

Report on Human Rights of Migrant Teachers

This project “Migrant Teachers, Academic Freedom and the Right to Education” has been conducted in fulfilment of the Applied Research Project requirement (Track Specialization: Migrations, Mobilities and Boundaries) at the Geneva Graduate Institute (IHEID) in collaboration with the Office of the High Commissioner of Human Rights (UN OHCHR).

By

Hiba Boulmirate

Mona El Wali

Xinyu Liu

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Executive Summary

The project titled "Migrant Teachers, Academic Freedom and the Right to Education" was undertaken as part of the Applied Research Project at the Geneva Graduate Institute (IHEID). The terms of reference of the following research were conducted in collaboration with the Office of the High Commissioner of Human Rights (UN OHCHR). This project aims to address the lack of visibility and explicit protections for migrant teachers in the heavily regulated sector of education, despite the existing international mandates on the right to and access to education. The report highlights various international declarations and conventions that address the right to education. It emphasizes the importance of migrant teachers in transnational education and the need to consider their rights alongside student-based approaches. Therefore the UN OHCHR established the Mandate of the Special Rapporteur on Education, which aims to address accessibility and the right to education for all individuals. This report focuses on the realization of human rights for migrant teachers, specifically examining equal pay and benefits, training opportunities, tenure security, and social security. The report summarizes perspectives from various actors, including states, international organizations, and trade unions, regarding the promotion of migrant teachers' rights. Through expert interviews, international conventions, agencies, and country case studies, it provides insights into the challenges faced by migrant teachers. Key findings include the significance of recognizing teacher qualifications, language requirements as a barrier, and the prioritization of children's rights in international conventions. While the report strives to shed light on the experiences of migrant teachers, there are research limitations due to geographic imbalances, scarcity of data from certain regions, linguistic barriers, and time constraints. In conclusion, this report serves as a preliminary examination of the rights of migrant teachers in relation to their migration status.

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I. Introduction

Migrant teachers are at the heart of a heavily regulated sector: education. However, they lack visibility and explicit protections under international mandates. The right to and access to education have been adequately addressed in various declarations and international conventions (International Covenant on Economic, Social and Cultural Rights, International Convention on Civil and Political Rights, Convention on the Elimination of all forms of Discrimination Against Women, International Convention on the Elimination of all forms of Racial Discrimination). Additionally, Article 18 of the Universal Declaration of Human Rights (UDHR) on the ‘Right to Freedom of Thought’ includes the right to manifest one’s religion or belief in teaching, practice, worship and observance. Article 19 protects the ‘Right to Freedom of Opinion and Expression’ underlying the right to receive and impart ideas.

Migrant Teachers’ Enjoyment of Human Rights is a collaborative effort between OHCHR and IHEID students fulfilling the Applied Research Project requirement. It aims at centering the migrant teacher experience by highlighting Right to equal pay and benefits, Right to training opportunities, Right to tenure security, Right to social security and academic freedom. Throughout this project, the plethora of research and reports monitoring education either focus on education as an all encompassing category or place emphasis on upholding the students’ right to education even in relation to migrant teacher inclusion policies¹. The contemporary realities of conflict, displacement and rising migration further cement education as a fundamental human right of children and displaced people.² Additionally, the regional disparities worldwide instigate conversations around the equity and quality of education as means of bridging these gaps and laying a solid foundation for developmental objectives.

¹ Almeida, D. A., & Cohn, D. V. (2013). *Immigrant students in US schools: Challenges and opportunities*. In S. S. Luthar (Ed.), *Resilience and vulnerability: Adaptation in the context of childhood adversities*. 189–213.

Cambridge: Cambridge University Press.

² UNHCR (2022). *ALL INCLUSIVE: The campaign for refugee education*.

Around 17% of children and youth are not enrolled in schools worldwide, with developing countries representing the larger proportion of this figure. Specifically, 21% of central Asian and 31% of sub-saharan African children are out of school as opposed to 3% in Europe and north america³. This research therefore does not seek to underpin the importance of student-based approaches⁴, but it means to highlight the realities and roles of migrant teachers in transnational education. In summary, the concept of a "migrant teacher" includes various experiences that need careful examination to reveal any discrepancies in the fair enjoyment of human rights.

As seen in the United Nations Educational, Social and Cultural Organization Global Monitoring Report in 2019, teacher migration trends between high-income countries and lower-income countries led to a global domino-effect. The United Kingdom, the “world’s biggest exporter of teachers”, is experiencing teacher shortages. Therefore, it has started recruiting teachers from Jamaica and South Africa. The latter countries in return have also started facing shortages. South Africa is recruiting teachers from Zimbabwe, which is now also suffering from insufficiencies.⁵ Among the consequences of teacher migration, the report also highlights inclusion policies advanced by countries such as Chad⁶, Germany⁷ and Sweden⁸ for refugee teachers. The report brings up the case of expatriate teachers from Arab countries and other high-income sending states in the Gulf Cooperation Council (GCC) – teachers are hired in discriminatory circumstances; teachers from high-income countries receive higher wages

³ Schmelkes, S (2020). *Recognizing and overcoming inequity in education*. UN Chronicle <https://www.un.org/en/un-chronicle/recognizing-and-overcoming-inequity-education>

⁴ The student-based approaches consist of different demographics, however the most apparent is those falling under Convention on the Rights of the Child which guarantees the ‘Right to Education’ regardless of the Child’s legal status within the host country.

⁵ Interviews conducted cite the massive exodus of Ugandan migrant teachers to Zimbabwe for economic purposes.

⁶ The government of Chad took steps to recognize teacher qualifications and training of refugees fleeing Sudan and the Central African Republic.

⁷ The Refugee Teacher Program, as advanced by the University of Potsdam provides courses for Syrian refugee teachers wishing to re-enter the workforce.

⁸ Action was taken by teachers’ unions to provide guidelines on the teaching profession in Sweden.

and better benefits than their Arab counterparts. These global trends and observations, in addition to increased human mobility we have seen in the past decade, have pushed for a response.

Therefore, UNOHCHR established the Mandate of the Special Rapporteur on Education. The latter represents an effort to address the issues of accessibility and right to education by all people⁹. One of the main functions of the special rapporteur is to provide recommendations to states and various stakeholders. Correspondingly, as the issue of migrant teachers remains understudied, this is a first step in addressing it. Therefore, our report investigates migrant teachers' realisation of human rights in conjunction with their migration status, focusing on the right to equal pay and benefits, right to training opportunities, right to tenure security and right to social security. This is an attempt to address the significant gaps in the literature around migrant teachers and human rights.

In what follows, we will begin by detailing the research framework of the report followed by a review of the existing legal documents on migrant teachers. Furthermore, we proceed with an individual analysis of each of the rights above mentioned (Academic Freedom excepted as it appears in the addendum). Finally, we conclude by providing recommendations to different stakeholders (States, NGOs and IOs and trade unions).

II. Research Framework

1. Research Questions & the Main Actors

This report will investigate the topic of migrant teachers and their enjoyment of human rights by attempting to answer the two following questions: To what extent does the particular migrant status of teachers impact on their enjoyment of human rights without discrimination, and therefore on their contribution to realizing the right to education? What are the main

⁹ UN Special Rapporteur on Education. <https://www.ohchr.org/fr/special-procedures/sr-education>

recommendations that should be made to States, trade unions and international organizations in this regard? The main actors or stakeholders of this report are first and foremost International organizations for their relevance as a source of all encompassing information and coverage on such issues. Furthermore, states are also crucial because domestic laws and protections make striking differences in the situation of different migrant teachers in different contexts. It goes without saying that migrant teachers are at the heart of this report, their experiences inform - or at least should inform - to a large extent the regulations and protections to be put in place. In addition, teachers' unions are a crucial lobbying body for the rights of teachers. They also play a major role at the domestic legal level and have the bargaining power to improve the situation of teachers in general and migrant teachers in specific. Finally, students are an important component as well because the bulk of literature on the intersection of education and human rights focuses on the student perspective. As such, the following will amount to a set of recommendations to each of these actors in order to remain consistent with the heuristic approach.

2. Definitions

For a better conceptual understanding of the involved parties in each treated text, we provide the following list of definitions.

Migrant Teacher: The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families 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”¹⁰. Although this definition does not explicitly include migrant teachers, it is broad enough to cover them. The IOM's general definition of a migrant

¹⁰ International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 2220 UNTS 3, 18 December 1990 (entered into force 1 July 2003).
https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-13&chapter=4&clang=en

encompasses all forms of migration: voluntary or not, internal displacement as well as temporary and permanent settlement¹¹. This is complementary to the first definition which does not specify the nature of migration. We push for a specific yet inclusive definition. Therefore, we define a migrant teacher as a person involved in the education sector at any level (primary, secondary, tertiary and higher education) and in any teaching/administrative capacity, working in a country different from that of his or her nationality¹². The reason for this choice is that the term migrant teacher lacks a connotation of higher education, which is why we believe our definition to be applicable to all levels of education and also encompassing of the variety of migration types.

Enjoyment of human rights: While this entails benefitting from the ensemble of economic, cultural and human rights in accordance with the various declarations and conventions¹³. For the purposes of this report, the enjoyment of human rights is limited to economic rights (represented by wages, tenure security), social rights and non-discrimination.

Tenure security: The American Association of University Professors defines tenure as: “[...] an indefinite appointment that can be terminated only for cause or under extraordinary circumstances such as financial exigency and program discontinuation¹⁴”. In its classical definition, tenure security is relevant to the higher education/academic sector. Thus, it will be explored as such in the attached addendum on academic freedoms. However, throughout this document, and in congruence with our chosen definition for migrant teacher, tenure security is used to signify both its literal meaning and job security in a broader sense.

¹¹ IOM (2021), *Integrating Migration into Education Interventions*. Available at <https://eea.iom.int/sites/g/files/tmzbd1666/files/documents/education-toolkit.pdf>

¹² This report does not investigate internal migration and rather focuses on the global trends pertaining to international mobility.

¹³ International Covenant on Economic, Social and Cultural Rights (ICESCR), 993 UNTS 3, 16 December 1966 (entered into force 3 January 1976). Available at

https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&lang=en

¹⁴ American Association for University Professors. <https://www.aaup.org/issues/tenure>

Refugee teacher: a refugee is an asylum seeker who has attained refugee status in the country of destination¹⁵. More concretely, a refugee is “someone who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion”¹⁶. Some rights organizations (Scholars At Risk for instance) - although primarily working with refugee professors - use a somewhat loose characterization of “refugee” which does not discriminate based on legal status. For the purposes of this report, we will define refugee teachers as teachers who are involuntary migrants, unable to return to their home country and are looking to settle in the destination country.

Overseas teacher: an overseas teacher is a teacher on temporary assignment in a country different from that where he/she received teaching training and qualification. This falls under temporary labor migration which is considered to be a “triple win situation”¹⁷. First, the destination country is able to address its labor shortage promptly. Second, the sending country benefits from the remittances brought in by the migrant (in this case the overseas teacher) without permanently losing labor power. Finally, the migrants benefit from the new opened up legal migration routes¹⁸.

Economic migrant teacher: According to UNHCR’s definition of economic migration, an economic migrant is a person leaving their country with economic prosperity as the only motivation¹⁹. Interviews with migrant teachers in Tanzania in addition to literature on

¹⁵ United Nations Educational, Scientific and Cultural Organization (UNESCO). (2018). Global education monitoring report 2019: Migration, displacement and education: Building bridges, not walls.

¹⁶ UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137, available at: <https://www.refworld.org/docid/3be01b964.html> [accessed 22 July 2023]

¹⁷ Penson, J., & Yonemura, A. (Eds.). (2012). *Next Steps in Managing Teacher Migration: Papers of the Sixth Commonwealth Research Symposium on Teacher Mobility, Recruitment and Migration, Addis Ababa, Ethiopia, 8-9 June 2011*. Commonwealth Secretariat.

¹⁸ Agunias, DR and K Newland (2007), Circular migration and development: Trends, policy routes, and ways forward, Migration Policy Institute Policy Brief, April 2007, Washington, DC.

¹⁹ UN High Commissioner for Refugees (UNHCR), *UNHCR Master Glossary of Terms*, June 2006, Rev.1, available at: <https://www.refworld.org/docid/42ce7d444.html> [accessed 20 May 2023]

migrant teachers in Gulf countries²⁰²¹ corroborate this definition. Therefore, it is believed to be an important distinction. Economic teacher migration is also important in the way teachers are valued in the eyes of states and how their qualifications translate in the countries' respective visa systems (primarily those relying on a point system).

Female migrant teacher: Listing female migrant teachers as a separate category is this report's way of acknowledging the gendered realities in teacher migration. Examples from Zimbabwe suggest that dysfunctional marriages, rising levels of women's responsibility to provide for their families and an overall expectation to sacrifice from women are female specific incentives to migrate²². As such, the gendered experience of migrants in general and in this case female teachers are noteworthy. The global survey on teacher mobility carried out by Education International displays a feminization trend in teacher migration²³ as female teachers outnumber male ones in the overwhelming majority of countries surveyed. In the case of Gulf countries, there seem to be considerable obstacles faced by female migrant teachers ranging from lack of recognition to limited access to resources and networks²⁴. Female migrant teachers from Zimbabwe on the flip side, find refuge in the liberties found in host countries which allow them to transcend their subjugation²⁵. Yet, this generalisation does not specify the host country and hence carries an inherent assumption that the prior is a safe haven for women in general and female migrant teachers in specific. Henceforth, it is necessary to introduce a

²⁰ Education International. (2014). Getting Teacher Mobility Right: An Education International Report. Available at http://www.ei-ie.org/en/publications/publications_documents/184_Getting_Teacher_Mobility_Right.pdf

²¹ Anganoo, L. D. (2020). *South African primary school migrant teachers' school-based experiences in the Arab Gulf countries* (Doctoral dissertation).

²² Hofmann, E. & Cynthia B. (2011). "Cultural Responses to Changing Gender Patterns of Migration in Georgia." *International Migration* 50: 77-93.

²³ Education International. (2014). Getting Teacher Mobility Right: An Education International Report. Available at http://www.ei-ie.org/en/publications/publications_documents/184_Getting_Teacher_Mobility_Right.pdf

²⁴ Zvisinei, M., & Juliet, P. (2018). Globalisation and experiences of Zimbabwean female migrant teachers. *Journal of Educational Studies*, 17(1), 76-93.

²⁵ Zvisinei, M., & Juliet, P. (2018). Globalisation and experiences of Zimbabwean female migrant teachers. *Journal of Educational Studies*, 17(1), 76-93.

gender dimension to account for the invisibilized hurdles²⁶. Not only that but it is also imperative to account for the variety of socio-economic cleavages affecting the experience of migrant teachers.

To reiterate, the very notion of “migrant teacher” encompasses a diverse set of experiences which in turn must be scrutinised in order to uncover the disparities in the enjoyment of human rights adequately.

3. Methodology

The report relies on a combination of primary sources in the form of reports, conventions and interviews, and secondary data in the form of case studies (highlighting specific country cases) and academic articles. The main contribution lies in the interviews conducted with experts from international organizations, teachers’ unions as well as migrant teachers. A total of nine interviews have been conducted with representatives from Education International, Scholars at Risk, Right to Education, the German Education Union, University of Ankara and educational staff from Dar Es Salam district in Tanzania. These interviews are analyzed against the existing framework on migrant teachers ranging from conventions to reports by international organizations and academic articles and studies. The legal foundation of this report is anchored in international conventions and their jurisprudence. Additionally, the combination of various data sources is aimed at providing a comprehensive perspective on the situation of migrant teachers.

²⁶ Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1249 UNTS 13, 18 December 1979. Available at https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en

III. International Bodies on “Teacher Migrants”: Conventions, Reports and Recommendations

This section will explore the intersection between the rights of teachers, migration and labour as promoted by international law (conventions and legal instruments). It will provide an overview of the development in international discourse on migrant teachers with a briefing on the first recognition of migrant teachers and more recent reports within the last decade or so.

A. United Nations Educational, Scientific and Cultural Organization (UNESCO)

1) Joint International Labor Organisation/UNESCO Committee Recommendations

UNESCO was among the first UN bodies to discuss the status of migrant teachers. As a result of an intergovernmental conference in 1966 convened in cooperation with the International Labor Organization (ILO), the first recommendations report on teachers was released setting out standards for the rights and responsibilities of teachers. It was then followed by the UNESCO recommendations report concerning the Status of Higher-Education Personnel adopted after the General Conference of UNESCO in 1997. These two sets of legal instruments, although not binding, set the frameworks and guidelines for the enforcement of teacher’s rights. Building on the 1966 Recommendations’ coverage of all school-level teachers, the 1997 Recommendations encompass the rights of teachers within the higher education system. Among the rights mentioned in the 1966 report were professional development, salaries and working conditions as well as mechanisms for ensuring objective negotiations between teachers and their institutions on different matters.²⁷ The second report we mention, teachers’ rights included: qualifications-based recruitment as opposed to discriminatory

²⁷ Such matters include salaries, working conditions and dispute settlement between the concerned parties on both sides.

practices during recruitment, enjoyment of internationally recognized civil, political, social and cultural rights²⁸, academic freedom²⁹, teaching and carrying out research without interference, as well as rights encouraging further professional development.

On discussing, “Conditions for effective teaching and learning,” in the 1966 Recommendations, migrant teachers are mentioned but once as foreign guest teachers whose rights to special leave, “[must be given] by their home countries and have their seniority and pension rights safeguarded.”³⁰ In the 1997 Recommendation, under the section, “A. Entry into the Academic Profession,” the adoption of inclusive provisions for higher-education teachers escaping persecution and seeking refuge is encouraged under Article 44. These provisions may be material and/or moral forms of inclusion.³¹

And although it appears that some inclusive language had begun to disseminate, UNESCO published an in-depth study of the “brain drain problem” in 1987. We mention this to display international sentiments on skilled migration and how it may have persevered onto today’s politics of teacher migration. The report situates the problem of brain drain as a colonial legacy of internationalised economies in developing countries. It characterises the problem of ‘brain drain’ as one hampering the right to development³² whereby there is a pressing need for solutions. Among its identified main characteristics of skilled migration flows was graduates in developed countries³³ who remained after the completion of their degrees. The results of this study then encourage high-income countries to commit to a collective approach, “with the objective of encouraging the non-recognition of developing country qualifications and

²⁸ Freedom of thought, belief, assembly and association.

²⁹ We maintain that the discussion on migrant teachers’ academic freedom will be further discussed in the addendum.

³⁰ UNESCO. (1966). Special Intergovernmental Joint Conference by UNESCO/ILO: Paris. (p. 38)

³¹ UNESCO. (1997). Records of the General Conference: 14th Session, Paris. (p. 64)

³² Making the Right to Development legally binding has been on the agenda since 1998 with more concrete outcomes expected after the Human Rights Council meeting in May 2023.

³³ Developed countries are used interchangeably with high-income countries throughout this report.

discouraging indiscriminate subsidisation of students from developing countries.”³⁴ This would appear among the solutions for limiting the problem of brain drain—which leads to less skilled and professional workers in the sending country and thus slower development as opposed to faster development in developed countries. The study regards the right to development as indispensable whereas other civil and political rights are non-binding, and therefore sacrificable in face of a greater need. States therefore are encouraged to take the necessary steps, which may include limiting migratory flows in the name of upholding the right to development. Among these, are the aforementioned measures that deal with recognition of criteria and lifting non-discriminatory policies on students who may stay in host countries and work. Such sentiments may have set the tone for the future discourse on migrant teachers, around which we see very little discussion on the topic until the early 2000s.³⁵

The joint ILO/UNESCO Committee of Experts released a report after holding its 14th Session online hosted by UNESCO in 2021. Migrant teachers are yet again only mentioned once as part of the identified trends and issues of the teaching profession in the past decade, “Migration has become a common feature of the global landscape, resulting in more diverse classrooms disrupting the careers of refugee and migrant teachers.”³⁶ The report also acknowledges the adverse effects of the COVID-19 pandemic on these teacher exchanges and widening inequalities in the accessibility of education. Although this statement included some of our previously identified teacher classifications (economic migrant teachers, refugee teachers, and overseas teachers), it provides no further details in the rest of the report. The

³⁴ UNESCO. (1987). Special Committee: 127th Session, Paris. (p.6)

³⁵ International procedures did not engage in the discussion on migrant teachers comprehensively for a long period. This may be attributed to general sentiments on the topic of ‘brain drain’ which we briefly discuss in this section. However, there may be a variety of other reasons amongst which is the perception of migrant teachers to be temporary migrants, and therefore not enough to cause a long-term economic effect in the sending country. This is not true as we explore in the Global Monitoring report on the international ‘domino-effect’ created by migrant teachers. Other reasons may include bilateral agreements which govern migration and national policies which regulate sectors such as the Education sector.

³⁶ ILO/UNESCO. (2021). Final Report of the Fourteenth Session of the Joint ILO-UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel. (Page 13)

updated recommendations call for greater investment in teacher training and development, as well as the improvement of working conditions, salaries and career prospects— albeit not specifically for migrant teachers.³⁷ All of which fall under the rights treated with regards to migrant teachers in Section VI of this report: right to equal pay and benefits, right to training opportunities, right to tenure security and the right to social security.

2) Council of Europe/UNESCO Conventions

UNESCO also has various interorganizational collaborations on the topic of migration and education. Amongst of which is UNESCO works with the Council of Europe (CoE) on creating different frameworks for transnational education.³⁸ Promoting academic mobility between European Union (EU) countries and third-party countries was exemplified by the CoE/UNESCO Convention on the Recognition of Qualifications concerning Higher Education in the European Region.³⁹

In its 2007 revised version, the convention stipulates that a code must be developed for the ‘teaching staff’ subject to transnational education arrangements. “Staff members of the institutions or those teaching on the programmes established through transnational arrangements should be proficient in terms of qualifications, teaching, research and other professional experience. The awarding institution should ensure that it has in place effective measures to review the proficiency of staff delivering programmes that lead to its qualifications.”⁴⁰

³⁷ ILO/UNESCO. (2021). Final Report of the Fourteenth Session of the Joint ILO-UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel.

³⁸ These conventions, co-drafted by both the CoE and UNESCO began with the Lisbon Recognition Treaty of 1997: Convention on the Recognition of Qualifications concerning Higher Education in the European Region (ETS No. 165). It has gone through numerous revisions as technological advancement and migration trends have changed the scope of education since the 2000s. The convention specifies criteria for academic recognitions and qualifications for higher education, and more recently, it has adopted new regulations for refugee teachers. It has been updated throughout the past two decades in joint sessions with UNESCO.

³⁹ Council of Europe & UNESCO. (1997). Council of Europe/UNESCO Convention on the Recognition of Qualifications concerning Higher Education in the European Region, 23534 UNTS 145.

⁴⁰ CoE & UNESCO. (2007). Revised Code Of Good Practice In The Provision Of Transnational Education.

As more versions of the convention were revised, more emphasis was placed on the importance of foreign-qualification recognition for professional labour market entry.⁴¹ These calls manifolded with the onset of refugee influx as a result of the Syrian Civil War. A statement by the representatives of the Lisbon Recognition Treaty called for the development of a recognition criterion for refugees, displaced persons and persons in refugee-like situations.⁴² These calls were thus followed by an extraordinary session in November 2017, a framework was developed.⁴³ The Recommendation on Recognition of Qualifications held by Refugees is imperative on all State Parties to the Lisbon Recognition Convention. The recommendations are naturally non-binding, but they ask all States to speed up the process of recognition mandating that issues such as language, costs and timely processes don't act as a barrier to recognition.⁴⁴ However, the difficulty in education remains that teaching is a regulated profession within the countries party to the CoE, therefore, working within this profession—which directly requires a recognition of a refugee or an economic migrant's qualifications—becomes a national matter.

3) UNESCO Global Education Monitoring Reports

UNESCO Global Education Monitoring Reports have started advocating for a different outlook on migrant teachers – calling for migration policies which regulate entry to the labour market, specifically in the sector of education. It has released a series of reports over the last decade, which have increasingly engaged with previous blindspots.⁴⁵ The 2019 report

⁴¹ CoE & UNESCO. (2013). *Subsidiary Text To The Convention: "Recommendation On The Use Of Qualifications Frameworks In The Recognition Of Foreign Qualifications"*.

⁴² Statement of the Committee of the Convention on the Recognition of Qualifications concerning Higher Education in the European Region on the recognition of the qualifications held by refugees, displaced persons and persons in a refugee-like situation. (2016)

⁴³ It is known as Recommendation DGII/EDU/HE(2017)3.

⁴⁴ CoE/UNESCO. (2017). *Recommendation On The Recognition Of Refugees' Qualifications Under The Lisbon Recognition Convention And Explanatory Memorandum*.

⁴⁵ Migration push factors, teacher attrition in sending countries, insufficient data/problems with data measurement.

highlights that the integration of migrant teachers is crucial within the child-friendly school model, where all the other stakeholders in the education system aim at upholding children's rights to education. However, this integration process may be more difficult in this case than in other professions due to issues of recognition criteria, skills and qualifications, fair compensation and language requirements as the most common.⁴⁶ All of the aforementioned complexities could be translated into basic rights which this report comprehensively examines in its other sections.⁴⁷

B. Regional Cooperation: The Case of European Union

The European Union follows various other mechanisms⁴⁸ which emphasise the importance of migrant teachers for community building, cultural representation and even language learning. Once again, inclusion of migrant teachers—and more commonly stated, teachers of migrant background, is for the promotion of migrant student integration. This is best illustrated in: European Council conclusion (2009/C 301/07)⁴⁹ and (2009/C 218/17)⁵⁰.

Only in the case of the European Commission against Racism and Intolerance was the discussion centred on teachers of “minority groups” and the importance of their integration. This is a departure from the conventional inclusion of teachers as an instrument of child and/or student integration and not as the core policy.⁵¹

⁴⁶ Global Education Monitoring Report, UNESCO. (2019). Migration, Displacement and Education: Building Bridges Not Walls.

⁴⁷ See Section VI, on Migrant Teachers' Enjoyment of Human Rights. These complexities have also been touched upon by other Recommendations and Conventions.

⁴⁸ In addition to the aforementioned cooperation with UNESCO since 1997.

⁴⁹ The Council of the European Union. (2009). Council conclusions of 26 November 2009 on the education of children with a migrant background. The conclusion emphasises inclusive education policies, intercultural understanding, language support, and parental involvement as the main key points for successful integration of migrant students .

⁵⁰ European Economic and Social Committee. (2009). Opinion of the European Economic and Social Committee on the Green Paper — Migration & mobility: challenges and opportunities for EU education systems.

⁵¹ It is important to note that it is an analysis on our part to presume migrant teachers, who are evidently members of vulnerable communities, to be under the category of minority groups.

The report *Good Practices in Migrant Integration*⁵² showcases the example of Swedish programs on professional refugee teacher integration. Sweden has two main initiatives at the national level; the first program is aimed at continuing the professional development of refugee teachers over the course of 2 years in cooperation with Stockholm University⁵³, and the second is organised at 6 universities and lasts for a period of 26 weeks.⁵⁴ The specificities of these programs' effects is further elaborated in upcoming sections, but it is important to note however that the second program recorded high drop-out rates due to the demanded criteria. Therefore, the lines between the theoretical mechanism and its application did not necessarily complement each other. On another hand, our interviewees from Education International overall deemed the programmes as successful.

With a few exceptions which will be highlighted throughout this report, the European regional conventions on the topic of 'migrant teachers' remain centred around including teachers of migrant backgrounds for student-inclusion purposes or concentrate on equipping the already existing workforce with the necessary skills for teaching migrant and/or refugee students.⁵⁵

C. International Labor Organisation (ILO)

The ILO Convention on the Rights of Migrant Workers and Members of Their Families⁵⁶, adopted in 1990, sets out the rights of migrant workers and their families. Article 43 of the convention recognizes the right of migrant workers and their families to access

⁵² Organisation for Security and Co-operation in Europe. (2018). *Good Practices in Migrant Integration: Trainee's Manual*.

⁵³ This program was established in 2007 and requires advanced knowledge of the Swedish language.

⁵⁴ This program was established in 2016 as a response to teacher shortages induced by a need for first language teachers and bilingual classroom assistants following the number of refugees granted asylum in prior years.

⁵⁵ We see this in: "Handbook for Policy Makers: Recommendations for policy makers on inclusive education policies in pre-schools. (Inclusive Education: 2019)", "The European Economic and Social Committee and the Committee of the Regions Action Plan on Integration and Inclusion 2021-2027 (COM2020758 Final: 2020)", Programs such as Inkluzivní škola ([Inclusive School](#)) - eTwinning ([European School Education Platform](#)) - School Education Gateway ([ESEP](#)) - Online Language Support ([OLS](#)) - SIRIUS Network ([SIRIUS](#))

⁵⁶ ILO. (1990). *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*, 2220 UNTS 3.

education and training, including vocational training. It does not specifically address migrant teachers, rather migrant workers' childrens' right to education. It remains an umbrella convention, where the majority of the ILO' state parties have either not signed the convention nor ratified it.⁵⁷ Therefore, the Convention would not be able to guarantee such rights, especially in regulated professions without the support of other regional and domestic laws. Moreover, the convention is outdated and does not propose specific measures on the identified categories of immigrants both in this report and in other international organisations.⁵⁸ This is all demonstrated in Article (3) of the Convention which explicitly excludes the subjects of this report.⁵⁹

D. United Nations High Commissioner for Refugees (UNHCR)

The UNHCR in its 'Refugee Children: Guidelines on the Protection and Care', centres teachers as an integral part of refugee children's educational experience during different timelines in their refugee journey. It specifies that, "the refugee community should be involved early in an emergency to identify teachers among them and to organise educational opportunities for the children. It also means that education should be provided to children during the determination of refugee status or in reception centres." If the refugee teachers' accreditation does not match the educational system in place in the host country, the guidelines promote the hiring of refugee teachers as classroom assistants. They are required to be, "actively involved in the planning of the curriculum. Encourage refugee adults to initiate extracurricular activities or instruction to maintain cultural identity and language. Where separate educational services are established for refugee children, administrative, teaching and

⁵⁷ Almost 70% of the state parties have taken no action to codify the convention in their constitution. (As last updated by OHCHR on [OHCHR Dashboard](#))

⁵⁸ The IOM has an extensive list of such definitions. [IOM Glossary](#)

⁵⁹ Article 3: "The present Convention shall not apply to: (d) Refugees and stateless persons, unless such application is provided for in the relevant national legislation of, or international instruments in force for, the State Party concerned; (e) Students and trainees".

support positions should be filled by refugees unless a sufficient number of refugee teachers are not available.” In more detail than other reports, this one also encourages the development of migrant teacher training programs and vaguely raises the topic of migrant teacher wages as well, having been mentioned only once in the guidelines.⁶⁰

E. United Nations Relief and Works Agency for Palestinian Refugees in the Near East (UNRWA)

UNRWA maintains 706 schools in each of its field locations: Jordan, Lebanon, Syria, the West Bank (including East Jerusalem) and the Gaza Strip.⁶¹ It is important to note that all teachers are Palestinian refugees. There exists three categories hired within the school year. The first category are fixed-term teachers hired on three-year regular renewable contracts subject to initial probation periods. The second category are contracted teachers hired for nine-months, the school year period, and do not qualify for benefits that the first category do. The third category are substitute/emergency teachers who may be hired for short durations—they are not party to benefits either.

UNRWA schools have a preemptory recruitment system which stipulates different requirements depending on the level of teaching.⁶² These teachers are provided the necessary professional support they need granting them the opportunities for career development.⁶³ As of 2018, UNRWA developed what is now known as the Newly Appointed Teacher (NAT) Programme with a further handbook for all newly-appointed teachers, regardless of whether they meet the minimum qualifications previously set. The handbook is directly addressed to

⁶⁰ UNHCR. (1988). Refugee Children: Guidelines on Protection and Care. Available at <https://www.unhcr.org/protection/children/3b84c6c67/refugee-children-guidelines-protection-care.html>

⁶¹ UNRWA. Background: [Education](#)

⁶² “Teachers who teach at the lower elementary level (Grades 1 to 3) must hold a bachelor’s degree in education or classroom teaching...[for] subject teachers (Grades 4 to 6) [they] should have a bachelor’s degree in their subject specialisation.” UNRWA: Teacher Management in Refugee Settings: UNRWA Schools In Jordan

⁶³ UNRWA. (2021) Teacher management in refugee settings: UNRWA schools in Jordan

teachers with four different modules and 10 workshops.⁶⁴ It is over the period of 15 months, with progress reviews after 5 months. By the end of the programme, teachers will be assessed by evaluation committees to be approved for teaching. Throughout the over year long process, teachers are provided with the necessary technical support they need; from the School Principal, an Education Specialist, a Professional Development and Curriculum Unit Coordinator and their experienced colleagues of the school in which they are assigned.⁶⁵

The processes followed by UNRWA recruitment are not exhibited under the rights of migrant teachers—however by guaranteeing equal pay, training opportunities and social security, UNRWA promotes the rights of migrant teachers enrolled within its system.

F. United Nations Children’s Fund (UNICEF)

UNICEF’s released the Education, Children on the move and Inclusion in Education report by which they reiterate some of our previously mentioned observations⁶⁶. Migrant teachers serve as instruments of inclusion and integration policies aimed at student-inclusion. “In Sudan, refugee-hosting schools, with teachers recruited from the refugee population, have been established to help South Sudanese and non-Arab speaking refugees integrate into the national system and engage with host communities. In Thailand, Burmese migrants are hired in MLCs⁶⁷ to assist with teaching migrant Burmese children in their mother tongue.” Some of these teachers are hired on a voluntary basis—such as in South Sudan.⁶⁸ Various informal actors

⁶⁴ Module 1 is the beginner’s guide on teaching, classroom engagement and the context of work, i.e., the students. Module 2 discusses active learning and active teaching. Module 3 teaches how to manage the local environment while keeping the class interesting and inclusive for students. The fourth and final Module 4 discusses assessments of teaching as well as self-reflective thinking for teachers.

⁶⁵ UNRWA. (2018). Newly Appointed Teacher Program: Teacher Handbook.

⁶⁶ UNICEF. (2022). Education, Children on the move and Inclusion in Education.

⁶⁷ Migration Learning Centers.

⁶⁸ “In these alternative schools, the national education curriculum is taught by refugee volunteer teachers, who help with refugee student retention because they share linguistic and cultural commonalities, thereby making learning the national curriculum easier for South Sudanese children.” UNICEF: Education, Children on the move and Inclusion in Education.

take part in the resettlement process of newly arrived refugee children in the education sector. Some of these actors are parents and community leaders. Even the means by which this may be conducted is also informal—WhatsApp groups being one of them. The report concludes by proposing migrant and/or refugee teacher training in the areas of: language, culture but also capacity building and preparations in case of disruptions and hazards. It also recommends the hiring of female coaches and teachers to promote “women into positions of educational leadership.” The report does not however offer means of compensation for these teachers, especially voluntary refugee teachers—a category of teachers it introduces as facilitators between refugee students and their host institutions which has no union representation either. It does not specify further matters such as social security and pay/benefits which are matters that may further lead to discriminatory practices.

Main takeaways from the review of international bodies conventions, reports and recommendations:

The issue of migrant teachers has been a subject of discussion and concern within various international organisations over the years. UNESCO, as one of the more relevant UN bodies on this issue, was among the first to address the status of migrant teachers. Over time, the discourse around migrant teachers evolved, and in the early 2000s, UNESCO Global Education Monitoring Reports began advocating for migration policies that regulate entry to the labour market, particularly in the education sector. These reports emphasised the importance of integrating migrant teachers into child-friendly school models to uphold children's right to education. However, integration remained challenging due to recognition criteria, qualifications, fair compensation, and language requirements (which will be developed further in the following section).

Regional cooperation, such as that between UNESCO and the Council of Europe, led to conventions aimed at promoting academic mobility and the recognition of qualifications in higher education. As the refugee crisis grew, there were calls for specific recognition criteria for refugees and displaced persons. While these conventions were essential steps, working as a teacher in a regulated profession still often required national recognition of qualifications, making it a national matter. Therefore, the advances made by international bodies remain insufficient without national commitment to and upholding of their stipulations.

UNESCO, the joint ILO/UNESCO Committee of Experts, the Council of Europe, the ILO, UNHCR, UNRWA, and UNICEF have all released reports and drafted conventions regarding human rights surrounding teachers, migrants, refugees with some provisions overlapping between these topics. Through this section, we reiterate the influence of migrant teachers on community building, cultural representation, language learning, and policies aimed at student-inclusion. We discuss topics such as professional development, qualifications-based recruitment, salaries and working conditions, regulations for transnational education, qualifications recognition, teacher training, and various other rights concerning migrant teachers. It is important therefore to regularly stress on the importance of amending international mechanisms for solving contemporary matters. Although some legal documents set up invaluable frameworks and guidelines, binding legislation is still an issue when it comes to ensuring the enforcement of these standards. We also observe a notable absence of non-discriminatory mechanisms within the system. While the primary objective is to safeguard the rights of migrant teachers, it is important to establish protective mechanisms. Present efforts to involve migrant teachers in the educational system seem to lack these essential mechanisms. In doing so, it becomes crucial to regard teachers as the focal point of policy implementation

rather than mere instruments. Furthermore, it is vital to acknowledge that discriminatory behaviour extends beyond racial and political biases. Two critical aspects that necessitate limitation are (a) the non-recognition of degrees obtained by migrant teachers and (b) excessively demanding language requirements. Addressing these issues is imperative in ensuring the protection of migrant teachers' rights.

In what follows, we take a closer look at the manifestations and discrepancies in the enjoyment of these rights, focusing on the right to equal pay, the right to training opportunities, the right to tenure security and the right to social security.

IV. Migrant teachers' enjoyment of human rights

Based on the review done of the legal instruments mentioned in the previous sections, the five key rights of migrant teachers for the purposes of this report are: right to equal pay and benefits, right to training opportunities, right to tenure security, right to social security and academic freedom⁶⁹. The rights are closely linked to the fields of “education in emergencies”, “migrant labor”, “teacher status” and “teacher’s right”. This section will examine the rights in country context in the recent decade.

A. Right to equal pay and benefits

According to the ILO & UNESCO Recommendation concerning the Status of Teachers (1966), the salary should reflect the value of teaching and teachers to society and also take into account the various duties that teachers undertake from the moment they enter the workforce⁷⁰. The right to just and favourable conditions at work defined by the International Covenant on Economic, Social and Cultural Rights (ICESCR) includes “a fair wage that does not

⁶⁹ The addendum will elaborate on the academic freedom of migrant teachers.

⁷⁰ ILO & UNESCO. (1966). *Recommendation concerning the Status of Teachers*. Available at: <https://www.unesco.org/en/legal-affairs/recommendation-concerning-status-teachers>

discriminate between different workers” and “the same pay as anyone else for work of equal value”⁷¹. However, the gaps in salary have been a long-standing problem for migrant teachers, which reflects the discrimination embedded in the domestic mechanism of teacher’s qualification.

“Issues related to unequal pay and benefits are all derived from the basis that teacher’s qualifications are not recognized”, pointed out by an interviewee from Education International⁷². The migrant teachers would be trapped in a vicious circle where not fully recognized qualifications lead to contracts different from local teachers or secret employment, resulting in insufficient payment, social security and training opportunities as well as unstable tenure, which further hinders the qualification of migrant teachers. In Germany, migrant teachers who are recognized with only one subject instead of double-subject *Lehramtsbefähigung* (teacher qualification) are usually paid less and excluded for in-service (paid) training. The unequal access to the legal system adds difficulty to the fight for their right to equal pay as well, as stated by an interviewee from GEW⁷³. In addition, overseas teachers in German private schools have significantly lower pay, with some below the lowest wage line defined by German labour law⁷⁴.

Despite having the same qualifications and experience, migrant teachers in Thailand and Vietnam are often paid lower salaries than local teachers⁷⁵. Similarly, wide pay disparities existed in the United Arab Emirates between Jordanian teachers and local teachers. Jordanian teachers were paid between one half and one quarter the salary of teachers who were

⁷¹ International Covenant on Economic, Social and Cultural Rights (ICESCR). (1966). United Nations Treaty Collection. Article 7.

⁷² Interview with Education International.

⁷³ Interview with Gewerkschaft Erziehung und Wissenschaft (GEW).

⁷⁴ Interview with Gewerkschaft Erziehung und Wissenschaft (GEW).

⁷⁵ UNESCO Office Bangkok and Regional Bureau for Education in Asia and the Pacific. (2016). *Teachers in the Asia-Pacific: career progression and professional development*. Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000246011>

nationals⁷⁶. Zimbabwean migrant teachers express dissatisfaction with unequal pay compared to South African teachers due to the lack of recognition for their experience from Zimbabwe and vulnerability to exploitation. They believe that their expertise and qualifications are not adequately rewarded⁷⁷. The issue extends to private schools, where discrimination is even more pronounced. The salary disparity arises from migrant teachers often occupying temporary positions rather than permanent ones in schools⁷⁸. As a result, unequally low pay for migrant teachers, accompanied by low motivation, has become a leading factor in teachers' attrition⁷⁹.

In addition to the amount of pay, the method of payment shows a violation of migrant teachers' right to equal pay. Other forms of remuneration, typically "incentive pay", for refugee teachers who work for a UN or NGO agency are usually substantially lower than the monthly wages (salary) of non-refugee staff⁸⁰. In Ethiopia, the majority of teachers in refugee schools are refugees recruited from the camps, who are paid a small monetary allotment of the same amount as all refugees⁸¹. Refugee teachers in Jordan are largely employed on a daily paid basis and do not have access to entitlement to leave or benefits, which raises concerns about teacher workforce volatility⁸². The low "incentive pay" tends to rigidify the refugee situation of the teachers.

⁷⁶ Caravatti et al. (2014). *Getting teacher migration and mobility right*. Education International. 70. Available at <https://www.ei-ie.org/en/item/25652:getting-teacher-migration-and-mobility-right>

⁷⁷ de Villiers, R., Weda, Z. (2018). Zimbabwean Teachers in South Africa: their Needs and Advice to Prospective Migrant Teachers. *Int. Migration & Integration* 19, 299–314. Available at <https://link.springer.com/article/10.1007/s12134-018-0558-0>.

⁷⁸ Manik, S. (2014). We are working hand to mouth: Zimbabwean teachers' experiences of vulnerability in South Africa. *Migracijske I Etnicke Teme*, 2, 171–191.

⁷⁹ International Institute for Educational Planning, UNESCO & Ministry of General Education and Instruction, South Sudan. (2017). *South Sudan education sector analysis, 2016: planning for resilience*. 117. Available at <https://www.iiep.unesco.org/en/publication/south-sudan-education-sector-analysis-2016-planning-resilience>

⁸⁰ Inter-agency Network for Education in Emergencies (INEE). *Incentive Teacher*. Available at <https://inee.org/eie-glossary/incentive-teacher>

⁸¹ Bengtsson, S. et al. (2020). *Teacher management in refugee settings: Ethiopia*. Education Development Trust (UK) & UNICEF. 77. Available at: <https://www.iiep.unesco.org/en/publication/teacher-management-refugee-settings-ethiopia>

⁸² Education Development Trust. (2023). *Supporting teachers of refugees*. Available at: <https://www.educationdevelopmenttrust.com/our-research-and-insights/commentary/supporting-teachers-of-refugees>

The situation is similar in Dadaab, Kenya. Restricted by Kenya's labor laws, the refugees are not allowed to have formal jobs within the camps. Instead, they are hired as "incentive workers" in the camps' education and community health services and receive meagre "incentive payments"⁸³. The salary of refugee teachers is a fraction of Kenyan nationals' salary for working in the same position and it remains the same no matter whether they obtain post secondary qualifications. Furthermore, if refugee teachers earn more than the incentive wage by engaging in additional paid work, they will be penalised⁸⁴. The disparities of salary between refugee and non-refugee teachers has made the vocation less appealing to educated refugee professionals. According to an interviewee from Education International, the unequal payment and benefits to refugee teachers reflect the lack of sustainable and stable funding for refugee education, beneath which lies the low public attention on the rights of refugees⁸⁵.

In contrast, subject to the civil servant pay scale, some teachers abroad may receive additional compensation according to location, especially the teachers affiliated with the Language and Culture Centers Abroad (LCCA)⁸⁶. For instance, migrant teachers who teach English in some non-English speaking countries are overpaid. Working in international schools in China, foreign teachers teaching Advanced Placement (AP) lessons have an average salary 120% higher than their Chinese colleagues and the smallest salary gap is in the International Baccalaureate Diploma Programme curriculum where the average salary of foreign teachers is about 50% higher than that of Chinese teachers. Besides, the benefits of foreign staff covering insurance, housing, leave, children's education and various allowances are also significantly

⁸³ Caravatti et al. (2014). *Getting teacher migration and mobility right*. Education International. 79. Available at <https://www.ei-ie.org/en/item/25652:getting-teacher-migration-and-mobility-right>

⁸⁴ Duale, M. et al. (2019). *Teachers in displacement: learning from Dadaab*. Available at <https://www.fmreview.org/education-displacement/duale-leomoi-aden-oyat-dagane-abikar>

⁸⁵ Interview with Education International.

⁸⁶ Caravatti et al. (2014). *Getting teacher migration and mobility right*. Education International. 57. Available at <https://www.ei-ie.org/en/item/25652:getting-teacher-migration-and-mobility-right>

better than those of Chinese staff, which is a common phenomenon in international schools in China. In consequence, 54.7% of the staff are not satisfied with the salary⁸⁷.

The Covid-19 pandemic deteriorated the low salary of migrant teachers. Ugandan teachers' migration to Tanzania is mainly driven by generally higher salaries in Tanzania. However, during the pandemic, many students' parents lost their jobs and could not pay tuition fees. A Ugandan teacher in Tanzania explains, "We lost so many children. The school had about 1000 plus children. When covid struck, we lost a lot of children (because of parents' job loss...). The number of children at the school decreased to 700, which affected the running of the school and the number of staff". The teachers' salaries decreased as well. With the number of children declining, some schools were shut down and a number of migrant teachers were forced to return to their home countries⁸⁸.

In sum, getting paid, as an essential right of migrant teachers, is significantly hindered by qualification and nationality. Underpayment or "incentive payment" in the forced migration context diminishes stability and motivation of teaching, reflecting a lack of public attention to refugee education. The Covid-19 pandemic that affected the number of students and the financial situation of schools has threatened the income of migrant teachers as well. Meanwhile, foreign teachers being overpaid in some countries also lead to an unsatisfactory working environment and deepens the unequal pay among teachers. Yet, equal pay remains a secondary concern for migrant teachers as access to teaching jobs is inhibited by a major factor: training and qualification recognition.

⁸⁷ TopSchools. (2019). *2019 International Schools Salary and Teacher Development Report*. Available at: http://www.topschools.cn/news-detail?article_id=2426

⁸⁸ Interview with a migrant teacher in Tanzania.

B. Right to training opportunities

Training and orientation generally include language and cultural training, information on the education system, teaching methods, and policies in the host country⁸⁹. They are supposed to support migrant teachers to better cope with the cultural, linguistic, and professional challenges in a new environment. The 1960 Convention against Discrimination in Education, the first treaty that clarifies the training of teachers, requires states to “provide training for the teaching profession without discrimination”⁹⁰. Nevertheless, the adoption of structural adjustment measures during the 1990s by around 90 countries across continents led to a decrease in the availability of in-service training programs for teachers, accompanied by the introduction of expedited training initiatives, including those facilitated by the World Bank⁹¹. These measures were intended to curb public expenditures in the “adjusted” nations. Besides, in practice, some training provided to migrant teachers mismatches the criteria of teacher qualification in the destination countries for its low efficiency, insufficient time between learning and test or unequal opportunity for migrant teachers with different backgrounds.

Consistent with the long-standing unequal treatment of migrants and refugees with different backgrounds, some training programs exclude certain groups of migrant teachers. Although not stated in the policy, it is a promising practice that refugee teachers in Ethiopia are offered professional development based on their identified needs. They have the opportunities to gain qualifications while teaching as well⁹². Unfortunately, the pre-service

⁸⁹ ILO & UNESCO. (2015). *Joint ILO/UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel*. Available at <https://unesdoc.unesco.org/ark:/48223/pf0000235311>

⁹⁰ 1960 Convention against Discrimination in Education, Article IV (d), 429 UNTS 93, 14 December 1960 (entered into force 22 May 1962).

⁹¹ UNESCO, (1995). Effects of structural adjustment programmes on education and training. 147 EX/11. Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000101342>.

⁹² Bengtsson, S. et al. (2020). *Teacher management in refugee settings: Ethiopia*. Education Development Trust (UK) & UNICEF. 15. Available at: <https://www.iiep.unesco.org/en/publication/teacher-management-refugee-settings-ethiopia>

training of the program excludes both refugee teachers as participants and refugee teaching environments as training content for national teachers⁹³.

Language skills are usually the barrier for migrant teachers in the face of country-specific qualification regulations⁹⁴, adding to the necessity of training for migrant teachers. C1/C2 level of German is a prerequisite for migrant teachers to enter the German education system⁹⁵. According to the education union Gewerkschaft Erziehung und Wissenschaft (GEW), there are 12 special offers of German courses for migrant teachers embedded in the legislation of Bremen, Germany. The participants reduce their working hours to continue the language education without compensation, aiming at passing the language exam with 2 chances. Similarly, although considered as an advanced model, the Fast Track program for newly arrived teachers in Sweden faces a high dropout rate at the phase of Swedish language study and test. It provides training in Swedish language in the second phase to help the migrant teachers become eligible for complementary academic studies that will eventually lead to a teacher's certificate. However, from 2016 to 2019, approximately 10% of the participants dropped out before starting the complementary academic studies. On one hand, the additional academic studies bring relatively low returns in comparison to the large amount of time that migrant teachers invest. On the other hand, the length of language study does not meet the time required to develop a functional professional language⁹⁶. As a result, the Fast Track program as well as the German courses in Bremen only assist a limited number of migrant teachers to meet the language requirements for qualification.

⁹³ Bengtsson, S. et al. (2020). *Teacher management in refugee settings: Ethiopia*. Education Development Trust (UK) & UNICEF. 14. Available at: <https://www.iiep.unesco.org/en/publication/teacher-management-refugee-settings-ethiopia>

⁹⁴ UNESCO. (2018). *Global Education Monitoring Report 2019: Migration, Displacement and Education: Building Bridges, not Walls*. Paris, UNESCO. 220. Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000265866>

⁹⁵ C1 or C2 depends on the states.

⁹⁶ Ribe, P., (2019). The Fast Track for Newly Arrived Teachers in Sweden: the union's perspective, *Education International*. Available at <https://www.ei-ie.org/en/item/22895:the-fast-track-for-newly-arrived-teachers-in-sweden-the-unions-perspective-by-patrik-ribe>.

Language training remains indispensable even though some countries do not require the language fluency of migrant teachers. In Tanzania, the qualification of migrant teachers does not include a Kiswahili test, nor are there relevant training opportunities, yet Kiswahili is necessary for the teachers to communicate with students' parents, thus learning Kiswahili becomes a main difficulty, as argued by a migrant teacher in Tanzania⁹⁷.

Besides language, national values are considered crucial for migrant teachers to better adapt themselves to the host countries. Many countries implement civic integration policies where country knowledge and value commitment are mandatory for migrants to settle and naturalise⁹⁸. The establishment of civic education designed for migrants in European countries is recognized as a way to demonstrate non-negotiable values that function as othering. Migrant teachers go through the similar training process. For example, the Swedish Fast Track course for migrant teachers starts with the national school system and the teaching profession and incorporates some of the national values and practices, which were subsequently negotiated by the lecturers and migrant teachers. Different from the obligatory civic education for newly arrived migrants in many other European countries, the value systems of this Swedish Fast Track are based on national legislation and steering documents relating to education instead of presenting the more generalised value systems⁹⁹. Although accepting the underlying visions of Swedish teaching model, some migrant teachers still found it difficult to integrate the values into practice¹⁰⁰.

⁹⁷ Interview with a migrant teacher in Tanzania.

⁹⁸ Goodman, S.W. (2010) Integration Requirements for Integration's Sake? Identifying, Categorising and Comparing Civic Integration Policies, *Journal of Ethnic and Migration Studies*, 36:5, 753-772

⁹⁹ Mouritsen, P., Faas, D., & Witte, N. d. (2019). Leitkultur debates as civic integration in North-Western Europe: The nationalism of 'values' and 'good citizenship'. *Ethnicities*, 19(4), 632–653. <https://doi.org/10.1177/1468796819843538>

¹⁰⁰ Ennerberg, E. (2022). *Being a Swedish teacher in practice: analysing migrant teachers' interactions and negotiation of national values*. *Social Identities*. Available at <https://www.tandfonline.com/doi/citedby/10.1080/13504630.2021.2003772?scroll=top&needAccess=true&role=tab>

To conclude, the provision of professional training plays an important role in promoting migrant teachers' professional advancement and adaptation to society. The exclusion of refugee context limits the applicability of the training. The training of official language(s) of destination countries targets the language requirements of teacher qualifications yet it fails to address the language barrier in some regions due to its low efficiency and sustainability. The compulsory inculcation could add difficulty to migrant teachers' integration into the new environment, even possibly crossing the boundary of their freedom and rights of belief. What's more is that meeting these criteria may still leave migrant teachers vulnerable to short term contracts and does not necessarily guarantee substantial tenure security.

C. Right to tenure security

In an article published in the 1969 version of the UNESCO Courier, Samuel Parmar depicts what remains until today, the reality of migrant workers' job security, "Last to be hired, first to be fired." And although the ILO introduced provisions to protect workers' job security against dismissals in 1697,¹⁰¹ the ICESCR as a widely ratified treaty does not explicitly state the right to tenure (nor job security, or in any other form) as a right under Article 7, which mentions a variety of rights that workers must enjoy for "just and favourable working conditions". Whereas the International Covenant on the Protection of the Rights of All Migrant Workers and members of their Families does not mention these exact terms, Article 54 ensures that the migrant workers are entitled to "protection against dismissal".

There exists some voluntary recommendations such as the UNESCO Recommendation concerning the Status of Teachers that addresses the rights of teachers to security of tenure, but it does not specifically address the topic of migrant teachers.¹⁰² The same thing appears in objective 21 of the Global Compact for Safe, Orderly and Regular Migration that recognizes

¹⁰¹ UNESCO Courier. (1969). Building Blocks of Social Justice for 1,500 Million Workers.

¹⁰² UNESCO. (1966). *UNESCO Recommendation concerning the Status of Teachers*.

the importance of ensuring migrant workers' right to security of tenure, however not addressed to teachers specifically.¹⁰³

The tenure system in and of itself is under attack in academic circles in the United States for instance¹⁰⁴. An interviewee from Scholars at Risk outlines, "So if people say there are problems with tenure, that's fine. But then they need to propose a different system that provides better civility." Approximately, only 26.5% of professors in the US were tenured according to American Association of University Professors' survey¹⁰⁵. However, the tenure track remains out of reach for many migrant teachers whose positions are compromised from the beginning in comparison to their non-migrant counterparts. In the case of Germany, the qualification system inherently disadvantages migrant teachers and thus inevitably threatens their tenure security¹⁰⁶. The US case is very striking as the tenure track is being weakened in many states¹⁰⁷. Various academic articles highlight the disparities between migrant teachers' lack of tenure security as compared to other teachers. This is all but unique as Zimbabwean teachers in South Africa report an overwhelming sense of job insecurity as a result of short term contracts (3 months long and exceptionally 1 to 12 months long)¹⁰⁸. Although these teachers are integral to addressing South Africa's shortage, their status as migrant teachers leaves them with little to no assurances¹⁰⁹. Similar parallels can be drawn in the UK where migrant teachers are assigned to lower-performing schools, which is eventually reflected negatively on their tenure security.¹¹⁰ Examples from South Korea also display the effects of discriminatory practices that

¹⁰³ IOM. (2018). *Global Compact for Migration*.

¹⁰⁴ Interview with Scholars at Risk

¹⁰⁵ American Association of University Professors. (2021). *The Annual Report on the Economic Status of the Profession, 2020-21*.

¹⁰⁶ Interview with Gewerkschaft Erziehung und Wissenschaft (GEW).

¹⁰⁷ Kahlenberg, R. D., Odom, S. L., Wong, C., Mehta, J., Vilson, J. L., Justice, B., ... & Hakim, J. (2015). How due process protects teachers and students. *American Educator, Summer*.

¹⁰⁸ Weda, Z., de Villiers, R., (2019). Migrant Zimbabwean Teachers in South Africa: Challenging and Rewarding Issues. *Int. Migration & Integration* 20, 1013–1028.

¹⁰⁹ Weda, Z., de Villiers, R., (2019). Migrant Zimbabwean Teachers in South Africa: Challenging and Rewarding Issues. *Int. Migration & Integration* 20, 1013–1028.

¹¹⁰ Garcia, A., & Melo, A. I. (2018). Migrant Teachers' Experiences of Discrimination and Exclusion in the UK: Implications for Teacher Education. *Race Ethnicity and Education, 21*(5), 591-607.

migrant teachers are at a disadvantage when it comes to tenure security and career development, especially for the return migration to South Korea of Korean-American English teachers.¹¹¹¹¹²

In other cases, migrant teachers in Sweden and Australia facing challenges in integration due to language and cultural barriers have lower chances at successful careers in their host countries—all of which can be linked to lack of tenure security.^{113 114} Generally, linking integration to language requirements -irrespective of the subject taught- leaves migrant teachers in a compromised position vis-a-vis their job security.

D. Right to social security

Right to social security including social insurance should be granted to everyone. It is treated in detail in the ICESCR where Article 9 explicitly states, “The State Parties to the present Covenant recognize the right of everyone to social security, including social insurance.”¹¹⁵ This convention was ratified by 171 states, therefore pledging domestic cooperation. This is also reiterated in Article 5 of the International Covenant on the Elimination of All Forms of Racial Discrimination.¹¹⁶ The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families also establishes social security as a right to migrant workers and members of their families in their state of employment. This is elaborated in Article 27, where social security is made either the

¹¹¹ Na, W. (2018). Migrant Teachers' Experiences of Employment Discrimination and Its Impact on Their Career Development in South Korea. *Asia Pacific Education Review*, 19(3), 409-420.

¹¹² Cho, J. (2012). Global fatigue: Transnational markets, linguistic capital, and Korean-American male English teachers in South Korea. *Journal of Sociolinguistics*, 16(2), 218-237.

¹¹³ Kaur, H. (2020). The Challenges and Opportunities Faced by Migrant Teachers in Australia: A Case Study. *Journal of Education and Practice*, 11(29), 37-47.

¹¹⁴ Sandberg, A., & Link, H. (2019). Migrant Teachers and the Challenge of Integration: A Swedish Case Study. *International Journal of Educational Research*, 98, 1-10.

¹¹⁵ International Covenant on Economic, Social and Cultural Rights (ICESCR). (1966). United Nations Treaty Collection, 993 UNTS 3.

¹¹⁶ United Nations. (1966). International Convention on the Elimination of All Forms of Racial Discrimination, 660 UNTS 195, 21 December 1965 (entered into force 4 January 1969)..

responsibility of the State of employment or the State of origin based on the intergovernmental arrangements between the two. This of course would mean that the applicability of this is now contingent on both host and sending countries to be State parties of this Convention—only 58 States have ratified it. We therefore observe numerous accounts of migrant teachers employed without job security prospects. The Joint ILO/UNESCO Recommendations considers the right to social security protection as a right to all teachers.¹¹⁷ This includes medical care, sickness benefit, unemployment benefit, old-age benefit, employment injury benefit, family benefit, maternity benefit, invalidity benefit and survivors' benefit¹¹⁸. However, this remains a proposition to states and not a binding law.

The Shortage Hiring Model was adopted by the United States, United Kingdom, Philippines, India, Maldives, Nigeria and Ghana in response to the demand of teaching staff by engaging migrant teachers¹¹⁹. As the primary aim of hiring is not to diversify the curriculum, the teachers are not highly valued for their foreignness, nor adequately provided with structured support and protection.

Medical insurance plays an important role in directly protecting the safety of migrant teachers. Nevertheless, the majority of Zimbabweans teachers who were appointed on a temporary basis in South Africa had problems accessing health facilities as they did not belong to any medical scheme¹²⁰. This reflects the “medical xenophobia” rooted in South Africa towards Zimbabwean migrants which consists of negative attitudes and practices of health sector and the officials including refugee determination officers towards migrants¹²¹.

¹¹⁷ ILO & UNESCO. (1966). *Recommendation concerning the Status of Teachers*. Available at: <https://www.unesco.org/en/legal-affairs/recommendation-concerning-status-teachers>

¹¹⁸ILO. (1952). International Labour Organization Social Security (Minimum Standards) Convention, 102 ILO Convention. Available at https://www.ilo.org/secsoc/areas-of-work/legal-advice/WCMS_205340/lang--en/index.htm

¹¹⁹ Caravatti, M., Lederer, S. H., Lupico, A., & van Meter, N. (2014). *Getting teacher migration and mobility right*. Education International. Available at <https://issuu.com/educationinternational/docs/teachermigrationstudy>

¹²⁰ de Villiers, R., Weda, Z. (2018). Zimbabwean Teachers in South Africa: their Needs and Advice to Prospective Migrant Teachers. *Int. Migration & Integration* 19, 299–314.

¹²¹ Crush, J., & Tawodzera, G. (2011). Medical xenophobia: Zimbabwean access to health Services in South Africa. *Migration policy report number 54*. Cape Town: SAMP and OSISA.

For further analysis, migrant teachers are contextualised within the overall migrant workforce. In Bahrain, migrant workers are excluded from certain provisions in the labour and social protection laws, leading to not only unsafe work environments but also exclusion from social security benefits and so on¹²². Besides, social security is defined differently depending on gender in some countries. The Labour Code of Lebanon excludes domestic workers and agricultural workers who are mainly women and migrants. The welfare benefits offered to men, such as the right to extend one's national social security benefits to unemployed spouses, under the Labour Code and Social Security Law are not equally applicable to women¹²³.

Laws that inhibit migrant workers from enjoying equal social security benefits as other people deprive the human rights of migrant workers. The lack of social security for migrant teachers would result in the shortage of teachers, insatiable quality of education, etc., and affect the right to education of students as well.

V. Conclusion

The intersection of regulations in the sector of education (qualifications, recognition criteria, wages, social and tenure security), labour market-entry policies and migration laws have all played a part in the realization of migrant teachers' rights. This report sets out to summarise global, regional and some domestic perspectives of various actors (states, international organisations and trade unions) with regards to the promotion of the right to equal pay and benefits, the right to training opportunities, the right to tenure security and the right to Social Security. It highlighted instances of international discourse on the topic of migrant

¹²² ILO. (2022). *Understanding patterns of structural discrimination against migrant and other workers in some countries of South and West Asia Context of labour discrimination at the national level*. 22. Available at: https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_844072.pdf

¹²³ ILO. (2022). *Understanding patterns of structural discrimination against migrant and other workers in some countries of South and West Asia Context of labour discrimination at the national level*. 53. Available at: https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_844072.pdf

teachers through a body of international conventions and agencies (UNESCO, ILO, European Union, UNRWA, UNHCR, UNICEF). Through interviews, we also examined country-case studies by representatives of teacher unions in Germany and global unions such as Education International. Other academicians interviewed contextualised some examples from the US, Sweden. The report also consults migrant teachers residing in Tanzania and other existing literature on the topic for additional insights.

Among our key findings, we note that the process of recognition of teacher qualifications is a fundamental principle on which other rights rely. The recognition of teachers' academic qualification and professional experiences in different countries is determinant of their salaries, where they receive unequal pay in comparison to local teachers due to almost unattainable criteria. The language requirement constitutes a main barrier as the provision of training opportunities is not efficient enough to help the migrant teachers meet the language criteria. In some countries, the visa procedure uses a point system where factors such as teachers' education level, language fluency, existing job offer, etc. are all quantified as points determinant of their mobility. Tying these virtually unattainable qualifications to legal status in the country can be very problematic for migrant teachers. In our interviews with members of the German Education Union (GEW), many have reported their ongoing advocacy to lower the language criteria. German federal law initially stipulated that for teachers to qualify as civil servants, they must ensure a C2 language proficiency. Notwithstanding the ongoing national demands for lowering such criteria, the results were limited to only some federal states. Among them was Bremen—whereby C1 is the official language requirement for teacher qualification now whereas others such as Saxony and Berlin retain the C2 criteria.

To revisit other ideas proposed in the report, we cannot conclude on a confirmed causal reason explaining the lack of attention given to migrant teachers' in international conventions. However, our findings suggest that the mechanisms in place have historically emphasised the

priority in the aforementioned intersectional system—children’s rights to education and therefore a student-based approach. The child’s right to education, especially primary education, is a binding law which puts states at the forefront of designing and implementing mechanisms that ensure the child’s continuation of education regardless of his or her legal status in the country. Migrant teachers therefore are an instrument of this mechanism and not its core.¹²⁴ This may have affected the international discourse on the topic.

From the comparative perspective, the conventions, reports and recommendations delivered by international bodies demonstrate disparity with the human rights situation of migrant teachers. For instance, the Covid-19 pandemic exacerbates the underpaid situation of migrant teachers yet has barely been included in the existent works of international actors, with few exceptions such as the report released by the joint ILO/UNESCO Committee of Experts in 2021 that points out how the pandemic has negatively impacted teacher exchanges. Furthermore, there is hardly any international recommendation on the language criteria for qualifying foreign teachers or standardized training structure, while language skill constitutes a common barrier for migrant teachers. Besides, the urgent need for overseas teachers to fill the domestic teacher shortage in some countries does not extend to how they value the contribution of migrant teachers in practice. The intensity of international appeal seems to be reduced in the bureaucracy and inefficiency when introducing overseas teachers.

Whilst this report is a concerted effort in making the experiences of migrant teachers visible, it is undeniable that there is a significant geographic imbalance. The main reason for this is both shortage of data from regions such as Latin America and East Asia in addition to linguistic barriers inhibiting access to said information. In the same vein, there may be an overrepresentation of the German context because of the availability of data and the relevance of the topic on a national level. The time constraint also contributed to the shortage of

¹²⁴UNICEF. (1989). United Nations Convention on the Rights of the Child, 1577 UNTS 3, 20 November 1989 (entered into force 2 September 1990).

interviews as it is challenging to liaise with experts and individuals from varying time zones within such a limited timeline. Furthermore, and although it is the main objective of the report, centering the migrant experience was a shortcoming as emphasis was placed instead on expert interviews (from NGOs, International organizations and trade unions). In some cases, our interview requests were simply not confirmed, resulting in further lack of information. What's more, and despite our best efforts, our attempts at providing a post-pandemic context for teacher migration were not successful as data specific to migrant teachers was absent. Nonetheless, this report lays the groundwork for exploring this topic further and conducting in depth global interviews in order to gauge the overarching trends in teacher migration and the realization of their rights.

VI. Recommendations

Migrant teachers make additional contributions to the right to education in the fields such as languages, cultural heritage, etc. Their inclusive teaching based on the blend of cultures such as integrating their empirical knowledge in their country of origin as well as the host country would be an additional value to education¹²⁵. In order to protect migrant teachers' human rights and amplify their additional value to education, the following recommendations are addressed to the main stakeholders in the discussion on migrant teachers. Teaching remains a regulated profession and the following recommendations are based on short-comings noted throughout the research process.

A. States should consider to:

1. Recognize the efforts and contributions of migrant teachers toward the educational system and their added value.

¹²⁵ Interview with a migrant teacher in Tanzania.

2. Establish internationally recognized qualifications for teaching school subjects such as: Formal Sciences (Mathematics) and Natural Sciences (Chemistry, Physics, Biology).¹²⁶
3. Devise specialised committees for specific contexts whereby there is standardisation of requirements for all coming migrant teachers.¹²⁷¹²⁸
4. Facilitate foreign language-teaching as a solution to teachers who have specialised in degrees of literature in their home countries. (Arabic language, Ukrainian language...)
5. For Local Administrations
 - a) Make information from the Ministries of Migration, Ministries of Labour and Ministries of Education concerning teacher qualifications criteria, training, and payable fees accessible and affordable to vulnerable groups such as migrant teachers—especially those under the refugee protection protocols.
 - b) Facilitate domestic exchange of data, policies and response mechanisms amongst local authorities.
6. Reimbursement of training fees required by the state for language requisites, or further skills and subjects should they be a state-demand. The reimbursement may take shape in monetary forms and/or other social benefits.
7. Adjust residency permit requirements and duration of contracts.
8. Promote intergovernmental treaties to improve the protection of migrant teachers' rights.
9. Devise wage and benefit plans according to codified criteria.¹²⁹
10. Make governmental teacher training available online, especially the language training.

B. Trade Unions should consider to:

1. Make membership information and process accessible to migrant teachers.

¹²⁶ For Social Sciences to become universal, a content analysis would need to be conducted on all available sources for various different contexts. This process of research as well as implementation on individual migrant teachers is almost impossible—unless the migrant teacher does his/her/their specialised degree in institutions of the receiving country.

¹²⁷ Examples are the EU Migrant Teachers Qualification Recognition Criteria and Swedish programs for all incoming refugee teachers.

¹²⁸ These specialised committees may be located in receiving countries such as Germany, Turkey, Lebanon, Sweden, Jordan to name a few, tailored for context specific needs, such as Syrian refugee teachers. We propose this since the Syrian Civil War has been an ongoing conflict for over a decade, and these processes are no longer a novelty—host states must recognize the common trends and proceed accordingly.

¹²⁹ The criteria therein may depend on qualifications, experience, teaching cycles, classroom sizes, hours worked—but it may not discriminate on the basis of nationality, race, political opinions, or migrant status (refugee or economic migrant).

2. Build tight connections with migrant teachers and making them feel protected and empowered, which would boost their self-esteem and in turn improve their productivity¹³⁰.
3. Promote transnational union networks to adequately serve migrant teachers' interests.
4. Establish peer-to-peer learning platforms for members of the union to exchange experience and promote cooperative learning.
5. Establish and/or deepening association with the government-led developmental programs/policies related to international recruitment and teacher training programs¹³¹.

C. NGOs and IOs should consider to:

1. Collect more data on migrant teachers' enjoyment of human rights in collaboration with governmental sectors. For example, map the population and route of teacher migration, collect the time length of the qualification process, the main obstacles of migration and integration, and the amount of help migrant teachers receive from government and trade unions, thus quantifying migrant teachers' enjoyment of human rights in the database¹³².
2. Advocate for the rights of migrant teachers and highlighting their contribution to children's right to education, preferably with transnational collaboration among NGOs and IOs. For instance, GEW organised a petition on staff shortage where they call for eliminating discrimination in the recognition of teachers' qualifications¹³³.
3. Allocate more funds to raising the "incentive pay" for refugee teachers. As refugee teachers, accounting for a sizable proportion of "incentive workers" in UNHCR-managed camps¹³⁴, play a crucial role in refugee education, UNHCR, NGO together with Ministry of Education or national refugee agency personnel should ensure adequate funds for paying and training in the budget allocations.
4. Pay more attention to teachers when working on education projects. For example, accompanying the UN Child-friendly School Model¹³⁵, a teacher-friendly perspective needs to be considered as well.

¹³⁰ Interview with Gewerkschaft Erziehung und Wissenschaft (GEW).

¹³¹ Interview with Education International.

¹³² The OECD Database as a model <https://data.oecd.org/>.

¹³³ Gewerkschaft Erziehung und Wissenschaft (GEW). *Petition on Staff Shortages: We need Teachers! Action Now Against Staff Shortages!* Available at <https://weact.campact.de/petitions/wir-brauchen-lehrer-innen-personalnot-jetzt-bekampfen>

¹³⁴ UNHCR. (2015). *Refugee Teacher Management*. Education: Issue Brief 5. Available at <https://www.unhcr.org/media/33023>

¹³⁵ UNICEF, Child-friendly School. Available at <https://www.unicefusa.org/what-unicef-does/respect-children/child-friendly-cities/child-friendly-schools#:~:text=UNICEF%27s%20child-friendly%20school%20model%20promotes%20inclusiveness%2C%20gender-sensitivity%2C%20tolerance%2C.Educational%20environments%20must%20be%20safe%2C%20healthy%20and%20protective.>

D. All actors should consider to:

1. Make information about qualification, residence permits and legal means to defend human rights accessible to more migrant teachers, since “many migrant teachers do not fully know what their rights are as employees”¹³⁶.
2. Recognize teacher professionalism in the post-pandemic recovery by using technology appropriately to support the educational process and instead of replacing schools or teachers¹³⁷.
3. Produce data and literature on migrant teachers teaching through online platforms—where their rights are also not always guaranteed.¹³⁸

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¹³⁷ Based on the progressive outlook on teacher migrants from the Final Report of the Fourteenth Session of the Joint ILO-UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel.

¹³⁸ Such as: Preply, Udemy, Coursera, Udacity, Tutor.com and many more.

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Addendum: Academic Freedom of Migrant Teachers and Students

Hiba Boulmirate, Mona El Wali, Xinyu Liu

I. Introduction

Academic freedom is a foundational element of the right to education. Reports of abuses of academic freedom and the imprisonment of academics are on the rise¹³⁹. Moreover, repressive regimes recognize the power held by academic institutions, and thus attack them as a first step of their consolidation of power¹⁴⁰. The impact of academic freedom transcends ideological exchange. Shared governance is a common practice in universities whereby elected faculty and staff members actively participate in decision making and influence the internal governance of an institution⁽³⁾¹⁴¹. Therefore, academic freedom's reflection of civil and political rights deem it an instrumental part of this report. Furthermore, as it holds more individual significance to the research questions than the rights previously covered, we see that an addendum is a suitable format to elaborate on it. In what follows, we begin by providing a working definition of academic freedom and proceed to overview the international legal instruments and their recommendations with regards to academic freedom. Additionally, we analyze existing research and reports on academic freedom in general and its enjoyment by migrant teachers in specific, touching upon freedom of expression and freedom of movement. Finally, we conclude by providing recommendations to states, International and Non Governmental organizations and trade unions.

II. Definition of academic freedom

¹³⁹Scholars At Risk

¹⁴⁰ Interview with Scholars At Risk director, Robert Quinn

¹⁴¹ Academic Freedom, American Federation of Teachers. Available at <https://www.aft.org/position/academic-freedom>

The Lima Declaration on Academic Freedom and Autonomy of Institutions of Higher Education defines academic freedom as, “*the liberty of individuals to express freely opinions about the institution or system in which they work, to fulfill their functions without discrimination or fear of repression by the State or any other actor, to participate in professional or representative academic bodies, and to enjoy all the internationally recognized human rights applicable to other individuals in the same jurisdiction*”.¹⁴² This definition is not sufficient because it only addresses freedom of expression. Nevertheless, the UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel provides a better definition outlining that “*Higher-education teaching personnel have a right to carry out research work without any interference, or any suppression, in accordance with their professional responsibility and subject to nationally and internationally recognized professional principles of intellectual rigor, scientific inquiry and research ethics. They should also have the right to publish and communicate the conclusions of the research of which they are authors or co-authors*”¹⁴³. Additionally, academic freedom is mostly defined negatively, meaning it is measured by “the absence of legal, physical, or structural interference by state or non-state actors in a researcher’s personal autonomy, independence and integrity”¹⁴⁴. This addendum chooses the latter definition due to its simplicity and specificity to academia. Because this addendum is an accessory to the previous report and both fall under the overarching theme of the right to education, we conceive of academic freedom as the interaction between the right to education and freedom of expression. As the line between

¹⁴² E/C.12/1999/10, para. 39, with reference to the Lima Declaration on Academic Freedom and Autonomy of Institutions of Higher Education, art. 1 Available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G99/462/16/PDF/G9946216.pdf?OpenElement>

¹⁴³ UNESCO (1997), *Recommendation concerning the Status of Higher-Education Teaching Personnel*. Available at <https://en.unesco.org/about-us/legal-affairs/recommendation-concerning-status-higher-education-teaching-personnel#:~:text=Higher%20Deducation%20teaching%20personnel%20should%20contribute%20to%20the%20public%20accountability,for%20the%20advancement%20of%20knowledge>.

¹⁴⁴ Grimm, J. and Saliba I. “Free Research in Fearful Times: Conceptualizing an Index to Monitor Academic Freedom.” In: *Interdisciplinary Political Studies*, Issue 3(1) 2017: 41-75. DOI: 10.1285/i20398573v3n1p41

academic freedom and freedom of expression blurs, we perceive freedom of expression as an element of academic freedom.

III. International Bodies on “Academic Freedom”: Declarations, Conventions, Reports and Recommendations

In resonance with the previous sections on the human rights of migrant teachers, where the child-based approach has alienated migrant teachers from being the policy subject when discussing their cultural, social and economic rights – the following section will review the present conventions, recommendations and reports by the concerned instruments. In this section however, the focus will be on ‘academic freedom’ as a civil and political right of migrant teachers and students. The section will nonetheless explore similar conventions, reports and recommendations—albeit with a more tailored approach towards academic freedom.

As already defined, academic freedom encloses at its very core the principles of freedom of expression. It is imperative therefore to begin with the very first articulation of this freedom in the Universal Declaration of Human Rights, Article 19 states, “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.” In its preamble, the Declaration maintains that such rights should be upheld by teaching and education.¹⁴⁵ Which therefore brings us to the subject of this report—academic freedom conceptualized in the framework of migrant teachers and students.

The same is reiterated in the International Covenant on Civil and Political Rights (ICCPR) with more elaboration on what these rights and freedoms entail, however this one is a legally binding treaty to all those who ratify it.¹⁴⁶ Therefore providing more specific legal

¹⁴⁵ Universal Declaration of Human Rights (UDHR), adopted 10 December 1948, UNGA Res 217A (III), UN Doc A/810, at 71 (1948).

¹⁴⁶ As opposed to the Universal Declaration of Human Rights—a more umbrella treaty with no grounds for implementation instated through its sections.

obligations on states and other enforcement mechanisms. As part of the recommended course of action, this report specifically addressed trade unions in upholding the economic rights of migrant teachers. It is important to note however the political and civil responsibility of these unions in protecting migrant teachers' right to academic freedom. The (ICCPR) therefore stipulates in Article 22, Section 1, "Everyone has the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests."¹⁴⁷ The article does not mention migrant teachers per se, but they are included within the overarching proposition 'everyone'.

In a less binding manner however, the Joint Committee (ILO/UNESCO) in Annex 2, Article 17 of their 1997 Committee of Experts assembly, refers to the specific right of teachers on freedom of association and the right to organize.¹⁴⁸ It is worthy of noting that this report highlights 'volunteer' teachers—conceptualizing them as those of more vulnerable backgrounds and/or an answer to teacher shortages. In the early stages of the report, we demonstrate hiring patterns in South Sudan and Thailand, where migrant teachers are recruited on the same basis¹⁴⁹. The Joint Committee Report expects therefore that 'voluntary' teachers also enjoy the same rights of association. On specific elaboration concerning the academic freedom in itself—and not academic freedom as a consequence of labor rights, the Joint Committee states that, "The teaching profession should enjoy academic freedom in the exercise of its professional duties. More specifically, teachers should be given the essential role in the choice and adaptation of teaching material, textbooks and methods, within the framework of approved programmes and with the assistance of the educational authorities." Here, the activities

¹⁴⁷ International Covenant on Civil and Political Rights (ICCPR), adopted 16 December 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force 23 March 1976.

¹⁴⁸ UNESCO. (1966). Special Intergovernmental Joint Conference by UNESCO/ILO: Paris. (p. 38)

¹⁴⁹ Although the ILO/UNESCO Joint Committee report does not further define these vulnerable groups as 'migrants', the descriptive components of their definition matches with that of other conventions covering migrants.

mentioned represent the practice of academic freedom, similar to the UNESCO definition mentioned prior.¹⁵⁰ A way by which this right is safeguarded is by protecting teachers through long-term contracts, where a termination of employment would thus constitute a breach of contract as a result of an arbitrary decision.

Academic freedom as a civil and political right has also emerged in security-based policies. In their 2019 Global Education Monitoring Report, UNESCO noted that schools in the United Kingdom and the United States of America have committed to policies which limit academic freedom. These policies are rooted in the fear of what academic freedom, for both migrant students and teachers alike, could produce with regards to violent extremism.¹⁵¹ The 1997 UNESCO Recommendations notably remark the importance of ensuring that the, “Research is conducted according to the laws and regulations of the state in which the research is carried out, that it does not violate international codes of human rights, and that the results of the research and the data on which it is based are effectively made available to scholars and researchers in the host institution, except where this might place respondents in peril or where anonymity has been guaranteed.”¹⁵² This situation therefore puts academic freedom at the intersection of the universality of civil and political rights and respecting state sovereignty. It is a peculiar intersection seeing as one could easily override the other and infringe on the rights of those affected.

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families discussed in Article 13, “Migrant workers and members of their families shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally,

¹⁵⁰ The 1997 UNESCO Recommendations concerning the Status of Higher-Education Teaching Personnel, Section VII., Article 34, lists in detail all the practices which fall under academic freedom.

¹⁵¹ Such policies are extremely biased and proven in the same report as ineffective. There is no correlation between migrants escaping violent extremism and the reproduction of such ideas due to ‘academic freedom’.

¹⁵² UNESCO. (1997). Records of the General Conference: 14th Session, Paris.

in writing or in print, in the form of art or through any other media of their choice.” The sections of this article conform to the aforementioned UNESCO definition of academic freedom and by extension could be interpreted as an article protecting migrant workers’ (teachers) rights for academic freedom. And although the article itself was not insinuating ‘academic freedom’, it anticipates future repercussions similar to what U.S. and British policy makers anticipated. Article 13 thus limits this freedom to national security, public order and morals of the States concerned, and the prevention of potential violent and extremist propaganda. It is important to note that various categories whom this report is concerned with are excluded from the Convention under Article 3. These groups are refugees, stateless persons, students and trainees. The previous articles on academic freedom therefore may apply to migrant teachers, but not to students—and only to migrant teachers falling under the ‘economic migrant’ category.¹⁵³

The right for academic freedom manifested itself beyond an explicitly discussed right, but also as a result of various different areas of policy. These areas include labor laws (trade unions as advocates of academic freedom), security and politics as potential limitations of academic freedom, and finally the importance of respecting the cultural nature of the host states. This therefore begs the question of whether academic freedom must be therefore a universal right—or should it be tailored per state, curriculum, and even subject?

IV. Empirical evidence of migrant teachers’ and students’ academic freedom

Despite the rich sources of legal instruments attempting to guarantee academic freedom, the migrant status has formed a constraint on the teachers’ and students’ freedom to produce knowledge, publicly contribute to debates and move across borders with secure visas. Academic freedom as elaborated above is an extension of political rights. Nonetheless, it is

¹⁵³ International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, adopted 18 December 1990, G.A. Res. 45/158, 45 U.N. GAOR Supp. (No. 49A) at 262, U.N. Doc. A/RES/45/158 (1990), entered into force 1 July 2003.

difficult to frame academic freedom or infringements of it within the scope of migrant teachers¹⁵⁴. Essentially, the bulk of literature, reports available focus on the limitations of academic freedom within a specific national/ regional context. For instance, the IEMed academic yearbook of 2018 covers the theme of academic freedom in the MENA region. It outlines the decline of said freedom in the aftermath of the Arab Spring as hopes of reigniting academic freedom, bypassing censorship and becoming agents of political transition were squashed. The report also draws interesting patterns wherein countries that evolved into full fledged conflict (Yemen, Syria, Libya), universities become barely functional¹⁵⁵. Yet, where prominent scholars and/or student activists are viewed as crucial to groups seeking control over a certain territory, these people are subjected to torture, disappearance and intimidation. An estimation shows that 2000 scholars were displaced as a result of the war in Syria. The number is probably higher if unrecorded cases are accounted for¹⁵⁶. There is a general understanding or assumption that the social sciences can be a dangerous discipline that leaves scholars vulnerable to persecution as evidenced by the previous reports on the state of academic freedom post-Arab Spring. Nonetheless, Scholars at Risk (SAR) director warned from such assumptions: *“And I think we really need to resist calling certain areas, troublemaking or dangerous disciplines, because that's what power wants. Power wants us to isolate those areas. And therefore label those people who ask those questions troublemakers, and so that good members of society don't do that kind of thing.”* This has been especially relevant during the Covid-19 pandemic where scientific research became loaded with political undertones and academic freedoms were limited¹⁵⁷.

¹⁵⁴ The definition of migrant teachers provided in the report includes professors/scholars.

¹⁵⁵ Saliba, I. (2018). Academic freedom in the MENA region: Universities under siege. *European Institute of the Mediterranean (Ed.), Mediterranean Handbook*, 313-316.

¹⁵⁶ Hattam, J. “Science, Interrupted,” *Discover Magazine*, viewed 11 October 2017, <http://discovermagazine.com/2017/sept/science-interrupted>.

¹⁵⁷ Jones, D. G. (2022). Academic Freedom, COVID-19 and Other Challenges to Academic Debate. *Medical Research Archives*, 10(4).

When it comes to migrant teachers specifically, an article by American Association of Academic Professors (AAUP) scrutinizes the trend of off-shore North American universities in the Gulf. While the economic payoff of these increasingly popular ventures is attractive, issues pertaining to the maintenance of a “cultural zone” around campuses arise¹⁵⁸. NYU Abu Dhabi was to essentially benefit from similar protections as a “trade free zone”. Nevertheless, AAUP expressed concerns over both the fickle nature of these protections (limited to NYU’s campus) and the sense of privileged and selective enjoyment of rights which does not include native citizens of the UAE nor residents¹⁵⁹. Scholars at Risk is one of the few institutions that work directly with professors/researchers at risk of persecution regardless of legal status. SAR also serves as a monitoring device on violations of academic freedom through their Academic Freedom Monitoring Index¹⁶⁰, which shows that in 2022 alone, there have been 221 attacks on higher education, ranging from killings to loss of positions. Academic freedom as an extension of civil and political rights transcends the confines of classrooms or universities. In SAR director’s words: *“They allowed the public to think academic freedom is only about professors, and not about the public. And that then means tenure is only about professors and not about and we need the public to understand that academic freedom protects the public and protects democracy and protects human rights. Protect gender rights, checks, diversity”*.

A. Freedom of expression

The analysis in this section mainly covers the right to access, produce, disseminate information, develop, express and apply knowledge and the right to publicly contribute to public debates within their fields of expertise or study. Although many countries have placed greater emphasis on “understanding and respect for all peoples, their cultures, civilizations,

¹⁵⁸ Ross, A. (2011). Human rights, academic freedom, and offshore academics. *Academe*, 97(1), 14-17.

¹⁵⁹ Ross, A. (2011). Human rights, academic freedom, and offshore academics. *Academe*, 97(1), 14-17.

¹⁶⁰ <https://www.scholarsatrisk.org/academic-freedom-monitoring-project-index/>

values and ways of life” and “readiness on the part of the individual to participate in solving the problems of their community, country and the world at large” in their national curricula, the teaching materials do not sufficiently match the stated curricular priorities¹⁶¹. For instance, content about conflict prevention and conflict resolution was only included in around 10% of social science textbooks from 2000 to 2011¹⁶². Furthermore, freedom of speech and expression in education were limited or deprived by some policies against violent extremism which increased law enforcement involvement in education¹⁶³. Turkey entered a State of Emergency after coup attempts in 2016. This national crisis was then used as justification for the enactment of restrictive and regulatory laws that limited academic freedom in educational institutions. Especially, the migrant status puts scholars and students at greater risk when it comes to conflict studies. Due to their suspected connections to the Gülen movement, which the government accuses of being responsible for the military coup on July 15, 2016, almost all university professors and lecturers have become targets of prosecution¹⁶⁴. Aside from the sensitive topics about conflict and security, some other teaching restrictions based on national values show the loss of academic freedom of migrant teachers as well. For example, a US/European lecturer was prohibited by her Gulf region university from “teaching about Jewish or gay sociologists, i.e., Zygmunt Bauman and Michel Foucault”¹⁶⁵.

B. Freedom of movement

Freedom of movement is fundamental to academic freedom as it advances the exchange of new ideas and bolsters international academic collaborations. The report of Special

¹⁶¹ UNESCO. (2018). *Results of the 6th Consultation on the implementation of the 1974 Recommendation*.

¹⁶² UNESCO. (2018). *Global Education Monitoring Report 2019: Migration, Displacement and Education: Building Bridges, not Walls*. Paris, UNESCO. 194. Available at: [Global education monitoring report, 2019: Migration, displacement and education: building bridges, not walls - UNESCO Digital Library](#)

¹⁶³ UNESCO. (2017). *Preventing Violent Extremism through Education: A Guide for Policy-makers*.

¹⁶⁴ Saliba, I. (2018). Academic freedom in the MENA region: Universities under siege. *European Institute of the Mediterranean (Ed.), Mediterranean Handbook*, 313-316.

¹⁶⁵ Morley, L., Alexiadou, N., Garaz, S. et al. (2018). Internationalisation and migrant academics: the hidden narratives of mobility. *High Educ* 76, 537–554.

Rapporteur Promotion and Protection of the Right to Freedom of Opinion and Expression emphasizes that freedom of expression is “regardless of frontier”¹⁶⁶, indicating that scholars enjoy the right to pursue and acquire work in all academic fields, as well as to disseminate their own work or share the work of others across national boundaries.¹⁶⁷ Besides, the progression of the Higher Education Research Area and the implementation of a more robust education and lifelong learning policy since 2000 have resulted in the incorporation of “knowledge mobility” as the “fifth freedom” throughout Europe — a fundamental concept in the Bologna Strategy and the policy advancements of the European Union.¹⁶⁸ Migrant teachers and students play an important role in mobilizing knowledge yet their freedom of movement and freedom to share knowledge and collaborate with others is impeded by the lengthy governmental process of security clearance and approval before issuing the research visa¹⁶⁹, travel restrictions to certain countries and policies in response to Covid-19 pandemic, etc.

States have the right to control entry into their territories consistent with their obligations under domestic and international law. Some governments deny scholars’ and students’ entry, deport members of the academic community, and enact policies that seek to or unintentionally limit or frustrate academic travel, including for fieldwork, conferences, study abroad, and taking up employment offers. These may violate academic freedom, freedom of expression, and other internationally recognized freedoms. The policy of restrictions has a disproportionately negative impact on higher education and may result in the violation of state obligations to protect the right to education and freedom of expression, even though they prioritize the protection of national security and public health and/or the support of other

¹⁶⁶ International Covenant on Economic, Social and Cultural Rights. Article 19 (2).

¹⁶⁷ Kaye, D. (2020). *Promotion and Protection of the Right to Freedom of Opinion and Expression*, UN General Assembly Seventy-fifth session, 20.

¹⁶⁸ Morley, L., Alexiadou, N., Garaz, S. et al. (2018). Internationalisation and migrant academics: the hidden narratives of mobility. *High Educ* 76, 537–554.

¹⁶⁹ Kaye, D. (2020). *Promotion and Protection of the Right to Freedom of Opinion and Expression*, UN General Assembly Seventy-fifth session, 21.

legitimate state interests¹⁷⁰. Travel restrictions are deeply embedded in the political dynamics between states considering ideology, etc. For instance, executive order No. 13780 was issued in 2017 and remained in effect until January 2021, which restricted travel from Iran, Libya, Somalia, Sudan, Syria, and Yemen. Prior to the executive order, the six Muslim-majority countries sent more than 17,500 students and scholars to the US¹⁷¹. The order was commonly referred to by human rights and higher education groups as the “Muslim Ban” given that it discriminated against Muslims and did little to address national security concerns which was the purported intent of the US authority¹⁷².

Among all the visa-related factors, work authorization is most closely associated with the access of skilled migrant workers to employment mobility and professional development, etc. When staying in the host country, skilled migrants tried to switch to visa statuses that facilitated their pathways to qualification-matched employment¹⁷³. For the teachers and students specifically, the issuance of their visa is highly determined by their previous publications and activities and current areas of study, etc. For example, In 2017, an American teacher of Cameroonian origin was blocked from leaving Cameroon, arrested and blacklisted from Cameroon in retaliation for his article critical of the government¹⁷⁴. He was later released from detention and deported to the US yet reportedly banned from returning to Cameroon where he holds dual citizenship. Likewise, Zambia’s government detained and deported Professor Lumumba, a Kenyan law professor who was invited to deliver a lecture on Chinese-

¹⁷⁰ Scholar at Risk. (2021). *Free to Think: Report of the Scholars at Risk Academic Freedom Monitoring Project*.

¹⁷¹ Institute of International Education. (2022). *Open Doors*, Available at <https://www.iie.org/Research-and-Insights/Open-Doors>.

¹⁷² Scholar at Risk. (2021). *Free to Think: Report of the Scholars at Risk Academic Freedom Monitoring Project*.

¹⁷³ Shirmohammadi, M., Beigi, M. & Stewart, J. (2019). Understanding skilled migrants’ employment in the host country: a multidisciplinary review and a conceptual model, *The International Journal of Human Resource Management*, 30(1), 96-121.

¹⁷⁴ Scholars at Risk AFMP, (2017), *Protecting scholars and the freedom to think, question, and share ideas*. Available at <https://www.scholarsatrisk.org/report/2017-12-07-suny-stony-brook/>.

African relations in 2018, probably because the topic is politically sensitive due to the Zambian government's heavy reliance on Chinese loans¹⁷⁵.

Furthermore, the COVID-19 pandemic and the policies in response hindered scholars and students to engage in international academic travel. Governments enacted strict travel restrictions in 2020 that limited the entry of citizens and permanent residents and required self-quarantine upon arrival. As higher education institutions suspended on-campus activities and applied online learning instead, most scholars and students abroad were called to return home. Despite the necessity to address the health challenge of COVID-19, the travel restrictions lead to systemwide disruptions to research, teaching, conferences, and other academic activities that benefit from freedom of movement¹⁷⁶.

To sum up, the freedom of movement of migrant teachers and students is largely determined by how states perceive their field of studies, opinions, influence and necessity of travel based on the trade-off including national security, political interest, global health, etc. The negative perception is mainly demonstrated by the low efficiency of visa issuance, detainment, and denial of entry, which forms an obstacle to knowledge exchange and violates the protection of academic freedom and the right to education.

V. Conclusion and Recommendations

This addendum focuses on the academic freedom of migrant teachers and students, which is a crucial aspect of the right to education. Academic freedom is increasingly being violated, especially by repressive regimes. Various international declarations, conventions, and reports recognize and provide recommendations for safeguarding academic freedom. Empirical evidence shows that migrant teachers and students face constraints on their academic freedom

¹⁷⁵ Scholars at Risk AFMP. (2018). *Protecting scholars and the freedom to think, question, and share ideas*. Available at <https://www.scholarsatrisk.org/report/2018-09-28-kabarak-university/>.

¹⁷⁶ Scholar at Risk. (2021). *Free to Think: Report of the Scholars at Risk Academic Freedom Monitoring Project*.

due to their migrant status and specific political contexts. These constraints affect their freedom of expression, including accessing information and participating in debates, as well as their freedom of movement for knowledge exchange and collaborations.

In order to protect the academic freedom of migrant teachers and students especially by promoting their freedom of expression and movement, the following recommendations are addressed to the main stakeholders.

A. States should consider:

1. Facilitating visa application for teachers and students to increase academic mobility
2. Enhancing resilience towards emergency situations to mitigate the travel restrictions brought by emergencies to the teachers and students.
3. Agreeing to the admission of international monitoring mechanisms which would accurately reflect the situation.
4. Guaranteeing independent funding channels to ensure the transparency and non-alignment of research.

B. NGOs and IOs should consider:

1. Publicizing information around violations of academic freedoms.
2. Providing legal assistance to migrant students and teachers facing infringement on their academic freedom rights.
3. Organizing international hybrid events of idea exchange to encourage migrant teachers and students to express freely.

C. Schools and universities should consider:

1. Protecting the privacy of migrant teachers and students, especially of those escaping prosecution of their country of origin.

2. Detecting the potential risks of certain research topics in certain countries and reminding the scholars and students with field work.
3. Collaborating with national governments to develop and implement policies that explicitly recognize and protect academic freedom for migrant students and teachers.