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*Migration, displacement and education:  
Building bridges, not walls*

## **MAKING RIGHTS TO EDUCATION REAL FOR REFUGEES WITH DISABILITIES**

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## 1. INTRODUCTION

Sustainable Development Goal 4, “Ensure inclusive and quality education for all and promote lifelong learning”, cannot be achieved by 2030 without meeting the education needs of vulnerable populations, including refugees, stateless persons and other forcibly displaced people. The multiplier effect of education on the other goals – on eradicating poverty and hunger, for example, and on promoting gender equality and economic growth – illustrates education’s important role (see Filippo Grandi in UNHCR, 2016, p. 6).

In terms of sheer numbers, recent years have seen an unprecedented rise in the number persons forcibly displaced by human conflict and other disasters. The United Nations agency with responsibility for the world’s refugees – the UN High Commission for Refugees (UNHCR) – estimated that in 2017 nearly 51% of the world’s 65.6 million displaced persons were children (Edwards, 2016, UNHCR, 2016). Around 22.5 million were classified as refugees – leading UNICEF to claim that one in 200 children in the world was a refugee (UNICEF, 2016).<sup>i</sup> As High Commissioner Grandi noted in 2016, the average length of time refugees spend in exile is 20 years: ‘more than an entire childhood (and) a significant portion of a person’s productive years’ (UNHCR, 2016, p. 6). The reality of displacement is that refugee children most often are denied access to basic education. Grandi writes (p. 6) that in 2016, 3.7 million of the six million school-age children under UNHCR’s mandate had no school to go to:

Refugee children are five times more likely to be out of school than non-refugee children. Only 50 per cent have access to primary education, compared with a global level of more than 90 per cent. And as they get older, the gap becomes a chasm: 84 per cent of non-refugee adolescents attend lower secondary school, but only 22 per cent of refugee adolescents have that same opportunity. At the higher education level, just one per cent of refugees attend university compared to 34 per cent globally.

On the one hand, most of the countries hosting refugees – 64 out of 81 analysed by UNHCR in its study – placed no formal restrictions on refugee children attending national schools. On the other, the ability to cater for the displaced children has been beyond the capacities of the countries hosting the greatest number of refugees (UNHCR, 2016, p. 18).

If the story is dire for refugee children generally, the situation facing those with disabilities is considerably worse. In our work across six countries, the educational opportunities available to these children were few and far between. As we explore in part 4 of this paper, there are often compounding difficulties for refugee children displaced in developing countries where governments often struggle to meet educational benchmarks for their own nationals. In the poorest countries access to education is beyond the reach of any child with disabilities, much less disabled child refugees.

In spite of the burgeoning problems around human displacement, or distress migration, concerted efforts are being made to strengthen international human rights frameworks. In 2018, UN agencies are sponsoring the conclusion of two new 'Global Compacts' on migrants and refugees (see United Nations, 2018). At the heart of these initiatives is recognition of the need to address the situation of vulnerable migrants – including children and persons with disabilities. Indeed, there appears to be growing recognition that thinking about forced migration needs to change: first to recognise the factors that create vulnerability; and, second, to acknowledge the economic and social value in building capacity and self-sufficiency in refugee communities (Nussbaum, 1999, Sen, 1999, Rioux et al., 2011, Hugo, 2014, Kataa, 2018).

This paper begins in Part 2 with an overview of the international law relevant to children with disabilities who have been forced into exile by war or disaster. There follows in Part 3 a more finely calibrated discussion of the rights of these children to education. It is here that we examine in turn relevant provisions in the UN Convention on the Rights of the Child, the UN Convention relating to the Status of Refugees and its attendant Protocol; issues specific to the settlement of refugee children; and, finally, the challenges of the intersecting issues that face refugee children with disabilities wishing to access education. The focus on the paper thereafter is our findings and observations in research conducted between 2013 and 2015, across six countries. Our work looked at the identification of disabilities amongst populations of displaced persons and at the situation faced by these people (Crock et al., 2017). Although broad in its focus on disabilities, the situation of children and their access to education and development emerged inevitably as a matter of primary interest and concern.

As we explain in Part 4, research destinations were chosen so as to capture the situation facing persons with disabilities in a range of displacement situations. Beginning in our own (ASEAN) region, we chose Indonesia because of its experience as a country of transit for refugees and asylum seekers whose presence in the country has tended to be relatively short-lived, furtive and legally precarious. Malaysia followed as a country that plays host to sizeable cohorts of refugees and irregular migrants from proximate countries (especially Myanmar) as well as from further afield (including Sri Lanka and the Middle East). Neither Indonesia nor Malaysia are party to the Refugee Convention, although both have permitted UNHCR to establish bases so as to conduct status determination procedures and resettlement operations. We show that the lack of domestic legal status given to refugees in Malaysia makes life particularly hard for these people. The task of providing education and health services fall to poorly resourced and barely tolerated faith-based relief agencies working in conjunction with UNHCR.

We then studied two countries that have adopted a very different approach to refugees, notwithstanding the often overwhelming scale of displacement they continue to experience: Pakistan and Uganda. With generous assistance of UNHCR officials in these places our research provides insight into the challenges of dealing with large scale populations of distressed migrants over very long periods of time. As we detail in

Part 4, our research concluded in 2014 with a case study of refugees with disabilities in two countries experiencing a 'hot' emergency. These were Jordan and Turkey amidst the crisis generated by fugitives from the devastating civil war in Syria.

The paper concludes in Parts 5 and 6 with a discussion of strategies for inclusive education for refugee children with disabilities, drawing on examples of good practice we observed in our fieldwork and making suggestions for future initiatives.

## **2. NEW PARADIGMS IN LAW FOR PEOPLE WITH DISABILITIES DISPLACED AS REFUGEES**

Although one of the oldest and most powerful international human rights instruments, the Refugee Convention makes little reference to children, childhood or indeed to vulnerability in displaced populations. The only specific references to children relate to refugee parents' freedom regarding the *religious education* of their children (Article 4), and the effect on an adult refugee's right to employment of having one or more children possessing the nationality of the country of residence (Article 17(2)(c)) (see generally Pobjoy, 2017). As we explore below, however, this Convention does refer specifically to 'Public education' in Article 22 which has particular relevance for children. The only reference to disability is in Article 24 which addresses the rights of refugees 'lawfully staying' on the territory of a host state to social security on the same terms as a national of that state. Children themselves – whether with or without disabilities – are characterised less as rights bearers than as the property of their parents.

In many respects, it could be argued that the older human rights frameworks – including refugee law and international humanitarian law – were built around what might be called a 'charity' or protection model for dealing with people rendered vulnerable by conflict or displacement. Within this paradigm, people with disabilities were seen as either objects of charity or subjects of medical assistance. As we explore in our research, this approach to vulnerability has been problematic for refugees with disabilities in two respects. First, it encouraged a medicalised approach to disabilities, such that priority would be given to individuals with impairments that could be treated by doctors – with less attention paid to persons whose disabilities were classified as 'stable'.<sup>ii</sup> Second, it lead officials to adopt a 'labelling' approach to impairments based on either visual identification, medical assessment or the volunteering of information. The result was (and sometimes still is) a tendency to dramatically underestimate the nature and rate of disabilities in displacement populations.

The newer human rights instruments have recognised that justice and development cannot be achieved without combining considerations of capability and context with the identification of need. So it is that the Convention on the Rights of Persons with Disabilities (CRPD) defines disability as both impairments *and* the

physical and intangible obstacles within a society that prevent or impede an individual's participation.<sup>iii</sup> Article 1 acknowledges that impairments alone do not create disability but, rather, that it is the failure to accommodate and assist that 'disables'. Article 1 states:

Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments, *which in interaction with various barriers* may hinder their full and effective participation in society on an equal basis with others. (emphasis added).

The CRPD demands that persons with disabilities be treated as rights bearers rather than as persons suffering from medical problems – and that they be afforded respect, dignity and assistance so as to facilitate their full participation in society (Union of the Physically Impaired against Segregation, 1974-75, Shakespeare, 2010).

Interestingly, many aspects of the CRPD were modelled on the earlier Convention on the Rights of the Child, including the operation of the Committee established to oversee the Convention (Kayess and French, 2008, Crock et al., 2017, ch 2). In the present context, the two conventions are remarkable insofar as they make it clear that children and persons with disabilities have rights in every context – including when displaced by armed conflict and natural disasters. Article 11 of the CRPD requires that states parties:

Take, in accordance with their obligations under international law, including international humanitarian law and international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.

The CRC also requires states parties 'to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child'.<sup>iv</sup> These provisions stand in contrast to earlier instruments such as the International Covenant on Civil and Political Rights<sup>v</sup> which allowed for the suspension of some aspects of the Convention in situations of major societal dysfunction.<sup>vi</sup>

Refugee children with disabilities thus stand to benefit from two conventions that underscore their status as persons vested with a range rights – including the right to education – whatever the hardships of their situation. Unfortunately, as we will see, there is often a gulf between the putative rights of these children and their lived experience.

### **3. WHAT ARE THE RIGHTS TO EDUCATION?**

#### **3.1 The promise of human rights law**

The right to education has been recognised as a universal human right since 1966. The ICESCR recognises a universal right to (at least) free primary education (art 13).<sup>vii</sup> As noted earlier, the Refugee Convention also

demands that refugees be given 'the same treatment as is accorded to nationals with respect to elementary education' and access to secondary education 'as favourable as possible', but not less favourable than that accorded other non-citizens (art 22). Hathaway (Hathaway, 2015, pp. 160-162) argues that this obligation inheres in all refugees present on the territory of a host state, regardless of an individual's legal status.<sup>viii</sup> This places education (for children) alongside basic sustenance rights.<sup>ix</sup>

The CRC stands as the centrepiece and key unifying element in an integrated legal regime for recognising the rights of all children that stems from all human rights law, international humanitarian law and refugee law. Article 2(1) requires states parties to 'respect and ensure the rights set forth in the present Convention to *each child* within their jurisdiction' and prohibits discrimination 'irrespective of the child's or his or her parent's or legal guardian's...birth or other status' (UNCRC, 2005, para. 18, UNICEF, 2007, p. 23, Office of the High Commissioner for Human Rights (OHCHR), 2010, p. 3, para. [3]). Article 22 of the CRC confirms the universal reach of the Convention by stipulating that states parties should afford to children who are 'seeking refugee status or who (are) considered a refugee': 'appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the (CRC) and in other international human rights or humanitarian instruments to which the said States are Parties'.

The CRC makes references to education 20 times in multiple contexts. The earlier references to rights to schooling are repeated and strengthened in Article 28(1) which states:

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:

- (a) Make primary education compulsory and available free to all;
- (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
- (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
- (d) Make educational and vocational information and guidance available and accessible to all children;
- (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

The Convention also addresses issues around quality (Art 28(2)) and purpose of education for children, noting the potential for controversy in acknowledging the need to respect family and national cultures (Art 29).

Two core legal precepts enshrined in the CRC have changed thinking about the rights of children on the move. The first is the concept of the 'best interests' of the child (CRC art 3) which has been described as a right, a principle and a rule of procedure to benefit a child who is fully the subject of rights (UNCRC, 2013, p. 14, para.

21).<sup>x</sup> The second is the injunction that affording a child dignity and respect must include allowing children to participate in relevant decision-making processes (CRC, art 12).

The CRC broke new ground by acknowledging the fact that childhood and the abilities of children are not monolithic concepts, stressing the need for cognizance of the 'evolving capacities of the child' (see arts 5 and 14(2)). This is echoed in Article 3(h) of the CRPD which includes in its guiding principles: 'Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.' The CRC acknowledges dignity, worth and rights in *every* child, whatever their attributes or stage of development. Allowing for children's participation is a necessary consequence of recognizing their evolving capacity. However, it also underscores the importance of education insofar as the denial of education can cripple a child's ability to both develop capacity *and* participate in society. The CRC was the first of the human rights conventions to acknowledge the rights and protection needs of children with disabilities. Article 23(1) states that:

a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

Most importantly, for present purposes, this Article continues in paragraph (3):

Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development

### **3.2 Education as an aspect of settlement – access to language tuition, occupational training and higher education**

The CRPD places similar importance on education as a universal right of critical importance to children if they are to be able to take their place in society as fully participating members. Again, this Convention makes no mention of lawful immigration status, underscoring the universal nature of this right. Article 24(1) provides: States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and life-long learning directed to:

- a. The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;

- b. The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;
- c. Enabling persons with disabilities to participate effectively in a free society.

The CRPD follows the text of the Refugee Convention insofar as this provision calls on states to ensure all persons with disabilities have access to ‘such education as the state is able to provide, on the same basis as nationals’ but goes on to stipulate – ‘and persons without disabilities’.

Over the years, UN agencies have emphasised the importance of education for children by asserting that education must be provided as much as possible, even in times of public emergency, armed conflict, natural disasters and, by implication, in displacement (UN Human Rights Council, 2008, para. 37). The right to education beyond primary level is more contested, but is still regarded as a progressively realizable right subject to the exigencies of states’ situations.

The UN Committee on the Rights of the Child made reference to the needs and rights of disabled children in its early General Comments and in 2007 adopted a General Comment dealing specifically with children with disabilities (UNCRC, 2001, p. 4, para. 10, UNCRC, 2003, p. 17, para. 36(d), UNCRC, 2005, UNCRC, 2007, p. 1, para. 1). This acknowledged that refugee children with disabilities – and especially girls - face multiple challenges and called for these children to be given ‘high priority for special assistance, including preventative assistance, access to adequate health and social services, including psychosocial recovery and social reintegration’ (UNCRC, 2007, p. 1, para. 1, McCallum and Martin, 2013). In 2012 this Committee conducted a day of general discussion on child migrants. It is a measure of how recent discussion of disability in displacement is that no mention was made of children with disabilities in the background paper prepared for this event.

In the modern conventions, it should be noted that reference to classical education is often paired with mention of vocational training. This seems to reflect the growing recognition that it makes economic sense to provide education and training to all refugees – most particularly those living in host countries for protracted periods of time. Without education the prospects of refugees achieving a degree of self-sufficiency diminish. This is as true for refugees with disabilities as it is for those with no impairment.

In the sections that follow we explore the extent to which different states are respecting these arguably ‘universal’ rules of international law. In the case of small children, access to primary education does seem to be recognised in many contexts, but not yet for children with disabilities. This can imply access to tuition in local languages, but again is not always the case. Again, access to occupational training and tertiary education can also be uneven or completely unachievable. The loss of human capital and potential in these cases is nothing short of tragic.



### 3.3 Intersecting issues: Disability, age and gender and rights to education

As Grandi notes, one of the greatest challenges facing UNHCR in providing education for refugee children is that that the vast majority (86% in 2015) are situated in countries that are either themselves extremely poor<sup>xi</sup> or overwhelmed by the scale of the displacement being experienced. These countries are often struggling to educate their own children, much less refugee children (UNHCR, 2016, p. 4). For child refugees with disabilities, displacement environments often create a unique combination of barriers. Significantly ‘disability’ is not a monolithic concept. As UNHCR’s Guidance acknowledges, ‘[p]ersons with disabilities are not a homogenous group’ (UNHCR, 2011, p. 3). Experiences can vary widely according to an individual’s impairment(s) and the accommodations, if any that are available. Context, experiences and a person’s attributes can lead to very different outcomes (Ben-Moshe and Magaña, 2014). If the definition of disability in the CRPD recognises the role of context and environment, the Convention also acknowledges the compounding difficulties associated with gender, youth and extreme age, language, ethnicity and socio-economic standing.

For refugee children with disabilities, access to education is inevitably affected by context. Leaving to one side the obvious challenges of countries in the grip of war or disaster, the experience of these children can vary enormously depending first and foremost on the extent to which their needs are identified and addressed. As we explain in the balance of this paper, for a range of reasons, disabilities can be hidden or ignored in refugee populations. Impairments can attract social stigma, or fear of rejection by immigration or government authorities, leading parents to hide or under-report the needs of their children. This can be especially the case in girl children.

Across all our fieldwork countries we found that children born with a disability (and their mothers) were exquisitely vulnerable to abuse and abandonment. The compounding effect of displacement is seen in the increased incidence of disability in children and mothers who give birth in the course of distress migration. In other words, being a refugee can increase the risk of acquiring an impairment. While we encountered families who went to extraordinary lengths to care for and educate children with impairments, in too many instances the context of displacement made this impossible. It is almost axiomatic that refugee children with disabilities are unable to access appropriate education. This operates to entrench socio-economic and social inequality, and in turn exacerbates experiences of disability (see further Crock et al, 2017, ch 6).

## **4. THE REALITY OF ACCESS TO EDUCATION FOR REFUGEES WITH DISABILITIES: CHALLENGES OF CONTEXT AND POLICY**

The conceptualisation of disability as articulated in the CRPD emphasises the effect of context on the way disability is experienced. Below, we demonstrate how the countries captured in our research - Malaysia, Indonesia, Uganda, Pakistan, Jordan and Turkey - provide apt examples of the diverse experiences of forced migrants in these very different displacement settings.

### **4.1 Invisible and unwanted: Malaysia**

Malaysia is not a party to the Refugee Convention and does not provide legal status to refugees. UNHCR has an established presence in the country, with the ultimate focus being on resettling many of the refugees it assists. Because of the government's legal and policy stance on refugees, they remain largely invisible and isolated from Malaysian society, and may be confused with the millions of migrant workers living in the country.

Refugees have no rights to access local schools and the main source of education is refugee community- or NGO-run 'Community Learning Centres'. These centres are operated mainly by volunteers, and receive some material support and training assistance from UNHCR. Because the refugee population is an urban one, living throughout and beyond the capital, Kuala Lumpur, some students board at the CLCs (detailed discussions on access to education can be found in Smith-Khan, 2013, Crock et al., 2015, Crock et al., 2017).

Refugee children with disabilities face a number of barriers to enrolling in the CLCs and, for those who attend, participating equally. The physical location of the CLCs can present a challenge for those with mobility issues: they are often located in buildings up multiple flights of stairs, with no lift access, in neighbourhoods with poorly maintained roads and footpaths. Teachers, often volunteers, lack training on how to include students with disabilities, and even basic assistive devices may be lacking. At the time of our fieldwork, participants complained that while there had been free vision testing carried out in the schools, no glasses were provided when diagnoses were made and for many they were unaffordable.<sup>xii</sup> Financial pressures also influenced enrolment choices: CLC teachers observed that some families with limited means to pay school fees for multiple children chose to keep their children with disabilities out of school, in favour of their siblings who did not have a disability.

Beyond restricting their access to mainstream schooling, the invisibility of the refugee population in Malaysia means that opportunities to connect with the local community are lacking. Our research brought together representatives of peak Malaysian Disabled Persons' Organizations (DPOs) with refugee community leaders. The DPOs were largely unaware of the presence of refugees within their city, and had little knowledge about the conflicts and persecution risks in neighbouring countries that drive refugees to flee to Malaysia. This lack

of awareness, along with linguistic barriers, may mean missed opportunities to gain practical support and advocacy from local groups, including DPOs, which could materially improve the experience of persons with disabilities living as refugees in Malaysia, including those seeking to access education.

## 4.2 Refugees in transit: Indonesia

Indonesia is generally regarded as a transit country for refugees: like Malaysia, the country is not a party to the Refugee Convention and offers refugees no legal rights or status. However, narrowing opportunities for resettlement mean that refugees are increasingly encouraged to plan for a long-term stay in Indonesia (Topsfield, 2017). While agreements between UNHCR and the government in some areas create opportunities for refugee children and youth to access public schools, this relies on first, attending preparatory courses in Bahasa Indonesia, and second, the existence of such an agreement in the relevant location. Private English-medium 'international' schools are also available, but only to those with the financial means to pay the fees. Limited informal education is also available in some locations through NGOs or private tutors.

Our research and other studies have noted the reluctance or inability of some parents to enrol their children in Bahasa Indonesia language courses, partly due to the costs associated with this, and partly due to a preference for English-language learning and English medium education, linked with the hope that their stay in Indonesia will only be temporary (Ali et al., 2016).

As a result of these factors, and as the refugee communities have begun to self-organize, other alternatives are emerging, in the form of refugee community-run schools, such as the Cisarua Refugee Learning Centre (CRLC) in Puncak and the Roshan Learning Centre in South Jakarta,<sup>xiii</sup> similar to the CLCs operating in Malaysia. These schools have involved the cooperation and contributions of Australian universities and volunteers and are run in English, and in the case of the CRLC, follow the Australian school curriculum (Ali et al., 2016).

Our fieldwork in 2013, which predated the establishment of these centres, identified both a range of barriers to accessing and challenges within the types of education then available. This included a lack of appropriate training for education facilitators to support the equal participation of all students in the classes. For example, parents of one young student with a disability noted that although she attended an NGO-run class, she sat in the corner colouring in and was not actively involved in any of the lessons, due to a lack of appropriate staff skills. Attitudinal barriers also discouraged a young student with permanent injuries to her arms from attending classes, as she wished to keep these injuries hidden from other children. Finally, a number of adults reported that the physical inaccessibility of the classes, in terms of their location and lack of appropriate transport, meant that they could attend vocational training. Similar issues are likely for refugee children with mobility difficulties, given the built environment and geographical location of refugee accommodation in the areas studied.

### 4.3 Educational access in developing countries and protracted displacement: Uganda and Pakistan

A party to the Refugee Convention, Uganda has a long history of receiving refugees from a variety of neighbouring countries. As part of its Universal Primary Education policy, all Ugandan and refugee children may attend free primary education, including in schools located in the various refugee settlements. Refugee youth are also allowed to access secondary and further education (UNHCR Uganda, 2014).

Despite official policies recognizing and including refugee youth, they face a range of potential barriers to attending or succeeding at school, many of which may be magnified for those who have disabilities. The distance to schools and limited transport options, and the poor physical accessibility of school buildings and facilities (like toilets) remain a widespread concern, both in refugee settlements and urban areas. Further, high poverty levels make it difficult for refugee families to obtain the needed learning materials to support study.

Mainstream schools often lack appropriate facilities and staff training to accommodate children with disabilities (Refugee Law Project, 2014). This means that they may often be limited to attending specialized schools. However, these are limited in number and location and generally require payment of substantial fees. This means that in practice, such schooling is available only to a very limited number of refugee children (Crock et al., 2017, p. 224).

While statistics from 2014 suggest that primary enrolment in the refugee settlements is around 80%, a high dropout rate means that only around 5-10% graduate from primary school (UNHCR Uganda, 2014). Similarly, in our survey in Nakivale and Oruchinga Refugee Settlements in 2013, only 52 of the 114 school-age participants reported currently attending school (Crock et al., 2017, p. 223).

The situation for Afghan refugees in Pakistan is similar. Although Pakistan is not a party to the Refugee Convention, it has a long history of hosting groups fleeing conflict and persecution in neighbouring Afghanistan. Afghan children and youth attend a range of schooling in Pakistan, including NGO-run schools (in refugee villages), public schools, religious *madrassas* or private schools specifically catering to Afghans (Norwegian Refugee Council and UNHCR, 2015). Despite this, literacy, school enrolment and completion rates are very low, even compared with the already poor rates for Pakistani nationals (see CCAR and UNHCR, 2011, p. 36). Those with disabilities face even greater barriers.

A large survey in 2011 reaching almost one million Afghans living in Pakistan provides some insight into access to education and literacy across age groups and genders, disaggregated by disability (based on reports of functional difficulties) (Smith-Khan et al., 2015).<sup>xiv</sup> Survey participants of school age (between 5 and 18 years) who had an identified functional difficulty were less likely to be attending school than those with no identified functional difficulty (41.0% versus 44.5% attendance rates respectively). Broken down by functional difficulty

type, those with difficulties seeing were the most likely to attend school (52.3%) and those with self-care difficulties were the least likely to attend school (7.5%). For those with difficulties speaking or walking, less than a third were reported as attending school (31.3% and 26.6% respectively). Psychological difficulties and mental health were even stronger indicators of non-attendance, with less than a quarter of those with cognitive difficulties (21.4%) or trauma-originating depression or confusion (23.3%) attending school (Smith-Khan et al., 2015, p. 26). For children with functional difficulties, these difficulties were the most common reason given for not attending school. The survey did not provide insight into particular difficulties faced at school impacting full and equal participation. However, having access to appropriate glasses was the most commonly reported assistance need in the survey, suggesting that this may have affected some students' educational experiences.

The survey also investigated literacy. Here, the largest divergence identified between those with functional difficulties and others was in the younger male age groups. 12 to 14 year-old boys demonstrated the widest divergence, with a 61.9% literacy rate for those with functional difficulties versus 70.2% for others. However this disparity was substantially less significant than the divergence by gender, with female youth being much less likely to be literate than their male counterparts; and by age, with older people being much less likely to be literate than their younger counterparts. This suggests that addressing the inclusion of students with disabilities must go beyond simply focusing on impairment and should address barriers across these intersecting categories.

#### **4.4 The stress of post conflict migration: A case study of Syrian refugees in Jordan and Turkey**

The large numbers of Syrians seeking refuge in neighbouring Jordan and Turkey have created an unprecedented challenge for these countries. As the situation progresses from immediate emergency to protracted displacement, access to education for the millions of displaced Syrian children has become a key concern. The Jordanian and Turkish governments have taken a number of measures to accommodate and facilitate enrolment of Syrian refugees within their education systems, and support the development of parallel Syrian-run schools, but enrolment and attendance still remain low (Human Rights Watch, 2015, Human Rights Watch, 2016).

While the situation and the responses of those tasked with assisting the Syrian refugees continue to evolve, at the time of our research in 2014, we identified a number of key challenges for children with disabilities.

Displacement location was identified as influencing the likelihood of accessing a range of institutions for those with communication-related disabilities. Those who use Syrian Sign Language were more likely to be able to independently communicate and gain access to information in Jordan, either through communication with those using (mutually comprehensible) Jordanian Sign Language (Hendriks, 2008) or through written

Arabic. When we raised this issue with camp officials in a Turkish refugee camp, they suggested that deaf persons could rely on their family members to communicate on their behalf. However this of course presents a range of potential ethical and protection-related issues, as well as undermining their equal participation in education and other aspects of daily life.

For other participants, displacement had meant a noticeable loss of specialized facilities and technologies that had previously facilitated their inclusion in education. The parents of two young children with disabilities shared how their son and daughter had previously attended a high-quality specialized school in Syria. Similar facilities were unavailable to them in Turkey and the parents noted that their children's wellbeing and happiness had suffered as a result. Similarly, the mother of a young non-verbal refugee explained that in Syria he had a computer that he used to communicate and undertake a number of activities. The loss of his computer when fleeing to Turkey meant he could no longer communicate, entertain himself or engage in educational activities, causing him and his family distress, and stalling his educational progress.

The size and nature of the Syrian refugee crisis has meant that access to education for Syrian children generally remains limited. As in Malaysia and Indonesia, classroom size and location, and limited resources and training for teachers, create barriers to the full inclusion of children with disabilities. As financial strains on refugees increase over time, even paying for suitable transport to reach schools can prove an issue, and affordable accommodation is more likely to be at a distance from city centres and services. Other research has likewise identified physical accessibility and a lack of teacher training as major barriers for refugee children with disabilities (HelpAge International and Handicap International, 2014, p. 33, Human Rights Watch, 2016, pp. 83-86). In particular, such studies have identified the need for teacher training in working with the large number of Syrian children affected by conflict-related trauma, a need that was also emphasised by research participants in our fieldwork (Human Rights Watch, 2015, Human Rights Watch, 2016).

Specialized schools were reportedly available, but only to a small number of students, and involved sponsorship or the payment of fees. Because of the limited spaces, access may also be limited based on age. As observed by NGO workers in our fieldwork, age-based policies can present multiple difficulties for refugees with disabilities. First, displacement can interrupt access to education, sometimes for significant periods of time, meaning students may 'age out' and be excluded. Second, programs may be designed with the expectation that children are present from the beginning of their education and can follow the curriculum from start to finish. This may create challenges for refugees who arrive at another point in their schooling.

## 5. INSIGHTS FROM THE FIELD ON STRATEGIES FOR INCLUSIVE EDUCATION

Our research and other similar recent studies have highlighted serious and widespread challenges for refugee children in their quest to access and participate in education while living in displacement settings. However, the diverse locations and situations in which young forced migrants live present equally diverse and evolving strategies and opportunities to respond to some of these challenges and assist children and youth to access education. Below we first explain the importance of collecting and recording disability-related data to ensure evidence-based responses and identify good practice in this area. We then provide examples of good practice in service delivery more broadly, in both targeted activities for people with disabilities, as well as actions promoting universal access, disability mainstreaming and empowerment.

### 5.1 Data and evidence-based approaches

Our research uncovered a serious lack of data on disability in displacement contexts. Comprehensive identification of disability and appropriate assessments related to needs and barriers to participation are foundational for effective, evidence-based strategies for the inclusion of persons with disabilities.<sup>xv</sup> Across the three years and six locations included in our fieldwork, we witnessed an evolution in the collection of data on disability, demonstrating an increased awareness of its importance in beginning to actively include persons with disabilities and address the many barriers they face when attempting to access assistance from organizations supporting refugees.

In Malaysia and Indonesia in 2012, the identification and recording of data on disability by UNHCR and its partners was minimal and ad-hoc, largely relying on visual identification or self-referral, and using basic categories like ‘physical disability’ and ‘mental disability’. This falls short of the systematic, functionality-based questions recommended as the global standard, such as those developed by the ‘Washington Group’.<sup>xvi</sup> Further, there was little guidance on or consistency in recording additional information, for example, relating to needs or barriers. In contrast, a large-scale survey in Pakistan in 2011 demonstrated the value of asking more systematic questions on disability. The data obtained from this survey of almost one million Afghan refugees allowed greater insight into the age, gender, location and participation of persons with disabilities within this group, including their access to education. However, accompanying questions on assistance needs were limited and it was difficult to clearly draw out from the data the connection between reports of functional difficulties, unmet needs and discrimination, with participation and inclusion.

More recent mechanisms that identify and evaluate disability in displacement may go even further towards providing a suitable model for organizations seeking to improve their inclusion of persons with disabilities. In Jordan, Humanity & Inclusion (formerly Handicap International) is piloting a modified version of the

Washington Group questions and developing related training materials to assist humanitarian actors (Humanity & Inclusion, 2018).

Also in Jordan, UNHCR and its partners have developed a *Vulnerability Assessment Framework* (VAF) that aims to assess vulnerability and need, to prioritise the provision of assistance. We flagged in our 2014 research the fact that disability questions used for the VAF remained limited - for example, vision and hearing impairments being combined in one category (Crock et al., 2017, p. 82). Since then, UNHCR has integrated the Washington Group short question set into the VAF and integrates disability discrimination alongside other types of barriers, stratifying by age and gender, to create a more nuanced and holistic understanding of multi-faceted risks and possibilities (Women's Refugee Commission, 2017, pp. 16-17).

Finally, to best understand the needs, strengths and experiences of refugees with disabilities, they should be considered and included in *all* areas of service design and research, rather than only in activities focusing specifically on disability or vulnerability.<sup>xvii</sup> Moreover, rather than simply categorising people with disabilities as one uniform and vulnerable group, the effects of different intersecting personal and contextual factors on participation, such as gender, age, linguistic background and displacement location, should be acknowledged and considered (see discussion in ch. 6, Crock et al., 2017). Some examples of good practice below provide evidence of this.

## 5.2 Examples of good practice in service delivery

A major barrier to education identified nearly universally across displacement locations is the physical inaccessibility and location of schools, combined with limited financial means and transport options. While this remains an issue for refugees (and often local students) in urban settings, new refugee camps increasingly include accessible infrastructure, as we observed in the paved Turkish camp we visited and in various offices, centres and a new hospital in camps in Jordan. To overcome issues with distance, provisions for accessible transport are necessary. Once again, in Jordan, an organization providing inclusive theatre workshops in Zaatari Camp organize a minibus to transport the children across the large camp from their homes to facilitate participation.

Activities for empowerment and developing talent have been implemented in Uganda. Targeted funding for refugees with disabilities in both settlement and urban locations has been allocated specifically to vocational training and income generation. This funding has also assisted a number of children with disabilities to access education, by covering the cost of learning materials, uniforms and boarding fees. However, while this one-off funding undoubtedly ameliorated the participation of its beneficiaries, broader environmental and circumstantial barriers to education persist.

Identifying and engaging with the existing strengths of the host and refugee communities results in valuable outcomes. This was most visible in Uganda, where DPOs had a strong presence in civil society and recognition



within the government. In our fieldwork, we noted that the Ugandan National Association of the Deaf run schools for children who are deaf or hard of hearing, in areas bordering two refugee settlements. This meant that refugee children attend these schools alongside Ugandan students, learn Ugandan Sign Language, and access education.

These connections are increasing, with the Ugandan DPO umbrella organization, NUDIPU, undertaking a project specifically aimed at the inclusion of refugee persons with disabilities in development activities. This has included Ugandan DPOs engaging with and advising a variety of refugee and development agencies, as well as assisting refugees with disabilities (and refugee women with disabilities more specifically) to self-organize and self-advocate (NUDIPU, 2018). Refugee-focused NGOs, the Refugee Law Project and Interaid Uganda, have also been key actors in building refugees' knowledge about disability rights and facilitating the formation of refugee DPOs (Crock et al., 2017).

## **6. WHERE TO FROM HERE?**

Refugees who have disabilities often face a range of barriers that extend even beyond the very serious ones often faced more generally by refugees in their access to education. The examples provided in this paper demonstrate that the particular displacement context – whether a transitory situation, protracted displacement, or emergency - can have an impact on the specific types of challenges refugees with disabilities may face when attempting to access education. The laws and policies of the host states and approaches of humanitarian organizations also affect their inclusion.

The implications are serious. Limited access to education can have the effect of entrenching vulnerability and undermining participation in other areas of life, such as employment or income generation, and in this sense can exacerbate the experience of disability.

While research and data collection around disability in displacement remains limited, the examples of good practices above demonstrate that collecting high quality data is a prerequisite to designing appropriate strategies to improve inclusion. Empowering refugees with disabilities to have a voice and including them in mainstream program design is an essential step in this process.

Likewise, identifying existing resources and working with host communities, and acknowledging and building on the strengths of the refugee communities, including those community members who have disabilities, is crucial. Such measures are necessary to address the existing challenges and increase the likelihood that displaced children with a disability have the opportunity to access and participate in education.

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<sup>i</sup> In 2017, UNICEF and IOM estimated that 100,000 children under the age of 18 had crossed into Europe since 2016 and that over 20% of those who sought asylum were unaccompanied. See UNICEF and IOM (2017).

<sup>ii</sup> UNHCR's 2004 *Resettlement Handbook* stated baldly that refugees who had adjusted to their disability should not be considered for resettlement: see UNHCR (2004, ch. 4.4.4).

<sup>iii</sup> See also *Optional Protocol to the Convention on the Rights of Persons with Disabilities*, opened for signature 30 March 2007, 46 ILM 443 (entered into force 3 May 2008) ('*CRPD Optional Protocol*'). The texts of both instruments are available online: <<http://www.ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx>>.

<sup>iv</sup> CRC art 38. It also limits the recruitment of child soldiers, and demands that states parties ensure 'protection and care of children who are affected by an armed conflict'.

<sup>v</sup> *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976) ('ICCPR'). See also *International Covenant on Economic, Social and Cultural Rights*, opened for signature 16 December 1966, 993 UNTS 3 (entered into force 23 March 1976) ('ICESCR').

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<sup>vi</sup> See Crock et al. 2017, Ch 2. Note however that the UN Committee on Economic, Cultural and Social Rights (CESCR) has explained that humanitarian assistance must be accessible without discrimination, including by putting suitable systems in place to adapt to emergency situations.

<sup>vii</sup> It is evident in the text of ICESCR that the committee envisioned public education would increase with time as states build capacity. See UN Committee on Economic Social and Cultural Rights (1999).

<sup>viii</sup> Hathaway argues that mere presence is sufficient and that there is no minimum duration of stay to enliven this obligation.

<sup>ix</sup> Hathaway (2016, p.162) himself argues that the absence of any attachment threshold concerning the right to education is 'more the product of modest over-exuberance than of clear design'. Still, retrospectively, this seems to have been wise, since requiring physical presence would cause obstacles for the increasing number of refugees affected by extraterritorial detention.

<sup>x</sup> UNCRC (2013) See p. 14, para. 21.

<sup>xi</sup> More than a quarter reside in the world's very poorest countries (UNHCR, 2016).

<sup>xii</sup> An agreement has since been put in place, giving refugees access to a private health insurance scheme – this may have improved access to such devices (UNHCR, 2018).

<sup>xiii</sup> More information on these learning centres is available from their websites: <http://cisarualearning.com> and <http://roshanlearning.org>.

<sup>xiv</sup> A household representative for each house surveyed was asked: 'Does any household member – including children and elderly – have difficulty seeing?, Who has difficulty seeing? 'How much difficulty has <name> seeing? (some difficulty, a lot of difficulty, total/absolute loss?'. Hearing, speaking, walking, self-care, remembering and concentrating were also covered. They were also asked whether any member of the household 'suffers from depression or behaves confused or disoriented' 'because of shock, trauma, serious distress or violent encounter'. They were also asked for anyone with moderate or severe difficulty, 'what would be the two most important ways in supporting their needs?' See Smith-Khan et al. (2015). More information about data collection methods are available in the report.

<sup>xv</sup> We explore the issue of identification closely in chapter 4, Crock et al. (2017). See also Smith-Khan et al. (2015), Crock and Smith-Khan (2016).

<sup>xvi</sup> See National Center for Health Statistics (2015).

<sup>xvii</sup> See eg. Women's Refugee Commission (2017). This report highlighted the inconsistent and simplified inclusion of people with disabilities in mechanisms responding to the Syrian crisis, including those dealing with issues such as gender-based violence and access to education.