

Visit of the UN Special Rapporteur on the Right to Education, Mr. Vernor Munoz, to Germany, February 13-22, 2006.

Report to the Special Rapporteur on the Right to Education

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Subject/Issue:

Rights of Refugee Children: Their Education and Welfare

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The Bundesarbeitsgemeinschaft für Flüchtlinge (German working group for refugees) PRO ASYL, and the Bundesfachverband unbegleitete minderjährige Flüchtlinge e.V. (German association for unaccompanied minor refugees) B-UMF, support full implementation in Germany of the UN Convention on the Rights of the Child and the legally binding retraction of the reservations declaration attached by the German government to ratification in 1992, which leads to a diminishing or negation of the rights of refugee children who have no official residence permit status.

At the submission of PRO ASYL, as early as 2001 the German *Bundestag*'s petitions committee itself called upon the German government to retract the reservations declaration and back full implementation of the Convention, also as it applies to refugee children; and between 1999 and 2005 the representatives of the *Bundestag* passed five resolutions to this end.

A number of studies and surveys have shown that children and youth seeking asylum have hardly any access to schooling due to the fact that school attendance is not compulsory in some of the German federal states (see Björn Harmeling "Wir bleiben draußen" (We stay outside), *terre des homes* (publ.) February 2005).

Access to internships or apprenticeships in businesses, to vocational training, and to the job market is extremely difficult for young people such as these. These problems have intensified since the Immigration Law came into force.

The educational disadvantages of young refugees and children without a German passport do not only reflect a lack of opportunity or fair treatment within the German school system, however: they cannot be viewed apart from the overall situation of these children and youth, which is characterised by total legal and administrative exclusion. Among the restrictions affecting them are:

- limited social (and material) services
- inadequate health care and medical treatment
- limitations on freedom of movement (*Residenzpflicht*)

- permanently uncertain prospects for the future
- the threat of extradition or confinement pending extradition.

We ask that particular notice be taken of the children and youth who live in Germany without valid residence papers, who – classified by the authorities as “illegals” – live in Germany without any legal rights whatever and who are consistently threatened by various forms of danger and neglect and, if they are discovered, with immediate deportation. Because of the German reporting and residency registration requirement (*Auskunft- und Meldepflicht*), and the threat of punitive measures if one does not report to the authorities or is not registered, these children and youth cannot as a rule attend to school, enter into training or accept employment. There is thus an urgent need for action for the sake of the children’s well-being; that is, that officials, schools, non-government and governmental organisations for child and youth aid, teachers, doctors, etc., be freed, for the sake of the children’s welfare, from the obligation to provide information on and report foreigners to other authorities.

Our associations chiefly call for non-bureaucratic and generous residence permission regulations to apply to all (so far merely tolerated) asylum-seekers and other migrants who will in time be obliged to emigrate – and especially to children and young people.

We also strongly call for:

- retraction of the reservations made by the German side on ratification of the UN Convention on the Rights of the Child
- equal rights of refugee children to an education, independent of their residence permit status
- the bestowing of child-protection and -promotion measures proffered by child and youth aid services on all children and young people, whatever their residence status
- prioritisation of the well-being of the child him- or herself throughout the course of residence permit legal/administrative procedures and decision-making.