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WITHOUT HOME, WITHOUT HOMELAND. WITHOUT SCHOOL, TOO?

The right to inclusive education of refugee children.

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Abstract

Each year the number of displaced people grows rapidly creating an urgent humanitarian situation in most places of the world. Among them a huge amount is children, children who are helpless and most of the times hopeless for their future. Education stands out as their only way of dreaming and feeling safe again after all the atrocities they experienced in their home-country, but also during their “journey” to a better place. International Human Rights Law recognizes the right of refugee children to education, without discrimination of any kind based on race, color, decent, sex, language, religion, and national or ethnic origin. Despite the existing provisions, we are facing a significant risk of leaving a whole generation uneducated. This paper focuses on the right to education of refugee children, which is a high priority nowadays, and expands its scope by trying to find out if these children also have a right to inclusive education. It provides an academic and media literature review, as well as an examination of the legal provisions. Finally, by focusing on the case of Greece, it discusses the current refugee situation there and the problems that are noticed in refugee education, examines the existing laws and policies adopted for an inclusive education system and highlights the importance of education for these children.

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Chapter 1: Introduction to the topic

1.1 Introduction

“No paradox of contemporary politics is filled with a more poignant irony than the discrepancy between the efforts of well-meaning idealists who stubbornly insist on regarding as “inalienable” those human rights, which are enjoyed only by citizens of the most prosperous and civilized countries, and the situation of the rightless themselves.¹” Hannah Arendt

Almost forty years later Hannah Arendt’s insight on refugees and their rights, still remains extremely topical. Refugees and the phenomenon of forced migration did not appear suddenly in 2015. Since earliest times, humanity has been on the move²; changing the course of events and bringing up new standards. Civil wars, political and religious turbulence, environmental catastrophes, violence, persecution and poverty have made many people over the centuries to seek refuge elsewhere. There is a profound connection between war and displacement. War is the major reason that forces many people all over the world to leave their countries and seek refuge elsewhere as well as the leading event that caused the current “*European refugee crisis*”. A vast amount of data from reports and media news reveal that we are facing the greatest refugee crisis since World War II; with more than 65 million people all over the world being asylum-seekers, internally displaced persons (IDPs) or refugees³. Most of these refugees are hosted by neighboring, developing countries, a fact that did not really affect Europe until 2015; when they decided to reach Europe, in an attempt to find better living conditions and a more prosperous future in this continent. The refugee flow reached a critical time in 2015 and climaxed from the winter of 2015

¹ Hannah Arendt, *The Origins of Totalitarianism* (new edition with added prefaces edn, A Harvest Book Harcourt Brace & Company) [1976] 276

² UN General Assembly, *New York Declaration for Refugees and Migrants: Resolution / adopted by the General Assembly, 3 October 2016, A/RES/71/1*, available at: <http://www.refworld.org/docid/57ceb74a4.html> [accessed 11 June 2018]

³ UN Educational, Scientific and Cultural Organization- UNESCO. *Working Papers on Education Policy: Protecting the right to education for refugees*. [2017] Available at: <http://unesdoc.unesco.org/images/0025/002510/251076E.pdf> accessed at 9 April 2018

until the spring of 2016. This sudden influx of refugees that crossed Europe triggered the crisis and brought up dilemmas for the European leaders on how to deal with that urgent humanitarian situation. Many European countries decided to close their borders and adopt radical policies against refugees, while at the same time this crisis “gave birth” to solidarity and voluntary movements willing to help these people. The vast majority of refugees entered Europe by the sea, crossing the Mediterranean from Africa to Italy, but mostly through Turkey and towards the Greek islands wishing to finally arrive in Northern Europe countries. Based on UNHCR, only in 2016, 362.753 people crossed the Mediterranean and 5.088 were missing or lost their lives in the sea (in 2015 Greece experienced a high record of almost 860.000 people entering the country through the sea and 700 losing their lives or going missing in the Aegean). In 2017⁴ the numbers went down, however there are still refugee flows coming in Europe illegally, being exploited by smugglers and putting their lives in danger. As a total, from 2015 to 2017, 1.584.338 refugees crossed the Mediterranean in an attempt to arrive in Europe hoping for a better life. Among all these people, who crossed the sea and put their life in great risk, there were many children. According to UNHCR, in June 2015, 16% of all migrants crossing the Mediterranean were children, while six months later the number doubled reaching 35%. Nowadays, it is estimated that 1/3 of the total refugee population in the continent of Europe are children, children who either followed their parents to this dangerous “journey” or travelled alone in order to get away from war and find back their lost childhood. They hoped for a better life in a country where their basic human rights and needs will be respected and promoted, but the reality they faced was not that prominent. They found themselves in camp settlements or even sometimes in detention centers, away from the main population of the country, with intolerable hygiene conditions and without enjoying many of their inherent human rights.

It is a common knowledge fact among refugees and people who work with them that once they have met their basic need for food, water and shelter, their primary concern is to ensure that their children can go to school.⁵ Education is one of the basic human

⁴ UN High Commissioner for Refugees- UNHCR. ‘Desperate Journeys: Refugees and migrants entering and crossing Europe via the Mediterranean and Western Balkans routes.’ [2017]

⁵ María Jesús Vega Pascual, 'Key Aspects About Education for Refugee Children: Refugee Camp Situation' [2003] 9(1) Revista Española de Educación Comparada 225-260

rights and one of the most important elements of progress, vital for “the life chances of individual refugees; the present stability of the nation-states in which they find exile; the future reconstruction of the conflict-affected societies from which they fled; and the economic and political security of an interconnected world polity”⁶. Despite the great significance of education, European hosting countries still have difficulties in fully implementing that right.

The field of refugee education was not a part of the European educational policy system for many decades, as it has been primarily associated with countries far-away in the Global South⁷. UN Agencies and European organizations, local and international NGOs, scholars from various fields have been dealing with the education of this particular group, as it is one of the main challenges faced in the field. Many issues have been raised during these last years concerning the right to education, including its implementation and who is entitled to enjoy it, States’ obligations and measures taken, international and regional protection or even “best practices” and ways of teaching refugee children.

This thesis therefore, focus on the right to education of refugee children through inclusion in the educational system from a human rights perspective and attempts to answer the question of whether refugee and asylum-seeking children have a right to “inclusive education” inside the national educational systems by looking into the various international and regional legislations as well as the theoretical and practical approaches existing. Then by pointing out the importance of the right to education for the refugee community and by taking the example of Greece, one of the countries that received a huge number of refugees, my intent is to answer the question of whether the Greek educational system met the standards of the right to education and implemented an “inclusive educational plan” for refugees, taking into account the challenges it faced during that period.

⁶ Sarah Dryden-Peterson, 'Refugee Education: The Crossroads of Globalization' [2016] 45(9) Educational Researcher 473-482

⁷ Lutine De Wal Pastoor, 'Rethinking Refugee Education: Principles, Policies and Practice from a European Perspective' [2016] 30(1) Annual Review of Comparative and International Education <https://doi.org/10.1108/S1479-367920160000030009> accessed 6 June 2018

1.2 Methodology and Structure

The main research questions that this thesis will try to answer is:

- Whether refugee and asylum-seeking children have a right to “inclusive education” inside the national educational systems? And
- If the Greek educational system met the standards of the right to education and implemented an “inclusive educational plan” for refugees, considering the challenges it faced during that period?

To answer the above-mentioned questions, this paper will explore the academic literature on the right to education and to inclusive education, together with the theoretical analysis of the existing legislations, both in international, regional and domestic level by using official documents and reports, previous research on the field and academic articles.

To be more specific, this chapter sets out the main topic and limitations of the thesis, as well as defines a few important terms used. Chapter 2 aims to define “Refugee Education” as a right, because in order to understand the several challenges in the implementation of that right, it is crucial to refer to its status as a “Second Generation Right”. Does its label as a second generation right have any implications concerning its fully enjoyment? This will be answered by analyzing the theoretical framework of the right to education and referring to the main instruments and organizations that protect it. After finding out who protects that right, it is important to figure out protection from another angle. Education needs protection because it is a mean of protection by itself, meaning that when refugees receive education, at the same time they receive a level of protection. Education protects refugees in several ways, revealing its significance for the whole humanity and that explains why it is important to refer also to the role of education in this chapter. Chapter 3 focuses on the main challenges observed in the implementation of this right for refugee children and explains why refugee education failed to provide for the ones that need it more, which leads us to the next chapter as a solution to overcome these challenges. Chapter 4 analyzes the term of inclusive education, which is a “loan” from another educational field, but appears to be beneficial for refugees, too. First of all, the intention here is to

explain the term and how it actually works by looking into the relevant literature and critically reflect upon that and on how it can help refugee education be more effective. Finally, Chapter 5 is a case study of Greece. It is widely known that Greece was the main route for a plethora of refugees who tried to reach Europe, making the country one of the main refugee host-countries. To find out if the right to education for refugees is sufficiently and properly implemented in Greece, is important to explain the situation that the country had been experiencing the last years, as well as the national legislation and conformity with the international norms. In that way the challenges that refugees have been facing in that country, concerning education will be better understood. Finally, I will try to make some remarks and conclusions in order to connect all these theoretical backgrounds and the actual facts for a better refugee education system.

1.3 Limitations

The focus areas of the thesis are the right to education and the right to inclusive education of refugee and asylum-seeking children or children under subsidiary protection of primary-school age. The information about the situation in education in Greece is limited between the years 2015-2017. The main sources I used are academic literature (books and articles) from legal, education and a few psychology journals, as I am approaching the topic from a multidisciplinary dimension. My decision to use documents from many disciplines is aiming in a broader realization of the need to establish inclusive education as a right that legally binds States to provide it to all citizens and especially refugee children that are most in need. I also used several official UN and EU documents, reports and recommendations to justify my arguments. My initial intent was to find out if refugee children in Greece still face challenges in the enjoyment of the right to education, but after extensive literature research I found out that what is most important for these children in order to get their lives back in track and “normality” is inclusion. So, I finally decided to focus on the right to inclusive education for refugee children. The difficulties I had during this process were that most of the literature of inclusive education was limited in the field of special education. In addition, the plethora of the articles for refugee education and

inclusion were old and mostly from scholars from Australia or Latin America, as inclusive education for refugees was introduced in Europe later. However, my background in educational studies and empirical knowledge helped me through this process, as I already knew the benefits of inclusive education and how this specific model works in order to make the connection with refugee education.

1.4 Definitions

Firstly, I would like to define some terms that are used in this paper and is important to be clarified from the beginning.

Refugee

According to the 1951 Convention relating to the Status of Refugees⁸, as amended by its 1967 Additional Protocol a refugee is a person who “*owing to 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 or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.*”

Conflicts and civil wars force people to abandon their homes and move out in another country in search of protection. The international community is assigned with the role of protecting these people who are in urgent need. The basic element of the refugee definition is “*the well-founded fear of being persecuted*”. UNHCR states that all Member States that are parties to the 1951 Refugee Convention and the 1967 Additional Protocol should be aware of their legal obligations and take the appropriate measures for the protection of refugees and asylum seekers. Based on the non-refoulement principle⁹, States are forbidden to return refugees in a country where there

⁸UN General Assembly, Convention Relating to the Status of Refugees, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137, available at: <http://www.refworld.org/docid/3be01b964.html> [accessed 14 June 2018]

⁹ United Nations High Commissioner for Refugees, 'Note on Non-Refoulement (Submitted by the High Commissioner) EC/SCP/2' (UNHCR, 23 August 1977)

is an imminent risk of their lives or being discriminated and persecuted based on “race, religion, nationality, membership of a particular social group or political opinion”.¹⁰

Refugees are people who are seeking asylum or refuge in a foreign place to get away from persecution and fear of their lives. Their escape is just the start of a long and most of the times dangerous “journey to the unknown”, they leave their country, their homes and family members and take the risk to live in uncertainty, as they do not know if their application will be accepted or if they will manage to arrive to a host-country, only because staying in their home-country implies that every day they will be in danger of being killed. When they arrive in a “safer country”, they usually find themselves in a “temporary” camp-resettlement, where they can stay for many years under below the average standards living conditions.

The 1951 Convention Relating to the Status of Refugees is the main international legal document concerning refugees. Despite its importance, it has been criticized for having a limited definition of refugee because it was influenced from the experiences of the Second World War. That explains why an additional protocol was adopted in 1967, expanding the view of the Convention. In this thesis, when I am talking about refugee children, I am including not only the ones that satisfy the definition of the Convention and have been recognized officially, but also the children that are under subsidiary protection, or their asylum application is still under consideration.

Asylum

The 1951 Refugee Convention includes asylum as a component of International Law. The process of granting asylum, based on the UN and the Common European Asylum System (CEAS) is free and available to all human beings and includes taking the fingerprints of the asylum applicant sending them to a database (Eurodac) to find out the country responsible to consider the application, based on the Dublin System. The process also includes a personal interview with an appointed special employee accompanied with a translator to prove that there exists a real “fear of being

¹⁰ UN High Commissioner for Refugees (UNHCR), *UNHCR Note on the Principle of Non-Refoulement*, November 1997, available at <http://www.unhcr.org/excom/scip/3ae68ccd10/note-non-refoulement-submitted-high-commissioner.html> [accessed 4 April 2018]

persecuted”. If the application gets accepted, then the applicant is recognized as a refugee. Having acquired the “refugee status” means that you will enjoy some benefits, like the right of non-refoulement, the right to renew the staying permit, access to education and health.

Subsidiary protection

Subsidiary protection is an international form of protection for persons who do not qualify as refugees. In Europe, based on the Directive 2004/83/EC¹¹ there are minimum standards for persons to receive subsidiary protection. Article 2(e) of the Directive explains who is eligible, “*a third country national or a stateless person who does not qualify as a refugee but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to his or her country of origin, or in the case of a stateless person, to his or her country of former habitual residence, would face a real risk of suffering serious harm (...)*”. By serious harm, article 15 defines “*death penalty or execution; or torture or inhuman or degrading treatment or punishment of an applicant in the country of origin; or serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict.*” When someone acquires this kind of status, he/she enjoys six months permit to stay in the country. After the permit expires, the person can be sent back to the country of origin or to a third safe country.

Asylum seeker

An asylum seeker is an individual who is seeking international protection. The term “asylum seeker describes someone who has applied for protection as a refugee and is awaiting the determination of his or her status. Asylum seekers can become refugees if the local immigration or refugee authority deems them as fitting the international definition of refugee. The definition of asylum seeker may vary from country to country, depending on the laws of each country. However, in most countries, the

¹¹ European Union: Council of the European Union, *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*, 30 September 2004, OJ L. 304/12-304/23; 30.9.2004, 2004/83/EC, available at: <http://www.refworld.org/docid/4157e75e4.html> [accessed 13 July 2018]

terms asylum seeker/asylee and refugee differ only in regard to the place where an individual asks for protection. An asylum seeker asks for protection after arriving in the host country".¹² Not every asylum seeker will be recognized as a refugee, but every refugee is initially an asylum seeker.

*Internally displaced person (IDP)*¹³

IDPs have not crossed an international border but remain within their own countries. Though they may have fled for similar reasons such as war or persecution, sometimes perpetrated by their own governments, they legally remain under the protection of that same government and retain all their rights of protection under human rights and international humanitarian law.

*Migrant*¹⁴

The term migrant can be understood as "any person who lives temporarily or permanently in a country where he or she was not born, and has acquired some significant social ties to this country." A migrant does not refer to refugees, displaced or others forced or compelled to leave their homes. Migrants are people who make choices about when to leave and where to go, even though these choices are sometimes extremely constrained.

The UN Convention on the Rights of Migrants defines a migrant worker as a "person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national."

In a report of the Commission on Human Rights it is stated that "the term 'migrant' in article 1.1 (a) of the UN Convention on the Rights of Migrants should be understood as covering all cases where the decision to migrate is taken freely by the individual concerned, for reasons of 'personal convenience' and without intervention of an external compelling factor."

¹² UNESCO, 'Asylum Seeker' (Learning To Live Together) <http://www.unesco.org/new/en/social-and-human-sciences/themes/international-migration/glossary/asylum-seeker/> accessed 15 May 2018

¹³ United Nations High Commissioner For Refugees, 'Internally Displaced People' (UNHCR) <http://www.unhcr.org/internally-displaced-people.html> accessed 15 May 2018

¹⁴ UNESCO, 'Migrant/Migration' (Learning To Live Together) <http://www.unesco.org/new/en/social-and-human-sciences/themes/international-migration/glossary/migrant/> accessed 15 May 2018

Child

Article 1 of the Convention on the Rights of the Child¹⁵ (CRC) defines the term as “a person below the age of 18, unless the laws of a particular country set the legal age for adulthood younger.”

Unaccompanied minor

UNHCR¹⁶ defines an unaccompanied minor as “a person who is under the age of eighteen, unless, under the law applicable to the child, majority is, attained earlier and who is “separated from both parents” and is not being cared for by an adult who by law or custom has responsibility to do so.”

Intercultural education

Intercultural Education is an educational approach that recognizes the value of cultures and promotes the existence of many different cultures in the same school classroom. There is not a common definition, but I believe that the one that Aguado and Malik (2001) provide, fits best:

“Intercultural education is based on respect for and recognition for cultural diversity, aimed at every member of the society as a whole, that proposes an intervention model, formal and informal, holistic, integrated and encompassing all dimensions of the educational process in order to accomplish a real equality of opportunities, to promote intercultural communication and competency, and to overcome racism in all its expressions.”¹⁷

¹⁵ UN General Assembly, Convention on the Rights of the Child, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, available at: <http://www.refworld.org/docid/3ae6b38f0.html> [accessed 14 June 2018]

¹⁶ UN High Commissioner for Refugees (UNHCR), Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum, February 1997, available at: <http://www.refworld.org/docid/3ae6b3360.html> [accessed 14 June 2018]

¹⁷ Lawrence J. Saha and Anthony Gary Dworkin, International Handbook of Research on Teachers and Teaching (Springer Science & Business Media 2009)

EDUCATION IS A RIGHT

The words of the 1948 Universal Declaration of Human Rights remain as relevant as ever: “Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.”

EDUCATION PROTECTS

This is especially important for refugee children who find sanctuary, friendship and routine in a classroom. Classrooms can protect them from forced recruitment into armed groups, child labor, sexual exploitation and child marriage. Education also strengthens communities’ resilience and helps refugees better protect themselves by imparting vital healthcare knowledge and awareness of risk.

EDUCATION EMPOWERS

It gives refugees the knowledge and skills to live productive, fulfilling and independent lives. The economic argument is clear: in Uganda, for every extra year a refugee child spends in school, their income increases by 3 per cent. The longer refugees spend in quality education, the more they will know their rights, be able to stand up for themselves and rely on their own endeavors.

EDUCATION ENLIGHTENS

As with children and youth everywhere, the classroom is a place for refugees to learn about themselves and the world around them. In this report, story after story shows the unquenchable thirst refugees have for learning and the sheer desire of those who have lost everything to go out and rebuild their lives and communities.

FIGURE 1: UNHCR > LEFT BEHIND: REFUGEE EDUCATION IN CRISIS

Chapter 2: Refugee Children's Education as a Right

2.1 Introduction

"I couldn't read, and my parents couldn't teach me because they are illiterate too. Now I can teach my parents and all my little sisters and brothers. My parents are so proud of me, I'm so happy that I can read. Now I can finally dream of my future."

Khadija, 12, Sudanese refugee in Doro refugee camp

Education has an incredible power in transforming peoples' lives, both in the context of emergencies and in regular life. There is a specific group of people, that education is not only necessary for them and their survival, but also the educational benefits help them thrive and this category of human beings are children. Its importance has been emphasized over the years in official and unofficial documents with the ESCR Committee to comment on this topic that *"Education is both a human right in itself and an indispensable means of realizing other human rights. As an empowerment right, education is the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities."*¹⁸ Education has several definitions depending on the aim, the way and place of implementation, the actors that offer education and many more defining factors. For example, UNESCO defines education as *"the entire process of social life by means of which individuals and social groups learn to develop consciously within, and for the benefit of, the national and international communities, the whole of their personal capacities, attitudes, aptitudes and knowledge"*¹⁹. However, education is not only a process, but also a human right

¹⁸ UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 13: The Right to Education (Art. 13 of the Covenant), 8 December 1999, E/C.12/1999/10, available at: <http://www.refworld.org/docid/4538838c22.html> [accessed 11 July 2018]

¹⁹ United Nations Educational, Scientific and Cultural Organization- UNESCO. Recommendation concerning Education for International Understanding, Cooperation and Peace and Education relating to Human Rights and Fundamental Freedoms [19 November 1974], available at: http://portal.unesco.org/en/ev.php-URL_ID=13088&URL_DO=DO_TOPIC&URL_SECTION=201.html [accessed 4 April 2018]

which has many implications. Based on UNHCR, education, including education for refugees, is a basic human right and very often its importance and value is highlighted in official documents and interviews. The right to education has been explicitly referred and legally recognized in core international human rights treaties, from UDHR²⁰ to more current ones. While the former treaties tend to emphasize the liberty dimensions for parents (like the liberty to choose education in line with their own personal convictions), the latter ones provide a more comprehensive understanding of the right and mostly from a child's perspective.²¹ In addition, the right to education can be found in enforceable international agreements, with the earliest being the 1951 Refugee Convention and following the more recent and extended International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Rights of the Child (CRC)²². Concerning the right to education of refugees the two most important and relevant instruments in terms of overall protection are the 1951 Refugee Convention and the CRC.

In this Chapter, I am going to write about the two most relevant International Instruments concerning Refugee Education or the two Conventions that offer better protection to this particular group. I will also refer to the main European Instrument of protection, the European Convention on Human Rights. After highlighting the relevant articles that offer legal protection to refugee children, I will move on to the social aspect of the right to education by identifying the role that education plays in refugee children's lives.

2.2 International Protection Instruments

1951 Refugee Convention Relating on the Status of Refugees and 1967 Additional Protocol

²⁰ Article 26 explicitly refers to a universal right to education. UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III), available at: <http://www.refworld.org/docid/3ae6b3712c.html> [accessed 14 June 2018]

²¹ Wouter Vandenhole et al., 'Undocumented Children and the Right to Education: Illusory Right or Empowering Lever' [2011] 19(4) International Journal of Children's Rights 613-640

²² Joseph O'Rourke, 'Education for Syrian Refugees: The Failure of Second-Generation Human Rights During Extraordinary Crisis' [2014] 78(2) Albany Law Review 711-738

At an international level, the 1951 Refugee Convention is one of the most concise and legally binding instruments concerning refugees. It is a multilateral United Nations treaty that includes the definition of refugee, as well as the rights that people under international protection have and the States' responsibilities and obligations towards them. In addition to the definition of refugee, the Convention sets out who do not qualify as refugee and generally recognizes the right of a person to seek asylum elsewhere. It was adopted after World War II, as the refugee situation was really alarming at that time. Firstly, it was organized only around people in the territory Europe, a limitation that caused many problems, as many nationalities were excluded from its provisions, leading finally to the adoption of an additional protocol in 1967, which erased the previous problems caused by its limited scope.

Article 22 of the 1951 Refugee Convention constitutes part of Chapter IV of the Convention that deals with the welfare of refugees²³ and refers specifically to the right to public education for all children, including refugees. The first paragraph of this article initiates non-discrimination in the education of refugees stating that contracting parties “*shall accord to refugees the same treatment as is accorded to nationals*”²⁴. This provision means that the Convention attributes equal treatment in elementary education for refugees as nationals have. Moving on to the second paragraph of Article 22, States “*shall accord to refugees treatment as favorable as possible, and, in any event, not less favorable 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.*”²⁵ Based on the UNHCR's commentary what should be stressed out is that article 22(2) is important not only for refugees as defined in article 1, but even

²³ Andreas Zimmermann, *The 1951 Convention Relating to the Status of Refugees and its 1967 Protocol: A Commentary* (Oxford University Press 2011)

²⁴ UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137, available at: <http://www.refworld.org/docid/3be01b964.html> [accessed 10 July 2018]

²⁵ UN General Assembly, *Resolution 2198 (XXI)* adopted by the United Nations General Assembly, 16 December 1967, available at: <http://www.unhcr.org/refworld/docid/3b00f1cc50.html>. [accessed 2 April 2017]

more regarding the children of refugees.²⁶ What needs to be highlighted is that this paragraph will only be meaningful, if it is interpreted in the proper way, to give children of refugees, in other words, the rights for which it provides, unless they have greater rights in their own right, i.e. as nationals of the country of residence.²⁷ Another crucial aspect of this provision is the fact that applies to refugees without any conditions like residence, lawfulness etc.²⁸

While being and old treaty its provisions still stand today. However, there are some arguments from scholars that imply the need for a new treaty in conformity with the evolving nature of our society²⁹, but no-one can deny that many of its provision are still really important and helpful for the protection of the rights of refugees, like the principle of non-refoulment.³⁰

1989 Convention on the Rights of the Child (CRC)

Almost 30 years ago, the whole world made a promise to children “*that we would do everything in grow, to make their voices heard and to reach their full potential*”³¹. The CRC is one of the most widely ratified International Human Rights Treaty³² and the most important one in protecting Children’s Rights, as it sets out the civil and political and economic, social and cultural rights of this particular group. The fact that is such a widely ratified Convention results in almost all States being bound to conform with its provisions under International law and also being monitored regularly by the UN Committee on the Rights of the Child. Its contribution in many issues concerning children’s rights, created clear innovations in their lives. The CRC

²⁶ UN High Commissioner for Refugees (UNHCR), Commentary of the Refugee Convention 1951 (Articles 2-11, 13-37), October 1997, available at: <http://www.refworld.org/docid/4785ee9d2.html> [accessed 16 June 2018]

²⁷ Ibid. Andreas Zimmermann [2011]

²⁸ Ibid. Andreas Zimmermann [2011]

²⁹ Schoenholtz Andrew I., ‘The New Refugees and the Old Treaty: Persecutors and Persecuted in the Twenty-First Century’ [2015]. 16(1) Chicago Journal of International Law. Available at: <https://ssrn.com/abstract=2617336> [accessed 10 May 2018]

³⁰ Article 33 of the 1951 Convention Relating to the Status of Refugees explicitly refers to the prohibition of expulsion or return of a refugee to a country where his life would be threatened. Available at: <http://www.unhcr.org/3b66c2aa10>

³¹ Unicef.org, ‘Convention on the Rights of the Child’ (Unicef.org, 4 November 2014) <https://www.unicef.org/> accessed 6 June 2018

³² Only Somalia and the U.S.A. have not ratified the Convention

addresses both universal human rights and those rights that are specific to childhood. The four core principles of the CRC are: 1) the right to have one's rights upheld without discrimination; 2) the right to have decisions made in one's best interests; 3) the right to life, survival and development; and 4) the right to have one's views heard and respected (UNICEF, 2012). It also includes the definitions like who qualifies as a "child". Concerning education, the CRC dedicates an article to the right to education, and one to the objectives of education.³³

Moving on to refugee children and their education, articles 2, 22, 28, 29 as well as General Comment No. 6, are the most relevant in the promotion of educational rights and their protection. To be more specific, article 2 introduces the non-discrimination clause stating in the first paragraph that "*States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, color, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status*"³⁴. The UN Children Rights Committee has made it clear that article 2 should be interpreted in a broad way: "State obligations under the Convention apply within the borders of a State, including with respect to those children who come under the State's jurisdiction while attempting to enter the country's territory", meaning that the enjoyment of rights stipulated in the Convention are not limited to children who are citizens of a State but must also be available to all children, including asylum-seeking, refugee and migrant children, irrespective of their nationality, immigration status or statelessness.³⁵ Article 22 explicitly refers specifically to refugee and asylum-seeking children and "*the protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments*"³⁶ that Member-States should apply in order to achieve the full enjoyment of their rights. Then, articles 28 and 29 are exclusively about the right to education, identifying that primary education must be compulsory

³³ Ibid. Wouter Vandenhoe et al. [2014]

³⁴ Ibid. UN General Assembly, Convention on the Rights of the Child

³⁵ Kurt Willems and Jonas Vernimmen, 'The fundamental human right to education for refugees: Some legal remarks' [2018] 17(2) European Educational Research Journal 219-232

³⁶ Ibid. UN General Assembly, Convention on the Rights of the Child

and free for all and making clear which should be the goals of education. Article 28(1.a) makes it clear that “*States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular make primary education compulsory and available free to all*”.³⁷ The wording “equal opportunity” and “available free to all” is a statement that obviously applies to refugee and asylum-seeking children and their inherent right to education, no matter of their legal status. In Article 29(1.c) we can also find a reference to refugees by stating that “*the education of the child shall be directed to the development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own*”.³⁸ What is of particular importance in this provision is that educational goals should not reproduce discrimination against people that originate from a different country, culture or civilization with different values and ethics, but should promote understanding and respect towards these people.

2.3 European Protection Instruments

European Convention on Human Rights

The European legal instrument for the protection of human rights and fundamental freedoms is the European Convention on Human Rights (ECHR). This regional treaty was inspired by the Universal Declaration of Human Rights (UDHR) and drafted in 1950 by the Council of Europe aiming to the protection of human rights and political freedoms of people in Europe. All European States are parties to this Convention and when a new Member State enters the Council of Europe, is expected to ratify the Convention. The importance of this Convention is great as it helped to raise the awareness on important human rights issues in the European continent.

³⁷ Ibid. UN General Assembly, Convention on the Rights of the Child

³⁸ Ibid. UN General Assembly, Convention on the Rights of the Child

The European Convention on Human Rights has also provisions relating to refugees. Specifically, article 14 applies to refugees as it concerns the prohibition of discrimination and that the *“enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”*³⁹

The right to education is protected under article 2 of the Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, based on which *“no person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.”*⁴⁰

There is not any article that explicitly refers to refugees, but the above-mentioned provisions can be valid for these people. Especially if we combine and translate the non-discrimination article and the right to education together, it will be extremely useful for children that are refugees or seeking-asylum in the European territory. To be more specific, these two articles protect the right to education of refugee children as States are obliged to secure the rights of people and education is one of the main rights, no matter of their ethnicity and race or their status.

³⁹ Council of Europe, *European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14*, 4 November 1950, available at: <http://www.refworld.org/docid/3ae6b3b04.html> [accessed 10 July 2018]

⁴⁰ Ibid. *European Convention for the Protection of Human Rights and Fundamental Freedoms*

2.4 Role of education

“One child, one teacher, one pen, one book can change the world.”

Malala Yousafzai

Psychological benefits

Education plays an important role in refugee children’s life and is one of the most successful ways, especially for primary school-age children to overcome trauma and other psychological needs that have as a result of the events they lived through. Educational responses should be immediate in refugee situations as they help them retrieve from the violent situations they faced and overcome the traumatic experiences caused by the war. McBrien⁴¹ adds that education contributes to the psychological and social development of refugee-children because school is perceived as a safe place that gives their life a purpose and helps them integrate easier in the new society and culture, while keeping their own cultural identity alive.

If educational system includes refugee children and they have the same educational opportunities and equal participation like local kids, they feel part of the new society and interact or communicate their experiences with children of the host-country easier, avoiding aggression or disturbing behaviors and overcoming depression and anxiety that living in a new community can create and providing a sense of normalcy.

Social benefits

Children with a refugee background have many urgent needs that have to be covered in order to benefit from what education can offer to them. Education and school can become the place that they will identify as safe and where they will acquire knowledge and social skills, so that their life will take a normal route and they will start having hopes or dreaming of a better future. Being part of the education system in the host country can help them create new relationships and socialize. New

⁴¹ J. Lynn McBrien, 'Educational Needs and Barriers for Refugee Students in the United States: A Review of the Literature' [2005] 75(3) Review of Educational Research 329-364

opportunities can be created for these children, while they also have the chance to get away from poverty.

Their traditions and values have to be maintained and at the same time be open to learn about new traditions of the host-country. Education can play a crucial role in this process but in order to be efficient the educational programs shall be adapted to the needs of the newcomers, the refugee children.⁴²

Academic benefits

School is the main instrument of transmitting knowledge and “cultivated” attitudes, especially in a situation of crisis and immediate need of humanitarian support their role is even more crucial. Education is the only way for them to acquire knowledge and the proper information that “*will allow them to explore the world and use the full capacity of their brains*”⁴³, to make their dreams come true and to help their countries grow again

The school or education generally shall be open to changes and reform, students and teachers must abandon any discriminatory attitudes and adopt a more human-rights perspective in the way of thinking to benefit not only refugee children but the whole student population.

⁴² British Columbia Ministry of Education ‘Students from Refugee Backgrounds: A Guide for Teachers and Schools’ [October 2009/Revised December 2015]

⁴³ Globalpartnership, ‘Do refugee children have a right to education?’ (Globalpartnership for education, 22 November 2017) <https://www.globalpartnership.org/blog/do-refugee-children-have-right-education> accessed 1 July 2018

Chapter 3: Challenges

3.1 Introduction

Moving on to refugee education, the right to a public education applies equally to all refugees regardless of their legal status⁴⁴. The United Nations High Commission for Refugees recognizes education as a basic human right, enshrined in the 1986 Convention on the Rights of the Child and in the 1951 Refugee Convention (UNHCR 2011). Despite that in school-year 2016-2017, more than 3,5 million children were denied their right.⁴⁵ United Nations human rights treaty bodies have repeatedly expressed concerns about the limited enjoyment of rights by persons fleeing armed conflict or persecution who arrive at the borders of States.⁴⁶ Filippo Grandi, the High Commissioner for Refugees stated that the education of these children is crucial to promote peace and sustainable development not only in the host-countries, but also in their home-countries when they will return, however the opportunities they have are much fewer than the rest children population. According to Anderson et al. (2010), children not only have rights to education, they also have rights in education (a non-discriminatory environment based on respect and the best interest of the child), and they gain rights through education (the ability to make informed choices concerning their lives and to participate as citizens in the world)⁴⁷. Despite all the existing provisions in International and European Law aimed at protecting the Right to Education of children, there are still noticeable flaws that do not allow its implementation and fully enjoyment.

In Europe, actually, we can state that the last few years this right is not only threatened, but also violated. There are many factors that explain this situation, but the one that is almost always used and simultaneously forms the most simplistic

⁴⁴ Ibid. Joseph O'Rourke [2014]

⁴⁵ UN High Commissioner for Refugees (UNHCR), *Left Behind: Refugee Education in Crisis*, September 2017, available at: <http://www.refworld.org/docid/59b7ed854.html> [accessed 13 July 2018]

⁴⁶ Ibid. UNESCO 'Working Papers on Education Policy: Protecting the right to education for refugees' [2017]

⁴⁷ Rebecca Leela Thomas, 'The Right to Quality Education for Refugee Children Through Social Inclusion' [2016] 1(1) *J Hum Rights Soc Work* <<https://doi.org/10.1007/s41134-016-0022-z>> accessed 10 June 2

explanation, is the “sudden arrival of a multitude of refugees and their inconsistent integration in the host-countries”⁴⁸.

Education as a Second-Generation Right

One more factor interfering with the enjoyment of that right generally for the most vulnerable groups of our society like refugees, is its nature as a “Second-Generation Right”. Second-generation rights are classified as “positive rights”, meaning that States have a positive obligation to take measures for their gradual realization. The ICESCR’s approach on that is that when it concerns a second-generation right “governments only need to show that they are taking measures towards meeting these aims at some point in the future”⁴⁹. All these facts raise concerns among scholars on the importance of rights, with many claiming that civil and political rights have greater value than economic, social and cultural ones. Unlike first-generation human rights, which are often referred to as “negative rights” because they “restrict the state from interfering in the individual's participation in political and civil society,” the positive-obligations character of second-generation human rights is often deemed “lesser” valued human rights in comparison to first-generation human rights, and violations are left unaddressed⁵⁰. Also, the right to education like all the economic, social and cultural rights requires a funding from the States and constitutes positive duties upon the government to gradually respect and fulfill them subject to availability of public resources⁵¹. Vandenhoe et al. notes on that issue are that given the fact that gradual implementation is necessary from the States, treaties are usually less specific about the exact obligations resulting from social, economic or cultural rights, leaving it to a large extent to the discretion of the States to decide how to reach the envisaged result.⁵²

The challenges that refugee children face in the process of adjusting to the school environment, are several and depend on many factors, including pre-migration,

⁴⁸ Miquel Àngel Essomba, 'The right to education of children and youngsters from refugee families in Europe' [2017] 28(2) Intercultural Education

⁴⁹ Coe, 'The Evolution of Human Rights' (Council of Europe Portal) <https://www.coe.int/en/web/compass/the-evolution-of-human-rights> accessed 1 June 2018

⁵⁰ Ibid. Joseph O'Rourke [2014]

⁵¹ Kurt Willems and Jonas Vernimmen, 'The fundamental human right to education for refugees: Some legal remarks' [2018] 17(2) European Educational Research Journal 219-232

⁵² Ibid. Kurt Willems and Jonas Vernimmen [2018]

migration and post-migration experiences, the level of literacy, family support, as well as the awareness and appropriate training of teachers, school policies and attitudes,⁵³ that will be further analyzed in the next paragraphs.

3.2 Access

Refugee children that are out-of-school is one of the greatest challenges and concerns of our time. Among refugees, only 50% of children attend primary school.⁵⁴ Refugee children, and their parents, have experienced unimaginable losses, with their entire way of life destroyed, flight to another country is the only option⁵⁵. After they cross an international border, they find themselves detained, often for years, in refugee camps where years of school can be lost altogether and this prolonged periods in refugee camps may have devastating effects on their educational level generally, point out Sidhu and Taylor (2012).⁵⁶ Schools are a key institutions in providing quality education and opportunities for social inclusion for children, families, and communities to work together.⁵⁷ However, there must be a public and political will to offset the negative impact of destabilization that is often a by-product of the refugee experience.⁵⁸ Educational opportunity is a major driving factor for many children and families who choose to migrate, but unfortunately refugee and migrant children frequently face multiple barriers both in the beginning and continuation of their education, often because of restrictive migration policies.⁵⁹

The hesitation and resistance of some countries to allocating financial resources or promising resettlement for refugees seem too often linked to the perception that the

⁵³ Richard Hamilton, 'Schools, teachers and the education of refugee children' in R Hamilton and D Moore (eds), *Educational Interventions for Refugee Children: Theoretical Perspectives and Implementing Best Practice* (London: Routledge 2010)

⁵⁴ Ibid. UNESCO 'Working Papers on Education Policy: Protecting the right to education for refugees' [2017]

⁵⁵ Ibid. Rebecca Leela Thomas [2016]

⁵⁶ Ibid. *Rebecca Leela Thomas* [2016]

⁵⁷ Ibid. *Rebecca Leela Thomas* [2016]

⁵⁸ Ibid. *Rebecca Leela Thomas* [2016]

⁵⁹ UN Children's Fund (UNICEF), *Education Uprooted*, September 2017, available at: <http://www.refworld.org/docid/59c1259a4.html> [accessed 3 March 2018]

influx of people might threaten their national security.⁶⁰ That is also one of the main reasons that explain why some times refugees do not feel safe to get registered at schools, as they may face aggressive behaviors and attacks or they feel unwelcome and people are suspicious of them, making access to education even harder than already is.

Drop-outs

Overall, a refugee child is five times more likely to be out of school than a non-refugee child.⁶¹ The social living-conditions of refugee children affect their education. Poverty and inappropriate living conditions are the main reasons that slow down their educational development and rehabilitation. For example, refugee children that reside in camp-resettlements are more possible to drop-out from school, because it is hard for them to understand the new cultural environment by being separated from the main population and receiving a segregated, low quality informal education.

3.3 Academically

To help students adapt and thrive in a new learning environment and educational system is challenging. Many must resume education that has been disrupted, their level of education is hard to be identified as most of them arrive without certifications and the instruction language stand in their way to fully enjoy their right to education. Once they cross an international border, they find themselves detained, often for years, in refugee camps where years of school can be lost altogether. Sidhu and Taylor (2012) point out that prolonged periods in refugee camps may have devastating effects on their educational levels. Others are introduced to formal education for the first time and find it difficult to adjust to a rapid and foreign educational system, as Clark-Kasimu (2015) insists.⁶²

⁶⁰ Ibid. UNESCO ‘Working Papers on Education Policy: Protecting the right to education for refugees’ [2017]

⁶¹ Ibid. UN Children's Fund (UNICEF), ‘Education Uprooted’ [2017]

⁶² Ibid. Rebecca Leela Thomas [2016]

Language-learning barriers

One of the main challenges refugee children must overcome when they arrive in a new country is language. Refugee children usually do not speak the host-country's native language or an international language, like English to make the communication easier. On the other hand, it is crucial for these children to stay in touch with their own native language, because when you forget your language you lose a part of your identity and culture. Usually when refugee children finally attend schools, the instruction language is the official language of the host-country and when there is not any special course in their own language this poses serious risks for these kids being assimilated in the new culture and let their own fed away. The relation between mother-tongue and the native language of the host-country depends mostly on the previous level of education these children received, meaning that the younger the child is and the less education he or she has received, the easier it is to lose bonds with the mother-tongue. In addition, if a child is better educated and has acquired a good level of proficiency in the mother-tongue, it has the appropriate skills to learn easier or in a more efficient way the language of the host-country. All these reveal the great challenge these children face as most of them are not educated for long periods. Education in resettlement for refugee children has other challenges as well. As Bacakova (2011) highlights, they arrive at odd times during the school year with no records of their academic histories, upsetting teachers who are taken back at their sudden appearance in the classroom. In addition, many of those teachers feel resentful about the extra responsibility of teaching them,⁶³ because they are an extremely diverse and unique student material.

Understanding the refugee experience of children together with awareness of cultural differences and appreciation of their individual strengths and needs will help receiving school communities create for them a positive first impression of school and will encourage their learning progress and success in their new life.⁶⁴

⁶³ Ibid. Rebecca Leela Thomas [2016]

⁶⁴ Ibid. British Columbia Ministry of Education [2015]

3.4 Psychosocially

Trauma

Academic data show that refugee students when they arrive in a host-country and even before they start attending school, they are already psychologically charged because of the trauma caused by many factors relevant to their unique migration process. These factors are distinguished in categories that depend on the way and reasons of the refugee flow, the socioeconomic status, as well as the relocation conditions in the host-countries. Fazel and Stein insist that the initial trauma, the eventual move to safety, and the resettlement in a new country each bring different challenges.⁶⁵ The first category is *pre-migratory factors* and relates to the living conditions and experiences of refugees in their country of origin and the reasons that forced them to search for another place to live.⁶⁶ The second category is *during-migration factors* that concern the experiences they lived during their “journey”. These experiences, especially for children can stigmatize them for the rest of their lives. The final category is the post-migration factors that are about the reception, relocation and hosting conditions in the countries of final or temporary destination.⁶⁷ These factors result in Post-Traumatic Stress Disorder (PTSD), a condition that refugee children regularly face.⁶⁸ Usually, because the living conditions that refugee children experience in the host country are not the proper, is possible to develop depression and anxiety or stress and they lose their ability to concentrate, which sometimes can be equal traumatic and painful as their pre-migration experience.⁶⁹ Especially for children of pre-school and primary school age that lived painful experiences, they have more intense symptoms, like revival of the traumatic event

⁶⁵ Ibid. Rebecca Leela Thomas [2016]

⁶⁶ Marianne Vervliet et al., ‘The mental health of unaccompanied refugee minors on arrival in the host country.’ [2014] 55(1) Scand. J Psychol. 33-37

⁶⁷ Σπύρος Αραβανής, ‘Σχολικός εκφοβισμός- βία και πρόσφυγες μαθητές: Μια βιβλιογραφική επισκόπηση’ [2016] 62(1) Παιδαγωγική επιθεώρηση 29-41

⁶⁸ Selcuk Sirin and L Rogers-Sirin ‘The educational and mental health needs of Syrian refugee children’ [2015] Migration Policy Institute

⁶⁹ Carrie A. Hartwell ‘Former Unaccompanied Refugee Minors: Stories of Life in Resettlement’ Phd Thesis University of Michigan [2011] 32

through memory flashbacks, nausea, sweating or tachycardia.⁷⁰ They become anti-social, aggressive and irritable and avoid every contact that is possible to bring up traumatic memories⁷¹. In addition, they may show overstimulation, cautiousness, problems in concentration, nervousness. In the case of unaccompanied minors is possible to feel loneliness and anxiety to create relations with people that take care of them, to feel ashamed because of their diversity and guilty for the rest family members they left behind.⁷² Ahearn and Athey, already in 1991 noted that when a child experience lack of safety and stability, including continuous change of everyday habits for many months or even years living in transitional camps, this hide increased possibilities to develop a psychiatric disease, dysfunctional behavior or inability to work, love or play⁷³ that may last for years. Refugee children that have all these symptoms related to trauma, is difficult to participate in education and benefit from it without special instruction, empathy from the teachers who have to be specially qualified.

Psychological and emotional barriers

As it is already noted, refugee children often show signs of trauma or other psychological disorders because of the atrocities they faced and their living experiences in their home-country. At the same time the living conditions in the host-country together with the uncertainty and anxiety about their future (work, education, family reunification) trigger their emotional stability. The mental health of refugee children is one of the main factors that affect their inclusion in the new country as well as their school performance and that is something that education should not neglect. School has a duty to become the cultural mediator and help children familiarize with the new culture, without losing contact with their own to create their cultural identity. Resettled children may be dispersed across schools in a district or region depending on available placements. They may experience psychosocial

⁷⁰ Chris R. Brewin et al. 'Intrusive images in Psychological disorders: Characteristics, Neural Mechanisms, and Treatment Implications' [2010] 117 Psychological Review 210-232

⁷¹ Ibid. Carrie A. Hartwell [2011]

⁷² Ibid. Carrie A. Hartwell [2011]

⁷³ Richard J Hamilton and Dennis Moore, Educational Interventions for Refugee Children: Theoretical Perspectives and Implementing Best Practice (Psychology Press 2004)

isolation and mental health issues associated with the devastating episodes they have witnessed, Sirin and Rogers-Sirin aptly comment.⁷⁴

Post-Traumatic Stress Disorder (PTSD)

“People who have experienced or witnessed life-threatening events, like combats, natural disasters, car accidents or sexual assaults develop a mental health disorder, called Post-traumatic stress disorder or PTSD.”- PTSD: National Centre for PTSD⁷⁵

Refugee children, as victims of war and violence very often develop PTSD, without that implying that all refugee children at some point of their life will develop symptoms of this disorder. Usually refugee children have upsetting memories and difficulties in sleeping and is hard for them to communicate or participate fully in the school environment. All these symptoms result in having problems integrating in the new hosting-society and school, as well as problematic school performance and unwillingness to learn.

Bullying

The national and cultural diversity of refugee children stands out as the main cause of school-bullying. Students with a refugee background are more vulnerable to become victims of this social behavior because of their nationality, race, religion and cultural identity.⁷⁶ For example based on international researches in countries that host Syrian refugees, like Lebanon and Jordan, parents are protesting for their presence at schools as they believe that this will affect negatively the quality of provided education, leading to an increase in the events of school-bullying. In the United States, in a research also related to attitudes towards refugees, three reasons of bullying were identified including different race, different language, different religion and way of

⁷⁴ Mary Claire Wofford and Sana Tibi, 'A human right to literacy education: Implications for serving Syrian refugee children' [2018] 20(1) International Journal of Speech-Language Pathology <https://doi.org/10.1080/17549507.2017.1397746> accessed 5 March 2018

⁷⁵ Available at: <https://www.ptsd.va.gov/public/ptsd-overview/basics/what-is-ptsd.asp>

⁷⁶ Shirley Mithethwa-Sommers and Otieno Kisiara, 'Listening to Students from Refugee Backgrounds: Lessons for Education Professionals' [2015] 12(1) Penn GSE Perspectives on Urban Education

dressing.⁷⁷ Despite all these data the academic community has not yet reached a consensus on that matter, as many of them support the opposite that not only refugee students do not get bullied more than the other students, but at the same time they are in the position to defend themselves. These conflicting data show that it is not yet confirmed the real relation between bullying and refugees.

To sum up, the challenges are many, but school should be a safe place that allows children to grow and develop without being at risk of facing discrimination, bullying, verbal or physical violence. Especially in schools with a diverse student population that includes refugees all these characteristics are even more important as refugees are one of the most vulnerable groups for racism, exclusion and discrimination. School is also an actor that shall promote equality and equal opportunities amongst all of its members, which mean that there is a need to create more opportunities for those children that are marginalized.

⁷⁷ Ibid. Shirley Mithethwa-Sommers and Otieno Kisiara [2015]

Chapter 4:

Inclusive Education of Refugee Children: Is it a Right?

4.1 Introduction

The phenomenon of exclusion is experiencing an uptrend not only in the social, but also in the education sector. Nowadays people from every corner of the world, both in developed and developing countries are facing exclusion as a result of globalization, inequality, poverty and many more current phenomena which have negative effects in their lives and the progress of our society. Exclusion from the society is also a result of the existing wars that created, as many historians call it, the “*refugeedom*”⁷⁸, people without roots or a country that “feels home” who are becoming increasingly isolated.

One of the main actors that can overcome the issue of exclusion and reestablish the social relationships of these people that are marginalized is school or more generally education. To become a member of a new society and collaborate with people from diverse cultures and with different values and way of thinking you need knowledge and skills, but also a receptive and open society. All these attitudes are cultivated through proper, quality and inclusive education. Quality and inclusive education leads to social inclusion, but this equation is not biconditional, meaning that if we want to achieve social inclusion, it does not necessarily implied that more inclusive strategies and practices in education should be implemented. That explains partly why the education systems are not inclusive, but it does not at the same time justify the segregation that usually exists.

The world changes and evolves and education shall follow this evolution. As the society is under reform, this implies new forms of education that satisfy the “needs of today” but also help people acquire the appropriate skills for a better future.⁷⁹ The term inclusive education was first used for the education of children with special

⁷⁸ Peter Gatrell, *The Making of the Modern Refugee* (Oxford Scholarship Online 2013)

⁷⁹ Ibid. UNESCO [2015]

needs, but now seems more than ever relevant in refugee education. There are debates in the media focusing on whether or not refugee children should be segregated from the other students, in order to achieve the best educational results.⁸⁰ Separating a minority of students from the main population hides many dangers, a fact that is often highlighted by many scholars, while others believe that is justifiable.⁸¹ It is undeniable that all children, including refugee children, have a right to education, but the question that arises now is if they also have a right to inclusive education.

4.2 Defining Inclusive Education

“An educationally inclusive school is one in which the teaching and learning, achievements, attitudes and well-being of every young person matter. Effective schools are educationally inclusive schools.”⁸²

To begin with, it is important to explain the terms inclusion and inclusive education in the educational framework. Inclusion does not simply mean to place all children in mainstream schools, but to create the proper ground and responsive school-culture in order to meet every child’s specific needs. So, inclusive education refers to a wide range of strategies, activities and processes that have as main purpose to make a reality of the universal right to quality and proper education.⁸³ As Barton said many years ago, inclusive education is about the participation of all children and the removal of all forms of exclusionary practice.⁸⁴

When inclusive education was first theorized it focused primarily on the education of learners identified with a disability or special educational need (UNESCO, 1994) but more recently there is an understanding of inclusive education as being about a wider

⁸⁰ Economist, 'Educating refugees: Learning the hard way' (The Economist, 2 January 2016) <https://media.economist.com/news/europe/21684830-integrating-migrants-schools-will-not-be-easy-learning-hard-way> accessed 20 February 2018

⁸¹ Ibid. Kurt Willems and Jonas Vernimmen, [2018]

⁸² Office for Standards in Education, 'Evaluating Educational Inclusion, Guidance for Inspectors and Schools' [2001] London: Ofsted 7

⁸³ Sue Stubbs, Inclusive Education: Where there are few resources (The Atlas Alliance 2008)

⁸⁴ Felicity Armstrong 'Spaced out: Policy, Difference and the Challenge of Inclusive Education' (Kluwer Academic Publishers c2003)

range of multiple processes that can marginalize any learners, such as those relating to poverty, gender, sexuality and conflict (UNESCO, 2015).⁸⁵ Already in 1994 UNESCO highlighted the significance of inclusive education as “a critical step in helping to change discriminatory attitudes, in creating welcoming communities and in developing an inclusive society”. Based on UNESCO when we talk about refugee education or more generally education in emergency contexts, what we should closely consider is equity and inclusion, keeping in mind that quality inclusive education plays an important role in making people open-minded and tolerant⁸⁶. This argument can justify why we should prioritize inclusive education, especially in the current context that the whole world is facing in relation to refugee children.

Inclusion is still a contradictory term as there is not a common interpretation or definition globally accepted. In most parts of the world it is linked to special education and children with disabilities, being in that way confused with integration. Consequently, the identification of inclusive and special education eliminates the scope, as well as the benefits that inclusion can have for a broader category of students.

At this point, I believe that is relevant to mention some of the existing definitions of inclusive education, for the better understanding of the term. UNESCO⁸⁷ defines inclusive education as “*process of strengthening the capacity of the education system to reach out to all learners*”. UNICEF’s⁸⁸ definition includes “*real learning opportunities within the regular school system for groups who have traditionally been excluded, such as children with disabilities and speakers of minority languages*”. UNESCO IBE’s concept of inclusion involves four key-elements⁸⁹. It is a process

⁸⁵ Vicky Plows and Ben Whitburn, *Inclusive Education Making Sense of Everyday Practice* (Sense Publishers 2017)

⁸⁶ Ibid. UNESCO ‘Working Papers on Education Policy: Protecting the right to education for refugees.’ [2017]

⁸⁷ UN Educational, Scientific and Cultural Organization -UNESCO, ‘A guide for ensuring inclusion and equity in education.’ [2017], available at: <http://unesdoc.unesco.org/images/0024/002482/248254e.pdf> accessed 20 May 2018

⁸⁸ UNICEF, ‘Inclusive education’ (Unicef, 6 June 2017) https://www.unicef.org/education/bege_61717.html accessed 28 March 2018

⁸⁹ UNESCO IBE ‘Reaching out to all learners: A resource pack for supporting inclusive education’ (Training Tools for Curriculum Development Series). (2016, Geneva: UNESCO IBE)

concerned with the identification and removal of barriers, it is about the presence, participation, and achievement of all students and it involves a particular emphasis on those groups of learners who may be at risk of marginalization, exclusion, or underachievement.⁹⁰ The NGO “Save the Children” defines inclusion as one of the dimensions of quality education that “*enables all children to learn together with support for their individual needs*” and “*emphasizes equity in access and participation, and responds positively to the individual learning needs and competencies of all children*”.⁹¹ Most of the existing definitions refer specifically to children with disabilities, which makes it more obvious that the notion of inclusive education is not yet successfully integrated to a broader category of recipients or to what the “Education for All” movement and the later “Sustainable Development Goals” wanted to attempt.

Inclusion is not only about access to education for children that are usually in danger of marginalization or are facing indeed exclusion. Inclusion is about the realization of the right of all people to a high quality of education and the reform of the existing policies and factors that are barriers to the participation and learning for all in the mainstream system.⁹² The concept of inclusion involves a radical rethink of policy and practice and reflects a fundamentally different way of thinking about the origins of learning and behavior difficulties.⁹³ The model of inclusive education is of the view that what needs to change or be adapted is the education system in order to meet each and every student’s particular needs in the best possible way. In other words, instead of “blaming” the student for being excluded or not able to cope with the learning methods, like previous teaching models, it puts the blame on the school and calls for education reform. Inclusive education is based on the proposition that it is society and its institutions that are oppressive, discriminatory and disabling and that in order to remove all these obstacles to the participation of marginalized people in the life of society, more attention needs to be paid in changing institutions, regulations and attitudes

⁹⁰ Victor J. Friedman and Michal Razer, *From Exclusion to Excellence: Building Restorative Relationships to Create Inclusive Schools* (1st edn, Sense Publishers c2017)

⁹¹ Save the children, 'Inclusive Education: What, Why, and How, A Handbook for Program Implementers' [2016] available at: <https://www.savethechildren.it/sites/default/files/files/uploads/pubblicazioni/inclusive-education-what-why-and-how.pdf> [accessed 23 May 2018]

that create and maintain exclusion.⁹⁴ The education model that was usually used especially in the past, is called “individual model” and is based on the conception that learning difficulties originate from the child and its aim is the child to fit the system and benefit from what the school has to offer.

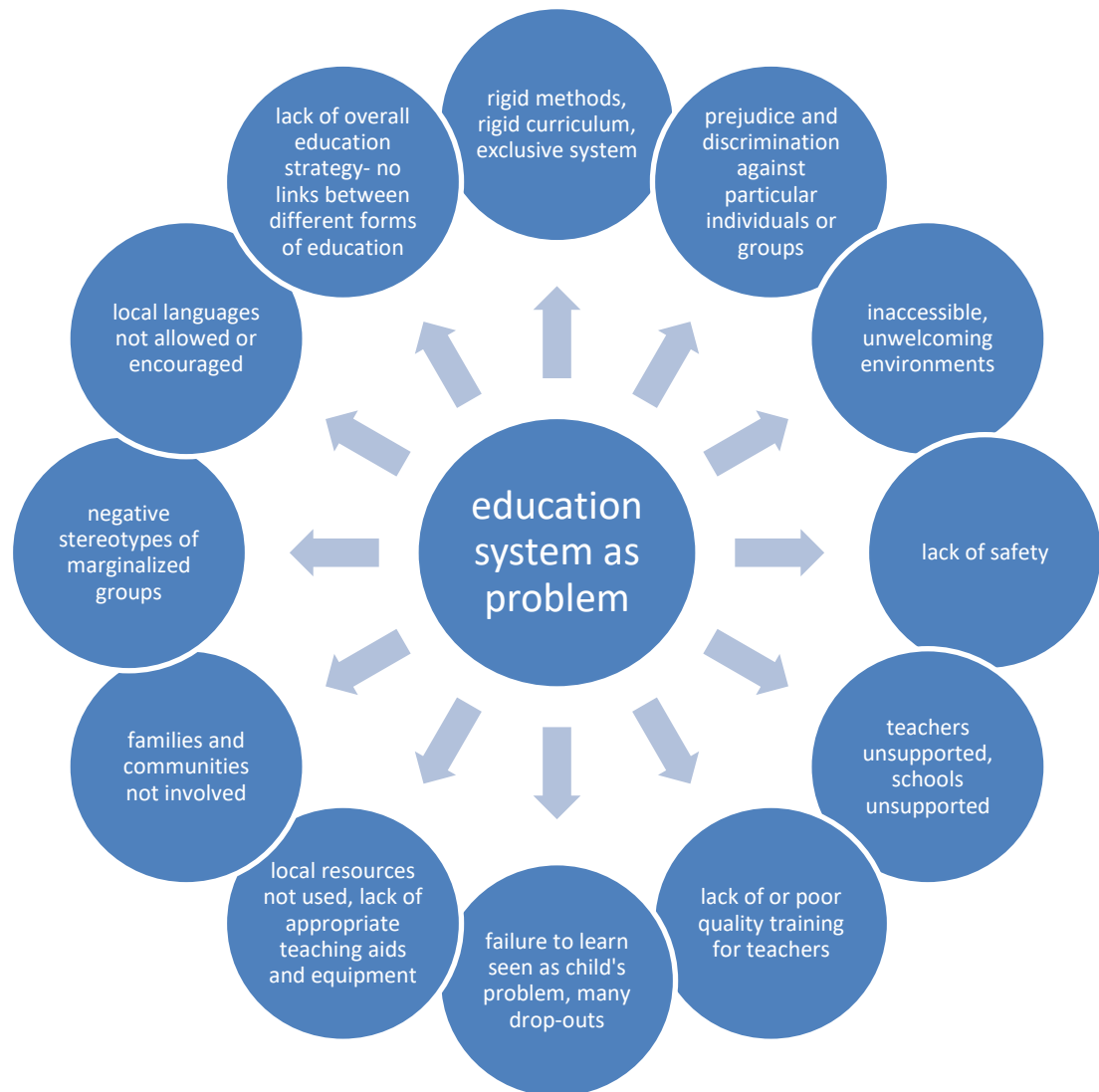


Figure 2: Social model (the problem is in the education system- Inclusive Education/ Education for All)

⁹² UN International Bureau of Education- UNESCO IBE, 'Defining an Inclusive Education Agenda: Reflections around the 48th session of the International Conference on Education' [2009] ED/BIE/CONFINTED 48/6 Geneva, Switzerland, 25-28 November 2008

⁹³ Peter Mittler, Working Towards Inclusive Education: Social Contexts (David Fulton Publishers 2000)

⁹⁴ Ibid. Peter Mittler [2010]

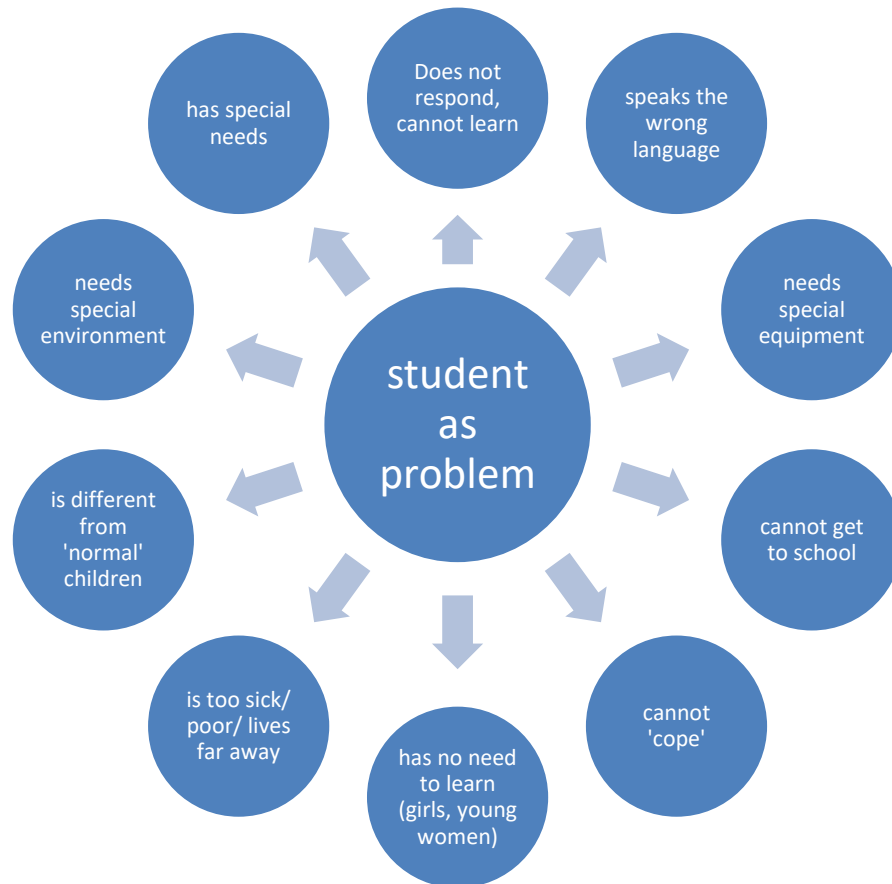


Figure 3: Individual model (the problem is the student- special education or exclusion)

The model of Inclusive Education

Inclusive education refers to a wide range of strategies activities and processes that acknowledge that learning begins at birth and continuous throughout life, including learning in the home, the community and in formal and non-formal situations.⁹⁵ It is not a static process, but is constantly evolving according to the culture and context aiming in empowering and enabling communities, systems and structures to combat discrimination, celebrate diversity, promote participation and overcome barriers to learning for all people.⁹⁶ Age, gender, ethnicity, language, status, religion, disability or more generally every form of difference is acknowledged and respected in order to create a world where there is peace, tolerance, sustainable use of resources and social

⁹⁵ Ibid. Sue Stubbs [2008]

⁹⁶ Ibid. Sue Stubbs [2008]

justice; where the basic rights of all are met.⁹⁷ While other education models identify the student and his or her characteristics as the main problem of their exclusion the model of inclusion puts the education system in the center of attention and the need to reform it in a way that fits every single student. What concerns inclusive education is extending teaching and learning to be available to everybody and all learners to be able to participate in the community of the classroom, as opposed to providing for all, by differentiating for some.⁹⁸

4.3 International Instruments/ Context

As I mentioned in Chapter 2 Education, including Refugee Education, is a universal human right that has been enshrined in several International and European human rights instruments. However, having a right to education does not necessarily mean that inclusion is implied. So, it is crucial for a better understanding of the term to find out when inclusion began being a part of the human rights agenda and how it evolved throughout the years based on the challenges and social issues that arose.

In the beginning of the human rights' history, inclusion was not explicitly referred to as being a crucial part of the proper implementation of the human right to education or even more being a separate right. Throughout the human rights history, the most vulnerable groups of the society have been facing exclusion in education resulting in a serious violation of their inherent right to education. In the Universal Declaration of Human Rights (1948), if we try to translate article 26, there is a vestigial reference to inclusion with the wording “*everyone has the right...*” meaning that all people are included in the enjoyment of this right. Moving forward to more recent instruments, the 1989 UN Convention on the Rights of the Child, in article 2 it is stated that children should enjoy their rights, including education, without discrimination. Also, while there is an element of inclusion in article 23, it concerns only disabled children and not any other category of marginalized children.

⁹⁷ Ibid. Sue Stubbs [2008]

⁹⁸ Ibid. Vicky Plows and Ben Whitburn [2017]

4.3.1 Main International Instruments

The Convention on the Rights of the Child, the Convention on the Rights of Persons with Disabilities, the Convention on the Protection and Promotion of Diversity in Cultural Expressions, the Convention concerning Indigenous and Tribal Peoples in Independent Countries or the Convention on the Elimination of All Forms of Discrimination against Women, all include some provisions in support of inclusion, but not explicitly. Most of the documents that refer to inclusive education are declarations or statements and frameworks for action that while they are important in the human rights world, do not legally bind States to take measures. Despite that, it is crucial to find out which these documents are, as they played a vital role in the evolution of the concept of inclusion and the realization of the necessity to adopt a right to inclusive education for all children.

➤ **World Declaration on Education for All and Framework for Action to Meet Basic Learning Needs**

In March 1990, at the World Conference on Education for All in Jomtien, the World Declaration on Education for All and the Framework for Action were adopted. This Declaration opened the way to universalizing the access to education for all children, promoting equity⁹⁹ and creating a more prosperous ground for “inclusive education”, but still being far away from explicitly referring to this term. In other words, while it was highlighted again the importance of the right to education and was recognized that particular vulnerable and marginalized groups were excluded or discriminated; it was not clarified how these disparities should be removed and the role that inclusive education can play on that field.¹⁰⁰

⁹⁹ UNESCO IBE ‘Reaching out to all learners: A resource pack for supporting inclusive education’ Training Tools for Curriculum Development Series (2016, Geneva: UNESCO IBE)

¹⁰⁰ World Conference on Education for All: Meeting Basic Learning Needs. (1990). World declaration on education for all and framework for action to meet basic learning needs adopted by the World Conference on Education for All: Meeting Basic Learning Needs, Jomtien, Thailand, 5-9 March 1990. New York, N.Y: Inter-Agency Commission (UNDP, UNESCO, UNICEF, World Bank) for the World Conference on Education for All.

➤ **The Salamanca Statement and Framework for Action on Special Needs Education**

The first-time inclusion was used in an official document and is still widely associated with concerns people with disabilities and took place in Spain where more than 300 participants representing 92 governments and 25 international organisations considered a policy shift towards the promotion of an inclusive education approach¹⁰¹. The Salamanca Statement and Framework for Action¹⁰² and especially article 2, and later the Convention on the Rights of Persons with Disabilities¹⁰³ and article 24 openly comprise inclusive education, revealing its importance for that category of people. Based on the Salamanca Statement “*the most effective means of combating discriminatory attitudes, building an inclusive society and achieving education for all*” is through inclusive education. Inclusive education and disability are interrelated and sometimes confused as most people think that inclusion is only relevant with these people and here is the challenge for education and most specifically for refugee education. Recipients of the beneficiaries of inclusive education should be all the marginalized children, including refugees and asylum-seekers.

➤ **Dakar Framework for Action: Education for All**

In 2000, at the World Education Forum in Dakar, while it was an extremely criticized meeting by the international non-governmental organizations¹⁰⁴ as it was held to review the progress made since the Jomtien Conference, an improvement was noticed relating to the initiation of a strategy of inclusion in the mainstream school-system. Article 8(viii) urged the governments and organizations responsible for education to “*create safe, healthy, inclusive and equitably resourced educational environments conducive to excellence in learning, with clearly defined levels of achievement for*

¹⁰¹ Ibid. UNESCO IBE [2016]

¹⁰² UNESCO (1994). The Salamanca Statement and Framework for Action on Special Needs Education adopted by the World Conference on Special Needs Education: Access and Quality. Salamanca, Spain, 7-10 June 1994 (UNESCO) available at: http://www.unesco.org/education/pdf/SALAMA_E.PDF [accessed 15 May 2018]

¹⁰³ UN General Assembly, Convention on the Rights of Persons with Disabilities : resolution / adopted by the General Assembly, 24 January 2007, A/RES/61/106, available at: <http://www.refworld.org/docid/45f973632.html> [accessed 21 June 2018]

¹⁰⁴ Ibid. Vicky Plows and Ben Whitburn [2017]

*all*¹⁰⁵. In another paragraph it is stated that “*in order to attract and retain children from marginalized and excluded groups, education systems should respond flexibly...*”¹⁰⁶ and “*education systems must be inclusive, actively seeking out children who are not enrolled, and responding flexibly to the circumstances and needs of all learners*”.¹⁰⁷ The Forum declared that Education for All must take account of the needs of the poor and the disadvantaged, including working children, remote rural dwellers and nomads, ethnic and linguistic minorities, children, young people and adults affected by conflict, HIV and AIDS, hunger and poor health, and those with disabilities or special learning needs¹⁰⁸. The above-mentioned articles reveal a movement towards an expanded version of inclusive education, as it is not only aiming in people with disabilities, but to all learners in general, and especially to excluded groups. The Dakar Framework opened the way for inclusive education as one of the main strategies to address marginalization and exclusion and getting closer to the “Education for All” goals¹⁰⁹.

➤ Sustainable Development Goals (SDG, 2015-2030)

The right to be educated together, in an inclusive manner, is also pointed out in the Sustainable Development Goals. In 2015, the United Nations adopted Sustainable Development Goals which explicitly urged governments and civil societies to ensure inclusive and equitable quality education and to promote lifelong learning opportunities for all (United Nations Development Program, SDG number 4)¹¹⁰. The Sustainable Development Agenda sets out a transformative and universal vision of education for the next fifteen years and puts education in the center of attention in order to achieve sustainable development.¹¹¹ In addition, while stressing out the role of education both as the main driver of development and contributor for achieving the

¹⁰⁵ UNESCO (2000). Dakar Framework for Action: Education for All. Meeting Our Collective Commitments. World Forum on Education, Dakar, Senegal, 26-28 April 2000, UNESCO, Paris, available at: <http://unesdoc.unesco.org/images/0012/001211/121147e.pdf> accessed 16 June 2018

¹⁰⁶ Ibid.

¹⁰⁷ Ibid.

¹⁰⁸ Ibid. UNESCO IBE [2016]

¹⁰⁹ Ibid. UNESCO IBE [2016]

¹¹⁰ Ibid. Rebecca Leela Thomas [2016]

¹¹¹ UN Educational, Scientific and Cultural Organization- UNESCO. (2017). Ensuring the right to equitable and inclusive quality education – Results of the 9th Consultation

other SDGs, does not itself create legal obligations.¹¹² The non-binding legal nature of SDGs, is its negative side as States are not obliged legally to implement the SDGs which may undermine the educational goals set out there. To move towards an inclusive education system and to achieve the SDGs, States are expected to commit politically by establishing legal and policy frameworks for delivering sustainable, quality and inclusive education.¹¹³ *“Given existent legal obligations under international human rights law, the national frameworks established by States to guide the implementation of Education 2030 must be in compliance with the right to education. In this sense, the development paradigm needs to be changed by adding legal accountability to political commitment. This will help to build stronger momentum and boost national efforts to achieve SDG 4.”*¹¹⁴ The 1960 Convention against Discrimination in Education stands out as the “cornerstone of Education 2030 Agenda”, and the SDG number 4 is based on that instrument that covers the right to quality, non-discriminatory, equality and inclusive education comprehensively.

➤ **Incheon Declaration and Framework of Action**

Finally, the most recent Declaration concerning the field of education was adopted in 2015, at the World Education Forum in Incheon of Korea, setting out a new vision for education for the next fifteen years.¹¹⁵ The scope of this Declaration is to move forward to a better implementation of Sustainable Development Goal 4 (see Annex), which is about quality education. Using the wording of the United Nations instruments, this Declaration is aiming *“towards inclusive and equitable quality education and lifelong learning for all”*¹¹⁶, encompassing the term of inclusion in the mainstream education and not only in the education for persons with disabilities. It is clearly stated that inclusion is one of the focus-areas or “cornerstones” of the current educational agenda and that *“all forms of exclusion and marginalization, disparities*

¹¹² Ibid UNESCO [2017]

¹¹³ Ibid UNESCO [2017]

¹¹⁴ Ibid UNESCO [2017]

¹¹⁵ N Educational, Scientific and Cultural Organization- UNESCO (2015). Incheon Declaration and Framework of Action. World Education Forum, Incheon, Republic of Korea, 19-22 May 2015, UNESCO Paris, available at: http://uis.unesco.org/sites/default/files/documents/education-2030-incheon-framework-for-action-implementation-of-sdg4-2016-en_2.pdf accessed 16 June 2018

¹¹⁶ Ibid.

*and inequalities in access, participation and learning outcomes*¹¹⁷ will be addressed. In this way, the Declaration makes it clear that the Education for All agenda really must be about “all”¹¹⁸. What is really important in this Declaration is the targeted reference to refugee children and the problems they face in accessing education, as well as the need for a more inclusive educational system for this category of students too¹¹⁹. Inclusion is also a crucial part in strategic approaches, in order to achieve SDG 4, especially in emergency situations “*Countries must, therefore, institute measures to develop inclusive, responsive and resilient education systems to meet the needs of children, youth and adults in crisis contexts, including internally displaced persons and refugees*”¹²⁰.

➤ **1960 Convention and Recommendation against Discrimination in Education**

The 1960 Convention¹²¹ defines discrimination as “*any distinction, exclusion, limitation or preference which, being based on race, color, sex, language, religion, political or other opinion, national or social origin, economic condition or birth, has the purpose or effect of nullifying or impairing equality of treatment in education (...)*”. In Article 1(c) exists a specific reference for establishing or maintaining separate educational system for specific groups of people, which may result in discrimination under conditions. Article 4 legally binds State Parties to “*formulate, develop and apply a national policy which, by methods appropriate to the circumstances and to national usage, will tend to promote equality of opportunity and of treatment*”. In that way the Convention forces States to establish more inclusive education systems. The innovating wording of this Convention can be helpful if interpreted together with SDG 4 and Education 2030 Framework of Action to combat exclusion and promote inclusive education for all.

¹¹⁷ Ibid.

¹¹⁸ Ibid. UNESCO IBE [2016]

¹¹⁹ Ibid. paragraph 11, Preamble. Towards 2030: a new vision for education.

¹²⁰ Ibid. paragraph 26, Preamble. Towards 2030: a new vision for education

¹²¹ UN Educational, Scientific and Cultural Organisation (UNESCO), Convention Against Discrimination in Education, 14 December 1960, available at: <http://www.refworld.org/docid/3ae6b3880.html> accessed 1 July 2018

4.3.2 A Human Rights Perspective of Inclusive Education

The right to education is a fundamental right for all children in all situations¹²², an essential tool for achieving the goals of equality and sustainable development¹²³ and its importance and value are even greater, since it is also an empowerment or enabling right, meaning that it helps in the realization of other human rights. Especially for children in emergencies, the right to education seems vital for their survival and progress, as it facilitates them with the proper knowledge and skills, as well as with their inclusion in the society. The right to education is enshrined in many international and regional human rights documents, like the Universal Declaration of Human Rights, the 1960 Convention against Discrimination in Education, the Convention on the Rights of the Child and the International Covenant on Economic, Social and Cultural Rights, as well as the more recent Incheon Declaration and Sustainable Development Goals. All these provisions concerning the right to education imply that everyone, including refugees, should enjoy this right, this economic, social and cultural right that nowadays is facing great challenges concerning its implementation and enjoyment by specific groups of children.

The United Nations Committee on Economic, Social and Cultural Rights (CESCR) has identified four dimensions of the right to education; availability, accessibility, acceptability and adaptability.¹²⁴ These four dimensions are important for the establishment of an inclusive education system. States have obligations to respect protect and fulfill the right to education, but only if education is available, accessible, acceptable and adaptable for all can be truly inclusive.¹²⁵

“Inclusive dimensions of the right to education are important with regard to both access to education and the way it is dispensed, and it appears clear that inclusion

¹²² Pilar Aguilar and Gonzalo Retamal, 'Protective environments and quality education in humanitarian contexts' [2009] 29(1) International Journal of Educational Development 3-16

¹²³ Ibid. UNESCO. (2017)

¹²⁴ Ibid. UNESCO IBE [2016]

¹²⁵ Ibid. UNESCO IBE [2016]

*serves as a guiding principle for countries in adopting and implementing their education laws and policies.*¹²⁶- UNESCO

As I already explained inclusion was used to promote the integration of those, who due to physical limitations could not attend mainstream schools, from where the demand for the inclusion of the excluded was intensified.¹²⁷ Nowadays, the aspect of inclusive education has been expanded and it is conceived as “the way of the future to think of education according to a right-based perspective”¹²⁸. The right to inclusive education is recognized as a right only for people with disabilities, while there are attempts to broaden its scope and transform it into a universal right for all. The first official document that referred to inclusive education was the Salamanca Statement and Framework for Action on Special Needs Education in 1994 and this explains why education for children with special needs and inclusion go hand in hand. Since then progress has been made and it is inconsistent to believe nowadays, that inclusion concerns only special education, while it puts emphasis on all marginalized groups of people. Inclusion is yet found as a critical component of quality education and its importance is highlighted in several UN official documents, but unfortunately it is not recognized as a separate right. Inclusive education is a part of the human rights agenda, as it forms a way to the fully enjoyment of the universal right to education, it helps children realize and accept diversity and teach them how to live all together peacefully in a variety of contexts, achieving the final goal of an inclusive and human-rights friendly society. Children do not only have a right to education, but they also have rights in education and through education and these three aspects compose the concept of inclusive education. What is important in a human rights-based approach to inclusive education is first to find out what causes discrimination and exclusion of certain groups of students and remove all these barriers in order to have an inclusive education system.¹²⁹

¹²⁶ Ibid. UN Convention Against Discrimination in Education

¹²⁷ Ibid. UNESCO IBE [2016]

¹²⁸ Ibid. UNESCO IBE [2016]

¹²⁹ Ibid. UNESCO IBE [2016]

4.4 Origins

Inclusive education is often identified with “special education”, as it was in the education of persons with disabilities that the concept of inclusion initially used, at least in terms of the official documents and policies. In the last few years, the development of the science of pedagogical studies together with the various events that took place all over the world, like the current refugee influx, fueled discussions about reforming education systems to be more inclusive. Consequently, the scope of inclusive education expanded to a greater variety of marginalized groups, like refugees, asylum-seekers or IDPs, other than persons with disabilities. Inclusive education has grown out of the system of special education that emerged in Europe, North America and other developed countries, in the nineteenth and twentieth centuries, as a new educational system aiming to manage the learning of the children who had a wide range of abilities, aptitudes and motivation.¹³⁰ Throughout the years societal evolution and policy developments, as well as the increasing diversity within school communities, including cultural and linguistic diversity¹³¹ have put inclusive education on the worldwide agenda, being recognized globally as a really important aspect of the education system. However, its interpretation remains ambiguous varying from “inclusion as concerned with disability” or “special educational needs” to “inclusion as a principled approach to education and society”.¹³² Nowadays we can say that is part of a broad human rights agenda, targeting in the value of educating all students in the mainstream education¹³³ and making schools an engaging and supporting environment for all.

¹³⁰ Ann Cheryl Armstrong and others, *Inclusive Education: International Policy and Practice* (Sage Publications 2010)

¹³¹ Sandra Taylor and Ravinder Kaur Sidhu, 'Supporting refugee students in schools: What constitutes inclusive education?' [2012] 16(1) *International Journal of Inclusive Education* <https://doi.org/10.1080/13603110903560085> accessed 10 June 2018

¹³² Mel Ainscow and others, *Improving Schools, Developing Inclusion* (Routledge 2006)

¹³³ Aster Van Mieghem and others, 'An analysis of research on inclusive education: a systematic search and meta review' [2018] *International Journal of Inclusive Education* <https://doi.org/10.1080/13603116.2018.1482012> accessed 23 June 2018

4.4.1 Influences

Inclusive education and inclusive schools are not a current trend or a current discovery. It has been existed for years unofficially before it became an international policy. In this part, I will briefly try to find out the movements that influenced it or the way it originated through the years.

Special education needs movement

For a long time, it was almost exclusively the concern of groups, organizations and people with “special education needs”. In the beginning children with special education needs were taught separately, an act that it was prudently supported. However gradually most of the advocates and supporters of special education realized how limited and potentially dangerous this segregation was and started advocating in favor of inclusion and inclusive education.¹³⁴

Communities

If we trace back to the history of inclusive education, we will find out that communities influenced it. Communities and especially indigenous communities, mostly in Africa and South America, have practiced inclusion for centuries, as a way to help children receive proper education and learn the traditions, because governments were not there to provide for them.

Activists and Advocates

Activists, child-rights advocates, women-rights advocates, disability activists and the disability civil rights movements, parents or more generally supporters of human rights movement realized that some groups of people often found themselves in the margins of mainstream education and fought for a more inclusive school and consequently a more inclusive society.¹³⁵

¹³⁴ Ibid. Sue Stubbs [2008]

¹³⁵ Ibid. Sue Stubbs [2008]

International Agencies and NGOs

Both international agencies and NGOs have helped in the development of the concept of inclusive education, by making recommendations, supporting countries and helping in the creation of policies. UN agencies and more specifically UNESCO play a key role in the development of inclusive education.

4.5 Importance of Inclusive education

Quality education and inclusive education are mutually related. The right to education is not only the right to access, but also the right to receive an education of good quality¹³⁶ and that can be achieved through an inclusive education system. Children have a right to quality education and to actively participate in learning in a safe and inclusive environment.¹³⁷ UNESCO¹³⁸ repeatedly refers to the importance of quality and inclusive education in making people open-minded and tolerant and believes that inclusive education should be a priority to the full enjoyment of the universal right to education. Save the Children¹³⁹ has also highlight the interconnection between these two terms by pointing out that education cannot be inclusive without being of quality and vice versa it cannot be of quality without being inclusive. Considering the value of the right to education not only as a separate right, but also as a way to enjoy other rights too, one of the main actors that should work towards its complete implementation and enjoyment are States. States are obliged to respect, protect and fulfill this right and guarantee that all children enjoy equally a quality education. States should have a strong political will so that they can develop the appropriate policies and collaborate with the civil society¹⁴⁰. They should comply with the international legal framework and recommendations in order to create, establish and

¹³⁶ Right-to-education.org, 'Quality Education' (Right to Education Initiative) <http://www.right-to-education.org/issue-page/quality-education> accessed 28 June 2018

¹³⁷ Ibid. Rebecca Leela Thomas [2016]

¹³⁸ UNESCO (2017). Working Papers on Education Policy: Protecting the right to education for refugees

¹³⁹ Save the children, 'Inclusive Education: What, Why, and How'[2016]

¹⁴⁰ Ibid. UNESCO IBE [2016]

reform the education systems and transform them into more inclusive and of higher quality if they want the right to education to be guaranteed.

Inclusive Education promotes the values of democracy

Among the core values of democracy lie the equality among people, respect for every human being and the peaceful coexistence of all cultures. These values and many more are successfully promoted through inclusive education. The establishment of inclusive education systems, of schools that consist of a variety of student material, students from different socio-cultural origins, with different learning abilities and talents, helps in the creation of a more receptive and inclusive society. Children who grow up in a multicultural environment and learn to accept and respect the “different”, that all people are the same and have the same opportunities and rights, become open-minded adults useful for a democratic society.

Inclusive Education helps students to build their own identity

It is a general fact that school is considered a scale-model of the society or a microcosm of real-life. In addition, through school and education, children gain not only knowledge but also adopt attitudes and learn themselves which gradually leads them to build their own identity. If we want children that will become useful adults for our society in the future and if we also want to live in more inclusive and receptive societies, it is essential to develop an inclusive school, an inclusive education system. Inclusive education benefits all students, both marginalized and not-marginalized. On the one hand, based on UNHCR, it helps excluded students or refugees in our case to build relevant skills and knowledge that will enable them to live healthy, productive lives and build skills of self-reliance.¹⁴¹ In addition UNICEF insists that the availability of quality and inclusive education for all enables all children to achieve their full potential¹⁴² and gives them fundamental protection. On the other hand, it is also beneficial for the non-marginalized students, the “regular students”. Being taught in a diverse environment is an essential way to learn how to live together peacefully, based on the values of respect, understanding and developing democratic

¹⁴¹ Ibid. Joseph O'Rourke, [2014]

¹⁴² Ibid. Lutine De Wal Pastoor, [2016]

consciousness, solidarity and an intense feeling of social justice. In that way, children build a strong identity.

Inclusive Education costs less

When children are educated together in the same school, is less expensive than having different schools based on the diverse groups of students that exist. While of course all the reforms of the existing education system, the training of the teachers will need resources, the fact that it will exist only one system for all students, will reduce the costs spend by governments.

4.5.1 Challenges

Like the implementation of the right to education, inclusive education also faces many challenges, which impede with its enjoyment from the most vulnerable group of students, refugee children. These challenges have to do primarily with political-will reasons, cooperation between authorities, international and local community, financial problems and also discriminatory attitudes from specific groups of people. Inclusion does not happen automatically but is a process that takes time and effort and implies reforms in the existing education system, including modification of policies and curriculum, teacher training, new materials, different allocation of resources, etc. responsive to the needs of the marginalized groups.

Attitudes

No matter how our societies advanced, the education and scientific progress, exclusion still exists. Exclusion exists in our everyday adult life as well as in schools. Like when you have an eating disorder, it is impossible to be cured, without admitting that you have a problem and without naming it and its negative effects, it seems to be the same situation with exclusion. If we do not realize and admit that there is a problem with segregation and inequality that causes dire consequences, then it will be really hard to fully integrate our education in inclusive education, to adopt the right

policies or to reform the old ones in the best way. States, policy makers and intellectuals should be the main actors responsible for helping citizens realize the value of multiculturalism in the school classroom. There is an urgent need for change in attitudes and way of thinking, a need to move away from the discriminatory beliefs that fueled exclusion all these years. Finally, general attitudes towards the “different” need to change for a rights-based school, a school that reflects and helps children realize their rights, that is child-friendly and not only academically effective but also inclusive, so that all children would feel safe and accepted.¹⁴³

Policy reforms

In order to have a well-functioning inclusive education there are several steps that need to be taken, including defining the appropriate policy that will accomplish the goal of education. If inclusive education remains just a principle, without being accompanied by necessary education reforms and changes in policy, school structures and curricula, it will have a limited impact.¹⁴⁴ Such school-based change requires leadership, and ideally will be facilitated and supported by education authorities.¹⁴⁵ In order to achieve the Sustainable Development Goals that are linked to education and to realize and fully implement the inclusive education goal it needs political will and cooperation. Discrimination, inequality and exclusion in education can be overcome with policies that promote inclusive learning for all.

Education reforms

What more needs to be done is a new curriculum, based on human rights principles and relevant to the lives of the excluded students. A new curriculum should be adapted that values the diversity in school, respects all cultures and each student’s specificities. Teachers should be also trained to be able to perform in this new school

¹⁴³ Ibid. UNESCO IBE [2016]

¹⁴⁴ Ibid. Lutine de Wal Pastoor [2016]

¹⁴⁵ Ibid. Sandra Taylor and Ravinder Kaur Sidhu, [2012]

system and teaching material should be more inclusive reflecting a human rights approach.

All these challenges slow down the implementation of an inclusive education system that will benefit not only the targeted excluded students, like refugees, but also every single student because the quality of education will be higher. There is an inter-connection among quality and inclusive education and it is impossible to have inclusive education without quality and quality education without inclusion. Quality education is central for Education 2030 Agenda in order to achieve “*inclusive education and to promote lifelong learning opportunities for all*” and urges States to upgrade their educational facilities and learning environment, to rethink the content of the education curricula and to train teachers to be “*well-qualified, adequately recruited and remunerated, motivated, and use appropriate pedagogical approaches supported by appropriate information and communication technology*”¹⁴⁶. As a result, inclusive and quality education requires changes not only in the education environment and content, but overall change of the way that States, governments, educators and students themselves perceive education.

¹⁴⁶ Ibid. UNESCO [2017]

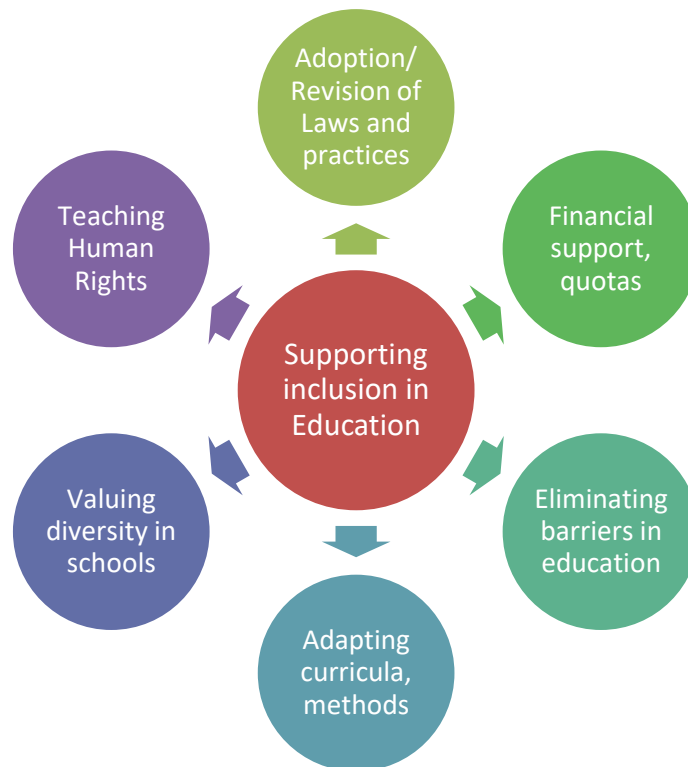


Figure 4: Measures to improve inclusion in education

4.5.2 Refugees and Inclusive Education

Refugee and asylum-seeking children often face great difficulties in access to education, which most of the times is not inclusive. Although the choice of creating separate classes for minority groups is sometimes for a justified pedagogic reason, there are also dangers hiding for these children that are highlighted by many scholars.¹⁴⁷ After the sudden influx of refugees, internally displaced persons and asylum-seekers, European countries took refugee education more seriously, adopting new measures and policies to facilitate their education systems. Because of this sudden influx the concept of inclusive education became more urgent as a way to provide quality education for a diverse compilation of children. For many years, ‘refugee education’ has been primarily associated with the education of refugees in countries far-away from Europe as the majority of the world’s displaced persons and

¹⁴⁷ Ibid. Kurt Willems and Jonas Vernimmen [2018]

refugees were hosted by countries in the Global South¹⁴⁸. There is consensus that education plays an important role in the inclusion of refugees in the host society¹⁴⁹, it's a way for them to become integrated in a new culture and to feel accepted and included in a new society.¹⁵⁰ When refugee children are participating in the mainstream education and get the chance to meet , interact and communicate with other children, they feel part of the new community and is easier for them to learn the new language and to feel “normal” again. Schools have a significant impact in children’s lives and based on UNESCO “*inclusive schools are a critical step in helping to change discriminatory attitudes, in creating welcoming communities and in developing an inclusive society*”. In the beginning of the refugee education, refugee students tended to be treated as a homogenous group, a fact that based on Rutter prevented educators from understanding their particular needs and developing the appropriate educational support.¹⁵¹ After the years and thanks to research in the field of refugee education these perceptions changed. Arnot and Pinson in one of their studies found out that “an ethos of inclusion” and the “celebration of diversity” are important characteristics for what they called “good practice schools”¹⁵². UN Member States actually have responsibilities under international treaties to ensure inclusive education for refugees, with the most recent official UN document, the Sustainable Development Goal 4 and the 2016 New York Declaration to urge them to “ensure inclusive, equitable, quality education for all”.¹⁵³ Actually UNHCR’s Education Strategy focus is the increase of access to education through integration of refugees in national schools, which have longer funding cycles, greater stability in teacher quality and certification of learning in comparison to refugee-only responses.¹⁵⁴ What refugee children need is support based on their special education needs without at the same

¹⁴⁸ Ibid. Lutine De Wal Pastoor [2016]

¹⁴⁹ Markéta Bačáková, 'Developing inclusive educational practices for refugee children in the Czech Republic' [2011] 22(2) Intercultural Education <<https://doi.org/10.1080/14675986.2011.567073> > accessed 10 June 2018

¹⁵⁰ Ibid. Rebecca Leela Thomas [2016]

¹⁵¹ Ibid. Sandra Taylor and Ravinder Kaur Sidhu [2012]

¹⁵² Ibid. Sandra Taylor and Ravinder Kaur Sidhu [2012]

¹⁵³ UN High Commissioner for Refugees (UNHCR), *Left Behind: Refugee Education in Crisis*, September 2017, available at: <http://www.refworld.org/docid/59b7ed854.html> [accessed 5 June 2018]

¹⁵⁴ Dryden-Peterson Sarah, 'Refugee education: Education for an unknowable future' [2017] 47(1) Curriculum Inquiry < <http://nrs.harvard.edu/urn-3:HUL.InstRepos:30780126> > accessed 27 March 2018

time feeling excluded. In other words, instead of separating them from mainstream education, like it was done in the past, inclusive education aims in dealing with diversity while including them in the main schools.¹⁵⁵ McBrien argues that through inclusive education refugee children feel safe, they find themselves after the atrocities they faced, they adjust easier to the cultural expectation and at the same time they keep a contact with their native culture and language.¹⁵⁶ One of the main elements of inclusive education is that rather than excluding refugee child's culture, language and experiences¹⁵⁷, to include all these characteristics in the teaching process and mode of instruction, benefiting in that way both refugees and "regular students".

Inclusive education builds upon the experiences of all students and creates a friendly learning environment that allows students to work on the knowledge they already have in order to acquire further knowledge. In that way refugee children feel that the school-environment do not discriminate against them but respect and support their diversity. So, they feel safe and confident to express themselves and they are more receptive towards new learning inputs.

¹⁵⁵ Ibid. Sandra Taylor and Ravinder Kaur Sidhu [2012]

¹⁵⁶ Ibid. *Rebecca Leela Thomas* [2016]

¹⁵⁷ Ibid. *Rebecca Leela Thomas* [2016]

Chapter 5

Case Study: Greece

5.1 Introduction

The Greek Crisis

Greece is a country that the last years suffered a lot because of the well-known monetary crisis, a crisis that caused many limitations and even violations in the enjoyment of basic human rights, like the right to health or education. The economic adjustment program that the European Union suggested and implemented caused major cuts in public spending and education was one of the first sectors that has been affected and suffered. The consequences of the Greek financial crisis in formal education formed a multidimensional social phenomenon, with cuts in spending for education and generally in the national budget and teachers' wage, minimizing its quality.

While the financial crisis was still affecting most Greek citizens and the strict measures that have been taken were still violating many of the economic, social and cultural rights of the most vulnerable groups of people of the country, another crisis emerged. The sudden influx of refugees in Europe was an event that most of the European countries, including Greece, were not ready to deal with. Greece's geopolitical position as the maritime boundary between Europe, Asia and Africa turned the country into the main route for these people to enter Europe and save their lives. As a result, Greece was one of the European countries that received big amounts of refugees but unfortunately without having the appropriate means to help them and facilitate them.

Refugees in Greece

Greece has a longstanding tradition of welcoming "foreigners". In ancient Greece it was a blasphemy for a host not to open his/her home to visitors, travelers or foreigners and treat them with respect and care. "Xenius Zeus" was the god who was protecting

foreigners, as his name indicates¹⁵⁸, ancient Greek philosophers also refer to multiculturalism in greek community in many of their works or even what Greek people were famous throughout the centuries was their welcoming spirit or “the Hellenic spirit of philoxenia”¹⁵⁹. All these elements reveal the close relationship that people of this country always had towards “visitors” and explains even better how locals treated refugees, at least when they first arrived at the greek islands.

Greece was characterized as “homogenized” until the 1980s and 1990s, when a considerably huge amount of “foreigners”, mostly from former countries of socialism migrated there, creating new multicultural standards¹⁶⁰ and affecting the society, economy and education in several ways. In the 1990s, the educational policies adopted by the Greek State were in favor of the migrant and foreigner students, offering them some benefits. At the same time because of the language deficiencies these children had, the first separated classes were introduced with the name “Supplementary classes”¹⁶¹ and “Reception classes”¹⁶². These classes were the founding ideas that gradually led to the concept of “intercultural education”. The concept of “intercultural education”, while innovative and human-rights friendly was not actually implemented in the greek school system. It was and remains a general pedagogical principle in papers that did not manage to become reality.¹⁶³ The inclusion of the minorities in greek education faced many difficulties, as the cultural specificities of these children were ignored, and the main school population was not prepared to welcome them in schools.¹⁶⁴

The current refugee influx which was characterized as “uncontrolled” or “arbitrary” and caught greek authorities off guard. Greek ex-minister of education, Nikos Filis, in an announcement concerning the refugee situation noted that the current events differ

¹⁵⁸ The word «xenius» or «xenos» («ξένος» in greek alphabet) means foreigner or stranger.

¹⁵⁹ «Philoxenia» («φιλοξενία») derives from the words philos, which means friend and xenos that means foreigner. This word can be translated in English as the act of welcoming a foreigner in a way that he/she feels like being a friend.

¹⁶⁰ Ioannis C. Dimakos & Katerina Tasiopoulou ‘Attitudes Towards Migrants: what do Greek students think about their immigrant classmates?’ [2003] 14(3) Intercultural Education 307-316

¹⁶¹ «Φροντιστηριακά τμήματα»

¹⁶² «Τάξεις υποδοχής»

¹⁶³ Michael Damanakis ‘European and Intercultural Dimension in Greek Education’ [2005] 4(1) European Educational Research Journal 79-88

¹⁶⁴ Α. Μίτλης ‘Οι μειονότητες μέσα στη σχολική τάξη. Μια σχέση αλληλεπίδρασης’ (1998, Αθήνα: Οδυσσέας)

from the previous migratory waves “because in the 90s people came in Greece with their own will and with the purpose of loving our country and contributing to the economic growth. Refugees arriving nowadays in Greece, see the country as a transit, however their stay may last long.”¹⁶⁵ In other words, what seemed at first “temporary” it became reality, creating new standards and an urgent need for change of mindset, not only for refugees, but also for locals.¹⁶⁶ The refugee flows at some point reached a daily 1.952 arrivals, an extremely big number for a small country like Greece, causing many problems. The reception facilities were insufficient, without the appropriate health standards or water and food supplies making the situation at the entry points chaotic.¹⁶⁷ The competent state-authorities built host-centers together with the hosting facilities created by UNHCR and many NGOs. At the same time, the European Union made a commitment with Greece for the creation of 20.000 reception and accommodation facilities for refugees and asylum-seekers.

Based on the Greek Asylum Service, the years from 2015 to November 2017, 119.018 asylum applications were received¹⁶⁸, ranking Greece as the second country in Europe with the most applications, based on its population. From the total number of applications almost a 35 percent ratio were accepted, excluding Syrians that their applications were accepted everywhere at that time. The asylum-seekers in Greece come from many countries, around 75 in number, and most of them are from Syria, Afghanistan, Pakistan and Iraq among whom a large percentage are children either with their families or unaccompanied.

Characteristics of Refugees and Asylum-seekers in Greece

As I said before the refugee population that arrived in Greece is not homogenic, coming from many different countries. More than half of them, 64 percent, are men

¹⁶⁵ Απόστολος Λακασάς, 'Ένταξη παιδιών προσφύγων στα σχολεία' (Kathimerini, 21 July 2016) <http://www.kathimerini.gr/868229/article/epikairothta/ellada/enta3h-paidiwn-prosfygwn-sta-sxoleia> accessed 12 April 2018

¹⁶⁶ Mary Drosopoulos, "The other brick in the wall" Integrating and empowering refugee students through intercultural education; a case study from Greece. in Mabel Ann Brown (ed), *The Shifting Global World of Youth and Education* (Routledge c2018)

¹⁶⁷ Γεωργία Σπυροπούλου and Δημήτρης Χριστόπουλος, Προσφυγικό: «Θα τα καταφέρουμε;» ένας απολογισμός διαχείρισης και προτάσεις διεξόδου (Παπαζήσης 2016)

¹⁶⁸ Hellenic republic, (Ministry of Migration Policy) <http://asylo.gov.gr/en/> accessed 14 July 2018

and the remaining 36 percent are women and 1/3 of all are children. Based on the International Organisation of Migration (IOM), one out of five persons who lost their lives in the Aegean were children. More specifically, UNHCR¹⁶⁹ and IOM¹⁷⁰, published documents about the profile of refugees in Greece including the above elements:

- Most of the Syrian refugees were first internally displaced before coming to Greece.
- Most of them travelled with their families
- 79% of Syrians and 44% Afghan refugees had a secondary or tertiary education diploma
- Family reunification is how the majority of refugees choose the country of final destination

What needs to be highlighted is that concerning children of school-age many challenges need to be overcome, especially in the field of education. These challenges or barriers have to do with their access to education initially, but also are related to psychological and academic factors. For example, their studies are usually interrupted and if they live in detention centers, they don't get any kind of education, the new living conditions these children are facing may cause them anxiety and uncertainty, trauma or other psychological problems, especially if they are unaccompanied.

Unaccompanied minors in Greece

Undeniably one of the most vulnerable groups of people are children and especially the ones that seek-asylum alone, the unaccompanied minors. In Greece there are almost 3.000 unaccompanied minors and among them only one third have access to hosting accommodation and receive special care.¹⁷¹ The Greek ministry of migration created "safe zones" for them, special hosting facilities situated in the main hosting-centers, but the problems are still unsolved with many children living in detention centers, waiting for a spot in a hosting facility, as there are not enough places and

¹⁶⁹ UNHCR Greece (2016). Έρευνα Υ.Α.; Οι Αφγανοί και Σύριοι πρόσφυγες που φτάνουν στην Ελλάδα διαφεύγουν από συγκρούσεις και βία.

¹⁷⁰ International Organization of Migration- IOM (2016). Mixed Migration Flows in the Mediterranean and Beyond. COMPILATION OF AVAILABLE DATA AND INFORMATION

¹⁷¹ Reliefwebint, 'Situation Update: Unaccompanied Children (UAC) in Greece (as of 15 December 2017) [EN/EL]' (ReliefWeb, 15 December 2017) <<https://reliefweb.int/report/greece/situation-update-unaccompanied-children-uac-greece-15-december-2017-enel>> accessed 14 July 2018

many unaccompanied minors find themselves living in completely in appropriate conditions.¹⁷²

Refugee Formal Education

Article 9 of the Presidential Decree 220/2007¹⁷³ relating to issues that concern refugees states that “*minor children of applicants and applicants who are minors have access to the education system under similar conditions as Greek nationals for so long as there is no pending enforceable removal measure against them or their parents.*” It also includes the provision that “*access to the education system shall not be postponed for more than three months from the date of reception of the application by the minor or the minor's parents*” and that the Greek government shall take all the appropriate measures “*where access to the education system is not possible due to the specific situation of the minor*”

One of the aims of the Institute of Educational Policy of the Greek “Ministry of Education, Research and Religious Affairs- ΥΠΠΙΕΘ” is the educational inclusion of underage refugees, based on the “special circumstances” created because of the sudden “refugee crisis”. Most of the refugee children live in Refugee Hotspots and a big amount for approximately a year did not attend school, facts that differentiate refugee education from the education of migrants. In 2016, a Ministerial Decision provided the establishment of “reception/ preparatory classes”, to support the refugee education, called DYEP. These structures have been implemented in certain public schools that are close to camps or places of residence¹⁷⁴ and operated during afternoon hours, after the end of the mainstream school program, as a way to help the integration of refugee children in the greek school system. These classes are run by teachers selected from the list of “substitute teachers” of public schools; they are

¹⁷² Συνήγορος του Πολίτη (2017) ‘Η πρόκληση των μεταναστευτικών ροών και της προστασίας των προσφύγων - Ζητήματα διοικητικής διαχείρισης και δικαιωμάτων’ available at: https://www.synigoros.gr/resources/docs/greek_ombudsman_migrants_refugees_2017-el.pdf

¹⁷³ National Legislative Bodies / National Authorities, Greece: Presidential Decree No. 220 of 2007 on the transposition into the Greek legislation of Council Directive 2003/9/EC from January 27, 2003 laying down minimum standards for the reception of asylum seekers, 6 November 2007

¹⁷⁴ ECRE, Greek Council for Refugees: Country Report Greece (2016 update). (March 2017), available at: http://www.asylumineurope.org/sites/default/files/report-download/aida_gr_2016update.pdf

geared to refugee children of primary school age and lower secondary age education who live in the official refugee sites.¹⁷⁵

NGOs' contribution

When refugees entered Greece one of the main and immediate needs they had, after finding food and accommodation, was the fulfillment of their right to education. The Greek authorities at that time were not prepared to deal with such a sudden influx, making the situation of a great humanitarian interest. Greek and International NGOs were mobilized immediately after the first refugee flows arrived in Greece and at the beginning they were the only actors who took in charge in the field of education for refugees in an informal, obviously, way.

5.2 International protection system- Implementation in Greece

5.2.1 International Instruments

United Nations

Greece is a State Party to both the Geneva Refugee Convention (1951) and to the 1967 Additional Protocol. State Parties are obliged to comply with the provisions written in these documents that concern refugees and asylum-seekers.

Greece has also ratified the following human rights instruments relevant to refugee-children education:

- Universal Declaration of Human Rights (UDHR)
- International Covenant on Civil and Political Rights (ICCPR)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- Convention on the Rights of the Child (CRC) and its OP1 and OP2
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)

¹⁷⁵ Ibid. European Commission Flash Report [2017]

5.2.2 Regional Instruments

European Union

Greece as a member of the European Union is obliged to follow the legal rules that are described in the official documents, regulations and directives of the Union and relate to Common European Asylum System (CEAS), that refer to refugees. The most relevant human rights instrument is the “Charter of Fundamental Rights of the European Union”, but also:

- Directive 2011/51/EU of the European Parliament and of the Council¹⁷⁶ of 11 May 2011 amending Council Directive 2003/109/EC to extend its scope to beneficiaries of international protection Text with EEA relevance
- Directive 2011/95/EU of the European Parliament and of the Council¹⁷⁷ of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted
- Directive 2013/32/EU of the European Parliament and of the Council¹⁷⁸ of 26 June 2013 on common procedures for granting and withdrawing international protection
- Directive 2013/33/EU of the European Parliament and of the Council¹⁷⁹ of 26 June 2013 laying down standards for the reception of applicants for international protection
- Regulation (EU) No 604/2013 of the European Parliament and of the Council¹⁸⁰ of 26 June 2013 establishing the criteria and mechanisms for determining the Member

¹⁷⁶ EUR-Lex, ‘Directive 2011/51/EU of the European Parliament and of the Council’ (11 May 2011) available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32011L0051>

¹⁷⁷ EUR-Lex, ‘Directive 2011/95/EU of the European Parliament and of the Council’ (13 December 2011) available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1530946974686&uri=CELEX:32011L0095>

¹⁷⁸ EUR-Lex, ‘Directive 2013/32/EU of the European Parliament and of the Council’ (26 June 2013) available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1530947046150&uri=CELEX:32013L0032>

¹⁷⁹ EUR-Lex, ‘Directive 2013/33/EU of the European Parliament and of the Council’ (26 June 2013) available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1530947129325&uri=CELEX:32013L0033>

¹⁸⁰ EUR-Lex, ‘Regulation (EU) No 604/2013 of the European Parliament and of the Council’ (26 June 2013) available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1530947182954&uri=CELEX:32013R0604>

State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person

- Regulation (EU) No. 603/2013 of the European Parliament and of the Council of June 26, 2013
- Directive 2008/115/EC of the European Parliament and of the Council of December 16, 2008

Council of Europe

Relevant human rights instruments:

- European Convention on Human Rights (ECHR)
- Council Directive 2001/55/EC of 20 July 2001

5.2.3 National Instruments

The main legal instrument of Greece is its Constitution¹⁸¹ (as revised by parliamentary resolution of April 6, 2001), accompanied by several laws relating especially to refugees. Concerning refugee children and their education are generally scattered across different regulations including:

- *Article 9 of the Presidential Decree 220/2007* that is about schooling an education of minors and especially that refugee children shall have access to education under similar conditions as Greek national and their education shall not be postponed.
- *Article 27 of the Presidential Decree 96/2008* “All minors granted international protection status shall be granted full access to education system under the same conditions as nationals.”
- *Article 28 of the Presidential Decree 141/2013*
- *Article 72 of Law No. 3386/2005* about access of minor third-country nationals to education, includes that schooling is mandatory and access shall be unrestricted together with provisions about their education qualifications.
- *Article 21 of Law. No. 4251/2014* about equal access to education

¹⁸¹ Hellenic Parliament, ‘The Constitution Of Greece’ (As revised by the parliamentary resolution of April 6th 2001 of the VIIth Revisionary Parliament)
<http://www.wipo.int/edocs/lexdocs/laws/en/gr/gr220en.pdf>

- *Article 3 of Presidential Decree 266/1999* includes a provision about the establishment of educational programs for refugees.

5.3 Refugees and Inclusive Education in Greece

The big refugee influx in Greece happened in 2015 when more than 870.000 refugees arrived at the greek islands, among whom a huge amount were children.¹⁸² One of the main reasons for some refugees to leave their countries and seek asylum elsewhere, and in this case in Greece was to provide their children proper education and build a better future. However, when they arrived in Greece they faced many serious problems with access and inclusion to the mainstream education. In school year 2015-2016 inclusive education was not really an option for many reasons. First of all, refugees had just arrived in a country that has been facing problems with its economy and was unprepared to receive so many human beings. So, in the beginning, international organizations and local and international NGOs organized and operated the non-formal education of refugee children in refugee camps. In addition, the inclusion of refugee children in the mainstream education raised many issues in the greek society. Far-right groups tried to influence the public opinion by spreading an unsubstantiated propaganda about these children, including that the quality of education will worsen, health issues will rise, criminal attitudes will spread resulting in isolated incidents of violence and aggressive behaviors against them, when they first entered greek schools.

School year 2016/2017

In August 2016 the greek government published in the Official Gazette a ministerial decision¹⁸³ about the inclusion of refugees in education. Article 1 legalized the

¹⁸² Hellenic Republic, General Secretariat for Media and Communication. 'Προσφυγική Κρίση Fact sheet' (January 2017) available at: https://government.gov.gr/wp-content/uploads/2017/04/gr_fact_sheet_refugee_print_19_01_2017-2.pdf

¹⁸³ Εφημερίδα της Κυβερνήσεως της Ελληνικής Δημοκρατίας 'ΦΕΚ no 2687' (29 Αυγούστου 2016) Available at: <https://www.minedu.gov.gr/publications/docs2016/%CE%96%CE%95%CE%A0.pdf>

establishment of priority zones for refugee education (ZEP) which are responsible for the operation of “Reception Classes” (DYEP). Article 2 defines the goals of these reception structures which are the above:

- Greek-language learning
- Operation of educational programs, interventions and activities

The establishment of Reception Classes aims in facilitating the education of refugee children to acquire the proper knowledge and the necessary language skills for their inclusion later in the Greek education system. The education of refugee children will be organized under the principles of intercultural education to help them adapt and integrate fully in the mainstream education. These structures will operate in schools neighboring to the places they live, after the regular school hours, from 14.00 to 18.00.

The UNICEF’s president in Greece statement on this decision was that “UNICEF greets this refugee program and the tireless efforts of greek authorities to welcome refugee children to school”.¹⁸⁴ Also one of the commitment that the Ministry of Education made was to include in public schools as many children as possible.

The establishment of these “afternoon structures”, was an excuse for the gradual inclusion of refugee children in schools because they worked in parallel with mainstream schooling and not together. The teachers’ association on a comment on this issue highlighted the failure of this institutionalization because only a small percentage of children (around 7%) participated. In addition, it reinforced the isolation and “ghettoization” of refugee children and fueled social racism. All these resulted in the marginalization and they did not manage to be included in the school environment.

School year 2017/2018

¹⁸⁴ In.gr, 'UNICEF: Η ένταξη των παιδιών προσφύγων στο σχολείο ωφελεί την κοινωνία | in.gr' (In.gr, 11 September 2017) <http://www.in.gr/2017/09/11/greece/unicef-i-entaksi-twn-paidiwn-prosfygwn-sto-sxoleio-wfelei-tin-koinwnia/> accessed 14 July 2018

In November 2017 a second ministerial decision was published in the Official Gazette¹⁸⁵ about the inclusion of refugees in the greek education system. To be more specific, it was decided that a number of refugee children will be included in mainstream schools and these schools were announced.

Based on the Ministry of Education the refugee children that can attend morning schooling are the ones that live in relocation accommodations, squats, apartments, hotels, reception centers for asylum-seekers and unaccompanied minors. The rest can only attend the evening reception classes (DYEP). The IOM, UNHCR and UNICEF are helping Greek authorities in the implementation of the above provision, so that as many as possible refugee children to have access in education and schools. The Ministry of Education just before the end of this school-year announced its satisfaction as “*the process of inclusion of refugee children in the Greek education system finally comes gradually to an end*”. Despite that many organizations and associations that are involved in the education sector have concerns and insist that there are still many troubles in the inclusion of all refugee children in mainstream education.

5.4 Challenges

Based on European Commission one of the main challenges the Greek government has been facing is the integration of refugees in the Greek society, putting access to education as a high priority for the achievement of this goal.¹⁸⁶

Access

The reception and inclusion of refugee children in the mainstream formal education was and remains one of the biggest challenges Greece has to deal with. While there are attempts to include them in formal education, a huge number of school-aged refugees is still excluded. To begin with, the refugee-children that are excluded from

¹⁸⁵ Εφημερίδα της Κυβερνήσεως της Ελληνικής Δημοκρατίας, ‘ΦΕΚ no. 193964/ΓΔ4’ (13 Νοεμβρίου 2017) available at: <http://www.nomotelia.gr/photos/File/3974b-17.pdf>

¹⁸⁶ European Commission Flash Report, ‘Integrating Refugee and Migrant Children into the Educational System in Greece’ (2017)

formal education are the ones that got stuck at the reception centers in the greek islands. Most of the students received education for less than five months and for around four hours per day and at the same time because of bureaucratic problems in appointing teachers, there were many gaps. On the islands there is absence of afternoon Reception/ Preparatory Classes, meaning that refugee children do not have access to formal education¹⁸⁷. In addition, lack of cooperation (in both administrative and educational terms) between the school and the Reception/Preparatory Classes is noticed¹⁸⁸. The way that the evening lessons for refugees were organized, instead of calming down the tensions, it targeted more these vulnerable kids. In many places all over Greece where afternoon classes for refugees operated, people with extreme views opposed by protesting outside the schools and closing the entrance for refugees, using verbal and physical violence and many more acts that traumatized and stigmatized these already heart children more.¹⁸⁹ Data from the European Union Agency for Fundamental Rights (FRA) reveal that the situation concerning refugee education for children living in immigration detention is bad, as it is provided only by NGOs in an informal manner.¹⁹⁰ Also, children living in the Hotspots on the Greek island, cannot attend school, but they can only participate in non-formal education activities provided by several NGOs.¹⁹¹

The Greek Ministry of Education plans for the school year, 2017/2018 were to include refugee children in the mainstream education, through the “reception morning classes”, a provision that unfortunately did not cover all refugee children. Refugee children that live in relocation accommodations, squats, apartments, hotels, reception centers for asylum-seekers and unaccompanied minors were allowed to enjoy inclusive education, while all the others that reside in open temporary facilities or “Refugee Hotspots” were still forced to attend the segregated evening classes¹⁹². This decision raised many issues as it is unfair for those children who still face segregation

¹⁸⁷ Ibid. European Commission Flash Report

¹⁸⁸ Ibid. European Commission Flash Report

¹⁸⁹ YIIIIEΘ, 2017α

¹⁹⁰ European Union Agency for Fundamental Rights (FRA). *Current Migration Situation in the EU: Education*. (May 2017). Available at: <http://fra.europa.eu/en/publication/2017/current-migration-situation-eu-education>

¹⁹¹ Ibid. FRA [2017]

¹⁹² YIIIIEΘ, 2017β,

and isolation.¹⁹³ One more challenge concerning the access to mainstream education was that the registration of refugees was not organized or administrated by officials. As a result, many refugees did not get registered on time or at all as it is a complicated process for foreigners to do it by themselves. Also, the establishment of the appropriate structures in mainstream schools as well as the reception classes were few and started their operation with delays

Academic Challenges

One more deficiency is that the teachers chosen to work with refugees were not selected based on their special training but based on a list for substitute teachers. The policy of the Greek Ministry of education to include refugees in formal education through their segregation from the mainstream school proved to be inefficient. One serious matter is that there is no provision of including refugees' native language in the teaching process not only to maintain their bonds with "home", but also to feel welcomed and included in the new society.

Psychological Challenges

The recent refugee flow in Greece differs from the previous immigration flow of the nineties that people originated mostly from countries of Eastern Europe. Refugees that arrived in Greece the last years are from countries of the Middle East, like Syria and Afghanistan, with diverse linguistic, religious and cultural identity (Arabic language, religious Muslims etc.). All these identity-characteristics of refugees triggered aggressive, threatening and racist attitudes against them. There were incidents where parents or other members of the communities went in schools where refugee children were supposed to have lessons and tried to stop them from entering or verbally and physically attacked both children and teachers. Such events in conjunction with the trauma, depression, anxiety or other psychological disorders that these children face, because of their previous experiences in their home-countries, can stigmatize them for

¹⁹³ Η Αυγή, 'Διαχωρισμός, υποδοχή ή ένταξη: Οι αντιφατικές όψεις των πολιτικών για την εκπαίδευση προσφύγων' (Avgi.gr, 25 September 2017) <http://www.avgi.gr/article/10839/8422017/diachorismos-ypodoche-e-entaxe-oi-antiphatikes-opseis-ton-politikon-gia-ten-ekpaideuse-prosphygon> accessed 4 July 2018

the rest of their lives. In addition, being psychologically charged do not help them in school, as they can lose their will to learn, communicate and develop.

The most important educational needs of refugee children that the education system has to fulfill are equal access to knowledge, respect for their identity and mother-tongue and learning the language of the host-country through inclusion in the mainstream education.¹⁹⁴ As it concerns Greece new policies need to be adopted in order to fight exclusion and implement an inclusive education system, because most of the refugee children still reside in hosting facilities.

¹⁹⁴ Stephanie Dorman, 'Educational Needs Assessment for Urban Syrian Refugees in Turkey' [2014] Duke University Felsman Fellow at YUVA Association

CONCLUSION

This thesis gave a theoretical and literature analysis of the existing legislation on the right to education for refugee and asylum-seeking children in both the international and European context, with a focus on inclusive education. My aim was to highlight the importance for refugee children to be included in mainstream education by reviewing the existing academic and research data on the field. Also, this paper gave a view of the situation in Greece concerning refugees and their participation in formal education both in segregated and inclusive ways. The analysis of the evolution of the measures taken and laws adopted showed a move towards inclusion, at least in papers, as many teacher associations and social group movements insist that segregation still exists. The Greek authorities seem open to adopt an inclusive education system for refugee children, but they face many problems in organizing and implementing their decisions.

The data analysis of academic articles and journalistic sources reveal also many challenges, as a big part of the greek society is not ready to accept an inclusive education system. The far-right movements that arose the last years in whole Europe have distinctive power in Greece, influencing in a negative way the citizens and convincing them that if refugee children are taught together with greek children, the consequences will be distracting. These nationalistic attitudes create confusion and an aggressive and negative climate towards refugees that affect the proper operation of inclusive education and make them feel unwelcome and unsafe.

At this time both in international, but also in domestic level (Greece) principle authorities promote the concept of inclusive education as effective and beneficial for a peaceful and democratic society. In the last education forums, inclusion is always a key-component for education and especially quality education and is recommended that governments all over the world shall adopt such policies. Especially the 2030 Sustainable Development Goals Agenda added more value to inclusive education and urged States to commit to Goal no 4 inclusive and quality education.

To sum up, Europe shall realize that refugees are here and will stay possibly for a long time. So, instead of denying their existence and try to send them back, we need to show our solidarity spirit, find the positive aspects of this phenomenon and work on that. If we do not want a whole generation to stay out of school and education, we should help these children realize and enjoy their right to education. That is the only way that progress can happen not only for refugees but for the whole world, because these people are not only asking, but can offer a lot to our societies. Inclusive education is the starting point for a better future for all.

“Let us commit to quality education for all of the world’s children. Financing education is the best investment we can make for a better world.”

Antonio Guterres, UN Secretary-General

“Education gave me the strength to carry on. I wouldn’t be here without it”

Syrian Refugee and UNICEF Goodwill Ambassador Muzoon Almellehan

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