



Right to Education

September 2020

INTERNATIONAL INSTRUMENTS

Right to education of migrants, including refugees and internally displaced persons

This document compiles the provisions of the international and regional legal frameworks of the right to education, with a particular focus on the legal framework that regulates and guarantees the right to education for populations in situations of migration.

The international legal framework guaranteeing the right to education of migrants encompasses treaties, which create binding obligations to states, and other sources of 'soft law' that are not binding, such as declarations and resolutions, frameworks for action, UN treaty bodies' and UN Special procedures' interpretation of treaties (general comments and recommendations) or human rights guiding principles.

For further information, see RTE's webpages:

- [The right to education of migrants, including refugees and IDP's](#)
- [International law](#)

With the help of bookmarks in the table of contents you can easily access the legal framework of your choice.

General provisions on the right to education and non-discrimination

International and regional instruments that generally guarantee the right to education to everyone without discrimination also applies to migrants, including refugees, and internally displaced persons.

International framework

- **UNESCO Convention against Discrimination in Education, 1960** (Articles 1, 2, 3 and 4)
- **International Covenant on Economic, Social and Cultural Rights, 1966** (Articles 2 and 13; General Comments 13; General Comments 20)
- **Convention on the Rights of the Child, 1989** (Articles 2, 28; General Comment 6 on unaccompanied and separated children, Joint General Comment 22 and 23)
- **International Convention on the Elimination of All Forms of Racial Discrimination, 1965** (Article 5(e)(v), General Comment 22 and General Comment 30)
- **Convention on the Elimination of All Forms of Discrimination against Women, 1981** (Article 10, General Recommendation 36)

African framework

- **African Charter on Human and People’s Rights, 1981** (Articles 2 and 17)
- **African Charter on the Rights and Welfare of the Child, 1990** (Article 11)
- **African Youth Charter, 2006** (Article 13)

European framework

- **European Convention for the Protection of Human Right and Fundamental Freedoms, 1948**, (article 14), **Optional Protocol 11, 1952** (article 2) and **Optional Protocol 12, 2000** (Article 1)
- **European Social Charter (revised), 1996** (Articles 10 and 17)
- **European Charter on Fundamental Freedoms, 2000** (Article 14)

Inter american framework

- **Additional Protocol to the American Convention on Human Rights, Protocol of San Salvador, 1998** (Article 13 and 16)

Arab framework

- **Arab Charter on Human Rights, 2004** (Article 41)

Asian framework

- **ASEAN Human Rights Declaration, 2011** (Article 31)

Specific provisions applying to certain categories of migrants

In addition to the core international human rights instruments protecting the right to education of everyone, including migrants, on the basis of the principles of equality and non-discrimination, migration-specific instruments also contain provisions regarding the right to education of certain categories of migrants: refugees, asylum seekers, stateless persons, migrant workers and their children, and internal displaced persons. These instruments can be referred to in order to strengthen the legal framework already provided by the core human rights instruments.

International framework

Binding international instruments

- **Convention relating to the Status of Refugee, 1951** (Article 22) as revised by its [1967 Protocol](#) (PCSR)
- **Convention relating to the Status of Stateless Person, 1954** (Article 22)
- **Convention on the protection of the Rights of All Migrant Workers and Members of their families, 1990** (Articles 12.4, 30, 43, 45; General Comments 1 and 2, Joint General Comment 3 and 4)

Non-binding international instruments

- **New York Declaration for refugees and migrants, 2016** (Paras. 32, 39, 59, 81, 82)
- **The Global Compact for Safe, Orderly and Regular Migration - GCM, 2018** (Paras. 21, 29, 31, 32)

African framework

Binding african instruments

- **African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, 2009** (Article 9.2)

Non-binding african instruments

- **Djibouti Declaration for Refugee Education, 2017** and its **specific Action Plan**.

European framework

- **European Convention on the Legal Status of Migrant Worker, 1977** (Article 14)
- **Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013** (Articles 14, 16)
- **Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011** (Article 27)
- **Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008** (Articles 14, 17)

See below the content of all provisions. See also explanations in RTE paper: [The status of the right to education of migrants: International legal framework, remaining barriers at national level and good examples of states' implementation](#)

GENERAL PROVISIONS

International framework

UNESCO Convention against Discrimination in Education, 1960

Article 1

1. For the purposes of this Convention, the term 'discrimination' includes any distinction, exclusion, limitation or preference which, being based on race, colour, sex, language, religion, political or other opinion, national or social origin, economic condition or birth, has the purpose or effect of nullifying or impairing equality of treatment in education and in particular:

- (a) Of depriving any person or group of persons of access to education of any type or at any level;
- (b) Of limiting any person or group of persons to education of an inferior standard;
- (c) Subject to the provisions of Article 2 of this Convention, of establishing or maintaining separate educational systems or institutions for persons or groups of persons; or
- (d) Of inflicting on any person or group of persons conditions which are in-compatible with the dignity of man.

2. For the purposes of this Convention, the term 'education' refers to all types and levels of education, and includes access to education, the standard and quality of education, and the conditions under which it is given.

Article 2

When permitted in a State, the following situations shall not be deemed to constitute discrimination, within the meaning of Article 1 of this Convention:

- (a) The establishment or maintenance of separate educational systems or institutions for pupils of the two sexes, if these systems or institutions offer equivalent access to education, provide a teaching staff with qualifications of the same standard as well as school premises and equipment of the same quality, and afford the opportunity to take the same or equivalent courses of study;
- (b) The establishment or maintenance, for religious or linguistic reasons, of separate educational systems or institutions offering an education which is in keeping with the wishes of the pupil's parents or legal guardians, if participation in such systems or attendance at such institutions is optional and if the education provided conforms to such standards as may be laid down or approved by the competent authorities, in particular for education of the same level ;
- (c) The establishment or maintenance of private educational institutions, if the object of the institutions is not to secure the exclusion of any group but to provide educational facilities in

addition to those provided by the public authorities, if the institutions are conducted in accordance with that object, and if the education provided conforms with such standards as may be laid down or approved by the competent authorities, in particular for education of the same level.

Article 3

In order to eliminate and prevent discrimination within the meaning of this Convention, the States Parties thereto undertake:

- (a) To abrogate any statutory provisions and any administrative instructions and to discontinue any administrative practices which involve discrimination in education;
- (b) To ensure, by legislation where necessary, that there is no discrimination in the admission of pupils to educational institutions;
- (c) Not to allow any differences of treatment by the public authorities between nationals, except on the basis of merit or need, in the matter of school fees and the grant of scholarships or other forms of assistance to pupils and necessary permits and facilities for the pursuit of studies in foreign countries ;
- (d) Not to allow, in any form of assistance granted by the public authorities to educational institutions, any restrictions or preference based solely on the ground that pupils belong to a particular group;
- (e) To give foreign nationals resident within their territory the same access to education as that given to their own nationals.

Article 4

The States Parties to this Convention undertake furthermore to formulate, develop and apply a national policy which, by methods appropriate to the circumstances and to national usage, will tend to promote equality of opportunity and of treatment in the matter of education and in particular:

- (a) To make primary education free and compulsory; make secondary education in its different forms generally available and accessible to all; make higher education equally accessible to all on the basis of individual capacity; assure compliance by all with the obligation to attend school prescribed by law;
- (b) To ensure that the standards of education are equivalent in all public educational institutions of the same level, and that the conditions relating to the quality of the education provided are also equivalent;
- (c) To encourage and intensify by appropriate methods the education of persons who have not received any primary education or who have not completed the entire primary education course and the continuation of their education on the basis of individual capacity;
- (d) To provide training for the teaching profession without discrimination.

International Covenant on Economic, Social and Cultural Rights, 1966

Article 2

2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 13

1. The States Parties to the present Covenant recognise the right of **everyone** to education.
 2. 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;
- ...

General Comment 13: the Right to Education

16. ...the right to TVE includes the following aspects:

(e) It consists, in the context of the Covenant's non-discrimination and equality provisions, of programmes which promote the TVE of women, girls, out-of-school youth, unemployed youth, the **children of migrant workers, refugees**, persons with disabilities and other disadvantaged groups.

General Comment 20: Non-discrimination in economic, social and cultural rights

Nationality

30. The ground of nationality should not bar access to Covenant rights, e.g. **all children within a State, including those with an undocumented status, have a right to receive education** and access to adequate food and affordable health care. The Covenant rights apply to everyone including non-nationals, such as **refugees, asylum-seekers, stateless persons, migrant workers and victims of international trafficking, regardless of legal status and documentation.**

Convention on the Right of the Child, 1989

Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the

child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

Article 28

1. 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, they shall, in particular:

(a) Make primary education compulsory and available free to all;

(b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;

(c) Make higher education accessible to all on the basis of capacity by every appropriate means;

(d) Make educational and vocational information and guidance available and accessible to all children;

[CRC General Comment No. 6: Treatment of unaccompanied and separated children outside their country of origin](#)

40. ... Irrespective of the care arrangements made for unaccompanied or separated children, regular supervision and assessment ought to be maintained by qualified persons in order to ensure the child's ... access to educational and vocational skills and opportunities; ...

Full access to education (arts. 28, 29 (1) (c), 30 and 32)

41. States should ensure that access to education is maintained during all phases of the displacement cycle. Every unaccompanied and separated child, irrespective of status, shall have full access to education in the country that they have entered in line with articles 28, 29 (1) (c), 30 and 32 of the Convention and the general principles developed by the Committee. Such access should be granted without discrimination and in particular, separated and unaccompanied girls shall have equal access to formal and informal education, including vocational training at all levels. Access to quality education should also be ensured for children with special needs, in particular children with disabilities.

42. The unaccompanied or separated child should be registered with appropriate school authorities as soon as possible and get assistance in maximizing learning opportunities. All unaccompanied and separated children have the right to maintain their cultural identity and values, including the maintenance and development of their native language. All adolescents should be allowed to enrol in vocational/professional training or education, and early learning programmes should be made available to young children. States should ensure that unaccompanied or separated children are provided with school certificates or other documentation indicating their level of education, in particular in preparation of relocation, resettlement or return.

43. States shall, in particular where government capacity is limited, accept and facilitate the assistance offered by UNICEF, the United Nations Educational, Scientific and Cultural Organization (UNESCO), UNHCR and other United Nations agencies within their respective

mandates, as well as, where appropriate, other competent intergovernmental organizations or non-governmental organizations (art. 22 (2)) in order to meet the educational needs of unaccompanied and separated children.

63. In the exceptional case of detention, conditions of detention must be governed by the best interests of the child and pay full respect to article 37 (a) and (c) of the Convention and other international obligations. ... During their period in detention, children have the right to education which ought, ideally, to take place outside the detention premises in order to facilitate the continuance of their education upon release.... In order to effectively secure the rights provided by article 37 (d) of the Convention, unaccompanied or separated children deprived of their liberty shall be provided with prompt and free access to legal and other appropriate assistance, including the assignment of a legal representative.

90. ...The separated or unaccompanied child should have the same access to rights (including to education, training, employment and health care) as enjoyed by national children. In ensuring that these rights are fully enjoyed by the unaccompanied or separated child, the host country may need to pay special attention to the extra measures required to address the child's vulnerable status, including, for example, through extra language training.

To access the content of the Joint General Comment No. 22 and 23 on the right to education of migrants, click on the following links:

[Joint general comment No. 3 \(2017\) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 \(2017\) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration](#)

[Joint general comment No. 4 \(2017\) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 \(2017\) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return](#)

International Convention on the Elimination of All Forms of Racial Discrimination, 1965

Article 5

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to **guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law**, notably in the enjoyment of the following rights:
[...]

(e) Economic, social and cultural rights, in particular:

[...]

(v) The **right to education and training**;

[...]

General Recommendation 30 on the discrimination against non-citizens

VII. Economic, social and cultural rights

29. Remove obstacles that prevent the enjoyment of economic, social and cultural rights by non-citizens, notably in the areas of education, housing, employment and health;

Convention on the Elimination of All Forms of Discrimination against Women, 1981

Article 10

States Parties 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** and in particular to ensure, on a basis of equality of men and women:

- (a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;
- (b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;
- (c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;
- (d) The same opportunities to benefit from scholarships and other study grants;
- (e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;
- (f) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;
- (g) The same Opportunities to participate actively in sports and physical education;
- (h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

General recommendation No. 36 on girls' and women's right to education

39. The Committee recommends that States parties take all measures to ensure that user fees and hidden costs do not negatively impact girls' and women's access to education by instituting the following measures:

a) provision of universal, free and compulsory education from pre-school up to the secondary level regardless of socio-economic status for citizens of the state as well as for girls and women with migrant and refugee status;

Refugee, asylum seekers, stateless, undocumented, internally displaced and migrant girls and women.

42. When forcibly uprooted, girls and women in these situations end up in camps with no schools or makeshift schools with limited capacity, without curricula or instruction in relevant languages. Displacement causes particular barriers to learning: human resources may be lost and physical infrastructure destroyed; and, during flight children may lose state-mandated documentation thereby preventing them from enrolling in new schools. Girls can be particularly affected during displacement because the increased insecurity causes some parents to keep girls home.

African framework

African Charter on Humans and People's Rights, 1981

Article 2

Every individual shall be entitled to the enjoyment of the rights and freedoms recognised and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or any status.

Article 17

Every individual shall have the right to education

Every individual may freely take part in the cultural life of his community.

The promotion and protection of morals and traditional values recognized by the community shall be the duty of the State.

Article 11

1. Every child shall have the right to education.

2. The education of the child shall be directed to:

- (a) the promotion and the development of the child's personality, talents and mental and physical abilities to their fullest potential;
- (b) fostering respect for human rights and fundamental freedoms with particular reference to those set out in the rights and international human rights declarations and conventions;
- (c) the preservation and strengthening of positive African morals, traditional values and cultures;
- (d) the preparation of the child for responsible life in a free society, in the spirit of understanding, tolerance, dialogue, mutual respect and friendship among all peoples, ethnic, tribal and religious groups;
- (e) the preservation of national independence and territorial integrity;
- (f) the promotion and achievement of African Unity and Solidarity;
- (g) the development of respect for the environment and natural resources;

3. State Parties to the present Charter shall take all appropriate measures with a view to achieving the full realization of this right and shall in particular:

- (a) provide free and compulsory basic education;
- (b) encourage the development of secondary education in its different forms and progressively make it free and accessible to all;
- (c) make higher education accessible to all on the basis of capacity and ability by every appropriate means;
- (d) take measures to encourage regular attendance at schools and the reduction of drop-out rates;
- (e) take special measures in respect of female, gifted and disadvantaged children, to **ensure equal access to education for all sections of the community.**

4. State Parties to the present Charter shall respect the rights and duties of parents, and where applicable, of legal guardians, to choose for their children schools other than those established by public authorities, which conform to such minimum standards as approved by the State, to ensure the religious and moral education of the child in a manner consistent with the evolving capacities of the child.

5. State Parties to the present Charter shall take all appropriate measures to ensure that a child who is subjected to schools or parental discipline shall be treated with humanity and with respect for the inherent dignity of the child and in conformity with the present Charter.

6. State Parties to the present Charter shall take all appropriate measures to ensure that children who become pregnant before completing their education shall have an opportunity to continue their education on the basis of their individual ability.

7. No part of this Article shall be construed as to interfere with the liberty of individuals and bodies to establish and direct educational institutions subject to the observance of the principles set out in Paragraph I of this Article and the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the States .

African Youth Charter, 2006

Article 13

1. Every young person shall have the right to education of good quality.

2. The value of multiple forms of education, including formal, non-formal, informal, distance learning and life-long learning, to meet the diverse needs of young people shall be embraced.

3. The education of young people shall be directed to:

a) The promotion and holistic development of the young person's cognitive and creative and emotional abilities to their full potential;

b) Fostering respect for human rights and fundamental freedoms as set out in the provisions of the various African human and people's rights and international human rights declarations and conventions;

c) Preparing young people for responsible lives in free societies that promote peace, understanding, tolerance, dialogue, mutual respect and friendship among all nations and across all groupings of people;

d) The preservation and strengthening of positive African morals, traditional values and cultures and the development of national and African identity and pride;

e) The development of respect for the environment and natural resources;

f) The development of life skills to function effectively in society and include issues such as HIV/AIDS, reproductive health, substance abuse prevention and cultural practices that are harmful to the health of young girls and women as part of the education curricula;

4. States Parties shall take all appropriate measures with a view to achieving full realisation of this right and shall, in particular:

- a) Provide free and compulsory basic education and take steps to minimise the indirect costs of education;
- b) Make all forms of secondary education more readily available and accessible by all possible means including progressively free;
- c) Take steps to encourage regular school attendance and reduce drop-out rates;
- d) Strengthen participation in and the quality of training in science and technology;
- e) Revitalise vocational education and training relevant to current and prospective employment opportunities and expand access by developing centres in rural and remote areas;
- f) Make higher education equally accessible to all including establishing distance learning centres of excellence;
- g) Avail multiple access points for education and skills development including opportunities outside of mainstream educational institutions e.g., workplace skills development, distance learning, adult literacy and national youth service programmes;
- h) Ensure, where applicable, that girls and young women who become pregnant or married before completing their education shall have the opportunity to continue their education;
- i) Allocate resources to upgrade the quality of education delivered and ensure that it is relevant to the needs of contemporary society and engenders critical thinking rather than rote learning;
- j) Adopt pedagogy that incorporates the benefits of and trains young people in the use of modern information and communication technology such that youth are better prepared for the world of work;
- k) Encourage youth participation in community work as part of education to build a sense of civic duty;
- l) Introduce scholarship and bursary programmes to encourage entry into post-primary school education and into higher education outstanding youth from disadvantaged communities, especially young girls;
- m) Establish and encourage participation of all young men and young women in sport, cultural and recreational activities as part of holistic development;
- n) Promote culturally appropriate, age specific sexuality and responsible parenthood education;
- o) Promote the equivalence of degrees between African educational institutions to enable the youth to study and work in State Parties;
- p) Adopt preferential recruitment policies for African youth with specialised skills amongst States Parties.

5. Youth are determined to transform the continent in the fields of science and technology. Therefore they are committed to:

a) Promoting and using science and technology in Africa;

b) Conducting research towards science and technology.

6. State Parties should encourage youth to conduct research. In this regard, an African discoveries day should be established along with mechanisms of awarding prizes at the continental level.

7. Enterprises that are located in Africa should establish partnerships with training institutions to contribute to technology transfer for the benefit of African students and researchers.

European framework

The following legal framework is produced by the Council of Europe which represents 47 member States, all of them ratified the following conventions or charters and are under the jurisdiction of the European court of Human Rights. For more information, see European framework.

European Convention for the Protection of Human Right and Fundamental Freedoms, 1948

Article 14 – Prohibition of discrimination

The **enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination** on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Optional Protocol 11, 1952

Article 2

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

Optional Protocol 12, 2000

Article 1

The enjoyment of any right set forth by law shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

No one shall be discriminated against by any public authority on any ground such as those mentioned in paragraph 1.

European Social Charter (revised), 1996

Article 10 – The right to vocational training

With a view to ensuring the effective exercise of the right to vocational training, the Parties undertake

1. to provide or promote, as necessary, the technical and vocational training of all persons, including the handicapped, in consultation with employers' and workers' organisations, and to grant facilities for access to higher technical and university education, based solely on individual aptitude;

2. to provide or promote a system of apprenticeship and other systematic arrangements for training young boys and girls in their various employments;
3. to provide or promote, as necessary:
 - (a) adequate and readily available training facilities for adult workers;
 - (b) special facilities for the retraining of adult workers needed as a result of technological development or new trends in employment;
4. to provide or promote, as necessary, special measures for the retraining and reintegration of the long-term unemployed;
5. to encourage the full utilisation of the facilities provided by appropriate measures such as:
 - (a) reducing or abolishing any fees or charges;
 - (b) granting financial assistance in appropriate cases
 - (c) including in the normal working hours time spent on supplementary training taken by the worker, at the request of his employer, during employment;
 - (d) ensuring, through adequate supervision, in consultation with the employers' and workers' organisations, the efficiency of apprenticeship and other training arrangements for young workers, and the adequate protection of young workers generally.

Article 17 – The right of children and young persons to social, legal and economic protection

With a view to ensuring the effective exercise of the right of children and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities, the Parties undertake, either directly or in cooperation with public and private organisations, to take all appropriate and necessary measures designed:

1. (a) to ensure that children and young persons, taking account of the rights and duties of their parents, have the care, the assistance, **the education and the training they need**, in particular by providing for the establishment or maintenance of institutions and services sufficient and adequate for this purpose;
 - (b) to protect children and young persons against negligence, violence or exploitation;
 - (c) to provide protection and special aid from the state for children and young persons temporarily or definitively deprived of their family's support;
2. **to provide to children and young persons a free primary and secondary education** as well as to encourage regular attendance at schools.

Article 14

1. **Everyone has the right to education and to have access to vocational and continuing training.**
2. This right includes the possibility to receive free compulsory education.
3. The freedom to found educational establishments with due respect for democratic principles and the right of parents to ensure the education and teaching of their children in conformity with their religious, philosophical and pedagogical convictions shall be respected, in accordance with the national laws governing the exercise of such freedom and right.

Inter american framework

Additional Protocol to the American Convention on Human Rights, Protocol of San Salvador, 1998

Article 13

1. **Everyone has the right to education.**
2. The States Parties to this Protocol agree that education should be directed towards the full development of the human personality and human dignity and should strengthen respect for human rights, ideological pluralism, fundamental freedoms, justice and peace. They further agree that education ought to enable everyone to participate effectively in a democratic and pluralistic society and achieve a decent existence and should foster understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups and promote activities for the maintenance of peace.
3. The States Parties to this Protocol recognize that in order to achieve the full exercise of the right to education:
 - a. Primary education should be compulsory and accessible to all without cost;
 - b. Secondary education in its different forms, including technical and vocational secondary education, should 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 should be made equally accessible to all, on the basis of individual capacity, by every appropriate means, and in particular, by the progressive introduction of free education;
 - d. Basic education should be encouraged or intensified as far as possible for those persons who have not received or completed the whole cycle of primary instruction;

- e. Programs of special education should be established for the handicapped, so as to provide special instruction and training to persons with physical disabilities or mental deficiencies.

4. In conformity with the domestic legislation of the States Parties, parents should have the right to select the type of education to be given to their children, provided that it conforms to the principles set forth above.

5. Nothing in this Protocol shall be interpreted as a restriction of the freedom of individuals and entities to establish and direct educational institutions in accordance with the domestic legislation of the States Parties.

Article 16 – Rights of Children

Every child, whatever his parentage, has the right to the protection that his status as a minor requires from his family, society and the State. Every child has the right to grow under the protection and responsibility of his parents; save in exceptional, judicially-recognized circumstances, a child of young age ought not to be separated from his mother. **Every child has the right to free and compulsory education**, at least in the elementary phase, and to continue his training at higher levels of the educational system.

Arab framework

Arab Charter on Human Rights, 2004

Article 41

1. The eradication of illiteracy is a binding obligation and **every citizen has a right to education**.
2. The State Parties ensure free primary and fundamental education to their citizens. Primary education, at the very least, shall be compulsory and shall be made easily accessible to all.
3. The State Parties shall, in every domain, take the appropriate measures to ensure partnership between men and women to reach the goals of development.
4. The State Parties shall ensure an education aimed at the total fulfilment of the human being and the strengthening of respect of human rights and fundamental liberties.
5. The State Parties shall work to promote the principles of human rights and fundamental liberties through educational programs and activities, educational methods and training programs, both official and non-official.
6. The State Parties shall ensure the establishment of mechanisms necessary to ensure primary education to all citizens, and shall establish national plans for the education of adults.

Article 31

1. Every person has the right to education.

2. Primary education shall be compulsory and made available free to all. Secondary education in its different forms shall be available and accessible to all through every appropriate means. Technical and vocational education shall be made generally available. Higher education shall be equally accessible to all on the basis of merit.

3. Education shall be directed to the full development of the human personality and the sense of his or her dignity. Education shall strengthen the respect for human rights and fundamental freedoms in ASEAN Member States. Furthermore, education shall enable all persons to participate effectively in their respective societies, promote understanding, tolerance and friendship among all nations, racial and religious groups, and enhance the activities of ASEAN for the maintenance of peace.

SPECIFIC PROVISIONS ON CERTAIN CATEGORY OF MIGRANTS

International framework

Binding international instruments

Convention relating to the Status of Refugee, 1951

The convention relating to the status of Refugees of 1951

Article 22 – Public education

1. The Contracting States shall **accord to refugees the same treatment as is accorded to nationals with respect to elementary education.**
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.

Convention relating to the Status of Stateless Persons, 1954

Article 22 – Public education

1. The Contracting States shall **accord to stateless persons the same treatment as is accorded to nationals with respect to elementary education.**
2. The Contracting States shall accord to stateless persons 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.

PART III: Human rights of all migrant workers and members of their families

Article 12.4

States Parties to the present Convention undertake to have respect for the liberty of parents, at least one of whom is a migrant worker, and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Article 30

Each child of a migrant worker shall have the basic right of access to education on the basis of equality of treatment with nationals of the State concerned. Access to public preschool educational institutions or schools shall not be refused or limited by reason of the irregular situation with respect to stay or employment of either parent or by reason of the irregularity of the child's stay in the State of employment.

PART IV: Other rights of migrant workers and members of their families who are documented or in a regular situation

Article 43-1

Migrant workers shall enjoy equality of treatment with nationals of the State of employment in relation to:

- (a) Access to educational institutions and services subject to the admission requirements and other regulations of the institutions and services concerned;
- (b) Access to vocational guidance and placement services;
- (c) Access to vocational training and retraining facilities and institutions;

Article 45-1

Members of the families of migrant workers shall, in the State of employment, enjoy equality of treatment with nationals of that State in relation to: a) Access to educational institutions and services, subject to the admission requirements and other regulations of the institutions and services concerned; b) Access to vocational guidance and training institutions and services, provided that requirements for participation are met;

The [Committee on Migrant Workers](#) interpreted the Convention in two General Comments that both refer to the right to education: General Comment 1 on Migrant Domestic Workers and General Comment 2 on the rights of migrant workers in an irregular situation and members of their families.

General Comment 1 on Migrant Domestic Workers

At arrival and during employment

14. The risk of abuse is heightened for child domestic workers, who make up a significant proportion of domestic workers. Their young age, isolation and separation from their families and peers, and near-total dependence on their employers exacerbate their vulnerability to violations of their rights under the Convention, including the basic right of access to education.

Special protections for children

57. States parties shall ensure that all migrant children, independently of their migration status, have access to free and compulsory primary education as well as to secondary education on the basis of equality of treatment with nationals of the State concerned (article 30), and that the domestic work carried out by children does not interfere with their education. Schools should not be required to report data on the regular or irregular status of pupils to immigration authorities.

59. States parties should eliminate discriminatory policies and practices that deny or restrict the rights of children of migrant domestic workers, notably their right to health and education (articles 28 and 30).

General Comment 2 on the rights of migrant workers in an irregular situation and members of their families

75. **Article 30 of the Convention protects the “basic right of access to education” of all children of migrant workers “on the basis of equality of treatment with nationals of the State concerned.”** Article 30 also provides that access to public preschool educational institutions or schools shall be without prejudice to the migration status of the child concerned or parents of the child. The Committee, in accordance with article 13 of the International Covenant on Economic, Social and Cultural Rights, is of the view that States parties must provide free and compulsory primary education for all, including children of migrant workers, regardless of their migration status. As such, States parties have an obligation to eliminate all direct costs of schooling, such as school fees, as well as alleviate the adverse impact of indirect costs, such as expenses for school materials and uniforms. Access to secondary education by children of migrant workers must be ensured on the basis of equality of treatment with nationals. Accordingly, whenever children who are nationals have access to free secondary education, States parties must ensure equal access by children of migrant workers, irrespective of their migration status. Similarly, when States parties provide different forms of secondary education, including vocational education, they should also make them accessible to children of migrant workers. The same principle applies to free preschool education or to scholarship schemes. Therefore, whenever children who are nationals have access to free preschool education or scholarships, States parties must ensure equal access by children of migrant workers, irrespective of their migration status.

76. The Committee notes that migrant children may suffer from multiple forms of discrimination due to race, ethnicity, gender, and disability, for example. The principle of equality of treatment requires States parties to eliminate any discrimination against migrant children in their educational systems. States parties must therefore avoid segregated schooling and the application of different standards of treatment to children of migrant workers as well as eliminate any forms of discrimination against children of migrant workers in classrooms. States parties also need to ensure that effective programmes, policies and mechanisms are in place to prevent discrimination against these children.

77. To ensure access to education, the Committee is also of the view that States parties shall not require schools to report or share data on the regular or irregular status of pupils or their parents to immigration authorities or conduct immigration enforcement operations on or near school premises, as this would limit access to education by children of migrant workers. States parties should also clearly inform school administrators, teachers and parents that they are not required to do so either and provide them with training on the educational rights of children of migrant workers.

78. While noting that the obligation of the State of employment to endeavour to facilitate the teaching of the mother tongue and culture is explicitly accorded to the children of migrant workers in a regular situation pursuant to article 45, paragraph 3, of the Convention, the Committee emphasizes that the right to respect for one's cultural identity (art. 31) belongs to all migrant workers and members of their families, including children. Considering these two provisions together, along with article 29, paragraph 1 (c), of the Convention on the Rights of the Child, which applies to all children, the Committee is of the view that States parties should also ensure access for children of migrant workers in an irregular situation to mother-tongue instruction if already available to children of migrant workers who are documented as having the same mother tongue.

79. Legal identity is often a prerequisite for access to a number of fundamental rights. Children of migrants in an irregular situation, particularly those born in a host State that does not recognize their existence, are vulnerable throughout their lives. States parties are obliged to ensure that children of migrant workers are registered soon after birth, irrespective of the migration status of their parents, and provided with birth certificates and other identity documents (art. 29). States parties shall not require migrant workers to present a residence permit in order to register a child, as this would effectively deprive migrant children in an irregular situation of their right to birth registration, which can also deny them access to education, health services, employment and other rights. Non-compliance by migrant workers with the obligation to register their children following birth should never justify their exclusion from education.

[Joint general comment No. 3 \(2017\) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 \(2017\) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration](#)

6. The present joint general comment also builds on other United Nations resolutions and reports, various outputs of the United Nations human rights mechanisms and United Nations, intergovernmental and civil society initiatives relating to children in the context of international migration, including:

(a) The statement by the Committee on Economic, Social and Cultural Rights on the duties of States towards refugees and migrants under the International Covenant on Economic, Social and Cultural Rights (E/C.12/2017/1), in which the Committee recalled in particular that “protection from discrimination cannot be made conditional upon an individual having a regular status in the host country”, and also recalled that **“all children within a State, including those with an undocumented status, had a right to receive education and access to adequate food and affordable health care”**;

...

18. The Committees are of the opinion that, in order to fulfil the rights of all children in the context of international migration, the following elements should be part of the policies and practices to be developed and implemented: (a) **comprehensive, inter-institutional policies between child protection and welfare authorities and other key bodies, including** on social protection, health, **education**, justice, migration and gender, and between regional, national and local governments; (b) adequate resources, including budgetary, aimed at ensuring effective implementation of policies and programmes; and (c) continuous and periodic training of child protection, migration and related officials on the rights of children, migrants and refugees and on statelessness, including intersectional discrimination.

32. The Committees stress that States parties should:

...

(k) If determined that it is in the best interests of the child to be returned, an individual plan should be prepared, together with the child where possible, for his or her sustainable reintegration. The Committees stress that countries of origin, transit, destination and return should develop comprehensive frameworks with dedicated resources for the implementation of policies and comprehensive inter-institutional coordination mechanisms. Such frameworks should ensure, in cases of children returning to their countries of origin or third countries, their effective reintegration through a rights-based approach, including **immediate protection measures and long-term solutions, in particular effective access to education**, health, psychosocial support, family life, social inclusion, access to justice and protection from all forms of violence. In all such situations, a quality rights-based follow-up by all involved authorities, including independent monitoring and evaluation, should be ensured. The Committees highlight that return and reintegration measures should be sustainable from the perspective of the child’s right to life, survival and development.

...

[Joint general comment No. 4 \(2017\) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 \(2017\) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return](#)

3. The definition of the child under the Convention on the Rights of the Child provides rights and protection until the age of 18. The Committees are concerned that children between 15 and 18 years tend to be provided much lower levels of protection, and are sometimes

considered as adults or left with an ambiguous migration status until they reach 18 years of age. **States are urged to ensure that equal standards of protection are provided to every child, including those above the age of 15 years and regardless of their migration status.** In accordance with the Guidelines for Alternative Care of Children, States should provide adequate follow-up, support and transition measures for children as they approach 18 years of age, particularly those leaving a care context, **including by ensuring access to long-term regular migration status and reasonable opportunities for completing education,** access to decent jobs and integrating into the society they live in. The child should be adequately prepared for independent living during this transition period, and competent authorities shall ensure adequate follow-up of the individual situation. The Committees additionally encourage States to take protective and support measures beyond the age of 18 years.

21. The Committees urge States parties to take all necessary measures to ensure that all children are immediately registered at birth and issued birth certificates, irrespective of their migration status or that of their parents. Legal and practical obstacles to birth registration should be removed, including by prohibiting data sharing between health providers or civil servants responsible for registration with immigration enforcement authorities; and not requiring parents to produce documentation regarding their migration status. Measures should also be taken to facilitate late registration of birth and to avoid financial penalties for late registration. **Children who have not been registered should be ensured equal access to health care, protection, education and other social services.**

59. **All children in the context of international migration, irrespective of status, shall have full access to all levels and all aspects of education, including early childhood education and vocational training, on the basis of equality with nationals of the country where those children are living.** This obligation implies that States should ensure equal access to quality and inclusive education for all migrant children, irrespective of their migration status. Migrant children should have access to alternative learning programmes where necessary and participate fully in examinations and receive certification of their studies.

60. **The Committees strongly urge States to expeditiously reform regulations and practices that prevent migrant children, in particular undocumented children, from registering at schools and educational institutions.** States should also develop effective firewalls between educational institutions and immigration authorities and prohibit the sharing of students' data as well as immigration enforcement operations on or near school premises, as these practices limit or deprive migrant children or children of migrant workers in an irregular situation of their right to education. To respect children's right to education, States are also encouraged to avoid disruption during migration-related procedures, avoiding children having to move during the school year if possible, as well as supporting them to complete any compulsory and ongoing education courses when they reach the age of majority. While access to upper-level education is not compulsory, the principle of non-discrimination obliges States to provide available services to every child without discrimination on the basis of their migration status or other prohibited grounds.

61. States should put in place adequate measures to recognize the child's former education by acknowledging previously obtained school certificates and/or issuing new certification based on the child's capacities and capabilities, to avoid creating stigmatization or

penalization. This is equally applicable to countries of origin or third countries in the case of return.

62. The principle of equality of treatment requires States to eliminate any discrimination against migrant children and to adopt appropriate and gender-sensitive provisions to overcome educational barriers. This means that, where necessary, targeted measures are needed, including additional language education, additional staff and other intercultural support, without discrimination of any kind. States are encouraged to dedicate staff to facilitating access to education for migrant children and to promoting the integration of migrant children into schools. In addition, States should take measures aimed at prohibiting and preventing any kind of educational segregation, to ensure that migrant children learn the new language as a means for effective integration. State efforts should include the provision of early childhood education as well as psychosocial support. **States should also provide formal and non-formal learning opportunities, teacher training and life skills classes.**

Non-binding international instruments

New York Declaration for refugees and migrants, 2016

II. Commitments that apply to both refugees and migrants

32. We will protect the human rights and fundamental freedoms of all refugee and migrant children, regardless of their status, and giving primary consideration at all times to the best interests of the child. This will apply particularly to unaccompanied children and those separated from their families; we will refer their care to the relevant national child protection authorities and other relevant authorities. We will comply with our obligations under the Convention on the Rights of the Child.⁷ We will work to provide for basic health, education and psychosocial development and for the registration of all births on our territories. We are determined to ensure that all children are receiving education within a few months of arrival, and we will prioritize budgetary provision to facilitate this, including support for host countries as required. We will strive to provide refugee and migrant children with a nurturing environment for the full realization of their rights and capabilities.

39. We commit to combating xenophobia, racism and discrimination in our societies against refugees and migrants. We will take measures to improve their integration and inclusion, as appropriate, and with particular reference to access to education, health care, justice and language training. We recognize that these measures will reduce the risks of marginalization and radicalization. National policies relating to integration and inclusion will be developed, as appropriate, in conjunction with relevant civil society organizations, including faith-based organizations, the private sector, employers' and workers' organizations and other stakeholders. We also note the obligation for refugees and migrants to observe the laws and regulations of their host countries.

III. Commitments for migrants

59. We reaffirm our commitment to protect the human rights of migrant children, given their vulnerability, particularly unaccompanied migrant children, and to provide access to

basic health, education and psychosocial services, ensuring that the best interests of the child is a primary consideration in all relevant policies.

IV. Commitments for refugees

81. We are determined to provide quality primary and secondary education in safe learning environments for all refugee children, and to do so within a few months of the initial displacement. We commit to providing host countries with support in this regard. Access to quality education, including for host communities, gives fundamental protection to children and youth in displacement contexts, particularly in situations of conflict and crisis.

82. We will support early childhood education for refugee children. We will also promote tertiary education, skills training and vocational education. In conflict and crisis situations, higher education serves as a powerful driver for change, shelters and protects a critical group of young men and women by maintaining their hopes for the future, fosters inclusion and non-discrimination and acts as a catalyst for the recovery and rebuilding of post-conflict countries.

The Global Compact for Safe, Orderly and Regular Migration - GCM, 2018

Objective 5 - Enhance availability and flexibility of pathways for regular migration

21. We commit to adapt options and pathways for regular migration in a manner that facilitates labour mobility and decent work reflecting demographic and labour market realities, **optimizes education opportunities**, upholds the right to family life, and responds to the needs of migrants in a situation of vulnerability, with a view to expanding and diversifying availability of pathways for safe, orderly and regular migration.

...

g) Develop or build on existing national and regional practices for admission and stay of appropriate duration based on compassionate, humanitarian or other considerations for migrants compelled to leave their countries of origin, due to sudden-onset natural disasters and other precarious situations, such as by providing humanitarian visas, private sponsorships, **access to education for children**, and temporary work permits, while adaptation in or return to their country of origin is not possible

Objective 13 - Use immigration detention only as a measure of last resort and work towards alternatives

29. We commit to ensure that any detention in the context of international migration follows due process, is non-arbitrary, based on law, necessity, proportionality and individual assessments, is carried out by authorized officials, and for the shortest possible period of time, irrespective of whether detention occurs at the moment of entry, in transit, or proceedings of return, and regardless of the type of place where the detention occurs. We further commit to prioritize noncustodial alternatives to detention that are in line with international law, and to take a human rights-based approach to any detention of migrants,

using detention as a measure of last resort only. To realize this commitment, we will draw from the following actions:

...

h) Protect and respect the rights and best interests of the child at all times, regardless of their migration status, by ensuring availability and accessibility of a viable range of alternatives to detention in non-custodial contexts, favouring community-based care arrangements, that **ensure access to education** and healthcare, and respect their right to family life and family unity, and by working to end the practice of child detention in the context of international migration

Objective 15 - Provide access to basic services for migrants

31. We commit to ensure that all migrants, regardless of their migration status, can exercise their human rights through safe access to basic services. We further commit to strengthen migrant inclusive service delivery systems, notwithstanding that nationals and regular migrants may be entitled to more comprehensive service provision, while ensuring that any differential treatment must be based on law, proportionate, pursue a legitimate aim, in accordance with international human rights law.

...

f) Provide inclusive and equitable quality education to migrant children and youth, as well as facilitate access to lifelong learning opportunities, including by strengthening the capacities of education systems and by facilitating non-discriminatory access to early childhood development, formal schooling, non-formal education programmes for children for whom the formal system is inaccessible, on-the-job and vocational training, technical education, and language training, as well as by fostering partnerships with all stakeholders that can support this endeavour

Objective 16 - Empower migrants and societies to realize full inclusion and social cohesion

32. We commit to foster inclusive and cohesive societies by empowering migrants to become active members of society and promoting the reciprocal engagement of receiving communities and migrants in the exercise of their rights and obligations towards each other, including observance of national laws and respect for customs of the country of destination. We further commit to strengthen the welfare of all members of societies by minimizing disparities, avoiding polarization and increasing public confidence in policies and institutions related to migration, in line with the acknowledgment that fully integrated migrants are better positioned to contribute to prosperity.

...

c) Develop national short, medium and long term policy goals regarding the inclusion of migrants in societies, including on labour market integration, family reunification, **education**, non-discrimination and health, including by fostering partnerships with relevant stakeholders

African framework

African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), 2009

Article 9.2(b)

Provide internally displaced persons to the fullest extent practicable and with the least possible delay, with adequate humanitarian assistance, which shall include food, water, shelter, medical care and other health services, sanitation, **education**, and any other necessary social services, and where appropriate, extend such assistance to local and host communities;

Non binding African framework

The [Djibouti Declaration of the Regional Ministerial Conference on Refugee Education](#) is a non binding legal instrument produced by the IGAD (Intergovernmental Authority on Development) in 2017, it has eight member states: Djibouti, Ethiopia, Kenya, Somalia, Sudan, South Sudan, Uganda and Eritrea.

The declaration states the commitments of member states to implement and develop quality educational standards and inclusion in their national legal framework and educational system, it is accompanied by an Action Plan, which outlines the actions to be carried out in the delivery of quality education and learning outcomes for refugees, returnees and host communities in the region.

The Action plan of the Djibouti Declaration on Refugee Education

On inclusion of refugee education in national education systems

1. Integrate education for refugees and returnees into Education Sector Plans (ESPs) by 2020.

This will include:

- Determination of the status of Member States in their integration of education of refugees and returnees into ESPs;
- Mapping existing initiatives, proposals and activities to integrate the education of refugees and returnees into ESPs;
- Supporting activities that lead to the integration of refugees and returnees into National Education Systems;
- Strengthening EMIS data collection to include the needs of refugees and returnees;
- Fully integrate schools for refugees, including camp-based systems, into the national education systems.

2. Develop IGAD's capacity and strategies to support Member States in developing Education Sector Plans that integrate education for refugee and returnees into national systems. This will include:

- Supporting Member States with expertise on refugee education;
- Sharing good practices and lessons learned to improve refugee and returnee education within the region;
- Training on Education Sector Planning processes.

3. Ensure the protection of refugees in national education systems, particularly the safety and psycho-social well-being of refugee and returnee children through a multi sectoral approach. This will include:

- Support schools to provide a safe environment that protects children from sexual and gender based violence, forced recruitment, child labour and other harmful practices and risks.
- Support a protection system that responds to the mental health and psychosocial needs of refugee and returnee learners.

4. Recognise and respond to the distinct learning needs of refugee and returnee boys and girls to ensure equitable and inclusive access to education. This will include:

- Consideration of the special needs of learners and adapting curricula, educational material, learning spaces to increase participation and improved learning outcomes.
- Expansion and strengthening of accelerated and bridging learning programmes to increase the enrolment and retention of refugee girls and boys in education.
- Supporting the capacity of the community and families to support their children's learning.
- Support refugee and returnee children as appropriate in making language transitions in their countries of asylum or return.
- Provide appropriate programs that support mother-tongue proficiency for refugee children.

5. Strengthen regional frameworks to promote the inclusion of refugee teachers, and their professional development and certification, in national education systems and support of equivalency. This will include:

- Facilitation of teacher accreditation and certification across borders;
- Identification and implementation of methods to fast-track training and certification;
- Progressively align pay and conditions of service across host community and refugee teachers as it relates to experience and qualifications;
- Support continuous pre-service and in-service professional development of refugee and host community teachers;
- Increase gender parity and equalize career progression opportunities among teachers.

6. Invest in expansion of distance learning opportunities for refugees, through support and investments in infrastructure and capacity, including IT capacity, with attention to language-of-instruction challenges;

7. Identify emerging community college-type programmes as a platform for expansion, with development of modular training programmes targeted to country-specific training priorities;
8. Work with international partners and Member States to extend provision of scholarships based on identified need and equity considerations;
9. Support increased refugee access to secondary education as a way to increase student throughput to higher education;
10. Reinforce the IGAD universities network's capacity to monitor cross-border provision of higher education opportunities, and strengthen linkages between Member States;
11. Support alternative pathways to higher education for youth.

On Regional Education Quality Standards for Delivery of Education for Refugees

12. Develop an agreed set of regional minimum education standards and targets for quality education at all levels for refugees and returnees with a focus on the maximization of learning outcomes.
13. Support language-of-instruction initiatives to facilitate the integration of refugees and returnees in national education systems as well as programs that support retention of their local languages;
14. Request IGAD to monitor the implementation of SDG 4 road maps established by Member States in relation to refugees, returnees and host communities to maximize learning outcomes;
15. Reinforce the capacity of IGAD and Member States to monitor inclusion of refugees, returnees and host communities in national education systems including the access to public schools, as well as recognition and registration of schools existing in refugee hosting locations;
16. Integrate refugees and returnees in National Education Sector Plans of Member States, including Education Monitoring Information Systems (EMIS), to facilitate comprehensive planning and monitoring of education for refugees, returnees and host communities;
17. Establish an IGAD regional committee to ensure regular reporting on the implementation, monitoring and evaluation on the agreed upon minimum standards and targets.

On Regional Skills Development for Refugees

18. Determine demand for skills training in host countries and countries of return through a review of existing and commission of new market assessments;
19. Form a Technical and Vocational Education Training (TVET) expert group to develop a mechanism for linking TVET institutions across IGAD countries, identify options in ensuring continuity in skills development programs, and exchange experiences within and across borders;

20. Promote public-private partnerships to scale up programs that have shown success in linking training and job opportunities.

On accreditation and certification of education programmes

21. Develop regional and national policies for the recognition of qualifications held by refugees and returnees, including teachers and learners in order to enable integration into national education systems and access to social services;

22. Put in place a regional mechanism for recognition of qualifications for the IGAD region based on:

- Mutual recognition of formal qualifications obtained throughout the education systems of all IGAD Member States;
- Mutual recognition of accreditation of qualifications obtained through informal learning and professional skills training;
- Cross-border education collaboration between neighbouring districts.

23. Develop a regional IGAD framework for establishing the equivalency of education qualifications, including mechanisms to enable refugee students, who do not possess certification of prior school attainment or other documentation, to pursue education at the level at which they left through appropriate means rather than high-stakes examinations;

24. Develop a common regional approach for teacher accreditation including accelerated programmes for refugee and returnee teachers;

25. Establish a technical working group consisting of IGAD Member States and representatives of all relevant stakeholders to:

- Assess the status of recognition in each Member State;
- Describe criteria for a mechanism for recognition of academic qualifications;
- Elaborate the criteria for recognition and equivalency including quality assurance tools and mechanisms.
- Generate a proposal, including a financing strategy, on a framework and mechanism for mutual recognition and equivalency that will be presented to the IGAD ministerial meeting in 2019;

On financing, partnerships and monitoring in support of refugee education

26. Develop costed, long-term refugee education response strategies, as part of national education sector plans based on a comprehensive mapping of current and emerging resources and call upon humanitarian and development partners to support this process;

27. Ensure the integration of these commitments and actions into the national action plans that are being developed in response to the Nairobi Plan of Action;

28. Mobilise immediate finance to take forward rapidly commitments agreed at the conference;

29. Establish and reinforce regional and national-level coordination, monitoring and tracking of activities and finance in support of the education sector including refugees;

30. Identify best practices and value for money in financing of refugee and returnee education from an assessment of the efficiency and effectiveness of different financing strategies and mechanisms to enhance refugee and host community education;
31. Explore innovative financing mechanisms for preparedness and the rapid provision of education for new refugees including use of the GPE Framework for Fragile States to fund emergency activities;
32. Generate longer term financing strategies with the involvement of relevant ministries, including exploring the potential use of pooled financing mechanisms, that ensure continuity between humanitarian and development support to increase long term, coordinated investment for national education systems to include refugees and returnees;
33. Explore opportunities for public-private partnerships in support of education for refugees and returnees;
34. Develop a coherent partnership, resource mobilization and communication strategy at both regional and national levels including the establishment of an IGAD regional partnership forum in support of education.
35. Operationalize the IGAD regional coordination mechanisms, particularly the Ministerial Committee on Education, Science, Technology and Innovation (ESTI), to oversee the implementation of this Action Plan;
 - Develop terms of reference for the Ministerial Committee;
 - Develop a regional policy framework for education, science, technology and innovation, including skills and training programs;
 - Establish a coordination unit within the IGAD Secretariat to coordinate implementation of this Plan of Action;
36. Update the regional results framework of the Nairobi Plan of Action to include the commitments and actions of this conference.

European framework

European Convention on the Legal Status of Migrant Worker, 1977 (Council of Europe)

Article 14 – Pre training – Schooling – Linguistic training – Vocational training and retraining

1. Migrant workers and members of their families officially admitted to the territory of a Contracting Party shall be entitled, on the same basis and under the same conditions as national workers, to general education and vocational training and retraining and shall be granted access to higher education according to the general regulations governing admission to respective institutions in the receiving State.
2. To promote access to general and vocational schools and to vocational training centres, the receiving State shall facilitate the teaching of its language or, if there are several, one of its languages to migrant workers and members of their families.
3. For the purpose of the application of paragraphs 1 and 2 above, the granting of scholarships shall be left to the discretion of each Contracting Party which shall make efforts to grant the children of migrant workers living with their families in the receiving State – in accordance with the provisions of Article 12 of this Convention – the same facilities in this respect as the receiving State's nationals.
4. The workers' previous attainments, as well as diplomas and vocational qualifications acquired in the State of origin, shall be recognised by each Contracting Party in accordance with arrangements laid down in bilateral and multilateral agreements.
5. The Contracting Parties concerned, acting in close co-operation shall endeavour to ensure that the vocational training and retraining schemes, within the meaning of this Article, cater as far as possible for the needs of migrant workers with a view to their return to their State of origin.

European directives

A 'directive' is a legislative act that sets out a goal that all EU countries must achieve. However, it is up to the individual countries to devise their own laws on how to reach these goals. Those policies apply for [27 european member states](#).

Directive 2013/33/EU of the European Parliament and of the council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast)

Article 14 - Schooling and education of minors

1. Member States shall grant to minor children of applicants and to applicants who are minors access to the education system under similar conditions as their own nationals for so long as an expulsion measure against them or their parents is not actually enforced. Such education may be provided in accommodation centres.

The Member State concerned may stipulate that such access must be confined to the State education system.

Member States shall not withdraw secondary education for the sole reason that the minor has reached the age of majority.

2. Access to the education system shall not be postponed for more than three months from the date on which the application for international protection was lodged by or on behalf of the minor.

Preparatory classes, including language classes, shall be provided to minors where it is necessary to facilitate their access to and participation in the education system as set out in paragraph 1.

3. Where access to the education system as set out in paragraph 1 is not possible due to the specific situation of the minor, the Member State concerned shall offer other education arrangements in accordance with its national law and practice.

Article 16 - Vocational training

Member States may allow applicants access to vocational training irrespective of whether they have access to the labour market.

Access to vocational training relating to an employment contract shall depend on the extent to which the applicant has access to the labour market in accordance with Article 15.

Directive 2011/95/EU of the European Parliament and of the council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast)

Article 27 - Access to education

1. Member States shall grant full access to the education system to all minors granted international protection, under the same conditions as nationals.

2. Member States shall allow adults granted international protection access to the general education system, further training or retraining, under the same conditions as third-country nationals legally resident.

Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals

Article 14 - Safeguards pending return

1. Member States shall, with the exception of the situation covered in Articles 16 and 17, ensure that the following principles are taken into account as far as possible in relation to

third-country nationals during the period for voluntary departure granted in accordance with Article 7 and during periods for which removal has been postponed in accordance with Article 9:

- (a) family unity with family members present in their territory is maintained;
- (b) emergency health care and essential treatment of illness are provided;
- (c) minors are granted access to the basic education system subject to the length of their stay;
- (d) special needs of vulnerable persons are taken into account.

2. Member States shall provide the persons referred to in paragraph 1 with a written confirmation in accordance with national legislation that the period for voluntary departure has been extended in accordance with Article 7(2) or that the return decision will temporarily not be enforced.

Article 17 - Detention of minors and families

1. Unaccompanied minors and families with minors shall only be detained as a measure of last resort and for the shortest appropriate period of time.

2. Families detained pending removal shall be provided with separate accommodation guaranteeing adequate privacy.

3. Minors in detention shall have the possibility to engage in leisure activities, including play and recreational activities appropriate to their age, and shall have, depending on the length of their stay, access to education.

4. Unaccompanied minors shall as far as possible be provided with accommodation in institutions provided with personnel and facilities which take into account the needs of persons of their age.

5. The best interests of the child shall be a primary consideration in the context of the detention of minors pending removal.