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*Case studies from Australia, Spain, Sweden
and the United Kingdom*



Paloma Bourgonje
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The research was carried out by Paloma Bourgonje, an independent writer in the field of education and development and a former lecturer at the University of Amsterdam. Her areas of expertise include contemporary social affairs and international development issues, specifically education and development. Her work has featured in the *NRC Handelsblad*, *The Voice*, *Tijdschrift van de Vereniging voor Filosofie Onderwijs* and has been published in the Netherlands and by Education International. www.palomabourgonje.nl

The research was edited by Rosanne Tromp, an independent researcher in the field of education and development and currently teaching at the University of Amsterdam in the department of political sciences.



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FOREWORD

Across the globe, people are always on the move – fleeing war zones, escaping injustice and persecution or seeking better life chances for themselves and their children. With the increase of global migration flows, the number of immigrants has more than tripled in OECD countries since the 1960s. An increase in asylum seeker movements to developed countries has been an important trend during recent decades. These shifting migration processes have reshaped societies and politics, and have led to significant demographic changes in student populations. As a consequence, educators face urgent needs in their classrooms, and ensuring all children's access to quality education has become a concern for education systems around the world.

In July 2007, a resolution on International Migration was passed at the 5th World Congress of Education International (EI) in Berlin. In this resolution, the World Congress expressed concern about how children can lose out educationally when their families are uprooted or in exile. In particular it was noted that in some contexts there is a lack of access to education, and in some cases migrant children are even denied the right to education, or receive an education of lower quality.

In recent decades a number of challenges in terms of the quality education for refugee and asylum-seeking children have surfaced. Combating prejudice, overcoming social exclusion and facilitating integration are only part of the overall problem. The vulnerability of 'hidden' children with little or no access to education, lack of appropriate education in detention centres, scarce classroom resources to meet the needs of migrant pupils, segregation of refugee and asylum-seeking children into segregated classes, and even outright denial of access to education are all among the challenges confronting educators.

Challenges, however, are not limited only to the provision of, and access to, education for refugee and asylum-seeking children. Social inclusion often begins at school, and teachers play a central role in stimulating interaction and acceptance. Yet many teachers are ill-equipped to work with children from diverse cultural and linguistic backgrounds and who have wide-ranging learning needs and abilities. Teacher training may not provide adequate expertise in teaching in multicultural and multilingual settings, and teachers may lack appropriate professional support within schools to deal with these issues appropriately.

This study examines the educational situation of refugee and asylum-seeking children in four countries: Australia, Spain, Sweden and the United Kingdom. In all four countries migration has been a subject of political discussion and even controversy in recent decades. The study aims to provide insight into the

inclusion of refugee and asylum-seeking children in education programmes, and to shed light on the practical actions and policy initiatives that have been, and are being, undertaken by governments to provide quality education to these children.

In particular, the study provides evidence of the work of teachers and their unions in the four case-study countries. Despite numerous limitations and obstacles - a lack of resources and recognition from governments-, teachers have worked hard to ensure refugee and asylum-seeking children can access their right to receive quality education in their new home countries.



Fred van Leeuwen
General Secretary

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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 (...)”
Naomi Richman¹

Education, as one of the most commonly found institutions and most commonly shared experiences, is in the centre of cultural and social processes that are the effect of and influence economic and political changes.² One of the processes influencing education is migration. As international data reveal a worldwide increase in migration, and assuring access for all children has become a concern for educators globally, education systems are faced with the need to respond adequately to current migration trends and consequent demographic changes in student populations. In many OECD countries, migrant education is now high on the policy agenda.³

With the increased diversification of students’ nationalities and cultural heritage in contemporary classrooms, it has become essential in educational discourse to rethink the moral and political responsibilities of schools and other education stakeholders. Issues of justice, of opportunities in and outcomes of schooling, and tensions (e.g. social and political) that are produced by the presence of diverse cultural identities within the educational landscape, create challenges for both educators and policy makers around the world.

OECD countries’ legal systems provide access to compulsory primary and secondary education for every child under a certain age, regardless of the child’s national background and legal status. Nonetheless, there are obstacles to the actual school enrolment of refugee and asylum seeking children, such as the persistence of prejudice and xenophobia in schools, and the inability of schools to connect to the child’s prior school experiences and guide its adaptation to the new schooling situation. In addition, high levels of exclusion and drop-out among these children from education systems represent key issues in the area of education for migrant children.⁴ Questions regarding the quality of education provided to these children also need to be addressed, as in many cases little attention is still being paid in teacher education to educating in the multicultural and multilingual classroom, and a lack of support and investment at the school level in dealing with these issues is often pressing.

Even if issues of integration through education are largely similar to all groups of immigrants, the legal conditions, gravity of situation, no-way-home, post-

war traumas makes asylum and refugee seeking children, the most vulnerable group, and raises moral obligations of host nations to a higher order. The destiny of these children is, indeed, a compass showing the direction to which OECD countries drift – international solidarity according the highest declared standards or nationalistic defensive self-interest based on “fortress” attitudes towards the world.

This report aims to address these issues by answering the following questions: What educational opportunities are there for refugee and asylum seeking children in the compulsory school age in OECD countries? What educational policies and actions are being undertaken by national and regional governments in different countries for these children? What challenges do educators encounter and how do teachers’ unions respond to these challenges?

In July 2007, a resolution on International Migration was passed during the 5th World Congress of Education International (EI) in Berlin. In this resolution the World Congress expressed concern about the status of children in migration. In particular it was noted that in some contexts there is a lack of access to education, and in some cases migrant children are even denied the right to education, or receive an education of lower quality. As such, this study provides a starting point for investigating the educational opportunities for refugee and asylum seeking children in four countries, where migration issues have played a prominent role in political discussions in the past decades, including Australia, Spain, Sweden and the United Kingdom. Furthermore, the role of teachers’ unions in safeguarding the educational opportunities of migrant children has been noteworthy in these four countries. The resolution recognized ‘the fundamental role that trade union organizations must play in safeguarding the human and labour rights of migrants and their right to education’. The present study furthermore aims to raise awareness on the topic of education opportunities for refugee and asylum seeking children, and to provide a number of recommendations to unions on what actions they might undertake to ensure the equal access to education for all.

In 2007 EI initiated a pilot study on educational opportunities for refugee and asylum seeking children in OECD countries. The primary goal of the project was to evaluate the current level of inclusion into the education system of these children, and which obstacles challenge their equal access to quality education. Questionnaires were sent to EI member organizations in all OECD countries to collect preliminary data for a more comprehensive study. The present research, carried out during a four month period (March - July 2009) may be regarded in part as a follow-up study to EI’s 2007 research.

A number of teachers’ unions’ experiences and projects regarding the topic of this research are drawn on in the course of this document, with case studies from the UK, Sweden, Spain, and Australia. Teachers’ unions in these countries have either contributed considerably to EI’s previous study and were

approached to contribute further, or expressed their enthusiasm, willingness and interest to participate in this research project during EI's 5th Research Network Meeting held on 10-11 March 2009 in Brussels. Although unions from Spain were not present during the Research Network Meeting, they had previously expressed interest in contributing to this research. The common characteristic of the unions, who participated in this study, was that they are, or have been, active in the area of migration and education. Field research was carried out in the UK, Sweden, and Spain in March, April and May and the teachers' union in Australia was interviewed by e-mail during the same period.

The following unions took part in this study:

Country	Union	Acronym
Australia	Australian Education Union	AEU
Spain	Central Sindical Independiente y Sindical de Funcionarios. Sector de Enseñanza	CSI.F
Spain	Confederación de Sindicatos de Trabajadoras y Trabajadores de la Enseñanza - Intersindical	USTEC.STEs
Sweden	Swedish Teachers' Union	Lärarförbundet
United Kingdom	National Union of Teachers	NUT

Information was gathered by means of questionnaires, phone and e-mail interviews and semi-structured face-to-face interviews with representatives of the five teachers' unions, as well as NGO representatives, policy makers, educators and experts in the field of (multicultural) education. Secondary sources include academic literature, policy documents and research reports.¹

This report is set out in seven chapters. Chapter one is concerned with the impact that migration has on the educational arena. It also briefly outlines the concepts of 'refugee' and 'asylum seeker' as varying from the concept of 'migrant'.

Chapter two focuses on existing international and regional legal frameworks with respect to the right to education for refugee and asylum seeking children.

Chapter three, four, five, and six are dedicated to the right to education for refugee and asylum seeking children in the case study countries the UK, Sweden, Spain and Australia. These chapters describe the national/regional legal

¹ For the names of the organizations/ institutions and individuals involved in the production of this booklet, please refer to annex 1.

frameworks as well as the local implementation of these legal frameworks within these countries. In these chapters, key issues and challenges that educators face in their everyday professional practice working with refugee and asylum seeking children are discussed. Additionally, teachers' union policies and efforts from the case study countries to ameliorate the educational opportunities for refugee and asylum seeking children are addressed. Included are questions such as what motivated unions' actions, how unions have organized their projects, and what were and are the effects of their efforts.

Chapter seven concludes the report with a number of recommendations about how to guarantee the educational inclusion of *all* children.

There are some limitations to this study that should be taken into account. First of all, the OECD consists of countries that have different social, economic, political, and historical backgrounds. The case study countries in this research by no means pretend to cover this variety. Moreover, since the four case study countries are so different, making comparisons among them is problematic. Thus, the selection of countries should be regarded as an attempt to highlight some policy and practice issues in varying contexts. Due to time constraints, the research is also based on a limited number of interviews. If there had been more time, the researcher would have been able to conduct more interviews with children and their teachers, and more time would have been spent in the classrooms. Finally, some information might be outdated due to policy changes.

In sum, this publication is intended to provide some insights into the theory and practice of educational opportunities for refugee and asylum seeking children in four OECD countries. In addition, it includes recommendations regarding educational policy and practice to address and improve the education of every child. The report addresses the challenges faced in the education arena concerning equal access to quality education for refugee and asylum seeking children, and highlights several actions being undertaken by teachers' unions that hopefully will inspire you to come into action and to develop strategies for improving the education opportunities for *every child*.

CHAPTER 1 - MIGRATION AND EDUCATION

Before addressing the international and regional legal frameworks regarding education for refugee and asylum seeking children in the second chapter, a brief overview is provided in this chapter of what is actually being meant by the concepts 'refugee' and 'asylum seeker' as varying to the term 'migrant'. Current trends in migration are described, after which some effects of migration on the educational arena are set out.

1.1 Refugees, asylum seekers and migrants: what's in a name?

First of all, it is important to note that in popular usage the terms 'refugee', 'asylum seeker' and 'migrant' are often used interchangeably.² They do refer, however, to people with different legal statuses.

Migrants are people who make a *voluntary, planned choice* to leave their country to start a new life in a new country and can return home if they choose to do so.

In comparison, the concepts of *refugee* and *asylum seeker* imply *involuntary* leave. Under the 1951 United Nations Convention Relating to the Status of Refugees (the so-called Geneva Convention), the definition of a refugee was specified and thus got a precise meaning in international refugee law. According to Article 1A (2) of the 1951 Convention Relating to the Status of Refugees, a *refugee* is a person who, due to:

"A well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable to or, owing to such fear, is unwilling to avail himself of the protection of that country (...)"

The 1951 Refugee Convention is the key legal document in defining who is a refugee, and his or her rights. In addition, the Convention defines host gov-

² According to some, however, even in regulatory texts and conventions the terms 'asylum' and 'refugee' are used interchangeably. Case-law has made a distinction between the nature of 'refugee', which presupposes the fear of being persecuted in the country of origin (Court of Cassation, I^a civil, 9 April 2002 No. 5055), and that of 'asylum-seeker', which requires the absence of democratic freedoms in the country of origin (Administrative Tribunal, Friuli Venezia Giulia, 18 December 1991 No. 531; 23 January 1992 No. 15). Accordingly, refugee is deemed to be a species of the asylum genus (Consiglio di Stato, IV^a, 11 July 2002 No. 3874). P. 3, 28th Conference of European Ministers of Justice.

ernments' obligations towards refugees. Initially, the instrument was limited to protecting (Eastern) European refugees in the aftermath of World War II, but as the forced displacement of persons spread around the world, a 1967 Protocol broadened the scope of the Convention to explicitly include refugees from outside Europe. In practice, however, some countries still define refugees by the geographic limitations of the 1951 definition and do not recognize non-European refugees.⁶

All OECD countries are signatories of the 1951 Refugee Convention. The total number of States Parties to the Convention is 144; 141 of which have signed both the Convention and the 1967 Protocol.⁷ These 141 include the case study countries of this research project.

Central to the 1951 Refugee Convention is the notion of 'non-refoulement'³, requiring a state not to "expel or return a refugee in any matter whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion".⁸

By contrast, *asylum seekers* are persons who have applied for asylum or refugee status, but who have not yet received a final decision on their application.⁹ Thus, they may or may not fulfil the strict criteria outlined by the 1951 Refugee Convention. An asylum seeker is a refugee from the moment the local immigration or refugee authority deems them as fitting the international definition of refugee.¹⁰ Only after the refugee status is assigned, can the person make use of the rights and obligations it carries with it.

Concerning the right to education for refugees, the 1951 Refugee Convention also outlines obligations for State Parties. Art. 22 states¹¹:

1. The Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education.
2. The Contracting States shall accord to refugees treatment as favourable as possible, and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, with respect to education other than elementary education and, in particular, as regards access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships.

Despite the existence of the definition of refugee formulated in the 1951 Refugee Convention, wide variance exists amongst countries as far as its interpretation is concerned. In principle, each country decides to whom to grant refugee status among asylum applicants, thus territorial asylum can only be accorded by states. There are cases in which a special 'protection status' may be granted to

³ I.e. Refoulement refers to the forced return of an asylum seeker or refugee to the country from which they have fled.

asylum claimants who are not able to return to their countries of origin due to conflict conditions.^{4,12}

In addition to the difference in national interpretation of the 1951 Refugee Convention definition, its interpretation of what constitutes a 'well founded fear' is overtly male-biased. Although claims of women asylum-seekers often differ from those of men, the international definition of refugee has been interpreted primarily in the context of male asylum-seekers. Decision-makers often fail to recognize gender unique harm, such as female genital mutilation, forcible abortion, or 'honour killings', which often is inflicted upon women by individual actors instead of government actors, and as such falls outside the Convention definition.¹³

Recognition rates of asylum applications in all OECD countries are low; generally less than one in five asylum requests are accepted by the host country. Those, whose refugee or protection status has been refused, are in principal supposed to return to their origin country.¹⁴ However, countries are not allowed to forcibly return refugees where they face danger, nor may they discriminate between groups of refugees.¹⁵

Summary

The terms refugee, asylum seeker and migrant are often used interchangeably. However, they should not be confused, since they refer to people with fundamentally different legal statuses. The most important legal instrument regarding who is a refugee and what his/her rights are is the 1951 Convention Relating to the Status of Refugees of which all OECD countries are signatories. The Convention also formulates obligations of states towards refugee populations. However, in practice every nation decides whom to grant asylum or refugee status. Also, the interpretation of the Convention is often male-biased.

⁴ Foreigners granted temporary protected statuses are foreigners who are allowed to stay for a temporary though possibly indefinite period because their life would be in danger if they were to return to their country of citizenship (OECD Glossary of statistical terms, p. 20-).

1.2 Trends in migration flows

People have always migrated. Nevertheless, the transitional displacement of people appears to have become widespread by the beginning of the 21st century, with more people on the face of the globe than ever and about 200 million living outside their country of birth.¹⁶ All nations are sending, receiving or providing temporary residence for migrants, and there is every indication that international mobility and the challenges this provides will continue to have an impact on future generations.^{17 18 19} Consequently, migration has a significant influence on the ethnic and racial composition of many of the schools around the world.²⁰

In the past, migration mostly took place from less economically developed countries to more developed areas. Current global economic trends as well as the growth of global communication and greater access to transportation have influenced this migration pattern.²¹ Worldwide, flows of migration have grown considerably in recent decades. In the OECD, the immigrant population has more than tripled since the 1960s.²² However, the factors behind international migration cannot be reduced to solely economic factors. Intolerance and political exclusion and different forms of violence, including armed conflicts, civil wars, ethnic cleansing, or natural disasters have forced people to leave their countries of origin in order to protect their own and their families' lives.²³ A considerable number of these refugees are children. The UNHCR (United Nations High Commissioner for Refugees) estimates that more than half of any refugee population consists of children²⁴; children under age five make up about 11% and children in the age group between 6-17 make up approximately 32% of forced migrants and asylum seekers, whether they are with their families or unaccompanied.²⁵

There were some 42 million forcibly displaced people worldwide at the end of 2008. This includes 15.2 million refugees, 827,000 asylum-seekers (pending cases) and 26 million internally displaced persons (IDPs). With regard to the naturalization of refugees the limited data available to UNHCR demonstrate that during the past decade more than 1.1 million refugees were granted citizenship by their asylum country. The United States of America alone accounted for two thirds of them. For 2008, UNHCR was informed of refugees being granted citizenship in Belgium (4,200), Ireland (1,000), Armenia (730), and the United Republic of Tanzania (490).²⁶

Box 1 Recent worldwide trends in migration

- Nearly 25 million people – 10.5 million refugees and 14.4 million IDPs –were receiving protection or assistance from UNHCR at the end of 2008. These numbers are similar to 2007.
- In 2008, UNHCR identified some 6.6 million stateless persons in 58 countries. The Office estimated that the overall number of stateless persons worldwide was far higher, about 12 million people.
- More than 839,000 people submitted an individual application for asylum or refugee status in 2008. UNHCR offices registered nine per cent of those claims. More than 16,300 asylum applications were lodged by unaccompanied and separated children in 68 countries. With one quarter of applications globally, South Africa is the largest recipient of individual applications in the world.
- UNHCR presented 121,000 refugees for resettlement consideration by States. More than 67,000 refugees were resettled with UNHCR's assistance during 2008. According to Government statistics, 16 countries reported the admission of 88,800 resettled refugees during 2008 (with or without UNHCR assistance). The United States of America accepted the highest number (60,200 during its Fiscal Year).
- Women and girls represent on average 49 per cent of persons of concern to UNHCR. They constitute 47 per cent of refugees and asylum-seekers, and half of all IDPs and returnees (refugees). Forty-four per cent of refugees and asylum-seekers are children below 18 years of age.
- Developing countries are host to four fifths of the world's refugees. Based on the data available for 8.8 million refugees, UNHCR estimates that half of the world's refugees reside in urban areas and one third in camps. However, seven out of ten refugees in sub-Saharan Africa reside in camps.
- Afghan and Iraqi refugees account for almost half of all refugees under UNHCR's responsibility worldwide. One out of four refugees in the world is from Afghanistan (2.8 million) and Afghans are located in 69 different asylum countries. Iraqis are the second largest refugee group, with 1.9 million having sought refuge mainly in neighbouring countries.

Source: Global Trends: Refugees, Asylum-seekers, Returnees, Internally Displaced and Stateless Persons. UNHCR 16 June 2009.

In the course of 2008, at least 839,000 individual applications for asylum or refugee status were submitted to governments or UNHCR offices in 154 countries. This constitutes a 28 per cent increase compared to 2007. South Africa has been the largest recipient of new asylum claims during 2008. More than 207,000 persons submitted an application compared to 45,600 in 2007. The United States was the second largest recipient and France was the third largest recipient during 2008. Other important destination countries include Sudan, Canada, the UK and Italy.²⁷

By the end of 2008, more than 827,000 persons around the world were still waiting for a decision regarding their asylum claim.²⁸

Among those countries that report data on the number of unaccompanied and separated children seeking asylum (UASC), the UK received most of the UASC claims in 2008, namely close to 4,000 followed by Sweden (1,500)⁵, Norway (1,400), and Austria (770). In the UK, one in ten applications was submitted by an unaccompanied child. Unfortunately, the global number of UASC who annually submit individual asylum is unknown.²⁹

Table 1 Asylum status determination by OECD country of asylum 2008

Country	Applied	Decisions during 2008				
		Positive		Rejected	Otherw. Closed	Total
		Convention Status	Complem. Protect. Status			
Australia	7,324	1,845	-	4,484	330	6,659
Austria	12,841	3,753	1,628	7,968	3,605	16,954
Belgium	17,115	2,696	332	8,126	824	18,069
Canada	34,800	7,554	-	6,784	3,774	18,112
Czech Rep.	2,719	220	138	1,885	1,072	3,315
Denmark	2,360	306	360	820	-	1,486
Finland	4,016	94	698	240	973	2,005
France	42,599	9,648	1,793	26,648	-	38,089
Germany	28,018	7,291	562	6,761	6,203	20,817
Greece	33,252	358	21	23,345	380	24,104
Hungary	3,118	160	130	395	1,483	2,168
Iceland	99	4	7	20	54	85
Ireland	6,756	588	-	4,970	1,325	6,883
Italy	30,324	1,785	8,234	10,379	1,049	21,447

⁵ Note that this figure differs slightly from the number as it is presented by the Swedish government (see Chapter 4 section 'Hidden' children to education).

Country	Applied	Decisions during 2008				
		Positive		Rejected	Otherw. Closed	Total
		Convention Status	Complem. Protect. Status			
Japan	2,100	60	360	1,095	121	1,276
Korea	364	32	22	77	99	230
Luxembourg	809	73	342	504	179	1,098
Mexico	317	101	-	105	142	348
Netherlands	13,399	515	5,161	5,247	-	10,923
New Zealand	387	139	-	262	12	413
Norway	20,505	1,150	2,582	8,357	2,292	14,381
Poland	7,745	193	2,590	1,608	5,791	10,182
Portugal	161	12	70	41	-	123
Slovakia	910	22	65	414	452	953
Spain	4,517	151	126	2,289	2,614	5,180
Sweden	40,490	1,930	7,096	28,411	4,612	42,049
Switzerland	16,606	2,261	4,327	4,483	4,318	15,389
Turkey	13,811	8,646	-	679	2,558	11,883
United Kingdom	30,547	4,752	2,327	14,000	5,494	26,573
United States	39,362	16,742	-	28,407	29,337	74,486

Source: *Global Trends: Refugees, Asylum-seekers, Returnees, Internally Displaced and Stateless Persons*. UNHCR 16 June 2009.

1.3 Migration and education

As stated above, international data reveal a worldwide increase in migration, and more than half of any refugee population consists of children.

This section discusses a number of effects migration has on the educational arena. Although education for *migrant* children is discussed, it is important to note that there can be differences between the issues and educational needs migrant children and refugee and asylum seeking children face. However, there are a number of similar issues and challenges many newly arrived children are confronted with.

As assuring access for all children has become a concern for educators globally, education systems are also faced with the need to respond to current migration trends and changes in the demographics of student populations in an adequate way. In many OECD countries, migrant education is now high on the policy agenda.³⁰

Increasing ethnic and cultural diversity presents opportunities as well as challenges to countries and educational systems. However, research on the outcomes for children and education policies reviews at the international level on migrant education are still scarce. In 2008, The OECD Thematic Review on Migrant Education started a project to support policy development by providing an in-depth analysis of successful approaches to migrant education. Asking the question ‘what policies will promote successful education outcomes for first and second generation migrants?’ it focussed on issues of access, participation and learning outcomes. At the Third Meeting of Experts that will take place in the course of 2009, the preliminary synthesis report on this subject will be discussed.

As part of this project, in 2008, the Commission of the European Communities presented a Green Paper on the challenges and opportunities for EU education systems dealing with children from a migrant background.³¹ According to the paper, “A challenge [the presence in schools of large numbers of children from a migrant background who are in a weak socio-economic position], while not new, has in recent years intensified (...)”.³² In some countries, including Spain, Italy and Ireland, the percentage of school pupils who were born in another country has multiplied by three or four since the year 2000. In the UK, the number of children joining schools shortly after arriving from another country has increased with 50 per cent in two years. In Madrid, the share of migrant students has multiplied by ten since 1991.³³

The presence of significant numbers of pupils coming from abroad has enormous implications for education systems. As stated in the 2008 Green Paper:

“Schools must play a leading role in creating an inclusive society (...). Migration can be enriching for the educational experience of all: linguistic and cultural diversity may bring an invaluable resource to schools. It can help to deepen and strengthen pedagogies, skills, and knowledge itself.”³⁴

Although the reasons behind the migration of people are manifold and usually involve a complex decision-making process that includes several factors, the process of establishing a new life-pattern in a new location after migration has some common elements for all migrants. For instance, many migrants, especially those who are ethnically different from the dominant group, may experience varying degrees of prejudice, racism, rejection, or indifference.^{35 36 37} With regard to education, research in the United States³⁸ has revealed a discrepancy between what students, teachers and administrators say about diversity and the actual exclusionary practices that take place in schools and lead to marginalisation of immigrant children. These experiences show unresolved power issues among different cultural groups and demonstrate that the “mainstream population in the country of settlement is almost always more powerful than the migrating group”.³⁹

Although there are some current positive trends in the societal acceptance of immigrants, educating children from various cultural, linguistic, ethnic, or religious backgrounds is often perceived as problematic by society.⁴⁰ Adams and Kirova (2006)⁴¹ address some common challenges that were revealed by several studies in different parts of the world (among others: Germany, Norway, Australia, USA and Canada). These include for instance the issue of appropriate assessment and grade placement. Immigrant children arriving in a school do not represent a homogeneous group. Some come from economically stable, urban backgrounds and were prepared from a young age for academic tasks. However, it must be noted that “doing well is not the same as being well”.⁴² High academic achievement surprisingly turns out to be negatively correlated with self-esteem and depression.⁴³ On the other hand, some children enter a country with little or no prior schooling, which can also present problems in teaching and learning.

Often the actual kind of knowledge migrant children possess is not of an academic type and as such cannot be measured by the available standardized assessment tools.⁴⁴ This can result in teachers giving priority to socially sensitive teaching practices, but teachers may also feel less competent to provide the adequate level of content to the newcomer children, and to facilitate their learning. The lack of appropriate curriculum (materials) and sound information about the child's previous educational experiences, as well as poor assessment of general knowledge and skills, can pose challenges to teachers' daily life in a classroom with these children.

In addition, some migrant children may even lack prior group experiences, or they may have experienced trauma and violence, which can hinder their ability to function in group settings in school. Children who have experienced losses and trauma may be in need of psychological support before they are fully ready to concentrate on their schoolwork. However, several factors such as the lack of support programs, sound identification and assessment of needs, family resistance to assessment or counselling, and language barriers may all result in inappropriate attention to a child's needs.⁴⁵

Some other factors that could either facilitate or hinder students' learning are the curriculum, pedagogy, management of schools, expectations of teachers and personal relationships. Many experts in the field of multiculturalism and multicultural education emphasize the need for all students to see their own background reflected in the curriculum and the schools' narratives, and to be able to make active use of their linguistic, cultural, and social resources in building new knowledge and developing skills and attitudes. If teacher training does not include accurate guidance in dealing with cultural diversity, intercultural understanding and multicultural education, teachers may misunderstand children's efforts to succeed in their environments as culturally inappropriate.⁴⁶

Teachers thus have an important role to play in providing quality education for all. Educators who work with immigrant children must recognize the social,

economic, health and education hardships these children face. They also need to understand that numerous systemic challenges in education have yet to be overcome. However, teachers cannot take all of societies' ills on their shoulders. The reality is that in most societies, xenophobia and economic, linguistic, or cultural barriers still persist, which can result in immigrants' marginalization from a community. This is a reality that needs the urgent attention of all members of the international education community.⁴⁷

Whilst speaking to the various key stakeholders during the compilation of this report, many of them stressed the relevance of a study on education opportunities for refugee and asylum seeking children. There was a general agreement among those interviewed about the need of securing *quality education for all* children. Teachers' unions, NGOs, policy makers and educators all stressed the importance of fighting against unequal education opportunities and the urgency to react to changes in the demographics of student populations.

Following the discussion of legal provisions with regard to the right to education in chapter 2, chapters 3, 4, 5, and 6 will address in more detail the challenges and issues related to the subject matter of this study as formulated by the actors in the case study countries involved in this research.

Summary

In recent decades, migration flows have grown significantly. As transnational migration brings about changes in the demographics of student populations, ensuring all children's access to quality education has become a concern for education systems around the world. Issues arise of language and multicultural education, of combating prejudice in the majority population, and facilitating integration. It is of utmost importance to eliminate social exclusion based on socio-economic, ethnic, and religious differences or those of gender and individual capabilities. Teachers alone cannot shoulder the responsibility for raising awareness, and acting on, acceptance, tolerance and recognition of human rights in society. However, they can contribute to it in the school setting and set an example for the entire community. The need for quality education for all should be a common public concern and teachers have a critical role to play in providing this. However, proper training and support for teachers is essential in order to fulfil this task.

CHAPTER 2 - INTERNATIONAL AND REGIONAL LEGAL POLICY INSTRUMENTS

Countries have a legal obligation to provide basic education to all children within their borders, including refugees and asylum seeking children. Basic international human rights agreements endorse the protection and the rights of children. These international legal instruments are useful tools to assess and advocate for children's needs in general and especially for those who are in a vulnerable and marginalised position in society.⁴⁸

Fair and efficient asylum procedures are essential in the full application of the 1951 UN Convention Relating to the Status of Refugees. In general, the country of asylum is responsible for determining whether an asylum-seeker is a refugee or not.

In the section below, the *core international, regional and national legal and policy instruments* that address the *right to education of migrant children*, including refugee and asylum seeking children, will be set out. This chapter is based to a great extent on IIEP⁴⁹ (UNESCO's International Institute for Educational Planning) and IRC⁵⁰ (UNICEF Innocenti Research Centre) documents.

2.1 International legal frameworks

The 1948 Universal Declaration of Human Rights (UDHR)

Article 26 of this declaration formulates the right to free and compulsory education at the elementary level. The declaration further states that education should work to strengthen respect for human rights and promote peace.

Although the UDHR is a declaration and therefore not binding on states, at United Nations' International Conference on Human Rights in 1968 it was stated that it does "constitute an obligation for the members of the international community".⁵¹ Currently, the UDHR is considered to be part of customary international law and as such binding for all states.

The 1951 United Nations Convention Relating to the Status of Refugees⁶ and the 1967 protocol

Refugee children are guaranteed the rights to elementary education in Article 22, in which it is stated they should be accorded the same opportunities as nationals from the host country. After completion of primary school, refugee children are treated as other foreigners, allowing for the recognition of foreign school certificates and for the awarding of scholarships.

Article 22 of the 1951 Refugee Convention and the 1967 protocol are the foundation in international law for the education of refugee children.

The 1989 United Nations Convention on the Rights of the Child (CRC)

The United Nations Convention on the Rights of the Child (CRC)⁷ is another fundamental instrument in the protection of the rights of children. It sets out the civil, political, economic, social and cultural rights of children. National compliance with the Convention is monitored by the United Nations Committee on the Rights of the Child⁸, which is composed of independent experts.⁵² With regard to education, Article 28 and 29 are important. Article 28 calls for states to make primary education compulsory and free for all, and to stimulate the development of accessible secondary education, including vocational education. Quality and relevance in education is laid out in Article 29, which mandates an education that builds on a child's potential and supports his or her cultural identity. Psychosocial support and curriculum elements covering human rights, peace, tolerance, gender equality and respect for the environment are stressed in this article. In addition, Article 31 protects a child's right to culture and recreation.

The CRC also addresses the issue of non-discrimination. Article 2 outlines the non-discrimination principle, including access (to provision) for children with disabilities, gender equity, and the protection of linguistic and cultural rights of ethnic minority communities.

Article 22 of the CRC obliges States Parties to take "all appropriate measures to ensure that a child who is seeking refugee status... whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights" in the CRC and other treaties on international human rights.⁵³

⁶ Because the Convention was approved in Geneva, it is often referred to as 'the Geneva Convention', though officially it is not one of the Geneva Conventions specifically dealing with allowable behaviour in time of war.

⁷ The United Nations Convention on the Rights of the Child is sometimes also referred to as UNCRC.

⁸ To complicate things even more, both the United Nations Convention on the Rights of the Child, as the Committee on the Rights of the Child are referred to as CRC or UNCRC. Throughout this booklet, we will refer to the Convention as the CRC.

The Committee on the Rights of the Child has issued a General Comment (no. 6) that gives special attention to the obligations of States Parties towards unaccompanied and separated children outside the country of origin. The General Comment points to the particularly vulnerable position of these child migrants and sets out the “multifaceted challenges faced by States and other actors in ensuring that such children are able to access and enjoy their rights, irrespective of their nationality, immigration status or statelessness”.⁵⁴

The 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR)

This UN treaty contains some of the most important international legal provisions establishing economic, social and cultural rights. The right to free and compulsory education at the primary level and accessible secondary-level education is articulated in Article 13 of the Covenant. The Covenant calls for basic education to be made available to those who have not received or completed primary education. Emphasis is put on improving conditions and teaching standards.

International Convention on the Elimination of all forms of Racial Discrimination (ICERD)⁹

This UN convention obliges all countries to condemn every form of racial discrimination as well as to pursue policies to eliminate racial discrimination in all its forms. In Article 5 of the ICERD it is stated that “in compliance with the fundamental obligation laid down in Article 2 of this convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights... the right to education and training.”⁵⁵

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW)

The third section of this UN Convention addresses the right to education of all migrant workers and the members of their family, irrespective of their migratory status. Article 30 states that “each child of a migrant worker shall have the basic right of access to education on the basis of equality of treatment with nationals of the State concerned.”

It should be noted however that since the ICRMW entered into force in 2003, no EU member state, the United States, Canada, Australia, or any other major migrant ‘receiving’ countries have ratified the convention.⁵⁶

⁹ Or more commonly, CERD.

*The Geneva Conventions*¹⁰

The Geneva Conventions consist of four treaties formulated in Geneva, Switzerland, that set the standards for international law for humanitarian concerns. Some of its normative provisions refer to education. In cases of armed conflict, the Geneva Conventions lay out particular humanitarian protections for people –including children– who are not taking part in hostilities. States are responsible for ensuring the provision of education for orphaned or unaccompanied children in times of hostility. During military occupation, the occupying power must facilitate institutions “devoted to the care and education of children” (Fourth Geneva Convention, Articles 24 and 50, 1949).

All in all, the provision of the Conventions envisages that in all situations children must continue to receive education. The rights of parents to ensure their children’s religious and moral education in accordance with their own convictions must be respected.⁵⁷

2.2 Regional agreements

In addition to the aforementioned international declarations, a number of regional agreements also address the right to education. References to the right to education can be found in the *African Charter on the Rights and Welfare of the Child, Article XI*; the *American Declaration on the Rights and Duties of Man, Article XII*; and the *Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms of 1952, Article 2*.⁵⁸ In the following section we will highlight in more detail the EU directives that are relevant to the right to education of children in Europe.⁵⁹

The Council Directive 2003/9/EC of 27 January 2003

This Directive lays down minimum standards for the reception of asylum-seekers. The EU’s reception directive outlines a number of provisions concerning the education of asylum-seekers and stresses the need to provide minors with special attention, including access to psychological assistance. It obliges Member States to grant children access to education “under similar conditions as nationals”; provide language courses to enable them to attend regular schools; keep from postponing access to the education system for more than three months from the date of filing an asylum application (or, one year in exceptional circumstances); and allow access to vocational training, irrespec-

¹⁰ Note that (as mentioned above) the 1951 Refugee Convention –although often referred to as the Geneva Convention– is not one of the Geneva Conventions.

tive of whether the asylum-seekers have the right to work. According to this directive, Member States may provide schooling in an accommodation centre; refrain from withdrawing secondary education from an asylum-seeker “for the sole reason that the minor has reached the age of majority”; and provide rehabilitation services for minors who have suffered from violence or war.

Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.

In this qualification directive of the EU, Article 27 of chapter seven (on the “Content of International Protection”) calls on Member States to grant refugees, and those with subsidiary forms of protection, full access to education (for minors) under the same conditions as nationals; access to general education (for adults) under the same conditions as other third country nationals residing legally in the country; equal treatment in recognizing foreign diplomas, certificates and other evidence of formal qualifications; and access to programs to facilitate integration.

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

Article 17 of chapter IV on ‘detention of minors and families’ notes that “unaccompanied minors and families with minors shall only be detained as a measure of last resort and for the shortest appropriate period of time; minors in detention shall have the possibility to engage in leisure activities (...) and shall have, depending on their stay, access to education; and the best interest of the child shall be a primary consideration in the context of the detention of minors pending removal.”

2.3 Other important commitments and frameworks

Apart from the aforementioned international and regional covenants and agreements, some other commitments that are relevant with regard to children’ right to education can be mentioned.

1996 The United Nations Study on the impact of armed conflict on children (also known as the Graça Machel Report)

This study is a seminal research on the impact of conflict on children and their need for protection and education.

Education for All (EFA)

Most of the world's governments have committed themselves to EFA's goals, articulated and reaffirmed at the 1990 World Conference on Education for All in Jomtien and the 2000 Dakar World Education Forum. One of the Dakar Goals is to ensure that by 2015 all children, particularly girls, children in difficult circumstances and those belonging to ethnic minorities have access to and complete free and compulsory primary education of good quality.

Millennium Development Goals

Expanding access to good quality education is also seen as an important means to halving extreme poverty and hunger before 2015, one of the eight Millennium Development Goals (MDGs), as emerged in September 2000 from the commitments made by world leaders at the UN Millennium Summit. The second MDG is to make sure that all boys and girls complete a full course of primary schooling by 2015.⁶⁰

Summary

International legislation, such as the 1951 Convention relating to the Status of Refugees and the 1967 Protocol, guarantees all children access to basic education. In other words: nations have to deliver basic education to all children and young individuals within their borders, regardless their immigration status. A number of international and regional legal and policy instruments with respect to the right to education can be used to evaluate and campaign for the needs of children, specifically for the ones living in a marginalised and vulnerable position in society.

2.4 Differences in legal recognition

Although there are similarities in terms of the legal approach and treatment of migrant children, including refugee and asylum seeking children – such as the common setting in legal terms of education objectives in order to achieve socio-economic goals, or the regulations covering family obligations or rights⁶¹–, there are also considerable differences in countries’ policies with respect to provision of education for refugee and asylum seeking children. There is also a considerable difference per country in the ease with which asylum seekers may acquire citizenship of the host country.⁶²

Differences in legal recognition and status provision between countries may reflect various standards of treatment of asylum-seekers. For example, as set out in the table below, the recognition rates for Iraqi asylum-seekers in a number of OECD countries illustrate this difference.

Table 2 Recognition rate for Iraqi asylum-seekers, 2007*

Country	Con-vention Status	Non-Con-vention Status**	Rejected	% Con-vention Status***	% R R R ****	% T R R *****
Australia	215	143	96	60.1	47.4	78.9
Belgium	206	238	241	46.4	30.1	64.8
Germany	1,766	22	996	98.8	63.4	64.2
Greece	0	0	3,948	...	0.0	0.0
Netherlands	231	1,263	474	15.5	11.7	75.9
Norway	54	471	387	10.3	5.9	57.6
Sweden	168	9,708	2,380	1.7	1.4	80.6
U n i t e d Kingdom	205	140	1,090	59.4	14.3	24.0

Source: 2007 UNHRC Statistical Yearbook

*: Figures refer to first instance procedure. Non-substantive decisions are excluded

** : Complementary form of protection, subsidiary protection, humanitarian status etc.

***: Percentage of Convention status granted out of total positive decisions (Convention + non-Convention)

****: The Refugee Recognition Rate divides the number of asylum-seekers granted Convention refugee status by the total number of accepted (Convention and, where relevant, complementary protection) and rejected cases

*****: The Total Recognition Rate divides the number of asylum-seekers granted Convention refugee status and complementary form of protection by the total number of accepted (Convention and, where relevant, complementary protection) and rejected cases

Different standards between countries of treatment for asylum-seekers also becomes apparent when one examines the recognition rates of unaccompanied and separated children (UASC) seeking asylum. For instance, data suggest that some industrialised countries are more probable to grant refugee status to UASC than others. In 2006 and 2007 less than 20% of all positive decisions about claims lodged by UASC in Poland, Switzerland and the UK amounted to Convention status, whilst in Finland not a single UASC received refugee status. In those countries, the predominant statuses granted were complementary forms of protection. On the other hand, in France and Belgium almost all positive decisions during the same period of time resulted in refugee status under the 1951 Convention, whilst in Denmark, Hungary and Norway approximately two thirds were recognised as refugees.⁶³

CHAPTER 3 - UNITED KINGDOM

The previous chapter was concerned with international and regional legal frameworks. The following four chapters will outline national legal frameworks in the four case study countries and address the question whether these frameworks are in concurrence with the local practice. Additionally, the chapters will address the efforts teachers' unions from the case study countries employ, and have employed, to improve the educational opportunities for refugee and asylum seeking children. It will include the questions: What motivated unions' actions? How have the unions organised their projects? And: what was the impact of their efforts? This chapter is dedicated to the situation in the United Kingdom.

3.1 Legal framework

In the UK, *all* children of the compulsory school age (5-16) have the right of access to education. This thus includes asylum seekers and refugees. All pupils newly arriving in the UK have the same entitlements to free, government-funded education as settled residents. Local authorities, educational institutions and schools have a general duty under the Race Relations (Amendment) Act 2000 to "eliminate unlawful racial discrimination and promote equality of opportunity and good relations between persons of different racial groups".⁶⁴ The statutory code of practice on this duty requires schools to have a race equality policy that is linked to an action plan. This policy should lie at the core of schools' admissions policy and practice. Schools and local authorities are obliged to offer school places to all children of statutory school age regardless of their race, colour, nationality (including citizenship), ethnic or national origins or rights of residence.⁶⁵

The Race Relations (Amendment) Act 2002 requires every school to have a policy on valuing diversity and challenging racism.⁶⁶ Developing an inclusive curriculum is also a statutory requirement of the national curriculum. The inclusion statement in the national curriculum for the UK describes schools' responsibility to provide a curriculum that meets the specific needs of individuals and groups of pupils.⁶⁷ Schools also have a specific duty to monitor and assess how their policies affect minority ethnic pupils, staff and parents.⁶⁸

The national curriculum statutory inclusion statement sets out principles that are essential to developing a more inclusive curriculum. It also makes specific

reference to the Race Relations Act 1976. Under this Act teachers are required to “ensure they meet the full range of pupils’ diverse needs” and “be aware of the requirements of the equal opportunities legislation that covers race, gender and disability”.⁶⁹ The national curriculum statement is clear on the need to plan for the diverse learning needs of pupils from all social and cultural backgrounds, including refugees and asylum seekers:

“When planning, teachers should set high expectations and provide opportunities for all pupils to achieve, including...pupils from all social and cultural backgrounds, pupils of different ethnic groups including travellers, refugees and asylum seekers, and those from diverse linguistic backgrounds.”⁷⁰

To conclude regarding school and local authority responsibilities⁷¹:

- Schools must not discriminate against refugees and have a duty to promote good relationships between children from different backgrounds (Race Relations Act 1976 and Race Relations Act (Amendment) Act 2000);
- Schools have a duty to promote community cohesion (Education and Inspections Act 2006);
- Local authorities must promote the educational achievement of children in care, including unaccompanied asylum seeker children;
- The National Curriculum (NC) (2000) sets out the entitlement to the curriculum for all pupils. The statutory NC inclusion statement offers three key principles for developing an inclusive curriculum:
 1. Responding to pupils’ diverse learning needs;
 2. Setting suitable learning challenges;
 3. Overcoming barriers to learning.

Support under part VI of the Immigration and Asylum Act is provided by the National Asylum Support Service (NASS) and local authority social services departments through the interim support scheme. Families receiving either NASS support or social services asylum support can apply for free school meals in the same way as any other families who are entitled. Children, whose parents receive Income Support (IS) or Income-based Job Seekers Allowance (IBJSA), are also entitled to free school meals. It is the social services’ responsibility to pay for school meals for unaccompanied asylum seeking children looked after under section 20 of the Children Act 1989.⁷²

Schools are not required by law to provide English as an Additional Language (EAL) teachers, but they must be able to demonstrate that all pupils are being

included, are able to access the curriculum and to make good progress. The most recent guidance of Ofsted – the school inspection body – emphasises the following:

“The progress and attainment of all EAL learners, including those who are advanced bilingual learners, should be closely monitored so they are doing as well as they can. The cognitive challenge should remain appropriately high and not be reduced because the English demands has been reduced.”⁷³

Ofsted’s guidance recognises the importance of trained specialists noting that:

“Specialist EAL support should be available for new arrivals from qualified teachers or teaching assistants who have received appropriate training and support. More advanced learners of English should have continuing support in line with the varying needs as they develop competencies over time.”⁷⁴

3.2 Local implementation

General positive experiences

At least 60,000 refugee children of compulsory school age reside in the UK.⁷⁵ The majority of the UK stakeholders interviewed state that schools in their country are often very positive about how the presence of refugee children in their classrooms has enriched the life of the school community and the learning environment. They mention that refugee families are supportive of education and the work of schools, and their children can be highly motivated to learn and to make progress. According to the same stakeholders, there exists quite a lot of governance guidance with regard to the professional development of teachers working in multicultural settings.¹¹ An independent education consultant explained:

“There are a lot of outstanding and good practices within schools in the UK. On the whole we could say that our schools have done a good job regarding education for refugee and asylum seeking children. Teachers have in general been very accepting and welcoming. And many teachers have actively campaigned for the rights of refugees. There are a lot of school-based campaigns in our country.”

¹¹ See for instance the National Strategies website of the Department for Children, schools and families: <http://nationalstrategies.standards.dcsf.gov.uk/search/inclusion/results/nav:50103>, which contains, among others, materials and guided teaching sessions to address specific needs of English as an additional language pupils.

Some schools provide training on refugee and asylum seeker issues across the school. A secondary school^{12 76}:

“We’ve had an INSET [‘In-Service Education and Training’, also known as teacher training day] session for the whole staff about different cultural, linguistic, ethnic considerations that certain groupings may have or present. And we did that in-house (...) it’s not someone coming in and talking statistics, we talk about that child that you see there... and giving you a bit more insight into where the kids come from and what baggage, if any, they are carrying with them.”

According to one of the interviewees, there are schools that work together with specific organisations in order to support children who are traumatised or who need emotional support as a result of their refugee experience; provide good induction courses (e.g. language support and information on the school’s curriculum) for newly arrived children; work together with Refugee Community Organisations; and may also provide translation and interpretation to better communicate with children’s parents/caretakers.

Limited resources

Learning support for pupils for whom English is an additional language is funded by the Department for Children, Schools and Families (DCSF) through the Ethnic Minority Achievement Grant. The grant is administered by local authorities. An ‘English as an Additional Language’ (EAL) programme within the Primary National Strategy has been introduced. This programme involves provision of EAL consultants in 21 Local Education Authorities who each work with ten schools to develop an intensive professional development programme for mainstream staff. The goal of the programme is to support bilingual learners’ improvement in the standards of attainment in English and mathematics. This is done by drawing on, developing and disseminating bilingual learners’ existing knowledge, and through ameliorating teachers’ understanding of bilingualism and EAL pedagogy and practice. Many schools have developed good language support for pupils with EAL needs, but school resources are often stretched, meaning that support services can have difficulties providing the types of services they would like to.⁷⁷

A member of staff of The Learning Trust (a not-for-profit company that runs the education services for the London Borough of Hackney: an inner London Borough within Greater London) considers that there sometimes is a discrepancy between what EAL teachers are supposed to do in theory and what they are concerned with in their daily practice:

¹² This statement is derived from the research ‘Beyond the school gates: supporting refugees and asylum seekers in secondary schools’, Refugee Council, May 2008. It is unclear whether the quote is by a teacher, a principal or another member of staff of the secondary school.

“In theory EAL teachers are supposed to be occupied with supporting staff development. However, in practice EAL teachers are working most of their time with children on an individual basis. So theory and practice do not always marry up.”

The majority of the interviewed stakeholders in the UK state that EAL teaching is under-resourced. One of the secondary schools that participated in a research project of the Refugee Council on the experiences and needs of refugee and asylum seeking communities in relation to secondary schooling states:

“So what we’re doing is we’re constantly taking new students, and unfortunately because of the way funding works, we’re not constantly growing as a department. So we’re not increasing the number of staff we’ve got to support those students so it’s quite challenging.”^{13 78}

Dispersal policy

In the UK, applying for asylum is a complex process that can result in enforced dispersal across the country, as well as long periods of waiting for decisions on applications and appeals.⁷⁹ This can cause long delays in school enrolment of children. There are some known cases in which children had to wait months before being able to enter a school. Needless to say, this can have severe learning consequences for a child.

The Immigration and Asylum Act 1999 introduced a policy of dispersal that compels asylum seekers to move to different parts of the country if they wish to receive support with accommodation. This means that asylum seekers’ lives can be characterised by periodical displacement within the UK as a result of migration policies rather than choice. Some communities are not used to receiving diverse populations and are thus less experienced in addressing the types of issues that might arise upon arrival of newcomers. The consequences of mobility, and the asylum seekers’ uncertainty about the success of their applications, can affect their positive engagement with education.⁸⁰ Moving from place to place can cause considerable disruption in a child’s continued education, their ability to socialise, keep friendships and receive support from their communities and schools.⁸¹ Given that the child’s education will have been interrupted by the very process of forced migration from the country of origin, further movement within the UK may make it difficult for them to have any continuity in their learning.

¹³ This statement is derived from the research ‘Beyond the school gates: supporting refugees and asylum seekers in secondary schools’, Refugee Council, May 2008. It is unclear whether the quote is by a teacher, a principal or another member of staff of the secondary school.

A representative of a Refugee Community Organisation (RCO) asserted:

“Often refugee children – even if they have been in the UK for about three years – will have to change to about three schools or four different schools. The school record does not necessarily follow them all the way through. Sometimes when they arrive at a new school the teacher doesn’t have any background information or anything.”

In addition, a number of the interviewed stakeholders mention that some schools do not admit refugee or asylum seeking pupils because of the fear that the average grades will decrease.

Education in detention centres

Each year, around 2,000 children in the UK are detained for the purpose of immigration control. Children detained with their families are held in one of three immigration detention centres: Dungavel House in Larnarkshire, Tinsley House near Gatwick and Yarl’s Wood, the largest of the three. Children should not be held at Dungavel and Tinsley for more than three days, but there is no limit to how long they can be held at Yarl’s Wood.

According to guidance published by Her Majesty’s Inspectorate of Prisons (HMIP), immigration detention centres are obliged to provide education for school-age children appropriate to their identified needs. A system should be in place that allows information to be shared with schools so that disruption to a child’s education is kept to a minimum. Parents and children should be consulted where possible.

A report carried out at Yarl’s Wood last year by HMIP found this was far from the case. Education for school-age children was found to be unsatisfactory.

The school day (9am-5pm) was deemed too long for primary-age children, the curriculum too narrow. And teachers had little knowledge of children’s abilities or learning needs on arrival. This comes as little surprise to Patricia [a mother of a seven year-old boy called Marin. Both were detained in Yarl’s Wood]. “There is no education there. It is simply a way for children to pass the time. Because the children are all different ages, the teachers can’t cover much ground. My son mainly did artwork: drawing, painting and making things.”

There are two schoolrooms at Yarl's Wood, one for five- to 11-year-olds, the other for 11- to 16-year-olds. There is no obligation to attend. When Patricia asked to see a copy of the syllabus Marin was following, she was told there wasn't one. "The teacher said they just look at the age of the child and choose a topic from the national curriculum. I asked if she had been in contact with my son's old school to find out where he was with his studies. She said they never did that."

It was a similar story for Abid, who was detained at Yarl's Wood with his wife and three young children for three weeks. "The Home Office says a lot about what they provide in terms of education. Everything is provided: schools, teachers and play areas, but calling something a 'school' doesn't make it an education," he says.

Prior to being detained, the family had been living in the UK for three years. Abid's eldest son, Hasim, who was eight, was settled in primary school and had been placed on the gifted and talented register. "No one [at Yarl's Wood] spoke to me about his school work and what he could do to move forward," says Abid. "There was such a wide age range, it was impossible for the teacher to cater for the children's needs. Mostly my son drew pictures. How can you put a child in a locked environment and expect it to think and learn?"

Source: A fragment of the article 'In detention: Schools in immigration removal centres' published in April 2009 in the Guardian.

Insufficient teacher support

As revealed above, some communities and schools have little or no experience with migrant communities. When confronted with newcomer children from different national, ethnic and cultural backgrounds, they may feel they lack the skills and knowledge to deal with these children in the classroom. Members of staff of the Refugee Council and The Learning Trust state that during teacher training not enough attention is paid to issues of multiculturalism in the classroom. They argue it is of utmost important for teachers to learn how to deal with children from diverse cultural and linguistic backgrounds. They specifically mention that teacher training should additionally focus on education for refugee and asylum seekers. Teachers themselves mention they would like to receive more background information on refugee issues, such as information on the process of asylum requests, children's backgrounds, and the challenges and/or problems they face. They would like this to be included in initial teacher training in combination with continuing professional development support.

Additionally, as was revealed in a number of interviews, teachers are in need of support regarding working with traumatised children. A member of staff of the Refugee Council says:

“Teachers often don't know what they can do to help refugee and asylum seeking children who are traumatised. They lack the knowledge and experience to deal with these children. Teachers aren't psychologists. They don't have the expertise to cope with post-traumatic stress experiences. Schools need to make links with psychological services. They really need to be supported.”

Also mentioned during the interviews was that teachers are in need of practical support in terms of how to concretely stimulate anti-discriminatory practices and tackle bullying at school.

The box below sets out the main issues and challenges to education opportunities for refugee and asylum seeking children as highlighted by the various stakeholders interviewed in the UK.

Box 2 Main issues and challenges

- Under-resourced and understaffed EAL teaching.
- High mobility of asylum seekers due to government's dispersal policy that disrupts children's continued education.
- Lack of teachers' professional training to deal with traumatised children and the need for cooperation with psychological support experts.
- Insufficient attention given to ways of working with refugee children in teacher training programmes. As a consequence, some teachers find working with these children very difficult.
- Insufficient attention to strategies for applying anti-discrimination in practice in teacher training.
- Hesitation or refusal of schools to grant places to refugee and asylum seeking children due to fear of a drop in average student grades. Schools are inspected on the grades of their pupils. If these aren't good schools are under threat of closure.
- Issues of multiculturalism are not prioritized within schools' curriculum.

Summary

Although overall experiences with teaching refugee and asylum seeking children are positive in the UK, a number of barriers still exist to the successful engagement of refugee and asylum seeking children in education. These barriers include a lack of staff resources on the school level, the need for professional training to work with children whose mother tongue is not English, barriers to their access to school places, and bullying/discrimination in and outside of the school environment. Teachers and other stakeholders interviewed for this research stress the urgent need for an increase in schools' resources, and adequate attention in teacher training to multicultural issues.

3.3 Teachers' union NUT

Concern/motivation

Since approximately 25 years the British teachers' union NUT is concerned with refugee and asylum seeker issues. A representative of NUT explained:

"We cannot ignore globalisation and the effects of it. Neither can we close our eyes to all the disasters and political upheavals that are taking place in the world. The number of refugees is constantly growing. Therefore, the issue needs our serious attention. We are very active within the field of migration and asylum issues. The impact migration has on education can be severe. That's why our union responds to policies regarding migration and asylum."

NUT mentions its concern with the government's dispersal policy regarding refugees and asylum seekers and its impact on several (educational) communities. The union representative stated:

"Refugees and asylum seekers were sent to areas that had no experience whatsoever with migrants. Schools and teachers were suddenly faced with refugee and asylum seeking children and they didn't know how to cope with certain issues. They were unfamiliar with the cultural and linguistic backgrounds of these children. They wanted support and we felt we had to do something for those teachers."

Actions

One of the activities NUT has carried out with respect to the topic of this research is the publication of the booklet *Relearning to Learn* (2002) offering advice to teachers new to teaching children from refugee and asylum-seeking families. The booklet was published in combination with a conference for teachers. A fragment from the introduction reads:

“When pupils who are refugees arrive in their classrooms, teachers have to go the extra mile! That can be a lot to expect when those teachers are feeling they have already more than enough pupils to teach and their time and energy are fully stretched. Teachers may feel trepidation – possibly a sense of inadequacy – when faced with refugee pupils. This may be particularly so where schools or communities have little or no experience of children for who English is an additional language.”⁸³

The aim of *Relearning to Learn* was to support teachers who have refugee children in their classes for the first time and to support schools which had few experience with refugee children. Its intention was to allow teachers to benefit from the expertise of teachers throughout the UK who were already teaching refugee children.

The booklet consists of guiding principles for teachers new to teaching refugee children as they emerged from discussions during the conference organised by NUT. These include:

- Individual classroom teachers should not have to cope alone;
- A ‘can do’ approach works best;
- View refugee children as having to relearn how to learn;
- Refugee children are not responsible for their situation;
- The host children are central to the ‘solution’;
- Teachers new to teaching refugee children may need specific professional development and/or additional resources in their classroom.

Each of the principles is explained in the report and concrete suggestions for teachers are formulated in the course of the booklet, such as:

1. Ask for help and support;
2. Provide induction;
3. Create a ‘climate’ in which refugee children feel welcome and valued;
4. Make the curriculum more accessible.

All four suggestions are accompanied by practical tools and suggestions on working with refugee and asylum-seeking children. Also included in the booklet is a list of professional development priorities for teachers new to teaching refugee children, as well as recommendations of books, teaching materials and resources regarding the subject matter.

The booklet concludes by stating:

“If anyone needs convincing that the complexities of teaching and learning are totally misrepresented by the idea that teachers merely ‘deliver’ the curriculum, the arrival of refugee children will do that! They need real teaching – calling upon all the strategies and pedagogical knowledge and understanding that teachers have.”

“All classes contain pupils with a wide range of abilities, attitudes, interests, cultural backgrounds and learning needs. Refugee children may extend that range but the task for teachers remains fundamentally the same. Participants at the Symposium emphasised that good practice in teaching refugee children is no different from ‘good teaching’. Refugee children demand, and deserve, the best of teachers!”

Apart from the *Relearning to Learn* project, NUT has been active in a number of ways in their efforts to improve the education opportunities for refugee and asylum-seeking children as well as to support teachers who work with these students. It has, for instance, actively campaigned for years for the government to establish the *exceptional circumstances grant*. This grant is intended to meet the needs of schools arising from the new arrivals joining schools.

Impacts

As for the impact of the *Relearning to Learn* project, NUT representative states:

“We printed twice 20,000 copies of the booklet. So, in total, 40,000 copies have been requested by schools throughout the UK. That indicates the success of our project. It made clear that teachers were really in need for sound professional advice on how to deal with refugee and asylum-seeking pupils.”

Added to the great number of requests for the booklet, the NUT also mentions the success of the Symposium they organised. A representative says teachers were very pleased to exchange thoughts with one another and to learn from each other’s daily experiences in the classroom.



Regarding the campaigning efforts for the exceptional circumstances grant, a NUT member states: “The union has achieved that the government has established the grant.” However, she immediately adds that “the government will never admit that it is established because of our efforts, because we’re a union...”

CHAPTER 4 - SWEDEN

This chapter outlines the national legal frameworks in Sweden, and it deals with the question of the actual implementation of these policies. Additionally, in this chapter, the attempts of teachers' union Lärarförbundet to improve the educational opportunities for migrant children and to assist teachers are described. This Swedish teachers' union is not explicitly dedicated towards education opportunities for refugee and asylum seeking children. Instead, it is primarily concerned with issues related to teaching and learning in a multi-cultural environment.

4.1 Legal frameworks

The compulsory school age in Sweden is from 7 until 16 years old.⁸⁴ According to the Swedish Education Act (1985) refugee and asylum seeking children have the same right to education as native children. Moreover, refugee and asylum seeking children within the age group 7-16 are entitled to bilingual education. It is however important to mention that children who have applied for a residence permit or who hold a permit for a limited time period have the right to education, but are under no obligation to attend school. In other words: in Sweden the right to schooling is dissociated from the obligation.⁸⁵

Instruction in compulsory schools for students with a non-Swedish mother tongue is regulated in the Compulsory School Ordinance (1994:1194). It covers the rules applying to mother tongue tuition, study guidance and Swedish as a second language.⁸⁶ Municipalities are obligated to offer pupils mother tongue tuition. With respect to Swedish as a second language and study guidance in the mother tongue the responsibility lies with the school, with the school head being the decision maker.⁸⁷

To be entitled to mother tongue tuition the student must use the mother tongue as his or her daily language of intercourse and also have basic knowledge of that language. Municipalities do not need to fulfil this requirement if 1) there is no suitable teacher and/or 2) there are less than the minimum of five students in the municipality with a non-Swedish mother tongue.^{14 88}

¹⁴ It is important to note that exceptions apply for the Swedish national minority languages. See: With another mother tongue. Students in compulsory school and the organisation of teaching and learning. A summary in English of the Swedish National Agency for Education's report 321 (2008). Available: <http://www.skolverket.se/sb/d/190> (last checked by the author on 26 May 2009)

Study guidance in the mother tongue is closely connected to mother tongue tuition. It is regulated in the Compulsory School Ordinance under the heading 'Special Support'. It is stated that a student is entitled to study guidance in his or her mother tongue if the student so requires. In special cases, study guidance can also include a language other than the mother tongue regarding immigrant students.

Tuition in Swedish as a second language is directed at a group larger than mother tongue students. In addition to students with another mother tongue than Swedish, the group also encompasses students with Swedish as their mother tongue who have been admitted from foreign schools and immigrant students whose principal language of intercourse with one or both guardians is Swedish. The Ordinance states that Swedish as a second language has to be arranged instead of Swedish.

In summary, in the case study country Sweden, under the Compulsory School Ordinance the subject Swedish as a second language has an equivalent status to the national language, and students may participate in Swedish as a second language instead of in Swedish. Also, mother tongue tuition is a subject that is additional to the regular tuition at schools.⁸⁹

4.2 Local implementation

Mother tongue tuition, study guidance, and Swedish as a second language

At present, in Sweden, almost a fifth of compulsory school students have a foreign background; either born abroad or born in Sweden of foreign parents.¹⁵ The Swedish Association of Local Authorities and Regions estimates that approximately 90% of all asylum seeking children within the compulsory age group go to school.

A majority of compulsory schools now have students who are entitled to mother tongue tuition. In practice, mother tongue tuition is in many cases an activity that is external in relation to school, even if it is conducted on the school's premises and for the school's pupils. The distribution of 'students with another mother tongue' is uneven with regard to both region and school. In the major cities in Sweden, this is a question of more than every third student on average, but in certain schools it can occur that nine out of ten students have a mother tongue other than Swedish. In sparsely populated or smaller municipalities, it is

¹⁵ With another mother tongue. Students in compulsory school and the organisation of teaching and learning. A summary in English of the Swedish National Agency for Education's report 321 (2008). Available: <http://www.skolverket.se/sb/d/190> (last checked by the author on 26 May 2009)

usually less than every tenth student; in some schools, there may be no students at all with another mother tongue or just the occasional one.⁹⁰

The main responsibility for providing mother tongue tuition lies in general with the municipality. There can be students from different schools in a tuition group; there are not many schools that have sufficient numbers of students to have their own permanently employed mother tongue teachers. A 16 year old Filipino boy, who arrived in 2008 at a compulsory school in Stockholm (where out of the 500 students, only two are Swedish) says:

“When school started after the holiday I received mother tongue tuition. I still do. Every week, after school hours. Sometimes the teacher comes to this school, but sometimes I have to travel pretty far to another school. Sometimes that is a big hassle. I mean, it is not nice to travel so far. It takes a lot of time. And then I still have to do all my homework in the evening.”

Mother tongue teachers describe a situation that includes teaching after school hours, moving around between different schools and sometimes having to look for a room where the lesson can be held. One of the ‘Swedish as a second language’ teachers interviewed stated:

“Mother tongue teachers are generally speaking not part of the ‘regular’ teacher staff. They feel excluded. I feel they have to be much more integrated in the staff.”

Some of the stakeholders interviewed, including representatives of Lärarförbundet, teachers, and members of staff of the Swedish association of local authorities, commented that in general there is a lack of properly trained mother tongue teachers.

Newly arrived pupils who need extra support in order for them to follow the lessons in regular classes are entitled to what is called ‘study guidance’. This extra support is given by a support teacher and may be provided either in Swedish or in the child’s mother tongue. In many cases, the support teacher brings together a small group of students for special lessons, but may as well assist individual pupils during their regular classes.⁹¹

Teachers express that the cooperation between (subject) teachers and those responsible for study guidance should be improved. Added to this, several teachers feel there is a lack of information, both about what the guidance actually is and involves, and about who is responsible for taking the initiative for such guidance.⁹² Furthermore, a lack of resources relating to time – teachers often being responsible for both mother tongue tuition and study guidance – and money are, among others, mentioned by several stakeholders involved in this report as reasons for students not receiving this guidance.

All pupils whose mother tongue is not Swedish can study 'Swedish as a second language' throughout their attendance at compulsory and upper secondary school. The subject 'Swedish as a second language' has its own syllabus.⁹³

A recent study carried out by Skolverket, the Swedish National Agency for Education, shows that 'Swedish as a second language' is to a great extent remedial tuition rather than an independent subject.⁹⁴ Students participate in Swedish but have additional lessons that fall under the heading of 'Swedish as a second language'. At many schools it turns out that only pupils who perform poorly are offered 'Swedish as a second language'.

Also, 'Swedish as a second language' is not always directed at those pupils for whom the tuition is intended under the Compulsory School Ordinance. The Ordinance states that the school head must determine whether there is a *need* for 'Swedish as a second language' tuition. This lack of clarity leaves much scope for different interpretations. It is not always clear-cut which pupils can be regarded as in need of the tuition. In practice, this is up to the individual schools and school heads to decide.⁹⁵ The majority of the interviewed people during the making of this booklet also address the lack of clarity of the Ordinance regarding who is entitled to 'Swedish as a second language.'

The perception of 'Swedish as a second language' as a remedial subject for pupils who do not perform well also can pose boundaries for students to take part. Participation in 'Swedish as a second language' classes may create the feeling of exclusion in students, in which a foreign background and another mother tongue set them apart from what is considered to be the norm; to have a Swedish background.⁹⁶

All of the Swedish stakeholders interviewed express their concern with the low status of teachers who teach 'Swedish as a second language'. They demand more 'Swedish as a second language' teachers. Additionally, a number of stakeholders interviewed feel the quality of the training of teachers of 'Swedish as a second language' needs to be improved. It is also said by several interviewees that there is a need for sound in-service training for teachers who work with children coming from abroad. A representative of Lärarförbundet states that the union receives complaints from teachers who feel that they lack the skills and knowledge to deal with children coming from another country in their daily practice in the classroom. Teachers express the difficulties in dealing with all the different cultural backgrounds of their students and they mention the pressure this causes. A 'Swedish as a second language' teacher:

"Newly arrived pupils need extra attention. They need specific support. A lot of children suffer from traumatic experiences. It can be hard to give proper attention to those children. Another difficulty is that some of the students have had good schooling before they arrive in our school. Others not. Educational levels vary immensely.

That can be tough for teachers. Communities should provide more resources in order for us to give proper attention to each child's individual needs."

Another 'Swedish as a second language' teacher added:

"We need much more knowledge about the background of the newly arrived children. For instance, information about the country and the situation they come from, and about their cultural background. And we also need to know more about how to deal psychologically with traumatised children. In fact, not only children should receive counselling. Teachers need it as well."

'Hidden' children to education

Approximately 6,200 children sought asylum in Sweden in 2008; 1,510 of them were unaccompanied minors. This was an increase in comparison with 2007, when the equivalent figure was 1,264. Of the children arriving in Sweden without a custodian, about 60 per cent were 16-17 years old and about 30 per cent were 13-15 years old. According to legislation, unaccompanied minors should receive a decision regarding their applications within three months.⁹⁷

As of 1 July 2006, municipalities are responsible for the reception of unaccompanied minors and the Swedish Migration Board has to sign agreements with the municipalities on the reception of these children. At the same time as the reform entered into force, the number of unaccompanied minors has grown significantly and this increase has persisted.⁹⁸ See the table below.

Table 3 Number of unaccompanied minors seeking asylum in Sweden by country of origin

	2005	2006	2007	2008
Total	398	820	1264	1510
Iraq	69	337	621	464
Afghanistan	27	98	160	347
Somalia	33	101	189	345
Other	269	284	294	354

Source: <http://www.regeringen.se/sb/d/11901/a/125270>

A number of the children who have sought asylum, either alone or together with their parents, and whose applications have been denied, do not comply with the decision that they have to return to their countries of origin.

Currently, these children, who are now considered illegal, are not entitled to education on the same terms as asylum-seeking children. An inquiry chair has been tasked with examining the possibilities of regulating the right to education to apply for children in hiding. In the report *Skolgång för barn som skall avvisas eller utvisas* (Schooling for children who are to be refused entry or expelled) the inquiry chair, which finalized the assignment in May 2007, proposes a regulated right to education for these children.⁹⁹

Hidden children

Regeringen tigger om gömda flyktingbarn (The government keeps quiet about refugee children in hiding). Dagens Nyheter, May 27, 2009

The UN Committee on the Rights of the Child criticizes Sweden for not securing the right of children in hiding to education. On the 26th of May, a Swedish government delegation was to attend a hearing with the committee.

The government says that it intends to appoint a committee to investigate the question further, as a complement to the 2007 report about education for children who are about to be deported or turned away. This report does not include undocumented/ 'paperless' children, including children in hiding, children whose parents are working in the country illegally, or whose residence permit has run out. Critics claim that Sweden does not guarantee the children's right to education according to the Convention on the Rights of the Child. They also criticize the government for taking too long to solve the issue.

Schools and municipalities are allowed to let undocumented children attend school or pre-school, but this is not a right, it's not regulated in the law. Swedish schools are also not protected zones (from the police) and because of that, some parents are afraid to let their children attend school.

In the box below, the main issues and challenges with respect to the educational opportunities for refugee and asylum seeking children, as formulated by the Swedish stakeholders are summarized.

Box 3 Main issues and challenges for teachers

- Lack of clarity in the Compulsory School Ordinance as to who should receive Swedish as a second language and study guidance in the mother tongue.
- Lack of clear information about what study guidance actually means and who is responsible for taking the initiative for the guidance.
- Need for well-trained mother tongue, Swedish as a second language and study guidance teachers.
- The low status of Swedish as second language teachers.
- Lack of resources in a number of schools to provide adequate tuition and guidance for refugee and asylum seeking children.
- Difficulty of dealing with students with diverse educational background and existence of a great variety in levels of previous schooling.
- Difficulty of dealing with traumatised children.
- Need for appropriate teacher training with respect to working in a multicultural setting.
- Need for sound in-service training for teachers working with newly arrived children.
- Need for better cooperation between mother tongue teachers and schools.
- Mother tongue teachers having to move around between different schools.
- Need for solution to the situation in which municipalities do not provide mother tongue tuition (if there is not a suitable teacher or if there are less than five students in the municipality who request tuition in a certain mother tongue).

Summary

The interviewed stakeholders state that the vast majority of children within the compulsory age group, including refugee and asylum seeking children, attend school. Overall, the involved stakeholders feel that the local implementation with respect to education opportunities for refugee and asylum seeking children is in line with the legal frameworks. The fact that children are entitled to tuition in the mother tongue is regarded as very positive.

However, a number of challenges remain with respect to mother tongue tuition, teaching Swedish as a second language, study guidance and teacher support. Also, the education rights of 'hidden' children are one that needs our serious attention. According to the UN Committee of the Rights of the Child, Sweden doesn't guarantee the right to education of these children.

4.3 Teachers' union Lärarförbundet

Concern/motivation

The increasing number of immigrant adults and children coming to Sweden in the 1960s and 1970s posed a number of challenges to the education system. The Swedish teachers' union Lärarförbundet felt they had to come into action with respect to good quality education for newly arrived children. Among others, they fought for mother tongue education and Swedish as a second language for foreign children and youngsters.

"It's very important for those who come from abroad to also have education in their mother tongue. Evidence exists that those who receive mother tongue tuition learn Swedish better than those who don't."

As the Swedish teachers' union states, its ultimate goal is to provide the best education for every child. According to representatives of the union, children's rights is the top priority on their agenda. "And then come the rights of teachers", as a member of staff expressed.

Since 1975, Lärarförbundet has mother tongue teachers amongst their members ("we want to include and organise teachers in the whole education community. We want to build up a strong union") and ever since they have

made efforts to strive for a proper training for mother tongue teachers. In fact, Lärarförbundet was the first union in Sweden that recruited mother tongue teachers. The interviewed union members expressed their concern about a lack of proper training with regard to mother tongue tuition, as well as a lack of a sound in-service training; they would like more and better support regarding teaching in a multicultural setting, and more adequate prepared Swedish as a second language teachers. A union representative stated:

“Some of the teachers have an adequate professional background to perform their job properly in a multicultural environment, but most of them do not. Teachers receive far from enough support. They often lack knowledge about how to teach Swedish as a second language, multilingualism and an intercultural approach.”

The union's goal to provide quality of education for *all* children, and their belief in a fair society based on equity and equal opportunities for everybody in combination with their member's concerns, resulted in a number of actions.

Actions

Lärarförbundet is active in raising awareness amongst their members regarding issues related to teaching within a multicultural environment and teaching migrant children. Among others, the union has produced booklets for teachers about racism and xenophobia; it is active in lobbying with the Ministry of Education for improving teacher training for mother tongue teachers and Swedish as a second language teachers and it has triggered debates in the media to draw attention to challenges the educational arena is facing with respect to teaching children from diverse cultural and linguistic backgrounds.

Additionally, the union has created a *Committee Multilingualism*, consisting among others of representatives from universities, mother tongue teachers and Swedish as a second language teachers, with as its main task to inform the executive Board of Lärarförbundet. A member of staff:

“We feel it is important to establish networks with teachers, researchers and universities to learn more about all issues that concern our members within the field of multiculturalism, Swedish as a second language and bilingualism. The *Committee Multilingualism* gives us the opportunity to acquire the deepest knowledge possible.”

The union also publishes magazines for their members on a regular basis, in which attention is being paid to the impact migration has on educational systems.

Impact

In 1977, the first Swedish educational programs for mother tongue teachers were set up. Lärarförbundet asserts that this was a result of among others the union's efforts to establish a special training for mother tongue teachers. Apart from this accomplishment, Lärarförbundet cannot state with certainty what effects all of their other actions have had. They also state that despite their endless lobbying efforts to get rid of the limitation within the Compulsory School Ordinance that states that municipalities do not have to provide mother tongue tuition if there is no suitable teacher and/or if there is not a minimum of five students in the municipality with a non-Swedish mother tongue, they have not been able to influence the government to take away those limitations.

When asked whether the union is hopeful that in the near future issues such as teaching in a multicultural context will improve, a member of staff responded:

“No, I am not that hopeful. Multiculturalism isn't a priority for our government. But of course we will continue lobbying for what we believe in. We will continue to argue for better learning and teaching conditions.”

CHAPTER 5 - SPAIN

In chapter five the national legal frameworks and the implementation of these frameworks in Spain will be addressed, as well as the attempts of the Spanish teachers' unions CSI.F and USTEC.STEs to ameliorate the educational opportunities for migrant children and to support teachers. Like the Swedish union Lärarförbundet, the Spanish unions are not explicitly dedicated towards education opportunities for refugee and asylum seeking children. They are mostly concerned with topics and questions in relation to teaching and learning in a multicultural setting.

5.1 Legal framework

As it is laid down in the Spanish Constitution, every child in Spain, regardless of his or her immigration status, has the right to receive free and compulsory education from the age of 6 until the age of 16.¹⁰⁰ Article 71 on 'Equity in Education' of the *Organic Law on the Quality of Education (LOCE) of 2002*¹⁰¹ stipulates the educational right of pupils with 'specific needs for educational support'. It states that "the Education Administration (*Administraciones Educativas*) shall provide the necessary means in order for every student to develop him/herself fully on a personal, social and emotional level". In addition, the *Law on the Protection of the Minor* establishes in Article 10 the right of all migrant children present in Spain to receive education.

According to point 4, Article 42 of the 23 December Organic Act 10/2002 of the LOCE, migrant students have the same rights and duties as Spanish students; their incorporation into the education system implies the acceptance of the generally established rules of co-existence that govern the educational establishments into which they are to be integrated.¹⁰²

The National Organic Law of Education 2/2006 established "the flexibility to adapt education to the diversity of aptitudes, interests, expectations and needs of the students, as well as to the changes that students suffer in the society" (Article 1.e), and as one of the aims "the training in communication, both in the official and co-official language..." (Article 2.j) It also states "the concern of the Regional Education Administrations to develop specific programs for students who have a serious lack of knowledge of the language... in order to facilitate their integration at the corresponding course level" (Article 79.1).¹⁰³

The Royal Decree of the 28th of February 1996 and its corresponding development in the Ministerial order of the 22nd of July 1999 regulate at national level the special attention that should be received by communities. Based on that law, every autonomous community in Spain with competences in education (all of them except Ceuta and Melilla) have developed laws about this. According to this Royal Decree, foreign newcomers entering a regular class will receive special academic support through so-called '*Aulas de Enlace*' (connection classes).

In Spain, no specific legal framework exists regarding education for refugee or asylum seeking children, whether they are accompanied or not. When asked if there is a particular reason for not explicitly mentioning refugee and asylum seeking children in education law, a representative of the Spanish Ministry of Education responded:

"Yes, that is certainly for a reason. We don't want to stigmatize anybody. By using terms as 'asylum seeker' or 'refugee' one does stigmatize. Therefore we state that every child, no matter what his or her background or legal status is, no matter what country he or she is from, has the right to education. And those children with specific educational needs are to be supported by the education system. We consider refugee children as children with specific needs."

In summary, Refugee and asylum seeking children are seen as children with specific educational needs (*necesidades educativas especiales: NEE*) under Spanish Educational Law. They are entitled to specific programs when they lack a proper educational background and/or lack adequate language proficiency. NEE include physically, psychologically and socially disadvantaged students.

5.2 Local implementation

Aulas de Enlace (connection classes)

In Spain, as we have seen, no specific law exists that deals with the education of refugee and asylum seeking children. Instead, all migrant children who lack a sufficient educational background and language proficiency according to the Spanish standards are considered to be children with special educational needs (NEE). It is important to note that in Spain, migrant children are taught in the national language (or Catalan).

Spain consists of 17 autonomous communities (*comunidades autónomas*). Therefore, education policies and implementation of policies may vary in the different communities. The following is based on information gathered in Madrid (comunidad de Madrid) and Barcelona (Cataluña).

Unfortunately, the exact number of refugee and asylum seeking children in Spain is unknown. A representative of the NGO CEAR (*Comisión Española de Ayuda al Refugiado*: Spanish Commission for Refugee Support) in Madrid explained:

“Refugees and asylum seekers: it is a delicate issue, a political issue. It is a topic which is important in diplomatic relations. Therefore, refugee and asylum seeking children are all put in one big bag called ‘immigrants’.”

Once an individual who is seeking asylum enters onto Spanish territory, the Asylum and Refugee Office (*Oficina de Asilo y Refugio*: OAR), a department of the Ministry of Interior, decides which status to grant to that person. As a representative of the Ministry of Education described:

“From the moment an immigrant child enters Spanish territory, social workers from the Ministry of Interiors must immediately search for a proper educational environment for the child. I repeat: immediately.”

If the reason(s) for seeking asylum is/are considered well-founded and in line with policy criteria, the applicant can either receive a temporary protection status or a refugee status.

Subsequently, social workers of the Ministry of Labour are responsible for seeking a place to stay for refugees in shelters (*Centros de Acogida de Asilo*) throughout Spain. Unaccompanied minors are placed in special shelters, the so-called *Casas Acogida de Menores*. Some of these shelters are founded by the government; others have been established by NGOs, such as the CEAR. Within the shelters, psychologists and social workers are concerned with providing the newcomers with information on their rights, and support with education opportunities, among other things. That this is not always the case in practice will be addressed in the section ‘Invisible children’.

The Education Commission (*Comisión de Escolarización*) controls the process of school placement, especially for those children arriving once the academic course has started. *Comisiones de Escolarización* are composed of heads of schools, school inspectors and persons from the municipality who are responsible for education.

Most of the schools with a significant number of migrant students have one or two *Aulas de Enlace*, as they are called in the autonomous community Madrid.

In Cataluña these are called *Aulas de Acogida*. These *Aulas* are special connection classes offering educational programs for migrant children (in the community Madrid from 8 till 12 years old; in Cataluña these *Aulas* exist in primary as well as in secondary schools) within a regular – usually public – school environment.¹⁰⁴ *Aulas de Enlace* or *Aulas de Acogida* are designed for children who have poor or no knowledge of the Spanish language and/or who have an insufficient educational background according to the minimal standards in Spain. These children fall under the group that under Spanish national education law are called pupils with ‘special educational needs’ (*necesidades educativas especiales: NEE*), as mentioned in the previous section. Children who attend *Aulas* also participate in regular classes in which language ability is not considered that important, such as in gymnastics, handicrafts and music lessons. Schools might ask for an *Aula* depending on the number of immigrant children in school.

Aulas de Enlace are organised and financed by the governments of the autonomous communities. All autonomous communities are responsible for most of the educational policy decisions in their community, including decisions about compensatory education. Only the autonomous communities Ceuta and Melilla fall under the responsibility of the Spanish Ministry of Education.

Mixed result in an Aula de Enlace

Jonathan (12) and Masda (10) attend the *Aula de Enlace* in a public school in Alcobenda (comunidad de Madrid). Jonathan arrived last January in Spain, together with his father. He is from Santo Domingo. He proudly shows his exercise-book full of handwriting and sums. His teacher:

“Jonathan is doing well in mathematics, but he’s bad in language. He writes as he speaks. The Spanish from Santo Domingo is not the same as our Spanish. And the curriculum is very different in Santo Domingo. But I have faith in this boy. He’s smart. Everything will turn out fine.”

Masda is busy with drawing. She is extremely shy. Her teacher explains Masda just arrived from Morocco and that she has never been to school before. She says:

“This is certainly not the first time I have a child in my classroom without any educational background. Some children of twelve years old haven’t seen a classroom in their entire life before entering this one. That’s hard. I hope Masda is able to participate in regular classes soon, but I have my doubts.”

According to the NGO CEAR, one out of five public primary schools has an *Aula*. Nevertheless, this is only an estimate and there are rural regions and small villages where there are no *Aulas*. Instead, 'flying teachers' visit the schools to provide courses in Spanish (or as in the case of Cataluña: Catalan) language and culture. There are also schools that deliver courses in Spanish language and culture after school hours. However, these provisions are not arranged by law, and are thus dependent on a schools' individual initiative.

A number of the interviewed people stress the importance of including children's parents or caretakers more in the education of their child. Involvement of parents or caretakers is seen as important in supporting and encouraging children. Additionally, as it was mentioned, parents' engagement can help children in terms of educational achievement.

Schools are obliged to reserve at least two places in each classroom for 'children with special needs'. This reserve has to be kept until families with NEE children ask for a school place. When there is no demand for these places, schools can use them for non-NEE children.

In reality however, the 'two places for children with special needs' policy does not always take place. An explanation of this could be that some of the semi-public/semi-private schools (*concertados*) that should be free of charge for all students, do impose financial charges (e.g. for materials, uniforms) which results in selection at the schools' front door.

Inadequate teacher support

It is important to note that teaching staff occupied with newcomer children from abroad are not required to have a particular teaching profile. Most of the teachers who take care of migrant children have no formation in didactics of teaching Spanish as an additional language, nor as foreign language teacher. Added to this, a specific curriculum to teach Spanish as an additional language is lacking, as well as a general plan regulating Spanish teaching as an additional language.¹⁰⁵ Moreover it was generally found by the interviewees that teacher training does not properly address the issues related to teaching in a multicultural setting. Teachers feel that they lack an adequate professional background to deal with cultural diversity in the classroom.

As one teacher explained:

"The vast majority of us just learn from daily practice. We have to figure out for ourselves what works and what doesn't."

It is also widely felt by teachers that their school's curriculum does not correspond to the changes in the demographics of the student population. They

state the need for appropriate curriculum and instructional materials that are sensitive towards the different cultural backgrounds of their pupils.

Added to this, several educators mention that they find it hard to deal with the diverse educational backgrounds of children within their class. Some children have little or no prior schooling; others have a high level of schooling. Language barriers are also named as a main issue: children who are enrolled in the *Aulas*, also join a few 'regular' lessons (such as handicrafts and music lessons) and although language proficiency might not seem that important for participation in those classes, it is nevertheless considered as problematic according to a number of teachers.

Finally, educators mention that because of the high pupil/teacher ratios they are unable to give proper attention to children on an individual basis, as they would prefer to do. In addition to this, most of the teachers interviewed stated that social workers specifically trained to work with newcomer children from abroad are lacking. One of the teachers says:

"Teachers can't take all responsibility on their shoulders, but at the moment they are basically forced to do so."

EBE project

This year, the Department of Education of Cataluña started the widely criticized pilot project 'Welcome Educational Centres' (Espacios de Bienvenida Educativa: EBE) in the small cities Reus and Vic. These are educational centres migrant children attend before they can enrol in the *Aulas de Acogida*. EBE are generally located far away from regular public schools, where there is a high concentration of migrant children. Within these centres, pupils are taught Catalan and some basic knowledge about the place they are living in. "They can stay there for one month, but it also happens that they stay there much, much longer", as a representative of the teachers' union USTEC. STEs from Cataluña mentioned. Meanwhile a special commission (Comisión de Matriculación) decides in which schools the children are to be enrolled in a later stage. The USTEC-STE representative stated:

"The EBE project causes segregation. Children are out of contact with other children of their same age group. Migrant pupils are all put together. By no means can this be called inclusive education."

NGO CEAR added:

"We can call those EBE –which are supposed to be welcoming centres– Espacios de Despedida [Goodbye, or Farewell Centres]. The EBE are far from welcoming. The centres push children away from the mainstream education system. Besides, these EBE stigmatize children."

Invisible children

The representatives of the Ministry of Education interviewed state that *all* children in the obligatory education age group in Spain are enrolled in schools, regardless of their status. Others, including members of staff of NGOs and one of the two teachers' unions, argue that this is incorrect. They mention that there are migrant minors, including refugee and asylum seeking children, who are invisible in society. They move from place to place throughout the country without being noticed, let alone being enrolled into school. Some spent most of their time indoors as is sometimes the case with Muslim girls.

One representative of an NGO concerned with the situation of unaccompanied minors in Cataluña is deeply pessimistic about these children's enrolment into schools. He said:

“There are unaccompanied children in Cataluña who haven't been to school for a year and a half. This is against the law. It is compulsory for every child to be enrolled in a school, but no one seems to bother.”

When asked what these children do the whole day, he responded:

“Nothing. No education. Absolutely nothing. They are basically locked up in a centre for unaccompanied minors that look like a prison. The children don't receive any support whatsoever with finding an adequate educational program or course. I can say from experience that the majority of the shelters for unaccompanied children within the compulsory school age group don't do anything for these minors. These children are invisible to society.”

All of the people interviewed during this study stressed the urgent need for school systems to be based on inclusion.

In the box below, the main issues and challenges with respect to the subject matter of this report as formulated by the Spanish stakeholders are set out.

Box 4 Main issues and challenges

- Insufficient attention towards teaching in a multicultural setting in teacher training;
- Inadequate curriculum for teaching in a multicultural classroom;
- Too few social workers to work with migrant children;
- Insufficient attention to children's' individual needs due to high student/teacher ratios;
- Different educational backgrounds of children of the same age;

- Language barriers;
- Children's parents need to be more included;
- School costs leading to student selection and exclusion;
- Existence of unaccompanied minors deprived of education;
- Urgent call for the need for school systems to be based on inclusion.

Summary

There exists a general agreement amongst the interviewed stakeholders that all newly arrived children in Spain are entitled to education. Newly arrived children are considered children with special educational need (NEE). For these children several provisions are available. In many cases, migrant children attend in-school Aulas de Enlace (or Aulas de Acogida). In others cases, other provisions exist, such as 'flying teachers'. Children are being taught in Spanish or Catalan.

The main problems as formulated by the interviewees included segregation practices, such as the EBE project; the lack of proper attention to teaching in a multicultural setting during teacher training; and a lack of adequate curriculum for educators working with children from diverse cultural and linguistic backgrounds. A pressing issue that needs our immediate attention is the existence of so called 'hidden' children to education.

5.3 Teachers' union CSI.F

Concern/motivation

For about five years, the Spanish teachers' union' CSI.F has been occupied with issues related to migration and its impact on education. The union's actions in this area are driven by a number of concerns. The first and most important motivation of the CSI.F is to strive for an inclusive society and education system. "We're against segregation practices as for example is the case in Cataluña with its *Espacios de Bienvenida Educativa*." The union mentions its preoccupation with other more covert segregation practices such as the lack of individual attention for students with special educational needs in schools and classrooms, as is often the case with refugee and asylum seeking children. According to the union, the lack of attention is primarily due to the high pupil/teacher ratios.

According to the Ministry of Education the teacher: pupil ratio is 1:25 at the primary level and 1:27 at the secondary level. However, according to CSI.F, in practice these numbers are often considerably higher. Although *consertados* (semi-public/semi-private schools) are legally obliged to admit every student, regardless his or her background, this does not always occur. Additionally, the union expresses its concern about language barriers (“It’s very difficult for teachers having to deal with children who have poor language ability”), and about the insufficient attention in teacher training towards educating in a multicultural setting.

Actions

Driven by these concerns, CSI.F lobbies and negotiates on a regular basis with the Ministry of Education. Some of the demands the union has, are government provision of more human and material resources for schools. The union also lobbies for an adaptation of the curriculum to the multicultural classroom. “The content of the materials we use as teachers needs to be made more sensitive towards the cultural diversity that exists within a class.” In line with this demand, the union lobbies for teacher training to address teaching in multicultural settings. In addition, CSI.F presses for more educational programs and courses within schools for those children with no or a poor educational background in their country of origin or with no or inadequate language ability, and for more migrant children to be allowed in the *consertados*. A final demand is the establishment of a special department within the Ministry of Education that is primarily occupied with multicultural education issues.

In addition to the lobby strategies, the CSI.F also nationally disseminates their monthly magazine *Debate Profesional*, which contains both national and international information and news on topics related to migration and education. On their website, packages of teaching materials on multicultural education are made available to teachers.

In general, as one representative of CSI.F stated, the union does not so much address issues with respect to education for refugee and asylum seeking children. Instead it is concerned with issues involved in relation to teaching in a multicultural setting.

Impacts

The union’s efforts do seem to have impact. A representative of CSI.F mentions the following effects of its actions:

- Throughout Spain schools are working with the teaching materials the union offers on its website with respect to multicultural education;

- The intense collaboration with other teachers' unions has contributed to an increase of the number of language and culture courses for migrant children within school settlements in several autonomous communities in Spain;
- Within teacher training more attention is being paid now to issues related to cultural diversity in the classroom;
- More migrant children are being allowed in the concertados.

5.4 Teachers' union USTEC.STEs

Concern/motivation

The union is concerned with problematic situations the presence of migrant children can create for teachers and the consequent high levels of school absenteeism and drop-out among migrant children. One union representative explains there is a significant difference between the difficulties primary and secondary school teachers are confronted with. The child's age, and accordingly its ability to master the new language, poses different kinds of barriers for their integration and communication with their peers. In addition to the problems caused by language barriers, the union representative mentions the psychological effects that migration and the loss of their former life has on children. Although the psychological hurt as a consequence of the process of questioning, rejecting and dissociation is common to all migrant children, 'compensatory behaviour' usually becomes apparent after the age of twelve. This 'compensatory behaviour' can sometimes be aggressive and disruptive, and as such pose disciplinary problems for teachers. One alarming consequence of the inappropriate and insufficient attention to this situation is the fact that the level of school absenteeism and drop-out among migrant children is much higher than that of their autochthonous peers.

Actions

USTEC.STEs addresses the issue of education and migration in several ways. The union frequently attends round tables and other meetings regarding the topic. They provide information by explaining the theory lying behind the disruptive behaviour that distorts classrooms' day to day practices, and the mechanisms of exclusion with which many migrant children are confronted. The union also provides individual information and psychological assistance to teachers and professionals that work for other educational services. As one USTEC.STEs representative states: "Our advice is always guided by the individual case and never from a general immigrant problem."

In conclusion, USTEC.STEs provides information and psychological assistance to teachers who are confronted with problems related to the presence of migrant children in their classrooms.

The union did not mention the effects of its activities.



CHAPTER 6 - AUSTRALIA

The point of focus in the following chapter regarding case study country Australia will be on a specific period, namely from 1999 until approximately 2005, when the confinement of children under mandatory detention policy in Australia's detention camps was described as "one of the worst, if not the worst, human rights violations in Australia's post World War II history" by a representative of teachers' union Australian Education Union (AEU).

First, relevant legislation will be described, as well as the teaching and learning circumstances in detention camps during 1999-2005, after which the concerns and actions of AEU in this period are set out.

6.1 Legal framework

In Australia, child protection and education are governed primarily by *State and Territory legislation* which contains mandatory protection provisions. Education is compulsory up to an age specified by local legislation. This age varies from state to state, but is generally 15-16. State and Territory legislation applied in detention centres, except where there was inconsistency with *Commonwealth law*. *Commonwealth* legislation relevant to children in detention includes the Immigration Law (Guardianship of Children) which makes the Commonwealth Minister the guardian of

"every non-citizen who arrives in Australia after the commencement of this Act to the exclusion of the father and mother and every other guardian of the child, and shall have, as guardian, the same rights, duties, obligations and liabilities as a natural guardian of the child would have, until the child reaches the age of 18 years or leaves Australia permanently, or until the provision of this Act cease to apply to and in relation to the child, whichever first happens."¹⁰⁷

Australia agreed to the international rules contained in the *Convention on the Rights of the Child (CRC)* on 17 December 1990, obliging it to give all children, including asylum-seeking children, special treatment. According to the teachers' union AEU, key articles of the convention in relation to children in detention are:

- The best interest of the child shall be primary consideration: Art. 3 (1);
- Detention must be as a measure of last resort and for the shortest appropriate period of time: Art. 37 (b);

- Children in detention have the right to be treated with humanity and respect: Art. 37 (a), (c);
- Children have the right to enjoy, to maximum extent possible, development and recovery from last trauma: Art. 6 (2) and (39);
- Asylum-seeking and refugee children are entitled to appropriate protection and assistance: Art. 22 (1).

However, as AEU stated, “None of these things were practiced or upheld by the Government”.

Furthermore, the Australian National Inquiry into Children in Immigration Detention refers to the 1951 Convention relating to the Status of Refugees as amended by the 1967 Protocol relating to the Status of Refugees (the Refugee Convention), which specifically requires Australia to apply domestic laws that establish border integrity in such a way that persons fleeing persecution for specific reasons will be protected. Article 22 of the CRC makes the Refugee Convention immediately relevant to a consideration of the human rights of children in detention because it requires that a child who is seeking refugee status receive appropriate protection and humanitarian assistance in the enjoyment of the rights contained in the CRC and in other international human rights or humanitarian instruments to which Australia is a party.¹⁰⁸

Article 22(1) of the CRC requires all countries to make appropriate efforts to ensure that children enjoy their rights not just under the CRC, but also under other treaties that countries, in this Australia, has ratified. The most important of these in the context of the Australian National Inquiry into Children in Immigration Detention is the Refugee Convention. The most relevant provisions of the Refugee Convention for the purposes of this Inquiry are the definition of a refugee (article 1(A)(2)), the principle of non-refoulement (article 33), the prohibition on imposing penalties on persons on account of their illegal entry and the prohibition of restricting the movement of refugees ‘other than those which are necessary’ (article 31).¹⁰⁹

By ratifying the CRC, Refugee Convention and other treaties, Australia explicitly agreed to ensure that new laws be enacted or existing laws be applied in a manner that gives proper expression to its treaty obligations.

6.2 Local implementation

This section deals with the actual implementation of education policy regarding refugee children in Australia. As mentioned in the beginning of this chapter, the point of focus is on the period from circa 1999 until 2005.

The following describes the situation in the Woomera Detention Centre. This centre was opened in November 1999 in response to an increase in unauthorized arrivals, which had exceeded the capacity of other detention facilities. Originally, it was intended to hold 400 people. Nevertheless, at the peak of its capacity in April 2000, it held about 1,400 illegal migrants who sought asylum in Australia, some of whom remained more than three years whilst they awaited processing or appeals. After ongoing public pressure in response to several well publicized riots in 2000, accusations of human right abuses and capacity issues, the Woomera Detention Centre closed in April 2003.

The sections below are based on the information provided by AEU.

Failing teacher support

Between 1 July 1999 and 30 June 2003, 2,184 child asylum seekers arrived in Australia. The number of children in detention changed over time. A total of 976 children were in immigration detention in 1999-2000; peaked to 1,923 children in 2000-2001; and then declined to 1,696 children in 2001-2002; and 703 in 2002-2003.

In October 2003, 62 children had been in detention for more than 2 years (8 of whom had been there for more than 3 years). All of those children were in detention with one or more parents. The children who were in detention on Boxing Day (26 December) in 2003, had spent an average of one year, eight months and eleven days (619 days) in detention. The longest a child spent in an Australian immigration detention centre was 5 years 5 months and 20 days, after which this particular child and his family were recognized as legitimate refugees and allowed to settle in Australia.

During the period of our focus, Immigration Detention Centre service providers were obliged to ensure the child detainees' access to education services. According to the then Federal Minister:

“The IDS [Immigration Detention Standards] require that all detainees have access to education programs and that social and education programs appropriate to the child's age and abilities are available to all children in detention. Within this framework, services for children include: Programs for pre-school, primary and secondary aged children; Provision of ‘after school’ activities such as sports, arts and crafts; Entertainment facilities, such as videos and computers; Playgrounds; Regular excursions; and Case management of unaccompanied minors and other children with special needs such as learning difficulties.”

However, according to the teachers' union AEU, these services were not provided in a systematic way nor were they of a remotely acceptable level. The following quote illustrates the experience of one of the education officers at the Woomera Detention Centre as it was sent by AEU to the author of this booklet:

"In 2000 and 2001, Tom Mann spent more than seven months, over the period of a year, as an education officer at Woomera Detention Centre. With only two other staff members, he was responsible for all the teaching that went on at the Centre, including English classes for the adults as well as basic education for children of all ages. In his first stint in late 2000 there were only about 250 refugees, [providing education for them all was] an extremely difficult task. When he went back later for a six-month contract in 2001, there were up to 2,000 people, and with few extra resources available it became nearly impossible to offer tuition to everyone who wanted it, much less to actively encourage those who were depressed and discouraged to attend classes. It was difficult for them to provide more than an hour's contact time each day even for the school aged children."

To add to the difficulties, the administration decided at one stage to shift the refugees between the different compounds within the Centre where they were confined, depending upon the progress of their applications. Mann said:

"Teaching became a nightmare with these new movements. Often there was disruption with too many children or adults coming into the classroom. Children especially liked to form working friendships and settle into a pattern of activities in a classroom. All that went by the board. A small number of computers were provided for the refugees to use, but the demand was so great that the strict rationing sometimes led to violent incidents."

The following letter was received by the AEU in May 2002 from a teacher who worked at Woomera:

"I am a registered primary trained teacher in South Australia. In 2001 I was contracted as an Education Officer by the Australasian Correctional Management (ACM) to teach at the Woomera Immigration Reception and Processing Centre (IRPC) for three months, May to August. (...) Classes were held in four different compounds, to which the teachers rotated daily. The classes were held in allocate prefabricated rooms which seated approximately 20 people comfortably. At times the classes were attended by 2 students and at times 52. In times of new arrival influxes, the classrooms were unable to cater for all the students, so classes were held in the Mess, the activity room or outside. In fact anywhere we

could find space. Class numbers eventually stabilised or new classes were established to meet needs, often held by assistant teachers."

"The assistant teachers were detainees with advanced English skills, IT skills, ex-teachers, librarians, interpreters, musicians, artists and athletes etc. In fact, anyone who had a transferable skill and who was prepared to lend a hand or take a class were accepted to teach. There were more than 50 detainees involved in some way in the education program. If it was not for their generous and concerned efforts there would really not have been an education program at all. (...) Certainly their 'pay' of \$ 1.00/hr was not what kept them involved!"

After having worked for a couple of weeks, the teacher perceived the need to focus on the educational needs of the unaccompanied minors and the teenagers, because:

"These students would be the most vulnerable and disadvantaged educationally, socially and culturally when they were released."

Therefore the Woomera teacher initiated and organised a series of lessons based on what she saw as their specific learning needs, ensuring a continuity of learning outcomes over all of the compounds. Regardless of which compounds they were moved to, or from, they would practically be able to fit into any similar class without major disruptions to their learning. However, she stated:

"I was disappointed when the Program Manager expressed that I had acted outside my guide lines and that it was not considered to be what was required. They [the refugees] were considered to be only short-term detainees and that setting up such a program was a waste of time and resources. The old adage 'We're only here to keep you alive, not fatten you up', came to my mind. Well and good if you are here only short-term, but what happens when one is detained up to 2 years?"

The teacher states that teaching was often a haphazard affair, due to among others the shortage of staff, continual staff turn-over and the lack of resources. She further describes that there was often a clash with the activities class that was always given priority to over education; disruptions due to disturbances or riots; continual rehousing of detainees between compounds; releases and arrivals of detainees; detainees' health and psychological states; the frequent changes to the education program by the management to meet perceived or imposed needs. All these factors made teaching and learning an extremely difficult task.

Added to this, the teacher argues, the detainees themselves were not in a state conducive to learning. The trauma of their experiences in getting to Australia, and their treatment whilst they were in detention, allowed for very little mental energy to devote to learning. "I found," said the teacher, "that their main focus and preoccupation was with getting a Visa and its attendant problems." She added:

"How can we expect TPV [Temporary Protection Visa] holders¹⁶ to become fluent in English, finish postponed studies, become gainfully employed and become productive members of the community if they are not educationally supported on release?"

Inability to meet children's needs

The teachers' union AEU confirmed that the children in detention were severely traumatised from the combined effects of the conditions they were fleeing from, their passage to Australia and the condition in the detention centres.

Research has shown that among the specific immediate and potential impacts of their traumatic experiences were: physical injuries and illnesses as well as psychological symptoms associated with their trauma (which can manifest in a number of ways and significantly influence settling and learning); ongoing problems associated with lack of food, starvation and malnutrition and little or no medical attention before reaching Australia; extended deprivation of peace and security in their home country including unrest leading to the closure of schools and severe disruption of educational services.

Meeting the educational, emotional and welfare needs of these students required significant amounts of additional work and effort by education personnel and the schools the children attended. Teachers' statements quoted earlier in this section illustrate the lack of support they received whilst trying to perform their job. Once children received education in local schools, the level of support educators received varied according to policies and guidelines of different state education authorities.

AEU asserted that neither education provision nor any other aspect of the treatment of children in detention in Australia during the period described was in line with legal international and national frameworks.

¹⁶ This controversial scheme, introduced by the Howard administration in 1999, was abolished in 2008 (http://www.immi.gov.au/media/fact-sheets/68tpv_further.htm last checked by the author 1 June 2009).

Current issues

For what the Australian government calls 'unauthorised' asylum seeker arrivals, children are no longer kept in detention, stated AEU. However, according to the union:

"Everything is blowing up in Australia again and it remains to be seen how the situation regarding the recent arrival of boats plays out. There are calls for a return to the more draconian policies of the Howard Government after the reforms implemented by the Rudd Government post-November 2007."

Many refugee children have little or no education before they arrive in Australia. A report in the Sun Herald (January 29, 2006) mentioned that according to the Department of Immigration statistics African refugees had received an average of less than two years of schooling upon arrival. Educational difficulties caused many of those beginning education to withdraw from further schooling as they do not receive the specialist assistance to help them in catching up to their Australian peers. English as a second language (ESL) teachers working with refugee children often have to deal with a lack of textbooks and other educational resources appropriate to syllabus outcomes, responsibilities of needing to support other non-ESL teachers, providing welfare support to students and their families, providing specialist ESL support and tuition for children who have experienced torture and trauma for longer periods of time, as well as dealing with the uncertainties and fears caused in the life of refugees only issued a Temporary Protection Visa.¹¹⁰

Most teachers of refugee children do not receive any specific training for teaching refugee and asylum seeking children with their individual needs, whilst additionally they are inadequately resourced. Teachers of refugee children are often under stress, largely due to the shortage of teachers.¹¹¹ They often have to deal with children with a lack of understanding the culture, customs and education system, and, as said above, who might experience stress and/or trauma.

In the box below, the main current issues and challenges with respect to the subject matter of this report as formulated by the AEU and Refugee Education Australia are highlighted.

Box 5 Current main issues and challenges

- Insufficient financial resources (for books and other school requirements such as excursions) in addition to families' basic expenses;
- Children with various levels of educational backgrounds;
- Children with various levels of English, some with none;

- Many children having grown up in refugee camps where some have received some education and others none;
- Many children with no understanding of the culture, customs, and expectations of the Australian education system;
- Many children exhibiting their stress through non-verbal behaviour (sitting in corners, crying);
- Scarcity or non-existence of interpreters for some language groups;
- Fear of all authorities, including schools, in many children;
- Lack of attention given during teacher training on how to work with refugee children;
- Lack of specialist support for refugee children;
- Teachers of refugee children often being burdened with multiple and difficult tasks;
- Shortage of ESL teachers

Summary

During the period of 1999 to 2005, the Australian situation with regard to the education of migrant children was grim. AEU points to a general lack of resources and (trained) teachers, appalling teaching conditions, and continuous staff turn-over. Due to this situation, the educational, emotional, and welfare needs of migrant children were far from being met. At present, some of the main issues with respect to education for refugee and asylum seeking children include schools being poorly funded and ill-equipped to provide sound English as a Second Language teaching and support, educators having to deal with traumatised children, insufficient attention during teacher training on how to teach refugee children, and teachers having to cope with refugee and asylum seeking children with various levels of educational backgrounds.

6.3 Teachers' union AEU

Concern/motivation

With regard to the education of refugee and asylum seeking children, AEU's first and foremost concern is for children to have proper access to education, the right to participate in schools in the community, and the provision of an appropriate level of resources. The union also wanted to make a strong case for all children (and their parents) to be released from detention.

Actions

As part of the implementation of the Federal Conference 2003 decisions in relation to refugees and asylum seekers, a staff member of the AEU was appointed on a part-time basis for three months to work nationally on campaigns to significantly improve access to basic human rights and to education for asylum seekers and refugees living in and out of detention in Australia and Nauru.

In 2002 the AEU made the following recommendations to the government:

1. That, in view of the harm suffered by children in immigration detention in facilities in Australia, Manus Island and Nauru, they be released into the community to live with their parents with appropriate support and services, including education, counselling, welfare and health.
2. That Australia's public school and TAFE [Technical and Further Education Colleges] systems provide the necessary resources to allow children of asylum seekers and their parents to freely enrol in appropriate language, education and training courses and to participate fully in general education programs with gender equitable outcomes.
3. That the visa system should be changed so that the current limits and prohibitions applying to those on Temporary Protection Visas are removed and settlement, reunion, social services and entitlement rights restored so that families can live in peace and security while their position is determined.
4. That education programs provided to asylum seekers in public education should be based on those successfully developed under the 1999 Safe Havens program under the auspices of DIMA [Department of Immigration and Citizenship] in conjunction with a number of non-government organisations, and should draw from the experience of the program currently operating successfully in New Zealand.
5. That teachers engaged to deliver educational programs to asylum seekers be provided with professional development to enable them to cater for the particular needs of child asylum seekers and their families.
6. That teachers engaged in programs for asylum seekers be employed on comparable terms and conditions to those engaged in the general teaching services of the state or territory in question, and preferably be seconded from those services, in order to attract experiences and qualified staff.
7. That the pervasive culture of secrecy in matters related to asylum seekers should be replaced by a more open administrative approach, including ending requirements for signed confidentiality undertakings as a condition of employment as a teacher.

Points 6 and 7 relate to the time when some teachers worked in detention centres, before the children were released to attend local schools in the community.

In June 2003 the AEU endorsed the following statement by the peak lobby group 'A Just Australia' and strongly promoted an accompanying action kit for use by its members across Australia:

The boats have stopped coming for a while. No boatload of asylum seekers has landed in Australia since 2001 or been diverted to the Pacific. We are approaching two years since the last boat, and there are still two hundred children in detention, most for the entire period, some for over four years. Over four hundred people remain on Nauru, three on Manus Island. Twelve hundred are in immigration detention centres, around 400 of these for over two years. Over eight thousand proven refugees remain on temporary protection visas.

This is not protecting Australia; this is disgracing Australia.

Do we continue with long term detention, High Court appeals, stop-gap changes to legislation, secret negotiations with troubling regimes, deportations, civil conflict, family insecurity, institutionalised abuse of children, and massive government expense?

Or do we take the conflict, suffering and issues off the agenda for a little while, accept that we have people here that are going to have to stay here, accept that proven refugees need to be able to get on with their lives, and that the policy settings are harsher than they need be now?

The statement concludes by urging the government to immediately provide permanent protection for proven refugees, and offer them assistance to return home on a voluntary basis. In addition, a call for the introduction of a process for humanitarian visas or solutions for those stuck in the limbo of long term detention and the immediately release children and their families into the community is made.

Effects

The union was actively involved in lobbying for all children (and their parents) to be released from detention. Through amendments to the Migration Act this came into effect in mid 2005.

According to an AEU representative, the union's work has had a profound impact on further lobbying efforts and influenced public opinion about the shameful process of incarcerating children in detention centres. It influenced the release of all children from detention in 2005, says a staff member of AEU.

CHAPTER 7 - CONCLUSIONS AND RECOMMENDATIONS

“School is a portal towards integration.”
(Quote from one of the interviewed education experts)

Migration policy and challenges to the integration of immigrants are high on the political agenda of OECD countries. Worldwide, migration flows have increased considerably in the last decades. Since the 1960s the number of immigrants has more than tripled in OECD countries. As a consequence, the education community has to face the necessity to respond to the current migration trends in adequate ways. Guaranteeing access to schooling for every child has become a concern to teachers around the globe.

In 2008 the number of asylum claims submitted to governances or UNHCR offices increased by 28 percent compared to the previous year. In 2008, 839,000 applications were lodged in comparison to 653,800 in 2007.

There are a number of core international, regional and national legal and policy instruments that address the right to education of *all* children. These can be used to lobby for the inclusion of children living in marginalised and vulnerable positions in society, including refugee and asylum seeking children. The most important legal instrument regarding who is a refugee and what his/her rights are is the 1951 Convention Relating to the Status of Refugees of which all OECD countries are signatories.

OECD countries' legal systems provide access to compulsory primary and secondary education for all children under a certain age, regardless of the child's national background and legal status. However, there are obstacles to the actual school enrolment of refugee and asylum seeking children, and the teaching community is facing a number of challenges in respect to the provision of schooling for these children. Providing language and multicultural education, combating prejudice, and facilitating integration are some of the issues that have arisen due to changes in a country's demographics as a result of migration.

As this study clearly conveys, teachers and their unions place the interests of every child and especially those who are most vulnerable – immigrant/refugee children – before their own. There was no instance where teachers have refused education to these children because of a lack of resources, training or support. Quite the opposite – they have tried to do their best in providing quality education despite many limitations and obstacles.

Teachers, however, are faced with the need react to these issues in an adequate way. While they are not solely responsible for raising awareness about human rights and stimulating tolerance - they can contribute largely in the school setting. Thus, adequate training and support for teachers is essential in order for them to fulfil this task.

The five teachers' unions in the case study countries are all active regarding the topic of this booklet. NUT (the UK) and AEU (Australia) dedicated themselves explicitly towards improving education for *refugee* and *asylum seeking* children. The Spanish unions CSI.F and USTEs, and Lärarförbundet from Sweden approach the topic from a broader perspective; they strive for the improvement of the teaching conditions for those educators working in a multicultural setting and of the learning conditions for (the broader concept of) *migrant* children.

Driven by a number of concerns, unions' efforts to address issues related to the focus of this research include: lobby activities with the government; research; organising symposia and debates; organising campaigns; publishing reports; drawing media attention; and providing individual assistance to teachers.

In this chapter, some main issues and recommendations regarding the subject matter of this research are presented. As the case study countries the UK, Sweden, Spain and Australia have different social, economical and historical backgrounds, and a wide variance exists in the legal and practical context of and stakeholders' approach to the research matter of this report, comparison between the countries is problematic. As such, the main issues as brought to the fore by the stakeholders interviewed during this research are grouped by country. It is possible to highlight some similar issues amongst the case study countries. After the presentation of these similar issues, the remainder of this chapter will focus on some general applicable recommendations.

Country specific issues

The UK

In the UK, in general experiences with teaching refugee and asylum seeking children are positive. However, a number of barriers to the definite successful engagement of refugee communities and schools do exist. These barriers include a lack of resources on the school level, the continuous challenge of the lack of English language skills in refugee and asylum seeking children, barriers to their access to school places, bullying and discrimination in and outside the school, the impact of the government's dispersal policy on refugee and asylum seeking children's education, teachers lacking knowledge and skills about how

to deal with traumatised children, and insufficient attention in teacher training on how to work with refugee and asylum seeking children.

Sweden

Overall, the interviewees feel that the local implementation with respect to education opportunities for refugee and asylum seeking children is in line with the legal frameworks. The fact that children are entitled to tuition in the mother tongue is perceived as very positive.

Nevertheless, a number of challenges remain with respect to mother tongue tuition, teaching Swedish as a second language, study guidance and teacher support. A number of involved stakeholders state that there is a need for better trained mother tongue teachers, Swedish as a second language and study guidance teachers, and that the low status of teachers of Swedish as a second language is an issue that needs to be tackled. Additionally, it is mentioned that there is a need for teacher training to pay more attention to working in a multicultural setting, for in-service training for teachers working with newly arrived children, and for more teacher support in dealing with traumatised children. Also, limited resources in some schools to provide proper tuition and guidance for migrant children is emphasised. Finally, the education rights of 'hidden' children are one that needs our serious attention. According to the UN Committee of the Rights of the Child, Sweden does not guarantee the right to education for these children.

Spain

Newly arrived children are considered children with special educational need (NEE). In many cases, migrant children attend in-school *Aulas de Enlace* (or *Aulas de Acogida*). Sometimes, other provisions exist, such as 'flying teachers'. Children are being taught in Spanish or Catalan.

The main problems as formulated by the interviewees include segregation practices, such as the EBE (*Espacios de Bienvenida Educativa*) project, which is widely being criticized of hindering inclusive education); the lack of proper attention to teaching in a multicultural setting during teacher training; the lack of an adequate curriculum for educators working with children from diverse cultural and linguistic backgrounds; little attention for children's individual needs due to high teacher/pupil ratios; teachers having to deal with different educational backgrounds of migrant children; and language barriers. The existence of so-called 'hidden' children to education is a pressing topic that needs immediate attention.

Australia

The Australian situation with regard to the education of migrant children was grim during the period of focus in this research (from 1999 to 2005). Teachers' union AEU mentions a general lack of resources and (trained) teachers, terrible teaching conditions, and continuous staff turn-over. The educational, emotional and welfare needs of migrant children were far from being met.

With respect to current challenges regarding education for refugee and asylum seeking children, issues as formulated by AEU and Refugee Education Australia include insufficient financial resources for school requirements; teachers having to work with children with various levels of educational backgrounds and levels of English; teachers having to deal with traumatised children; a lack of interpreters for some language groups; a lot of children with no understanding of Australian culture, customs and expectations of the educational system; schools being insufficiently funded and ill-equipped to provide adequate English as a second language teaching and support; and not enough attention during teacher training in how to work with refugee children.

General issues

Although there is diversity in challenges and issues brought to the fore by the people interviewed, there are also a number of topics addressed by two or more of the four case study countries. These topics include:

- A lack of attention in teacher training towards teaching in a multicultural setting;
- Insufficient knowledge and skills in teachers about how to deal with traumatised children;
- The difficulty for teachers of having to work with children with diverse educational backgrounds;
- A lack of resources on the school level (e.g. staff resources; materials) to adequately deal with migrant children, including refugee and asylum seeking children;
- So called 'hidden' children deprived from education;
- The existence of language barriers teachers and pupils and between pupils.

Teachers' unions should:

- Assume their function in society in communicating their values, and take strong ethical standpoints which can play an important role in influencing national policy;
- Support the professional development of their members by disseminating magazines and articles, and by providing for training and courses on raising awareness of the specific needs of refugee and asylum seeking children;
- Disseminate good practice among members (e.g. by facilitating meetings where their members can exchange ideas and learn from each other's experiences);
- Continue their lobby with governments for the amelioration and increased attention in teacher training regarding educating in a multicultural environment and teaching refugee and asylum seeking children;
- Expand the pool of information available to teachers on how to teach groups consisting of children with various cultural, ethnic, socio-economic and educational backgrounds, by calling for or initiating more research on this specific topic.
- Critically analyze the impact of different educational initiatives for refugee children, in terms of whether they foster well-being or instead pose barriers to integration of migrant children, including refugee and asylum seeking children.

Governments and authorities should:

- Understand and meet international obligations (e.g. UN Convention and European frameworks);
- Listen to refugee children themselves and their peers, and critically ask whether their voices are included in policies and the services they receive. A sound identification of needs;
- Establish and (financially) support practitioner networks to disseminate good practices regarding the education of refugee children;
- Provide more and better training and increase professional development opportunities of educators and teachers in multicultural settings;
- Make sure sufficient resources are made available for the proper training of additional language teachers and mother tongue teachers;
- Ensure that in teacher training attention is directed to how to work with traumatised children;
- Make sure issues related to multiculturalism and related issues such as xenophobia are included within school's curricula:

- Ensure that all policies and guidance to support refugee and asylum seeking children in schools are implemented adequately;
- Provide advice and guidance on access to education to refugee and asylum seeking children and – when accompanied – their parents or caretakers upon arrival;
- Provide parents or caretakers with an overview of the schools in the area to support them to make better informed choices;
- Financially support children or – when accompanied – their parents or caretakers with schools' additional costs (e.g. for uniforms, school trips, travel to school, materials);
- Provide specialist staff to schools with issues relating to refugee and asylum seeking children;
- Ensure that sufficient resources should be available for additional language teachers and mother tongue teachers;
- Ensure the proper training of mother tongue teachers. Research has shown that mother tongue education facilitates the learning of a second language.

Schools should:

- Make sure issues related to multiculturalism and related issues such as xenophobia are included within the curricula;
- Deliver tuition, support, and guidance to refugee and asylum seeking children in careful ways to prevent marking them out as different from their autochthonous peers;
- Involve parents or caretakers in extra-curricular activities to raise cultural understanding across the school community;
- Raise awareness in schools regarding refugee and asylum seeking issues to challenge myths perpetuated sometimes by the media;
- Ensure the existence and implementation of anti-bullying and anti-racism policies;
- Be sensitive towards the specific educational needs and experiences of refugee and asylum seeking children;
- Ensure induction processes for newly-arrived children that provide general orientation and curriculum-related information, for instance through the use of mentors;
- Provide induction for the parents or caretakers about the education process in a language they understand;

- Not refuse children based on their legal status or (cultural and socio-economical) background;
- Eliminate costs leading to front-door selection;
- Make available sufficient resources for additional language teachers and mother tongue teachers;
- Provide for proper in-service training for teachers who deal with newly arrived children.

NGOs should:

- Empower refugee and asylum seeking children and their parents or caretakers by for instance informing them properly on their educational rights and options;
- Expand their awareness raising efforts about (educational) inclusion (e.g. by organising symposia, carrying out research, publicizing);
- Develop partnerships with other stakeholders to combine and strengthen their forces.

Contemporary societies have the responsibility to ensure that no child is denied its right to education. Ensuring the *access of all children* to education is not an easy task. Faced with challenges that processes such as increased migration flows can pose to societies, school systems are encouraged to revisit their founding principles. At all times, school systems should be guided by the principle of inclusion, and as such aim for the incorporation of all children – regardless of their legal status – into education.

Integration of migrants into societies is not only a moral obligation, but it is also a tremendous potential benefit for host societies as it brings new cultures, perspectives, skills and talented people into the citizenry of nations. Schools are the key institutions in this.



ANNEX 1 INTERVIEWED INSTITUTIONS

AEU Australian Education Union, Australia

Bredängsskolan (Compulsory School), Stockholm, Sweden

CAR Centro de Acogida Refugiados (Refugee Centre), Madrid, Spain

CEAR Comisión Española de Ayuda al Refugiado (Spanish Commission for Refugee Support), Madrid, Spain

Colegio Bilingüe, CEIP Castilla Consejería de Educación, Madrid, Spain

CSI.F Central Sindical Independiente y de Funcionarios (Spanish Teachers' Union), Madrid, Spain

DRARI Colectivo de Investigación Acción Participativa por los Derechos del Niño, Barcelona, Spain

IMES Institute for Migration and Ethnic Studies, Amsterdam, the Netherlands

IPPR Institute for Public Policy Research, London, UK

Läraryrbundet (Swedish Teachers' Union), Stockholm, Sweden

Ministerio de Educación, Política Social y Deporte, Madrid, Spain

NUT National Union of Teachers, London, UK

Refugee Education Consultancy, London, UK

SALAR Swedish Association of Local Authorities and Regions, Stockholm, Sweden

Síndic de Greuges de Catalunya (Catalan Ombudsman Office), Barcelona, Spain

Skolverket Swedish National Agency for Education, Stockholm, Sweden

Solna Stad (Social Services Youth Department), Solna, Sweden

The Learning Trust, London, UK

The Refugee Council, London, UK

USTEC.STEs Spanish Teachers' Union, Barcelona, Spain



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Education for refugee and asylum seeking children in OECD countries

Case studies from Australia, Spain, Sweden and the United Kingdom



Education International

5, boulevard du Roi Albert II
B-1210 Brussels, Belgium
www.ei-ie.org
headoffice@ei-ie.org

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