**February 2016**

**Submission by the Open Society Foundations’ Education Support Program to the Committee on the Rights of the Child and the Committee on Migrant Workers for the preparation of a Joint General Comment on the Human Rights of Children in the Context of International Migration**

The Open Society Foundations’ Education Support Program[[1]](#footnote-1) is pleased to present this submission to the Committees for the Convention on the Rights of the Child (CRC) and the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW) in support of a Joint General Comment on the human rights of children in the context of migration. The Open Society Foundations’ mission is to build vibrant and tolerant societies whose governments are accountable and open to the participation of all people. The Education Support Program works in South Asia, Africa, Latin America, Eurasia and Europe to make the right to education meaningful through support for good practice in inclusive education for groups of children who are typically marginalized and excluded based on ability, geography, ethnicity or socioeconomic status; and through support for civil society activism and advocacy aimed at narrowing gaps in education equity.

We provide this submission based on the premise of the Universal Declaration of Human Rights: education is essential to “the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace. Everyone has the right to education.”[[2]](#footnote-2) We call on the Committees to prominently reflect challenges to the right to education in their Joint General Comment and to encourage State parties to develop better practices, reinforcing the right to education in inclusive settings established in international legal frameworks. We highlight the importance of the right to education for all categories of children affected by migration, as their particular vulnerable situation consistently leads to worse education outcomes. We highlight the specific challenges that Joint General Comment could helpfully address, including the elimination of discriminatory practices and development of supportive practices, such as mother-tongue support; the development of effective policies to meet the needs of children left behind; and the development of a long term approach to diversity and implementing inclusive education.

1. **Understanding the consistently worse education outcomes for children in the context of international migration**

The recent escalation of refugee inflows in Europe reflects an era of unprecedented global human mobility, with approximately 214 million people migrating internationally in 2010.[[3]](#footnote-3) Whether sparked by labor demand, poverty, economic crisis, political instability or conflict, migration leaves many in a vulnerable position, especially children, as the challenges in Europe highlight. The vulnerability of children in the context of forced movements and migration are multi-dimensional and affect the realization of their right to education, as they are at risk of marginalization and discrimination.[[4]](#footnote-4) Whether they migrated with their parents who are migrant workers; are born in transit or destination countries; returned to their country of origin, alone or with their parents; are left behind their parents who have temporarily or permanently migrated to another country; or migrated unaccompanied or separated from their parents; children affected by migration are particularly vulnerable and face consistently worse education outcomes.[[5]](#footnote-5)

The right to education for migrant children is protected by several international human rights instruments,[[6]](#footnote-6) including the International Covenant on Economic, Social and Cultural Rights (ICESCR) that requires State parties to “recognize the right of everyone to education” and establishes the right to free and compulsory primary education for all. The Committee on Economic, Social and Cultural Rights has explicitly interpreted the right to education to extend “to all persons of school age residing in the territory of a State party, including non-nationals, and irrespective of their legal status.”[[7]](#footnote-7) This right is further expanded in international human rights frameworks to encompass education in inclusive settings that prohibit discrimination against specific groups.[[8]](#footnote-8)

***The Joint General Comment should ensure that the CRC and CMW are interpreted in the context of a legally established right to education in inclusive settings that reinforces the earlier General Comment to the CESCR and the growing body of international law obligating State parties to implement inclusive education*** because in practice, this right is left unfulfilled for children affected by migration. More than half a billion children of primary school age do not have access to education[[9]](#footnote-9) and those who do have worse outcomes. Marginalized groups, including migrant children, are the most affected by exclusion but migrant children can face specific challenges from an interrupted education or no education at all when coming from countries in crisis or continuous conflict.[[10]](#footnote-10) In addition, they face practical and legal obstacles to realizing their right to education in transit and destination countries.

***Challenges to the right to education are as diverse as the children affected by migration***. Far too often undocumented children are unable to enroll in school due to a fear of being reported or deported, because education authorities refuse to enroll them without residence registration or for half-terms, or because they cannot afford the indirect costs of education, like school materials or uniforms.[[11]](#footnote-11) Children of seasonal migrants or migrant workers in countries like Lebanon and Jordan, where domestic workers are not allowed to bring accompanying children, are particularly affected. Economic and legal factors also affect internal migrants in countries that restrict residence in some areas.[[12]](#footnote-12) Furthermore, unaccompanied or separated migrant children are particularly vulnerable to exclusion from school.[[13]](#footnote-13) They are the first victims of transnational organized crime, including human trafficking, labor exploitation or child pornography.[[14]](#footnote-14) Restrictive immigration control and enforcement measures push children into irregularity, limiting their access to education.[[15]](#footnote-15) For example, in the Russian Federation and Lebanon there are limitations on children’s immigration status, even while parents are regular. Migration enforcement measures are both separating families and excluding children from education.

***Education has the potential to be protective for children in all of these circumstances, providing a sense of normalcy and belonging, providing access to experiences and learning that builds resilience and providing an institutional anchor for the protection of other fundamental human rights***. The Committee on the Rights of the Child has already issued a General Comment recalling the vulnerability of this population and addressing the challenges faced by State parties to ensure that these children are able to realize their rights, including the right to education,[[16]](#footnote-16) regardless of their legal status.[[17]](#footnote-17) ***The Joint General Comment should reinforce the CRC’s interpretation and extend it to other children affected by migration***, like children left behind by parents who have temporarily or permanently migrated. Research shows that these children have worse education outcomes[[18]](#footnote-18) whereas there are few national policies that recognize this vulnerability and seek to support children left behind to achieve on par with their peers.

In 2009, the Special Rapporteur on the human rights of migrants emphasized the particularly vulnerable situation of migrant children and the necessity of developing strategies to guarantee their access to the same rights as native-born children of the country concerned, including the right to education.[[19]](#footnote-19) More than five years later, challenges to the right to education of migrant children still exist, including discriminatory practices in destination and transit countries. The right to education is fundamental.[[20]](#footnote-20) Education should be accessible for all children on an equal basis but inequalities, discrimination and exclusion are a reality for the majority of migrant children, which affects their inclusion in society and personal development as well as the peace and prosperity of the whole community.

Although increasing diversity can be challenging initially for education systems, migration inflows can also serve as an opportunity to expand and reinforce inclusive practices that benefit all children. ***It is therefore crucial for the Committee to provide guidance for State parties to make constructive use of diversity and to ensure the full realization of migrant children’s right to education, acknowledging that education on an equal basis in inclusive settings means changing the way that education provision is conceptualized. Mobility and migration are continuous trends rather than isolated phenomena. As such, migration flows must be incorporated into planning of national education strategies, rather than treated as a single or temporary crisis.***

We highlight five areas that the Committees could include in the Joint General Comment with significant implications for the realization of migrant children’s right to education.

1. **Establishing the right to inclusive and good quality education for all, including children affected by migration**

Inclusive education, defined as children learning together in the same classroom without discrimination on any grounds and regardless of differences and backgrounds, is widely recognized in a growing body of international human rights law.[[21]](#footnote-21) Both the Convention on the Rights of the Child (CRC) and the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW) protect the right to education for all, regardless of their origin and status.[[22]](#footnote-22) The importance of equal opportunities, including equal treatment between migrant children and national citizens in relation to access to educational institutions has been emphasized by both Conventions.[[23]](#footnote-23) Furthermore, both the Committee for Migrant Workers and the CESCR prohibit denying access to education based on the irregular situation of a child’s parents or the irregularity of a child’s stay.[[24]](#footnote-24)

Exclusion from education occurs in a number of ways, including outright refusal to enroll children in the education system, immediate segregation in special schools or classrooms, and early tracking and targeted programs or schools that allegedly prepare minorities for eventual inclusion in mainstream classrooms. Segregation can also appear when migrant or minority communities are settled in the same areas. When migrant children live in temporary settlements or camps, the quality of education provided is often inferior. These groups also suffer from discrimination through their complete absence or negative portrayal in the curriculum. The common denominator for this exclusion is negative stereotyping, prejudice, and discrimination against children from marginalized groups, perpetuating the patterns of social exclusion and discrimination in society.

While exclusion, segregation and early tracking perpetuate discrimination against migrant children,[[25]](#footnote-25) other groups, like minorities or children with disabilities, are also adversely affected. Making schools more inclusive provides better quality education for all children.[[26]](#footnote-26) It is a central component of the mandatory international response to migration[[27]](#footnote-27) and provides a concrete remedy to unequal education opportunities that may also exist for others.[[28]](#footnote-28) Inclusive practices in policy and programming also provide benefits to all children by improving education system performance more broadly.[[29]](#footnote-29) Every child, no matter his legal status or his parents’ legal status, should have access to good quality education in inclusive settings in the country where he resides, without distinction.[[30]](#footnote-30)***The Joint General Comment should emphasize that exclusion, segregation, and reliance on segregating practices begun in the name of support, violate the right to education for all children in the community by denying them the opportunities of diversity and shared experience that make future civic participation possible.***

Furthermore, the right to education established in international human rights frameworks applies to State parties internationally as well as within their borders. State parties have the obligation to protect, respect and fulfill the right to education both within their territory and extraterritorially. As the framework for extraterritorial obligations (ETO) established, “when transferring competences to, or participating in, international organizations, States must ensure that the relevant organization acts consistently with the international human rights obligations of that State.”[[31]](#footnote-31) The ICESCR does not envisage international assistance and cooperation as a separate obligation but as a way to achieve the realization of the rights it guarantees,[[32]](#footnote-32) including education. State parties must provide assistance for satisfaction of rights’ of individuals in other States,[[33]](#footnote-33) including through international organizations such as the World Bank and UN bodies that “should enhance their cooperation for the implementation of the right to education at the national level.”[[34]](#footnote-34) State Parties should therefore promote and protect the right of children affected by migration to inclusive education through the actions of international and multilateral organizations in which they are members as well as through the work of their bilateral aid agencies.

***With this Joint General Comment, the Committees should state unequivocally that the right to inclusive education is a right pertaining to all, including migrant children, and to provide guidance to State parties for better practices that would prepare education systems to work with diverse populations effectively. Furthermore, it is essential to explicitly remind State parties that their obligation in regards to the right to education applies within their territories but also abroad through a strong call for bilateral and multilateral assistance to advance inclusive and equitable quality education for all, including migrant children.***

1. **Implementing the right to inclusive education by eschewing discriminatory practices towards migrant children**

The obligation for States to promote the principle of non-discrimination in education is recognized by international human rights law,[[35]](#footnote-35) including the Committee on the Rights of the Child that encourages State parties to “take appropriate measures to ensure that the child is protected against all forms of discrimination.”[[36]](#footnote-36) While discrimination is prohibited at both international and national levels, discriminatory practices in education persist and adversely affect migrant children. In most countries, the irregular status of a child or his family is improperly used as an excuse for States to deny his right to education on an equal basis with the States’ citizens.[[37]](#footnote-37)

State parties must create a firewall between education systems and immigration enforcement, defined as a legal prohibition of the sharing of personal information between educational institutions and immigration authorities, and of immigration enforcement actions near schools or targeting families on their way to and from schools.[[38]](#footnote-38) Restricting access to education for migrant children, regardless of their legal status, contravenes their prerogative to knowledge and skills, as well as their full human development.[[39]](#footnote-39)***The Joint General Comment therefore should reinforce and clarify the Committee on Migrant Workers’ requirement for State parties not to differentiate between children depending on their migration status, recalling that they are entitled 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.”***[[40]](#footnote-40)

Discrimination can undermines educational opportunities,[[41]](#footnote-41) and, the Committees, through the Joint General Comment, have an opportunity to clearly underline that any discriminatory practice should be abandoned and be considered to be a breach of international human rights law. The Committees could helpfully clarify the responsibility for State parties to provide financial assistance to migrants who cannot afford the indirect costs of public education for their families on an equal basis with other children. The Joint General Comment should underscore the necessity for State parties to give the opportunity for any child to access education, without having to provide legal documents of any kind. It would also be helpful to encourage State parties to work on international recognition of degrees and educational levels, developing national policies in this regard.

The principle of non-discrimination requires State parties to eliminate any discrimination against migrant children in their educational systems, and the Committee on Migrant Workers recalled that discriminatory practices “are in direct contradiction with the requirements in article 29(1)(a) that education be directed to the development of the child’s personality, talents and mental and physical abilities to their fullest potential.”[[42]](#footnote-42) The Committee on the Rights of the Child highlighted the prohibition of discriminatory practices and stigmatization of unaccompanied children in its General Comment n°6, recalling that this category of migrant children should be granted access to education without discrimination.[[43]](#footnote-43) In particular, the Committees should emphasize the right to education of migrant children of stateless parents or children who are born within the territories of State Parties to parents with irregular immigration status. ***Therefore, the Joint General Comment should explicitly state that parental status, non-documentation or irregular status should not be a justification for depriving migrant children of their right to birth registration, leading to reduced access to education.[[44]](#footnote-44) Legal firewalls should ensure that educational institutions are safe places where migrant children can learn surrounded by children of different backgrounds without having to justify their legal status or fear for their families being deported.***

Furthermore, indirect costs of education can also be a barrier for migrant children in their access to education, sometimes constituting a hidden discriminatory practice from the host country. The vast majority of migrants have low incomes and although schools are publicly funded, families often face indirect costs such as meals, teaching materials, and uniforms. This can prevent them from sending their children to school, as they simply cannot afford it. ***The Joint General Comment should emphasize that State parties should ensure that access to education remains free of charge for all, and that they must provide assistance to migrants for indirect costs in the education of their children on an equal basis with support to other families.***

1. **Developing inclusive practices for migrant children to realize their right to education: teacher development, mother-tongue education and additional trained staff**

Instead of developing discriminatory and segregating practices towards migrant children, even in the name of ‘integration’ or specialized support, preventing them from realizing their right to education, State parties should be encouraged to implement support practices that are beneficial for migrant children but also reinforce the opportunities of diversity for the majority. Unfortunately, such practices are often the first to be seen as luxuries when economies falter. For example, the recent economic crisis in Europe caused States to cut back investments in education to the minimum, by closing classrooms or reducing staff, despite the need to expand schools to welcome additional students and to support them as they become more diverse.

All teachers, head teachers and other staff in educational institutions should receive continuing education, training, and ongoing support and mentoring which provides them with the core values and competencies to lead and support inclusive learning environments. This includes the availability of teaching assistants and specialists, when needed, to support teachers in implementing inclusive education, as teachers cannot be prepared for every possible situation and should be able to consult a specialist or a more senior teacher. This should be available and it should be framed as support to the teacher and the whole class, not specialized services for an individual student or group of students. This is particularly important, recognizing that migrant children may have specific support needs if they suffered trauma or arrived in a country with little or no understanding of the language(s) of instruction used in schools. [[45]](#footnote-45)

We especially draw attention to the need for migrant children to access mother-tongue support. Research shows that privileging one language and excluding others creates marginalization, division, and a huge gap between children, mostly “because it means that hundreds of millions of people worldwide are forced to learn – or teach – through a language in which they are not proficient.”[[46]](#footnote-46) Indeed, proficiency in the language of instruction affects educational outcomes[[47]](#footnote-47) and those who do not speak the language of instruction at home face a significant disadvantage in school.[[48]](#footnote-48) At the same time, research shows that multilingual education is beneficial for all children in cognitive domains beyond language development.[[49]](#footnote-49) For these reasons and because a migrant child should not be denied the right to use his own language, providing mother-tongue support to migrant children in inclusive settings is fundamental for the realization of their right to education.[[50]](#footnote-50)

While interpreting Article 45 establishing the requirement for States to “facilitate for the children of migrant workers the teaching of their mother tongue”[[51]](#footnote-51) and to “provide special schemes of education in the mother tongue of children of migrant workers”,[[52]](#footnote-52) the Committee on Migrant Workers stated that this prerogative of accessing mother-tongue education should also apply to children of migrant workers, but only “if available to children of migrant workers who are documented as having the same mother-tongue.”[[53]](#footnote-53) Furthermore, the Committee on the Rights of the Child has emphasized the right for unaccompanied and separated children to maintain and develop their native language(s).[[54]](#footnote-54) The same should be emphasized for all categories of migrant children. Even though teaching migrant children the language of instruction should be recognized as an intrinsic part of their education, international human rights law also establishes that the best interest of the child should always be a primary consideration.[[55]](#footnote-55) When it comes to education and teaching language, the best interest for a migrant child would be to implement measures improving his educational outcomes, including early childhood education on a preferred basis when access is limited,[[56]](#footnote-56) and language support in his mother tongue, as it will help him improve his educational capacities and facilitate his inclusion in school and society. Furthermore, research shows that denied support is one of the most significant forms of discrimination migrant children’s education.[[57]](#footnote-57)Providing schools with trained staff to support classroom teachers working with migrant children should be seen as a necessity beyond language support because migrant children may arrive with a significantly different set of prior education experiences and/or psycho-social needs related to trauma experienced during migration to escape violence.

***The Joint General Comment should clarify the interpretation of the child’s best interest by underlining the importance of language learning in inclusive settings that include mother-tongue support as a fundamental part of migrant children’s right to education, emphasizing that the cultural and linguistic diversity of migrant children should be considered resources to integrate into the curriculum, improving the quality of education for all. [[58]](#footnote-58) The Committees should provide guidance for State parties to implement appropriate language education, including strengthening the CRC’s recommendation regarding the recruitment of additional teachers and trained staff, when possible from within the migrant population, speaking migrant children’s native language.[[59]](#footnote-59) [[60]](#footnote-60)***

1. **Adopting measures adapted to the particular situation of children left behind**

Children left behind or “children raised in their home countries or in their countries of habitual residence who have been left behind by adult migrants responsible for them” also face challenges to the right to education.[[61]](#footnote-61) As a result of their stay in the country of origin while their parents temporarily or permanently migrate to another country, this category of children affected by migration is often set aside when considering issues faced by migrant children. Despite the fact that they remain in the country of origin, the migration of their parents often leads to worse education outcomes for children left behind.[[62]](#footnote-62)

Research conducted in Central Asia and supported by the Open Society Foundations demonstrated significant correlations between parents’ temporary or permanently migration and negative educational outcomes for their children, who appear “not well looked-after” and “physically weaker” than classmates according to interviewed teachers.[[63]](#footnote-63) The study revealed that while migration of parents brings economic improvements for the family, children left in the care of relatives regularly miss school, likely because of increased domestic obligations, health problems and a general lack of interest.[[64]](#footnote-64) Parents’ migration is also associated with lower academic performance for their children compared to children living with their parents.[[65]](#footnote-65) The consequences of parents’ migration worsen if children are left behind in a State in conflict. While education outcomes appear to be better when at least one parent remains in the household,[[66]](#footnote-66) “the extent to which the responsible State has implemented specific child protection policies for such children” also influences the impact of migration on children left behind.[[67]](#footnote-67) The absence of targeted policies worsens the impacts of parents’ migration on the performance in education of children left behind.

***The Committees have the opportunity to shed light on this issue by providing guidance about how State parties could adopt measures for the full realization of the right to education of children left behind. State parties should be encouraged to collect data on migration’s effect on children left behind for the development evidence-based policies; to include children left behind and their guardians in existing social protection schemes, recognizing their particular vulnerability; and to provide flexible academic schedules and calendars to accommodate children engaged in domestic.[[68]](#footnote-68) State parties should also be encouraged to produce a curriculum adapted to the particular situation of certain households to generate for children left behind a sense of their own visibility and acceptance of their families.***

1. **Developing a long-term approach to diversity and implementing inclusive education: the importance to see migration as the new norm**

Migration is not a temporary phenomenon. No matter the reasons behind it, migration is the new norm and States must find ways to welcome and profit from diversity within their territories, to strengthen or adapt their national education policies, and to implement long-term migrant-friendly measures instead of continually mounting emergency responses to the migrants reaching their territories. Therefore, ***it is of utmost importance that the Joint General Comment underscores the necessity of developing a long-term approach to diversity and inclusive education***. The number of international migrants was approximately 232 million in 2013 and is projected to double to over 400 million by 2050.[[69]](#footnote-69) Individuals with a migrant background will represent a significant proportion of the populations of some countries. Although born in the host country, second-generation migrants still face discrimination and worse education outcomes, including significantly higher risk of dropping out, demonstrating that students with an immigrant background are at a high risk of marginalization.[[70]](#footnote-70) Despite this growing body of evidence, the Special Rapporteur on the right to education has expressed regrets regarding the very limited existence of research on the right to education of second-generation immigrants.[[71]](#footnote-71) ***The Joint General Comment is an opportunity for encouraging State parties to improve their understanding of challenges faced by second-generation immigrants in the realization of their right to education because their experience in education systems is indicative of the current gaps and discriminatory practices that education systems must address in order to benefit from the diversity of new migrant populations.***

Collection and disaggregation of data is essential for understanding the barriers in the education system and progress toward minimizing or removing them. Presently, there is little understanding of the data States must collect to measure progress toward inclusive education. Rather, oftentimes the data collected reinforces the discrimination inherent in education systems. For example, many countries do not collect data on children who are not in school or children enrolled in special education. Children who are not registered at birth are at particularly high risk of being excluded from the education system. There is a need for the development of mechanisms to monitor the implementation of binding legislation and international obligations regarding education.[[72]](#footnote-72) The Joint General Comment could helpfully include guidelines for the disaggregation and management of data to support the reporting of State Parties on implementation of the right to inclusive education.

***The Joint General Comment should recommend that progress toward inclusive education be integrated into EMIS plans so that it is not viewed as an ‘extra’ process but becomes an integral part of the system. The goal of incorporating monitoring of inclusion of children affected by migration into EMIS is to ensure an inclusive concept of education quality that is made explicit through disaggregated data and indicators appropriate to an inclusive system.***

Finally, the adoption of the Sustainable Development Goals (SDGs)[[73]](#footnote-73) in 2015 means that significant investments that will be made in education based on the way education quality is measured and education systems are evaluated under the targets and indicators of the SDGs. Goal 4, in particular, provides a direct reference to inclusive education. As such, the next two to three years are critical for framing the right to education. In particular, the monitoring mechanisms attached to global aid frameworks will influence the data governments must collect to demonstrate progress toward development targets. ***Through the Joint General Comment, the Committees could provide guidance about how State Parties should implement their obligations under these two Conventions within their bilateral international assistance or aid programs, as well as through their financing and participation in multilateral organizations, including international financial institutions.*** For example, as all of the States providing funding to the Global Partnership for Education (GPE) have binding obligations to respect and implement the Convention on the Rights of the Child and national non-discrimination legislation, the negotiation of monitoring and evaluation indicators in GPE funding instruments supportive of inclusive education could be interpreted as part of their obligations to implement the Convention and their commitment to advancing principles of non-discrimination for children in the context of migration.

The Open Society Foundations’ Education Support Program would like to express gratitude to the Committee on the Rights of the Child and the Committee on Migrant Workers for considering this submission focusing on the right to education of children in the context of migration. We hope that these propositions and arguments will persuade the Committees that many challenges to the right to education for children affected by migration still exist and that the Joint General Comment should serve to reinforce State parties international obligations to ensure access to education on an equal basis.

1. See OSF’s website: https://www.opensocietyfoundations.org/about/programs/education-support-program [↑](#footnote-ref-1)
2. Article 26, Universal Declaration of Human Rights. [↑](#footnote-ref-2)
3. Bartlett, L. (2015). Paper commissioned for the EFA Global Monitoring Report 2015, Education for All 2000-2015: achievements and challenges - Access and Quality of Education for International Migrant Children. Commissioned by UNESCO and the Education for All Global Monitoring Report, p.1. [↑](#footnote-ref-3)
4. Report of the Special Rapporteur on the right to education, Vernor Muñoz, *The right to education of migrants, refugees and asylum-seekers*, 16 April 2010, A/HRC/14/25, p.1. [↑](#footnote-ref-4)
5. GEM Report (2015). [Educating migrants will be the first SDG challenge for rich countries](https://efareport.wordpress.com/2015/10/02/educating-migrants-will-be-the-first-sdg-challenge-for-rich-countries/#more-6228). World Education Blog; Bartlett, L. (2015). Paper commissioned for the EFA Global Monitoring Report 2015, Education for All 2000-2015: achievements and challenges - Access and Quality of Education for International Migrant Children. Commissioned by UNESCO and the Education for All Global Monitoring Report, p.3; Schapiro, K.A. (2009). [Human Development Research Paper 2009/57](http://www.oei.es/pdf2/HDRP_2009_57.pdf) - Migration and Educational Outcomes of Children. United Nations Development Programme, p.35 and p.41; Dronkers, J., de Heus, M. (2012). [The Educational Performance of Children of Immigrants in Sixteen OECD Countries](http://www.cream-migration.org/publ_uploads/CDP_10_12.pdf). London: Centre for Research and Analysis of Migration, p.20, 21 and p.28; OECD Social Policy Division (2012). CO3.6: [Percentage of immigrant children and their educational outcomes](http://www.oecd.org/els/soc/49295179.pdf). Paris: OECD, p.5.; Cameron, S. (2012). [Education, Urban Poverty and Migration: Evidence from Bangladesh and Vietnam](http://www.unicef-irc.org/publications/pdf/iwp_2012_15.pdf). Florence: UNICEF Office of Research, p.16-26. [↑](#footnote-ref-5)
6. Article 26(1), UDHR (1948), Article 13, ICESCR (1966); Article 2, ECHR - Protocol 1 (1998); Articles 1 and 3, UNESCO Convention against discrimination in Education (1960). [↑](#footnote-ref-6)
7. Article 13, ICCPR (1966). CESCR, The Right to Education, Para. 34, E/C.12/1999/10 (Dec. 8, 1999). International Migration Bill of Rights Legal Commentaries. Georgetown Immigration Law Journal, Vol. 28, p.98-101. Union, African. "African Charter on the Rights and Welfare of the Child." *Addis ababa, Ethiopia* (1999). [↑](#footnote-ref-7)
8. Article 24, CRPD (2006); Articles 30, 43 and 45, ICPMW (1990); Para.57 and 59, CMW General Comment; Para.11 and Para.75-79, CMW General Comment 2; Articles 28 and 29, CRC (1989); Para.10-11, CRC General Comment 1; Article 10, CEDAW (1979); Para.41-43, CRC General Comment 6; Articles 2 and 13, ICESCR (1966); Para.6 and Para.31-37, General Comment 13; Article 7, ICERD (1965); Articles 1-5, UNESCO Convention against Discrimination in Education (1960). [↑](#footnote-ref-8)
9. Submission by the Open Society Foundations to the Committee on the Rights of Persons with Disabilities for the preparation of the General Comment on Article 24 of the Convention – the right to education. [↑](#footnote-ref-9)
10. GEM Report (2015). [Educating migrants will be the first SDG challenge for rich countries](https://efareport.wordpress.com/2015/10/02/educating-migrants-will-be-the-first-sdg-challenge-for-rich-countries/#more-6228). World Education Blog. [↑](#footnote-ref-10)
11. Human Rights Council, Study of the Office of the United High Commissioner for Human Rights on challenges and best practices in the implementation of the international framework for the protection of the rights of the child in the context of migration, 5 July 2010, A/HRC/15/29, Para. 68. [↑](#footnote-ref-11)
12. Lu, Y. and Zhou H. (2013). [Academic Achievement and Loneliness of Migrant Children in China: School Segregation and Segmented Assimilation](http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3782113/pdf/nihms476074.pdf). Comparative Education Review, Vol.57, No.1. [↑](#footnote-ref-12)
13. Bartlett, L. (2015). Education for All 2000-2015: achievements and challenges - Access and Quality of Education for International Migrant Children. Commissioned by UNESCO and the EFA Global Monitoring Report, p.3. [↑](#footnote-ref-13)
14. Report of the Special Rapporteur on the Human rights of Migrants, Jorge Bustamante, *Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development*, 14 May 2009, A/HRC/11/7, Para.85. [↑](#footnote-ref-14)
15. Anti-Discrimination Centre Memorial and Human Rights Movement BirDuino Kyrgyzstan. “[Alternative Report](http://adcmemorial.org/wp-content/uploads/Kyrgyzstan_Migrants_2015_EN.pdf)

    [to the UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families](http://adcmemorial.org/wp-content/uploads/Kyrgyzstan_Migrants_2015_EN.pdf),” (2015). Insan Association. “[Shattered Dreams: Children of Migrant Workers in Lebanon](http://www.insanassociation.org/en/images/Shattered%20Dreams-%20children%20of%20migrants%20in%20Lebanon.pdf),” (2015) [↑](#footnote-ref-15)
16. Committee on the Rights of the Child, *General Comment 6*, Para.1. [↑](#footnote-ref-16)
17. Idem, Para.12. [↑](#footnote-ref-17)
18. Nasritdinov, E., Schenkkan, N. (2012). A Portrayal of Absence: Households of Migrants in Kyrgyzstan. Bishkek: HelpAge International, OSF Education Support Program, UNICEF, p.24. [↑](#footnote-ref-18)
19. Special Rapporteur on the Human rights of Migrants, Jorge Bustamante, *Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development*, 14 May 2009, A/HRC/11/7, Para.119. [↑](#footnote-ref-19)
20. Article 29(1)(a), CRC (1989); Committee on the Rights of the Child, *General Comment 1*, Para.9. [↑](#footnote-ref-20)
21. CRPD (2006); ICPMW (1990); CRC (1989); CEDAW (1979); ICESCR (1966); ICERD (1965); UNESCO Convention against Discrimination in Education (1960) [↑](#footnote-ref-21)
22. Articles 30 and 41, ICRMW (1990); Article 28(1), CRC (1989). [↑](#footnote-ref-22)
23. Article 41(1)(a), ICRMW (1990); Article 28(1), CRC (1989). [↑](#footnote-ref-23)
24. Article 30, ICRMW (1990). CESCR, The Right to Education, Para. 34, E/C.12/1999/10 (Dec. 8, 1999). International Migration Bill of Rights Legal Commentaries. *Georgetown Immigration Law Journal*, Vol. 28, p.98-101. [↑](#footnote-ref-24)
25. Pop, D. (2012). Education Policy and Equal Education Opportunities. New York: OSF, p.15 and p.29. [↑](#footnote-ref-25)
26. OSF Explainers: the values of Inclusive education (2015), available at: <https://www.opensocietyfoundations.org/explainers/value-inclusive-education> [last updated October 2015]; Human Rights Council, [*Thematic study on the right of persons with disabilities to education*](http://refworld.org/docid/531468a74.htlm), 18 December 2013, A/HRC/25/29. [↑](#footnote-ref-26)
27. Special Rapporteur on the right to education, Vernor Muñoz, *The right to education of migrants, refugees and asylum-seekers*, 16 April 2010, A/HRC/14/25, Para.80 [↑](#footnote-ref-27)
28. Pop, D. (2012). Education Policy and Equal Education Opportunities. New York: OSF, p.15. [↑](#footnote-ref-28)
29. OECD, (2014). [PISA 2012 Results in Focus](http://www.oecd.org/pisa/keyfindings/pisa-2012-results-overview.pdf): What 15-year-olds know and what they can do with what they know. Paris: OECD, p.12. [↑](#footnote-ref-29)
30. Committee on the Rights of the Child, *General Comment 1*, Para.22. [↑](#footnote-ref-30)
31. The ETO Consortium, *What are ETOs? (*[*ETOP 15*](http://www.etoconsortium.org/en/main-navigation/our-work/what-are-etos/)*).* [↑](#footnote-ref-31)
32. Pisillo Mazzaschi, R. (2008). Responsabilité de l’Etat pour violation des obligations positives relatives aux droits de l’homme. La Haye: Recueil des Cours de l’Académie du Droit International de la Haye, Vol.333, p.457. [↑](#footnote-ref-32)
33. Sepùlveda Carmona, M., (2006). The Obligations of “International Assistance and Cooperation” in an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. Netherlands Quarterly of human Rights, Vol.24, p.280-289. [↑](#footnote-ref-33)
34. CESCR, *General Comment 13*, Para.60. [↑](#footnote-ref-34)
35. Article 5, CRPD (2006); Article 2(1), CRC (1989); Article 2(2), ICESCR (1966); Article 7, UDHR (1948). [↑](#footnote-ref-35)
36. Article 2(2), CRC (1989). [↑](#footnote-ref-36)
37. PICUM, *Protecting Undocumented Children: Promising policies and practices from governments*. (Feb. 2015). Argentina, Japan, and Uruguay are rare examples of countries that enroll children regardless of their parents’ legal status. Special Rapporteur on the Human rights of Migrants, Jorge Bustamante, *Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development*, 14 May 2009, A/HRC/11/7, Add.1 and Para.79. [↑](#footnote-ref-37)
38. Special Rapporteur on the right to education, Vernor Muñoz, *The right to education of migrants, refugees and asylum-seekers,* 16 April 2010, A/HRC/14/25, Para.72. [↑](#footnote-ref-38)
39. Idem, Para.31. [↑](#footnote-ref-39)
40. Article 30, ICRMW (1990); Committee on Migrant Workers, *General Comment 1*, Para.57; International Migration Bill of Rights Legal Commentaries. Georgetown Immigration Law Journal, Vol. 28, p.98-101. [↑](#footnote-ref-40)
41. Idem, Para.10. [↑](#footnote-ref-41)
42. Committee on the Rights of the Child, *General Comment 1*, Para.10. [↑](#footnote-ref-42)
43. Idem, Para.41. [↑](#footnote-ref-43)
44. Committee on Migrant Workers, *General Comment 2*, Para.79; Human Rights Council, *Study of the Office of the United High Commissioner for Human Rights on challenges and best practices in the implementation of the international framework for the protection of the rights of the child in the context of migration*, 18 December 2010, A/HRC/15/29, Para.69. [↑](#footnote-ref-44)
45. GEM Report (2015). [Educating migrants will be the first SDG challenge for rich countries](https://efareport.wordpress.com/2015/10/02/educating-migrants-will-be-the-first-sdg-challenge-for-rich-countries/#more-6228). World Education Blog. [↑](#footnote-ref-45)
46. Benson, C., & Kosonen, K. (Eds.) (2013). [Language issues in comparative education: Inclusive teaching and learning in non-dominant languages and cultures](https://www.sensepublishers.com/media/1624-language-issues-in-comparative-education.pdf). Rotterdam: Sense Publishers, p.2. [↑](#footnote-ref-46)
47. Bartlett, L. (2015). Education for All 2000-2015: achievements and challenges - Access and Quality of Education for International Migrant Children. Commissioned by UNESCO and the EFA Global Monitoring Report, p.4. [↑](#footnote-ref-47)
48. Brind, T., Harper, C., and Moore, K. (2008). Education for Migrant, Minority and Marginalized Children in Europe. United Kingdom: OSF Education Support Program, p.36. [↑](#footnote-ref-48)
49. Ball, J. (2014). [Children Learn Better in Their Mother Tongue: Advancing research on mother tongue-based multilingual educatio](http://www.globalpartnership.org/blog/children-learn-better-their-mother-tongue)n. Global Partnership for Education; Yiakoumetti, A. (2012). [Harnessing linguistic variation to improve education](http://eric.ed.gov/?id=ED533147). Bern: Rethinking Education, Vol.5; Benson, C., & Kosonen, K. (2013). [Language issues in comparative education: Inclusive teaching and learning in non-dominant languages and cultures](https://www.sensepublishers.com/media/1624-language-issues-in-comparative-education.pdf). Rotterdam: Sense Publishers; Kuppers, A., Yagmur, K. (2014). [Why Multilingual Matters: Alternative Change Agents in Language Education Policy](http://ipc.sabanciuniv.edu/en/publication/why-multilingual-matters-alternative-change-agents-in-language-education-policy/), Mercator - IPC Fellowship Paper. Istanbul: Istanbul Policy Center. [↑](#footnote-ref-49)
50. Idem, p.36. [↑](#footnote-ref-50)
51. Article 45(3), ICRMW (1990). [↑](#footnote-ref-51)
52. Article 45(4), ICRWM (1990). [↑](#footnote-ref-52)
53. Committee on Migrant Workers, *General Comment 2*, Para.78. [↑](#footnote-ref-53)
54. Committee on the Rights of the Child, *General Comment 6*, Para.42. [↑](#footnote-ref-54)
55. Article 3(1), CRC (1989). [↑](#footnote-ref-55)
56. Bartlett, L. (2015).Education for All 2000-2015: achievements and challenges - Access and Quality of Education for International Migrant Children. Commissioned by UNESCO and the EFA Global Monitoring Report, p.4. [↑](#footnote-ref-56)
57. Heckmann, F. (2008). Education and Migration, Strategies for Integrating Migrant Children in European Schools and Societies. Brussels: NESSE, p.82. [↑](#footnote-ref-57)
58. Special Rapporteur on the right to education, Vernor Muñoz, *The right to education of migrants, refugees and asylum-seekers,* 16 April 2010, A/HRC/14/25, Para.76. [↑](#footnote-ref-58)
59. General Discussion Day of the CRC, [*The Rights of All Children in the Context of Migration*](http://www.ohchr.org/Documents/HRBodies/CRC/Discussions/2012/DGD2012ReportAndRecommendations.pdf), 2012. [↑](#footnote-ref-59)
60. Languages that could be explicitly promoted by the Committees could be Arabic, Kurdish, Pashto, Spanish and Chinese, based on the recent crisis in Syria, Iraq, Central America and the main migratory populations: Pouchard, A. (2015). [Syrie, Erythrée, Afghanistan… ce que fuient migrants et réfugiés](http://www.lemonde.fr/les-decodeurs/article/2015/09/09/syrie-erythree-afghanistan-l-etat-des-pays-que-fuient-migrants-et-refugies_4750327_4355770.html). Paris: Le Monde. Huber, C., Reid, K. (2015). [Top humanitarian crises of 2015](http://www.worldvision.org/news-stories-videos/top-humanitarian-crises-2015). World Vision. [↑](#footnote-ref-60)
61. Human Rights Committee, *Study of the Office of the United High Commissioner for Human Rights on challenges and best practices in the implementation of the international framework for the protection of the rights of the child in the context of migration*, 18 December 2010, A/HRC/15/29, Para.75. [↑](#footnote-ref-61)
62. Nasritdinov, E., Schenkkan, N. (2012). A Portrayal of Absence: Households of Migrants in Kyrgyzstan. Bishkek: HelpAge International, OSF Education Support Program, UNICEF, p.24. [↑](#footnote-ref-62)
63. Idem, p.11. [↑](#footnote-ref-63)
64. Idem, p.11 [↑](#footnote-ref-64)
65. Idem, p.13 and p.24. [↑](#footnote-ref-65)
66. Idem, p.11. [↑](#footnote-ref-66)
67. Human Rights Council, *Study of the Office of the United High Commissioner for Human Rights on challenges and best practices in the implementation of the international framework for the protection of the rights of the child in the context of migration*, 18 December 2010, A/HRC/15/29; Report of the Special Rapporteur on the Human rights of Migrants, Jorge Bustamante, *Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development*, 14 May 2009, A/HRC/11/7, Para.48. [↑](#footnote-ref-67)
68. Nasritdinov, E., Schenkkan, N. (2012). A Portrayal of Absence: Households of Migrants in Kyrgyzstan. Bishkek: HelpAge International, OSF Education Support Program, UNICEF, p.24-25. [↑](#footnote-ref-68)
69. Martin, P. (2013). Population Bulletin: [The Global Challenge of Managing Migration](http://www.prb.org/pdf13/global-migration.pdf). Population Reference Bulletin, Vol.68, No.2, November 2013, p.2. [↑](#footnote-ref-69)
70. OECD (2012). [Equity and Quality in Education: Supporting Disadvantaged Students and Schools](http://www.oecd-ilibrary.org/education/equity-and-quality-in-education_9789264130852-en). Paris: OECD Publishing, p.7 and 22. [↑](#footnote-ref-70)
71. Special Rapporteur on the right to education, Vernor Muñoz, *The right to education of migrants, refugees and asylum-seekers*, 16 April 2010, A/HRC/14/25, Para.41. [↑](#footnote-ref-71)
72. Special Rapporteur on the right to education, Vernor Muñoz, *The right to education of migrants, refugees and* asylum-seekers, 16 April 2010, A/HRC/14/25, Para.82. [↑](#footnote-ref-72)
73. UN Department of Economic and Social Affairs (2015). [United Nations Sustainable Development Summit 2015](https://sustainabledevelopment.un.org/post2015/summit). [↑](#footnote-ref-73)