economic, social and cultural rights using indicators: a focus on the right to education in the ICESCR, p.278, para.2. *Human Rights Quarterly*, 32 (2), 253-310. doi: 10.1353/hrq.0.0144

¹⁰⁷ Verheyde, M. (2006). *A Commentary on the United Nations Convention on the Rights of the Child: Article 28 - the right to education*, p.26-27. Boston: Martinus Nihoff. Retrieved from https://books.google.se/books?hl=en&lr=&id=pl_no2YkKHQC&oi=fnd&pg=PR5&dq=Scope+of+%22acceptability%22+of+right+to+education&ots=3cY_LUrHBt&sig=Aeckbz3DOAKes7d2LBI_su9UF_8&redir_esc=y#v=onepage&q=Acceptability&f=false

¹⁰⁸ *African Charter on the Rights and Welfare of the Child 1991*, article 11(2)(c); *Convention on the Rights of the Child 1989*, article 29(c).

rights standards and dignity.¹⁰⁹ Child abuse and violence shall be avoided.¹¹⁰ Being able to understand and include the ‘principle of diversity’ is also considered as a ground of the “acceptability” standard of education.¹¹¹ It shall encourage and promote the ability to “tolerate”, accommodate and live in a society with ‘freedom of religion’.¹¹² According to the ‘right to education perspective’, territorial states shall ‘adopt strategies’ of education nationwide systematically and ‘monitor’ the education regularly.¹¹³

2.1.4 ADAPTABILITY

‘Adaptability’ of the right to education is a legal concept that arises from article 13(1) of ICESCR, ICESCR’s General Comment No.13, article 29(1)(d) of CRC, article 4(1)(f) of CRPD and article 10(c) of CEDAW.

¹⁰⁹ Wilson, D. (2005). *A Human rights contribution to defining quality education* (2005/ED/EFA/MRT/PI/51), p.26. Retrieved from UNESCO: <https://unesdoc.unesco.org/ark:/48223/pf0000152535/PDF/152535eng.pdf.multi>; See also *Convention on the Rights of the Child 1989*, article 28(2).

¹¹⁰ *Convention on the Rights of the Child 1989*, article 19.

¹¹¹ Wilson, D. (2005). *A Human rights contribution to defining quality education* (2005/ED/EFA/MRT/PI/51), p.25-26. Retrieved from UNESCO: <https://unesdoc.unesco.org/ark:/48223/pf0000152535/PDF/152535eng.pdf.multi>

¹¹² *African Charter on the Rights and Welfare of the Child 1991*, article 11(2)(d); *Convention on the Rights of the Child 1989*, article 29(1)(d); *International Covenant on Economic, Social and Cultural Rights 1966*, article 13(1), last sentence.

¹¹³ Tomasevski, K. (1999). *Preliminary report of the special rapporteur on the right to education* (E/CN.4/1999/49), p.10. Retrieved from United Nation website: <https://digitallibrary.un.org/record/1487535>

The adaptation refers to adjustment and development of the educational system as a whole, where it needs to fit in a social context, changes or/and “diverse” background.¹¹⁴ They can be, but not limited to ‘adaptation’ of, “curriculum” to be suitable for “diverse learners” and to reduce numbers of “drop-outs”, making regular schools more ‘adaptable’ for ‘people with disability’, allowing students who are “over age pupils” to enroll, and creating a system and curriculum that welcome students from different social/cultural backgrounds and religions.¹¹⁵

In a tough and inevitable economic situation, despite avoiding child labors, the former UN special rapporteur recommends school schedules and curriculum to ‘adapt’ for working children in order for them to study.¹¹⁶ An example of situational adaptation is ‘distance learning’ through zoom or other types of technological forms during Covid-19. For the

¹¹⁴ Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), 6(d).

¹¹⁵ See connected ideas of [Du Plessis, P. (2013). Legislation and policies: Progress towards the right to inclusive education, p.86&80. *De Jure*, 46(1), 76-92. Retrieved from <https://journals.co.za/doi/abs/10.10520/EJC136272>] & [Mara, D. & Mara, E.L. (2012). Curriculum adaption in inclusive education. *Procedia - Social and Behavioral Sciences* 46, 4004-4009. Retrieved from <https://reader.elsevier.com/reader/sd/pii/S1877042812019234?token=14B7559631511B6E96C8CBD07EB307FE181336BBA7313A58693849FD90F6ED599BF6660465A7616FD97D52E7B757303F&originRegion=eu-west-1&originCreation=20220428155852>] &

[Tomasevski, K. (2006). *Human rights obligations in education: The 4-A scheme*, p.107, para.2 & p.111-116. Wolf Legal Publishers.].

¹¹⁶ Tomasevski, K. (2001). *Human rights obligations: making education available, accessible, acceptable and adaptable*, p.33. Retrieved from https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/Tomasevski_Primer%203.pdf

purpose of effectiveness, accountability and “responsiveness”, consider to what extent that decision making should be made by local or/and central levels.¹¹⁷

2.2 ACCESS TO HIGHER EDUCATION, EQUALITY AND NON-DISCRIMINATION BETWEEN MEN AND WOMEN IN THE CONTEXT OF RIGHT TO EDUCATION

Discrimination against women is prohibited under International Covenant on Economic, Social and Cultural Rights, Convention on the Elimination of All Forms of Discrimination against Women, Universal Declaration of Human Rights, European Convention on Human Rights, African Charter on Human and People’s Rights, American Convention on Human Rights: "Pact of San José, Costa Rica" and ASEAN Human Rights Declaration.¹¹⁸

The prohibition on ‘discrimination’ based on ‘gender’ has immediate effects.¹¹⁹ Discrimination cannot be justified based on the “progressive realization” concept and/or “available

¹¹⁷Tomasevski, K. (1999). *Preliminary report of the special rapporteur on the right to education* (E/CN.4/1999/49), p.24, para.71. Retrieved from United Nation website: <https://digitallibrary.un.org/record/1487535>

¹¹⁸ *International Covenant on Economics, Social and Cultural Rights 1966*, article 2(2); *Convention on the Elimination of All Forms of Discrimination against Women 1979*, article 2; *Universal Declaration of Human Rights 1948*, article 7; *European Convention on Human Rights 1950*, article 14; *African (Banjul) Charter on Human and People’s Rights 1981*, article 18(3); *American Convention on Human Rights: "Pact of San José, Costa Rica" 1969*, article 1(1); *ASEAN Human Rights Declaration 1967*, “3”.

¹¹⁹ See connected ideas of [Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), para. 43, second sentence.] & [Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), 6(b).].

resources”.¹²⁰ Daniel Moeckli describes scope of ‘non-discrimination principle’ that it has two “norms”: “subordinate” and “autonomous”.¹²¹ It is “autonomous” when discrimination is prohibited broadly beyond recognized “rights” and “freedoms” written in legal instruments.¹²² That the prohibition of discrimination can be applied for and limited to “rights” and “freedom” stipulated in a specific legal instrument is “subordinate norm”.¹²³ When there is “discrimination”, either it is committed ‘intentionally’ or ‘unintentionally’, it violates the principle of non-discrimination.¹²⁴ Prohibition against ‘discrimination’ is also ‘applicable’ in ‘accessing higher education’ because “accessibility” is under the scope of ‘right to education’ of article 13 (2)(c) of ICESCR, in which article 2(2) in the covenant ‘forbids’ “discrimination” against ‘gender’ stipulated in the covenant.¹²⁵ Hence, the prohibition on ‘discrimination’ against women in ‘accessing higher education’ is a type of ‘subordinate norm’.

¹²⁰ See connected ideas of [Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), para.6(b) & para.31.] & [Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), 6(b).].

¹²¹ Moeckli, D. (2018). Equality and non-discrimination, p.152, para.3, first sentence. In Moeckli, D., Shah, S., & Sivakumaran, S. (Eds), *International human rights law* (pp.148-164). UK: Oxford University Press.

¹²² Moeckli, D. (2018). Equality and non-discrimination. In Moeckli, D., Shah, S., & Sivakumaran, S. (Eds), *International human rights law* (pp.148-164). UK: Oxford University Press.

¹²³ Moeckli, D. (2018). Equality and non-discrimination. In Moeckli, D., Shah, S., & Sivakumaran, S. (Eds), *International human rights law* (pp.148-164). UK: Oxford University Press.

¹²⁴ Moeckli, D. (2018). Equality and non-discrimination, p.157, para.3. In Moeckli, D., Shah, S., & Sivakumaran, S. (Eds), *International human rights law* (pp.148-164). UK: Oxford University Press.

¹²⁵ See connected ideas of [Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), para.17.] & [*International Covenant on Economic, Social and Cultural Rights 1966*, article 2(2).].

The reasons that assessing women's access to higher education in this research paper try to avoid using the word "equal opportunity", but instead uses 'equal access', 'equality', 'discrimination' and 'non-discrimination' is that a new theory developed by Fishkin on "equal opportunity" is too hard to assess. In this regard, Moeckli identifies two key words that "equality" and "non-discrimination" are used "interchangeably" and use the same obligatory concepts of states concerning "positive" and "negative" 'obligation'.¹²⁶ In General Recommendation no.36 of CEDAW, it uses the slightly different wordings such as "equal opportunity" and "non-discrimination" in the same context of the right to education.¹²⁷ However, the meanings and understanding of the words are controversial since it is hard to measure "opportunity".¹²⁸

Later, in 2014, Fishkin developed a new theory on "equal opportunity".¹²⁹ The 'equal opportunity' is too hard to assess due to difficulties in measuring the 'equality' in 'opportunity' component. Moreover, the assessment tools created by Fishkin have not been seen in legal instruments, particularly in the context of right to education. Fishkin addresses that 'equal opportunity' can be measured through three situations: decision making, "educational/developmental opportunity" and "fair life chance".¹³⁰ Firstly, "unequal opportunity" happens in a situation where a decision maker decides about someone based on

¹²⁶ Moeckli, D. (2018). Equality and non-discrimination, p.149, para.3, first sentence. In Moeckli, D., Shah, S., & Sivakumaran, S. (Eds), *International human rights law* (pp.148-164). UK: Oxford University Press.

¹²⁷ Committee on the Elimination of Discrimination against women. (2017). General recommendation No.36 on the right of girls and women in education, para.16.

¹²⁸ Burbules, N. C., Lord, B. T., & Sherman, A. L. (1982). Equity, equal opportunity, and education, p.170, para.4, first sentence. *Educational Evaluation and Policy Analysis*, 4(2), 169-187.

¹²⁹ Fishkin, J. (2014). *Bottlenecks: a new theory of equal opportunity*. The United States of America: Oxford University Press.

¹³⁰ Fishkin, J. (2014). *Bottlenecks: a new theory of equal opportunity*, p.2, para.3. The United States of America: Oxford University Press.

a specific ground including gender role.¹³¹ Secondly, “developmental” or “educational” opportunities form the capability for a person to compete against a group of people, which captivate a decision maker.¹³² “Equal developmental opportunity” is complex and hard to assess.¹³³ Accordingly, this paper tries to avoid using the word “equal opportunity”.

“Discrimination” is divided into two types: “direct” and “indirect”.¹³⁴ “Direct discrimination” is when an individual “treats” another “less favorably” compared to other people because the person who is treated “less favorably” is classified as a group or gender, which are under “prohibited grounds”.¹³⁵ “Indirect discrimination” refers to “practice”, “rule” or other ‘criteria’ that ‘seem’ to be “neutral”, but ‘affect’ a certain ‘group of people’.¹³⁶ When one or the two types of ‘discrimination’ occur, “justification” is the second step to evaluate if there is ‘violation’ against the legal principle of ‘non-discrimination’.¹³⁷ “Justification” requires

¹³¹ Fishkin, J. (2014). *Bottlenecks: a new theory of equal opportunity*, p.11, para.3. The United States of America: Oxford University Press.

¹³² Fishkin, J. (2014). *Bottlenecks: a new theory of equal opportunity*, p.2, para.3. The United States of America: Oxford University Press.

¹³³ Fishkin, J. (2014). *Bottlenecks: a new theory of equal opportunity*, p.3, para.2. The United States of America: Oxford University Press.

¹³⁴ See Moeckli, D. (2018). Equality and non-discrimination, p.155-156. In Moeckli, D., Shah, S., & Sivakumaran, S. (Eds), *International human rights law* (pp.148-164). UK: Oxford University Press.

¹³⁵ See connected ideas of [Moeckli, D. (2018). Equality and non-discrimination, p.155, para.4, first sentence. In Moeckli, D., Shah, S., & Sivakumaran, S. (Eds), *International human rights law* (pp.148-164). UK: Oxford University Press.] & [*International Covenant on Economic, Social and Cultural Rights 1966*, article 2(2).].

¹³⁶ Moeckli, D. (2018). Equality and non-discrimination, p.156, second para., first sentence. In Moeckli, D., Shah, S., & Sivakumaran, S. (Eds), *International human rights law* (pp.148-164). UK: Oxford University Press.

¹³⁷ Moeckli, D. (2018). Equality and non-discrimination. In Moeckli, D., Shah, S., & Sivakumaran, S. (Eds), *International human rights law* (pp.148-164). UK: Oxford University

“legitimate aim” and “proportionality”.¹³⁸ If there is no “justification” in treating people differently or receiving a different “result” within “prohibited grounds”, there is ‘violation’.

Assessing challenges in practice, “gender stereotyping” limits women’s access to higher education.¹³⁹ In countries with ‘gender stereo-typing’ like in Pakistan, ‘physical access’ to ‘higher education’ is restricted because “parents” do not want their daughters to see men.¹⁴⁰ ‘Gender stereotyping’ is seen as a reason for not allowing women to pursue higher education when their families face financial issues or ‘poverty’.¹⁴¹ This concern of ‘prioritizing’ ‘sons’ over ‘daughters’ is also raised by the CEDAW committee.¹⁴² This shows that women don’t have equal ‘physical access’ and equal ‘economic access’. As long as there is ‘fee education’, barriers to higher education exist, it has more impacts on women than men. Trying to reach the situation of “affordability” of ‘economic accessibility’ may trigger adverse impacts on mental and physical health in their higher education.¹⁴³ In certain countries bound by the European

Press; *LeYyla Sahin v. Turkey* [2005], no.44774/98, p.36, para.154. Retrieved from [https://hudoc.echr.coe.int/eng#%22itemid%22:\[%22001-70956%22\]](https://hudoc.echr.coe.int/eng#%22itemid%22:[%22001-70956%22])

¹³⁸ Moeckli, D. (2018). Equality and non-discrimination, p.158. In Moeckli, D., Shah, S., & Sivakumaran, S. (Eds), *International human rights law* (pp.148-164). UK: Oxford University Press; *G.L. v. Italy* [2020], no.59751/15, para.52. Retrieved from [https://hudoc.echr.coe.int/eng#%22itemid%22:\[%22001-204685%22\]](https://hudoc.echr.coe.int/eng#%22itemid%22:[%22001-204685%22]).

¹³⁹ See Committee on the Elimination of Discrimination against women. (2017). General recommendation No.36 on the right of girls and women in education, p.2, para.4.

¹⁴⁰ See Salik, M., & Zhiyong, Z. (2014). Gender discrimination and inequalities in higher education: A case study of rural areas of Pakistan, p.270, para.3. *Academic Research International*, 5(2), 269.

¹⁴¹ See Salik, M., & Zhiyong, Z. (2014). Gender discrimination and inequalities in higher education: A case study of rural areas of Pakistan, p.270, para.4. *Academic Research International*, 5(2), 269.

¹⁴² Committee on the Elimination of Discrimination against women. (2017). General recommendation No.36 on the right of girls and women in education, p.9, para.37.

¹⁴³ Broton, K., & Goldrick-Rab, S. (2016). The dark side of college (un)affordability: food and housing insecurity in higher education. *Change: the magazine of higher learning*, 48(1), 16-25,

Court of Human Rights with free education systems for all levels such as Sweden, the court still addresses that it does not depend on the court to conclude if “education” should be “free” since it relies on “resources” and “states’ margin of appreciation”.¹⁴⁴

For these reasons, in this situation, they are ‘discriminated directly’ because they are ‘treated’ differently in the same family and economic crisis based on their ‘gender’.¹⁴⁵ In other word, they are ‘discriminated’ ‘indirectly’ by the state for the act of omission in preventing ‘privates’ from committing ‘discriminatory’ acts.¹⁴⁶ The parental choice in prioritizing sons over daughters in education is not a legitimate reason since prioritizing education based on gender does NOT fall in the scope of “liberty” of parents in choosing institutions for children under ICESCR.¹⁴⁷ Scope of “liberty” of parents in deciding whether their daughters should be less prioritized is unclear under UDHR, ICCPR and ECHR.¹⁴⁸ The Convention on the rights of

doi: 10.1080/00091383.2016.1121081. Retrieved from
<https://www.tandfonline.com/doi/pdf/10.1080/00091383.2016.1121081?needAccess=true>

¹⁴⁴ *Case of Ponomaryovi v. Bulgaria* [2011], p.14-15, para.52-53. Retrieved from
[https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-105295%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-105295%22]})

¹⁴⁵ See connected ideas of [Moeckli, D. (2018). Equality and non-discrimination, p.155, para.4, first sentence. In Moeckli, D., Shah, S., & Sivakumaran, S. (Eds), *International human rights law* (pp.148-164). UK: Oxford University Press.] & [*International Covenant on Economic, Social and Cultural Rights 1966*, article 2(2).].

¹⁴⁶ See connected ideas of [Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), para.58.] & [Moeckli, D. (2018). Equality and non-discrimination, p.156, para.2. In Moeckli, D., Shah, S., & Sivakumaran, S. (Eds), *International human rights law* (pp.148-164). UK: Oxford University Press.] & [General, R. N. (2010). 28 of the Committee on the Elimination of Discrimination against Women on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, p.3, para.9.].

¹⁴⁷ *International Covenant on Economics, Social and Cultural Rights 1966*, article 13(3).

¹⁴⁸ *Universal Declaration on Human Rights 1948*, article 26(3); *International Covenant on Civil and Political Rights 1966*, article 18(4); *Protocol 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms 1952* (ECHR), article 2.

Persons with Disabilities and its optional protocol are silent on parental choices in education.¹⁴⁹ The Convention on the Elimination of All Forms of Discrimination against Women deems prioritization of education based on gender grounds is not “equality of right”.¹⁵⁰ Additionally, a decision by the European Court of Human Rights addresses that parental choices in “religion” and “conviction” written in article 2 of protocol I of ECHR shall not be used as grounds to deny access to the right to education for children.¹⁵¹ Hence, prioritizing sons over daughters in education is prohibited according to ICESCR, CEDAW and jurisprudence of the European Court of Human Rights.

2.3 CONCLUDING REMARKS

The scope of the right to education entails availability, accessibility, acceptability, and adaptability. These concepts of 4As obligate states to respect, protect and fulfill. Accessibility encompasses ‘physical accessibility’, ‘economic accessibility’ and ‘non-discrimination’. These three aspects of ‘accessibility’ can be evaluated through ‘enrollment rates’, ‘drop rates’ (include gender), whether there is ‘free of charge’ education for compulsory education and ‘affordability’ for ‘secondary’ and ‘higher’ education.

Checking both the numbers of ‘enrollment’ and ‘drop rates’ specifying gender are significant tools for ‘physical accessibility’ and ‘non-discrimination’. The concept of non-discrimination between men and women has legal applicability for the context of ‘accessing’ ‘higher education’. The prohibition against women in accessing higher education is ‘subordinate norm’. Whereas there is discriminatory ‘act’ or ‘result’, ‘justification’ is a test to conclude if there is violation on the human rights principle of ‘non-discrimination’. If the ‘discriminatory act’ is ‘justified’ since it is for the purpose ‘legitimate aim’ and ‘proportionality’, there is no

¹⁴⁹ *The Convention on the Rights of Persons with Disabilities 2006*, article 24; *Optional Protocol of the Convention on the Rights of Persons with Disabilities 2006*, article 24.

¹⁵⁰ Cf. *Convention on the Elimination of All Forms of Discrimination against Women 1979*, article 10.

¹⁵¹ *Konrad v. Germany* [2006], p.6, para.2. Retrieved from [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-76925%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-76925%22]})

'violation'. Whether the 'discrimination' is 'direct' or 'indirect', between state agents and individuals or between individuals and individuals, states are obligated to respect, protect and fulfill. Failure to conduct 'due diligence' measures, it can be attributed to violation of 'non-discrimination'. Whether or not the act committed is 'intentional' or 'unintentional', it is not an exculpatory ground.

States shall pay close attention to stereotyping, 'school distance', 'public transportation' and 'social security' since they all affect 'physical access' in higher education. Author notes that there is a controversy on 'free' or 'fee' for higher education in "economic accessibility" between the jurisprudence of the European Court of Human Rights and the International Covenant on Economic, Social and Cultural Rights. ICESCR requires states to provide "progressive introduction" to "free education" for 'higher education' whereas ECHR leaves it to 'state's margin of appreciation'.¹⁵² Where there is 'economic crisis', stereotyping or gender roles, it affects women more than men in accessing higher education on 'economic accessibility' and 'non-discriminatory acts'.

¹⁵² See connected ideas of [*Case of Ponomaryovi v. Bulgaria* [2011], p.14-15, para.52-53. Retrieved from <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-105295%22%5D%7D>] & [*International Covenant on Economic, Social and Cultural Rights 1966*, article 13(2)(c).].

CHAPTER 3: IMPORTANCE OF HIGHER EDUCATION AND HOW ITS UNEQUAL ACCESS BETWEEN MEN AND WOMEN INFLUENCES LEADERSHIP POSITIONS IN SOCIETY

This chapter discusses social studies highlighting the importance of higher education, reasons that people decide to pursue or not pursue higher education, how unequal access to higher education by women is linked with low numbers of women in leadership or managerial positions followed by a conclusion of the chapter. Key aspects of the chapter, observation and personal point of views are written in the concluding remarks.

3.1 IMPORTANCE OF HIGHER EDUCATION

Higher education is beneficial for individuals and society as a whole. On an individual level, it provides 'financial independence' 'well-being' and 'quality of life'. It also contributes to the ability of 'changing' 'social issues', improving economic status and leading the society more 'sustainably'. Moreover, through higher education, states can use the 'right-based approach' by including, spreading and inspiring the concept of 'egalitarianism' or 'equality'.

3.1.1 INDIVIDUALLY

A person can be 'financially independent' through the labor force. Various journals studying the 'effect' of higher education on 'income', 'employment rate', 'unemployment rate', and reasons that people choose to take 'loan' for pursuing 'higher education' in the United States. Besides the economic reason, there are other daily benefits that some people might not notice. A research on "Declining Health Insurance in Low-Income Working Families and Small Businesses" indicates associated factual circumstances of ability to earn "higher income" and options in 'healthcare'.¹⁵³ Another article written by Bloom, Canning and Chan studies the

¹⁵³ Holahan, J., & Chen, V. (2012). *Declining Health Insurance in Low-Income Working Families and Small Businesses*, p.4-5. Princeton, NJ: Robert Wood Johnson Foundation. Retrieved from <https://www.urban.org/sites/default/files/publication/25291/412546-ACA->

effects of 'higher education' on 'better care' of 'health' and 'life expectancy'.¹⁵⁴ Murray, Baum, Ma and Payea consider that 'higher education' is a resource for people to 'manage' their 'life' 'independently' and 'control' 'risks that may occur.'¹⁵⁵

3.1.1.1 FINANCIAL INDEPENDENCE

Education allows people to become 'financially independent'. It enables individuals to receive income through "paid" jobs.¹⁵⁶ Another expectation in pursuing higher education is to achieve a higher salary and better job opportunities.¹⁵⁷ Education helps to improve personal economic situations since a high salary allows people to "save" and "invest".¹⁵⁸ Research on higher education benefits studies correlations between level of education connected with employment rate and salary in the United States. It shows that employees from bachelor's degrees receive much higher salaries and have lower unemployment rates. In 2011, employees

Implementation-Monitoring-and-Tracking-Declining-Health-Insurance-in-Low-Income-Working-Families-and-Small-Businesses.PDF

¹⁵⁴ Bloom, D. E., Canning, D., & Chan, K. (2006). *Higher education and economic development in Africa* (Vol. 102), p.15, para.3. Washington, DC: World Bank.

¹⁵⁵ See connected ideas of [Murray, J. (2009). The wider social benefits of higher education: What do we know about them?, p.238, para.2. *Australian Journal of Education*, 53(3), 230-244.] & [Baum, S., Ma, J., & Payea, K. (2013). *Education Pays, 2013: The Benefits of Higher Education for Individuals and Society*, p.6. Trends in Higher Education Series. College Board. Retrieved from <https://files.eric.ed.gov/fulltext/ED572537.pdf>].

¹⁵⁶ Wainwright, E., & Marandet, E. (2010). Parents in higher education: impacts of university learning on the self and the family, p.451, para.3. *Educational Review*, 62(4), 449-465. doi:10.1080/00131911.2010.487643

¹⁵⁷ Kennett, D. J., Reed, M. J., & Lam, D. (2011). The importance of directly asking students their reasons for attending higher education, p.67, para.3. *Issues in Educational Research*, 21(1), 65-74. Retrieved from <https://search.informit.org/doi/abs/10.3316/aeipt.185987>

¹⁵⁸ Bloom, D. E., Canning, D., & Chan, K. (2006). *Higher education and economic development in Africa* (Vol. 102), p.15, para.3. Washington, DC: World Bank.

with bachelor degrees received two times the salary of high school graduates.¹⁵⁹ In this research only 16% of male high school graduates who earned similar rates or higher than male college graduates in the same year.¹⁶⁰ More importantly, the unemployment rate of college graduates is also lower than high school graduates by 7.1 percent.¹⁶¹ Consistently, following lower degrees such as “associate degree” or college students without “degree” still have lower rates of unemployment compared to students who graduate from high schools.¹⁶² Between the 1970s and 2011, salary rates between men and women in college and high school graduates are very similar.¹⁶³ Another study on Isfahan city in Iran depicts that different grades of women in higher education does NOT seem to have a noticeable effect on “suitable” or “favorable” employment.¹⁶⁴ Thus, education is deemed as an “investment” that can yield

¹⁵⁹ Baum, S., Ma, J., & Payea, K. (2013). *Education Pays, 2013: The Benefits of Higher Education for Individuals and Society*, p.5. Trends in Higher Education Series. College Board. Retrieved from <https://files.eric.ed.gov/fulltext/ED572537.pdf>

¹⁶⁰ Baum, S., Ma, J., & Payea, K. (2013). *Education Pays, 2013: The Benefits of Higher Education for Individuals and Society*, p.5. Trends in Higher Education Series. College Board. Retrieved from <https://files.eric.ed.gov/fulltext/ED572537.pdf>

¹⁶¹ Baum, S., Ma, J., & Payea, K. (2013). *Education Pays, 2013: The Benefits of Higher Education for Individuals and Society*, p.5. Trends in Higher Education Series. College Board. Retrieved from <https://files.eric.ed.gov/fulltext/ED572537.pdf>

¹⁶² Baum, S., Ma, J., & Payea, K. (2013). *Education Pays, 2013: The Benefits of Higher Education for Individuals and Society*, p.5. Trends in Higher Education Series. College Board. Retrieved from <https://files.eric.ed.gov/fulltext/ED572537.pdf>

¹⁶³ Baum, S., Ma, J., & Payea, K. (2013). *Education Pays, 2013: The Benefits of Higher Education for Individuals and Society*, p.5. Trends in Higher Education Series. College Board. Retrieved from <https://files.eric.ed.gov/fulltext/ED572537.pdf>

¹⁶⁴ Yousefy, A., & Maryam, B. (2011). Women, employment and higher education schoolings, p.3866, table 2. *Procedia Social and Behavioral Sciences* 15, 3861–3869. doi:10.1016/j.sbspro.2011.04.386

15.2 % annually.¹⁶⁵ It is worth it to invest by all genders. Where a study loan system was available in the United States, students chose to take out loans to pursue higher education, and they were able to pay back the loan and had chances to earn a high income in their 30s.¹⁶⁶

3.1.1.2 WELL-BEING AND QUALITY OF LIFE

With more possibility of high income and consideration through higher education, people have more options in choosing healthcare and primary knowledge in how to take care of their health.

'High income' is a resource required to take care of one's health, particularly where citizens have to pay for healthcare without state support or service.¹⁶⁷ A journal of America finds that, in 2010, 90% of employees with a high income had health insurance whilst only 29% of low-income employees had health insurance.¹⁶⁸ Furthermore, people receiving education can have more possibilities in getting 'satisfactory jobs', which is a factor that makes people happy and

¹⁶⁵ Baum, S., Ma, J., & Payea, K. (2013). *Education Pays, 2013: The Benefits of Higher Education for Individuals and Society*, p.8, para.1. Trends in Higher Education Series. College Board. Retrieved from <https://files.eric.ed.gov/fulltext/ED572537.pdf>

¹⁶⁶ Baum, S., Ma, J., & Payea, K. (2013). *Education Pays, 2013: The Benefits of Higher Education for Individuals and Society*, p.8, para.2. Trends in Higher Education Series. College Board. Retrieved from <https://files.eric.ed.gov/fulltext/ED572537.pdf>

¹⁶⁷ See Murray, J. (2009). The wider social benefits of higher education: What do we know about them?, p.238, para.2. *Australian Journal of Education*, 53(3), 230-244.

¹⁶⁸ Holahan, J., & Chen, V. (2012). *Declining Health Insurance in Low-Income Working Families and Small Businesses*, p.4-5. Princeton, NJ: Robert Wood Johnson Foundation. Retrieved from <https://www.urban.org/sites/default/files/publication/25291/412546-ACA-Implementation-Monitoring-and-Tracking-Declining-Health-Insurance-in-Low-Income-Working-Families-and-Small-Businesses.PDF>

positively influences their health.¹⁶⁹ With the ability of understanding how to handle their own finances, they would find options in taking care of their health to reduce costs.

Bloom, Canning and Chan view that higher education can lead individuals to live healthier lifestyles, which improves “life expectancy”.¹⁷⁰ People with higher education consume “healthier” food, “smoke” less, drink less alcohol, do more exercise, and understand the importance and choice of ‘healthcare’ and measures to take against accidents.¹⁷¹ For example, the percentage of ‘obese’ people is higher among those having lower degrees than university level than those with university level education.¹⁷² Another research on ‘health at menopause’ shows that risk to health of women ‘decreases’ where ‘education of women’ is ‘higher’.¹⁷³ Being healthy is essential for the well-being that everyone wishes for. However, the ability to understand how to take care of their health, to seek information and find support, seems to depend on knowledge as well as the level of education that individuals gain. Education produces many effects on life.

Being independent and able to lead one's own life can also be gained through higher education.¹⁷⁴ Knowledge “empowers” people to avoid evitable dangers or risks from human

¹⁶⁹ Murray, J. (2009). The wider social benefits of higher education: What do we know about them?, p.237, para.4. *Australian Journal of Education*, 53(3), 230-244.

¹⁷⁰ Bloom, D. E., Canning, D., & Chan, K. (2006). *Higher education and economic development in Africa* (Vol. 102), p.15, para.3. Washington, DC: World Bank.

¹⁷¹ Murray, J. (2009). The wider social benefits of higher education: What do we know about them?, p.238, para.2. *Australian Journal of Education*, 53(3), 230-244.

¹⁷² Baum, S., Ma, J., & Payea, K. (2013). *Education Pays, 2013: The Benefits of Higher Education for Individuals and Society*, p.6. Trends in Higher Education Series. College Board. Retrieved from <https://files.eric.ed.gov/fulltext/ED572537.pdf>

¹⁷³ Ozcan, H. (2019). Healthy life style behaviors and quality of life at menopause, p.494, para.10. *Int J Caring Sci*, 12(1), 492-500.

¹⁷⁴ See Feldman, K.A. (1995). Does college make a difference? Long-term changes in activities and attitude, p.478, para.1. *Journal of Higher Education*, 66(4), 478-482.

labor and sex trafficking.¹⁷⁵ People have the ability to “control” their own lives and ‘manage’ the risks impacting them.¹⁷⁶ They are trained through higher education to have “rational thought” and to be able to make decisions that separate them from their emotions.¹⁷⁷ In higher education, people are able to learn different technical skills including ethics and living as an ‘accountable’ and ‘reliable person’. For instance, at schools, there can be essential teachings of inspirational phrases and acts such as how to be “responsible adults” and “good citizens”.¹⁷⁸ They are able to follow certain rules and adapt to “socio-economic order”.¹⁷⁹ They learn to think critically beyond the social norms that they are in, which leads them to adjust and live in a “socio-economic system”.¹⁸⁰ Especially, through the curriculum of higher education, there can be a related course on ‘changes’, raising awareness on the ‘importance of changes’ and “resources” needed for “development”.¹⁸¹ The correlation between ‘critical thinking’ and

¹⁷⁵ Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), para. 1.

¹⁷⁶ See Rosenman, M. (1980). Empowerment as a purpose of education, p.252, para.3. *Alternative Higher Education*, 4(4), 248-259. Retrieved from <https://link.springer.com/content/pdf/10.1007/BF01079732.pdf>

¹⁷⁷ See Rosenman, M. (1980). Empowerment as a purpose of education, p.250, continued para. from the previous page. *Alternative Higher Education*, 4(4), 248-259. Retrieved from <https://link.springer.com/content/pdf/10.1007/BF01079732.pdf>

¹⁷⁸ Rosenman, M. (1980). Empowerment as a purpose of education, p.250, continued para. from the previous page. *Alternative Higher Education*, 4(4), 248-259. Retrieved from <https://link.springer.com/content/pdf/10.1007/BF01079732.pdf>

¹⁷⁹ Rosenman, M. (1980). Empowerment as a purpose of education, p.250, para.2. *Alternative Higher Education*, 4(4), 248-259. Retrieved from <https://link.springer.com/content/pdf/10.1007/BF01079732.pdf>

¹⁸⁰ See Rosenman, M. (1980). Empowerment as a purpose of education, p.252, para. 1. *Alternative Higher Education*, 4(4), 248-259. Retrieved from <https://link.springer.com/content/pdf/10.1007/BF01079732.pdf>

¹⁸¹ See Rosenman, M. (1980). Empowerment as a purpose of education, p.252, para. 1. *Alternative Higher Education*, 4(4), 248-259. Retrieved from <https://link.springer.com/content/pdf/10.1007/BF01079732.pdf>

various 'course curriculum' enable them to 'analyze', 'reflect' and 'transform' in individuals or/and societal levels.¹⁸²

3.1.2 COLLECTIVELY

Higher education produces effects beyond people themselves. At societal level, these benefits can be categorized: social changes, economic development, and egalitarianism and social sustainability. Through the process of learning, they can participate in teamwork, listen and discuss, which helps them feel related with surrounding people. They learn how to work with other students to solve problems they see. Moreover, they learn to provide 'critical thinking' in seeing 'problem', 'translate problem', 'fight against obstacles', and 'practice'. They are important human resources for contributing to 'social' and 'political governance'. These are parts of 'social changes'. Their knowledge helps to improve GDP through working with collaboration with their community. Through their labor and skills, they meet their job demands and contribute to international trade competitiveness, which improves 'economic development'. There are different studies having found differently on the level of clarity on the 'influence' of 'higher education' on 'equality' and 'sustainability'. Below is a detailed explanation.

3.1.2.1 SOCIAL CHANGES

In the community, through the learning processes of higher education, people can 'learn', 'discuss' and 'hear' from other students' points of view, which assist them to 'feel related' and have 'sympathy'.¹⁸³ Team work assigned in the course curriculum in higher education is a way to help students understand the importance of 'cooperation' and how to work together

¹⁸² See Rosenman, M. (1980). Empowerment as a purpose of education, p.252, para.2. *Alternative Higher Education*, 4(4), 248-259. Retrieved from <https://link.springer.com/content/pdf/10.1007/BF01079732.pdf>

¹⁸³ See Rosenman, M. (1980). Empowerment as a purpose of education, p.253, para.4. *Alternative Higher Education*, 4(4), 248-259. Retrieved from <https://link.springer.com/content/pdf/10.1007/BF01079732.pdf>

collectively on a certain task.¹⁸⁴ The ability to work with other people is important for people themselves in the working environment and to drive 'social changes'. Seeking changes for co-interest, people need the ability to have an independent judgment of 'goodness' and 'bad'.

As written in the "Well-being and Quality of life" in "3.1.1.2", the teaching methodologies at higher education allows students to 'produce their own thinking' with key concepts, rather than 'repeating' what is written in books. Through the 'learning processes' and the 'ability to think critically', this 'guides' them to 'identify' "problems" in their community, 'translate' the problems, 'find solutions' and 'put it into actions' or make "goals".¹⁸⁵ In a more certain contextual geography, in American society, students of higher education have a higher percentage of receiving a "pension" and are more engaged in 'social welfare' and 'politics'.¹⁸⁶

In governance, education enables civil servants, political staff or other public service employees to address challenges that arise in a state.¹⁸⁷ Education as a pattern of 'human capital' contributes as 'inputs' to 'functioning' 'governance' in various sectors.¹⁸⁸ States need 'capable employees' as well as 'highly educated people' to work 'efficiently' and 'effectively'.

¹⁸⁴ See Rosenman, M. (1980). Empowerment as a purpose of education, p.254, para.1. *Alternative Higher Education*, 4(4), 248-259. Retrieved from <https://link.springer.com/content/pdf/10.1007/BF01079732.pdf>

¹⁸⁵ See Rosenman, M. (1980). Empowerment as a purpose of education, p.254, para.3. *Alternative Higher Education*, 4(4), 248-259. Retrieved from <https://link.springer.com/content/pdf/10.1007/BF01079732.pdf>

¹⁸⁶ Baum, S., Ma, J., & Payea, K. (2013). *Education Pays, 2013: The Benefits of Higher Education for Individuals and Society*, p.5. Trends in Higher Education Series. College Board. Retrieved from <https://files.eric.ed.gov/fulltext/ED572537.pdf>

¹⁸⁷ Yousefy, A., & Baratali, M. (2011). Women, employment and higher education schoolings, p.3863. *Procedia-Social and Behavioral Sciences*, 15, 3861-3869. doi: 10.1016/j.sbspro.2011.04.386

¹⁸⁸ See Bloom, D. E., Canning, D., & Chan, K. (2006). *Higher education and economic development in Africa* (Vol. 102), p.16, para.1. Washington, DC: World Bank.

The power of knowledge can transform states to fit in the technological era.¹⁸⁹ Technology makes work processes faster and more efficient. 'Digitalization' may be used for "civil registration" - number and age of population, and "land registration", to control tax payments on the real estate sector.¹⁹⁰ Using this digital data, it is easier to analyze data and make statistics, which is useful for policy making and national strategic plans.¹⁹¹ All of these take part directly or indirectly in states' economic development.

3.1.2.2 ECONOMIC DEVELOPMENT

Education has been 'recognized' as significant for "economic development".¹⁹² People gaining education might not be seen to significantly and directly impact on society when educated people are involved with 'communal work', since it is a slow progress put in 'development goals' and it further pays forward to the next "generation".¹⁹³ Through 'communal work', it

¹⁸⁹ Bloom, D. E., Canning, D., & Chan, K. (2006). *Higher education and economic development in Africa* (Vol. 102), p.15, para.5. Washington, DC: World Bank.

¹⁹⁰ See Schou, J., & Hjelholt, M. (2018). *Digitalization and public sector transformations*, p.63, para.1. Springer.

¹⁹¹ See Schou, J., & Hjelholt, M. (2018). *Digitalization and public sector transformations*, p.63, para.2. Springer.

¹⁹² Moleke, P. (2005). *Inequalities in higher education and the structure of the labour market* (Vol. 1), p. 1, para.1. HSRC press. Retrieved from

[<https://doi.org/10.3846/jbem.2019.10156>; Pelinescu, E. \(2015\). The impact of human capital on economic growth. *Procedia Economics and Finance*, 22, 184-190. doi: 10.1016/S2212-5671\(15\)00258-0](https://books.google.com/books?hl=en&lr=&id=bUDJ27ag8hAC&oi=fnd&pg=PA1&dq=Inequality+of+higher+education+affects+leadership+positions&ots=k9IT0iccOF&sig=El ehESdNYRsP6IEI-g2irU0K7bk; VAICIUKEVICIŪTE, A., STANKEVICIENE, J., & BRATCIKOVIENE (2019). Higher education institutions' impact on the economy, p.509, para.5. <i>Journal of Business Economics and Management</i>, 20(3), 507-525. doi:</p></div><div data-bbox=)

¹⁹³ Johnes, G., & Johnes J. (Eds). (2004). *International handbook on the economics of education*, p.217. UK: Edward Elgar Publishing, Inc.

potentially increases “GDP” for local citizens.¹⁹⁴ There is a case study of Mauritius that proves the importance of knowledge, particularly in economics, in improving economic development.¹⁹⁵ One of the other purposes of education in improving educational quality and courses provided is mostly to meet job market demands.¹⁹⁶ It can be for both personal and societal reasons in providing resources that states need to function ‘good governance’. Benefits of knowledge spread beyond one states’ territory. With knowledge and education, states have the power to compete with other countries.¹⁹⁷ It is due to this reason that education equips people with ‘commitment’ and ‘ability’ for accomplishment.¹⁹⁸ In the United States, students with bachelor’s degrees, compared to high school graduates, have a lower

¹⁹⁴ Johnes, G., & Johnes J. (Eds). (2004). *International handbook on the economics of education*, p.217, para.4. UK: Edward Elgar Publishing, Inc.

¹⁹⁵ Odit, M.P., Dookhan, K., & Fauzel, S. (2010). The impact of education on economic growth: a case study of Mauritius, p. 150, para.1. *International Business & Economics Research Journal*, 9(8), 141-152. Retrieved from <https://clutejournals.com/index.php/IBER/article/view/620/606>

¹⁹⁶ Moleke, P. (2005). *Inequalities in higher education and the structure of the labour market* (Vol. 1), p. 1, para.1. HSRC press. Retrieved from <https://books.google.com/books?hl=en&lr=&id=bUDJ27ag8hAC&oi=fnd&pg=PA1&dq=Inequality+of+higher+education+affects+leadership+positions&ots=k9IT0iccOF&sig=El ehESdNY RsP6IEI-g2irU0K7bk>

¹⁹⁷ VVAICIUKEVICIŪTE, A., STANKEVICIENE, J., & BRATCIKOVIENE, J. (2019). Higher education institutions’ impact on the economy, p.509, para.4. *Journal of Business Economics and Management*, 20(3), 507-525. doi:<https://doi.org/10.3846/jbem.2019.10156>

¹⁹⁸ See Feldman, K.A. (1995). Does college make a difference? Long-term changes in activities and attitude, p.478, para.1. *Journal of Higher Education*, 66(4), 478-482.

percentage of relying on states and they contribute to tax payments.¹⁹⁹ In Taiwan, 19 percent of the economy was shared by 'higher education graduates' between 1965 and 2000.²⁰⁰

However, some scholars challenge this. There are a few studies in 2007, 2014 and 2018, addressing that "primary" and "secondary education" yield higher social and economic returns, compared to tertiary education.²⁰¹ Nonetheless, it varies depending on research "purpose" and "design".²⁰² Additionally, it relies on a 'contextual' labor system.²⁰³ For example, in a state that has less egalitarian wage systems, higher education is more probable to receive much higher income, compared to high school graduates. Where a state has a more functional egalitarian wage system, the education level might not affect income as much. Considerably, to arrange and make such a system work, it still requires people with higher education to set policy and have effective leadership.

¹⁹⁹ Baum, S., Ma, J., & Payea, K. (2013). *Education Pays, 2013: The Benefits of Higher Education for Individuals and Society*, p.5. Trends in Higher Education Series. College Board. Retrieved from <https://files.eric.ed.gov/fulltext/ED572537.pdf>; Bloom, D. E., Canning, D., & Chan, K. (2006). *Higher education and economic development in Africa* (Vol. 102), p.15, para.4. Washington, DC: World Bank.

²⁰⁰ Lin, T.C. (2004). The role of higher education in economic development: an empirical study of Taiwan case, p.363, para.1. *Journal of Asian Economics* 15, 355-371. doi: 10.1016/j.asieco.2004.02.006

²⁰¹ VVAICIUKEVICIŪTE, A., STANKEVICIENE, J., & BRATCIKOVIENE, J. (2019). Higher education institutions' impact on the economy, p.509, para.4. *Journal of Business Economics and Management*, 20(3), 507-525. doi:<https://doi.org/10.3846/jbem.2019.10156>

²⁰² VVAICIUKEVICIŪTE, A., STANKEVICIENE, J., & BRATCIKOVIENE, J. (2019). Higher education institutions' impact on the economy, p.509, para.5. *Journal of Business Economics and Management*, 20(3), 507-525. doi:<https://doi.org/10.3846/jbem.2019.10156>

²⁰³ VVAICIUKEVICIŪTE, A., STANKEVICIENE, J., & BRATCIKOVIENE, J. (2019). Higher education institutions' impact on the economy, p.511, para.1. *Journal of Business Economics and Management*, 20(3), 507-525. doi:<https://doi.org/10.3846/jbem.2019.10156>

Realizing how higher education plays a significant role in economic development, but limited economic funding is also a barrier to implementing ‘free of charge’ higher education. Lithuania aimed to provide “free higher education” after it achieved independence from the Former Soviet Union in 1990.²⁰⁴ This was done for the purpose of moving the state to a “market economy”.²⁰⁵ Having few issues during the transformation of the education system, such as limited funding, resulting in “low salaries” for education employees and ambiguity of education standard, the law has been amended.²⁰⁶ Currently, it provides free of charge for “vocational training”, “pre-primary”, “primary” and “secondary education”.²⁰⁷ In relation to the tie between education and economics, a journal on Higher Education Institutions’ Impact on the Economy stresses a need in understanding how education and economics can impact on each other.²⁰⁸

²⁰⁴ VAICIUKEVICIŪTE, A., STANKEVICIENE, J., & BRATCIKOVIENE (2019). Higher education institutions’ impact on the economy, p.517, para.3. *Journal of Business Economics and Management*, 20(3), 507-525. doi:<https://doi.org/10.3846/jbem.2019.10156>

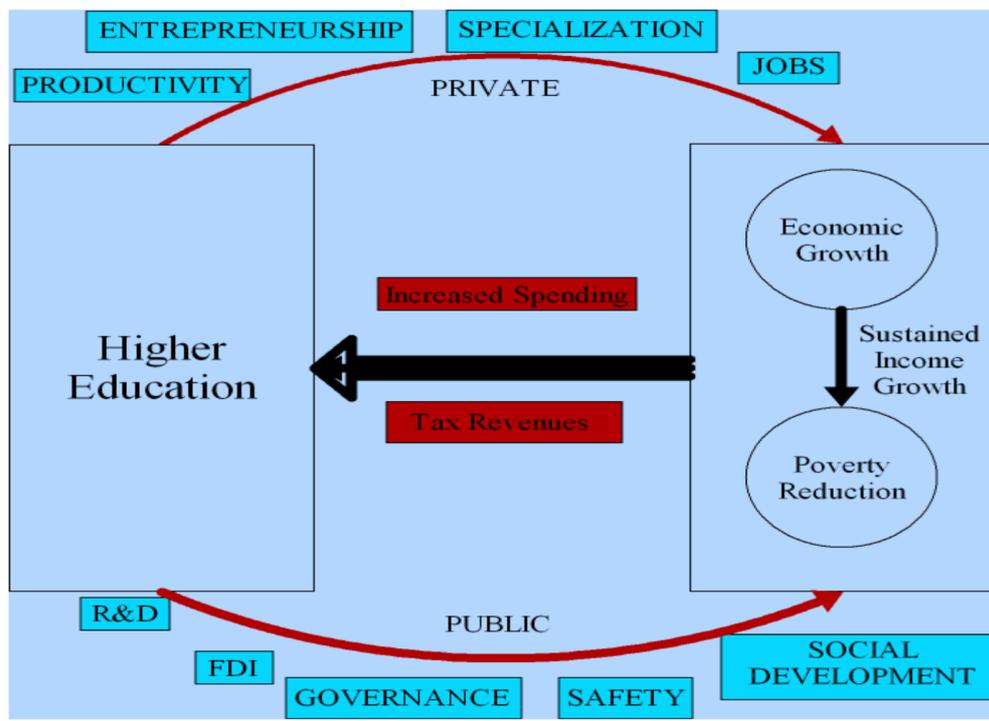
²⁰⁵ VAICIUKEVICIŪTE, A., STANKEVICIENE, J., & BRATCIKOVIENE (2019). Higher education institutions’ impact on the economy, p.517, para.3. *Journal of Business Economics and Management*, 20(3), 507-525. doi:<https://doi.org/10.3846/jbem.2019.10156>

²⁰⁶ VAICIUKEVICIŪTE, A., STANKEVICIENE, J., & BRATCIKOVIENE (2019). Higher education institutions’ impact on the economy, p.517, para.4. *Journal of Business Economics and Management*, 20(3), 507-525. doi:<https://doi.org/10.3846/jbem.2019.10156>

²⁰⁷ *Republic of Lithuania Law on Education 1991-amended 2017*, article 70(1); See also VAICIUKEVICIŪTE, A., STANKEVICIENE, J., & BRATCIKOVIENE (2019). Higher education institutions’ impact on the economy, p.517, para.3. *Journal of Business Economics and Management*, 20(3), 507-525. Retrieved from <https://doi.org/10.3846/jbem.2019.10156>

²⁰⁸ VAICIUKEVICIŪTE, A., STANKEVICIENE, J., & BRATCIKOVIENE (2019). Higher education institutions’ impact on the economy, p.518, para.1. *Journal of Business Economics and Management*, 20(3), 507-525. doi:<https://doi.org/10.3846/jbem.2019.10156>

CONCEPTUAL FRAMEWORK OF ECONOMIC DEVELOPMENT INFLUENCED BY HIGHER EDUCATION



(Source: Bloom, D., Canning, D., & Chan, K., 2006, p.16)

Having found and acknowledged the importance of higher education in economic development, states should not less prioritize education where the geopolitical situation seems to receive low economic benefits.²⁰⁹ Power of education does not work by itself since it requires humans to make a systematic policy that can take advantage of education.²¹⁰ Beyond

²⁰⁹ See Marginson, S. (2011). Higher education and public good, p.413, para.5. *Higher education quarterly*, 65(4), 411-433. doi:10.1111/j.1468-2273.2011.00496.x

²¹⁰ See Marginson, S. (2011). Higher education and public good, p.414, continued para. *Higher education quarterly*, 65(4), 411-433. doi:10.1111/j.1468-2273.2011.00496.x

the potential for economic development, education generates “public good”.²¹¹ The ‘public good’ is not limited to the ‘financial benefits’ and “competition”, but also ‘egalitarianism’.²¹²

3.1.2.3 EGALITARIANISM AND SOCIAL SUSTAINABILITY

It is debatable whether or not increasing the number of students and institutions in higher education would lead to more ‘egalitarianism’ or ‘equality’. Behrman points out that education helps to spread the concept of ‘equality’ in society.²¹³ Other literatures have similar findings or consideration.²¹⁴ In a sense, educated people have good analytical skills and are inclined to

²¹¹ Hickman, R. (2009). *In pursuit of egalitarianism*, p.23, para. 4. Retrieved from <https://www.bl.uk/britishlibrary/~media/bl/global/social-welfare/pdfs/non-secure/i/n/p/in-pursuit-of-egalitarianism-and-why-social-mobility-cannot-get-us-there.pdf>

²¹² Marginson, S. (2011). Higher education and public good, p.421-422. *Higher education quarterly*, 65(4), 411-433. doi:10.1111/j.1468-2273.2011.00496.x

²¹³ Behrman, J.R. (Eds). (1997). *The social benefits of education*, p.11, para.3. US: The University of Michigan Press. Retrieved from <https://books.google.com/books?hl=en&lr=&id=B43bmVZDkTwC&oi=fnd&pg=PP1&dq=%22education%22+%22benefits%22&ots=-CtiKJOvKX&sig=12E70HVGP3vXjGqRSL4y2gK22Zk>

²¹⁴ Moleke, P. (2005). *Inequalities in higher education and the structure of the labour market* (Vol. 1), p. 1, para.1. HSRC press. Retrieved from <https://books.google.com/books?hl=en&lr=&id=bUDJ27ag8hAC&oi=fnd&pg=PA1&dq=Inequality+of+higher+education+affects+leadership+positions&ots=k9IT0iccOF&sig=El ehESdNYRsP6IEI-g2irU0K7bk>; Yousefy, A., & Baratali, M. (2011). Women, employment and higher education schoolings, p.3863. *Procedia-Social and Behavioral Sciences*, 15, 3861-3869. doi: 10.1016/j.sbspro.2011.04.386

stand up against “inequality”.²¹⁵ On the other hand, increasing numbers of higher educational institutions through privatization results in “inequality”.²¹⁶

Per observation and this research interviews, ‘higher education’ does not directly lead to ‘equality’. Imagine a world with ‘higher education’, but full of gender or racial discrimination. Education and higher education are tools to spread knowledge and train people to understand logics of law of nature and development that ‘equality’ leads to more peace, security and development.²¹⁷ It is also a concept from a human rights perspective.²¹⁸ ‘Egalitarianism’ is linked with ‘prohibition of discrimination’ against ‘women’ since the ‘elimination’ of ‘discrimination’ is to achieve “equality” in law, practice and result (“substantive equality”).²¹⁹

Principle of ‘equality’ is broad and includes ‘sustainability’ that contains societal advantages. As mentioned earlier, ‘higher education’ is a ‘tool’ for ‘driving equality’. For instance, higher education nowadays transforms educational courses and curriculum to help boost sustainable

²¹⁵ Murray, J. (2009). The wider social benefits of higher education: What do we know about them?, p.238, para.2. *Australian Journal of Education*, 53(3), 230-244.

²¹⁶ Meyer, H. D., John, E. P. S., Chankseliani, M., & Uribe, L. (2013). The crisis of higher education access—A crisis of justice, p.3, para.3. In *Fairness in access to higher education in a global perspective* (pp. 1-11). Brill.

²¹⁷ See connected ideas between [Islam, M. K., Merlo, J., Kawachi, I., Lindström, M., & Gerdtham, U. G. (2006). Social capital and health: Does egalitarianism matter? A literature review. *International journal for equity in health*, 5(1), 1-28. doi:10.1186/1475-9276-5-3] & [Spreitzer, G. (2007). Giving peace a chance: Organizational leadership, empowerment, and peace, p.1080, para.2. *Journal of Organizational Behavior: The International Journal of Industrial, Occupational and Organizational Psychology and Behavior*, 28(8), 1077-1095. doi:10.1002/job.487].

²¹⁸ See Weiwei, L. (2004). *Equality and non-discrimination under international human rights law* (pp. 1-26), p.5-16. SMR.

²¹⁹ General, R. N. (2010). 28 of the Committee on the Elimination of Discrimination against Women on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, p.4, para.16, first sentence.

development.²²⁰ Higher education contributes to sustainable development through the inclusiveness principle of curriculum which helps people to understand ethics and social justice, and equip them with “skills” and “knowledge” for job opportunities.²²¹ It is one of other strategies to change specific cultures and embed ‘sustainability’ as a replacement.²²² Within the family sphere, education has positive impacts on children and future generations. Education influences quality of life, and how they advise and take care of children.²²³

3.2 REASONS FOR (PURSUING/NOT PURSUING) HIGHER EDUCATION

Acknowledging the advantages of higher education, notwithstanding, it is NOT the only factor to consider in whether or not to pursue higher education. Students consider ‘Cost Benefit Analysis’ (CBA) when making a decision if they should fight for higher education. Based on the following grounded research studies, there is a gray area in the reasons for whether or not to pursue higher education, since it also depends on personal point of view, especially

²²⁰ Cortese, A. D. (2003). The critical role of higher education in creating a sustainable future, p.16. *Planning for higher education*, 31(3), 15-22. Retrieved from <https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.739.3611&rep=rep1&type=pdf>

²²¹ Cortese, A. D. (2003). The critical role of higher education in creating a sustainable future, p.17, para.2. *Planning for higher education*, 31(3), 15-22. Retrieved from <https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.739.3611&rep=rep1&type=pdf>

²²² Cortese, A. D. (2003). The critical role of higher education in creating a sustainable future, p.17, para.3. *Planning for higher education*, 31(3), 15-22. Retrieved from <https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.739.3611&rep=rep1&type=pdf>

²²³ See McMahon, W.W. (2004). The social and external benefits of education, p.211, para.1. In Johnes, G., & Johnes, J. (Eds), *International handbook on the economics of education*. Retrieved from https://books.google.se/books?hl=en&lr=&id=43_DGVOPXXoC&oi=fnd&pg=PA211&dq=Impact+of+education+on+economics+development&ots=0Ptzg_z8N4&sig=kIWsvz8E44dIdA7D8RKfDb-CYUU&redir_esc=y#v=onepage&q=Impact%20of%20education%20on%20economics%20development&f=false

where the decision relies on 'cost' and 'gain'. It is more predictable that students might NOT be able to pursue higher education when they face certain challenges or barriers.

A journal, on "The Benefits of Higher Education: Sex, Racial/Ethnic, and Socio-economic Group Differences", raises two factors that interferes in an attempt in pursuing higher education: "outcome" and "potential benefits" of education.²²⁴ Other research studies in 1962, 1989, 1993, 2000 and 2001 point out that students analyze and compare between money, time and efforts they invest, with what they will get in return when they make a decision if they should enroll at higher education.²²⁵ The benefits for consideration are divided into 'long-term' and 'short-term' benefits. Students make decisions based on both types or either type of benefits. "Short-term" benefits include the activities, curiosity and "social status" improvement that students can be fond of during study life.²²⁶ Employment rates, preferred working conditions and "environment", lower chances of being out of job and better quality of life are classified as "long-term investment".²²⁷ These 'two types' of 'benefits' are compared with 'costs' that students invest.²²⁸ The expenses consist of "tuition fee", "accommodation",

²²⁴ Perna, L. W. (2005). The benefits of higher education: Sex, racial/ethnic, and socioeconomic group differences, p.25, para.2. *The Review of Higher Education*, 29(1), 23-52. doi:<https://doi.org/10.1353/rhe.2005.0073>

²²⁵ Perna, L. W. (2005). The benefits of higher education: Sex, racial/ethnic, and socioeconomic group differences, p.24, para.1. *The Review of Higher Education*, 29(1), 23-52. doi:<https://doi.org/10.1353/rhe.2005.0073>

²²⁶ Perna, L. W. (2005). The benefits of higher education: Sex, racial/ethnic, and socioeconomic group differences, p.24, para.1. *The Review of Higher Education*, 29(1), 23-52. doi: <https://doi.org/10.1353/rhe.2005.0073>

²²⁷ Perna, L. W. (2005). The benefits of higher education: Sex, racial/ethnic, and socioeconomic group differences, p.24, para.1. *The Review of Higher Education*, 29(1), 23-52. doi: <https://doi.org/10.1353/rhe.2005.0073>

²²⁸ See Perna, L. W. (2005). The benefits of higher education: Sex, racial/ethnic, and socioeconomic group differences, p.24, para.1. *The Review of Higher Education*, 29(1), 23-52. doi:<https://doi.org/10.1353/rhe.2005.0073>

study materials, time utilized for the study and traveling expenses.²²⁹ The expenses are not limited to these. 'Food' must be part of the 'cost'. Nonetheless, it reflects how enrollment rates also rely on how an individual can connect and foresee the benefits of education in their life journey, for both 'non-monetary' and 'monetary' benefits. How people view certain areas of life is generally influenced by social environment, education, upbringing, and observation. For instance, based on 16 different interviews in this research study with university students from Sweden, Cambodia, Thailand and Vietnam, students weigh the level of importance of education depending on 'social norm', 'surrounding environment', 'contextual economic situations' and labor markets available for them. The more ambiguity in gaining monetary benefits or belief in getting jobs, the lower probability in choosing to pursue higher education. Through the interviews, two factors of 'surrounding environment' that potentially 'affect' negatively on how students view the importance of education are 'materialism', and 'uncontrolled social media' misvaluing what should be genuinely 'social value'.

Overall, studies by Becker, Ellwood and Kane find it is more convincing for students to pursue higher levels of education when they feel strongly that they would have a high salary or income in return.²³⁰ Even if 'low income' or 'no income' after pursuing higher education, there should be thorough 'evaluation' of the 'importance of education' since it benefits people in their 'whole life' and that cannot be noticed in a short period of time.²³¹ Even though students or young people desire for higher education, there are certain barriers that prevent 'access' to education.

²²⁹ Perna, L. W. (2005). The benefits of higher education: Sex, racial/ethnic, and socioeconomic group differences, p.24, para.1, last sentence. *The Review of Higher Education*, 29(1), 23-52. doi:<https://doi.org/10.1353/rhe.2005.0073>

²³⁰ See Perna, L. W. (2005). The benefits of higher education: Sex, racial/ethnic, and socioeconomic group differences, p.24, para.3. *The Review of Higher Education*, 29(1), 23-52. doi:<https://doi.org/10.1353/rhe.2005.0073>

²³¹ See Perna, L. W. (2005). The benefits of higher education: Sex, racial/ethnic, and socioeconomic group differences, p.25, para.2. *The Review of Higher Education*, 29(1), 23-52. doi:<https://doi.org/10.1353/rhe.2005.0073>

Heller, Kane, and John find impacts of tuition fees of higher education on numbers of enrollment in higher education. Students might not be able to pursue higher education when tuition fees become a barrier for low-income families.²³² The obstacle can be minimized when there is education funding or financial option plans.²³³

Hence, regardless of “belief”, activities enjoyed by students or how people see the importance of education, Feldman shows that the most significant impacts on “occupational status” and ‘income’ is ‘numbers of years in education’ and ‘higher education level’.²³⁴

3.3 HOW UNEQUAL ACCESS AND OPPORTUNITIES IN EDUCATION BETWEEN MEN AND WOMEN LEADS TO UNEQUAL OPPORTUNITIES FOR LEADERSHIP POSITIONS

There is no provable finding that certain genders over another should pursue higher education in order to produce more social benefits, although there are certain studies that mention differences in salary rates by genders.²³⁵ Moreover, providing salary rates based on gender is deemed as a ‘ground’ of ‘discrimination’.²³⁶ There is no scientific research showing that men

²³² See Perna, L. W. (2005). The benefits of higher education: Sex, racial/ethnic, and socioeconomic group differences, p.24, para.4. *The Review of Higher Education*, 29(1), 23-52. doi:<https://doi.org/10.1353/rhe.2005.0073>

²³³ See Perna, L. W. (2005). The benefits of higher education: Sex, racial/ethnic, and socioeconomic group differences, p.24, para.2. *The Review of Higher Education*, 29(1), 23-52. doi:<https://doi.org/10.1353/rhe.2005.0073>

²³⁴ Feldman, K.A. (1995). Does college make a difference? Long-term changes in activities and attitude, p.478, para.1. *Journal of Higher Education*, 66(4), 478-482.

²³⁵ Cf. Perna, L. W. (2005). The benefits of higher education: Sex, racial/ethnic, and socioeconomic group differences, p.24, para.4. *The Review of Higher Education*, 29(1), 23-52. doi:<https://doi.org/10.1353/rhe.2005.0073>

²³⁶ *Convention on the Elimination of All Forms of Discrimination against Women 1979*, article 11(1)(d).

are smarter or more capable in work performance compared to women because of their gender differences. A research study of Sweden on IQ draws a relationship between IQ score, school grades and “income”.²³⁷ Within the same group of high IQ, there are mixed genders, but men receive more than twice the salary of women.²³⁸ The study further explains the research method and the rationales behind the finding. The study of men’s salaries was studied “3 years later” after women’s salaries, and men are 3.5 years older than women.²³⁹ During the study of men’s salary, Sweden had increased 16 percent of salaries.²⁴⁰ Hence, men’s salaries were higher than women’s because the salary was later increased during the survey. However, another following study proves that the salaries between both genders are close to each other in 2001.²⁴¹

²³⁷ Bergman, L. R., Corovic, J., Ferrer-Wreder, L., & Modig, K. (2014). High IQ in early adolescence and career success in adulthood: Findings from a Swedish longitudinal study. *Research in Human Development*, 11(3), 165-185. doi:<https://doi.org/10.1080/15427609.2014.936261>

²³⁸ See Bergman, L. R., Corovic, J., Ferrer-Wreder, L., & Modig, K. (2014). High IQ in early adolescence and career success in adulthood: Findings from a Swedish longitudinal study, p.178, para.1. *Research in Human Development*, 11(3), 165-185. doi:<https://doi.org/10.1080/15427609.2014.936261>

²³⁹ Bergman, L. R., Corovic, J., Ferrer-Wreder, L., & Modig, K. (2014). High IQ in early adolescence and career success in adulthood: Findings from a Swedish longitudinal study, p.178, para.2. *Research in Human Development*, 11(3), 165-185. doi:<https://doi.org/10.1080/15427609.2014.936261>

²⁴⁰ Bergman, L. R., Corovic, J., Ferrer-Wreder, L., & Modig, K. (2014). High IQ in early adolescence and career success in adulthood: Findings from a Swedish longitudinal study, p.178, para.2. *Research in Human Development*, 11(3), 165-185. doi: <https://doi.org/10.1080/15427609.2014.936261>

²⁴¹ Bergman, L. R., Corovic, J., Ferrer-Wreder, L., & Modig, K. (2014). High IQ in early adolescence and career success in adulthood: Findings from a Swedish longitudinal study, p.178, para.2. *Research in Human Development*, 11(3), 165-185. doi: <https://doi.org/10.1080/15427609.2014.936261>

Thinking back to the importance of education as analyzed in this research paper earlier, people with higher education have more possibilities in labor markets. Inequality of access to higher education produces ‘inequality’ of ‘access’ to the labor market.²⁴² For example, education levels shape “productivity” of work performance and ‘translation principle’ (that is needed for positions in leadership and strategic planners on how to translate an issue into a solution and practice).²⁴³

Higher education holds strong power in opportunities in leadership positions. Those with bachelor and advanced degrees engage in “political” and “community activity” at a higher rate than those with only high school degree.²⁴⁴ There can be a decrease when they reach a certain age in their 30s, but people from bachelor levels up still have a lower percentage in the drop in political engagement.²⁴⁵ Women who became presidents earned a “doctorate” degree.²⁴⁶

²⁴² Moleke, P. (2005). *Inequalities in higher education and the structure of the labour market* (Vol. 1), p.2. HSRC press. Retrieved from <https://books.google.com/books?hl=en&lr=&id=bUDJ27ag8hAC&oi=fnd&pg=PA1&dq=Inequality+of+higher+education+affects+leadership+positions&ots=k9IT0iccOF&sig=El ehESdNYRsP6IEI-g2irU0K7bk>

²⁴³ See combined ideas of [Moleke, P. (2005). *Inequalities in higher education and the structure of the labour market* (Vol. 1), p. 2, para.2. HSRC press. Retrieved from <https://books.google.com/books?hl=en&lr=&id=bUDJ27ag8hAC&oi=fnd&pg=PA1&dq=Inequality+of+higher+education+affects+leadership+positions&ots=k9IT0iccOF&sig=El ehESdNYRsP6IEI-g2irU0K7bk>] & [Seravalli, A., & Witmer, H. (2021). (Service) Design and organizational change: balancing with translation objects, p.74, para.1. & p.75, para.2. *International journal of design*, 15(3), 73-86.].

²⁴⁴ Feldman, K.A. (1995). Does college make a difference? Long-term changes in activities and attitude, p.478, para.1. *Journal of Higher Education*, 66(4), 478-482.

²⁴⁵ Feldman, K.A. (1995). Does college make a difference? Long-term changes in activities and attitude, p.478, para.1. *Journal of Higher Education*, 66(4), 478-482.

²⁴⁶ Ballenger, J. (2010). Women's Access to Higher Education Leadership: Cultural and Structural Barriers, p.2, para.1. In *Forum on Public Policy Online* (Vol. 2010, No. 5). Oxford

Another study of UNESCO highlights the relationship between 'higher education' and 'leadership positions' for women. It studies obstacles preventing women from leadership or managerial positions. One of them is lack of "access to higher education".²⁴⁷ Moreover, there are different countries showing a connection on how lack of access to higher education for women leads to low numbers of women in managerial positions. In Pakistan, factors that hinder women from holding equal opportunities in leadership are 'lack of access' to 'higher education', "discrimination" against women and gender roles by society and organizational structures of work places.²⁴⁸ Where there is lack of "access" to education by women, compared to men, women are underrepresented.²⁴⁹ In Vietnam, students do NOT have a concern over 'gender role' and 'inequality of access' to higher education.²⁵⁰ At the same time, they mention that there is 'equal access' in leadership positions in Vietnam. Where there are more men in leadership positions, they observe that it is generally more about qualification and capability. Among 12 interviewees from Cambodia including researchers, employees and university students, the majority of them addressed the 'lower' of 'access' to 'higher education' by women compared to men, particularly people who are originally from provinces and rural areas. Ten of them consider that the key reason leading to lower numbers in leadership positions and politics is a 'lack' of 'access' to higher education for women and girls.

Round Table. 406 West Florida Avenue, Urbana, IL 61801. Retrieved from <https://eric.ed.gov/?id=EJ913023>

²⁴⁷ Batool, S.G., Sajid, M.A., & Shaheen, I. (2013). Gender and higher education in Pakistan, p.16. *International Journal of Gender and Women's Studies*, 1(1), 15-28. Retrieved from <https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.1062.5965&rep=rep1&type=pdf>

²⁴⁸ Batool, S.G., Sajid, M.A., & Shaheen, I. (2013). Gender and higher education in Pakistan, p.28. *International Journal of Gender and Women's Studies*, 1(1), 15-28. Retrieved from <https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.1062.5965&rep=rep1&type=pdf>

²⁴⁹ Batool, S.G., Sajid, M.A., & Shaheen, I. (2013). Gender and higher education in Pakistan, p.16. *International Journal of Gender and Women's Studies*, 1(1), 15-28. Retrieved from <https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.1062.5965&rep=rep1&type=pdf>

²⁵⁰ Interviewed university students from Vietnam.

As mentioned in the associated benefits in “collectively” of the ‘importance of education’, ‘education’ has a ‘slow progress’, and it is hard to see its result in a short time. Despite a continuous increase of women in higher education and leadership degrees, the number of women holding managerial and leadership positions is ‘slow moving’ to reach an ‘equal number’ in ‘leadership positions’.²⁵¹

3.4 CONCLUDING REMARKS

Equality of right and non-discrimination in accessing higher education is very important for women to demand. It not only benefits their own lives, but also their societies. Through higher education, women have more possibilities in getting jobs, choose types of labors they like, have income, have good quality of life, have independence in managing their own life, have ability to cope risks, challenge social problems and live with healthier habits, and inclusive life through sustainability and ‘equality’.

However, financial benefits are the most convincing advantage for them.²⁵² Students use ‘Cost Benefits Analysis’ to consider if they should enroll in higher education.²⁵³ The benefits are

²⁵¹ Ballenger, J. (2010). Women's Access to Higher Education Leadership: Cultural and Structural Barriers, p.2, para.2. In *Forum on Public Policy Online* (Vol. 2010, No. 5). Oxford Round Table. 406 West Florida Avenue, Urbana, IL 61801. Retrieved from <https://eric.ed.gov/?id=EJ913023>

²⁵² See Perna, L. W. (2005). The benefits of higher education: Sex, racial/ethnic, and socioeconomic group differences, p.24, para.3. *The Review of Higher Education*, 29(1), 23-52. doi:<https://doi.org/10.1353/rhe.2005.0073>

²⁵³ See Perna, L. W. (2005). The benefits of higher education: Sex, racial/ethnic, and socioeconomic group differences, p.24, para.1. *The Review of Higher Education*, 29(1), 23-52. doi:<https://doi.org/10.1353/rhe.2005.0073>

divided into “short-term” and “long-term”.²⁵⁴ It depends on how people can envisage the visibility of their future through higher education and/or that they prefer to choose short-term benefits and/or long-term benefits. Even though students want to choose ‘higher education’, there is another challenging barrier for them: school fee. Their families have limited affordability.²⁵⁵ According to Vvaiciukeviciute, Stankeviciene and Bratickoviene, there are three studies that find differently that people getting a lower level of education provide higher social benefits and economic development. Nevertheless, they explain further that the contrasting findings are due to ‘research objectives’, ‘research design’ and ‘contextual labor system’.²⁵⁶ Regarding the advantages of higher education, Feldman proves that the most essential impact on “occupational status” and “income” are ‘level of education’ or ‘higher education’.²⁵⁷

Furthermore, possibility in accessing ‘leadership positions’ is also influenced by ‘higher education’ since ‘education’ gives people ‘chances’ in ‘labor markets’, more possibility in efficiency, the ability to see social relations. Additionally, based on Feldman’s study, it addresses that people who get ‘higher education’ are more engaged in ‘political’ and ‘social activities’ than those who do not pursue higher education.²⁵⁸

²⁵⁴ Perna, L. W. (2005). The benefits of higher education: Sex, racial/ethnic, and socioeconomic group differences, p.24, para.1. *The Review of Higher Education*, 29(1), 23-52. doi: <https://doi.org/10.1353/rhe.2005.0073>

²⁵⁵ See Perna, L. W. (2005). The benefits of higher education: Sex, racial/ethnic, and socioeconomic group differences, p.24, para.4. *The Review of Higher Education*, 29(1), 23-52. doi:<https://doi.org/10.1353/rhe.2005.0073>

²⁵⁶ VVAICIUKEVICIŪTE, A., STANKEVICIENE, J., & BRATICKOVIENE, J. (2019). Higher education institutions’ impact on the economy, p.511, para.1. *Journal of Business Economics and Management*, 20(3), 507-525. doi:<https://doi.org/10.3846/jbem.2019.10156>

²⁵⁷ See Feldman, K.A. (1995). Does college make a difference? Long-term changes in activities and attitude, p.478, para.1. *Journal of Higher Education*, 66(4), 478-482.

²⁵⁸ Feldman, K.A. (1995). Does college make a difference? Long-term changes in activities and attitude, p.478, para.1. *Journal of Higher Education*, 66(4), 478-482.

CHAPTER 4: ACCESS TO HIGHER EDUCATION BETWEEN MEN AND WOMEN IN HAVING EQUAL ACCESS TO LEADERSHIP POSITIONS IN CAMBODIA

This chapter discusses international legal instruments that Cambodia has ratified, and domestic legislation related to access to higher education, equality, and non-discrimination. The discussion is to figure out whether Cambodia has sufficient legal instruments in preventing and addressing discrimination in accessing higher education. Then, it describes obstacles women face in accessing higher education. It assesses whether the state has taken concrete steps to ensure equal access to higher education between men and women in Cambodia through the state's public policies, literature, interview, secondary data, and legal obligations under the principle of international standard of legal instruments that Cambodia is a member of. Then, it analyzes the relationship of unequal access to higher education and leadership positions in Cambodia. It includes concluding remarks at the end of the chapter.

4.1 LEGAL INSTRUMENTS SUPPORTING EQUAL ACCESS TO HIGHER EDUCATION BETWEEN MEN AND WOMEN IN CAMBODIA

Constitutional law of Cambodia is considered the 'top hierarchy' of 'law' in the territory.²⁵⁹ It has been amended eight times since its adoption in 1993.²⁶⁰ Article 31 of the constitution permits 'direct' implication of international legal instruments on human rights that Cambodia has ratified.²⁶¹ Pertaining to international human rights law on right to education, including its

²⁵⁹ Hor, P., Kong, P., & Menzel, J. (Eds.). (2016). *Cambodian Constitutional Law*, p.43, para.2. Konrad-Adenauer-Stiftung.

²⁶⁰ Constitutional Council of Cambodia. (2022). *Background*. Retrieved on May 19, 2022, from https://www.ccc.gov.kh/historyccc_en.php

²⁶¹ *Constitution of the Kingdom of Cambodia 1993* (last amended in 2008), article 31. Retrieved from https://www.ccc.gov.kh/detail_info_en.php?_txtID=791

equality of access between men and women and non-discrimination in higher education, Cambodia ratified ICESCR and CEDAW in May 1992.²⁶²

There have been sufficient international legal instruments and guidance such as ICESCR, CEDAW, General Comment No.13 of ICESCR, General Comment No.28 of CEDAW and relevant legal concepts on 'right to education'. These enshrine 'equal access' between men and women and non-discrimination in 'higher education' in order to 'oblige' Cambodia to 'respect', 'protect' and 'fulfill'. Regardless of that, according to the following legal analysis in "4.1.1" and "4.1.2", the state lacks domestic legislation and legal mechanism promoting higher education, its accessibility and equal access between men and women and non-discrimination through analysis based on Cambodia's constitution and Education Law.

Nishigaya analyzes women's rights in a broad perspective in Cambodia by looking at domestic laws, she finds that one of the reasons producing a "large gap" in "gender equality" is "insufficient development of legislation".²⁶³ A similar research paper by the Center of the Study of Humanitarian Law on "Discrimination against Women in Accessing Higher Education in Cambodia" finds that the state has no certain law in 'promoting' and 'protecting' "access" as well as 'non-discrimination' in 'access' to "higher education" between men and women.²⁶⁴ Its conclusion entails the combination of international and domestic law, and it has slightly different legal findings and analysis.

²⁶² United Nations Human Rights Treaty Bodies. (n.d.). *View the ratification status by country or by treaty*. Retrieved from https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Treaty.aspx?CountryID=29&Lang=en

²⁶³ Nishigaya, K. (2002). *Section 3. Gender. The Kingdom of Cambodia*, p.63, "1.1.1". Retrieved from http://pds10.egloos.com/pds/200901/10/63/a0102563_496771560eda3.pdf#page=87

²⁶⁴ Tuy, S. (2019). Discrimination against women in accessing higher education in cambodia, p.115, para.3. *Journal of Southeast Asian Human Rights*, 3(1), 101-123. doi: 10.19184/jseahr.v3i.8402

4.1.1 INTERNATIONAL HUMAN RIGHTS LEGAL INSTRUMENTS

As Cambodian constitution law and General Comment No.13 of ICESCR permits 'direct implication', all international human rights legal instruments related to higher education are used to analyze.²⁶⁵

Under the international legal instrument, ICESCR and its General Comment No.13, Cambodia has an obligation to “respect”, “protect” and “fulfill” the right to education at all levels including higher education.²⁶⁶ The covenant enshrines the principle of right, which includes higher education on ‘affordability’ through “progressive introduction” to ‘free education’.²⁶⁷ This obligates the territorial state to seek possible ways with ‘justification’ in providing higher education through “progressive introduction” to ‘free of charge’.²⁶⁸ The state has a legal obligation to prevent discrimination against women in higher education.²⁶⁹ The equal right and access to higher education between men and women shall be guaranteed.²⁷⁰ As written in Chapter 2 on scope of right to education, General Comment No.13 of ICESCR, ‘access’ to higher education entails three aspects: “economic accessibility”, “physical accessibility” and “non-discrimination”. In a situation that the state has limited resources, states have obligations to find other options that enable students to pursue higher education through national

²⁶⁵ See Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), para.48, second sentence; *Constitution of the Kingdom of Cambodia 1993* (last amended in 2008), article 31. Retrieved from https://www.ccc.gov.kh/detail_info_en.php?_txtID=791

²⁶⁶ Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), para.46; See also *International Covenant on Economic, Social and Cultural Rights 1966*, article 13& 14.

²⁶⁷ *International Covenant on Economics, Social and Cultural Rights 1966*, article 26.

²⁶⁸ *International Covenant on Economic, Social and Cultural Rights 1966*, article 13(2)(c).

²⁶⁹ *International Covenant on Economic, Social and Cultural Rights 1966*, article 2(2); *Convention on the Elimination of All Forms of Discrimination against Women 1979*, article 2.

²⁷⁰ *International Covenant on Economic, Social and Cultural Rights 1966*, article 3; *Convention on Elimination of All Forms of Discrimination against Women 1979*, article 10.

strategic plans under the legal principle of “economic accessibility - affordability” under General Comment No.13 of ICESCR.²⁷¹ Turning back to ‘justification’, it is challenging for human rights practitioners and citizens to evaluate whether the state has ‘justified reasons’ for not pursuing with all means at its disposal the progressive introduction of high education with ‘free of charge’ and ‘equal access’ to higher education between men and women through ‘de jure’ and ‘de facto’ when it arises in a situation where the access of information is still restricted.²⁷² The state is obligated to expose and publish information of state affairs, particularly policy making with rationales and authentic databases.²⁷³ The ‘right of access to information’ is attached with the right to ‘freedom of expression’ that is stipulated in article 19 of the International Covenant on Civil and Political Rights.²⁷⁴ Cambodia is a signee.²⁷⁵ Challenging the state power, policy making and human rights, as written in Cambodia’s constitution, citizens can file a complaint on administrative legal disputes to the court.²⁷⁶ Nevertheless, in practice, it is rare that judges make decisions based on human right principles. People expressing their opinions against inadequate practice or challenging the governance on

²⁷¹ Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), 6(b).

²⁷² See Huisman, P., & Oudes, A. (2015). *Cambodia Impact Report: The World Citizens Panel*, p.3, para.3. Retrieved from <https://oxfamilibrary.openrepository.com/bitstream/handle/10546/552689/er-cambodia-impact-report-world-citizens-panel-130515-en.pdf?sequence=1>; Advocacy and Policy Institute. (2010). *Introduction to access to information in Cambodia*, p.9-15. Retrieved from http://ticambodia.org/library/wp-content/files_mf/1452238572a2ienglish.pdf

²⁷³ See Human Rights Committee. (2011). General Comment No. 34-Article 19: Freedoms of Opinion and Expression. CCPR/C/GC/34, p.3, para.11&19.

²⁷⁴ See the connected concepts of [*International Covenant on Civil and Political Rights 1966*, article 19.] & [*Human Rights Committee. (2011). General Comment No. 34-Article 19: Freedoms of Opinion and Expression. CCPR/C/GC/34, p.3, para.11.*].

²⁷⁵ International Federation for Human Rights. (2022). *Cambodia: UN body reviews civil and political rights situation amid intensified government repression*. Retrieved from <https://www.fidh.org/en/region/asia/cambodia/cambodia-un-body-reviews-civil-and-political-rights-situation-amid>

²⁷⁶ *Constitution of the Kingdom of Cambodia 1993* (last amended in 2008), article 39.

human rights violations face threats.²⁷⁷ Moreover, it is hard to provide reasons to complain when there is no sufficient information available and accessible.²⁷⁸

There are similar legal concepts on non-discrimination between ICESCR and CEDAW.²⁷⁹ These two international human rights legal instruments stress the level of 'urgency' in eliminating 'discrimination' against women in education that it shall be implemented 'immediately' since this legal principle does not rest upon 'progressive introduction'.²⁸⁰ Regarding "accessibility" to higher education, General Comment No.13 of ICESCR 'prohibits' "discrimination" to 'education' in general terms.²⁸¹ It becomes more specific when the 'scope' of 'right to education' 'encompasses' 'accessibility' and 'higher education'.²⁸² This means that the legal perspective in this general comment is to protect women from 'discrimination' in 'accessing' 'higher education'. General Comment No.28 of CEDAW imposes 'negative' and

²⁷⁷ Anstis, S. (2012). Using law to impair the rights and freedoms of human rights defenders: A case study of Cambodia, p.317, para.3. *Journal of Human Rights Practice*, 4(3), 312-333.

²⁷⁸ See Sao, P.N. (2020). *Access to information in Cambodia amid the pandemic*. Retrieved from <https://fojo.se/en/access-to-information-in-cambodia-amid-the-pandemic/>

²⁷⁹ *International Covenant on Economics, Social and Cultural Rights 1966*, article 2(2); *Convention on the Elimination of All Forms of Discrimination against Women 1979*, article 2.

²⁸⁰ See Committee on the Elimination of Discrimination against Women. (2010). General, R. N. 28 of the Committee on the Elimination of Discrimination against Women on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, p.4, para.14; Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), 6(b), para.31 & para.43, second sentence.

²⁸¹ See Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), 6(b).

²⁸² See connected concepts of [Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), para.17-19] & [*International Covenant on Economics, Social and Cultural Rights 1966*, article 13(2)(c)].

'positive' obligations in 'eliminating' 'discrimination'.²⁸³ The state is 'prohibited' from 'adopting legal instruments', making "policies" or implementing 'administrative governance' affecting the rights of women groups.²⁸⁴ Furthermore, the state shall 'prevent discrimination' against women from happening through organizing 'judicial system' or "public institutions" to monitor, put "sanctions" and provide "remedies".²⁸⁵ These 'measures' can be taken 'against' its own 'institutions of administrative structure', and individuals, who "act" or 'do not act' because of 'discrimination' against 'women' in accessing higher education.²⁸⁶ Failure in processing "due diligence" to fight against "discrimination" against women committed by "private actors" is considered as 'violation' of article 2(2) of CEDAW.²⁸⁷ CEDAW prohibits 'discrimination' against women in education to guarantee the "equality" of "rights" between men and women.²⁸⁸ The state has a 'positive obligation' in making sure that women can enjoy

²⁸³ Committee on the Elimination of Discrimination against Women. (2010). General, R. N. 28 of the Committee on the Elimination of Discrimination against Women on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, para.10, first sentence.

²⁸⁴ See Committee on the Elimination of Discrimination against Women. (2010). General, R. N. 28 of the Committee on the Elimination of Discrimination against Women on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, p.3, para.9, second sentence.

²⁸⁵ See Committee on the Elimination of Discrimination against Women. (2010). General, R. N. 28 of the Committee on the Elimination of Discrimination against Women on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, p.4, para.17, second sentence.

²⁸⁶ Committee on the Elimination of Discrimination against Women. (2010). General, R. N. 28 of the Committee on the Elimination of Discrimination against Women on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, para.10, first sentence.

²⁸⁷ Cf. Committee on the Elimination of Discrimination against Women. (2010). General, R. N. 28 of the Committee on the Elimination of Discrimination against Women on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, p.3, para.13.

²⁸⁸ *Convention on Elimination of All Forms of Discrimination against Women 1979*, article 10.

'equality of rights' and 'access' to higher education.²⁸⁹ According to General Comment No.13 of ICESCR, the key legal term of state's obligation towards achieving 'equality' of 'access' between men and women to 'higher education' is not 'absolute' because it provides a 'wide' 'margin of appreciation' on a state's "capacity".²⁹⁰ This is different from the term of 'discrimination' against 'women' in 'accessing' 'higher education' that has "immediate effect".²⁹¹ However, it requires the state to "take" 'necessary' steps for 'targeting' and 'realizing' 'equal access' to 'higher education' between men and women as it is enshrined in "article 13" of ICESCR.²⁹²

To achieve 'substantive equality', the state shall feel obliged in reaching 'equality of result'.²⁹³ For effectiveness, there shall be a systematic approach through the state's plans, making projects for targeting issues that need to be addressed and using 'governance' for taking 'measures' to ensure 'equal chances' in 'accessing' higher education.²⁹⁴ "Failure" to 'take

²⁸⁹ See Committee on the Elimination of Discrimination against Women. (2010). General, R. N. 28 of the Committee on the Elimination of Discrimination against Women on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, p.3, para.9, first sentence.

²⁹⁰ Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), para.19.

²⁹¹ See Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), 6(b), para.31.

²⁹² See Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), para.43, last sentence.

²⁹³ Committee on the Elimination of Discrimination against Women. (2010). General, R. N. 28 of the Committee on the Elimination of Discrimination against Women on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, p.3, para.9.

²⁹⁴ See Committee on the Elimination of Discrimination against Women. (2010). General, R. N. 28 of the Committee on the Elimination of Discrimination against Women on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, p.3, para.9, last sentence.

measures' or actions to recognize the right in article 13 of ICESCR can be 'attributed' to "violation".²⁹⁵

4.1.2 DOMESTIC LEGAL INSTRUMENTS

Cambodia has not had adequate domestic law in promoting equal access to higher education. The constitution has a provision on providing education free of charge, starting from "primary" to "secondary education" to citizens.²⁹⁶ It sets the minimum of "9 years" for citizens to receive education, but is unclear on whether parents have an obligation to send their children to school for at least 9 years or it is the state whose obligation is to ensure that every citizen shall receive 9 years of education.²⁹⁷ In the same constitution, article 65 obligates the state to "protect" and "promote" "right" to 'qualitative education' for "all levels of education".²⁹⁸ The 'quality' is part of 'acceptability' of 'right to 'higher education'.²⁹⁹ It is just one substance of scope of right to education among 4As.³⁰⁰ Moreover, article 65 and the whole constitution is silent on 'higher education' and 'accessibility' to higher education, whilst ICESCR requires the state to take "concrete steps towards achieving free secondary and higher education".³⁰¹ Significantly, in respect to 'equal access' to higher education between

²⁹⁵ Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), para.58, second sentence.

²⁹⁶ *Constitution of the Kingdom of Cambodia 1993* (last amended in 2008), article 68, first sentence. Retrieved from https://www.ccc.gov.kh/detail_info_en.php?_txtID=791

²⁹⁷ *Constitution of the Kingdom of Cambodia 1993* (last amended in 2008), article 68, second sentence. Retrieved from https://www.ccc.gov.kh/detail_info_en.php?_txtID=791

²⁹⁸ *Constitution of the Kingdom of Cambodia 1993* (last amended in 2008), article 65. Retrieved from https://www.ccc.gov.kh/detail_info_en.php?_txtID=791

²⁹⁹ Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), 6(c).

³⁰⁰ See "I.I" of this paper.

³⁰¹ Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), para.14.

men and women, article 31 on “equality before the law” in the constitutional law may not contribute to promoting ‘equality’ of ‘access’ to higher education, since the constitution itself does not include the aspect of ‘higher education’ in the constitution the same as ICESCR does. Also, the Education Law of Cambodia that was adopted in 2007 does not incorporate ‘higher education’ into its aspect of “right” and ‘access’ to “education”.³⁰² The Education Law stipulates that citizens can “access” “qualitative education” for the minimum of 9 years.³⁰³ In other words, the stipulation can be interpreted that it does not ‘limit’ the right of accessing higher education. Nonetheless, the ‘meaning’ does not obligate its government and governance to take more actions for ‘progressive introduction’ to ‘free of charge’ higher education either. Additionally, the scope of the meaning in this law seems narrower than the constitution since it does not mention full levels of secondary education (till 12th grade) as it does in the constitution. Both the Education Law and the constitutional law do not stipulate ‘accessibility to higher education’. Besides article 31 of the Education Law, there are some provisions mentioning ‘higher education’, but it concerns ‘school administrative matters’ rather than concepts of right to ‘higher education’ and its accessibility.³⁰⁴

³⁰² *Education Law 2007 (KH)*, article 31. Retrieved from <http://www.moeys.gov.kh/index.php/en/laws-and-legislations/law/%E1%9E%85%E1%9F%92%E1%9E%94%E1%9E%B6%E1%9E%94%E1%9F%8B-%E1%9E%9F%E1%9F%92%E1%9E%8A%E1%9E%B8%E2%80%8B%E1%9E%96%E1%9E%B8-%E1%9E%80%E1%9E%B6%E1%9E%9A%E2%80%8B%E1%9E%A2%E1%9E%94%E1%9F%8B%E1%9E%9A%E1%9F%86.html>

³⁰³ *Education Law 2007 (KH)*, article 31. Retrieved from <http://www.moeys.gov.kh/index.php/en/laws-and-legislations/law/%E1%9E%85%E1%9F%92%E1%9E%94%E1%9E%B6%E1%9E%94%E1%9F%8B-%E1%9E%9F%E1%9F%92%E1%9E%8A%E1%9E%B8%E2%80%8B%E1%9E%96%E1%9E%B8-%E1%9E%80%E1%9E%B6%E1%9E%9A%E2%80%8B%E1%9E%A2%E1%9E%94%E1%9F%8B%E1%9E%9A%E1%9F%86.html>

³⁰⁴ *Education Law 2007 (KH)*, article 8, article 13, article 17(para.4), article 18, article 20 & article 25. Retrieved from <http://www.moeys.gov.kh/index.php/en/laws-and-legislations/law/%E1%9E%85%E1%9F%92%E1%9E%94%E1%9E%B6%E1%9E%94%E1%9F%8B-%E1%9E%9F%E1%9F%92%E1%9E%8A%E1%9E%B8%E2%80%8B%E1%9E%96%E1%9E%B8-%E1%9E%80%E1%9E%B6%E1%9E%9A%E2%80%8B%E1%9E%A2%E1%9E%94%E1%9F%8B%E1%9E%9A%E1%9F%86.html>

Cambodia's constitution 'forbids' "discrimination" against women in "all forms".³⁰⁵ This stipulation in the constitution is ambiguous on whether it refers to types of discrimination or it refers to 'protection' of women from discrimination in 'all fields'. Another article legislates that both men and women are "equal" before the "law".³⁰⁶ As written earlier in 4.1.1, level of legal effects between 'discrimination' and 'equality' is different. Hence, the scope and standard of rights concerning accessing higher education in the context of 'non-discrimination' for women in the constitution of Cambodia is 'silent', especially whereas the constitution just includes its stipulations on 'availability' of "free" "secondary education" for 'public education program'.³⁰⁷

4.2 CHALLENGES AND POLICIES FOR WOMEN IN ACCESSING HIGHER EDUCATION IN CAMBODIA

Selecting an assessment tool is significant for human rights in practice. As the paper studies 'access' in higher education between men and women in Cambodia, three legal aspects of 'accessibility' on 'physical access', 'economic access' and 'non-discrimination' in practice are analyzed. 'Physical access' will be assessed by enrollment rate whilst the other two can be analyzed through qualitative research methods such as interview, journals, reports, and policies.

9E%80%E1%9E%B6%E1%9E%9A%E2%80%8B%E1%9E%A2%E1%9E%94%E1%9F%8B%E1%9E%9A%E1%9F%86.html

³⁰⁵ *Constitution of the Kingdom of Cambodia 1993* (last amended in 2008), article 45, first sentence. Retrieved from https://www.ccc.gov.kh/detail_info_en.php?_txtID=791

³⁰⁶ *Constitution of the Kingdom of Cambodia 1993* (last amended in 2008), article 31. Retrieved from https://www.ccc.gov.kh/detail_info_en.php?_txtID=791

³⁰⁷ See *Constitution of the Kingdom of Cambodia 1993* (last amended in 2008), article 68. Retrieved from https://www.ccc.gov.kh/detail_info_en.php?_txtID=791

4.2.1 INTERPRETATION OF DATA ON NUMBERS OF WOMEN IN HIGHER EDUCATION

As “physical accessibility” is part of “accessibility” in General Comment No.13 of ICESCR and that Tomasevski suggests an assessment in ‘physical access’ through reading the data of students enrolling in higher education compared to numbers of males and females who are supposed to be in higher education, enrollment data of higher education are analyzed.³⁰⁸ This type of data is significant for assessment of ‘gender equality’ and ‘discrimination’.³⁰⁹ The data information in Table 1 and Table 2 is limited.³¹⁰ Most available data is the percentage of female students compared to the whole number of students in higher education, which does not include women dropping out of schools.³¹¹ The collected secondary data shows that there were lower numbers of women in accessing higher education compared to men in Cambodia. Between 2001 and 2002, the number of women who graduated from higher education was between 28 to 31 percent of all enrolling students in both private and public education.³¹² In Table 1, education year 2017-2018, it shows that women were 12.93 percent among all females in Cambodia who are supposed to be in higher education. Men were 14.42 percent compared to numbers of males in Cambodia who are supposed to be in higher education. This gap in percentage between men and women does not look much different, however, if the percentage is transformed into numbers, the gap would be higher. In 2012, there were between 38 to 41 percent of female students enrolled in bachelor's degrees compared to the

³⁰⁸ See Tomasevski, K. (1999). *Preliminary report of the special rapporteur on the right to education* (E/CN.4/1999/49), p.18-19. Retrieved from United Nation website: <https://digitallibrary.un.org/record/1487535>

³⁰⁹ Tomasevski, K. (1999). *Preliminary report of the special rapporteur on the right to education* (E/CN.4/1999/49), p.11, para.29. Retrieved from United Nation website: <https://digitallibrary.un.org/record/1487535>

³¹⁰ See “APPENDIX” of this paper.

³¹¹ See Table 1 and Table in “APPENDIX”.

³¹² Ministry of Women’s Affair of Royal Government of Cambodia. (2004). *The progress report on implementation of Beijing platform for action on women issue 1995-2005*, p.13. para.1. Retrieved from <https://www.un.org/womenwatch/daw/Review/responses/CAMBODIA-English.pdf>

whole numbers of students enrolled in higher education (public and private). In 2007, both public and private institutions, there were around 37 percent of female students enrolled in bachelor's degrees. The author cannot find a gross percentage of the two genders for years of 2013 and 2003. Back to the history of higher education in Cambodia in Table 2, numbers of male students were twice or almost twice of female percentages (% Gross) in 1972, 1973, 1993, 1994, 1995, 1996, 1997, 2000, 2001, 2002, 2004 and 2005. From 2006 to 2019, this still shows that the number of men enrolling in higher education is higher than women despite progressive increase of females.³¹³ In response to this data and observation, there are various articles discussing challenges that women might have faced or face in daily life as follows.

4.2.2 BARRIERS WOMEN FACE IN ACCESSING HIGHER EDUCATION

'Discrimination', 'financial constraint', 'security', 'lack of knowledge' in women rights and lack of legislation on gender discrimination in higher education, 'materialism', and low probability in getting jobs are barriers for women to access higher education and lack of knowledge in women's rights. According to a journal on "Discrimination against Women in Accessing Higher Education in Cambodia", it finds that there are main issues impeding women in pursuing higher education such as 'discrimination' and "finance".³¹⁴ Additionally, 'security' is another additional barrier raised in her paper.³¹⁵ Some parents' income is lower than the tuition fees of children's higher education.³¹⁶ They cannot afford to pay the full expenses to

³¹³ See "APPENDIX" of this paper.

³¹⁴ See Tuy, S. (2019). Discrimination against women in accessing higher education in cambodia, p.102, para.1. *Journal of Southeast Asian Human Rights*, 3(1), 101-123. doi: 10.19184/jseahr.v3i.8402

³¹⁵ See Tuy, S. (2019). Discrimination against women in accessing higher education in cambodia, p.116, para.1. *Journal of Southeast Asian Human Rights*, 3(1), 101-123. doi: 10.19184/jseahr.v3i.8402

³¹⁶ Tuy, S. (2019). Discrimination against women in accessing higher education in cambodia, p.116, para.1, last sentence. *Journal of Southeast Asian Human Rights*, 3(1), 101-123. doi: 10.19184/jseahr.v3i.8402

get higher education including accommodation fees for their children.³¹⁷ In addition to that, social norms in viewing gender roles in the society influences parent's decision to less prioritize daughters in a situation of economic constraint.³¹⁸ For instance, Cambodia has an 'ethical code of conduct' called "Chbab Srey".³¹⁹ "Chbab" means 'law', 'Srey' refers to 'female'. This 'ethical' code of conduct was created by a former 'male' King of Cambodia, King Ang Duong, in 1837.³²⁰ According to this code of conduct women are 'obligated' to take care of their families and husband to be considered as ethical and responsible women.³²¹ If women do not 'obey' this code, they can face family sanction, especially from their husbands.³²² Currently, those parents still believe sons should get higher education because they have responsibilities

³¹⁷ See Tuy, S. (2019). Discrimination against women in accessing higher education in cambodia, p.116, para.2. *Journal of Southeast Asian Human Rights*, 3(1), 101-123. doi: 10.19184/jseahr.v3i.8402

³¹⁸ See Dim, P. (2018). Cambodian Women's Roles in Education and Leadership: Empowerment, p.222, para.2. *Cambodian Journal of International Studies* 2, 217-231. Retrieved from [http://uc.edu.kh/images/CJIS/CJIS%20\(2\)%20web.pdf#page=56](http://uc.edu.kh/images/CJIS/CJIS%20(2)%20web.pdf#page=56); See Tuy, S. (2019). Discrimination against women in accessing higher education in cambodia, p.116, para.2. *Journal of Southeast Asian Human Rights*, 3(1), 101-123. doi: 10.19184/jseahr.v3i.8402

³¹⁹ Tuy, S. (2019). Discrimination against women in accessing higher education in cambodia, p.117, para. 1. *Journal of Southeast Asian Human Rights*, 3(1), 101-123. doi: 10.19184/jseahr.v3i.8402

³²⁰ See reference of a word "Chbab Srey" in Park, C. M. Y. (2015). *New 'webs of power' and agrarian transformations in Cambodia: Where are the women*, p.8, para.1, second sentence. BRICS Initiative in Critical Agrarian Studies, Working Paper, 8.

³²¹ Tuy, S. (2019). Discrimination against women in accessing higher education in cambodia, p.117, para.1. *Journal of Southeast Asian Human Rights*, 3(1), 101-123. doi: 10.19184/jseahr.v3i.8402

³²² See Park, C. M. Y. (2015). *New 'webs of power' and agrarian transformations in Cambodia: Where are the women*, p.8, para.1. BRICS Initiative in Critical Agrarian Studies, Working Paper, 8.

in seeking income for their future wives and families.³²³ In certain situations, daughters are not supported financially and emotionally to pursue higher education for the reason that their parents think it is not “safe” for them to live in a rented accommodation far away from their families.³²⁴ Some parents want their daughters to get higher education, but lack of social “security” towards their daughters makes them unable to do so.³²⁵ Even if there is some data showing that numbers of women enrolling in higher education in the provinces are higher than male students, it is because of a fear in “security” leading them to study in their provinces instead of going to Phnom Penh, whereas men choose to study in the capital city over the local areas.³²⁶ Many interviewees in Tuy’s research consider that “discrimination” based on “gender” in ‘accessing’ ‘higher education’ really exists in ‘*de facto*’.³²⁷ In the meantime, a small percentages of interviewees view that “discrimination” on “gender” regarding ‘accessing’ higher education does not happen “anymore” in Cambodia.³²⁸ Interestingly, in this research’s primary data, the interviewees who believe there is no “discrimination” against women in higher education at the moment in Cambodia were raised in the capital city and from educated

³²³ See [Tuy, S. (2019). Discrimination against women in accessing higher education in cambodia, p.117, continued para. *Journal of Southeast Asian Human Rights*, 3(1), 101-123. doi: 10.19184/jseahr.v3i.8402] & [Interview the researcher.].

³²⁴ Interviewed the researcher Sophorn Tuy; this thesis author’s personal experience.

³²⁵ Tuy, S. (2019). Discrimination against women in accessing higher education in cambodia, p.116, para.1. *Journal of Southeast Asian Human Rights*, 3(1), 101-123. doi: 10.19184/jseahr.v3i.8402

³²⁶ See Tuy, S. (2019). Discrimination against women in accessing higher education in cambodia, p.116, para.2. *Journal of Southeast Asian Human Rights*, 3(1), 101-123. doi: 10.19184/jseahr.v3i.8402

³²⁷ See Tuy, S. (2019). Discrimination against women in accessing higher education in cambodia, p.116, para. *Journal of Southeast Asian Human Rights*, 3(1), 101-123. doi: 10.19184/jseahr.v3i.8402

³²⁸ See Tuy, S. (2019). Discrimination against women in accessing higher education in cambodia, p.116, last para. *Journal of Southeast Asian Human Rights*, 3(1), 101-123. doi: 10.19184/jseahr.v3i.8402; This study research’s interviews.

family backgrounds.³²⁹ Moreover, primary data of the interviews of this research study shows similarly that challenges that women face which make them unable to pursue higher education are: demotivation by parents, influence of social media in materialism, prioritization of sons over daughters when limited resources, gender roles, little hope in getting jobs through higher education, and that some scholarships are unable to deliver to the most vulnerable women.³³⁰

Parents and girls lack the understanding that women or girls have the right to access education as equal as men.³³¹ There is a limited curriculum on women's rights in general education programmes, making them unaware of what they can demand from the family and society.³³² Moreover, Tuy's data notes that most people do not know that they have the right as stipulated in ICESCR and CEDAW.³³³

The CEDAW committee raises one of other reasons that states are unable to address 'discrimination' is a "failure" to 'take positive obligations' in 'domestic legislation', 'strengthening legal implementation' and 'goals'.³³⁴ The state might not be considered to be fulfilling the obligation in right to education, including the scope in higher education if the state

³²⁹ Interviewed employees who are mid-manager levels and gained university degrees.

³³⁰ Interviewed researchers, employees, organizational leaders and universities students.

³³¹ See Tuy, S. (2019). Discrimination against women in accessing higher education in cambodia, p.115, para.1. *Journal of Southeast Asian Human Rights*, 3(1), 101-123. doi: 10.19184/jseahr.v3i.8402

³³² Dim, P. (2018). Cambodian Women's Roles in Education and Leadership: Empowerment, p.224, para.2. *Cambodian Journal of International Studies* 2, 217-231. Retrieved from [http://uc.edu.kh/images/CJIS/CJIS%202\(2\)%20web.pdf#page=56](http://uc.edu.kh/images/CJIS/CJIS%202(2)%20web.pdf#page=56)

³³³ See Tuy, S. (2019). Discrimination against women in accessing higher education in cambodia, p.115, para. *Journal of Southeast Asian Human Rights*, 3(1), 101-123. doi: 10.19184/jseahr.v3i.8402

³³⁴ Committee on the Elimination of Discrimination against Women. (2010). General, R. N. 28 of the Committee on the Elimination of Discrimination against Women on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, p.3, para.10.

entrusts the obligation to “individuals” to fight for their own education in circumstances that make their lives too hard to receive.³³⁵

4.2.3 POLICIES AND PROJECTS

Cambodia is in the progressive development of new legislation in fighting against gender discrimination, but it is not yet clear about which area it will focus on.³³⁶ In a national strategy, Neary Rattanak V dated for 2019-2023, its “Strategy 2” depicts an ‘intention’ in ‘promoting’ “access” to ‘higher education’.³³⁷ However, ‘Key Performance Indicator’ is not sufficient on how it will actually work to promote the access of education for women since it just includes its “key activities”, such as providing technical support and engaging in gender equality through “technical” support, “trainings” within the national administration, and arranging events for inspiring them to pursue ‘higher education’. Neary Rattanak IV implementation plan and Rectangular Strategic Plan are also ambiguous.³³⁸ The Ministry of Women” Affairs created “Mainstreaming Action Groups” which were established and linked with “all” “ministries”.³³⁹

³³⁵ See Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), para.47.

³³⁶ Ministry of Women’s Affair of the Royal Government of Cambodia. (2020). *Neary Rattanak V: five year strategic plan for strengthening gender mainstreaming and women’s empowerment 2019-2023*, p.16, para.2. Retrieved from <https://www.mowa.gov.kh/wp-content/uploads/2021/02/Neary-Rattanak-V-final-Eng.pdf>

³³⁷ Ministry of Women’s Affair of the Royal Government of Cambodia. (2020). *Neary Rattanak V: five year strategic plan for strengthening gender mainstreaming and women’s empowerment 2019-2023*. Retrieved from <https://www.mowa.gov.kh/wp-content/uploads/2021/02/Neary-Rattanak-V-final-Eng.pdf>

³³⁸ Ministry of Women’s Affairs. (2014). *Neary Rattanak IV: five year plan for gender equality and women empowerment 2014-2018*. Retrieved from [https://www.kh.undp.org/content/dam/cambodia/docs/DemoGov/NearyRattanak4/Cambodia n%20Gender%20Strategic%20Plan%20-%20Neary%20Rattanak%204_Eng.pdf](https://www.kh.undp.org/content/dam/cambodia/docs/DemoGov/NearyRattanak4/Cambodia%20Gender%20Strategic%20Plan%20-%20Neary%20Rattanak%204_Eng.pdf)

³³⁹ Ministry of Women’s Affairs of the Royal Government Cambodia. (2019). *Cambodia report to the General Assembly Resolution A/Res/72/234 on “women in development”*, p.3, para.8.

Within a separate document on Gender Mainstreaming, it mentions the plan in promoting “gender equality” in “education”, but it is vague from a project management perspective.³⁴⁰ Furthermore, through Rectangular Strategic Plan, it is hard to understand whether or not the policy would address ‘gender discrimination’ and ‘discrimination’ against women in accessing higher education.³⁴¹ So far, the locations of universities for higher education have not existed in all provinces despite the institutions having been increased from “110” to “125”.³⁴² There is Higher Education Policy 2030, in which one of its “strategies” is to provide “equitable access” to “women”, “poor” and “remote areas”, but it does not describe how the strategy would be implemented and it focuses more on the ‘administration aspect’.³⁴³ According to the

Phnom Penh: Ministry of Women’s Affairs of Cambodia. Retrieved from <https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2019/A-74-279-Submission-Cambodia-en.pdf>

³⁴⁰ Ministry of Women’s Affairs of Kingdom of Cambodia. (2014). *Gender*, p.5, para.1. Retrieved from https://www.kh.undp.org/content/dam/cambodia/docs/DemoGov/NearyRattanak4/Neary%20Rattanak%204%20-%20PB%20Gender%20Mainstreaming_Eng.pdf

³⁴¹ Royal Government of Cambodia. (2018). *Rectangular strategy for growth, employment, equity and efficiency: building the foundation towards realizing the Cambodia’s vision 2050*, p.25, last para. Retrieved from <http://cnv.org.kh/wp-content/uploads/2012/10/Rectangular-Strategy-Phase-IV-of-the-Royal-Government-of-Cambodia-of-the-Sixth-Legislature-of-the-National-Assembly-2018-2023.pdf>

³⁴² Ministry of Education, Youth and Sport of the Kingdom of Cambodia. (2019). *Education strategic plan 2019-2023*, p.40, para.1. Retrieved from <http://www.moeys.gov.kh/index.php/en/policies-and-strategies/3206.html>

³⁴³ Ministry of Education, Youth and Sport of the Kingdom of Cambodia. (2014). *Higher Education Vision 2030*, p.3, “5.1.2”. Retrieved from <http://www.moeys.gov.kh/en/policies-and-strategies/policy-on-higher-education-2030.html>

Education Strategic Plan 2019-2023, the state will prepare a “scholarship fund” for “higher education” in 2022, but does not mention numbers of grants.³⁴⁴

The Ministry of Education in Cambodia tries to “ensure” “gender equality” in accessing education, but does not elaborate which strategies or techniques it will use to implement and which level of education.³⁴⁵ The National Strategic Plan 2019-2023 prepares “scholarships” and “loan funds” for graduate students.³⁴⁶ However, how the state can promote ‘equal access’ to higher education in a broad perspective or a specific context between men and women is not written in the national strategic plan dated for 2019-2023. The Ministry of Education in Cambodia prepared a plan on loans for higher education in 2014 to be implemented between 2014 and 2018.³⁴⁷ This has not yet been implemented. Furthermore, through the education strategic plan, it is aimed to increase scholarships for vulnerable students.³⁴⁸ It does not mention number of “scholarships” provided or policy towards women in accessing higher education.

³⁴⁴ Ministry of Education, Youth and Sport of the Kingdom of Cambodia. (2019). *Education strategic plan 2019-2023*, p.41, “3.4.4” para. I. Retrieved from <http://www.moeys.gov.kh/index.php/en/policies-and-strategies/3206.html>

³⁴⁵ Ministry of Education, Youth and Sport of the Kingdom of Cambodia. (2019). *Education strategic plan 2019-2023*, p.60, “4.9”. Retrieved from <http://www.moeys.gov.kh/index.php/en/policies-and-strategies/3206.html>

³⁴⁶ Royal Government of Cambodia. (2019). *National Strategic Development 2019-2023*, p.143, “6”. Retrieved from https://data.opendevlopmentmekong.net/dataset/087e8a03-f09d-4eb2-94f2-00d8d237b342/resource/bb62a621-8616-4728-842f-33ce7e199ef3/download/nsdp-2019-2023_en.pdf

³⁴⁷ Ministry of Education, Youth and Sport of the Kingdom of Cambodia. (2014). *Education strategic plan 2014-2018*, p.35, “3.4.3”. Retrieved from <http://www.moeys.gov.kh/en/policies-and-strategies/559.html>

³⁴⁸ Ministry of Education, Youth and Sport of the Kingdom of Cambodia. (2014). *Education strategic plan 2014-2018*, p.35. “3.4.2”. Retrieved from <http://www.moeys.gov.kh/en/policies-and-strategies/559.html>

4.3 LEGAL APPLICATION AND SUGGESTIONS

General Comment No.13 of ICESCR stresses states' obligation in eliminating "discrimination" against "women" with "immediate effect".³⁴⁹ According to General Recommendation No.28 of CEDAW, it can be interpreted that the act of omission on "failure" to legislate more law in 'eliminating' the 'discrimination' against 'women' in a situation that decide or not to economically support their daughters in 'higher education' based on gender can be deemed as 'violation' of CEDAW and ICESCR.³⁵⁰

This is 'gender-based discrimination' in the context of right to education in accessing higher education. According to the 'characteristics' of 'equality', it entails "formal equality" and "substantive equality".³⁵¹ "Formal equality" refers to 'treating' people "equally" in the same or similar situation.³⁵² "Substantive equality" has 'equal opportunity' and 'equal result'.³⁵³ In the legal concept of 'formal equality', women were supposed to receive equal chances in accessing ('physical accessibility', 'economic accessibility/affordability', non-discrimination) higher

³⁴⁹ Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), para.6(b)& para.31& para.43.

³⁵⁰ See Committee on the Elimination of Discrimination against Women. (2010). General, R. N. 28 of the Committee on the Elimination of Discrimination against Women on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, p.3, para.10.

³⁵¹ Moeckli, D. (2018). Equality and non-discrimination, p.149-151. In Moeckli, D., Shah, S., & Sivakumaran, S. (Eds), *International human rights law* (pp.148-164). UK: Oxford University Press.

³⁵² Moeckli, D. (2018). Equality and non-discrimination, p.149-150, last para. In Moeckli, D., Shah, S., & Sivakumaran, S. (Eds), *International human rights law* (pp.148-164). UK: Oxford University Press.

³⁵³ Moeckli, D. (2018). Equality and non-discrimination, p.150, para.3. In Moeckli, D., Shah, S., & Sivakumaran, S. (Eds), *International human rights law* (pp.148-164). UK: Oxford University Press.

education.³⁵⁴ Women were not allowed to go to higher education by their parents because of 'security reasons'.³⁵⁵ They were less prioritized in the 'same' economic constraint. In the policies, there are scholarships provided by states and those target most vulnerable groups, girls, and women, but it does not show the numbers of providence and the logic behind it. In such a country with gender roles and social norms rooted deep in the society, parents might find it easier to provide reasons not to allow daughters to go to schools than finding solutions on how they could go to school and pursue higher education. This is called 'different treatment' by families, and it does not achieve 'formal equality' or 'substantive equality'. These can be categorized as 'indirect discrimination'.³⁵⁶

In this regard, the state is obligated to take measures to prevent "private actors" from 'discrimination'.³⁵⁷ So far, the law on gender discrimination is still drafting whilst the concept requires 'immediate effect'.³⁵⁸ This is classified as 'act of omission' with 'indirect discrimination'.³⁵⁹ It is due to the reason that the constitutional law and Education Law does not seem to "discriminate" women in higher education, but the 'silence' regarding 'higher

³⁵⁴ Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), 6 (b).

³⁵⁵ Interview a researcher.

³⁵⁶ See Moeckli, D. (2018). Equality and non-discrimination, p.155. In Moeckli, D., Shah, S., & Sivakumaran, S. (Eds), *International human rights law* (pp.148-164). UK: Oxford University Press.

³⁵⁷ Committee on the Elimination of Discrimination against Women. (2010). General, R. N. 28 of the Committee on the Elimination of Discrimination against Women on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, para.10, first sentence.

³⁵⁸ See Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), para. 6(b) & para.31.

³⁵⁹ See connected ideas of [Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), para.58.] & [Moeckli, D. (2018). Equality and non-discrimination, p.156, para.2. In Moeckli, D., Shah, S., & Sivakumaran, S. (Eds), *International human rights law* (pp.148-164). UK: Oxford University Press.].

education' in its 'constitution' and 'Education Law' 'produces' 'discriminatory effects' towards women. Moreover, the limited "available resources" are not exculpatory grounds for states to deny 'obligation' on "discrimination" since this has a different and more serious legal effect than 'equality'.³⁶⁰ Acknowledging that culture on gender roles takes time to develop, it would be more 'convincing' or 'justified' if the state follows "due diligence".³⁶¹ The state's policies do not seem to show the existence of the 'due diligence' principle. The Ministry of Education and the Ministry of Women's Affairs and the royal government have embedded the principles of 'gender equality' in 'higher education' through subsidiaries, loans or scholarships into strategic plans, but it is hard for the public to assess how it will be done and whether it is 'justified'.³⁶² Since the ratification of CEDAW and ICESCR, it has been close to 20 years that the state has not yet developed significant law domestically on 'gender discrimination', particularly in accessing higher education between men and women. Since 1993 after the adoption of the constitution, the Education Law that was adopted later in 2007 does not include the legal concept of "progressive introduction" to "free" higher education as written in ICESCR and its general comment. Instead, the scope of right to education written in the Education Law is even narrower than before (see legal analysis in "4.1"). Accordingly, having these 'discriminatory effects' does not show that the state has 'justification' in delaying adopting law in relation to 'non-discrimination' against women in 'higher education'. It might not be justified to put the burden on culture since the strategic plans do not reflect that it targets the problem. The state cannot argue that the 'de facto' difference in treatment is justified by a legitimate

³⁶⁰ See connected ideas of [General Comment No.13: The right to education, para.6(b) & para.31.] & [Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), para.19.].

³⁶¹ Committee on the Elimination of Discrimination against Women. (2010). General, R. N. 28 of the Committee on the Elimination of Discrimination against Women on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, p.3, para.13.

³⁶² Moeckli, D. (2018). Equality and non-discrimination. In Moeckli, D., Shah, S., & Sivakumaran, S. (Eds), *International human rights law* (pp.148-164). UK: Oxford University Press; *LeYyla Sahin v. Turkey* [2005], no.44774/98, p.36, para.154. Retrieved from [https://hudoc.echr.coe.int/eng#%22itemid%22:\[%22001-70956%22\]](https://hudoc.echr.coe.int/eng#%22itemid%22:[%22001-70956%22])

aim.³⁶³ In addition, the omission in addressing that ‘*de facto*’ distinction in treatment by not introducing specific laws or regulations cannot be justified either.³⁶⁴ Therefore, the state could be found responsible for the ‘*de facto*’ discrimination of women by omitting introducing the necessary measures that would have addressed those ‘*de facto*’ situations.

Having seen major institutional approaches in gender mainstreaming on training local authorities, it still seems insufficient. As written in the challenges of higher education, most interviewees do not know that they have equal rights compared to men. It reflects that the strategy might not be effective since it did not target the roots of ‘gender discrimination’ that affected domestic decision-making in providing equality of ‘access’ to higher education to women. Additionally, people or authorities can still view that it might not be necessary for them to follow the concept of equality of rights or equal right of accessing higher education between men and women since there is no domestic specific law written on “discrimination” between men and women in higher education to implement domestically.

For these reasons there is ‘violation’ of the right to education as written in article 13(2)(c) in conjunction with article 2(2) of ICESCR. There is a slightly research finding by Tuy that despite worries towards daughter’s ‘security’, the act of not “allowing” their “daughters” to go to universities, ‘motivating’ their daughters to take charge in “housework” rather than going to schools, and “prioritizing” their sons ‘over’ daughters based on ‘finance constraint’ reason,

³⁶³ Moeckli, D. (2018). Equality and non-discrimination, p.158. In Moeckli, D., Shah, S., & Sivakumaran, S. (Eds), *International human rights law* (pp.148-164). UK: Oxford University Press; *G.L. v. Italy* [2020], no.59751/15, para.52. Retrieved from [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-204685%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-204685%22]}).

³⁶⁴ See Committee on the Elimination of Discrimination against Women. (2010). General, R. N. 28 of the Committee on the Elimination of Discrimination against Women on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, p.3, para.10.

are ‘characteristics’ of ‘gender-based discrimination’.³⁶⁵ The article produces a finding that public governance of Cambodia has been working hard on improving gender equality in higher education.³⁶⁶

The “belief” systems in gender roles and “discrimination” against women should be changed and transformed as far as possible.³⁶⁷ Cambodia has the ‘obligation’ to eliminate ‘discrimination’ in higher education towards women by planning the strategic plan targeting the ‘gap’ on gender in ‘higher education’ through more ‘visible’ ‘Key Performance Indicator’, ‘Impact Assessment’ and ‘Problem Tree’ theory to find ‘root causes’ of ‘issues’. Use ‘systematic thinking approach’ by starting from adopting more legislation and legal framework in fighting against ‘discrimination’.³⁶⁸

Despite acknowledging the progress in reducing “discrimination” year by year, the ‘acts’ of “discrimination” continue to effect women in Cambodian society.³⁶⁹ There shall be raising awareness campaigns throughout the country to expose the knowledge in ‘characteristics’ of ‘discrimination’ and that people should understand that ‘discrimination’ is an ‘act’ which

³⁶⁵ See Tuy, S. (2019). Discrimination against women in accessing higher education in cambodia, p.117, continued para. *Journal of Southeast Asian Human Rights*, 3(1), 101-123. doi: 10.19184/jseahr.v3i.8402

³⁶⁶ See Tuy, S. (2019). Discrimination against women in accessing higher education in cambodia, p.103, para.1. *Journal of Southeast Asian Human Rights*, 3(1), 101-123. doi: 10.19184/jseahr.v3i.8402

³⁶⁷ See Dim, P. (2018). Cambodian Women’s Roles in Education and Leadership: Empowerment, p.224, continued para. *Cambodian Journal of International Studies* 2, 217-231. Retrieved from [http://uc.edu.kh/images/CJIS/CJIS%202\(2\)%20web.pdf#page=56](http://uc.edu.kh/images/CJIS/CJIS%202(2)%20web.pdf#page=56)

³⁶⁸ See Dim, P. (2018). Cambodian Women’s Roles in Education and Leadership: Empowerment, p.224, continued para. *Cambodian Journal of International Studies* 2, 217-231. Retrieved from [http://uc.edu.kh/images/CJIS/CJIS%202\(2\)%20web.pdf#page=56](http://uc.edu.kh/images/CJIS/CJIS%202(2)%20web.pdf#page=56)

³⁶⁹ Tuy, S. (2019). Discrimination against women in accessing higher education in cambodia, p.117, continued para. *Journal of Southeast Asian Human Rights*, 3(1), 101-123. doi: 10.19184/jseahr.v3i.8402

violates international human rights law.³⁷⁰ Raising awareness can be done through “social media”, ‘outreach programmes’, “publication” and putting “banners” along “highways”.³⁷¹ In order to change the ‘way of thinking’ in putting women into a position of ‘doing’ ‘certain tasks’ and ‘which level of education’ that ‘women’ ‘should’ ‘gain’ on the ‘ground’ of their ‘genders’, this should start from education in the ‘general education programme’ such as integration of the concept of ‘gender equality’ into the teaching curriculum and teaching methodology.³⁷² The state should continue to maintain and expand support systems and collaboration in order to grant “scholarships”, provide accommodation, offer ‘allowance’ and locate universities that can be more ‘physically accessible’.³⁷³ Another essential solution in making higher education more ‘affordable’ as written in General Comment No.13 of ICESCR is that the state may transform organizational structures in the Ministry of Agriculture in order to find ‘market’ for farmers and make the ‘price’ more ‘predictable’ for them, so they can support their families and children.³⁷⁴ As lacks of domestic legal instrument regarding elimination of ‘discrimination’

³⁷⁰ See connected ideas of [Tuy, S. (2019). Discrimination against women in accessing higher education in cambodia, p. 118, para. 2. *Journal of Southeast Asian Human Rights*, 3(1), 101-123. doi: 10.19184/jseahr.v3i.8402] & [*International Covenant on Economics, Social and Cultural Rights 1966*, article 2(2); *Convention on the Elimination of All Forms of Discrimination against Women 1979*, article 2.; Economic, U. N., & Council, S. (1999). Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), 6(b).].

³⁷¹ Tuy, S. (2019). Discrimination against women in accessing higher education in Cambodia, p.118, para.2. *Journal of Southeast Asian Human Rights*, 3(1), 101-123. doi: 10.19184/jseahr.v3i.8402

³⁷² See *Convention on Elimination of All Forms of Discrimination against Women 1979*, article 10(c).

³⁷³ See Tuy, S. (2019). Discrimination against women in accessing higher education in cambodia, p.118, para. 2. *Journal of Southeast Asian Human Rights*, 3(1), 101-123. doi: 10.19184/jseahr.v3i.8402

³⁷⁴ See connected ideas of [Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), 6(b).] & [Tuy, S. (2019). Discrimination against women in accessing higher education in cambodia, p.118, para.2. *Journal of Southeast Asian Human Rights*, 3(1), 101-123. doi: 10.19184/jseahr.v3i.8402; Interviewed university students from rural communities.] & [EAC News. (2022). *PM blames agriculture minister for*

against women written in “4.1”, the state shall adopt more law against ‘discrimination’ on ‘gender’ in ‘accessing’ ‘higher education’.³⁷⁵ Then, enforce the law, monitor and put “sanctions”.³⁷⁶ In Neary Rattanak V, the state is drafting its law on gender equality and non-discrimination, but it is not yet clear what it will include and which sectors it might cover.³⁷⁷

4.4 UNEQUAL ACCESS TO HIGHER EDUCATION LEADS TO UNEQUAL OPPORTUNITIES FOR LEADERSHIP POSITIONS IN CAMBODIA

As written and concluded in “3.2” in Chapter 3 related to the importance of education in a general perspective, the effects of levels of education are most influenced on “income” and “occupational status”. Understanding the importance of ‘good governance’, ‘leadership’ and ‘power in decision making’, the analysis focuses on how ‘unequal access’ to higher education influences their ‘occupational status’ and ‘leadership positions’ in Cambodia.

refusing to cooperate with other ministers. Retrieved from <https://eacnews.asia/home/details/9231>].

³⁷⁵ See “non-discrimination” in Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), 6(b).

³⁷⁶ See connected ideas of [Tuy, S. (2019). Discrimination against women in accessing higher education in cambodia, p.118, para.2, last sentence. *Journal of Southeast Asian Human Rights*, 3(1), 101-123. doi: 10.19184/jseahr.v3i.8402] & [See Committee on the Elimination of Discrimination against Women. (2010). General, R. N. 28 of the Committee on the Elimination of Discrimination against Women on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, p.4, para.17, second sentence.].

³⁷⁷ Ministry of Women’s Affair of the Royal Government of Cambodia. (2020). *Neary Rattanak V: five year strategic plan for strengthening gender mainstreaming and women’s empowerment 2019-2023*, p.16, para.2. Retrieved from <https://www.mowa.gov.kh/wp-content/uploads/2021/02/Neary-Rattanak-V-final-Eng.pdf>

4.4.1 WOMEN IN LABOR FORCE

In 2012, data from Asian Development Bank shows that women were 79.7 percent of the labor force in 2012 compared to 89.1 percent of men.³⁷⁸ In the same year, women between the age of 15 and 64 contributed to the “labor force” with the percentage of 49 percent compared to total workforce.³⁷⁹ In 2014, 78% of women were in the employment sectors whereas there were 88% of men.³⁸⁰ Paid jobs and ‘agricultural sector’, the percentage of women was 42.2% and 45.7% in respective order, compared to total labor in these two sectors.³⁸¹ Women hold the position of almost half of employees working in industries.³⁸²

³⁷⁸ Asian Development Bank. (2015). *Promoting women’s economic empowerment in Cambodia*, p.4, para.2. Retrieved from <https://www.adb.org/sites/default/files/publication/156499/promoting-womens-economic-empowerment.pdf>

³⁷⁹ Asian Development Bank. (2015). *Promoting women’s economic empowerment in Cambodia*, p.4, para.2. Retrieved from <https://www.adb.org/sites/default/files/publication/156499/promoting-womens-economic-empowerment.pdf>

³⁸⁰ Ministry of Women’s Affairs of the Royal Government Cambodia. (2019). *Cambodia report to the General Assembly Resolution A/Res/72/234 on “women in development”*, p.5, para.21. Phnom Penh: Ministry of Women’s Affairs of Cambodia. Retrieved from <https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2019/A-74-279-Submission-Cambodia-en.pdf>

³⁸¹ Ministry of Women’s Affairs of the Royal Government Cambodia. (2019). *Cambodia report to the General Assembly Resolution A/Res/72/234 on “women in development”*, p.5, para.22. Phnom Penh: Ministry of Women’s Affairs of Cambodia. Retrieved from <https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2019/A-74-279-Submission-Cambodia-en.pdf>

³⁸² Ministry of Women’s Affairs of the Royal Government Cambodia. (2019). *Cambodia report to the General Assembly Resolution A/Res/72/234 on “women in development”*, p.5, para.22. Phnom Penh: Ministry of Women’s Affairs of Cambodia. Retrieved from <https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2019/A-74-279-Submission-Cambodia-en.pdf>

Women also held a higher percentage than men in self-employment in 2014.³⁸³ From 1990 to 2020, the percentage of women in labor stood between 48 and 52.5 % of the total labor force.³⁸⁴ This shows that women are active in contributing to the labor force. Nevertheless, a journal written by Dr. Ing Kantha Pavi in 2008 mentions that despite contributing to almost half of the total labor force, still 83 % of women are “self-employed” and “unpaid family workers”.³⁸⁵

Higher education is a stage for women in Cambodia to get jobs and compete for professionalism.³⁸⁶ Females in Cambodia ‘need’ ‘equal access’ to “higher education” as a tool and resources to stand and compete with males for possibility in leadership positions.³⁸⁷

³⁸³ Ministry of Women’s Affairs of the Royal Government Cambodia. (2019). *Cambodia report to the General Assembly Resolution A/Res/72/234 on “women in development”*, p.6, para.24. Phnom Penh: Ministry of Women’s Affairs of Cambodia. Retrieved from <https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2019/A-74-279-Submission-Cambodia-en.pdf>

³⁸⁴ The World Bank. (2022). *Labor force, female (% of total labor force) - Cambodia*. Retrieved on May 23, 2022, from <https://data.worldbank.org/indicator/SL.TLF.TOTL.FE.ZS?locations=KH>

³⁸⁵ Ing, K.P. (2008). Trade Policy Cambodia, p.21.para.3, second sentence. *International Trade Forum*, 20-23. Retrieved from https://search.proquest.com/openview/1e19974e538ec82a1c46023c5d7854d9/1?pq-origsite=gscholar&cbl=47429&casa_token=9ZULd53qKZgAAAAA:CFi6QtyIn-0uZAeDYQLjifrcF65euELgmb_3w0q0u6ajy-YM6HiRoeaDi4M9UCIW2-9sUUcEjuQ

³⁸⁶ See Tuy, S. (2019). Discrimination against women in accessing higher education in cambodia, p.103, para.1. *Journal of Southeast Asian Human Rights*, 3(1), 101-123. doi: 10.19184/jseahr.v3i.8402

³⁸⁷ Dim, P. (2018). Cambodian Women’s Roles in Education and Leadership: Empowerment, p.223-224. *Cambodian Journal of International Studies* 2, 217-231. Retrieved from [http://uc.edu.kh/images/CJIS/CJIS%202\(2\)%20web.pdf#page=56](http://uc.edu.kh/images/CJIS/CJIS%202(2)%20web.pdf#page=56)

'Higher education' is considered as essential to increase the 'probability' of having more women in leadership or managerial positions.³⁸⁸

4.4.2 COMPARISON BETWEEN PERCENTAGE OF WOMEN IN HIGHER EDUCATION AND PERCENTAGE OF THEM IN LEADERSHIP POSITIONS IN NATIONAL LEVEL, SUB-NATIONAL LEVEL AND JUDICIARY

CEDAW stipulates that there shall be non-discrimination in all types of employment and opportunities in leadership positions.³⁸⁹ In political leadership within the last three mandates, 2013-2018, 2008-2013 and 2003-2008, there were between 19.5 to 20.4 % of females of the total representatives in the parliaments.³⁹⁰ Moreover, within the public sector, at the national level, sub-national level and judiciary, the available data shows that numbers of women in leadership or managerial positions are far lower than men.³⁹¹

Accordingly, the study forms a probability of concept that the 'a greater number of women' in 'higher education', then the 'more number' of 'women in leadership'. The 'higher education' level 'women can gain', the 'higher possibility' that women can get into leadership positions'. A short survey (below figure) is conducted to understand people's experience, point of view and observation on to what extent that they agree or disagree that low number of women in higher education leads to low numbers in leadership positions in Cambodia. There are 71 responses and 7 percent of them "disagree".³⁹²

³⁸⁸ Dim, P. (2018). Cambodian Women's Roles in Education and Leadership: Empowerment, p.224, "2.Limited Capacity". *Cambodian Journal of International Studies* 2, 217-231. Retrieved from [http://uc.edu.kh/images/CJIS/CJIS%202\(2\)%20web.pdf#page=56](http://uc.edu.kh/images/CJIS/CJIS%202(2)%20web.pdf#page=56)

³⁸⁹ *Convention on Elimination of All Forms of Discrimination against Women 1979*, article 11(1)(c).

³⁹⁰ See Table 1 in APPENDIX.

³⁹¹ See Table 3 in APPENDIX.

³⁹² See graphic below.

In 2008, 2013 and 2018, education statistic shows that there are lower numbers of female students than male students in Secondary Education and Hig...en in leadership positions/managerial positions?
71 responses

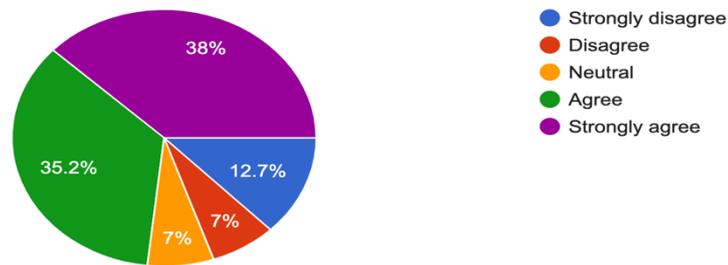


Figure 1: perspective towards the influence of access to higher education on leadership positions (parliament, judicial and public service)

4.4.3 OTHER BARRIERS HINDERING WOMEN IN ACCESSING LEADERSHIP POSITIONS

Transparency International Cambodia’s research between 2019 and 2020 shows that key barriers for women in ‘accessing’ leadership positions are “stereotypes” and “prejudice”.³⁹³ These two include “Code of Women” known as ‘Chbab Srey’, a perception that women are “the weaker sex” and “Khmer proverb - women cannot leave the kitchen”.³⁹⁴ The research also finds other five barriers for women in leadership such as “double burden for women”,

³⁹³ Transparency International Cambodia. (2020). *Leadership of women and youth in Cambodia: current status and challenges*, p.42, para.1. Retrieved from <http://www.ticambodia.org/download/leadership-of-women-and-youth-in-cambodia-current-status-and-challenges-full-report/>

³⁹⁴ Transparency International Cambodia. (2020). *Leadership of women and youth in Cambodia: current status and challenges*, p.42. Retrieved from <http://www.ticambodia.org/download/leadership-of-women-and-youth-in-cambodia-current-status-and-challenges-full-report/>

lack of “quota” set, “institutional barriers”, limited financial support and lack of “access” to “higher education”.³⁹⁵

There are two other research articles whose findings are similar.³⁹⁶ Cambodia has a long cultural history of expecting women to do housework and take care of their own family and old parents.³⁹⁷ These excessive responsibilities make their lives too hard to participate in social work and earn income.³⁹⁸ Moreover, women are assumed that they should not actively engage in ‘political movements’ owing to their insufficient ability that is prejudged based on their gender.³⁹⁹ Even though women themselves want to change this conventional thinking, the social and family systems still confine them to taking care of household matters.⁴⁰⁰ The assumption of gender roles because of the cultural perspective in Cambodia limits their

³⁹⁵ Transparency International Cambodia. (2020). *Leadership of women and youth in Cambodia: current status and challenges*, p.viii. Retrieved from http://ticambodia.org/library/wp-content/files_mf/1616124489SummaryEnglishReducedSize.pdf

³⁹⁶ See Dim, P. (2018). Cambodian Women’s Roles in Education and Leadership: Empowerment, p.230, para.3. *Cambodian Journal of International Studies* 2, 217-231. Retrieved from [http://uc.edu.kh/images/CJIS/CJIS%202\(2\)%20web.pdf#page=56](http://uc.edu.kh/images/CJIS/CJIS%202(2)%20web.pdf#page=56); Tuy, S. (2019). Discrimination against women in accessing higher education in Cambodia, p.116. *Journal of Southeast Asian Human Rights*, 3(1), 101-123. doi: 10.19184/jseahr.v3i.8402

³⁹⁷ See Dim, P. (2018). Cambodian Women’s Roles in Education and Leadership: Empowerment, p.223, para.1. *Cambodian Journal of International Studies* 2, 217-231. Retrieved from [http://uc.edu.kh/images/CJIS/CJIS%202\(2\)%20web.pdf#page=56](http://uc.edu.kh/images/CJIS/CJIS%202(2)%20web.pdf#page=56)

³⁹⁸ See Dim, P. (2018). Cambodian Women’s Roles in Education and Leadership: Empowerment, p.223, para.1. *Cambodian Journal of International Studies* 2, 217-231. Retrieved from [http://uc.edu.kh/images/CJIS/CJIS%202\(2\)%20web.pdf#page=56](http://uc.edu.kh/images/CJIS/CJIS%202(2)%20web.pdf#page=56)

³⁹⁹ See Dim, P. (2018). Cambodian Women’s Roles in Education and Leadership: Empowerment, p.223, para.2. *Cambodian Journal of International Studies* 2, 217-231. Retrieved from [http://uc.edu.kh/images/CJIS/CJIS%202\(2\)%20web.pdf#page=56](http://uc.edu.kh/images/CJIS/CJIS%202(2)%20web.pdf#page=56)

⁴⁰⁰ See Dim, P. (2018). Cambodian Women’s Roles in Education and Leadership: Empowerment, p.223, para.2. *Cambodian Journal of International Studies* 2, 217-231. Retrieved from [http://uc.edu.kh/images/CJIS/CJIS%202\(2\)%20web.pdf#page=56](http://uc.edu.kh/images/CJIS/CJIS%202(2)%20web.pdf#page=56)

'opportunities' and "promotion" to be "leaders".⁴⁰¹ All of these intertwine and trigger a pattern of "discrimination" against women in social leadership and political leadership.⁴⁰² In representation, among "28481" female "Commune/Sangkat candidates", only "501" were put in the "first" or "second" "spot" for "council election" in 2012, leading to low number of women in political leadership.⁴⁰³ In the workplace, some women feel 'discriminated against since they could not access 'training' or go on missions.⁴⁰⁴ Some women dare not to apply for higher positions because they don't feel confident in themselves.⁴⁰⁵

⁴⁰¹ See Dim, P. (2018). Cambodian Women's Roles in Education and Leadership: Empowerment, p.223, para.2. *Cambodian Journal of International Studies* 2, 217-231. Retrieved from [http://uc.edu.kh/images/CJIS/CJIS%202\(2\)%20web.pdf#page=56](http://uc.edu.kh/images/CJIS/CJIS%202(2)%20web.pdf#page=56)

⁴⁰² Dim, P. (2018). Cambodian Women's Roles in Education and Leadership: Empowerment, p.223, para.3. *Cambodian Journal of International Studies* 2, 217-231. Retrieved from [http://uc.edu.kh/images/CJIS/CJIS%202\(2\)%20web.pdf#page=56](http://uc.edu.kh/images/CJIS/CJIS%202(2)%20web.pdf#page=56)

⁴⁰³ Dim, P. (2018). Cambodian Women's Roles in Education and Leadership: Empowerment, p.225, para.1. *Cambodian Journal of International Studies* 2, 217-231. Retrieved from [http://uc.edu.kh/images/CJIS/CJIS%202\(2\)%20web.pdf#page=56](http://uc.edu.kh/images/CJIS/CJIS%202(2)%20web.pdf#page=56)

⁴⁰⁴ Ministry of Women's Affairs of Royal Government of Cambodia. (2004). *The progress report on implementation of Beijing platform for action on women issue 1995-2005*, p.18. Retrieved from <https://www.un.org/womenwatch/daw/Review/responses/CAMBODIA-English.pdf>

⁴⁰⁵ Interviewed a director of a non-governmental organization in Cambodia.

4.4.4 EXISTING FRAMEWORK, POLICIES AND SUGGESTIONS FOR PROMOTING WOMEN IN LEADERSHIP

The Ministry of Civil Service (MCS) imposes “guidelines” in setting numbers of women, between 20 and 50 percent in selection processes.⁴⁰⁶ It aims to achieve 42 % of women in civil service and between 25 and 30 percent in leadership positions.⁴⁰⁷ The ministry further issued a guideline composing three criteria on “procedures of appointment, movement and termination of sub-national civil servants”, in which one of it is to “prioritize” women for the purpose of ‘different treatment’, but to pursue ‘legitimate aim’ on ‘equality of result’ (substantive equality).⁴⁰⁸ Reducing “discrimination” and spreading awareness of “equality” at work places, Cambodian Federation of Employers and Business Association was created by private actors under the support of International Labour Organization.⁴⁰⁹ The association has

⁴⁰⁶ Ministry of Women’s Affairs of the Royal Government Cambodia. (2019). *Cambodia report to the General Assembly Resolution A/Res/72/234 on “women in development”*, p.6, para.27. Phnom Penh: Ministry of Women’s Affairs of Cambodia. Retrieved from <https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2019/A-74-279-Submission-Cambodia-en.pdf>

⁴⁰⁷ Ministry of Women’s Affairs of the Royal Government Cambodia. (2019). *Cambodia report to the General Assembly Resolution A/Res/72/234 on “women in development”*, p.6, para.27, first sentence. Phnom Penh: Ministry of Women’s Affairs of Cambodia. Retrieved from <https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2019/A-74-279-Submission-Cambodia-en.pdf>

⁴⁰⁸ See Ministry of Women’s Affairs of the Royal Government Cambodia. (2019). *Cambodia report to the General Assembly Resolution A/Res/72/234 on “women in development”*, p.6, para.27, second sentence. Phnom Penh: Ministry of Women’s Affairs of Cambodia. Retrieved from <https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2019/A-74-279-Submission-Cambodia-en.pdf>

⁴⁰⁹ Ministry of Women’s Affairs of the Royal Government Cambodia. (2019). *Cambodia report to the General Assembly Resolution A/Res/72/234 on “women in development”*, p.6, para.26. Phnom Penh: Ministry of Women’s Affairs of Cambodia. Retrieved from

written “Code of Practice and Guided books for Employers on Promoting Equality and Preventing Discrimination at the Workplace in Cambodia”.⁴¹⁰

The Ministry of Women’s Affairs in Cambodia works with the Public Administration Reform Programme, D & D programme, National Election Committee and “political parties”, as part of the national policy written in Rectangular Strategy IV on providing “capacity building” on leadership at “national level” and “sub-national level”.⁴¹¹ Furthermore, the ministry has planned to implement a “framework” on “Women in Leadership and Governance”.⁴¹² In the Neary Rattanak V there is a plan adopted by the Ministry of Women’s Affairs which targets various areas including increasing a good environment for “women” in ‘social’ , 'leadership'

<https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2019/A-74-279-Submission-Cambodia-en.pdf>

⁴¹⁰ Ministry of Women’s Affairs of the Royal Government Cambodia. (2019). *Cambodia report to the General Assembly Resolution A/Res/72/234 on “women in development”*, p.6, para.26. Phnom Penh: Ministry of Women’s Affairs of Cambodia. Retrieved from <https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2019/A-74-279-Submission-Cambodia-en.pdf>

⁴¹¹ Ministry of Women’s Affairs of the Royal Government of Cambodia. (2020). *Neary Rattanak V: five year strategic plan for strengthening gender mainstreaming and women’s empowerment 2019-2023*, p.17. Retrieved from <https://www.mowa.gov.kh/wp-content/uploads/2021/02/Neary-Rattanak-V-final-Eng.pdf>

⁴¹² Ministry of Women’s Affairs of the Royal Government of Cambodia. (2020). *Neary Rattanak V: five year strategic plan for strengthening gender mainstreaming and women’s empowerment 2019-2023*, p.17, para.1. Retrieved from <https://www.mowa.gov.kh/wp-content/uploads/2021/02/Neary-Rattanak-V-final-Eng.pdf>

and 'political leadership' "at all levels".⁴¹³ Also, the Ministry of Women's Affairs has a 'Key Performance Indicator' in 'gender mainstreaming' in leadership.⁴¹⁴

Accordingly, Cambodia has taken 'concrete stages' in closing the 'gender gap' in leadership positions. This measure should go in line with providing more access to women in 'higher education' because women might not be able to access the 'leadership positions' if they don't have skills and knowledge necessary for their performance. To build confidence in women, capacity building training including leadership training should be a solution.⁴¹⁵ Raising awareness and creating social campaigns in the whole territory of Cambodia, particularly rural and remote areas on women's rights, would strengthen women's power to 'act', 'respond' and 'change'.⁴¹⁶ Families can contribute to promoting equality in leadership through sharing responsibilities in households regardless of genders.⁴¹⁷ They can motivate others to contribute

⁴¹³ Ministry of Women's Affairs of the Royal Government of Cambodia. (2020). *Neary Rattanak V: five year strategic plan for strengthening gender mainstreaming and women's empowerment 2019-2023*, p.17, para.1. Retrieved from <https://www.mowa.gov.kh/wp-content/uploads/2021/02/Neary-Rattanak-V-final-Eng.pdf>

⁴¹⁴ Ministry of Women's Affairs of the Royal Government of Cambodia. (2020). *Neary Rattanak V: five year strategic plan for strengthening gender mainstreaming and women's empowerment 2019-2023*, p.19-24. Retrieved from <https://www.mowa.gov.kh/wp-content/uploads/2021/02/Neary-Rattanak-V-final-Eng.pdf>

⁴¹⁵ See Dim, P. (2018). Cambodian Women's Roles in Education and Leadership: Empowerment, p.227, continued para. *Cambodian Journal of International Studies* 2, 217-231. Retrieved from [http://uc.edu.kh/images/CJIS/CJIS%202\(2\)%20web.pdf#page=56](http://uc.edu.kh/images/CJIS/CJIS%202(2)%20web.pdf#page=56)

⁴¹⁶ See Dim, P. (2018). Cambodian Women's Roles in Education and Leadership: Empowerment, p.227, para.1, last sentence. *Cambodian Journal of International Studies* 2, 217-231. Retrieved from [http://uc.edu.kh/images/CJIS/CJIS%202\(2\)%20web.pdf#page=56](http://uc.edu.kh/images/CJIS/CJIS%202(2)%20web.pdf#page=56)

⁴¹⁷ Dim, P. (2018). Cambodian Women's Roles in Education and Leadership: Empowerment, p.227, para.2, last sentence. *Cambodian Journal of International Studies* 2, 217-231. Retrieved from [http://uc.edu.kh/images/CJIS/CJIS%202\(2\)%20web.pdf#page=56](http://uc.edu.kh/images/CJIS/CJIS%202(2)%20web.pdf#page=56)

to gender equality through social media platforms.⁴¹⁸ By changing how Cambodian society views and treats women, therefore there should be an increase in numbers of women in political parties.⁴¹⁹

4.5 CONCLUDING REMARKS

There are sufficient international legal instruments such as ICESCR, its General Comment No.13, CEDAW, CEDAW's General Recommendation no. 28 to prevent discrimination and protect equal access to higher education between men and women in Cambodia. Nevertheless, the domestic legislation is not yet sufficient since the scope of right to education in its constitution and Education Law does not include higher education and accessibility of higher education.

In the study of Cambodian society, this paper analyzes economic access, physical access, and principle of non-discrimination in practice including policies and impacts, followed by legal application and policies. Key barriers for women in accessing higher education are gender roles or discrimination, over burden, economic constraint, social security, and distance from higher educational institutions. It finds that there is 'direct discrimination' against women in higher education from families when women are less prioritized in the same economic constraints based on their gender, and 'indirect discrimination' from the state through failure to take concrete steps or act of omission in eliminating discrimination against women in higher education such as lack of legislation and concrete policies. It concludes that there is violation of article 13(2)(c) in conjunction with article 2(2) of ICESCR through additional relevant legal analysis of general comment of ICESCR and general recommendation of CEDAW since there

⁴¹⁸ Dim, P. (2018). Cambodian Women's Roles in Education and Leadership: Empowerment, p.228, continued para. *Cambodian Journal of International Studies* 2, 217-231. Retrieved from [http://uc.edu.kh/images/CJIS/CJIS%202\(2\)%20web.pdf#page=56](http://uc.edu.kh/images/CJIS/CJIS%202(2)%20web.pdf#page=56)

⁴¹⁹ See Dim, P. (2018). Cambodian Women's Roles in Education and Leadership: Empowerment, p.227, para.1, second sentence. *Cambodian Journal of International Studies* 2, 217-231. Retrieved from [http://uc.edu.kh/images/CJIS/CJIS%202\(2\)%20web.pdf#page=56](http://uc.edu.kh/images/CJIS/CJIS%202(2)%20web.pdf#page=56)

is no justification and legitimate aim in the lack of legislation in preventing discrimination against women in accessing higher education and policy making.

To improve equal access to higher education, there should be more legislation on prohibition against gender discrimination in higher education. Embed this legal concept as right-based approach within public and private sectors and create framework to address discrimination in practice. Tighten the gender gap through awareness campaigns on women's right to education including higher education and what actions can be classified as discrimination against women. Also, expose that it is an illegal act that everyone shall avoid. Raising awareness can be conducted through inclusion of the principle of equality and non-discrimination in general education programmes starting from primary schools, publication, putting banners on the streets, particularly highways. Locate universities in all provinces, provide scholarships when it is necessary and most significantly is to provide funding options. Find market price for farmers in order for them to support their families and pay for education.

The research also finds that the low number of women in accessing higher education affects low numbers of women in leadership and managerial positions. Cambodia has worked hard in improving gender in leadership positions. This can be more effective when women get equal access to higher education since higher education is the primary step for them to compete and work efficiently for gaining possibility for higher positions.

CHAPTER 5: CONCLUSION

The scope of right to education has availability, accessibility, acceptability, and adaptability. State has an obligation to respect, protect and fulfill these 4As. Equal access to higher education is part of the scope of the right to education that consists physical access, economic access, and non-discrimination.

It is important for the society to address discrimination against women in higher education since through higher education women can contribute to social changes, economic development, and social sustainability. They can be less independent of partners, families and states since higher education empowers them to earn income producing financial independence, have better quality of life and healthy lifestyles. Higher education also influences the possibility in managerial and leadership positions. Whether or not they want to pursue higher education according to Cost Benefit Analysis and personal preference, states have obligations to ensure equality of right to education and accessibility of higher education. The obligations include the obligation to legislate and ensure practice.

Concerning the obligation to legislate, Cambodia has insufficient domestic law in prohibition against discrimination women in accessing higher education whilst there is sufficient international law to obligate Cambodia to respect, protect and fulfill equal access to higher education. According to the socio-legal research, there is gender-based discrimination against women in accessing higher education in Cambodia on 'physical access' and 'economic access', which is prohibited under article 2(2) in conjunction with article 13(2)(c) of the International Covenant on Economic, Social and Cultural Rights. There is 'direct discrimination' from their families and 'indirect discrimination' from the state. There is violation of the principle of non-discrimination as written in the two articles since author finds that there is no 'justification' and 'legitimate aim' that the state delays in drafting domestic law to prevent discrimination against women in accessing higher education and lack of concrete policy. General Comment No.13(6)(b) of ICESCR obligates the state to protect and fulfill through adopting law against

discrimination and ensure practice. Moreover, failure to 'act' by the state ("acts of omission") in legislation for a long period of time (20 years) can be deemed as "violations".⁴²⁰

The social barriers preventing women from accessing higher education are gender stereotyping, economic constraint, social security, and lack of 'available' higher educational institutes located in each province. Considerably, unequal access to higher education leads to unequal access to leadership positions in Cambodia because of the lack of education women cannot compete in labor markets and are unable to improve professionalism as well as having lower possibility in accessing higher positions.

The situation can be improved through addressing gender norms in Cambodia through domestic legislation and implementation framework in both accessing higher education and leadership positions through national levels. It is hence recommended to keep raising awareness on the principle of equality of rights through all possible means such as including the principle of law in equal access to higher education in the general education programme, outreach campaign, putting banners and publication whilst working on finding market prices for local farmers.

⁴²⁰ See Economic, U. N., & Council, S. (1999). General comment no. 13: The right to education (Art. 13 of the covenant), para.58, last sentence.

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Interview (primary data) - See detail in Appendices

Interview and survey

APPENDICES

TABLE 1: NUMBERS OF STUDENTS ENROLLING IN GENERAL EDUCATION PROGRAMME AND PERCENTAGE OF FEMALE REPRESENTATIVE IN CAMBODIA'S PARLIAMENTS WITHIN THE LAST THREE MANDATES

*Guide: specific source of information is included in the link of the data.

YEAR	POPULATION	FEMALES	PRESCHOOL	PRIMARY SCHOOL	SECONDARY SCHOOL (7-9)	HIGHSCHOOL (10-12)	TERTIARY EDUCATION	FEMALE REPRESENTATIVES IN %
2017-2018	16249795	51.19 %	PUBLIC EDUCATION: 205492 (FEMALE: 102539) PRIVATE EDUCATION: 47251 (FEMALE: 23701) TOTAL: 252743	PUBLIC EDUCATION: 2028694 (FEMALE: 975563) PRIVATE EDUCATION: 111798 (FEMALE: 55094) TOTAL: 2140492	PUBLIC EDUCATION: 327638 (FEMALE: 171900) PRIVATE EDUCATION: 3874 (FEMALE: 1878) TOTAL: 331512 (FEMALE: 173778)	PUBLIC EDUCATION: 19089 (FEMALE: 9730) PRIVATE EDUCATION: 32555 (FEMALE: 15795) TOTAL: 51644	13.68 % GROSS (FEMALE: 12.93 % GROSS VS. MALE: 14.42 % GROSS) DETAIL: PERCENTAGE AMONG AN AGE GROUP THAT CAN BE IN TERTIARY EDUCATION IN THE	20.32 (2013-2018)

			(FEMALE: 126240) TOTAL FEMALE PERCENTAGE: 49.94 %	(FEMALE: 1030657) TOTAL FEMALE PERCENTAGE: 48.15 %	TOTAL FEMALE PERCENTAGE: 52.41%	(FEMALE: 25525) TOTAL FEMALE PERCENTAGE: 49.42%	WHOLE CAMBODIA .	
2012-2013	14676591	7555083 (51.47%)	NA	TOTAL: 2173384 (FEMALE: 1022983) FEMALE PERCENTAGE: 47.06 %	TOTAL: 298090 (FEMALE: 147837) FEMALE PERCENTAGE: 49.59 %	TOTAL: 16961 (7933) FEMALE PERCENTAGE: 46.77 %	BACHELOR AT PUBLIC EDUCATION: 96460 FEMALE: 37444; FEMALE PERCENTAGE: 38.81% (AMONG WHOLE ENROLLED BACHELOR STUDENTS IN PUBLIC INSTITUTION)	21.13 (HIGHEST NUMBER SO FAR) (2008-2013)

							BACHELOR DEGREE AT PRIVATE EDUCATION: 119593 (FEMALE:48791; FEMALE PERCENTAGE:40.79% (AMONG WHOLE ENROLLED BACHELOR STUDENTS IN PRIVATE INSTITUTION))	
2007-2008	13395682	6879628 (51.35%)	79585 (40013) FEMALE PERCENTAGE:50.27%	2311107 (1094577) FEMALE PERCENTAGE:47.36%	898594 (403689) FEMALE PERCENTAGE:44.92%	20940 (8425) FEMALE PERCENTAGE:40.23%	BACHELOR AT PUBLIC EDUCATION: 46375 ; FEMALE:16900 ;FEMALE PERCENTAGE:36.44% (AMONG WHOLE ENROLLED BACHELOR STUDENTS	19.51 (2003-2008)

							IN PUBLIC INSTITUTION)	
							BACHELOR AT PRIVATE EDUCATION: 63695 ; FEMALE:233 04 ;FEMALE PERCENTAGE: 36.58 % (AMONG WHOLE ENROLLED BACHELOR STUDENTS IN PUBLIC	
					SECONDARY	HIGHSCHOOL		
2015-2016			NA	NA	NA	NA		
2013-2014			NA	NA	NA	NA		
2011-2012			NA	NA	NA	NA		

2009-2010			NA	NA	NA	NA		
2005-2006			NA	NA	NA	NA		
2003-2004			NA	NA	NA	NA		
2001-2002			NA	NA	NA	NA		

(Sources: Ministry of Education, Youth and Sport; World Bank; UNESCO; Parliament Institute of Cambodia; National Institute of Statistic of the Ministry of Planning in Cambodia)

TABLE 2: POPULATION AND RATES OF HIGHER EDUCATION BETWEEN MEN AND WOMEN 1972-2019

*Guide: specific source of information is included in the link of the data.

TABLE 2: POPULATION AND RATES OF TERTIARY EDUCATION BETWEEN MEN AND WOMEN 1972-2019 Year	Female population (%)	Male (% Gross) in tertiary education	Female (% Gross) in tertiary education	Year	Female population (%)	Male (% Gross) in tertiary education	Female (% Gross) in tertiary education
1972	50.21	2.38	0.63	2005	51.46	4.66	2.12
1973	50.21	2.20	0.53	2006	51.44	7.75	3.60
1993	51.52	1.98	0.41	2007	51.40	9.81	4.80
1994	51.48	2.25	0.45	2008	51.36	12.04	6.18
1995	51.45	2.22	0.41	2009	51.31	15.07	8.44
1996	51.42	2.69	0.49	2010	51.28	17.39	10.47

1997	51.40	2.17	0.39	2011	51.26	18.23	11.42
2000	51.40	3.80	1.21	2015	51.22	14.38	11.81
2001	51.41	3.52	1.27	2017	51.20	14.06	12.16
2002	51.43	3.58	1.41	2018	51.19	14.42	12.93
2004	51.47	3.89	1.75	2019	51.18	15.16	14.30

(Source: World Bank)

TABLE 3: NUMBERS AND PERCENTAGE OF WOMEN IN MANAGERIAL POSITIONS IN PUBLIC SECTOR AND JUDICIAL SYSTEM

*Guide: specific source of information is included in the link of the data.

Year	Sector/Department	Other leadership positions
2017-2022	Judicial system	2019 <ul style="list-style-type: none"> • Female judges: 29 % • Female prosecutors: 14% • Female lawyers: 21%
	Managerial positions at the central level	2019 <ul style="list-style-type: none"> • 4842 females Vs. 14567 male
	Management positions at the provincial levels	2019 <ul style="list-style-type: none"> • 3393 females vs. 10300 males
	Women and men in civil servant	2019 <ul style="list-style-type: none"> • 30 % of females Vs. 70% of males
	Women and men at the sub national level	2019 <ul style="list-style-type: none"> • 20 % of females vs. 80 % of males

	Governors in capital, district, commune, Sangkat	2019 <ul style="list-style-type: none"> • 20 % of females vs. 80 % of males
	Representative of managerial positions at provincial level	2019 <ul style="list-style-type: none"> • 25% of females vs. more than 75% of males
	Commune, Sangkat Council	2017-2022 <ul style="list-style-type: none"> • 14 % of females vs. 86 % of males
2013-2014	Judicial system (female)	2013 <ul style="list-style-type: none"> • Judge: 13.9% • Lawyer: 17.6 % • Prosecutor: 13.9%
	Civil Service (female)	2013 <ul style="list-style-type: none"> • Civil service: 37% • General director position: 11 % • Deputy general director: 12 % • Directors of department: 10 % • Deputy of director of department: 18 % • Chief of office: 20 %

		<ul style="list-style-type: none"> • Vice Chief of Office: 27 %
	National level (female)	<p>2013</p> <ul style="list-style-type: none"> • General directors: 11% • Deputy general directors: 12% • Directors of department: 10% • Deputy director of department: 18% • Chief of office: 20% • Vice chief of office: 27% • Director of provincial department: 8.7 % • Deputy director of provincial department: 14.5% • Chief of office: 19% • Director of district office: 14.52% <p>2014</p> <ul style="list-style-type: none"> • Provinces/cities: 13.23 % as councilors • Commune/sangkat: 13.85%
	Sub-national level	2013

		<ul style="list-style-type: none"> • Director of provincial department: 8.69% • Deputy directors of provincial department: 14.5% • Chief of office: 19% • Director of district office: 14.52%
2002-2014	Commune/Sangkat Councils (female)	2002-2007 <ul style="list-style-type: none"> • Lower than 10%
	Capital, provincial, municipality, district/Khan councils (female)	2009-2014 <ul style="list-style-type: none"> • A little bit more than 10%
	Governors in capital, provincial, municipality, district/Khan (female)	2007 <ul style="list-style-type: none"> • Less than 5%

(Source: General Secretariat of the National Assembly; Ministry of Women's Affairs)