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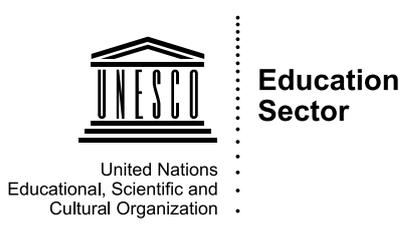
# Protecting the right to education for refugees

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## UNESCO Education Sector

Education is UNESCO's top priority because it is a basic human right and the foundation on which to build peace and drive sustainable development. UNESCO is the United Nations' specialized agency for education and the Education Sector provides global and regional leadership in education, strengthens national education systems and responds to contemporary global challenges through education with a special focus on gender equality and Africa.



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This paper belongs to a series which is designed to nurture the international debate about a wide range of education policy issues.

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## Abstract

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*As highlighted by the United Nations High Commissioner for Refugees (UNHCR), refugee education is today in crisis. With millions of people who are currently refugees mainly hosted in low- and middle-income countries as well as in least developed countries, the challenges are important. In view of Education 2030 – Sustainable Development Goal 4 and the recent massive influx of refugees, UNESCO seeks to draw attention to the fact that, in order to guarantee the right to education for all, it is critical that all those in a refugee-like situation enjoy equal access to an education of good quality.*

This Working Paper aims to provide an overview of the international legal framework protecting the right to education of refugees worldwide, including the obligations of States, as well as the main current issues. It also shows that, despite the existence of a strong applicable framework to guarantee the right to education of refugees worldwide, the challenges and obstacles encountered in this context may dramatically prevent its enjoyment. The paper also emphasizes that, even though ensuring the right to education is fundamental in all phases of the situation, there is a particular need to draw attention to the stabilization phase. This phase relates to a structural context involving host States' educational policies and legal frameworks as well as matters related to the adaptation and integration. With a view to effectively protecting the right to education for refugees and seeking sustainable policy solutions, the main features of the right to education – availability, accessibility, acceptability and adaptability – may offer a relevant framework for States to adopt and implement solid legal and policy national frameworks prohibiting discrimination or exclusion based on any ground and protecting fundamental rights. Therefore, sustainable policy responses based on effective implementation of States' legal obligations will ensure the fulfilment of refugees' right to education, responding to the ambition of an inclusive and equitable quality education by 2030.

**All human beings are born  
free and equal in dignity and rights. [...]**

*Universal Declaration of Human Rights,  
United Nations General Assembly resolution 217A (III),  
10 December 1948.*

# Section 01

Context and issues

regarding the protection

of refugees' right

to education

**An estimated 65.3 million people (1 in 113 people) are today asylum seekers, internally displaced persons or refugees, and every minute 24 people are displaced from their homes.<sup>1</sup> Half of the world's refugees are children under 18 years of age<sup>2</sup> and more than half of these girls and boys have fled violence and insecurity.<sup>3</sup> The average length of time a refugee spends in exile is about 20 years, which is more than an entire childhood, and represents a significant portion of a person's productive working years.<sup>4</sup>**

According to the Council of Europe Strategy for the Rights of the Child (2016–2021),<sup>5</sup> children on the move and otherwise affected by migration are one of the most vulnerable groups in Europe today and, in some countries, they face limited access to justice, education, social and health services.

As an empowering right and a public good, education is the primary way by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their societies.<sup>6</sup>

All individuals, refugees,<sup>7</sup> migrants and forcibly displaced people<sup>8</sup> have the right to education, which is considered to be an indispensable means for the full realization of other human rights. Indeed, education gives refugees the intellectual tools to shape the future of their own countries or to contribute meaningfully to the countries that offer them shelter, protection and a vision for the future.<sup>9</sup>

In view of SDG4 Education 2030 and the current massive influx of refugees, UNESCO seeks to draw attention to the fact

that, in order to effectively guarantee the right to education, it is critical that all those in a refugee-like situation enjoy equal access to an education of good quality. Education can provide long-term, dependable and safe environments, in particular for some of the most vulnerable refugee populations.<sup>10</sup>

Education has a crucial role in fostering peaceful, just and inclusive societies, free from fear and violence. In fact, it enables people to engage in an efficient, inclusive and peaceful way into political processes and civic structures. It also leads to a greater participation of women in politics and help people to access justice and legal protection.<sup>11</sup> By increasing self-reliance and personal capacities, education can increase tolerance and can lead to better apprehension of democracy. It has been recognized as an important “tool to help prevent terrorism and violent extremism, as well as racial and religious intolerance, genocide, war crimes, and crimes against humanity worldwide” and a way “to ensure stability and sustainable peace, human rights, social justice, diversity, gender equality and environmental sustainability, as well as to empower learners to be responsible citizens within their communities, countries and globally”.<sup>12</sup>

**An estimated 65.3 million people (1 in 113 people) are today asylum seekers**

The Incheon Declaration emphasizes that Member States should commit themselves to “developing more inclusive, responsive and resilient education systems to meet the needs of children, youth and adults [...] including internally displaced persons and refugees”. It highlights in its vision for education that inclusion and equity in and through education are very much needed in order to ensure that no one is left behind. As such, equity and inclusion are two key elements to be taken into consideration when it comes to education in emergency contexts. The Education 2030 Framework for Action emphasizes that it is crucial to address the educational

1. UNHCR, 2016, Global trends: Forced displacement in 2015, p. 2, <http://www.unhcr.org/576408cd7>.

2. United Nations General Assembly, 2016, In safety and dignity: Addressing large movements of refugees and migrants, Report of the Secretary-General A/70/59, p. 6, §17.

3. UNICEF, 2016, Uprooted: The growing crisis for refugee and migrant children, <http://weshare.unicef.org/Package/2AMZIFQP5K8>.

4. UNHCR, 2016, Missing out: Refugee education in crisis, <http://www.unhcr.org/missing-out-state-of-education-for-the-worlds-refugees.html>.

5. <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168066c6ff8>

6. As stipulated by General Comment No. 13: The right to education (Article 13), 1999.

7. In this paper the term “refugees” includes all persons seeking refuge in another country, for whatever reason, whether or not they have already been legally recognized as such by the receiving country.

8. See Appendix II for terminology regarding the refugees' context.

9. UNHCR, 2016, Missing out: Refugee education in crisis, <http://www.unhcr.org/missing-out-state-of-education-for-the-worlds-refugees.html>.

10. UNHCR, 2015, Education and protection, Education: Issue Brief 1, <http://www.unhcr.org/560be0dd6.html>.

11. Global education monitoring report, “Education for people and planet: creating sustainable futures for all”, 2016.

12. UNESCO, Decision 46 adopted at the 197th session of UNESCO's Executive Board (197 EX/Decision 46), <http://unesdoc.unesco.org/images/0023/002351/235180e.pdf>

needs of internally displaced persons and refugees. Sustainable Development Goal 4 (SDG4) therefore cannot be achieved by 2030 without meeting the education needs of vulnerable populations, including refugees, stateless persons and other forcibly displaced people. The multiplier effect of education on the other goals illustrates the important role of education.<sup>13</sup> In particular, secondary education and vocational training for refugees represents a critical step in the educational continuum towards livelihoods, professional training and higher education. It contributes to the development of the human capital of refugee communities, self-reliance and solutions; it also ensures that refugees have the basis for increased earning power and the skills to rebuild their communities.<sup>14</sup>

Among human rights, education is crucial since it enables “children and youth to thrive, not just survive”, as stated in a recent UNHCR report.<sup>15</sup>

Nevertheless, the right to education for refugees faces several challenges which the emergence of the refugee crisis in the Middle East and Europe has made more visible, despite the fact that the vast majority of the world’s refugees are hosted in developing regions.<sup>16</sup>

## Several challenges

While examining the situation of recent refugees, the United Nations human rights treaty bodies<sup>17</sup> have repeatedly expressed concerns about the limited enjoyment of rights by persons fleeing armed conflict or persecution who arrive on the shores of States.<sup>18</sup> Drawing attention to various situations since the most recent refugee crisis,<sup>19</sup> the treaty bodies have

raised several issues regarding the right to education, the fundamental one being refugees’ access to education.

In addition, intolerance, xenophobia, aggression, national and ethnic tensions and conflicts affect many groups in many places. Displaced people, for instance, are sometimes detained for extended periods and without legitimate reasons.<sup>20</sup> The hesitation and resistance of some countries to allocating financial resources or promising resettlement for refugees<sup>21</sup> seem too often linked to the perception that the influx of people might threaten their national security.<sup>22</sup>

Education is an important tool to ensure peaceful societies. Quality education is an important means to counter intolerance in individual attitudes and to lead to a more inclusive society. It is a first step to prevent racism, xenophobia and other discrimination.<sup>23</sup> Greater efforts therefore need to be made in host countries, in order to teach about human rights, respect, tolerance, and value diversity.<sup>24</sup> Quality inclusive education has an important role in making people open-minded and tolerant, and must therefore be prioritized.

## Access to education

The specific challenges and issues in relation to **access**, particularly in host countries, include the following:

- Out-of-school refugee children and adolescents are a considerable concern. Among refugees, only 50% of children attend primary school and only 25% are in secondary school.<sup>25</sup> In the last decade, Middle Eastern and North African countries have invested considerable resources to increase children’s school attendance. Recently, however, progress has stalled. Millions of children have had their lives torn

13. UNHCR, 2016, Missing out: Refugee education in crisis, <http://www.unhcr.org/missing-out-state-of-education-for-the-worlds-refugees.html>.

14. UNHCR, 2015, Secondary education for refugee adolescents, Issue Brief 6, <http://reliefweb.int/sites/reliefweb.int/files/resources/560be1759.pdf>. See also United Nations General Assembly, 2016, In safety and dignity: Addressing large movements of refugees and migrants, Report of the Secretary-General, A/70/59, p. 19, §82.

15. UNHCR, 2016, Missing out: Refugee education in crisis, <http://www.unhcr.org/missing-out-state-of-education-for-the-worlds-refugees.html>.

16. See UNHCR, 2017, Desperate journeys, <http://www.unhcr.org/58b449f54.pdf>.

17. The human rights treaty bodies are committees of independent experts who monitor implementation of the *core international human rights treaties*. Each State Party to a treaty has an obligation to take steps to ensure that everyone in the State can enjoy the rights set out in the treaty (<http://www.ohchr.org/EN/HRBodies/Pages/TreatyBodies.aspx>). The treaty bodies regularly issue concluding observations after consideration of a State Party’s report on the implementation of the relevant treaty. “The treaty bodies are committed to issuing concluding observations which are concrete, focused and implementable and are paying increasing attention to measures to ensure effective follow-up to their concluding observations” (<http://www2.ohchr.org/english/bodies/treaty/glossary.htm>).

18. CESCR, 56th session, 2015, concluding observations on the Second Periodic Report of Greece, §11. Also see concluding observations for Italy, §18.

19. “[...] the greatest crisis of forced displacement since the Second World War [...]”; Third Committee (Social, Humanitarian and Cultural) of the United Nations General Assembly, 4 November 2015, <http://www.un.org/press/en/2015/gashc4150.doc.htm>.

20. Moreover, restrictive measures can include complicated or burdensome visa requirements for nationals of some countries and fines imposed on airlines that carry undocumented aliens or inadequate refugee-determination procedures. In addition, refoulement at airports and borders causes enormous problems for some asylum seekers. Sometimes refoulement takes inhumane forms such as the forcible return of asylum seekers to their countries of origin where their lives, liberties and safety may be threatened. In addition, asylum seekers’ rights are sometimes denied after they go through the first phase of seeking asylum, which often involves periods of detention and/or interrogation while their application for asylum is being processed. Even after their refugee status has been determined, they may face numerous restrictions and obstacles, such as confinement in camps, and be refused access to courts and legal aid. Refugees may also find themselves unable to obtain employment, own businesses or purchase land (United Nations OHCHR, Fact sheet no. 20: Human rights and refugees, <http://www.ohchr.org/Documents/Publications/FactSheet20en.pdf>).

21. World Education News & Reviews, 2015, The importance of higher education for Syrian refugees, <http://wenr.wes.org/2015/12/the-importance-of-higher-education-for-syrian-refugees/>.

22. World Education News & Reviews, 2015, The importance of higher education for Syrian refugees, <http://wenr.wes.org/2015/12/the-importance-of-higher-education-for-syrian-refugees/>.

23. United Nations, “Quality education can help prevent racism and xenophobia – UN expert”, <http://www.un.org/apps/news/story.asp?NewsID=45174#.WNKngVXhC71>

24. See <http://www.unesco.org/new/en/social-and-human-sciences/themes/fight-against-discrimination/promoting-tolerance/>

25. Global Education Monitoring Report/UNHCR, 2016, No more excuses: Provide education to all forcibly displaced people, Policy Paper 26, p. 2.

apart and their schools destroyed by conflicts. For example, universal primary enrolment was achieved in Syria in 2000, but the number of out-of-school children has jumped as the civil war has spread. In June 2016, only 60 per cent of children attended primary and lower secondary education, leaving 2.1 million children and adolescents out of school.<sup>26</sup> In addition, many families have been internally displaced or have fled to neighbouring countries. For instance, Lebanon alone registered nearly 1.2 million Syrian refugees in May 2015.<sup>27</sup> Some 47% of refugee children were not enrolled in primary school and 84% of refugee adolescents (aged 15-17) were out of secondary school in 2016.<sup>28</sup>

- Secondary education provides a safe space for personal development and positive social networks for adolescents whose transition to adulthood has been disrupted by instability and violence.<sup>29</sup> Globally, however, large numbers of young refugees are out of school, a majority of them girls. This situation can be explained by the fact that “where resources are constrained, the common practice in operations has been to give priority to supporting primary education, resulting in chronic neglect of secondary education services for refugees.”<sup>30</sup>

Both supply and demand barriers seem to prevent refugees from accessing secondary education. Regarding supply barriers, in some contexts, refugees are excluded from national secondary schools, either due to explicit exclusion policy or because access (e.g. registration places and capacity) has not been negotiated with national authorities. In many cases, refugees do not have the identity papers (e.g. birth certificates) or education documents required to enrol in school, and this is exacerbated by the lack of cross-border recognition of certificates and equivalences. Secondary schools also generally cost more and require specialized infrastructure and equipment for science and computer laboratories or libraries, and transport options are not available or affordable in remote and rural areas.<sup>31</sup> In the host

country, the new language of instruction can also present a significant barrier.

In terms of demand barriers, under the stress and pressure of displacement, many adolescents and/or families prioritize the short-term benefits of early marriage, domestic labour at home or elsewhere or wage-earning activities. Boys may also be under pressure to drop out of school to work. Cultures, practices and beliefs keep girls in particular out of secondary school in cases, for instance, where primary education is considered to be an adequate level for them. In some cases, young people and their families do not necessarily see the benefits of secondary education. Moreover, low participation rates and quality at upper primary levels lead to a low number of children successfully passing primary examinations, making many ineligible to continue to secondary school. Thus, the treatment of refugees in schools, the quality and cost of education, overcrowded schools, transportation and distance, discontinuity, curriculum and language, discrimination and bullying can be seen as important demand barriers.

Education opportunities at all levels, including secondary and beyond, should be expanded to all refugee children and adolescents.<sup>32</sup> Without access to secondary education, the children and adolescents are vulnerable to child labour, exploitation and negative coping behaviours, such as drugs and petty crime, associated with idle time and hopelessness.<sup>33</sup> Girls’ education can also protect them from early marriage and/or pregnancy and the risks of sexual exploitation.<sup>34</sup> Likewise, access to higher education contributes to solutions and post-conflict reconstruction, promotes social, economic and gender equality, and empowers refugee communities.<sup>35</sup> Moreover, ensuring access to higher education for refugees also provides a strong incentive for students to continue and complete their studies at the primary and secondary levels.<sup>36</sup>

- Refugees’ access to higher education is also challenging because of interrupted education, learning gaps, language, confusing application procedures and other

26. UNHCR, “Missing out, refugee education in crisis”, 2016.

27. Currently the highest refugee per capita ratio in the world. “The influx of Syrian refugees has increased Lebanon’s population by more than 25%. [...] Between 2007 and 2014, the total number of registered refugee children and adolescents aged 5 to 17 in urban areas increased from 1,600 to 180,000”, Global Education Monitoring Report/UNHCR, 2016, No more excuses: Provide education to all forcibly displaced people, Policy Paper 26, p. 2.

28. Inter-agency Information Management Unit/UNHCR, 2016, “Back to school dashboard – 2016”, <http://data.unhcr.org/syrianrefugees/download.php?id=12256>.

29. UNHRC, 2015, Secondary education for refugee adolescents, Issue Brief 6 <http://reliefweb.int/sites/reliefweb.int/files/resources/560be1759.pdf>.

30. UNHRC, 2015, Secondary education for refugee adolescents, Issue Brief 6, <http://reliefweb.int/sites/reliefweb.int/files/resources/560be1759.pdf>.

31. Refugees usually struggle to access appropriate, secure, suitable and affordable housing. Refugees overwhelmingly feel pressure to leave the reception centre immediately after their refugee status has been granted. This highly stressful situation can often drive refugees to poor housing in disadvantaged areas, to living temporarily with friends, or to homelessness. See the UNHCR website: <http://www.unhcr.org/52403d389.html>.

32. United Nations General Assembly, 2016, *In safety and dignity: Addressing large movements of refugees and migrants*, Report of the Secretary-General, A/70/59.

33. UNHRC, 2015, *Secondary education for refugee adolescents*, Issue Brief 6, <http://reliefweb.int/sites/reliefweb.int/files/resources/560be1759.pdf>.

34. According to *No more excuses: Provide education to all forcibly displaced people (Global Education Monitoring Report/UNHCR, 2016, Policy Paper 26)*, girls and women, representing 70% of the world’s internally displaced population, tend to be out of school at higher rates and have lower literacy rates than boys and men of comparable ages.

35. UNHCR, 2015, *Higher education considerations for refugees in countries affected by the Syria and Iraq crises*, <http://www.unhcr.org/protection/operations/568bc5279/higher-education-considerations-refugees-countries-affected-syria-iraq.html>.

36. UNHCR, 2015, *Higher education consideration for refugees in countries affected by the Syria and Iraq crises*, <http://www.unhcr.org/protection/operations/568bc5279/higher-education-considerations-refugees-countries-affected-syria-iraq.html>.

factors.<sup>37</sup> Without access to higher education, refugees are condemned to passivity and may eventually lose their competences, which need to be used to be maintained.<sup>38</sup> They may be unmotivated and frustrated, and the risk of some of them turning to violent extremism is greatly increased.<sup>39</sup> Today less than 1% of refugee youth are able to access universities.<sup>40</sup>

Regarding Syrian refugees, in 2015, the Institute of International Education (IIE)<sup>41</sup> estimated that 450,000 are of university age (18-22 years old) and about 100,000 are eligible to enter university. Only a very small percentage of these students have been able to continue higher education in their host countries. This situation has created a “lost generation” of university students from Syria, an issue that has lasting implications for the country’s future.<sup>42</sup>

The first challenge regarding refugees’ access to higher education is related to funding; only a small share of aid is used to strengthen higher education systems in recipient countries.<sup>43</sup>

The Education 2030 framework for action states that secondary education is, with primary education, a cycle that enables children to have basic literacy and numeracy skills and achieve relevant learning outcomes which enable them to develop their full potential.<sup>44</sup> Higher education is an important step to acquire job skills by “stimulating critical and creative thinking and generating and disseminating knowledge for social, cultural, ecological and economic development”.<sup>45</sup> Secondary and higher education therefore need even more attention in the context of refugees returning to their home countries. These levels of education can increase tolerance, lead to a lower enrolment in extremist movements<sup>46</sup> and to a lower

probability of civilian conflict,<sup>47</sup> and therefore have a great role to play for building a peaceful and sustainable society.

## Quality and relevance of the education

In addition to access, the second important issue relates to the **quality and relevance of the education** provided. The provision of education in refugee settings often faces the issue of quality. Governments not only have to find or create school places, but also provide trained teachers and learning materials for tens or even hundreds of thousands of newcomers, who often do not speak the language of instruction and have missed out on an average of three to four years of schooling.<sup>48</sup> In addition, it is sometimes difficult to evaluate their educational background, including requirements for secondary school, since many refugees lack identification documents or the academic transcripts usually needed to transfer to a new institution. In this respect, recognition of higher education qualifications is a serious challenge, particularly for refugees. Recognition is essential for access to further studies,<sup>49</sup> and it is often also important for access to the labour market, but refugees often face serious obstacles to having their qualifications recognized.<sup>50</sup> Many refugees have not been able to take with them documentary proof of their qualifications, such as diplomas. This situation also means that some refugees who were unable to take their documents with them – or who may have lost them during their flight – will never be able to provide documentary proof of their qualifications.<sup>51</sup> In addition, the institutions to which refugees apply<sup>52</sup> face some degree of uncertainty in attempting to assess and recognize refugee

37. Global Education Monitoring Report/UNHCR, 2016, *No more excuses: Provide education to all forcibly displaced people*, Policy Paper 26.

38. Steering Committee for Educational Policy and Practice (CDPPE), Strasbourg, 18–19 October 2016, *The refugee crisis: An education response*, p. 3.

39. Steering Committee for Educational Policy and Practice (CDPPE), Strasbourg, 18–19 October 2016, *The refugee crisis: An education response*, p. 3.

40. World Education News and Reviews, 2015, *The importance of higher education for Syrian refugees*, <http://wenr.wes.org/2015/12/the-importance-of-higher-education-for-syrian-refugees/>; Global Education Monitoring Report/UNHCR, 2016, *No more excuses: Provide education to all forcibly displaced people*, Policy Paper 26, p. 10.

41. <http://www.iie.org/>.

42. World Education News & Reviews, 2015, *The importance of higher education for Syrian refugees*, <http://wenr.wes.org/2015/12/the-importance-of-higher-education-for-syrian-refugees/>.

43. UNESCO/UNESCO Institute for Statistics, 2015, *A growing number of children and adolescents are out of school as aid fails to meet the mark*, Policy Paper 22, Fact Sheet 31.

44. Education 2030, “Framework for action, Towards inclusive and equitable quality education and lifelong learning for all”, 2015, target 4.1.

45. Education 2030, “Framework for action, Towards inclusive and equitable quality education and lifelong learning for all”, 2015, target 4.3, para. 41.

46. UNHCR, *Secondary Education for Refugee Adolescents*, Issue Brief 6, July 2015, see: <http://reliefweb.int/sites/reliefweb.int/files/resources/560be1759.pdf>

47. Human Rights Watch, “Les années perdues : L’éducation secondaire pour les enfants en situations d’urgence”, 2016.

48. UNHCR, 2016, *Missing out: Refugee education in crisis*, <http://www.unhcr.org/missing-out-state-of-education-for-the-worlds-refugees.html>.

49. Capitalizing on the achievements made so far and stressing the need for holistic and sustained assistance to education systems affected by the Syria crisis, UNESCO scaled up its response and launched a two-year programme ‘Bridging Learning Gaps for Youth’, UNESCO Regional Education Response Strategy for the Syria Crisis (2016-2017): <http://www.unesco.org/new/en/syria-crisis-response/bridging-learning-gaps/> “UNESCO Regional Education Response Strategy capitalizes on achievements primarily in Iraq, Jordan, Lebanon and Syria, and presents regionally coherent, nationally responsive programming for 2016 and 2017. The Response Strategy addresses the learning gaps of youth in Syria and other countries in the region. The strategy comprises three response areas: (1) Access – bridging access gaps for youth; (2) Quality – restoring quality and relevance as the heart of learning; (3) System strengthening – empowering education systems for resilience. The strategy is a direct result of UNESCO’s experience, knowledge and accomplishments through interventions in Iraq, Jordan, Lebanon and Syria since the onset of the crisis. The primary target groups are youth aged 15 to 24 affected by the crisis within the country, Syrian refugee youth in Iraq, Jordan and Lebanon, and vulnerable youth affected by the crisis in host communities. The strategy also targets educators to enable them to improve their pedagogical and managerial skills, as well as national educational institutions and stakeholders to strengthen their capacities for evidence-based planning, management and mitigation of the crisis’ impact on national education systems.

50. Steering Committee for Educational Policy and Practice (CDPPE), Strasbourg, 18–19 October 2016, *The refugee crisis: An education response*, p. 5

51. Steering Committee for Educational Policy and Practice (CDPPE), Strasbourg, 18–19 October 2016, *The refugee crisis: An education response*, p. 5

52. Higher education institutions, licensing/certification boards, and employers of various kinds.

credentials.<sup>53</sup> One of the biggest barriers facing foreign-trained professionals is the lack of understanding of foreign credentials among employers and regulators.<sup>54</sup> Authorities have been allowed to refuse undocumented claims at face value, insisting on documentary evidence in all cases, which amounts to making it impossible for many refugees to obtain recognition of their credentials.<sup>55</sup> Moreover, the more questions there are about the quality of the higher education institution of origin, the higher is the burden of proof needed, and the more information is requested by the recognition authority from the applicant.<sup>56</sup>

Another important factor is the language barrier, which reduces refugees' enrolment in courses.

Assistance is necessary and can be provided in various forms such as granting scholarships or waiving the fees applicable to overseas students, or by increasing distance and e-learning platforms.<sup>57</sup>

There are several challenges: shortage of quality teachers and lack of preparation as well as lack of resources to retain them, including remuneration; teachers struggle with lack of training and resources to educate troubled and vulnerable children (besides, individual differences should be seen not as problems to be fixed but as opportunities for democratizing and enriching learning);<sup>58</sup> the majority of teachers are displaced and living in the camps themselves, in addition to having to make dangerous journeys to school; lack of stable financial resources; and, regarding curricula, urban refugee education requires a different approach from those used in camp settings, with a curriculum that should help children to make connections between schooling and their future livelihoods.

The inherently political nature of the content and structures of refugee education can exacerbate societal conflict, alienate individual children, and lead to education that may be neither of high quality nor protective. Moreover, there are challenges in terms of the coordination of refugee

education, including complex power dynamics which limit the productivity of partnerships.<sup>59</sup>

It has been emphasized that, in general, it is important to provide access to education opportunities as early as possible.<sup>60</sup> As indicated in a UNHCR report, refugee education is largely financed through emergency funds, leaving little room for long-term planning. Traditionally, refugee education has not featured in national development plans or in education sector planning.<sup>61</sup> Furthermore, refugees' educational access and attainment are rarely tracked through national monitoring systems, meaning that refugee children and youth are not only disadvantaged, but their educational needs and achievements remain largely invisible.<sup>62</sup>

**Another important factor is the language barrier, which reduces refugees' enrolment in courses.**

53. Steering Committee for Educational Policy and Practice (CDPPE), Strasbourg, 18–19 October 2016, *The refugee crisis: An education response*, p. 3.

54. Steering Committee for Educational Policy and Practice (CDPPE), Strasbourg, 18–19 October 2016, *The refugee crisis: An education response*, p. 3.

55. Loo, B. 2016, *Recognizing refugee qualifications: Practical tips for credential assessment*, Special Report, p. 3. Most institutions in North America, as well as in Europe and elsewhere, generally require that key documents for recognition purposes – generally transcripts, diplomas, or certificates – must be either official and sent directly from the home institution, or official copies verified directly with the home institution (Loo, p. 2).

56. Loo, B. 2016, *Recognizing refugee qualifications: Practical tips for credential assessment*, Special Report, p. 4.

57. Global Education Monitoring Report/UNHCR, 2016, *No more excuses: Provide education to all forcibly displaced people*, Policy Paper 26.

58. A Guide for Ensuring Inclusion and Equity in Education, UNESCO 2017

59. Dryden-Peterson, S., 2011, *Refugee education: A global review*, UNHCR, pp. 29–40.

60. UNHCR, 2012, *Education Strategy 2012-2016*, Geneva.

61. Although a few of the largest refugee hosting countries are taking steps to correct this (UNHCR, 2016, *Missing out: Refugee education in crisis*).

62. UNHCR, 2016, *Missing out: Refugee education in crisis*, <http://www.unhcr.org/missing-out-state-of-education-for-the-worlds-refugees.html>.

# Section 02

The international  
legal framework for  
the right to education

**How will refugees' right to education  
be guaranteed and protected?**

***Despite the various levels of protection depending on national legal frameworks and their implementation,<sup>63</sup> the international legal framework requires receiving countries to ensure the right to education for refugees. (For more information on the applicable normative framework, see Appendix I).***

Indeed, as stated by the former UN Special Rapporteur on the Right to Education “women, men, boys and girls of all ages and backgrounds — whether migrants, refugees, asylum-seekers, stateless persons, returnees or internally displaced persons — have the right to education”.<sup>64</sup>

The international community has become increasingly committed to human rights and fundamental freedoms through a body of international human rights law. This international normative framework has established the inalienability of the right to education. In particular, the 1960 Convention against Discrimination in Education clearly affirms that the principles of non-discrimination and equality of educational opportunities are central to the full realization of the right to education. The Convention explicitly prohibits any discrimination based, inter alia, on social origin, economic condition or birth, so that educational opportunities are truly accessible to all, including refugees. Since the right to education is protected by the general normative framework, this right is universal and everyone is a right-holder, including refugees.<sup>65</sup>

In order to implement this framework, three levels of obligations are imposed on States: they must respect, protect and fulfil each of the essential features of the right to education. The obligation to respect requires States to avoid measures that hinder or prevent the enjoyment of the right to education. The obligation to protect requires States to take measures that prevent third parties from interfering with the enjoyment of the right to education. In turn, the obligation to fulfil incorporates both an obligation to facilitate and an obligation to provide. Thus, the obligation to fulfil (facilitate) requires States to take positive measures that enable and assist individuals and communities to enjoy the right to

education. States also have the obligation to fulfil (provide) the right to education.

In this respect, with a view to achieving the full realization of this right, including for refugees, and as main duty-bearers, States must:<sup>66</sup>

- i) provide free and compulsory primary education;
- ii) make secondary education, in its different forms, including technical and vocational secondary education, generally available and accessible by every appropriate means, and in particular by the progressive introduction of free education;
- iii) make higher education equally accessible on the basis of individual capacity, by every appropriate means, and in particular by the progressive introduction of free education;
- iv) encourage or intensify “fundamental education” for individuals who have not received or completed primary education;
- v) set minimum standards and improve the quality of education;
- vi) develop the school system at all levels, establish an adequate fellowship system, and continuously improve the material conditions for teaching staff;
- vii) end discrimination at all levels of educational systems;
- viii) guarantee educational freedom of choice.

States are also bound by the **principles of non-retrogression** and by **allocating the maximum level of available resources**<sup>67</sup> with a view to achieving progressively the full realization of the right to education for all, including refugees.<sup>68</sup> This obligation means that States have to move as expeditiously and effectively as possible towards the full

63. See Global Education Monitoring Report/UNHCR, 2016, *No more excuses: Provide education to all forcibly displaced people*, Policy Paper 26

64. Report of the UN Special Rapporteur on the Right to Education: the Right to Education of Migrants, Refugees and Asylum-seekers 2010 See Right to Education Project Website <http://www.right-to-education.org/issue-page/marginalised-groups/migrants-refugees-and-internally-displaced-persons>

65. Article 1 (1), 1960 UNESCO Convention against Discrimination in Education.

66. According to the right to education framework

67. Under the ICESCR.

68. These principles relate more to refugees who generally depend on education provided by host countries. It is important to distinguish the various settings; refugees not in camps are generally dependent on education provided by host authorities as opposed to international aid, which is significant in the context of camps.

realization of the right to education for all.<sup>69</sup> In consequence, any deliberately retrogressive measures in that regard would require the most careful consideration and would need to be fully justified in the context of the full use of the maximum available resources.<sup>70</sup>

Given different realities and varying levels of development, the right to education can be implemented progressively. Nevertheless, some aspects of the law must be implemented immediately because they constitute the heart of the right to education – its core content.<sup>71</sup> This means that States have “a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels” of the right to education.<sup>72</sup> Therefore enforcing the core content of the right to education for refugees means that States should act immediately on the core content,<sup>73</sup> which may include:

- i) granting to refugees the right of access to public educational institutions and programmes on a non-discriminatory basis;
- ii) ensuring that the education of refugees complies with the objectives set out in international standards;
- iii) providing primary education for all;
- iv) adopting and implementing a national educational strategy that includes provision for basic, secondary, and higher education, including for refugees; and
- v) ensuring free choice of education without interference from the State or third parties, subject to conformity with “minimum educational standards”.

69. In 2015, the UN Special Envoy for Global Education, Gordon Brown, highlighted the importance and the need for funding for education in emergencies. The Education 2030 Framework for Action also emphasized in its implementation modalities that support for education in humanitarian responses needs to be increased. Indeed, according to the EFA Global Monitoring Report, in 2014, education received only 2% of humanitarian aid, while the target was set at 4% in 2011. Consequently, in May 2016, during the World Humanitarian Summit, a new fund for education in emergencies was established: the Education Cannot Wait fund. The goal is to “bridge the gap between humanitarian aid and development assistance and provide funding for education in emergencies”. It aims to raise funds to reach 3.85 billion USD by 2020. “At the launch event donor representatives from the United Kingdom, the United States, Norway, the European Union and the Netherlands stepped up and pledged \$87.5 million or just over half of the \$150 million needed to fully fund year one”. Non-state donors such as Dubai Cares or the Global Business Coalition for Education undertook to mobilize more than 102,5 million USD. (INEE, Education Cannot Wait: a fund for education in emergencies, available at <http://www.ineesite.org/en/education-cannot-wait>)

70. General Comment No. 3, para. 9.

71. As provided by the CESCR Committee in its General Comment on the nature of States Parties’ obligations, these include: (i) ensuring the right of access to public educational institutions and programmes on a nondiscriminatory basis; (ii) ensuring that education conforms to the objectives set out in international standards; (iii) providing primary education for all; (iv) adopting and implementing a national educational strategy that includes provision for fundamental, secondary, and higher education; (v) ensuring free choice of education without interference from the State or third parties, subject to conformity with “minimum educational standards”.

72. CESCR, 1999, *General Comment No. 13: Article 13*. See also *General Comment No. 3*.

73. As provided by the CESCR Committee in its General Comment on the nature of states parties’ obligations.

## International instruments

The body of international and regional treaties and instruments protecting the universal right to education for every person, including refugees and those in similar situations, includes the Universal Declaration of Human Rights, which represents the first global international expression of rights to which all human beings are inherently entitled. It also includes Article 13 of the International Covenant on Economic, Social and Cultural Rights, the Convention on Elimination of All Forms of Racial Discrimination and, with regard to women’s education and their access to education, the Convention on the Elimination of all Forms of Discrimination against Women. The Convention on the Rights of the Child reaffirms the right to education for every child. The framework also includes the Convention on the Rights of Persons with Disabilities. UNESCO’s standard-setting instruments in the field of education are also applicable to the protection of the right to education for refugees. The most important instrument in this regard is the Convention against Discrimination in Education.<sup>74</sup> In addition, technical and vocational education contributes to the integration of refugees in host countries, as does the recognition of refugees’ qualifications, which facilitates their access to higher education and the labour market. In this respect, UNESCO has welcomed the development of regional instruments on the recognition of qualifications in higher education which contain specific clauses applicable to refugees and those in a refugee-like situation, such as Article 7 of the Revised Convention on the Recognition of Qualifications concerning Higher Education

**...end discrimination  
at all levels of  
educational systems**

74. Multilateral treaty adopted by UNESCO in 1960, with the aim of combating all forms of discrimination (including racial, compelled or forced segregation) and removing barriers to education, including obstacles related to funding and administrative policies.

in the European Region (1997, the “Lisbon Convention”),<sup>75</sup> Article 7 of the Asia-Pacific Regional Convention on the Recognition of Qualifications in Higher Education (2011, the “Tokyo Convention”)<sup>76</sup> and Article III.2, paragraph 5, of the Revised Convention on the Recognition of Studies, Certificates, Diplomas, Degrees and Other Academic Qualifications in Higher Education in African States (2014, the “Addis Convention”).<sup>77</sup> These instruments establish international standards for the recognition of refugees’ qualifications. They place the burden on countries and their institutions to prove why they should not recognize an individual’s qualifications based on major differences between education and professional systems.<sup>78</sup> In February 2016, at the 7th meeting of the Committee of the Lisbon Recognition Convention, the Bureau of the Lisbon Recognition Convention Committee was invited to develop a recommendation on the recognition of qualifications held by refugees, displaced persons and persons in a refugee-like situation.<sup>79</sup> The recommendation will be a subsidiary text to Article 7, dealing with refugee-like situations, in the Lisbon Recognition Convention. The draft recommendation will be submitted for adoption at the next meeting of the Committee of the Lisbon Recognition Convention before the end of 2017. In addition, UNESCO is currently serving as Secretariat for a Drafting Committee for the preparation of the text of the Global Convention on Recognition of Higher Education Qualifications, which may be submitted for adoption in 2019. Aimed at serving as a legal framework for the recognition of qualifications at the global level, the text of

the future Global Convention will take into consideration the importance of recognition for refugees.<sup>80</sup>

Refugees are entitled to receive quality education in accordance with the general protection. Considering their precarious situations, they are also entitled to further protection. Therefore, alongside the general instruments, there are also specific provisions recalling States’ duty to respect, safeguard and guarantee refugees’ right to education, namely the 1951 Convention relating to the Status of Refugees,<sup>81</sup> and Article 22 of the Convention on the Rights of the Child. The 1951 Convention defines who is a refugee, the rights of refugees and the legal obligations of States ratifying the Convention.<sup>82</sup> This Convention clearly states that refugees should have the same treatment as nationals with respect to elementary education and treatment as favourable as possible with respect to other education levels.<sup>83</sup> These specific provisions reinforce the general provisions safeguarding the right to education for all, including refugees.

More recently, in September 2016, the United Nations adopted the New York Declaration for Refugees and Migrants,<sup>84</sup> which seeks to address the questions facing the international community because of the growing global phenomenon of large movements of refugees and migrants.

Some UNESCO recommendations<sup>85</sup> in the field of education also take into consideration the importance of the right to education and the refugee issue, such as the 1974 Recommendation concerning Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms, the 2015 Recommendation on Adult Learning and Education, the 2015 Recommendation concerning Technical and Vocational Education and Training and the Recommendation concerning the Status of Higher-Education Teaching Personnel. In addition, UNESCO has developed regional instruments on the recognition of qualifications in higher education which are applicable to refugees and those in a refugee-like situation.

In the context of the 2030 Agenda for Sustainable Development, education is to be seen as key to contributing

75. “Each Party shall take all feasible and reasonable steps within the framework of its education system and in conformity with its constitutional, legal, and regulatory provisions to develop procedures designed to assess fairly and expeditiously whether refugees, displaced persons and persons in a refugee-like situation fulfil the relevant requirements for access to higher education, to further higher education programmes or to employment activities, even in cases in which the qualifications obtained in one of the Parties cannot be proven through documentary evidence.”

76. “Each Party shall make all reasonable efforts within the framework of its education system and in conformity with its constitutional, legal, and regulatory requirements to develop procedures, including recognition of prior learning, designed to assess fairly and expeditiously whether refugees, displaced persons and persons in a refugee-like situation fulfil the relevant requirements for access to higher education programmes or for recognition of qualifications for employment activities, even in cases in which the qualifications obtained in one of the Parties cannot be proven through documentary evidence.”

77. “Parties, through competent recognition authorities, agree to establish appropriate procedures to assess whether refugees and internally displaced persons respectively fulfil relevant requirements to access higher education through recognition of prior learning and qualifications for employability and integration.”

78. Loo, B., 2016, *Recognizing refugee qualifications: Practical tips for credential assessment*, Special Report, p. 4. The main entities that work internationally to implement the Lisbon Convention are known collectively as the ENIC-NARIC Networks. The role of these organizations is to facilitate the recognition of migrant qualifications in Europe and in other major destination countries.

79. Through the Statement of the Committee of the Convention on the Recognition of Qualifications concerning Higher Education in the European Region on the recognition of the qualifications held by refugees, displaced persons and persons in a refugee-like situation.

80. This was a crucial point during the discussions of the Drafting Committee.

81. And the 1967 Protocol relating to the status of refugees.

82. Welcoming Refugees and Migrants – Enhancing effective urban governance in an age of migration, UNESCO 2016 <http://unesdoc.unesco.org/images/0024/002465/246558e.pdf>

83. <http://www.right-to-education.org/issue-page/marginalised-groups/migrants-refugees-and-internally-displaced-persons>

84. <http://refugeesmigrants.un.org/declaration>.

85. Although recommendations have only political and moral force, they reflect the political commitments of States, and governments are expected to take measures to give them effect through national legislation and to report to UNESCO on their implementation.

to long-term solutions for refugees, ensuring that displaced generations are equipped to rebuild their lives and communities – either in the country of asylum or upon their return home.<sup>86</sup> Therefore, ensuring refugees' right to education from a sustainable perspective<sup>87</sup> means providing them with the necessary tools to rebuild their lives, exercise other human rights and foster their individual freedom and empowerment.<sup>88</sup>

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86. UNHCR, *Education: The key to a secure and sustainable future for refugees and their communities*, <http://www.unhcr.org/pages/49c3646cda.html>.

87. "Sustainability is understood as the responsible action of individuals and societies towards a better future for all, locally and globally – one in which social justice and environmental stewardship guide socio-economic development" (UNESCO, 2015, *Rethinking education: Towards a global common good?*, Paris: UNESCO Publishing).

88. <http://www.ineesite.org/en/education-in-emergencies/right-to-education>.

# Section 03

Translating international  
obligations into legal  
and policy frameworks

**Possible policy responses**

***Refugees' circumstances have a direct effect on school attendance and completion<sup>89</sup> and, although it is not always considered a priority in emergency situations,<sup>90</sup> States have an obligation to ensure the right to education for all to the maximum of their available resources.<sup>91</sup>***

As stated by General Comment N° 6 of the Committee on the Rights of the Child on treatment of unaccompanied and separated children outside their country of origin,<sup>92</sup> States should ensure that access to education is maintained during all phases of the displacement cycle.

Emergency situations involve short-term needs including food, shelter and protection, as well as the rapid provision of emergency educators, refugee community schools, other emergency refugee settings and educational activities during emergencies.<sup>93</sup>

Education in emergencies can be defined as “a set of linked project activities that enable structured learning to continue in times of acute crisis or long-term instability”.<sup>94</sup> It is applicable to all categories of education, from pre-primary to adult education, and needs to be of good quality; it must therefore respond to several criteria.<sup>95</sup> Education in emergencies must produce tangible results and inform people about how to handle challenges specific to crises, such as health promotion or landmine awareness. It also needs to be made available quickly, when the crisis is starting, and offer psychological and social support, which is particularly important in time of crisis. Particular attention must be paid to vulnerable groups, which are most likely to be even more marginalized in time of crisis. Lastly, as this kind of education is often facilitated by external actors, it is important to involve local communities who are “the experts regarding their children”.<sup>96</sup>

Short-term needs may include the opening of specific schools. In instances where States resort to refugee-exclusive systems,

they should provide teacher training and professional support to build basic teaching skills for unqualified teachers<sup>97</sup> who could operate in temporary education centres, such as those that have opened in Turkey.<sup>98</sup>

In those settlements, stakeholders such as UNICEF could also provide children with “School-in-a-Box” kits,<sup>99</sup> containing supplies and materials for a teacher and up to 40 students.<sup>100</sup> Information and communications technology (ICT) should also be considered, as it has the potential to improve not only access to education but also its quality and management in refugee settings, thereby helping to avoid giving rise to a lost generation.<sup>101</sup> Open educational resources are a means of delivering education all over the world in an affordable way and can be a useful tool to help refugees, for whom physical access to education is often difficult. Mobile learning is a good way to enable and maximise access to these resources in a flexible way and can be used in various circumstances, including those of refugees and internally displaced persons. When used efficiently, technology can help and improve education stakeholders’ activities in emergency contexts. For example, it can be used for: (1) Providing short message service (SMS) communication with warning alert systems for beneficiary communities; (2) Rapid collection of educational data as well as mapping educational infrastructures and response activities; (3) Access to distance-learning education and capacity-building training; (4) Disseminating educational information and supporting collaborative, evolving, digital curriculum development; (5) Collaborative collection, hosting, tracking or monitoring of group-based activities in a flexible, central location to coordinate education activities during an emergency.<sup>102</sup>

In addition, institutional actors have been taking part in initiatives to help refugees to return to further education.

89. UNHCR, 2015, *Out-of-school children in refugee settings, Education: Issue Brief 2*, <http://www.unhcr.org/560be1049.html>.

90. In 2014, only 2% of humanitarian assistance went to education (UNESCO/EFA-GMR, 2015, *Humanitarian aid for education: Why it matters and why more is needed, Policy Paper 21*).

91. International Covenant on Economic, Social and Cultural Rights, Article 2.

92. <http://www.refworld.org/docid/42dd174b4.html> and see [http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/RTE\\_International\\_Instruments\\_Migrants\\_Refugees\\_IDPs\\_2014.pdf](http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/RTE_International_Instruments_Migrants_Refugees_IDPs_2014.pdf)

93. See “Emergency preparedness and response” on the UNHCR website: <http://www.unhcr.org/pages/503352e46.html>.

94. Susan Nicolai, “Education in Emergencies: A tool kit for starting and managing education in emergencies”, Save the Children, 2003

95. Susan Nicolai, “Education in Emergencies: A tool kit for starting and managing education in emergencies”, Save the Children, 2003

96. See Susan Nicolai, “Education in Emergencies: A tool kit for starting and managing education in emergencies”, Save the Children, 2003

97. UNHCR, 2015, *Out-of-school children in refugee settings, Education: Issue Brief 2*, p. 5, <http://www.unhcr.org/560be1049.html>.

98. Temporary education or learning centres are schools established and run for the purpose of providing educational services to persons arriving for a temporary period as part of a massive influx. In Turkey, the establishment and operation of such entities, as well as the curricula they teach, are subject to the regulations and approval of the Provincial Directorate of Education. See <http://www.asylumineurope.org/reports/country/turkey/education#sthash.SbVMVYqJ.dpuf>.

99. The UNICEF “school-in-a-box” was originally developed by UNESCO and was called “Teacher Emergency Package” providing a teacher with basic learning materials to allow for learning for children in a non-urban refugee setting. The UNICEF School-in-a-box is used only in specific contexts.

100. See the UNICEF website, [http://www.unicef.org/supply/index\\_40377.html](http://www.unicef.org/supply/index_40377.html).

101. UNESCO Mobile Learning Week, 2016, *Education on the move: Technology for quality education in refugee settings*, <http://mobilelearningweek.org/partial/popup/workshop.php?id=14>.

102. Barbara Barry and Landon Newby, Use of Technology in Emergency and Post-Crisis Situations, Global Education Cluster Working Group and IIEP-UNESCO, 2012, p.1., [http://educationcluster.net/?get=000388%7C2013/12/Technology-in-Emergencies-\\_Post-Crises.pdf](http://educationcluster.net/?get=000388%7C2013/12/Technology-in-Emergencies-_Post-Crises.pdf)

For instance, within the Coimbra group of universities,<sup>103</sup> the University of Bologna has accepted an invitation from the European Commission to approve a measure which allows students seeking international protection to enrol and benefit from a total exemption from fees for the 2015–2016 academic year.<sup>104</sup> Another example is the Friedrich Schiller University Jena, in Germany, which offers tuition-free guest access to courses, information days for refugees and migrants on how to study in Jena, individual counselling, and evaluation of documents and certificates.<sup>105</sup>

Nevertheless, opening specific schools for refugees only should be a subsidiary approach, as refugee-exclusive systems are not sustainable, according to UNHCR, nor are they appropriately monitored or able to guarantee timely certification.<sup>106</sup>

The inclusion of children and youth in national systems can be considered as an international obligation and has been reaffirmed by Sustainable Development Goal 4—Education 2030.<sup>107</sup> Inclusion means emphasis on securing access to all types and levels of education, access to health care and employment at all skill levels.<sup>108</sup> Therefore, in line with UNHCR's approach, the response should be to prioritise access to national education systems in the host country by waiving school fees and implementing educational grants, adapting the education programme to refugees' special needs and recognising prior learning through placement tests.<sup>109</sup>

As emphasized by the United Nations Secretary-General, no refugee children or youth should be left behind. Access to education is fundamentally protective for children and youth in contexts of displacement,<sup>110</sup> so refugees should be included in national education plans and policies.<sup>111</sup> Long-term solutions are needed to ensure fair and equitable access to education of good quality.

103. Founded in 1985, the Coimbra Group is an association of long-established European multidisciplinary universities. Its purpose is to create special academic and cultural ties to promote internationalization, academic collaboration, excellence in learning and research in order to influence European educational policy and to develop best practices through mutual exchange of experiences (<http://www.coimbra-group.eu/>).

104. <http://www.coimbra-group.eu/news/28/110/Refugee-relief/d,News>.

105. <http://www.coimbra-group.eu/news/28/110/Refugee-relief/d,News>.

106. UNHCR, 2015, *Education and Protection, Education: Issue Brief 1*, p. 3.

107. According to UNHCR's interpretation. See <http://www.unhcr.org/pages/49c3646cda.html> and UNHCR, 2015, *Mainstreaming refugees in national education systems, Education: Issue Brief 4*. Also see *United Nations General Assembly, 2016, In safety and dignity: Addressing large movements of refugees and migrants, Report of the Secretary-General*, p. 16, §64.

108. United Nations General Assembly, 2016, *In safety and dignity: Addressing large movements of refugees and migrants*, Report of the Secretary-General, A/70/59.

109. UNHCR, 2015, *Out-of-school children in refugee settings, Education: Issue Brief 2*, p. 4, <http://www.unhcr.org/560be1049.html>.

110. United Nations General Assembly, 2016, *In safety and dignity: Addressing large movements of refugees and migrants, Report of the Secretary-General*, A/70/59.

111. See *No more excuses: Provide education to all forcibly displaced people (Global Education Monitoring Report/UNHCR, 2016, Policy Paper 26*

**“States must therefore seek durable and sustainable solutions ensuring the right to education is crucial in all phases of the migration context”**

## Stabilization and resettlement

Beyond emergency situations, there is a structural stage where the focus is on refugees' stabilization and resettlement, especially in the host countries. This phase involves the education **policies and legal frameworks** of the States hosting the refugees<sup>112</sup> as well as matters related to their adaptation and integration in the host society.<sup>113</sup>

Alongside responses to short-term needs, States must therefore seek durable and sustainable solutions ensuring the right to education is crucial in all phases of the migration context. It is notably during the stabilization phase and beyond that educational programming can provide solid protection and opportunities. In addition, durable solutions can be monitored.<sup>114</sup> For a large number of refugees, education planning has to go beyond emergency provision and be sustained over several years in coordination with development plans.<sup>115</sup>

The right to education implies that the national education systems of States must meet standards in four interdependent areas: availability, accessibility, acceptability

112. See *The Right To Education – Law and Policy Review Guidelines*, UNESCO 2014

113. UNHCR, 2013, *A new beginning for refugee integration in Europe*, <http://www.unhcr.org/52403d389.html>.

114. This monitoring would refer to the following eight criteria: long-term safety, security and freedom of movement, adequate standard of living, access to employment and livelihoods, restoration of housing, land and property, access to documentation, family reunification, participation in public affairs, and access to effective remedies and justice. Though not expressly mentioned, education is a necessary means to attain said criteria. Fox, G., 2016, *IASC Framework on Durable Solutions for IDPs*.

115. *Global Education Monitoring Report/UNHCR, 2016, No more excuses: Provide education to all forcibly displaced people, Policy Paper 26*, p. 4.

and adaptability, as was determined by the Committee on Economic, social and Cultural Rights.<sup>116</sup>

In advocating the fulfilment of the right to education for refugees and in seeking sustainable solutions, this operational “**4 As Framework**” is promoted to encourage Member States to adopt, implement and monitor solid legal and policy national frameworks preventing discrimination based on any ground and protecting the rights of refugees. In terms of refugees’ rights, this framework provides a useful approach to understanding obligations relating to the right to education. Member States should therefore ensure the application of the following 4-As principles through appropriate action:

- Refugees should be included in national education systems, educational institutions and programmes and these should be **available in sufficient quantity** (e.g. buildings, sanitation, facilities for both sexes, safe drinkable water, duly trained, qualified and motivated teachers receiving domestically competitive salaries and incentives, teaching materials). In cooperation with the international community, the host countries should be prepared to receive the influx of refugees and invest in education infrastructure and programmes. Special attention should be given to secondary schools, which entail more investment for specialized infrastructure and equipment for science and computer laboratories and libraries, for instance. In addition, the prohibition of discrimination is unconditional and should not be affected by a lack of resources.
- Educational institutions and programmes should be **accessible to everyone**, ensuring **non-discrimination** and physical and economic accessibility. Host countries should prevent discriminatory practices towards refugees and facilitate their access to schools and universities, in particular regarding their possible lack of documentation (e.g. identification and academic transcripts). Moreover, for refugees living in rural or remote areas, transport options may not be available or affordable. It is crucial that refugees’ right to education be guaranteed by national legislation and policy framework. Indeed, their attendance can be increased through the adoption and implementation of national laws and policies

116. Right to Education: Scope and Implementation, General Comment No. 13: The right to education (Art. 13 of the International Covenant on Economic, 2003, pp. 9–10 and Tomaševsk, K., 2001, *Human rights obligations: making education available, accessible, acceptable and adaptable*, Right to Education Primers 3, [http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/Tomasevski\\_Primer%203.pdf](http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/Tomasevski_Primer%203.pdf).

asserting their right to education.<sup>117</sup> Necessary legal and administrative steps should be taken to guarantee that admission and enrolment criteria are applied in the same way to ensure equality of treatment, but also in a sufficiently flexible way to ensure equity (taking into account the specific difficulties that refugees may face) and to address physical and economic barriers. For instance, to ensure their access to higher education, it is important to provide refugees with the opportunity to learn the language of the host country and to benefit from alternative ways of having their qualifications recognized. For example, in case transcripts are unofficial or incomplete, other sources of documentary evidence may be used to help corroborate the background paper on the applicant, including diplomas and certificates of completion, student ID cards, published lists of students, proof of tuition payment, proof of passing state examinations, professional licences or certificates, statements of professional standing or status, and membership cards for professional associations.<sup>118</sup>

- The form and substance (including curricula) of education should be **acceptable to the students** (relevant, culturally appropriate and of good quality). Cultural diversity, intercultural understanding and multicultural education play an important role in this context. In the host countries, the new **language** of instruction can present a significant barrier for refugees. Refugees should be supported in learning the language of the host country at an early stage<sup>119</sup> and intensive language training should be promoted where needed. Generally, UNESCO supports mother-tongue instruction as a means of improving educational quality by building upon the knowledge and experience of the learners and teachers. Basic education, at least in its initial stages, should therefore be provided in the mother tongue while respecting the requirements of multilingualism. Regarding the overall refugee context, the “requirement” to provide instruction in the mother tongue still exists, but the priority is the language of the

117. However, only 21 of the 50 countries who have internally displaced persons (IDPs) have referenced IDP children in national legislation and policies. Global Education Monitoring Report/UNHCR, 2016, *No more excuses: Provide education to all forcibly displaced people*, Policy Paper 26.

118. Bryce Loo, 2016, *Recognizing refugee qualifications: Practical tips for credential assessment*, Special Report, p. 9. There are other types of recognition based on alternative assessment, for instance, alternative recognition (i.e. a different qualification that acknowledges the available experience), conditional recognition (e.g. the applicant enters a programme on the condition of meeting future requirements), partial recognition in an academic context (i.e. the evidence is recognized only as part of a degree program) and partial recognition for employment in an unregulated profession (e.g. offering an internship or a junior position as a clear pathway to full employment as long as the applicant demonstrates proficiency) (Loo, B., 2016, *Recognizing refugee qualifications: Practical tips for credential assessment*, Special Report, p. 16).

119. United Nations General Assembly, 2016, *In safety and dignity: Addressing large movements of refugees and migrants*, Report of the Secretary-General, A/70/59, p. 16, §65.

host country in order to ensure integration into national systems. Host countries should provide language training to refugees in order to give them the possibility of entering the national school system. Legal, technical and administrative actions needed to provide high-quality education on human rights and how they are exercised in real life should also be taken. In addition, teachers should be fully supported and trained to respond to the specific needs of refugees.

- Education must be flexible to **adapt to the needs of changing societies**. Host countries, supported by the international community, should take all necessary measures to receive refugees and provide them with high-quality and meaningful education. They should also take into consideration, when necessary, accelerated and flexible education options<sup>120</sup> enabling refugees, over the long term, to rebuild their lives and communities, obtain employment, own businesses or purchase land.

In consequence, while adopting a sustainable development perspective, States, as main duty-bearers, must take concrete measures that conform to their international obligations regarding the right to education and other commitments under SDG4.

The refugee crisis has disproportionately affected some specific countries and regions<sup>121</sup> on the basis of their proximity to countries of origin. Nevertheless, the refugee crisis is an inherently transnational issue. Receiving States cannot meet only refugees' essential needs alone; they must be able to count on international support to establish sustainable responses.<sup>122</sup> This context calls for comprehensive, global action based on "responsibility-

sharing for refugees".<sup>123</sup> Non-receiving States, multilateral donors and private sector partners must ensure predictable, consistent and sufficient humanitarian funding as well as assistance and expertise to meet the urgent and longer-term needs of refugees and host countries.<sup>124</sup> This "responsibility-sharing" can also be extended to relieve some of the pressures on the host countries, for instance, by expanding and enhancing opportunities to admit refugees into other countries in education and mobility programmes.<sup>125</sup>

An increased collective effort by governments, communities and the private sector is needed to provide education. In relation to Syrian refugees, for instance, it has been determined that private actors have an important role to play in education and can make an effective contribution. To that end, however, more coordination is needed, as well as better understanding of the context by private actors.<sup>126</sup> This effort is not only a collective responsibility; it is also in the shared interests of all societies. In this context awareness-raising activities to deconstruct stereotypes and prejudices should be strongly encouraged at all levels. A child's migration status should never represent a barrier to accessing essential services such as education.<sup>127</sup>

There is solid evidence that quality education gives children a place of safety and can also reduce child marriage, child labour, exploitative and dangerous work and teenage pregnancy. It gives them the opportunity to make friends and find mentors and provides them with the skills for self-reliance, problem-solving, critical thinking and teamwork. It improves their job prospects and boosts confidence and self-esteem.<sup>128</sup> In addition, the longer that children, adolescents and youth remain in high-quality, protective education, the less risk there is of sexual and gender-based violence, transactional sex, domestic slavery, military or gang recruitment or substance abuse.<sup>129</sup>

120. Overall, "among both internally displaced and refugee populations, there are large numbers of over-age learners who have missed significant periods of schooling" (Global Education Monitoring Report/UNHCR, 2016, *No more excuses: Provide education to all forcibly displaced people*, Policy Paper 26, p. 9). Carefully designed and certified accelerated education programmes are a key way to allow older children and adolescents to access condensed primary education services in conditions appropriate for their age. However, there remain obstacles to reintegration, usually because of the costs involved. This problem could be overcome by waiving fees. Flexible post-primary education can provide youth with skills that they would otherwise lack due to their circumstances. Such education helps resolve unemployment in camps (Global Education Monitoring Report/UNHCR, 2016, *No more excuses: Provide education to all forcibly displaced people*, Policy Paper 26).

121. "Despite the visibility of the refugee influx in Europe, 86% of all refugees are hosted in developing countries. Among the major refugee-hosting countries in mid-2015 were Ethiopia, the Islamic Republic of Iran, Jordan, Lebanon, Pakistan and Turkey (UNHCR, 2015a)" (Global Education Monitoring Report/UNHCR, 2016, *No more excuses: Provide education to all forcibly displaced people*, Policy Paper 26).

122. United Nations General Assembly, 2016, *In safety and dignity: Addressing large movements of refugees and migrants*, Report of the Secretary-General, A/70/59, p. 18, §76.

123. A "global compact on responsibility-sharing for refugees", together with "uphold[ing] safety and dignity in large movements" and a "global compact for safe, regular and orderly migration", is the second pillar on which Member States should base their actions, according to the report of the UN Secretary-General to the General Assembly of April 2016 (United Nations General Assembly, Report of the Secretary-General, 2016, *In safety and dignity: Addressing large movements of refugees and migrants*, A/70/59, p. 16, §§68–70).

124. United Nations General Assembly, 2016, *In safety and dignity: Addressing large movements of refugees and migrants*, Report of the Secretary-General, A/70/59, p. 18 §73 and p. 19 §79.

125. Some of the hosting countries have weak education systems and limited capacity to support new populations (Global Education Monitoring Report/UNHCR, 2016, *No more excuses: Provide education to all forcibly displaced people*, Policy Paper 26).

126. Francine Menashy and Zeena Zakharia, *Investing in the Crisis: Private participation in the education of Syrian refugees*, Education International, April 2017

127. UNICEF, 2016, *Uprooted: The growing crisis for refugee and migrant children*, <http://weshare.unicef.org/Package/2AMZIFQP5K8>.

128. UNHCR, 2016, *Missing out: Refugee education in crisis*, <http://www.unhcr.org/missing-out-state-of-education-for-the-worlds-refugees.html>.

129. UNHRC, 2015, *Secondary education for refugee adolescents*, Issue Brief 6, <http://reliefweb.int/sites/reliefweb.int/files/resources/560be1759.pdf>.

Non-discriminatory and inclusive policies entail emphasis on securing access to all types and levels of education.<sup>130</sup> High-quality and protective education can contribute to opening doors for children and young people so that they can engage with civil society in displacement and long-term contexts. It can also prepare them for acquiring livelihoods, skills and knowledge and improve opportunities for employment, community-building in displacement and, upon return, integration and resettlement.<sup>131</sup> Moreover, education can help refugees to become aware of their rights and better understand how to claim them and advocate for appropriate protection.<sup>132</sup> The non-fulfilment of the right to education for refugees can result in social tensions and in increasing marginalization.

In conclusion, given that, in the context of refugees, the main issues relate to access and quality, the main principles on which governments should base their measures are: (i) the receiving countries must ensure, in all circumstances, the right to education for refugees; and (ii) States are, from a human rights perspective, bound by the principles of non-retrogression and the maximum allocation of their available resources. Thus States must respect, protect and fulfil each of the essential features of the right to education. The actions, policies and measures taken in this context should be inspired by this framework and this includes making educational institutions and programmes available in sufficient quantity and accessible to refugees on a non-discriminatory basis, with form and substance acceptable and adaptable to the needs of changing societies. As stipulated in Target 4.5 of the Education 2030 Framework for Action, one of the indicative strategies is to ensure that education policies, sector plans and budget planning include risk assessment, preparedness and response to emergency situations for education, and initiatives that respond to the education needs of children, youth and adults affected by disaster, conflict, displacement and epidemics, particularly refugees.<sup>133</sup> Government responsibility should be fulfilled in both legal and political spheres. Effective implementation of State obligations based on sustainable responses will ultimately ensure the effectiveness of the right to education for refugees.

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130. United Nations General Assembly, 2016, *In safety and dignity: Addressing large movements of refugees and migrants, Report of the Secretary-General, A/70/59*, p. 16, §65.

131. UNHRC, 2015, *Secondary Education for Refugee Adolescents*, Issue Brief 6, <http://reliefweb.int/sites/reliefweb.int/files/resources/560be1759.pdf>.

132. UNHRC, 2015, *Secondary Education for Refugee Adolescents*, Issue Brief 6, <http://reliefweb.int/sites/reliefweb.int/files/resources/560be1759.pdf>.

133. Education 2030 Framework for Action.

# APPENDIX I

Normative instruments protecting the universal right to education for every person, including refugees and those in a similar situation

- Article 26 of the Universal Declaration of Human Rights (UDHR)<sup>134</sup> affirms that “everyone has the right to education” (para. 1).<sup>135</sup>
- The International Covenant on Economic, Social and Cultural Rights (1966), in Article 13, states that “the States [...] recognize the right of everyone to education [...]”.<sup>136</sup> This is also the case of the International Covenant on Civil and Political Rights (1966).<sup>137</sup>
- The United Nations Convention on the Elimination of All Forms of Racial Discrimination (1965) sets out the obligations of States Parties “to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone to equality before the law, notably in the enjoyment of [...] the right to education and training”.<sup>138</sup>
- Article 10 of the United Nations Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) asserts that States shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education.
- The United Nations Convention on the Rights of the Child (1989) reaffirms the right to education for every child.<sup>139</sup>
- The Convention on the Rights of Persons with Disabilities (2006) requires States Parties to promote, protect and ensure the full enjoyment of human rights by persons with disabilities and ensure that they enjoy full equality under the law.<sup>140</sup>
- The UNESCO Convention against Discrimination in Education (articles 3, 4 and 5)<sup>141</sup> is applicable to the protection of the right to education for refugees. Technical and vocational education also contributes to the integration of refugees in host countries, as does the recognition of qualifications, which facilitates access to higher education and the labour market.<sup>142</sup>

134. The Declaration was adopted by the United Nations General Assembly on 10 December 1948.

135. “Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all Nations, racial or religious groups [...]”.

136. “They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups” (para. 1). The 1966 ICESCR also refers to the levels of education: “The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right: (a) Primary education shall be compulsory and available free to all; (b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education; (c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education; (d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education; (e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved” (para.2).

137. Regarding the right to education, in addition to articles 18 and 20, Article 24 states that “every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State” (Article 24, para. 1).

138. Article 5.

139. It states in Article 28, para. 1, that “States Parties recognize the right of the child to education and with a view to achieving this right progressively and on the basis of equal opportunity (...)” and in Article 29, para. 1, that “States Parties agree that the education of the child shall be directed to: (...) (c) The development of respect for the child’s parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own.”

140. In particular, Article 24, para. 1, states that “States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and lifelong learning”.

141. A multilateral treaty adopted by UNESCO in 1960, with the aim of combating all forms of discrimination (including racial, compelled or forced segregation) and removing barriers to education, including obstacles related to funding and administrative policies.

142. The UNESCO Convention on Technical and Vocational Education (1989) concerns “general knowledge [...] and the acquisition of practical skills, know-how, attitudes and understanding relating to occupations in the various sectors of economic and social life” (Article 1(a)).

- Regarding the provisions recalling the duty of States to respect and guarantee refugees' right to education, the 1951 Convention relating to the Status of Refugees,<sup>143</sup> Article 22, states that “[para. 1.] The Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education; [para. 2.] The Contracting States shall accord to refugees treatment as favourable as possible, and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, with respect to education other than elementary education and, in particular, as regards access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships”. Specifically regarding the protection of the right to education for refugee children, the Convention on the Rights of the Child, previously mentioned, states in Article 22.1 that “States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties [...]”.
- The New York Declaration for Refugees and Migrants (2016) seeks to address the urgent questions facing the international community owing to the growing global phenomenon of large movements of refugees and migrants.<sup>144</sup>
- Relevant UNESCO recommendations in the field of education include the 1974 Recommendation concerning Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms (Article 18, c), the 2015 Recommendation on Adult Learning and Education (Article 23), the 2015 Recommendation concerning technical and vocational education and training (Article 27) and the 1997 Recommendation concerning the Status of Higher-Education Teaching Personnel (Article 44). In addition, UNESCO has developed regional instruments on the recognition of qualifications in higher education which are applicable to refugees and those in a refugee-like situation, such as Article 7 of the Revised Convention on the Recognition of Qualifications concerning Higher Education in the European Region (1997),<sup>145</sup> Article 7 of the Asia-Pacific Regional Convention on the Recognition of Qualifications in Higher Education<sup>146</sup> (2011) and Article III.2, paragraph 5, of the Revised Convention on the Recognition of Studies, Certificates, Diplomas, Degrees and Other Academic Qualifications in Higher Education in African States (2014).<sup>147</sup>

143. And the 1967 Protocol relating to the Status of Refugees.

144. <http://www.unhcr.org/events/conferences/57e39d987/new-york-declaration-refugees-migrants.html>

145. “Each Party shall take all feasible and reasonable steps within the framework of its education system and in conformity with its constitutional, legal, and regulatory provisions to develop procedures designed to assess fairly and expeditiously whether refugees, displaced persons and persons in a refugee-like situation fulfil the relevant requirements for access to higher education, to further higher education programmes or to employment activities, even in cases in which the qualifications obtained in one of the Parties cannot be proven through documentary evidence.”

146. “Each Party shall make all reasonable efforts within the framework of its education system and in conformity with its constitutional, legal, and regulatory requirements to develop procedures, including recognition of prior learning, designed to assess fairly and expeditiously whether refugees, displaced persons and persons in a refugee-like situation fulfil the relevant requirements for access to higher education programmes or for recognition of qualifications for employment activities, even in cases in which the qualifications obtained in one of the Parties cannot be proven through documentary evidence.”

147. “Parties, through competent recognition authorities, agree to establish appropriate procedures to assess whether refugees and internally displaced persons respectively fulfil relevant requirements to access higher education through recognition of prior learning and qualifications for employability and integration.”

- In the specific context of armed conflicts or post-conflict situations, international humanitarian law seeks to limit the effects of the conflict by regulating the conduct of parties. However, specifically in relation to the right to education, it also protects the educational needs of particularly vulnerable groups, notably children, by ensuring that their education continues uninterrupted during armed conflict. The four Geneva Conventions, adopted in 1949, and the three Additional Protocols (Protocols 1 and 2 of 1977 and Protocol 3 of 2005) regulate the conduct of hostilities and limit the effect of armed conflict on civilians and civilians' property. In this regard, students, teachers and schools may not be subject to direct attack, according to Protocol 1 of 1977 (articles 48 and 50), including religious and moral education during civil conflicts (Article 4 of the Additional Protocol 2). Furthermore, States must ensure education is provided for children and orphans separated from their families as a result of the war, under the 1949 Geneva Convention IV (Article 24). In times of belligerent occupation, the occupying powers shall facilitate the working of educational institutions and guarantee, where possible, that education is provided by persons of the learner's own nationality, language and religion (Article 50 of Geneva Convention IV).

# APPENDIX II

Terminology relating to refugees

<b>Asylum seekers:</b>	persons who move across borders in search of protection “but whose claim has not yet been definitively evaluated”. <sup>148</sup> All refugees have thus been asylum seekers, but not all asylum seekers become refugees.
<b>Country of former habitual residence:</b>	the country of reference for those with no nationality. <sup>149</sup>
<b>Country of origin:</b>	also referred to as “home country” or “country of citizenship”. It refers to the country left by the asylum seeker or migrant. <sup>150</sup>
<b>Externally displaced persons (EDPs):</b>	persons “displaced outside their home country who find themselves in a ‘refugee-like’ situation but might not, however, meet the criteria of the 1950/51 refugee definitions”. <sup>151</sup>
<b>Host country:</b>	also referred to as “country of asylum” or “country of refuge”. This is the State that hosts the refugee or asylum seeker and grants him or her the necessary protection. <sup>152</sup>
<b>Integration:</b>	there is no consensus on the definition of immigrant integration in the context of developed countries, and there is no formal definition in international refugee law. According to the United Nations High Commissioner for Refugees, in a developing country context, the term is frequently used when speaking of local integration of refugees as an alternative to voluntary repatriation and resettlement. <sup>153</sup>
<b>Internally displaced persons (IDPs):</b>	persons who “have not crossed an international border to find sanctuary but have remained inside their home countries. Even if they have fled for similar reasons as refugees [...]”, IDPs legally remain under the protection of their own government – even though that government might be the cause of their flight. As citizens, they retain all of their rights and protection under both human rights and international humanitarian law. <sup>154</sup>
<b>Irregular migrants (or illegal/undocumented):</b>	persons who enter a country, usually in search of employment, without the necessary documents and permits. <sup>155</sup>

148. Regarding asylum seekers, see UNHRC’s website: <http://www.unhcr.org/pages/49c3646c137.html>.

149. See Article 1, A.2 and C.6 of the 1951 Geneva Convention.

150. <https://www.iom.int/key-migration-terms> - Preamble and Article 31 of the 1951 Geneva Convention.

151. Jackson, I., *The Refugee Concept in Group Situations. Quoted by UNTerm*, <http://unterm.un.org/dgaacs/unterm.nsf/8fa942046ff7601c85256983007ca4d8/0d838981665df79e85257385004dca7d?OpenDocument>.

152. Preamble and Article 3 of the 1951 Geneva Convention.

153. In Canada, the term “settlement” is used for the immediate period after arrival when a newcomer orientates, and “integration” is used for the longer-term process of becoming a member of Canadian society. The lack of a firm definition may reflect the subjective character of integration as a process and the way in which an individual can be integrated in one area of the receiving society but not in others. It may also reflect the way in which an individual can simultaneously create and maintain strong links with his or her country of origin, the receiving country and countries of transit. In Europe, for the majority of refugees, integration is the most relevant durable solution. See: <http://www.unhcr.org/52403d389.html>.

154. Regarding asylum seekers, see UNHRC’s website: <http://www.unhcr.org/pages/49c3646c137.html>.

155. See UNESCO’s website regarding International Migration and Multicultural Policies: [http://www.unesco.org/most/migration/glossary\\_migrants.htm](http://www.unesco.org/most/migration/glossary_migrants.htm).

<b>Irregular movement of refugees:</b>	the phenomenon of refugees or asylum seekers moving illegally from a first country of asylum, in order to seek asylum or permanent settlement in another country. <sup>156</sup>
<b>Migrants:</b>	the term migrant may be understood as “any person who lives temporarily or permanently in a country where he or she was not born, and has acquired some significant social ties to this country”. <sup>157</sup> Migrants are fundamentally different from refugees and, thus, are treated very differently under international legal frameworks. <sup>158</sup> For instance, they are not granted protection under the 1951 Convention relating to the Status of Refugees. Migrants, especially <b>economic migrants</b> , choose to move in order to improve their lives, as opposed to refugees who are forced to flee to save their lives or preserve their freedom. <sup>159</sup> Thus, it is usually understood that migrants “make choices about when to leave and where to go, even though these choices are sometimes extremely constrained”. <sup>160</sup>
<b>“Non-refoulement” principle:</b>	refugees are not to be expelled or returned to the territories where their life and freedom would be threatened. <sup>161</sup> This principle is so fundamental that no reservations or derogations are possible, and has since been recognized as “embedded in customary law”, <sup>162</sup> and “therefore binding on all States, whether or not they are parties to the 1951 Convention”. <sup>163</sup>
<b>Prima facie refugees:</b>	those granted refugee status “by a State or UNHCR, on the basis of objective criteria related to the circumstances in their country of origin, which justify a presumption that they meet the criteria of the applicable refugee definition”. <sup>164</sup>
<b>Refugee:</b>	the term “refugee” is generally defined by reference to the 1951 Convention Relating to the Status of Refugees, which considers as such someone who “owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country”. <sup>165</sup> Three aspects stand out: a form of harm rising to the level of persecution; the person’s fear of such harm must be well-

156. UNHCR, 2006, *Master Glossary of Terms, Status Determination and Protection Information Section, Rev. 1*.

157. See UNESCO’s website: <http://social.coe.int/en/cohesion/action/publi/migrants/concepts.htm#back1>.

158. See UNHCR’s website: <http://www.unhcr.org/pages/49c3646c125.html>.

159. See UNHCR’s website: <http://www.unhcr.org/pages/49c3646c125.html>.

160. See UNESCO’s website: [http://www.unesco.org/most/migration/glossary\\_migrants.htm](http://www.unesco.org/most/migration/glossary_migrants.htm).

161. 1951 Convention Relating to the Status of Refugees, Article 33.

162. 1951 Convention Relating to the Status of Refugees, Introductory Note by the Office of the UNHCR.

163. UNHCR, 2006, *Master Glossary of Terms, Status Determination and Protection Information Section, Rev. 1*.

164. UNHCR, 2006, *Master Glossary of Terms, Status Determination and Protection Information Section, Rev. 1*. *Some countries have granted such a status to Syrian refugees, such as Jordan and Canada.*

165. 1951 Convention relating to the Status of Refugees, Article 1, A.2. The 1974 OAU Convention Governing the specific aspects of refugee problems in Africa also uses this definition (Article 1.1).

	founded; <sup>166</sup> it is related to the person's race, religion, nationality, political opinion or membership in a particular social group. <sup>167</sup>
<b>Refugee-like situation:</b>	this category includes those "who are stateless or denied protection of the government in their countries of citizenship or habitual residence, but who have not been recognized as refugees". <sup>168</sup> Despite not being granted refugee status, they may benefit from UNHRC's protection and assistance.
<b>Refugee in protracted situations:</b>	a refugee in a long-term state of displacement. For UNHCR, a protracted refugee situation is one in which a large number of refugees of the same nationality have been in exile for several years in a given asylum country. <sup>169</sup>
<b>Refugee "sur place":</b>	according to the United Nations High Commissioner for Refugees, the term refers to "persons who were not refugees when they left their countries of origin, but who become refugees at a later date, owing to intervening events. Refugees <i>sur place</i> may owe their fear of persecution to a change in the country of origin, such as through a coup d'état, or to political activities undertaken in the country of refuge." <sup>170</sup>
<b>Resettlement:</b>	"the transfer of refugees from the country in which they have sought refuge to another State that has agreed to admit them. [...] resettlement is a durable solution as well as a tool for the protection of refugees." <sup>171</sup> Resettlement States provide the refugee with legal and physical protection, including access to civil, political, economic, social and cultural rights similar to those enjoyed by nationals. <sup>172</sup>
<b>Stateless person:</b>	defined by the 1954 Convention as "a person who is not considered as a national by any State under the operation of its law". <sup>173</sup>

166. In this regard, the United States Supreme Court, for instance, has ruled that a fear can be well-founded if there is a one-in-ten likelihood of its occurring (<http://www.unesco.org/new/en/social-and-human-sciences/themes/international-migration/glossary/refugee/>).

167. UNESCO website, regarding refugees: <http://www.unesco.org/new/en/social-and-human-sciences/themes/international-migration/glossary/refugee/>.

168. <http://www.migrationpolicy.org/article/refugees-risks-and-challenges-worldwide>

169. Global Education Monitoring Report/UNHCR, 2016, *No more excuses: Provide education to all forcibly displaced people*, Policy Paper 26, p. 2.

170. UNHCR, 2006, *Master Glossary of Terms, Status Determination and Protection Information Section, Rev. 1*.

171. UNHCR, 2006, *Master Glossary of Terms, Status Determination and Protection Information Section, Rev. 1*.

172. Russel, S., 2002, *Refugees: Risks and Challenges Worldwide*, <http://www.unhcr.org/pages/4a16b1676.html>.

173. 1954 Convention relating to the Status of Stateless Persons, Article 1.



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Education  
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## Protecting the right to education for refugees

This Working Paper aims to provide an overview of the international legal framework protecting the right to education of refugees worldwide, including the obligations of States, as well as the main current issues. It also shows that, despite the existence of a strong applicable framework to guarantee the right to education of refugees worldwide, the challenges and obstacles encountered in this context may dramatically prevent its enjoyment. The paper also emphasizes that, even though ensuring the right to education is fundamental in all phases of the situation, there is a particular need to draw attention to the stabilization phase.