



STANDING UP FOR EQUALITY IN GERMANY'S SCHOOLS



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INTRODUCTION

No country wants to believe that it is failing its children in any way. It is difficult to imagine a government that would not support the idea of equal education for all. Germany is no exception. And yet, in Germany, children of varied ethnic and racial backgrounds have vastly different educational opportunities and experiences.

It is clear that children from a “migration background”¹ perform significantly worse at school than their native German counterparts. The term “migration background” covers children from families who are still perceived as “foreigners” because of their racial or ethnic identity, even though their families may have arrived in Germany years ago.

This should no longer be a surprise. In 2001, an influential European study shocked Germans with the news that their country, which long had prided itself on its excellent educational system, was at the low end of the comparative spectrum. The study, undertaken in 2000 by the Program for International Student Assessment (PISA) (an arm of the Organization for Economic Development and Cooperation (OECD)), showed that German children did poorly in reading, math, and science, in comparison to students from 56 other countries.

The PISA study described the deep flaws in the German education system. In particular, it explained that at-risk students—including those of migration, or migrant, backgrounds—performed among the worst in the world. They were more often tracked into the lowest level *Hauptschule*; they were excluded from the best classrooms; and they had far fewer opportunities to attend *Gymnasium*, which meant they were not permitted to take the state *Abitur* examination and attend university. As a result, they emerged from a flawed educational system with mediocre credentials and limited career and life possibilities.

After the “PISA shock,” a number of school reforms were undertaken in an effort to improve the performance of the most vulnerable children in the system, including greater availability of pre-school spots, the right to a place in Kindergarten, and the development of some national standards. Some of these reforms—such as, in Berlin, the streamlining of the tripartite system to combine *Hauptschule* and *Realschule* into *Sekundarschule*—are promising. Nonetheless, over a decade later, there is still a collective denial of persistent and serious discrimination in education.

How do we know discrimination persists? By listening to children in migrant communities, and to their parents—children who do want to go to the best schools; who want to be on track to go to university; who aspire to be teachers and lawyers and doctors and nurses; or who may not wish for the most elite schools or professions, but nonetheless want decent jobs. They tell us that they want equality in education, and such equality is not available to them in Germany.

They tell stories of teachers who take one look at them and tell them they are bound to fail, regardless of their intellectual capacity. They talk of stigmatizing comments about their food, their cultures, their customs, their appearance, their accents—with no reproof from teachers or school directors. They describe teachers who, themselves, make fun of these students of migration background in class. Their stories of being segregated into classes comprised entirely or largely of migrant students, or of receiving lower grades for the exact same work as the native German student who sits next to them, contradict the collective refusal to acknowledge the discrimination and root it out.

The 2000 PISA data shows that the education system must work for all in order for that system to truly thrive. And international and national human rights laws and norms demand that governments must both promise and deliver equal education for all.

Equality in education isn't only a matter of law and principle; it is a pathway to creating a better, stronger Germany through diversity, inclusion, and human rights.

This book of photos gives a face and a voice to the discrimination that many children of migration background experience in Berlin. Its purpose is to show, through the concrete stories of people, that discrimination in schools against migrant children is widespread, and to call on all Berliners to condemn and end it.

Abit Kazcı

PSYCHIATRIST AND FATHER

TEMPELHOF

My son has always felt that he is a German. But now he's been assigned to a segregated class for migrant children. It's like they're saying, "You don't belong here."

I discussed the problem with the school and tried to find a solution. Their attitude made me realize that no matter what I do, I don't have a chance. They said so very clearly. A principal from a different school said he had a place for my son, but then told me that he could not take my son out from under a fellow principal.

I learned that a year before the same situation had occurred. The Senat was informed but nothing came of it. You can't do anything about it. I knew that whatever school I go to, they will call the principal of my son's current school and it won't work out.

I want my son to do what makes him happy. I told him to do his Abitur, then he can do whatever he likes. The Abitur is the door to other things in the future. If you have the opportunity, you shouldn't close those doors. Whether he actually goes on to study, I don't know, but at least he'll always have the possibility to do so.

It hurts me. My son was born here. And still they refuse to allow us to fully arrive in Germany.

I feel helpless, powerless. We live in a democracy, but you come to a point where you can't do anything. You arrive at a wall and you can't move ahead.





Evelin Lubig-Fohsel

ANTHROPOLOGIST AND TEACHER

WILMERSDORF

The whole school system is based on segregation.

These arguments you hear today—that the migrant students can't hack it, they don't even want to, and so on—these arguments have been around since the 1960s. Only then it was workers and farmers. The Catholic girl from the countryside was the loser in the educational system. Now it's the migrant boy in the city.

In my years of experience as a teacher I have observed again and again how, when it comes to recommending children to continuing higher education, family background is given special importance.

A recommendation will read, "The family cannot support the child." Or, "The child comes from a family not invested in education." I have also heard the throwaway comments—"stay with what you know," "not everyone has to be an academic, we need garbage men, too" and so on. This basic attitude often continues in secondary schools and higher education, too.

Children who aren't born with the privilege of support are basically abandoned to their own fates. This is disproportionately true for children with migration backgrounds. Statements by Gymnasium faculty in the seminars I attend agree with this assumption: "Those who make it into Gymnasium have to know German. Here we cannot give any support anymore." "We cannot take care of a student's family background on top of everything. The student is either fit for the school expectations or not."

But even this is a lie. If you come from a migrant background you can do everything right and still be rejected. I've had students tell me: "We can do everything right, speak excellent German, study hard. And still they refuse to let us be part of the 'we.'"



Gülten Alagöz

TEACHER AND MEMBER OF DISTRICT COUNCIL

TEMPELHOF

I don't need to convince anyone that the discrimination in Berlin schools is real because I believe that people are quite aware of it. The problem is that no one talks about it in public.

During my university studies and throughout my career, I've constantly been confronted with my migration background. I heard the arguments that migrant children are lazy, that migrant parents don't care about the education of their children, that their parents are uninterested. I came to realize how many people carry negative assumptions or prejudices about children and families with migration backgrounds.

It's true that children have different starting conditions. They bring with them different experiences. They have different intellectual capacities, talents, and competencies. But educational success for migrant children should not be dependent on their social background.

Norbert Böhnke

TEACHER

SCHÖNEBERG

It starts early. The first separation takes place with 5- and 6-year-olds.

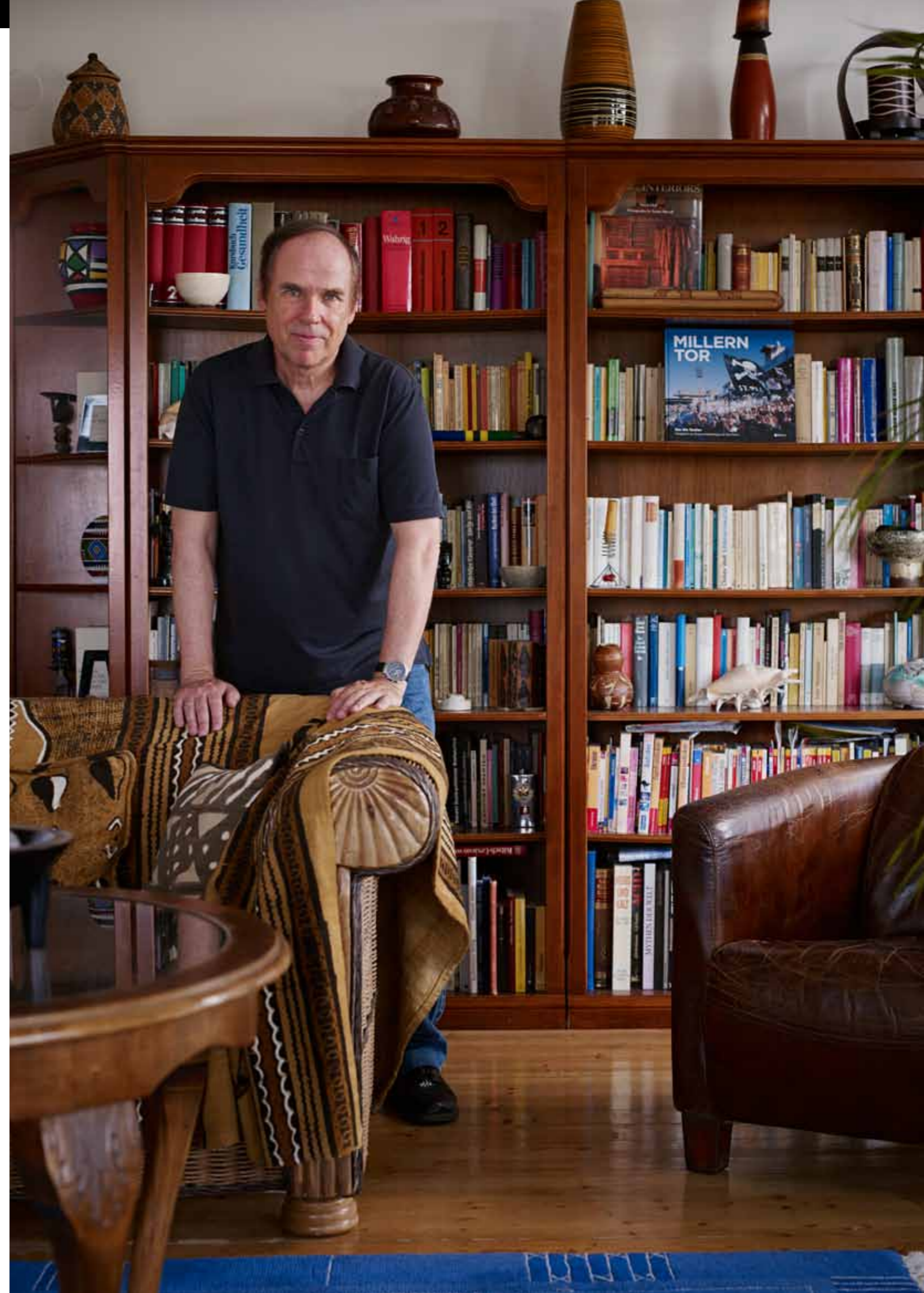
When they first begin school, some are assigned to “German Guarantee classes,” where native German parents are guaranteed that their children will remain among themselves rather than be mixed with migrant children.

By middle school—from 7th grade onward and by the age of 12—the separation usually happens on the basis of language. Migrant youths in integrated secondary schools find themselves in vocational classes or sports, while children of German academics are assigned to classes for French, Spanish, or Latin.

At Gymnasiums, students from migration backgrounds are often stigmatized as problems. Then, through tricks like classes for religious education, these students are grouped together in separate classes.

But discrimination doesn't just take place because of organizational separation. It's also a subtle but constant presence in everyday life. “Behave as is done in Central Europe!” the teacher says. Or “Why are you suddenly wearing a head scarf?” Or, on an Internet platform for students, “Who is the biggest Muslim bitch in our school?” Or at a Christmas party a teacher says to a student: “Will you turn that funny Turkish music off?”

To fight this, we need a real change in the way we think about education. My best current student in German is of Palestinian descent. According to our current system, he shouldn't even be in my class. How can that be right?



Didem Yüksel

TEACHER AND MOTHER

CHARLOTTENBURG

I picked up my daughter from school and she told me about the song.

"C-o-f-f-e-e, don't drink so much coffee! The Turkish drink is not for kids, it weakens the nerves, makes you pale and sick. Don't be like Muslim men who can't stop drinking coffee!"

My daughter says she was speechless at first. The teacher actually said that it didn't have anything to do with children of Turkish heritage. At first my daughter didn't sing along but then looked around and when she saw that other children of Turkish origin sang along, so did she. My daughter told me that other children laughed at her.

This is what it does to you. It is a feeling of powerlessness, a feeling that gnaws at your confidence and creates insecurity. You wonder if you're doing something wrong, whether there is actually something wrong with you.

I could understand this happening to me when I was in school. We were the first ones. But not to my child. This can't still be an issue for the next generation.



Makoto Takeda

INTERPRETER AND CONSULTANT

KREUZBERG

My daughter came home from school and told us they'd been singing that song—"Drei Chinesen mit dem Kontrabass." And that while they were singing, the teacher had called upon the students to pull the corners of their eyes into that "slant-eye" face.

When I heard this, it reminded me of my own childhood. I was partially raised in Germany. During primary school, children would come up to me, pull their eyelids, and call me Chinese. As a child I always felt that to be an insult, but I wasn't able to really reflect on why. My answer then was to say, "Hey, I am not Chinese!"

It took years for me to understand that something much deeper was going on—that it doesn't matter if you're Vietnamese, Chinese, or Korean. That if your appearance is being mocked, you should not say, "This has nothing to do with me, because I am actually Japanese." The gesture is racist and it applies to us all. This is what I wanted to convey to my daughter.

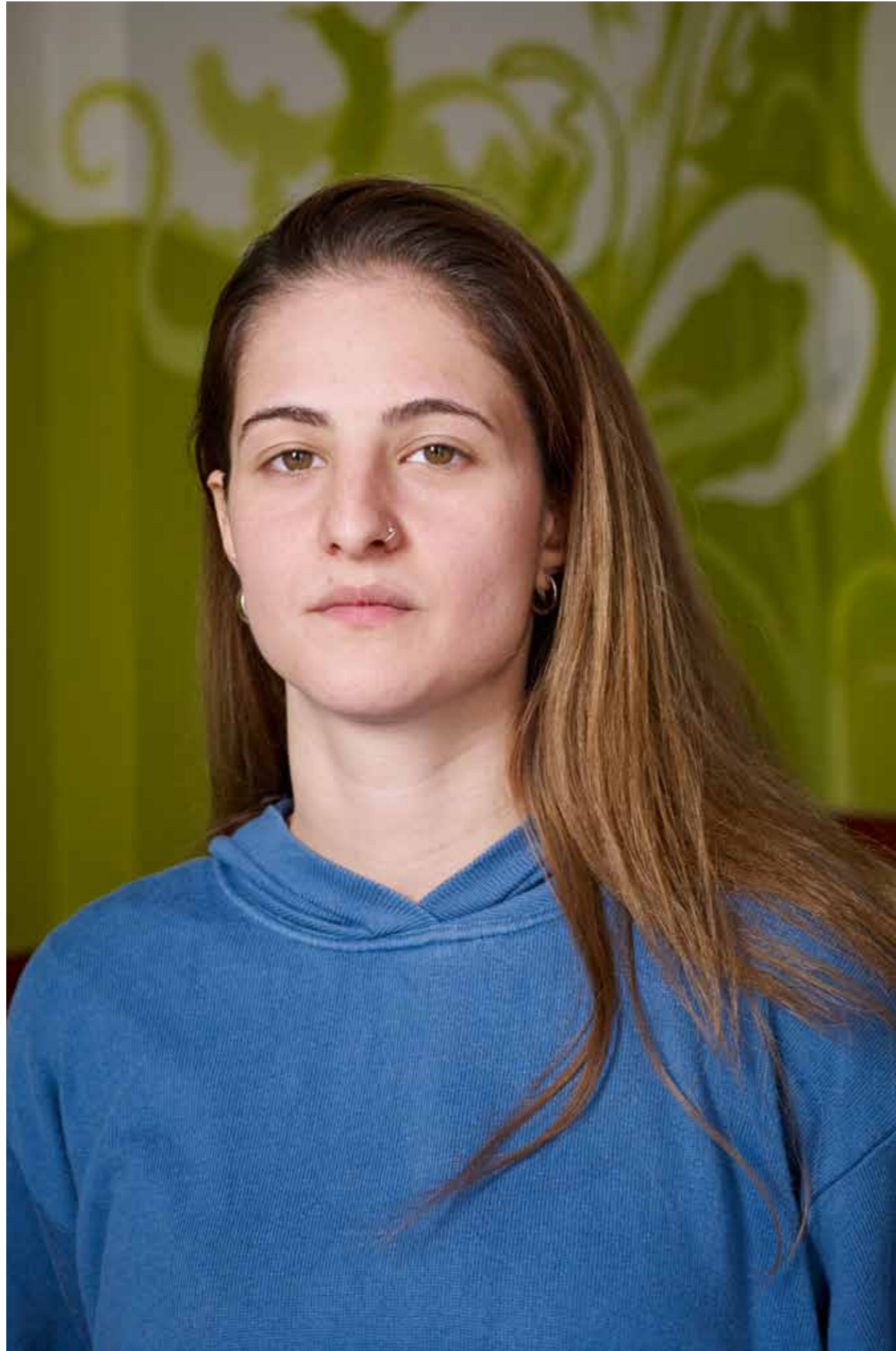
So, I told the principal that I expected the music teacher to apologize. I also thought that all the children who had been taught the gesture should hear that this was not okay—that this gesture is racist.

Why are children learning racist gestures in school?

Unfortunately, when the music teacher raised the issue in class, she did so in a way that was exactly wrong. In front of the whole class, she asked Yukino if the song and the gesture had offended her. All eyes focused upon Yukino, who, very well-behaved, nodded. The music teacher then said, "But after all, you are Japanese, half-Japanese."

I worry about what the incident and others like it will do to Yukino's relationship with me, her father. Yukino's mother is white. And now my daughter is learning that if she identifies with me, she belongs to that group about which it is okay to make rude gestures. And, of course, she doesn't want that. This is what racism does. It drives a wedge into our relationships—even into families. It's very painful.





Serpil C.

UNIVERSITY STUDENT

SCHÖNEBERG

To prove to another person that discrimination really does exist is very hard. Even when you have examples, it's hard to offer proof.

Unless you've been a victim of discrimination or have witnessed it, it can be hard to believe it's real. You almost have to live the experience to know that it is discrimination.

I had good marks in primary school but they gave me a recommendation for Realschule. I wanted to try my luck in Gymnasium. So, I pressured the teachers. I said, "You have nothing to lose. Give me the recommendation. If I don't succeed, you will have been right."

The Gymnasium was what I expected. Our English teacher was a racist, our geography teacher as well. Many of the students were German; only a few came from migration backgrounds. They looked down on us. They humiliated us in class.

I don't come from an academic family and I didn't have enough money for private lessons. But I wanted to show I could make it through on my own strength. I needed to save my own life.

Asal H.

STUDENT

LICHTENRADE

I went to a “comprehensive school” with 1500 students and you could count the immigrants in each grade on one hand.

Before I enrolled, I went to an application interview with my parents. The director said outright, “We do not want immigrant children here. They will influence the German children to become worse students.” In the end, they only took me because my mother registered me for the Japanese language course. They needed people for the course, so they let me in.

There were five of us in my class with a migration background. The teachers immediately saw us as hopeless cases. When we didn’t know an answer, they’d say, “Figures that you wouldn’t know.” Or comments like, “You can do that where you came from. Here we don’t do that.”

The five of us stuck together. A short time ago, we were standing together during a break. A teacher passed by and said: “Well, this is integration for you. Building a ‘parallel society’. Super!” My jaw dropped. We’d been at the school for years. We’re all good students—one of us is the top student in the graduating class. And still this is the perception.

The comment I heard all the time was, “You speak very good German.” Which is offensive, because it’s not meant as a compliment. The meaning is clear. “Wow, I’m surprised that as a foreigner you can speak such good German. And your parents, too...”

After my exams a teacher came up to me and said: “Wow, wouldn’t have thought that you would manage it, that you could get this far.” And the worst part is that you can’t say anything in response. You think, this is my life, this is my future, if I get angry, they will treat me even worse.

Once a teacher said, “Go back to where you came from.” I said to her: “I am where I came from. I come from Germany and I consider myself German.”



Haydar P.

TRAINEE HOTEL MANAGER

LICHTENRADE

I attended a Haupt-Realschule. There were mostly Germans in the school—just a few foreigners—and they treated us very differently.

It was obvious that the teachers didn't like us.

They made dumb remarks about my education, saying that I hadn't received a proper education, asking questions about how things were at home, and whether my parents were looking after me. Stuff like that. I received a very modern education. That's why I always thought it was so ridiculous. And why are you asking about my family? How was I not supposed to take offense?

Teachers are important. I later took a year of vocational training, studying catering. That was fun, because the teachers were great and would talk with me. The relationship with them was completely different. It was respectful. In secondary school it wasn't this way. There was no encouragement. That's so important because it keeps you motivated and keeps you going to school.



Somaia M.

STUDENT

MARIENFELDE

You hear the comments constantly from teachers.

Once I gave a wrong answer in physics class and the teacher said, "That may be so in your desert, but not here in Germany." And then, of course, the stereotypes. "Oh, the Arabs are always late." Or, before a parent-teacher conference, a teacher said to me once: "Your mother is coming? She manages this alone, without her husband?"

I started wearing a headscarf after my final exams. I'd wanted to start sooner, but I'd watched what my older sister went through—she started to wear one in eleventh grade. I knew how she'd had to work twice as hard to prove herself, how she'd been more active in class just to keep her old marks.

I remembered the endless questions, too. "Does she have to wear that headscarf?" "Is she going into a forced marriage?" Some teachers asked: "Is this really voluntary?"

Because of all this, I decided to wait until after I was finished with my exams. I was right, too. When I saw my teacher after the exams, he said, "I am very disappointed. I thought you were more cosmopolitan and had more strength of character."

Not many understand that the choice to wear a headscarf is just that—a choice. That you have to think about it and that you are aware of what you're doing. My teacher didn't seem to understand that my wearing the headscarf wasn't because of a change in my personality. It was a serious, considered decision. All he saw was that somehow I didn't have the strength of character to refuse to wear it.

I have always thought that I am more German than Egyptian. I am more fluent in German, my whole education has been in Germany—I came here when I was three years old. I feel like a German. But when you are always looked at as a foreigner, you ask yourself why you should feel like a German. Most people just look at your appearance, see dark skin, and you are not German.



Sharon Otoo

AUTHOR AND EDITOR, MOTHER OF FOUR

KREUZBERG

The job of the educational system is to educate all the children living in the country. But the research is clear—Germany has been told, you can't only educate 30% of your population. The system is failing.

I have three sons, all of whom have gone through Berlin schools. I've seen the problems with my own eyes. In any school situation, you want teachers and parents working together in the interests of the child. But I have seen again and again how this isn't the case in practice. Instead you get these battles where each side accuses the other of not performing their role properly. When it comes to issues around racial discrimination, this gets even worse.

Berlin schools have a racism problem.

But the word "racism" triggers such strong emotional reactions that these kinds of problems are rarely discussed, let alone resolved. In this climate, most black children learn not to complain about racial discrimination. They either keep quiet or they leave the school.

This means the underlying dynamics—and the discrimination that results—continue to flourish. Teachers continue to believe that they are not racist and that their school isn't a racist institution.



THE SITUATION IN BERLIN

This report focuses only on the city-state of Berlin, a region with a high concentration of residents from diverse backgrounds, where students, teachers, and administrators confront an unequal education system with each new school day. What is happening in Berlin is being repeated across Germany. By the same token, a real transformation in the quality of education for students of migrant background in Berlin could serve as a powerful model for other German states.

While the statistics on discrimination in Berlin schools are not perfectly clear, they reveal some important trends, namely:

- In Berlin, half of the state's native German students leave school with a university entrance qualification. For students who come from families whose original language is not German (*nichtdeutsche Herkunftssprache*), less than a third leave with a university entrance qualification.
- In December 2012, the government of Berlin told members of the state assembly that twice as many children with a migrant background were relegated (essentially, demoted) from the city's elite *Gymnasium* schools to the lower level *Sekundarschule* as native German children.
- In 2010, a federal Ministry of Education report noted that children with a migration background were twice as likely to attend a vocational secondary school (*Hauptschule*) as children without a migration background—even within the same socio-economic class.

The PISA data of 2000 showing the negative impact that discrimination has on overall educational performance inspired some reform efforts, including a move away from the three-tier secondary school system in some *Länder*. The school authorities in Berlin have recognized that the efforts in the capital, which has a high migrant population, are likely to shape policy across the country.

In March 2011, for instance, the Berlin Senat adopted a limited version and some of the demands of the proposed State action plan against racism and ethnic discrimination. It proposed providing training for school directors, administrators, and teachers on the subject of racism and ethnic discrimination, and the hiring of more teachers with a migrant background. At the same time, Berlin secondary schools shifted in 2012 from the previous

model of three tiers—in which, by age ten, all students were tracked into the *Gymnasium*, the *Realschule*, or the *Hauptschule*—to a two-track model (*Gymnasium* and *Integrierte Sekundarschule*), and adopted a placement system aimed at removing some barriers to entry to the higher level *Gymnasium* schools.

But many school administrators and parents remain wedded to practices that effectively consign the majority of students with a migrant background to a second-class education. For instance:

- School directors have set up separate elite classes comprised entirely of native German children to attract native German parents, with preferential conditions, better teachers, and supplemental learning projects.
- Without an objective and reasonable justification, separate classes based on parents' choice of religious instruction or second foreign language instruction have been established.
- In Berlin, schools are required to provide appropriate language support when necessary for migrant students. But language is often used against them as a reason to keep students with a migration background out of mainstream classes for too long, or as a proxy for separating these students from native Germans.
- Only 6.1 per cent of teachers in Germany come from a migrant background, while students from a migrant background make up almost 20 percent of the school population of Germany, and almost 25 percent in Berlin.

These practices enable schools to sidestep the intent of reforms, and thwart the goals of inclusive education. They also maintain students of migrant background as foreigners who will never be truly German in the eyes of native Germans. As a result of the discrimination they face, migrant students will not only continue to suffer the stigma of being “foreign” and “different;” they also will be unable to access equal opportunities and reach their full potential, for themselves and for their country.

THE LEGAL FRAMEWORK

The German government's failure to secure equal educational opportunity for migrant children is a violation of international and federal law.

International as well as European law obliges Germany to provide quality education for all children. Germany has ratified several international treaties articulating the right to non-discriminatory access to education, including the International Convention on the Elimination of All Forms of Racial Discrimination (the right to non-discrimination);² the International Covenants on Economic, Social, and Cultural Rights³ and on Civil and Political Rights (the right to non-discrimination);⁴ and the Convention on the Rights of the Child.⁵ International human rights law also guarantees the right to participate in decisions that affect schooling, and requires the government to remedy a well-founded claim of discrimination.⁶ The unavailability of meaningful redress for complaints about discrimination in Berlin schools — the fact that parents and children have no systematic way to challenge the placement or treatment of migrant children when they experience discrimination — is a violation of the government's obligation to investigate and provide redress for legitimate claims of discrimination in education.

Additionally, Germany is a party to the European Convention on Human Rights, which provides a right to education in Article 2 of Protocol 1,⁷ and prohibits discrimination in education (as well as other rights guaranteed in the Convention).⁸ The European Court of Human Rights, which hears cases alleging violations of the European Convention, has clearly stated that governments cannot segregate students into separate classrooms on the basis of their ethnicity.⁹ The European Court has also ruled that if children are going to be separated on the basis of their language ability, they must be suitably tested and monitored so they can join mainstream schools or classes once their language skills have progressed.

Discrimination against children of migrant background in schools is an important issue of fundamental human rights. A number of United Nations officials and institutions have identified and criticized the problem in Germany:

- Following his visit to Germany in 2006, the UN Special Rapporteur on the Right to Education, Mr. Vernor Munoz, expressed concern that the extremely stratified school system led to a negative correlation between educational achievement and a student's migrant background.¹⁰
- In 2010, the Special Rapporteur on Racism noted that "the three-tiered system of German education, with early selection into separate levels of education, creates a bias against students whose mother tongue is not German. The Special Rapporteur believes that the overrepresentation of minority students in the lower school stratum is an indication of the problems in the three-tiered mode."¹¹

German law also prohibits discrimination on the basis of racial, ethnic, or religious grounds. *The Berlin School Law*, amended in 2010, states (in article 15) that children whose native languages are German and non-German must be educated together, with exceptions for special learning groups aimed at German language learning support. The amended law also contains a general non-discrimination provision relating to the right to education, as does the German Constitution in Article 3. However, the German Federal anti-discrimination law (*Allgemeines Gleichbehandlungsgesetz*) does not cover public education, as education matters are regulated by the legislation in each Federal Entity (*Land*). Practically speaking, this means that education is subject to federal law, but is regulated by *Land law*.

The *Berlin School Law* reform, which entered into force in 2012, redesigned the three-level school system into two tracks, with more flexibility, theoretically, for students to switch between streams and schools. The reforms were intended in part to provide students from traditionally disadvantaged backgrounds (including students with migrant backgrounds) greater mobility within the secondary school system of Berlin and to encourage ethnic diversity among student populations.

Under the amended *Berlin School Law*, the *Gymnasien*, which remain a separate track and are still the primary gateway to higher education, are no longer allowed to handpick all their students. A *Gymnasium* may select 60% of its students while 30% of its places will be allocated by lottery and are open to all pupils regardless of their performance in primary school. The remaining 10% of places are reserved for "hardship cases," e.g. for children

whose siblings are already enrolled at the school or for others who would face considerable difficulties if unable to attend the particular school.

Despite the protections of international law and the German constitution, as well as the reforms of the *Berlin School Law*, the policies and practices carried out in some Berlin schools separate and exclude students of migrant backgrounds and provide, in many cases, vastly inferior education in comparison with mainstream classes. The discriminatory practices described by the students themselves in this volume stigmatize students from migrant backgrounds, undermine their potential to participate fully and on equal footing in German society, and violate Germany's obligations to ensure equality under international and domestic law.

A country's education system reflects national values. Students' experiences deeply imprint on them an understanding of what — and who — really matters to the society in which they live. Many Germans choose not to see inequality and discrimination in the schools. Instead, they explain the underachievement of children of migrant backgrounds as a consequence of low socio-economic status, or indifference or laziness on the part of the parents, or failure of parents to properly support their children's educational aspirations because they, themselves, lack sufficient education.

The parents and teachers in this report tell a different story. They talk about feeling pushed to one side by the system. They say that their children are treated as a lost cause because of their ethnic background. They say there is nowhere to go to challenge the decisions made by teachers and by school principals who they believe are engaging in discriminatory behavior. They believe they are facing a system that is steeped in institutional racism, rooted in old attitudes and preconceptions about who is German, and who "migrants" are.

Their stories are anecdotal; with inadequate comprehensive data on the experience of migrant children in schools, they can't claim to present a total vision of the system. But these stories clearly reflect a far wider dissatisfaction, and unfortunately, resonate far beyond these particular speakers.

Their words demand an answer to a distinct but difficult question. Does Germany want to be a country with two systems of education: one for "natives" and one for "migrants?"

Their words also call for action. It is time for a fundamental change in the way children are educated and supported in the classroom in Berlin in particular and in Germany as a whole. That change, among other things, requires a meaningful avenue for families to challenge the discrimination they experience in schools. That change begins with listening.

ENDNOTES

- 1 The terms “migration children,” “migrant children,” and “children of migration background” — *Kinder mit Migrationshintergrund* — are used interchangeably to describe children whose families migrated to Germany since 1950. Persons with a migration background have either immigrated themselves or are the second or third generation descendants of immigrants (<http://www.bpb.de/gesellschaft/migration/dossier-migration/58361/immigrant-population>). In contrast, the term *Deutsche ohne Migrationshintergrund* — sometimes also referred to as “native” Germans — are frequently used to refer to those who are of German blood or belong to the German people (*Deutsche Volkszugehörigkeit*), have lived in Germany for multiple generations, or who moved back to Germany from, for example, Russia — (the so-called (*Spät-)Aussiedler*), and are generally white.
- 2 Article 2 of the ICERD states: “States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy eliminating racial discrimination in all its forms and promoting understanding among all races [...]” Article 7 states: “States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnical groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, and this Convention.”
- 3 Article 13 of the ICESCR states: “The States Parties to the present Covenant recognize the rights of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups...”
- 4 Article 2 of the ICCPR states: “Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” And Article 26 states: “All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”
- 5 The CRC has a number of provisions relevant to education (including Articles 4, 17, 19, and 29). Of particular note, Article 4 states: “States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.” And Article 29 states:
 1. States Parties agree that the education of the child shall be directed to:
 - (a) The development of the child’s personality, talents and mental and physical abilities to their fullest potential;
 - (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
 - (c) The development of respect for the child’s parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate and for civilizations different from his or her own;
 - (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;
 - (e) The development of respect for the natural environment. [...].
- 6 See European Court of Human Rights (ECHR), App. No. 15766/03, *Orsus and Others v. Croatia* (Mar. 16, 2010) (finding discriminatory the use of separate classes in which only Roma children were enrolled).
- 7 Article 2 of Protocol 1 states: “No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.”
- 8 Article 14 states: “The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”
- 9 See ECHR, App. No. 57325/00, *D.H. and Others v. Czech Republic* (Grand Chamber) (Nov. 13, 2007) (prohibiting indirect discrimination); ECHR, App. No. 32526/05, *Sampanis v. Greece* (Jun. 5, 2008) (finding that local authorities violated Roma children’s rights by placing them in special classes and prohibiting their enrollment in primary school); ECHR, App. No. 15766/03, *Orsus and Others v. Croatia* (Mar. 15, 2010) finding discriminatory the use of separate classes in which only Roma children were enrolled); and ECHR, App. No. 11146/11, *Horvath and Kiss v. Hungary* (Jan. 29, 2013) (finding that misplacement of two Roma students into classes for students with special needs amounted to discrimination).
- 10 UN Human Rights Council, *UN Human Rights Council: Report of the Special Rapporteur on the Right to Education, Mission to Germany (13-21 February 2006)*, 9 March 2007, A/HRC/4/29/Add.2.
- 11 *UN Human Rights Council, UN Human Rights Council: Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mission to Germany (22 June -1 July 2009)*, 22 February 2010, A/HRC/14/43/Add.2.

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