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Quaker United Nations Office

Foundations for Implementation

A reference tool containing guidance drawn from the UN's Special Procedures and Treaty Bodies to support States in human rights based implementation of the Global Compact for Safe, Orderly and Regular Migration.

Objective 15: Provide access to basic services for migrants

What This Reference Tool Contains

This compilation draws on recommendations from:

- Special Procedure thematic reports that relate specifically to migrants
- Treaty Body General Comments and General Recommendations that relate specifically to migrants

This practical tool emphasises recommendations for individual State action rather than observations, and includes those recommendations that assist in turning the objectives into practical actions rather than echoing the principles and standards agreed in the Compact.

December 2018

Objective 15: Provide access to basic services for migrants

Guidance from Special Procedures

Source	Guidance
Special Rapporteur on the human rights of migrants (2018), A/73/178/Rev.1 (para.75(h))	Establish firewalls between immigration enforcement and public services to allow access to justice for all migrants without fear of being reported, detained and deported;
SR migrants (2018), A/HRC/38/41 (para.86)	The protection of the economic, social and cultural rights of migrants, such as access to an adequate standard of living, food, water, health and education, and their civil and political rights, such as access to justice, in countries of origin, transit and destination must be ensured
SR migrants (2015), A/70/310 (Section A (p.23))	Create firewalls between government services, such as courts, labour inspectors or health-care services, and immigration enforcement, in order to empower migrants to access basic services without fear of deportation
SR migrants (2014), A/HRC/26/35 (para.86)	Guarantee that all migrant workers have an adequate standard of living, including adequate food, water, clothing and housing
SR migrants (2010), A/HRC/14/30 (para.71)	As a matter of fundamental principle, States should fulfil the “minimum core obligation” to ensure the satisfaction of minimum essential levels of primary health care as well as basic shelter and housing for all individuals within their jurisdiction, regardless of their citizenship, nationality or immigration status, including migrants, migrants in irregular situations, migrant children and women. In times of severe resource constraints, the vulnerable members of society must be protected by the adoption of relatively low-cost targeted programmes
SR migrants (2010), A/HRC/14/30 (para.72)	States should expressly recognize in laws the rights to health and adequate housing for all individuals, regardless of their nationality or immigration status. Particular attention should be paid to removing laws which have a disproportionately negative impact on the enjoyment of these rights, such as the criminalization of irregular migration and the “obligation to denounce”. States should also strengthen legal frameworks to guarantee access to justice regardless of immigration status
SR migrants (2010), A/HRC/14/30 (para.73)	States should collect disaggregated data and develop indicators on access to the rights to health and adequate housing by all individuals, paying particular attention to vulnerable groups such as migrants in irregular situations, migrant children and women. The indicators should form the basis of rights-based interventions designed to promote access to the rights to health and adequate housing by all
SR migrants (2010), A/HRC/14/30 (para.75)	States should also consider and develop policies on the regularization and integration of migrants in irregular situations in order to reflect their contributions to the host societies and to provide better protection of their rights, including those to health and adequate housing

<p>SR migrants (2010), A/HRC/14/30 (para.77)</p>	<p>States should work to reduce obstacles to health care for migrants by ensuring that access to health services is not conditioned upon one's immigration status. Access to health services for migrants should also be ensured while in detention. In this regard, States should work to remove legal and other impediments such as the "obligation to denounce" or similar provisions in their national laws which impede the enjoyment of access to health by migrants</p>
<p>SR migrants (2010), A/HRC/14/30 (para.78)</p>	<p>States should also provide adequate information through campaigns and outreach, commit sufficient funds and promote implementation measures relevant to migrants' health issues. These policies should also (a) include the promotion of health services that are culturally and gender sensitive and conducive to reducing linguistic, communication and cultural barriers, and (b) be aimed at facilitating increased confidence and awareness of health services among migrant communities</p>
<p>SR migrants (2010), A/HRC/14/30 (para.79)</p>	<p>States should provide appropriate training to civil servants working in the area of migration and health and sensitize them on the issues of discrimination against migrants, particularly with respect to migrant women and girls and children. States must ensure that migrants are not denied access to health care due to uncertainty among public service providers, such as nurses and doctors, about what the law allows them to do for migrants</p>
<p>SR migrants (2010), A/HRC/14/30 (para.80)</p>	<p>In view of the fact that migratory processes and living conditions of migrants in host States may have negative effects on their mental health, States should ensure that migrants' access to health care includes mental health care. In this regard, States should pay particular attention to improving the mental well-being of migrants by creating services that are integrated and appropriate to their needs. Further studies into the mental health needs of migrants, which recognize the crucial interrelationship between social circumstances and mental health and help provide an insight into relevant mental health care and assistance, in particular to migrant women, migrant children and migrants in detention, are required</p>
<p>SR migrants (2010), A/HRC/14/30 (para.81)</p>	<p>Sending, transit and receiving countries should have inclusive health access programmes to address the health requirements of migrants in a continuum. Such interventions must move beyond emergency care, and address physical, mental and social well-being, including reproductive health and infectious diseases, while providing adequate health education and information for migrants</p>
<p>SR migrants (2010), A/HRC/14/30 (para.82)</p>	<p>In view of the specific health risks to which migrant women and girls are exposed, the gender dimension often involved in migration and the structural power relationships which frequently govern women's access to health care, States should provide adequate, appropriate and specialized medical assistance to migrant women and girls</p>

<p>SR migrants (2010), A/HRC/14/30 (para.84)</p>	<p>The best interest of the child requires that States take specific measures to ensure that all migrant children are able to enjoy the right to health, including continued access to health, as well as the rights related to health, such as the right to obtain a birth certificate. The right to health for unaccompanied children must be ensured immediately upon arrival, regardless of their immigration status. Furthermore, any decision to repatriate children to countries of origin should take into account the access to the right to health in those countries in the determination of what is in the child's best interest</p>
<p>SR migrants (2010), A/HRC/14/30 (para.85)</p>	<p>States should develop a comprehensive national housing strategy taking into account the needs and circumstances of migrants, who are often vulnerable to homelessness. Through the housing strategy States should seek to address underlying factors which dictate people's access to housing, such as low socio-economic status, gender, age and ethnicity. The strategy should also encompass a regular monitoring system for housing situations of migrants, both in public and private sectors, to identify and address any discriminatory practices</p>
<p>SR migrants (2010), A/HRC/14/30 (para.88)</p>	<p>States should, at a minimum, provide migrants in irregular situations at risk of homelessness with a level of housing which ensures their dignity and allocate resources to shelters which provide assistance to migrants in irregular situations. In this regard, cooperation and partnerships with non-governmental organizations, welfare organizations and community-based organizations at the grass-roots level are strongly encouraged. In the long term, regularization of migrants in irregular situations should be considered, so as to better protect their right to adequate housing</p>
<p>SR migrants (2010), A/HRC/14/30 (para.86)</p>	<p>States should formulate comprehensive criteria which provide clear and practical guidance to housing providers on what constitutes discrimination on the basis of citizenship, nationality or immigration status and their responsibilities to ensure equal access to housing by all, including migrants</p>
<p>SR migrants (2010), A/HRC/14/30 (para.88)</p>	<p>States should, at a minimum, provide migrants in irregular situations at risk of homelessness with a level of housing which ensures their dignity and allocate resources to shelters which provide assistance to migrants in irregular situations. In this regard, cooperation and partnerships with non-governmental organizations, welfare organizations and community-based organizations at the grass-roots level are strongly encouraged. In the long term, regularization of migrants in irregular situations should be considered, so as to better protect their right to adequate housing</p>
<p>SR migrants (2010), A/HRC/14/30 (para.89)</p>	<p>States should ensure that evictions are carried out only in exceptional circumstances and in accordance with international human rights law. Affected individuals should be fully consulted and informed in advance of any planned evictions in languages they understand, and should be provided with alternative accommodation and compensation, and due process rights. In this regard, the Special Rapporteur encourages States to refer to the Basic Principles and Guidelines on Development-Based Evictions and Displacement formulated by the Special Rapporteur on adequate housing (A/HRC/4/18, annex)</p>

<p>SR migrants (2010), A/HRC/14/30 (para.90)</p>	<p>States should fully take into account factors which affect access to housing by migrant women and girls. In particular, States should develop mechanisms to monitor workplace conditions of migrant women, especially where they are required to reside with their employers. States should ensure that migrant women workers have equal protection of the law and should provide accommodation for those who wish to leave abusive employers in the meantime</p>
<p>SR migrants (2010), A/HRC/14/30 (para.91)</p>	<p>States should provide parents and others responsible for the child with material assistance and support programmes, particularly with regard to housing. Irregular migrant families and their children should be provided with a minimum level of housing which ensures their basic needs. Throughout the process, the best interest of the child should be the paramount concern and the guiding principle</p>
<p>SR migrants (2010), A/HRC/14/30 (para.92)</p>	<p>States should rapidly identify unaccompanied migrant children without access to adequate housing and provide them with accommodation suitable to their needs and circumstances. States should also appoint guardians in order to prevent the social exclusion of these children and ensure that they have adequate access to basic services</p>
<p>SR migrants (2009), A/HRC/11/7 (para.118)</p>	<p>States should protect and respect the human rights of migrant children, irrespective of their migration status, including the rights to basic social services for all children, in particular the rights to food, health, education and an adequate standard of living, as well as access to justice. Dialogue and cooperation between Governments of States of origin and those of destination is highly encouraged, to ensure the fulfilment of these rights</p>
<p>Special Rapporteur on the right to food (2018), A/73/164 (para.101)</p>	<p>Provide safe channels for undocumented migrant workers so that they can anonymously report violations without fear of retribution, respecting the principle of non-refoulement and ensuring that migrants have access to the regular labour market in the host country, in cooperation with United Nations agencies and programmes and international organizations</p>
<p>SR food (2017), A/72/188 (para.96(e))</p>	<p>Prioritize the availability, accessibility and adequacy of food for the most vulnerable populations, including internally displaced persons and refugees;</p>
<p>Special Rapporteur on con- temporary forms of slavery, including its causes and consequences (2018), A/HRC/39/52 (para.82(g))</p>	<p>To effectively prevent and combat domestic servitude, to ensure the protection of migrant women and their access to decent work, the Special Rapporteur recommends that States: Guarantee equal access for migrant women to services such as health care, including sexual and reproductive health care, and social protection. Also ensure that they have access to information materials in relevant languages;</p>
<p>SR slavery (2018), A/HRC/39/52 (para.82(v))</p>	<p>To effectively prevent and combat domestic servitude, to ensure the protection of migrant women and their access to decent work, the Special Rapporteur recommends that States: In destination countries, clearly separate labour inspection, immigration management and law enforcement. Ensure that the labour inspectorate is proactive, adequately resourced and entitled to conduct inspections of private households;</p>

<p>Working Group on Arbitrary Detention (2018), A/HRC/39/45 Annex (para.39)</p>	<p>All detained migrants must have free access to appropriate medical care, including mental health care</p>
<p>Special Rapporteur on the situation of human rights defenders (2018), A/HRC/37/51 (para.66(i))</p>	<p>Ensure that people on the move and those who defend their rights have access to justice and to effective remedies through national courts, tribunals and dispute-settlement mechanisms, regardless of their immigration status; ensure that they are not threatened with or subject to arrest, detention or deportation when reporting crimes, labour rights violations, and other forms of human rights violations; and ensure they have the necessary support for pursuing remedies through effective access to justice in national courts, tribunals and dispute-settlement mechanisms, with the support of unions (where applicable), interpreters and legal assistance;</p>
<p>Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (2018), A/73/216 (para.83(f))</p>	<p>Establish binding and effective firewalls between service providers and immigration enforcement authorities, ensuring that no enforcement operations are carried out in or near mental health-care or support facilities;</p>
<p>SR health (2018), A/73/216 (para.83(g))</p>	<p>Develop direct, rights-based mental health care and support services for people on the move. These should address their needs for safety, for community participation and for livelihoods; acknowledge that the social, cultural, economic, political and legal determinants of mental health and well-being should inform interventions; cater to the cultural, religious and linguistic needs of users; and be suitable to their context;</p>
<p>SR health (2018), A/73/216 (para.83(i))</p>	<p>Ensure the sustainability and non-discrimination of mental health care and support interventions for all people, including people on the move, through effective referrals of people on the move to appropriate services and through the broad incorporation of their needs into existing mental health systems;</p>
<p>SR health (2018), A/73/216 (para.83(j))</p>	<p>Include human rights education, including on the right to mental health and the rights of people on the move, in the training of all front-line workers interacting with them, including all health-care workers;</p>
<p>SR health (2018), A/73/216 (para.83(k))</p>	<p>Ensure that specialized health-care professionals work alongside community-based health-care workers, social service professionals and peer supporters on matters concerning the mental health care of and support for all people, including people on the move;</p>
<p>SR health (2018), A/73/216 (para.83(l))</p>	<p>Foster cooperation between humanitarian and development actors in the field of mental health and refrain from developing parallel health-care systems;</p>

<p>SR health (2013), A/HRC/23/41 (para.76(a))</p>	<p>The right to health approach to migrant workers fills gaps in existing frameworks that protect migrant workers and their families and bolsters protections contained therein. It provides necessary safeguards to migrant workers by recognizing that migrant workers and nationals of a specific State have equal rights which must not be limited. The Special Rapporteur recommends that sending and receiving States take the following steps in order to realize the right to health of migrant workers:</p> <p>Institute, for regular and irregular migrant workers, evidence-based and gendered national health policies informed by the right to health framework, in particular non-discrimination and equality. Such policies should extend rights and entitlements – including underlying determinants of health – and redress mechanisms in cases of violation to migrant workers;</p>
<p>SR health (2013), A/HRC/23/41 (para.76(h))</p>	<p>Delink access to health facilities, goods and services from the legal status of migrant workers and ensure that preventative, curative and emergency health facilities, goods and services are available and accessible to all migrant workers, including irregular migrant workers, in a non-discriminatory manner. States should endeavour to prevent treatment interruption for migrant workers and remove barriers to accessing health care, such as those that are linguistic, cultural, administrative and employment-related;</p>
<p>Special Rapporteur on the right to education (2017), A/72/496 (para.115)</p>	<p>Bilingual and native language instruction should be provided in schools with significant numbers of students from linguistic minority groups. This is especially relevant today with regard to schools that are being established for migrants and refugees, who already face significant additional barriers to integrating into a foreign education system and a foreign culture. Respect for diversity should be reflected in curricula, which should be sensitive to the culture and religion of learners</p>

SR education (2010),
A/HRC/14/25 (para.83)

The Special Rapporteur perceives a crucial need for States, donors, international agencies and civil society to work collaboratively together, as substantial movement and migration across national borders will continue to define our globalized world. Their joint aim should be to build and sustain cohesive and resilient communities able to adapt in response to change. To this end, the Special Rapporteur recommends that exchange of good practice is increased and, at a minimum, all should look to:

Foster the view in all learning settings, both formal and non-formal, that cultural and linguistic diversity is a resource from which individuals and groups can build strong and supportive sustainable communities. Develop educational strategies which strengthen the capabilities of marginalized communities as a whole, while addressing the specific educational needs of migrants, refugees and asylum-seekers. Such strategies should look to embedded and coordinated mainstream lifelong learning which prioritizes early integration and the recognition of prior learning. Pay increased attention to quality linguistic and culturally appropriate early childhood, primary, post-primary and tertiary education that is responsive to the developmental needs of a region and the value of regional understanding and tolerance. Integrate the human rights framework (protection issues including teachers' code of conduct) into curricula and the learning environment. Establish individual curricula or tutoring programmes that support majority language acquisition and, if necessary, other subject areas, so that majority language learning and subject matters can be learned at the same time. These should be offered in mainstream schools and without creating segregated adaptation groups and classes. Make available and promote information/materials on education (and welfare) systems with respect to rights, opportunities and responsibilities in migrant languages and in accordance with migrant, refugee and asylum-seeker population needs. Improve (national) monitoring systems regarding access to and learning outcomes of migrants and refugees, including data on gender parity and disability. This should include information on the language used in the home and/or the language of instruction of previously completed education institutions in order to monitor language development and language-related drop out. Prompt development of regional and international qualification systems, incorporating mutual, reciprocal and automatic recognition of informal and formal learning achievements. This should be accompanied by increased research on potential and viable solutions to issues of equivalency in the learning environment and the workplace. Close the lacuna in research, advocacy and awareness of the educational experience and needs of: (i) migrants, refugees and asylum-seekers with disabilities; (ii) women from these groups; (iii) second-generation migrants; and (iv) unaccompanied asylum-seeking children

<p>SR education (2010), A/HRC/14/25 (para.84)</p>	<p>The Special Rapporteur emphasizes that teachers and other personnel working with migrants, refugees and asylum-seekers are in need of strong support such as new organizational structures and new teaching forms; this requires action beyond the teacher/school meso-level, towards a more active State, and desegregationist measures at the micro- or community level (e.g. housing policies). More specifically this will involve: Increased recruitment of highly competent teachers, and teachers with relevant migrant backgrounds to facilitate more effective individualized pedagogical support (individual curricula), especially at the nursery/kindergarten and primary levels with respect to language acquisition. Multi- and intercultural education (awareness-raising, socio-linguistics, communication skills and intercultural competence) made integral to teacher education curricula. In-service specialist training should be obligatory and take place during working hours to avoid increasing the workload of teachers. Team-teaching and the support of the classroom teacher by a specialist, as well as mentoring in different forms and by different actors (e.g. higher education students or older role models of immigrant origin), which can improve school attainment. In refugee contexts, training to deal with traumatized learners and psychosocial support and expert counselling for both teachers and refugees</p>
<p>Special Rapporteur on trafficking in persons, especially women and children (2017), A/72/164 (para.81(d))</p>	<p>Ensure the provision of health and psychosocial services in places where migrants or refugees reside, including reception centres, refugee camps or informal settlements, as well as access to education, religious and cultural practices. Ensure also that practitioners are trained and supported in working with distressed, traumatized children and victims of trafficking and exploitation. Services must be child-friendly and give consideration to the cultural, religious and social norms and values of these children;</p>
<p>SR trafficking (2017), A/HRC/35/37 (para.108)</p>	<p>States should promote policies aimed at identifying and eliminating barriers to effective access to grievance and other dispute resolution mechanisms, such as complex administrative procedures, unreasonable costs, fear of discrimination or retaliation and dismissal and, in the case of migrant workers, fear of detention or deportation</p>
<p>Special Rapporteur on violence against women, its causes and consequences (2001), A/CONF.189/PC.3/5 (para.205)</p>	<p>The risk of discrimination on multiple grounds such as race, ethnicity, gender and class has increased with the feminization of migration. Governments should: ... Ensure respect for the social and economic rights of women migrant workers, including those working in the informal sector and domestic workers, on matters such as pay, annual and maternity leave, social security and protection; Provide and ensure access to education and training, as well as to income-generating activities, for migrant women; Promote sustained measures to ensure that migrant women who have been victims of gender-based crimes, such as rape and other forms of violence, including domestic violence, forced prostitution and trafficking, are granted adequate legal protection and support; Design health policies and training programmes for health care professionals to promote understanding and respect for different cultural backgrounds and personal experiences relating to health, disease, sexuality, pregnancy and childbirth; educate and train health care professionals to deal with the specific health needs of migrant women;</p>

<p>Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context SR adequate housing (2017), A/72/128 (para.82(a)(xv))</p>	<p>Ensure that refugees, internally displaced persons and migrants with disabilities enjoy their right to adequate housing, notably by including the relevant international human rights provisions in the forthcoming global compact on refugees and the global compact for safe, orderly and regular migration;</p>
<p>SR adequate housing (2015), A/70/270 (para.76(f))</p>	<p>Focus on eliminating social exclusion, inequality and discrimination as human rights violations and prevent the criminalization and stigmatization of people on the basis of their housing status. Particular housing experiences and needs of all migrants, displaced persons, persons with disabilities and women, children and youth in situations of vulnerability should be addressed;</p>
<p>SR adequate housing (2010), A/65/261 (para.82)</p>	<p>Access to essential services provided by the State is often critical for migrants in vulnerable situations. As part of their responsibility to fulfil human rights and in line with the non-discrimination principle, States must work to overcome inequalities affecting migrants' access to housing, water supply, sanitation systems and other essential services</p>
<p>SR adequate housing (2010), A/65/261 (para.83)</p>	<p>States should elaborate and adopt a national housing strategy that establishes the objectives and available resources, time frame and responsibilities for the development of appropriate housing conditions that include the needs of migrants. In addition, States should ensure that laws, strategies and plans of action are implemented in such a way as to address discrimination by public and private actors, in particular with regard to the right to adequate housing, and take account of the situation of documented and undocumented migrants. State policies should include special measures and incentives to change the attitudes of public and private actors towards migrants. States should frequently review the regulations governing housing allocation in the public and private spheres and adopt effective inspection and enforcement mechanisms</p>
<p>SR adequate housing (2010), A/65/261 (para.84)</p>	<p>Measures to ensure access to adequate housing for migrants require effective universal housing policies, in addition to specific policy measures addressed to migrants. Targeted policies are necessary to make up for deficiencies in the market and the public provision of housing and to ensure equal access where embedded discriminatory practices prevent this from happening. Effective targeted policies require a reliable assessment of the housing needs of migrants, conducted in consultation with them. Matching the elaboration of universal policies inclusive of migrants with the adoption of special plans to address their particular housing challenges is thus recommended to help foster the real integration of migrants into the community and to promote the enjoyment of their right to adequate housing</p>

<p>SR adequate housing (2010), A/65/261 (para.89)</p>	<p>Discrimination and xenophobia affect the living conditions of migrants and their coexistence with the local community. They have thus been identified as key factors in the exclusion of migrants from adequate housing. States need to combat xenophobia and discrimination as a matter of urgency and ensure that no legislative or administrative acts reinforce discrimination against migrants with regard to their access to social or private housing. Moreover, States should take effective measures to ensure that housing agencies and private landlords refrain from engaging in discriminatory practices</p>
<p>SR adequate housing (2010), A/65/261 (para.90)</p>	<p>States must protect migrants from discrimination in access to housing by public and private actors, through appropriate judicial and administrative procedures, and guarantee redress to victims. Accordingly, States should adopt all necessary administrative and legislative measures and provide the appropriate mechanisms to prosecute and sanction discrimination and unfair and degrading treatment against migrants regarding their access to housing and should offer effective grievance mechanisms and remedies to the victims</p>
<p>SR adequate housing (2010), A/65/261 (para.91)</p>	<p>Policies and resources to ensure equality of access to affordable housing are essential. States should ensure that affordable housing is available in areas containing a high proportion of migrants. Moreover, States should adopt measures to make the allocation of housing by public landlords more transparent</p>
<p>SR adequate housing (2010), A/65/261 (para.92)</p>	<p>Transparency in the allocation of private housing is equally essential to ensure the appropriate treatment of migrants in the private housing sector. Besides monitoring the behaviour of the housing market in terms of rent prices and guarantees of fair and equal treatment, it is recommended that States establish mechanisms for the registration and regulation of private landlords, thus allowing for more effective monitoring of the allocation of housing to migrants</p>
<p>SR adequate housing (2010), A/65/261 (para.93)</p>	<p>The provision of housing should not be denied to undocumented migrants; even they must be afforded a minimum level of housing assistance that ensures conditions consistent with human dignity</p>
<p>SR adequate housing (2010), A/65/261 (para.94)</p>	<p>Education is a fundamental element in combating discrimination. States should provide training to authorities at the policymaking level and to officials working in the housing sector on human rights principles and standards, particularly on the right to adequate housing and on the principles of non-discrimination and equality of all</p>
<p>Special Rapporteur on the human rights to safe drinking water and sanitation (2018), A/HRC/39/55 (para.68(a))</p>	<p>The Special Rapporteur recommends that States: Guarantee the human rights to water and sanitation by refugees, asylum seekers and migrants in transit or at their destination with the same conditions as those granted to nationals of the States concerned, regardless of their legal status and documentation;</p>

<p>Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (2013), A/HRC/23/56 (para.57(h))</p>	<p>Teachers at all levels of education should benefit from specialized training, including awareness-raising, in how to prevent racism, xenophobia and other forms of discrimination. Special emphasis should be placed on the situation of minority or vulnerable groups within their country, such as Roma or other minorities, persons of African descent, Roma, migrants, refugees and asylum seekers, and the victims of caste-based discrimination. International norms prohibiting racism and racial discrimination and their implementation under domestic law should be emphasized in the curriculum;</p>
<p>SR racism (2013), A/HRC/23/56 (para.57(l))</p>	<p>States should carefully evaluate the potential impact of budgetary restrictions on education, and ensure that they do not have a discriminatory and disproportionate impact on the enjoyment of the right to education of disadvantaged groups, including minorities, Roma, people of African descent, migrants, undocumented migrants, refugees, asylum seekers and the victims of caste-based discrimination;</p>
<p>SR religious intolerance (2001), A/CONF.189/PC.2/22 (para.135)</p>	<p>The development of a preventive strategy to combat the various types of discrimination therefore requires the systematic collection, not only at the national and regional levels but also, more importantly, at the international level, of specific data on the situation of such children and, in particular, data on literacy rates, school drop-out rates and unemployment rates, broken down by ethnic and/or religious group and compared with the rates for society as a whole. The collection of such data should also include the content of education, the teaching approach used in certain subjects related to interculturalism, the state of language teaching for the school population as a whole, teaching in the language or languages of minorities, religious education, and information on the best practices of States with regard to the prevention of racial discrimination and religious intolerance, in order to help other States save time and money by not repeating the same mistakes. Collecting data of this kind is essential if the effects of educational policies on children from minorities or ethnic/religious groups are to be measured and, where necessary, rectified</p>

Guidance from Treaty Bodies

Source	Guidance
<p>CESCR Statement on duties of States towards refugees and migrants under the International Covenant on economic, social and cultural rights (2017), E/C.12/2017/1 (para.III.13)</p>	<p>In addition to ensuring access to health care without discrimination, strict walls should exist between health-care personnel and law enforcement authorities, and adequate information should be made available in the language commonly spoken by migrants in the host country, in order to ensure that such situations do not result in migrants avoiding seeking and obtaining health care</p>
<p>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.III.D.3.72)</p>	<p>States parties ... shall ensure that migrant women have access to appropriate prenatal and postnatal health care, safe reproductive health services, and to emergency obstetric care</p>

<p>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.III.D.3.73)</p>	<p>Although medical care need not necessarily be free of charge, equality of treatment requires that the same rules for payment of fees or exemption from payment apply to migrant workers and members of their families as to nationals. States parties should prohibit the charging of excessive fees from migrant workers in an irregular situation or requiring immediate payment or proof of payment before the service is delivered. Urgent medical care should never be withheld due to the inability to pay. States parties should also ensure that migrant workers and members of their families are provided with information on the medical care provided and information about their health rights. States parties should also ensure that doctors and health professionals are provided with culturally sensitive training regarding health care for migrant workers and members of their families</p>
<p>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.III.D.3.74)</p>	<p>States parties shall not conduct immigration enforcement operations on or near facilities providing medical care, as this would limit migrant workers and members of their families from accessing such care</p>
<p>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.III.D.4.77)</p>	<p>To ensure access to education, the Committee is also of the view that States parties shall not require schools to report or share data on the regular or irregular status of pupils or their parents to immigration authorities or conduct immigration enforcement operations on or near school premises, as this would limit access to education by children of migrant workers. States parties should also clearly inform school administrators, teachers and parents that they are not required to do so either</p>
<p>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.III.D.4.78)</p>	<p>The Committee is of the view that States parties should also ensure access for children of migrant workers in an irregular situation to mother-tongue instruction if already available to children of migrant workers who are documented as having the same mother tongue</p>
<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.H.51)</p>	<p>States should not interfere with children’s right to housing by means of measures which prevent migrants from renting properties. Measures should be taken to ensure that migrant children, regardless of their status, are able to access homeless shelters</p>

<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.H.52)</p>	<p>States should ensure that irregular migrant children are not criminalized for exercising their right to housing and that private actors, such as landlords and civil society organizations, who facilitate their exercise of this right are also not criminalized</p>
<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.I.54)</p>	<p>The Committees are aware that migrant and refugee children may experience severe emotional distress and may have particular and often urgent mental health needs. Children should therefore have access to specific care and psychological support, recognizing that children experience stress differently from adults</p>
<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.I.55)</p>	<p>Every migrant child should have access to health care equal to that of nationals, regardless of their migration status. This includes all health services, whether preventive or curative, and mental, physical or psychosocial care, provided in the community or in health-care institutions. States have an obligation to ensure that children's health is not undermined as a result of discrimination, which is a significant factor contributing to vulnerability; the implications of multiple forms of discrimination should also be addressed. Attention should be paid to addressing the gender-specific impacts of reduced access to services. In addition, migrant children should be provided full access to age appropriate sexual and reproductive health information and services</p>
<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.I.56)</p>	<p>Migrant children should have access to health services without being required to present a residence permit or asylum registration. Administrative and financial barriers to accessing services should be removed, including through the acceptance of alternative means of proving identity and residence, such as testimonial evidence</p>

<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.J.60)</p>	<p>Migrant children should have access to alternative learning programmes where necessary and participate fully in examinations and receive certification of their studies</p>
<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.J.60)</p>	<p>The Committees strongly urge States to expeditiously reform regulations and practices that prevent migrant children, in particular undocumented children, from registering at schools and educational institutions. States should also develop effective firewalls between educational institutions and immigration authorities and prohibit the sharing of students' data as well as immigration enforcement operations on or near school premises, as these practices limit or deprive migrant children or children of migrant workers in an irregular situation of their right to education. To respect children's right to education, States are also encouraged to avoid disruption during migration-related procedures, avoiding children having to move during the school year if possible, as well as supporting them to complete any compulsory and ongoing education courses when they reach the age of majority. While access to upper-level education is not compulsory, the principle of non-discrimination obliges States to provide available services to every child without discrimination on the basis of their migration status or other prohibited grounds</p>
<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.J.61)</p>	<p>States should put in place adequate measures to recognize the child's former education by acknowledging previously obtained school certificates and/or issuing new certification based on the child's capacities and capabilities, to avoid creating stigmatization or penalization. This is equally applicable to countries of origin or third countries in the case of return</p>
<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.J.62)</p>	<p>States are encouraged to dedicate staff to facilitating access to education for migrant children and to promoting the integration of migrant children into schools. In addition, States should take measures aimed at prohibiting and preventing any kind of educational segregation, to ensure that migrant children learn the new language as a means for effective integration. State efforts should include the provision of early childhood education as well as psychosocial support. States should also provide formal and non-formal learning opportunities, teacher training and life skills classes</p>

<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.H.52)</p>	<p>States should develop procedures and standards to establish firewalls between public or private service providers, including public or private housing providers, and immigration enforcement authorities</p>
<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.I.56)</p>	<p>Effective firewalls should be put in place in order to ensure [the] right to health</p>
<p>CESCR General comment No.22: on the right to sexual and reproductive health (2016), E/C.12/GC/22 (para.II.B.31)</p>	<p>Laws, policies and programmes, including temporary special measures, are required to prevent and eliminate discrimination, stigmatization and negative stereotyping that hinder access to sexual and reproductive health... refugees, stateless persons, asylum seekers and undocumented migrants, given their additional vulnerability by condition of their detention or legal status, are also groups with specific needs that require the State to take particular steps to ensure their access to sexual and reproductive information, goods and health care</p>
<p>CEDAW General recommendation No.26: on women migrant workers (2009), CEDAW/C/2009/WP.1/R (para.24)</p>	<p>Countries of origin must respect and protect the human rights of their female nationals who migrate for purposes of work. Measures that may be required include, but are not limited to, the following: ... States parties should ensure the provision of standardized and authentic health certificates if required by countries of destination and require prospective employers to purchase medical insurance for women migrant workers. All required pre-departure HIV/AIDS testing or pre-departure health examinations must be respectful of the human rights of women migrants. Special attention should be paid to voluntariness, the provision of free or affordable services and to the problems of stigmatization (articles 2 (f) and 12)</p>
<p>CRC General comment No.6: treatment of unaccompanied and separated children outside their country of origin (2005), CRC/GC/2005/6 (para.V.f.48)</p>	<p>The obligation under article 39 of the Convention sets out the duty of States to provide rehabilitation services to children who have been victims of any form of abuse, neglect, exploitation, torture, cruel, inhuman and degrading treatment or armed conflicts. In order to facilitate such recovery and reintegration, culturally appropriate and gender-sensitive mental health care should be developed and qualified psychosocial counselling provided</p>



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This reference tool is part of a larger document that contains guidance for all 23 objectives of the Global Compact for Safe, Orderly and Regular Migration. It is available online at: quno.org/resource/2018/11/foundations-implementation

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