

ABSTRACT

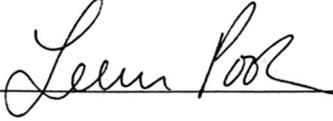
Refugee Education in America: Assessing the System, Identifying Issues, and Suggesting Solutions

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This thesis analyzes refugee education in the United States with a specific focus on K-12 education, identifying the largest barriers to education for refugees and suggesting solutions to best address these issues. By analyzing the specific pieces of legislation created to improve refugee education, it becomes evident that there is a gap between the policies created and the policies necessary to help refugees integrate into the U.S. education system. Moreover, by analyzing the successful education policies in place in Sweden and the Netherlands, two countries that successfully integrate refugees with decentralized education systems similar to the United States, possible solutions to the largest issues identified within the U.S. can be found. If implemented, these solutions could strengthen refugee education, helping refugees better integrate into the United States.

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CHAPTER ONE

Introduction: A Unified Approach to Refugee Education

The 1951 Refugee Convention, the United Nations multilateral treaty concerning refugee protection, defines a refugee as “someone who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion.”¹ This historic definition is still used today, helping differentiate between a refugee, an immigrant, and an asylum-seeker.² Currently, global displacement is at a record high; the UN Refugee Agency, the United Nations High Commissioner for Refugees (UNHCR), claims that 79.5 million individuals were forcibly displaced by the end of 2019 due to war, violence, persecution, and other emergencies.³ More people currently have been

¹ Andrew & Renata Kaldor Centre for International Refugee Law. “The Refugee Convention.” The Refugee Convention | Kaldor Centre. University of New South Wales, March 31, 2020. <https://www.kaldorcentre.unsw.edu.au/publication/refugee-convention>. ; UNHCR, and United Nations High Commissioner for Refugees, Convention and Protocol relating to the Status of Refugees (2005).

² An asylum-seeker is defined as a person who left their country and is seeking protection from persecution and serious human rights violations in another country, but has not been legally recognized as a refugee, waiting to receive a decision on their asylum claim. A migrant is someone who is staying outside their country of origin, who is not an asylum-seeker or a refugee. ; Amnesty International. “REFUGEES, ASYLUM-SEEKERS AND MIGRANTS.” Accessed April 4, 2021. <https://www.amnesty.org/en/what-we-do/refugees-asylum-seekers-and-migrants/>.

³ United Nations News. “World Refugee Day: End Conflict That Drives 'Appalling' Displacement Numbers .” United Nations. United Nations, June 19, 2020. <https://news.un.org/en/story/2020/06/1066592#:~:text=Global%20displacement%20is%20at%20a,in%20the%20past%20year%20alone>.

forcibly displaced from their homes than at any other time since World War II.¹

Removing refugees from dangerous situations to be relocated in a safer nation is only the first step that must be taken; while some refugees remain hopeful at the possibility of someday returning home, permanent resettlement in a new country is often the most appropriate, or the only, durable solution for refugees, who are unaware of whether it will ever be safe to return home.¹ Refugees must then integrate into the society of their new host country.

The 1951 Convention relating to the Status of Refugees and its 1967 Protocol, an international treaty drafted by the UN in response to the migrant influx from World War II, emphasize the importance of the integration of refugees.² Refugee admission and refugee integration are incredibly important; before being forced to flee, many refugees experience imprisonment, torture, loss of property, malnutrition, physical assault, extreme fear, rape, and loss of livelihood.³ Once these refugees begin a treacherous journey to find safety, they are often separated from family members, robbed, and they often must endure extremely harsh environmental conditions.⁴ When met with hostility,

¹ International Rescue Committee (IRC). "Refugee Crisis Briefing." International Rescue Committee (IRC). International Rescue Committee (IRC). Accessed March 22, 2021. <https://www.rescue.org/topic/refugee-crisis>.

¹ United Nations High Commissioner for Refugees. "The Integration of Resettled Refugees Essentials for Establishing a Resettlement Programme and Fundamentals for Sustainable Resettlement Programmes." UNHCR. United Nations, 2013. <https://www.unhcr.org/52a6d85b6.pdf>.

² Kaldor Centre for International Refugee Law. "The 1967 Protocol." The University of New South Wales Kaldor Centre, March 31, 2020. <https://www.kaldorcentre.unsw.edu.au/publication/1967-protocol>.

³ Refugee Health. Refugee Health TA. Accessed April 9, 2021. <https://refugeehealthta.org/physical-mental-health/mental-health/adult-mental-health/traumatic-experiences-of-refugees/#:~:text=Before%20being%20forced%20to%20flee,can%20last%20days%20or%20years>.

⁴ Ibid.

the lives of refugees become even more difficult; therefore, prioritizing the integration of refugees is crucial.

The 1951 Convention and its 1967 Protocol enumerate the social and economic rights refugees have when integrating into a new country, calling on States globally to facilitate the “assimilation and naturalization” of refugees.⁵ UNHCR outlines refugee integration as a dynamic and multifaceted two-way process, requiring effort and cooperation by the refugee and the receiving state to achieve the best form of integration.⁶ The facilitation of integration requires a governmental commitment to establish and implement the necessary legislation, policies, resources, and expertise to enable refugees to reach their potential as productive citizens.⁷ Integration is a complex, gradual process comprised of legal, economic, social, and cultural dimensions.⁸ States must offer support and opportunities to refugees to facilitate their integration. Moreover, refugees must learn to adapt to their host society, but should not forego their own cultural identity. This is especially difficult for children who spent less time in their country of origin than an adult refugee.

⁵ United Nations High Commissioner for Refugees. “The Integration of Refugees - UNHCR.” UNHCR. United Nations, July 2014. https://www.unhcr.org/cy/wp-content/uploads/sites/41/2018/02/integration_discussion_paper_July_2014_EN.pdf.

⁶ United Nations High Commissioner for Refugees. “The Integration of Resettled Refugees,” 6.

⁷ United Nations High Commissioner for Refugees. “The Integration of Resettled Refugees.”

⁸ United Nations High Commissioner for Refugees, United Nations High Commissioner for Refugees. “Local Integration.” UNHCR. Accessed April 4, 2021. <https://www.unhcr.org/en-us/local-integration-49c3646c101.html#:~:text=Local%20integration%20is%20a%20complex,the%20culmination%20of%20this%20process.>

While children make up less than one-third of the global population, children accounted for 50% of the world's refugees in 2018.⁹ Nearly one in three children who live outside their birth country are child refugees, while that proportion for adults is less than 5%.¹⁰ According to the National Child Traumatic Stress Network, many refugee children have experienced trauma related to war or persecution that may impact their mental and physical health for years.¹¹ Refugee students often carry with them the effects of past trauma; extreme stress, adversity, and trauma can directly impede concentration, cognitive functioning, memory, and the development of social relationships.¹² Stress can cause hypervigilance, anxiety, depression, grief, fear, anger, and isolation.

While integration practices and policies often differ by state in America, each refugee, immigrant, and undocumented student is legally obliged to attend school until they reach a mandated age.¹³ As one of the first introductions refugee students have to their new culture, school systems nationally are able to help each refugee student. School systems have the unique opportunity to educate refugees and to provide trauma-sensitive education, helping refugees handle and address the difficulties that come with integrating

⁹ United Nations International Children's Emergency Fund. "Child Displacement." UNICEF DATA. UNICEF, April 2020. <https://data.unicef.org/topic/child-migration-and-displacement/displacement/#:~:text=Children%20make%20up%20less%20than,less%20than%205%20per%20cent>.

¹⁰ Ibid.

¹¹ The National Child Traumatic Stress Network. "Refugee Trauma." The National Child Traumatic Stress Network. The National Child Traumatic Stress Network. Accessed March 22, 2021. <https://www.nctsn.org/what-is-child-trauma/trauma-types/refugee-trauma>.

¹³ Refugees Welcome. "Asylum Seeker – Education." Refugees Welcome. Accessed April 4, 2021. <https://refugeeswelcomehome.org/asylum-seeker-education/#:~:text=Like%20other%20children%2C%20undocumented%20students,they%20reach%20a%20mandated%20age>.

into a new country because schools are one of the first places refugee and immigrant students go to meet people and learn about their host country.

Moreover, education is the key to long-term success for refugees, providing them with a strong foundation by enabling them to integrate into society and prepare for their future.¹⁴ Research done by the United Nations Educational, Scientific, and Cultural Organization (UNESCO) shows that low levels of access to education paired with high rates of inequality in education heighten the risk of conflict and displacement.¹⁵ Through education, refugees are taught the language of their new country, they are taught how to read and write, and they can connect with peers from their new country. Therefore, the purpose of this thesis is to analyze refugee education in the United States with a specific focus on K-12 education, analyzing the gap between the policies in place and the policies needed to create an education system that best equips refugee students to connect to their new society while simultaneously receiving a strong education. In the following chapters, I argue that refugee education in the United States needs to be strengthened through the creation of refugee-specific policies, programs, and protocols on a local, state, and federal level. The intentional and unintentional barriers to education refugees face must be mitigated by local school districts, state school systems, and the federal government working cohesively to strengthen refugee education.

¹⁴ United Nations High Commissioner for Refugees. “Starting Out - Why Education for Refugees Matters.” UNHCR Education Report 2016. UNHCR. Accessed March 11, 2021. <https://www.unhcr.org/en-us/starting-out.html#:~:text=From%20the%20first%20lessons%20through,own%20country%20upon%20their%20return.>

¹⁵ Global Education Monitoring Report Team. *Education for People and Planet: Creating Sustainable Futures for All: Global Education Monitoring Report 2016*. UNESCO, 2016.

Literature Review

There is a growing amount of research on immigrant and refugee populations. However, education-specific research is limited and tends to focus simply on the rights refugee and migrant students should be given regarding education. In the United States specifically, scholars have focused on historically analyzing immigration policy, studying the policies created and the implications these policies had on migrant populations. While the history of migrant policy in the United States has been sufficiently researched, there is a notable absence of scholarship surrounding the history of refugee education, largely due to the absence of historic refugee education policy. The research that is done on current migrant education programs used in the United States analyzes the specific policies and identifies issues refugees have when enrolling in school, but a noticeable gap exists in finding solutions to both issues. Moreover, while international scholarship has focused on refugee education by identifying which countries successfully integrate refugees into their education systems and how they do so, literature is lacking in identifying how nations globally can incorporate practices similar to successful nations to better bolster refugee education.

The research focused on historic immigration policy in the United States focuses on what policies were created, what prompted their creation, and the implications these policies had on migrant populations. In his book *Coming to America*, published in 2002, author Roger Daniels provides a historical account of immigration to the United States. Daniels evaluates American immigration from the Colonial Era, immigration from 1820-1924, and immigration in the Modern Era to ultimately demonstrate that the historic migration pattern into the United States contributes to the modern ethnic makeup of the

country.¹⁶ The work of Daniels sparked the creation of literature surrounding the influence of past policy on migration in the present day, which is important when aiming to understand the foundation of immigration policy in America. Two years after the release of *Coming to America*, author Bill Ong Hing wrote *Defining America Through Immigration Policy*.¹⁷ Hing discusses the shaping of policies governing asylum, exclusion, amnesty, and border policing. This literature helped initiate the debate on immigration in the context of the influence of cultural pluralism, which is influential in analyzing how societal views can shape and influence policy, and how policy simultaneously reflects dominant societal ideas.

While scholarship on historic refugee-specific education is lacking, there is research on current migrant and refugee education in the United States. Migrant education policy in the United States has been evaluated by law journals aiming to analyze the issues with key pieces of legislation. An article published in the *Georgetown Journal of Law & Modern Critical Race Perspectives* written by José Madrid analyzes the downfalls of the Migrant Education Program in Title I of the Every Student Succeeds Act, pinpointing the exact definitions that are limiting and exclusive toward immigrant and refugee populations.¹⁸ Madrid argues there is a pressing need for statutory updates to federal legislation and regulatory change on a federal level in the United States.

¹⁶ Daniels, Roger. *Coming to America: a History of Immigration and Ethnicity in American Life*. New York: Harper Perennial, 2019.

¹⁷ Hing, Bill Ong. *Defining America through Immigration Policy*. Philadelphia, PA: Temple University, 2004.

¹⁸ Madrid, José E. "Title I's Migrant Education Program: The Challenges of Addressing Migrant Students' Educational Needs in the 21st Century." *Georgetown Journal of Law & Modern Critical Race Perspectives* 11, no. 1 (2019).

Moreover, as part of the 2016 Georgetown Law Human Rights Institute Fact-Finding Project, in “Ensuring Every Undocumented Student Succeeds: A Report on Access to Public Education for Undocumented Children,” author Booi et. al reports on the intentional and unintentional barriers undocumented children faced when enrolling in school and aiming to succeed in public education in the United States.¹⁹ By directly comparing existent policy, identifying the rights that should be allotted to refugee and migrant students, to the practicalities of refugee education, Booi proves there is a lack of accountability on a federal, state, and local level negatively impacting refugee education. While these articles identify issues within pieces of legislation and the implementation of refugee-specific legislation, there is a gap in the literature surrounding practical solutions targeted to specifically address the largest problems identified with refugee education on a local level.

Whereas the literature on U.S. refugee education focuses on identifying the most prevalent issues within the education system, scholarship globally focuses more on identifying solutions to the common barriers within refugee education. In January of 2017, Cruel et. Al published “No Lost Generation? Education for Refugee Children. A Comparison Between Sweden, Germany, the Netherlands, and Turkey,” in which he directly compared the education systems of Sweden, Germany, the Netherlands, and Turkey from the perspective of a refugee.²⁰ This study shifted the dynamic of research on

¹⁹ Booi, Zenande, Caitlin Callahan, Genevieve Fugere, Mikaela Harris, Alexandra Hughes, Alexander Kramarczuk, Caroline Kurtz, Raimy Reyes, and Sruti Swaminathan. “Ensuring Every Undocumented Student Succeeds.” Georgetown Law. Georgetown Law Human Rights Institute Fact-Finding Project, April 11, 2016. <https://www.law.georgetown.edu/human-rights-institute/wp-content/uploads/sites/7/2017/07/2016-HRI-Report-English.pdf>.

²⁰ Crul, M., Keskiner, E., Schneider, J., Lelie, F., Ghaemina, S., Bauböck, R., & Tripkovic, M. “No Lost Generation? Education for Refugee Children: a Comparison Between Sweden, Germany, The Netherlands and Turkey.” In *The Integration of Migrants and Refugees*, 62–80. EUI, 2017.

refugee students. Instead of simply analyzing what happens when refugee students arrive in their host country, Crul studied what happens to refugee students as they progressed in their education. By studying the educational track of refugee students, the second language support provided by schools, and student's ability to continue their studies after compulsory school, Crul identified the institutional factors that benefit and hurt refugee education.

Four months later, author R.D. Nordgren published "Cultural Competence and Relational Closeness: Examining Refugee Education." Nordgren compares the structural similarities and differences of refugee education between Sweden and the United States, analyzing the practical implementation of refugee policy on a local level.²¹ As one of the first direct comparisons of U.S. refugee education with a high-volume European host nation, Nordgren sheds light on the similarities between the education systems of the two nations while highlighting simultaneously highlighting their differences. Moreover, Nordgren conducted research in Sweden, directly working with schools to properly analyze the impacts the Swedish education system has on refugee students. While this international comparison directly analyzes the similarities and differences between Sweden, a country that successfully educates refugees, and the United States, a notable gap exists in identifying ways the United States could successfully implement similar policies to bolster refugee education. Last year, author Lucie Cerna published an Organization for Economic Cooperation and Development (OECD) Education Working

²¹ Nordgren, R.D. "Cultural Competence and Relational Closeness: Examining Refugee Education." *Journal of Research in Innovative Teaching & Learning* 10, no. 1 (2017): 79–92. <https://doi.org/10.1108/jrit-08-2016-0001>.

Paper entitled “Refugee Education: Integration Models and Practices in OECD Countries.” Cerna focused on OECD countries, examining the needs of refugee students from an educational standpoint in these nations. Cerna studied the factors that best promote refugee integration, identifying the major success markers that countries globally should aim to achieve.²² By taking this research a step further, it becomes possible to identify how the United States specifically can incorporate solutions to achieve the major success markers identified by Cerna as being crucial to refugee success.

Ultimately, there is notable scholarship on U.S. migrant history in the United States. Moreover, literature exists that identifies issues regarding United States refugee education and literature exists on global approaches to refugee integration, but there is a gap in research bridging the two ideas together. When directly comparing the largest issues within the United States to successful integration strategies used globally, tangible solutions to benefit refugee education on a federal, state, and local level could be found and implemented.

Sources and Methodologies

Throughout this project, I rely heavily on laws, federal policies, and international regulations as the primary sources of refugee education in the United States. Moreover, I use research conducted in foreign countries – specifically Sweden and the Netherlands due to their success in refugee integration – to analyze the implementation of policies on a local level. In this thesis, I use published research, largely from law journals and human

²² Lucie Cerna. “Refugee Education: Integration Models and Practices in OECD Countries” (2019).

rights institutes, to analyze the tangible impacts legislative policies have on the education of refugee students. Moreover, by using publications released by International Organizations, such as the United Nations, the Organization for Economic Cooperation and Development, and the United Nations International Children’s Emergency Fund to evaluate the position of the international community regarding how refugee education should function.

Chapter Outlines

By analyzing historic refugee policies and legislation from the Progressive Era, the era of WWI – WWII, and the Post-Cold War Era, chapter two demonstrates how presidential administrations uniquely influence refugee policy, and how those dictating policy often value their reputation as more important than creating policies aimed at helping the most vulnerable. Moreover, chapter two shows the lack of refugee-specific policy, both in general and specific to education, in the United States. By historically analyzing refugee integration and policy in the United States, I argue there is a need to balance state and federal power within policy creation for refugee education.

Chapter three focuses on refugee-specific education policies currently in effect in the United States. By focusing on *Plyler v Doe*, the McKinney-Vento Act, the Elementary and Secondary Education Act, and the Individuals with Disabilities Education Act, I argue there is a gap between the policies created to help refugees receive an adequate education and the policies needed to ensure refugees receive this education. Moreover, chapter three demonstrates that while certain policies need to be created to best assist refugee children when integrating into the U.S. education system, there are also inherent

issues with the policies that are in place. I argue that through statutory reform, decreased dependency on school test scores, and the increased presence of school social workers, intentional and unintentional barriers to successful education will decrease, better protecting and aiding the refugee population as a whole.

Chapter four acknowledges that countries globally implement different policies and practices to best integrate refugees. However, the largest issues identified for refugees – xenophobia, learning a new language, institutionalized racism, and lack of funding for refugee-specific programs – remain the same across the world. The problem that must be addressed is how to best mitigate these issues, prompting the question of which nation best combats these problems. By studying refugee education in Sweden and the Netherlands, two successful countries with decentralized education systems similar to that of the United States, a more holistic approach to refugee education can be found. I argue in this chapter that through analyzing the introductory classes geared toward language acquisition and trauma-sensitive education provided in both nations, tangible benefits can be found that directly apply to the largest issues faced by refugees in the United States education system.

In chapter five, I argue that change is needed in the approach taken by the United States to refugee policy, and the year 2021 initiates a new period of opportunity to make necessary change. With the transition of a new presidential administration, President Joe Biden has the opportunity to shape refugee policy by boosting refugee admissions, updating specific policies regarding migrant education programs in the U.S., and by increasing accountability on a federal, state, and local level to ensure refugee education is successful.

CHAPTER TWO

The History of U.S. Refugee and Immigration Policy

While the influx of displaced persons globally in the 21st century sparked the creation of new policies and protocols to integrate refugees into the United States, it is crucial to note the United States has experienced large waves of immigration since the 1800s.¹ By studying the history of refugee admission and integration into the U.S., the lack of refugee-specific policy, both relating to refugee education and integration in general, becomes evident. Moreover, studying the history of refugee policy in the United States sheds light on how presidential administrations shape and dictate immigration and refugee policy, drastically changing with each shift in power. As part of the executive branch's authority to enforce the law, the President has authority under the law, regulations, and court rulings to grant several different administrative types of relief to immigrants.² Unfortunately, by analyzing the history of refugee integration within the United States with a specific focus on education, it becomes clear that the U.S. historically prioritizes policies addressing admittance over assimilation, often valuing

¹ Newland, Kathleen. "New Approaches to Refugee Crises in the 21st Century: The Role of the International Community." Transatlantic Council on Migration. Migration Policy Institute, October 2016. <https://www.migrationpolicy.org/sites/default/files/publications/TCM-Dev-Newland-FINAL.pdf>. ; The Library of Congress. "Immigration to the United States, 1851-1900 ." The Library of Congress. The Library of Congress. Accessed March 26, 2021. <https://www.loc.gov/classroom-materials/united-states-history-primary-source-timeline/rise-of-industrial-america-1876-1900/immigration-to-united-states-1851-1900/>.

² National Immigration Law Center. "The President's Broad Legal Authority to Act on Immigration." National Immigration Law Center, August 2014. <https://www.nilc.org/wp-content/uploads/2015/11/president-legal-authority-2014-08-20.pdf>.

admitting those expected to be most advantageous to the United States over the humanitarian alternative of helping those most vulnerable.

This chapter proceeds to analyze how and why presidential administrations shape and change refugee policy, while consistently referencing the lack of refugee-specific policy within U.S. history. Additionally, it will show that refugee education policies were largely absent in U.S. history, with the federal government prioritizing policies regarding the admission of refugees instead of the assimilation and integration of refugees.

Progressive Age

While the United States has experienced waves of immigration since the 1800s, the evaluation of historic migration policy begins with the Progressive Age because this era marked the beginning of the creation of federal policy to address immigration. The U.S. Constitution grants Congress the duty to establish a “uniform Rule of Naturalization,” in determining how immigrants can become citizens. However, many states enacted their own immigration policies during the early years of the U.S. until 1875.¹ The 1875 U.S. Supreme Court decision in *Henderson v. Mayor of the City of New York* ruled that Congress had exclusive authority to regulate international commerce, which included the landing of passengers.² The Supreme Court argued that the matter of the statutes pertaining to immigrant admission should be the subject of a “uniform system or plan,” creating equality in policy across each state.³ This decision was the first time

¹ Boundless. “The U.S. Constitution and Immigration.” Boundless, June 7, 2019. <https://www.boundless.com/blog/u-s-constitution-immigration/>. ; U.S. Const. art. I, § 8, cl.4.

² *Henderson v. Mayor of the City of New York* (Justia October 1, 1875).

³ *Ibid.*

Congress was given power over immigration. Under Article II of the Constitution, the responsibility for the execution and enforcement of the laws created by Congress is the President, meaning immigration policy is largely determined by presidential administrations.⁴ When regulating immigration became a federal priority, it prompted the creation of the Immigration Act of 1891, creating the Office of the Superintendent of Immigration.⁵ The Superintendent oversaw a new corps of U.S. Immigrant Inspectors stationed at the principal ports of entry in the United States.⁶

Three years later, this federal bureaucracy became the Bureau of Immigration.⁷ Congress established the institution to create an entity to oversee the admission of migrants.⁸ There was no clear distinction made between a refugee and an immigrant, meaning laws were not individualized for refugee populations as a whole. This is problematic; a refugee is someone who has been forced to flee their home, while a migrant is someone who chooses to do so.⁹ The sense of urgency an immigrant may feel when migrating to the U.S. stems from the desire for new opportunities, but the urgency a

⁴ The White House. “The Executive Branch.” The White House. The United States Government. <https://www.whitehouse.gov/about-the-white-house/our-government/the-executive-branch/#:~:text=Under%20Article%20II%20of%20the,administration%20of%20the%20federal%20government>.

⁵ USCIS. “Origins of the Federal Immigration Service.” USCIS. US Citizenship and Immigration Service, July 30, 2020. <https://www.uscis.gov/about-us/our-history/overview-of-ins-history/origins-of-the-federal-immigration-service#:~:text=Accordingly%2C%20the%201891%20Immigration%20Act,country's%20principal%20ports%20of%20entry>.

⁶ U.S. Citizenship and Immigration Services. “Refugee Timeline.”

⁷ USCIS. “Origins of the Federal Immigration Service.”

⁸ Ibid.

⁹ United Nations High Commissioner for Refugees. “UNHCR Viewpoint: 'Refugee' or 'Migrant' – Which Is Right?” UNHCR, July 11, 2016. <https://www.unhcr.org/news/latest/2016/7/55df0e556/unhcr-viewpoint-refugee-migrant-right.html>.

refugee feels stems from a lack of safety.¹⁰ Without the creation of policies specific to refugees, a vulnerable population, their unique needs were not prioritized when deciding who should enter the country.

One year after the creation of the Immigration Act of 1891, the United States began a 62 year period where over twelve million future Americans were admitted through Ellis Island.¹¹ Ellis Island was the first and largest federal immigrant processing station in the United States.¹² As one of the first initiatives established by the Federal Government to respond to migration, Ellis Island is often viewed as a “poetic symbol of the American Dream.”¹³ However, for the 250,000 that were denied entry to the United States, Ellis Island was less symbolic of the hope found in a new country and more symbolic of the Social Darwinist view of excluding those deemed less beneficial to society.¹⁴ The Immigration Act of 1891 required medical inspections of immigrants both before they left their home countries and immediately after arriving in the United States, aiming to detect and deny those with physical or mental defects.¹⁵ The Act stated that

¹⁰ Amnesty International. “REFUGEES, ASYLUM-SEEKERS AND MIGRANTS.” Amnesty International. Accessed March 28, 2021. <https://www.amnesty.org/en/what-we-do/refugees- asylum-seekers-and-migrants/>.

¹¹ National Parks Service. “Frequently Asked Questions.” National Parks Service. U.S. Department of the Interior. Accessed March 26, 2021. <https://www.nps.gov/elis/faqs.htm#:~:text=Ellis%20Island%20officially%20opened%20as,the%20new%20federal%20immigration%20depot.>

¹² Ibid.

¹³ Ibid. ; The Statue of Liberty - Ellis Island Foundation, Inc. “Ellis Island.” The Statue of Liberty - Ellis Island Foundation, Inc, March 25, 2021. <https://www.statueofliberty.org/ellis-island/>.

¹⁴ The Irish Times. “Head Count: Ellis Island Statistics.” The Irish Times. The Irish Times, November 12, 2005. <https://www.irishtimes.com/news/head-count-ellis-island-statistics-1.517606>.

¹⁵ Bateman-House, Alison, and Amy Fairchild. “Medical Examination of Immigrants at Ellis Island.” *AMA Journal of Ethics* 10, no. 4 (2008): 235–41. <https://doi.org/10.1001/virtualmentor.2008.10.4.mhst1-0804>.

certain classes should be excluded from admission to the United States, including “all idiots, insane persons, paupers or persons likely to become a public charge,” or any person whose “ticket or passage is paid for with the money of another.”¹⁶ The rhetoric used in discussing who should be admitted to the U.S. inherently instilled a sense of inferiority around those immigrating.

Moreover, the rhetoric of the Immigration Act of 1891 was adopted and implemented by the Immigration Act of 1907, a piece of federal United States immigration legislation which stated “all idiots, imbeciles, feebleminded persons, epileptics, insane persons, and persons who have been insane within five years previous,” in addition to “persons likely to become a public charge; [and] professional beggars” should be denied admission to the United States.¹⁷ The factors outlined in these acts became the basis for qualification for the admission of immigrants who arrived in Ellis Island. The efforts of immigration restriction influenced by Social Darwinism show how from the very beginning of U.S. federal policy for immigration, the United States established the idea that some are more qualified and more fit to be in America than others. Moreover, by formulating the criteria for admission to the U.S. around excluding those with qualities that were seen as weakening the United States., the U.S. explicitly prioritized mental and physical fitness over helping those most in need. These priorities are evident in the rhetoric and language within the policy itself.

¹⁶ United States House of Representatives, United States Congressional Record §. Accessed March 26, 2021. <https://www.govinfo.gov/content/pkg/GPO-CRECB-1896-pt6-v28/pdf/GPO-CRECB-1896-pt6-v28-10.pdf>.

¹⁷ U.S. Congress, Immigration Act of 1907 § (n.d.).

Throughout the Progressive Age, one of the major sources of refugee immigration to the United States came from Mexico as the Mexican Revolution provoked violence and unrest in the nation, forcing thousands to flee from 1910 – 1920. This large influx prompted the creation of the Immigration Act of 1917. The Immigration Act of 1917 required all immigrants, except those fleeing religious persecution, to demonstrate their ability to read and required that immigrants be literate in English or another language.¹⁸ This Act denied entry into the United States to immigrants from Eastern Asia and the Pacific Islands, narrowing the scope of who could enter the U.S.¹⁹

This policy reflects how the United States valued admission over assimilation. The 1917 Immigration Act excluded illiterate immigrants, establishing a social climate of superiority for native-born English speakers, viewing the use of other languages, especially in schools, as un-American and undesirable.²⁰ While migrant students transitioning into U.S. schools were not given additional aid to learn the English Language, speaking English slowly became a condition for being considered a true American.²¹ Many states sought to pass legislation prohibiting the teaching of foreign languages to young children, prompting the ruling in the 1923 Supreme Court case *Meyer v. Nebraska*.²² Nebraska, a state that passed a law prohibiting the teaching of any

¹⁸ “The Immigration Act of 1924 (The Johnson-Reed Act).” U.S. Department of State. U.S. Department of State. Accessed March 26, 2021. <https://history.state.gov/milestones/1921-1936/immigration-act>.

¹⁹ U.S. Congress, Immigration Act of 1917 § (n.d.).

²⁰ de Jong, Ester. “Immigrant Era: Focus on Assimilation.” *Colorín Colorado*, February 25, 2016. <https://www.colorincolorado.org/article/immigrant-era-focus-assimilation#:~:text=Back%20to%20top-,Schooling%20for%20Immigrants,age%2C%20causing%20many%20early%20dropouts>.

²¹ *Ibid.*

²² *Meyer v. Nebraska*, 262 U.S. 390 (1923).

language other than English in grade school, was found to have violated the Fourteenth Amendment's Due Process Clause and was forced to change the policy.²³ Ultimately, the heavy value put on the English language for newcomers decreased accessibility to education for refugees, reflective of the value of both American citizens and presidential administrations who prioritized admitting educated refugees over educating admitted refugees.

Immigrant policy in the Progressive Era has three large implications concerning refugee policy today. First, laws were not created to help facilitate educational programs for immigrant and refugee students. Instead, policies were created that opened the doors of the United States only to those who qualified by passing certain literacy tests.²⁴ This is implicative of the broad priorities of the United States throughout immigration in the progressive age: the United States prioritized accepting immigrants who could best bolster the nation, focusing on who would be least burdensome to integrate, instead of focusing on admitting those who needed the most help.

The second implication relating to refugees that can be drawn from immigration policy in the progressive era is that the progressive era had no refugee-specific policies in place.²⁵ From the beginning of migration policy in the United States, there was no distinction between migrants and refugees. Refugees, not yet defined or uniquely recognized by the United States, were not afforded any extra protection over other

²³ Ibid.

²⁴ Boissoneault, Lorraine. "Literacy Tests and Asian Exclusion Were the Hallmarks of the 1917 Immigration Act." Smithsonian. Smithsonian Institution, February 6, 2017. <https://www.smithsonianmag.com/history/how-america-grappled-immigration-100-years-ago-180962058/>.

²⁵ U.S. Department of State. "The Progressive Movement and U.S. Foreign Policy, 1890-1920s." U.S. Department of State. Accessed March 28, 2021. <https://2001-2009.state.gov/r/pa/ho/time/ip/108646.htm>.

immigrant populations. It was considered less important whether they were fleeing persecution than if they were considered “idiots, insane persons, paupers or persons likely to become a public charge.”²⁶

The third implication shown from immigration policy during the progressive era is that the dominant ideas of society were reflected in United States migration policy. Social Darwinism, Darwin’s theory of evolution by natural selection, dominated society in the late 19th and early 20th century.²⁷ The widespread belief in Social Darwinism influenced immigration policy by supporting the idea that when selecting immigrants to become citizens of the United States, only the most intelligent and healthy should be selected. The policies created throughout the progressive age reflect the power of federal decision-making, showing how important presidential administrations are in the lives of refugees.

WWI-WWII

The time between WWI and WWII was significant for refugee populations; the increased amount of refugees fleeing war-torn areas was followed by the creation of various policies and protocols by countries globally, some creating hospitable policies to help accept more immigrants, and some creating policies out of hostility.²⁸ Moreover, this period was significant for U.S. refugee policy because it signaled an end to the second

²⁶ United States House of Representatives, United States Congressional Record §.

²⁷ American Museum of Natural History. “Social Darwinism: Misrepresenting Evolution.” American Museum of Natural History. Accessed March 28, 2021. <https://www.amnh.org/exhibitions/darwin/evolution-today/social-darwinism>. ; International Encyclopedia of the First World War. “Social Darwinism.” International Encyclopedia of the First World War, November 17, 2020. https://encyclopedia.1914-1918-online.net/article/social_darwinism.

²⁸ U.S. Citizenship and Immigration Services. “Mass Immigration and WWI.” USCIS. Accessed March 28, 2021. <https://www.uscis.gov/about-us/our-history/mass-immigration-and-wwi>.

wave of immigration, which had been from 1880 – 1921.²⁹ The United States restricted immigration throughout the 1920s and 1930s, largely informed by the work of the Dillingham Commission.³⁰ The Dillingham Commission, a bipartisan committee formed in 1907 by U.S. Congress, the President of the U.S., and the Speaker of the House, studied the origins and consequences of the second wave of immigration to the United States.³¹ This study was especially prompted by increasing concerns about the negative impact of immigration to the United States. The Dillingham Commission concluded that immigration from Southern and Eastern Europe posed a threat to society and should be reduced.³²

The report of the Dillingham Commission had an immense impact on legislation through the creation of the Emergency Quota Act of 1921, which restricted immigration by limiting immigrants coming to the United States from Europe, allowing 357,000 European immigrants to enter the U.S. per year.³³ Additionally, the Emergency Quota Act set a temporary quota of 3% of each nationality based on the 1910 census; essentially, by using data collected from the 1910 census, 3% of the number of

²⁹ Global Boston. “Second Wave, 1880-1920.” Global Boston. Accessed March 28, 2021. <https://globalboston.bc.edu/index.php/home/eras-of-migration/test-page-2/>.

³⁰ Zeidel, R. F. (2018, July 16). *A 1911 Report Set America On a Path of Screening Out 'Undesirable' Immigrants*. Smithsonian.com. <https://www.smithsonianmag.com/history/1911-report-set-america-on-path-screening-out-undesirable-immigrants-180969636/>.

³¹ Ibid.

³² Ibid.

³³ BBC News. “Life for Immigrants .” BBC. Accessed March 28, 2021. <https://www.bbc.co.uk/bitesize/guides/zcbtk2p/revision/3>.

individuals from a certain country living in the U.S. would be allowed to enter the nation.³⁴

While the Emergency Quota Act of 1921 signaled the end of the second wave of immigration and the beginning of restrictive immigration policy, by 1924 the American government indicated the law was not restrictive enough, prompting the creation of the Immigration Act of 1924.³⁵ The Immigration Act of 1924 imposed a permanent quota, instead of the temporary quota in 1921, on 3% of the foreign-born population in the country, but it shifted the analysis of data from the 1910 census to the 1890 census. This shift is important in analyzing immigration policy in the United States in light of the findings of the Dillingham Commission: the U.S. wished to deter those from southern and eastern Europe, many of whom were Jews fleeing religious persecution, from entering the U.S.³⁶ The 1890 census counted an entirely different national population, not accounting for over 20 years of the massive influx of immigration.

The Immigration Act of 1924 presented multiple issues. First, the Act was used to discriminate against immigrants based on race and ethnicity, largely favoring immigrants from northern and western Europe against races deemed as less desirable from eastern and southern Europe, excluding immigrants from Asia entirely.³⁷ Many of the immigrants

³⁴ U.S. Government Publishing Office. "Constitutional Amendments, Treaties, Executive Orders, and Major Acts of Congress Referenced in the Text." U.S. Government Publishing Office. Accessed March 28, 2021. <https://www.govinfo.gov/content/pkg/GPO-CDOC-108hdoc226/pdf/GPO-CDOC-108hdoc226-4-9.pdf>.

³⁵ Daniels, Roger. *Coming to America: a History of Immigration and Ethnicity in American Life*. New York: Harper Perennial, 2019.

³⁶ Alperin, Elijah, and Jeanne Batalova. "European Immigrants in the United States." *Migration Policy*, February 2, 2021. <https://www.migrationpolicy.org/article/european-immigrants-united-states-2016>.

³⁷ Ngai, Mae M. "The Architecture of Race in American Immigration Law: A Reexamination of the Immigration Act of 1924." *Journal of American History* 86, no. 1 (June 1999): 67–92. <https://doi.org/10.4324/9781315245423-16>. ; "The Immigration Act of 1924."

that were deterred from entering the United States were those in need of protection.³⁸ The Immigration Act of 1924 is reflective of the growing desire for a broad racial and ethnic remapping of the nation present throughout the 1920s.

The Immigration Act of 1924 showed how political figures used their support of, or opposition to, this policy as a political weapon, often changing their stance on the Act based entirely on their audience. This issue was demonstrated in the presidential race of 1928. Herbert Hoover, a presidential nominee, had previously signed the first two Quota Board's reports as Secretary of Commerce when passing the act.³⁹ However, one of the first speeches he gave in his presidential campaign, aimed at appeasing German and Scandinavian voters in the Midwest, discussed the difficulty the Act presented to the immigration system.⁴⁰ His democratic opponent, Al Smith, was later documented opposing the quotas when campaigning in the North, favoring them when campaigning in the South.⁴¹ Both Hoover and Smith are prime examples of how administrations matter when determining immigrant and refugee policy because they often prioritize public opinion to gain votes over maintaining a consistent stance toward immigration that prioritizes the needs of those most vulnerable. This inconsistency in opinion demonstrates how politicians historically prioritize votes over establishing concrete policies for immigration.

Moreover, World War II sparked a massive refugee crisis, prompting the creation of the Displaced Persons Act. The Displaced Persons Act of 1948 was created with the

³⁸ Alperin, Elijah, and Jeanne Batalova. "European Immigrants."

³⁹ Ngai, Mae M. "The Architecture of Race Law" 68.

⁴⁰ Ibid.

⁴¹ Ibid.

intent to address the seven million people displaced after WWII by allowing refugees to enter the U.S. within the constraints of the existing quota system; while the law expired four years later, over 350,000 displaced people were admitted to the United States under this Act. The Displaced Persons Act limited the admission of Jewish refugees by requiring that individuals applying for visas show they entered Allied zones in Germany, Austria, or Italy either on or before December 22, 1945.⁴²

The Displaced Persons Act was the first piece of legislation in U.S. history that addressed refugee populations specifically.⁴³ While an immigrant is an individual migrating to another country, usually for permanent residence, a refugee is an individual fleeing conflict, persecution, or fleeing due to fear of persecution.⁴⁴ Before establishing any legislation to differentiate the two, policies were created, such as the Quota system, that grouped refugees and immigrants. This made it more difficult for refugees fleeing persecution or war, such as WWI or WWII, to seek refuge in the United States because they fought for the same limited spots offered to immigrants. Moreover, refugees have unique experiences due to the conflict and persecution they fled, making the creation of policies tailored to their circumstances crucial both historically and in the present day. By enacting the first refugee-specific act in U.S. history, President Truman reflected the

⁴² Waibsnaider, Meital. "How National Self-Interest and Foreign Policy Continue to Influence the U.S. Refugee Admissions Program." *Fordham Law Review* 75, no. 1 (2006): 391–426.

⁴³ Office of Refugee Resettlement. "History." Office of Refugee Resettlement. Accessed March 28, 2021. <https://www.acf.hhs.gov/orr/about/history#:~:text=The%20U.S.%20Congress%20enacted%20the,an%20additional%20400%2C000%20displaced%20Europeans>.

⁴⁴ International Rescue Committee. "Migrants, Asylum Seekers, Refugees and Immigrants: What's the Difference?" International Rescue Committee (IRC), December 11, 2018. <https://www.rescue.org/article/migrants-asylum-seekers-refugees-and-immigrants-whats-difference>.

priorities and goals of his administration to help refugees with the Displaced Persons Act of 1948. This Presidential Directive is reflective of the global need to assist the increased amount of individuals fleeing conflict, showing the flexibility in adaption necessary to keep immigration policy up to date.

Cold War Era

While laws were created in the United States to address the increased migration after WWII, policies were established internationally to address the issue. The UN High Commissioner for Refugees (UNHCR) created the 1951 Convention, later amended by the 1967 Protocol.⁴⁵ The UNHCR was created in 1950, becoming the guardian for the 1951 Convention Relating to the Status of Refugees. This defined legal protections and rights for refugees, aiming to ensure the adequate treatment of refugees to protect their human rights. The 1951 Convention outlines the definition of a refugee and identifies the legal protections, social rights, and other assistance refugees are entitled to receive, one of which is the right to education.⁴⁶ Moreover, the Convention outlines the obligations refugees have to their host countries. Under the advisement of President Truman out of concern for international obligations, the 1951 Convention was not signed by the United

⁴⁵ United Nations High Commissioner for Refugees. "The 1951 Convention Relating to the Status of Refugees and Its 1967 Protocol." UNHCR, September 2011. <https://www.unhcr.org/en-us/about-us/background/4ec262df9/1951-convention-relating-status-refugees-its-1967-protocol.html>.

⁴⁶ UNHCR, and United Nations High Commissioner for Refugees, Convention and Protocol relating to the Status of Refugees (2005).

States; to the international community, the United States appeared to disagree or have issues with the 1951 Convention.⁴⁷

Within the United States, 1952 was a historically significant year with the creation of the Immigration and Nationality Act, passed by Congress over the veto of President Truman.⁴⁸ The Act focused on reorganizing immigration and nationality laws while simultaneously maintaining the quota system. Unfortunately, the consistent trend of the lack of refugee-specific laws was present here as well, with the Act failing to specify policy toward the refugee population. The Act ended Asian exclusion from immigration to the United States and restructured the system of preferences for gaining admission to the U.S. by focusing on skill sets and family reunification. President Truman's veto over this Act is incredibly significant when identifying how his administration handled the influx of refugees into the United States; President Truman vetoed the Act because it did not go far enough to help these vulnerable populations by not eliminating the quota system, which is why President Truman proceeded to overturn the Act.⁴⁹

While the 1950, 1951, and 1953 Bills were impactful due to the direct impact they had on refugee admission, it is important to analyze the intent behind these bills through the lens of the Cold War. In many ways, refugee relief played a large part in the ideological war and is once again reflective of how dominant social ideas influence

⁴⁷ Ibid. ; United Nations High Commissioner for Refugees. "The 1951 Refugee Convention." United Nations High Commissioner for Refugees. Accessed March 28, 2021. <https://www.unhcr.org/en-us/protection/basic/3b73b0d63/states-parties-1951-convention-its-1967-protocol.html>.

⁴⁸ U.S. Citizenship and Immigration Services. "Refugee Timeline."

⁴⁹ U.S. Department of State. "The Immigration and Nationality Act of 1952 (The McCarran-Walter Act)." U.S. Department of State. Accessed March 28, 2021. <https://history.state.gov/milestones/1945-1952/immigration-act>.

policy. The desire for the United States to take a public stance against communism was evident throughout refugee admissions. From the end of WWII to 1980, the United States admitted 1.5 million refugees, approximately only 2,000 of which were from noncommunist countries.⁵⁰ In like manner, the Refugee Relief Act of 1953 authorized 200,000 special non-quota immigrant visas for refugees and escapees from communist countries.⁵¹ Moreover, the creation of the Fair Share Refugee Act in 1960, allowing a significant amount of refugees to enter the United States under the parole authority of the attorney general, made it possible for refugees to become lawful permanent residents after living in the United States for two years.⁵² In the previous year, 1959, the United States saw the largest influx of refugees to the U.S. in history, with approximately 1.4 million people fleeing Cuba.⁵³ While breaking diplomatic relations in 1961, making it impossible for Cuban citizens to gain United States visas, the United States admitted over 58,000 Cubans under the parole authority of the attorney general.⁵⁴

United States refugee policy during and after the Cold War demonstrates not only the priorities of the different administrations in power but shows how the United States used refugee admissions as a foreign policy play. The U.S. used refugee admissions as a propaganda tool to show that people living in communist regimes were willingly leaving

⁵⁰ Waibsnider, Meital. "National Self-Interest and Foreign Policy." 396.

⁵¹ U.S. Citizenship and Immigration Services. "Refugee Timeline." U.S. Citizenship and Immigration Services. Accessed March 28, 2021. <https://www.uscis.gov/about-us/our-history/history-office-and-library/featured-stories-from-the-uscis-history-office-and-library/refugee-timeline>

⁵² U.S. Citizenship and Immigration Services. "Refugee Timeline."

⁵³ Duany, Jorge. "Cuban Migration: A Postrevolution Exodus Ebbs and Flows." Migration Policy, July 6, 2017. <https://www.migrationpolicy.org/article/cuban-migration-postrevolution-exodus-ebbs-and-flows>.

⁵⁴ U.S. Citizenship and Immigration Services. "Refugee Timeline."

for a better type of government.⁵⁵ Moreover, U.S. migration policy during and after the Cold War emphasizes the priority of the United States to focus on admittance over assimilation. Policies were created to strictly outline who could enter the nation, but policies were not created to help these migrants integrate once accepted.

The Migration and Refugee Assistance Act of 1962 enabled Congress to give refugees fleeing communist nations financial assistance.⁵⁶ The Act also extended the Fair Share Refugee Act, enabling 20,000 refugees to enter the United States under the parole authority of the attorney general.⁵⁷ This Act is an additional example of the United States using refugee admissions to pursue foreign policy interests and democratic ideals globally, prioritizing aid to refugees fleeing communist nations.

The year 1965 was significant for refugee populations within the United States due to the 1965 Amendments to the Immigration and Nationality Act. These Amendments eliminated the quota system that had previously been in place and instead established a preference category for conditional entrants, including individuals in non-communist countries who had previously fled communist countries, or nations within the Middle East, who would not return due to persecution or the potential of persecution, from race, religion, or political opinion.⁵⁸ The Amendment also included individuals displaced due to natural disasters.⁵⁹ Here, the U.S. began to give more priority to those

⁵⁵ Waibsnider, Meital. "National Self-Interest and Foreign Policy." 397.

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ Ibid.

with urgent needs to enter the nation by creating a preference category based on who needed the most assistance, an incredibly influential policy in helping increased amounts of refugees receive admission to the United States.

The 1965 Amendments were the first time Congress provided a permanent basis for refugee admission, authorizing 10,200 to 17,400 refugees every year to receive visas; the prior lack of restrictions present was due to the strong desire in the U.S. for cheap labor.⁶⁰ The permanent basis for refugee admission began a consistent wave of refugee admission into the United States.⁶¹ The 1967 United Nations High Commissioner for Refugees protocol changed the limits on the 1951 United Nations Convention Relating to the Status of Refugees, allowing the convention to be used universally, which was signed by the United States. While the 1951 Convention was largely limited to protecting European refugees after WWII, the 1967 Protocol expanded these protections globally.⁶²

Five years after the establishment of the 1967 Protocol, the Immigration and Naturalization Service (INS) Administrative Asylum Policies of 1972 were created to enable the INS to grant asylum to refugees and immigrants in the US to ensure refugees were not returned to states they fled previously due to fear of persecution.⁶³ The INS used procedures already in place, such as parole, stays of deportation, and adjustment of status, to help refugees remain in the United States; in 1977, the INS Office of Refugee Parole

⁶⁰ Ibid ; McBride, Michael J. "The Evolution of US Immigration and Refugee Policy: Public Opinion, Domestic Politics and UNHCR." UNHCR. United Nations High Commissioner for Refugees, May 1999. <https://www.unhcr.org/en-us/research/working/3ae6a0c74/evolution-immigration-refugee-policy-public-opinion-domestic-politics-unhcr.html>.

⁶¹ Ibid.

⁶² United Nations High Commissioner for Refugees. "The 1951 Convention," 1.

⁶³ U.S. Citizenship and Immigration Services. "Refugee Timeline."

was created to respond to global refugee crises and implement refugee-specific policies.⁶⁴ This is reflective of increasing concern for the refugee population.

The creation of the Office of Refugee Parole was followed three years later with the creation of the Refugee Act of 1980.⁶⁵ By creating an overarching policy to consistently address refugee admissions, the 1980 Act removed the limits of the 1965 Amendments to the INS, providing a statutory basis for asylum for the first time.⁶⁶ Refugees now had two ways to be admitted to the United States: through a grant of asylum given by the INS, or through a withholding of deportation.⁶⁷ Moreover, it increased how many refugees could enter the United States annually, and created the Office of Refugee Resettlement. The Office of Refugee Resettlement (ORR) provides critical resources to assist displaced people in becoming integrated members of American society.⁶⁸ Individuals are eligible for ORR programs if they are refugees, asylees, Cuban or Haitian entrants, Special Immigrant Visa holders, Amerasians, or victims of trafficking.⁶⁹ The ORR is divided into five divisions: Refugee Assistance, Refugee Health, Refugee Services, Children’s Services, and the Office of the Director.⁷⁰

⁶⁴ Ibid.

⁶⁵ Ibid.

⁶⁶ Ibid.

⁶⁷ Munley, Caitlin B. “THE REFUGEE ACT OF 1980 AND INS V CARDOZA-FONSECA.” *Georgetown Immigration Law Journal* 27 (2013): 809–828.

⁶⁸ Office of Refugee Resettlement. “What We Do.” The Administration for Children and Families. Accessed April 6, 2021. <https://www.acf.hhs.gov/orr/about/what-we-do>.

⁶⁹ Ibid.

⁷⁰ Ibid.

Additionally, the Refugee Act of 1980 established the policy that the President can set the annual number of refugees to be admitted to the United States, and the President can determine the allocation of admission to refugees from different parts of the world.⁷¹ The significance of this Act is threefold: first, the creation of the ORR provides refugees with specific policies and programs tailored to their unique needs to assist them in becoming integrated members of American society. By establishing extensive programs addressing the key areas of integration by overseeing refugee health, employment, and child care, the ORR assists refugees throughout the integration process. Second, the Refugee Act of 1980 shows the immense power each presidential administration has in determining the specific number of refugees that may enter the United States annually. Third, it set the precedent to enable presidential administrations to favor refugee admissions from some countries over others, which is another avenue in which foreign policy interests may play a part in migration policy.

The Refugee Act of 1980 was accompanied by the creation of the Refugee Education Assistance Act of 1980, one of the very first pieces of legislation drafted for the education of refugees.⁷² Prior to the Refugee Education Assistance Act of 1980, refugee education was not prioritized. Educational policies directed at immigrant children during the early 1900s were ones of neglect.⁷³ Instead of creating programs to meet refugee students at their level of education, students were submerged in English-only classrooms without accommodations; newcomers were often immediately placed in first-

⁷¹ U.S. Citizenship and Immigration Services. “Refugee Timeline.”

⁷² House., Refugee Education Assistance Act of 1980 § (n.d.).

⁷³ de Jong, “Immigrant Era: Focus on Assimilation.”

grade classrooms, regardless of their age.⁷⁴ This led to many early dropouts; as children much older than the rest of their class still could not understand the curriculum due to language barriers, they opted to drop out.⁷⁵ Moreover, intelligence testing conducted entirely in English led to the disproportionate placement of migrant children in special education classes, where they received education tailored to needs different than their own.⁷⁶ Some states opted to create streamer classes for students over the age of eight, which segregated immigrant and native-born students for six months to one year.⁷⁷ In these classes, students were often punished for using native language skills.⁷⁸

Segregated schools were the solution posed to the influx of Mexican immigrants after the Mexican Revolution in the early 1900s. It was believed that Hispanic students attended school less regularly than native-born students, disrupting classroom continuity, so these students needed their own school.⁷⁹ Mexican schools had fewer resources and less qualified teachers, often punishing students for using any Spanish, portraying Mexico and the Mexican people as inferior and backward.⁸⁰ This reinforced the growing idea that migrants were inferior to the native-born population.

⁷⁴ Ibid.

⁷⁵ Ibid.

⁷⁶ Ibid.

⁷⁷ Ibid.

⁷⁸ Ibid.

⁷⁹ Schlossman, Steven. "Self-Evident Remedy? George I. Sanchez, Segregation, and Enduring Dilemmas in Bilingual Education ." *Teachers College Record* 84 (1983): 871–908.

⁸⁰ de Jong, "Immigrant Era: Focus on Assimilation."

Refugee-specific education policies that benefitted the refugee population were historically absent in the United States until the 1980 creation of the Refugee Education Assistance Act. This Act was created to provide general assistance to Cuban and Haitian refugee children, providing special impact aid through grants paid to state educational agencies.⁸¹ The Refugee Education Assistance Act is incredibly important because it signifies the first time a wide-scale federal policy was created to give refugee children opportunities to overcome barriers and excel in school. This same practice is still done today, but on a larger scale for more refugees. This was one of the first times in United States history that specific policies geared toward the assimilation process were created for refugees, instead of simply having policies created around monitoring and restricting admission.

Post-Cold War Era

After 9/11, the United States increased security measures with refugee and immigration policy, closely monitoring who could and who could not enter the country.⁸² The United States increased restrictions on immigration, created the Department of Homeland Security, expanded the ‘no-fly list’ from a small number to thousands of people, and worked to increase security measures in all forms of domestic and international travel.⁸³ In 2002, the INS was divided into three separate organizations:

⁸¹ House., Refugee Education Assistance Act of 1980 § (n.d.).

⁸² Pope, Amy. “Immigration and U.S. National Security: The State of Play Since 9/11.” Migration Policy Institute, April 2020. <https://www.migrationpolicy.org/research/immigration-us-national-security-since-911>.

⁸³ Roos, Dave. “5 Ways 9/11 Changed America.” History, September 1, 2020. <https://www.history.com/news/september-11-changes-america>.

United States Citizenship and Immigration Services (USCIS), United States Immigration and Customs Enforcement (ICE), and US Customs and Border Protection (CBP).⁸⁴ Each of these organizations currently works to monitor the refugee population within the United States.⁸⁵

While administrations differ regarding immigrant and refugee policy, one administration that focused heavily on changing immigration policy was the Trump administration. Each administration works to shift immigration policy, but President Donald Trump aimed to sharpen the parameters of who could come into the United States, becoming a prime example of how presidential administrations influence and shape the lives of refugees. In his four years in office, President Trump worked to expand the use of detention centers for immigrants, limit their access to asylum, enhance enforcement along the U.S.-Mexico border, and construct a 2,000-mile border wall to prevent immigrants and refugees from entering the United States.⁸⁶ While President Trump signed multiple executive orders working to limit refugee and immigrant presence in the U.S., one of the most recent policies the Trump administration created that impacted refugees came through Immigration and Customs Enforcement (ICE) raids.⁸⁷ President Trump used ICE officers to identify and remove undocumented immigrants from the United States through ICE raids; ICE raids at places of work, referred to as

⁸⁴ U.S. Citizenship and Immigration Services. "Our History." USCIS. Accessed March 28, 2021. <https://www.uscis.gov/about-us/our-history>.

⁸⁵ Ibid.

⁸⁶ Center for Migration Studies. "President Trump's Executive Orders on Immigration and Refugees." The Center for Migration Studies of New York (CMS). Accessed March 28, 2021. <https://cmsny.org/trumps-executive-orders-immigration-refugees/>.

⁸⁷ Ibid.

‘worksite raids,’ began with immigration agents physically invading a place of work unannounced with militaristic force, proceeding to target workers for arrest and deportation.⁸⁸ The agents, sealing off workplace exits, proceeded to make arrests and detain workers, sending undocumented workers to remote detention centers. Over 1,800 workers were arrested in worksite raids from 2017-2020.⁸⁹ In 2019, seven food-processing plants in Mississippi were raided, leading to the arrest of 680 undocumented workers.⁹⁰ This raid happened to coincide with the first day of school in the Mississippi school district.⁹¹ Children whose parents were arrested were left in the care of friends, neighbors, and in some instances, strangers to temporarily care for the children who were not sure whether they would see their parents again.⁹² ICE raids, targeted at undocumented immigrants, often deported refugees who were supposed to be given protection under the U.S. government due to a failure to appear in immigration court.⁹³ Many refugees claimed they failed to appear due to bureaucratic errors and deliberate

⁸⁸ National Immigration Law Center. “Worksite Immigration Raids.” National Immigration Law Center, January 2020. <https://www.nilc.org/issues/workersrights/worksite-raids/#:~:text=During%20a%20raid%2C%20immigration%20agents,remote%20detention%20centers%20without%20warning.>

⁸⁹ Ibid.

⁹⁰ Gallagher, Dianne, Catherine E. Shoichet, and Madeline Holcombe. “Mississippi Ice Raids: 680 Undocumented Workers Arrested in Record-Setting Immigration Sweep on the First Day of School.” CNN. Cable News Network, August 9, 2019. <https://www.cnn.com/2019/08/08/us/mississippi-immigration-raids-children/index.html>.

⁹¹ Ibid.

⁹² Sanchez, Ray. “Their First Day of School Turned into a Nightmare after Record Immigration Raids.” CNN. Cable News Network. Accessed March 28, 2021. <https://www.cnn.com/interactive/2019/08/us/mississippi-ice-raids-cnnphotos/index.html>.

⁹³ American Civil Liberties Union. “ACLU Files Preemptive Lawsuit to Protect Refugees from Massive Trump ICE Raids.” American Civil Liberties Union, July 11, 2019. <https://www.aclu.org/press-releases/aclu-files-preemptive-lawsuit-protect-refugees-massive-trump-ice-raids>.

misdirection by immigrant enforcement agencies, making it nearly impossible for refugees to know when their hearings were held.⁹⁴

ICE raids had disastrous impacts on child education. Aside from the fact that children went to school with a constant fear that they would return home to an empty house, ICE raids took an emotional, psychological, and physical toll on children by producing chronic fear, anxiety, and stress.⁹⁵ ICE raids further divided the trust built between students and educators, who can see the impact these out-of-school factors have on students in their daily tasks and assignments.⁹⁶ The Trump administration is a clear example of how presidential administrations matter; policies not directly created under the educational realm still have implications on the development of children in the classroom.

By analyzing the history of refugee policy in the United States, it becomes evident that administrations matter in determining refugee policy in multiple contexts. Whether it be Hoover and Smith shifting their stances toward refugee policy depending on their audience, or the United States consistently pursuing and prioritizing foreign policy interests over helping those most vulnerable, it is clear that administrations are impactful. With each new administration comes new forms of refugee policy. Moreover, the lack of refugee-specific policy in U.S. history must be acknowledged, and the United States must create policies that are for the betterment of refugees as a specific population, recognizing their uniqueness.

⁹⁴ Ibid.

⁹⁵ American Federation of Teachers. "Immigrant and Refugee Children - A Guide for Educators and School Support Staff." American Federation of Teachers, 2017. https://www.thedream.us/wp-content/uploads/2017/12/im_uac-educators-guide_2017.pdf.

⁹⁶ Ibid.

CHAPTER THREE

Policy Gaps and Necessary Change

While refugee-specific education policy was notably absent in the 19th and early 20th century, the United States federal government did eventually begin to prioritize the education of refugees toward the end of the 20th century. As a decentralized education system, the burden of refugee education is shared on a federal, state, and local level. Therefore, it is important to not only analyze the pieces of U.S. federal policy regarding refugee education, but it is equally important to analyze how these policies are implemented. In this chapter, I will outline refugee-specific education policy in the U.S. with a specific focus on historic court cases, federal grant programs, and United States federal legislation. By collectively analyzing the most influential refugee-specific education policies, it becomes possible to identify issues both with the policies themselves and with the ways in which policies are practically implemented at the local level.

Structure of the U.S. Education System

The United States has a decentralized education system, meaning the federal government dictates general policy while leaving many crucial decisions up to state

governments and individual school districts.¹ The Tenth Amendment, establishing the understanding that powers not granted to the United States Federal Government were reserved to the states or people, is why the majority of education policy is created by state governments and local school districts.¹ While having decentralized education systems in large countries can be advantageous in ensuring the specific needs of students in a given district are met, it becomes more difficult to ensure vulnerable populations are protected. The divisions between the duties of the federal government and state governments frame how individual school districts operate as a whole.

The federal government creates policies that must be upheld by state governments, often centered around ensuring students are treated fairly, which is done through mandates assisting those with supplemental needs.² For example, the Individuals with Disabilities Education Improvement Act (IDEA) makes available public education to eligible children with disabilities throughout the United States by ensuring special education and related services are provided for qualifying children, authorizing formula grants and discretionary grants to states and state educational agencies.³ Meanwhile, state governments divide up funding for public education. In the 2004-2005 school year,

¹ United States Network for Education Information. "Organization of U.S. Education." U.S. Department of Education . Accessed March 30, 2021. <https://www2.ed.gov/about/offices/list/ous/international/usnei/us/edlite-org-us.html>.

¹ U.S. Department of Education. "Laws & Guidance." U.S. Department of Education . Accessed March 30, 2021. <https://www2.ed.gov/policy/landing.jhtml?src=ft.> ; "U.S. Const. amend. 10."

² National Association of Charter School Authorizers. "Federal Policy 101: Influence on Education." NACSA. Accessed March 30, 2021. https://www.qualitycharters.org/research-policies/archive/how_federal_policy_impacts_education/.

³ U.S. Department of Education. "About IDEA." Individuals with Disabilities Education Act. U.S. Department of Education . Accessed March 30, 2021. <https://sites.ed.gov/idea/about-idea/>.

45.6% of financing came from state funds and 37.1% came from local governments, while the federal government contributed 8.3%.⁴ Minnesota, for example, provides nearly 80% of public education funds as a state, while 17% comes from local sources, and less than 5% comes from the federal government.⁵ States provide oversight to local school boards and school districts, set policies for curricula requirements and assessments, and license teachers and educational personnel.⁶ Moreover, state governments oversee the educational services for people with disabilities, adults in need of basic education services, and special needs populations.⁷ Administrations matter in dictating wide-scale education policy, but the importance of state and local involvement in the U.S. education system cannot be overstated. While a decentralized education system has benefits, it becomes difficult to both establish and enforce nationwide protections for vulnerable populations, such as refugees. Therefore, it is crucial to use the flexibility of a decentralized education system to advantageously help integrate refugees into schools.

Refugee-Specific Policies

To best analyze refugee-specific education policies, the policies in place must be evaluated as primary sources to look at the specific language used to best understand how

⁴ U.S. Department of Education. “10 Fact About K-12 Education Funding.” U.S. Department of Education (ED), September 19, 2014. <https://www2.ed.gov/about/overview/fed/10facts/index.html>.

⁵ Corsi-Bunker , Antonella. “Guide to the Education System in the United States.” International Student and Scholar Services. The University of Minnesota. Accessed March 30, 2021. <https://isss.umn.edu/publications/USEducation/2.pdf>.

⁶ United States Network for Education Information. “Organization of U.S. Education: State Role I - Primary and Secondary Education .” U.S. Department of Education . Accessed March 30, 2021. <http://www.ed.gov/international/usnei/edlite-index.html>.

⁷ Ibid.

these policies are implemented. Before doing so, it is crucial to note refugees have a right to education in the same way a U.S. citizen does due to *Plyler v Doe*, a 1982 Supreme Court case. *Plyler v Doe*, a milestone for refugee education in the United States, ruled it unconstitutional to deny funding for education to undocumented immigrant children.⁸ This case exists because, in 1975, the Texas Legislator shifted education law to have the ability to deny enrollment in Texas public schools and withhold state funds for the education of children who were not legally admitted to the United States.⁹ After a class action was filed on behalf of school-aged children in Texas unable to prove legal admittance to the United States, the U.S. Supreme Court ruled that all children are entitled to public education, regardless of citizenship or immigration status.¹⁰ Moreover, the McKinney-Vento Act is targeted to address the issues of educational access, stigma, and self-advocacy stemming from the increasing number of homeless youth in the U.S. school system.¹¹ The Act, authorized in 1987, aims to provide educational access and stability for homeless children and youth, ranging from ages 3-18.¹² This program helps homeless migrant and refugee students, providing additional funding toward programs to help vulnerable populations.

⁸ James Plyler, Superintendent, Tyler Independent School District, et al. v John Doe, et. al, 457 U.S. 202 (1982).

⁹ *Plyler v. Doe*, 457 U.S. 202 (1982).

¹⁰ United States Courts. "Access to Education - Rule of Law."

¹¹ Ausikaitis, A., Wynne, M., Persaud, S., Pitt, R., Hosek, A., Reker, K., Turner, C., Flores, S., & Flores, S. (2015). Staying in School: The Efficacy of the McKinney–Vento Act for Homeless Youth. *Youth & Society*, 47(5), 707–726. <https://doi.org/10.1177/0044118X14564138>

¹² U.S. Department of Education. "Education for Homeless Children and Youth Program ." U.S. Department of Education, July 2004. <https://www2.ed.gov/programs/homeless/guidance.pdf>.

One of the most crucial pieces of legislation in the United States regarding refugee education is the Elementary and Secondary Education Act (ESEA), which is the United States national education law working to ensure equal opportunity for all students.¹³ The ESEA authorizes state-run programs for schools meeting eligibility requirements to bolster the academic achievement of struggling students while addressing the challenges present for students with disabilities, learning difficulties, poverty, and those learning English.¹⁴

The ESEA has been reauthorized eight times by various administrations.¹⁵ When creating acts, committees in charge of authorizing the legislation create programs set for specific time limits with certain requirements, meaning these acts expire at the end of their authorization period unless they are reauthorized.¹⁶ To reauthorize an act, the authorizing committee will hold hearings, hear testimony, and set new authorization levels, giving opportunities to reevaluate the status quo and shift any individual act to ensure it is adequately targeted to fix the problems present within the United States. In 2002, the No Child Left Behind (NCLB) Act reauthorized the ESEA.¹⁷ The Act was

¹³ U.S. Department of Education. “Every Student Succeeds Act (ESSA).” U.S. Department of Education. Accessed March 30, 2021. <https://www.ed.gov/essa?src=rn>.

¹⁴ Washington Office of Superintendent of Public Instruction. “Elementary and Secondary Education Act (ESEA).” OSPI. Accessed March 30, 2021. <https://www.k12.wa.us/policy-funding/grants-grant-management/every-student-succeeds-act-essa-implementation/elementary-and-secondary-education-act-esea>.

¹⁵ New America. “ESSA.” New America. Accessed March 30, 2021. <https://www.newamerica.org/education-policy/topics/federal-education-legislation-budget/federal-education-legislation/essa/>.

¹⁶ D.C. Advocacy Partners. “What Is Reauthorization?” Institute for Educational Leadership. Accessed March 30, 2021. <http://dcpartners.iel.org/sites/default/files/What%20is%20Reauthorization%20session%206.pdf>.

¹⁷ Washington Office of Superintendent of Public Instruction. “No Child Left Behind Act of 2001.” OSPI. Accessed March 30, 2021. <https://www.k12.wa.us/policy-funding/grants-grant-management/every-student-succeeds-act-essa-implementation/elementary-and-secondary-education-act-esea/no-child-left->

reauthorized once more as the Every Student Succeeds Act (ESSA) on December 10, 2015, by President Obama.¹⁸ The ESSA is the latest version of the ESEA and is due for reauthorization after the 2020-2021 school year.¹⁹

Title I, Part A, of the ESSA is aimed at improving basic programs operated by state and local educational agencies.²⁰ The purpose of the Act is to provide all children the opportunity to receive a fair, equitable, and high-quality education, closing educational achievement gaps across America. The Act provides funding to supplement programs and educators in low-income schools to improve the academic achievement of disadvantaged students.²¹ While the ESSA was enacted for fiscal years 2017-2020, \$378,000,000 were authorized to be appropriated to carry out the activities mentioned in Title I, Part A.²² The education of migratory children was authorized to receive \$374,751,000 in total from 2017-2020.²³

behind-act-
2001#:~:text=The%20No%20Child%20Left%20Behind,and%20once%20in%20high%20school.

¹⁸ Every Student Succeeds Act, U.S.C. (2015).

¹⁹ Williams, Conor. It's Nearly Time to Reauthorize the Every Student Succeeds Act: 4 Priorities Otherwise-Distracted National Leaders Should Set to Make the K-12 Law Stronger. The 74 Million, December 3, 2019. <https://www.the74million.org/article/its-nearly-time-to-reauthorize-the-every-student-succeeds-act-4-priorities-otherwise-distracted-national-leaders-should-set-to-make-the-k-12-law-stronger/#:~:text=The%20Every%20Student%20Succeeds%20Act%20is%20still%20due%20for%20reauthORIZATION,bill%20another%20look%20by%20then>.

²⁰ Every Student Succeeds Act, U.S.C. (2015).

²¹ Utah State Board of Education. "Title I, Part A of the Every Student Succeeds Act (ESSA) Handbook." Utah State Board of Education, September 2019. <https://www.schools.utah.gov/file/92d5647c-c44f-41a2-9015-a995f1ac0d06>.

²² Every Student Succeeds Act, U.S.C. (2015).

²³ Ibid.

The ESSA continues with Title I, Part C, specifically addressing the education of migratory children.²⁴ The purpose of this Act is multi-faceted; the Act is aimed at assisting States through supporting high-quality, comprehensive educational programs and services that address the unique and specific needs of migratory children, trying to help them “overcome educational disruption, cultural and language barriers, social isolation, [and] various health-related problems.”²⁵ Moreover, the Act aims to ensure migrant children moving between states are not penalized by the disruption of curriculum changes, aiming to equalize the opportunities offered to both migrant and native-born students.²⁶ The Act essentially aims to assist migrant children through state and local systematic reform.²⁷ Title I, Part C of the ESSA addresses barriers to migrant education through the allocation of state funding to States with identifiable numbers of eligible migratory children. By making grants to State educational agencies, or combinations of such agencies, the U.S. Federal Government aims to directly establish and improve programs for the education of migratory children.²⁸

The ESSA continues with Title III, ensuring all English learners, including immigrant children, attain English proficiency.²⁹ The Act helps assist English learners by assisting teachers, principals, State educational agencies, and local educational agencies

²⁴ Every Student Succeeds Act, U.S.C. (2015).

²⁵ Ibid.

²⁶ Ibid.

²⁷ Ibid.

²⁸ U.S. Department of Education. “Part C - Education of Migratory Children.” U.S. Department of Education . Accessed March 30, 2021. <https://www2.ed.gov/policy/elsec/leg/esea02/pg8.html>.

²⁹ Every Student Succeeds Act, U.S.C. (2015).

in creating efficient language instruction programs.³⁰ Moreover, the Act promotes parental, family, and community participation in language instruction for English learners by allocating grants to States.³¹ The Act aims to establish and implement standardized statewide entrance and exit procedures, including assessment requirements within 30 days of enrollment for English learners.³²

Additionally, schools and districts must consistently look for ways to identify and refer children with disabilities for educational support. According to Section 504, aimed at protecting students with disabilities, all publicly funded schools within the United States must meet certain “child find” standards where they intentionally look for children who may qualify for this support.³³ Immigrant children specifically can be identified as needing special education eligibility.³⁴ Many immigrant children arriving at the United States are fleeing extreme violence and trauma, which can create difficulties with development, learning, attention, self-regulation, and behavior.³⁵ Moreover, other

³⁰ Ibid.

³¹ Ibid.

³² Ibid.

³³ U.S. Department of Education. “Protecting Students With Disabilities.” U.S. Department of Education . Accessed March 30, 2021. <https://www2.ed.gov/about/offices/list/ocr/504faq.html>. ; Thrun Law Firm. “Back to School Reminder: Don't Forget About Child Find Obligations!” Thrun Law Firm, October 7, 2019. <https://www.thrunlaw.com/back-to-school-reminder-dont-forget-about-child-find-obligations/#:~:text=Section%20504%20of%20the%20Rehabilitation%20Act%20also%20has%20a%20child,must%20evaluate%20students%20%E2%80%9Cwho%20because>.

³⁴ Disability Rights Education and Defense Fund. “Education Rights of Immigrant Children with Disabilities in Public Schools.” Alliance For Girls. Accessed March 30, 2021. <https://www.alliance4girls.org/voices/education-rights-of-immigrant-children-with-disabilities-in-public-schools/>.

³⁵ National Association of School Psychologists. “Supporting Refugee Children & Youth Tips for Educators.” NASP, 2015. [file:///Users/sarah/Downloads/Supporting_Refugee_Children_and_Youth_Tips_for_Educators%20\(2\).pdf](file:///Users/sarah/Downloads/Supporting_Refugee_Children_and_Youth_Tips_for_Educators%20(2).pdf).

children may have fled their home countries due to a lack of inclusion for children with disabilities, fleeing to the United States for new opportunities.³⁶

Policy Issues

The issues with U.S. refugee education stem from two sources: the federal policies in place and the implementation of these policies on a local level. Collectively, there are five key issues with both the policies and their implementation that should be resolved to best educate refugees. Before analyzing the solutions to these issues, the problems themselves must be identified, beginning with the language used in the Migrant Education Program in Part C, Title I, of the ESSA.

There are two issues with the migrant education programs outlined in the ESSA. First, the programs rely on restrictive definitions for funding. Second, the data collected is not all-encompassing. Primarily, eligibility requirements for migrant education programs often exclude the refugee population. The definition of a ‘migratory child’ used by the Every Student Succeeds Act is inherently exclusive of refugee students. The term ‘migratory child’ is defined as “a child of youth who made a qualifying move in the preceding 36 months –

- (A) as a migratory agricultural worker or a migratory fisher; or
- (B) with, or to join, a parent or spouse who is a migratory agricultural worker or a migratory fisher.”³⁷

³⁶ Disability Rights Education and Defense Fund. “Education Rights of Immigrant Children.”

³⁷ Every Student Succeeds Act, U.S.C. (2015).

Moreover, the term ‘qualifying move’ has a restrictive definition as well. A ‘qualifying move’ is defined by the ESSA as a move due to economic necessity –

- (A) from one residence to another residence; and
- (B) from one school district to another school district, except –
 - (i) in the case of a State that is comprised of a single school district, wherein a qualifying move is from one administrative area to another within such district; or
 - (ii) in the case of a school district of more than 15,000 square miles, wherein a qualifying move is a distance of 20 miles or more to a temporary residence.³⁸

Before the ESSA reauthorization, when defined by the No Child Left Behind Act, a migrant child was defined as an individual

who is, or whose parent or spouse is, a migratory agricultural worker, including a migratory dairy worker, or a migratory fisher, and who, in the preceding thirty-six months, in order to obtain, or accompany such parent or spouse, in order to obtain, temporary or seasonal employment in agricultural or fishing work—has moved from one school district to another.³⁹

Under this definition, the words ‘in order to obtain’ make the intent to gain a certain job enough to qualify as a migrant to receive funding under migrant education programs. The new criteria posed by the ESSA without the words ‘in order to obtain’ make eligible only migrant students whose parents or spouses moved and already obtained a job in agricultural work shortly after moving, regardless of their intent. This uniquely excludes refugee populations.⁴⁰ By definition, if refugee families upon initial arrival into the United States fail to find work in any industry, and proceed to move until

³⁸ Every Student Succeeds Act, U.S.C. (2015).

³⁹ No Child Left Behind Act, U.S.C. (2001).

⁴⁰ Madrid, José E. “Title I’s Migrant Education Program: The Challenges of Addressing Migrant Students’ Educational Needs in the 21st Century.” *Georgetown Journal of Law & Modern Critical Race Perspectives* 11, no. 1 (2019): 67–98.

finding work in agriculture, their initial move to the United States does not make their children eligible for migrant education programs. If refugee families make qualifying moves after working in agricultural labor, their children can be eligible for migrant education programs if meeting other predetermined requirements. Refugee families who move, but remain in the same school district, often fail to meet the eligibility requirement since they did not make an inter-school district move.

Moreover, by specifying a migratory child as one who made a qualifying move as either a migratory agricultural worker or a migratory fisher, this definition excludes industries with characteristics similar to agriculture, such as construction or landscaping, that have grown significantly since the 1980s, which is the last time they updated the categories of work qualifying under these definitions.⁴¹ Without updating the specific rhetoric within these definitions, many refugees are left without the ability to qualify for migrant education program funding, adversely impacting their education. Refugee students may be the ones who could most benefit from migrant education programs and the flexibility these programs provide through additional funding to address their unique needs. Unfortunately, it is becoming increasingly more difficult for refugee and migrant students alike to qualify for these funds due to the restrictive language of the ESSA.

The second issue with refugee education in the United States relating to the ESSA is that the federal data collected on migrant populations is not all-encompassing. The federal government is unable to accurately study the migrant population, including immigrants, refugees, and asylum seekers, for two reasons.⁴² First, the federal

⁴¹ Ibid., 86.

⁴² Ibid.

government inconsistently uses the word “migrant,” constantly changing the precise definition of who qualifies as a migrant.⁴³ Second, there is an inherent logistical challenge posed to the goal of measuring a group of people who are constantly mobile.⁴⁴ Many undocumented migrants intentionally avoid interacting with government officials and largely go uncounted due to fear of deportation, meaning their presence in an area cannot help qualify this area for migrant benefits.⁴⁵ Therefore, programs relying on the identification of migrant populations in any given area are often flawed because the data collected often does not reflect the actual status quo.

Issues with Implementation

While the legislative policies in place to provide additional aid for refugee and migrant students fall short, the practical implementation of these policies often leaves refugee students without adequate protection. The Supreme Court ruling in *Plyler v Doe* mandates students are entitled to receive education, regardless of their immigration status. While this Act is supposed to protect migrant and refugee students from being denied enrollment, school districts still create both intentional and unintentional barriers to student enrollment.

The third issue with refugee education in the United States stems from the barrier posed to undocumented families through the lack of formal documentation linking their name to their residence, making school enrollment difficult for students.⁴⁶ An additional

⁴³ Ibid., 73.

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ Booi, Zenande, Caitlin Callahan, Genevieve Fugere, Mikaela Harris, Alexandra Hughes, Alexander Kramarczuk, Caroline Kurtz, Raimy Reyes, and Sruti Swaminathan. “Ensuring Every Undocumented

challenge to enrollment is posed for children who migrate alone, and are unable to be enrolled by a parent, guardian, or someone with legal custody.⁴⁷ In many instances, the Office of Refugee Resettlement, which is responsible for the care and placement of unaccompanied children taken by the Department of Homeland Security, requires the prompt release of children to a qualified parent, sponsor, or legal guardian. The designated caretaker a child is assigned to often does not meet the specific requirements for guardianship in place by school districts, making school enrollment difficult.

While the difficulty for refugee students to obtain required documentation to enroll is an issue, a fourth barrier is posed to migrant and refugee education because of age. Many students arriving in the U.S. are years behind their peers in education due to missed years of school or curriculum disparities between nations. Unfortunately, some schools have discouraged older students from enrolling or encouraged them to enroll in alternative educational programs.⁴⁸ One specific example cited by “Ensuring Every Undocumented Student Succeeds,” a report by the Georgetown Law Human Rights Institute on access to public education for undocumented children, finds that in an urban North Carolina school district, multiple counselors, teachers, and school administrators indicated that schools are motivated by district policies rewarding high graduation rates, taking into account the likelihood of a student contributing to the school’s dropout rate if admitted.⁴⁹ Unfortunately, many schools are likely to discourage the enrollment of older

Student Succeeds.” Georgetown Law. Georgetown Law Human Rights Institute Fact-Finding Project, April 11, 2016. <https://www.law.georgetown.edu/human-rights-institute/wp-content/uploads/sites/7/2017/07/2016-HRI-Report-English.pdf>.

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ Ibid.

students who are likely to drop their graduation rates. The same article cites an example from a Texas school district official, who stated age-related discrimination in enrollment was the most prevalent issue in 2015.⁵⁰

The fifth issue with refugee education in the U.S. stems from the heavy emphasis placed on state-wide test scores often becomes a barrier to enrollment. One student from North Carolina, age 17, states she was told she could not enroll in school until after the completion of exams, delaying her enrollment by four weeks.⁵¹ While officials often try to justify this barrier to enrollment by indicating it is difficult for students to be successful if they come in at the end of the year, it sets refugee and migrant students back and makes integration more difficult. School enrollment is the first step to educational success, which is a large success marker for the integration of refugees. When barriers are posed to education, deterring enrollment, it becomes more difficult for refugees to learn English, understand the culture of their new country, make social connections, and catch up to their peers in school curriculum so they can succeed in the United States.

Solutions

Through my analysis, the main issues identified within refugee education policy and implementation can be reconciled through the use of various solutions targeted at the creation of statutory reform on a federal level and through increased accountability on a state and local level.

⁵⁰ Ibid.

⁵¹ Ibid.

The first issue that must be addressed to better improve refugee education is the restrictive language of the migrant education programs discussed in the ESSA. Therefore, the first solution to fixing refugee education must come through a statutory update changing the definition of a ‘qualifying move’ to expand the migrant education programs to provide aid to more students. The current definition of a ‘qualifying move’ extends to thirty-six months after the move of a migrant family from one school district to another, creating a rigid standard for eligibility that is restrictive towards groups of migrant students who may not migrate as often, and students who count as refugees. The qualifying move definition restricts, delays, and limits services for refugees.⁵² The U.S. federal government should expand who qualifies as a migrant through expanding the definition of a qualifying move to include refugees who may have moved within a district, who moved due to a reason other than economic necessity, or who moved a short distance. The definition of a ‘qualifying move’ should be expanded to include more types of migrant labor moves and should be inclusive of families with a history of migrant work. Second, a statutory update to shift the definition of who qualifies as a migrant under the Migrant Education Program would expand who is eligible for aid. Instead of limiting aid to those in the agricultural and fishing industry, the focus of the law itself should shift to aim to help migrant students with families in industries characterized by high mobility and low wages, such as construction and landscaping.⁵³

There are multiple ways in which refugee education programs can be improved by addressing the school enrollment process. Therefore, the third way the bolster refugee

⁵² Madrid, José E. “Title I’s Migrant Education Program,” 86

⁵³ Madrid, José E. “Title I’s Migrant Education Program,” 96

education in the U.S. is to decrease barriers to enrollment and increase accessibility, enabling refugee and migrant students to have an easier time starting in schools. While decreasing dependency on state-test scores could decrease the deterrent of refugee and migrant enrollment due to fear of decreasing score averages, another avenue that could be taken to help refugee enrollment is to provide a designated advocate to each student throughout the enrollment process. Older students specifically could benefit from being connected with advocates to help overcome barriers to school enrollment.⁵⁴

Fourth, to help bolster social inclusion in schools and decrease xenophobia, there must be active participation and cooperation on all levels of federal and state governments, including school administration, teachers, and students.⁵⁵ School social workers are uniquely capable to help improve refugee education by becoming an advocate for children. School social workers are “trained mental health professionals with a degree in social work who provide services related to a person’s social, emotional and life adjustment to school [and] society.”⁵⁶ According to the School Social Work Association of America, school social workers provide unique services to students, such as providing crisis intervention, assisting with conflict resolution, helping children develop appropriate social interaction skills, and assisting children in understanding and

⁵⁴ MacDonnell, Margaret. “Enrolling Refugee Children in U.S. Schools.” BRYCS. Bridging Refugee Youth and Children's Services. Accessed March 30, 2021. <https://brycs.org/schools/enrolling-refugee-children-in-u-s-schools/>.

⁵⁵ Thomas, Rebecca Leela. “The Right to Quality Education for Refugee Children Through Social Inclusion.” *Journal of Human Rights and Social Work*, December 7, 2016, 193–201. <https://doi.org/https://doi.org/10.1007/s41134-016-0022-z>.

⁵⁶ School Social Work Association of America. “Role of School Social Worker.” SSWAA. Accessed March 30, 2021. <https://www.sswaa.org/school-social-work>.

accepting self and others.⁵⁷ Moreover, school social workers provide services to families by interviewing family units to assess problems affecting the educational adjustment of their children and to assist parents in accessing programs available for students with unique needs.⁵⁸ School social workers are equipped to provide staff with essential information to better understand factors that impact a student's performance and behavior, including social, cultural, economic, and familial factors. They also help work to advocate locally to ensure the needs of students and families are met.

School social workers are uniquely qualified to advocate for refugee and migrant children through support counseling, case management, and policy advocacy functions in schools, communities, and the political field. School social workers can develop programs and policies emphasizing inclusion, meet individually with refugee students to ensure they are adequately transitioning to the culture of their host country, and work to ensure xenophobic attitudes are not present in schools.⁵⁹ Therefore, by mandating the presence of social workers in schools on a federal level, refugee and migrant populations would better integrate into school systems.

While the U.S. federal government historically failed in providing education tailored to the needs of refugee students, the end of the 20th century initiated programs specifically targeted to help refugee education. However, there are issues with the policies themselves and with the implementation of these policies that must be addressed. Therefore, the U.S. should implement solutions targeted to address the largest issues

⁵⁷ School Social Work Association of America. "Role of School Social Worker."

⁵⁸ Ibid.

⁵⁹ Thomas, Rebecca Leela. "The Right to Quality Education," 194.

facing refugee education. First, the definition of a ‘qualifying move’ should be expanded to include more types of migrant labor moves. Second, instead of limiting aid within the ESSA to those in the agricultural and fishing industry, the focus of the law itself should shift to help migrant students with families in industries characterized by high mobility and low wages, such as construction and landscaping.⁶⁰ Third, through decreasing dependency on state-test scores, the U.S. should focus on decreasing barriers and increasing accessibility to refugee enrollment in schools. Fourth, through increased cooperation and accountability on a federal, state, and local level, the presence of school social workers in school systems should increase, helping improve refugee education by giving students an advocate. With these solutions implemented, refugees would have increased access to aid, decreased barriers to enrollment, and a better chance at sufficiently integrating into the education system of the United States.

⁶⁰ Madrid, José E. “Title I’s Migrant Education Program,” 96.

CHAPTER FOUR

A Global View

When advantageous, the United States prides itself on being a nation of immigrants. When fearful, the United States shuts out those most in need of protection. While the United States accepts refugees annually, the U.S. does not accept the most refugees globally, failing to qualify as one of the top ten nations accepting the highest number of refugees.¹ Many nations within Europe, Asia, and Africa accept significantly more refugees than the United States, even though the U.S. is historically an economic and political leader in the international community.² As demonstrated throughout history, administrations matter when analyzing refugee policy; the stance of the Trump administration to create barriers to integration for refugees caused other nations to compensate.³ Accompanying the deterrent of refugees into the United States comes increased pressure for nations globally to both accept and successfully integrate more refugees.

¹ Christophersen, Eirik. "These 10 Countries Receive the Most Refugees." NRC. Norwegian Refugee Council, November 1, 2020. <https://www.nrc.no/perspectives/2020/the-10-countries-that-receive-the-most-refugees/>.

² Amnesty International. "The World's Refugees in Numbers ." Amnesty International. Accessed March 11, 2021. <https://www.amnesty.org/en/what-we-do/refugees-asylum-seekers-and-migrants/global-refugee-crisis-statistics-and-facts/>. ; Nordgren, R.D. "Cultural Competence and Relational Closeness: Examining Refugee Education." *Journal of Research in Innovative Teaching & Learning* 10, no. 1 (2017): 79–92. <https://doi.org/10.1108/jrit-08-2016-0001>.

³ Frelick, Bill. "The Trump Administration's Final Insult and Injury to Refugees." Human Rights Watch, December 11, 2020. <https://www.hrw.org/news/2020/12/11/trump-administrations-final-insult-and-injury-refugees>.

While countries often implement different refugee-related policies and protocols, the issues these nations face when integrating refugees are fairly similar across the globe. Migration is often seen as a threat instead of an opportunity, causing increases in xenophobic behavior toward refugees and decreases in tolerance.¹ Refugee adults statistically have difficulty getting jobs in their new countries, often taking much longer to achieve the employment rates of other migrant groups.² Successful integration brings new opportunities for enrichment in economic, social, and cultural settings. Moreover, the issues that serve as barriers to integration can be mitigated and countered with strong education policies for refugees. Through education, refugees are taught the language of their new country, they learn how to read and write, and they connect with peers from their new country. Education is the key to the long-term success of refugees globally.

Country Selection

Since countries face similar problems when integrating refugees, it becomes crucial to see which nations do so best to analyze which policies and practices make the integration techniques of these nations effective. By comparing the successful international practices of other nations to the issues identified within the education of refugees in the United States, it is possible to see how the U.S. education system could incorporate similar practices when integrating refugees. Moreover, when the successfully

¹ Miller, Sarah Deardorff. "Xenophobia toward Refugees and Other Forced Migrants." Centre for International Governance Innovation. Centre for International Governance Innovation, September 13, 2018. <https://www.cigionline.org/publications/xenophobia-toward-refugees-and-other-forced-migrants>.

² Gurría, Angel. "The Integration of Migrants and Refugees: Challenges and Opportunities." OECD. Organisation for Economic Co-operation and Development, October 7, 2016. <https://www.oecd.org/migration/integration-of-migrants-and-refugees-challenges-and-opportunities.htm>.

implemented ideas of multiple nations are put together, a more holistic approach to refugee integration can be found, which could provide direct benefits to refugee education if acknowledged by the United States.

The Center for Global Development released the Commitment to Development Index in 2018, ranking 27 of the world's richest countries on their dedication to policies benefitting people living in poorer nations.³ One of the seven sections impacting their Index Score is migration, a component evaluated by assessing countries' efforts in participating in six indicators: international migration conventions, migration integration policies, and receptiveness to asylum-seekers, refugees, foreign students, and migrants.

Sweden ranks first on the Commitment to Development Index and ranks first with migration specifically.⁴ The Center for Global Development states Sweden has the most development-friendly migration policies of all CDI countries, with the best integration policies and the second-largest share of refugees, relatively, after Germany. The Netherlands ranks seventh on the Commitment to Development Index and eleventh in migration policy due to its strong performance in hosting refugees.⁵ In contrast, the United States ranks eighteenth on the Commitment to Development Index and nineteenth in migration policy.⁶ This is because U.S. performance is below average in both levels of migrant inflow and refugee hosting.

³ "Commitment to Development Index." Center For Global Development, 2020. <https://www.cgdev.org/cdi#/>.

⁴ "Commitment to Development Index – Country Report Sweden." Center For Global Development, 2020. <https://www.cgdev.org/cdi#/country-report/swede>.

⁵ "Commitment to Development Index – Country Report the Netherlands." Center For Global Development, 2020. <https://www.cgdev.org/cdi#/country-report/netherlands>.

⁶ "Commitment to Development Index – Country Report the United States." Center For Global Development, 2020. https://www.cgdev.org/cdi#/country-report/united_states.

The Center for Global Development is a strong indicator of success because it evaluates seven different sections that are substantial indicators of quality of life globally. The comparatively high ranks of Sweden and the Netherlands, both in general and specific to migration, compared to the United States prove the practices of these nations should be analyzed. Moreover, Sweden, the Netherlands, and the United States all have decentralized education systems and prioritize refugee and migrant education. Therefore, both Sweden and the Netherlands are strong candidates to compare to the United States.

I will initially outline the education system in both Sweden and the Netherlands with a focus on refugee education. I will proceed to identify how issues regarding refugee education in the United States could be addressed by using adapting the use of policies and practices from both European nations. Moreover, direct benefits will be identified from analyzing Sweden and the Netherlands in tandem, combining similar integration strategies from both nations to benefit the United States.

Before analyzing what practices promote successful integration, it is crucial to outline what successful integration is. While difficult to describe successful integration in its entirety, the United Nations describes local integration as a legal, economic, and socio-cultural process that works to establish self-reliance among refugees while settling locally in a new country.⁷ Refugees should secure legal rights while pursuing the economic and socio-cultural aspects of life in their new country of asylum.⁸ Therefore, it is important to see which countries give refugees easy access to education, opportunities for economic

⁷ da Costa, Rosa. "Rights of Refugees in the Context of Integration: Legal ..." Rights of Refugees in the Context of Integration: Legal Standards and Recommendations. Legal and Protection Policy Research Series - UNHCR, June 2006. <https://www.unhcr.org/44bb90882.pdf>.

⁸ Ibid., 8.

growth and development, and positive cultural experiences with high levels of tolerance among the host community.

Europe as a continent is unique because refugees have both fled individual nations and regions within Europe, largely in the aftermath of World War II, and more recently have flocked to Europe largely since the Arab Spring in 2011.⁹ Moreover, individual nations within the European Union are bound to uphold certain standards when accepting refugees, mandating that countries provide opportunities for employment, social welfare, health care, and education.¹⁰

The Swedish Education System

While difficult to quantify successful refugee integration, Sweden ranks first on the Commitment to Development Index, ranking first with migration specifically. Moreover, the number of refugees accepted by Sweden combined with the heavy emphasis the Swedish government places on the integration strategies implemented to help refugees make Sweden comparatively successful. Within Europe, Sweden had the highest per capita acceptance of refugees as of 2015.¹¹ In December of 2009, the government offices of Sweden released a publication detailing their two primary goals when integrating: to

⁹ Cohen, Gerard Daniel. In *War's Wake Europe's Displaced Persons in the Postwar Order* New York; : Oxford University Press, 2011. ; Abbasi, Kamran, Kiran Patel, and Fiona Godlee. "Europe's Refugee Crisis: an Urgent Call for Moral Leadership." *The BMJ*. U.S. National Library of Medicine, September 9, 2015. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4564068/>.

¹⁰ Library of Congress. "Refugee Law and Policy: European Union." Library of Congress, n.d. <https://www.loc.gov/law/help/refugee-law/europeanunion.php#:~:text=Directive%202011%2F51%2FEU%20allows,had%20to%20comply%20by%202013.>

¹¹ Lane, Edwin. "How Sweden Tries to Assimilate Its Influx of Refugees." *BBC News*. BBC, September 20, 2015. <https://www.bbc.com/news/business-34261065>.

increase the supply and demand of labor and to create quality and equality in schools.¹²

The document outlines specific strategies created to uphold these goals, such as working toward better greater equality in schools, implementing anti-discrimination measures, and pursuing better language skills and adult education opportunities.¹³

Sweden has a decentralized education system similar to the United States. The Swedish government has the overall responsibility to set the framework and guidelines for education, while individual municipalities organize the specifics of education within preschool, compulsory school, upper secondary school, adult education, and Swedish tuition for immigrants.¹⁴ Refugee students are given the same educational rights and obligations as Swedish citizens.¹⁵ Sweden is comparable to the United States due to Swedish emphasis on refugee integration, the high number of refugee acceptances in the nation, and the decentralized structure of the Swedish education system, similar to that of the United States.

For refugees and immigrants in Sweden, welcome classes are offered upon arrival to give students an introduction to the new language, curriculum, customs, and culture they will encounter in their new education system.¹⁶ In Sweden, a newly-arrived student

¹² Ministry of Integration and Gender Equality, and Government Offices of Sweden, Swedish Integration Policy § (2009).

¹³ Ibid.

¹⁴ Swedish tuition is the term used for adult education in the Swedish language. ; Eurydice - European Commission. "Organisation of the Education System and of Its Structure." Eurydice - European Commission, January 17, 2020. https://eacea.ec.europa.eu/national-policies/eurydice/content/organisation-education-system-and-its-structure-80_en.

¹⁵ Ibid.

¹⁶ Crul, M., Keskiner, E., Schneider, J., Lelie, F., Ghaemina, S., Bauböck, R., & Tripkovic, M. "No Lost Generation? Education for Refugee Children: a Comparison Between Sweden, Germany, The Netherlands and Turkey." In *The Integration of Migrants and Refugees*, 62–80. EUI, 2017.

is defined as a child “who [arrives] to Sweden just before the ordinary start of compulsory education (age 7), or during elementary or upper-secondary schooling (up to age 18).”¹⁷ Refugee students entering the Swedish education system are usually kept in welcome classes for a very short period – approximately two to three weeks. Students are then transferred into the mainstream education system where additional courses are offered throughout the day, including a second language education for students in need of extra assistance.¹⁸

Initial assessments are taken of each refugee student once arriving at their new school in Sweden.¹⁹ Within 2 months of starting school, all refugee and migrant students are individually evaluated to identify both their level of language competency and how soon they will be able to actively participate in mainstream education classes.²⁰ In August of 2018, it became mandatory that newly arrived students in Sweden beginning with grade 7 have an individualized study plan.²¹ Head teachers decide the best educational track for each student by looking at their age, language skills, and test results to evaluate previous knowledge. If students demonstrate strong knowledge in a subject, they participate in regular teaching of that subject with supervision to ensure they understand the language.²²

¹⁷ Bunar, Nihad. “Migration and Education in Sweden: Integration of Migrants in the Swedish School Education and Higher Education Systems.” NESET II, 2017. <https://www.nesetweb.eu/wp-content/uploads/2019/06/Migration-and-Education-in-Sweden.pdf>.

¹⁸ Crul et al., “No Lost Generation?” 62–80.

¹⁹ Lucie Cerna. “Refugee Education: Integration Models and Practices in OECD Countries” (2019).

²⁰ Ibid.

²¹ Ibid.

²² Ibid.

The Swedish education system emphasizes the immediate immersion of refugee and migrant students into the mainstream education system; accordingly, Swedish as a Second Language classes are offered in elementary and upper-secondary schools to be taken in tandem with the usual curriculum.²³ These classes are incredibly beneficial for multiple reasons. Primarily, by offering these classes in the mainstream education system, refugee students can join their peers in classes where their language level is adequate to complete the course successfully. By integrating into the mainstream education system quickly, even if it is only in select classes at first, refugee students meet more of their peers and feel more connected to the school community, while also having the opportunity to learn Swedish by taking additional classes during the day. This prevents the large-scale segregation of refugee students from native-born students and allows for more collaboration, which has proven to be incredibly beneficial for refugee students who come to Sweden at age 12 or later.²⁴

While identifying Swedish refugee education policy is important, it is equally important to analyze the effects of these policies. A case study conducted in Sweden by R.D. Nordgren, *Cultural Competence and Relational Closeness: Examining Refugee Education*, analyzed communities that operated on a trial-and-error basis to test different policies and techniques to learn what best helps refugees integrate into the Swedish education system.²⁵ The author of the study targeted two towns in northern Sweden that have large refugee populations and conducted research, surveys, and interviews to ask

²³ Crul et al., “No Lost Generation?” 62–80.

²⁴ Ibid.

²⁵ Nordgren, “Cultural Competence,” 79–92.

refugees, teachers, and school administration members questions to gauge how welcomed refugees felt and how well they were integrating into the education system of Sweden.

Three of the largest issues identified by those surveyed were xenophobia, institutionalized racism, and a lack of local funding, problems refugees globally have identified as being influential to their integration experiences.²⁶ Nordgren proceeded to identify key solutions that could best address the challenges of educating refugees in Sweden targeted to solving these problems. Nordgren found that through an increase in cultural competence and an increase in local funding, refugees have positive experiences integrating into the education systems of their host country.²⁷

The first solution, increasing cultural competence, helps decrease xenophobia in the education system as a whole. Cultural competence entails having the capacity to value diversity, conduct self-assessment, manage the dynamics of difference, acquire and institutionalize cultural knowledge, and adapt to diversity and the cultural context of different communities.²⁸ Cultural competence is a developmental process that takes time to teach. One of the best ways to teach cultural competence is by expanding teacher training of norm critical pedagogy. Norm critical pedagogy proposes that restrictive, normative ideas placed on distinct groups can be challenged when made visible in school settings.²⁹ The National Agency for Education in Sweden consistently highlights the need

²⁶ Ibid.

²⁷ Ibid.

²⁸ Goode, Tawara D. "Cultural Competence Continuum ." Georgetown University Center for Child and Human Development. National Center for Cultural Competence, 2004.

²⁹ Edvinsson, Camila, and Hammarström Sofia. "Norm Critical Pedagogy in the Secondary Language Classroom," 2017.

for all staff working in schools to have knowledge of norm critical pedagogy. The Agency proposed that norm critical pedagogy be a compulsory requirement for those studying to become teachers, and for the professional development of teachers and faculty at schools because it is a key part of the fight against discrimination and offensive treatment.³⁰

The tangible training that is provided to teach norm critical pedagogy in the educational setting can differ, but the overall lessons are similar. For example, teachers who interact with marginalized groups, aiming to discuss and address the specific issues of these groups, risk reinforcing the idea that these groups are separate and should be considered separate by using simple words such as “we” versus “them.”³¹ Even with good intentions, these words create subtle divides within classroom settings. In like manner, teachers who focus on ideas centered around tolerance, instead of ideas focused on cultural competence, slowly reinforce the idea that one culture is dominant over another and must tolerate the lesser culture.³² The school setting is a large part of the socialization process both for refugee and native-born students. By avoiding certain words and reinforcing ideas of equality, the power within teachers to enact real change both for the experience of a refugee and a native-born student is strong. Training in this field is highly beneficial within Sweden and has been used to increase cultural competence. Cultural competence is key to decreasing xenophobia; if teachers and school

³⁰ Cerna. “Refugee Education: Integration Models,” 41.

³¹ Edvinsson and Hammarström. “Norm Critical Pedagogy,” 8.

³² *Ibid.*, 11.

administrators have training in how to handle the unique case of a refugee, the student is more likely to feel known and valued and will feel less isolated.

Moreover, one of the largest hurdles refugees face when integrating into a new country is language adaptation, a skill that is crucial to the success of any refugee. Providing high-quality second language instruction is crucial to refugee students.³³ Learning the new language is not only a necessity for a refugee to have positive experiences in school, but it is also integral to the social, cultural, and economic integration of refugees. In Sweden, there has been a large movement for the professional development of teachers to teach Swedish as a second language specifically for refugees. The researchers in this case study found that teachers with university degrees in Swedish as a Second Language (SSA) or training in SSA can form individualized plans for students and use one-on-one instruction to help students learn the new language. Each student enters the Swedish education system with a different level of knowledge and skill in various subjects, including in the new language. The schools without teachers with SSA training are using alternative measures, such as flexible scheduling and democratic classroom structures, to help teachers better adapt to the language gap and teach refugees their language.

The researcher in the Swedish case study emphasized the importance of increasing language adaptation while stressing the need for an increase in local funding and support. There is a lack of funding for education systems accommodating refugee students in both Sweden and the United States. Nordgren interviewed one principal in Sweden who commented that their school received less money per refugee than it would

³³ Crul et al., “No Lost Generation?” 62–80.

for a native-born student.³⁴ To compensate for a lack of federal funding, principals and school administrations in Sweden seek local funds from their communities. Moreover, flexible scheduling and democratic structures are used so instructors can utilize individualized instruction and tailor lessons to address the specific needs of refugees. One specific school changes schedules for students almost monthly to ensure that teachers and students were able to spend enough time on each subject.³⁵ While the Swedish National Curriculum for Compulsory Education has specific requirements for teacher training, the education system in Sweden is flexible enough to allow schools to individualize education for students who need special attention, giving refugee students a better opportunity to learn Swedish and make connections within their new community.

The Dutch Education System

The Netherlands ranks seventh on the Commitment to Development Index, and eleventh in migration policy, due to its strong performance in hosting refugees. While the population of the Netherlands is significantly smaller than that of the United States, the large number of refugees comprising the population makes the countries comparable.³⁶ In 2010, first-generation migrants made up 10% of the population of the Netherlands, and an additional 10% of the population had at least one parent born in another country, meaning 3.4 million people had a migration background.³⁷ The large influx of refugees at

³⁴ Nordgren, “Cultural Competence” 79–92.

³⁵ Ibid.

³⁶ The World Bank. “Population, Total - Netherlands.” The World Bank. World Bank Group, 2019. <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=NL>.

³⁷ Ingleby and Kramer. “Educational Challenges,” 30.

the end of the 1990s was followed by the creation of new policies to integrate refugee children into the Dutch education system, creating opportunities for refugees to learn Dutch and integrate into regular schools as soon as possible.

Similar to the United States and Sweden, the Dutch education system is decentralized. The government largely dictates education policy and contributes finances to local schools. Local authorities play a role in how the money is spent by deciding whom to staff and choosing which services to prioritize.³⁸ Refugee children live either in asylum-seeker centers or local neighborhoods within the Netherlands and are all required to attend school from ages 5-16.³⁹

The Dutch education system highly emphasizes the importance of introductory classes, used by Sweden as well, for newly-arrived refugees. Upon arrival, refugee students are immediately given language assessments, as their parents are questioned about the level of Dutch their children speak, to determine their language level.⁴⁰ From this point, students are placed in specific classes with the primary goal of teaching Dutch, since language ability is a prerequisite to most other subjects.⁴¹ Each district organizes introductory classes differently, but typically they are comprised of children of different ages, broken into smaller groups to satisfy the need for individual attention. The preparatory classes attended by refugees in the Netherlands are led by educators specially

³⁸ Ibid., 37.

³⁹ Ibid., 38.

⁴⁰ Ibid., 40.

⁴¹ Ibid.

trained in refugee education, preferably trained at the Master's level in the NT2 curriculum.⁴²

Once students complete introductory classes with an adequate understanding of the Dutch language, they progress into the mainstream education system. If their language proficiency is still poor, many mainstream education systems offer flexible classes largely taught by consultants from introductory programs, such as volunteers from the Dutch Refugee Council, often two days a week, to supplement learning for students in need.⁴³ While the purpose of preparatory classes is to provide language training so refugee students can soon progress into the main stream education system in the Netherlands, one of the largest facets of the preparatory classes is providing trauma-sensitive education for newly arrived students. Many refugee students start these classes just days after completing what may have been a very difficult and dangerous journey to the new country. Providing trauma-sensitive education is crucial to the social and emotional stability of refugee students. The Netherlands education system emphasizes the importance of trauma-sensitive education through special programs, such as providing behavioral and play therapists, ensuring access to psychologists outside of school, implementing social work systems at school, and providing special training for educators who come in contact with refugee students.⁴⁴

⁴² Training in NT2 curriculum entails passing state exams to teach Dutch as a Second Language ; Ibid., 41.

⁴³ Ibid., 40.

⁴⁴ Tudjman, Tom, A Heerik, E.M.M Le Pichon, and S Baauw. "Multi-Country Partnership to Enhance the Education of Refugee and Asylum-Seeking Youth in Europe: Refugee Education in The Netherlands." In Multi-Country Partnership to Enhance the Education of Refugee and Asylum-Seeking Youth in Europe, 2016.

One of the most successful aspects of refugee integration into the education system of the Netherlands has been through the use of NGO organizations. One of the most prominent organizations is PHAROS, the Dutch Center of Expertise on Health Disparities.⁴⁵ PHAROS originated in the 1990s and is targeted to help the social and emotional development of refugee children in secondary schools; the primary goals of the organization are to draw attention to the difficulties refugee children have faced, strengthen support systems for refugee children among peers by providing opportunities to share personal experiences and to foster support from teachers for refugee children by helping teachers strengthen their ability to help refugees cope.⁴⁶ In like manner, LOWAN is an organization aimed at supporting teachers in migrant education; established in 1992, LOWAN provides support in course training and innovative projects.⁴⁷ The organization develops blueprints for curricula that can be used for new students, develops tests to evaluate the educational abilities of newcomers, promotes policy changes in favor of migrant students, and largely influences public opinion.⁴⁸ Both organizations work closely with teachers and the general public to best help integrate refugees.

United States Benefit

The United States could benefit from looking at the refugee education policies of both Sweden and the Netherlands. However, the true value comes from analyzing the two

⁴⁵ PHAROS. "Pharos (Dutch Centre of Expertise on Health Disparities)." PHAROS. Accessed March 29, 2021. <https://www.pharos.nl/english/>.

⁴⁶ Cerna. "Refugee Education: Integration Models." 48.

⁴⁷ Ingleby and Kramer. "Educational Challenges," 46.

⁴⁸ Ibid.

in tandem, seeing how the most influential policies in both nations could be implemented to benefit the United States. One similarity between Sweden and the Netherlands is both offer preparatory classes. However, the practical implementation of these classes is different in each country. In Sweden, preparatory classes are offered for approximately one month, while in the Netherlands, they are often offered for one year. The ways in which these classes are run differ in each country, but they share the same goals: to help refugees learn the language of their new country while simultaneously providing trauma-sensitive education. The United States does not offer preparatory classes for refugee students; upon arrival, refugees are placed into the mainstream education system. U.S. federal policy prohibits the wide-scale segregation of refugee students from native-born students in education systems, which would make introductory and preparatory classes difficult to implement.⁴⁹ Fortunately, practices from both Sweden and Dutch preparatory classes can be implemented into classrooms in the United States.

The primary focus of both Sweden and the Netherlands within preparatory classes is to allow refugees to learn the language of their new country. Refugee students in the United States often have difficulty learning English, which is key to the overall well-being and chance of success for the child.⁵⁰ Through aiming to provide each refugee student with a language teacher trained at the Master's level in the NT2 curriculum, preparatory classes in the Netherlands give students a good grasp on their new language.

⁴⁹ U.S. Department of Education. "Race/National Discrimination Overview." U.S. Department of Education. U.S. Department of Education, January 29, 2021. <https://www2.ed.gov/policy/rights/guid/ocr/raceoverview.html>.

⁵⁰ Mather, Mark, and Patricia Foxen. "Toward a More Equitable Future: The Trends and Challenges Facing America's Latino Children." National Council of La Raza. National Council of La Raza, September 29, 2016. <https://eric.ed.gov/?id=ED571647>.

While the Netherlands has a decentralized education system similar to the United States, the national government is responsible for specifying the institutions that train teachers, defining the criteria for the admission of candidates, and setting the curriculum for teacher education, making the large emphasis on language training easier to officiate.⁵¹ These classes are also done in small sizes, usually containing 15 children, a size that both maximizes provided funding to teach students while maintaining small enough classes to ensure individualized attention.⁵²

In Sweden, where preparatory classes are much shorter, Swedish as Second Language classes are taught in elementary schools and upper-secondary schools so students can actively participate in school while simultaneously learning their new language.⁵³ Similarly, many mainstream education systems in the Netherlands offer flexible classes largely taught by consultants from introductory programs, such as volunteers from the Dutch Refugee Council, often two days a week, to supplement learning for students in need.⁵⁴ The United States could benefit by making use of both of these policies because they could be viable solutions to the largest issues facing language adaptation for refugees in the U.S.

⁵¹ National Center on Education and the Economy. "Netherlands: Teacher and Principal Quality." NCEE. National Center on Education and the Economy. Accessed March 29, 2021. <https://ncee.org/netherlands-teacher-and-principal-quality/>.

⁵² Ibid. ; Crul et al., "No Lost Generation?" 62–80.

⁵³ Ibid.

⁵⁴ Ingleby and Kramer. "Educational Challenges," 40.

Federal law in the United States obligates schools to ensure that English Language Learners have access to education.⁵⁵ Under the Equal Education Opportunities Act of 1974, states cannot deny equal educational opportunity to an individual due to their race, color, sex, or national origin.⁵⁶ The statute specifically prohibits states from denying educational opportunities by failing to take appropriate action to overcome language barriers impeding equal participation by students. However, the specific services that should be provided to English Language Learners are not specified by federal law. Instead, which services are provided is usually up to the discretion of each individual district; the 1970 memo issued by the federal Office for Civil Rights states the inability to speak English excludes children from effectively participating in the education system, and districts are obligated to take affirmative steps to rectify any language deficiency.⁵⁷

The 2015 teacher shortage area nationwide listing shows that there are teacher shortages in English as a Second Language (ESL) and bilingual education in 32 different states and the District of Columbia.⁵⁸ While many states require the presence of ESL classes, over 30 states do not require English Language Learner training for general classroom teachers beyond the loose federal requirements, and the shortage of teachers

⁵⁵ National Clearinghouse for English Language Acquisition. “Q: What Legal Obligations Do Schools Have to English Language Learners (ELLs)?” NCELA. National Clearinghouse for English Language Acquisition. Accessed March 15, 2021. <https://ncela.ed.gov/faqs/view/>.

⁵⁶ Equal Education Opportunities Act of 1974, 20 U.S.C. § 1701-1758 (1974).

⁵⁷ J. Stanley Pottinger to School Districts With More Than Five Percent National Origin-Minority Group Children, May 35, 1970, in *DHEW Memo Regarding Language Minority Children*, <https://www2.ed.gov/about/offices/list/ocr/docs/lau1970.html>.

⁵⁸ “Teacher Shortage Areas.” Office of Postsecondary Education. US Department of Education (ED), December 9, 2020. <https://www2.ed.gov/about/offices/list/ope/pol/tsa.html>.

trained in bilingual education prevents the individualized attention necessary to adequately teach students English.⁵⁹ Migrant students are often grouped into large classes if there is a shortage of teachers with training, preventing the individualized attention that is necessary to teach students English.

While there is a shortage in teacher training for bilingual education, there is also often a lack of funding for classes targeted to help English learners in many states. A survey conducted by the Education Commission of the States used relevant state statutory language, regulations, and guidance in effect as of July 1, 2019, in each U.S. state, including the District of Columbia and Puerto Rico. Of the states surveyed, 37 had targeted dollar amounts in their state school finance programs directed to English learners.⁶⁰ This leaves a large gap in school financing to provide necessary programs to teach English in 13 states, meaning schools instead must apply for grants to receive funding to better educate English Language Learners.

The United States should take note of the highly individualized education provided to refugees in Sweden, where additional courses are offered throughout the day for a second-language education for students in need after transitioning into the mainstream education system. Students grade seven and above must receive individualized plans tailored to their language ability to ensure they are taught Swedish, often taking Swedish as a Second Language classes that are widely available in elementary and upper-secondary schools in tandem with the standard curriculum so

⁵⁹ Education Commission of the States. What ELL training, if any, is required of general classroom teachers? Education Commission of the States, November 2014. <http://ecs.force.com/mbdata/mbquestNB2?rep=ELL1415>.

⁶⁰ Skinner, Rebecca R. "State and Local Financing of Public Schools." Congressional Research Service. Congressional Research Service, August 26, 2019. <https://fas.org/sgp/crs/misc/R45827.pdf>.

students do not fall behind.⁶¹ This form of flexible scheduling and democratic classroom structure enables students to pick up the new language and better integrate into the education system, a concept that would benefit the United States. The United States should make ESL classes available in elementary and upper-secondary schools, and increase accountability to ensure these classes are provided and are not to best provide refugee students with a good education. Moreover, increased funding for teacher training for English language development could help decrease the learning gaps that exist between refugee students and other students their age who naturally speak English.⁶²

The United States should follow ideas similar to the Netherlands, working on a federal level to mandate training for teaching refugees a second language so there is not a large gap between the number of teachers who are ESL certified and the number of teachers necessary to give the refugee population individualized attention. The U.S. should work to increase cooperation between regional organizations to provide trained volunteers in schools needing more faculty to teach refugee students the new language, as the Netherlands does with the Dutch Refugee Council.⁶³ Likewise, the U.S. should routinely conduct intake interviews with refugee students and their parents, as is frequently seen in the Dutch education system, to adequately assess language ability.⁶⁴

⁶¹ Crul et al., “No Lost Generation?” 62–80.

⁶² Sugarman, Julie. “Meeting the Education Needs of Rising Numbers of Newly Arrived Migrant Students in Europe and the United States.” Migration Policy Institute, November 2015. <https://www.migrationpolicy.org/news/meeting-education-needs-rising-numbers-newly-arrived-migrant-students-europe-and-united-states>.

⁶³ Ingleby, David, and Sander Kramer. “Educational Challenges by Refugee and Asylum-Seeking Children and Other Newcomers: The Dutch Response.” Essay. In *Migrants and Refugees Equitable Education for Displaced Populations*, edited by Michael Merry, 29–50. Information Age Publishing, INC., 2013.

⁶⁴ Ibid.

By consistently evaluating progress made with language acquisition, learning becomes more individualized.

While preparatory classes are focused on teaching refugees the language of their new country, a large facet of these classes is providing trauma-sensitive education. Refugees are inherently unique due to the very experiences that led them to their new country. Preparatory classes are often the first source of interaction refugees have with the culture and society of their new country, an incredible opportunity to help refugees make strong connections and feel welcomed. In the Netherlands, trauma-sensitive education is key in preparation classes; by using programs involving behavioral and play therapists, and aiming to increase and ensure access to psychologists outside of school, the Dutch education system provides trauma-sensitive education for refugees before they join the mainstream education system.⁶⁵ In Sweden, the goal to increase cultural competence goes far beyond introduction classes. The National Agency for Education proposed that norm critical pedagogy should be a compulsory part of the requirements for those studying to become teachers and for the professional development of teachers and faculty at schools to combat xenophobia.⁶⁶ Schools are also required to provide a support teacher to each refugee to give the student a confidant to help and support them.⁶⁷

These policies in combination would greatly benefit the United States, a country that does not mandate cultural competence training. The United States has loose national guidelines and is comprised of 50 autonomous state systems, made up of approximately

⁶⁵ Tudjman, T. Multi-Country Partnership to Enhance the Education of Refugee and Asylum- Seeking Youth.

⁶⁶ Cerna. "Refugee Education: Integration Models," 41.

⁶⁷ Crul et al., "No Lost Generation?" 62–80.

14,500 fairly autonomous district systems, all of which largely dictate their own policy.⁶⁸ While this form of organization has beneficial aspects, such as the flexibility in curriculum for different states, there is a large gap on a federal level because there is an absence of unified policies and protocols in place to practically show school districts how to handle refugee students, and a solution is needed.

If the U.S. were to develop programs similar to existing programs in the Netherlands, with an intensive focus on trauma-sensitive education in classrooms, the high rates of xenophobia seen would likely decrease. Teacher training for trauma-sensitive education emphasizes helping school staff understand how trauma can impact school functioning, helping teachers identify behavior that signals a larger issue while building trusting relationships between teachers and peers.⁶⁹ This training helps teachers show students how to develop the ability to self-regulate behaviors, emotions, and attention, while simultaneously supporting promoting physical and emotional health.⁷⁰ Moreover, by focusing on teacher training with norm critical pedagogy, cultural competence could increase among peers and between teachers and students.

⁶⁸ National Center for Education Statistics. "Number of Public School Districts and Public and Private Elementary and Secondary Schools: Selected Years, 1869-70 through 2010-11." National Center for Education Statistics (NCES), November 2012. https://nces.ed.gov/programs/digest/d12/tables/dt12_098.asp.

⁶⁹ "Supporting Refugee Students." National Association of School Psychologists (NASP), 2015. <https://www.nasponline.org/resources-and-publications/resources-and-podcasts/school-climate-safety-and-crisis/mental-health-resources/war-and-terrorism/supporting-refugee-students>.

⁷⁰ Ibid.

Funding and Finances

The ways in which schools handle finances directly impact each section of the education system on a federal, state, and local level. Unfortunately, a prerequisite to the majority of the necessary changes that should be made in the United States education system is an increase in funding. The Dutch education system balances the need for extra attention on migrant populations by providing extra grants for schools with educationally disadvantaged children.⁷¹ By using indicators such as low levels of parental education and the number of years spent in the Netherlands, the government and local districts work to increase funding to schools in need to enable schools to use supplemental programs to help these students.⁷² This also works to fight segregation between schools; by increasing funding towards schools with higher disadvantage rates, more students are encouraged and enabled to attend these schools, increasing diversity in the long term.⁷³

Not all states in the U.S. provide extra grants for schools with educationally disadvantaged children with a migrant background. A study conducted by Deborah A. Verstegen, reported on by the Congressional Research Service, collected survey data from state departments of education on state school finance policies that were in effect from 2017-2018, aiming to see which states assigned pupil weights or targeted dollar amounts to finance programs for pupils in selected categories.⁷⁴ Migrants were grouped in this study with foster, transient, pregnant, homeless, neglected, or delinquent students.

⁷¹ Ingleby and Kramer. "Educational Challenges," 42.

⁷² Ingleby and Kramer. "Educational Challenges," 30.

⁷³ *Ibid.*, 42.

⁷⁴ Verstegen, Deborah A. "A 50-State Survey of School Finance Policies and Programs (2018)." A Quick Glance at School Finance, 2018. <https://schoolfinancesdav.wordpress.com/>.

Only 6 states assigned pupil weights or targeted dollar amounts to finance programs for this group of students. This is an issue with individual state governments; without the allocation of funding for programs for migrant students, individualized learning becomes nearly impossible due to a lack of resources.

State governments should aim to allocate more funding toward schools with migrant students. However, the issue of a lack of financial resources is not solved simply by increasing funding. Once federal funding is directed toward schools, how this money is used is up to the discretion of faculty and staff.⁷⁵ This can be highly advantageous in aiming to foster education systems that are individualized around what migrant students need by increasing flexibility in the classrooms. Unfortunately, there have not been collective state or federal efforts to calculate and report on specific budget and expenditure levels for individual public schools. Federal efforts are increasing, but increased accountability on school systems to ensure funding is going to the highest priorities for refugee education could help ensure the presence and efficiency of ESL classes combined with the necessary resources to provide trauma-sensitive education.⁷⁶

An increase in federal and state funding targeted at refugee and migrant populations in school would be beneficial to establish necessary programs and protocols, a clear example of the importance of administrations in refugee policy. Unfortunately, a consistent increase in funding toward these programs cannot be guaranteed, largely due to consistently shifting state and federal administrations. To compensate for this lack of funding, the United States needs increased cooperation with local and regional

⁷⁵ Skinner. "State and Local Financing."

⁷⁶ Ibid.

organizations. Within the Netherlands, the use of volunteers from the Dutch Refugee Council to go into schools and teach students helps give refugee students individualized attention. The United States has local organizations across the nation whose goal is to help integrate refugees. These programs are incredibly influential because they serve as consistencies throughout different national and state administrations, providing constant refugee support. Throughout the Trump administration, these agencies often faced budget cuts and insufficient funding, limiting their interaction with refugee clients.⁷⁷ These programs rely heavily on federal and state funding in addition to grants from nonprofits and private foundations.

Educational services provided by local organizations use innovative techniques to teach the English language to refugees, often delivering these services to the homes of refugees.⁷⁸ The significance of these programs goes far beyond language development; by using staff and volunteers who are former refugees, they uniquely provide refugee families opportunities to widen their circles and develop bonds within their new communities.⁷⁹ These organizations should receive increases in funding while simultaneously directing their services toward schools to decrease the gap between teachers necessary to adequately teach ESL classes.

Each nation accepting refugees faces difficult integrational challenges. While the ways in which these nations integrate refugees differ, the underlying issues refugees face

⁷⁷ Mathema, Silva. "What Works - Innovative Approaches to Improving Refugee Integration." Center for American Progress. Center for American Progress, February 28, 2018. <https://www.americanprogress.org/issues/immigration/reports/2018/02/28/447283/what-works/>.

⁷⁸ Ibid.

⁷⁹ Ibid.

remain similar across the globe. By increasing access to strong educational programs, refugee children are given more opportunities to connect with and learn about their host country while simultaneously gaining an education, furthering future opportunities. By analyzing the refugee education programs of both Sweden and the Netherlands in tandem, it becomes evident how the United States could benefit through the implementation of programs and policies that focus on flexible curriculum, language adaptation, and cultural competence in the classroom.

CHAPTER FIVE

Opportunity for Change

It is undeniable that the education of refugees is crucial to their success when integrating into a new nation. However, how refugees have integrated into the education system in the United States are flawed. Primarily, through historically analyzing refugee and immigrant policy in the United States, the importance presidential administrations play in dictating and enacting policy is evident. Moreover, the lack of refugee-specific policy historically indicates demonstrates how refugee populations were not uniquely protected and given aid. Presidential administrations matter because they determine and influence policy. Immigration is often one of the most important issues for voters in an election; many politicians historically shape immigration policy around what will get them the most votes instead of how to best help vulnerable populations, as evident in the Presidential Race of 1928.¹ Presidential nominees Hoover and Smith shifted their stances toward immigration policy depending on the audience they were addressing, opposing quotas when campaigning in the north and favoring them when campaigning in the South.²

Since immigration is a topic of the highest importance to voters, the decisions made by various presidential administrations on immigration are historically reflective of

¹ Pew Research Center. "Important Issues in the 2020 Election." Pew Research Center - U.S. Politics & Policy, August 13, 2020. <https://www.pewresearch.org/politics/2020/08/13/important-issues-in-the-2020-election/>. ; Ngai, Mae M. "The Architecture of Race Law" 68

² Ibid.

predominant social views. For example, in the late 19th and early 20th century, strong belief in Social Darwinism influenced the efforts of immigration restriction that formulated the criteria for admission to the U.S. around excluding those with qualities that were seen as weakening the United States. The U.S. explicitly prioritized mental and physical fitness over helping those most in need. The priorities of the United States citizens and presidential administrations are evident in immigration policy. Moreover, the lack of refugee-specific policy in U.S. history must be acknowledged and reconciled if the United States wishes to create policies that are for the betterment of refugees as a specific population, recognizing their uniqueness.

While refugee-specific policy was historically lacking in the United States, the Refugee Education Assistance Act of 1980 initiated the creation of refugee-specific education policy in the U.S. Through analyzing policies created to give refugees access to education, such as the McKinney-Vento Act, the Every Student Succeeds Act, and the ruling in *Plyler v Doe*, it becomes evident that there are continued issues with the policies in place for refugee education. The specific definitions used to determine who qualifies for assistance are inherently restrictive of the refugee population. Moreover, there are intentional and unintentional barriers posed to refugee students aiming to enroll in school. Due to increased dependency on test scores, an inability to provide documentation, and a language barrier, many immigrant students are often discouraged from enrollment. Without giving refugee students designated advocates, the process to enroll in school and the ability to fully participate becomes difficult. Ultimately, there are problems with refugee education policies in the U.S. and there is a gap between the policies existent and the policies necessary to best educate refugees, meaning tangible solutions are needed.

Countries globally work to integrate refugees, and often experience similar problems in school systems specifically. By analyzing the education policies of Sweden and the Netherlands, two countries that have had success when integrating refugees into their education systems, solutions can be found that could potentially benefit the United States, if implemented. Both Sweden and the Netherlands use introductory classes to provide language classes to refugees. Additionally, both nations stress the importance of providing trauma-sensitive education to refugees upon arrival. By aiming to increase teacher training on norm critical pedagogy and increasing student involvement in schools, both nations demonstrate practical ways on a local level that refugee education can improve.

Ultimately, change is needed in the approach taken by the United States to refugee policy. The year 2021 initiates a period of new opportunity for the wide-scale improvement of refugee education. President Joe Biden, who took office in January 2021, has the invaluable opportunity to shape refugee policy over the next four years. As seen historically, each new administration brings new opportunities for the improvement of refugee education. President Biden took office after President Trump, whose administration aimed to significantly change migrant policy from former President Obama. President Trump proposed and implemented policies on asylum, deportation policy, refugee resettlement, and admissions from certain majority-Muslim countries.¹ While failing to create significant refugee-specific education policies, the impact of

¹ Migration Policy Institute. "Data and Analysis Related to Trump Administration Actions on Immigrant and Refugee Policy." Migration Policy. Accessed April 5, 2021. <https://www.migrationpolicy.org/programs/us-immigration-policy-program/data-and-analysis-related-trump-administration-actions>.

President Trump’s immigration policy on schools was drastic. While fear of deportation frequently kept migrant children from attending school out of fear of deportation, it also made school enrollment more difficult because those without proper documentation feared trying to enroll.² President Biden aims to reverse many Trump restrictions on immigration to the United States. He plans to boost refugee admissions, preserve deportation relief for unauthorized immigrants who arrived in the United States as children, and he plans to not enforce the “public charge” rule which denies green cards to immigrants who may use public benefits such as Medicaid.³

President Biden has already shown a commitment to changing refugee policy; however, he is lacking in commitment to education-specific refugee policy change. By following the solutions outlined in chapter three and chapter four, President Biden could shift refugee education policy to positively benefit the refugee population. For example, the Elementary and Secondary Education Act is up for reauthorization at the end of the 2020 – 2021 school year. If President Biden were to enact statutory reform, changing how migrants are defined, the allocation of funding through migrant education programs would better represent the migrant population. Additionally, by increasing accessibility to English as a Second Language classes in secondary schools, refugee students could have a more individualized education. Moreover, by mandating the presence of social workers in each school district, students would have a designated advocate to assist in the

² Scown, Caroline. “Countering the Effects of Trump's Immigration Policies in Schools.” Center for American Progress, May 3, 2018. <https://www.americanprogress.org/issues/education-k-12/news/2018/05/03/450274/countering-effects-trumps-immigration-policies-schools/>.

³ Krogstad, Jens Manuel, and Ana Gonzalez-Barrera. “Key Facts about U.S. Immigration Policies and Biden's Proposed Changes.” Pew Research Center. Pew Research Center, March 22, 2021. <https://www.pewresearch.org/fact-tank/2021/03/22/key-facts-about-u-s-immigration-policies-and-bidens-proposed-changes/>.

enrollment process and to act as both an advocate and companion throughout the transition to a new school.

Ultimately, by taking advantage of the opportunities that come with a new administration, President Biden can reevaluate and change the current policies in place that are aimed at supplementing refugee education in the United States. Moreover, by implementing similar policies used by both Sweden and the Netherlands regarding language acquisition, cultural competence, teacher training, and supplemental funding, the United States could work to solve the largest issues faced by refugee students in schools across the country.

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