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Access and Quality of Education for International Migrant Children

Lesley Bartlett

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Lesley Bartlett
LB2035@tc.columbia.edu

Abstract
International migrant populations face significant challenges in educational achievement compared to their native peers. Drawing on a review of migration and education, this paper identifies a host of system-level factors that significantly affect the educational access and achievement of migrant students, including legal status, socioeconomic background, deportation, access, segregation, school finance, language education policy, availability of early childhood, and teacher quality. Furthermore, the essay considers a range of key school-level factors that influence education for migrant children, including early childhood, age and duration of compulsory schooling, ability grouping, tracking, responsiveness of curricula and pedagogies to migrants, and openness to diversity. The third section then reviews several case studies, examining how key policies have changed since 2000 and drawing lessons for contemporary efforts to educate migrants. The essay concludes with a discussion of priorities for a post-2015 agenda.

1. Introduction

The world is witnessing an era of unprecedented human mobility: In 2010, an estimated 214 million people migrated internationally (World Bank, 2011). Labor demands, economic crises, urbanization, entrenched poverty, political instability, and conflict continue to fuel the global movement of peoples. Managing migrant populations and providing basic social and educational services have become pressing concerns in all regions of the world.

Migration patterns are quite diverse, constituted by flows of people between and within the global North and the global South. Delimitations of "North" and "South" vary according to the three main organizational definitions offered by the World Bank, the UNDP, and UN DESA, resulting in ranges of migration estimates (see IOM 2013). Nonetheless, by any of these measures, the majority (approximately 75%) of migrants originate in the South—an estimated 147-174 million migrants were born in developing countries (IOM 2013 p. 58). Using the World Bank definition of South and North, in 2010, South–North movements constituted 45% of the total, or 95 million persons, followed by South–South (35%), North–North (17%) and North–South (3%) (p. 55).

South-South migration constitutes a significant and often overlooked phenomenon, involving an estimated 73 to 87 million people. South-South migrants are more likely to be undocumented and are generally younger, with implications for formal schooling; they are more often socially, economically, and educationally vulnerable, with few social policies to support their transitions (Hujo & Piper 2007; Schapiro 2008). Most *refugees* (4 out of 5, in 2010) originate in and move

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to a country within the South. Although it is challenging to assess the number of displaced children and youth denied access to schooling, estimates range from 1.7 million upward (Ferris & Winthrop, 2010, p. 15). Those who are receiving educational services find that the content and the quality vary drastically (Bartlett and Ghaffar Kucher, 2013).

This essay examines the main issues concerning the education of migrant children. Overall, immigrant students do not perform as well as native-born students, even after controlling for socio-economic characteristics. For example, in most OECD countries, with the exception of Australia and Canada, first-generation migrants trail their native-born peers by 1.5 school years (Nusche 2009, p. 6; UNDP 2009, p. 58). The essay concerns system- and school-level factors that explain these outcomes.

1.1 Key Terms

The distinction between migrant and refugee, though important, is often overstated (Crisp 2007; Jones, 2009). According to the 1951 Convention on Refugees, a refugee is a person who, "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside the country of his or her nationality, and is unable to or, owing to such fear, is unwilling to avail himself of the protection of that country." In contrast, a migrant or immigrant is considered to be someone who chooses to move, often motivated by the desire to escape economic hardship and poor governance or to unify a family. Thus, while both cross national borders, conventional thought assumes that a refugee is pushed out of his or her country by political concerns, while an immigrant or migrant is pulled to another country, largely by economic motivations. Documented refugees may receive support from resettlement agencies in the form of economic support, employment services, education, and psychological services, while immigrants and undocumented refugees are largely left to fend for themselves, unless they are fortunate enough to find NGOs offering such assistance.

The potential complications of this seemingly clear distinction are immediately obvious. The process of denying or granting refugee status is fraught with complications, shaped as it is by political decisions, the lack of oversight or external review of UNHCR determinations, seekers' access (or lack of access) to representation, performances by asylum seekers, and flawed determinations of previous persecution using medical and psychological means. But the distinction also depends largely on politics. While this review seeks to examine the experiences of im/migrant students, and specifically international migrants, it is essential to recognize that refugee, migrant, and immigrant are highly consequential, yet permeable and contradictory, categories (Bartlett and Ghaffar Kucher, 2013).

2. Main Challenges

A review of the available literature and the specific case studies outlined in this essay suggests a number of major challenges facing the education of migrant children. These may be divided into system-level and school-level factors.

System-Level Factors
First, the review reveals that key migration and education policies significantly affect the

education of migrant populations. Obviously, migration policies influence the numbers of migrants who move to a location, the safety of that journey, the status migrants assume, the factors that influence their reception, and the social policies that impinge upon their economic, political, and social lives.

Legal status matters a great deal. Access to education is not universally guaranteed, especially for children with irregular status. It is not uncommon for children to be denied access to schools or charged fees beyond their means. A survey of migration policies in 28 countries, including 14 'developed' countries with high rates of human development and 14 'developing' countries with lower human development scores, found that 40% of the former and more than 50% of the latter did not allow children with irregular status access to schooling (Klugman and Pereira 2009, p. 14). In addition to formal restrictions, migrants with an irregular status may avoid formal schooling for fear of detention or deportation. Children who migrate alone are especially vulnerable, as work requirements, poverty, poor health, and language barriers easily exclude them from schools (UNDP 2009). Notably, in locations such as China, internal migrants may also be denied access to public schools, with severely detrimental consequences for the education of migrant children. Further, a review of Mexican migration to the United States concluded that legal status negatively affects the academic achievement of children of unauthorized immigrant parents (and particularly mothers) (Bean 2013). This educational gap has implications for employment and earnings. Thus, regularization policies also bear significantly on educational achievement. In situations lacking clear and timely avenues to legal entry and residence or to legalization, people remain in unauthorized status for longer periods, and educational inequalities persist.

Moreover, deportation policies adversely affect migrant children and their education. Several countries have expanded the offenses that result in deportation and have significantly increased the number of migrants deported. Parental detention and deportation disrupt the schooling of children, causes economic strain and housing instability, and adversely affects the health of children, causing food insecurity and increases in depression (Chaudry et al 2010; Suárez-Orozco et al 2002).

Further, policies affecting residential segregation (and hence school segregation) matter. Studies conducted in the U.S. show that segregation results in diminished academic achievement and learning outcomes, increased drop-out rates, and impaired intergroup dynamics and life-course outcomes (Mickelson and Nkomo 2012; Mickelson 2014). This finding relates to a multitude of factors, including school infrastructure, curriculum, teacher preparation, teacher expectations, and the impact of peers' aspirations and performance (UNDP 2009). Among OECD countries, regression analyses of TIMMS, PIRLS and PISA data demonstrate a correlation between segregation and higher test score differentials between native and migrant students (Schnepf, 2004). The quality of schools that migrant children attend may also be attributed to income levels. Notably, migrant students' educational attainment of is higher in countries with lower levels of economic inequality (Heckmann 2008). The negative impact of low SES on schooling has been mitigated in locations that rely less on family resources, such as Canada and Scandinavian countries (Entorf & Minoui 2004, p. 2).

Obviously, school finance policies matter a great deal for the quality of schooling for migrant

children. Unequal funding levels, such as those produced by the decentralized school funding system maintained in the United States, can produce significant variations in educational quality; more standardized funding helps (e.g., OECD 2005; Pugin 2007). However, it is clear that meeting the specific needs of migrant students requires extra financial resources that are put to effective use (Brind et al., 2008). For example, in the Netherlands, the Educational Priority Policy adds funding for low SES and ethnic minority students (Karsten 2006). Where governments are prevented from identifying ethnic minorities, they may target SES and educational disadvantage, such as in France with the Priority Education Zones (ZEP); however, this approach has not consistently led to improved outcomes, in part due to insufficient funding (Pugin 2007). A similar program, the British Excellence in Cities (EiC) programme, targets students living in disadvantaged urban areas, which includes many migrants. The program provides support for teaching and learning, mentors, and ICT facilities, with positive results (Kendall et al., 2005). In allocating financial support, there is a serious need to equalize resources across locations and to prioritize early childhood, primary, and lower secondary education, in order to benefit migrant children (Nusche 2009).

Language education policies also make a significant difference in the education of immigrant youth. Proficiency in the language of instruction profoundly affects educational outcomes. According to PISA data, migrants who speak the language of instruction at home maintain half a grade level advantage, on average (Christensen and Stanat 2007; see also Schnepf 2004). Support for language learning is essential in providing for migrant children's education. Early childhood education greatly enhances the language learning of migrant children, and (if well designed) can enhance their reading readiness (Gräsel et al., 2004; Penner 2005). Methodical and continuous language support is necessary at all levels of education (Cummins 1979). There are significant debates whether to provide second language education through immersion, transitional bilingual education (often provided in a sheltered, and thus segregated, environment, or through sometimes stigmatizing pull-out programs that may disrupt the students access to the regular curriculum), or true bilingual education (OECD, 2006; Slavin and Cheung 2005). Bilingual education has many cognitive, academic, and social benefits (e.g., Thomas and Collier 2002, Genesee et al 2006, August and Shanahan 2006), but it remains costly and difficult to implement, and in many places there is little political will to provide such services. Countries have elected different policies and many have shifted approaches abruptly. For example, mother tongue teaching was abolished in the Netherlands in 2004 (Driessen 2005), while in Sweden students have a legal right to native language instruction and schools must provide it if at least five students with the same language live in the municipality; in 1996, Malawi decided that Standards 1 to 4 would be taught in mother tongue, but they recently opted to use English as medium of instruction in Standard 1, while Zambia recently expanded the use of local languages as language of instruction through Grade 4. In many other countries, whether bilingual education is provided or not generally depends on decisions made at the municipality or school level (OECD, 2006). There remain profound questions about how to teach the target language of wider communication. What is clear, however, is that attention to language learning is essential; successful language learning programs provide high standards and educate teachers regarding second language learning; and academic instruction should not be postponed (Christensen and Stanat 2007).

School-Level Factors

Landmark studies have demonstrated the impact of key school-level institutional factors on the education of immigrants, including support for early childhood education; age of school entry; the prominence, timing, and consequences of ability grouping or tracking; school quality; rigor; diversity and responsiveness of curricula and pedagogies; and openness to cultural and religious diversity.

Early childhood educational programs, whether home- or school-based, have proven essential compensatory educational tools for migrant children (OECD 2006). These provide opportunities not only for cognitive, linguistic, and socio-emotional development, but may also offer health and nutritional support (e.g., Barnett 1995). According to one analysis, 15 year olds in many countries who had attended forms of preschool education scored substantially better on PISA than those who did not (Schofield 2006, p. 100). One study found that attending kindergarten in Germany substantially increased the likelihood of migrant children attending higher-level secondary schools (Spies, Büchel and Wagner 2003).

Consistent with the evidence regarding the value of early childhood education, the age and duration of compulsory schooling also matters for migrant children. A project that compared second-generation Turkish and Moroccan immigrants in six European countries concurred that institutional arrangements, including starting age for compulsory schooling, contact hours in primary school, timing of tracking, and apprenticeships made critical differences for immigrant students (Crul and Vermeulen, 2003). Further, a divergent comparison of second generation Turks in Germany and the Netherlands demonstrated that the duration of schooling, contact hours between teachers and pupils, and the availability of apprenticeship opportunities in both countries produce higher numbers of second-generation Turks entering postsecondary education in the Netherlands compared with Germany, yet higher numbers of high school dropouts among Turkish students in the Netherlands (Crul and Schneider 2009).

Ability grouping, which sorts students within or between classrooms based on some (often unreliable) measure of ability, has a negative impact on education of migrant children, particularly by leading students and their teachers to set low expectations and by providing less stimulating peers and learning environments (Field et al 2007; Ammermüller and Pischke 2006; Entorf and Lauk 2006). Migrant students are more likely than natives to be placed in groups with lower curricular standards and lower average performance levels (Resh, 1998; Mickelson, 2014). Residential segregation into low-quality schools and poor preparation in early grades leads to early tracking, through formal or informal mechanisms (Crul and Holdaway 2009).

Tracking, which sorts students into different types of schools or programs based on notions of ability, is even more detrimental to migrant children, particularly when it occurs at an early age (Entorf and Lauk 2006). Countries with early streaming, like Germany and the Netherlands, produce the greatest inequalities in school performance (UNDP 2009, p. 58). Cross-country studies have demonstrated the association of early tracking and unequal outcomes (Schütz and Wößmann 2005, Hanushek and Wössmann, 2006). According to one comparison, age of selection into different tracks explains more than half of the disparities between schools in OECD countries. Delays in tracking in Sweden and Finland, for example, reduced the impact of home background on outcomes, and thus improved equity.

The provision of quality education for migrant children depends upon recruiting and retaining skilled teachers. Teaching quality has a tremendous influence on student outcomes, regardless of student socio-economic and demographic background factors, and yet migrant children are least likely to experience that support (OECD 2005, Field et al., 2007). While there is some debate, research suggests that migrant children benefit from schools with low teacher-student ratios, particularly in earlier grades (Krueger 2000; Angrist & Lavy 1999; Björklund et al. 2005; Hanushek 2000). Further, migrant children may benefit from increased numbers of migrant and minority teachers (Nusche 2009).

Finally, the responsiveness of curricula and pedagogies to migrants, and openness to diversity, are important characteristics of effective schooling. There have been widespread efforts to make curricula more culturally sensitive, though more work needs to be done in that regard (Bennett, 2001). In relation to pedagogy, there is clear evidence of the importance of teacher expectations for student aspirations and attainment (Brind et al. 2008). Pre-service and in-service training on inter- or multicultural education, social inequality, and equity is essential. Further, teachers must learn to use formative assessments and differentiated instruction to meet individual learning needs (OECD, 2005).

The value and importance of these system- and school-level factors will be made further evident in the presentation of various case studies from the Americas and eastern Africa in the next section.

3. Case Studies

3.1 Germany

Germany is a steadily diversifying country. In 2005, 6.8 million 'non-German' residents were registered in Germany, accounting for 8.9% of the total population. The majority of foreign-born were Turks, who numbered 2.9 million by 2012. Most Turks in Germany are related to migrants who were recruited to the guest worker program, which lasted from the 1960s to 1973. In the late 1980s and early 1990s, political transitions in Eastern Europe and German re-unification yielded a rise in migration; in response, the German government restricted options of legal entry and permanent residency in respect to ethnic Germans and asylum seekers and adopted a new system for temporary migrant workers.

The German government in the late 1970s regarded itself as a mono-ethnic polity and opposed German citizenship for "foreign workers," based largely on perceived cultural differences including language and religion. This disjuncture occasionally led to contradictory local educational policies. For example, in the early 1980s the Minister of Education in Berlin encouraged Turkish lessons to be made available in schools in order to ease children's assumed "reintegration" once their families "returned" to Turkey (Akturk, 2012, p. 81). However, such policies were scarcely implemented.

Though language remained a central issue over the debate over the "foreigner question," the discourse in policy shifted in the 1990s from one of repatriation to a deliberation over how "integration," rather than a parallel "multicultural" model, should be achieved. Some were

angered by the exclusion of certain languages, like Kurdish (p. 109). At stake was the extent to which the German polity was open to integrating foreigners, and how open foreigners were to becoming "German."

It was also clear at the time that socioeconomic inequality was producing an achievement gap in education, particularly as it related to Germany's heavily tracked system. Traditionally at age 10, students are differentiated according to tracks, which are the greatest predictor of their success later in the labor-market (Crul et al, 2012, p. 105). In the period before 2000, rates of completion of secondary schools for Turkish students had increased. Though the overall numbers remained small, nonetheless in many areas Turkish youth nearly doubled their proportion in *Realschule* (middle level secondary school) and *Gymnasium* (university track secondary school). In some areas, like the industrial Ruhr Valley, the number of students who left school without a certificate had been decreasing (Faist, 1995, p. 73). Yet the change was slow. Scholars and the general public attributed blame to the immigrant home, the pre-school system, language, class, German school rigidity, and state policy, among other factors (Korte, 1987; Kolinsky, 1996; Ostergaard-Nielsen, 2003; Stowasser, 2002).

In response to significant pressure from social and political movements, resulting in 1998 in the first left-wing coalition government in the post-war period, a major overhaul of Germany's citizenship law was achieved. Citizenship became open to those born in Germany of a foreign-born parent who had been in legal residence for at least eight years, though notably dual citizenship was expressly forbidden. Even when a conservative coalition resumed power in 2009, "integration" of its new citizens remained a major policy point. In 2010 the German president, speaking at the twentieth anniversary of unification, famously claimed "integration is the second unification" (Spiegel, 2010).

However the educational implications of the "integration" process were not always clear. For example, Turkish language instruction in the school was now seen by some government officials not as a tool of reintegration to Turkey, nor of an assertion of ethnic rights, but rather as a "transitional measure for integration" in Germany, assuming that inter-ethnic marriage would result in assimilated children who spoke German (Akturk, 2012, p. 103). Many "cultural" questions were left to be resolved at the local level, and the rights of students (though not all teachers) to wear headscarves in the classroom were protected. In many states, Islamic studies instruction was instituted and other accommodations around sport participation were extended to Turkish-background students (Ewing, 2008, p. 190). Early childhood education was advocated for foreign-born populations, leading by 2009 to a 91% enrollment rate among children aged 3-6 (Klopp, 2002, p. 120; Crul et al, 2012, p. 106).

Tracking and school segregation remain major challenges for Germany in achieving educational parity for immigrant children. The tracking system in Germany begins at age 10 for most German states, though Berlin has moved it to age 12. In larger cities especially, the tracks are highly segregated, with the lower track overrepresented by immigrant students, where many remain only to comply with compulsory schooling (Crul et al, 2012, p. 109). Thus the number of Turkish participants in higher education remains low compared to similar groups in other countries. For example, in a 2007-2008 survey of Turkish 18-35 year olds in Berlin and Paris, only 10% of those in the German capital were enrolled in school, compared to 50% in the French

capital (p.109). This direct tracking system leads to school segregation and dropout: Students at the lower tracking levels are twenty-five times more likely to leave school early than their academic track peers (p. 138). School segregation also negatively affects migrant children, due to the concentration of struggling students in under-resourced locations: one study showed a decrease of one point in PISA scores for every percentage point of immigrant over-representation in a school (Schnepf, 2004).

3.2 France

Since the French Revolution, France has traditionally defined citizenship in political rather than in ethnic terms. Additionally, a strong *jus soli* principle has been in place for second-generation immigrants throughout many revisions of France's citizenship laws (Brubaker, 1992, p. 111). Their assimilation into France's values has long been the project of universal education, though with tensions and some mixed results.

In the 20th century, France's assimilationist model led to policies that supported migrant students academically, if not always culturally. Almost all children in France attend *maternelles* (pre-school) at ages four and five (sometimes beginning at three), where they are immersed in the French language, contributing to more favorable outcomes in the initial, elementary educational achievement of migrant children (Alba and Holdaway, 2013, p. 162). Other compensatory measures enhanced migrant opportunities. In 1981, a major policy, the Zones of Educational Priority (ZEP), provided additional funding to schools perceived to be in troubled circumstances, including the percentage of immigrant children in the student body (p. 161). Funding was also provided to supplement the field trips to locations such as the theater, presumably building the "cultural resources" of children whose families otherwise could not supply them. By the end of the 1990s, differentials between immigrant and native scores on the Program of International Student Assessment (PISA) were much lower in France than in Germany (p. 215). Furthermore, since the 1950s there were attempts to "democratize" the university system, in part by delaying tracking and diversifying the curricular pathways. As a result, a significantly larger number of migrant youth continue to higher education in France, as compared to Turkish youth in Germany. A cross-country comparison of European countries demonstrated that three factors--early start to school, late selection for tracking, and not relying on parents as support for schooling (with language and homework help)--provided more chances for high educational achievement for immigrant students in France (Crul et al, 2012, p. 150). Despite these various interventions, achievement gaps remained: in 1995, North African immigrant children were twice as likely as native peers to repeat a year by grade eight (Alba and Holdaway, 2013, p. 175).

On the other hand, in the 1980s and 1990s, integration came under strain in France, as anti-immigrant sentiment bubbled up and North African immigrants in particular began to contest the assimilationist model and nationalist values propagated by schools (Brubaker, 1992, p. 144). The 1989 "affair of the headscarf," in which a principal of a ZEP school in the city of Creil expelled three students for refusing to remove their Islamic head coverings and thus (in his mind) violating French secularism, set off a string of protests, court rulings and major debates in the media over the meaning of secularism (Scott, 2007). In 2004, President Chirac imposed a headscarf ban in schools.

In 2006, France increased deportations of unauthorized immigrants and adopted a "selected immigration" policy tailored to the country's economic needs. Such shifts rippled through education as well. In the late 1990s, the national government began decentralizing financial and other decisions about schools to the local level, which allowed inequalities between schools to widen (Alba and Holdaway, 2013, p. 170). By 2008, nearly 25% of youth of North African origin did not receive a secondary school qualification—almost double the number of their native peers (p. 166). Further, in a tight labor market marked by unemployment of almost 50% among youth, qualifications were insufficient, and social capital (such as a French surname) became a major advantage in securing a job (p. 165).

3.3 United States of America

Nearly 41 million immigrants lived in the United States in 2012—constituting 20 percent of all international migrants (MPI 2012). Yet immigrant children in the United States face a number of educational challenges. National migration laws obviously influence migration (and regularization and deportation) flows, and a handful of federal laws specifically address schooling. However, the educational system is decentralized, meaning that individual states make many of the decisions that affect the education of migrant children. For example, in 1994, Californians passed Proposition 187, which prevented immigrants without legal status from obtaining public education as well as public health care and social services; it was ruled unconstitutional and dismantled.

In the United States, schools are funded from federal state, and local sources, with the majority of funds coming from state sources and local property taxes; this generates radical disparities across and within the fifty states in the quality of school facilities, curricular materials, teacher experience and qualifications, class sizes, language support, and extracurricular activities.

Language policy is largely determined at the state level. The federal 1968 Bilingual Education Act, Title VII of the Elementary and Secondary Act, provided funds to districts that voluntarily developed educational programs for students with limited English proficiency. A 1974 amendment required districts to address the needs of students with limited English, but implementation flexibility was prioritized, resulting in divergent approaches. As a result, states were free to set language education policies. For example, in 1998, California passed Proposition 227, which limited migrants and other English learners to sheltered English immersion for a period not to exceed one year; in 2000 and 2002, Arizona and then Massachusetts followed suit. Other states are more open to bilingual education: by 2010, there were an estimated 2000 dual language programs in locations such as New York. However, the burgeoning accountability movement and expansion of testing has negatively affected bilingual education. The federal No Child Left Behind policy, passed in 2002, renamed Bilingual Education as the English Language Acquisition, Language Enhancement, and Academic Achievement Act, signaling that English acquisition (rather than bilingualism) was the primary goal. NCLB reduced funding for bilingual education and submitted English Language Learners to the same (usually English medium) standardized tests, which in turn pressured schools to accelerate students' acquisition of English. NCLB leaves to the states the responsibility for determining whether educational programs are sufficiently helping students learn English.

Though the migrant population in the U.S. is diverse, a significant proportion comes from Latin America and the Caribbean. In 2012, the top 10 countries of origin made up almost 60 percent of the foreign-born population in the U.S. They were: Mexico (28%); India, China, and the Philippines (each accounting for about 5 percent); El Salvador, Vietnam, Cuba, and Korea (each 3 percent); and the Dominican Republic and Guatemala (2 percent each) (MPI 2012).

Given their large number, and their low rates of educational attainment, the education of immigrant children from Latin America and the Caribbean remains a persistent concern. Latino high school dropout rates dipped from 32% in 2000 to 15% in 2012, but remain too high; the national high school graduation rate for Latinos lags behind that for whites (Lopez and Fry 2013; Orfield et al 2004). Though Latino children account for more than one in five (22%) of all children under the age of five, they are underrepresented in early childhood education programs (Kohler and Lazarín 2007; National Center for Education Statistics, 2006). According to the 2007 NCLR Statistical Report, Hispanic children under the age of five are underserved in early childhood programs. For example, the Migrant and Seasonal Head Start (MSHS) program reaches only 19% (31,400 out of 161,400) of eligible farmworker children. In addition, the Early Head Start (EHS) program, which provides learning opportunities for infants and toddlers in the U.S., served a mere 2.8% (22,115 out of 789,857) of eligible Hispanic families during the 2003-2004 program year. These low levels of achievement and attainment have been dubbed the "Latino Education Crisis" (Gándara and Contreras 2010).

3.4 Ecuador[2]
The previous Ecuadorian law dealing with mobility (Ley de Extranjería), crafted in 1971, focused on the securitization and control of the nation's borders. The law endorsed selective migration and created two categories--immigrants and non-immigrants; such status determined the amount of time a person could legally be in the country (Ramírez, 2013). The 1971 legislation did not recognize any obligations on the part of the state toward emigrants or migrants (Góngora-Mera, Herrera and Muller, 2014). Since 1971, more than twelve different policy documents have been added to regulate migration in Ecuador.

Due to an internal economic crisis and the intensification of the armed conflict in Colombia, between 1999 and 2004, Ecuador experienced intense immigration. An estimated 58,751 Colombians were living in Ecuador by 2013, constituting 98% of the refugee population (Dirección de Refugio 2013). Separated families, children without parental care, increasing dependence on international remittances, and the growing numbers of asylum seekers from the neighboring country together represented new policy challenges for Ecuador.

Ecuador addressed these challenges through the 2008 Constitution and the legislative bodies that resulted. In contrast to previous legal frameworks, the 2008 Bill of Rights recognized Ecuador as a sending and receiving country. Engaging a human rights approach, the new Constitution incorporated the notions of universal citizenship, free circulation of human beings, and migrants as deserving full access to the services provided by the state. In line with the new human rights framework set forth in the Constitution, the Organic Law of Intercultural and Bilingual

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[2] Until 2006, only Argentina, Colombia, Ecuador, United States, Mexico, Trinidad and Tobago and Venezuela had an educational policy for migrants. However, the existence of a legal framework didn't necessarily imply the allocation of financial resources or the provision of educational services to migrant students (OAS, 2006).

Education (OLIBE) guarantees free access to education for all. In 2006 the Ministry of Education crafted Accord 455, which declared that applicants and refugees could access the Ecuadorian education system by simply presenting their temporary certificate that identifies them as an asylum seeker or refugee. In 2008, thanks to pressure from international and national NGOs, Accord 455 was amended through Accord 337 to guarantee access to education for all children regardless of their migratory status, until they are able to provide proper documentation. To be guaranteed a place in school, a child only needed to represent a valid ID, such as a birth certificate or passport. This stipulation required that children be placed in the grade listed in their foreign school documents or based on their performance on a placement test administered by the education district close to their place of residence. To obtain high school diploma, students were expected to present the official document that certified their legal entry to Ecuador.

In 2012, the Accord's content was incorporated into the OLIBE Procedures (SJR, n.d.). In these OLIBE Procedures migrant children and youth were no longer defined as foreigners, but rather as "vulnerable" children and youth with special needs related to "human mobility." Under this new framework, the Ecuadorian state is committed through Article 228 to guarantee that private, public, and religious schools will provide support and adapt the learning environment to satisfy the needs of this population. Today the enduring challenge is the gap between policy and practice.[3]

3.5 Dominican Republic
Haiti and the Dominican Republic share the island of Hispaniola and a 380 kilometer border, with the Dominican Republic occupying two-thirds of the land mass. In the Dominican Republic, Haitians constitute 87.3% of the total immigrant cohort, i.e. 458,233 people (ONE, 2013). The Dominican state must negotiate various pressures resulting from the "paradox of migration": the politically influential members of the Dominican economic elite rely upon (and therefore tolerate) Haitian labor; anti-Haitianism flares regularly; the border is nearly impossible to police adequately; hundreds of thousands of people of Haitian descent are already in the country; and public services, such as health and education, remain underfunded, ineffective, and unable to absorb new demands (Lozano and Wooding 2008).

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[3] In contrast to Ecuador, Peru and Colombia are both categorized as sending countries. Despite the economic growth of the country, Peruvians continue to migrate at a rate of 100,000 each year; more than 10% of the national population has migrated, most commonly to the U.S. (31.5%), Spain (16%), and Argentina (14.3%) (IOM, 2012). In contrast to other countries of the region, more than 80% of Peruvian emigrants completed secondary and/or tertiary education before leaving their country (OECD, 2009). Since 2011, Peru has been working through the *Mesa de Trabajo Intersectorial para la Gestión Migratoria* to draft a cohesive legal framework for the twelve different laws and guidelines regulate migration in Peru. Peruvian children and youth who attend school in other South American countries, such as Chile and Argentina, usually face discrimination on the grounds of race and nationality (Beech & Princz, 2011; Pavez, 2012). Similar to Peru, almost one of every ten Colombians lives abroad: the most common countries of destination are the United States (34,6 percent), Spain (23,1 per cent), Venezuela (20 per cent), Ecuador (3,1 per cent) and Canada (2 per cent) (IOM, 2012). After six decades of internal armed conflict, 5.7 million Colombians have been internally displaced (IDMC, 2013). Despite governmental efforts to respond to internal displacement, widespread insecurity and violence continue in many regions of the country and particularly in the border areas, perpetuating internal and external migration (UNHCR, 2014). Colombia has one of the most developed legal frameworks for responding to internal displacement; it includes the provision of flexible and relevant education tailored to the needs of the displaced (IDMC, 2013).

Citizenship and migration law have shifted radically within the Dominican Republic. Until 2010, Article 11 of the Dominican constitution guaranteed citizenship to anyone born in its territory, except for children of diplomats or those considered "in transit." In 1939, "in transit" was officially defined as those in the country for fewer than ten days. Thus, the Dominican constitution provided for "birthright citizenship." However, in practice the phrase "in transit" became a famous loophole used to deny birth certificates to children born to undocumented parents (especially undocumented mothers), effectively rendering a sizable population stateless. In 2010 the Dominican Republic changed its constitution, stating that Dominican citizenship would be reserved for those children born in the country to at least one parent who is a "legal resident." Further, though there have been discussions of the need to regularize long-term residents, no plans have made progress to date (Kristensen and Wooding 2013, p. 5). In September 2013, a high court in Santo Domingo issued a very controversial ruling denationalising unauthorized people of Haitian descent born and documented in the Dominican Republic since 1929. Deportations have increased in frequency: in 2011, the authorities deported 40,071, or five times more people than in 2009 (Kristensen and Wooding 2013; Riveros, 2012).

The denial of birth certificates (and, therefore, national identification cards or *cédulas* as adults) leads to the denial of other rights, such as the right to education. For decades, children of Haitian descent were regularly denied access to basic education in the Dominican Republic. Challenging this exclusion, in 1998 a group of human rights organizations submitted to the Inter-American Human Rights Commission a complaint concerning the denial of birth certificates to two girls of Haitian descent, Dilcia Yean and Violeta Bosico. In 2005, the Inter-American Human Rights Court (IACHR) ruled that the Dominican Republic must comply with Article 11 of its Constitution, which guarantees the right to Dominican nationality to all those born on Dominican soil unless they are the legitimate offspring of diplomats or born to persons in transit. The court ordered the Dominican government to create a simple and speedy system of late birth registrations, establish a fair process for reviewing the refusal to grant birth certificates, ensure that the law was applied uniformly, and guarantee access to primary education for all children, regardless of status (Wooding, 2009). In the wake of that ruling, the Dominican government has generally encouraged schools to allow all children to register for elementary schools, regardless of legal status. Nevertheless, some children still report being denied access to basic education, especially in overcrowded schools (Bartlett 2012). Birth certificates are required for all secondary school students, curtailing the education of thousands of children.

3.6 South Africa

Access to education for migrant children in South Africa at the turn of the millennium was influenced by the relatively recent end of apartheid and the subsequent adoption of progressive immigration and refugee policies, but at the same time by a lack of effective implementation and widespread xenophobia. This section will consider specifically the case of Zimbabwean economic migrants to South Africa. While official numbers are just under one million, many Zimbabweans are undocumented, and some estimate their numbers are as high as three million (Hammerstad, 2011, p. 1).

Before 2000, immigrants were administered under the unsympathetic 1991 Aliens Control Act (Motha, 2005, p. 27). The Refugees Act of 1998 (which came into effect in 2000) signaled a shift from viewing economic migrants and refugees as a temporary warehousing issue (Khan, 2007a),

and became more oriented towards local integration and the recognition of rights, including the right of refugee children to primary education. South Africa's policy for refugees has generally varied from other countries discussed in this report, in that currently there is no encampment policy, and thus most refugees are living in urban areas (Khan, 2007a).

The Admission of Learners to Public Schools Act of 2001 further clarified that official documents such as residence permits are not required to enroll in public school (thus including newly arrived migrants with temporary permits) and provided for fast-track programs for overage students (Motha, n.d., pp.12, 15). In 2002, a law preventing asylum seekers from working or studying while their case was being determined was successfully challenged (Motha, 2005, p. 27). In 2004, the issue of unaccompanied migrant children was clarified when the court upheld that unaccompanied foreign children fall under the provisions of the Child Care Act (Motha, n.d., p.18).

The Immigration Act of 2002 directed that immigrants other than refugees must be in a position to contribute to the economy of South Africa (Khan, 2007b); this policy had specific bearing on many Zimbabwean migrants, as discussed below.

In 2011, several changes in practice and statements indicated that policy shifts may be forthcoming, as discussed by Ngwato (2013). There have been indications that South Africa may begin pursuing a "First/Third safe country" principle which allows a country receiving asylum seekers to return them to other countries, either where they had a first opportunity to seek asylum, or a third country with which the receiving country has a mutual agreement. Pre-screening practices based on this logic have been implemented on an ad hoc basis in contravention of the Refugees Act. Some Zimbabwean asylum seekers without official documentation have been denied entry, or have not been issued Section 23 permits (transit permits for access to Refugee Reception Offices) as required by the Immigration Act. Meanwhile, asylum seekers' ability to work, study and move freely have been limited, while Refugee Reception Offices have been closed or moved closer to border areas – which indicate that a shift toward a policy of encampment may be forthcoming.

One important aspect of the current policy status is implementation. Unfortunately, policies regarding migrant and refugee rights to education are not well disseminated. Department of Home Affairs personnel, public education officials, police, and migrants and refugees themselves may be unaware or dismissive of laws regarding migrant children's right to education (Khan, 2007b; Motha, 2005, p.10). In a recent interview-based study, very few migrants knew that they had any constitutional right to education (Crush & Tawodzera, 2013, p. 59). Refugee and residence permit applications take an exceedingly long time to process, during which time migrant families are extremely vulnerable (Amisi & Ballard, 2005, p.23; Motha, 2005, p.15). In particular, schools may not recognize temporary permits (Khan, 2007a). Neither do public schools with large numbers of migrant or refugee children receive any special resources or support (Motha, 2005, p.10). Crush and Tawodzera (2013, p.55) further argue that schools are put in the position of having to enforce immigration policy, which results in poor treatment for migrant children. Public adult learning centers (including facilities for overage primary school students) are few in number and under-resourced (Motha, 2005, pp.16–17).

Many migrants, especially those fleeing adverse economic conditions, are not able to immigrate legally and do not qualify for refugee status (Khan, 2007b); they are subject to detention and deportation and their children have extreme difficulty enrolling in schools. This is a particularly severe problem for Zimbabwean migrants, who fled extremely high unemployment and hyperinflation during the late 2000s. While the first half of the decade saw a laissez-faire approach to Zimbabwean immigration (at least at the policy level), unofficial enforcement of the Immigration Act of 2002 increased later in the decade, with street-level harassment of migrants by officials becoming frequent (Hammerstad, 2011, p.2). In 2009, alarmed by xenophobic riots, South Africa announced a moratorium on deportations and introduced visa-free 90-day entries, but soon revoked this in 2010 in favor of the "Zimbabwe Documentation Process" whose goal was to regularize undocumented Zimbabweans – however only a small percentage of those eligible applied, and less than half of applications were issued a permit (Hammerstad, 2011, p.3). Deportations resumed in September 2011 (Integrated Regional Information Networks (IRIN), 2011).

3.8 Tanzania
This section will highlight policies relating to the largest migrant group in Tanzania – Burundian refugees. Burundians arrived in several waves, starting in the 1970s and continuing throughout the 2000s. The old caseload, those who arrived in the 1970s, were settled in villages in Tanzania's interior, and integrated locally (Smith, 2013, p.164). Another group of refugees, a relatively small number of Somali Bantus, was permitted to settle in the Tanga region from where they trace their origin (Rutinwa, 2005, p.9).

Tanzanian policy has been greatly affected by protracted conflicts in Burundi and the 1994 Rwandan genocide: Tanzania tightened its immigration control—including for refugees—throughout the early 2000s as a result, and it has declared its intention to be a "refugee-free zone" (Crisp & Anderson, 2010, p.25). The main documents covering refugees are the Refugee Act of 1998 and the Refugee Policy of 2003, which both limit refugees' movement (Crisp & Anderson, 2010, pp.22–23). The Act is the principal legislation governing refugee matters, and while it does accord with international provisions and instruments for granting asylum and protection, as Rutinwa (2005, pp.11–12) discusses in more detail, it often falls short in implementation. The Policy does not have the legal force of the Act, but "sets out the general direction the government intends to pursue", including specifically requiring refugees to live in designated areas and limiting employment (Rutinwa, 2005, p.11).

Hundreds of thousands of Burundians were arriving in Tanzanian camps at a time when refugee camps were seen as suspicious and dangerous, stemming from the political extremism and conflict which had beset many Rwandese refugee camps in eastern Zaire (Durieux, 2000, p.1; Rutinwa, 2005, p.6). Members of the new caseload (1990s and 2000s) were settled in camps near the border, where schools were administered by multilateral organizations (including UNHCR) and other NGOs (Smith, 2013, pp.174–175). Education in refugee camps until 2010 was geared toward repatriation (Kamanga, 2009), and conducted using the curriculum and language of the home country (Rutinwa, 2005, p.47). School leaving exams were observed and marked by officials from the home country as well (Smith, 2013, p.157). These policies had beneficial effects in that if migrants returned home, their educational credentials were recognized there; but were a hindrance for those unable or unwilling to repatriate, in that they had a more limited

fluency in Kiswahili and struggled to access secondary education (Rutinwa, 2005, p.48).

In 2008, the old caseload of Burundian refugees was offered Tanzanian citizenship, which many of them accepted. By contrast, from about 2005 the push for repatriation of the newer caseload intensified: All camps (and camp schools) but one were closed: there is currently no formal education offered in the one remaining official refugee camp (Smith, 2013, p.206). This practice is expressly to encourage refugees to return to Burundi.

On the other hand, there are indications that Tanzania may possibly allow some urban settlement of refugees (Pangilinan 2012). Urban refugees are currently without legal status and therefore have limited access to education. The Ministry of Home Affairs has said that it intends to address this issue, and although no policy statement has been made, some refugees and other migrants have been allowed to obtain residence permits outside camps. Limiting the access to aid may make this type of urban settlement less feasible and prevent local tension, but it could mean that urban refugees and migrants will struggle to educate their children or find meaningful employment.

Furthermore, notwithstanding the official policy of repatriation, many Congolese refugees from Kivu province are unable to return due to ongoing instability (Rutinwa, 2005, p.8). This policy of repatriation reflects a deeper issue, in that refugee issues are covered by two documents (the Refugee Act and the Refugee Policy), which are not entirely congruent (Rutinwa, 2005, p.5). For example, the two documents designate many different ministries and government departments that impact refugee matters, but the lines of authority are not clear; the Refugee Policy contains statements that are "inconsistent with the provisions of international standards which the same policy enjoins the Government to abide by" (Rutinwa, 2005, pp.11–12).

Finally, although migrants are entitled to secondary and tertiary education "in accordance with rules set by the Minister," no rules have been set, and therefore migrant and refugee students are subject to the same formalities as any other foreign students – including obtaining student visas (Rutinwa, 2005, p.48). This effectively eliminates the hope for secondary education. Secondary education and vocational training also are also very difficult to access in refugee camps (Rutinwa, 2005, pp. 49, 52).

3.9 Kenya
Kenya's Immigration Policy restricts economic migration to those who are able to support themselves and their dependents, are physically and mentally healthy, and who are not members of a class of people whose "presence in Kenya is … contrary to national interests" (Republic of Kenya, 1972) – making legal migration, aside from asylum, infeasible for the vast majority of prospective migrants to Kenya. Like Tanzania, Kenya's official practice in refugee matters is encampment, although there is no explicit official policy to that effect. The Government of Kenya's policy and practice on refugee issues specifically has been influenced by the collapse of Siad Barre's regime in Somali in 1991. With hundreds of thousands of new arrivals from Somalia, Kenya enacted a *de facto* policy of encampment which was well established by 2000 (Pavanello et al., 2010, p.13) and affected not just Somali migrants, but others from Sudan, Ethiopia, and Congo.

The Refugee Act of 2006 came into effect in 2007, and it continued the *de facto* policy of encampment – though it provides for the designation of certain places as refugee camps, it does not explicitly obligate a refugee to live there (Republic of Kenya, 2007). The Act does not specifically mention rights to education for refugees. While the Refugee Act of 2006 (Republic of Kenya, 2007, §16) gives the Minister of Refugee Affairs the power to designate areas as refugee camps, it does not explicitly require refugees to live there. The existence of a *de facto* encampment policy has led to some confusion about the government's official position (Pavanello et al., 2010, p.15). Without any specific policy regarding implementation of the Refugee Act of 2006, refugee issues have generally been determined on an ad hoc basis.

A growing body of research is investigating the specific issues related to urban refugees, a group which occupies a liminal space between strict categories of "refugee" and "migrant". Therefore this section will focus on urban refugees. In 2010, as many as 100,000 refugees were living in Nairobi, 60% of them Somali or Ethiopian (Pavanello et al., 2010, p.13). Many have a long-standing presence and contribution to the local economy; often working as laborers or petty traders (Pavanello et al., 2010, pp.8, 21). While many of them have sought refugee status or could do so, others have avoided the process of refugee status determination, fearing that they may be sent to camps, or rejected and deported. While urban refugees cite many factors influencing their settlement in Nairobi, including a higher level of security and access to education and employment compared to the camps, they are in a legally ambiguous state and face unique difficulties (Pavanello et al. 2010, pp.14, 24–25). Their documentation may not be recognized by police, leading to harassment – an especially troubling problem for children on their way to and from school. Some migrants may not be aware of their rights as refugees to education; and furthermore, some primary schools may charge extra fees for children known to be from refugee families. Although many families may prefer to hide their refugee status, speaking and behaving like Kenyans, they may need to divulge their refugee documents in order to enroll their children in public schools. Other refugee parents may prefer to send their children to faith-based schools such as *madaris* (or *madrassas*; popular with Somali migrants) or schools based on the curriculum of their country of origin (more popular with Great Lakes migrants). However these credentials are not recognized by the Kenyan government. Although free secondary education is available in refugee camps for those who pass the exam, urban refugees are responsible for paying secondary school fees, and thus many have difficulty attaining secondary education. Finally, research on the quality of education for refugees suggests that challenges posed by language policy, lack of adequate teaching and learning materials, overcrowded classrooms, and low levels of pedagogical training for teachers significantly limit educational quality in many schools serving refugee children, including those in Nairobi (Mendenhall et al ms).

In 2012, the Government of Kenya announced plans to enforce their *de facto* policy of encampment more strictly by moving a significant number of Nairobi's refugee population to Kakuma or Dadaab. However this was struck down by the High Court in 2013 (Danish Refugee Council, 2013; UNHCR, 2013). Given the current demands on the camps placed by on-going conflict and insecurity in the region, the Kenyan government continues to struggle with overwhelming numbers of camp-based and urban migrants.

4. Key Priorities for Post-2015 Agenda

Comparing the case studies in the third section illuminates the policy-level and school-level elements that best support migrant children, and thus the priorities for the post-2015 agenda.

In many ways, France and Germany's policies have been converging. Since 2000, Germany has provided a more inclusive model of citizenship for its Turkish-background youth, mirroring more closely France's *jus solis* tradition. It also has put a new emphasis on the importance of pre-school education. Some states like Berlin have experimented with delayed decisions about tracking. France, on the other hand, began emphasizing a stronger anti-immigrant rhetoric since 2000. Though it remains structurally more inclusive, with strong early childhood education and delayed tracking, it has become culturally polarizing in ways that are counter-productive. Further, the decentralization of school finance has complicated equity efforts.

The Dominican Republic and Ecuador represent divergent cases. The Dominican Republic has gradually dilated access to citizenship for migrant populations; it now not only officially refuses citizenship to those not born to one "legal resident," but has commenced stripping citizenship of people of Haitian descent, and has expanded deportations. Migrant students in the Dominican Republic have great difficulty accessing schools; when they do, they experience verbal and sometimes physical abuse. They do not enjoy any of the school-level supports recommended by the literature. In contrast, Ecuador has radically expanded citizenship to include migrants and provide them full access to the services provided by the state. Though Colombians speak a different variety of Spanish than the one used in Ecuadorian schools, they do not face the exclusionary linguistic challenges encountered by Haitians in the Dominican Republic.

Although educational policies and outreach are often organized around the labels of "refugee" or "immigrant," the self-identification of migrants may well diverge and may be related to social, ethnic, or political affiliations in countries of origin. Zimbabwean migrants to South Africa may consider themselves to be seeking asylum from unlivable conditions in their country of origin; while Burundians in Tanzania or Sudanese and Somalis in Kenya who have long-standing presences and livelihoods in their adopted homes may not consider themselves refugees anymore – an especially salient issue for young adults who have been born and raised in Tanzania or Kenya. Programs or policies designed to target "migrants" or "refugees" may not reach all of their intended audience. Therefore hybrid approaches, taking into account the choice and autonomy of migrants, may present a way forward.

Much of the post-2015 agenda has focused on setting learning goals and indicators. However, this review signals the importance, for the education of migrant youth and children, of attention to:

- the human right to education;
- the importance of legal status, as well as the deleterious effects of active deportation policies and the lack of regularization plan;
- access (and ensuring that access is understood at policy and school level);
- equitable funding;
- early childhood education, with a focus on language development;
- delayed tracking;

- support for transition into the labor market;
- culturally responsive pedagogies and curricula; and
- cultural inclusion, as well as the protection of religious and cultural rights.

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