

THE RIGHT TO LEARN: DISPLACED EDUCATION THROUGH THE LENS OF HUMAN RIGHTS THEORY

O DIREITO DE APRENDER: EDUCAÇÃO DESLOCADA ATRAVÉS DAS LENTES DA TEORIA DOS DIREITOS HUMANOS

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Received: 18 Apr 2025

Accepted: 09 Jun 2025

Published: 19 July 2025

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Abstract: International law recognizes the right to education as a basic human right, but millions of displaced people still face constant obstacles to receiving a good education. This article analyses the legal foundations, structural barriers, and moral obligations surrounding displaced education. It explores the intersection of forced displacement and education through the lens of human rights theory. The purpose of the article is to argue that education for displaced populations must be treated as a fundamental right rather than a charitable concession. The argument is supported by significant international institutions and theoretical views. The article concludes with policy recommendations to translate this right into reality.

Keywords: Human right. Education. Displacement. Obligations.

Resumo: A legislação internacional reconhece o direito à educação como um direito humano básico, mas milhões de pessoas deslocadas ainda enfrentam obstáculos constantes para receber uma boa educação. Este artigo analisa os fundamentos legais, as barreiras estruturais e as obrigações morais que envolvem a educação para deslocados. Ele explora a interseção do deslocamento forçado e da educação por meio das lentes da teoria dos direitos humanos. O objetivo do artigo é argumentar que a educação para populações deslocadas deve ser tratada como um direito fundamental e não como uma concessão de caridade. O argumento é apoiado por importantes instituições internacionais e pontos de vista teóricos. O artigo conclui com recomendações de políticas para transformar esse direito em realidade.

Palavras-chave: Direito humano. Educação. Deslocamento. Obrigações.

1. Introduction

One of the basic rights of humanity is education, which is a vehicle not only for individual growth but also for advancement of the human community at large. Unfortunately, hundreds of thousands of refugees and displaced people around the world cannot have access to this basic human right. Involuntary immigration combined with educational scarcity presents a crisis that humanity has never seen before. Recent figures point to over a 100 million people being displaced around the world; half of this number consists of children and youth. (UNHCR, 2024) These young people, who are supposedly learners, encounter obstacles that deny them a decent education. The obstacles range from legal ones that prevent refugee children entering host country schools to logistical ones that include the sheer size of school age children that host countries cannot accommodate.

The right to education is not merely a privilege, but a fundamental human right that transcends national borders and applies to all individuals, regardless of their displacement status (Paul et al., 2022). The denial of this right to displaced populations not only hinders their personal development but also has far-reaching consequences for global stability and progress (Esveld, 2023). The current state of affairs, where a significant portion of displaced children and youth are deprived of education, constitutes a grave injustice and a violation of international legal norms (Esveld, 2023). The Universal Declaration of Human Rights affirms that everyone has the right to education, and this right should be guaranteed without discrimination (Ndlovu and Makwavarara, 2023). Numerous international conventions and treaties further solidify this principle, emphasizing the responsibility of states to ensure access to education for all individuals within their jurisdiction, including refugees and internally displaced persons (Akujobi and Awhefeada, 2021). The right to education is a multiplier right, as access to education affects the enjoyment of other human rights (Mugerwa-Sekawabe, 2021). This right ensures that children of even poor families and ethnic minorities have learning opportunities (Tuan, 2020). This article seeks to address the question of what constitutes the right to education for displaced persons via the lens of human rights, thus filling the gap in the existing literature on the subject.

2. Method

This study takes a narrative literature review approach to explore the right to education for displaced populations, using human rights theory as a guiding lens. This framework was chosen because it helps bring together different viewpoints from human rights law, education policy, and

displacement studies. It offers a more connected and meaningful understanding of the issue. A comprehensive search was conducted across multiple academic databases including Web of Science, Scopus, JSTOR, and Google Scholar using search terms such as "right to education AND displaced persons," "education AND refugees AND human rights," and theoretical frameworks like "capabilities approach AND education." Inclusion criteria encompassed peer-reviewed academic articles in English, reports from reputable international organizations and legal instruments. Then purely statistical reports without theoretical analysis, and studies focusing solely on economic aspects without human rights perspective were excluded. Sources underwent systematic screening based on title and abstract relevance, followed by full-text review to assess quality, theoretical contribution, and relevance to the research questions. Sources were evaluated based on academic credibility, relevance to human rights theory and displaced education, theoretical rigor, and contemporary relevance. The analysis followed a thematic synthesis approach involving coding according to key themes such as legal foundations, theoretical frameworks, barriers to access, state responsibilities, and implementation challenges. This methodology provides a robust foundation for examining the complex intersection of human rights theory and displaced education policy.

3. Theoretical Framework: The Right to Education in Human Rights Law

3.1 Legal Foundations

The right to education has been codified in the international law through a succession of documents. This evolution shows an increasing appreciation of education as fundamental in protecting the dignity, peace and growth of humans. Starting from the Universal Declaration of Human Rights (UDHR) to Convention on the Rights of the Child (CRC) followed by Global Compact on Refugees (GCR), these documents all reiterate the obligation to provide equal education for all by the international community.

Appearing after World War II, the UDHR came in response to the suffering people went through during that period. It was aimed at avoiding and averting similar human suffering in the future through a framework that can cover all and every human right. Eleanor Roosevelt presided over a varied commission to draft the document and later brought it to the United Nations to be adopted in 1948. This was the first declaration to acknowledge basic rights for people on a global basis; the right to education was also included. "Everyone has the right to education. Education shall be free ... compulsory," states Article 26 of the declaration. Emphasizing the provision of free and compulsory education for all children along with making higher education accessible to all by merit. (United Nations, 1948)

Following the UDHR, the ICESCR builds up on it in 1996 to obligate states bindingly to provide for human rights socially, culturally and economically. In Article 13, the covenant mandates primary education to be free and compulsory; followed by secondary and higher education to be accessible to all. States that have not yet provided free compulsory education are asked to offer an arrangement to carry it out. This covenant shows the significance of education in securing social and economic growth and its recognition by the global community. (United Nations, 1966)

However, the 1996 covenant was not enough; in 1989 the Convention of the Rights of Children was espoused culminating in the recognition of the exclusive requirements and rights of children. This is the single most endorsed treaty to guarantee the human rights of children and it stresses the world's commitment to children's well-being and education. Article 28 reiterates the recommendation to provide free and compulsory primary education which was endorsed in ICESCR previously. However, Article 29 recommends that the "the education of the child shall be directed to the development of the child's personality, talents and mental and physical abilities to their fullest potential." (United Nations, 1989) Furthermore, this treaty emphasizes that education can play a great role in nurturing children to be responsible citizens in a free society. According to this document, education shall help in the growth of the child to respect his/her own parents, language, country and culture.

Then comes the global refugee crisis of 2018. In response to this, Global Compact on Refugees was accepted by the United Nations. This legal document is not binding; however, GCR shows a political will to calibrate the worldwide response to the crisis of displaced people. It deems it significant to ensure that education shall be available for children and youth a few months after becoming refugees. The GCR hopes to provide an education that is both inclusive and equal for every age and type, including early, primary and secondary education. The document also advocates for the provision of technical, vocational and training. This emphasis on education for all underpins a conception that regards education as critical for refugees and their survival (United Nations, 2018).

These legal instruments establish a direct policy imperative. States must translate abstract rights into concrete educational provisions. The progression from declarative rights (UDHR) to binding obligations (ICESCR, CRC) creates a legal-to-policy pathway requiring immediate enrollment mechanisms, non-discriminatory access policies, and quality assurance frameworks that recognize education as both individual entitlement and state duty.

3.2 Human Rights Theory Perspectives

Natural rights theory

All the previous documents of human rights borrow their ideas from a series of individual attempts by philosophers and thinkers. Their attempts have paved the way for a more calibrated and organized human effort on the global stage to present a framework of rights that protects and respects humans by way of education. In light of John lock and Jean Jack Rousseau's philosophy, a model of educational policy is developed that considers education as integral and inevitable to human dignity and autonomy. This framework advocates for the position that everyone must have access to proper education, including children. Even, if investment in this may not pay off economically in the future. Whereas Locke believed that people have the rights to life, liberty and property from the time they are born (Christopher, 2024); Rousseau posited that individuals own natural rights that need to be protected by abating social intrusion (Tuckness, 2024). Both Locke and Rousseau held similar views on the significance of education in the promotion of personal and social well-being of the individual.

This understanding is adopted by the United Nations educational organizations since it supports free education for all. In contrast to the capital approach of education which prioritizes gains and payoffs, the natural rights theory looks at education as intrinsically valuable for every child; hence, all children must access it equally. One significant limitation of the rights approach to education is that governments may sketchily accomplish their roles as providers of education and stop at that without taking proper measures to implement it.

Natural rights theory directly challenges policies that condition educational access on documentation, legal status, or administrative procedures. This framework demands immediate enrollment policies that bypass bureaucratic barriers, as education exists prior to and independent of state recognition or refugee status determination.

Capabilities Approach

Amartya Sen's capabilities approach pays more attention to increasing a person's capacities, counting education as one of them. It regards these capabilities as a means to boost standards of living and justice among people. Capabilities are identified with having actual chances to accomplish treasured statuses of being and doing. In this paradigm, education is appreciated both for its intrinsic and instrumental values (Robeyns, 2006). It can include and tackle numerous causes of inequality since it is complex and comprehensive. Through supporting quality education, it aims at nurturing complete growth not only fiscal efficiency. Sen sees these capabilities as various functioning a person can strive for; this functioning being the fundamental building blocks of living. Being healthy, cultivated, having an occupation, being part of a family and maintaining deep

relationships are all examples of functioning well. Adding to this, Nussbaum classifies capabilities into three categories: basic, internal and combined. The basics are the 'innate faculties of the person that make later developments and training possible (Nussbaum, 2011). Characteristics as personality traits, emotional and intellectual capacities and body health fall under the internal capabilities. Combined capabilities, as Nussbaum states, could be the internal capabilities along with political, social and economic milieu. According to Nussbaum this distinction is important since a society can be skilled at nurturing some internal capabilities; whereas there will be no chance for the individuals to exercise this skill due to a climate that thwarts reasoning and debate.

The capabilities approach transforms policy focus from mere access to meaningful participation. This requires policies ensuring cultural relevance, language support, skills development, and psychosocial services. This moves beyond enrollment numbers to substantive educational opportunities that enhance displaced persons' life choices and agency.

Positive vs. Negative Rights

Isaiah Berlin's dichotomous classification of liberty can aid in explaining the status of education with respect to government duty. According to this approach, governments can both respect the liberty of individuals and expand equal access to education for everyone. On one hand, Negative rights implies that individuals must be free from any external intrusion. In this sense, one is free if no person is stopping him/her to pursue what one desires. It is the duty of the state to prevent anyone to meddle in the education of people; the state itself must not deny free and equal education to all (Carter, 2022). The state must provide for individuals to attend educational institutions based on their choice and without any kind of discrimination. Learners and educators must also feel safe to research, teach and debate ideas without fear of any sort.

On the other hand, positive rights imply an individual's ability to possess his/her own will and act upon it freely and realize one's dreams. In educational contexts, the state's role manifests itself in providing conditions to learners to have access to educational opportunities and profit from using them (Elmore & Fuhrman, 2022). State roles are proactive in this sense and consist of provision of educational institutions that everyone can join including people from poor and minority groups. Allocating fiscal support and identifying standards for curricula to foster critical thinking and necessary skills for societal advancement are all state roles in this positive proactive sense. (UNESCO, 2019).

4. Barriers to Realizing the Right to Education for Displaced Populations

4.1 Legal and resource constrains

Ensuring access to education for internally displaced persons and refugees is a challenge and multifaceted issue. It is influenced by international law, humanitarian efforts, and socio-economic factors within host countries (Esveld, 2023). The status and recognition of displaced learners are essential to understanding the legal and policy barriers that impede their right to education.

Displaced individuals, like refugees and internally displaced persons (IDPs), face many challenges in getting recognized by host education systems. According to the Internal Displacement Monitoring Centre and the United Nations Children's Fund (2019), a major hurdle is the lack of official documentation. This documentation is often needed for school registration. Many displaced families flee their homes unexpectedly, leaving behind important documents like birth certificates, identity cards, or school records. Without these papers, they may be excluded from public schools, as the rules may not allow for those without the necessary documents.

Displaced learners can also be denied access to schools due to their status, ethnicity, or language. This leads to segregation or marginalization in classrooms. Such discrimination limits access and raises dropout rates and absenteeism among displaced students. Language barriers can hinder effective integration, especially for minorities who do not speak the dominant language of instruction. Justino (2014) notes that these barriers go beyond administration; they are deeply rooted in social attitudes and institutional practices, which can create cycles of exclusion and disadvantage.

4.2 Psychological barriers

The recognition of displaced learners is also influenced by broader social and psychological factors. Wenger's view on identity shows that when individuals join new communities, their sense of self changes through involvement in new practices and structures (Wenger, 1998). For displaced learners, adapting to new educational settings can be tough, as their past identities and experiences may not be recognized or valued. This lack of acknowledgment can show itself through subtle exclusion, like being pushed to the edges of the school or missing out on full participation in academic and extracurricular activities

Education systems in displacement settings often struggle with a lack of infrastructure and trained teachers. Host countries face these challenges too, as seen with Ukrainian refugees in Europe. In response to that, the French Ministry of Education created web pages to guide teachers in welcoming Ukrainian students and discussing the war. These pages link to videos by a child

psychiatrist who specializes in war-related trauma. They cover warning signs of trauma and how to respond. Similarly, the Czech Republic provided a handbook for local students to address sensitive issues and support the mental health of Ukrainian students (OECD, 2022).

These challenges point to the need for comprehensive strategies. These should include community involvement, policy changes, and resource allocation. These efforts aim to ensure fair access to quality education for all displaced children, no matter where they are or why they are displaced.

Refugee children often face trauma. Education is vital for their mental health, as the United Nations and researchers highlight (McBrien, 2005). A multifaceted approach to meet their educational needs is required. Displacement harms family structures. Many refugee children live in single-parent homes. This disruption in education can limit future job opportunities and lead to lasting poverty (Internal Displacement Monitoring Centre, 2020). According to (Gausman et al., 2022), displaced girls face more challenges, including early marriage and societal limits. In refugee camps, cultural norms often favor boys' education over girls', making school attendance and completion harder for girls.

These psychological and social challenges show that just giving access to education is not enough. A better approach focuses on supporting the whole child by including trauma-sensitive teaching, programs that respect students' cultures, and efforts help them feel part of the community. In this way, they can truly take part and succeed in school.

International cooperation is key to helping national governments meet human rights obligations. This support includes technical help to create inclusive policies and financial aid to overcome resource shortages. Recognizing displaced learners is not just a legal matter; it's tied to social justice, identity, and belonging (Pantazidou, 2013; Keddie, 2012).

5. State and International Responsibilities

States that have ratified international treaties concerning the right to education are legally bound to integrate these commitments into their domestic legal frameworks. This obligation encompasses the duties to respect, protect, and fulfill the right to education, as articulated in key international instruments such as the Convention on the Rights of the Child and related general comments. The legal framework established by these treaties requires states to ensure that all individuals within their jurisdiction, including displaced populations, have access to education without discrimination. However, the practical enforcement of these obligations is complicated by the absence of a supranational authority capable of compelling compliance, leaving

implementation largely dependent on national political will and capacity (McCowan, 2013). Despite the clear legal mandates, states in situations of armed conflict or with significant internally displaced populations often lack the necessary resources or political commitment to provide adequate educational services.

Geissler et al. state that while there is no explicit provision in international law obliging states to allow international actors to operate in parallel or in place of state authorities, relevant United Nations General Assembly resolutions underscore the state's primary responsibility to provide assistance. These resolutions also suggest that, at a minimum, states should not arbitrarily refuse offers of humanitarian assistance from international organizations if their own resources are insufficient. The refusal to accept such offers, particularly when it results in the denial of fundamental rights such as education, may constitute an internationally wrongful act, potentially engaging state responsibility under international law. This interpretation is supported by the recognition that states can be held accountable for the consequences of their actions or omissions, especially when these lead to transborder flows of refugees or exacerbate humanitarian crises (Geissler, 1999). The legal obligations of states are not limited to the mere provision of access to educational facilities. They extend to ensuring that education is available, accessible, acceptable, and adaptable for all, including displaced persons.

5.1 International Cooperation

International organizations and donors play a crucial role in supporting the right to education for displaced populations, particularly when states are unable or unwilling to fulfill their obligations. The legal framework underpinning this involvement is complex, as international law generally places the primary responsibility for providing assistance on states themselves. However, when state capacity is insufficient, international actors are expected to step in, either by providing direct support or by facilitating access to resources and expertise (for Peace, 2010). The authors indicate that while there is no explicit legal provision compelling states to allow international organizations to act in their stead, human rights and humanitarian law suggest that states should not arbitrarily refuse offers of international institutional protection or assistance. In practice, international organizations such as intergovernmental organizations (IGOs) and non-governmental organizations (NGOs) often encounter legal and political challenges when attempting to provide educational support to internally displaced persons (IDPs). These challenges are particularly pronounced when states classify internal conflicts as purely domestic matters, thereby restricting external involvement and asserting sovereignty over educational provision (Geissler, 1999). Despite these obstacles, the international community has developed mechanisms

to promote the implementation of the right to education, including advocacy, technical assistance, and resource mobilization. The practical contributions of international organizations and donors are multifaceted. Organizations working in IDP education have provided essential support to government and community schools through the supply of educational materials, teacher training workshops, and school reconstruction projects. In some cases, they have also offered teacher stipends or incentives to address acute shortages and ensure continuity of learning. However, the field still suffers from a lack of inter-agency coherence, uniform response mechanisms, and sufficient financial resources. The need for greater coordination and political support is evident, as fragmented efforts can undermine the effectiveness of interventions and limit their reach.

In summary, the involvement of international organizations and donors is indispensable for realizing the right to education among displaced populations. Their roles encompass advocacy, direct service provision, capacity building, and resource mobilization. However, their effectiveness is shaped by the interplay between international legal norms, state sovereignty, and the practical realities of displacement. Addressing the gaps in coordination, funding, and political will remains a pressing challenge for the international community (Geissler, 1999; McCowan, 2013).

6. Implementation Challenges and Opportunities

The financing of education in emergencies is characterized by significant gaps between normative commitments and practical implementation. Addressing these gaps necessitates a reorientation of priorities within the humanitarian and development sectors, greater international collaboration, and the establishment of robust funding mechanisms that prioritize the educational rights of displaced and crisis-affected populations. Ensuring that displaced populations have the right to establish and access educational institutions is a legal and moral imperative. International cooperation is essential for mobilizing the resources and expertise required to build and maintain educational infrastructure in challenging environments. Sustainable educational infrastructure must therefore be conceived as a dynamic system, integrating physical reconstruction, teacher training, curriculum development, and the creation of enabling environments that support both access and quality. To tackle the teacher shortage, displaced and refugee teachers can be recognized and adopted, this can boost the implementation of low budget programs. Community-based education programs that leverage local knowledge and displaced educators can provide educational access while formal systems are being established. This approach requires ongoing commitment from national governments, international organizations, and civil society, as well as mechanisms for monitoring progress and adapting strategies in response to changing circumstances. Uganda's

case is an excellence example of merging the refugee education with the national government's system of education (UNESCO, 2024). Similar integration models can be replicated through host-country language bridge programs, accelerated learning curricula for over-age students, and multi-lingual instruction that validates displaced students' home languages while building proficiency in host-country languages.

The interplay between educational infrastructure and broader socio-economic recovery is central to the realization of the right to education for displaced populations. International cooperation and policy alignment are critical for addressing the systemic barriers to training and retaining educators in crisis settings. The need for coordinated action to increase resources, provide psychosocial support, and recognize the unique contributions of educators is evident across multiple sources. By prioritizing the training and retention of teachers, stakeholders can help ensure that the right to education is not only a legal obligation but a lived reality for displaced populations. Measuring the impact and outcomes of education for displaced populations requires a multidimensional approach that integrates quantitative and qualitative indicators, addresses both cognitive and psychosocial domains, and is grounded in the moral and legal foundations of the right to education. The complexity of displaced learners' experiences demands flexible, context-aware methodologies that can capture the full range of educational benefits and challenges. The future of displaced education will depend on sustained international cooperation, increased resource allocation, and the willingness to experiment with new models of delivery and support. The policy framework outlined above provides actionable pathways for translating human rights commitments into educational realities for displaced populations. International conventions is essential for the legitimacy and effectiveness of educational interventions. As the global community continues to grapple with the challenges of displacement, the pursuit of innovative and forward-looking strategies will be indispensable for realizing the right to education for all.

7. Policy Recommendations

To support displaced children more effectively, several practical steps are recommended. First, schools should allow children to enroll without needing official documents, and mobile registration units should be set up to reach displaced families directly. To improve the quality of education and make it more inclusive, schools can offer multilingual teaching and programs that help bridge cultural gaps. Teachers also need training in how to support children who have experienced trauma or conflict. For older students who have missed school, special catch-up programs should be created. On a larger scale, countries should work together to recognize school

certificates across borders, and refugee education should be part of the national school system not kept separate. Lastly, more funding is needed for education in emergencies. This could come from both governments and private organizations. Using the skills of displaced teachers through exchange programs can also help meet teacher shortages. These combined efforts can make education more accessible, welcoming, and effective for displaced students.

8. Conclusion

Implementing these theoretical insights requires policy coherence across humanitarian, development, and education sectors. Natural rights theory supports immediate access policies; capabilities approach guides quality and relevance standards; positive-negative rights framework structures comprehensive state obligations, creating an integrated policy approach that treats displaced education as fundamental right rather than humanitarian afterthought. The right to education remains a fundamental pillar for affirming human dignity and equality, upheld by an extensive international legal framework that transcends national borders and citizenship status. This framework, encompassing universal declarations, binding treaties, and specialized instruments, directly addresses the multifaceted challenges encountered by displaced populations. Education functions not only as a legal entitlement but also as a crucial means of support for individuals affected by conflict, displacement, and humanitarian crises. Despite strong legal provisions, numerous barriers continue to hinder displaced persons from fully exercising their educational rights, highlighting a persistent gap between normative commitments and their practical implementation. For displaced learners, education serves multiple vital roles beyond academic success. It fosters social cohesion, provides psychosocial support, and builds resilience amid instability and trauma. International legal instruments stress the importance of non-discriminatory access to education, even in conflict-affected or politically complex settings. Nevertheless, ongoing global evaluations reveal persistent challenges related to quality, equity, and inclusiveness, underscoring the urgent need for stronger enforcement of legal mandates, increased resource allocation, and enhanced international collaboration. Effectively realizing educational rights requires attention not only to access but also to the cultural relevance and contextual appropriateness of educational programs tailored to displaced populations. The capabilities approach offers a valuable framework by focusing on substantive freedoms and opportunities that education should guarantee, positioning it as a core component of human development rather than a mere economic or social tool. Advancing educational rights for displaced and marginalized groups demands sustained, multifaceted efforts that bridge the divide between legal frameworks

and lived realities. The absence of dedicated monitoring bodies and insufficient resources limits the capacity to collect and analyze data critical for identifying gaps and designing targeted responses. In such circumstances, international and non-governmental actors play an indispensable role in complementing state efforts, providing institutional protection and advocacy consistent with principles of non-intervention. Collaboration with host communities is equally vital in advancing inclusive and equitable education for displaced populations. Such collaboration is not merely logistical but a deeply social and ethical process requiring active participation from both displaced persons and host society members. Beyond moral imperatives, collaboration yields practical benefits including improved social cohesion, reduced tensions, and enhanced educational outcomes.

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