



## **A Review of the Requirements of International Human Rights Standards Concerning the Right to Education for Migrant Children**

Mahya Saffarinia<sup>1</sup>

DOI:

10.30497/flj.2024.245951.1994



### **Introduction**

Children are among the most vulnerable groups in society, and international human rights standards mandate special protections to ensure their growth and development. Within this population, certain subgroups—such as migrant children, including displaced, asylum-seeking, refugee, undocumented, and stateless minors—face heightened vulnerabilities. International human rights law has developed various principles to safeguard the rights of these children across multiple dimensions of life. This study focuses on the legal framework and obligations surrounding the right to education for migrant children, examining the responsibilities of states and other stakeholders globally.

The realization of this right depends on the fulfillment of international obligations, domestic cooperation, and parental involvement. Central questions include: Do international norms permit differentiated educational treatment between citizen and migrant children? Can migrant children be restricted to specific educational centers within their country of residence? May a state justify limitations on this right based on resource constraints? To address these questions, the paper explores whether specific norms exist under international human rights law governing migrant children's education, or if general standards applicable to all children suffice. If the former, what are the key legal elements?

---

<sup>1</sup>. Assistant Professor Department of Law, Imam Sadiq University, Tehran, Iran.

[saffarinia@isu.ac.ir](mailto:saffarinia@isu.ac.ir)

The findings emphasize that no country is free from challenges in this area, but they also identify binding international obligations regarding the right to education for migrant children. These insights may assist policymakers, governmental authorities, and non-governmental organizations in host countries—such as Iran, which shelters hundreds of thousands of migrants—in designing more effective and rights-based educational strategies. Relevant aspects of Iran’s domestic legal framework are also discussed to contextualize the analysis.

### **Literature Review**

The scholarly landscape on the right to education for migrant children is relatively limited, particularly in Persian-language literature. Most existing research—primarily in English—has either focused on sociological or cultural perspectives or provided general legal analyses of state obligations and international instruments protecting migrants and refugees. Few studies have offered a legal deep-dive into the specific international obligations related to migrant children’s education, especially in connection with Iranian regulations. This research aims to fill that gap by providing a focused, analytical examination of international legal standards governing migrant children's educational rights, drawing from both global and Iranian contexts.

### **Methodology**

This research employs a descriptive-analytical approach, drawing on primary international legal sources, including United Nations conventions, general comments from treaty bodies, and authoritative academic literature in human rights law. Case studies and official interpretations by relevant committees are utilized to identify the core principles and components of the right to education for migrant children. Data collection was conducted using documentary research methods, and content analysis was employed to extract applicable legal obligations. The study also provides policy recommendations for Iranian educational authorities, both governmental and non-governmental, to enhance their future strategies.

### **Key Findings**

1. **Legal Obligations and Normative Alignment**  
International human rights standards require states to align their

educational policies for migrant, refugee, and stateless children with global legal definitions and obligations. The right to education must reflect the principles of equality, non-discrimination, and the best interests of the child. Educational programs should be accessible, acceptable, adaptable, and available (the 4As), and must avoid segregation or isolation, instead fostering social and cultural integration.

2. Protection of Especially Vulnerable Subgroups

Within migrant populations, some children—such as those with disabilities, girls, or those unfamiliar with the host country's language—are especially vulnerable and need tailored support. Despite varied capacities across states, even developed nations struggle to fully meet their international obligations. Thus, international cooperation and support from wealthier states remain essential. Addressing root causes of migration, such as war and instability, is equally vital.

3. Addressing Anti-Migrant Sentiment and Community Engagement

The rise of xenophobic and anti-migrant rhetoric in some countries threatens the rights of migrant children. States must counter this by promoting public education and supporting grassroots initiatives that foster inclusion. Iran presents some positive examples, including community involvement by teachers, civil society organizations, and the 2020 enactment of the "Law on the Protection of the Rights of Children and Adolescents," which has strengthened non-discriminatory access to education. Nonetheless, significant challenges remain, especially for undocumented children.

4. Bilateral Responsibilities and Strategic Planning

Considering the presence of Iranian children in refugee camps abroad, Iran's obligations extend beyond its borders. The state must not only protect foreign migrant children within Iran but also uphold the rights of Iranian migrant children overseas. Developing a comprehensive national strategy for migrant children's rights would ensure a systematic and forward-looking approach.

## **Conclusion**

Realizing the right to education for migrant children requires clear national

policies, adequate financial resources, and culturally and psychologically responsive educational programs. States must ensure legal and institutional infrastructure that reflects the principles of equality, non-discrimination, and the best interests of the child. While Iran has made commendable efforts in this area, further progress can be achieved through inter-sectoral cooperation, international collaboration, and capacity-building within the education system.

**Keywords:** State obligations; right to education; United Nations; migrant children; i

### References

- Alaei, M. (2016). *The nature of subjects of international law's obligations*. *International Studies Journal*, 12(4).
- Anderson, J. (2010). *ICT transformative education*. UNESCO.
- Ansari, B. (2014). *Right to education: Child's right to education in international human rights*. The SD Institute of Law, Research and Study.
- Boly Barry, K. (2021). *The right to education of migrants: Report of the Special Rapporteur on the right to education (A/76/158)*.
- Committee on Economic, Social and Cultural Rights. (1999). *General comment No. 13: The right to education (E/C.12/1999/10)*.
- Committee on Economic, Social and Cultural Rights. (2009). *General comment No. 20: Non-discrimination in economic, social and cultural rights (E/C.12/GC/20)*.
- Committee on the Elimination of Racial Discrimination. (2005). *General recommendation No. 30: Discrimination against non-citizens*.
- Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families. (2013). *General comment No. 2: The rights of migrant workers in an irregular situation and members of their families (CMW/C/GC/2)*.
- Committee on the Rights of the Child. (2005). *General comment No. 6: Treatment of unaccompanied and separated children outside their country of origin (CRC/GC/2005/6)*.
- Committee on the Rights of the Child. (2013). *General comment No. 14: The right of the child to have his or her best interests taken as a primary consideration (CRC/C/GC/14)*.

Committee on the Rights of the Child. (2022). *Concluding observations on the combined fourth to sixth periodic reports of Greece* (CRC/C/GRC/CO/4-6).

Council of Europe. (2009). *Human rights education in the school systems of Europe, Central Asia and North America: A compendium of good practice*.

Council of Europe Publishing. (2005). *Study on obstacles to effective access of irregular migrants to minimum social rights*.

Craven, M. C. R. (1998). *The International Covenant on Economic, Social and Cultural Rights: A perspective on its development*. Clarendon Press. (M. Habibi Mojanadeh, Trans., 2008). Mofid University. (Original work published 1998)

Human Rights Watch. (2018). *Children losing out on education in EU migration*.

Joint Committee on the Rights of Migrant Workers and the Rights of the Child. (2017). *Joint general comment No. 3 (CMW) and No. 22 (CRC) on the general principles regarding the human rights of children in the context of international migration* (CMW/C/GC/3-CRC/C/GC/22).

Joint Committee on the Rights of Migrant Workers and the Rights of the Child. (2017). *Joint general comment No. 4 (CMW) and No. 23 (CRC) on state obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return* (CMW/C/GC/4-CRC/C/GC/23).

Niavarani, S. (2010). *The status of the right to education in the international human rights system*. *Legal Research Quarterly*, 13(52).

OECD. (2019). *Refugee education: Integration models and practices in OECD countries*. Organization for Economic Co-operation and Development.

Office of the High Commissioner for Human Rights. (2014). *The economic, social and cultural rights of migrants in an irregular situation*. Preliminary Report of the Special Rapporteur on the Right to Education. (1999). (E/CN.4/1999/49).

Rasekh, M. (2009). *A theory of rights*. In *Human rights in the contemporary world: Viewpoints of Iranian lawyers & Islamic scholars*. Iranian Islamic Human Rights Commission.

Report of the Special Rapporteur on the Right to Education. (2017). (A/72/496).

Report of the Special Rapporteur on the Right to Education. (2018). (A/73/262).

Saffarinia, M. (2015). *Family in international instruments: Rights and duties, achievements and challenges*. The SD Institute of Law, Research and Study.

Save the Children. (2012). *Transnational coordination mechanisms for the protection of children on the move in the context of international migration and the fulfilment of their human rights*.  
<https://www.savethechildren.net>

Tomasevski, K. (2004). *Manual on rights-based education*. UNESCO.

UNESCO. (1960). *Convention against discrimination in education*.

UNESCO. (2018). *The status of the right to education of migrants: International legal framework, remaining barriers at national level and good examples of states' implementation* (ED/GEMR/MRT/2018/P1/8).

UNESCO. (2019a). *Migration and education: Think piece prepared for the 2019 Global Education Monitoring Report consultation* (ED/GEMR/MRT/2019/T1/3).

UNESCO. (2019b). *Guidelines on the development of open educational resources policies*.

UNESCO. (2019c). *Migration, displacement and education: Building bridges not walls—Global education monitoring report*.

UNESCO Policy Brief on Early Childhood. (2008). *The impact of global migration on the education of young children*.

UN General Assembly. (1965). *International Convention on the Elimination of All Forms of Racial Discrimination* (Resolution 2106 [XX]).

UN General Assembly. (1966). *International Covenant on Economic, Social and Cultural Rights* (Resolution 2200A [XXI]).

UN General Assembly. (1989). *Convention on the Rights of the Child* (Resolution 44/25).

UN General Assembly. (1990). *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (Resolution 45/158).

UN General Assembly. (2016). *New York Declaration for Refugees and Migrants* (A/RES/71/1).

UNHCR. (2014). *Left behind: Refugee education in crisis*.

UNHCR. (2018). *Figures at a glance*. <https://www.unhcr.org/figures-at-a-glance.html>

UNHCR. (2019). *Refugee education 2030: A strategy for refugee inclusion*.

UNHCR. (2020). *Education*. <https://www.unhcr.org/education.html>

UNICEF. (2017). *Education uprooted: For every migrant, refugee and displaced child, education*.