

**THE WELFARE STATE AND THE SOCIAL RIGHTS OF ASYLUM SEEKERS AND
REFUGEES IN COMPARATIVE PERSPECTIVE: THE CASES OF SWEDEN,
GERMANY, AND THE UNITED KINGDOM**

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ABSTRACT

Claire A. Archer: The Welfare State and the Social Rights of
Asylum Seekers and Refugees in Comparative Perspective:
The Cases of Sweden, Germany, and the United Kingdom
(Under the direction of John Stephens)

This thesis examines reception conditions for asylum applicants and social rights for refugees and non-EU legal immigrants across the United Kingdom, Germany, and Sweden. These countries are among the top asylum recipients in the EU, but each exemplifies a different welfare state typology: liberal, Christian democratic, and social democratic, respectively. The thesis rests on the analytical assumption that welfare regime affects immigrants' social rights, but also explores the impact of incorporation regime (inclusive vs. exclusive policies) and "entry categories" to determine how these influence immigrants' access to benefits.

There are considerable differences across the regimes, but in all three cases asylum seekers receive minimal material support and face barriers to labor market participation. There are huge discrepancies between social rights granted to various entry categories, with asylum seekers always at the bottom, admitted refugees near the top, and third-country nationals somewhere in between, depending on the welfare and incorporation regimes.

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LIST OF ABBREVIATIONS

AIDA	Asylum Information Database
BAMF	German Federal Office for Migration and Refugees (from the original German <i>Bundesamt für Migration und Flüchtlinge</i>)
CEAS	Common European Asylum System
COMPASS	Commercial and operational managers procuring asylum support services (contracts for providing accommodation to asylum seekers in the United Kingdom)
CDU	Christian Democratic Union of Germany (in German <i>Christlich-Demokratische Union</i>)
CSU	Christian Social Union of Bavaria
EASO	European Asylum Support Office
ECRE	European Council on Refugees and Exiles
EMN	European Migration Network
EP	European Parliament
EU	European Union
EU-28	the 28 Member States of the European Union
EURODAC	EURODAC Regulation, or EURODAC fingerprint database
FDP	Free Democratic Party of Germany (in German <i>Freie Demokratische Partei</i>)
GPP	Gateway Protection Programme

ILR	Indefinite leave to remain
JHA	Justice and Home Affairs
LO	Swedish Trade Union Confederation (in Swedish <i>Landsorganisationen i Sverige</i> , literally “National Organisation in Sweden”)
NHS	National Health Service (in the United Kingdom)
RIES	Refugee Integration and Employment Service
SAP	Swedish Social Democratic Party (from the Swedish <i>Sveriges socialdemokratiska arbetareparti</i>)
SMB	Swedish Migration Board (in Swedish <i>Migrationsverket</i>)
SPD	Social Democratic Party of Germany (in German <i>Sozialdemokratische Partei Deutschlands</i>)
TFEU	Treaty on the Functioning of the European Union
ToA	Treaty of Amsterdam
UKBA	United Kingdom Border Agency
UKVI	United Kingdom Visas and Immigration
UNHCR	United Nations High Commissioner for Refugees

CHAPTER I: INTRODUCTION

In the past few decades the European Union (EU) has received massive inflows of refugees, first from the Baltic States and collapsing communist regimes in the early 1990s and now from conflict areas in the Middle East and North Africa. In 2014, the 28 Member States of the EU (EU-28) received 626,065 asylum applicants, an increase of 191,000 applications, or 44 percent more than the previous year (Bitoulas 2015). In 2013, over 100,000 new applications were lodged in the EU-28, a 32 percent increase compared with 2012 (Bitoulas 2014). In 2014, like in the previous year, Germany was the largest single recipient of new asylum claims among the EU-28; in 2014, it recorded an over 60 percent increase in asylum applications compared with 2013, equivalent to over 80,000 new applications (Bitoulas 2015).

Given the high numbers of new arrivals, the provision of adequate welfare for asylum applicants, in order to facilitate their integration into their new societies, has never been more important. The Common European Asylum System (CEAS) was designed in the early 2000s as a means to harmonize national asylum systems and reduce differences between EU Member States on the basis of binding EU legislation. Specifically, the CEAS was supposed to prevent “asylum shopping” and to fix numerous problems stemming from large differences in national asylum systems. However, after the final round of implementation of the CEAS in 2014, national asylum systems still differ significantly in many areas of asylum and immigration policy, including reception conditions and benefit access.

This thesis will examine differences in reception conditions for asylum applicants and formal social rights for admitted refugees and non-EU legal immigrants¹ in the United Kingdom (UK), Germany, and Sweden. It will also explore whether implementation of CEAS Directives has had any substantive effects on the social rights of asylum seekers and refugees. The UK, Germany, and Sweden are excellent cases for comparison because they are among the top asylum recipients in the EU in terms of absolute and relative numbers, but each exemplifies a different welfare state typology: liberal, Christian democratic, and social democratic, respectively. This thesis rests on the analytical assumption that welfare regime type affects immigrants' social rights. However, examining their social rights through the lens of social policy alone does not provide a full picture. It is also necessary to analyze the impact of each country's incorporation regime – rules and norms that determine immigrants' inclusion and exclusion – on immigrants' social rights, as well as to analyze the impact of forms of immigration, or “entry categories.” This thesis focuses on three entry categories in particular, to examine how various forms of immigration – here asylum seekers, refugees, and non-EU legal immigrants – entail specific rights and influence immigrants' access to social benefits.

First, this thesis will explore what reception conditions exist for asylum seekers – that is, while they wait for a decision on their asylum applications, what each welfare state provides in terms of access to housing, healthcare, education, and the labor market, as well as social benefits and transfers. In almost all EU Member States, including the three countries studied here, asylum seekers' benefits are fully separated from mainstream welfare benefits and/or subject to

¹ This thesis uses the terms *non-EU immigrant* and *third-country national* interchangeably to refer to individuals who are neither from the EU country in which they are currently living or staying, nor from other Member States of the European Union – that is, they are from a “third” country. They are not EU citizens and do not enjoy the rights derived from EU citizenship. In the EU context, the term third-country national is distinguished from its usage in international migration literature, where it typically refers to individuals who are in transit and/or applying for visas in countries that are not their country of origin in order to go to destination countries that are also not their country of origin. For example, a Venezuelan national applying for an American visa in Spain is considered a third-country national in international migration circles, and for the purposes of US visa law.

distinct rules and limitations. Comparing reception conditions and asylum support across three different welfare states and incorporation regimes can illuminate how these regimes affect asylum seekers' social rights. Furthermore, the UK, Germany, and Sweden are each subject to some version of the EU's common asylum legislation. Both the original and the recast versions of the Reception Conditions Directive of the CEAS aim to improve and harmonize living standards for asylum applicants across the EU, essentially establishing minimum social rights that should be provided for asylum seekers across all Member States. As such, comparing reception conditions in the UK, Germany, and Sweden will be a valuable way to determine whether adherence to the CEAS has actually led to substantive changes in national policies and what differences persist across these welfare regimes. In other words, even though these countries have distinct welfare and incorporation regimes, have the Directives of the CEAS harmonized the social rights of asylum seekers across Member States of the EU?

Second, the thesis will look at the social rights granted to admitted refugees across the three countries, including access to education, healthcare, housing benefits, and the labor market, in addition to the provision of social benefits. Third, it will examine the social rights of non-EU legal immigrants in order to situate refugee and asylum seeker experiences in the context of benefits afforded to other immigrant entry categories. It is valuable to compare rights among the three entry categories to determine how forms of immigration affect access to benefits. Across the three countries, asylum seekers are generally at the bottom of the spectrum, while admitted refugees are at the top, on par with or very close to citizens, and non-EU legal immigrants are somewhere in between, depending on how the country's welfare and incorporation regimes affect their social rights.

Much of the previous research into immigration and welfare has focused on immigration and the challenges it presents to the welfare state, but few studies have explored the social rights of asylum seekers, refugees, and immigrants. Fewer still have done this through the lens of welfare state typologies and immigrant incorporation regimes. This thesis is also unique because

it incorporates the EU dimension, in order to discern whether national welfare states have adapted their protections for asylum seekers and refugees in response to EU Directives.

Asylum policies within EU Member States are important for two reasons. First, asylum policies across EU Member States reflect the success – or not – of the CEAS and EU harmonization in this policy area. Overall, EU competences in the field of immigration and welfare policies are limited in those Member States that have not adopted the EU's legal migration Directives (Denmark, Ireland, and UK). Although the EU has increased its competences in non-EU legal migration recently, all Member States retain control over the numbers of third-country nationals they will accept for employment purposes, and all Member States design and implement social welfare systems and policies as they choose (EMN 2014).

Given the complicated mix of competences between Member States and the EU, an important question that this thesis will explore is whether implementation of EU Directives in asylum and non-EU migration policy have affected refugees' and third-country nationals' social rights. The EU has competences in asylum seekers' reception and admission, but much less involvement in national immigrant incorporation policies. However, given the growing importance of immigration in EU and national discourse, it will be interesting to investigate whether the social rights afforded to admitted refugees and third-country nationals have changed in each national case, perhaps in response to EU pressures or in response to anti-asylum and anti-refugee rhetoric in national political discourse.

The second, and even more important, reason to study asylum policies is that social rights granted to asylum applicants and refugees and the success of these welfare states in ensuring that these individuals are well integrated figures heavily into the future of European societies. Social security systems comprise one of the most powerful tools to reduce poverty and inequality and to foster social inclusion and dignity. By protecting individuals against specific social risks, such as unemployment, sickness, and disability, social security systems improve productivity and support sustainable economic growth. Even though EU Member States share a

common interest to promote the well-being of their populations through effective welfare provision, their rules on who has access to social security and healthcare, which benefits are granted, and under what conditions vary considerably (Jonjić and Mavrodi 2012, 5).

At the same time, anti-immigrant, and, in particular, anti-asylum, rhetoric has increased across EU Member States. Especially after the 2008 economic crisis, the general climate of social discontent and economic hardship has worsened, and immigrants have become an easy target for restrictive policies. Even Sweden, typically lauded for its successful refugee and immigrant integration policies, has experienced new tensions lately with a rise in inequality and the increasing popularity of the far-right, anti-immigrant Sweden Democrats in 2014 elections (Eddy 2015). Anti-immigrant sentiment and asylum controversy seem to be rising in all three of the countries studied in this thesis, while for the most part, the social benefits of immigrants are diminishing due to heavy cuts in public expenditures overall, but especially in those dedicated to immigrant integration (Jonjić and Mavrodi 2012, 8).

For these reasons, this thesis is relevant and timely. By investigating welfare benefits for asylum seekers and refugees in three ideal-type welfare states in the EU, it will explore commonalities and differences between national systems in three of the largest asylum-recipients in the EU. In doing so, it will consider solutions for improving the system as a whole – that is, replicating positive policies and harmonizing conditions to improve outcomes for asylum seekers across the EU and for EU Member States looking toward the future.

CHAPTER II: BACKGROUND AND LITERATURE REVIEW

The theoretical background of this thesis integrates three areas of existing literature: comparative research on welfare states, literature on immigration regimes and immigrant entry categories (and the ways these intersect with welfare regime types), and literature on EU competences in migration and asylum policy and their influence on social rights for asylum seekers and third-country nationals. First, the background section will explain the key dimensions of Esping-Andersen's welfare state typology, which include: decommodification; stratifying effects of social policies; relationships between the state, market, and family in social provision; and finally, dynamics between the welfare state and the structure of employment. Next, it will explain Diane Sainsbury's research that compares immigrants' social rights across welfare states. Her analytical framework utilizes comparative welfare state research in combination with research into immigrants' social rights. In particular, she analyzes immigration/incorporation regimes along a spectrum of inclusion vs. exclusion and examines different entry categories and what rights are afforded to each category. The theoretical background of this thesis as a whole is deeply informed by her work. Finally, the background section will briefly discuss EU legislation in the realm of asylum and migration policy, including the historical development of EU competences and what current legislation means for Member States in practice. Here it is particularly important to understand the components of the CEAS in order to understand how common EU legislation could affect national asylum systems and social rights for asylum seekers, if fully implemented.

Welfare State Regimes

Esping-Andersen's *Three Worlds of Welfare Capitalism* (1990), the seminal work in welfare regime typologies, identifies three distinct welfare state regimes: liberal (or market-oriented) welfare states typical of the Anglo-American democracies, the Christian Democratic regime emblematic of continental Europe, and the Nordic social democratic model. They differ with respect to how they respond to social inequalities generated by the market (and by extension by their relative generosity and spending), the ways they condition and regulate wage distribution and job insecurities that the market is allowed to generate, and by their institutional logic for distributing welfare functions between the state, the market, and the family (Myles and Quadagno 2002; Stephens and Huber 2010). Put another way, Sainsbury (2012) pulls out four principal dimensions of variation in Esping-Andersen's typology. The first and most important dimension – decommodification – refers to an individual's ability to enjoy an acceptable standard of living independently of his or her participation in the market. The second dimension comprises the stratifying effects of social policies. Esping-Andersen explains that the “welfare state is not just a mechanism that intervenes in, and possibly corrects, the structure of inequality; it is, in its own right, a system of stratification. It is an active force in the ordering of social relations” (Esping-Andersen 1990, 23). The third dimension includes the relationships between the state, market, and family in social provision, and the fourth encompasses the dynamics between the welfare state and the structure of employment (Sainsbury 2012, 10).

In liberal welfare states, usually exemplified by the United States and the UK, citizens are considered individual market actors who are encouraged to obtain their welfare in the market, for example, through subsidies for private welfare benefits. Liberal regimes are extremely reluctant to replace market relations with social rights. Basic security schemes tend to be means-tested and targeted to a limited clientele of the needy, and social insurance schemes offer only modest benefits. Liberal states actively and passively encourage market solutions; passively by guaranteeing only a bare minimum of benefits, which are actually lower than the wages of the

working poor, and actively by subsidizing private welfare arrangements (Sainsbury 2012, 23). Liberal social policies tend to stratify the poor and the non-poor and have few de-commodifying effects (Esping-Andersen 1990; Miles and Quadagno 2002; Sainsbury 2012).

Christian Democratic welfare states – also often called conservative, corporatist, or Bismarckian² – offer universal coverage (at least historically) but provide different benefits under different programs, with rights to benefits based on employment categories, class, and status, and by public financing or subsidizing of privately provided services. Although social spending in Christian democratic states is considerably higher than in liberal states and social rights are extensive, the primary focus is on income transfers that preserve the income and status of the traditional male breadwinner, and there is only a minimal role for private welfare arrangements (the market). Given the focus on the traditional family model with the man at the head, social services that assist with women’s employment (i.e., child care) and provide jobs for women are modest.

Like Christian democratic states, social democratic welfare states leave a marginal role for private welfare provision, but provide extensive, universal coverage for citizens, emphasizing equality of citizenship instead of preserving status differences between occupational groups.

² The continental European countries are variously referred to as conservative, corporatist, Bismarckian, or Christian Democratic, depending on the characteristics being emphasized. The term corporatist is used more often by comparative Europeanists to describe the regime’s type of wage bargaining system in which employers’ organizations and union confederations, as well as wage bargaining, are highly centralized. The term conservative is generally employed in the classic European sense of the term, highlighting the regime’s pre-capitalist origins in the dynastic elites of continental Europe. The continental European regimes were decidedly anti-liberal in origin, not at all concerned with market efficiency, but rather with maintaining an organic-hierarchical social order inherited from the past. Historically rights and privileges were differentiated on the basis of class and status, and redistribution was marginal (Myles and Quadagno 2002). Today, the term conservative is also used to describe continental European regimes with reference to their gender policies, although it does not apply in this regard to Belgium and France. The term Bismarckian primarily refers to the social insurance tradition – begun by Otto von Bismarck – of status-maintaining mandatory public pensions; however, the main social transfer systems in Norway, Sweden, and Finland are also Bismarckian in their structures, so the term “Bismarckian” is rather opaque. This thesis utilizes the most encompassing of all the terms: Christian democratic. Although “Christian democratic” applies somewhat ambiguously to France (a majority Catholic country), the historical prominence of Christian democratic parties in the continental European countries has led to a distinct welfare regime type and policy outcomes, as is explained in the main text.

Even though both social democratic and Christian democratic welfare states tend to spend a lot on social protection they do so in fundamentally different ways (Miles and Quadagno 2002). Social democratic welfare states (found mainly in Scandinavia) emphasize redistribution and provide high levels of income security to all citizens. These regimes tie welfare to work; they commit to full employment and remain entirely dependent on its attainment as a source of continued funding (Esping-Andersen 1990). Because women's – and everyone's – place is in the labor market, the welfare state is service intensive as well as transfer intensive. Social services provide employment for women as well as childcare and other services that facilitate women's or parents' labor market participation (Huber and Stephens 2000; Myles and Quadagno 2002). Social democratic and Christian democratic welfare states have created well-entrenched collective bargaining structures that limit wage dispersion and regulatory institutions that limit employers' abilities to hire and fire at will (Myles and Quadagno 2002).

The ways in which each regime assigns welfare provision among state, market, community, and family reflect certain value commitments and views about the desirable relationship between these elements. For example, the liberal regime reflects the values of individual responsibility and efficiency, and the view that the state should primarily rely on market forces and work with these forces to prevent destitution and provide essential social services. The Christian democratic regime rejects the primacy of the market, and instead reflects the Catholic doctrine of harmony and subsidiarity, where the state is responsible for keeping people out of poverty but not for altering the social order. The family is viewed as the locus of social order and social welfare; therefore the state only performs the functions that are not performed well by the family or civil society. Finally, the social democratic regime reflects the values of solidarity and equality, and the view that the state is charged with counteracting market forces to realize these values (Stephens and Huber 2010). Many scholars have criticized Esping-Andersen's typology for disregarding or oversimplifying more complex aspects of welfare regimes and for ignoring key aspects of the gendered logic of welfare regimes (Ostner

and Lewis 1995; Sainsbury 1996; O'Connor, Orloff, and Shaver 1999); however, his central insight about the institutional logic for distributing welfare functions among the state, market, and family remains remarkably robust (Orloff 1996; Myles and Quadagno 2002).

Immigrant Incorporation Regimes

Welfare regimes alone do not fully explain immigrants' social rights within the welfare state. Diane Sainsbury, a comparativist and a scholar of welfare and social policy, has published extensively about immigrants in the welfare state. Rather than focusing on the impact of immigration on national welfare systems as most scholars do, Sainsbury studies the impact of national welfare systems on immigrants' social rights and well-being. Her major body of research concerning immigrants and the welfare state, *Welfare States and Immigrant Rights* (2012), begins from the fundamental premise that the type of welfare state has a large impact on immigrants' social rights. Utilizing Esping-Andersen's welfare regime typology as a point of departure, she adds two analytical constructs from international migration literature: the immigration policy regime, or incorporation regime, and entry categories associated with the form of immigration.

An immigration policy regime, or incorporation regime, regulates immigrants' inclusion in or exclusion from society. It "consists of rules and norms that govern immigrants' possibilities to become a citizen, to acquire residence and work permits, and to participate in economic, cultural and political life" (Sainsbury 2006, 230). Previous scholars have identified four types of regime, including the imperial regime, the ethnic regime, the republican regime, and the multicultural regime (Castles and Miller 1993; Baldwin-Edwards and Schain 1994; Williams 1995; Kofman et al. 2000). Building upon these, authors have also described policy models for managing ethnic diversity, such as the differential exclusionary model, the assimilationist model, and the multicultural model (Castles and Miller 1998, 244-50). Critics of these ideal type models point out that in reality policies tend to mix features and that integration and citizenship

policies are characterized by convergence, which tends to undermine the usefulness of such models entirely (Joppke and Morawska 2003).

Rather than categorize immigration regimes in terms of ideal types, Sainsbury (2006; 2012) describes them along a spectrum of inclusiveness. To this she adds an analysis of the form of immigration, or entry category, which typically has a large bearing on immigrants' access to social benefits. The most important entry categories she identifies are labor or economic migrants, refugees and asylum seekers or political immigrants, ethnic "citizens," and undocumented immigrants. For example, refugees with Convention status³ receive the same treatment as nationals with regard to public assistance and social security benefits, whereas undocumented immigrants and asylum seekers have either no or minimal claims to social entitlements. In other words, "entry categories create a hierarchical differentiation of immigrants' social rights, and the pattern of stratification is quite different from the stratifying effects conceptualized in the welfare regime typology" (Sainsbury 2006, 230).

The rights of Convention refugees are usually on par with those of citizens, and because of their protected legal status, refugees' rights are less vulnerable to welfare state retrenchment. The type of welfare regime has essentially the same impact on their rights as it does on the rights of citizens. In contrast, the rights of asylum seekers are very tenuous and have diminished in recent years (Sainsbury 2006, 240); in all three cases in this study, asylum seekers cannot access mainstream welfare benefits. This thesis examines the impact of welfare regime, incorporation regime, and entry category on the social rights granted to asylum seekers and

³ A refugee with Convention status refers to an individual who has been designated a refugee based on the definition established by the United Nations' 1951 Convention relating to the Status of Refugees. The 1951 Convention defines a refugee as: a person who, "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it" (UNHCR 2010).

refugees (although one necessarily follows the other) and compares these to the rights of citizens and third-country nationals in each national case.

Based on Sainsbury’s comparison of welfare regime and incorporation regime variations, the three cases of interest in this study are set out in the table below.

Table 1 – Welfare and Incorporation Regimes of Case Studies

Country	Welfare regime	Immigration policy regime
United Kingdom	Liberal Rights based on need	Restrictive Rights based on (limited) ius soli
Germany	Christian Democratic Rights based on work	Exclusionary Rights based on lineage (ius sanguinis)
Sweden	Social Democratic Rights based on citizenship	Inclusive Rights based on residence (ius domicili)

Sainsbury’s research into each national case will also factor heavily into the country analyses found in Chapter Four.

Common EU Legislation in Asylum and Migration

This section explores the historical development of EU competences in asylum and migration, particularly EU legislation as it deals with social rights and benefits for asylum seekers, refugees, and third-country nationals. Of course, Sweden, Germany, and the UK have each implemented – or often not, in the case of the UK – EU Directives differently, but understanding what EU measures exist is an important foundation for the deeper country analyses in Chapter Four.

Historical Development of EU Competence in Asylum

The EU's first efforts to cooperate on refugee and asylum policy began in the early 1990s in response to the rising number of refugees fleeing the Yugoslav Wars and the collapse of communist regimes in Eastern Europe (ECRE 2013). In 1985 the Schengen Agreement planned for the gradual removal of Europe's internal borders to enable the free movement of goods and people within the European Community. In 1992 the Maastricht Treaty created the EU's pillar structure and extended its powers in migration and asylum for the first time. A new third pillar, Justice and Home Affairs (JHA), established a legal structure for intergovernmental cooperation in many areas, including asylum and migration of non-EU nationals. In order to achieve one of its key objectives – the free movement of people – Member States recognized that asylum and immigration policy had become a matter of common interest for members of the EU (UK Foreign and Commonwealth Office 2014).

In 1997 the Treaty of Amsterdam (ToA) moved most JHA policy areas relating to the free movement of people (including asylum, migration, and external border controls) into the first pillar (European Communities pillar), where the “community method,” or supranational (EU) decision-making was strongest (Espinoza and Moraes 2012). The ToA introduced Community legislative competence in the field of migration and asylum largely because there was “a general, albeit reluctant, acknowledgment that many common problems had a global as well as a regional dimension to them with ... asylum being a case in point” (Velluti 2014: 13). After a transitional period of five years, in which Member States and the Commission shared the right to initiate legislation on asylum and immigration, the Commission gained sole right of initiative on asylum and immigration matters. The ToA also incorporated the Schengen acquis into EU law, which removed internal border controls and harmonized visa policies (UK Foreign and Commonwealth Office 2014). Soon after this, the “landmark” moment of EU cooperation on asylum and migration was the Tampere Council meeting in October 1999. Here the European

Council acknowledged that the “separate but closely related issues of asylum and migration call for a common EU policy” (Espinoza and Moraes 2012, 158).

During the first phase of the CEAS, between 1999 and 2005, the EU adopted six legislative measures that established minimum standards across Member States on the qualification for refugee status, the reception of asylum seekers, and the procedures for granting or withdrawing refugee status. They also updated the instruments that established which Member State would be responsible for determining an asylum application. Overall, they imposed “significantly more detailed obligations on Member States than the old third pillar provisions,” (UK Foreign and Commonwealth Office 2014, 17-18). In 2009, the Lisbon Treaty, or the Treaty on the Functioning of the European Union (TFEU) further widened the scope for EU action in asylum and migration, allowing the EU to develop policies on asylum and on the immigration of third country nationals *generally* rather than merely establishing minimum standards. The TFEU constituted a significant widening of the EU’s competences in this area (UK Foreign and Commonwealth Office 2014).

Within a few years of the adoption of the CEAS Directives, the Commission evaluated their implementation and found persistent inconsistencies in reception conditions and asylum decision trends, even among Member States with comparable systems and similar caseloads (Gardella 2013). In 2008, the Commission released “Policy Plan on Asylum: An integrated approach to protection across the EU” which was intended as a roadmap for the second phase of the CEAS, with a projected completion date at the end of 2012. In its Policy Plan, the Commission concluded, “the agreed common minimum standards have not created the desired level playing field” (European Commission 2008). The Policy Plan proposed a three-pronged strategy to improve the CEAS and promised to continue monitoring the implementation of existing provisions. In practice, however, the plan just reiterated the unrealized goals of the first phase (Gardella 2013).

Per the Commission's plan, the instruments of the CEAS have undergone review and revision in the past few years. Most recently, the European Parliament (EP) adopted final measures in June 2013, ending the legislative harmonization process that began in December 2008 when the Commission presented its first revised proposals in the area of asylum (Pollett et al. 2013; ECRE 2013). In its current (and purportedly final) harmonized version, the CEAS includes three Directives (the Qualifications Directive, Asylum Procedures Directive, and Reception Conditions Directive), the Dublin Regulation, and EURODAC. According to Cecilia Malmström, EU Commissioner for Home Affairs from 2010 to 2014, the functions of each of the components of the CEAS are as follows: the *Qualifications Directive* specifies the grounds for granting a person international protection and refugee status. Although the 1951 Convention is "of course valid ... the Directive gives a common interpretation of the original definition of a refugee" (Malmström 2013) so that Member States apply that uniform definition to all refugees who apply for asylum within their borders. The *Asylum Procedures Directive* requires that Member States adhere to minimum safeguards and standards throughout the process of claiming asylum. It includes standards regarding how to apply, how applications will be examined, and what help asylum seekers will be given. If asylum seekers are rejected, the Asylum Procedures Directive specifies common minimum standards for how they should appeal negative decisions, whether they will be allowed to stay in the country where they applied during the appeals process, what can be done if they flee, and how to deal with repeated applications.

The *Reception Conditions Directive* deals with the conditions asylum seekers experience while they wait for their asylum claims to be examined. The Directive is intended to ensure that applicants have access to housing, food, healthcare, employment, and medical and psychological care (European Commission 2014; Malmström 2013). The recast Reception Conditions Directive introduced several important changes with regard to social benefits for asylum seekers. It includes strictly delineated rules concerning detention of asylum seekers, stipulates that access to employment must be granted within nine months (an improvement to the

previous 12 months), and introduces more restrictions for Member States to reduce or withdraw material reception conditions. It also specifies more rules on conditions under which applicants can receive free legal assistance and representation in appeal procedures and specific rules on reception needs of minors and victims of torture (Langer 2014).

The recast CEAS also includes the Dublin Regulation, which sets out explicit rules for determining which Member State will be responsible for processing and deciding an asylum case. The system is designed this way to avoid asylum seekers from being sent from one country to another, and also to prevent asylum seekers abusing the system by submitting applications for asylum in multiple countries. The Member State designated as responsible for the asylum application must take charge of the applicant and process the application. According to the Dublin Regulation, the criteria for establishing responsibility run, in hierarchical order, from family considerations, to recent possession of visa or residence permit in a Member State, to whether the applicant has entered the EU irregularly or regularly (European Commission 2014). Usually, however, the Member State designated as responsible for the asylum application is the Member State through which the asylum seeker first entered the EU.

Determining where an asylum seeker first entered the EU is possible via the EURODAC database, the final component of the CEAS. The EURODAC database, in operation since 2003, is an EU-wide fingerprinting system for asylum seekers and migrants who enter the EU illegally. When people (over the age of 14) apply for asylum, no matter where they are in the EU, their fingerprints are transmitted to the EURODAC central system. If, for example, an asylum seeker submits an application in Sweden but his fingerprints were first registered in Italy, the asylum seeker will be transferred to Italy, which will take charge of his application for asylum. Asylum seekers who are transferred to another Member State to have their asylum application processed (due to the stipulations of the Dublin Regulation) are known as “Dublin Cases” (European Court of Human Rights 2015; Migration and Home Affairs 2015). The 2013 recast version of the Dublin Regulation, the so-called Dublin III Regulation, includes new rules that attempt to

ensure that an asylum seeker may not be transferred to a Member State where there is a risk of inhumane or degrading treatment. The update also created an early warning system to detect and address possible issues in national asylum systems (Malmström 2013). These attempts to improve the Dublin Regulation were direct responses to the crises that rapidly developed in Italy and Greece in 2012. EURODAC was also updated in 2013 to address data protection concerns and to help combat terrorism and serious crime (European Commission 2014; Malmström 2013).

EU Competence in Non-EU Migration

In addition to recognizing the need for common EU action on asylum, the 1997 Amsterdam Treaty and the 1999 Tampere Program extended the EU's competences in non-EU, or third-country national, immigration as well. The EU "immigration policy" as it currently stands concerns the entry, residence, and return of non-EU citizens for employment purposes (including high-skilled immigrant workers), for purposes of family reunification, and for study and research. EU legislation also deals with circular migration, illegal immigration, and return and re-admission of non-EU citizens who reside in the EU without authorization (Jonjić and Mavrodi 2012). Of course, the EU also wields considerable competences regarding the movement and settlement of EU citizens within the EU; EU citizens receive special and more favorable treatment than third-country nationals within the legal framework of EU citizenship rights. The most important EU Directives relating to third-country nationals, especially their provisions for welfare and social benefits, are described in the following paragraphs.

While agreement on the non-controversial issues of admitting researchers (Directive 2005/71/EC), high-skilled immigrant workers (Directive 2009/50/EC, the "Blue Card"

Directive), and students (Directive 2004/114/EC)⁴, was relatively easy to achieve, the adoption of common binding EU norms on the entry and residence of third-country nationals for the purpose of employment has proven far more difficult, and Member States retain high levels of discretion with regard to granting social benefits to third-country nationals under these Directives. Directive 2011/98/EU created a single procedure for issuing a single residence and work permit and established a common set of rights for permit holders. The Single Permit Directive mandates that third-country nationals with the permit should receive the same treatment as the nationals of the member state where they reside with regard to conditions of employment, freedom of association and membership in a labor union or professional association, education and vocational training, recognition of professional qualifications, social security, healthcare, access to goods and services (including procedures for obtaining housing and assistance from employment offices), and tax benefits. The Single Permit Directive does not apply in the case of third-country nationals who are already posted in a member state, intra-company transfers, seasonal workers, asylum seekers, long-term residents, illegal immigrants, or third-country nationals awaiting expulsion or removal from a Member State (EMN 2013; EMN 2014).

Directive 2003/86/EC on the right to family reunification, which applies to all Member States except the UK, Ireland, and Denmark, specifies that third-country nationals who legally reside in a Member State for at least one year and have reasonable prospects for permanent residence have the right to bring their non-EU national spouse and minor and unmarried children into the country. Spouses have the right to full access to the labor market (at the latest one year after their reunification) and both spouses and children have the right to education. Five years after their reunification, spouses and children reaching majority are granted

⁴ Council Directive 2004/114/EC on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service, December 2004. The Directive does not apply in the UK, Ireland, or Denmark.

autonomous residence permits. However, because Member States have significant leeway in adapting their national legislation to the Directives' optional provisions, implementation across the EU ranges from liberal to restrictive. For example, Member States may authorize family reunification contingent upon certain conditions, such as requiring that the family member's sponsor in country possess stable and regular financial resources and provide adequate accommodations and sickness insurance to the family member joining him or her⁵ (EMN 2014).

Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents – one of the founding instruments of the common EU immigration policy within the Amsterdam Treaty framework – covers third-country nationals who reside in a Member State for purposes other than international and temporary protection, studies and vocational training, seasonal employment, and employment for providing cross-border services. Third-country nationals who reside continuously and lawfully in a member state for at least five years acquire the status of long-term resident and are granted equal treatment with the nationals of Member States in employment access and employment conditions, education, vocational training, recognition of qualifications, and welfare and social benefits. However, Member States may decide to restrict long-term residents' access to employment, education, and welfare and social benefits (EMN 2014).

It is important to note that EU competences in the field of immigration and welfare policies are limited in those Member States that have not adopted the EU's legal migration and asylum Directives. Additionally, for all Member States, the decisions on the number of third-country nationals accepted for the purpose of seeking an employment, and the design and implementation of the social welfare systems rests with the respective Member State (EMN

⁵ Germany and the UK have requirements about sponsors possessing sufficient resources and stress the principle of no recourse to public funds in applying for social benefits; Sweden has recently added a requirement that sponsors possess adequate resources and living space for themselves and their family members, but has no restrictions regarding use of public funds.

2014). Complicating the implementation and harmonization of EU Directives in asylum and migration, the UK and Ireland negotiated a special status with regard to the Treaty of Amsterdam's Title IV issues – “Visas, Asylum, Immigration, and Other Policies Related to the Free Movement of Persons” – via three additional Protocols (UK Foreign and Commonwealth Office 2014). These Protocols include the Opt-In Protocol (which exempts the Ireland and the UK from provisions made under Title IV unless they decide to “opt-in” to a particular measure), the Schengen Protocol, and the Frontiers Protocol (which protects their rights to border checks on anyone entering the country). Per the conditions of the Schengen Protocol, the UK may request to take part in some or all of the provisions of the Schengen acquis, which was fully incorporated into EU law with the ToA, too. The UK decided to opt-in to areas of the acquis involving police and judicial cooperation but did not opt-in to areas involving visas and border control, as successive UK governments believe that the UK's national interest was “best served” by having an independent border and visa policy (UK Foreign and Commonwealth Office 2014).

Thus, despite significant gains in common EU action and legislation on asylum and migration since the Maastricht Treaty, the balance of competences between the EU and the UK remains predominantly with the UK. The UK has not opted into the border and visa elements of the Schengen acquis, and it participates in very few EU legal migration measures, thanks to its Opt-In Protocol there, too. The UK has chosen not to adopt instruments aimed at establishing common rules for a range of non-EU migrants, including: workers; students and researchers; families (including spouses, underage children, unmarried partners, adult dependent children or dependent older relatives); and those who have resided in a Member State long term, meaning for at least five years of legal residence (UK Foreign and Commonwealth Office 2014).

On asylum, the current balance of competence is more complex, because the UK is bound by the first round of CEAS but has not opted into all of the second round legislation. The UK felt that the recast Directives on Reception Conditions, Asylum Procedures, and Qualification would have “significantly weakened” the UK asylum system, “slowing decision

making and encouraging unfounded asylum claims” (UK Foreign and Commonwealth Office 2014, 19). For those recast Directives that it did not opt-in to, the UK remains bound by the original minimum standards from the first round. However, it elected to opt-in to the recast versions of the Dublin Regulation and the EURODAC Regulation, as well as the Regulation establishing the European Asylum Support Office (EASO), an EU Agency that furthers practical cooperation on asylum, assists with the implementation of the CEAS, and supports Member States that deal with excessive pressures on their asylum systems (UK Foreign and Commonwealth Office 2014, 18-19).

CHAPTER III: METHODOLOGY

First, this section justifies the choice of national cases studies. Sweden, Germany, and the UK each receive some of the highest numbers of asylum applicants within the EU, and each exemplifies a different welfare state typology and incorporation regime. Second, the methodological section describes the primary resources used for analysis. This thesis relies on publicly available sources published by EU bodies and the Member States themselves, which offer detailed accounts of reception conditions and integration policies for admitted refugees. In addition, many scholars have already published relevant research concerning welfare states and immigrant rights. Their analyses assist with this thesis.

National Case Study Justification

To examine the effects of welfare state regime on refugee and asylum seekers' social rights, this thesis looks at three EU Member States, each with very high numbers of asylum seekers and refugees. In the EU in 2013, Germany, Sweden, and the UK, along with France and Italy, were among the top recipients of asylum applicants, registering 70 percent of all applicants in the EU-28. In 2014, in terms of total numbers of asylum applicants, including first time applicants, the UK dropped to sixth position behind Hungary,⁶ but remains a major

⁶ Hungary recorded almost 25,000 more asylum seekers in 2014 compared with 2013, an almost 130 percent increase. After Germany, Italy, and Sweden, it was the Member State with the largest increase over the previous year. In the fourth quarter of 2014 alone, Hungary recorded an incredible 940 percent increase compared with the fourth quarter of 2013. Over 50 percent of asylum applicants in Hungary in 2014 came from Kosovo (Bitoulas 2015).

recipient of asylum seekers and among the top five Member States in terms of number of first instance decisions issued in 2014⁷ (Bitoulas 2014; Bitoulas 2015).

The EU-28 recorded a total of 626,065 asylum applications in 2014, which constitutes a 44 percent increase, or 191,000 more applications, compared with 2013. Germany recorded the highest number of applicants in 2014 (202,645 applicants, or 32 percent of total applicants) followed by Sweden (81,180, or 13 percent), Italy (64,625, or 10 percent), France (62,375, or 10 percent), Hungary (42,775, or 7 percent), and the UK (31,745, or 5 percent). Among almost 163,000 positive first instance decisions issued in the EU-28 in 2014, Sweden and Germany granted the highest number. Based on United Nations High Commissioner for Refugees (UNHCR) data from the first half of 2014, Germany was the largest single recipient of new asylum claims among the group of industrialized nations studied by the UNHCR, with 65,700 new asylum applications registered in the first half of 2014 (UNHCR 2014a). Sweden was by far the country with the highest rate of applicants per million inhabitants in 2014, with 8,415 applicants per million inhabitants, followed by Hungary (4,330), Austria (3,295), Malta (3,180), Denmark (2,610), Germany (2,510), and Luxembourg (2,025), The UK registered 461 asylum applicants per million inhabitants in 2014 (Bitoulas 2015; Bitoulas 2014).

In 2014, the EU took a total of almost 360,000 first instance decisions, of which 55 percent were negative decisions (197,025) and 45 percent were positive decisions (162,770). Of the positive decisions taken, 55 percent received refugee status, 34 percent received subsidiary protection, and the remaining 11 percent received authorization to stay for humanitarian reasons (Bitoulas 2015). However, recognition rates differ widely between Member States.

⁷ Asylum decisions can be distinguished according to the stage of the procedure when they are taken. According to Eurostat, the EU defines first instance decision as a decision granted by the respective authority acting as a first instance of the administrative/judicial asylum procedure in the receiving country. If an asylum seeker is rejected at first instance, he or she can lodge an appeal. The next step in the asylum procedure, the final decision on appeal, means that all normal routes of appeal in a country have been exhausted. This varies between Member States according to national legislation and administrative procedures (Eurostat 2014).

Germany took 97,275 first instance decisions in 2014, of which 58 percent were rejections, 34 percent were refugee status, and 8 percent were other protection statuses. Of its 25,870 first instance decisions in 2014, the UK rejected 61 percent, while 35 percent of first-time applicants were granted refugee status and 4 percent were granted protection for humanitarian reasons. In sharp contrast, Sweden only issued rejections in 23 percent of its total 39,905 first instance decisions. It granted refugee status to only 26 percent of first-time applicants, but granted subsidiary protection to 48 percent of first-time applicants and protection for humanitarian reasons to the remaining 3 percent. Germany granted subsidiary protection to 6 percent of first-time applicants and the UK granted no one subsidiary protection (Bitoulas 2015).

The vast majority of asylum seekers in the EU in 2014 came from Syria (122,790 applicants), followed far behind by Afghanistan (41,305), Kosovo (37,875), Eritrea (36,990), and Serbia (30,810). However, the distribution of asylum applicants from certain countries varies considerably depending upon the Member State. For example, 33 percent of Syrian asylum applicants applied in Germany in 2014, followed by 25 percent in Sweden. The next highest concentration of Syrian applicants was in the Netherlands, with 8 percent. In addition, recognition rates vary significantly between applicants of different national origins. In the EU-28 as a whole, 5 percent of Syrian applicants were rejected, yet 51 percent were granted refugee status and 43 percent were granted subsidiary protection. Thirty seven percent of Afghan applicants were rejected, and a full 98 percent of Serbians were rejected (Bitoulas 2015). The significant differences between Member States' recognition rates is one of the primary reasons that the CEAS is often criticized, because asylum systems are clearly not harmonized across EU Member States (Gardella 2013).

Germany, Sweden, and the UK also differ substantially in terms of welfare state regime. Germany, with its work-related social insurance scheme, corporatist structures, and policies that affirm traditional societal values, embodies the properties of the Christian democratic regime. Its Bismarckian social insurance scheme, financed by employer and employee contributions,

safeguards the standard of living of insured workers and their families; it places high value on work performance, incorporates stiff work tests, and distributes benefits according to contributions. In addition, several features of the German welfare system tend to preserve class and status differentials, such as separate insurance funds for workers, white-collar employees, and civil servants. Status differentials between classes are perpetuated by the principle of suitable employment, which guarantees insured persons the right to refuse a job with lower pay or below their qualifications. Furthermore, earnings-related benefits (combined with no or marginal taxation of benefits) lead to higher benefit income for salaried employees compared with wage workers. The principle of subsidiarity, a centerpiece of Catholic social thought which holds that the state should only intervene when the family or civil society are unable to provide welfare, is particularly prevalent in Germany, where it is enshrined in the constitution and major social legislation. Families, local communities, and voluntary organizations wield the primary responsibility for providing social services, while the German state serves as the guarantor that these providers fulfill their tasks. Historically, six welfare associations (mainly denominational and working-class based) have provided services, and non-profit organizations provide between 65 and 70 percent of services directed to children and the elderly (Sainsbury 2012, 54-55).

Sweden, with its universal social insurance scheme heavily reliant on taxation and with entitlements based on citizenship and residence, is the prime example of the social democratic welfare state type. The universalistic social model in Sweden has entailed the expansion of public services to the entire population (in particular, healthcare, education, employment services, and childcare), and until the 1990s, the private sector played a negligible role in providing those services. In the 1950s Sweden introduced work-related benefits to protect against the loss of earnings. Instead of replacing flat-rate benefits, the combination of citizen benefits and earning-related benefits means that benefits are available to individuals in the workforce *and* outside the labor market. Citizen benefits provide basic security to everyone and

earnings-related benefits provide income security to employees, whose numbers have increased since Sweden began implementing active labor market policies in the 1950s. Active labor market measures remain a crucial characteristic of the Swedish welfare system, with the ultimate goal of full employment and the right to work for everyone. Finally, Sweden's social democratic welfare state emphasizes egalitarian outcomes and redistributive policies; although income inequality in Sweden has increased since the 1980s, it remains significantly less prominent than in liberal and Christian democratic welfare regime countries (Sainsbury 2012, 83-84).

The UK, with its heavy reliance on means-tested benefits and market solutions, embodies the key characteristics of a liberal welfare state regime. Compared with the United States, which is often considered the prototype of the liberal welfare state, the British welfare state provides a much broader range of public benefits, including medical care, family and maternity benefits, and housing and personal services. However, the UK still clearly classifies as a liberal regime because of its modest social insurance benefits, the prominence of means-tested benefits based on a bare minimum, and the importance of private welfare benefits and market solutions. The UK's postwar welfare state was designed to provide minimum benefits; however, the combination of flat-rate benefits and low benefit levels increased reliance on means-tested benefits and supplementary protection through the market. In the UK (and the US) a poverty test for means-tested benefits restricts access to the needy and benefit levels are quite low. The UK and the US have relatively high poverty rates, especially children's poverty (Sainsbury 2012).

While the UK's private welfare component has been much less prominent compared with the US, it ranked second to the US in the proportion of GDP comprising private welfare spending. Indeed, since the 1970s private occupational pensions have increased from 55 percent, reaching 70 percent of total pension income in the mid-1990s. At the same time the value of public pensions has declined, increasing income inequalities among pensioners. However, the middle class, which generally has access to private pensions, has received more generous benefits. Since the 1990s, another aspect reinforcing the UK's liberal welfare state has

been the growing importance of tax benefits (a pro-market solution). Since 1997, the British government has moved to replace means-tested allowances with income-tested tax benefits to top up earnings for groups with low pay or “in work benefits” to supplement wages. Essentially, the tax credit system focuses on wage supplements rather than on insurance benefits that aim at wage replacement. Tax credits have become an essential part of the UK income transfer system, and the design of these tax credits has extended means-tested benefits to a larger proportion of the population (Sainsbury 2012, 36-37).

Major Sources of Country-Specific Information

Fortunately for the scope of this thesis, publicly available EU and national sources provide detailed accounts of reception conditions for asylum seekers and access to social benefits for asylum seekers, refugees, and third-country nationals. The European Migration Network (EMN) offers a wealth of current and consistent reporting about asylum and migration topics in the EU and its Member States. The EMN was formally established by the European Council in 2008 with the goal to meet the information needs of European Community institutions and of Member States’ authorities and institutions on migration and asylum by providing “up-to-date, objective, reliable and comparable information on migration and asylum topics” to policy makers at the EU and Member State levels and to the general public (Council of the European Union 2008). In collaboration with “National Contact Points” in each Member State, the EMN publishes a variety of reports and studies, ad-hoc queries, policy briefs, bulletins, and policy factsheets, all of which are publicly available on its website. The EMN’s output each year is determined by EMN Work Programs developed by the European Commission. The EMN’s annual Status Report details its progress in implementing the Commission’s Work Program, but it also publishes country fact sheets describing political and legislative developments in migration and international protection in each Member State, based

on Annual Policy Reports produced each year by each EMN National Contact Point. The EMN also collects and analyzes migration and asylum statistics annually.

Another valuable source of EU and Member State asylum and migration information is the Asylum Information Database (AIDA), a project of the European Council on Refugees and Exiles (ECRE), in partnership with Forum Refugiés-Cosi, the Hungarian Helsinki Committee and the Irish Refugee Council. Similar to the EMN, the AIDA project provides independent and up-to-date information to the media, researchers, advocates, legal practitioners, and the public about asylum practices in Europe, focusing especially on asylum procedures, reception conditions, and detention. Overall, the project aims to improve asylum policies and practices in Europe and the situation of asylum seekers by providing all involved actors with the appropriate tools and information to support their advocacy and litigation efforts, both at the national and European levels. Fourteen country reports (from Austria, Belgium, Bulgaria, Germany, France, Greece, Hungary, Ireland, Italy, Malta, the Netherlands, Poland, Sweden, and the UK) were written in the first stage of the AIDA project, from September 2012 to December 2013, and in the second phase of the project, from January 2014 to December 2015, the database will expand to include two additional EU Member States (Cyprus and Croatia) as well as two non-EU neighboring countries (Switzerland and Turkey). AIDA regularly updates its comparative indicators (the first update was published in spring 2014) and relevant news and advocacy resources.

CHAPTER IV: ANALYSIS OF NATIONAL CASE STUDIES

This chapter examines the social rights of asylum seekers, admitted refugees, and non-EU legal immigrants in each national case. First, it looks at the reception conditions and social rights of asylum seekers (including access to housing, healthcare, education, and the labor market, as well as social benefits and transfers) and how these have changed, or not, since the final rounds of implementation of the CEAS. Second, it compares the social rights of admitted refugees and non-EU legal immigrants in the same areas.

The UK, Germany, and Sweden were selected as case studies because each has a high number of asylum seekers and each exemplifies a different welfare regime type. The fundamental analytical assumption here is that welfare state type affects immigrants' social rights. However, social policy alone cannot explain away all outcomes for immigrants' social rights; to complete the picture, it is also necessary to analyze the impact of each country's incorporation regime and the impact of entry categories. For example, as a general rule, admitted refugees are granted access to the same social rights as citizens in all three countries; however, because of core differences in the countries' welfare regimes, the social rights of admitted refugees (and citizens) still differ considerably between the UK, Germany, and Sweden.

The countries' incorporation regimes – how inclusive or restrictive they are for newcomers – also have clear consequences for immigrants' social rights. For instance, Germany and Sweden both grant asylum-seeking children and children of asylum seekers access to education on the same level as citizen children. Sweden, with its inclusive incorporation regime, has introduced cultural and political rights for immigrants and included immigrant languages in

school curricula, so asylum-seeking children have the right to receive an education in their mother tongue. Under Germany's restrictive incorporation regime, however, many Länder do not have special language courses to accommodate asylum-seeking children, who tend to struggle in the German education system as a result. Moreover, in Sweden, a simplified permit system grants a residence permit almost immediately to anyone expected to stay in the country for over a year, and residence is the main entry point to accessing non-work-related benefits. In Germany and the UK, however, foreigners can only obtain permits if they prove they can support themselves with no "recourse to public funds." These are just some examples of the ways in which different immigrant incorporation regimes lead to different outcomes for immigrants' rights across the three countries studied here.

It is also essential to analyze the impact of the forms of immigration or "entry categories" on immigrants' social rights. In all three countries, asylum seekers' benefits are organized under entirely separate welfare schemes from those of the general population. In the UK, their benefit levels are far below the standard social minimum, in Germany they were far below until very recently, and in Sweden asylum seekers' benefits have not been adjusted since 1994. At the opposite end of the spectrum, admitted refugees are granted access to the same social rights as citizens. Similarly, highly skilled migrants are fast-tracked for residence permits and have instant access to all benefits in the UK and Germany. Sweden does not grant permits differently for highly skilled migrants and has not limited labor migration to only professionals.

However, it is important to note that national immigration policies are not created in a vacuum; the party in government can have a significant impact on a country's immigration regime if that party favors inclusive over restrictive policies, or vice versa. Various scholars have explored how the existence or growth of far-right parties can affect mainstream parties' electoral competition and stances on immigration policy (Mudde 2012; Green-Pedersen and Odmalm 2008; Howard 2010; Schain 2006). Others have investigated the role of external shocks and public opinion shifts in explaining policy changes (Luedtke 2005; Fenger, van der Steen, and

van der Torre 2014), as well as general shifts in party alignment and contestation (Hooghe, Marks, and Wilson 2002; Kitschelt and Rehm 2012; Pardos-Prado et al. 2014). An in-depth discussion of these topics with regard to the three countries studied here is beyond the scope of this thesis, but a cursory analysis shows that the party in government *has* made a difference in immigration and asylum policies in these case studies. The governing party has made the most difference in the UK, where almost all of the most restrictive immigration and asylum legislation has been passed by Conservative governments. In Germany and Sweden, the relationship between immigration and asylum policy party is less clear-cut but some trends are discernible.

Finally, as could be expected, the EU's influence in asylum support and in social rights for refugees and third-country nationals differs greatly between the three countries. It is clearly stronger in Germany and Sweden than in the UK, which has not opted into most of the EU legislation dealing with welfare provision for asylum seekers and third-country nationals. In Germany, implementation of EU Directives appears to have improved reception conditions for asylum seekers, yet in Sweden, adherence to EU standards has actually led to slightly more differentiation among entry categories and more restrictions for immigrants' access to benefits.

THE UNITED KINGDOM

Overview

The UK's liberal welfare regime and restrictive immigration regime combine to create an environment that is generally unwelcoming for newcomers. Entry categories also have a large impact on immigrants' social rights: asylum seekers and third-country nationals face many more restrictions to their access to social benefits compared with admitted refugees, who immediately gain access to the same benefits as UK citizens. Asylum seekers' benefits are organized in an entirely separate scheme to the general population, benefit levels are very low – often below the poverty line – and means-tested benefits prevail. Essentially, asylum seekers only obtain (minimal) assistance if they are destitute. Retrenchment measures have reduced benefits for third-country nationals and some restrictions have been specifically designed to deter immigrants from entering the UK, despite the fact that the UK's welfare system is based, on principle, on universalism.

Broadly speaking, the party in power – whether Conservative or Labour – has had a noticeable impact on the general character of Britain's immigration policies. Conservative governments tend to favor more restrictive measures in all areas of immigration policy, although both parties have implemented restrictive asylum policies. Somerville (2007) argues that the UK's lack of constitutional checks and balances on the political executive allows the executive to override the legal system more easily than in other countries, which consequently allows it to pass legislation that excludes immigrants more easily.

In the post-war period, the Labour Party embarked on an immigration policy founded upon two central pillars: limitation and integration (Somerville, Sriskandarajah, and Latorre 2009). The 1971 Immigration Act repealed most previous legislation on immigration, laying the foundation of the UK's current legal framework for immigration. Founded upon the goal of “zero net immigration,” the 1971 Act included strong control procedures, namely new legal

distinctions between the rights of the UK-born / UK passport-holders and people from former British colonies. Overseas citizens from the colonies and Commonwealth became subject to immigration controls and lost their privileges with respect to entry, residence, and employment. The second pillar, integration, mainly took the form of antidiscrimination laws: in a limited form in the 1965 Race Relations Act, in an expanded form in the 1968 Race Relations Act, and in a more comprehensive form in the 1976 Race Relations Act (Somerville, Sriskandarajah, and Latorre 2009).

The Conservative government that ruled from 1979 to 1997 followed the same general policy path, although with a much stronger emphasis on limiting and restricting immigration. In fact, broadly speaking, since the 1970s the most restrictive of the UK's immigration policies have been passed by Conservative governments. The prime example of this is the British Nationality Act of 1981, which ended centuries of common-law tradition by removing the automatic right of citizenship to all those born on British soil, altering pure application of the *ius soli* tradition (Sainsbury 2012; Somerville, Sriskandarajah, and Latorre 2009). Under Margaret Thatcher's Conservative government, British citizenship, which previously included all colonials, was tightened and replaced with British citizenship limited primarily to the UK (Sainsbury 2012). Since the late 1980s, when humanitarian flows to the UK and other European countries significantly increased (following the fall of the Berlin Wall, the breakup of the Soviet Union, and escalating conflicts in the former Yugoslavia in the early 1990s), the focus of UK immigration policy has been on regulating the flow of asylum seekers and restricting their benefits (Somerville, Sriskandarajah, and Latorre 2009).

Two major pieces of Conservative legislation marked this change. The first, the 1993 Asylum and Immigration Appeals Act passed under John Major's Conservative government, created new "fast-track" procedures for asylum applications, allowing detention of asylum seekers while their claim was being decided and reducing asylum seekers' benefit entitlements. The second major piece of legislation, the 1996 Immigration and Asylum Act, continued in the

same restrictive vein with new measures designed to reduce asylum claims, including further welfare restrictions (Kankulu et al. 2013; Somerville, Sriskandarajah, and Latorre 2009).

During the Labour Party's 13 years in office from 1997 to 2010, no fewer than 10 parliamentary acts on immigration and asylum, along with several major reforms to the immigration system were passed. Labour pursued an expansive, "managed migration strategy" with regard to labor migration, introducing a system of selective admission driven by employer demand. This marked "a decisive break with the previous policy model" under the Conservative government (Somerville 2007, 29). Unlike the control-focused rhetoric of the past, Labour highlighted the positive economic benefits of selective immigration amidst a time of unprecedented economic growth. Partly as a consequence of its expansive labor migration policies, the UK has gained two and a half million foreign-born workers since 1997 (Somerville, Sriskandarajah, and Latorre 2009), thus is it no exaggeration to say that immigration under Labour quite literally "changed the face" of Britain (Finch and Goodhart 2010, 4).

However, in other areas of immigration policy, including asylum, Labour largely stuck to the path forged by the Conservatives. Overall, Labour increased restrictions on those seeking asylum, added more control measures for unauthorized immigrants, including expanded security measures, and reoriented the official position on "integration" (Somerville 2007, 65). In asylum policy, even though it did not introduce restrictions on welfare for asylum seekers, Labour "assiduously followed the course set by the previous Conservative government." For example, the 2002 Nationality, Immigration, and Asylum Act included a "concerted (and effective) set of policy measures to reduce support for asylum seekers" and includes "infamous" measures such as withdrawing support to "late" asylum applicants and also ensures that support is withdrawn from rejected asylum applicants, which has contributed to widespread destitution, as will be discussed later in this chapter. In 2002, the Labour government also revoked asylum seekers' right to work and excluded asylum seekers from non-emergency healthcare (Somerville 2007).

Thus, since the late 1990s, the UK's legislative measures in asylum have been designed first to prevent asylum seekers' arrival or ensure their speedy departure, and if that fails, to make those already in the UK more uncomfortable by restricting their access to welfare, their place of residence, and their freedom to settle in a place of their choosing (if they receive state accommodation or other support) (Gibney 2011). Legal migration has been confronted with similar trends. Since the 2008 introduction of the Points-Based System, "the emphasis has been on reducing net migration and abuse of the immigration system" (Kankulu et al. 2013, 7). David Cameron's Conservative government, in power since 2010, has accelerated the trend toward more restrictive immigration measures. Since October 2013, the Conservative government has tightened naturalization requirements, in particular by adding language and knowledge tests about life in the UK, purportedly to facilitate immigrants' integration. Individuals who want to live permanently in the UK or naturalize as British citizens are now required to have speaking and listening skills at B1 on the Common European Framework and pass the "Life in the UK" test (Kankulu et al. 2013). These new requirements have moved the UK toward a more restrictive naturalization regime, after the Conservatives already modified the application of *ius soli* in British nationality in 1981.

A tough line on immigration is traditionally one of the Conservative Party's "strongest cards" (Parker 2007), yet now more than ever the Conservatives have electoral incentives to continue to take a tough stance. While negative views of immigration have been common in the UK since the 1960s, public opinion toward immigration has hardened since 2000, and immigration now consistently ranks among the top four issues of concern to British citizens (Blinder 2014). Reacting to public opposition to immigration, Cameron pledged in 2010 to reduce overall net migration levels from the hundreds of thousands to tens of thousands by the end of the 2010 - 2015 parliament and to introduce additional criteria and restrictions for entry. For example, the Immigration Act of 2014 made it easier to remove people refused permission to stay in the UK (by reducing the scope to appeal and simplifying the removal process) and

created a more “hostile environment” for people living in the UK without a valid immigration status. The current government has also restricted new immigrants’ entitlements to certain welfare benefits, in an attempt to minimize some of the perceived “pull factors” for European immigration (Gower 2015b).

The EU’s influence in migration and asylum policy in the UK is far more limited than in Germany and Sweden, because the UK decided *not* to opt-in to the border and visa elements of the Schengen acquis. It also participates in very few EU legal migration measures that establish common rules and benefits for third-country nationals. In asylum the UK is bound by the first round of CEAS measures but has not opted into the second round versions of the Reception Conditions Directive, the Asylum Procedures Directive, or the Qualification Directive. In 2005 when the UK implemented the original version of the Reception Conditions Directive, it did make changes to domestic legislation, although these changes were largely restrictive in nature. For example, the UK amended its 2000 Asylum Support Regulations to specify when asylum support may be suspended or discontinued. Each recipient of asylum support must sign an Asylum Support Agreement when provided with that support, and if the applicant or their dependents breach the conditions of the agreement, the government may withdraw support and accommodation (Gittins and Broomfield 2013). The older version of the Reception Conditions Directive – the one the UK *has* legally adopted – was amended because of inadequate levels of material reception conditions across EU Member States. The recast version aims to ensure a “dignified standard of living” (European Parliament and Council of the European Union 2013) and common standards across Member States. As the following section will show, material support for asylum seekers in the UK is often far below the poverty level.

Reception Conditions and Benefits for Asylum Seekers

Framework and Responsibility

The core elements of asylum support in the UK reflect fundamental aspects of the liberal welfare regime as a whole: the prominence of means-tested benefits and private provision of social services. Asylum seekers are not eligible for mainstream welfare benefits while they wait for a decision on their asylum application. Instead, if they are destitute, they can apply to UK Visas and Immigration (UKVI, a Home Office directorate)⁸ for accommodation and/or financial support, so-called “asylum support” (Gower 2015a). Prior to the Asylum and Immigration Act of 1996, adult asylum seekers and those recognized as refugees under the 1951 Convention had been supported by the same social security benefits as British citizens. However, the 1996 Act, which was specifically designed to reduce asylum seekers’ universal access to state provision of benefits and housing, removed asylum seekers’ entitlement to social security support if they claimed asylum after arrival (in-country applicants), rather than on entering the UK (port applicants).⁹ Then, the 1999 Immigration and Asylum Act created a separate support system for asylum seekers, using vouchers that provided 70 percent of standard minimum benefits. These were soon replaced with reception centers with support in kind and a small amount of pocket money (Gower 2013; Sainsbury 2012). At present, the separate and much lower benefit rates for asylum seekers fall below the poverty line (The Children’s Society 2014). Responsibility for asylum seekers’ welfare is shared between the Home Office, which holds overall responsibility for the reception of destitute asylum seekers, and local authorities, which support

⁸ UK Visas and Immigration manages applications for people who want to visit, work, study, or settle in the UK. Previously, these applications were managed by the UK Border Agency (UKBA), but the UKBA was replaced in April 2013 with two separate units that both function under the umbrella of the Home Office: UKVI and an immigration law enforcement division (Travis 2013).

⁹ The British government based its decision to remove benefits for “in-country” applicants on the “unproven assumption that port applicants were more likely to have a genuine claim for asylum than in-country applicants” (Gardner 2006, 8).

unaccompanied asylum-seeking children and asylum seekers with additional needs beyond destitution, such as illness and/or disability (Gittins and Broomfield 2013).

Accommodation

Asylum seekers are initially housed in one of six initial accommodation centers around the country while they await their application decisions. These facilities provide full board, but no cash allowances.¹⁰ Asylum seekers may spend around two to three weeks in initial accommodation centers, during which time UKVI considers their application for financial support if they are unable to support themselves. If UKVI grants an asylum seeker housing, he or she has no choice about where to live. Because of limited housing in London and South East England, the Home Office disperses asylum seekers throughout the country based on availability of suitable accommodation, the “cultural fit of asylum seekers, capacity of support services, local housing strategies and risk of increasing social tension” (Gittins and Broomfield 2013, 15).

The UK contracts out the provision of asylum seekers’ accommodation to private companies, local authorities or housing associations, or a mix of the two. In March 2012 the Home Office awarded new accommodation and transport contracts for asylum support services, also known as commercial and operational managers procuring asylum support services (COMPASS) contracts. COMPASS contracts require housing providers to respond to changing demand, sourcing and providing additional properties as necessary. According to an EMN country report, this “enables demand-led flexibility in the provision of accommodation, allowing the UK to respond to the volume of need as this varies. Under the COMPASS contracts the same provider has control over the supply chain and can therefore regulate the supply of sufficient

¹⁰ The 1999 Immigration and Asylum Act introduced non-cash vouchers to provide asylum seekers with “support in kind,” removing the assumed incentive for potential economic migrants. Despite the fact that a cash-based support system would be easier to deliver and generally cheaper in terms of unit cost, the Home Office concluded that non-cash vouchers would provide “less of a financial inducement for those who would be drawn by a cash scheme” (Gardner 2006, 18).

accommodation.” As of December 31, 2012 there were 17,594 individuals in long-term dispersal accommodation and 8,500 accommodation units were in use (Gittins and Broomfield 2013, 3).

Allowances

Support for asylum seekers in the UK is minimal and provided on a purely means-tested basis. The UK’s asylum support legislation in the Immigration and Nationality Act of 1999 allows asylum seekers who are destitute or are about to become destitute within a 14-day period to apply for support in the form of accommodation and/or a cash allowance to cover their essential living needs. Asylum seekers must prove that they are destitute, which is a process strictly enforced by UKVI.¹¹ UKVI takes into account all assets in the UK or elsewhere, including cash, savings, investments, land, cars or other vehicles, and goods held for the purpose of a trade or other business. An asylum seeker must exhaust all assets before he or she is eligible for asylum support or accommodation; once UKVI determines an individual is destitute, there is no requirement for contributions from him or her (Gittins and Broomfield 2013; Asylum Aid 2015). While UKVI assesses asylum seekers’ eligibility for support, they can receive temporary financial support (section 98 support), but once deemed destitute, asylum seekers receive what is commonly known as section 95 support and which includes accommodation and cash vouchers. An asylum seeker will continue to receive section 95 support until 28 days after he or she is granted leave to remain (a positive application decision). Once an asylum claim is refused and appeal rights exhausted, section 95 support ends, except for families with children (Asylum Aid 2015).¹² Successful applicants are granted leave to remain in the UK and become eligible to work

¹¹ A person is considered destitute if he or she: does not have adequate accommodation or any means of obtaining it; does have adequate accommodation; has no means of fulfilling other essential needs; or, will be in this position within 14 calendar days (Asylum Aid 2015, 53).

¹² If an asylum application is rejected, section 95 will last until 21 days after a non-appealable decision or after the time limit to appeal the most recent decision expires (commonly called Appeal Rights Exhausted) (Asylum Aid 2015, 53).

and access mainstream welfare benefits. Failed asylum seekers, whose section 95 support terminates, are left with few options. Some may be eligible for section 4 support, which provides accommodation and non-cash benefits¹³ (below the already-low support levels for asylum seekers) and lasts until they leave the UK (Gittins and Broomfield 2013).

The Home Office has received considerable criticism from NGOs in the UK for its very low levels of cash benefits (The Children’s Society 2014). From 2008 to 2011, asylum support rates rose with inflation, but from April 2011, the Home Office did not increase monthly asylum support levels. As of December 2012, when AIDA conducted its original study of the UK’s asylum system, the amount of section 95 financial allowance/vouchers granted to asylum seekers per month was 189 euros for a single adult, 374 euros for a couple living together, 226.5 euros for a single parent, and 273 euros for a child under the age of 16. Section 4 support for refused asylum seekers was 182.5 euros per person (Asylum Aid 2015, 56).

In a case brought against the Home Secretary by the charity Refugee Action, the High Court ruled that the Home Secretary had acted unlawfully in freezing asylum support rates and had failed to gather information needed to assess whether support levels were sufficient to meet asylum seekers’ essential living needs. The High Court also reviewed the decision in light of the EU Reception Conditions Directive, which requires the provision of “material reception conditions to ensure a standard of living adequate for the health of applicants and capable of ensuring their subsistence,” but ultimately the Court adopted its conclusions only on the basis of domestic law. The Court gave the government until August 2014 to re-assess asylum support rates, but the Home Office subsequently announced that the support rates were adequate and would remain unchanged (Gower 2015a; Gower 2015b; ECRE 2014a; ECRE 2014b).

¹³ Section 4 support, which unlike section 95 support cannot be provided in cash, is available only if “refused asylum seekers can show either that they are not fit to travel, that they have a pending judicial review, that there is no safe and viable route of return, that they are taking all reasonable steps to return to their home country, or that it would be a breach of their human rights not to give this support” (Asylum Aid 2015, 55).

Since the Home Office's announcement, the British Parliament passed an amendment to the Immigration and Asylum Act of 1999 on March 12, 2015 that will introduce a flat rate of support per person. The previous support rates varied per person depending on the person's age and household composition, as shown above, but the new amendment, titled Asylum Support Regulations 2015, which will go into effect on April 6, 2015, will give each person 50 euros per week, or approximately 250 euros per month. The changes were made because a Home Office review concluded that the rate dating from 2011 for a single person was too low, but the rates for asylum seekers with dependents did not "take into account economies of scale" and exceeded what they needed to cover essential living needs (Gower 2015b). Families with children will be particularly affected by the simplified support structure, as children under 16 will now receive almost 100 euros less per month than they did under the previous differentiated rates (Gower 2015b).

For all refused asylum seekers who cannot fulfill the conditions for section 4 support (quite a long list), the government provides *no* support to refused asylum seekers (with the exception of families who can retain section 95 support). If, for whatever reason, they cannot to return to their country of origin, these asylum seekers are left destitute and homeless. While the numbers of refused asylum seekers who are totally destitute in the UK is unknown, a 2005 study estimated it to be 283,500. In Greater Manchester alone, NGOs are supporting about 2,000 destitute refused asylum seekers (Asylum Aid 2015, 55).

Healthcare

Healthcare in the UK is devolved, so each country (England, Northern Ireland, Scotland, and Wales) has its own system of publicly funded healthcare; together, these four systems comprise the National Health Service (NHS). While a variety of differences exist between the systems, the most important commonalities are that each country provides all permanent residents of the UK with free healthcare at the point of need and the systems are financed

through general taxation. Because of the decentralized nature of healthcare in the UK, asylum seekers' access varies depending on the country (NHS 2015a).

For instance, in England asylum seekers awaiting a decision, refused asylum seekers receiving section 95 or section 4 support, and unaccompanied asylum-seeking children all have access to free hospital treatment. Asylum seekers awaiting a decision are allowed to register with a general doctor. For refused asylum seekers *not* on section 95 or section 4 support, hospital doctors are not supposed to refuse urgent treatment, but the hospital must charge them for it (although it has the discretion to write off the charges). Accident and emergency services (but not follow-up, in-patient care) and treatment for certain listed diseases are free to everyone, including refused asylum seekers not on asylum support (Asylum Aid 2015, 64-65). General doctors are given discretion to register refused and unsupported asylum seekers in the same way that they would for any UK resident living in their catchment area (NHS 2015b). However, asylum seekers are not guaranteed access to mental health services, and specialized treatment for torture victims or traumatized asylum seekers is available in very short supply. Several independent charities and smaller NGOs also provide specialized treatment, but in all cases language and cultural barriers tend to block appropriate referrals from healthcare workers who have initial contact with asylum seekers and also impede asylum seekers' awareness of what services are available (Asylum Aid 2015, 64-65).

In Scotland all asylum seekers can access full free healthcare, as can their spouses/partners and any dependent children and refused asylum seekers not on section 4 support. Wales recently introduced regulations that charged refused asylum seekers for healthcare but later revoked them. In Northern Ireland, a refused asylum seeker is not entitled to free specialist healthcare unless they can show that they are "ordinarily or lawfully resident." Regardless of their specific rules determining asylum seekers' access to healthcare, in practice asylum seekers across all healthcare systems in the UK receive inadequate levels of support. Britain's 2014 Immigration Act grants healthcare providers the power to charge migrants for

healthcare, and the charging regime tends to block or discourage their access to healthcare in general (Asylum Aid 2015).

Education

Education in the UK is compulsory for all children aged five to sixteen, including asylum-seeking children and children of asylum seekers, who attend mainstream schools under the same conditions, in principle, as other children in their area. In practice, economic hardship may affect their access to education. For example, children on section 4 support cannot receive free school meals or other benefits but have no cash to pay for school meals. Moreover, the UK usually does not offer preparatory classes to facilitate asylum seekers' integration into the school system. While there is no explicit legal barrier to asylum seekers entering higher or further education, they face considerable financial obstacles, as in addition to high fees and their lack of access to loans, they cannot access mainstream social benefits or work. Language barriers, periods of interrupted education, and incompatible educational qualifications also pose major obstacles to their access to further and higher education (Asylum Aid 2014).

Labor Market Access

The text of the 2003 Reception Conditions Directive, which the UK adheres to, states that Member States may determine a period of time, starting from the date on which an asylum application is lodged, during which an asylum seeker will not have access to the labor market. If a decision on an individual's application has not been made within a year from the date of application, and "this delay cannot be attributed to the applicant, Member States shall decide the conditions for granting access to the labour market for the applicant." Furthermore, for "reasons of labour market policies," Member States can grant EU citizens, nationals from European Economic Area countries, and legally resident third-country nationals priority access to the labor market (Council of the European Union 2003).

The UK has implemented the Directive in perhaps the most restrictive way possible. Generally, asylum seekers are denied access to the labor market entirely, but if they have been waiting for over a year for a decision, they can apply to the Home Office for permission to work. If granted, permission to work lasts until a final decision is made on the asylum application and is limited to jobs on the UK's shortage occupation list. These include specialist trades and professions and are generally very specifically defined, such as "consultant in neuro-physiology" or "electricity substation electrical engineer" (Gower 2013; Asylum Aid 2015, 65). As a result, an asylum seeker's chance of being qualified is exceedingly low. Asylum seekers cannot be self-employed and have no access to re-training in order to gain access to the labor market (Asylum Aid 2014).

Social Rights for Admitted Refugees

While most countries grant refugees immediate access to residency and an easier path to citizenship than other immigrants, admitted refugees in the UK face additional barriers to permanent residency and citizenship. The UK asylum procedure operates within a unified system, meaning all applications are first considered for grants of asylum (refugee/Convention status), second for humanitarian protection, and third for discretionary leave.¹⁴ The UK does not immediately grant refugees permanent residence status (like Sweden does), but it grants refugees and individuals with humanitarian protection status leave to enter or remain in the UK for a period of five years. Shortly before their leave to remain expires, refugees and those

¹⁴ Discretionary leave may be granted to people who are "excluded from the benefit of the Geneva Convention by virtue of Article 1F, or to those recognised as refugees but who can still be refouled by virtue of Article 33 (2), in either case where it would be contrary to European Convention on Human Rights obligations to enforce removal to the country of origin." Discretionary Leave is considered a form of "leave to remain" rather than a "protection status," and is also considered a "non-EU harmonised protection status," which refers to all statuses that fall outside of the "refugee and subsidiary protection status" laid out in the EU Qualification Directive. Discretionary leave is granted outside the UK's Immigration Rules, usually for reasons relating to the European Convention of Human Rights (Rice and Vagher 2010).

granted humanitarian protection must apply for settlement, also called indefinite leave to remain (ILR). ILR / residency (settlement) means that the individual has permission to stay permanently in the UK (although it can be revoked in certain circumstances, such as a serious criminal conviction). For “in time” renewal applications, UKVI only briefly reviews the case; “out of time” applications can lead to a full case review to determine whether the individual continues to qualify for refugee or humanitarian protection status. Refugees arriving under the Gateway Protection Program (GPP), Britain’s quota refugee program,¹⁵ are granted immediate settlement without any need to apply for ILR (Rice and Vadher 2010).

Individuals with discretionary leave are usually granted three years leave to remain (except for unaccompanied minors who are granted three years, or until they reach the age of 17 and a half, whichever is shorter). Sometimes, discretionary leave is granted for shorter periods if it is “clear that the factors leading to a grant of Discretionary Leave will be short-lived,” such as if a person is granted discretionary leave to remain in the UK for a court case (Rice and Vadher 2010, 11). Individuals with discretionary leave can only apply for ILR when they have received grants of discretionary leave adding up to six years (Rice and Vadher 2010).

If an applicant is granted asylum, humanitarian protection, or discretionary leave, he or she has full access to the NHS, public funds (social benefits), social care, education, and the labor market – essentially the same social rights as British citizens. As of 2006, individuals with refugee and humanitarian protection status are also entitled to family reunion, but those granted discretionary leave cannot have family members join them in the UK until they have obtained ILR. Family members eligible to enter the UK via family reunification include spouses, children (minors), civil partners, same sex, and unmarried partners, all of whom must have

¹⁵ The UK operates the Gateway Protection Programme (GPP) in partnership with the UNHCR. The GPP offers a legal route for a specific number of particularly vulnerable refugees to settle in the UK each year. The annual quota is currently 750 (UNHCR 2014b).

already been part of the family unit in the country of origin before the individual left to seek asylum (Rice and Vadher 2010).

In early 2010 the UK's Conservative-led coalition government under Prime Minister David Cameron pledged to reform Britain's immigration system, with the overall goal to reduce net immigration flows to the country to below 100,000. Recent figures from Britain's Office for National Statistics show that Cameron has failed spectacularly in this promise – net migration for 2014 up to September was 298,000, almost 54,000 higher than when Cameron's coalition government took charge (Whitehead 2015). In pursuit of this goal, the Conservative government has implemented several restrictive reforms to the UK's immigration legislation, which have reduced integration assistance for refugees and erected additional barriers to attaining permanent residence.

Between 2008 and 2011, adults (over 18 years of age) who were granted refugee status or humanitarian protection status had access to the Refugee Integration and Employment Service (RIES),¹⁶ which provided 12 months of specialized support to help them integrate into British society, and in particular to help them access employment (Rice and Vadher 2010, 11). The RIES focused on employment because entering the labor market is a key factor that enables refugees' integration, facilitating their financial independence, verifiable work experience in the UK, chances to improve social and work-based English, and the potential for building relationships. However, the UK Border Agency (UKBA, the predecessor to UKVI that was abolished in 2013) stopped funding the RIES in September 2011. According to the chief executive of the Refugee Council, the largest independent refugee charity in the UK, this “means that for the first time in living memory there [is] no UK government statutory funding to support refugees to integrate in

¹⁶ The RIES provided new refugees with advice and support to help them meet immediate needs, such as housing, education, and access to benefits, and it gave advice on finding long-term work as soon as possible. The program also provided each refugee with a mentor to work with on a one-on-one basis, who would share knowledge and experience and offer friendship (Rice and Vadher 2010, 11).

the UK” (Hill 2011). Also in 2011, the UKBA cut the funding it provided to the Refugee Council (which at that time received 78 percent of its funds from the government) by 62 percent. A representative from the Home Office acknowledged that “because the UKBA is not facing uniform cuts, some areas – including asylum – will be required to bear a greater proportion of cuts” (Hill 2011). An additional restrictive development for admitted refugees was the 2009 reform¹⁷ to the UK’s naturalization process. The reform, which would have been put into place in July 2011, would have lengthened the period of temporary leave before refugees could attain permanent residence and would have introduced a new naturalization process dubbed “earned citizenship,” wherein migrants seeking to settle were required to “demonstrate a more visible and a more substantial contribution to Britain”¹⁸ (Lagnado 2010; Rice and Vadher 2010).

Ultimately, the coalition government that came to power in 2010 decided not to introduce the probationary citizenship and earned citizenship path. However, as of October 2013 the Conservative government has increased the language requirements for refugees and

¹⁷ The 2009 Act established two major policy goals to pursue with regard to refugees and other migrants: managed migration, to “manage the number allowed to settle permanently in the UK,” and integration. The 2009 legislation also incorporated refugees into the UK’s existing points-based approach already controlling migrant workers’ path to citizenship.

¹⁸ The 2009 Borders, Citizenship, and Immigration Act introduced a longer period of temporary leave before refugees could attain permanent residence. Instead of applying directly for full citizenship after five years, refugees (and other would-be citizens) faced an additional period of “probationary citizenship.” To acquire probationary citizenship under this law, refugees were required to pass an “Active Review” of their eligibility, meaning the UK Border Agency had to decide they had a continued need for protection or, in the case of dependents and partners, had an ongoing family relationship. Second, they had to pass the “Life in the UK” test or equivalent and have no criminal record. Before the 2009 legislation, people with refugee status or other leave to remain could apply for full naturalization after passing the “Life in the UK” test. Under the law, after one year on probationary citizenship they would be able to apply for full citizenship if they met the “activity” condition (participation in civic or voluntary activities), but if not they had to wait three years. Criminal convictions would slow down the process and subtract points from full citizenship. If a refugee did not want to become a citizen, he or she would be able to apply for permanent residence after three years of probationary citizenship (Lagnado 2010). Refugee and migrant advocates expressed several serious objections to “earned citizenship” being applied to refugees on the grounds that “the safety represented by citizenship should be a right rather than something that needs to be ‘earned.’” They argued that a refugee already faces considerable challenges to finding safety before their asylum claim is accepted. Once their claim is accepted they need a sense of security to rebuild their lives and overcome trauma. Furthermore, the 2009 Act conflicted with the 1951 Refugee Convention’s requirement to make naturalization as easy a process as possible for refugees (Lagnado 2010).

other immigrants who are applying for ILR or naturalization. Applicants for both ILR and naturalization must demonstrate their knowledge of language and life in the UK and have a speaking and listening qualification in English at B1 CEFR or higher, or an equivalent level qualification (Home Office 2013). Cameron justified the new focus on English language acquisition by saying that immigrants unable to speak English or unwilling to integrate have created a "kind of discomfort and disjointedness," which has disrupted communities across Britain (Shepherd 2011). Despite increasing language requirements for refugees and other immigrants, the government has simultaneously reduced funding for language classes. As of late 2011, the government only funds basic English classes for immigrants on jobseeker's allowance and employability skills allowance, but the classes are no longer free for those claiming income support and other benefits (Shepherd 2011; Briggs 2011).

Social Rights for Third-Country Nationals

Beginning in the 1980s, welfare state restructuring and retrenchment, combined with benefit restrictions targeted at third-country nationals, have significantly reduced the social rights of newcomers. In general, British welfare state restructuring entailed two major shifts. The first, the privatization of several transfer benefits and benefits in kind, generally weakened the entitlements of third-country nationals with low earnings and other low income groups. They experienced cuts in benefits without always being able to take advantage of the private alternative. For example, the increasing privatization of pensions hurts third-country nationals and ethnic minorities, who are much less likely to be covered by occupational or personal pensions than the white working age population (Sainsbury 2012). The second major aspect of restructuring – increased means-testing – has also negatively affected third-country nationals' overall benefit uptake. Immigrants and ethnic minorities tend to have higher poverty rates, but also lower take-up rates for means-tested benefits, usually because they are unfamiliar with the system and unaware of their eligibility, or because they are unsure how their immigration status

will affect their eligibility (Sainsbury 2012, 42). The UK has started checking the immigration status of benefit claimants more frequently, so this concern is not unfounded.

Beyond welfare state restructuring, the UK has recently implemented legislation to restrict immigrants' access to benefits via stricter rules regarding "no recourse to public funds." The principle of no recourse to public funds, more prominent since 1980, specifies the benefits that qualify as public funds, which effectively amounts to barring third-country nationals from benefits, in direct contradiction with the ideas of universalism. The benefits listed as public funds include social housing and housing benefits, the means-tested aspect of the jobseeker's allowance, income-related employment and support allowance, child benefit, child tax credit, a social fund payment, council tax benefit, family credit, and several benefits for the disabled and care allowances (Home Office 2014; Sainsbury 2012, 43). Tax credits introduced during the 2000s have also been categorized as public funds. Furthermore, penalties for breaking the no recourse to public funds rule have grown more severe, including administrative removal. Thus, "a gradual process of disentanglement has transpired initially outside the public eye through administrative regulations; it has involved restricting access to an ever broader range of benefits and services through linking immigration status and benefit entitlement, and utilization of benefits can jeopardize both current and future residence in the United Kingdom" (Sainsbury 2012, 43).

Another area where changes have restricted immigrants' access to benefits is residence requirements that lengthen the period before newly arrived immigrants have full and equal access to social benefits. The habitual residence rule, initiated in 1994, denies income support, housing benefits, and council tax benefit to newcomers who have not yet established residence, immigrants with temporary permits, and individuals with breaks in their residence. In addition, newcomers cannot gain access to benefits until they gain ILR (settlement status), for which the residence requirement ranges from less than a year to four or five years, depending on entry category. Moreover, in order to attain ILR immigrants must also pass the Life in the UK test and

fulfill English language requirements, as mentioned above. While they await settlement status, immigrants cannot access non-contributory benefits or means-tested benefits. The residence requirement for a permanent permit for immigrants who do not become citizens has been increased to a minimum of eight and a maximum of ten years; thus, the period without access to benefits (except for insurance benefits) has grown from a minimum of six years to in some cases as long as ten years (Sainsbury 2012, 44).

In summary, social rights for third-country nationals in the UK have seriously diminished since the 1980s. Welfare state restructuring decreased the number of insurance benefits and increased the importance of employer-sponsored and means-tested benefits. Benefit restrictions aimed at third-country nationals emphasize no recourse to public funds and have extended residence requirements. As a result, many third-country nationals have no safety net whatsoever during their first years in the UK.

GERMANY

Overview

Certain features of the German welfare regime, particularly its focus on the “standard employment relationship” and linking benefits to work and residence, have created vast differences between the benefits of asylum seekers and third-country nationals, on one hand, and Germans and ethnic Germans (to a lesser extent) on the other. Furthermore, Germany’s immigrant incorporation regime sharply distinguishes between Germans and foreigners, and entry categories separate individuals further still in terms of social rights and the right to work. Asylum seekers’ benefits are organized under a completely separate welfare scheme and, until recently, were far below the “standard” social benefits. When the state cannot provide adequate accommodation and services for asylum seekers, welfare organizations, especially church organizations, step in to fill the gap, as is often the case in Christian democratic welfare states. Admitted refugees are immediately granted a temporary residence permit, which grants them access to the same social benefits as German citizens and unrestricted access to the labor market.

The situation is more challenging for third-country nationals, however. Rigorous work tests and contribution requirements (both fundamental features of Germany’s welfare state) and barriers for gaining residence permits (an aspect of Germany’s restrictive incorporation regime) combine to limit immigrants’ access to standard social benefits and to the labor market. Labor market participation is the primary basis of entitlement, but the right to work varies by entry category; newcomers without the right to work have no access to social insurance benefits, the foundation of social provision. In addition, if immigrants use social assistance, they harm their chances of gaining permanent residence and citizenship (Müller, Mayer, and Bauer 2013; Sainsbury 2012).

Unlike the UK, which has not opted into the recast versions of the CEAS Directives, Germany has recently implemented the new versions, including the Reception Conditions Directive and the Qualification Directive. It has also implemented all EU legislation concerning the entry, residence, and return of non-EU citizens. However, in practice their implementation has had little impact on third-country nationals' social rights in Germany.

In the post-war period, Germany exemplified an exclusionary incorporation regime. It claimed to not be a country of immigration, yet as a result of its "guest worker" program, which began in the 1950s, it had between four and four and a half million foreigners in the country throughout the 1980s, largely as a result of family reunification of the guest workers. By 1988, Germany had almost five million foreigners (7.3 percent of its total population) (Oezcan 2004). Despite growing number of foreigners, German citizenship was still based on ethnicity (*ius sanguinis*). Immigrants of German descent were welcomed (ethnic Germans could claim citizenship upon arrival in the country), but immigrants of different ethnic origins faced extremely demanding requirements to gain permanent residence and citizenship. Children of guest workers born in Germany starting in the 1970s and 1980s (the so-called "second generation") were not granted German citizenship (Sainsbury 2012; Oezcan 2004).

Germany has a multi-party system that has been dominated since 1949 by the Christian Democratic Union (CDU), a Christian democratic, center-right party, and the Social Democratic Party (SDP), a social democratic, center-left party. Other major parties include the Greens, the far-left Die Linke (Left Party), the center-right Free Democratic Party, and the Christian Social Union of Bavaria (CSU). Like CDU, CSU is a Christian democratic conservative party and cooperates so frequently with CDU that together they are called the Union, but CSU only fields candidates in Bavaria. All of Germany's post-war federal governments have been coalitions; since 1961 these coalitions have been one of four combinations and have always included one or sometimes both of the two major parties. Since December 2013, CDU and SPD have governed together in a grand coalition.

Compared with the UK, where the Conservative Party has historically always passed more restrictive immigration policies, the relationship between immigration policy and Germany's governing coalition is less clear. When the center-right CDU is in the governing coalition, this does not translate to noticeably more restrictive immigration policies, or vice versa for more liberal policies from the center-left SPD. For instance, Germany's Asylum Seekers' Benefits Act, passed in 1993 under a CDU/CSU and FDP governing coalition, separated asylum seekers' benefits from mainstream benefits and set them at markedly lower levels than mainstream benefits. As will be discussed later in the chapter, these levels were not officially adjusted until the German Parliament passed an amendment in March 2015.

The 2002 Immigration Act, which narrowly passed with the backing of the governing SPD-Green coalition, included both liberal and restrictive elements. The 2002 Act was later overturned by Germany's Constitutional Court as the result of a voting technicality in the Bundesrat, the German Parliament's upper house,¹⁹ but it illustrates that German governing coalitions must generally enact compromise legislation in the area of immigration. The Act dramatically increased the avenues for labor migration to Germany, adding four different channels through which foreigners have the opportunity to enter Germany for work. It also simplified the residence permit system and created a fast-track process for highly skilled migrants to instantly receive a permanent residence permit (Oezcan 2002). On the restrictive end, the 2002 Act made it much more difficult for asylum seekers to gain political asylum, and further reduced benefits for those granted asylum. It also introduced stricter integration requirements for immigrants (Andrews 2002).

¹⁹ A CDU representative from Brandenburg refused to join the SPD head of his delegation in voting for the government's immigration bill. However, despite the CDU representative's objections, the Bundesrat speaker, a member of SPD, decided to count all of Brandenburg's votes as "yes," thus securing a controversial one-vote margin for the government's legislation (Hooper 2002).

The 2004 Immigration Act, which was actually implemented, represents a compromise between Chancellor Gerhard Schröder's SPD-Green government and the conservative CDU/CSU opposition. It contains many of the same elements as the failed 2002 law, including a streamlined residence permit system. It maintained restrictive features to regulate foreigners' employment and the fast-track settlement permit for highly skilled immigrants. One important expansion of asylum seekers' rights, however, is that the Law states that unsuccessful asylum seekers who cannot be deported to their home countries due to the political situations there can now be issued a temporary residence permit. The 2004 Law also extended Germany's definition of a refugee to those persecuted by non-governmental groups and those persecuted based on their sexual orientation (Münz 2004). Finally, the 2004 Law acknowledged that Germany was a country of immigration, and it has gradually moved from an ethnic toward a civic model of citizenship, decreasing some of the obstacles for non-German immigrants and also reducing privileges for co-ethnic immigrants (Sainsbury 2012).

The most recent amendment to the Asylum Seekers' Benefits Act, passed by the grand CDU-SPD coalition in March 2015, increases benefit levels for asylum seekers. In addition, the CDU-SPD-led Parliament has decreased the time that asylum seekers must wait before entering the labor market and decreased the time they must wait before gaining access to mainstream social assistance. Despite these important improvements, and the improvements in the 2004 Immigration Law, restrictions for immigrants have not been eliminated completely, and new restrictions have been added. Overall, Germany remains a restrictive incorporation regime (Sainsbury 2012, 55).

Reception Conditions and Benefits for Asylum Seekers

Framework and Responsibility

In the German federal system, the federal government (the Federation) and the Federal Länder (Germany's 16 constituent states) share competences in administering asylum and migration policies. The Federal Office for Migration and Refugees (BAMF, after the original German *Bundesamt für Migration und Flüchtlinge*) carries out asylum procedures, while the Länder implement the Asylum Seekers Benefits Act, providing accommodation and payments and benefits in kind to cover asylum seekers' vital needs (Müller, Mayer, and Bauer 2013). The German Social Code does not apply to asylum seekers, civil war refugees, or people with temporary residence on humanitarian grounds. Instead, these groups and their family members are covered by the Asylum Seekers' Benefits Act (Müller, Mayer, and Bauer 2013). The fundamental principle behind the Act is the priority of benefits in kind, or non-cash benefits. Länder provide asylum seekers without sufficient income or assets with benefits in kind to cover their vital needs, including basic provision of food, accommodation, heating, clothing, healthcare and toiletries, household consumer goods and consumables. They also grant asylum seekers pocket money for personal daily needs, benefits in the event of illness, pregnancy, and birth, and finally, additional benefits in special circumstances, depending on the individual case. If an asylum seeker is not being housed in a reception facility (shared accommodation), it is possible for him or her to receive cash benefits in some circumstances. Each Federal *Länder* deals with this separately (BAMF 2011; Müller 2013). If asylum seekers have any income or capital of their own, they must exhaust those resources before they become eligible for benefits under the Asylum Seekers' Benefits Act (Kalkmann 2014).

Accommodation

Asylum seekers are distributed among the Länder via a quota system based on population size and tax revenue in order to ensure that the financial costs of their reception are shared evenly. There are three types of accommodation for asylum seekers in Germany: initial reception centers, collective accommodation centers, and decentralized accommodation (Kalkmann 2014). Asylum seekers are required by German federal law to live in a reception facility for a period of up to six weeks, but not longer than three months while they undergo their asylum application procedure (Müller 2013). Germany has 21 initial reception centers for accommodation that are maintained by the Länder; corresponding BAMF branch offices are assigned to each reception center to deal with asylum procedures. If the BAMF does not reach a decision on an application within three months, applicants are sent to local accommodation centers (usually located in the same Länder as the initial reception center) where they have to stay for the remainder of their asylum procedures. Even though asylum seekers must stay in accommodation centers through the whole length of regular and appeal procedures, there are regional differences, and some municipalities also grant asylum seekers access to the regular housing market. There are also special facilities for vulnerable groups, such as unaccompanied minors, traumatized asylum seekers, and individuals who have suffered sexual violence (Müller 2013).

German federal law gives Länder flexibility to organize the accommodation of asylum seekers within their territories as they choose. Many Länder delegate responsibility for accommodation to municipalities, which then decide whether the centers will be managed by the local government itself or by NGOs or facility management companies. Also, in many Länder, NGOs, particularly church welfare associations, take on the responsibility of housing asylum seekers who are no longer required to live in an initial reception facility (Müller 2013, 21). Many municipalities are also increasingly using decentralized accommodation (e.g., individual houses or apartments) in place of collective accommodation centers, which were

inefficient to maintain when numbers of asylum seekers decreased between 2002 and 2007 (Müller 2013; Kalkmann 2014). However, in 2012 and 2013, asylum applications lodged in Germany dramatically increased, largely as a result of massive flows of asylum seekers from Syria and other conflict regions.²⁰ By the end of 2014 Germany had more than 200,000 pending asylum applications, the highest of any EU Member State. Consequently, Germany's collective and decentralized accommodation centers grew seriously overcrowded, so Länder and municipalities turned even more to non-state actors (welfare organizations and some private companies) to provide additional accommodation for asylum seekers (Kalkmann 2014).

Allowances

Like in the UK, reception conditions in Germany and benefit levels for asylum seekers have generated controversy in the past few years. Until 2012 benefits for asylum seekers had not been adjusted since the Asylum Seekers Benefits Act was adopted in 1993. These benefits were markedly lower than social allowances granted to German citizens or to foreigners with a secure residence status and were limited to 48 months. For example, a single adult person was entitled to about 225 euros per month, but 184 euros of this allowance were categorized as basic needs and could be provided in kind. The allowance paid out in cash, purportedly pocket money to “cover personal daily requirements” and to provide for asylum seekers' sociocultural subsistence was 40.90 euros per month (20.45 euros for children under 15 years) and sometimes paid out in vouchers (Müller 2013, 24; Kalkmann 2014, 54).

²⁰ According to Eurostat data, in 2012 Germany recorded an increase of 24,000 applicants compared with 2011, the highest increase of all EU Member States. For EU Member States as a whole, the number of Syrian refugees increased by 255 percent between the end of 2011 and the end of 2012. Thirty four percent of Syrians applying for asylum in 2012 applied in Germany. Sweden also received 34 percent of Syrian applications that year; the next highest percentage was the UK with 6 percent. In addition, Germany received a full 72 percent of asylum applicants from the Former Yugoslav Republic of Macedonia in 2012. In 2013, Germany recorded an increase of 50,000 applicants compared with 2012, or half of the overall increase of applicants in the EU in that year. About one out of ten applicants from all source countries combined in 2013 lodged their application in Germany; for applicants from non-EU countries only, the number grows to one in three (Bitoulas 2013; Bitoulas 2014; Bitoulas 2015).

The German Federal Constitutional Court ruled in July 2012 that such low levels of cash benefits were incompatible with asylum seekers' fundamental rights to a minimum existence. The court imposed a transitional arrangement, in force until February 2015, which entitled asylum seekers to benefits similar to "standard" social benefits, substantially raising cash benefits (Müller 2013, 25; Kalkmann 2014; Kalkmann 2015). In November 2014, over two years after the Constitutional Court ruling, both houses of the German Parliament finally passed revisions to the Asylum Seekers' Benefits Act. According to the amendment, from March 2015 onwards allowances for asylum seekers will be similar to the ones provided under the transitional arrangement. Asylum seekers living in reception or accommodation centers generally receive benefits in kind, including food, heating, clothing, and sanitary products, therefore their cash benefits are considerably lower than those for asylum seekers living in independent apartments. Single adults receive 143 euros per month in accommodation centers and 216 euros in independent accommodation; couples living together receive 129 euros in accommodation centers and 194 euros outside; and children under six receive 84 euros in accommodation centers and 133 euros outside. For asylum seekers outside of reception centers, the costs for rent, heating, and household goods have to be provided on top of the minimum allowances (Kalkmann 2015).

Healthcare

The Asylum Seekers' Benefits Act restricts healthcare for asylum seekers to cases "of acute diseases or pain" and only grants more benefits if they are "indispensable" to health. Pregnant women and women who have recently given birth are entitled to medical and nursing help and support, including midwife assistance. Asylum seekers are also provided with vaccinations and "necessary preventive medical check-ups" (Kalkmann 2015, 66). In practice, asylum seekers often encounter problems accessing their (minimal) healthcare. First they have to obtain a health insurance voucher, which is usually handed out by medical personnel in initial

reception centers. However, once asylum seekers have been dispersed to other types of accommodation, they usually have to re-apply for vouchers at the social welfare office in their municipality. The most recent update to AIDA's Germany study reports that staff of municipal social welfare offices sometimes delay or even deny necessary medical treatment because they do not have competences regarding asylum seekers' healthcare (Kalkmann 2015).

After 48 months of receiving benefits under the Asylum Seekers' Benefits Act, asylum seekers are entitled to "standard" social benefits under Book XII of the German Social Code, which deals with social assistance benefits. For German citizens, this "last safety net" provides those who are eligible with a minimum, subsistence income.²¹ For asylum seekers, this means they are able to access healthcare under the same conditions as German citizens who receive social assistance. The CDU-SPD grand coalition government recently passed an amendment so that beginning on March 1, 2015 the time asylum seekers must wait before gaining access to Book XII social assistance will be reduced to 15 months. Finally, traumatized asylum seekers or victims of torture are granted access to specialized doctors and therapists; however, space in treatment centers is limited, so their access to special therapies is not guaranteed. Länder only partially cover the costs of specialized therapies, meaning treatment centers often have to rely on donations or other funds to reimburse the costs of interpreters. Moreover, asylum seekers often live too far from specialized centers to even access treatment (Kalkmann 2015; Müller 2013).

²¹ Given the predominance of employment-based and earnings-related social insurance in the German welfare state, social assistance has had a residual role as the last safety net for people with no access to insurance or with low benefits. Through social assistance, all German citizens are guaranteed a minimum income. Typically, German citizens utilizing Book XII benefits are temporarily unable to work or permanently unable to work because of disability or aging (Bahle et al. 2011; Huster et al. 2009).

Education

According to German federal law, all children who reside in Germany have the right and obligation to attend school, regardless of their residence status or nationality. However, each *Länder* holds responsibility for the education system within its borders, therefore asylum seekers' access to education differs depending on where they live. Compulsory education ends at the age of 16 in several *Länder*, so children in those states do not have the right to enter schools when they are 16 or 17 years old (Kalkmann 2015). In this sense, Germany actually fails to fully comply with the EU's CEAS legislation. The Reception Conditions Directive stipulates that Member States cannot withdraw secondary education from asylum-seeking children for the sole reason that they have reached the age of majority, but this is the case in some *Länder* with different laws and practices (Langer 2014). Furthermore, while some *Länder* exemplify "best practices" for education of asylum seeking children, many are not adequately prepared to address the specialized needs of asylum seeking children; for example, they do not have special language and literacy courses for non-German speakers in regular schools or lack other measures to integrate asylum-seeking children (Kalkmann 2015, 65).

Labor Market Access

Until recently, asylum seekers were barred from labor market access for one year. When Germany implemented the recast EU Reception Conditions Directive in September 2013, this decreased to nine months. In September 2014, the German Parliament amended the Asylum Procedures Act, granting asylum seekers and third-country nationals access after three months. This change is designed to give asylum applicants an earlier opportunity to financially support themselves by starting work. The amendment also lifts residence restrictions on asylum seekers after their third month in the country, removing the "residence obligation" that previously limited asylum seekers' movements outside of their municipality of residence and made finding

employment even more difficult.²² The “geographic restriction” can be reinstated, however, if an asylum seeker is convicted of a crime or if his or her deportation is imminent (Informationsverbund Asyl und Migration 2014).

The September 2014 amendments will also waive “priority review” after 15 months. For a period of 12 months following the asylum seekers' access to the labor market, the job center has to carry out a “priority review,” that is, determine whether there is another qualified job-seeker who has a better status in terms of employment regulations, particularly German citizens, EU migrants, or third-country nationals with a secure residence permit. If no one is found, asylum seekers can access the position after 15 months (i.e., three months waiting period for access to the labor market, plus 12 months). The job center will also conduct a “review of labor conditions” to ascertain whether the workplace adheres to regional wage standards and workplace standards. The amendments also eliminated the principle of benefits in kind for asylum seekers living outside of initial reception centers; instead, they will receive cash benefits only (Kalkmann 2014; Informationsverbund Asyl und Migration 2014; Deutsche Welle 2014; Zeldin 2014).

Despite these reforms, additional barriers to labor market access may still hinder asylum seekers' opportunities. Usually, they have to apply for an employment permit first, for which they have to prove they have a “concrete” job offer, i.e. an employer has to declare that the asylum-seeker will be employed in case the employment permit is granted, and they have to hand in a detailed job description to the authorities (Informationsverbund Asyl und Migration 2014). Also, many accommodation centers are located in remote areas without easy access via

²² Until the September 2014 amendment, asylum seekers were required to stay in the same municipality to which they had been allocated for the whole duration of their procedure, and they could only receive financial benefits (cash and non-cash) in that town or district as part of the so-called “residence obligation” (legally: “geographic restriction”). Asylum seekers received a certificate of permission to reside that granted them a preliminary right to stay in Germany during the asylum procedure, but their residence permits did not allow them to leave their assigned town without permission from German authorities. They could not access benefits in other parts of Germany until they first received permission to relocate (Kalkmann 2014, 54, 63).

public transportation. If the place of residence is located far away from the next town, travel costs to work may pose an additional obstacle (Kalkmann 2014).

Asylum seekers are prohibited from working on a self-employed basis for the whole length of their asylum procedure; a regular residence permit is a precondition to pursue self-employment in Germany, and the asylum seeker's residence permit is not applicable (Kalkmann 2015). Finally, conditions for access to vocational training are identical to the conditions for access to the labor market in general, so “priority review” also applies to any openings for vocational training. Additionally, many vocational training programs last two or three years, and if an asylum seekers’ application is rejected, he or she will not be able to complete the training (Kalkmann 2015, 65). Although asylum seekers’ access to the labor market and vocational training are fairly strictly controlled, the German legislation is in line with the EU Reception Conditions Directive. With regard to vocational training, the Directive only stipulates that Member States *may* grant asylum seekers access to vocational training, imposing no obligation to do so (Langer 2014).

Social Rights for Admitted Refugees

Successful applicants, who are granted asylum status or refugee status,²³ are initially granted a three-year temporary residence permit (Aufenthaltserlaubnis, literally *residence permit*) and gain the same benefits as Germans within the social insurance system. They have unrestricted access to the labor market, and are entitled to the same social welfare benefits, healthcare, child benefits, and child-raising benefits as German nationals. They are also entitled to integration allowances and language courses, as well as other forms of integration assistance.

²³ Refugee status is granted in accordance with Section 3, paragraph 4 of the Asylum Procedure Act, which reproduces the 1951 Convention inclusion criteria. Asylum status is granted in line with Article 16a, paragraph 1 of the German Constitution, which states, “Persons persecuted on political grounds shall have the right of asylum” (Immigration and Refugee Board of Canada 2011).

After three years the BAMF examines whether there are grounds for a possible withdrawal of their refugee or asylum status, such as a change in the political situation in their country of origin. If no reasons for withdrawal are found, their temporary residence permit is converted into a permanent residence permit (Niederlassungserlaubnis, literally *settlement permit*) (Federal Ministry of the Interior 2014; Federal Ministry of the Interior 2015; Kalkmann 2014).

When successful applicants gain a temporary residence permit, their core family members (spouse or children) are automatically granted the same status if they are already in Germany. In addition, the requirements for family reunification are significantly more lenient if successful applicants apply for a residence permit for their family members within three months after they have received asylum or refugee status. If this is the case, core family members can join a refugee living in Germany even if the refugee does not fulfill all the requirements for family reunification, namely the requirement to provide their family member(s) with adequate living space and financial resources (Federal Ministry of the Interior 2015; Kalkmann 2014).

Individuals granted subsidiary protection status or another form of (national) protection receive a temporary residence permit that lasts at least a year (in most cases two years). The BAMF usually extends these temporary residence permits, and it is possible to convert a temporary residence permit into a permanent one after five years. In implementing the recast Qualification Directive, Germany removed several restrictions to the rights and access of those granted subsidiary protection; their rights are now closer in line with rights for admitted refugees (BAMF 2014). First, the concept of international protection was introduced into German law, so an asylum application is now defined as both an application for “asylum” as defined in the German Constitution, and for international protection (refugee and subsidiary protection) as defined in the Qualification Directive. The definitions of refugee and subsidiary protection have also been added almost verbatim into the Asylum Procedures Act. People granted subsidiary protection status are now legally entitled to a temporary residence permit, whereas before they were entitled to a residence permit “as a rule,” meaning it could be denied

under certain circumstances. People were then usually left with a “tolerated” stay (*Duldung*). Now, those with subsidiary protection have almost unrestricted access to the labor market (they must still apply for a work permit, but it is usually granted) and are also entitled to social benefits, although with some restrictions in comparison to German citizens. However, family members do not automatically receive subsidiary protection status, and family reunification is only possible under strict conditions (Informationsverbund Asyl und Migration 2015). Individuals with subsidiary protection status must prove that they can provide adequate living space and sufficient financial resources to support all their family members in Germany. Typically, only a few individuals with subsidiary protection status can meet the requirements (Kalkmann 2014; Informationsverbund Asyl und Migration 2015).

Social Rights for Third-Country Nationals

Germany’s welfare regime, with its emphasis on work tests and contributions, in combination with restrictive aspects of its incorporation regime mean that it is considerably more difficult for third-country nationals to gain full access to social benefits than it is for admitted refugees. There are two major components of the Germany social security system: contribution-financed benefits provided by a social insurance agency and tax-financed benefits provided by the state. The first, core component – contribution-based statutory social insurance – comprises five branches: health insurance, long-term care insurance, pension insurance, accident insurance, and unemployment insurance. The tax-financed social welfare system grants benefits based on means-testing, regardless of contributions (Müller, Mayer, and Bauer 2013, 12). The main access point for social benefits is labor market participation, and historically, the primary objective of the Bismarckian social insurance scheme has been to protect the standard of living of insured workers and their families. In principle, this should facilitate the social rights of foreign workers, too. Indeed, historically, German labor unions tried to incorporate foreign workers into the corporatist welfare state to avoid competing with them over wages and jobs and

also assumed some responsibility for integrating foreign workers and protecting their rights. In practice, though, certain aspects of Germany's Christian democratic welfare regime limit foreign workers' access to welfare schemes.

First, rigorous work tests and contribution requirements prevent immigrants from accessing full benefits. For example, for pensions, the minimum insurance period (the qualifying period) is five years, which puts recent arrivals or others who are denied access to the labor market, at a distinct disadvantage. To receive a full pension, the contribution period is 45 years employment, which reduces retirement benefits for anyone who arrives after age 20, and 35 years of work is required for early retirement. In addition, the government imposes tough contribution requirements for extended unemployment benefits, which create obstacles to entitlement (Sainsbury 2012; Müller, Mayer, and Bauer 2013). Second, benefits are earnings-related, so Germans typically claim higher benefits than third-country nationals. The foundation of the German social insurance system is the so-called "standard employment relationship," which refers to a "dependent, permanent full-time job with dismissal protection, full integration into status-protecting social insurance and collectively set wages significantly above the subsistence level" (Eichhorst and Marx 2009, 3). Only those people with a standard employment relationship can fully benefit from the social insurance system. People with flexible, low-paying, and/or intermittent employment – those further away from the standard employment relationship – receive less protection, and asylum seekers and third-country nationals tend to be disproportionately in jobs like these (Müller, Mayer, and Bauer 2013). Second, the close connection between the social security system and employment status makes it far more difficult for third-country nationals, who often have short-term, intermittent work, to reap the benefits of the contributions-based system.

Third, non-German immigrants' contributions tend to exceed the benefits they receive, which has been the case since the peak of Germany's guest worker programs in the 1960s and 1970s. Even though immigrants who entered Germany as foreign workers and their children

now utilize more benefits (particularly social assistance, housing allowances, and child allowances), they tend to use more lucrative insurance benefits far less, and thus remain net contributors to the system (Sainsbury 2012, 56). Finally, another crucial attribute of the German welfare system, the principle of subsidiarity,²⁴ has obstructed the development of a comprehensive public program to assist with immigrants' settlement. Instead, church and labor movement welfare associations have provided social services to foreign workers, largely along ethno-religious lines, and immigrant associations have been created to provide welfare for their own ethnic communities (Sainsbury 2012, 57).

Regardless of the benefit type, social benefits are generally *not* tied to nationality or residence title; nevertheless, exclusionary aspects of Germany's incorporation regime do restrict third country nationals' access to certain benefits. First and foremost, the 2004 Immigration Law, passed by a SPD-Greens coalition in compromise with the conservative opposition, requires that foreigners prove their livelihoods are "secure," "without recourse to public funds"²⁵ (including adequate healthcare coverage) before they can obtain a temporary or permanent residence permit (Müller, Mayer, and Bauer 2013; Sainsbury 2012). Third-country nationals still have full access to contribution-based benefits financed by their own contributions, but "no recourse to public funds" makes claiming tax-financed basic security benefits "problematic" (Müller, Mayer, and Bauer 2013, 16). Even though foreign workers are technically eligible for social assistance, applying for basic security benefits can also prevent them from having their residence permits renewed, and long-term use of social assistance for oneself or for family

²⁴ According to the principle of subsidiary, the family and, after the family, welfare organizations are seen the locus of social order and social welfare. The state only performs welfare functions that are not performed well by the family or civil society.

²⁵ An important difference from the UK's "no recourse to public funds" rule is that public funds under Germany's 2004 law do not include child benefits, parental benefits, or benefits granted in order to enable residence in Germany (Sainsbury 2012: 64).

members is grounds for expulsion and has also disqualified immigrants from obtaining German citizenship (Müller, Mayer, and Bauer 2013; Sainsbury 2012).

In practice, most foreign workers who claim social assistance simply do not have their residence titles renewed. However, given that claiming social assistance can have serious consequences for a foreigner's residence status, third-country nationals are under considerable pressure to maintain employment (to ensure they have "secure" livelihoods) and often take "less favorable job offers" as a result. People with permanent residence permits face no consequences whatsoever for claiming social security benefits (Müller, Mayer, and Bauer 2013, 42). Given that admitted refugees are immediately granted a temporary residence permit, this puts them at an advantage compared to third-country nationals who must apply and who face many restrictions in doing so.

The 2004 Immigration Law simplified the permit system by eliminating work permits entirely and reducing residence permits to two types: a limited residence permit and a permanent residence permit, or settlement permit. However, limited residence permit holders do not possess uniform rights and obligations; instead, the permit differentiates based on entry category, with differences for workers, students, family members, and asylum seekers. Also, even though the law eliminated work permits, the limited residence permit still specifies conditions of employment. Like the former restricted work permit, work authorization can limit the duration of employment, the type of occupational activity, the workplace, and the region. To obtain a permanent residence permit, the requirements have become stricter, and now include possession of a residence permit for five years, employment or adequate income, payment of insurance contributions for five years, no criminal record or record of anti-constitutional activities, German language skills, knowledge of the legal and social system and way of life, and adequate accommodation. However, highly-qualified workers can bypass these requirements, creating "a two-track system for the elite and the non-elite" (Sainsbury 2012, 65).

The 2004 Immigration Law also maintained the principle of “priority review,” which grants preferential treatment to German workers for filling jobs. Thus, a foreign worker with a restricted work permit will be hired only if no German, no EU-migrant, and no foreigner with an *unrestricted* work permit can fill the position. Employment is a fundamental condition for a residence permit, thus unemployment puts immigrants at risk. Essentially, “work has been a crucial nexus between the welfare and incorporation regimes in Germany” (Sainsbury 2012, 58). Although Germany watered down many of the most exclusionary aspects of its incorporation regime, its requirements for permanent residence and naturalization remain very strict (Sainsbury 2012, 66), creating large gaps in social rights between Germans and foreigners. Furthermore, its incorporation regime still differentiates based on entry category, leading to large discrepancies in the rights and social entitlements of asylum seekers, at the low end, and admitted refugees, EU migrants, and ethnic Germans (until recently) at the high end (Sainsbury 2012, 64-65).

SWEDEN

Overview

Unlike the UK's liberal regime and the Christian democratic welfare state in Germany, Sweden's social democratic welfare state provides coverage to the entire population based on the principle of universalism. Public services in Sweden, especially healthcare, education, employment services, and childcare, are available to all persons resident in Sweden, regardless of their nationality or immigration status. Sweden's welfare state combines citizen benefits and earnings-related benefits, which have quite different redistributive effects compared with the UK and Germany's mixes of means-tested and work-related insurance benefits. In Sweden, citizen benefits provide basic security to everyone and earnings-related benefits provide income security to employees. Until recently, Sweden also differed from the other regimes because work tests were much less rigorous and contributions from the insured were less significant in determining entitlements.

Another defining aspect of Sweden's welfare system is its goal of full employment and the right to work for everyone. Active labor market policies have increased the proportion of economically active individuals in the working age population, meaning that more people qualify for work-related benefits, and Sweden has a considerably higher rate of labor market participation compared with the liberal and Christian democratic countries. Finally, Swedish social policies aim to reduce inequalities and promote egalitarian redistribution of resources; the country has lower rates of income inequality than other welfare regime types.

Unlike the UK and Germany, the Swedish incorporation regime has been inclusive in the post-war period, with rights based on residence or domicile (*ius domicilis*). Sweden has simplified its residence permit system so that permanent residence permits are granted shortly after a person's arrival in the country. Furthermore, it employs a much broader definition of refugee than other countries, provides equal treatment for Convention refugees and persons

granted asylum for humanitarian reasons, and has generous rules for family reunification. It has also introduced cultural and political rights for immigrants. For example, immigrant languages are included in school curricula and the state subsidizes ethnic associations. Immigrants gained the right to vote in 1975 and can run for public office, and they can hold public employment, unlike in Germany and the UK (Sainsbury 2012, 85). Requirements for naturalization are also quite liberal; Sweden's rate of naturalization exceeded that of the United States in the 2000s.

Compared with Germany and the UK, Sweden differentiates very little between social rights afforded to different immigrant entry categories. Social entitlement is based on residence (a feature of the welfare regime), and the simplified residence permit system grants settlement status almost immediately or within a few years (a feature of the incorporation regime). Only since the 1990s, following a period of massive welfare state downsizing, has there been a trend toward some restrictions of immigrants' rights and growing differences between permanent residence status versus temporary residence status (Sainsbury 2012, 87).

Sweden's multi-party political system has been dominated by the Swedish Social Democratic Party (SAP, from the Swedish *Sveriges socialdemokratiska arbetareparti*, literally "Social Democratic Workers' Party of Sweden") since 1917. In only five general elections (1976, 1979, 1991, 2006, and 2010) has the center-right bloc won enough seats in the Swedish Parliament to form a government. The dominance of the social democrats is a primary reason why Sweden has developed such a strong social democratic welfare state in the post-war period and why Sweden has one of the most inclusive immigration incorporation regimes in the EU. However, some of the inclusive aspects of Sweden's regime have become "frayed" (Sainsbury 2012, 94). Slightly more restrictive reforms were introduced by the center-right governing coalition in power from 1991 to 1994, including reductions in asylum seekers' daily allowances. That said, SAP and the center-right in Sweden do not differ markedly in terms of attitude toward immigration – all mainstream parties have historically adhered to a pro-immigration consensus. It is also important to acknowledge that the center-right government lowered the allowances

during an economic downturn in Sweden, and when it also cut benefits for Swedish citizens in order to shore up the country's finances (Sainsbury 2012).

Reception Conditions and Benefits for Asylum Seekers

After World War II, Swedish employers began actively recruiting foreign labor as the country's export industry thrived, attracting many labor migrants from Finland, Germany, Greece, Italy, and the former Yugoslavia during the 1950s and 1960s. The flow of immigrants peaked in 1970, and Sweden did not set up a guest worker program like other countries to meet labor demands. In the 1950s and 1960s, the government cooperated closely with Sweden's powerful trade union confederation (in Swedish *Landsorganisationen i Sverige*, commonly known as the LO) on the issue of recruiting foreign labor. Given the LO's influence, recruitment of foreign labor was only possible as long as the labor unions accepted it, and the LO pressured the government not to allow cheap foreign labor. Instead, foreign workers received wages and labor rights at the same levels as native Swedes, including access to unemployment benefits. Sweden officially ended labor migration from non-Nordic countries in 1972, around the time of the 1973 oil crisis and global recession, when many Western European countries began to limit labor migration (Westin 2006). Since then immigration to Sweden has mainly comprised people granted asylum on humanitarian grounds. Like Germany, Sweden experienced a huge increase in asylum seekers in the 1990s. Among EU Member States, it has the highest proportion of asylum seekers per million inhabitants, largely due to its robust commitment to international protection and human rights and its encompassing definition of refugee (Fredlund-Blomst 2014).

Benefits for asylum seekers have changed several times since the 1980s, with the biggest reforms in response to Sweden's economic downturn in the early 1990s. In the late 1980s, a law introduced special allowances for asylum seekers that replaced social assistance. The allowances, according to the law, were to guarantee an acceptable standard of living identical to

the minimum standard established in the Swedish Social Assistance Law. However, in 1992 the center-right-led government decreased these daily allowances by 10 percent; since everyone's benefits were being reduced, the government argued that asylum seekers' should be, too (Andrén and Andrén 2013). In 1994 the government lowered allowances again, but this time delinked them from the social minimum, reasoning that it was justified that asylum seekers have a lower economic standard than permanent residents during their application process, so the government should be able to calculate their allowances independently. The 1994 changes, part of larger reforms to the reception system for asylum seekers, also moved asylum seekers' benefits from the area of social legislation to immigration legislation, effectively sweeping them into the background and removing them from the general public debate on social policy. Unlike most other social benefits, asylum seekers' daily allowances were not raised when the Swedish economy recovered, and they have not been adjusted for inflation since they were originally reduced in 1994. Thus, even though asylum seekers' benefits have been off the agenda in Sweden and have not generated as much controversy as in the UK and Germany, the results – a reduction of benefits and separation from the general social assistance system – are largely the same (Sainsbury 2012, 89).

Framework and Responsibility

The 1994 Reception of Asylum Seekers and Others Act is the key legal framework behind Sweden's asylum system. Under the Act, the Swedish Migration Board (SMB, or in Swedish *Migrationsverket*) has full responsibility for carrying out asylum procedures, providing for the reception of asylum seekers, and making first instance decisions on their applications. The Act applies from the date an asylum seeker submits an application until he or she has been received by a municipality after being granted a residence permit (in the case of a successful application) or has left Sweden if his or her application is rejected. Asylum seekers only lose access to benefits under the Act if they go into hiding to avoid a refusal-of-entry or expulsion order

(Ministry of Justice 2009). The Act also applies to asylum seekers who are granted temporary protection under Sweden's Aliens Act, "in the event of a mass influx of displaced persons," but who are ineligible for registration in Sweden's population registry (Caritas Sweden 2013, 41).

Accommodation

When asylum seekers first arrive in Sweden they are expected to report immediately to the closest office of the SMB to submit an asylum application. After this initial contact, asylum seekers are given two options for accommodation: staying with family, relatives, or friends, or staying in one of the reception centers provided by the SMB. Asylum seekers who choose the independent housing option simply have to give the address and contact details where they plan to stay. They receive a financial allowance similar to the financial allowance given to asylum seekers staying in accommodation provided by the SMB, but do not receive any extra allowance to cover rent. Rules regarding benefits are also the same. About 40 percent of all asylum seekers in Sweden stay in independent housing, but they can ask to be accommodated by the SMB instead at any time (Migrationsverket 2013).

Accommodation provided by the SMB usually consists of rented, furnished, self-catering apartments in normal housing areas, or sometimes open reception centers. Families typically live together, while single people live in shared apartments, normally with at least two people per room. If asylum seekers do not have sufficient financial means to pay rent, their monthly allowance from the SMB includes funds to assist with housing. Local authorities pay for special reception centers or facilities for vulnerable groups and separate reception centers for unaccompanied minors, but they are reimbursed by the state on a standard and an individual basis (Migrationsverket 2013).

Like the UK, Sweden also contracts accommodation out to private providers via renting private apartments, but the Swedish government remains far more involved in the process instead of delegating it entirely to the private sector. According to the SMB, a major strength of

the Swedish reception system is its flexibility. The government does not own its accommodation facilities but can expand or shrink its housing capacities relatively easily simply by renting more or fewer apartments (Migrationsverket 2013). Another strength is that asylum seekers live in normal residential areas, rather than living in reception centers separated from local communities, which should facilitate their integration. A final strength is that, unlike in most other countries, asylum seekers in Sweden have the choice to live with family, relatives, or friends, which essentially gives them the freedom to move anywhere in the country. This also means that the SMB does not have to provide accommodation for every asylum seeker, which would be a “great, if not impossible, task” (Migrationsverket 2013, 7; Abraha 2007).

Allowances

The SMB provides a daily allowance to asylum seekers who cannot support themselves. This covers food and the cost of clothes and shoes, medical care and medicine, dental care, toiletries, and leisure activities. The amount depends on age, marital status, and whether an asylum seeker lives in state-provided accommodation that includes meals. As of December 2012, single adults receive 90 euros per month in accommodation centers that provide food and 240 euros in independent accommodation; adults living together receive 75 euros per month in accommodation centers with food and 210 in independent accommodation; and children up to 17 years old receive 45 euros per month in centers with food and 165 euros per month outside of these centers (Caritas Sweden 2013, 34). Apart from daily aid, the SMB sometimes grants special one-time allowances, such as when an asylum seeker arrives in Sweden in the winter and needs warmer clothing or a new mother needs a baby stroller. Asylum seekers who have income or assets of their own have to pay for their own food and accommodation (Abraha 2007; Migrationsverket 2013). As mentioned above, this level of asylum support was set in 1994 and has not been raised since, thus asylum seekers staying in accommodation centers that include food receive much lower allowances than their counterparts in Germany.

The SMB organizes activities for asylum seekers aged 18 to 64. Typically, the activities include Swedish classes, but sometimes English and IT classes as well, and are designed to “contribute to a meaningful existence during the waiting period” and ultimately to ease asylum seekers’ integration in Sweden if they are granted residence permits (Ministry of Justice 2009). However, in the early 1990s the SMB tied asylum seekers’ daily allowances to these activities, meaning it can reduce or withdraw allowances if an asylum seeker does not participate in activities at the reception center without a reasonable excuse, or if an asylum seeker does not cooperate with the authorities in processing his or her application. These “sanctions” have also been introduced in relation to refugees’ introductory benefits (to be explained below) and represent a notable negative development in asylum seekers’ and refugees’ social rights (Abraha 2007; Sainsbury 2012).

Healthcare

When asylum seekers first arrive in Sweden, the SMB pays for a full medical examination. After that, adults are entitled to free emergency or urgent medical and dental care, and pay 50 kronor (about 6 euros) for regular health or dental care. Other healthcare costs 25 kronor (3 euros) per visit, and asylum seekers pay no more than 6 euros for prescription drugs. If they incur medical costs above 400 kronor (54 euros) for doctor’s appointments, medical transportation, and prescription drugs within six months, the SMB will compensate them for costs over that amount (Caritas Sweden 2013). Children under the age of 18 are entitled to the same healthcare as Swedish residents. Pregnant women receive free gynecological and maternity care and have the right to an abortion and to free contraceptive advice services (Abraha 2007; Migrationsverket 2013).

Education

All children in Sweden between seven and sixteen have the right to basic education. Swedish municipalities are required to provide children of asylum seekers or asylum-seeking children with the same education as Swedish resident children, although asylum seekers are not required to attend, as Swedish children are. Children of asylum seekers generally begin in special classes but eventually are fully integrated into regular schools (Abraha 2007). They have the right to lessons in their mother tongue on a regular basis if there are more than five students speaking the same language in the area. Children between 16 and 19 theoretically have access to vocational education but typically must attend a preparatory course to improve their Swedish skills before being able to attend vocational courses. However, asylum seekers older than 18 when they arrive cannot access secondary education; adult asylum seekers usually do not have access to Sweden's education system.²⁶ According to the SMB, consistent education for children is another rationale for providing long-term accommodation for asylum seekers because it ensures that asylum seekers do not constantly move in and out of municipalities, creating logistical problems for schools obligated to provide education to ever-changing groups of children (Migrationsverket 2013). The SMB compensates municipalities and county councils for the reception services they provide, including for education, pre-school activities, and school-age childcare for asylum-seeking children; for costs related to the reception of unaccompanied minors who seek asylum; and, for the placement of asylum-seeking children in homes other than their own (Migrationsverket 2013; Caritas Sweden 2013).

²⁶ Until January 2012, the SMB provided Swedish language courses for adults, but discontinued the classes because it succeeded in reducing the waiting period for asylum decisions to three to four months and thus determined there was little utility in offering Swedish lessons. Some NGOs and churches still offer regular, shorter Swedish language courses (Caritas Sweden 2013).

Labor Market Access

Asylum seekers in Sweden have general access to the labor market throughout the entire asylum process, starting the day after their arrival (except for Dublin cases²⁷) (Ministry of Justice 2009). Normally, to work in Sweden requires a work permit, but the SMB exempts asylum seekers from this requirement if they can prove their identity.²⁸ Their right to work lasts until a final decision on their asylum application is taken, as well as through all appeals procedures, and it can be extended beyond that if the applicant cooperates in preparations to leave Sweden voluntarily. Working affects asylum seekers' access to their daily allowances, which are only provided to those who lack other income sources. Asylum seekers are required to declare what they earn, and the SMB decides if they still need support. Failing to declare income or falsifying the amount usually has negative consequence for an individual's asylum case. Once they begin work, taxes are automatically deducted from asylum seekers' monthly salaries (Abraha 2007; Migrationsverket 2013; Ministry of Justice 2009).

Asylum seekers who find jobs but subsequently have their asylum applications rejected have the opportunity to switch from asylum seeker to labor migrant, provided they satisfy several conditions. To receive a work permit, a rejected asylum seeker must: 1) apply for permission to work within two weeks of the final asylum decision entering into force; 2) have a

²⁷ As mentioned in Chapter III, the Dublin Regulation establishes the principle that only one Member State is responsible for examining an asylum application. If an asylum seeker submits an application in Sweden but his fingerprints were first registered in Italy via the EURODAC database, the asylum seeker, then considered a "Dublin" case, will be transferred to Italy, which will take charge of his application for asylum (European Court of Human Rights 2015 ; Migration and Home Affairs 2015). According to data from AIDA, in 2012 Sweden registered 8576 Dublin cases (both incoming and outgoing requests). Of the outgoing requests, Italy was the most frequent country with 3033 requests for transfer followed by Norway, Poland, Malta, and Germany. Effective Dublin transfers through the Migration Board to other countries implementing the Dublin Regulation were 2629 in 2012 (Caritas Sweden 2015).

²⁸ If they are not able to prove their identity when they initially apply for asylum, they can do so later and still be granted an exemption from a work permit in order to access the labor market. Asylum seekers who "do not help to clarify their identity" do not receive the exemption from a having a work permit (Ministry of Justice 2009), however, those who cannot prove their identity can still work in internships for short periods of time (a maximum of three months in one workplace). This is only to help them gain work experience and practice their Swedish language skills, but they do not receive remuneration (Caritas Sweden 2013; Abraha 2007).

valid passport; 3) have had an exemption to work while an asylum seeker; 4) have been working for at least four months for the same employer prior to the date the SMB receives their application for a work permit; 5) receive a work contract to continue working for at least a year; 6) have terms of employment on at least the same level as Swedish collective agreements or what is customary in the occupation or industry, including insurance coverage and salary level (and these terms must have also applied in the previous four months); and finally, 7) be offered a monthly pretax salary of at least 13,000 kronor (about 1,360 euros) which must also have applied to their previous four months of employment. If an applicant is able to satisfy these rather demanding requirements, he or she will receive a temporary permit of at least one year and at most two, and after four years of temporary permits will be able to apply for a permanent residence permit. The temporary permit allows for family reunification and the right of a spouse to work. The possibility to switch from asylum seeker to labor migrant was an innovation introduced by the current social democratic government in order to develop labor migration of third-country nationals to Sweden and to provide highly-qualified, rejected asylum seekers with skills Sweden needed with the opportunity to access the labor market. However, under this policy an individual's labor market skills do not influence the assessment of his or her asylum application (Caritas Sweden 2013).

Employed asylum seekers have the right to join the Swedish Municipal Workers' Union, either through their employers or by contacting the union directly. If an asylum seeker fulfills certain general conditions, such as payment of membership fees and minimum length of time worked, then he or she can access unemployment insurance if unemployed for one year. However, asylum seekers cannot receive sickness allowances if they become ill while working. A person must either live or work in Sweden and be registered with the Swedish Social Insurance Agency in order to be covered by its benefits, but asylum seekers cannot register as residents of Sweden during their asylum procedure (Abraha 2007).

Social Rights for Admitted Refugees

There are essentially three possibilities for the outcome of an asylum application in Sweden: 1) refugee status and a permanent residence permit; 2) temporary protection status and a temporary residence permit; or 3) rejection, followed by appeal or return. If the SMB makes a positive decision on an asylum application, then an asylum seeker is granted a permanent residence permit²⁹ and the Swedish Public Employment Service places (settles) him or her in a municipality.³⁰ The SMB sometimes only grants a temporary permit if it considers an individual's protection needs to be temporary, although these are usually renewable. If the SMB rejects an application, the asylum seeker can either accept the decision and return to his/her home country, or appeal the decision to the Migration Court (Migrationsverket 2014a). Rejected asylum seekers can also apply for a work permit if they satisfy the numerous requirements described above.

Successful applicants, who hold a residence permit based on refugee status, international protection status, or as a quota refugee,³¹ can receive introductory benefits if they enroll in an "introduction plan" with the Swedish Public Employment Agency (Migrationsverket 2014a, 14). In the late 2000s, Sweden introduced major changes in this introductory benefits system in

²⁹ In September 2013, the SMB reassessed the conflict in Syria and decided to grant all Syrian asylum applicants (including stateless persons from Syria) a permanent residence permit, regardless of whether they were deemed refugees with Convention status or persons in need of subsidiary protection. Before this, approximately half of all asylum seekers from Syria were granted permanent residence permits and half were granted temporary residence permits valid for three years. Since this decision, the number of applicants from Syria has significantly increased (Migrationsverket 2014b).

³⁰ Previously, this was the Migration Board's responsibility, but a 2010 Act transferred it to the Swedish Public Employment Service, which now assigns new arrivals to a place of settlement in a municipality.

³¹ Sweden's refugee resettlement program dates back to 1950 and is one of the largest and oldest in the European Union. Each year the Swedish Parliament establishes a refugee quota and designates funding for the resettlement of between 1,700 and 1,900 persons in need of protection. In order to be selected for the quota, an individual must be registered as a refugee at the UNHCR. The UNHCR prioritizes which refugees will be presented and for which country, and each country participating in a resettlement program (currently 27 accept quota refugees) then decides whether to grant the person a residence permit (Migrationsverket 2014b; Fredlund-Blomst 2014).

order to assist refugees, who frequently face more obstacles than other groups to entering the labor force. The benefits became a state rather than a local government responsibility and they were standardized, so they are now equal across Sweden. In addition, to create work incentives, any additional income that newcomers receive from paid employment does *not* reduce introductory benefits, and they are more generous than social assistance. The introductory program – Swedish language classes, a course in Swedish society, and labor market training schemes – remains the same, but the reforms in the late 2000s capped the duration of introductory benefits at two years. A more serious restriction for refugees is that, just as the SMB introduced “sanctions” for asylum seekers who do not participate in organized activities, if refugees do not follow their “introduction plan,” this can affect their introductory benefits (Sainsbury 2012, 92). If a refugee participates full time, he or she can receive 308 kronor (32 euros) per day, with possibilities for supplementary benefits for children or housing allowances (Migrationsverket 2014a, 14).

As discussed above, successful asylum applicants are either granted a permanent or a temporary residence permit. Temporary residence permits are a fairly recent addition to the permit system, however. Between 1991 and 1994 the center-right government reintroduced the practice of issuing temporary permits in order to cope with the massive influx of asylum seekers at the time (almost 180,000 in those four years). The temporary permits lasted six months, which meant that those immigrants could not register as permanent residents and therefore could not access universal health insurance. Essentially, “the principle of domicile was converted from a mechanism of inclusion to one of exclusion” (Sainsbury 2012, 92). This was at the height of Sweden’s economic crisis and during a major spike in asylum applications; Sweden has since returned to granting successful applicants regular residence permits, or temporary permits lasting up to two years. Nevertheless, the resident permit system has become more complex, resulting in increased differentiation in rights by entry category (Sainsbury 2012, 92).

In summary, the fact that asylum seekers in Sweden have access to the labor market throughout their entire asylum procedure and can potentially enter Sweden as labor migrants if their application is denied sets Sweden's reception conditions apart from the UK and Germany. Another difference is asylum seekers' freedom to choose where they live (whether with friends or family or in state-provided accommodation) and by extension, their freedom to move around the country as they please, which until recently was curtailed in Germany. Successful applicants are granted a permanent or temporary residence permit, which grants them access to all residence-based social benefits and allows them to enter the labor market, from which they can access work-based benefits, too. Despite some restrictions added since the 1980s, including "sanctions" related to daily allowances or introductory benefits and the increasing use of temporary residence permits, Sweden's inclusive incorporation regime and universal benefits based on residence grant asylum seekers and refugees considerably greater ease of access, speed of access, and higher benefit levels than in the UK or Germany.

Social Rights for Third-Country Nationals

Third-country nationals in Sweden essentially have the same access to welfare benefits as admitted refugees. Sweden's social security system comprises residence-based insurance providing guaranteed minimum benefits and work-based, earnings-related benefits covering loss of income. Because the system provides universal coverage to anyone who is resident or working in Sweden, "the nationality or immigration status of a person is normally not a criterion for their access to social security benefits" (Migrationsverket 2014a, 7). Furthermore, a central principle of Swedish social security policy is that immigrants should *not* be subject to specific, separate rules only affecting them as a group on the basis of their nationality. Anyone who stays or can be expected to stay in Sweden for more than one year is normally considered a resident, regardless of his or her nationality. Most legal immigrants who receive a permit that is valid for more than a year are considered residents, and as a result, have the same access to social security

benefits as Swedish nationals or EU-nationals living in Sweden. Work-related social security benefits are based on a person working in Sweden, even if the period of employment is shorter than one year. No differences in work-related benefits are made on the basis of nationality or immigration status either (Migrationsverket 2014a).

The most common residence-based cash benefits which everyone residing in the country may qualify for include: parental benefit (minimum guaranteed level), child allowance, child support, housing allowance, invalidity benefit (tax-financed part), assistance allowance, sick pay (guaranteed level), survivors' benefits, and rehabilitation. The work-based cash benefits which everyone working in the country is entitled to include pregnancy allowance, parental benefits based on income, temporary parental benefits, old-age pension based on income, sick pay, sickness cash benefit, rehabilitation, child pension, income-related sickness compensation or activity compensation, and unemployment benefit. Work-based benefits cover a loss of income; the amount is dependent on a person's income and has a ceiling (Migrationsverket 2014a).

In the early 1990s, Sweden suffered a serious economic downturn, going from full employment to an unemployment rate of eight percent in 1993, where it stayed until 1998. The economy experienced negative growth for three consecutive years between 1991 and 1993, and the government's budget surplus became a 12 percent budget deficit in 1993. As a result, the 1990s were a decade of welfare state downsizing. In the first phase, the government tightened eligibility requirements, raised user fees, and generally cut benefit levels. However, unlike retrenchment strategies in the UK, which emphasized means-tested benefits, and Germany, which stressed the principle of equivalence, Sweden's strategy, in keeping with the principle of universalism, cut benefits for almost everyone in Sweden. It did avoid cuts in public services – in particular education, healthcare, and childcare – in an effort to protect the most important universal benefits. The second phase of downsizing included more benefit cuts combined with tax increases to patch up public finances; by 1998, the budget was balanced again (Sainsbury 2012, 87-88).

Even though Sweden's retrenchment measures entailed cuts for everyone, some reforms disproportionately affected third-country nationals. First, immigrants generally suffered more than native Swedes as a result of the crisis; a sharp decline in their employment rate reduced their earnings and limited their access to work-related benefits, such as sickness and unemployment benefits (Sainsbury 2012, 88). In addition, reform of the pension system has seriously weakened immigrants' future pension rights. The new system, which will be fully implemented in 2018, has stronger Bismarckian elements (work performance and contributions) in the state earnings-related pension, namely 40 years of employment and the calculation of benefits based on lifetime earnings, which both present a significant obstacle for immigrants. The other major change, the replacement of the basic pension with a guaranteed pension, lengthened the residence requirement to 40 years for citizens and non-citizens, which again erects a serious barrier for immigrants who begin working in Sweden after the age of 20 (Sainsbury 2012, 88-89).

Except for movements from other EU countries, labor migration was an insignificant part of migration flows to Sweden until 2008, when new legislation created an employer-driven labor immigration policy. The new system altered the recruitment system to allow employers to recruit third-country nationals for jobs if they cannot find Swedes or EU nationals to fill the roles (Fredlund-Blomst 2014). It also altered corporatist arrangements by removing labor market partners' consultation and veto powers, and most importantly for immigrants' access to social benefits, it changed permit requirements. Now, labor migrants are granted temporary permits and can obtain permanent residence permits after four years of employment, but the temporary permits are contingent upon employment and the ability to support oneself. That said, one condition for granting a permit is that pay, insurance benefits, and other working conditions of foreign workers are not below those in collective arrangements. Unlike many other EU countries, Sweden has not limited labor immigration to professionals or wealthy entrepreneurs. It did not introduce a point system like in the UK and did not impose wealth or

income requirements for social insurance access like in Germany. It has also not granted wealthy or highly paid labor migrants immediate access to a permanent residence permit, as Germany did (Sainsbury 2012).

The implementation of EU Directives and the return of labor immigration “have been accompanied by a greater emphasis on employment and economic self-sufficiency as conditions of entry and stay” (Sainsbury 2012, 93). For instance, Sweden introduced maintenance obligations for family reunification in 2010,³² which has created a new differentiation in rights based on entry category. One of the government’s primary justifications for the change was that all other EU Member States have support obligations, thus EU influence may actually lead to more restrictive policies. The inclusive aspects of the Swedish incorporation regime have “become frayed” (Sainsbury 2012, 94), but compared with other EU Member States, Sweden remains conspicuously more inclusive. Moreover, it has not restricted immigrants’ access to social benefits as a strategy to discourage immigration. Residence remains the crucial intersection between Sweden’s welfare and incorporation regimes, which potentially provides a more inclusive foundation for social rights than need (UK) or work (Germany) (Sainsbury 2012).

One notable change in immigration politics in Sweden, which may have consequences for future policies, is the recent rise of the Sweden Democrats, a far-right, anti-immigration party. The Sweden Democrats first achieved success in municipal elections in 2006 and in the 2010 general election crossed the four percent threshold necessary to gain parliamentary representation, polling 5.7 percent and winning 20 parliamentary seats. In the 2014 general elections, the Sweden Democrats polled 13 percent and won 49 seats (14 percent) in parliament. The party argues for cutting immigration to Sweden by 90 percent. Mainstream parties and

³² Like the maintenance requirements in Germany, the new rules for family member immigration introduced in Sweden require that a family member’s sponsor already resident in Sweden must be able to support himself or herself and must have adequate living space for himself or herself and the family member. However, the maintenance requirement does not apply if the sponsor has been granted a residence permit as a refugee or if the applicant for family reunification is a child and the sponsor is the child’s parent (Ministry of Justice 2011).

politicians of the left and right have called it “racist” and “neo-fascist” and have publicly called for maintaining Sweden’s inclusive refugee and asylum policies (Crouch 2014). The fact that the Sweden Democrats were able to gain so much electoral support, however, shows that Sweden’s historical pro-immigration consensus might be cracking as its encompassing welfare state faces economic pressures (Kuhnle 2000). Stockholm’s May 2013 riots, where disturbances broke out in several low-income neighborhoods with large first- and second-generation immigrant populations, illustrate that Sweden’s welfare state is under strain. Over the past decades, Sweden has witnessed some of the fastest and largest growths in inequality among OECD countries, and poor, largely immigrant communities have suffered disproportionately (McLaughlin 2013). While mainstream politicians maintain inclusive immigration rhetoric and expansive asylum policies, it remains to be seen how the Sweden Democrats’ rise and the rise in Sweden’s inequality will play out in the coming years.

CHAPTER V: CONCLUSION

Based on the country analyses in the preceding chapter, several key characteristics stand out. The UK's liberal welfare regime and restrictive immigration regime, in combination with restrictions depending on entry category, have created a challenging environment for asylum seekers and third-country nationals. The UK has added residency and naturalization requirements that restrict refugees' access, too, which sets it apart from Sweden and Germany. Support for asylum seekers in the UK is minimal and provided on a purely means-tested basis. The British government contracts out asylum seekers' accommodation to private companies and gives them no choice in where to live. Asylum seekers cannot access the labor market for at least a year, and if granted a work permit after that, they can only fill a small range of specialized shortage occupations. Successful applicants are granted leave to remain in the UK for five years, after which they must apply for settlement (ILR). If they do not apply "in time," they risk having their full case reviewed again. The government has added additional language and knowledge of "life in the UK" requirements for refugees and immigrants applying for naturalization, yet has simultaneously reduced funding for English language classes and other integration programs.

British welfare state restructuring, which introduced increased privatization of benefits and increased means-testing, significantly reduced third-country nationals' benefit uptakes. The increased emphasis on "no recourse to public funds" and longer residence requirements mean that third-country nationals' access to benefits is seriously restricted and many are left with no safety net at all during their first years in the country. The UK adopted the first round of common European legislation in asylum but has not opted into the recast versions and has also

not opted into any EU legislation concerning non-EU migrants, thus the EU's influence in the UK is very limited.

Germany's Christian democratic welfare regime, with its focus on the "standard employment relationship" and linking benefits to work and residence, has led to vast differences between the benefits of asylum seekers and third-country nationals, on one hand, and Germans and ethnic Germans (to a lesser extent) on the other. Moreover, Germany's restrictive incorporation regime sharply differentiates between Germans and foreigners, and entry categories separate individuals further still in terms of social rights and the right to work. Asylum seekers' benefits fall under a completely separate welfare scheme and, until recently, were far below the "standard" social benefits. When the state cannot provide adequate accommodation and services for asylum seekers, welfare organizations, especially church organizations, step in to fill the gap. Germany recently shortened the time asylum seekers must wait to enter the labor market to three months; in practice, however, asylum seekers must wait at least 15 months while employers carry out "priority review" to see if a German citizen, EU migrant, or migrant with permanent resident status can fill the position instead. Admitted refugees are immediately granted a temporary residence permit, which grants them access to the same social benefits as German citizens and unrestricted access to the labor market. Their temporary permit is converted into a permanent permit after three years. Like Britain, however, Germany has introduced language requirements for naturalization.

The situation is more challenging for third-country nationals. "No recourse to public funds" rules restrict their access to residence permits, and rigorous work tests and contribution requirements limit their access to standard social benefits and to the labor market. If immigrants apply for social assistance, they harm their chances of gaining permanent residence and citizenship. Unlike Britain, Germany has implemented the recast CEAS Directives. Partly in response to the requirements of the Reception Conditions Directive, Germany shortened the time asylum seekers must wait to enter the labor market from twelve to nine months (the

maximum allowed in the recast Directive) then to three months in a subsequent reform. In line with the Qualification Directive Germany has expanded the rights of those granted subsidiary protection, bringing them closer to rights for admitted refugees.

Sweden's social democratic welfare regime, inclusive incorporation regime, and minimal differentiation between entry categories have, not surprisingly, led to more positive outcomes for asylum seekers, admitted refugees, and third-country nationals. Social entitlement is based on residence, and Sweden has simplified its residence permit system so that permanent residence permits are granted shortly after a person's arrival in the country. Benefits for asylum seekers are delinked from mainstream social assistance and fall below the social minimum. They have not been adjusted for inflation since they were originally reduced in 1994. In sharp contrast to Germany and the UK, Sweden gives asylum seekers the option to live with friends or family in independent housing or in state-provided accommodation. Moreover, asylum seekers can enter the labor market the day after they submit their asylum application, and if their application is rejected, they have the opportunity to apply to enter Sweden as labor migrants. Admitted refugees instantly receive a permanent residence permit and can also access introductory benefits if they enroll in an "introduction plan."

Most legal immigrants who receive a permit that is valid for more than a year are considered residents, and as a result, have the same access to social benefits as Swedish nationals or EU-nationals living in Sweden. However, immigrants generally suffered more than native Swedes during Sweden's economic crisis; their comparatively high unemployment rate limited their access to work-related benefits, such as sickness and unemployment benefits. Since 2008, when Sweden opened up again to labor migration, it has placed greater emphasis on employment and economic self-sufficiency as conditions of entry and stay. Sweden now differentiates between permits: labor migrants are granted temporary permits and can obtain permanent residence permits after four years of employment, but the temporary permits are contingent upon employment and the ability to support oneself. The inclusive aspects of the

Swedish incorporation regime have been worn down, yet Sweden remains noticeably more inclusive when compared with other EU Member States. Additionally, it has not restricted immigrants' access to social benefits as a strategy to discourage immigration.

In summary, in each of the countries examined in this thesis, reception conditions for asylum seekers and social rights for admitted refugees and third-country nationals vary widely. Given that each country was selected for having a distinct welfare and immigrant incorporation regime, this is not entirely surprising. Social benefits for citizens vary across the three welfare regimes, therefore it is to be expected that the social rights for various immigrant entry categories do as well. However, several commonalities stand out. The first is the general low levels of support for asylum seekers across all three countries, even exemplary Sweden. It would be convenient to blame this on incomplete implementation of the EU's asylum Directives, but in reality, the CEAS sets the bar low for harmonized reception conditions, even in its recast, "improved" version. Essentially, efforts to harmonize the national asylum policies of the individual Member States along a uniform set of basic, minimum standards of protection have stalled, and asylum seekers continue to receive and experience differential treatment depending on which Member State handles their claim to protection (Gardella 2013). In all three countries in this thesis, asylum seekers receive very low levels of material support, have minimal access to healthcare, and face considerable barriers to labor market access, even if their labor market restrictions are lifted in principle.

The second commonality is that in each country there are huge discrepancies between social rights granted to various immigrant entry categories. Asylum seekers always fall at the bottom, admitted refugees tend to be near the top, and third-country nationals are somewhere in the middle, depending on the country's welfare and incorporation regime. Furthermore, while Sweden does not distinguish between categories of labor migrants, both Germany and the UK maintain very different benefit levels and residence requirements for unskilled or low-skilled versus high-skilled immigrants. This stratification of rights between entry categories has serious

ramifications for those at the bottom. In the short term, thousands of asylum seekers are destitute or near-destitute because they receive the bare minimum, or less than the bare minimum, of social benefits. In addition, third-country nationals often face severe restrictions to social benefits. In the long term, this means asylum seekers, admitted refugees, and third-country nationals are very poorly integrated.

Moving forward, this presents EU countries like the UK, Germany, and Sweden with serious challenges, but also opportunities for improvement. In the short- to long-term future, policymakers in Europe will encounter two huge challenges: population aging and the increasing volatility of labor markets. Both of these necessitate changes to social security and healthcare systems in order to meet the needs of a rapidly growing retired population and to adequately provide income maintenance for displaced workers. Migration from third countries is generally seen as part of the solution to plug gaps in the labor market and to support Europe's aging populations. However, as this thesis has discussed, third-country nationals tend to suffer disproportionately during cyclical economic downturns and simultaneously encounter complex rules and restrictions in order to access social benefits (Jonjić and Mavrodi 2012). Social security systems constitute one of the most powerful tools to reduce poverty and inequality and to promote social inclusion and dignity. By providing security for individuals against major social risks, including unemployment, sickness, and disability, social security systems help to enhance general productivity, increase individuals' employability, and support sustainable economic growth. The following paragraphs will illuminate areas where national welfare states and the EU can improve their policies in the coming years.

First, restrictive measures for asylum seekers in terms of accommodation (and detention, in some countries) tend to fuel the same public distrust and hostility toward asylum seekers that they are intended to address. For instance, many Member States' practices of detaining asylum seekers in jail-like facilities links asylum seekers with criminality in the public imagination, "creating the impression that asylum seekers are something from which the public

needs to be protected” (Gibney 2011). Furthermore, policies of dispersal, like those in the UK and Germany, may actually exacerbate social conflicts rather than achieving their stated goal of minimizing social tensions. By separating asylum seekers from friends and co-ethnic groups living larger cities and inserting them into often already-marginalized communities, asylum seekers may place additional burdens on already-stretched public resources in these places. Even if the communities do not initially react negatively, this significantly increases the chances of community backlash. The Swedish riots in 2013 are a case in point, as additional pressures on already poor communities ultimately erupted into violence.

Another shortcoming with long-term ramifications is the continued restriction of labor market access for immigrants of all entry categories. This limitation is most acute for asylum seekers, who must wait at least 15 months to access the labor market in Germany and have extremely limited access after 12 months in the UK. The lack of a right to work makes asylum seekers reliant on state welfare and accommodation, which only confirms public stereotypes that asylum seekers are simply a drain on the public resources and do not contribute to society (Gibney 2011). Labor market restrictions also have important consequences for admitted refugees who, despite instantly gaining access to the labor market once they are granted international protection status, have had little to no opportunity to gain practical labor market experience in their new country and often lack the requisite language skills. Thus, barriers to their labor market access still exist in practice.

Granting earlier access to the labor market would promote asylum seekers’ and refugees’ social inclusion and self-reliance, give them a head start on the integration process, and avoid the loss of their existing skills. Furthermore, for the host society, more employed asylum seekers means increased tax revenues and savings in accommodation and other support costs and reduces illegal working (UNHCR 2011). The EU’s common asylum legislation states that Member States must grant asylum seekers access to the labor market after a maximum of nine months. A far better policy would be to grant asylum seekers immediate access, like Sweden

does, and increase funding for integration measures for all categories of immigrants, rather than dramatically cutting them, as many countries have done lately.

Looking at the EU level, it is obvious that responsibility for asylum seekers is not equally distributed across all Member States. The three Member States in this thesis, along with Italy and France, registered 70 percent of all applicants in 2013 (Bitoulas 2014), and southern Member States continue to face increasing burdens on their asylum systems due to arrivals by sea. Given the high stakes, which include possible loss of human life during dangerous sea crossings, greater EU cooperation in terms of shared financing, expertise, and more equitable distribution of asylum seekers is essential. Most important in the EU policymaking arena is that asylum legislation and protections for third-country nationals should not be a race to the bottom. The UK in particular has intentionally restricted benefits for asylum seekers and other immigrants in order to discourage more immigration, yet thousands of people still arrive every year. All EU Member States should aim for high protection standards within their asylum systems to enhance both the efficiency and fairness of EU asylum procedures (Gardella 2013; Sampson 2013; UNHCR 2011). Ultimately, an asylum system which fails to protect the legal rights of asylum seekers and refugees also fails to uphold the core values of the EU.

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