

ISSN: 2582-6433



INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed 6th Edition

VOLUME 2 ISSUE 7

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis



IJLRA

EDITORIAL TEAM

EDITORS

Megha Middha



Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar

Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can

bring a change to the society

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board



Dr. Namita Jain



Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC - NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019

Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr. Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



learning.

Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

ACCESS TO BASIC EDUCATION: AN IMPEDIMENT TO REFUGEE CHILDREN?

Authored By-Maryam

Abstract

The refugee crisis is becoming more severe. This violence along with culminating movement affects all migrants, but it is especially harmful to migrant children. The biggest hurdles that child refugees encounter during their refugee experience are discussed in this paper. This paper also examines efforts to assist children and the urgent need for implementation for overcoming these obstacles. These challenges will have far-reaching consequences not only in the near future, but also for decades to come.

It is critical to make a concerted effort to restoring these children and reintegrate them into their new communities in order to minimize the impact of the violence and conflict they experience. If real progress is to be built, the international community as a whole, shall come together to improve the livelihoods of child refugees, which will not only benefit the society but for many upcoming generations.

Keywords: Refugee – Children – Violation – Human rights – Education – Impediment

Abbreviations

| NAME | EXPANSION |
|-------------|--|
| CRC | Convention on the Rights of the Child |
| HRB | Human Rights-Based Approach |
| ICCPR | International Covenant on Civil and Political Rights |
| ICESCR | International Covenant on Economic, Social and Cultural Rights |
| UDHR | Universal Declaration of Human Rights |
| UNESCO | United Nations Education, Scientific and Cultural Organization |
| UNHCR | United Nations High Commissioner for Refugees |
| IP | Implementing Partners |
| i.e., | that is |
| UN | United Nations |
| WW II | World War II |
| & | And |
| Estd. | Established |
| Org. | Organization |
| Govt. | Government |
| NGO | Non-governmental organizations |
| IC | International Community |
| CDE | Convention against Discrimination in Education |

Bibliography

Books:

1. N Richman, In the midst of the whirlwind: A manual for helping refugee children.
2. J Bhabha, Seeking asylum alone: Treatment of separated and trafficked children in need of refugee protection, Volume 42.
3. Sharon E Lee, Education as a human right in the 21st century, Volume 21.
4. K Tomaševski, Removing obstacles in the way of education.
5. K D Beiter, The protection of the right to education by International law.
6. John Thomas & Dorothy E. Stubbe, Psychiatric, Epigenetic, and Public health challenges facing refugee children.
7. Jeanette Lawrence, Agnes Dodds, Ida Kaplan, & Maria Tucci, the Rights of Refugee Children and the UN Convention on the Rights of the Child Laws.
8. S Dryden Peterson, Refugee education: A global review.

Internet sources:

1. <http://uis.unesco.org/en/topic/international-standard-classification-education-isc-ed>
2. <https://www.unhcr.org/1951-refugee-convention.html>
3. <https://www.un.org/en/about-us/universal-declaration-of-human-rights>
4. <https://en.unesco.org/themes/right-to-education/convention-against-discrimination>
5. <https://www.worldvision.org/refugees-news-stories/forced-to-flee-top-countries-refugees-coming-from>
6. <https://en.unesco.org/news/unesco-launches-bridging-learning-gaps-youth-programme-scale-its-education-response-syria-2>
7. <https://www.unicef.org/mena/reports/syria-crisis-fast-facts>
8. https://policytoolbox.iiep.unesco.org/library/?page=66&page-len=1&sort=date_desc&id=KVIUD4KQ,
9. <https://www.weforum.org/agenda/2016/05/why-refugee-education-is-a-problem-and-six-solutions/>
10. <http://www.unhcr.org/en-us/excom/bgares/3ae69ee64/statute-office-united-nations-high-commissioner-refugees.html>
11. <https://www.unhcr.org/en-us/>

Table Of Contents

INTRODUCTION

CHAPTER I - LEGAL PROTECTION OF BASIC EDUCATION IN INTERNATIONAL LEVEL: A SHIELD FOR A REFUGEE CHILD

- 1.1. International human rights standards
- 1.2. The Universal Declaration of Human Rights, 1948
- 1.3. The Convention on the Rights of the Child (1989)
- 1.4. International Covenant on Economic, Social and cultural Rights
- 1.5. International Covenant on Civil and Political Rights
- 1.6. Geneva Convention relating to status of Refugees
- 1.7. The UNESCO Convention against Discrimination in Education

CHAPTER II - IMPLICATION OF INTERNATIONAL INSTRUMENTS

CHAPTER III - HINDRANCES CONFRONTED TO BASIC EDUCATION

- 3.1. Mental Health challenges
- 3.2. Lack of awareness
- 3.3. Poor access to education
- 3.4. Tribal, cultural, religious and language barriers
- 3.5. Radicalization
- 3.6. Legal Challenges
- 3.7. Lack of quality education

CHAPTER IV - PALLIATIVES: AN URGENT NEED

- 4.1. Need for Implementation
- 4.2. Creation of a learning environment
- 4.3. Dissemination of information: Responsibility on parents
- 4.4. Tackling and abolishing various barriers faced
- 4.5. Teacher training, remuneration and certification: Key to quality education
- 4.6. Awareness campaign
- 4.7. Funding by International Community
- 4.8. Coordination and capacity building: NGOs

CONCLUSION

Introduction

“It is no exaggeration to say that refugee children’s well-being depends to a major degree on their school experiences, successes and failures.”¹

Richman

Children make up the largest demographic age group among refugees worldwide. According to Bhabha, the majority of child refugees travel with their families who are forced to flee persecution. Unaccompanied minors separated, abandoned, or orphaned in refugee camps or threat of attack make up a lower percentage of the total.² Limited or no access to basic education in the host countries is one of the biggest crimes against humanity that child refugees confront on a daily basis. Education is a social institution i.e., usually developed as a result of a shared societal desire to live in civilized and supportive cultures.³

Basic education is not a set or obvious idea, and the lack of a solid definition of the phrase is a problem that must be addressed immediately. **Basic education**, according to the International Standard Classification of Education, covers the first nine years of formal schooling and is split into two levels: level 1 and level 2. Level 1 should be equivalent to primary education, while Level 2 should be equivalent to lower secondary education.⁴ Level 1 should only correlate to the first six years of school in conditions where basic education is not divided into levels, and the successive three years should correspond to lower secondary education. As a consequence of the notion of basic education, the right to education has been expanded to encompass everything from initial or basic education through lifelong learning.⁵

With respect to defining a **child**, under common law, a child is defined as a person under the age of 14, albeit this age today varies from jurisdiction to jurisdiction, According to Black’s Law Dictionary. When it comes to a child’s age, Article 1 of the United Nations Convention on the Rights of the Child defines a child as someone under the age of 18, unless the legislation

¹ N RICHMAN, IN THE MIDST OF THE WHIRLWIND: A MANUAL FOR HELPING REFUGEE CHILDREN, (Trentham Books 1998).

² Vol. 42 Issue 141, J BHABHA, ‘SEEKING ASYLUM ALONE: TREATMENT OF SEPARATED AND TRAFFICKED CHILDREN IN NEED OF REFUGEE PROTECTION’ (2004).

³ Vol. 21, SHARON E LEE, EDUCATION AS A HUMAN RIGHT IN THE 21ST CENTURY, (Democracy & Education Journal 2013).

⁴ UNITED NATIONS EDUCATIONAL, Scientific and Cultural Organization Institute for Statistics (UNESCO) ‘International Standard Classification of Education’ (2011).

⁵ Ibid.

that applies to the child specifies that majority is attained earlier. The 1951 Refugee Convention defines **refugee children**, as children who have fled their home countries or who, for various reasons, are unable to return to the country for fear of persecution.⁶

Education plays a very vital role for personal growth and prosperity. If these children do not have access to a basic education, they will not have all of the skills that they need to develop, which will in turn have an impact on their ability to seek employment, shelter, medical services, and other social advantages. As a result, it gives opportunity for refugee children, their families, and communities to undertake the trauma-healing process as well as develop the skills and values necessary for a more peaceful future both at the local and national levels.

The right to education, like all human and civil rights, is fundamental and indivisible, and it has been codified in international law by various agreements, putting enforceable obligations on ratifying States.⁷ Article 26 of Universal Declaration of Human Right (hereinafter referred as UDHR) acknowledges education to be one of most essential rights which states that Compulsory education shall be provided at the elementary level.⁸

Thus, the right to education has expanded in size as a result of its scope which now includes both elementary and then the first three years of high school expanding it beyond primary education leading into a life - long learning. The understanding and comprehension of the right to basic education as expressed in national instruments are closely related to its execution.

⁶ UNHCR, <https://www.unhcr.org/1951-refugee-convention.html>, (last visited Feb. 24, 2022).

⁷ Ibid.

⁸ UNITED NATIONS, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>, (last visited Feb. 22, 2022).

Chapter I

Legal Protection Of Basic Education In International

Level: A Shield For A Refugee Child

The importance of enabling to claim rights and permitting duty-bearers to meet their commitments is emphasized in the human rights approach. For ensuring a child's especially refugee child's safe growth and development, basic education plays a very important role. The access to a basic education is widely recognized as a vital fundamental human right that must be guaranteed for all children, regardless of their situations or background.

It is one of the most significant ways to restore a semblance of normalcy to the living situations of child refugees, and it can help them overcome the psychological trauma that many have encountered pre and post persecution, violent conflict, atrocities, and evacuation.

According to Tomaevski, education acts as a multiplier, enhancing the contentment and fulfillment of other rights when the right to education is protected, while depriving individuals from realization of other rights when the right to education is infringed.⁹

In case of *Brown v Board of Education of Topeka* the Court stated that if pupils are denied access to education, they are unlikely to improve their socio economic status and achieve success in life.¹⁰ The significance of this decision is that basic education is the primary means by which poor and marginalised children can lift themselves out of poverty, brighten their futures, and thereby leads to the improvement of their communities.¹¹ There are a slew of concerns and obstacles that can't be handled or mitigated unless the access to basic education is regarded which then acts as a key to unlocking other human rights. Basic education can certainly be claimed regardless of race, ethnicity, socioeconomic class or status and is vital for all people, especially children, as it provides the necessary foundation for further education.

The essence of making basic education a human right is based on the belief that human beings have a moral responsibility for one another, that responsibility is important regardless of the societal structure one is in, and that claims basic education is unique and universal. Recognizing basic education as a universal right can also improve the socio-

⁹ K TOMAŠEVSKI, REMOVING OBSTACLES IN THE WAY OF EDUCATION, (2001).

¹⁰ *Brown v Board of Education of Topeka*, 347 US 483 (1954) at 493.

¹¹ *Ibid.*

economic well-being of all children. More importantly, it can enable refugee children to participate and coordinate with others in their respective communities for mutual social benefit.

1.1. International human rights standards

The universality of human rights is reinforced by international human rights law, which establishes basic standards to which everyone is entitled. These international tools have aided in the identification of practical legislative processes that can and have been implemented and reinforced by nation-states, with the ultimate goal of providing appropriate educational opportunities for all children.¹² As evidenced by the variety, of international human rights instruments, every child has an intrinsic right to education, as evidenced by a range of international human rights instruments. The right to education is firmly rooted in international human rights law, giving the accuracy of human rights standards required to tackle its key attributes on a global scale.¹³

1.2. The Universal Declaration of Human Rights, 1948 (Hereinafter referred as UDHR)

Human rights became a topic of discussion around the world after the United Nations adopted the UDHR in 1948. Article 26 of the UDHR was the first global text to state that everyone has the right to education. Article 2 proclaims that everyone has the right to all the rights and freedoms of the UDHR. Consequently, the UDHR's right to education applies equally to all people, whether they are citizens or refugees. In other words, it means that no one should be denied an education.¹⁴ Article 2 should, nevertheless, be taken to suggest that the state is required to take affirmative action in connection to the UDHR's rights.¹⁵ When Article 26 is read in conjunction with Article 2, it is evident that the state must pass anti-discrimination legislation in order to accomplish legal equality in the exercise of the right to education.¹⁶ As a result, the state should take steps to ensure that the right to education is exercised in a fundamentally equal manner. This would compel the govt. to ensure that everyone, including refugee children, has equal access to and treatment in the educational system.

¹² TOMAŠEVSKI, *supra* note 5 at 8.

¹³ *Ibid.*

¹⁴ UNITED NATIONS, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>, (last visited Feb. 22, 2022).

¹⁵ *Ibid.*

¹⁶ *Ibid.*

1.3. The Convention on the Rights of the Child (1989)

The Convention on the Rights of the Child (Hereinafter referred as CRC) is regarded as a watershed moment in children's rights history. The notion that children are the primary victims of human rights violations has long been recognized on a global scale. The UN High Commissioner for Refugees adopts the CRC as a framework for meeting the needs of children, and it is the primary foundation for refugee child's protection. The conception of the right to education is broadened and deepened by the CRC.

1.4. International Covenant on Economic, Social and cultural Rights (ICESCR)

The ICESCR is an international treaty that binds contracting parties to legally binding responsibilities. Article 13 of the ICESCR was later clarified by Article 26 of the UDHR. Article 13 paragraph 1 gives everyone the right to education and thus defines the goals of education.¹⁷ Article 13 (2) (a) on basic education upholds the high standard estd. in Article 26 (1) of the UDHR.¹⁸ Primary education shall be obligatory and free for all. As a result of this need, primary education must be offered. Of course, compulsory primary education can only be implemented if there are enough schools to accommodate all of the necessary pupils.¹⁹

1.5. International Covenant on Civil and Political Rights

Not only the ICESCR protects the right to basic education, but also the International Covenant on Civil and Political Rights (hereinafter referred to as ICCPR). In particular Articles 18(4) and 27 are considered in this section. Article 27 concerns the rights of persons belonging to ethnic, religious or linguistic minorities. It influences the right to education of refugee children. Article 18 protects the right to freedom of thought, conscience and religion.²⁰

¹⁷ The following educational objectives are integrated in this article, as they are in Article 26(2) of the Universal Declaration of Human Rights: The full advancement of human individuality; strengthening respect for human rights and fundamental freedoms; encouraging understanding, tolerance, and friendship among diverse groups and individuals; and developing respect for the UN Charter's ideals. It should be emphasized that ethnic groups are implemented in the list of population who should be encouraged to understand, tolerate, and befriend one another, according to the ICESCR.

¹⁸ KD BEITER, THE PROTECTION OF THE RIGHT TO EDUCATION BY INTERNATIONAL LAW: Including a systematic analysis of Article 13 of the International Covenant on Economic, Social and Cultural Rights (2006).

¹⁹ BEITER, *supra* note 22 at 95.

²⁰ UNITED NATIONS, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>, (last visited Feb. 22, 2022).

1.6. Geneva Convention relating to status of Refugees. (1951 Refugee Convention)

In the aftermath of World War II (Herein after referred as WW II), the global refugee crisis was an issue of major concern to the United Nations. Appropriately, in 1951 the Convention Relating to the Status of Refugees was passed.²¹ Article 22 of this Convention gives all refugees the right to equal treatment in receiving States on the basis of equality afforded to nationals with regard to primary education. In particular, the guarantee of access to primary education in the 1951 Refugee Convention is broader than the related right under Article 13(2) (a) of the ICESCR.²²

1.7. The UNESCO Convention against Discrimination in Education (1960)

The importance of the Convention against Discrimination in Education (Hereinafter referred as the CDE)²³ is not wholly supported by its modest definition as a convention against discrimination in the field of education.²⁴ Despite the fact that the CDE's goal is to prevent discrimination in education, the rights it provides are far broader. In effect, the CDE codifies the right to an education.²⁵ The many UNESCO instruments on the right to education have been considered as the core of an international code of education.

CHAPTER II

Implication Of International Instruments

The role of government in education, affirmed in international and national human rights law, provides a powerful antidote to the risk of education remaining a public good and school remaining a public service.²⁶ The law is balanced, and there can be no rights without accompanying responsibilities. State obligations are thus the conceptual complement of human rights. In case of *Minister of Home Affairs v Watchenuka*, it was held that human dignity has no citizenship. It is inherent in all human beings, citizens and non-citizens, simply because they are human. Learned Judge Nugent continued: “The relevance of this ruling is that refugee children are now entitled to equal opportunities in accessing the educational facilities available,

²¹ UNHCR, <https://www.unhcr.org/1951-refugee-convention.html>, (last visited Feb. 24, 2022).

²² Ibid.

²³ UNESCO, <https://en.unesco.org/themes/right-to-education/convention-against-discrimination>, (last visited Feb. 24, 2022).

²⁴ Ibid.

²⁵ BEITER, *supra* note 22 at 243.

²⁶ TOMAŠEVSKI, *supra* note 133 at 9.

on the same basis as child citizens of the host country.²⁷ Different obligations are associated with the relationship between rights and duties. The assertions about human rights are claims, not promises or freebies. As the principal duty bearer, the state has three responsibilities in connection to each and every human right.²⁸

2.1. Obligations to protect: In terms of the duty to protect, states must guarantee that state agencies or non-state actors do not contradict or violate the right to basic education. States can protect refugee children's access to basic education by supporting policies and adopting legislation that generate mechanisms to stop denial and violation of this fundamental right. Practical actions should be taken to enhance the safety of the right to basic education in mandate, to ensure that all children, comprising refugees in the host country, have equal rights and access to this right.

2.2. Obligation to respect: The obligation to respect requires a state not to approve laws or adopt policies that deny refugee children their rights or engage in actions that would jeopardize the choices and freedoms of such persons. Respecting the right to basic education for refugee children therefore means avoiding interference with the exercise of the right.

2.3. Obligation to fulfill: Fulfillment of the right to basic education requires active steps by the state to establish and establish institutions and procedures, including the allocation of available resources, so that refugee children can enjoy this fundamental right. The state can ensure the fulfillment of the right to basic education by ensuring that education is available, accessible, acceptable and adaptable for all children including refugee children.

The right to basic education is an internationally recognized right. Many standard-setting tools have been offered for this, ranging from the UDHR to various international and regional conventions, declarations and recommendations. States that have signed these agreements believe that every child has the right to an education. This chapter looked at the international criteria that ensure refugee children's right to basic education is protected, respected, and fulfilled.

²⁷ Minister of Home Affairs v Watchenuka, 2004 1 SA 21 (SCA).

²⁸ TOMAŠEVSKI, *supra* note 133 at 7.

CHAPTER III

Hindrances Confronted To Basic Education

The refugee crisis is a worldwide challenge that affects more than one country or region.²⁹ The neurodevelopmental impacts of stress effects refugee children whose experience can be transferred on to their children and sometimes even their children and grandchildren. Every day, millions of infants are born into a volatile world and encounter victimization firsthand. Furthermore, there are numerous other pressures, such as a lack of security, inconsistent or non-existent schooling, and unstable familial and social support systems.³⁰ Uncertainty about the future is the most significant and long-lasting stressor.³¹

3.1. Mental health challenges

Apart from neurological difficulties, psychological difficulties are also borne by refugee children. They face a lot of physical and emotional trauma at every phase due to the harsh living conditions and violence witnessed by them in their respective home countries. Several people were deprived from fulfilling their basic amenities of food and drinking water.³² Children were not attending schools that overall effected the standard development and future.³³ Furthermore, some children during migration were separated from their caretakers.³⁴ After migration, refugee children and families face new challenges. Upon arrival in a new country, refugee children may face severe stress related to their family's adjustment and acculturation, family conflicts, difficulties in learning a new language, and experiences of social exclusion and discrimination.³⁵

3.2. Lack of awareness

This is one of the major challenge as the disadvantaged and vulnerable groups, particularly refugees, often find it difficult or impossible to challenge violations of their rights, simply due to the reason that they are unaware of their rights and often lack the financial procedure to seek redress. Few refugees are aware of their rights in host countries. Worse still, they are unaware

²⁹ WORLD VISION, FORCED TO FLEE: TOP COUNTRIES REFUGEES ARE COMING FROM, <https://www.worldvision.org/refugees-news-stories/forced-to-flee-top-countries-refugees-coming-from> (last visited Feb. 27, 2022).

³⁰ Ibid.

³¹ JOHN THOMAS & DOROTHY E. STUBBE, PSYCHIATRIC, EPIGENETIC, AND PUBLIC HEALTH CHALLENGES FACING REFUGEE CHILDREN, 36 *Quinnipiac L. Rev.* 635, 657 (2018).

³² THOMAS & STUBBE, *supra* note 9.

³³ Ibid.

³⁴ Ibid.

³⁵ Ibid.

of the mechanisms available to them to exercise their rights.

The Refugee Act states that refugees have all of the rights and are subject to all of the duties outlined in the articles of the 1951 Refugee Convention.³⁶ Despite the fact that refugee children have the right to basic education and are even provided with both primary and secondary schools, many refugee children in many states are still not attending school due to a lack of knowledge and awareness of this inherent right that they possess.³⁷

3.3. Poor access to education

Access to meaningful education is endangered in conflict regions. In 2011, Syria reported universal primary school enrollment and nearly universal lower secondary enrollment.³⁸ As of August 2021, over 2 million children (1/3 of the Syrian child population) are out of school in Syria and 1.3 million children are at risk to drop out of school.³⁹ In refugee host countries, over 800,000 children are not in school.⁴⁰ Several factors contribute to a lack of enrollment and the threat of more students dropping out. For refugees living in rural areas outside of refugee camps, access to schools can be severely limited.⁴¹ Any refugees in remote regions do not even have a nearby school, so their children are unable to make the journey due to a lack of reliable transportation.⁴² When refugee children relocate to neighboring countries, they must learn a new curriculum as well.⁴³ Often, the new curriculum is in a foreign language, requiring refugees to learn it before continuing their education.⁴⁴ During school enrollment, many children face discrimination and harassment from other students. Resources are frequently in short supply in host-country urban areas. Some host countries are already experiencing capacity issues when enrolling their native children; assimilating refugee children would

³⁶ UNHCR, <https://www.unhcr.org/1951-refugee-convention.html>, (last visited Feb. 24, 2022).

³⁷ Ibid.

³⁸ UNESCO, BRIDGING LEARNING GAPS FOR YOUTH: UNESCO EDUCATION RESPONSE TO THE SYRIA, <https://en.unesco.org/news/unesco-launches-bridging-learning-gaps-youth-programme-scale-its-education-response-syria-2> (Last visited Feb. 27, 2022).

³⁹ UNICEF, SYRIA CRISIS FACTS, <https://www.unicef.org/mena/reports/syria-crisis-fast-facts>, (Last visited Feb. 27, 2022).

⁴⁰ Ibid.

⁴¹ UNESCO, ENFORCING THE RIGHT TO EDUCATION OF REFUGEES, https://policytoolbox.iiep.unesco.org/library/?page=66&page-len=1&sort=date_desc&id=KVIUD4KQ, (Last visited Feb. 27, 2022).

⁴² UNESCO, *supra* note 14.

⁴³ WORLD ECONOMIC FORUM, WHY REFUGEE EDUCATION IS A PROBLEM – AND SIX SOLUTIONS, <https://www.weforum.org/agenda/2016/05/why-refugee-education-is-a-problem-and-six-solutions/>, (Last visited Feb. 27, 2022).

⁴⁴ Ibid.

overburden these schools.⁴⁵

It is the responsibility of duty bearers (both state and non-state actors) to ensure that all school-age children have access to basic education facilities.⁴⁶ Compulsory primary schooling makes sense only if there are enough schools to accommodate all students in need of education. While the government is not the only investor, international human rights law requires it to be the primary investor in order to ensure that primary schools are available to all school-age children.⁴⁷ Every government is responsible for ensuring that the basic infrastructure and environment of every school stimulates students to come to school and learn and teachers to teach. In other words, to ensure that children have access to a basic education.

3.4. Tribal, cultural, religious and language barriers

Because of negative cultural and religious constraints, as well as tribal differences, refugees in particular may be hesitant to encourage their children to attend school in the host country. This challenge applies not only to refugees in camps, but also to refugees in urban areas who are part of a self-settlement policy. Further, most refugee children struggle in the early years of primary school because they must learn a new language. The learning methodology and the system of learning differs from country to country which becomes another main barrier for the refugee children. Learning a new language takes time, as a result students may fall behind.

3.5. Radicalization

Refugee children are at threat of radicalization as well. The system of becoming attached to political or religious ideologies that advocate for variation through violence is referred to as radicalization.⁴⁸ When refugee children are elucidated to trauma, they may expand post-traumatic stress disorder and anger. If no psychosocial intervention is provided, this trauma can lead to complaints of injustice and perceived threats, which are both risk considerations for radicalization.⁴⁹

⁴⁵ WORLD ECONOMIC FORUM, *supra* note 17.

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ BARBARA SUDE, DAVID STEBBINS, & SARAH WEILANT, LESSENING THE RISK OF REFUGEE RADICALIZATION, RAND Corporation, <https://www.rand.org/pubs/perspectives/PE166.html>, (Last visited Feb. 27, 2022).

⁴⁹ Ibid.

3.6. Legal challenges

In addition to neurological and psychological challenges, refugee children also face legal challenges. The main obstacles that create legal challenges are not so much the creation of protocols and policies as the implementation of those protocols. There are various leading authorities that provide these protocols and guidelines. Among them are the United Nations (UN), including the UN Refugee Agency (UNHCR).⁵⁰ Modern refugee rights are rooted in the 1951 Convention relating to the Status of Refugees.⁵¹ The convention was developed to address the numerous refugee situations around the world after WW II and included time and geographic restrictions and geographic restrictions.⁵²

Along with the creation of the Convention, the United Nations created the United Nations High Commissioner for Refugees (UNHCR), whose mission is to provide, under the auspices of the United Nations (Herein after referred as UN), international protection and permanent protection to refugees who fall within the scope of the present Statute to seek solutions to the refugee problem by supporting governments and, subject to the consent of the governments concerned, private organizations to facilitate the voluntary repatriation of such refugees or their assimilation into new national communities.⁵³

Despite the almost universal commitment to the Convention on the Rights of the Child, many states fail to implement these guidelines in their national immigration and legal systems. There are economic, political and technical constraints on the implementation of the Convention.⁵⁴ Certain countries have a poor refugee policies and facilities and do not avail proper resources to implement the rights that are set out in the Convention on the ROC.⁵⁵ Countries that ratify shall submit a report to the Committee on the same every five years. The committee not only reviews each country's reports, but also information from non-governmental organizations and UN sources to identify areas of progress and concerns and recommend steps the country should take to improve the lives of children. These mechanisms of holding countries accountable are not enforceable on them, the committee only offers suggestions and guidelines for countries to improve themselves when they fail to meet the standards set out in the convention

⁵⁰ UNHCR, <https://www.unhcr.org/en-us/> (last visited Feb. 27, 2022).

⁵¹ Ibid.

⁵² THOMAS & STUBBE, *supra* note 9 at 644.

⁵³ G.A. RES, STATUTE OF THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, <http://www.unhcr.org/en-us/excom/bgares/3ae69ee64/statute-office-united-nations-high-commissioner-refugees.html> (Last visited Feb. 27, 2022).

⁵⁴ JEANETTE LAWRENCE, AGNES DODDS, IDA KAPLAN, & MARIA TUCCI, *the Rights of Refugee Children and the UN Convention on the Rights of the Child Laws* (2019).

⁵⁵ Ibid.

3.7. Lack of quality education

The education attained during an exile is the only scope for most of the refugee children and hence quality education is very crucial.⁵⁶ There is an urgent desire to center on investment on both quality lecturers and education for these children. Providing quality education begins once the child commences his/her schooling and encompasses the teaching and learning altogether.⁵⁷ Education without quality is neither meaningful nor useful, for the individual nor for society and can be harmful.⁵⁸ When refugee children leave school with low skills, their education will not translate into the future livelihoods, they envision for themselves or into social and economic dividends for their societies.⁵⁹ It is evident that the poor quality of education children receive is actually becoming a barrier to refugee children attending or being sent to school. Refugees, unlike citizens of host countries, tend to give up easily when they do not see the value of some aspect of life.⁶⁰ When refugees cannot appreciate the value of the education they are receiving, they drop out and turn to menial jobs to earn a living.⁶¹ In fact, there is little point in investing in an education that does not add value and provides these children with a prosperous and healthy future.

⁵⁶ S DRYDEN-PETERSON, REFUGEE EDUCATION: A GLOBAL REVIEW, UNHCR, University of Toronto.

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ Ibid.

⁶¹ Ibid.

Chapter IV

Palliatives: An Urgent Need

“Education is like a lamp, if you don't provide enough paraffin, the lamp won't work”

4.1. Need for Implementation

The existing international instruments and legislative frameworks are inadequate with respect to specifically the right of basic education to refugee children. The existing international instruments and legislative frameworks are inadequate with respect to specifically the right of basic education to refugee children. These actions would provide legal certainty for refugee children's rights. Establishing such an international instrument, and hence regional implementation tools, will undoubtedly necessitate centralized compliance mechanisms similar to those created by leading human rights documents such as the ICESCR and ICCPR. This improvement would make it easier for refugees, particularly refugee children, to obtain remedies available under international human rights law when their right to education is violated, which is the focus of this study.

4.2. Creation of a learning environment

The greatest challenge in accessing basic education for refugee children can be mitigated by the enabling learning environments that can be created by teachers and education authorities who ensure that these children ensure that their behavior does not deny or violate other children's right to basic education. In this context, it is recommended that teachers and education authorities create an environment in which their own rights are valued and taken into account in order to make children aware of the reciprocity of the right to basic education. In doing so, children promote the perception of responsibility and in turn respect other children's rights at school. With regard to inter-ethnic struggles, it is recommended that refugee parents teach their children to be careful that their behavior does not violate other children's right to basic education. The researchers believe that the intervention of teachers, education officials and parents can help curb inter-ethnic fighting in the school environment.

Furthermore, School infrastructure must develop both on a large scale and at a sufficiently

rapid pace to immediately impact the right to basic education for refugee children on a large scale. It is therefore recommended that the state invest in the development and construction of school infrastructure in the camp, with the help and cooperation of non-governmental organizations and other stakeholders.

4.3. Dissemination of information: Responsibility on parents

Refugee parents play an important role in disseminating information to refugee children and sharing information with other refugees in their communities. Without the participation and cooperation of refugee parents and other caregivers, refugee children's chances of gaining access, advancing educationally, and maintaining an unwavering commitment to basic education are significantly diminished. It is therefore recommended that NGOs educate refugee parents, who in turn motivate and educate their children about the benefits and benefits of education, and thereby organize and coordinate awareness campaigns to educate other refugees (both parents and children) about their fundamental right Basic education. This can be achieved by first ensuring that refugee communities are well informed and adequately educated about the right to basic education. Strengthening the capacity⁶² of refugee parents to claim the right to basic education is therefore crucial.

4.4. Tackling and abolishing various barriers faced

There are some refugees who are reluctant to encourage their children to go to school in host countries because of negative cultural, religious barriers and ethnic group issues. This challenge is not only limited to refugees in camps, but also to refugees in urban areas in a self-settlement policy. It is recommended that refugees in these areas be made more aware of how some of their cultural and religious beliefs and practices affect their children's right to basic education. As refugees become more educated, they become more aware that their cultural and religious practices affect their children's rights. Regarding fighting between ethnic groups in refugee camps, camp officials must take measures to protect children from fighting on the way to and from school. Imposing severe punishment on perpetrators of such fights can serve as a deterrent strategy.

⁶² Capacity in this regard include advocating refugee children's right to basic education, holding school education authorities to account for fulfilling their obligations to children, reviewing progress and challenging denial or violations of rights.

4.5. Teacher training, remuneration and certification: Key to quality education

Reduced teacher morale, absenteeism, and a lack of enthusiasm in the profession results from a lack of sufficient teacher salary, training, and certification, all of which have a negative impact on the quality of basic education for refugee children. Beyond short-term emergency training, there is an urgent need to invest more extensively in teacher quality for refugee education. Teachers' rights must be recognized and protected in order to provide quality education and to promote a healthy and supportive learning environment. When teachers are valued and respected, it is simpler to create a respectful and supportive educational atmosphere in the classroom.

4.6. Awareness campaigns

In view of the serious lack of awareness-raising campaigns on the right to basic education for refugee children, comprehensive awareness-raising on the issue is essential. All stakeholders involved in refugee education, teachers and the refugee community at large should participate in these campaigns. In general, intensive awareness campaigns on the right to basic education will encourage refugees to change their attitudes and gain insights into the importance and benefits of basic education in their children's lives. States, as primary duty bearers, with the help and cooperation of non-governmental organizations, have an urgent responsibility to encourage host country citizens to respect and protect the right to basic education for refugee children.

4.7. Funding by international community

The international community (Herein after referred as IC) is a key player that cannot afford to be ignored when it comes to making the right to basic education a reality for refugee children in each of the host countries surveyed. There is a strong basis for the widespread assumption that the lack of positive outcomes in refugee education is due to a lack of financial resources. Schools, especially in camps, are underfunded and under-resourced. Therefore, it is recommended that the IC allocate more resources to fund basic education in such schools.

4.8. Coordination and capacity building: NGOs

Under contract with UNHCR, a multitude of national and international implementing partners (hence referred to as IPs) undertake field-level educational programmes. There is a significant imbalance in the quality of services provided by these IPs. In the execution of these

programmes, there is a paucity of regular collaboration amongst IPs. As a result, it is recommended that UNHCR, national and international IPs establish and coordinate plans more effectively in mandate to ensure the actual implementation of adequate and excellent basic education for refugee children.

Conclusion

All incremental measures required have been directed and taken by the IC to build global legal frameworks to ensure that all children's right to a basic education is protected, respected, and realized. However, there is a need of giving more emphasis on the implementation and advancement of legislative frameworks for refugee children. The paper seeks to find a solution to the myriad obstacles that still persist as impediments to refugee children's right to a basic education, which can no longer be overlooked.

The neurological, psychological, and legal challenges that refugee children confront today and in the future hurt not only the individual children, but also society. Furthermore, the well-being of refugee children affects more than just conflict-affected areas; it has global ramifications. Many of these children will have to work to support themselves and their family once they have settled down permanently in a location. It is critical to provide long-term solutions for the rehabilitation and reintegration of these children in order to improve their chances of leading better lives and contributing to society in the long run.

Governments, international organizations, non-governmental organizations, and local communities must all work together to improve the well-being of refugee children. Developed countries have the ability to make large contributions to humanitarian aid in a variety of ways, including monetary donations, undertaking research and data analysis, and providing physical support.