

No Right to Read: Regulatory Restrictions on Refugee Rights to Formal Education

Worldwide, only 61% of refugee children attend primary school, as compared to a global average of 91%. Far fewer refugees go on to attend secondary school. One factor that can explain refugee children's low school attendance is the regulatory framework of the host country in which they are living in exile. In this brief, we present newly collected data on refugee education regulations. Some countries have progressive legal frameworks that actively support formal schooling provision for refugee children, while other countries prohibit or severely limit education provision for refugees living within their borders. Uganda and Bangladesh are two examples of these extremes.

Brief Points

- Out of 48 “developing region” countries currently hosting more than 10,000 refugees, 27 countries (56%) grant refugees full rights to access public education.
- 16 countries have some legal restrictions in place, including requiring registration as a displaced person, identity documents, or proof of prior schooling.
- Only five countries prohibit refugees from accessing public schooling: Bangladesh, China, Malaysia, Nepal, and Burundi.
- The regulatory framework governing refugee access to formal education in host states shapes the type of education programs that refugees can access, as well as education outcomes.

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Introduction

Currently, the world is experiencing the worst forced displacement crisis since the Second World War, with more than 68 million people forcibly displaced outside of their home countries by conflict, violence, and persecution (UNHCR 2017b). The vast majority of today's refugees reside in low- and middle-income countries, with the top ten refugee-hosting nation-states located in the broader Middle East and Asia (Turkey, Lebanon, Jordan, the West Bank, Pakistan, Iran, and Bangladesh) and Africa (Uganda, Sudan, and Ethiopia) (UNHCR 2017a).

Arguably, this crisis has had, and continues to have, the greatest impact on the most vulnerable members of society – in particular, children below the age of 18, who make up more than half (52%) of the world's nearly 26 million refugees (UNHCR 2017b). As protracted, long-term displacement becomes increasingly the norm, millions of young refugees are losing out on critical development opportunities, including access to education. This can be clearly seen in refugee education statistics: in 2017, the UNHCR estimated that four million refugee children are out of school, with only 61% of refugee children attending primary school, as compared to a global average of 91%, and far fewer attending secondary school.

Refugee Education in Developing Host Countries

Emergencies, such as situations of forced displacement, represent three major barriers to

education. First, crisis affects *access* to education. Among the 264 million children and youth who are out of school, one-third live in conflict-affected countries (UNESCO 2018). Second,

conflict affects education *quality*, such as the availability of trained teachers and materials.

Third, crisis leads to greater *inequalities* in education access and quality of education received. Conflict-affected countries have the biggest differences between social groups when it comes to education, with the lowest learning outcomes for the most marginalized groups, such as displaced children and youth.

A major consequence of armed conflict in recent years has been the flow of large numbers of forcibly displaced persons, both as internally displaced persons and refugees. Refugees are defined in Article 1 of the 1951 Convention

Relating to the Status of Refugees as persons living outside of their country of origin due to a “well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion” and who are as a result unwilling to return to their country of origin. Over half of all refugees in the world are children, with many unable to access schooling opportunities during displacement (UNCHR 2017a).

Ultimately, losing out on the opportunity for quality education entails not only a loss for the individual child and their family, but also for society, affecting its capacity to recover from conflict. Refugee children and youth are particularly in need of education, given their relatively large proportion within forced migrant populations, the often long-term nature of forced displacement, and the strain that large refugee populations can place on host community and nation resources.

In addition to the global push to achieve education for all as part of sustainable development, several international conventions confirm the right of refugees to education during displacement (UNESCO 2017). The 1951 Refugee Convention requires host nations to provide education to displaced populations living within their borders. Specifically, Article 22 of the Convention requires host nations to give refugees “the same treatment as is accorded to nationals with respect to elementary education”. While some countries have made reservations to this Article (including Ethiopia, Egypt, Malawi, Mozambique, Zambia, Zimbabwe, and Timor Leste¹), most other ratifying states have not.

Additional international conventions that affirm the universal right to education for all people, including refugees, include the 1948 Universal Declaration of Human Rights, the 1966 International Covenant on Economic, Social and Cultural Rights, and the 1989 Convention on the Rights of the Child. Finally, a number of developing countries have adopted the right to education into domestic law, though countries vary on legal requirements to provide free and compulsory education.²

In a refugee situation, refugees may either integrate into the local education system of the host country when their numbers are relatively small, or non-governmental organizations may provide them with “emergency education” programs that are designed specifically for camp settings when refugee numbers are very large (Dryden-Peterson 2015). Emergency education programs

rapidly provide education for crisis-affected people who would otherwise miss out on the opportunity to attend school due to infrastructure damage and inaccessibility (Baxter and Triplehorn 2004). If no education is provided during emergencies, it is highly likely that some children, perhaps a whole generation, will miss years of schooling and never be able to reenter the formal school system as a result, particularly if they remain in camps for long periods of time.

New Data on Refugees' Rights to Formal Education

Between November 2018 and February 2019, we collected data on the regulations governing the rights of refugees to access public education in the 48 “developing region” countries currently hosting more than 10,000 refugees.³ By regulations, we mean the government-created laws and policies that serve as the legal basis for rules governing behavior in a sovereign territory, and enforced by the government. We selected the countries in our dataset based on the UNHCR's definition of “developing regions”, a list of states primarily located outside of North America, Western Europe, Japan, and Australia (UNHCR 2017a).⁴ The UNHCR claims that 92% of the refugees under its mandate are hosted in countries in “developing regions”.

Three Categories of Refugee Education Regulations

As depicted in Table 1, countries can be roughly grouped into three categories of refugee education regulations: A) those with *no restrictions* at all on refugee education access; B) those with *some restrictions* in place; and C) those with *full, complete restrictions* in place. These classifications are based only on what is contained in a country's relevant regulations (laws and policies), and not on what happens in practice (i.e. implementation).

Countries in the first group in Table 1 (A) place no restrictions whatsoever on refugee access to education. This means either that refugee laws and policies, and/or education regulations, make no special mention of refugee rights to education, or that the relevant regulations explicitly grant refugees the same rights as nationals to public education services.

Countries in the second group (B) place some form of restriction on refugee access to education. Refugees must show proof of registration as an asylum seeker (Turkey, South Africa) or as a registered refugee (West Bank). They

(A) No restrictions at all	B) Some restrictions	C) Complete restrictions
Uganda*	B. Faso	Turkey*
Sudan*	Rep. Congo	Jordan*
Ethiopia*	Armenia	Palestine (West Bank and Gaza)*
Syria	Djibouti	Lebanon*
DR Congo	Senegal	Pakistan*
Kenya	Togo	Iran*
Chad	Ghana	Iraq
Cameroon	Guinea-Bissau	Egypt
South Sudan	Liberia	Venezuela
Yemen	Brazil	Algeria
India	Central African Republic	Thailand
Rwanda	Papua New Guinea	Ecuador
Niger	Zambia	South Africa
Mauritania		Angola
		Tanzania
		Mali

Table 1: Legal restrictions on refugee rights to access public education (* and orange denotes top-ten refugee hosting country as of 2017) (n = 48)

may also show other forms of government registration, residency, and/or identification documents to access public schools (Jordan, Lebanon, Pakistan, Iran, Venezuela, Ecuador). Other countries require proof of prior education (Egypt, Algeria, Ecuador) or a birth certificate to enroll in school (Angola, Mali, Senegal). Tanzania places a different type of restriction on refugees' access to education: refugees there can only attend schools teaching the curriculum of their country of origin. Jordan prohibits over-aged refugee children from accessing public schools.

The five countries in the third group (C) prohibit refugees from accessing any formal education at all. We discuss the case of Bangladesh below. Chinese regulations do not grant refugees any legal status, thus denying them a legal basis for accessing public services, and its 1986 Compulsory Education Law does not grant education rights to migrants of any kind.⁵ In Malaysia, refugee children have no right to access the country's formal education system since refugees are considered illegal immigrants. As a result, they receive no official government recognition or support. Refugee children instead receive education through an informal parallel system of community-based learning centers run by NGOs. Nepal also does not grant refugees the right to access public education services. Finally, Burundi's Constitution does not extend the right to education beyond citizens, and the country

furthermore made a reservation to the 1951 Refugee Convention's right to public primary education as it viewed this provision as creating better conditions for refugees than for other groups.

Contrasting Approaches: Uganda vs. Bangladesh

Uganda

Uganda is one of the top ten refugee-hosting countries in the world, with over 1.5 million refugees currently living in the country, an increase of 35% from 2016. The majority of these refugees are from South Sudan and the Democratic Republic of the Congo.

Uganda's current regulatory framework for refugees is generally considered among the most progressive in the world, granting refugees full rights to freedom of movement, employment, land ownership, and access to public services (World Bank 2016). Uganda's current refugee regulations stipulate that refugees have the same rights as nationals to access education. As part of the country's regulatory emphasis on integrating refugees into local host communities, refugees can attend Ugandan schools. The 1995 Constitution states that all persons have the right to education, and it further requires the government to provide free and compulsory basic education.

Section 32 of the 2006 Refugees Act further states that refugee children in particular "shall be accorded the same treatment as nationals with respect to elementary education"⁶ and that refugee children in Uganda are entitled to the rights and freedoms contained in the country's Children Act, the 1981 African Charter on the Rights and Welfare of the Child, the 1989 Convention on the Rights of the Child, and the Geneva Convention. The 2010 Refugee Regulations do not specifically mention rights to education, but Article 61 states that refugee concerns should be taken into consideration in sustainable development planning.

Uganda's progressive approach to refugee rights took a new direction in September 2018 when the government launched the Education Response Plan for Refugees and Host Communities, the first national policy plan in the world to specifically "set out a realistic and sustainable plan to ensure improved learning outcomes for increasing numbers of refugee and host-community children and adolescents across Uganda" (Government of Uganda 2018; UNESCO 2018). The plan aims to bridge humanitarian and development actors and responses, and in doing so to provide nearly 600,000 learners with improved education services at a cost of USD \$389 million over 3.5 years.

The effect of Uganda's progressive refugee legal framework in the education sector is that in the country's refugee settlements, primary education is provided free of cost, with the UNHCR and other implementing partners funding infrastructure and materials as well as teacher salaries (World Bank 2016). Refugee students attend class alongside Ugandan students and learn the Ugandan curriculum, in English. Implementing partners (non-government organizations such as the Norwegian Refugee Council and Save the Children) further implement tuition-free non-formal programs at the primary school level, including accelerated education programs as well as technical and vocational training programs.

Bangladesh

Bangladesh is, like Uganda, a top refugee-hosting country. Over 900,000 refugees are currently hosted in Bangladesh, 741,000 of which arrived after August 2017. Most of these refugees fled a campaign of government violence unleashed in 2017 in Rakhine state in neighboring Myanmar; the majority are members of the Rohingya ethnic group.

Unlike Uganda, however, Bangladesh has not ratified the 1951 Geneva Convention or its 1967 Protocol, and the country has no formal regulations in place governing refugee rights or even defining what a refugee is (Venugopal 2018). Prior to the 2017 refugee influx, the Bangladesh government allowed officially registered refugee children to access non-formal education services using the Myanmar curriculum. In 2007, the Bangladesh government allowed these registered refugee children to learn the formal Bangladesh national curriculum in grades 1 to 7. But in 2012, the government changed its position and allowed only informal education to be provided in temporary learning centers and religious schools from age 3 up to age 14 for registered refugee children, and prohibited use of the Myanmar curriculum in Rohingya refugee camps. This situation continues today, with no formal schools or education allowed in the camps, and teaching in the Bengali language not allowed.

As a result of the lack of refugee regulations and the government prohibition on refugee access to formal schooling, refugees who arrived after 1992 are able to access only informal education services in temporary learning centers. As of June 2018, 57% of girls and 60% of boys aged 6–14 had attended a learning center, whereas only 4% of adolescent girls and 14% of adolescent boys had done so (Cox’s Bazar Education Sector 2018). Until very recently, there has been no standardized curriculum or teaching and learning materials in the learning centers, with activities largely non-cognitive in nature.

Directions for Future Research

Future research is needed to improve knowledge about the nature and impact of refugee education regulation.⁷ We have not examined the reasons for the variation in regulations across countries. Process tracing the paths of different countries towards more or less restrictive regulations would be useful to understand the conditions under which governments take more

liberal, progressive regulatory stances towards refugee populations.

It would be useful to know whether restrictions on access to education trend with restrictions on other basic social and economic refugee rights, such as the right to work.

We need more case studies of countries falling into our second category (B) – where some form of restriction is placed on refugee access to education – studying how these regulations shape education outcomes. It would be useful to better understand which documentation requirements hinder or support access to schooling, and how refugees cope with these restrictions.

Finally, more research into the implementation of regulations would shed light on the patterns we see in refugee school enrolment trends, since some governments may choose to ignore or undermine regulations – progressive or regressive – for political or capacity reasons. ■

Notes

1. See the [United Nations Convention relating to the Status of Refugees](#).
2. See the [UNESCO Observatory on the Right to Education](#) country profiles and data from the [WORLD Policy Analysis Center](#).
3. We concentrated our data collection efforts on countries that are hosting more than 10,000 refugees, as we assume that states with larger refugee populations are more likely to develop education regulations containing specific provisions for non-citizens, such as refugees and asylum seekers.
4. The list of countries is available at: unstats.un.org/unsd/methodology/m49/
5. In November 2013, the Chinese government granted an exception on humanitarian grounds and [put in place a policy](#) to allow refugee children access to Chinese public education institutions

in 5 provinces on the same conditions as Chinese students (entailing a requirement to pay school fees).

6. The 2006 Act notes that elementary education is primary education.
7. We are grateful to the Research Council of Norway and Dubai Cares for funding the research on which this brief is based.

Further Reading

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THE PROJECT

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PRIO

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