

Assessing the Criteria for Equality of the Right: Refugees' Higher Education from the Perspective of Human Rights*

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Abstract

With the Syrian refugee crisis, the subject of refugees' access to HE, which was only partially funded owing to donor reluctance, was prominently covered in the news, with concepts such as preventing the lost generation, resilience, reconstructing countries, and education as a human right. With the Ukraine crisis, the issue of supporting the higher education of refugees came to the fore again. By 2030, the UNHCR plans to have 30 per cent of refugees enrolled in HE. Although primary education is a right guaranteed by international agreements, equality of refugees' right to higher education depends on some criteria. Through document analysis, this paper aims to examine the criteria for equality of the right to access to higher education in the context of human rights. International regulations, UNHCR's education strategies and country policies are examined. Data were categorized into four groups as equality of the right and equal opportunities: success, legal statuses, state's institutional support and donor support. The policies of Canada, Germany, Türkiye and the United Kingdom are examined. Addressing refugee higher education within the scope of human rights only supports the availability of the service. Success and legal status are the criteria for ensuring the equality of the right. The access to higher education right and the provision of financial support only to recognized refugees will create inequality for groups such as asylum seekers who are not legally refugees. The support of countries and donors are necessary to ensure equal opportunities for refugees to access higher education. Furthermore, refugees' access to higher education can be seen as a long-term and global strategy that should be supported by economic and social reasons.

Keywords: human rights, second generation rights, integration, development, refugee higher education, legal statuses and inequality, state and donor support

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Hak Eşitliğine İlişkin Kriterlerin Değerlendirilmesi: İnsan Hakları Perspektifinden Mültecilerin Yükseköğrenimi

Öz

Suriyeli mülteci krizi ile birlikte daha önce başışçuların tereddütleri nedeniyle sınırlı biçimde desteklenen mültecilerin yükseköğretime erişimi konusu kayıp neslin önlenmesi, dayanıklılık, ülkelerin yeniden inşası, eğitimin insan hakkı olduğu gibi kavramlarla basında yoğun bir biçimde yer almıştır. Ukrayna krizi ile birlikte mültecilerin yükseköğretiminin desteklenmesi konusu tekrar gündeme gelmiştir UNHCR 2030 yılına kadar mültecilerin yükseköğretiminde %30'a ulaşmayı hedeflemektedir. Temel eğitim uluslararası sözleşmelerle korunan bir hak olmakla birlikte mültecilerin yükseköğretim hakkının eşitliği bazı kriterlere bağlıdır. Bu makale mültecilerin yükseköğretime erişiminin eşitliğine ilişkin kriterleri insan hakları bağlamında doküman analizi yoluyla incelemeyi amaçlamaktadır. Uluslararası düzenlemeler, UNHCR eğitim stratejileri ve ülke politikaları incelenmiştir. Veriler, başarı, yasal statü, kurumsal devlet desteği, başışçı desteği olmak üzere dört grupta hak eşitliği ve eşit fırsat olarak kategorize edilmiştir. Türkiye, Almanya, Birleşik Krallık ve Kanada politikaları incelenmiştir. Mülteci yükseköğretimini insan hakları kapsamında ele almak sadece hizmetin mevcut olmasını destekler. Başarı ve yasal statü hak eşitliğinin sağlanmasının kriterleridir. Yükseköğretime erişim hakkı ve finansal desteklerin yalnızca tanınan mültecilere sağlanması ise yasal olarak mülteci statüsünde olmayan sığınmacılar gibi gruplar açısından eşitsizlik doğuracaktır. Ülkelerin ve başışçuların desteği ise mültecilerin yükseköğretime erişiminde eşit fırsatların sağlanması için gereklidir. Diğer taraftan mültecilerin yükseköğretime erişimi ekonomik ve sosyal gerekçelerle desteklenmesi gereken, uzun dönemli ve global bir strateji olarak görülebilir.

Anahtar Kelimeler: *insan hakları, ikinci nesil haklar, entegrasyon, kalkınma, mültecilerin yükseköğretimi, yasal statü ve eşitsizlik, devlet ve başışçı desteği*

Introduction

There are 84 million forced migrants at mid-2021, of which 26.6 million are refugees, 4.4 million are asylum seekers, and 48 million are internally displaced (UNHCR, 2021b). When the number of refugees is compared by country of origin, Syrians take the lead with 6.8 million, followed by Afghans with 2.6 million and South Sudanese with 2.2 million (UNHCR, 2021b). According to UNHCR statistics, Türkiye hosts 3,588,131 Syrian refugees, Lebanon has 910,256, Jordan has 656,103, Iraq has 129,642 and Egypt has 31,657. (UNHCR, 2020). The number of refugees who left

Ukraine since February 24, 2022 is 5,563,959 (*Situation Ukraine Refugee Situation*, 2022).

Refugees' access to higher education (HE) is a developing area, and researches have started to increase with the policies of countries in this area, especially since the 2015 Syrian refugee crisis. As of 2015, 90,000-110,000 of 450,000 Syrians between the ages of 18-22 in the Middle East region had the necessary conditions to continue HE (Redden, 2015). In pre-war Syria, the rate of attendance in HE in cities was estimated to be 26% for men and women, while in rural regions, the figure was 17% for men and 15% for women (Watenpaugh et al., 2014a). According to UNHCR figures from 2017, children under the age of 18 make up 52 per cent of the refugee population; 4 million of the 7.4 million refugee children are unable to attend school, and half of them are in high school (UNHCR, 2018b, pp. 5–10). It is extremely difficult for refugees to pursue their primary and post-basic education. Access to primary education is 63%, secondary school is 24% for refugee children, and access to HE is 3% for refugee youth (UNHCR, 2019b, p. 6). While the rate of access to HE was 1% before 2018, this rate increased to 3% (87,833 refugee students) as a result of policies especially supporting Syrians' access to HE (UNHCR, 2019b, p. 37). The UNHCR aims to increase refugees' access to HE, including vocational HE, from 3% to 15% by 2030 and considers the greatest difficulty as the small number of refugee students who have graduated from high school (UNHCR, 2019c). Between March 2019 and March 2020, the average enrolment rates of refugees in education were 68 percent in elementary school, 34 percent in secondary school, and 5% in HE (UNHCR, 2021, p. 9). It is important to consider the HE for refugees as a component of human rights to enhance donor support and attain the 15% objective by 2030.

While the global education movement was founded on the Dakar Declaration on Education for All and the Millennium Development Goals of 2000, HE remained outside of these goals, focusing only on primary education (Dryden-Peterson, 2010, p. 10). While education was not included in the scope of humanitarian aid before, with the establishment of the Inter-agency Network for Education in Emergencies (INEE) in 2004 and the institutionalization of the Inter-Agency Standing Committee (IASC) in 2006, it has started to take place in education as a field within humanitarian aid (Dryden-Peterson & Giles, 2010, p. 3). Although the notion of emergency education dates back to the formation of UNHCR in 1950 and UNRWA in 1949, the concept of “complex emergency” became popular in the 1990s (Kagawa, 2005, p. 488). Education is regarded as transient in emergencies because it is perceived as therapeutic; in this instance, education is seen as elective, which precludes professional treatment and hence funding (Bensalah et al., 2001, p. 9). Education in crises includes the pe-

riod from the initial months following a crisis until the normal education system is operational when children are unable to obtain education inside the national education system, and UNHCR considers mass repatriation to be an emergency (Crisp et al., 2001, p. 4).

Human capital and economic theories were used to explain education-related development aid to low-income countries in the 1980s and 1990s (Novelli, 2010, p. 453), but following the 9/11 attacks, the link between education, peace and conflict was highlighted (Novelli & Lopes Cardozo, 2008). Barnett (2005) draws our attention to the fact that the end of the Cold War increased the need for humanitarian actions, that countries began to use politicized humanitarian actions for foreign policy and strategic purposes, and that, following 9/11, humanitarian actions and anti-terrorism became as a tool for combating crime.

Following the outbreak of violence in Syria in 2011, a refugee movement extended first to neighbouring countries, and then to the entire world. Resettlement, voluntary return, and local integration are long-term and durable options. If the voluntary return is provided, the highly educated group may play a vital role in origin countries' reconstruction. The Syrian refugee crisis has highlighted the need of minimizing lost generations and ensuring equal access to education. The fact that more than half of the Syrian refugees are under the age of 18 and the conflict continues in Syria has increased the efforts for higher education and brought it to the agenda of international organizations.

Access to education is a fundamental human right, and international treaties such as the 1948 Universal Declaration of Human Rights, 1951 Convention relating to the Status of Refugees, International Covenant on Economic, Social and Cultural Rights, the 1989 Convention on the Rights of the Child, and the 1979 Convention on the Elimination of Discrimination Against Women all include obligations for compulsory primary education. International human rights agreements promote educational equality, and discrimination is forbidden. While access to education is one of the human rights, it also plays an important role in increasing individuals' abilities and breaking the cycle of poverty. Continuity of education is critical for refugee children and teens who must leave their country, and their "statelessness" (Shacknové, 1985) adds significant challenges to their ability to continue their education.

According to the UNHCR Education Strategy 2010-2012, the most significant barrier to higher education (HE) is donor reluctance over programme finance (UNHCR, 2009, p. 21). Higher education is not a priority for humanitarian donors, and only a limited number of donors fund this subject (UNHCR, 2009, p. 21). Internati-

onal organizations, donors, and countries have mostly concentrated on primary and secondary education at a specific level. HE is typically regarded as a privilege rather than a right (Zeus, 2011). Although considerable progress has been achieved in terms of refugees' access to primary education, access to secondary school is limited, and refugee enrolment in HE remains low, albeit it is increasing with Syrian refugees. The expansion of refugees throughout the world as a result of the Syrian crisis has boosted efforts to encourage education and access to HE. The significance placed on education is growing by the day, with notions such as preventing lost generations, local cohesiveness, becoming a role model, contributing to both communities, contributing to development, eliminating poverty, and reconstructing Syria standing out.

Access to HE, on the other hand, is restricted in certain countries for economic reasons, even for their own population. However, the content and basis of the concept of right in question are somewhat unclear. Refugees, depending on their status in the countries where they live, might benefit from services as citizens and/or foreign students in obtaining HE. Just because international regulations recognize access to higher education does not mean that it is free and unrestricted.

This article aims to explore the criteria about equality of the right to refugee higher education from the perspective of human rights. In this context, international legislation and UNHCR education strategy documents are used to identify access to education requirements and constraints. For this purpose, Türkiye, Germany, Canada and the United Kingdom (the UK), where civil society support is evident, were selected to give an example about the criteria or limits. Following the introduction, the second part examines the role of HE for refugees through the literature. In the third part, the methodology is explained. In the fourth part, findings were analysed. This article aims to assist policymakers and practitioners by clarifying the requirements and boundaries for higher education from a human rights standpoint.

The Importance of Higher Education for Refugees

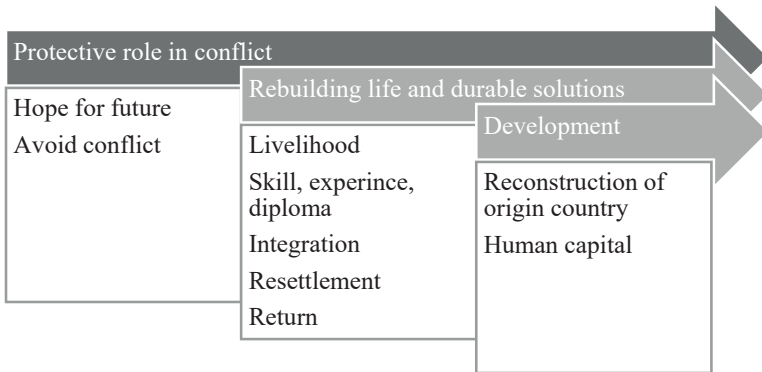
Shacknove (1985) defines a refugee as a state of “unprotected statelessness” as the situation in which the social contract between the state and the citizen comes to an end. Beyond providing their fundamental requirements, such as food and housing, under the scope of emergency needs within the scope of humanitarian protection, refugees' statelessness compels them to re-establish their lives and have alternative options to make a livelihood in case the refugee situation becomes long-term. Their means of livelihood include not just financial resources, but also education, health, skills, and social capital. Refugees struggle to reconstruct their lives owing to issues such as a lack of work permits, documents, or prejudice in the new society, which exacerbates poverty (Jacobsen, 2014).

The rationale for admitting refugees to HE is typically related to humanitarian aid such as lost generation prevention and protection, but in certain circumstances, the ageing population and the demand for young people are associated with skilled labour and a labour market-oriented approach (Détourbe & Goastellec, 2018). Education has a wide range of economic, political, and social effects. Education, for example, may be used as a tool for the continuation of ideology, as well as for nation-building, development through knowledge transmission, and the transfer of sociocultural values (Smith, 2005, p. 376). Associating education with development and viewing refugees as a transient issue requiring humanitarian assistance leads to HE being regarded as a luxury (Zeus, 2011, p. 262).

In this framework, the benefits of HE for refugees can be classified into three categories: protective role, rebuilding the lives of refugees, durable solutions, and development (Dryden-Peterson, 2010) (*Figure 1*). Thus, refugees' right to access HE can be justified by these benefits in terms of refugees, host country, country of origin, and globally. In this setting, education emerges as a critical component for refugees seeking to earn a livelihood, break the cycle of poverty, and reconstruct their lives.

Figure 1

Justifications for refugee HE advantages



Note. Designed by the author based on the article of Dryden-Peterson, S. (2010). The politics of higher education for refugees in a global movement. Refuge, 27(2)

On the other hand, supporting or preventing access to HE may be legitimized not just for individuals but also for the host country, particularly in terms of integration and security. If local integration of refugees is not achieved, and repatriation is not an option, refugees may be viewed not only as a national security threat but also as a threat to the welfare state services, and culture in the host society. Security is more

than just military security; during the 1990s, several elements of security, such as economic security, environmental security, and identity security, have arisen (Baldwin, 1997, p. 23). Therefore, countries can support and legitimize access to HE as well as prevent them from using threat concepts for security concerns.

HE, according to Wright and Plasterer (2010, p. 52), is a state of “permanent impermanence” that cannot be prioritized with donor support, and international donors should consider education as both an emergency solution and a long-term development solution. In the case of voluntary repatriation of refugees to their place of origin, integration into the country of refuge, or resettlement in a third country, a good education is effective (Afrazeh, 2017, p. 47). A large number of children and teens among refugees emphasizes the significance of education even more. Because the number of refugees resettled in a third country is highly restricted, local integration (economic, socio-cultural integration) is critical in the host countries. HE, in this context, provides an atmosphere that can enhance socio-cultural integration as well as economic integration by facilitating entry into the job market. However, factors such as HE institutions’ capacity, unemployment rates, and the structure of the host community will all impact on the effectiveness of integration. At this point, cultural adaptability and acknowledgement of past education play a crucial role, and many professionals even apply to continue their studies (Stevenson & Willott, 2008, pp. 1–4). Even though refugees possess the academic qualifications necessary to continue their education in their home country, they need to transform their cultural capital in the country to which they move and make efforts, particularly in the recognition of qualifications and past learning (Erdoğan, 2019a).

Lenette (2016, p. 1312) highlights the economic perspective, stating that a good HE process adds to the country’s socio-economic growth and draws attention to the fact that the marginalization of immigrants will be avoided. Talbot (2013) points out that HE prepares refugees for new lives, improves refugees’ feelings of normal and adaption to new environments, offers them hope, provides refugees with future skills, prepares societies for post-conflict rebuilding, and supports socio-economic progress. All these explanations can be evaluated as signs that the HE of refugees is supported by socio-economic approaches beyond individual benefits or human rights obligations.

According to the UNHCR 2012-2016 Education Strategy, the benefits of education include establishing civic leadership, developing skills, enhancing the quality of life, minimizing irregular refugee movements, educating primary and secondary school teachers, reconstructing the country after the violence, and lowering poverty (UNHCR, 2012, pp. 21–22). Furthermore, education allows refugees to gain technical and vocational skills, integrate into the economy, and gain access to the qualifications

required by the labour market (UNHCR, 2018a, p. 8). However, refugees require special assistance when transitioning from one educational process to the next, and those who are not in school or working are more vulnerable among adolescents (UNHCR, 2018a, p. 8).

Associating education with emergency measures has left its place to more permanent solutions and increased financing of international organizations in this area, with the increase in long-term refugee situations. With the New York Declaration for Refugees and Migrants, governments have pledged to extend humanitarian admissions programs through applications such as scholarships and student visas, as well as provide access to basic and secondary education beginning in the initial months after displacement, and implement integration and inclusion measures to lessen the danger of marginalization and radicalism (New York Declaration for Refugees and Migrants, 2016). In addition, the Declaration emphasizes that HE and vocational education would be encouraged, that HE will bring hope for the future, allow inclusion, and is also required for recovery and the rebuilding of a post-conflict country (New York Declaration for Refugees and Migrants, 2016).

The European Council Conclusion of 2018 emphasizes that HE is important for the reconstruction and resilience of their countries and that vocational-technical education should be provided within the framework of labour market needs (Education in Emergencies and Protracted Crises-Council Conclusion, 2018). Furthermore, the Council Conclusion states that the Education Cannot Wait Fund, which supports education for children aged 3 to 18, should be enhanced, and the Education Rapid Response Mechanism for Higher Education in Emergencies (RRM), which supports education for children aged 18 to 24, should be promoted (Education in Emergencies and Protracted Crises-Council Conclusion, 2018). As a consequence, initiatives targeted at enhancing social cohesion, such as preventing marginalization and promoting integration, as well as a development-focused strategy, such as contributing to the reconstruction of the country of origin, reflect higher education's long-term planning. As a result, the Council takes a comprehensive education approach in emergencies and protracted crises, with a focus on the influence of HE on country's rebuilding and resilience.

Methodology

The purpose of this paper is to explore the criteria for equality of the rights to HE for refugees from the perspective of human rights. So, this paper seeks answers to these questions: What are the criteria for equality of the rights to HE for refugees? What is the relationship between access to HE for refugees and legal statuses? What are the obligations of states towards refugee HE, which is among the second-generation human rights? This paper also offers instances of how countries address this

issue. Document analysis, which is one of the qualitative research approaches, was employed in this paper. The principal sources for this desk-based research are the Universal Declaration of Human Rights, the European Convention of Human Rights, the International Covenant on Economic, Social, and Cultural Rights 1966, the 1951 Refugee Convention, the New York Declaration for Refugees and Migrants, and UN-HCR's 2007-2009, 2010-2012, 2012-2016, and 2030 education strategies.

Secondary papers, including information on rules such as access to HE literature, were also reviewed. Dryden-Petersen (2010) draws our attention to the politics of HE. Along with the Syrian crisis, many studies were conducted to evaluate the barriers to refugee admission to HE in neighbouring countries such as Lebanon, Jordan, and Türkiye. In addition to financial issues language, documentation, and compliance issues emerge as significant challenges in many research (Al-Hawamdeh & El-Ghali, 2017; El-Ghali et al., 2017; Erdoğan, 2019b; Watenpaugh et al., 2013, 2014a, 2014b; Yavcan & El-Ghali, 2017). Studies are being conducted in Türkiye to investigate the access and integration of Syrian refugees into HE. (Aydın, 2021; Gülerce, 2021; Gülerce & Çorlu, 2021; Güngör & Soysal, 2021; A. Yıldız, 2019; A. G. Yıldız et al., 2019). Furthermore, there are various studies examining country examples. For example, in Germany (Streitwieser et al., 2017; Streitwieser & Brück, 2018), Finland (Vaarala et al., 2017), Ireland (Brunton et al., 2019), Greece (Tzoraki, 2019) and comparative country studies (Détourbe & Goastellec, 2018; Sontag, 2019) country, university policies, and student opinions were also examined. Besides, Fincham (2020) focused on refugees' use of higher education as a coping mechanism in dealing with hardship, and Détourbe and Goastellec (2018) point out the relationship between refugee HE and social stratification. Sontag's (2019) anthropological field study in Switzerland, Germany, and France revealed institutional change and activities.

The documents, reports, and websites of countries that may supply statistics and information on refugee education were analysed to assess the criteria. The DAAD webpage and reports, which is the German responsible institution for refugee higher education, were scrutinized. The Council of Ministers' decisions, the Council of Higher Education (YÖK) and the Turks Abroad and Related Communities' (YTB) projects, both of which are crucial in gaining access to education in Türkiye, have been scrutinized. The website of STAR, an organization recognized for its services to refugee students in the UK, and the Office for Students' web page have been investigated. The WUSC programme, which combines resettlement in Canada with university placement, is analysed to better understand the various approaches. The expression of equality of right is defined in this article as two-dimensional in terms of those who are in the same situation to have the right and to have equal opportunities to reach the right. The data was examined using the descriptive analysis approach. The descriptive

analysis summarizes and interprets the data acquired from the research according to specified topics (Yıldırım & Şimşek, 2013). The findings of the descriptive analysis approach are presented below in four categories.

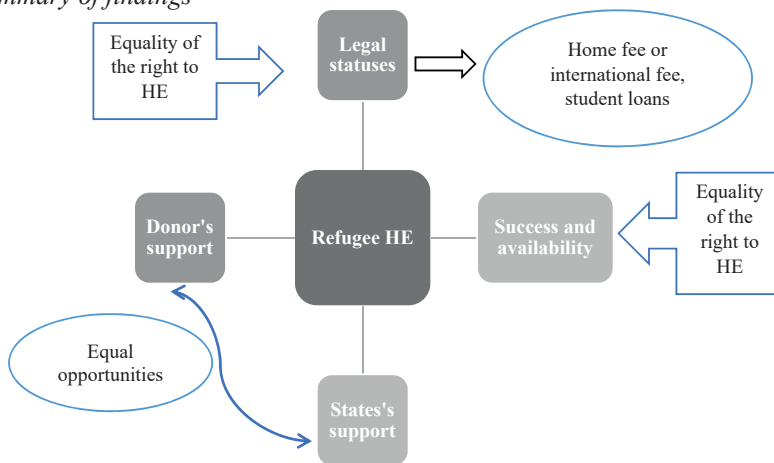
Findings

While the core concepts of state equality as sovereign powers and non-interference in their internal affairs dominated the process that began with the 1648 Peace of Westphalia, events during World War II resulted in the protection of human rights and the construction of international regimes. Unlike other types of international collaboration, international human rights regimes are predicated on sovereign states' accountability for their acts against their own citizens or residents (Moravcsik, 1998). In this situation, incorporating and defending access to HE for refugees within the scope of human rights will result in this right being subject to international protection promises. Furthermore, because higher education for refugees is linked to states' obligations to their own populations, a balance is expected to be achieved.

To begin with, international rules were used to identify the primary requirements for refugees' admittance to HE. These are looked at under the categories of success and capacity, as well as equal access to HE. The second finding is identified as legal status, and examples from selected countries were presented based on the article in the 1951 Refugee Convention. The third and fourth findings regarding the support of HE are discussed under the titles of state support and donor support within the context of equal opportunities.

Figure 2

Summary of findings



Equality of the Right: Success and Capability

With the development of human rights laws, four types of responsibilities of states have emerged: respecting obligations, protecting rights, guaranteeing the use of rights, and taking action to fulfil obligations (Vázquez & Delaplace, 2011, p. 40). States are expected to achieve minimum requirements for all rights, such as availability, accessibility, quality, adaptability, and acceptability for primary education (Vázquez & Delaplace, 2011, p. 40). Although HE is a right for all, as stated in numerous international treaties and widely acknowledged by the public, it is not a right to which anybody has unrestricted access.

Article 26 of the Universal Declaration of Human Rights includes the statement, “Everyone has the right to an education” (Universal Declaration of Human Rights, 1948). Furthermore, the Article emphasizes that at least primary education should be free and compulsory, technical and vocational education should be accessible, and HE should be equally available to those who fulfil the achievement criteria. Article 13 of the 1966 International Covenant on Economic, Social, and Cultural Rights declares that HE should be equally available to all, based on capacity (International Covenant on Civil and Political Rights, 1966).

While the Universal Declaration of Human Rights is just advisory and non-binding on countries, the 1966 Convention is legally enforceable on signatory parties. Article 2 of the European Convention on Human Rights (1952) states that “No person shall be denied the right to education” (European Convention on Human Rights, 1952). Thus, education has been underlined in numerous ways, and it is recognized as one of the essential human rights by international agreements. However, the availability of criteria such as achievement and capability is necessary for the equality of the right to HE for refugees. As a result, only those who fulfil the success requirements can claim the right to HE.

Equality of the Right: Legal Statuses

The Refugee Convention addresses the idea of rights and, more broadly, the right to education for refugees. Refugees are people who cross the borders in search of safety in neighbouring or other countries because they have a “well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion” (Convention and Protocol Relating to the Status of Refugees, 1951). Asylum seekers are those who have fled their home country and crossed the boundaries of another country, whose application to become a refugee has not been accepted and who must leave the country if their application is refused (IOM, 2004, p. 8). While 27 EU members are party to the 1951 Refugee Convention

and 1967 Protocol, they have devised subsidiary protection and temporary protection status for persons who are not refugees to build a European unified policy (Bacain, 2011, p. 16). As a result, forced migrants' legal statuses in the countries where they have resettled, as well as the rights granted to these legal statuses, will be critical in determining their access to HE.

There is criticisms that the concept of a refugee does not fulfil modern demands because it focuses on events during World War II and the Cold War (Koser, 2007, p. 71). The terms "refugee" and "asylum seeker" are not mere notions, but legal statuses with distinct rights. Access to HE programs and requirements for people with each status, such as refugees, asylum-seekers, subsidiary protection, and temporary protection may vary by country. The responsibilities of signatory countries for refugee education are outlined in Article 22 of the 1951 Refugee Convention. The following is Article 22 of the Convention:

1. The Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education. 2. The Contracting States shall accord to refugees treatment as favourable as possible, and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, with respect to education other than elementary education and, in particular, as regards access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships. (Convention and Protocol Relating to the Status of Refugees, 1951)

The 1951 Refugee Convention requires the parties to treat refugees in the same manner as citizens in terms of primary education, but also provides for at least equal opportunities for foreigners in areas such as education other than primary education, recognition of previous education, acceptance of diplomas, and payment of fees. Thus, refugees seeking HE can follow the same procedures as citizens or international students based on the host country's policies and their rights based on the statutes. Only the rights of refugees are defined in the 1951 Refugee Convention. As a result, states have obligations to persons who have refugee status. For instance, if the person is legally a refugee and has an ordinarily resident in the UK on the first day of his/her first semester at university, he/she has the right to pay the home fee and receive student support (Coram Children's Legal Centre, 2019, p. 3). On the other hand, asylum seekers can enrol for HE, but they will not be eligible for home fee or student support (Coram Children's Legal Centre, 2019, p. 2). For instance, the UK has established a "Student Hardship Funds" for Ukrainian students in need of financial assistance, as well as initiatives to prolong Ukrainian students' stay in the UK and provide post-gra-

duation residence (*Letter from Minister Donelan on Ukraine Crisis, 2022*). In addition, the “Homes for Ukraine” initiative has been built to assist charities, companies, and communities support Ukrainians, and Ukrainians who come to the UK via this programme are granted a three-year residence visa and are eligible for public services (*‘Homes for Ukraine’ Scheme Launches, 2022*). Therefore, countries determine the opportunities to access HE and the tuition fees to be paid through legal statutes. In this scenario, while all refugees have the right to education, their capacity to exercise that right may differ based on the laws that apply to their status.

Syrians are temporarily protected in Türkiye and have access to educational services. YÖK sets the regulations for persons under temporary protection’s undergraduate, graduate, and doctorate education, according to Article 28 of the Temporary Protection Regulation (*Geçici Koruma Yönetmeliği, 2014*). Asylum seekers, recognized refugees, those granted further protection, and those granted subsidiary protection status in Germany are eligible for higher education assistance (*Information for Refugees Interested in Studying, n.d.*). On the other hand, regulations regarding higher education in Canada are made by the provincial governments, for example, in Ontario, those who are granted permanent residence according to the Immigration and Refugee Protection Act can benefit from the domestic fee (*Eligibility for Domestic Fees, n.d.*). Therefore, the legal statuses and the rights granted to these statuses are an issue that needs to be examined within the scope of differentiated treatment on their own. Inequality may be shown by countries’ policies that alter depending on the statuses of forced migrants, such as asylum seekers, refugees, or subsidiary protection.

Equal Opportunities: The Need for States’ Institutional Support

Equal opportunities are required to ensure equality in the right to HE. This condition for refugees is tightly linked to the assistance provided by governments. First-generation human rights are followed by the second and third generations. While civil and political rights, which are liberal, are negative rights, the right to education is among the socio-economic rights that developed after 1945 and are known as second-generation rights (Heywood, 2011, p. 306). These positive rights, designed to protect the working class and the people in the colonies and to balance inequalities, require significant state intervention, usually within the scope of welfare rights (Heywood, 2011, p. 306). While it is critical to limit the actions of governments in first-generation rights, the state must make efforts to guarantee the welfare of society and interfere in second-generation rights. Second-generation rights are those for which institutional support from the states is required.

Education is seen as a fundamental human right and is regarded as the “fourth pillar of humanitarian assistance” (UNESCO, 2003, pp. 7–8). Offering education is

a political issue for host countries due to economic constraints, welfare states, the concern of increasing refugee migrations, or humanitarian aid priorities such as food and shelter (Davies, 2003, p. 145). Refugees with cultural capital** may be unable to access HE opportunities in host countries, despite the importance of access to HE in the lives of refugees. Cultural capital and access to HE for refugees are strongly intertwined (Stevenson & Willott, 2008). Although cultural capital is mobile, it needs to be translated into the education system of the host country (Erdoğan, 2019a, p. 38). At this point, states' institutional involvement and providing opportunities are required to improve refugee access to higher education.

Initially, the majority of Syrian refugees sought sanctuary in neighbouring countries such as Türkiye, Lebanon, and Jordan. As a result, neighbouring countries' access policies to HE began as emergency measures at first, and eventually, more permanent regulations were implemented. Following the implementation of the policies, the number of Syrian students increased from 1,785 in the 2013-2014 academic year to 47,482 in the 2020-2021 academic year (*Yükseköğretim Bilgi Yönetim Sistemi*, 2021). Türkiye's policies can be viewed as a model for transitioning from short-term to long-term policy and state's institutional support. Syrians were permitted to continue their study at institutions as special students and credit transfer to seven universities along the border after a decision of YÖK in 2013 (YÖK, 2013). The ability of credit transfer, which was previously valid for 7 universities, has been expanded to all universities, effective as of the 2014-2015 academic year, according to the decision of YÖK on 18 June 2014 and 09 July 2014 (*YÖK Ek Madde 2 Uyarınca Mısır ve Suriye'den Yapılabilecek Yatay Geçiş İşlemlerine İlişkin Esaslar*, 2018). Later, Türkiye broadened its policy to include initiatives such as scholarship programs, academic Turkish training, academic counselling and guidance, and tuition fee assistance. YTB has been paying the tuition fees of Syrians enrolled in higher education institutions pursuant to YÖK rules since the 2013-2014 academic year (2013-2014 Eğitim Öğretim Yılında Yükseköğretim Kurumlarında Cari Hizmet Maliyetlerine Öğrenci Katkısı Olarak Alınacak Katkı Payları ve Öğrenim Ücretlerinin Tespitine Dair Karar, 2014). Different tuition prices have been calculated for the 2019-2020 academic year based on rules such as the year in which the student is registered, international support, and whether or not the student obtains a scholarship (2019-2020 Eğitim-Öğretim Yılında Yükseköğretim Kurumlarında Cari Hizmet Maliyetlerine Öğrenci Katkısı Olarak Alınacak Katkı Payları ve Öğrenim Ücretlerinin Tespitine Dair Karar, 2019).

** Bourdieu distinguishes three categories of capital: economic, cultural, and social. Cultural capital is the accumulation of talent, knowledge, and behaviour. It can exist in three states: embodied, objectified as cultural commodities, and institutionalized as academic qualifications (Bourdieu, 1986).

The activities carried out by Germany through the DAAD to increase access to HE can be cited as another example of the institutional support from the state for second-generation rights. Germany has taken in more Syrian refugees than any other EU country. The welcome policy, which began with Germany's announcement in 2015 that it would take one million Syrian refugees, quickly gave way to the argument about whether the refugees in the country were a burden or a threat (Funk, 2016). Germany's shift to integration politics (Funk, 2016) was also seen in HE policies. Germany has a key strategy that supports not just refugees' access to HE in Germany, but also Syrian refugees' access to HE in neighbouring countries such as Lebanon, Jordan, Türkiye with the different projects (e.g. HOPES project) (*HOPES-LEB - Higher and Further Education Opportunities & Perspectives, n.d.*).

The German Federal Ministry of Education and Research finances the DAAD, which assists Syrian refugees in gaining admission to HE. More than 40,000 refugees are anticipated to enrol in universities by 2020, with 25,000 having completed DAAD-funded university preparatory courses by the end of 2018 (DAAD, 2018). Refugees are financially supported by several HE institutions awarding scholarships, providing specific language-learning support, and securing zero-interest government funding known as "BAföG." (Study in Germany, n.d.). The example of Germany demonstrates the significance of refugees' cultural and economic contributions to the country, as well as their successful integration (Streitwieser & Brück, 2018, p. 48). DAAD measures are aimed at university entrance tests, preparation, monitoring academic achievement and supporting the transition to the labour market (*How the DAAD Is Helping, n.d.*).

Refugees have the least access to university education in Canada; language is a key barrier, and just 21 Syrians are enrolled in universities in 2015 (Anderson, 2020). Although university education is not free for Syrian refugees, refugees are eligible to apply for a student loan as permanent residents (Government of Canada; Immigration, 2019). Canada distinguishes out from this perspective because of its donor assistance and resettlement initiatives. Refugees' right to HE may be achieved via rights-expanding initiatives like preparatory year, scholarships, language support and academic support, which allow countries to provide equitable possibilities.

Equal Opportunities: The Need for Donors' Financial Support

Equal chances with donor funding are another aspect of establishing equality. The right to education for everyone is underlined in the UNHCR's 2007-2009 (UNHCR, 2007, p. 16) and 2010-2012 education strategies (UNHCR, 2009, p. 21), and it is claimed that the most significant impediment to supporting HE is donor reluctance. HE, on the other hand, has been identified as one of UNHCR's educational priori-

ties, particularly in light of the Syrian conflict. "Improving access to higher education for young refugees" is one of the priorities of the UNHCR's 2012-2016 Education Strategy, and there is a significant unmet need for higher education among refugees (UNHCR, 2012, p. 21). According to Johannes Tarvainen, higher education officer at UNHCR, HE is also a requirement for refugees from other countries such as Afghanistan, Somalia, and Congo, but this need has become obvious with Syrian refugees (Redden, 2015). This circumstance highlights the necessity to broaden efforts to fulfil the evident higher education demand among Syrians in a way that ensures access to education not only for Syrians but also for other refugees. As a result, state or donor funding may result in inequalities in access to education among refugees of various nationalities.

The experiences of Lebanon, Jordan, and Türkiye highlight the necessity of donor funding for HE access due to the high number of Syrian refugees. In this regard, project collaborations with international organizations draw attention to programs that facilitate refugees' access to HE in Türkiye. With the cooperation of organizations such as the UNHCR and the EU, Türkiye extended its scholarship programs for students and YTB became the DAFI, HESP and HOPES project's implementation partner (UNHCR, 2019a).

Canada is another country with high university tuition fees, and it offers a unique resettlement scheme for refugee university students. Due to the pressure of Canadian voluntary organizations, the government was forced to change the immigration act and introduce a new system called the Private Sponsorship of Refugees Program (PSRP) during the Vietnamese refugee crisis and the Student Refugee Program was established in 1978 (Peterson, 2010). The program originated from an extension of the scope and application area of the World University Service, which was founded in 1920 to assist students in Europe whose education had been disrupted by the First World War (Peterson, 2010, p. 112). Since 1978, with the "official Sponsorship Agreement Holder with the Government of Canada", this initiative has supported 150 refugees each year through cooperation with more than 100 Canadian colleges (*WUSC (World University Service of Canada) - Education Changes the World, 2020*). World University Services of Canada's Student Refugee Program combines resettlement with an opportunity for HE.

High tuition fees are a serious problem for refugees' access to HE in the United Kingdom. Although young people with recognized refugee status can obtain education loans, asylum seekers are unable to get these loans (Office for Students, 2020). However, many universities in the United Kingdom provide sanctuary scholarships to asylum seekers (Office for Students, 2020). Around 100 universities in the United

Kingdom provide HE scholarships to asylum seekers and refugees (Student Action for Refugees, 2022). Despite the fact that states have various policies, donor help is seen as critical in maintaining equality of rights. As a result, developing a donation system that treats all refugees equally is one method to promote equality of rights.

Conclusion

UNHCR estimates that access to HE has increased to 5% from 1% before the Syrian conflict, and aims to reach 15% by 2030 (UNHCR, 2021, p. 9). The criteria for the equality of the right to HE for refugees were investigated in this study using the human rights perspective. Equality of the right is defined in two dimensions, namely, the enjoyment of the right by those in the same situation and the provision of equal opportunities. The Universal Declaration of Human Rights, the European Convention on Human Rights, the International Covenant on Economic, Social, and Cultural Rights, the 1951 Refugee Convention, the New York Declaration for Refugees and Migrants, and the UNHCR's education strategies for 2007-2009, 2010-2012, 2012-2016, and 2030 are all examined in this scope. The data is organised into four categories to assure equality of rights: success, legal status, government, and donor support. On the other hand, the same criteria were used to interpret the policies of the selected countries Türkiye, Germany, Canada, and the United Kingdom.

Human rights regulations provide the minimal responsibilities that states must meet. It is up to the states to broaden these responsibilities. International regulations state that the right to HE should be offered equally based on success and capacity criteria, unlike primary education. However, not all refugees who meet the conditions have access to HE. Recognizing HE for refugees is insufficient if support is not provided for coping with the challenges such as financial difficulties, certification, and language barriers. Focusing solely on access, on the other hand, leads to the neglect of the long-term effects such as social integration, academic accomplishment, and labour market access. The legal status of refugees is the second decisive factor in their admission to higher education. Not everyone who is forcibly relocated has refugee status in their host country. Even though refugees have the right to access HE, the amount of tuition fees differ depending on whether they are approved to pay as a home fee or an international fee. In the UK and Canada, for example, only recognized refugees are eligible for a home fee. As a result, the forced migrant's legal position in the host country may make it easier for them to get an education. Refugees' access requirements and limitations to HE are deeply linked to their legal statuses.

Educational rights are second-generation human rights and necessitate active governmental engagement. Even though higher education is recognized as a right,

it may be difficult for refugees to fulfil the requirements, overcome financial challenges such as tuition fees, and living expenses, and solve certification issues unless policies assisting refugees are in place. In other words, by giving equal opportunity, equality may be realised in achieving the right. Türkiye and Germany are examples of countries where the state's institutional support is evident. Donor assistance, on the other hand, is critical in overcoming financial issues. Canada and the United Kingdom are two countries that have systematically organized donor contributions. Sanctuary scholarships in the United Kingdom and the refugee student resettlement program in Canada are two examples. However, it may be critical not to create inequity amongst refugees of various nationalities or legal statuses, both in government policies and donor support.

In conclusion, recognition of HE as a right only makes it available. Apart from the approaches of the countries, success criteria and the legal statuses of forced migrants and the rights granted to these statuses are an issue that needs to be examined. Differences in implementation owing to legal statuses might exacerbate inequalities in educational access. Eliminating inequalities between legal statuses and providing equal opportunities through the state's institutional support and donor support are decisive factors to fulfil the right to HE.

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