

Alma Mater Studiorum - Università di Bologna

DOTTORATO DI RICERCA IN

European Doctorate in Law and Economics

Ciclo XXX

Settore concorsuale di afferenza: 12/A1

Settore scientifico-disciplinare: IUS/01

**Allocation & Integration: Institutional Solutions to the European Union's
Refugee Crisis**

Presentata da: Akiva Weiss

Coordinatore Dottorato

Supervisore

prof. Luigi Alberto Franzoni

prof. Stefan Voigt

Esame finale anno 2019

*Allocation & Integration: Institutional
Solutions to the European Union's Refugee
Crisis*

*By
Akiva Weiss*

Introduction

Part I: Allocation

Chapter I: The Economics of Refugee Protection

Chapter II: An EU-OIC Market-Based Solution

Chapter III: The Legality of Refugee Transfers

Part II: Integration

Chapter IV Mentoring as an Integration Strategy

Chapter V Public Opinion & Integration

Conclusion

Detailed Table of Contents

Contents

Introduction	8
Research Questions and Roadmap.....	11
Original Contribution to the Literature.....	18
Limitations and Challenges	20
Chapter I The Economics of Refugee Protection	22
1.1 Lex Lata	23
1.2 Incentives to Protect.....	28
1.3 Enforcement Mechanisms	30
1.3.1 EU-Level Enforcement.....	30

1.3.2 International-Level Enforcement.....	34
1.4 Costs.....	35
1.4.1 Costs and Optimal Allocation in Economic Theory	35
1.4.2 Macroeconomic costs	38
1.4.3 Social and Cultural Costs	39
1.4.4 The Cost of Hosting Versus the Cost of Protecting	41
1.5 Federalism of Refugee Protection	44
1.5.1 Transboundary Externalities (freeriding)	46
1.5.2 Economies of Scale	46
1.5.3 Insurance	48
1.5.4 The Single Market	48
1.5.5 Summary: centralization versus decentralization.....	49
1.6 Moving Forward	49
Chapter II An EU-OIC Market-Based Solution	51
Introduction	51
2.1 Reassignment & Market-Based Solutions	52
2.2 Why not an exclusively EU market?.....	55
2.3 Why an OIC-EU Market?	58
2.3.1 Logistics	58
2.3.2 Diversity of Market	59
2.3.3 Congestion.....	63
2.4 The Mechanism	64
2.4.1 Preliminary Measures	65
2.4.2 Harmonization, Intake Levels	66
2.4.3 Setting a price for Tradable Protection Quotas	67
2.4.4 Matching.....	67
2.4.5 Transfers.....	69
2.4.6 Above the EU Quota.....	70
2.4.7 Integration Measures.....	70
2.5 Why hasn't it already been done?	71
2.6 Potential Objections	74
Chapter III	78
On the Legality of Refugee Transfers	78

Introduction	78
3.1 Transfers.....	81
3.2 Legal Objections to Transfers	83
3.3 Dignity	85
3.3.1 A Useless Concept?	85
3.3.2 Evolving Understandings of Dignity	87
3.4 Three Stages	88
3.5 Case Selection.....	90
3.6 Spatial Progression	90
3.7 Identity: Corporeal.....	94
3.7.1 Dignity and the body: the case of religious symbols.....	96
3.7.2 Identity: Psychological.....	100
3.7.3 Intent.....	101
3.7.4 Intensity	103
3.7.5 Restricting autonomy	104
3.7.6 Exclusion from Scarce Resources	107
3.7.7 Summation	110
3.8 Incommensurability	111
3.9 Avoiding dignity-based claims to transfers	116
3.10 Conclusion	117
3.11 Moving from Allocation to Integration	118
Chapter IV Mentoring as an Integration Strategy:	119
4.1 Introduction.....	119
4.1.1 Definitions	121
4.1.2 Limits & Complications.....	121
4.2 Literature and Hypotheses	122
4.2.1 Social Capital and Labour Market Outcomes	123
4.2.2 Mentoring and Social Capital.....	125
4.2.3 The Role of Information in Educational Explanations	126
4.2.4 Institutional Factors	127
4.2.5 Family-level and teacher input factors.....	129
4.2.6 Mentoring and the role of information.....	130
4.2.7 Identity and Mentoring	132

4.2.8 Summary of mentoring’s impact on the determinants and correlates of integration	135
4.2.9 Types of Mentoring	135
4.3 Empirical Design & Results	137
4.3.1 Sampling Strategy	137
4.3.2 Selection Effects	137
4.3.3 Data and Methodology	138
4.3.4 Results	143
4.4 Discussion	145
4.4.1 Intuitive Results?	145
4.4.2 Drawbacks	146
4.5 Conclusion	148
Chapter V: Public Opinion and Integration: The Case of Germany	148
5.1 Introduction	148
5.2 Background Literature	151
5.2.1 The Role of Perceived Threat	153
5.2.2 The German Case	156
5.3 Mentoring in Germany	157
5.3.1 Labour Market	159
5.3.2 Social Cohesion and National Identity	160
5.3.3 Norm-driven attributes	163
5.4 Methods and Results	164
5.5 Results	167
5.6 Discussion & Conclusion	174
5.7 Limitations and Future Research	175
5.8 Conclusion	178
Chapter VI: Conclusion	179
REFERENCES	183
Books and Journals	183
Court Cases	220
Supreme Court (Canada)	220
Supreme Court (Germany)	221
Supreme Court Cases (United States)	221
European Court of Human Rights	222

European Court of Justice	224
International Court of Justice	224
Court Cases (Misc)	224
European Union Documents	225
United Nations	227
UNHCR	228
Covenants and Treaties	228
Organisation of Islamic Cooperation	231
Internet Articles.....	231
Appendix A: Immigrant Questionnaire and Interview.....	232

Notes: Chapters Five and Six have been written in conjunction with a co-author, Marina Tulin. Marina assisted with the data analysis and provided helpful comments on the draft.

Research ceased upon submission, June 2017

Abbreviations

CAT.....	Convention Against Torture
CEM.....	Coarsened Exact Matching
CERD.....	Committee on the Elimination of Racial Discrimination (CERD)
CESCR.....	Committee on Economic, Social, and Cultural Rights
ECJ.....	European Court of Justice
ECHR.....	European Convention on Human Rights
ECtHr.....	European Court of Human Rights
EU.....	European Union

EURODAC.....	European Dactyloscopy
GRC.....	Geneva Refugee Convention
HOC.....	Humanitarian Organizations Council
IACHR.....	Inter-American Court of Human Rights
ICCIA.....	Islamic Chamber of Commerce, Industry, and Agriculture
ICCPR.....	International Covenant on Civil and Political Rights
ICJ.....	International Court of Justice
IDB.....	Islamic Development Bank
IMF.....	International Monetary Fund
ISF.....	Islamic Solidarity Fund
MIPEX.....	Migrant Integration Policy Index
NHS.....	Non-Hosting States
OHCHR.....	Office of the High Commissioner for Human Rights
OIC.....	Organisation of Islamic Cooperation
OPCAT.....	Optional Protocol to the Convention against Torture
TFEU.....	Treaty on the Functioning of the European Union
UDHR.....	Universal Declaration of Human Rights
UNHCR.....	United Nations High Commissioner for Refugees
UN.....	United Nations
OPR.....	Universal Period Review

Introduction

On June 15, 2017, the European Commission initiated infringement procedures against three States: Poland, Hungary, and the Czech Republic for refusing to accept refugees from two EU-directed emergency relocations schemes.¹ Out of 10,000 refugees mandated reallocation from Greece and Italy to Poland and Hungary and the Czech Republic, only 12 had been accepted. To this effect, Hungarian president, Viktor Orban remarked that “It is an infringement of our sovereignty that we should not be allowed to decide whom we are going to live with” and, rather than absorb refugees, Orban, along with Visegrád partners Slovakia, Czech Republic, and Poland, pledged 35m Euro, to bolster Italy’s seaborne

¹EU Council Decision 2015/1523 and 2015/1601, mandating the relocation of 160,000 humanitarian migrants from Italy and Greece.

coastal operations.² Orban's position was seemingly echoed by Slovak prime minister Robert Fico at a December 14, 2017 EU Summit, claiming that "There is no human right to travel to the European Union and the European Union must protect itself."³ Even Danish Prime Minister Lars Lokke Rasmussen has suggested revising the 1951 Refugee Convention to protect the sovereignty of EU States.⁴

Such responses within Europe to the refugee crisis of 2015-2017 highlight the central theme of this dissertation: that many of the legal mechanisms guiding refugee protection are out of step with sovereign preferences. The Dublin Regulations –stipulating that the first country an asylum seeker enters is responsible for determination and protection without implications for distributive concerns– has perhaps been the most infamous example of this phenomenon. Yet the Dublin Regulations are only one of many EU legal instruments unable to account for social and economic forces.

The root of this disequilibrium appears to be temporal. Article 1 of the 1951 Geneva Convention places no numerical ceiling on the definition of protection. Signatory States must determine if an asylum seeker is a refugee, and if so, protect her.⁵ Critically, as per Customary International Law, an asylum seeker must not be sent back to a country where she might be subject to persecution.⁶ This may mean a given State must protect 12 refugees. It also may mean 2 million.⁷

² EU Observer. 'Commission takes Orban's Hungary to court'. (December 7, 2017). Last retrieved December 7, 2017 from < <https://euobserver.com/political/140197> >.

³ EU Observer. 'Slovak PM: Human Rights are not a travel pass to the EU.' (December 14, 2017). Last Retrieved December 17, 2017 <https://euobserver.com/migration/140291>.

⁴ Reuters. 'Denmark wants Geneva Convention debate if Europe cannot curb refugee influx'. (December 28, 2015). Last accessed December 17, 2017 from < <https://www.reuters.com/article/us-europe-migrants-denmark/denmark-wants-geneva-convention-debate-if-europe-cannot-curb-refugee-influx-idUSKBN0UB10020151228> >.

⁵ The customary international law obligation stems from non-refoulement, not offering asylum. This means that protection is an *erga omnes* obligation, but not necessarily offering asylum. Still, the requirement to not refool places a burden of protection on States. See *infra* n46. Also, Convention Relating to the Status of Refugees, July 28, 1951, 19 U.S.T. 6260, 189 U.N.T.S. 150 (Hereinafter 1951 Refugee Convention).

⁶ Allain, J. (2001). The jus cogens Nature of non-refoulement. *International Journal of Refugee Law*, 13(4), 533-558; UN High Commissioner for Refugees (UNHCR), 'The Principle of Non-Refoulement as a Norm of Customary International Law. Response to the Questions Posed to UNHCR by the Federal Constitutional Court of the Federal Republic of Germany in Cases 2 BvR 1938/93, 2 BvR 1953/93, 2 BvR 1954/93, (UNHCR, 31 January 1994). Moreover, A breach of CIL for non-refoulement, an *erga omnes* obligation, will lead to responsibility under 2001 ILC Articles on Responsibility of States for Internationally Wrongful Acts (Art 1) and restrictions (Art. 31). International Law Commission, Articles on Responsibility of States for Internationally Wrongful Acts, November 2001, Supplement No. 10 (A/56/10), chp.IV.E.1.

⁷ A clear distinction lies between a refugee and applicants who receive subsidiary protection, the latter given to those who don't fall under the §meters of definition of a refugee, but who, under the EU Qualification Directive (recast, hereafter), Article 2(f), would face a real risk of serious harm, defined in Article 15 of the Recast. Rules on subsidiary protection, however, show considerable variation. In the German example, refugees receive a three-year residency permit that is converted to permanent residency if there are no reasons for revocation. Subsidiary status awardees, in contrast, receive a one-year permit, which can be extended until seven years, after which permanent residency can be obtained under a gamut of conditions. European Union: Council of the European Union, *Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast)*, 20 December 2011, OJ L 337; December 2011, pp 9-26, preamble, recital 33, <http://www.refworld.org/docid/4f197df02.html> ("EU Qualification Directive (recast)"). For the European Court of Justice's opinion on this, see *Salahadin Abdulla and Others v. Bundesrepublik Deutschland*, C-175/08; C-176/08; C-178/08 & C-179/08, ECJ, 2 March 2010, §. 78.

It is unlikely that States predicted such high numbers nearly seven decades ago when they weighed their incentives to sign the Convention. The Travaux Préparatoires of the 1951 Geneva Convention indicate that signatory States did not anticipate bridges in logistical impediments and informational asymmetries that have permitted the Global South access to mainland Europe in historically large numbers, nor the development of the positive rights regime to its current extent.⁸ Accordingly, States who signed and ratified the 1951 Convention did not establish *ex ante* distributive ramifications for both private and public goods. Neither did they calculate potential impacts of the refugee protection regime to their labor market, internal security, and social cohesion.

Unsurprisingly, refugee law, established over half a century ago, has frequently fallen out of step with non-static social and economic forces. This is particularly true during times of external shock, for example, mass migration caused by civil war. Reconciling these forces, though, is far from straightforward. As David Miller has noted in several texts (2008, 2015) because refugees are assumed to obtain full rights in their adopted country, absorption of refugees into a sovereign nation presupposes a long-term commitment, not just economically, but in the domains of social cohesion, internal security, and national identity.⁹ From a State-centric point of view, then, the absorption of refugees is either beneficial or costly depending not only on the State's commitment to legal norms, but its ability to integrate refugees into its economic, social, and political community.

Where States have perceived an inability to properly integrate individuals fleeing persecution, they have often taken measures to deter protection responsibilities. Over 1000km of fencing has been erected along the borders of Bulgaria, Greece, Austria, Greece, Hungary, and Slovenia.¹⁰ The rhetoric from EU leaders has followed in tow. Danish Prime Minister Lars Lokke Rasmussen's threat to amend the 1951 Convention is just one of many comments European leaders have made in opposition to their legal obligation to protect. Under Chancellor Sebastian Kurtz, for example, Austria has made protecting its borders from asylum seekers a frontline issue. Kurtz was quoted as advocating that border agents "stop illegal migrants on the external borders, tend to them, and then ideally send them immediately back to their home country or transit country."¹¹ Unfortunately, what constitutes an illegal and a legal migrant is often blurred, threatening to violate the right to asylum before refugee status has been determined. To

⁸ UN High Commissioner for Refugees (UNHCR), *The Refugee Convention, 1951: The Travaux préparatoires analysed with a Commentary by Dr. Paul Weis*, 1990, available at: <http://www.refworld.org/docid/53e1dd114.html> [accessed 2 January 2018].

⁹ Miller, D. (2008). National responsibility and global justice. *Critical review of international social and political philosophy*, 11(4), 383-399; Miller, D. (2015). Justice in immigration. *European Journal of Political Theory*, 14(4), 391-408.

¹⁰ The New York Times. 'The European border is still open. But for how long?' Katrin Bennhold. (July 24 2018). Last accessed 20 February 2019 from <https://www.nytimes.com/2018/07/24/world/europe/austria-slovenia-border-migrants-spielfeld-schengen.html>.

¹¹ EuroNews. 'Austria's crackdown on migrants' (28 May 18) p2. Last accessed 20 Februar 2019 from <https://www.euronews.com/2018/05/28/austria-s-crack-down-on-migrants>.

further a protectionist agenda, Austrian Freedom Party defense spokesman, Reinhard Bösch, suggested that “Europe should send troops to North Africa to occupy land where asylum seekers could be held before sending them back to their countries of origin”.¹²

Accordingly, the refugee crisis referred to in this dissertation’s title does not refer to the inflow of refugees, primarily from Syria, during 2014-2017. Rather, the crisis is more general and will not permanently dissipate with the end of the Syrian or Afghan conflicts. This crisis is the inability for refugee law to remain in step with the protection preferences of European States. To bring social and economic preferences in equilibrium with the law, European States will need to create more than additional housing units or hire more border agents. States will require a way forward that allows them to regulate the amount of protection they bestow, without violating treaty-based obligations. Or, in economic terms, preventing amendments or derogations to refugee law may require that the State-calculated marginal benefit of protection, to include norm commitments, is higher than the corresponding economic and social marginal cost.

Research Questions and Roadmap

This monograph analyzes refugee protection from a Law & Economics perspective. It attempts to answer the research question: how can social and economic forces be brought into equilibrium with the laws governing refugee protection? In order to answer this question several smaller, yet nonetheless important questions are tackled. These questions can be divided into two domains: allocation and integration.

Allocation refers to ways in which refugee protection is distributed. Often, in the context of allocating protection, the terms immigrant, asylum seeker, and refugee are conflated. An immigrant is somebody who moves to another country for any number of reasons. Asylum seekers seek protection from persecution. A refugee is an asylum seeker who has been recognized as being subject to persecution under the 1951 Geneva Refugee Convention. The distinction is crucial towards States assessing the long-term social and political costs of absorption. For instance, upon request, an economic migrant or denied asylum seeker may be expected to return to his home country (infra 2.3); a refugee, however, can be expected to remain and obtain full citizenship rights.

The status quo is currently one where the majority of refugees and asylum seekers waiting for refugee determination status are hosted outside of EU borders. In fact, as of 2018, 85% of displaced persons and over 90% of refugees were living outside European Union countries.¹³ However, once asylum seekers reach EU territory, most often Italy, Greece, and Spain, they either apply for refugee status in the first EU

¹² SBS News. ‘The country that has overturned its promise to refugees’ (22 October 2018) p3. Last accessed 20 February 2019 from <https://www.sbs.com.au/news/the-country-that-has-overturned-its-promise-to-refugees>.

¹³ UNHCR. Figures at Glance. Last accessed 20 February 2019 from <https://www.unhcr.org/figures-at-a-glance.html>.

country they reach, or, defying the law, move northwards to an EU country of their choice. At these second countries, reasons for secondary movements are reviewed, but may result in the asylum seeker being returned to the responsible Member State.¹⁴

There have been several attempts by the European Union to make burden sharing –fairness in allocating protection– more equitable. Unsurprisingly, intra-EU reallocation has frequently met with fierce opposition. Several countries, notably Hungary, Poland, and the Czech Republic have been opposed to hosting more refugees than their preferences dictate.¹⁵ Even EU countries that initially welcomed refugees *en masse*, such as Germany and Sweden, have wavered between an unlimited welcome and expressing concern over the number of asylum seekers and their length of stay.¹⁶ Figure 1 shows recognition rates for asylum seekers for Q1 of 2017. While many factors must be accounted for before drawing in-depth conclusions, still, the recognition rates do not vary considerably after controlling for the asylum seeker’s country of origin, religion and age.¹⁷ They may thus be taken as a snapshot into each State’s asylum system, and by extension, its preferences for hosting refugees.

¹⁴ European Parliament (2016). Secondary movements of asylum seekers in the EU asylum system; Skov, G. (2016). Transfer Back to Malta: Refugees’ Secondary Movement Within the European Union. *Journal of Immigrant & Refugee Studies*, 14(1), 66-82. For a legal framework see: UNHCR, Legomsky, Stephen H, (2003) Secondary Refugee Movements and the Return of Asylum Seekers to Third Countries: The Meaning of Effective Protection. For an empirical study into institutional catalysts for secondary movement, see: Brekke, J. P., & Brochmann, G. (2015). Stuck in transit: secondary migration of asylum seekers in Europe, national differences, and the Dublin regulation. *Journal of Refugee Studies*, 28(2), 145-162.

¹⁵ Moore, C., Ricker, A., Forbes, J. M., & Ayer, A. (2017). Discrimination Based Upon Race, Religion, and Ethnicity When Filing for Asylum in the European Union (Policy Paper); For an analysis of the Polish response to refugees through the viewpoint of religion, see: Narkowicz, K. (2018). ‘Refugees Not Welcome Here’: State, Church and Civil Society Responses to the Refugee Crisis in Poland. *International Journal of Politics, Culture, and Society*, 31(4), 357-373.

¹⁶ Gerhards, J., Hans, S., & Schupp, J. (2016). German public opinion on admitting refugees. *DIW Economic Bulletin*, 6(21), 246; Momin, S. (2017). A Human Rights Based Approach to Refugees: A Look at the Syrian Refugee Crisis and the Responses from Germany and the United States. *Duke FL & Soc. Change*, 9, 55.

¹⁷ Author’s calculations.

	Total decisions	Of which					Rate of recognition, %	
		Positive	of which			Rejected	Total	of which Refugee and subsidiary protection status
			Refugee status	Subsidiary protection	Humanitarian reasons			
EU-28 (*)	284 755	141 375	66 915	54 890	19 570	143 385	50	43
Belgium	6 185	3 140	2 330	810	-	3 040	51	51
Bulgaria	1 360	615	295	325	-	745	45	45
Czech Republic	300	55	15	40	0	250	18	17
Denmark	2 480	930	580	325	25	1 555	37	36
Germany	192 360	103 430	48 255	41 120	14 055	88 930	54	46
Estonia	55	40	35	5	0	15	70	70
Ireland	115	40	35	5	0	75	35	35
Greece	4 430	1 665	1 580	85	0	2 765	38	38
Spain	3 560	1 570	150	1 425	0	1 990	44	44
France	23 245	7 900	4 690	3 210	-	15 345	34	34
Croatia	135	20	15	5	0	115	16	16
Italy	18 910	8 300	1 840	1 950	4 510	10 615	44	20
Cyprus	475	265	20	250	0	210	56	56
Latvia	130	95	15	80	-	35	74	74
Lithuania	125	100	100	0	0	25	80	80
Luxembourg	380	190	185	5	-	185	51	51
Hungary	2 210	80	20	55	5	2 130	4	3
Malta	395	290	60	230	5	105	74	73
Netherlands	4 475	2 380	880	1 340	160	2 095	53	50
Austria
Poland	835	115	35	75	5	720	14	13
Portugal	155	60	10	50	-	95	39	39
Romania	430	325	275	50	0	110	75	75
Slovenia	75	40	35	10	-	35	55	55
Slovakia	40	25	0	10	15	15	67	31
Finland	2 530	1 010	645	210	155	1 520	40	34
Sweden	11 725	6 220	2 610	3 190	420	5 505	53	49
United Kingdom	7 645	2 465	2 215	35	220	5 175	32	29

FIGURE 1: FIRST INSTANCE DECISIONS BY OUTCOME AND RECOGNITION RATES, 1ST QUARTER 2017 - SOURCE: EUROSTAT

Recognition rates and whether refugees have been welcome *em masse* have often depended on State-level incentives to protect. How then might refugees be allocated within the EU in a manner that ensures that States are not incentivized to reject them outright or make determination criteria too difficult to fulfill? As mentioned above, the law requires that signatory States to the 1951 Convention determine whether an asylum seeker is persecuted under Article 1, and if so, grant refugee status; the law does not allow an asylum seeker to be returned to a place where she might be tortured or subject to cruel, inhuman or degrading punishment. Economic or national identity concerns do not figure into the Article 1 definition. Yet States do figure economic and national identity concerns into their refugee policies. Allocating protection then begins with a discussion of relevant economic theory: explanations why States choose to protect against their rational self-interest and at other times, avoid, obfuscate, or outright refuse. Without understanding State incentives to protect and their associated costs, it is difficult to propose an efficient institutional solution. Chapter I takes up this chore and analyzes State-level incentive structures to participate in the refugee regime. It also discusses why centralized regulation may mitigate many of the disincentives to protect. Based on this discussion, reassignment of protection responsibilities is discussed within the framework of joint public goods with the goal of ascertaining conditions that will result in an

efficient allocation of protection, and when it will lead to excess agency, raising transaction costs, blurring accountability, and miring distribution with multi-level legal hurdles. Distribution, in this thesis, is guided by a two-prong definition of efficiency: that European Union Member States host within their preferences and that all refugees are protected per treaty-based obligations.

Allocation in this thesis is presented within the framework of social welfare maximization. States try to optimize the costs and benefits of protecting refugees in order to maximize social welfare. If States view protection as too costly, they will not willingly host. Any successful allocative proposal must therefore lead to the State-perceived benefits of protection being greater than its perceived costs. Examining the nature of protection –its costs and benefits– is therefore crucial towards understanding allocation. The Public Choice and Fiscal Federalism literature guide this portion. Chapter I also extrapolates the *lex lata* of EU refugee protection, particularly in light of enforcement issues. Enforcement is tied to incentive structures in order to clarify which ways the law impacts an efficient allocation.

Grounded in refugee protection from an economic perspective, Chapter II offers an intervention: a market-mechanism between the European Union and the Organization of Islamic Cooperation that allocates refugee protection. The Organisation of Islamic Cooperation (OIC) is the second largest intergovernmental organization after the United Nation (UN), consisting of 57-Member States with a collective population of 1.5 billion. This market mechanism, this thesis argues will efficiently allocate protection for individual EU States, the Union as a whole, as well as individual refugees. Problems of transboundary externalities, matching State and refugee preferences, and allocating potentially large numbers of persecuted human being during times of crisis all are addressed in the mechanism.

Operation wise, the market mechanism allocates quotas for 85 participating States, then allows for transferring protection responsibilities to select EU or OIC States. Transfers enable treaty-based protection obligations to be satisfied when norm commitments to host additional refugees are less than perceived costs. States unable to host (i.e., due to refoulement concerns) fulfill their quota by supporting the protection commitments of hosting States. In addition, to better align refugee and State interests, a matching mechanism is included. Once the market mechanism has been extrapolated, Chapter III analyzes the legality of refugee transfers. This analysis takes an evolutionary approach that attempts to presage developments in the law, and, in doing so, lower the risk of costly legal challenges to transfers. Below, Figure 2 maps out the questions which are addressed in Part I. These questions aim to clarify whether an OIC-EU market mechanism will more efficiently distribute refugee protection.



FIGURE 2: ROADMAP OF PART I QUESTIONS

Part II builds off the allocation analysis. It addresses efficiency of protecting through cost of protection. If Member States are willing to protect when the marginal benefit of protection is positive, lowering the cost of protecting refugees (or raising the benefit) should increase the number of refugees hosted. Or, looking at it from a different angle, the greater a population’s perception that refugees are successfully integrating, the less pressure they may place on politicians to limit refugees (infra 5.3). The way in which this thesis tackles cost is through integration.

Chapters IV and V propose an EU-level mentoring program to promote successful integration and lower the cost of hosting refugees. Using a new dataset collected by the author, Chapter IV evaluates the labor market success of Arabic-speaking refugees who have been mentored in three EU countries: Germany,

Italy, and Greece. It aims to show whether mentoring has positively impacted refugees' employment. The choice of labour market as an integration outcome is guided by that fact that employment is often cited as the bedrock of successful integration.¹⁸Chapter V focuses not on refugees being mentored, but the host population's perception of mentoring as an integration mechanism. Public support has frequently aided positive integration program outcomes; the opposite is also true, and the inability to satisfy local preferences has negatively impacted integration programs (Bloemraad & De Graauw, 2012).¹⁹Using a second original dataset collected by the author, the analysis seeks to discover how a host population's perception, in this case Germany's, perceives the impact of a refugee participating in a mentoring integration program. To do this, a conjoint causal inference tool randomly places attributes shown in the Labor Economics, Acculturation, and Sociology literature to impact integration alongside participation in a mentoring integration program. It asks respondents to choose which individual is 'more desirable' as an immigrant, desirability here proxying integration. This empirical design attempts to answer whether participation in a mentoring integration program is likely to be perceived as an effective integration tool, and, furthermore, whether such participation will mitigate attributes perceived as making a refugee undesirable. The results have implications for crafting a mentoring intervention, and, more generally, lowering the cost function of hosting refugees through enrollment in specific integration programs.

Chapters IV and V examine integration solely within the European context. This is validated by the difficulty many EU countries have had difficulty integrating refugees and the fact that broadening the discussion to include the Middle East and Africa would make incorporating social and legal forces unmanageable. Figure 3 illustrates the questions raised in Part II. These questions are needed to answer the question: Will a mentoring program positively impact refugee integration within European Union Member States thereby lowering the cost of hosting? Figure 4 recaps the thesis' primary research questions.

¹⁸ Sniderman, P. M., Hagendoorn, L., & Prior, M. (2004). Predisposing factors and situational triggers: Exclusionary reactions to immigrant minorities. *American political science review*, 98(1), 35-49.

¹⁹ Bloemraad, I., & De Graauw, E. (2012). Immigrant integration and policy in the United States: A loosely stitched patchwork. *International perspectives: Integration and inclusion*, 205-232.

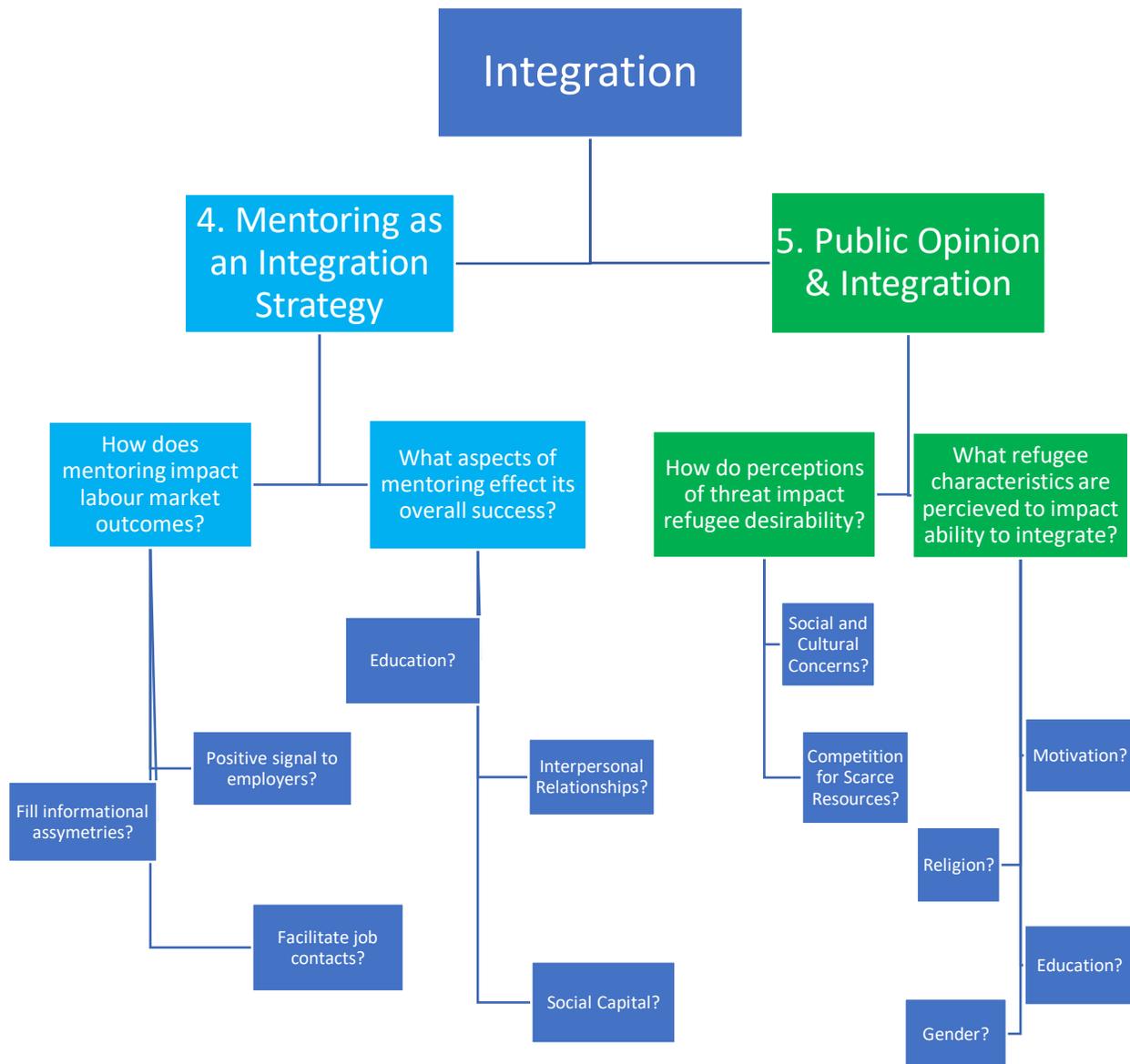


FIGURE 3: ROADMAP OF PART II QUESTIONS

Thesis

Research Question

- How can social and economic forces be brought into equilibrium with the laws governing refugee protection?

Part I

Research Question

- How can refugee protection be efficiently allocated within the European Union?

Part II

Research Question

- Will a mentoring program positively impact refugee integration within European Union Member States and lower the cost of hosting refugees?

FIGURE 4: PRIMARY RESEARCH QUESTIONS

Original Contribution to the Literature

The two spheres of analysis, allocation and integration, address gaps in the literature and constitute this monograph's primary contributions. Although the market-based literature maintains a rich strand of scholarship suggesting refugee transfers on a market, proposals fail to adequately address the legality of such mechanisms or are unable to account for a relative versus absolute allocation. Chapter II, *An EU-OIC Market for Refugee Protection*, fills the second of these gaps. The proposed EU-OIC market-mechanism reconciles the conundrum of allocating above an annual absolute quota by involving Global South actors in an incentive-compatible manner, thereby increasing the scope of burden-sharing. Rather than avoiding, as many studies do (infra 2.2), the possibility that an exclusively EU-market will become glutted during times of crisis, OIC participation enables EU States to intake refugees in line with their labour market needs and integration infrastructures. When integration measures can no longer absorb additional refugees, third-party transfers allow States to ensure protection outside of their own territory. In turn, this disincentivizes a race to the bottom in admission standards, shirking EU directives, or derogating from international legal instruments.

Another contribution of Chapter II is detailing the role of non-hosting States (NHS), those States who are unable to host refugees due to international law or domestic politics. Chapter II delineates how OIC States already overburdened with large refugee populations can receive consistent funding from non-hosting

States, have firm commitments to resettle existing populations, whilst non-hosting OIC States can fulfill their legal commitments and maintain legitimacy as regional leaders with minimal domestic repercussions. None of these measures have been sufficiently addressed in the market-based literature.

Of course, a market mechanism for protection requires not only satisfying market concerns, but legal ones as well. Failure to predict legal challenges to refugee transfers would make market-associated transaction costs prohibitive. Chapter III, *The Legality of Refugee Transfers*, takes up this very issue. Frequently, a Law and Economics approach involves predicting legal challenges to an otherwise efficient economic solution. In this case, transferring refugees may be subject to an array of challenges from extant international legal instruments, but also, potential challenges grounded in dignity-based readings of the law. The difficulty arises in forecasting the angles by which a refugee's dignity might be adjudged violated by European courts. This is primarily due to the multitude of ways dignity has been interpreted on national, supranational, and international levels. To bypass the opacity by which dignity has been applied juridically, Chapter III does not confine its analysis to refugee-related caselaw but looks at how courts have ruled on human dignity in three areas that frequently define the refugee's journey from persecution to safe haven: spatial dislocation, maintaining identity, and individual versus societal clashes. Elucidating judicial responses in these three spheres may better predict future dignity-based challenges to refugee transfers. In turn, transaction costs for a refugee protection quota market can be more reliably maintained.

The second strand of contribution takes aim at the integration literature. While several studies (*infra* 4.1) advance arguments pertaining to the impact of integration programs on labor market success, very few have been able to evaluate empirically how specific integration programs impact employment, and none have done this for the current wave of refugees and a mentoring intervention. Chapter IV, *Mentoring as an Integration Strategy*, fills this gap. A new dataset collected in 2017 from Arabic-speaking refugees in Greece, Italy, and Germany suggests that mentoring has positively impacted refugees searching for gainful employment by fostering increased flow of information, higher levels of social cohesion and generalized trust.

Chapter V, *Public Opinion & Integration*, approaches integration from the perception of the refugee hosting population. The analysis measures the response of a European population (Germany) towards a specific integration mechanism (mentoring) and controls for characteristics shown to be salient to perception of successful integration (e.g., education); to the author's knowledge, no study has measured a specific type of integration program in such a way. The results show the degree to which location-specific preferences interact with a mentoring integration program. If, for example, education, religion or ethnicity proves salient in making refugees more 'desirable' among certain demographics of the German

population, an integration program may have to account for these concerns in its program design. Both Chapters IV and V therefore make noticeable contributions to the literature on integration.

Limitations and Challenges

Despite having the luxury of a dissertation length format, several strands of thought are not included. The reasons for non-inclusion involve not so much length and scope, as focus. For example, why States entered into the 1951 Convention is a fascinating and related topic. Yet treaty ratification has little bearing on *de facto* levels of protection, the focus of the research question. To add the ratification story would be to digress from the central narrative. Neither is a detailed analysis of *de facto* treaty compliance a priority. While Chapters I and II detail the incentive structures to comply with treaty-based obligations, a full analysis would likely include in-depth case studies or empirics that include a range of international human rights treaties with very different dynamics than the 1951 Geneva Refugee Convention. Instead, the stream of analysis focuses on compliance with the Refugee Convention, whilst touching upon general compliance only briefly.

Secondly, the question of State-level legal obligations to integrate refugees is not dealt with in this dissertation. Whilst it is a fascinating topic, it is well outside the scope and focus of this study. Thirdly, while Chapters IV and V evaluate the impact and potential impact of a mentoring integration mechanism, neither chapter accounts for *ex ante* preferences for protecting, neither at the individual nor country level. This may mean that Germans calculate treaty-grounded norms as more valuable than individual refugee characteristics. It also may not. The results of both analyses only speak to the status quo, not the pathways from which these realities are derived. Lack of ability to generalize across time arises from such studies. So, for instance, that Germany may have certain preferences *at this time* does not precisely speak to preferences a year from now. What it does do, however, is underlie the non-static nature of perceived costs and benefits of refugee protection and why non-static solutions are necessary.

Fourthly, there have been several limitations imposed by funding. Chapter IV is not a randomized control study. Though measures were taken to randomize the sample pool (infra 4.3.1), refugees were not randomly selected then placed in a controlled environment. Whether the latter would change the results is highly doubtful in the author's opinion for reasons discussed in Chapter IV, nevertheless, it is possible that self-selection may have played a part. Also, Chapter V's analysis was initially slated to evaluate 8 countries, not only Germany. However, although the author spent months translating and coding the conjoint survey into all 8 languages (Greek, Georgian, Hungarian, Norwegian, Dutch, German, Polish and Turkish), lack of funding disallowed obtaining the necessary Qualtrics responses to undertake such an operation. This

may limit the ability to generalize the German population's preferences across the EU-28, as the above countries fell into three groups, each group with its own theoretical predictions.

A final limitation involves the scope of title's first two words: Institutional Solutions. The solutions provided here are certainly not the only options to address refugee protection. However, they provide policymakers with legally consistent and empirically tested alternatives to the status quo and beckon consideration.

Part I

Chapter I The Economics of Refugee Protection

Chapter I discusses the economics of refugee protection. Having accepted treaty-based commitments to protect individuals fleeing persecution, EU Member States have implicitly agreed to absorb both the benefits and costs of protection. Importantly, while the treaty-derived obligation to protect is static –it doesn't change over time– State perceived costs and benefits derived from refugee protection are non-static. This means that incentives to protect, including adhering to international treaties, must be calculated in light of fluctuating costs, typically economic and sociocultural in nature.

The importance of grounding the discussion in the costs and benefits of protection cannot be underestimated: this thesis' central research question is whether social and economic forces can be brought into equilibrium with the laws governing refugee protection. Without a clear understanding of what constitutes a cost and a benefit, and how they interact with incentives to protect, there is no way to ascertain whether the law can be reconciled with non-static social and economic forces. However, before explicating the costs of protection, the analysis begins with a review of International and European laws governing refugee protection and their ability to be effectively enforced. This will help shed light on how the costs of protection interface with norm-based obligations. It will also help paint an accurate landscape of the status quo: how State-level preferences to protect clash with legal forces.

After clarifying both the *de jure* and *de facto* state of protection, the discussion shifts to an economic analysis and outlines State-level incentives to protect refugees, as well as their associated costs and benefits. If the costs of protection are greater than their benefits, to include treaty-based commitments, and if the law is unable to be enforced, then social and economic forces will supersede the law in the form of deterrent measures for refugees entering European Union territory, more stringent determination of refugee status proceedings, or even amendments to legal instruments. In such cases, an institutional solution to this disequilibrium may therefore be necessary. On the other hand, if benefits outweigh the costs or the law is effectively enforced, then the costs of protection may be lower than their corresponding marginal benefit. In such cases, the law may align itself with social and economic forces without an institutional solution.

1.1 Lex Lata

Article 1 of the 1951 Refugee Convention, defines a refugee as an individual whose “well-founded fear of persecution” drive her outside her country without the ability to return in safety.²⁰ The legal authority for refugee law is the 1951 Convention, along with the 1967 Protocol Relating to the Status of Refugees and the UNHCR Statute.²¹ The 1951 Refugee Convention defines protection without an *ex ante* numerical threshold. Asylum seekers are permitted to arrive at EU borders in any number and may not be penalized for doing so.²² They also must be protected from being *refouled* –sent back to a country where they might be tortured or subject to cruel, inhuman and degrading punishment– for the duration of their risk. Non-fundamental rights are granted at an incremental pace to refugees, conditional on levels of economic and social attachment.²³ These are inescapable obligations enshrined in international instruments.²⁴

From an EU perspective, although the ECJ does not hold jurisdiction to interpret the 1951 Convention, respecting its content is derived from primary law (Article 78(1), TFEU) and may be interpreted through secondary law (i.e., Qualification Directive).²⁵ In addition, the EU has its own jurisprudence. Article 78 of the Treaty of the Functioning of the European Union (TFEU) provides for a common refugee policy,²⁶ with uniform asylum status,²⁷ subsidiary protection,²⁸ and partnership with third countries to manage inflows of applicants.²⁹ This umbrella framework, aptly titled the Common European Asylum System (CEAS)³⁰ is

²⁰ Refugee Convention, (n5).

²¹ It is essential to note that the 1951 and 1967 refugee conventions bind States, while the UNHCR Statute does not. Nevertheless, Article 35(1) of the 1951 Refugee Convention beckons cooperation with the UNHCR in matters of the Convention’s provisions. Statute of the Office of UNHCR, G.A. Res. 428 (V), U.N. GAOR, 5th Sess., 325th mtg., U.N. Doc. A/Res/428 (1950) [hereinafter Statute of UNHCR]. It is essential to note that the 1951 and 1967 refugee conventions bind States, while the UNHCR Statute does not. Nevertheless, Article 35(1) of the 1951 Convention states that contracting States should cooperate with the UNHCR. Courts have taken this to mean that a limitation is placed upon how UNHCR documents can be interpreted as binding. The English Court of Appeal, for instance has found that the UNHCR is to be regarded as “a source of assistance and information” that “although without binding force in domestic or international law...is a useful recourse on doubtful questions” [T. v. Secretary of State for the Home Department, UK House of Lords, 22 May 1996, [1996] 2 All ER 865, [1996] 2 WLR 766].

²² Refugee Convention (n5) art 3.1

²³ Hathaway, J. C. (2005). *The rights of refugees under international law*. Cambridge University Press.

²⁴ Among others: 1951 Refugee Convention, at art 33(1); Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights, as amended) (ECHR) art 3; International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR) art 7; Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III) (UDHR) Art 14.

²⁵ Thym, D., & Hailbronner, K. (2016). Introduction: EU Immigration and Asylum Law: Constitutional Framework and Principles for Interpretation. *published in: Kay Hailbronner and Daniel Thym (eds.): EU Immigration and Asylum Law. Commentary, 2nd edition (CH Beck/Hart/Nomos, 2016)*, p2.

²⁶ Consolidated Version of the Treaty on the Functioning of the European Union, Oct. 26, 2012, 2012 O.J. (C 326/18), at Article 78(1).

²⁷ *Ibid* at Article 78(2)(a).

²⁸ *Ibid* at Article 78(2)(b).

²⁹ *Ibid* at Article 78(2)(g).

³⁰ As per the TFEU (n26) the CEAS, which has a multi-billion-euro budget through 2020. Also, *European Union: Council of the European Union, Presidency Conclusions, Tampere European Council, 15-16 October 1999* [hereafter *Tampere*], at Article 14.

guided by “the principle of solidarity and fair sharing of responsibility”³¹ which under Article 80 TFEU, permits for “appropriate measures” to realize these principles. A failsafe mechanism exists for “an emergency situation”³² and was activated in September 2015 to relocate refugees from Italy and Greece to other EU countries.

In addition to primary law, several EU instruments aim at harmonizing levels of refugee protection.³³ These include the Asylum Procedures Directive,³⁴ the Reception Conditions Directive,³⁵ the Qualification Directive,³⁶ the Dublin Regulation,³⁷ and the EURODAC Regulation.³⁸ These Regulations have been implemented, and Directives transposed into domestic laws to varying extents.³⁹ One noteworthy consequence of transposition is that the procedures regulating determining refugee status is not harmonized. Individual Member States determine which asylum seekers will be given refugee status, subsidiary status, and which will be asked to return to their home countries. This impacts where asylum seekers apply for refugee status. While Dublin clearly indicates that asylum seekers should apply in their first safe country of entry, in reality they may try and circumvent regulations and apply in a more favorable EU State irrespective of EU law. (Gil-Bazo, 2015).⁴⁰ It is noteworthy that directives and regulations are interpreted within the same parameters as other secondary EU legislation; since the EU legal order is not bound by the principles by which public international law is interpreted, these directives and regulations must be interpreted through their wording, general scheme, international law, in addition to unwritten Union law principles.⁴¹

³¹ TFEU, (n26) Art. 80.

³² Ibid at Article 78(3). Currently not applicable to Denmark. Requires opt-in right for application in the United Kingdom & Ireland. See European Commission. COM (2015) 240 final at pages 3, 4.

³³ Also, several Ministerial Conclusions, for example: Council (of Ministers) of the European Union, Conclusions on a Common Framework for Genuine and Practical Solidarity Towards Member States Facing Particular Pressures on their Asylum Systems, Including Through Mixed Migration Flows, 8 March 2012.

³⁴ Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (Asylum Procedures Directive) [2013] OJ L180/60.

³⁵ Ibid.

³⁶ Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.

³⁷ Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 (hereafter “Dublin III”).

³⁸ Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU).

³⁹ The ECJ has implemented *effet utile* in order to ensure effective transposition (i.e., in the case of charging migrants fees that impede the realization of statutory rights. ECJ, Commission vs. Netherlands, C 508.

10, EU:C:2012:243, §65 as footnoted in Hailbronner & Thym (n25) p9. The mandate for transposition is derived from Article 288 TFEU (n26).

⁴⁰ Gil-Bazo, M. T. (2015). The Safe Third Country Concept in International Agreements on Refugee Protection Assessing State Practice. *Netherlands Quarterly of Human Rights*, 33(1), 42-77.

⁴¹ Hailbronner & Thym 2016, (n25) p6.

Despite these irregularities, a comprehensive EU refugee framework exists in consonance with international law, which aims at Community-wide harmonization, recognizes the importance of considering national preferences,⁴² and is in the process of being refined. It is noteworthy that many of these EU instruments have been widely criticized by scholars as being ineffective.⁴³The Dublin Regulations figure prominently into principle this criticism. Southern European States have opposed accepting asylum seekers based on of the first country of origin to which they are disproportionately responsible. And yet, germane to our discussion, Dublin has been harshly criticized for its lack of fairness vis-à-vis EU primary law, *not on the basis of transferring refugees*. Challenges to Dublin thus represent challenges to the *how* of refugee transfers, *not the legality of transfers themselves*.

The Pen and the Sword

The above discussion laid out the legal obligations EU States have committed to by signing and ratifying treaties. Yet signing (*de jure*) and upholding (*de facto*) are two very different matters. A wide corpus of literature has investigated incentives for treaty compliance. While an exegesis of this literature would lead our analysis far astray, still, examining several points is critical for advancing our discussion on incentives for protecting refugees. This is especially the case since calculating a social welfare function requires inputting the benefits that EU Member States receive, some of which may be accrued as a direct result of fulfilling treaty-based obligations. So, why do States comply with human rights treaties in the face of mixed incentives?

Orienting our discussion from the rational choice optic, States should neither sign nor uphold international treaties. Even if States ratify a human rights treaty, from a Realist point of view, they should not uphold their norm commitments.⁴⁴Treaty compliance often curbs the ability of States to act like a benevolent dictator and maximize their social welfare function. Then why sign in the first place? One reason is disingenuity: leaders may enter into treaties with little intention of complying. Nielson and Simmons (2015) articulate this window-dressing “as a low-cost opportunity to express support for a

⁴² 67(2) TFEU; Thym, D. (2013). EU migration policy and its constitutional rationale: A cosmopolitan outlook. *Common Market L. Rev.*, 50, at 723

⁴³Hatton, T. (2014). The Slump and Immigration Policy in Europe. In *Crisis and Migration: Implications of the Eurozone crisis for Perceptions, Politics, and Policies of Migration*. Nordic Academic Press.

⁴⁴ A wealth of research has analyzed whether *de jure* ratification positively affects *de facto* upholding human rights law realities. The evidence has been extremely mixed depending on the angle taken, dataset used, and modelling strategy(i.e., Hug and Wegmann (2016) find that results are often time dependent and significantly affected by type of compliance system, while Cingranelli & Filippov (2018) find that by including lesser human rights violations into the data analysis, the positive effect of human rights treaties dissipate. Hug, S., & Wegmann, S. (2016). Complying with human rights. *International interactions*, 42(4), 590-615; Cingranelli, D., & Filippov, M. (2018). Are Human Rights Practices Improving?. *American Political Science Review*, 112(4), 1083-1089.

cooperative international endeavor.”⁴⁵This makes sense given that the literature has shown that ratification has little to no positive impact on compliance (Neumeyer, 2005).⁴⁶However, disingenuous motives behind ratification can backfire when their implementation and monitoring is delegated to domestic institutions (Moravcsik, 2000).⁴⁷ This has been shown to be the case with pressure from civil society (Hendrix & Won, 2013; McEntire et al., 2015),⁴⁸ independent judiciaries (Keith et al., 2009) and veto power from opposition groups in the national legislature (Lupu, 2015).⁴⁹ The latter may be because treaty ratification leads to the empowerment of the legislature and removes the executive’s discretionary power (Hathaway, 2007).⁵⁰ When the executive still retains hegemonic control, interaction between multiple parties (Freeland, 2008) or interaction between the judiciary and political parties (Conrad, 2014) may be necessary to force his commitment to human rights treaties.⁵¹ Interestingly, some of the most vociferous opposition within the EU to refugee absorption are leaders whose party enjoys a strong command over their national legislatures (i.e., Viktor Orban in Hungary). Other streams of thought have looked to domestic politics to gauge the electoral effects of ratification. In a recent study analyzing international environmental agreements, Battaglini and Harsted (2018) find that incumbents negotiate weak treaties –defined by the authors as ineffective or with weak monitoring and enforcement mechanisms– with strong reelection concerns.⁵²Domestic political economy agendas may therefore lead to negotiating suboptimal agreements.

⁴⁵ Nielsen, R. A., & Simmons, B. A. (2015). Rewards for Ratification: Payoffs for Participating in the International Human Rights Regime?. *International Studies Quarterly*, 59(2), p200.

⁴⁶ Neumayer, E. (2005). Do international human rights treaties improve respect for human rights?. *Journal of conflict resolution*, 49(6), 925-953. For a recent study showing a positive effect of treaties on *de facto* realities, see Fariss, C. J. (2018). The changing standard of accountability and the positive relationship between human rights treaty ratification and compliance. *British Journal of Political Science*, 48(1), 239-271.

⁴⁷ Moravcsik, A. (2000). The origins of human rights regimes: Democratic delegation in postwar Europe. *International Organization*, 54(2), 248. Nonetheless, this doesn’t negate all the incentives to violate treaty-based commitments. Leaders still may have incentives to break treaty-based obligations including weakening opposition parties. See Ritter, E. H. (2014). Policy disputes, political survival, and the onset and severity of state repression. *Journal of Conflict Resolution*, 58(1), 143-168.

⁴⁸ Here, again, the evidence is mixed. Hendrix & Won (2013) and McEntire et al. (2015) find a positive impact on compliance from civil society organizations making information transparent, pressuring, naming and shaming. On the other hand, Esarey & DeMeritt (2017) don’t find that NGO shaming and decrease foreign aid, while Peterson et al., (2018) find that NGO shaming only hurts regimes if the commercial relationship is with a non-human rights law violator. Hendrix, C. S., & Wong, W. H. (2013). When is the pen truly mighty? Regime type and the efficacy of naming and shaming in curbing human rights abuses. *British Journal of Political Science*, 43(3), 651-672; McEntire, K. J., Leiby, M., & Krain, M. (2015). Human rights organizations as agents of change: An experimental examination of framing and micromobilization. *American Political Science Review*, 109(3), 407-426; Esarey, J., & DeMeritt, J. H. (2017). Political context and the consequences of naming and shaming for human rights abuse. *International interactions*, 43(4), 589-618; Peterson, T. M., Murdie, A., & Asal, V. (2018). Human rights, NGO shaming and the exports of abusive states. *British Journal of Political Science*, 48(3), 767-786.

⁴⁹ Lupu, Y. (2015). Legislative veto players and the effects of international human rights agreements. *American Journal of Political Science*, 59(3), 578-594; Keith, L. C., Tate, C. N., & Poe, S. C. (2009). Is the law a mere parchment barrier to human rights abuse?. *The Journal of Politics*, 71(2), 644-660; But see, Conrad et al (2018) who explicate some of the downsides of strong domestic institutions on upholding international human rights treaties. Conrad, C. R., Hill Jr, D. W., & Moore, W. H. (2018). Torture and the limits of democratic institutions. *Journal of Peace Research*, 55(1), 3-17.

⁵⁰ Hathaway, O. A. (2007). Why do countries commit to human rights treaties?. *Journal of Conflict Resolution*, 51(4), 594.

⁵¹ Conrad, C. R. (2014). Divergent incentives for dictators: domestic institutions and (international promises not to) torture. *Journal of Conflict Resolution*, 58(1), 55.

⁵² Battaglini, M., & Harstad, B. (2018). The Political Economy of Weak Treaties. (No. w22968). National Bureau of Economic Research.

Yet, ratifying the 1951 Convention is not an issue with refugee protection in the European Union. Rather, it is compliance. If EU States benefit from being in a community of norms when refugee inflows are low, why would they comply with the Convention during times of mass migration or when refugees were of an undesirable demographic? Addressing this very question, rewards theory seeks to answer whether States receive tangible or intangible benefits for treaty compliance. While a number of studies focus on credible commitments and legitimacy within the international community (Meyer et al., 1997; Simmons, 2000; Hill, 2010);⁵³ a number of studies hone their lenses onto more tangible external rewards such as foreign direct investment (Garriga, 2016)⁵⁴ or foreign aid (Smith-Cannoy, 2012).⁵⁵ This body of research has not found a consistent relationship between tangible rewards and treaty compliance. In fact, the above studies, often zeroing in on non-Democratic States, have found no significant effect.

And when there is treaty-compliance in the aggregate, as Lupu (2015) and Poe (2004) remind us, violations in one domain may be strategically substituted.⁵⁶ For example, while a State may comply with a treaty's provisions on the surface, in our context, agreeing to protect individuals fleeing persecution, they may make positive determination standards so stringent as to deny the majority of claimants who fall under the Convention's Article 1 definition of the refugee, thereby undermining the Convention's purpose. In fact, Lupu's argument, that "the effect of constraining institutions is not only a reduction in levels of repression, but also a change in the form of repression"⁵⁷ is critical towards unravelling this dissertation's research question. Transposed onto refugee protection, this means that EU States may comply with the strictures of the 1951 Convention up until they feel adversely affected by the cost of protection. It is then that States will begin to deter, derogate, and amend so that their treaty-based commitments become cheap talk.

Why then comply?

⁵³ Meyer, J. W., Boli, J., Thomas, G. M., & Ramirez, F. O. (1997). World society and the nation-state. *American Journal of sociology*, 103(1), 144-181; Simmons, B. A. (2000). International law and state behavior: Commitment and compliance in international monetary affairs. *American Political Science Review*, 94(4), 819-835; Hill Jr, D. W. (2010). Estimating the effects of human rights treaties on state behavior. *The Journal of Politics*, 72(4), 1161-1174.

⁵⁴ Garriga, A. C. (2016). Human rights regimes, reputation, and foreign direct investment. *International Studies Quarterly*, 60(1), 160-172.

⁵⁵ Smith-Cannoy, H. (2012). *Insincere Commitments: Human Rights Treaties, Abusive States, and Citizen Activism*. Georgetown University Press.

⁵⁶ Poe, S. C. (2004). The decision to repress. *Understanding human rights violations: new systematic studies*. Aldershot: Ashgate, 16-42; Lupu 2015 (n49).

⁵⁷ Lupu 2015 (n49) p31.

1.2 Incentives to Protect

In the presence of social and economic costs why do States comply with the 1951 Refugee Convention and agree to protect refugees? Or, put in economic terms, simply, what are the incentives to uphold treaty obligations to protect? From an economic perspective States have powerful disincentives to offer protection. Not only must they provide a minimum core dignified existence, –Germany, for example, spent 10 billion euro for housing and food in 2015 with real costs as high as 21 billion euro– but they must confront issues pertaining to integration, national identity, labor competition and opportunity costs from expensive and often ineffective procedures.⁵⁸ From a rational choice optic, free-riding (infra 2.2.1) –taken to mean signing and ratifying refugee treaties, but allowing other States to do the actual hosting– should be the dominant strategy to an obligatory protection regime.⁵⁹ And when free-riding is not possible amending the law is a rational strategy. Danish prime minister, Lars Løkke Rasmussen, for example, recently spoke of wanting to “change the rules of the game” by amending the 1951 Refugee Convention. Denmark and Switzerland, two of the wealthier nations in Europe, have both seized refugees’ assets to offset processing costs. From an economic perspective then, it is not at all obvious, why an EU Member State would comply with a legally binding refugee regime without an upper boundary.

One reason is norms. Though amending the law or jockeying the General Assembly to curtail the UNHCR’s mandate might have short-term economic and social benefits, Member States comply with treaties because they derive utility from being part of an interconnected network of international human rights law. Simply put, there exists a State preference for upholding human rights undergirding their norm commitment (Sikkink, 2011).⁶⁰ This holds true both for ratification and for complying with normatively meaningful treaty content. Studies have shown that norm commitments guide many States’ willingness to absorb refugees disproportionate to their respective GDP (Thielemann, 2003). Further supporting this point, a strong correlation exists between domestic redistribution, giving foreign aid, and offering protection.⁶¹ To refuse to comply with the Geneva Convention would have far-reaching repercussions for individual Member States and the EU as a whole. It is not simply a matter of optimizing the law to fit economic strategies. Refugee protection is layered in several universal fundamental rights and grounded in human dignity. To deny shelter for those fleeing persecution or place an *ex ante* limit on the notion of protection

⁵⁸ Fernández-Huertas Moraga, J., & Rapoport, H. (2015). Tradable refugee-admission quotas and EU asylum policy. *CESifo Economic Studies*, 61(3-4), 638-672.

⁵⁹ Sykes, A. O. (2013). International cooperation on migration: Theory and practice. *The University of Chicago Law Review*, 80(1), 315-340.

⁶⁰ Sikkink, K. (2011). *The Justice Cascade: How Human Rights Prosecutions Are Changing World Politics (The Norton Series in World Politics)*. WW Norton & Company;

⁶¹ Thielemann, E. R. (2003). Between interests and norms: Explaining burden-sharing in the European Union. *Journal of refugee studies*, 16(3), 264.

would begin to dismantle the post-World War II value system and Europe's place at the vanguard of human rights law.

Another reason is reputation. A wealth of research has studied the reputational effects of treaty compliance. Early studies by the likes of Joel Sobel (1985) connected reputation and reliability to cooperation through the lens of a principle double-agent model. A number of studies have followed up with game-theoretic predictions concerning the impact of reputation on defection and compliance. Guzman (2002), looking at repeated prisoner dilemma games, surmises reputational effects figure prominently into State compliance against rational actor predictions. Downs and Jones (2004) take a more nuanced view arguing for multiple reputations that fluctuate depending on their source and value. Keohane (2005) distinguishes between long and short-term incentives to comply with treaties, even when going against rational choice predictions. The author notes that it is not only fears of retaliation but maintaining reputations that lead to compliance. Later, Keohane and Victor (2016) note that reputational incentives and decentralized policy coordination might lead to higher levels of compliance. Other studies have approached the reputation-compliance nexus from a psychology point of view. Byram (2017) shows how reputational effects factor into solidifying a European identity which in turn leads to compliance. While Cialdini & Goldstein (2004) reveal how fostering a positive self-concept and maintaining social relationships may lead to compliance. Reputation here is an important byproduct of self-concept.

Aside from the abovementioned reasons, several factors make offering protection attractive for EU States. One incentive is Inter-Union solidarity. In consonance with the TFEU, refugee matters are governed “by the principle of solidarity and fair sharing of responsibility, including its financial implications” and are to be “achieved by means of the principle of solidarity.”⁶² Partaking in a Community-wide burden-sharing regime plays into a narrative in which freedom of movement and other reciprocal benefits are realized. Remaining in the current regime may also reduce transaction costs from asylum-shopping by having supranational oversight. EURODAC fingerprints databases, increasing the number of border agents and coordinated border patrols have all impeded unauthorized secondary movement.⁶³

In addition, there are also incentive-entailing benefits that may be unobservable. Protecting displaced persons positively impacts security, which is why some scholars have argued that refugee protection is a public good, non-excludible and non-rival.⁶⁴ Security here includes transit-associated violence and

⁶² Cf. TEU (n16) art 80. See also Commission vs. Italy (1973) ECJ, §102.

⁶³ Garlick, M. (2016). The road more travelled? Onward movement of asylum seekers and refugees. *Forced Migration Review*, (51), 42.

⁶⁴ Suhrke, A. (1998). Burden-sharing during refugee emergencies: the logic of collective versus national action. *Journal of refugee studies*, 11(4), 396-415.; Hatton, T. J. (2015). Asylum Policy in the EU: the case for deeper integration. *CESifo Economic Studies*, 61(3-4), 605-637.6

spreading conflict to neighboring countries.⁶⁵ Insurance policies during times of external shock are likewise an incentive for States afraid of being asked to host beyond their reception and integration capacities. Insurance through annual absorption quotas (infra 2.2.3) regulate large inflows of asylum seekers during catastrophes and other external shocks. States are ensured an exact quota of refugees each year that they must absorb and do not have to worry about shocks to their asylum infrastructure.

1.3 Enforcement Mechanisms

If norm, electoral, or economic incentives fail to prevent an under provision of refugee protection, enforcement mechanisms should act as the buttress supporting the 1951 Convention. For the purpose of our discussion, enforcement will be looked at both at the international and EU levels.

1.3.1 EU-Level Enforcement

Who enforces Member States to uphold EU primary law's protection mandate (Article 78 TFEU) and the several Regulations and Directives guiding its implementation?⁶⁶ This question is of particular importance since burden sharing proscriptions are typically implemented at the national level. For example, first instance decisions that determine whether to grant an applicant refugee, subsidiarity, or humanitarian status are assessed domestically. Essentially, this means that without effective supranational enforcement, States who don't want to host refugees may fail to recognize persecuted asylum seekers as refugees, pushing them to more lenient EU States to apply for refugee status or live illegally.

As Figure 5 shows, recognition rates vary considerably by State. Using three-Member States recognized for hosting (Germany, Sweden, The Netherlands), two often portrayed as not having a preference to host (Poland, Czech), and one in the middle (France), we can see that, except for Poland, all six countries have drastically reduced their recognition rates from 2016 to 2017. Still, the three 'hosting countries' averaged well above 60 percent recognition rates in 2016 and 40 percent in 2017, whereas Poland and the Czech Republic averaged 22% in both years. France, on the other hand, remained steady, dropping from 32 to 25 percent. These numbers further validate the claim that the status quo is one of freeriding and that States

⁶⁵ Thielemann (n61) p264; Nadig, A. (2002). Human smuggling, national security, and refugee protection. *Journal of refugee studies*, 15(1), 1-25; also, Echevarria & Gardeazabal provide a gravity model, which, while not informative of the public good nature of security, suggests that the determinants of forced migrations such as internal violence, have the potential for spillover. Echevarria, J., & Gardeazabal, J. (2016). Refugee gravitation. *Public Choice*, 169(3-4), 269-292.

⁶⁶ European Union: Council of the European Union, Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast), 20 December 2011, OJ L. 337/9-337/26; 20.12.2011, 2011/95/EU; Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013; Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 (hereafter "Dublin III"); Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (Asylum Procedures Directive) [2013] OJ L180/60; Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection.

without a preference for hosting refugees apply more stringent refugee determination criteria. However, they don't tell the full story.

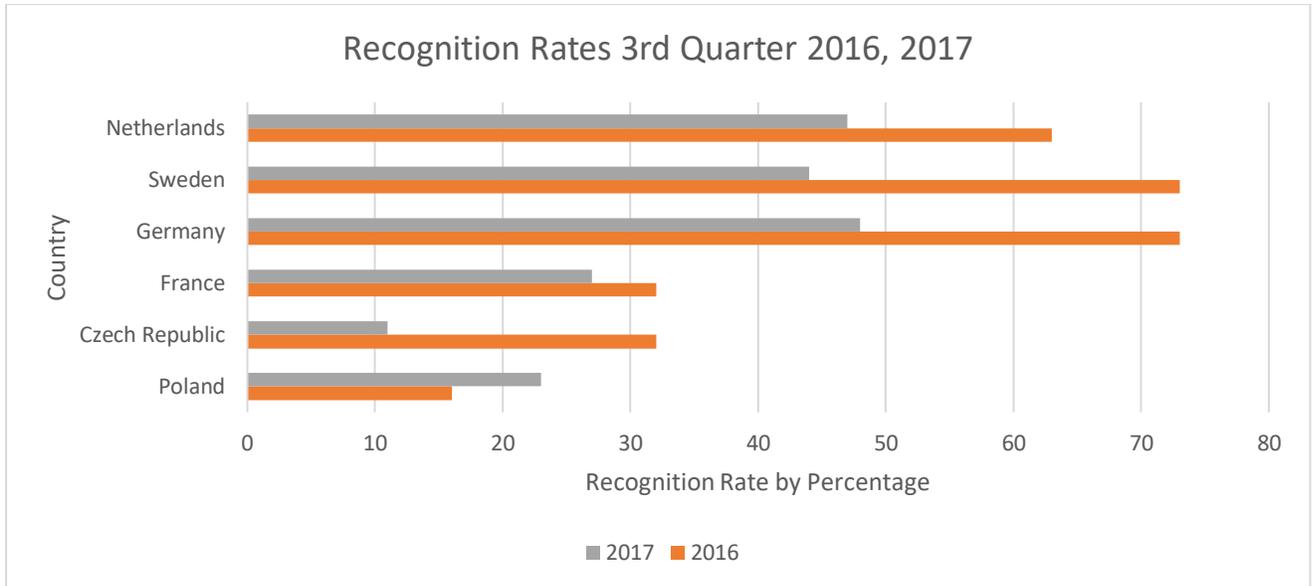


FIGURE 5: THIRD QUARTER RECOGNITION RATES OF REFUGEE STATUS, SUBSIDIARY PROTECTION AND HUMANITARIAN (SOURCE: EUROSTAT).

Figure 6 shows the real numbers of humanitarian migrants granted refugee and subsidiary protection. It reveals that, while Germany and Sweden absorbed 104,000 and 17,000 respectively, in 2016, Poland and the Czech Republic accepted a combined 170. This means that if Germany would have applied the same recognition rates as Poland in the third quarter of 2016, it would have granted positive status to approximately 31,000 (22%) asylum seekers instead of nearly 105,000 (73%). Conversely, if Poland would have applied Germany's recognition rates for the third quarter of 2016, Poland would have determined positive status for 265 (73%), not 80 (22%) asylum seekers. Given these figures, it is hardly surprising that Berger and Heinemann (2016) find that 22 EU countries are freeriding off six countries.⁶⁷ Similar results have been reported by Enderlein & Koenig (2016).⁶⁸ Thus, despite refugee protection

⁶⁷ When applying the EU's hosting formula -absolute GDP, plus population size subtracted from the sum of unemployment rate and previous hosting. One might argue that, while asylum seekers have made Germany and Sweden priority destinations and not Poland or the Czech Republic, it would not matter if Poland accepted 265 or 80 asylum seekers, since both numbers are a drop in the bucket compared to Germany's nearly 105,000. However, given Poland's recognition rates it is illogical that they would positively determine at a higher rate if more asylum seekers entered Polish borders. The small number remains indicative of freeriding, especially in light of deterrent measures VISEGRAD group members have enacted (infra Chapter III).

⁶⁸ Enderlein, H., & Koenig, N. (2016). Towards Dublin IV: Sharing norms, responsibility and costs. *Jacques Delors Institut—Berlin policy paper*, (169).

being grounded in EU primary law, and legislated through several secondary law instruments, the lack of clarity at each phase of execution has meant that *ex ante* legislation has proven insufficient to achieve an equitable Union-wide allocation, prevent freeriding or ensure those genuinely fleeing persecution are granted refugee status.⁶⁹

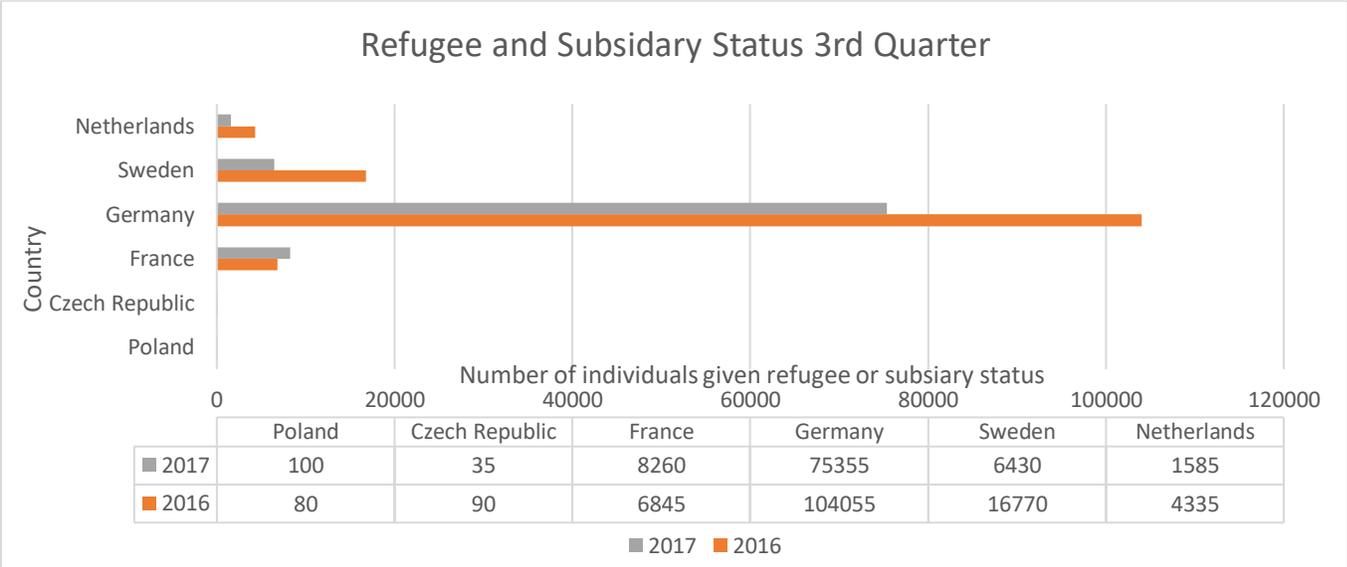


FIGURE 6: REFUGEE AND SUBSIDIARY STATUS 3RD QUARTER 2016, 2017 (SOURCE: EUROSTAT)

Significantly, what guidance is present in secondary legislation and extrapolated from primary law has suffered from weak enforcement structures.⁷⁰ What tools are available to States who refuse to comply with EU law? One tool is infringement proceedings. Under Article 258 TFEU, infringement proceedings can only be commenced if a Member State has breached EC law, for instance, for failing to properly transpose or implement directives at the national level. Ignoring initial infringement steps can lead to a European Court of Justice (ECJ) referral. If an Article 258 litigation brought by the EU against a noncompliant Member State results in continued noncompliance, fines might be levied or funds

⁶⁹ In cases of increasing heterogeneity, the literature suggests that it is better to establish *ex ante* the allocation of goods in a constitutive document even if too much centralization in the constitutive document might lead several Members not to join the Union, thus impacting the efficiency gains from economies of scale. See also: Mittal, S. (2010). Constitutional stability in a changing world: Institutions, knowledge and adaptive efficiency. Working paper. Department of Political Science, Stanford University.

⁷⁰ Knowing that there might be *ex post* efforts at regulating protection, Member States have ensured that enforcement mechanisms are sufficiently weak so that any post Lisbon Treaty efforts to mandate a comprehensive system of allocation will not be viable. Grigonis, S. (2016). EU in the face of migrant crisis: Reasons for ineffective human rights protection. *International Comparative Jurisprudence*, 2(2), p. 97. For more on the downward shift in post-Lisbon accountability see: Brandsma, G. J., Heidbreder, E., & Mastenbroek, E. (2016). Accountability in the post-Lisbon European Union. *International Review of Administrative Sciences*, 82(4), 621-637.

withheld.⁷¹ Financial sanctions would fall under Article 260 and directed by the Court of Justice in the event of noncompliance.⁷² By and large, recalcitrant EU States have not treated these threats with much concern and have maintained obstinance as the status quo.⁷³ Despite some success in specific cases where an admixture of hard and soft power resulted in compliance, for instance, fishing protection regulations in France (Faulkner, 2016), as Kochenov and Pech (2015) note, “the Commission’s infringement powers have proved ineffective to remedy systemic violations of EU values.”⁷⁴

Enforcement might also be realized by Article 7 TFEU in which persistent violators of fundamental rights [as explicated under Article 2 TFEU] could be sanctioned. Sanctions under Article 7 include curtailing voting rights and suspending (but not expelling) membership rights within the EU.⁷⁵ Although this so-called “nuclear option” was contemplated for discrimination of Roma by France, and political corruption in Romania, it has only recently been triggered against Poland in December 2017 for infringement of the judiciary. Tellingly, Hungary has already signaled that they would prevent the unanimity needed under Article 7(2) to curtail Poland’s voting rights. Even triggering Article 7(1) dealing with fundamental freedoms has thus not had a strong positive effect on forcing compliance with EU law.⁷⁶

This lack of effective enforcement at the EU level is a critical point in the refugee protection narrative. It means that EU Member States who do not want to host in consonance with EU directives cannot be effectively punished at the supranational level to the extent that the cost of shirking EU mandates outweighs the costs of hosting refugees above State preferences. Resolutions typical of collection action problems will thus not necessarily lead to an efficient outcome, since, in the absence of enforcement, the gains from cooperation with the European Union (i.e., political capital, reputation) will not necessarily be equal to the subsequent State-level costs (e.g., electorate-related dissatisfaction).⁷⁷ Neither will such gains

⁷¹ See Article 260 TFEU (n26).

⁷² Wenneras, P. (2012). Sanctions against Member States under article 260 TFEU: alive, but not kicking. *Common Market L. Rev.*, 49, 145; Radivojević, Z., & Raičević, N. (2018). Financial sanctions against member states for infringement of EU law. *EU and comparative law issues and challenges series*, 1, 171-191; Jack, B. (2013). Article 260 (2) TFEU: An Effective Judicial Procedure for the Enforcement of Judgements?. *European Law Journal*, 19(3), 404-421.

⁷³ Hillion, C. (2014). A Powerless Court? The European Court of Justice and the EU Common Foreign and Security Policy. Last accessed 08 August 2018 from <https://ssrn.com/abstract=2388165>.

⁷⁴ Kochenov, D., & Pech, L. (2015). Monitoring and Enforcement of the Rule of Law in the EU: Rhetoric and Reality. *European Constitutional Law Review*, 11(3), 516; Falkner, G. (2016). Fines against Member States: An effective new tool in EU infringement proceedings?. *Comparative European Politics*, 14(1), 36-52.

⁷⁵ European Commission, ‘Article 7 of the Treaty on European Union – Respect for and promotion of the values on which the Union is based’ [2003] (COM(2003) 606 final), 5.

⁷⁶ Kochenov, D. (2017). Busting the myths nuclear: A commentary on Article 7 TEU. EUI Working Paper No Law 2017/10, University of Groningen Faculty of Law.

⁷⁷ This remains true for benefits even when they’re discounted. In the economic literature, the allocation of public goods between actors is often framed through Prisoner Dilemma games that cannot sufficiently account for the distributive concerns, particularly the non-static distributive concerns that States have. As such there is no binary cooperate or defect in coordinating refugee protection. Shaffer, G. (2012). International law and global public goods in a legal pluralist world. *European journal of international law*, 23(3), 681.

account for electoral shifts shown in the Political Economy literature to impact cooperation with Federal or supranational structures.⁷⁸

Because the issue is not creating new legislation, but strengthening enforcement mechanisms, the European Commission would need to overhaul enforcement or conclude that shunning Member States over inadequate transposition of refugee-related directives is worth fragmenting the Union. Both are entirely unrealistic. Accordingly, as heterogeneity in State attitudes towards hosting increases, and incentives for *ex post* bargaining have already proved unable to achieve an optimal level of protection, a mechanism able to coordinate incentives between States may be necessary.

1.3.2 International-Level Enforcement

International-level enforcement takes place through human rights treaty bodies or Universal Periodic Reviews (UPR). Human rights treaty bodies monitor the implementation of the nine core human rights treaties, as well as the Optional Protocol to the Convention against Torture (OPCAT). Essentially, each treaty body acts as an oversight mechanism and are all supported by Office of the High Commissioner for Human Rights (OHCHR), especially in reporting and harmonizing working methods. Each treaty body, or committee, consists of independent experts and fulfills several important functions which are defined in their respective protocols.⁷⁹ Committees interpret treaties, monitor State progress on implementing measures prescribed by the treaty body, provide guidance how to transpose international law at the domestic level, and help identify implementation gaps (Mechlem, 2009).⁸⁰ As Mechlem (2009) notes, treaty bodies “play an important role in establishing the normative content of human rights and in giving concrete meaning to individual rights and state obligations.”⁸¹

However, these committees do not possess classic enforcement instruments; treaty body reports are nonbinding and participation in treaty bodies is optional. Treaty mechanisms assume that countries that have opted-in have sufficient commitment to implement recommendations. In the case of recalcitrant States, treaty bodies follow up with quiet diplomacy, such as soft pressure through influencing public opinion. Strong reports may also convincingly reference binding law thereby providing a legalistic pathway towards enforcement.

⁷⁸ Somer-Topcu, Z. (2015). Everything to Everyone: The Electoral Consequences of the Broad-Appeal Strategy in Europe. *American Journal of Political Science*, 59(4), 841-854.

⁷⁹ OHCHR. ‘Human Rights Treaty Bodies’ last accessed February 27, 2019 from <https://www.ohchr.org/en/hrbodies/Pages/HumanRightsBodies.aspx>.

⁸⁰ Mechlem, K. (2009). Treaty bodies and the interpretation of human rights. *Vand. J. Transnat'l L.*, 42, 905.

⁸¹ *Ibid.* p908.

Some treaty bodies have individual, as opposed to only inter-State, complaints procedures. Although there have been no individual cases filed regarding asylum claims, there have been two recent instances where treaty bodies have discussed asylum seekers. In 2017, the Committee on the Elimination of Racial Discrimination (CERD) expressed “alarm” at Australia transferring asylum seekers in conditions that allowed for the impunity of human rights violations.⁸² Similarly, the Committee Against Torture (CAT) expressed “concern[ed]” at Australia transferring asylum seekers to a detention facility in Manus Island, Papua New Guinea. The Committee’s concern focused on harsh conditions, uncertainty, and closed detention which “creates physical and mental pain and suffering.”⁸³ Australia did not change their Manus Island policy as a direct response to these concerns and alarms.

UPR’s, which are periodic reviews of a State’s human rights record, also lack a binding enforcement mechanism and constitute a soft power approach to regulation. Each participating country has a UPR every 4 to 5 years, which compliment treaty bodies and other human rights mechanisms through country reviews.⁸⁴ In November 2015, Australia received two recommendations under its UPR concerning its Manus Island detention facility. Germany asked that Australia “review” its offshore asylum processing policies and concomitant legislation to ensure it did not breach non-refoulement obligations. Maldives recommended that Australia immediately close its Manus Island and Nauru detention facilities. Australia “noted” both recommendations –that is, did not formally accept them.⁸⁵ As such, no viable international enforcement mechanisms guiding the protection of refugees exists at the UN level. This means that EU States cannot be effectively punished for shirking their legal obligations to protect individuals fleeing persecution. Sufficient incentives must then be emplaced to ensure an optimal level of provision both at the State and supranational level.

1.4 Costs

Incentives and disincentives to protect, however, must be considered in light of protection costs. Before proceeding onwards, it is important to ground our argument in the theoretical constructs driving costs of protection. We must determine what variables constitute costs of protection, for whom these costs are assessed, and how costs and benefits lead States to welcome or limit refugees.

1.4.1 Costs and Optimal Allocation in Economic Theory

Economic theory tells us that individuals will try and maximize their utility. When States try to maximize the aggregate of individual utilities by providing an optimal provision of resources, they are maximizing

⁸² ICERD. (2017) CERD/C/AUS/CO/18-20 (CERD, 2017) at 29.

⁸³ CAT. (2014) -CAT/C/AUS/CO/4-5 (CAT, 2014).

⁸⁴ UN General Assembly, Human Rights Council: resolution adopted by the General Assembly, 3 April 2006, A/RES/60/251.

⁸⁵ UN General Assembly, Universal Periodic Review. National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, 13 November 2015, A/HRC/WG.6/23/AUS/1.

social welfare (Cooter & Ulen, 2016). Before optimization takes place, the value of the resources, the goods or provisions in question, must be evaluated. Resources may include scarce goods such as water, or more abstract ones, for example, social cohesion. In the latter context, the primary intragroup resource are the members themselves whose interaction generates social utility and is impacted by social compatibility.⁸⁶

From the Public Choice literature, we can separate the optimal allocation of protection from both the State and supranational perspective. This is germane to the context of refugee protection since the values EU States or even the EU itself assign to the costs and benefits of refugee protection often display considerable variance. One reason for this difference is that individual preferences towards allocating a resource is usually best known within that State. Despite the potential for spillovers onto neighboring States, the majority of economic, social, and cultural costs of refugee protection are borne by at the country, not supranational level. This answers one of the questions posed at the introduction of Chapter 1.4: the ‘who’ to whom costs are assessed are refugee-hosting States who often worry about allocating scarce resources. Unless economies of scale can be realized, social welfare maximization at the State-level is often more likely to take into account local preferences and result in an optimal provision. Moreover, a supranational entity will frequently look to maximize its social welfare function in a Pareto efficient manner, that is, where Member-States are better off without any individual State being made worse off. On the other hand, individual States may aggregate their social welfare function in a different way, for example, through a State-specific Kaldor-Hicks efficiency, focusing on net gains to that society.

This dissertation focuses on efficient allocation of protection through maximizing EU Member State social welfare functions. This is not to say that supranational or third-party countries do not figure into the equation. Indeed, the proposal of an EU-OIC market presupposes 57 non-EU Member States and two supranational entities. Still, efficiency of allocation in this dissertation is measured solely among EU States, since States determine whether an asylum seeker qualifies for refugee status, individuals within States are the entities whose utility functions are primarily affected by hosting, and States, not the Union itself, have deterred refugees due to perceived economic, social, and cultural costs.

How then to maximize social welfare and optimize allocation of protection? As Holcombe (2012) notes, in many economic models, planning the optimal allocation of a resource requires replicating the conditions of a benevolent dictator who has full control and authority over allocation. This dictator changes the non-optimal status quo to become an optimal allocation.⁸⁷ However, the unobservable nature of external costs means that an optimal solution is non-attainable, especially if external costs are non-

⁸⁶Alchian, Armen ‘Property rights’ in Durlauf, S. N., & Blume, L. (Eds.). (2008). *The new Palgrave dictionary of economics* (Vol. 6, pp. 631-34). Basingstoke: Palgrave Macmillan.

⁸⁷Holcombe, R. G. (2012). Make economics policy relevant. *Independent Review*, 17(2).

static and change frequently. The inability of general equilibrium models to fully account for costs ultimately means failure despite there being “something aesthetically pleasing about demonstrating an optimal policy with mathematical precision regardless of how loosely the math is connected to reality.”⁸⁸ Suggestions such as internalizing externalities through a corrective tax to efficiently allocate protection in a Pareto manner also requires quantifying the cost of protection

Avoiding general equilibrium models, the first step towards maximizing social welfare for EU States is to clarify the nature of their costs and benefits. When the value a State places on the social good of protecting refugees falls below these perceived costs, there is often national-level consensus that “Migration should be encouraged but not at the expense of the well-being of the population of the destination country.”⁸⁹ Critically, these costs need not reflect reality. Whether refugees are at times costly economically, or socially matters only insofar as influences a State’s policies on refugee protection. Because each voter has a utility function which may be influenced by refugee protection, and voters impact electoral outcomes, if voters feel that the current level of allocating protection adversely affects their individual utility and the county’s overall social welfare function, they may impact the absorption of refugees. Chapter 5.2.1 details perceptions of threat underlying that many EU host populations feel towards refugees and the consequent effect on policies. This strand of analysis, largely derived from Realistic Conflict Theory, predicts outgroup hostility and intergroup conflict when threatened by the outgroup.⁹⁰ Threat impacts individual utility, and may also shape policies towards refugees by informing electoral behavior.

Contemporary research supports the impact of the 2014-2017 wave of refugees on anti-immigrant electoral behavior. Many of these studies employ IV-type strategies to clarify the nexus of voting behavior.⁹¹ For example, in a recent study, Barone et al. (2016) finds that migration flows lead to greater electoral gains for anti-refugee parties in Italy.⁹² Similarly, threat of refugees has been linked to the fortification of anti-refugee right wing parties in Denmark (Halla et al., 2017), Greece (Dinas et al., 2018), Germany (Otto & Steinhardt, 2017) and Turkey (Altindag & Kaushal, 2017), while the percentage of cultural heterogeneous immigrants is a significant determinant in increase of right wing votes for the Swiss

⁸⁸ Ibid p173.

⁸⁹ Sachs, J. D. (2016). Toward an international migration regime. *American Economic Review*, 106(5), 451-55.

⁹⁰ Zarate, M. A., Garcia, B., Garza, A. A., & Hitlan, R. T. (2004). Cultural threat and perceived realistic group conflict as dual predictors of prejudice. *Journal of experimental social psychology*, 40(1), 99-105.

⁹¹ See Dustmann, C., Fasani, F., Frattini, T., Minale, L., & Schönberg, U. (2018). On the economics and politics of refugee migration. *Economic policy*, 32(91) p5 for a review of the literature.

⁹² Barone, G., D'Ignazio, A., de Blasio, G., & Naticchioni, P. (2016). Mr. Rossi, Mr. Hu and politics. The role of immigration in shaping natives' voting behavior. *Journal of Public Economics*, 136, 1-13.

People's Party in Brunner & Kuhn's (2018) study.⁹³ In fact, Dustmann (2018) shows that anti-immigrant sentiment changes voter behavior leading to positive effects for both right-wing, as well as center-right parties. In addition, the authors find a causal link between increased refugee allocation and increased voter turnout at the municipal level.

It is notable that while not all studies have found a causal link between refugee absorption and anti-refugee electoral swings, those that have not, have often confined their unit analysis to localized situations in which intergroup contact may reasonably have affected adverse outgroup hostility (i.e., Steinmayr, 2016).⁹⁴ What then are these perceived costs that several European populations have felt threaten their utility? Typically, costs have fallen within two domains: economic and socio-cultural.

1.4.2 Macroeconomic costs

Each EU State will experience different macroeconomic costs to refugee protection. Costs depend on a State's respective economy, as well as its integration infrastructure. Although a full-scale economic analysis is well outside the scope of this chapter, a predictive glimpse might come from Germany, who as of January 2018 had absorbed over 1.4 million refugees in a population of just over 80 million.⁹⁵ Stähler (2017) modeling simulations of economic impacts from migration to Germany, finds only a small possible macroeconomic impact from refugee migration; still, Stähler concludes that failure to integrate migrants into the German labor market could result in a .43% reduction in per capita income.⁹⁶ In fact, most studies calculating the macroeconomic impact to individual European States have found a net positive outcome over time (infra 5.2). Nonetheless, studies that have predicted a positive macroeconomic impact are often contingent on an upfront initial investment for language and educational upskilling (Bach

⁹³ Halla, M., Wagner, A. F., & Zweimüller, J. (2017). Immigration and voting for the far right. *Journal of the European Economic Association*, 15(6), 1341-1385; Brunner, B., & Kuhn, A. (2018). Immigration, cultural distance and natives' attitudes towards immigrants: evidence from Swiss voting results. *Kyklos*, 71(1), 28-58; Otto, A. H., & Steinhardt, M. F. (2017). The Relationship between Immigration and the Success of Far-right Political Parties in Germany. *ifo DICE Report*, 15(4), 20-23; Brunner, B., & Kuhn, A. (2018). Immigration, cultural distance and natives' attitudes towards immigrants: evidence from Swiss voting results. *Kyklos*, 71(1), 28-58; Altindag, O., & Kaushal, N. (2017). Do refugees impact voting behavior in the host country? Evidence from Syrian Refugee inflows in Turkey.

⁹⁴ Steinmayr, A. (2016). *Exposure to Refugees and Voting for the Far-Right.(Unexpected) Results from Austria*. Verein für Socialpolitik/German Economic Association.

⁹⁵ UNHCR. (2018). Country Update, Germany. Last accessed 22 February 2019 from < https://www.unhcr.org/dach/wp-content/uploads/sites/27/2018/03/Factsheet_Germany_O1_2018.pdf>.

⁹⁶ Stähler, N. (2017). A model-based analysis of the macroeconomic impact of the refugee migration to Germany. Bundesbank Discussion Paper No 05/2017. A positive outcome to labour market integration measures involves many variables, some quantifiable (skills) others not so much (attitude towards host country). Rengs and his co-authors (2017) try and quantify economic integration in Austria and find that compatible vocational skills (refugees skills matching the employment sector needs of Austria) would likely result in a positive macroeconomic outcome. Rengs, B. et al. (2017) Labour market profile, previous employment and economic integration of refugees: An Austrian case study, Vienna Institute of Demography Working Papers, No. 13/2017, Austrian Academy of Sciences (ÖAW), Vienna Institute of Demography (VID), Vienna

2017; Spahl, 2017).⁹⁷ However, the ability for refugees to upskill remains only a single, albeit an important dimension to economic integration in Germany. Integration depends not only on refugee characteristics but environmental factors, most prominently, the absorptive capacity of the particular labor market (Berger and Strohner, 2017). Perception of economic threat may therefore be linked to economic vulnerability in a specific demographic (Dustmann et al., 2016).⁹⁸

The economic cost of hosting refugees thus depends on both the refugee's ability to integrate and the State's environmental factors at any given time. When a State feels that its labor market is glutted or that the level of upskilling vis-à-vis refugee characteristics does not lend well towards effective integration, then the economic costs of hosting may exceed their benefits to include commitments to international law. However, as evidenced from the above studies, short-term economic costs and long-term gains are the norm. It is then social and cultural costs that haven driven many EU States to deter or refuse refugee protection.

1.4.3 Social and Cultural Costs

Integrated Threat Theory tells us that it is not only competition for scarce resources (i.e. Realistic Conflict Theory) that foments perceptions of threat, but symbolic threats such as national identity and status quo social norms (Stephan & Stephan, 1996).⁹⁹ In the context of State-level social welfare maximization, perceived social and cultural costs may affect electoral behavior in favor of anti-refugee parties, as well as sway mainstream candidates towards an anti-refugee discourse. These fears can be divided into short and long-term costs. Short-term costs are frequently associated with accounts linking refugees to violent crime (MacDonald, 2017).¹⁰⁰ This is often heightened by the language of media (Bielicki, 2018; DeBone, 2018) depicting refugees as criminals.¹⁰¹ Often, the effect of such portrayal, as Hynie (2018) notes, is

Bach, S., Brücker, H., Haan, P., Romiti, A., van Deuverden, K., & Weber, E. (2017). Refugee integration: A worthwhile investment. *DIW Economic Bulletin*, 7(3/4), p39; Spahl, W., Weiss, S., Kohlenberger, J., & Buber-Ennser, I. (2017). *Immigration and the social welfare state in Austria, Germany, and Switzerland: A comparative meta-study* (No. 18/2017). Vienna Institute of Demography Working Papers.

⁹⁸ Berger, J., & Strohner, L. (2017). Economic Analysis of the Refugee Influx to Austria. *Border Crossing*, 7(1), 1-12; Dustmann, C., Vasiljeva, K., & Damm, A. P. (2016). *Refugee migration and electoral outcomes* (pp. 1-71). Centre for Research and Analysis of Migration.

⁹⁹ Stephan, W. G., & Stephan, C. W. (1996). Predicting prejudice. *International Journal of Intercultural Relations*, 20(3-4), 409-426.

¹⁰⁰ MacDonald, F. (2017). Positioning young refugees in Australia: media discourse and social exclusion. *International Journal of Inclusive Education*, 21(11), 1182-1195.

¹⁰¹ Bielicki, J. (2018). Cologne's New Year's Eve Sexual Assaults: The Turning Point in German Media Coverage. In *Refugee News, Refugee Politics* (pp. 184-190). Routledge; DeBono, D. (2018). In defiance of the reception logic: The case for including

dehumanization of the outgroup, which may reduce the magnitude of moral obligations and prosocial behavior, while increasing anti-social behavior.¹⁰² Fears of violence may also be exacerbated by social distance. In consonance with predictions from Group Threat Theory, being forced to absorb refugees in greater numbers than a community desires can lead to hostility (Pratto et al., 2006).¹⁰³ While the effect may be mitigated over time by positive intergroup contact, in the immediacy it often constitutes a threat.¹⁰⁴

Long-term costs, on the other hand, usually fall under the category of symbolic threats to one's national, ethnic, or religious identity (Suhnan et al., 2012; Row & O'Brien, 2014; Wirtz & Doosje, 2016).¹⁰⁵ Many citizens are worried about having the societal status quo upended. (Eidelman & Crandall, 2012).¹⁰⁶ Perceptions of long-term threats may be fostered through several avenues. One avenue is the law. Politicians may foment the presence of threats by ushering in laws that upend status quo social contacts between religion and the State. Policy shifts or institutional deviations from longstanding social policies are sometimes seen as harbingers of negative social cohesion. In a study of 26 Swiss municipalities, Helbling and Traummüller (2016) find that government policies to amend existing laws as to accommodate immigrants has fomented threat among the local populations.¹⁰⁷ In many Eu countries, these have included watershed issues, such as opposition to *hijab*, the Muslim headscarf (Van der Noll, 2010; Helbling, 2014).¹⁰⁸

A second avenue is emotions. Emotional barriers may foster negative sentiment towards social policies resulting in long-term costs that politicians must address through legislation or rhetoric (Halperin, 2011; Wirtz & Doosje, 2011).¹⁰⁹ Cottrell et al. (2010) test this link between attitudes toward a specific social policy and specific emotions. Honing their empirical lens of social policies towards four distinct groups

NGOs as human rights monitors in the EU's policies of first reception of irregular migrants. *Peace and Conflict: Journal of Peace Psychology*, 24(3), 291.

¹⁰² Hynie, M. (2018). Refugee integration: Research and policy. *Peace and Conflict: Journal of Peace Psychology*, 24(3), 265.

¹⁰³ Pratto, F., Sidanius, J., & Levin, S. (2006). Social dominance theory and the dynamics of intergroup relations: Taking stock and looking forward. *European review of social psychology*, 17(1), 271-320.

¹⁰⁴ See Chapter 4.2.7 for a more in-depth explanation of contact theory.

¹⁰⁵ Suhnan, A., Pedersen, A., & Hartley, L. K. (2012). Re-examining prejudice against asylum seekers in Australia: The role of people smugglers, the perception of threat, and acceptance of false beliefs. *The Australian Community Psychologist*, 24(2), 79-97; Rowe, E., & O'Brien, E. (2014). 'Genuine' refugees or illegitimate 'boat people': Political constructions of asylum seekers and refugees in the Malaysia Deal debate. *Australian Journal of Social Issues*, 49(2), 171-193; Wirtz, C., van der Pligt, J., & Doosje, B. (2016). Negative attitudes toward Muslims in The Netherlands: The role of symbolic threat, stereotypes, and moral emotions. *Peace and Conflict: Journal of Peace Psychology*, 22(1), 75.

¹⁰⁶ Eidelman, S., & Crandall, C. S. (2012). Bias in favor of the status quo. *Social and Personality Psychology Compass*, 6(3), 270-281.

¹⁰⁷ Helbling, M., & Traummüller, R. (2016). How state support of religion shapes attitudes toward Muslim immigrants: New evidence from a sub-national comparison. *Comparative Political Studies*, 49(3), 391-424.

¹⁰⁸ Van der Noll, J. (2010). Public support for a ban on headscarves: A cross-national perspective. *International Journal of Conflict and Violence (IJCV)*, 4(2), 191-204; Helbling, M. (2014). Opposing muslims and the muslim headscarf in western europe. *European Sociological Review*, 30(2), 242-257.

¹⁰⁹ Halperin, E. (2011). Emotional barriers to peace: Emotions and public opinion of Jewish Israelis about the peace process in the Middle East. *Peace and Conflict*, 17(1), 22-45.

–Arab Muslims, Black Americans, Mexican Americans, and homosexuals– the authors conclude that specific emotions towards the perceived threat of each group, not generalized prejudice, predicted the respondents’ attitudes.¹¹⁰ These threats may also be compounded by a third avenue: media. Several studies have found a significant impact on threat formation from the media’s portrayal of immigrants (Watson & Riffe, 2013; Okamoto & Ebert, 2016).¹¹¹

While all three avenues may impact voting behavior and policy level decision-making, the channel through which long-term social and cultural threats are disseminated and metastasize within populations is only important to our analysis insofar as it affects refugee protection. If individual and group-level threats impact policy-level immigration decisions either through bolstering or shifting a politician’s willingness to accept asylum seekers, then they will increase the marginal cost of hosting refugees. The question then becomes: when the marginal costs of protection outweigh the marginal benefits, is there a way to efficiently allocate protection by minimizing the cost of protection? One way, this thesis suggests, is through protecting without hosting.

1.4.4 The Cost of Hosting Versus the Cost of Protecting

Hosting refers to States protecting refugees on their own territory; protection is used here to denote that a refugee is protected from persecution in consonance with Article 1 of the 1951 Convention, whether on one’s own territory or elsewhere. Refugees may be protected without being physically hosted. For instance, a State may support refugees financially in another country. Money-sharing schemes (infra 2.1) have been present in the refugee regime for years. Typically, they take the form of payments or financial incentives that ensure refugees are protected in a third-party State. When speaking about a market mechanism, however, the relationship is one-to-one: refugees are protected by State A through payments but hosted in State B.

Other categories of asylum seekers are often considered whilst discussing allocation of protection. Asylum seekers unable to obtain refugee status may be granted subsidiary status under the EU Qualification Directive Recast, if their return might result in serious harm.¹¹² Subsidiary status is clearly

¹¹⁰ Cottrell, C. A., Richards, D. A., & Nichols, A. L. (2010). Predicting policy attitudes from general prejudice versus specific intergroup emotions. *Journal of Experimental Social Psychology*, 46(2), 247-254.

¹¹¹ Watson, B. R., & Riffe, D. (2013). Perceived threat, immigration policy support, and media coverage: Hostile media and presumed influence. *International Journal of Public Opinion Research*, 25(4), 459-479; Okamoto, D., & Ebert, K. (2016). Group boundaries, immigrant inclusion, and the politics of immigrant–native relations. *American Behavioral Scientist*, 60(2), 224-250.

¹¹² Recast (n7) at 2f.

delineated in the CFEU.¹¹³ In addition, States typically protect asylum seekers before their application has been decided. All three categories: refugee status, subsidiarity status, and awaiting determination status may be hosted in a third-party State through financial agreements. For the purpose of this analysis, refugees are most salient, since they can be expected to stay long-term and obtain full political and social rights.¹¹⁴

Protecting refugees without hosting them has several important benefits for States who do not want to host in excess of their preferences. It enables an efficient allocation of protection without the marginal costs of hosting an additional refugee outweighing its marginal benefits. Translated into economic terminology this means a State-level social welfare function in which the marginal benefits of protection are greater to society than the corresponding marginal costs. Benefits here consist of both those with public good characteristics (e.g., utility citizens derive from humanitarian norms and collective security), as well as those with private good characteristics such as societal benefits to the labour market, pension system, and other internal state-specific structures. Costs, on the other hand, are typically private such as unemployment and adverse public opinion surrounding national identity, social cohesion, crime, and the labour market (infra 1.42, 1.43).

Such a distinction between private and public benefits runs contrary to the literature modelling refugee protection as a pure public good whose non-rival and non-excludable nature stem from its security and poverty alleviation characteristics (i.e., Shurke, 1998). Such is why, to understand how refugee protection can reach an efficient allocation on a market for tradable refugee protection quotas (infra 2.1), it is necessary to clarify whether refugee protection is in fact a pure global public good and can be shared at no additional marginal cost, or whether it has private components that make it rival and excludable.¹¹⁵ The distinction is crucial in validating the choice of a market for protection where refugee quotas are traded between States.¹¹⁶ If refugee protection quotas have private benefits, then excludability may result in internalizing benefits from joint output, directly connecting refugee protection to the proportion of private (excludable) benefits. In turn, this will bridge the disjuncture large States face between benefit and cost, making free-riding and in general, sub-optimality, less of a factor.¹¹⁷

¹¹³ CFEU (n26) at Article 78(2)(b).

¹¹⁴ Miller (2008, 2015) (n9).

¹¹⁵ Buchanan, J. M. (1965). An economic theory of clubs. *Economica*, 32(125), 1-14; Sandler, T., & Tschirhart, J. (1997). Club theory: Thirty years later. *Public choice*, 93(3-4), 335-355.

¹¹⁶ The literature on public goods reveals that Pareto sub-optimality is frequently attained by an individual player understating her valuation of a public good in a non-centralized group setting. Along these lines, Shurke (1998) argues that the cleavage between individual and group incentives to offer protection result in suboptimal protection (i.e., Prisoner's Dilemma) and free-riding.

¹¹⁷ In their empirical study, Roper & Barria find that private benefits of refugee protection decrease free-riding. Roper, S. D., & Barria, L. A. (2010). Burden sharing in the funding of the UNHCR: refugee protection as an impure public good. *Journal of Conflict Resolution* at 632.

Basing his analysis on the work of Economist Todd Sandler, Bettis (2003) tests whether refugee protection is a pure public good or is best served through a joint-product model, where a single good has components that vary in their excludability and rivalry. Ultimately, Bettis substantiates several private components of refugee protection that dispute its role as a pure public good.¹¹⁸ Roper & Barria (2010) further question the public good premise, instead finding that private benefits suggest, at best, an impure public good.¹¹⁹ Both conclusions are in line with the private costs detailed above (infra 1.4). This means that on a market for protection, States who want to fulfill their legal obligations to protect without absorbing costs related to hosting can do so by trading part of their annual protection quota. In this scenario, State A would pay State B to protect a refugee allocated to State A. Chapter II details different ways that refugee protection transfers transpire.

Here we must make a distinction between protection and hosting not clearly demarcated in the literature. The public good component of refugee protection *is not necessarily derived from hosting* but protecting humanitarian migrants from persecution.¹²⁰ While protection has both private (e.g., altruism,¹²¹ prestige, labor market) and public good subcomponents (e.g., upholding norm commitments, global poverty concerns)¹²² hosting, by contrast, is predominately a private good. Positive externalities are then generated when States *offer protection* to refugees, but not necessarily when hosting them. Society and politicians gain utility from hosting only when their State-specific marginal benefits, which include both private and public good components, outweigh the marginal costs.

¹¹⁸ These private good aspects are: inter-subjective norms factored into the benefits of hosting, earmarking UNHCR contributions; and a correlation between contributions to refugee protection and state-specific security interests. This point speaks to how non-static norms are formed (Bettis, 2003). If hosting becomes a benefit, it does so *in relation* to the costs of hosting *at any given time* – that is to say, the reservoir of norm-based altruism and goodwill is not exhaustive. As to what proportion of the overall good public and private components take is another question, one beyond the scope of this paper to evaluate empirically. Rather than being epiphenomenal, the author's conclusions still hold more than a decade later. Sweden, Germany, and the Netherlands still host and fund disproportionate to their GDP. Lower GDP countries such as The Netherlands still host proportionately higher than many of their high GDP neighbors (i.e., France).

¹¹⁹ Employing a Heckman selection model, Roper and Berria (n117) test the determinants of state contributions to UNHCR. Although concluding that refugee protection is an impure public good, the authors do not find that private benefits lead to an optimal level of protection.

¹²⁰ From a legal perspective the obligation to offer asylum to refugees is murky under customary international law. As Kahn (2016) notes, the 1951 GRC obliges States not to obstruct the right to asylum; it does not bestow a right to asylum. What may seem a matter of semantics here is bolstered by the dearth of right to asylum in the European Convention of Human Rights (ECHR). It is then protection, derived from non-refoulement that is an *erga omnes* obligation not hosting. Khan, A. A. (2016). Can International Law Manage Refugee Crises. *Oxford U. Undergraduate LJ*, 54. For a more detailed account the lack of a right to asylum under CIL, see: Goodwin-Gill, G. S., & McAdam, J. (2007). *The refugee in international law*. Oxford University Press.

¹²¹ Andreoni's seminal paper discusses the warm-glow generating from altruism. Andreoni, J. (1990). Impure altruism and donations to public goods: A theory of warm-glow giving. *The economic journal*, 100(401), 464-477.

¹²² Bettis, A. (2003). Public goods theory and the provision of refugee protection: The role of the joint-product model in burden-sharing theory. *Journal of Refugee Studies*, 16(3), at 292.

This means that as the marginal private costs of hosting increase, the marginal public good benefits of humanitarian norms must increase to provide an optimal level of protection.¹²³ *Prima facie*, this is extremely unlikely. There is no evidence of States projecting an increase in the marginal benefits of humanitarian norms, if the recipients of those norms are perceived to have an increasing cost on society. Moreover, there is uncertainty surrounding whether humanitarian norms are static, and if not, how they are formed (Holzgreffe & Keohane, 2003).¹²⁴ This uncertainty resonates within refugee protection. The theoretical literature, for instance, typically models refugee protection as a global public good with the cost of shading normative commitments figuring prominently into any equilibria of socially optimal protection.¹²⁵ If humanitarian norms decrease during times of external shock then the private benefits will have to increase commensurably for protection levels to be maintained at their optimal. However, if the marginal costs of hosting become greater than their benefits, including utility derived from upholding international legal norms, EU States can still contribute to the protection regime without having an increase in utility gained from humanitarian norms, if they can protect without hosting. For this to happen, however, there must be sufficient coordination, revealed preferences, and low transaction costs.

1.5 Federalism of Refugee Protection

The question then turns to organization. If protection levels can be optimized through States paying to protect without hosting, who is to coordinate such a process? Will a command and control system where States negotiate amongst themselves without third-party regulation be sufficient? Or is it necessary to have a systematic clearinghouse at the intergovernmental level?

Centralization of protection is the key, this monograph argues, to efficiently reconciling the law with social and economic forces. Efficient here is taken to mean that European Union Member States will not host greater than their preferences dictate, while simultaneously, ensuring that all asylum seekers who reach Europe and are determined to be genuine refugees are protected.

To simplify an extensive body of literature, centralization involves the allocation of property rights by a single agent who imposes them vertically, whereas in a decentralized system, multiple rights holders may contract and bargain. With perfect information both scenarios should lead to an efficient outcome. In the

¹²³ Moreover, for States whose humanitarian norms are –at any given moment– ‘more narrowly communitarian’ as Betts (2003) phrases it, the “marginal private benefits from asylum reception, deriving from such norms, will be lower and so equal the marginal cost of asylum within that society at a lower level of provision.” Ibid.

¹²⁴ Holzgreffe, J. L., & Keohane, R. O. (Eds.). (2003). *Humanitarian intervention: ethical, legal and political dilemmas*. Cambridge University Press.

¹²⁵ Bubb et al., (2011) propose that without economic migration, there is an equilibrium under the 1951 Convention only if the cost of shading is high enough. Bubb, R., Kremer, M., & Levine, D. I. (2011). The economics of international refugee law. *The Journal of Legal Studies*, 40(2) at 378.

presence of informational asymmetries, most often the case, the Coase Theorem tells us that agents in a decentralized system will try and internalize externalities through bargaining, so long as rights are enforced and transaction costs sufficiently low.¹²⁶ As Oates (1972) famously postulated, decentralization is preferred when regional preferences show wide variance with little spillover.¹²⁷ In areas where core preferences exhibit large degrees of homogeneity, transaction costs may be reduced and efficiency gains increased.¹²⁸ Jurisdiction also plays a role. Oates' correspondence principle holds that individuals should have control over the good whose benefit they are internalizing. Control implies knowledge of location-specific needs, typically more so in a vertically higher level of government. Accordingly, decentralization may also reduce inefficient bureaucracy (Eichenberger, 1994) and learn from other jurisdictions (Halpin & Monnin, 2016).¹²⁹ The concern with decentralization is that spillovers will lead to an under provision of goods. In addition, the inability to bundle resources or distribute and monitor best practices may lead to ineffective outcomes. In one such example, the decentralized organization of welfare administration within parts of Germany was found to have a negative effect on employment integration for men (Boockmann et al., 2015).¹³⁰

Centralization, on the other hand may better coordinate inter-jurisdictional externalities (Faccini et al., 2006)¹³¹, increase accountability (Besley & Smart, 2007) foster electoral rules that stifle corruption (Ferraz & Finan, 2001) and reduce transaction costs associated with contracting.¹³² Despite these benefits, centralization may have difficulty dealing with asymmetric distributions of a public good (i.e., lack policy uniformity, differentiated provision of a good), and is frequently insensitive to local preferences (Besley & Coate, 2003). In addition, there is a wide body of literature from the Political Economy angle that considers strategic voting and the behavior of politicians.¹³³

¹²⁶ Coase, R. H. (1960). *The problem of social cost* (pp. 87-137). Palgrave Macmillan UK.

¹²⁷ Oates, W. E. (1999). An essay on fiscal federalism. *Journal of economic literature*, 37(3), 1120-1149. But see Koethenbueger, M. (2008). Revisiting the "decentralization theorem"—on the role of externalities. *Journal of Urban Economics*, 64(1), 116-122 who argues that spillovers can reduce the efficiency of centralization.

¹²⁸ Although it may be the case that low costs prompt centralization in the face of low levels of homogeneity.

¹²⁹ Eichenberger, R. (1994). The benefits of federalism and the risk of overcentralization. *Kyklos*, 47(3), 403-420; Halpin, H., & Monnin, A. (2016). The Decentralization of Knowledge. *First Monday*, 21(12).

¹³⁰ Boockmann, B., Thomsen, S. L., Walter, T., Göbel, C., & Huber, M. (2015). Should welfare administration be centralized or decentralized? Evidence from a policy experiment. *German Economic Review*, 16(1), 13-42.

¹³¹ Faccini, G., Lorz, O., & Willmann, G. (2006). Asylum seekers in Europe: The warm glow of a hot potato. *Journal of Population Economics*, 19(2), 411-430. P 427.

¹³² Besley, T., & Smart, M. (2007). Fiscal restraints and voter welfare. *Journal of public Economics*, 91(3), 755-773; Ferraz, C., & Finan, F. (2011). Electoral accountability and corruption: Evidence from the audits of local governments. *The American Economic Review*, 101(4), 1274-1311.

¹³³ Besley, T., & Coate, S. (2003). Centralized versus decentralized provision of local public goods: a political economy approach. *Journal of public economics*, 87(12), 2611-2637; Lockwood, B. (2002). Distributive politics and the costs of centralization. *The Review of Economic Studies*, 69(2), 313-337; Boffa et al., (2015) find that centralization increases political accountability, particularly with cases of interregional heterogeneity in voter information Boffa, F., Piolatto, A., & Ponzetto, G. A. (2015). Political centralization and government accountability. *The Quarterly Journal of Economics*, 131(1), 381-422.

1.5.1 Transboundary Externalities (freeriding)

There are four compelling Fiscal Federalism arguments for centralization of refugee protection delineated by Berger & Heinemann (2016): free-riding, economies of scale, insurance, and maintenance of the Single Market.¹³⁴ Free-riding here is taken to mean an EU member state refusing to protect refugees but benefiting from other members states protecting refugees. For example, Poland and Hungary both derive benefits related to security and norm fulfillment (e.g., global poverty concerns) from refugees being hosted in neighboring States, such as Germany and the Netherlands, without having to worry about the financial or domestic political cost of protecting refugees at home. Freeriding is typically realized through either an outright refusal to protect, low asylum recognition rates, deterring migration or increasingly restrictive policies towards immigrants (Hatton, 2016; Monheim-Helstroffer & Obidzinski, 2010).¹³⁵ Moreover, because costs related to reception, processing, and integration are frontloaded, Member States with restrictive policies can benefit from labor mobility at a later date without the initial expenditure. Freeriding has been possible within the EU due to Brussel's inability to enforce burden sharing (infra 1.3).

1.5.2 Economies of Scale

If failure to internalize the cost of restrictive refugee-related policies incentivizes freeriding, the other side of the coin is that the harmonization of cost-related policies may lead to economies of scale. Economies of scale mean that increasing output will reduce the average cost of a public task. In the context of centralization, an economy of scale is created when a vertically higher level of government can provide a task at a lower cost than its constituents individually. A central government may do this through less costly production and distribution, or internalizing spillovers from cross-border effects; though these spillovers, or cross-border externalities, may be positive or negative, both result in an inefficient level of provision. In the asylum context, Schengen mobility means that refugee protection and integration efforts are not delimited to a single State's borders. This suggests, to quote a recent Center for Economic Policy Research (CEPR) paper, that refugees are "best perceived as an aggregate shock [to Europe] with uncertain differential impacts on different regions."¹³⁶ This opens the door for an EU level policy that creates an economy of scale.

¹³⁴ Berger, M., & Heinemann, F. (2016). *Why and how there should be more Europe in asylum policies* (No. 1/2016). ZEW policy brief.

¹³⁵ Hatton, T. (2016). The migration crisis and refugee policy in Europe. *Refugees and Economic Migrants*, 15; Monheim-Helstroffer, J. and Obidzinski, M. (2010) 'Optimal discretion in asylum lawmaking', *International Review of Law and Economics* 30(1): 86-97.

¹³⁶ Corsetti, G., Feld, L. P., Koijen, R., Reichlin, L., Reis, R., Rey, H., & di Mauro, B. W. (2016). Reinforcing the Eurozone and protecting an open society. *Monitoring the Eurozone*, 2, p37.

Centralizing processing, for example, has been estimated to save between 5 and 30% in comparison with national provisions (Berger & Heinemann, 2016). Because the cost of processing is highest among EU Member States with lower GDPs, centralization could lower those costs by assigning case workers towards homogenous groups (Hatton, 2015; Thielemann et al., 2010).¹³⁷ Evidence of this can be gleaned from assistance (Special Support Plans) offered to Bulgaria, Italy, Cyprus, and Greece by the European Asylum Support Office (EASO), particularly in the domains of training, processing, and guardianship plans, reducing their respective costs. In a centralized system guided by harmonization of status determination, processing costs, such as housing and clothing can be provided for at lower marginal cost.¹³⁸ The same principle might be applied to legal costs.¹³⁹

In addition to the costs of protection, integration may likewise create economies of scale. A State-driven integration program can upskill workers who may find employment in a neighboring State (European Parliament, 2015),¹⁴⁰ as well as promote adaptation to EU Charter values— a benefit to all Member States. Just as the initial costs of housing and processing might be written off after a refugee moves cross-border, an EU funded and monitored integration program can help assure outcomes that align both local and supranational goals. The proposed mentoring program (Chapter IV) funded at the EU level but tailored at the State and regional level is one such example. Supporting this underlying logic is a recent CEPR research paper that merits quoting at length:

Given the size of the shock and the cross-border spillovers of a country's stance on this issue, an uncoordinated approach at the national level would likely be less effective (in terms of its political and humanitarian goals) and less efficient (in terms of its economic costs) than a coordinated approach....the refugee crisis presents a common persistent shock that has to be dealt with via common long-run policies that internalise the costs and benefits across the EU. The crisis is a prime candidate for a policy that should be European rather than national in order to share the burden in a solidary way. At the same time, because securing a border or integrating a refugee requires local knowledge and a flexible approach that is adaptable to the place and the people involved, it is not necessarily best done by a single European entity rather than the national authorities. Reconciling these two characteristics requires that the financing of such a policy at least is common, even if the implementation may be a mix of European and national policies.¹⁴¹

¹³⁷ Hatton, T. J. (2015). Asylum Policy in the EU: the case for deeper integration. *CESifo Economic Studies*, 61(3-4), 605-637; Thielemann E. et al., (2010): "What system of burden-sharing between Member States for the reception of asylum seekers? PE 419.620. 22.01.10. European Parliament.

¹³⁸ Article 78(2) TFEU provides the legal foothold for uniform asylum procedures. See also, European Commission (2016), Communication: Towards a sustainable and fair Common European Asylum System, Brussels. Processing costs and housing assistance already provided for under the already provided for by the 2011 Qualification Directive.

¹³⁹ Lack of adequate reception and housing conditions have had high costs on States. [i.e., Lille Administrative Tribunal, 2 November 2015, No. 1508747]. This could be mitigated by harmonized standards at the EU level.

¹⁴⁰ European Parliament (2015). 'Economic challenges and prospects of the refugee influx'. Last accessed 02 March 2019 from <[http://www.europarl.europa.eu/RegData/etudes/BRIE/2015/572809/EPRS_BRI\(2015\)572809_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2015/572809/EPRS_BRI(2015)572809_EN.pdf)>.

¹⁴¹ Corsetti et al., 2016, (n136), p 39.

1.5.3 Insurance

The majority of refugees are protected outside the borders of Europe.¹⁴² A July 2016 Oxfam study found that the six wealthiest economies host less than 9% of the world's refugee population. European countries breaking with international refugee law norms would likely trigger many Global South countries to do the same thereby destabilizing the norm-based incentive structure for protection, and increasing migration flows northward.¹⁴³ Upheaving the protection regime is therefore not in the interests of economic efficiency for the EU, or in general, developed States, who often “see value in showing their commitment to refugee law but would prefer –to the greatest extent possible– to avoid being subject to its practical strictures.”¹⁴⁴ Retaining the status quo is of particular importance in light of the lack of a binding obligation for the EU to share in the cost of protecting the nearly 15 million refugees outside of its borders.¹⁴⁵

However, Global South actors, many already overcapacity, could push refugees northbound. Moreover, in times of crisis, many States have and could continue to allow asylum seekers to reach Europe without evaluating their status in Asia or Africa. In this sense, offering protection on a clearinghouse with a maximum annual quota is akin to timely catastrophic insurance payments: uncertainty of exogenous shocks (e.g., civil war) leads to a situation in which low risk participants would rather suffer regular predictable payments than test the unknown.¹⁴⁶ Payments in this narrative are regulated annual quotas of refugees. If exogenous events such as civil war or economic depression occur, EU States will not have to absorb more than their quota prescribed. While insurance in and of itself does not provide an explicit argument in favor of centralization, it does support the transboundary externality argument positioned above (infra 1.5.1). With insurance, there is less of an incentive to freeride off protection, as the cost of protection is regulated *ex ante*.

1.5.4 The Single Market

Refugee protection has become a contentious issue within the EU, resulting in several impediments to free movement and border checks. Austria and Hungary already have erected fences, and Belgium, Denmark, Germany, France, and Sweden reintroduced periodic border checks in 2016-2018.¹⁴⁷ Reintroducing border controls or pushing popular opinion towards breaking with the Union ala Brexit

¹⁴² Of the world's estimated 15 million refugees, Europe hosts nearly 3.5 million. UNHCR (Mid-Year Trends 2015 2015) <http://www.unhcr.org/56701b969.html> Accessed January 10, 2017

¹⁴³ There are countries not party to international refugee instruments that continue to host large amounts of refugees. Pakistan, for example, a non-party to the 1951 Convention, hosts the second largest refugee population. See UNHCR, Mid-Term Trends 2015, *Ibid*

¹⁴⁴ James Hathaway & Thomas Gammeltoft-Hansen, ‘Non-Refoulement in a World of Cooperative Deterrence’ (2014) *U of Michigan Law & Econ Research Paper*, (14-016), 5

¹⁴⁵ Türk Volker, ‘Address to the 60th Meeting of the UNHCR Standing Committee’ *U.N. Doc. EC/65/SC/CRP.101*

¹⁴⁶ Peter Schuck, ‘Refugee burden-sharing: A modest proposal’ (1997) *Yale J. Int'l L.*, 22, 243.

¹⁴⁷ Allowed for during times of Emergency under the Schengen Borders Code Articles 25,26,28,29. EU Regulation 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code).

could be catastrophic for the Single Market. As Berger & Heinemann (2016) note “if having national responsibility for asylum issues creates significant obstacles to the proper functioning of the Single Market, there is a strong case for introducing centralization.”¹⁴⁸

1.5.5 Summary: centralization versus decentralization

Lowering the State-perceived cost for protecting refugees may at times require paying for refugees to live in a third-party country: in effect, protecting without hosting. There are several ways this can happen. States can simply trade amongst themselves bilaterally. At the point when one State no longer wants to host and the other still has capacity a transaction is made. Yet several potential problems arise in a decentralized command and control system. Firstly, despite the direction of alliance theory, a decentralized market will not generate the necessary coordination nor incentivize a transparent display of preferences.¹⁴⁹ Insular States that do not receive many refugees will still be incentivized to freeride off those States popular with refugees. Those insular States then benefit from the positive externalities of refugees being protected without participating in the protection regime within their capacity and norm requirements.¹⁵⁰ Increased burden will then be placed on States deemed ‘desirable’ by asylum seekers, thereby affecting their commitments to host and potentially triggering a race to the bottom. Moreover, in a decentralized system matching refugee with State preferences will be inefficient, both inter-State and at the EU level.

However, centralized distribution of protection, with its ability to disperse information uniformly, limit freeriding, and bypass the need for implementing weak enforcement mechanisms, will prove more effective than contracting and bargaining in a decentralized system where private information is dispersed by States strategically and lack of adequate incentive structures encourage freeriding.¹⁵¹ While there is always a danger that a centralized market may become glutted during times of external shock, or, if transfers are a component of a market, that third-party countries will hold out (if the protection quota price is not uniform, see *infra* 2.7), these costs, the author argues are far less significant than ignoring the private components of protection and how they interface with States’ norm commitments, both in terms of costs and benefits.

1.6 Moving Forward

Centralization of refugee protection on a supranational clearinghouse helps mitigate weak enforcement mechanisms by reconciling interjurisdictional externalities, so that protection may reach equilibrium. In a

¹⁴⁸ Berger & Heinemann. (n134) p9.

¹⁴⁹ Sandler, T., & Hartley, K. (2001). Economics of alliances: The lessons for collective action. *Journal of economic literature*, 39(3), 869-896.

¹⁵⁰ While several Member States do not share the same echelon of norm commitments as founding EU Members, others Member States whose norm commitments remain on par have been deterred from hosting by the lack of burden-sharing within the Union.

¹⁵¹ It is notable that earlier literature found a lack of convergence in policy outcomes (i.e., recognition rates) from the institutionalization of asylum policies at the EU level. I argue here that this is due to disincentives emanating from the cost function. See: Neumayer, E. (2005). Asylum recognition rates in Western Europe: their determinants, variation, and lack of convergence. *Journal of conflict resolution*, 49(1), 43-66.

decentralized system there will still be incentives to withhold preferences, push asylum seekers to neighboring countries, or race to the bottom in determination rulings.

As to how that centralized system should look is what Chapter II outlines. Proposals for an EU-specific or internationally regulated asylum system have been suggested over the past few years. Yet they have all run into roadblocks for several common reasons: political will and legal issues have stifled many proposals, but also, the inability to account for an absolute EU annual quota that would be divided by Member States using a distributional key. Proposals for annual quotas have typically worked off absolute rather than relative numbers. So, Germany, for instance, might host 15% of the refugees arriving in the EU in a single year, but that is 15% of what total? 100,000 or 3 million? How to allocate refugees above that number has not been adequately addressed in the market-based literature. Nor are calls for a global quota system realistic due to coordination problems, political will, and quality of protection concerns.

Secondly, market-based proposals rarely involve the Global South. This has been a notable concern of policymakers for several reasons. Not only do non-EU countries host well over 90% of the world's refugees, but they are the primary refugee producing and refugee transiting nations. Ignoring their presence and failing to involve them, risks a number of reactions that can throw a market out of equilibrium. These include pushing refugees northbound, overloading neighboring States in the Middle East and Africa with refugees without compensation, and inadequately incentivizing combatting human trafficking. Thirdly, most market-based proposals do not account for the preferences of individual EU States to protect and host. By conflating protection and hosting, previously proposed distributional keys are unable to reflect non-static State-interests that frequently shift over time.

The inability of market-based proposals to address these legal, allocative, coordination, and incentives-entailing factors has led the European Union towards a preference for bilateral agreements.¹⁵² Chapter II proposes a market-based solution meant to supplant bilateral protection agreements. It involves actors from the Global South, including nearly all refugee producing and transiting countries and provides an incentive-compatible framework for States to reveal their true preferences.

¹⁵² Adepoju, A., Van Noorloos, F., & Zoomers, A. (2010). Europe's Migration Agreements with Migrant-Sending Countries in the Global South: A Critical Review. *International migration*, 48(3), 42-75; Clemens, M. A., & Postel, H. M. (2017). *Deterring emigration with foreign aid: An overview of evidence from low-income countries* (No. 136). IZA Policy Paper.

Chapter II An EU-OIC Market-Based Solution

Introduction

Chapter 2 investigates whether a joint market-based mechanism between the European Union and the Organisation of Islamic Cooperation (OIC) can provide a durable solution to EU Member States whose preferences for hosting refugees are often at odds with refugee law.¹⁵³ It presents a market mechanism whereby refugee protection quotas are allocated annually at the EU and OIC level. These annual supranational quotas are then divided among participating Member States and permitted to be transferred internally within the OIC and EU. When preferences to host are less than the preference for paying another State to host, a State simply sells a portion of its quota. From a legal standpoint, this enables treaty-based protection obligations to be satisfied when norm commitments to host are less than the costs of protection. The degree to which externalities are anticipated by the laws governing refugee protection thus impacts its *ax ante* allocation.¹⁵⁴

Though there exists a rich literature on refugee protection and market-based solutions the proposed EU-OIC mechanism adds value in three important ways. Firstly, it proposes a specific market structure between the EU and OIC in which tensions between international law and domestic preferences may be reconciled. Including the OIC increases the amount of countries available to host EU protection quotas thereby ensuring protection at a number which may be greater than an annual maximum prescribed at the EU level. Previous studies advocating protection quotas do not adequately address the issue of absolute versus relative annual quotas. Secondly, the proposed mechanism offers a legally consistent solution that ensures that commodification of protection does not lead to reification of the individual. Other market-based solution proposals fail to tackle potential legal hurdles to transfers. And thirdly, previous market-based solutions have not adequately involved the primary stakeholders in protracted refugee crises. Involving the OIC, whose States comprise nearly all the refugee producing and refugee transit countries, will provide a more inclusive network of affected States and allow for a wider range of interventions. While this could conceivably be accomplished through bilateral agreements with affected States, coordination at the OIC level reduces transaction costs, bolsters compliance mechanisms, and adds a norm-based incentive, Islamic values, to protect asylum seekers.

¹⁵³ The OIC is the world's second largest Intergovernmental Organization (IGO) after the United Nations. Founded in 1969 to the OIC counts 57 Member States and a number of organs ranging from banking and peacekeeping, to disaster relief and a General Secretariat.

¹⁵⁴ Klibanoff and Poitevin (2013) argue that it is not merely the externality's size, but the measure of its uncertainty relative to its private benefit. Klibanoff, P., & Poitevin, M. (1999). A theory of (de) centralization. *CIRANO discussion papero. Mimeo.*

2.1 Reassignment & Market-Based Solutions

Reassignment is certainly not a novel suggestion. Within the EU human transfers have been suggested since 1994 when Germany failed to pass a proposal allocating temporary protection seekers based on Member States' GDP, population, and size.¹⁵⁵ Then in 2000, the Kosovo Evacuation Programme (KEP) proposed non-binding unilateral quotas on accepting Kosovar refugees temporarily residing in The Former Yugoslav Republic of Macedonia. More recently the Turkish Statement provided for the return of failed asylum seeker claimants from Greece to Turkey, and a September 2015 EU directive aimed to reallocate 160,000 refugees from Greece and Italy.

Resettlement and dispersal schemes are two other forms of reassignment. Several Member States have employed resettlement schemes, many using quotas. In 2018, for example, Australia continued its resettlement of 2,000 refugees from the island of Nauru to the United States. On the supranational level, the EU allocated 50 million euro in 2016 to resettle 20,000 individuals living outside of the EU and identified by UNHCR as unable to remain in safety in the respective country of origin. This prototype may be subject to future binding legislation.¹⁵⁶ Dispersal refers to moving refugees from an area deemed over-concentrated and is typically conducted within State territory. An example is the no choice dispersal of asylum seekers from London to southeast England in 2000.¹⁵⁷ Dispersal has also been common in the last decade the Pacific, where Australia has excised land and declared it international territory, dispersing refugees from the Australian mainland.

Money-sharing schemes are another form of reassigning responsibility. They have been suggested in the literature, notably by Betts (2003), and have ostensibly been employed for years.¹⁵⁸ The European Refugee Fund (ERF) in one example, dispersed 630 million euro proportionally to Member States hosting refugees from 2008 until 2013. The ERF was replaced by the deep-pockets of the Asylum Migration and Integration Fund (3.1 billion Euro from 2014-2020). There also exists refugee-related allocations for regional development and protection programs, healthcare and an emergency fund recently proposed by the European Commission with a startup of 1.8 billion Euro. In addition, there are compensation and tariff relief to third party countries hosting refugees attempting to reach Europe. Bilateral agreements with Jordan, in one example, allow Jordanian manufacturers whose workforce consists of 15 to 25 percent Syrian refugees, to pay little to no export duties to EU States.¹⁵⁹

¹⁵⁵ European Union, Council Document 7773/94 ASIM 124.

¹⁵⁶ ECA European Agenda on Migration. Brussels: COM (2015) 240 final, 5.

¹⁵⁷ Stewart, E. S. (2012). UK Dispersal Policy and Onward Migration: Mapping the Current State of Knowledge. *J. Refugee Stud.*, 25.

¹⁵⁸ Betts (n122).

¹⁵⁹ Lenner, K., & Turner, L. (2018). Making refugees work? The politics of integrating Syrian refugees into the labor market in Jordan. *Middle East Critique*, p11.

The drawback of money-based burden-sharing is the transaction costs associated with implementation and the difficulty monitoring how money is spent. Corrupt bureaucracies might siphon funds and provide poor quality of protection.¹⁶⁰ A second problem with money-sharing schemes is longevity. While support might be helpful during the processing and reception stage, it is not clear whether the Union will have the capacity to support Member States in the long term in case of failed integration.

The theoretical literature has attempted to shed light on reassignment strategies. Hatton (2015) provides a model where asylum is viewed as a locally provided public good, which, in the absence of cooperation is underprovided.¹⁶¹ Hatton foresees optimal burden sharing realized through either refugee transfers or asymmetric compensation from a common pool. However, Hatton's model, like Moraga and Rappaport's (2014, 2015) suffers from assumptions of what States view as socially optimal. Insufficient quarter is provided to States that refuse to host in excess of their privately optimal number no matter the compensation. Neither does either proposal address the possibility that a boundless definition of protection might exceed the total annual number of incoming claimants.

Market Approaches to Burden Sharing

Markets are one approach to burden sharing. Their framework is often derived from Coase's discussion of crop markets and include recent 'cap and trade' proposals in the environmental literature.¹⁶² The market literature dealing specifically with immigration is indebted to two papers, one by Hathaway and Neve (1997), and the other, Peter Schuck (1997), who contemporaneously proposed tradable quotas in refugee protection. More recently, studies have explored markets for auctioning visas (Orrenius & Zavodny, 2010),¹⁶³ centralized funds compensating both refugees and host nations (Lee, 1986),¹⁶⁴ debt-based deductions from regimes responsible for persecution (Blocher & Gulati, 2016),¹⁶⁵ low-skilled labor tax subsidies (De la Croix, D., & Docquier, F. 2015),¹⁶⁶ and an EU-specific refugee market. The latter, proposed

¹⁶⁰ In theory, this externality might be mitigated by UNHCR oversight, which already represents a piecemeal burden-sharing financial approach. UNHCR involvement would substantially reduce the transaction costs associated with monitoring and implementation, as well as allay concerns about quality of protection, excessive agency participation, and flow of information. In practice, sovereign concerns make such a proposition difficult to implement.

¹⁶¹ Consequently, EU-centric policymaking has the opportunity to produce socially optimal results. This contrasts with harmonizing policies at a national level.

¹⁶² Hahn, R. W., & Stavins, R. N. (2011). The effect of allowance allocations on cap-and-trade system performance. *The Journal of Law and Economics*, 54(S4), S267-S294.

¹⁶³ Zavodny, M., & Orrenius, P. (2010). *Beside the Golden Door: US Immigration Reform in a New Era of Globalization*. American Enterprise Institute.

¹⁶⁴ Lee, L. T. (1986). The Right to Compensation: Refugees and Countries of Asylum. *American Journal of International Law*, 80(3), 532-567.

¹⁶⁵ Blocher, J., & Gulati, M. (2016). Competing for Refugees: A Market-Based Solution to a Humanitarian Crisis. *Colum. Hum. Rts. L. Rev.*, 48, 53.

¹⁶⁶ de la Croix, D., & Docquier, F. (2015). An incentive mechanism to break the low-skill immigration deadlock. *Review of Economic Dynamics*, 18(3), 593-618.

by Moraga and Rappaport (2014) includes a refugee matching mechanism that reveals both refugee and destination countries preferences, whilst compensation is paid for States absorbing in excess of their refugee quota.¹⁶⁷ It is unclear, however, how the authors presume to reach an efficient arrangement for refugees in excess of an EU directed absolute number.

Markets typically involve transactions that compensate one State for absorbing the quota of another. They are often modeled in two steps. Perhaps most famously elaborated upon by Schuck (1997, 2014) the first step consists of a quota set by an international or supranational agency. A burden-sharing system that deals with an absolute number disproportionality benefits wealthier and larger countries and so equity presumes that quotas include multiple criteria. To discharge their quota, States can offer protection to refugees within their borders or sell a portion of their quota.

Refugee protection quotas may have a fixed price based on a single commodity or may be satisfied holistically. Compensation in Schuck's system, for example, is not fixed and has the flexibility of trading in goods, which "encourage[s] states to exploit their heterogeneity."¹⁶⁸ Similarly, Thielemann & Devan (2006) coin the term 'comprehensive trading' to mean optimizing the comparative advantages of diverse agents.¹⁶⁹ Burden-sharing in their model may include contributions from peacekeeping, post-conflict justice and reconstruction, as well as efforts subsumed under the general category 'deterrence.' Such a market-based mechanism may approach equilibrium, since, in contrast to the public goods literature which predicts smaller countries exploiting larger ones, peacekeeping burdens are carried by larger countries.¹⁷⁰ In our context, a flexible quota system would account for the preferences, strengths, and comparative advantages of both EU and OIC States. OIC States unable to host refugees due to political or legal concerns would be able to contribute to peacekeeping, peacebuilding, food security and preventative measures in strategically critical locations.

Technically speaking, the drawbacks of market mechanisms are the costs not captured in dyadic market transaction leading to over-incentivized trade (Schuck, 2014). Dyadic costs here include social unrest, security (Loescher & Miller, 2013), difficulties integrating new members into society, and lateral transfers.¹⁷¹ On the latter point, whilst trading refugees may lead to an efficient outcome within a geographically limited domain, as Bubb et al., (2011) point out, where North to South transfers are a

¹⁶⁷ Moraga, J. F. H., & Rapoport, H. (2014). Tradable immigration quotas. *Journal of Public Economics*, 115, 94-108.

¹⁶⁸ Cf. Schuck (n17) 283. Heterogeneity of refugees (i.e., education, job skills, language abilities) may skew a market if not properly designed to avoid selection bias.

¹⁶⁹ Thielemann, E. R., & Dewan, T. (2006). Why States Don't Defect: Refugee Protection and Implicit Burden-Sharing?. *Department of Government and European Institute, London School of Economics*, (March 2003), 14.

¹⁷⁰ *Ibid* p24.

¹⁷¹ Loescher, G., & Milner, J. (2013). *Protracted refugee situations: Domestic and international security implications*. Routledge.

component of the market, asylum seekers might forgo the perilous northbound journey, travelling directly to neighboring countries, thereby distorting levels of compensation; such a distortion may lead to a prisoner's dilemma whereby a State's best option may be to forgo entering the market unless they can be receive commensurate compensation.¹⁷² In a general equilibrium model, it is therefore necessary to account for non-dyadic costs, particularly unilateral South-to-South migration.

2.2 Why not an exclusively EU market?

This chapter proposes a joint OIC-EU market. But why not simply an EU market, which would have far lower transaction costs and deal with unified supranational obligations of protection?¹⁷³ One such example might come from Moraga and Rappaport (2015). After an initial EU-wide quota based on observable factors, the M&R model mitigates the principle-agent problem arising out of misaligned preferences by matching; like the top-trading cycle mechanism proposed in the literature for housing assignment,¹⁷⁴ refugees ordinarily rank their preferred destinations, and Member States list their preference refugee attributes (i.e., language capacity, education, job skill). States that host more than their quota are compensated by States with an unfulfilled quota. The EU could be responsible for enforcement through collecting unfulfilled quota penalties.

The problem with an exclusively EU market is twofold. From an ethical point of view, it allows many State actors in the Global South to avoid responsibility. Consequently, those States owing up to their moral and legal mandates become overburdened by their regional neighbors. OIC participation ensures that nearly all regional neighbors are participants in refugee protection. Secondly, an exclusively EU mechanism places an *ex ante* ceiling on the legal definition of protection. When the number of claimants exceeds the aggregate number imposed by the Union, a lacuna in allocation will lead to an under-provision of protection. One might argue that an exclusively EU market could enter into bilateral agreements with multiple Global South and transfer refugees in excess of the annual EU quota. Logically, two problems arise with such a proposition. Already, regional protection differentials have cubby-holed the EU into bilateral agreements that are subject to legal challenges (i.e., Turkish Statement).¹⁷⁵ Without a harmonized system of monitoring, EU-wide consensus on transfer States, and thirty-party oversight, transaction costs from increased legal challenges are likely. These costs may make an EU market with multiple bilateral agreements untenable.

¹⁷² Bubb et al., (n125) p367.

¹⁷³ Not all OIC Member States are party to the refugee Convention. Pakistan, for instance, hosts over 2 million refugees and is a non-signatory.

¹⁷⁴ Abdulkadiroğlu, A., & Sönmez, T. (2003). School choice: A mechanism design approach. *American economic review*, 93(3), 729.

¹⁷⁵ Whether transfers in general require interpretation by the CJEU under 276(b) of the TFEU is debatable; it is nevertheless common sense that a blatant disregard for the consensus EU minimal standards that fulfill 'sufficient,' 'effective,' and 'adequate' risk illegitimizing transfers. There is likewise a concern when dealing with authoritarian or semi-authoritarian third party States whose unpredictable activities may invalidate their status as safe hosts.

As it stands, an exclusively EU model with a non-finite quota *and* adhering to international law operates under three assumptions (a) that deterrent measures can stem the tide of claimants below aggregate State preferences for hosting (b) the number of asylum seekers will not trigger a race to achieve more stringent determination standards (c) those not adjudged as needing protection under international law will repatriate.¹⁷⁶

All three assumptions are unrealistic. Firstly, deterrence can be accomplished either through preventing war, persecution, and poverty (unfortunately, highly unlikely), preventing access to mainland Europe (nearly impossible), more stringent immigration laws (empirically inconsistent)¹⁷⁷ or dis-incentivizing economic migrants to pass as refugees (unrealistic without incorporating the threat of extraterritorial transfers). On the latter point, Hatton (2016), using data from Uppsala's Conflict Data Program and Freedom House indices, evaluates asylum applications from 48 origin countries applying to 19 OECD destination countries. Hatton finds that better economic conditions in origin countries reduces asylum applications by approximately 5 percent. Dissuading economic migrants in high numbers by infusing capital or making business friendly policies is thus highly unlikely. Supporting this view is a recent UNHCR report on migration to the European Union from Libya; the report concludes that the majority of migrants departing from Libya, of whom are a variety of nationalities, are doing so for reasons of economic hardship in their home country.¹⁷⁸ Without robust evidence that economic migrants are being dissuaded from applying for refugee status, tougher deterrent policies towards reaching EU territory may be necessary to validate an exclusively EU market.

On the point of preventing access to mainland Europe, Gammeltoft-Hansen and Tan (2017) outline several examples that illustrate how deterrence policies are placing migrants at additional risk and increasing human trafficking through smugglers, without effectively deterring access to Europe.¹⁷⁹ Neither do changes to domestic welfare policies seem to work. As Hatton (2016) remarks, "Welfare policies have little deterrent effect because the fundamental motive driving asylum seekers is to gain permanent settlement at almost any cost."¹⁸⁰ Legal challenges to deterrent measures have also met with some success. In *Hirsi Jamaa and Others v. Italy*, the ECtHR's Grand Chamber found Italy's agreement

¹⁷⁶ Toshkov & de Haan find no evidence of a race to a bottom among EU MS' asylum policies. However, the authors focus on recognition rates and positive decisions, neither of which can account for the fairness of national processes, waiting time, and a host of other important variables. Toshkov, D., & de Haan, L. (2013). The Europeanization of asylum policy: an assessment of the EU impact on asylum applications and recognitions rates. *Journal of European Public Policy*, 20(5), 661-683. Although see (Monheim-Helstroffer & Obidzinski (n135) and (Czaika, 2009) for different findings.

¹⁷⁷ Czaika, M. (2009). Asylum cooperation among asymmetric countries. In *The Political Economy of Refugee Migration and Foreign Aid* (pp. 88-113). Palgrave Macmillan, London.

¹⁷⁸ UNHCR. (2017) Mixed migration trends in Libya: changing dynamics and protection challenges p2.

¹⁷⁹ Gammeltoft-Hansen, T., & Tan, N. F. (2017). The end of the deterrence paradigm? Future directions for global refugee policy. *Journal on Migration and Human Security*, 5(1), 43-44.

¹⁸⁰ Hatton, T. J. (2016). Refugees, asylum seekers, and policy in OECD countries. *American Economic Review*, 106(5), 444.

to send refugees back to Libya as violating Article 3 of the European Convention.¹⁸¹ Denmark has also received unfavorable ruling against their deterrent measures. *Biao v. Denmark*, for instance, ruled against Denmark's restrictive family reunification policy.¹⁸²

Finally, there is the issue of repatriation and removal of asylum seeker claimants who have been denied refugee status.¹⁸³ If EU States were able to successfully repatriate refugees and remove denied claimants, Member States might be willing to protect above their current level. However, repatriating refugees has been compounded by legal barriers (infra 2.3.2) and returning unsuccessful claimants has been highly ineffective. In 2014, over 60% of asylum applicants receiving a return decision were recorded as leaving EU territory.¹⁸⁴ When return to Balkan countries is disregarded, the rate of return is barely over 25%.¹⁸⁵ Despite efforts to set up an effective integrated system of return management, EU States continue to struggle with executing return directives.

At the State level there are several reasons for difficulty enforcing deportation orders of failed asylum seeker claimants. In Ireland, one reason is the law. Sheridan (2007) highlights how for several years, *Omar v. Governor of Cloverhill Prison* prohibited enforcing deportation orders in private residences.¹⁸⁶ The Netherlands, in another example, documented a 20% return rate by the year 2007 for asylum seekers who applied in 2001.¹⁸⁷ Some individuals who choose to stay illegally have taken advantage of the fact that the Dutch return policy is not geared specifically for asylum seekers, but third-party nationals without the legal right to reside in the Netherlands; consequently a host of reasons exist, such as medical dispensations or uncertainty about the safety of a destination country, may result in being issued a temporary (no fault) residence permit.¹⁸⁸ What is important for our analysis is that problems implementing the Return Directive exist in many EU States. An OIC-EU partnership potentially alleviates this concern.

¹⁸¹ Hirsi Jamaa and Others v. Italy (App No. 27765/09) ECHR 23 February 2012.

¹⁸² Biao v. Denmark (Appl. No. 38590/10) ECHR 24 May 2016.

¹⁸³ While an analysis of the reasons return directives are disobeyed is outside the scope of this analysis, Dustmann and Weiss (2007) and De Vroome & Van Tubergen (2014) detail primarily economic and sociocultural reasons. Dustmann, C., & Weiss, Y. (2007). Return migration: theory and empirical evidence from the UK. *British Journal of Industrial Relations*, 45(2), 236-256; De Vroome, T., & Van Tubergen, F. (2014). Settlement intentions of recently arrived immigrants and refugees in the Netherlands. *Journal of Immigrant & Refugee Studies*, 12(1), 47-66.

¹⁸⁴ European Commission. EU Action Plan on Return. COM (2015) 453.

¹⁸⁵ European Commission. On a more effective return policy in the European Union -a renewed action plan. COM (2017) 200.

¹⁸⁶ Sheridan, A. (2017). Returning rejected asylum seekers: practices and challenges in Ireland. *Economic and Social Research Institute (ESRI) Research Series*.

¹⁸⁷ While there has been an increase in voluntary returns of rejected asylum seekers since 2007, it remains well under 50%. Leerkes, A., van Os, R., & Boersema, E. (2017). What drives 'soft deportation'? Understanding the rise in Assisted Voluntary Return among rejected asylum seekers in the Netherlands. *Population, Space and Place*, 23(8), p1.

¹⁸⁸ European Migration Network. (2017). Returning rejected asylum seekers: policy and practices in the Netherlands p33.

2.3 Why an OIC-EU Market?

As discussed above, an exclusively EU market might exploit common funds, a centralized bureaucracy, pan-European values, and have less administrative hurdles. Common market structures would also more efficiently streamline non-monetary goods. In contrast, the breadth of the OIC's political, economic, and geographical diversity has several notable drawbacks. Transfer of money or other goods might be restricted by trade treaties, security provisions, and less than half of OIC countries are considered non-refoulement by EU Member States. Most strikingly, OIC countries already host 52% of the world's refugees. A market-based burden-sharing system cannot start tabula rasa, and EU States would be strongly dis-incentivized to begin their quota in the red. That having been said, there are also several benefits to an EU-OIC market that outweigh its costs. These fall under three categories: (a) logistics (b) diversity of market (c) congestion.

2.3.1 Logistics

Since 2010, 92% of migrants assessed as refugees have fled from OIC countries.¹⁸⁹ Although refugee burdens are most commonly suffered by neighboring countries, smuggling networks have dramatically changed the informational and logistical asymmetries in favor of migration to continental Europe. A joint market would improve screening capabilities, as well as reduce the enormous transaction costs of *non-entrée* schemes conducted by FRONTEX. Importantly, it may have the ability to more efficiently process claimants before they undertake a perilous journey to Europe (Garlick, 2006; Liguori, 2015).¹⁹⁰

Why is large-scale extraterritorial processing not efficient within an exclusively EU mechanism? Whilst the UNHCR can and does currently process resettlement claimants bound for Europe in their home countries, it has proven ineffective in large-numbers; in 2015, for example, offshore processing amounted to just over half of the total resettlement figure of 82,000, in part because UNHCR strategies and agency constraints do not at all time align with EU or OIC objectives.¹⁹¹ There are also grey areas. Significantly expanding an EU operation would run into the legal hurdles of an effective control definition that has expanded its legal space from a territorial-oriented framework to one including authority over individuals and the exercise of public powers. How and where migrants may be processed and interdicted now presents

¹⁸⁹ The World Bank. 'Refugee population by country or territory of asylum' <<http://data.worldbank.org/indicator/SM.POP.REFG>> Last accessed February 1, 2016.

¹⁹⁰ Garlick, M. (2006). The EU Discussions on Extraterritorial Processing: Solution or Conundrum?. *International Journal of Refugee Law*, 18(3-4), 601-629; Liguori, A. (2015). *The extraterritorial processing of asylum claims*. JMCE Migrants, Jean Monnet Centre of Excellence on Migrants' Rights in the Mediterranean.

¹⁹¹ UNHCR, Resettlement fact sheet 2015. Last retrieved 19 February 2019 from <<https://www.unhcr.org/protection/resettlement/524c31a09/resettlement-fact-sheet-2015.html>>. Total resettlement numbers for 2015 81,893. The link between agency constraints and EU-OIC objectives are the author's opinion.

dilemmas not in existence a decade ago.¹⁹² OIC Member States exercising public powers on their own territory, on the other hand, should allow the EU to avoid constraints from recent developments in the law.

Logistics are also aided by pre-existing structures. The OIC has several centralized organs crucial to lowering the transaction costs of non-monetary commodities on a market. Issues of trade have a centralized forum through the Islamic Chamber of Commerce, Industry and Agriculture (ICCIA) and the Islamic Centre for the Development of Trade (ICDT); banking through the Islamic Development Bank (IDB); post-conflict humanitarian concerns through the Humanitarian Organizations Council (HOC) and Islamic Solidarity Fund (ISF). Though without a single sub-organ, conflict resolution doctrine subordinates itself to UN precepts, is built into the OIC Charter, and is guided by its executive organ, the Council of Foreign Ministers. Already there is collaboration between the EU and OIC in matters of peacekeeping, terrorism, and refugees. This is not to say that implementation and monitoring between two supranational bodies will be fluid or have low transaction costs, only that the bureaucratic structures are firmly in place and have a distinct advantage over an *ad hoc* multi-State network.

2.3.2 Diversity of Market

Whilst regulating an OIC-EU market is far more complicated than an intra-EU market, OIC States bring to the table several comparative advantages. They are: (a) cost; (b) incentives to repatriate, and (c) diversity of commodities. Cost is straightforward. Providing protection in Cameroon or Malaysia is far less expensive than in the Netherlands, or even Estonia. For example, the 2015 estimated cost of a first-year refugee in the United Kingdom is 24,000 GBP and Germany spends between 10,000 Euro per a refugee, per a year, on food and housing alone.¹⁹³ Turkey, one of the OIC Member States with the highest GDP per capita, estimates its 2015 refugee cost per capita a 3,450 USD.¹⁹⁴ Cameroon is less than an eighth of that figure.

The question then arises why OIC countries have lower costs per individual protected. One obvious reason is cost of living. Cost of living in Turkey is lower than Germany; cost of living in France is more than in Cameroon. The question that follows is one of quality. Is it possible that the cost of protection in

¹⁹² Not only is effective control now interpreted as a territorial function [*No. 52207/99 Bankovic and Others v. Belgium and Others [2001]*] but includes exercise of public powers [*No. 30696/09 MSS v. Belgium and Greece [2011]*]; *No. 55721/07 Al-Skeini and Others v. United Kingdom [2011]*; and control as authority over individuals [*No. 31821/96 Issa and Others v. Turkey [2004]*]; *no. 46221/99 Öcalan v. Turkey [2003]*; *Appl. No. 27765/09. 23 Hirsi Jamaa and Others v. Italy [2012]*; *No. 3394/03 Medvedyev and Others v. France [2010]*.

¹⁹³ The Telegraph. 'Each Syrian to Cost 24,000 Pounds a Year' (October 9, 2015). Last accessed August 9, 2016 from <http://www.telegraph.co.uk/news/politics/11941580/Each-Syrian-refugee-to-cost-Britain-24000-a-year.html>; CESifo Group Munich, 'Cost of refugees to reach ten billion Euro' Last accessed January 31, 2016 from http://www.cesifo-group.de/ifoHome/presse/Pressemitteilungen/Pressemitteilungen-Archiv/2015/Q3/pm-20150920_sd18_fluechtlinge.html

¹⁹⁴Seufert, G. (2016). Turkey as partner of the EU in the refugee crisis: Ankara's problems and interests. *Wissenschaft und Politik*, German Institute for International and Security Affairs.

Turkey is less than in Germany, because Germany provides better quality of protection than Turkey? And if this is the case, are transfers still permissible?

Two points require examination. The first is level of protection, and the second, if States need to provide the same level of care as other States. To the first question, the 1951 Convention does not stipulate gradations of living standards under protection. Taken together, the Convention outlines fundamental positive rights that must be afforded to refugees, absent of detailed qualitative statements. The ECtHR has been very clear on this point: that self-calculated standards of living are not the responsibility of a hosting State to actualize.¹⁹⁵ Standards of protection simply may not drop beneath emergency levels¹⁹⁶ and must adhere bestow fundamental rights. In the proposed market EU-OIC mechanism, these levels are monitored by UNCHR staff. To the second question, there is no legal basis for equal services between States, only that minimum standards be tied to standards in the respective State. To paraphrase a ruling from the Inter-American Court of Human Rights” legal differences in treatment aren’t inherently discriminatory.¹⁹⁷ However, they must not drop below a minimal threshold of quality.

Repatriation

A market-based solution must also account for the temporal parameters of refugee protection. For how long is a State obliged to offer protection? In accordance with refugee law, refugee status may end when individuals re-avail themselves to the protection of their country of nationality,¹⁹⁸ acquire a new nationality, or when the “well-founded” conditions by which they were declared a refugee no longer exist.¹⁹⁹ Without refugee status repatriation may occur. Changes which are cosmetic or not causally linked to the reason a refugee fled are not applicable.²⁰⁰ Germany, for example, refused to recognize genuine change in 1992 Romania primarily because of the continued presence of the Ceausescu era secret police.²⁰¹ Similarly, the Federal Court of Canada, in *Oskoy v. Canada*, reversed a denial of refugee status to an Iranian applicant due to the Iran’s law of executions.²⁰² Time is another issue. Though the UNHCR recommends a minimum of 12 months to observe the permanence of changes, the UNHCR also places a more ambiguous threshold

¹⁹⁵ *Müslim v. Turkey*, no. 53566/99, 26 April 2005 §85.

¹⁹⁶ *Conference of European Churches (CEC) v. the Netherlands* (complaint no. 90/2013), Council of Europe: European Committee of Social Rights, 21 January 2013.

¹⁹⁷ Inter-American Court of Human Rights, Advisory Opinion OC-4/84 of 19 Jan. 1986 (*Proposed Amendments to the Naturalization Provision of the Constitution of Costa Rica requested by the Government of Costa Rica*), §55.

¹⁹⁸ It is important to note that returning and re-availing oneself to their home country is insufficient under Article 1(c)(4). The individual must be re-established taken to mean a fundamental change and durable protection. Otherwise, a host nation declaring a cessation of refugee status may be liable under Article 33 of the 1951 Convention, namely, *refoulement*. See: Hathaway, J. C. (2005). The right of states to repatriate former refugees. *Ohio St. J. on Disp. Resol.*, 20, 175.

¹⁹⁹ Refugee Convention at Article 1(C) 1-4.

²⁰⁰ *Arggello-Garcia v. Canada*, [1993] F.C. 635

²⁰¹ Cf. Hathaway (n23) p792.

²⁰² *Oskoy v. Canada*, [1993] F.C. 644. Also Hathaway (2005). *The rights of refugees* (n23).

of “sufficient time to take hold.”²⁰³ Crucially, voluntarily repatriation according to the *Voluntary Repatriation Handbook* must be just that: absent of any type of coercion or incentivizing.²⁰⁴

Must all repatriation be consensual? Reading UNHCR documents one would be led to believe this is the case. In fact, the voluntary nature of repatriation is not relevant to binding treaty-based obligations.²⁰⁵ This has been echoed rather succinctly by the English High Court’s position that, “Aspirations are to be distinguished from legal obligations.”²⁰⁶ It is thus critical to note that the recommendations of UNHCR as to when mandatory repatriation is possible, or even preferable, are non-binding.²⁰⁷ What is relevant is protection up until cessation of status. It is therefore important in this case to avoid conflating optimal from a refugee’s point of view with legally binding State obligations. Though mandatory repatriation is never promoted and rarely used by the UNHCR, as Michael Bartutski reminds us:

We should not lose sight of the fact that international law concerns the imposition of obligations on States. It may be in the individual's best interest actually to remain in the host country and continue his or her life in exile, but is the State obliged to provide refuge if conditions in the country of origin have become safe within a reasonable time period? Clearly, States never agreed to such legal obligations.²⁰⁸

Though deferring to UNHCR is common practice, ultimately each host State may decide which countries constitute non-refoulers and the circumstances surrounding positive rights. Nevertheless, the UNHCR recommends that invoking the cessation clause should consider duration of stay, familial, economic and social links, and allow refugees to “maintain their established situation including the grant of permanent residence status”²⁰⁹ have frequently been incorporated into domestic laws. Challenging a State with strong domestic rights networks entails high transaction costs from general bureaucratic investigations and legal procedures.²¹⁰ States providing incremental benefits including access to the political community must thus consider the long-term implications of the difficulty to repatriate.

²⁰³ UNHCR, Guidelines on International Protection No. 3: Cessation of Refugee Status under Articles 1(C)(5) and (6) of the 1951 Convention relating to the Status of Refugees, U.N. GAOR, 58th Sess., U.N. Doc. HCR/GIP/03/03 (2003) §14

²⁰⁴ UNHCR, ‘Handbook-Voluntary Repatriation: International Protection, January 1996 2.3

²⁰⁵ Hathaway 2005, (n23) p182.

²⁰⁶ *R. (Hoxha) v. Secretary of State for the Home Department*, [2002] EWCA Civ 1403 (Eng. C.A.), at §§. 46-48 as qtd in Hathaway (n197) p232. Also, at § 47-48: “Moreover, it must be seen as significant that the international community did not take the opportunity at the time of the 1967 Protocol to amend the proviso to Article IC (5) when it was considering the temporal scope of the 1951 Convention One might think it desirable that states should... recognise [sic] the humanitarian purpose which would be served by ignoring the restriction on the proviso to Article IC (5). But that is not enough to establish a legal obligation binding upon all parties to the Convention.”

²⁰⁷ See Hathaway (n197) p231. “While all states have the sovereign authority to allow any person they wish to remain on their territory and while it will often be humane and right to extend such generosity, this is not a matter fairly understood to be required by either the text or purposes of the refugee law” at 231.

²⁰⁸ Michael Barutski, *Involuntary Repatriation when Refugee Protection Is No Longer Necessary: Moving Forward after the 48th Session of the Executive Committee*, 10 INT’L J. OF REFUGEE L. 236, 245 (1998) as qtd in Hathaway 2005 (n121) p177.

²⁰⁹ UN High Commissioner for Refugees (UNHCR), Note on Cessation Clauses, 30 May 1997, EC/47/SC/CRP.30, at § 9.

²¹⁰ “A number of countries do not invoke the cessation clauses at least in part because of the administrative costs involved, including the costs of implementing review procedures; the recognized likelihood that even where cessation results, it may not

Mandatory repatriation is often conditional on levels of attachment. In Europe, a generous social welfare system and educational opportunities disincentive repatriation. In addition, Europe's extensive network of positive rights impede the removal after social and economic links have been formed. As per the ECJ's ruling in *Salahadin Abdulla and Others v. Bundesrepublik Deutschland*, the Qualification drive "must be interpreted in a manner which respects the fundamental rights and the principles recognized in particular in the Charter"²¹¹ meaning that transfers will most likely be time-consuming and an enormous expense to court systems. Ethical mandates are likewise pressing and increase over time.²¹² Whereas temporary protection (i.e., temporary work and residence permits) may satisfactorily fulfill legal and ethical norms in the first instance, over time, justice concerns demand full integration into the political community. This may mean that asylum needs to be allocated based on the *potential* for the refugee to live long term. As such, from a normative point of view, transfers must consider projected length of stay, as well as incremental access to the political community of third-party States. To proceed unfettered, transfers must then be conducted expeditiously before ties are formed.

By the same token, ethical mandates also ground the reasoning for the State's right to exclude refugees vis-à-vis transfers. This claim is predicated on a territorial-based reading in which States have developed "a fair system of cooperation over time, from one generation to the next."²¹³ Cooperation has helped forge State institutions through a historical relationship between a country and its peoples and by virtue of these collective decisions preferential assignment of exclusionary rights is demanded.²¹⁴ This is the distinction between claims originating in human rights and those in social cooperation.²¹⁵ If externalities are predicted due to absorption of refugees in excess of State interests, then the State has a right to exclude, if and only if the State can provide a reasonable alternative.

lead to return because those whose refugee status has ceased will have the possibility to remain under another status; and/or a State preference for naturalization under Article 34 of the Convention." Expert Roundtable, Lisbon, Port., May 3-4, 2001, *Summary Conclusions: Cessation of Refugee Status*, at §2 (June 2003).

²¹¹ *Salahadin Abdulla*, 2010 (n7) §53.

²¹² cf. Carens (n31) 546

²¹³ Rawls, J. (2005). *Political liberalism*. Columbia University Press. at 15.

²¹⁴ Sadiq, K., & Pevnick, R. (2011). Immigration and the Constraints of Justice: Between Open Borders and Absolute Sovereignty. *Perspectives on Politics*, 9(4), 930. Note: Wellman (2008) unconvincingly argues that freedom of association, not derivative of a socially cohesive political community supports exclusion of refugees. Wellman's argument seems unable to explain the jurisdictional link between a State's right to exclude in order to empower control of self-regarding behavior at the heart of the freedom of association. Wellman, C. H. (2008). Immigration and freedom of association. *Ethics*, 119(1), 109-141.

²¹⁵ Kates, M., & Pevnick, R. (2014). Immigration, jurisdiction, and history. *Philosophy & Public Affairs*, 42(2) at 194, surmise "only once we recognize the importance of the state as an institutional embodiment of the decisions of a particular self-determining political community that it might make sense to say that the current citizens of a state are entitled to restrict the entrance of potential immigrants."

Related to this discussion are removal mechanisms for claimants denied refugee status. Europe has struggled to implement its Return Directive.²¹⁶ In 2013, less than 40% of irregular migrants refused asylum status were returned to their country of origin, despite such instruments as the Cotonou Agreement which provides for reciprocal readmission upon request.²¹⁷ The expulsion rate for 2015 has been calculated at 32%.²¹⁸ Neither have trilateral treaties such as the Pilot Project on Return with Pakistan and Bangladesh achieved higher success rates.²¹⁹ In OIC countries, removal mechanisms for those able to return in safety and dignity have proven far more effective, largely due to that fact that the social and educational benefits are nowhere as generous as in EU States.

Diversity of Commodities

The third category, diversity of tradable commodities, is more efficiently realized in an OIC-EU model than the current EU asylum system. Within the OIC there are wealthy States that can pay their quota without hosting, and poorer safe countries welcoming an infusion of capital. OIC States that cannot fulfill their quota financially may systemically contribute to upskilling, screening, peacekeeping, and preventative measures. Because a market institutionalizes contributions, local organizations may receive more consistent funding, and reduce barriers to governmental collaboration. Moreover, from a human security optic, involving a more diverse range of grassroots, civil society and governmental actors increases the agency through which prevention, detection, and transnational advocacy may be realized.

2.3.3 Congestion

Both an exclusively EU as well as an EU-OIC market mechanism operate under an absolute annual number. Refugee inflows, however, are relative numbers. A look at Figure 7 shows the level of asylum applicants to the EU from Q1 2014 to Q3 2018. Their range of 100,00 to well over 400,00 applicants per a quarter would mean that a total EU quota may have to be in excess of 1.5 million to operate solely within the boundaries of the European Union. Taking the status quo into account, it is highly questionable whether a quota in excess of 1 million would be agreed upon by EU Member States. Such is why the OIC contributing 57 States to the overall mechanism potentially alleviates congestion from the overall EU-28 total.

²¹⁶ Directive 2008/115/EC, 2008.

²¹⁷ Joint declaration on migration and development, Article 13(3), provides for readmission.

²¹⁸ European Commission (n185).

²¹⁹ Council Conclusions on EU Return Policy adopted at the Justice and Home Affairs Council meeting of 5 and 6 June 2014, as qtd in EC 2015 p10.

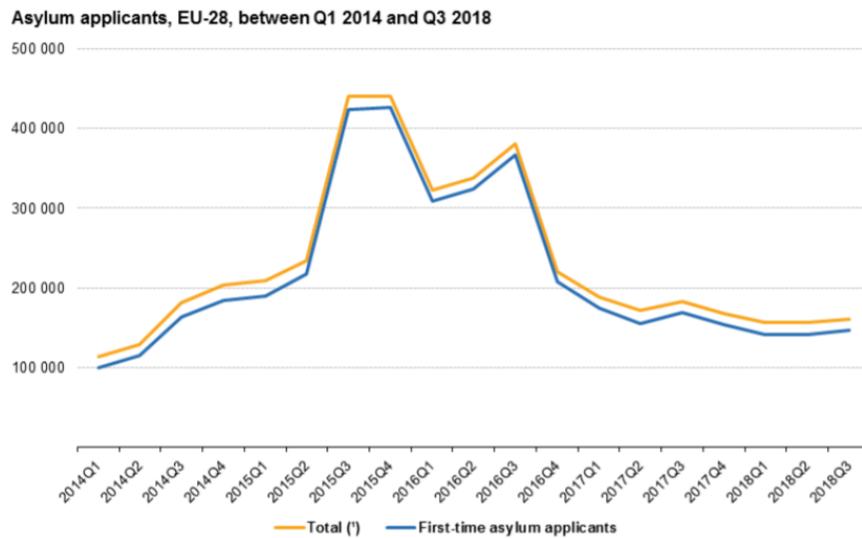


FIGURE 7 ASYLUM APPLICANTS, EU-28, Q1 2014 -Q3 2018. SOURCE: EUROSTAT²²⁰

2.4 The Mechanism

The proposed OIC-EU market involves seven steps outlined in Figure 8. They are:

1. Preliminary steps
2. Harmonizing determination of status and eligibility procedures
3. Setting annual refugee intake numbers
4. Matching mechanism
5. Transfers
6. Allocation of refugees more than supranational quota
7. Integration programme tailored to matching mechanism

²²⁰ European Commission. Asylum Statistics Explained. Last accessed 01 March 2019 from https://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_statistics.

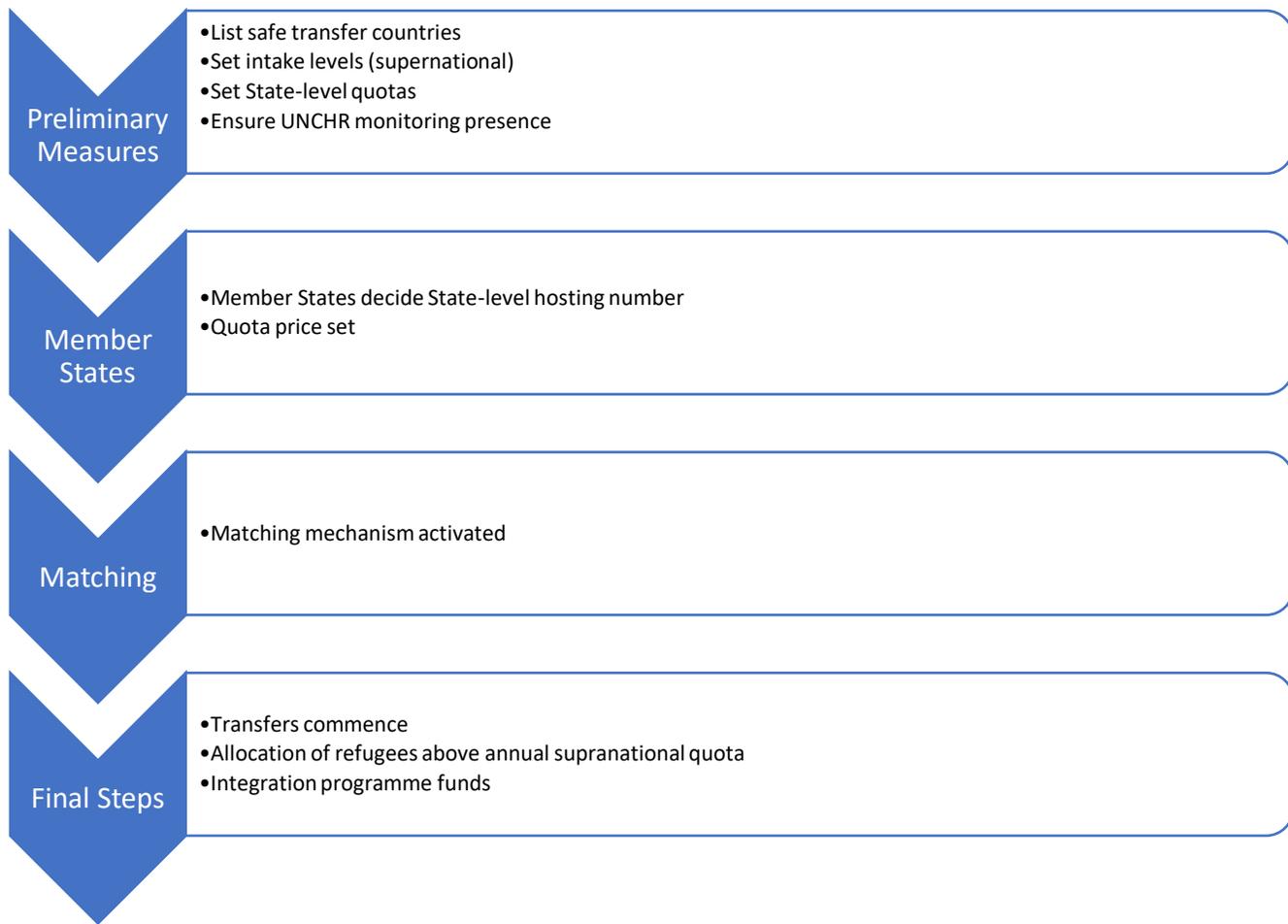


FIGURE 8 SEQUENTIAL SCHEME OF MECHANISM

2.4.1 Preliminary Measures

(a) A list must be populated by each EU Member State of OIC States deemed safe transfer countries. (b) The EU and OIC must then set up a minimum annual intake rate decided at the ministerial level (c) For the EU this includes a 20 percent mandatory resettlement of OIC hosted refugees. The basis for this 20% is to further incentivize OIC States hosting well above capacity to continue to host both refugees and asylum seekers.²²¹ (c) Each Member State must receive a quota. There have been various formulae suggested both in the literature and at policy level. The most frequent variables are GDP, prior hosting, and unemployment. (d) UNHCR already has a presence in all potential OIC destinations. However, additional staff and streamlined monitoring mechanisms must be employed to determine true hosting capacities. (e) Refugees

²²¹ The number 20% is based on the author's personal correspondence with academics and local stakeholders in several refugee hosting countries. Unfortunately, there are no such concrete proposals in the literature to cite. While the number 20% need not to be exact, it must be sufficient to incentivize repatriation. Ideally, a hard number could be formed at the ministerial level, both in the OIC and EU.

must be included in a database to keep track of preferences and prevent overlap. This includes biometric information. The current EURODAC system is sufficient.

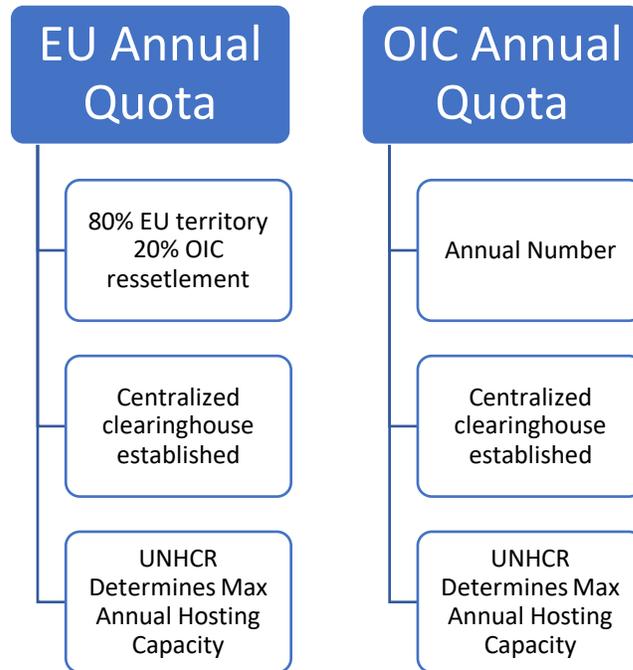


FIGURE 9 PRELIMINARY MEASURES EU/OIC MARKET

2.4.2 Harmonization, Intake Levels

(a) Setting the mechanism in motion requires harmonizing status determinations. Uniform status determination is not a novel idea and has been agreed upon in the 2011 Qualification Drive (but not yet implemented).²²² Setting the mechanism in motion requires both harmonizing status determinations and setting a market price. On the first point, EU Member States have an incentive to establish a centralized positive status determination instrument, as failure to do so would leave them out of the market mechanism and thus threaten receiving ‘less desirable’ refugees as per their respective preferences.

(b) Each EU Member State may set its annual intake rate. This can be more than their allocated quota but must not be less than a basement determined at the policy level. This lower threshold signifies commitment

²²² Minus Ireland, the United Kingdom, and Demark. European Union: Council of the European Union, Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast), 20 December 2011, OJ L. 337/9-337/26; 20.12.2011, 2011/95/EU

to international norms and intra-Union solidarity. This may be one-third, one-fifth, etcetera, and decided at the ministerial level. In the event of extraordinary circumstances, a Member State may apply for an annual exemption and move below the lower boundary.

(c) OIC States set an annual hosting quota. Contributions from non-hosting States (NHS) are directed towards refugees *already hosted* by OIC Member States. This procedure may alleviate some of the burden for Turkey, Lebanon, Pakistan, Jordan and others hosting above capacity.²²³ (d) Several OIC States operate below the poverty line. The per capita income of Somalia, Niger, and Central African Republic is under 1,000 (USD) with Uganda, Burkina Fasso, Mali, and Mozambique not far behind.²²⁴ NHS might therefore contribute in a number of ways, from manpower, to goods and services.

2.4.3 Setting a price for Tradable Protection Quotas

A protection quota price must also be agreed upon. This may work in two ways. Either the market can set its own price, or a single price for a protection quota may be established annually.²²⁵ The first measure may raise serious ethical concerns as it parallels bidding on human beings in slave markets. Qualitatively it may not much differ from setting a single annual price across all quotas, yet political capital is essential. Any protection quota price would be subject to annual cost of living adjustments based on inflation.

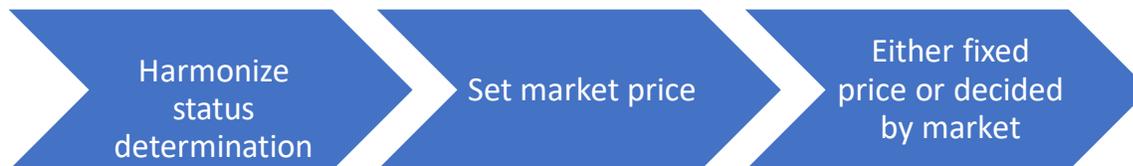


FIGURE 10 HARMONIZATION OF STATES AND SETTING THE MARKET PRICE

2.4.4 Matching

In order to raise the probability of successful labor market and social integration, as well as reduce secondary movement, a matching mechanism is included in the market mechanism. In effect, the matching mechanism acts as a centralized clearinghouse. It matches refugee preferences with State preferences. Any State that decides to opt out of the burden sharing mechanism would be at high risk of receiving less

²²³ While some might argue that this compound the dilemma of paying States for consummating their obligations under international law, because the money is directed at States already hosting above their fair burden, the argue is null.

²²⁴ World Bank. GDP Per Capita. Last accessed July 30, 2016 from < <http://data.worldbank.org/indicator/NY.GDP.PCAP.CD>>.

²²⁵ See Annex B

desirable refugees (according to that State's preferences) than if they would participate. The mechanism is therefore incentive-compatible, provided a general willingness to protect refugees.

Following matching theory, the mechanism is a two-sided matching, top trading cycle mechanism inspired by Moraga & Rappaport (2015) and Jones & Teytelboym (2016), and explicated in previous scholarship regarding universities and apartments Chen & Sönmez (2002).²²⁶ As Gale & Shapley (1962) first showed, an algorithm for a two-sided matching mechanism can be made stable, meaning that there is neither preference for re-matching nor aloneness.²²⁷ Later, Roth (1992) showed that many-to-one two sided matching may be Pareto efficient, whilst Fragiadakis et al., (2016) revealed this to be the case for minimum quotas.²²⁸ If a mechanism is ill constructed, a refugee will obtain a slot near the bottom of her list, whilst a State at that top of her list wants to host her; if well-constructed, Pareto dominant outcomes will prevail (i.e., match between preferences of States and refugees).

It is worthwhile to note that a matching mechanism does not decide how many refugees are protected; it simply distributes an absolute number. As such, matching is about finding the optimal allocation, not negotiating boundaries. Currently agency belongs almost entirely to the State. Either the Dublin system gluts select States with asylum seekers (i.e., Italy, Greece), or EU Member State decide who is eligible. A matching system that takes into account refugee preferences offers a more equitable dynamic.

The matching works as follows. Refugees list countries they want to go. Member States list their preferred criteria for hosting. An ordering is chosen randomly from the distribution. An algorithm is employed whereby the first protection quota is filled by the first refugee's first choice, the second refugee her first choice, etcetera. When a particular Member State has been exhausted of visas, it is crossed off the list. For example, if an asylum seeker lists her top three preferences as Sweden, Germany, and France, she may be allocated Sweden until there are no more visas for Sweden. In that case, her first choice will become Germany, and so forth. As Moraga & Rappaport (2015) show in their mathematical model, the mechanism is individually rationale and there are no incentives to misrepresent preferences. Moreover, taking into account stated preferences, no refugee can be made better off without making another refugee worse off.

²²⁶ Jones, W., & Teytelboym, A. (2017). The international refugee match: A system that respects refugees' preferences and the priorities of states. *Refugee Survey Quarterly*, 36(2), 84-109; Chen, Y., & Sönmez, T. (2002). Improving efficiency of on-campus housing: An experimental study. *American Economic Review*, 92(5), 1669.

²²⁷ Gale, D., & Shapley, L. S. (1962). College admissions and the stability of marriage. *The American Mathematical Monthly*, 69(1), 9.

²²⁸ Roth, A. E., & Sotomayor, M. (1992). Two-sided matching. *Handbook of game theory with economic applications*, 1, 485-541; Fragiadakis, D., Iwasaki, A., Troyan, P., Ueda, S., & Yokoo, M. (2016). Strategyproof matching with minimum quotas. *ACM Transactions on Economics and Computation*, 4(1), 6.

If refugee preferences are simply a matter of ordering, State preferences are more complicated.²²⁹ Preference matching must account for not only categories (i.e., language, skills, family ties), but distributional quotas, transparency requirements, and ethical constraints. Distributional quotas, similar to affirmative action in the United States would presumably be directed at vulnerable populations or underrepresented sectors of the labor market.²³⁰ An example is Germany's Humanitarian Admission Pilot program and the UK's Vulnerable Persons Relocation Scheme both of which focus on permanent settlement of recognized humanitarian migrants and provide them with work permits (Sommarribas et al., 2016).²³¹ On the supranational level, the EU might mandate that the 20% resettlement category be aimed at protracted situations (candidates waiting at least five years).

Any matching mechanism would have to accept harmonization, not only of status determination decisions, but also with regards to family units and legal constraints. Having family as a priority category, for instance, would require harmonizing understandings of what constitutes a family unit (Jones & Teyelboym, 2016). Moreover, categories incompatible with the ECHR (i.e., discrimination based on race, religion, nationality) must be excluded from formal preference criteria. Still, bespoke options may be tailored into this matching mechanism, if distributional constraints are deemed necessary within priority categories.²³² In this manner, States can fill gaps where there are labor shortages and more expeditiously absorb refugees projected to integrate faster. This is in line with EU migration policy, which seeks to identify economic sectors and occupations experiencing gaps in recruitment and matching them to legal migrants (EC, 2015). Macroeconomic beneficial points are of course conditional on the mechanism being well-designed: a non-transparent system (e.g., non-disclosure of priority categories) may be necessary to avoid incentives to misrepresent preferences.

2.4.5 Transfers

Refugees allocated to Member States may be transferred to participating third-party OIC-EU countries. Though transfers may not always be optimal from a refugee's perspective, recollect that the 1951 Convention and its Optional Protocol were designed to provide haven and a dignified existence to those fleeing persecution, not for asylum shopping. In fact, there exists no legal basis for refugees choosing where they are protected.

²²⁹ Delacrétaz, D., Kominers, S. D., & Teyelboym, A. (2016). Refugee resettlement. *Unpublished*.

²³⁰ Echenique, F., & Yenmez, M. B. (2015). How to control controlled school choice. *American Economic Review*, 105(8), 2679-94.

²³¹ Sommarribas, A., Petry, D., Marcus, N., & Nienaber, B. (2016). *Resettlement and Humanitarian Admission Programmes in Europe—what works?*. University of Luxembourg.

²³² Kamada, Y., & Kojima, F. (2015). Efficient matching under distributional constraints: Theory and applications. *American Economic Review*, 105(1), 67.

2.4.6 Above the EU Quota

Refugees above the total EU annual quota will be granted temporary (subsidiary) protection status. This is consistent with the 2011 Qualification drive and Article 14 of the UDHR. Those designated as recipients of temporary protection will have their Refugee Protection Quota listed on the market, with the costs borne by the European Union, not individual Member States. Those under ‘awaiting status’ would be placed first on the list of transfers for the upcoming year, with that year’s total mandatory absorption number adjusted accordingly. The rationale behind this decision is to maintain an incentive-compatible market.

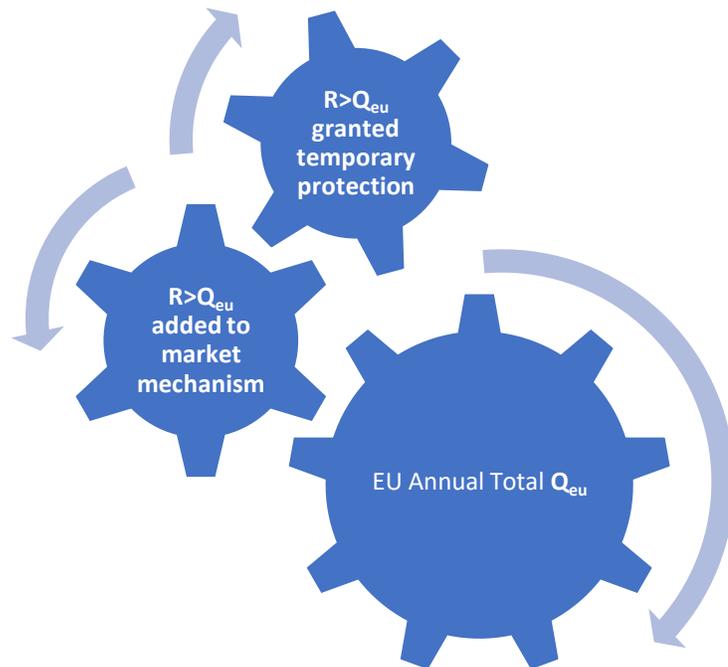


FIGURE 11: REFUGEES ABOVE THE ANNUAL EU QUOTA

2.4.7 Integration Measures

Recent European Commission literature acknowledges that ineffective integration raises the cost of refugee protection.²³³ Instead of ‘externalities’ the Commission speaks of “the cost of failed integration.”²³⁴ Euphemisms aside, policy-oriented scholarship has acknowledged that effective

²³³ European Commission. ‘An Economic Take on the Refugee Crisis: A Macroeconomic Assessment for the EU.’ (July 2016) Institutional Paper 033.

²³⁴ Ibid. p4.

integration is the key to preventing potential externalities (Grüner, 2017).²³⁵ Indeed, it is because of this relationship that this thesis argues that Member States be provided with the right to determine how many refugees become a part of their political community. Intake must be regulated with those most intimately acquainted with their respective integration infrastructure.

However, heterogeneity in employment opportunities and social support programs mean that States with more potent social welfare systems (i.e., Germany, Sweden, The Netherlands) and better labor market conditions will more easily find refugees that match their respective preferences. Though at first glance counter-intuitive, this would seem the case particularly with highly skilled, highly educated candidates in need of protection. Social welfare systems frequently correspond with more robust economies and thus more opportunities. On the flip side, refugees allocated to a State near the bottom of the list might be more reluctant to integrate. Accordingly, EU States falling under the lower quartile of their matching preferences would therefore receive a proportionately greater share of integration funds.²³⁶ Such funding might be combined with a new algorithm that matches refugee characteristics to resettlement sites using supervised machine learning (Bansak et al., 2018).

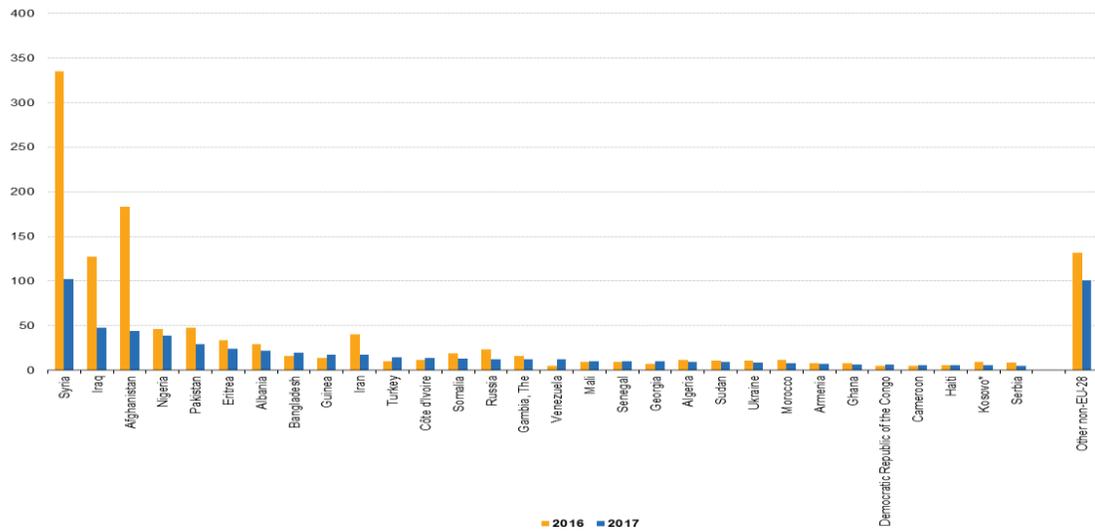
2.5 Why hasn't it already been done?

With every new refugee protection proposal, we must ask ourselves why it has yet to be conceived. In the case of the OIC-EU, there exists three reasons. The first is context. Never before has the EU experienced an influx of migrants, primarily from OIC countries (Figure 12), unable to be easily absorbed into the existing infrastructure. Advances in technology, smuggling networks, and the availability of information have forged a new migration paradigm to Europe and upheaved what was the status quo. More stringent immigration laws (i.e., tougher reception conditions), on the other hand, have not been empirically shown to consistently dissuade asylum seekers nor economic migrants.²³⁷ Diffusion of information and technological advances have thus spawned incentives to form a collaborative mechanism.

²³⁵ Grüner, H. P. (2017). *Externalities, Institutions and Public Perception: The Political Economy of European Integration Revisited* (No. 057). Directorate General Economic and Financial Affairs (DG ECFIN), European Commission.

²³⁶ For instance, funds already allocated by the European Investment Bank for integration, European Structural and Investment Fund programs for 2014-2020, and the forthcoming European Integration Network might release integration funds proportionate to preference matching.

²³⁷ Hatton, T. J. (2014). The economics of international migration: A short history of the debate. *Labour Economics*, 30, 43-50.



(*) This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo Declaration of Independence
 Source: Eurostat (online data code: migr_asyappctza)

FIGURE 12 COUNTRIES OF ORIGIN, ASYLUM SEEKERS TO EU 28 IN 2016/2017 (OUT OF THE TOP 10 COUNTRIES ONLY NIGERIA AND ERITREA ARE NOT OIC MEMBERS) SOURCE EUROSTAT.

Secondly, over time, the laws governing refugee protection have become disconnected from economic and social forces. The refugee regime’s roots derive from mass displacement at the end of the Second World War, as well as the desire to offer safe haven to those fleeing communist satellites. It was therefore a quasi-political tool formed in the post war period, when the positive rights regime was in its infancy and the logistics permitting the Global South to reach Europe in large numbers, limited. The international human rights regime has continued to develop, however, and with it a network of interconnected positive obligations, often transposed domestically, that imposes high costs upon States. The result has been a disjuncture between legal and economic forces. A market for protection may very well reconcile these forces, alleviating the tension between international law and sovereignty. Until recently, that tension has not warranted an intervention.

Thirdly, the OIC has long since been considered an unreliable partner. The world’s second largest Intergovernmental Organization (IGO) after the United Nations, the OIC was founded in 1969 to “safeguard and protect the interests of the Muslim world in the spirit of promoting international peace and harmony”²³⁸ and counts 57 Member States. In addition to several organs ranging from banking and peacekeeping, to disaster relief and a General Secretariat, the OIC consists of an Islamic Summit responsible for policy matters, composed of heads of state, a Council of Foreign Ministers which adopts

²³⁸ OIC. ‘Charter and History’. Accessed last February 12, 2018 from < <https://www.oic-oci.org/home/?lan=en>>.

resolutions and oversees implementation of Summit decisions, and a powerful General Secretariat responsible for the practical implementation of directives. Though the OIC is a political not a religious organization and thus not strictly bound by any particular interpretation of the Islamic normative system, it was founded and has been sustained vis-a-vis Islamic precepts. The names of its various mechanisms are quite telling: The Rights of the Child in Islam, the Islamic Development Bank, even its landmark meeting for reform was held in Makah, a city exclusive to Muslims.

Not surprisingly, in accordance with its *raison d'être*, institutional conduct has addressed the interplay between Islamic and international mandates, frequently struggling to harmonize the normative content of two distinct systems. Through its first thirty-nine years, for example, fundamental freedoms and international obligations were subject to a *sharia'* derogation clause in the OIC constitution. This meant that actions contrary to one of the many interpretations of Islamic law was grounds for invalidating a treaty-based commitment. The past decade has witnessed a shift in nomenclature from *sharia'* to *Islamic values*, amounting nevertheless to the same uncertainty. Partnering with the OIC had long since been considered a worrisome mix of secular values with those constrained by interpretations of Islam and subject to the authority of often unelected kings, princes, and dictators.

However, in 2005, as a roadmap for organizational reform and cross-cultural dialogue, 'The Ten-Year Programme of Action to Meet the Challenges Facing the Muslim Ummah in the 21st Century' urged Member States to introduce “changes to national laws and regulations in order to guarantee the respect of human rights.”²³⁹ In addition, the Ten-Year Plan enhanced interregional cooperation in conflict prevention, resolution, and post-conflict peace-building.²⁴⁰ *Islamic values* were largely equated with tolerance, moderation and consensus, advancing the role of women, and maintaining social justice and peace. In a similar vein, the Amended Charter, presented in 2008 at the 11th Islamic Summit in Dakar, aligns its constitutive document to reflect evolving organisational norms. Refraining from explicit reference to *sharia'* as a qualifier to upholding human rights, the preamble instead asks Member States “to adhere [sic] our commitment to the principles of the United Nations Charter, the present Charter and International Law.”²⁴¹ Emphasis is placed on ensuring good governance and accountability. Fundamental freedoms are explicated in proactive terminology.²⁴² Rather than focus on ways to shirk human rights law, the Amended Charter thunders forward, affirming, in general terms, positive obligations to minorities, women, foreign treaties, tolerance and Islamic heritage. *Sharia'* is removed as an impediment, and both

²³⁹OIC, 'Organization of the Islamic Conference. Ten Year Programme of Action' (2005) <<http://www.oic-oci.org/ex-summit/english/10-years-plan.htm>> accessed 15 December 2015

²⁴⁰ Ibid.

²⁴¹OIC, 'Amended Charter' (2008) <<http://www.oic-oci.org/is11/english/Charter-en.pdf>> accessed 16 October 2012

²⁴²Ibid.

the OIC and UN Charters, are urged to be upheld. Shortly after these changes, in June 2012, the Independent Permanent Commission on Human Rights (IPCHR) was established, comprised of eighteen experts in the field of human rights. The IPCHR is a means to catalyze internal change has been tasked with reviewing and supporting organizational human rights positions while attempting to align global norms with domestic policies and Islamic values. Building on the lofty and egalitarian themes of its aforementioned predecessors,²⁴³ Article VIII of the Commission's statute seeks to "advance human rights," Article IX to "consolidate civil, political, economic, social and cultural rights," Article X to "monitor observance of the human rights of Muslim communities and minorities," while Article XI focuses on "eliminating all forms of violence and discrimination."²⁴⁴ In this sense, the IPCHR can be seen as "a paradigm shift within the OIC in the way universal human rights and freedoms flow together with Islamic values"²⁴⁵ and a clear manifestation of the Organisation's distinct will.

Practically speaking, however, though the Commission is to provide technical cooperation, conduct research studies, provide consultancy and facilitate international and regional collaboration,²⁴⁶ its maneuverability is subject to the whim of OIC Member States. Ostensibly, the Commission is limited to consultative powers acting as an advisory organ, similar to the UN Advisory Committee to the Human Rights Council.²⁴⁷ With the Council of Foreign Ministers tasked with the actual adoption and implementation of policies, to what extent the Commission might leverage Member States to conform to their obligations remains to be seen. Unsurprisingly, many European governments have been reticent to collaborate with the OIC on refugee-related projects until a clear human rights mandate has been consistently implemented. This includes the ability of OIC Member States to achieve non-refoulement status.

2.6 Potential Objections

Several criticisms have been launched at market-based approaches in the past that might also be levied at an EU-OIC market mechanism. Seven of them are discussed below each of which has already been addressed in Chapter or will be tackled in Chapter III:

(a) Advocates for refugee-centered agency might criticize the preponderance of State agency in a supranational-directed market. Though there is no legal basis for asylum shopping, failure of the Dublin

²⁴³Ibid.

²⁴⁴OIC. (2011). 'Statute of the OIC Independent Permanent Commission on Human Rights' <<http://www.oicun.org/75/20120607051141117.html>> accessed 15 October 2012

²⁴⁵OIC, 'Department of Social and Cultural Affairs' (2011) 17 OIC Journal 1,15.

²⁴⁶OIC.2012 (n162).

²⁴⁷Petersen, M. J. (2012). *Islamic or universal human rights? The OIC's independent permanent human rights commission* (No. 2012: 03). DIIS Reports/Danish Institute for International Studies.

system has led to *ad hoc* refugee-centered movements. Proponents of these unilateral movements may consider State primacy inadequate.

There has also been criticism launched over a potential EU-wide tradable refugee quota market, pointing to the fact that the current EU refugee system is not strictly command and control. The semblance of an *ad hoc* market arose when Hungary and Greece stated their preferences for not hosting refugees and German Chancellor Angela Merkel welcomed migrants northbound, en masse, without numerical qualification. Protection could in theory achieve Pareto efficiency through Member States engaging in intra-EU bargaining without the high transaction costs of a centralized agency responsible for establishing quotas and monitoring protection.

Unfortunately, such optimism is illusory. Merkel's Market has already proven unsustainable. Germany and Sweden have stopped welcoming unlimited numbers of refugees, and anti-refugee States have calcified their opposition. There is no EU-wide consensus on a mandatory quota system, in large part because observable factors such as GDP, population, or land size, the suggested criteria, do not sufficiently account for State preferences in the immediacy, nor their long-term costs. Inversely, forming a 'hosting ability' distributional key, would likely be undermined by State incentives to distort their true capacity.²⁴⁸ Even if a distributional key was agreed upon the costs of mass relocations including legal challenges and enforcing secondary movements may be prohibitive.²⁴⁹

(b) Quality of protection has been a notable concern by human rights lawyers. Prioritizing quantity may result in a rush to obtain refugees in exchange for a desirable commodity, then providing less than stellar protection. This in turn may force Strasbourg to disallow transfers, even though the country may not fall under a *non-refoulement* category. This has already been seen in judgments from the European Court of Human Rights (e.g., *M.S.S.*) against returning asylum seekers to Greece, and transfers to Italy now require special arrangements.²⁵⁰ Guarantees of safe treatment, the Court has found, must fall under the rather general heading of 'certainty and appropriate action'.²⁵¹ Crucially, they must include "real risk"²⁵² "significant evidential presumption"²⁵³ and must breach "a minimum level of severity".²⁵⁴ It is notable that the Court has also shown a willingness to disregard unfounded quality of protection cases.²⁵⁵

²⁴⁸ Despite these difficulties lack of *ex ante* information about true capacity to host may be revealed over time through a system of tradable quotas.

²⁴⁹ Boswell, C. (2003). Burden-sharing in the European Union: lessons from the German and UK experience. *Journal of Refugee Studies*, 16(3), 316-335.

²⁵⁰ *M.S.S. v. Belgium and Greece* (App no 30696/09) ECHR 21 January 2011.

²⁵¹ No. 29217/12 *Tarakhel v. Switzerland* [2014] §49.

²⁵² 11 EHRR 439 *Soering v United Kingdom* [1989].

²⁵³ EWHC 2182 (Admin) *R (Elayathamby) v Secretary of State for the Home Department* [2011], § 42(i).

²⁵⁴ *Tarakhel* (n251) § 94; *M.S.S* (n250) §219; no 30210/96 *Kudła v. Poland* [GCV] §91.

²⁵⁵ No. 39350/13 *A.S. v. Switzerland* [2015] §36; no 51428/10 *A.M.E. v. the Netherlands* [2015] §36.

(c) The commodification of human beings, a multi-faceted argument involving norm-erosion could potentially stifle political will to create a centralized protection clearinghouse. It is noteworthy that that redistribution (infra 2.3) is currently part of the EU status quo. Institutionalizing reassignment may be conditional on framing protection in a positive light and encouraging civil society actors to express their legitimate concerns and negotiate the rhetoric of a protection market.

It is noteworthy that legally speaking humanitarian migrants, irrespective of status, may be transferred to a non-refoulement country provided the transfer is conducted in safety and with dignity (Infra Chapter III). The normative basis for this argument has been laid down by David Miller. Because the claim of a refugee is not against a specific State, but all States participating in the 1951 Convention, the refugee is not entitled claim to a specific State, but only to have her case decided by some legitimate selection criteria and be hosted in any State that can meet the legal obligation to host.²⁵⁶ Legal, of course, includes relevant human rights treaties. The foundation for Miller's claim is a territorial-based jurisdictional right. Sovereign nations possess a unique ethical consciousness shaped by socio-political developments and historical circumstances. and are therefore licit in preferential assignment of exclusionary rights.²⁵⁷ Let us not forget that at the heart of a constitutional democracy is the notion of self-limitation. States place boundaries in accordance with the values of the public culture and political community. In fact, this is the very reason that refugees are admitted in the first place against conventional norms of entry.

However, once a refugee develops familial and economic ties, or health complications, the legality of transfers becomes murky.²⁵⁸ A number of rights are afforded to the former claimants that impose high transaction costs upon the transferring State (infra 2.2.3). The result is time-consuming and an enormous expense to court systems. To proceed with minimal transaction costs transfers must be conducted expeditiously. Moreover, from legal point of view, EU and OIC transfers must be coherent with equivalent protection as per Strasbourg's rulings in the *Bosphorous Case*.²⁵⁹ Having its own legal personality, the European Community is legally responsible for wrongful acts.²⁶⁰ The same holds true from Member States under Articles 259 and 260 TFEU. Attribution of responsibility for breaches of fundamental rights under the ECHR is thus tenuous. Moreover, from a mechanism design standpoint Article 17 ECHR which

²⁵⁶ Miller (2015) (n9).

²⁵⁷ Pevnick, R. (2011). *Immigration and the Constraints of Justice: Between Open Borders and Absolute Sovereignty*. Cambridge University Press.

²⁵⁸ Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (OJ L 212, 7.8.2001, "Temporary Protection Directive") 23(1, 2); Human Rights Committee, General Comment No. 15, (1986) 'The Position of Aliens under the Covenant' §7.

²⁵⁹ That the EU, as an international organization must provide equivalent protection and was liable for any "acts and omissions of its organs regardless of whether the act or omission in question a consequence of the necessity was to comply with international legal obligations." No. 45036/98 *Bosphorus Hava Yolları Turizm ve Ticaret Anonim Şirketi v. Ireland* ([GC] [2005] §153.

²⁶⁰ *Ibid* §152.

prohibits in engaging in activities “aimed at the destruction of the rights and freedoms” of the Charter could be interpreted as an *ex ante* caution against transfers to third party, non-EU States. Notwithstanding this caution, the Charter’s usage of “aimed” in Article 17 clearly signifies prior intent. As there would be no malignant intent in an EU-OIC market mechanism, its juridical trajectory would very much follow other refugee relocation schemes, such as the Turkish Statement, which has yet to be effectively challenged.²⁶¹

(e) If OIC States are compensated for hosting EU refugees, there may be an incentive to surreptitiously push refugees northbound to continental Europe, then receive compensation for taking them back. Milner and his co-authors, for example, in several texts (2009, 2015), express concern that trading protection may lead to negative externalities in the security sector²⁶² not captured in market transactions and therefore lead to over-incentivized trade.²⁶³ Non-observable factors such as social unrest, national identity, and impact to the job market all suggest that this may be the dominant strategy. A few points here require exploration, though they must be conducted whilst bearing in mind the status quo.

Currently, OIC States may push refugees northbound without penalty. Nothing prevents Jordan or Turkey from engaging in State-sponsored efforts to drive refugees northbound. The fact that they currently host refugees without proportionate compensation speaks to their norm commitments. To presume that EU funding (already intact, albeit not for hosting *specific refugees*) would undermine the utility of their norm commitment is presumptuous at best. As a corollary, Islamic values add an incentive to uphold norm commitments and bilateral agreements. Islamic values, the *raison d'être* of the OIC, mandates a level of care for refugees beyond the proscriptions of the 1951 Convention.²⁶⁴ OIC States shirking refugee quotas, without the excuse of security concerns, would fall prey to being named and shamed, and might very well face opposition from domestic forces.

Secondly, there is no guarantee that countries who push refugees northbound would receive additional compensation. On the contrary. Refugees may list the States that pushed them northbound at the lower spectrum of their preferences, and therefore make them less likely to be selected in the matching mechanism. Moreover, several of the OIC States currently hosting refugees may be considered safe first countries under the *Asylum Procedures Directive*. States that push refugees northbound in exchange for compensation could end up taking them back without payment.

²⁶¹ However, the Turkish Statement risks being challenged on the grounds of collective expulsion a point not applicable to an OIC-EU mechanism working on randomization with a non-transparent matching mechanism.

²⁶² Loescher & Milner (2013), (n171). Loescher, G., Milner, J., Newman, E., & Troeller, G. (2007). Protracted refugee situations and the regional dynamics of peacebuilding: Opinion. *Conflict, security & development*, 7(3), 491-501.

²⁶³ Schuck, P. (2014). Refugee Burden-Sharing: A Modest Proposal Fifteen Years Later?, postscript, p108.

²⁶⁴ Elmadmad, K. (2008). Asylum in Islam and in modern refugee law. *Refugee Survey Quarterly*, 27(2), 51-63.

(f) Critics might question why OIC States would compliantly enter into an EU-centric market? Again, taking into account the status quo, OIC States are better off entering into an EU-centric market than maintaining their current trajectory. First off, payments for some future refugees would be predictable. OIC States now host the majority of the world's refugees without adequate or stable levels of compensation. Pakistan, for example, hosts 2.5 million Afghan refugees and receives an annual budget from the UNHCR below 140 million USD; however only 40 million of that was disbursed in 2015 due to the Syrian crisis. Joining an EU-OIC market is akin to an insurance policy for potential future migrant crises

Second, and more significantly, the EU resettlement quota would require a number of refugees to be transferred from OIC States and hosted on EU territory. Whilst an EU-centric market is not the optimal solution for OIC States, and certainly not Pareto efficient, it does put them in a better position than they are currently. Though Turkey has recently been earmarked 3 billion Euro for migrant-related matters, many OIC States have received little to nothing. If the cost of providing protection is significantly below the quota set by a market, poorer OIC States would have incentives to accept refugees from wealthier European neighbors.

(g) In order to employ an extraterritorial approach, the UNHCR recommends repatriation or transfers be conducted in safety and dignity. Though this agency standard is non-binding, it is rooted in binding mechanisms. Avoiding “harassment, arbitrary detention or physical threats”,²⁶⁵ for example is derived from Article 7 of the ICCPR. Dignity, on the other hand is less clear. In UNHCR's words, dignity is composed of a host of factors including leaving families intact and unconditional return.²⁶⁶ The legality of market mechanisms may then boil down to the fundamental right of an autonomous individual's right to dignity. If so, dignity is the shibboleth by which market-based solutions may be subject to court stoppage and high transaction costs. It is to this complex domain that the forthcoming chapter is devoted.

Chapter III

On the Legality of Refugee Transfers

Introduction

Since the refugee crisis of 2015, several EU Member States have employed strategies to avoid hosting asylum seekers: tighter border controls, non-entrée agreements with third-party countries, pushing migrants to neighboring countries, and fortifying evidential standards for granting refugee status. Dissuasion in its

²⁶⁵ Executive Committee Conclusion No. 65, §j.

²⁶⁶ *Ibid*

many forms is a consequence of international law clashing with economic and social forces. The 1951 Refugee Convention to which all EU States have acceded provides a non-bounded definition of protection: asylum seekers reaching Europe and determined to be refugees must be protected. State preferences for hosting, however, are not boundless. They are subject to shifting public perception, labor market trends, and the ability for previous waves of refugees to successfully integrate. Member States that have preferences to host fewer than international law dictates are thus faced with a dilemma: either ignore the law, amend the law, or lower their respective absorption rate within the law's proscriptions.

Transferring refugee protection to third party countries may be a solution to ensure Member States satisfy both their Geneva Convention and electorate-related obligations. Transfers have been written about extensively in the literature and discussed at the EU-level. In effect, they translate into protecting without hosting. There is however a question of their legality. Can an EU country legally transfer a refugee or asylum seeker to a third-party? And if so, under what conditions?

Chapter III seeks to answer these questions. It does so through two distinct avenues. The first approach reviews international and domestic legal instruments pertaining to refugee law. The legality of previous intra and inter-EU and external transfers are discussed with an eye towards recent developments in the law and future challenges. The second avenue takes a rather unique turn. Arguing that dignity frequently has been and may reasonably continue to be the Archimedean point off which European courts permit refugee transfers, predicting dignity-based challenges to refugee transfers will be necessary to reduce the risk of transfers being adjudged illegal. In turn, lower risk will lower *ex ante* transaction costs and help make an OIC-EU mechanism viable.

The dignity- refugee transfers link is extrapolated in two steps. The first step seeks to clarify ambiguities in the term *dignity*. From a legal optic, dignity has been applied from many different angles and at times inconsistently by European courts. How then can States anticipate whether Strasbourg or Luxembourg might invalidate a transfer based on multiple understandings on what constitutes dignity? Dignity as a principle open to interpretation is analyzed using an evolutionary approach, whereby not only extant law, but developments in the law and the impact of those developments are anticipated.

The second step is to put forth a methodological framework able to predict how courts may apply dignity to transfers. A logical and straightforward way would be to analyze caselaw pertaining to treatment of refugees, juridical tools (i.e., margin of appreciation), or even a chronological progression. However, this study argues that such approaches limit predictive capacity. Looking only at refugee-related caselaw, for

instance, limits analysis into the substrates of *lex ferenda* involving dignity— emerging understandings by which the law facilitates and protects conditions leading to a dignified existence. In turn, the ability to predict legal challenges becomes limited. These substrates are most effectively elucidated through a contextualized reading of dignity. The context of this dissertation is the domains typical of the refugee experience and constitutes a process by which an individual fleeing persecution must maintain their autonomy and occasionally reconcile competing interests with her host community.

Looking at it another way, an organizing principle able to accurately synthesize the act of legally transferring a human being must accurately account for the reality that those human beings faces. Since millions of realities cannot be reconstructed in a single study, stages that most refugees face, and within these stages, common affronts to dignity, guide the analysis. The stages are depicted in figure 13. They are: spatial dislocation and relocation; psychological and physical impacts to one’s identity; and the interaction between societal and individual conceptions of dignity.

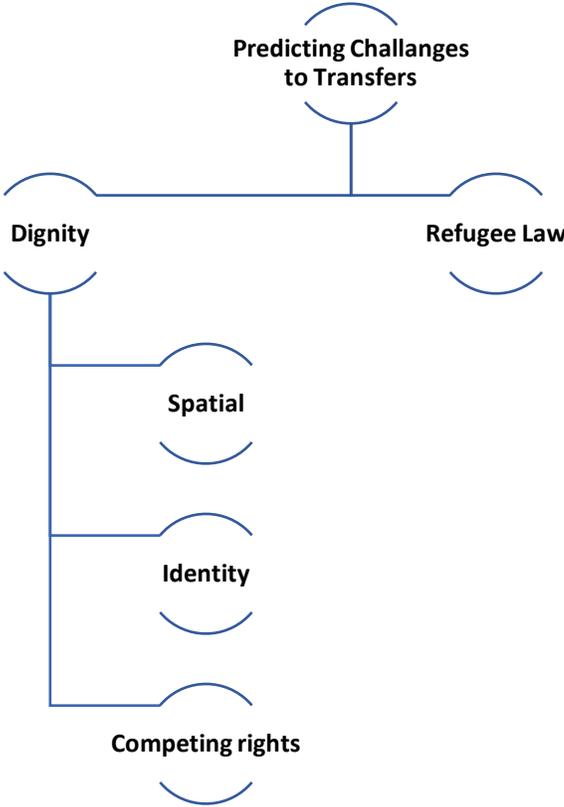


FIGURE 13 ANALYTIC FRAMEWORK: PREDICTING CHALLENGES TO REFUGEE TRANSFERS

Within each stage, pertinent case law is analyzed. For example, how courts have ruled upon challenges to spatial dislocation, both refugee and non-refugee related are distilled towards extracting a common legal reasoning that guides the relationship between spatial footing and conditions facilitating a dignified existence. In turn, this reasoning can be applied to EU asylum policies, minimizing the possibility that transfers will be successfully challenged in court. The latter point cannot be emphasized enough: minimizing risk is critical towards designing a system of refugee allocation. Predicting dignity-grounded challenges to refugee transfers is essential to an efficient system whereby transaction costs from legal hurdles and human costs from psychological damage are prevented.

3.1 Transfers

Is a State legally bound to offer protection on its own territory? Put another way, the 1951 Convention stipulates that signatory states must protect individuals who are persecuted or have a well-grounded fear of persecution. There exists a clear negative right not to refool. But do protection commitments carry any positive spatial implications in the absence of a written prohibition? Or, as Foster (2007) notes, is the negative implication frequently drawn by State parties in absence of a clear positive obligation licet?

Beginning with *Mavrommatis* the ICJ has confirmed that the obligation of protecting a human being includes extraterritorial applications.²⁶⁷ This “bond of nationality between the State and the individual” was later confirmed in *Panavezys Saldusiskis Railway Case* to validate diplomatic protection.²⁶⁸ Though neither citizens nor diplomats of a hosting EU Member State, a link here can be made to refugees. To bring refugees who cannot benefit from the traditional State-individual bond of *de jure* protection, into what one UN Secretary-General called “the orbit of the law” a State must supplant the severed bond of a refugee from her home.²⁶⁹ Yet, a specific territory, is simply not a precondition for forming a new bond. In fact, territory arises as a condition not for the State, but the asylum seeker: she must be outside her country of nationality to apply for refugee status. A State then has a right to exclude from its own territory, if and only if the State can provide an extraterritorial alternative. Alternative, however, is bound by several legal constraints. Once a refugee develops familial and economic ties,²⁷⁰ or health complications,²⁷¹ the legality of transfer becomes

²⁶⁷ *Mavrommatis Palestine Concessions* (Greece v. U.K.), 1924 P.C.I.J. (ser. B) No. 3 (Aug. 30).

²⁶⁸ *Panavezys-Saldutiskis Railway (Est. v. Lith.)*, 1938 P.C.I.J. (ser. A/B) No. 76 (Feb. 28).

²⁶⁹ As cited in Fortin, A. (2000). The meaning of ‘Protection’ in the Refugee Definition. *International Journal of Refugee Law*, 12(4), 548-576.

²⁷⁰ *Amrollahi v. Denmark* (Application No. 56811/00, judgment of 11 July 2002); Global Consultations on International Protection, ‘Summary Conclusions – Family Unity’, Geneva expert roundtable, Nov. 2001; Temporary Protection Directive, (n179) at 23(2): “Member States may allow families whose children are minors and attend school in a Member State to benefit from residence conditions allowing the children concerned to complete the current school period.”

²⁷¹ The Temporary Protection Directive (n179) at 23(1) states that poor health may prevent expulsion: those who “cannot, in view of their state of health, reasonably be expected to travel; where for example they would suffer serious negative effects if their treatment was interrupted. They shall not be expelled so long as that situation continues.”

murky.²⁷² Despite the fact that rights and constitutional status derived from Union membership are not automatically extended to migrants, a number of rights are afforded to migrants that impose high transaction costs upon the transferring State. These include rights corresponding to ICCPR [art. 6, 7(1), 9(1), 10, 13, 17], CESCPR [art. 10(1), 11, 12, 12(2)(a)] and the Convention for the Rights of the Child [art 2,8,9,10].²⁷³ Moreover, Article 1(1) of the European Convention for Human Rights limits expulsion of a legal alien.²⁷⁴ Scale takes on another face as well. Group-level expulsion is prohibited.²⁷⁵ Removal must therefore be conducted on a very costly case-by-case basis and without discrimination. The result is time-consuming and an enormous expense to court systems.

Moreover, because EU legislation must follow relevant human rights treaties (Article 6 TFEU) the administrative autonomy held at the national level by Member States cannot deviate from the scope and purpose of EU law.²⁷⁶ This means that individual hearings must be provided during which the refugee will be able to provide reasons for extending his refugee status including past trauma, social, familial, and economic ties formed during his time in the host country,²⁷⁷ as well as any considerations relating to the possibility of being subjected to cruel, inhuman or degrading punishment.²⁷⁸ Many of these aspects are grounded in EU instruments (i.e., the right to a family under article 8 ECHR) even if the European Convention of Human Rights does not retain the status of primary law, nor has the EU acceded to relevant human rights treaties.²⁷⁹ Under EU law, such administrative procedures transpire at a national level bounded by three constraints: equivalence, effectiveness and compliance with the European Charter on Fundamental Rights, particularly Article 47 on effective judicial protection; that is, national procedural and

²⁷² Non-removal under the abovementioned ties has been supported by the Human Rights Committee which has stated that, "[Non-citizens] may not be subjected to arbitrary or unlawful interference with their privacy, family, home, or correspondence." Human Rights Committee, General Comment No. 15, The Position of Aliens Under the Covenant §7 (1986).

²⁷³ *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990). The articles from the three above-mentioned Conventions are conveniently delineated in both Hathaway 2005, (n23), as well as in footnote 32 of Marjoline Zieck, 'Vanishing Points of the Refugee Law Regime' (2005) *Immigr. & Nat'lity L. Rev.*, 26, p251.

²⁷⁴ Protocol No. 7 to the 1950 European Convention (n24). Note: while I am familiar with the three Conventions and these Articles in particular, I am grateful for Zieck, (n273), at 252-253 for framing them within the context of the general legal burden placed on States before removing refugees.

²⁷⁵ Article 4, 4th Protocol, European Convention (n24).

²⁷⁶ Akerberg Fransson, C 617/10, EU:C:2013:280.

²⁷⁷ When "an alien has developed such a close relationship to his or her State of residence that it has become his (her) 'home country,' he is entitled, in addition to Article 13, to the nearly unrestricted protection against expulsion under Art. 12(4)." Manfred Nowak, U.N. Covenant on Civil and Political Rights, commentary 228 (1993) as referenced Joseph, S., & Castan, M. (2013). *The international covenant on civil and political rights: cases, materials, and commentary*. Oxford University Press. Also see Walter Kalin as qtd in Zieck, (n273) at 257: What must be decisive in the context of Article 12(4) ICCPR is ... that the link between the immigrant and the country of immigration has become so intensive that the country of origin is now the point of reference in his or her life."

²⁷⁸ See, for example, 1984 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1465 UNTS 85 / [1989] ATS 21; ICCPR (n15) at Article 7; European Convention (n24) Article 7.

²⁷⁹ Rosas, 'The Charter and Universal Human Rights Instruments', in: Peers, S., Hervey, T., Kenner, J., & Ward, A. (Eds.). (2014). *The EU Charter of fundamental rights: a commentary*. Bloomsbury Publishing. Also, on reliance on the ICCPR: ECJ, Parliament vs. Council, C 540/03, EU:C:2006:429 §37.

administrative autonomy must not afford lesser rules on EU-related matters than Community proscriptions. Community law may not be made overly difficult to implement, and international legal instruments effectively provide guidance for duration of stay.²⁸⁰ Still, despite potential legal hurdles as positive obligations accrue over time, in the first instance, there are no *prime facie* legal barriers to transferring protection.

3.2 Legal Objections to Transfers

Anticipating UNHCR legal objections over refugee transfers may be gleaned from concerns over the ‘Turkey Statement’ by which irregular Syrian migrants transiting from Turkey to Greece are returned to Turkey in exchange for resettling Syrians within the EU at a one-to-one ratio. To be clear, the legal basis for refugee transfers differs from the Turkey Statement. The latter rests on the safe first country principle derived from the *Asylum Procedures Directive*, and applies to refugees who could have applied for refugee status but did not or whose status was not yet determined.²⁸¹ The first country must be willing to receive the refugee, but also to provide a durable solution that includes ‘sufficient protection’.²⁸² Even though transfers do not often make use of the safe first country of asylum concept, the UNHCR’s concerns over the ‘Turkey Plan’ sheds light on potential objections for refugee transfers and therefore warrant further scrutiny. These points are detailed below.

Aside from *non-refoulement*, the UNHCR recommends that the first country provide “effective and available in law and practice”²⁸³ taken to mean accession and compliance with the 1951 Convention and 1967 Optional Protocol.²⁸⁴ In addition, there should exist no risk of further persecution,²⁸⁵ onward refoulement, and compliance should exist with international human rights and refugee conventions to include, but not limited to: health care, education, rights to work and ‘adequate standards of

²⁸⁰ *Rewe vs. Landwirtschaftskammer für das Saarland*, 33/76, EU:C:1976:188, §5; ECJ, *Samba Diouf*, C 69/10, EU:C:2011:524, §49. Both cases referenced in Hailbronner and Tyhm, (n25), p18-19.

²⁸¹ Return of the refugee to the first safe country is optional, and the refugee may rebut or appeal the transferring State’s decision. In addition to an interview to determine admissibility Art. 34(1) APD, the refugee may have the right to legal counsel Art. 22(1) APD, and an effective remedy before a judicial body Art. 46(1)(a)(ii) APD. Under Article 35(d) of the APD, Turkey may be considered as safe (Article 38) country of first asylum.

²⁸² *Plaintiff M70/2011 v. Minister for Immigration and Citizenship; and Plaintiff M106 of 2011 v. Minister for Immigration and Citizenship*, [2011] HCA 32, Australia: High Court, 31 August 2011; UNHCR, *Summary Conclusions on the Concept of “Effective Protection” in the Context of Secondary Movements of Refugees and Asylum-Seekers (Lisbon Expert Roundtable, 9-10 December 2002)*. Note: sufficient protection includes several points, some of which are legally binding, others recommendatory.

²⁸³ UNHCR. ‘Legal considerations on the return of asylum-seekers and refugees from Greece to Turkey as part of the EU-Turkey Cooperation in Tackling the Migration Crisis under the safe third country and first country of asylum concept’ (23 March 2016) at 3.

²⁸⁴ UNHCR, *UNHCR Provisional Comments on the Proposal for a Council Directive on Minimum Standards on Procedures in Member States for Granting and Withdrawing Refugee Status (Council Document 14203/04, Asile 64, of 9 November 2004)*, 10 February 2005, at 36; UNHCR, *Improving Asylum Procedures: Comparative Analysis and Recommendations for Law and Practice - Detailed Research on Key Asylum Procedures Directive Provisions*, March 2010, at 283

²⁸⁵ European Union: Council of the European Union, *Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast)*, 20 December 2011, OJ L. 337/9-337/26.

living’.²⁸⁶ Though the UNHCR’s expansive definition of ‘sufficient’ is not in itself binding, several points are derived from Treaties and Covenants that all EU Member States are bound by, not to mention case law guided by readings of the ECHR under Article 3 and 13. As Ninette Kelley (2002) surmises, this may hinge on “whether the claimant’s basic civil, political, and socio-economic human rights, as expressed in the refugee Convention and other major human rights instruments, would be protected there.”²⁸⁷ Importantly, these strictures would apply *whether within or outside* of EU territory. Since there is no clear legal principle separating transfers within supranational and international boundaries, *nulla poena sine lege scripta* would guide confluences of social justice concerns with legal obligations.

Moreover, EU legislation bestows individual rights to migrants, a point clearly recognized by the ECJ.²⁸⁸ Whether transfers in general require interpretation by the CJEU under 276(b) of the TFEU is debatable; it is nevertheless common sense that a blatant disregard for the consensus EU minimal standards that fulfill ‘sufficient,’ ‘effective,’ and ‘adequate’ risk illegitimizing transfers. Strasbourg has been explicitly clear that any threat of an Article 3 violation by a non-signatory State receiving an extradited, expelled or transferred individual would constitute a violation.²⁸⁹ This has been further clarified to include indirect refoulement, such as when actors function on behalf of a sovereign nation intra or extraterritorially.²⁹⁰ There is likewise a concern when dealing with authoritarian or semi-authoritarian third party States whose unpredictable activities may invalidate their status as safe hosts.

A Final Concern

If the above concerns are satisfied there remains one significant hurdle: that refugees are transferred in safety and dignity. While the former can be easily extrapolated, the latter is not so clear. Most recently, in the Secretary-General’s report on migration, dignity was explicated in very broad terms: non-discrimination and inclusion, addressing roots cause, protecting large movements, responsibility sharing by hosts.²⁹¹ Yet precisely what comprises this legal hurdle? Put another way, to avoid high transaction costs from legal

²⁸⁶ UNHCR. ‘Legal considerations on the return of asylum-seekers and refugees from Greece to Turkey as part of the EU-Turkey Cooperation in Tackling the Migration Crisis under the safe third country and first country of asylum concept’ (23 March 2016) at 3.

²⁸⁷ Kelley, N. (2002). Internal flight/ relocation/ protection alternative: Is it reasonable?. *International Journal of Refugee Law*, 14(1), 35.

²⁸⁸ Chakroun, C-578/08, EU:C:2010:117 §41.

²⁸⁹ Saadi v Italy ECHR 2008; 49 EHRR 30§138, “The prospect that he may pose a serious threat to the community if not returned does not reduce in any way the degree of risk of ill treatment that the person may be subject to on return.”

²⁹⁰ International Law Commission, ‘Articles on the Responsibility of States for Internationally Wrongful Acts’, UNdoc. A/CN.4/L.602, 31 May 2001; Türk, V., & Nicholson, F. (2003). Refugee protection in international law: an overall perspective. *Refugee Protection in International Law: UNHCR’s Global Consultations on International Protection*, 3-45.

²⁹¹ United Nations General Assembly. ‘In safety and dignity: addressing large movements of refugees and migrants. Report of the Secretary-General’ (21 April 2016).

battles, how can States predict future challenges to transferring refugees and asylum seekers founded on dignity-based claims?

3.3 Dignity

Because transferring refugee protection quotas may hinge on their legality, and legality is derived from international legal instruments grounded in human dignity, only an applied understanding of dignity can provide the legal and ethical validation for a refugee protection market. In order to systematically address potential dignity-grounded challenges to transfers, the following analysis proceeds in three steps. The first step is to plow through the vagueness and opacity surrounding the term dignity. From this clarity we can better understand dignity's function in judicial interpretation and determine its generalizability amongst EU courts, domestic and supranational. Is it the case that one jurisdiction's usage of dignity are spokes in an umbrella framework? Or is dignity context-laden? In other words, is there a minimum core of dignity that is translatable and applicable across the EU? The second step is to examine how courts have treated the notion of a minimum core, bearing in mind refugee protection. The third and final stage will be to approach dignity from a process philosophy optic. Arguing that the dignity of a refugee is ultimately decided through a non-static interactive process between refugee and her external environment, dignity is positioned within three progressive stages impacting refugees and asylum seekers: identity, spatiality, and competing conceptions of dignity between the individual and society.

3.3.1 A Useless Concept?

Dignity, and principles more generally, play an interpretive function by which ambiguities or gaps in the law are guided.²⁹² Unlike rules, which are applied at face value, dignity as a principle is subject to metrics or, to quote Robert Alexy, "optimization requirements".²⁹³ This aspect of principles guide uncertainties when specific rules enumerating a positive right or prohibition are not present.²⁹⁴ And despite courts employing such legal tools as proportionality analyses, subsidiarity, and margin of appreciation to decide the appropriate balance between constraints upon personal dignity, opaqueness surrounding what dignity means has mounted considerable criticism.²⁹⁵

Opposition to the use of dignity as a value without clear substantive meaning has a rather luminary history. Prominent bioethics professor Ruth Macklin has called human dignity "a useless concept" of

²⁹² Barroso, L. R. (2012). Here, There, and Everywhere: Human Dignity in Contemporary Law and in the Transnational Discourse. *BC Int'l & Comp. L. Rev.*, 35, 356; Habermas, J. (2012). *The concept of human dignity and the realistic utopia of human rights* (pp. 63-79). Springer Netherlands. McCrudden, C. (2008). Human dignity and judicial interpretation of human rights. *European Journal of international Law*, 19(4), p668.

²⁹³ Klatt, M. (Ed.). (2012). *Institutionalized reason: the jurisprudence of Robert Alexy*. Oxford University Press; Möller, K. (2007). Balancing and the structure of constitutional rights. *International Journal of Constitutional Law*, 5(3), 453-468.

²⁹⁴ Alexy, R., & Rivers, J. (2009). *A theory of constitutional rights*. Oxford University Press.

²⁹⁵ Because context is critical in balancing interpretative standards, non-EU citizens may not benefit from status conferred by EU primary law. Hailbronner & Thym, (n25) p14.

“vague restatements”²⁹⁶ while notable Human Rights Law scholar, Christopher McCrudden, has acknowledged that dignity is frequently employed as “a smokescreen behind which substantive judgements are made.”²⁹⁷ Courts have often come to similar levels of disconcertion. The Supreme Court of Canada has found the concept of dignity too abstract to apply as a legal measurement, resulting in “an additional burden...rather than the philosophical enhancement it was intended to be.”²⁹⁸ Along similar lines the dissent in *Bouyid v. Belgium*, was perplexed at the ECtHR’s Grand Chamber enumerating a litany of Covenant and Treat-oriented texts that “provide[d] no indication of how the notion of human dignity is to be understood.”²⁹⁹ The German Constitutional Court, in another prominent example, often combines dignity with other rights in a manner which makes dignity’s standalone meaning opaque.³⁰⁰ The worry, especially in a federation or supranational union is that applying universal conceptions of dignity that cannot be objectively estimated fosters a mishmash of international norm transfers to domestic law. The result is often a set of barely traceable domestic precedents which, in the words of Paolo Carrozza, may become “indistinguishable from the arbitrary or idiosyncratic preference of a judge for some norm over some other one.”³⁰¹

Without a systematic account of how dignity has been used in relevant legal systems, we are stuck with a monolithic view that disallows “a comprehensive understanding of why the Court has embraced dignity, what type of actions threaten dignity, and how the Court weighs dignity in relation to other values.”³⁰² This is especially the case for two reasons. First, dignity has different nuances in different cultures.³⁰³ So, as Israeli Supreme Court Justice Aharon Barak notes, “alongside those universal aspects are others that reflect each and every society’s own history, culture, and human experience—the matters that lead the

²⁹⁶ Macklin, R. (2004). Reflections on the human dignity symposium: is dignity a useless concept?. *Journal of palliative care*, 20(3), 212.

²⁹⁷ McCrudden, C. (2008). Human dignity and judicial interpretation of human rights. *European Journal of international Law*, 19(4), p722.

²⁹⁸ *R. v. Kapp*, 2008 SCC 41, 2 SCR 483 [22].

²⁹⁹ *Bouyid v. Belgium [GC]*, no 23380/09, ECHR 2015 §dissent.

³⁰⁰ Also, Möllers (2009) remarking that dignity acts as an objective norm able to abridge other fundamental rights. Möllers, C. (2009). Democracy and Human Dignity: Limits of a Moralized Conception of Rights in German Constitutional Law. *Israel Law Review*, 42(02), 420.

³⁰¹ Carozza, P. G. (2008). Human dignity and judicial interpretation of human rights: A reply. *European Journal of International Law*, 19(5), 940.

³⁰² Henry, L. M. (2011). The jurisprudence of dignity. *U. Pa. L. Rev.*, 160, p176. Henry is writing specifically about the US Supreme Court For an interesting comparative study (if not a bit outdated) of the United States and Europe, see Whitman, J. Q. (2004). Human dignity in Europe and the United States: the social foundations. *Human Rights Law Journal*, 25, 17-23. Also noteworthy on the topic: Whitman, J. Q. (2004). The two western cultures of privacy: dignity versus liberty. *Yale Law Journal*, 1151-1221; Resnik, J., & Suk, J. C. H. (2003). Adding Insult to Injury: Questioning the Role of Dignity in Conceptions of Sovereignty. *Stanford Law Review*, 1921-1962.

³⁰³ For further discussion see Fyfe, R. J. (2007). Dignity as theory: competing conceptions of human dignity at the Supreme Court of Canada. *Sask. L. Rev.*, 70, 1; Mégret, F., & Hoffman, F. (2003). UN as a Human Rights Violator-Some Reflections on the United Nations Changing Human Rights Responsibilities, *The. Hum. Rts. Q.*, 25, 314.

society to its own unique understanding of human dignity.”³⁰⁴ These distinctions are not semantical. They impact how rights are adjudicated and provide content to individuals and groups over what they can expect from the State within its boundaries.³⁰⁵

3.3.2 Evolving Understandings of Dignity

Secondly, what constitutes dignity is non-static. It shifts alongside what U.S. Supreme Court Justice Warren’s declared “the evolving standards of decency that mark the progress of a maturing society.”³⁰⁶ The European system has likewise calibrated dignity alongside shifting societal understandings. In *Christine Goodwin v. United Kingdom*, a case addressing changes to the identity card of a post-op transsexual, the ECtHR clearly defines dignity through the Court’s temporal marker: developments in how 21st century Europe understood the impact of a transsexual’s identity on her ability to live a dignified existence; these understandings “cannot be regarded as a matter of controversy requiring the lapse of time to cast clearer light on the issues involved.”³⁰⁷ Meaning, of course, that society had *already evolved* to the level where equal rights for transsexuals must be afforded. In both instances, the justices use temporal markers to illustrate the relative nature of interpreting what constitutes a minimum core of dignity.

Frequently, these temporal markers diffuse from more expansive applications of core rights. Gradual shifts in the right for a private life and marriage for homosexuals provide a fine example: laws protecting against discriminatory treatment of homosexuals, not recognized when the UDHR was signed are now the norm throughout the European Union and have often been reasoned by courts through the protection of dignity.³⁰⁸ It is unimaginable that half a century earlier dignity would be linked jurisprudentially to homosexual or transsexual rights. This of course has bearing on potential refugee transfers. If dignity-based claims guide interstate refugee mobility, then a transferring EU Member State must gauge not just existing case law grounded in dignity but *anticipate the direction society is moving* and how that interfaces with *lex ferenda*.

³⁰⁴ Similarly, Israeli’s Basic Law, has allowed dignity to become “the unconventional weapon of invalidating regular law that injures human dignity and does not fulfill the stipulations of the ‘violations of rights’ clause.” Barak A. (1994). Human dignity as a constitutional right. *Haprklit*, 41(1-2) (Heb) as qtd in Shultziner, D., & Rabinovici, I. (2012). Human dignity, self-worth, and humiliation: A comparative legal–psychological approach. *Psychology, Public Policy, and Law*, 18(1), p131. Or the South African system, where, while justiciable and enforceable “where the value of human dignity is offended, the primary constitutional breach occasioned may be of a more specific right.” [2000] 5 Law Reports of the Commonwealth 147, 2000 (3) SA 936 (CC). Also, Möllers (n222) p425, remarking that dignity acts as an objective norm able to abridge other fundamental rights.

³⁰⁵ Rao, N. (2011). Three Concepts of Dignity in Constitutional Law. *Notre Dame L. Rev.*, 86, 186.

³⁰⁶ *Trop v. Dulles* 356 U.S. 86 page 101.

³⁰⁷ *Christine Goodwin v. the United Kingdom* (application no. 28957/95), July 11, 2002 §47. A case overturning an enormously unpopular decision four years earlier in *Sheffield and Horsham v. United Kingdom*, in which twelve judges offered dissenting opinions.

³⁰⁸ *Lustig-Prean and Beckett v. UK*, (Application nos. 21417/96 and 32377/96) 27 September 1999.

3.4 Three Stages

If dignity has several meanings within different legal systems and must be understood contextually against a backdrop of shifting societal norms, how then is it possible predict legal challenges to refugee transfers?³⁰⁹ One obvious answer is to look for precedent in previous refugee-related case law or to look more generally at case law that uses dignity as its primary legal foothold. Yet these logical pathways are either too narrow or too broad. They both fail to efficiently capture the actual experience of dislocation, identity stabilization, and macro-microsocial standoffs that refugees typically face *in addition to* threads of legal reasoning that may reasonably impact emerging applications of dignity. The consequence is that the determinants that delimit or allow dignity to thrive in dislocation, identity stabilization, and macro-microsocial standoffs are cubby-holed. The alternative guides the remainder of this paper: extrapolating thematically-targeted case law that addresses both refugee-related and broader-related content. Figure 14 illustrates three potential the analytic frameworks used below to analyze refugee transfers.

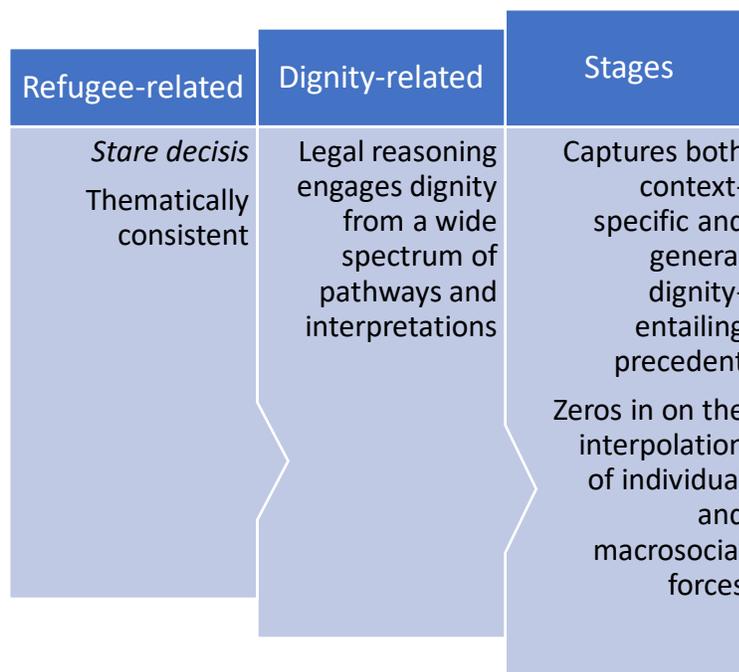


FIGURE 14: POSSIBLE ANALYTIC FRAMEWORKS TO ANALYZE REFUGEE TRANSFERS

What are these stages that help select thematically-targeted case law? Returning to the fundamentals of the 1951 Convention, the refugee is an individual who faces persecution, is compelled to leave her country of nationality, and whose preferences must be balanced with public interest and societal values. This progression constitutes a continuum along which the refugee is provided the opportunity to become

³⁰⁹ For further discussion see: Mégret (n303) p314.

an autonomous human being and live a dignified existence. *Provided*, here, highlights the law's role in facilitating dignity-enabling conditions. The law minimizes institutional, interpersonal, and macrosocial impediments towards a dignified existence. The courts *enable* by balancing, codifying emerging norms, but also, ushering in *lex ferenda* that at times is at odds with majoritarian opinions. These rights, though, are not simply bestowed *en masse*. They are accumulated in piecemeal fashion in contexts that may or may not be refugee related. Nevertheless, while their context may vary tremendously, their thematic relatedness betrays a certain cohesion. Stages, as meta-signposts highlight the course of the refugee's narrative. They mark waystations and are interpolated with jurisprudential content that reasons dignity. Let us look more precisely at what each stage implies:

- (A) Asylum seekers flee persecution. They must be hosted on sovereign territory. As such, a spatial dimension exists between the flier and their host.
- (B) Fleeing persecution may affect a refugee's identity both physically and psychologically.
- (C) A refugee must be protected. She must also comport to a balancing act between the realities of her host country and her unique identity. Typically, divergences can be mediated. However, at times a situation may arise when the dignity of the individual is in confrontation with the dignity of the hosting national community. Courts have reasoned these competing conceptions of dignity.

It is in the spatial, identity, and incommensurable rights domains that we witness the law's response to dignity-based claims and their implications for future transfers. Jurisprudence from three themes guide State actors on two points. First, they help States anticipate due diligence requirements of alternative protection options in third-party States, ones that includes reasonable and affirmative protection.³¹⁰ Secondly, they paint an elaborate picture of how positive rights may take on more expansive applications reasoned through a dignity-grounded approach. Rights to gay marriage, hygienic detention centers, and minimum standards of living are just some of the many examples of recent years. In turn, EU States can better predict what type of transfers may entail high transaction costs and act accordingly.

³¹⁰ For arguments of what constitutes effective and reasonable protection: Hathaway, J. C. (1999). International Refugee Law: The Michigan Guidelines on the Internal Protection Alternative. *Mich. J. Int'l L.*, 21, 131; Kelley (n287).

3.5 Case Selection

In legal analysis there is often concern over cherry-picking cases. To avoid selection bias, a systematic method to case selection was undertaken for Chapter III. First, the author identified cases where the crux of the judicial reasoning was grounded in dignity. Secondly, the author read through the cases and grouped them into three categories: those impacting spatial aspects, identity, and cases that pitted two incommensurable rights. Cases that did not fall into these three domains and did not apply to refugees were not included.

At times there was considerable overlap between similar cases. In those circumstances, the author determined a common thread of underlying logic and precedent. In those cases that used the same legal reasoning to arrive at a ruling that accounted for human dignity, the most influential case was cited. Those cases that used the same precedents, both the original case and the most recent case were often cited. In addition, cases that relied on a similar stream of reasoning but did not advance the discussion were excluded or were simply footnoted without being extrapolated. For example, although *Thornburgh v. Abbott*, partially overruled *Procurier*, it did not add nor remove value to the legal reasoning surrounding dignity. Rather, *Thornburgh* placed limits on receiving publications that were detrimental to prison security, a limitation already discussed in Chapter III. *Thornburgh* was therefore not examined at length. A similar method was undertaken for cases that directly addressed the nexus of dignity and refugees. Cases where human dignity played a minor supporting role were not included, as they did not further the discussion. Cases that involved spatial, identity-related, or incommensurable rights that were not grounded in human dignity were not included.

3.6 Spatial Progression

Refugee law protects the persecuted who migrate in search of dignity. The refugee, by definition, is forced to flee. She must transfer, both physically and psychologically, a process reflected etymologically: ‘refugee’ is derived from *refugium*, literally, ‘to flee back’ while ‘asylum’, means ‘a place not to pillage’.³¹¹ It is this spatial progression from untenable situation to safe haven that permits the asylum seeker to become an exception to sovereignty-based norms of entry. The spatial progression, in fact, defines the asylum seeker from the very first instance. To apply for refugee status an asylum seeker must have already dislodged herself from the boundaries of her country of nationality (*Refugies sur Place*)³¹² after which any restrictions on a refugee’s movement be grounded in “a reasonable relationship

³¹¹ Brewer, E. C. (2001). *The Wordsworth dictionary of phrase and fable*. Wordsworth Editions at 70.

³¹² Article 1A § 2 of the 1951 Convention (n5).

of proportionality between the end and the means”.³¹³ Unsurprisingly the primary failsafe mechanism preventing transfers is spatially grounded, the prohibition of refoulement: returning the refugee to a State where she may be tortured, or subject to cruel, inhuman and degrading punishment. So even whilst States have significant leeway in how they evaluate, recognize and host asylum seekers, –what Goodwin-Gill (2014) calls the ‘protection gap’–³¹⁴ State discretion cannot dislocate asylum seekers from the *terra firma* guaranteed by international law.

Case law has likewise drawn clear links between physical terrain and the ability to live a dignified existence. Perhaps the most fundamental expression of this linkage is statelessness. Removing one’s nationality, or by extension, refusing them entry when their nationality has become untenable, eliminates the juridical and psychological space needed to develop one’s sense of self and live a dignified existence. Banishment compartmentalizes autonomy. It significantly impedes what the FCC has called “an inner space for the purpose of the free and responsible development of his personality”³¹⁵ which is critical to ensure the potential for a dignified existence. This opposition to dislocating the individual from her *locus standii*, is eloquently expressed by Chief Justice Warren in *Trop v. Dulles*:

*There is, instead, the total destruction of the individual's status in organized society. It is a form of punishment more primitive than torture, for it destroys for the individual the political existence that was centuries in the development... It subjects the individual to a fate of ever-increasing fear and distress. He knows not what discriminations may be established against him.*³¹⁶

Highlighted here is the process by which removing one’s spatial footing has a threefold impact: on one’s ontological orientation (organized society), one’s mental condition (fear and distress), and by generating uncertainty (“knows not what”). By extension, providing a place to stand is not limited to its territorial component (e.g., physical safety), but also includes an existential counterpart. In other words, embedded within the term ‘footing’ is not only physical terrain protected by rule of law, but equally critical, the capacity for interpersonal relationships that allow self-realization through purposeful interaction. The opposite is also true: providing protection while dislocating the psychic space needed for a dignified existence negates the utility of a safe haven.

³¹³ Global Consultations on International Protection (2001) ‘Summary Conclusions – Article 31 of the 1951 Convention’, expert roundtable, Geneva, Cambridge University Press, §11(a).

³¹⁴ Goodwin-Gill, G. S. (2014). The international law of refugee protection. *The Oxford Handbook of Refugee and Forced Migration Studies*, p. 10.

³¹⁵ *Microcensus Case 27 BVerfGE1* (1969) as qtd in Rosenfeld, M., & Sajó, A. (Eds.). (2012). *The Oxford handbook of comparative constitutional law*. OUP Oxford, 968.

³¹⁶ *Trop v. Dulles* 356 U.S. 86 page 102.

European jurisprudence, often through Article 3 violations under the ECHR, has often made this very link: that spatial configurations factor into whether one's dignity has been impinged. In *Armoniene v. Lithuania*, space plays an important role in the ECtHR's decision that publishing a man's medical condition in a newspaper violated his right to a private life. Because the family lived in a village there was an increased probability the illness would become known to family and neighbors "thereby causing public humiliation and exclusion from village social life."³¹⁷ Had the man's condition been advertised in a town with a larger population, poignantly –lower concentration of social ties–public humiliation and its deleterious community-driven stigmatization may have been avoided. Space has likewise played a role in US Courts. In *Procunier v. Martinez*, prison censorship of mail was found to be a violation of the First Amendment, since "When the prison gates slam behind an inmate, he does not lose his quality of human dignity...the needs for identity and self-respect are more compelling in the dehumanizing prison environment."³¹⁸ If spatial footing and dignity are intimately linked, what are the specific conditions that a refugee transferring State must consider to avoid humiliation or qualitatively similar determinants? Is transferring analogous to the psychological trauma of denationalization? Do transfers after a community bond has been formed equate to humiliation produced from exclusion, as in *Armoniene*? Put in legal terms: what then are the parameters within which a State's due diligence is bounded?

M.S.S v. Belgium and Greece suggests what might be the lower boundary of due diligence. In *M.S.S.* an asylum applicant argued against return to his first EU port of entry, Greece, due to deficiencies in Greece's asylum process: specifically, unhygienic living conditions, affronts by the police, and overcrowding in filthy spaces at detention facilities.³¹⁹ The ECtHR's ruling hints at challenges to future transfers. Belgium, who returned the applicant to Greece was at fault (Art. 3 & 13) for not adequately reviewing Greece's asylum reception record since, quoting *Budina v. Russia*, a vulnerable individual being "wholly dependent on State support" and being faced with "official indifference" could trigger a dignity-based violation under Article 3. It was in the Court's words "because of their [Greek government's] inaction...that the applicant has been the victim of humiliating treatment showing a lack of respect for his dignity."³²⁰ It is therefore "deliberate actions or omissions" in the face of "prolonged

³¹⁷ *Armoniene v. Lithuania* §42 Noteworthy: the dissenting opinion by Judge Zagrebelsky refers to the lack of a proportionality test conducted by the Court between public interest and reputation. Of dignity and space there is no dissent.

³¹⁸ *Procunier v. Martinez*, 416 U.S. 396 (1974), page 416. Also, the Supreme Court held an Article 14 violation (due process). Partially overturned in *Thornburgh v. Abbott*, 490 U.S. 401 (1989) which held that restrictions are permissible on prisoners receiving certain publications detrimental to security.

³¹⁹ Claims included "appalling conditions," "lack of effective judicial proceedings" and fears of being refouled. *M.S.S.* (n250) §21.

³²⁰ *M.S.S. v. Belgium and Greece* (n250) §264.

uncertainty” and “the total lack of any prospects of his situation improving” that constitutes a violation of Article 3. Uncertainty combined with conscious apathy in the face of complete dependence therefore constitute a barrier towards moving refugees from State to State. In fact, though different in narrative structure than *M.S.S., Tarakhel v. Switzerland* relies on a substantively consistent line of reasoning: without guarantees (i.e, certainty and appropriate action) of satisfactory treatment, an Article 3 violation could transpire. In *Tarakhel* due to uncertainty over whether asylum seekers would be treated in consonance with legal strictures, the Swiss government needed assurances from the Italian government that asylum seekers would be treated in consonance with relevant legal statutes in order to make transfers legal.

The ECtHR has likewise delineated the lower bounds of State responsibility. In the cases of *A.S. v. Switzerland*, and *A.M.W. v. the Netherlands*, insufficient proof of ill treatment precluded a positive obligation on the part of the Switzerland and the Netherlands not to return an asylum seeker to Italy. In *A.S. v. Switzerland*, “no indication” existed that the defendant would receive subpar treatment, while in the latter case, the latter risk of ill treatment was not “sufficiently real.”³²¹ Once again, certainty and action are crucial towards satisfying due diligence. That a “minimum level of severity” is necessary to trigger an Article 3 violation relates to our discussion on a minimum core dignity.³²² Refugee-related spatial links to dignity are then mediated by: (a) certainty; (b) quality of action (or inaction) taken; (c) intention behind action/inaction. Action, moreover, has a predictive component whereby the law must reasonably foresee transgressions.

The practical implications are that the intention behind transfers must be publicly articulated in non-exclusionary terms for both transfer and receiving county. Moreover, transfers should be allocated in advance, so that refugees are aware that their terminus destination is not necessarily the one processing their claim. This will in turn effectuate certainty and help prevent the perception of unknown discrimination raised in *Dulles*. Quality of action is another factor transferring States must prepare in advance. Ensuring that there is not only “no indication” of negative treatment, but a *positive confirmation* of the contrary is essential towards avoiding a dignity-based claim against the transfer. Figure 15 outlines these three steps.

³²¹ *A.S. v. Switzerland* (n255) §36; *A.M.E. v. the Netherlands* (no 51428/10) ECtHR 5 February 2015 §36.

³²² *Tarakhel* (n251) §94; *M.S.S. v. Belgium and Greece* (n250) §219; *Kudła* (n254) §91.



FIGURE 15 POINTS OF DUE DILIGENCE NEEDING CONSIDERATION DURING REFUGEE TRANSFERS

3.7 Identity: Corporeal

Physicality

Acknowledging ties between the body and autonomy and individuation is critical towards conducting a dignified transfer. The human rights regime was born out of the absolute reification of the individual. Recalling not just the image of gas chambers, but of two atomic bombs, a clear link exists between dignity and the sacrosanctity of the human body, acknowledged in the early stages of international mechanisms. The Geneva Conventions single out “humiliating and degrading treatment”³²³ in the context of prohibiting “outrages upon personal dignity.”³²⁴ This is likewise true of Article 75 of the First Additional Protocol, which links not only humiliating and degrading acts, but enforced prostitution and indecent assault. The Second Additional Protocol follows this trend, adding rape to enforced prostitution, humiliating and degrading punishment, and indecent assault under Article 4.

European Courts have also made coherent links between physicality, civilization, and human dignity.³²⁵ In *Bouyid v. Belgium* police officers slapping the face of disrespectful detainees garnered an Article 3 violation by the ECtHR, as a practice “undermining human dignity” since the face as central to human interaction “manifests his social identity” impacting communication.³²⁶ Notice that in *Bouyid*, human dignity is not ascribed ‘to’ or ‘of’ but ‘between’ human beings. The implication being that it is in the

³²³ Convention (III) relative to the Treatment of Prisoners of War, Geneva, 12 Aug. 1949, Art. 3.

³²⁴ *Ibid.*

³²⁵ *Bouyid v. Belgium [GC], no 23380/09, ECHR 2015* §81. The dissenters argued that failure to consider specific circumstances whence linking dignity to physicality trivialized the ECHR.

³²⁶ *Ibid* §24.

interpersonal sphere, at times manifested through physicality, that individual human dignity unfurls. A slap in the face in this narrative is not limited to a reaction transpiring at a moment of heightened emotion, but a transgression that has long-term implication for one's psyche. The Court returns to this temporal component in *Tyrer*, where forcibly shaving the head of prisoners was linked to feelings of inferiority "at least for a certain period of time."³²⁷ The prisoner "carries a mark... visible to others" leading to a high probability of "feel[ing] hurt in his dignity."³²⁸ Failure to treat the body with dignified recognition thereby impacts psychological states (i.e, subjective dignity) and by extension, self-realization as an autonomous individual.

To this point, violating the dignity of the body has been stricken down by courts even when benefitting the criminal justice system or claims of public order. In *Rochin v. People of California*, a case involving police officers forcibly inserting a tube into the mouth and stomach of a man to obtain swallowed capsules, Justice Frankfurter found that it "shocked the conscience" to "legalize force so brutal and so offensive to human dignity in securing evidence from a suspect."³²⁹ Reminiscent of *Rochin*, in *Katalan v. Prison Authority*, the Israeli Supreme Court ruled on whether performing an enema to detainees suspected of hiding drugs in their anus was constitutional. Writing for the majority, Justice Barack's opinion is a scathing indictment of the link between violating bodily integrity and violating dignity.³³⁰ The ECtHR has likewise provided a considerable body of case law connecting dignity with the body. In *Rachwalski v. Poland*, a case involving excessive police violence and violation of one's private life, Strasbourg ruled that "recourse to physical force against a person... diminishes human dignity and is in principle an infringement of the right set forth in Article 3."³³¹ Significantly, even the argument in *Goodwin* was not rebutted by claims of societal dignity or public order. Quite the contrary. Strasbourg emphasized that changing the status of transsexuals on their identification card would not cause "concrete or substantial hardship or detriment to the public interest."³³² As such "society may reasonably be expected to tolerate a certain inconvenience to enable individuals to live in dignity."³³³

³²⁷ *Tyrer v. the United Kingdom* judgment, (1978) case no 5856/72 §67.

³²⁸ *Ibid.*

³²⁹ *Rochin v. California*, 342 U.S. 165 (1952) at page 342. Although, the Supreme Court commented in *Schmerber v. California*, 'the Fourth Amendment's proper function is to constrain, not against all intrusions as such, but against intrusions which are not justified in the circumstances, or which are made in an improper manner.' *Schmerber v. California* (1966), 384 U.S. 757, 86 S.Ct. 1826, 16 L.Ed.2d 908.

³³⁰ HCJ 366/79 *Katalan v. Prison Authority*, 34(3) PD 294 [128]. Also, on physical intrusion based upon "reasonableness" see *State of Ohio v. Dario Williams* (2004 WL 1902368 (Ohio App. 8 Dist.)). For the European system: *Schmidt v. Germany* (dec.), no. 32352/02, 5 January 2006).

³³¹ *Rachwalski v. Poland*, §59.

³³² *Goodwin*, (n307) §91.

³³³ *Ibid.*

The implication for refugee transfers is that States whose police force or penitentiary systems have a systematic record or excessive force towards migrants might have transfers disallowed. Similarly, States without adequate structural support for sexual identity (i.e., formal recognition) may have transfers precluded. Toleration, however, is not the gold standard. In some cases, the perceived harm to toleration fails to cross a certain minimum level of severity,³³⁴ whilst in others a wide margin of appreciation has been provided. Whereas threats to the body retain a high probability of successful legal challenges, it is in several recent cases involving religious symbols that help clarify the obligation a State might need to consider when transferring refugees. Here, the question at hand is whether restrictions to the body, in the form of religious paraphernalia lead to a dignity-grounded claim against being transferred? This is especially germane to our discussion since dignity in Islam is frequently linked to modesty in dressing. How courts have evaluated restrictions on wearing religious paraphernalia the is therefore critical towards foreseeing challenges to countries with or currently proposing such laws.

3.7.1 Dignity and the body: the case of religious symbols

In *S.A.S v. France*, the ECtHR reaches its most mature web of reasoning on the body-dignity nexus and its implications for refugee transfers. As Strasbourg weaves through the French government's ban on wearing *niqab*, the Islamic veil, the Court considers the validity of the government's claim that wearing a veil can have profound implication on the ability for society to facilitate a dignified existence.³³⁵ The French government begins with the claim that the face "expresses the existence of the individual as a unique person" and that it "reflects shared humanity with the interlocutor." Veiling the face, in the government's interpretation, leads to a break in the social tie and a manifest refusal to 'live together' thus constituting an action falling short of the "minimum requirement of civility that is necessary for social interaction."³³⁶ Veiling in this narrative negatively impacts the dignity of those sharing the same public space by a visual (i.e., symbolic) refusal to communicate, even if, from a legal point of view, the ECHR's right to a private life places no obligation, nor guidelines how to engage the public sphere.³³⁷

If the French government's claim that *niqab* precludes the potential for social cohesion, can such reasoning be proportional to culling the dignity of a subset of women who may link their existence as autonomous individuals to wearing *niqab*? In other words, could the European Court of Human Rights justify the impingement of an individual's dignity (as manifested physically) by way of a reading of

³³⁴ *López Ostra v. Spain*, (1994) Series A, no. 303-C, §60.

³³⁵ Moreover, that this ability is measured against a community-driven construct, in this case, social cohesion. In *S.A.S.* the French government's claim is just this: that *niqab* leads to a disjuncture between the individual and the public space, making the notion of community difficult to actualize.

³³⁶ *S.A.S. v. France*, [GC], no. 43835/11, (Judgment of 1 July 2014), §82.

³³⁷ Here the ECtHR rightly points to a seminal passage *Leyla Şahin v. Turkey*, 44774/98, (10 November 2005) §109.

public order or margin of appreciation? Oddly enough in upholding the French Court's ruling the ECtHR's first step is acknowledging "a significant negative impact" on women choosing to wear *niqab*, including, potential isolation, restricting their autonomy, and perpetuating and fomenting stereotypes that might encourage intolerance.³³⁸ Strasbourg's second step may seem even more obtuse: the Court not only acknowledges that expressing one's cultural identity is an inherent feature in the values of a democracy,³³⁹ but also, that the Court's role is not to remove the root cause of tension in a democratic, pluralistic society, but to ensure toleration between groups.³⁴⁰ Does *niqab* then preclude toleration? Suggesting otherwise, the Court's states that there is no evidence that women wear *niqab* to express contempt or offend others' dignity. And further, the Court is clear that a line of reasoning based on human dignity cannot justify a blanket ban on *niqab*.³⁴¹

What is circumspect here is the way in which a blanket ban on *niqab* is unable to constitute respect for human dignity in the Court's interpretation but may guarantee the conditions of "living together". In effect, as the dissenting justices point out, a concrete right unmistakably linked to the actualization of individual identity is sacrificed for an abstract principle. State-driven perceptions of 'living together'³⁴² emerge as an acceptable legal mechanism to violate enshrined individual rights clearly protected by the ECHR and grounded in human dignity. The Court nevertheless justifies the ban, as a proportionate aim directed to 'protecting the freedom and rights of others'³⁴³ and as "necessary in a {specific} democratic society."³⁴⁴

Niqab was a practice deemed incompatible by the French State vis-à-vis their understanding of the fundamental interactions between individuals in French society.³⁴⁵ Society, here, is given "special weight" to interpret context³⁴⁶ and the potential diminishment of a Muslim woman's identity therefore had "an objective and reasonable justification".³⁴⁷ In effect, as the more legalistically coherent dissent points out, the perception that *niqab* is a barrier to individuals living in "a space of socialization," and that a piece of clothing adversely impacts "easier" cohabitation³⁴⁸ becomes a lawful mechanism to diminish the dignity of a human being. The metric for denying the personal dignity of *niqabi* women is fixed at a third party's

³³⁸ SAS §149. This harkens back to Arrow's (1973) model of discrimination where discrimination triggered at an initial phase may snowball, impacting perceptions and preferences on both sides.

³³⁹ Ibid §120.

³⁴⁰ Ibid §127.

³⁴¹ Ibid §120.

³⁴² Proffered as "far-fetched and vague" by the dissent. Ibid §151

³⁴³ Ibid §142.

³⁴⁴ Ibid §158.

³⁴⁵ Ibid §153.

³⁴⁶ Ibid §154.

³⁴⁷ Ibid §161.

³⁴⁸ Ibid §122.

perception of “easier.” Interestingly, the French version of the text uses “facilitant” to describe the ‘easier’ metric (“un espace de sociabilité facilitant la vie ensemble”) thereby alluding to an active process, a heuristic to circumvent positive law. So, on the one hand, safeguarding human dignity, as the core of the ECHR, and more generally, international law, must be “practical and effective”³⁴⁹ and on the other hand, dignity may be contingent on societal proscriptions.

Interestingly, other cases involving the adornment of religious symbols have chosen to balance social and individual rights. Often, these cases have involved an employer’s right for a neutral environment. They have balanced the real-life impact to the employer against a potential ECHR Article 9 violation (freedom of religion). In *Eweida and Others v. United Kingdom*, one such example, an airline worker’s challenge to British Airway’s policy preventing her from wearing a cross necklace outside her clothing resulted in an Article 9 violation against the United Kingdom for failing to offer suitable domestic law. Though recognizing the right of a private company to act within a margin of appreciation, the Court in *Eweida* nevertheless found that a fair balance had not been achieved. The Court reasoned that manifesting one’s belief is a fundamental right, that “a healthy democratic society needs to tolerate and sustain pluralism,”³⁵⁰ and that wearing a cross may be “a central tenet” of their existence. On the other side of the scale, British Airline’s corporate image was not disproportionately harmed from her wearing a cross. In other words, although a neutral corporate image was “undoubtedly legitimate” it was given “too much weight” since there wasn’t evidence of religious clothing having a negative impact on the employer. The Court weighed the potential harm to British Airways’ corporate image versus “real encroachment on the interests of others,”³⁵¹ a formulation that is of critical importance for a dignity-based reading.

This balancing between one’s identity as manifest in the choice to physically adorn themselves with religious paraphernalia and the encroachment onto the rights of other parties, is further clarified by the second applicant in *Eweida* who was prohibited from wearing a cross necklace at a geriatric ward. Using the standard of whether the cross was an “interference [that] was necessary in a democratic society”³⁵² the Court ruled against the second applicant, Ms. Chaplin. The Court found that in hospitals a wide margin of appreciation must be permitted due to health and safety concerns.³⁵³ Hospital managers “were better placed” to make informed decisions regarding patient and staff safety than an international court.³⁵⁴

³⁴⁹ *Svinarenko and Slyadnev v. Russia* [GC], no 32541/08, § 118, ECHR (2014). Also see *Artico v. Italy*, 13 May 1980, Series A no. 37, §33. “The Convention is intended to guarantee not rights that are theoretical or illusory but rights that are practical and effective.”

³⁵⁰ *Eweida v United Kingdom* [2013] ECHR 37 §94.

³⁵¹ *Ibid* §95.

³⁵² The sentence continues “in pursuit of one of the aims set out in Article 9 § 2”. *Eweida* (n350) §98.

³⁵³ *Ibid* §95.

³⁵⁴ *Ibid* §99.

Despite different results, both applicants in *Eweida* are adjudged by three common criteria: (a) whether there is a legitimate aim to discriminate; (b) whether the legitimate aim is in proportion to the right it discriminates against; (c) whether the court is in a better position than the discriminating party to decide.

It is notable, however, that the ECJ has used alternative reasoning. In *Archbita v. G4S Secure Solutions*, Luxembourg sided with a private company's neutrality policy against an employee adorning religious paraphernalia. It found that a neutrality policy prohibiting the manifestation of religious symbols was a legitimate aim not contravening anti-discrimination laws so long as there is contact between the employee and customers.³⁵⁵ The concomitant point being that neutrality of religion in the private sphere is necessary for the perception of a neutral corporate image in a pluralistic heterogeneous society and may trump individual rights. This reasoning is at odds with the ECtHR in *Eweida* where neutrality accounted for a more robust understanding of Article 9 (Freedom of Religion), that is, *in actuality*, how it may have affected the customer base. Neutrality as a first-order principle by which physical manifestations of one's religious identity may be limited is not taken for granted (e.g., Article 16 placed higher than Article 9) and must have appropriate weight. What was not taken up in either *Eweida* or *Achbita* is the variable of human dignity tied to self-expression, and self-expression towards human dignity. *S.A.S.* tackles this issue head on and still finds a wide margin of appreciation in France's interpretation of social cohesion.

What then are the implications for this chapter? Could limitations on wearing religious clothing be grounds to block a refugee protection transfer? Or could a refugee argue that her ability to live a dignified existence within the social space of a host country impedes the development of her personality? To both questions an affirmative answer is dubious. While it is clear that repeated behavior by law enforcement or penitentiary systems humiliating, debasing, or otherwise limiting human dignity may lead to challenges over transfers, restrictions on wearing religious paraphernalia (what, where and how it may be worn), while non-homogenous across EU States, and not directed supranationally (e.g., France's margin of appreciation might not be afforded to an argument provided by Poland) means that challenges to transferring on the basis of adornment of religious symbols is a purely domestic affair (*Leyla Şahin v. Turkey*). Neither is there any indication that physical restrictions within a social space or workplace could prevent transfers within the EU. However, in cases where *niqab* or *hijab* is restricted, refugee transfers

³⁵⁵ In an odd twist, the ECJ ruled that freedom to conduct business under Article 16 of the European Charter is legitimate “notably where the employer involves in its pursuit of that aim only those workers who are required to come into contact with the employer's customers Case C-157/15 *Achbita vs. G4S Secure Solutions* [2015]§38. As noted in several commentaries, the ECJ's proportionality treatment –asking whether Ms. Achbita could have been provided a position “without involving visual contact” with customers– implies that discriminating religious beliefs is licit so long as it is equally applied to all employees.<https://strasbourgoobservers.com/2017/03/27/european-court-of-justice-keeps-the-door-to-religious-discrimination-in-the-private-workplace-opened-the-european-court-of-human-rights-could-close-it/>.

should strongly consider marking such States in the matching mechanism. This will bestow agency on the refugee as to whether she wants to be transferred to a non-*niqab* or non-*hijab* State. From Strasbourg’s previous rulings this would seem to satisfy due diligence concerns on the part of the transferring State. Figure 16 outlines the judicial tools and reasoning used in cases linking dignity to the body.

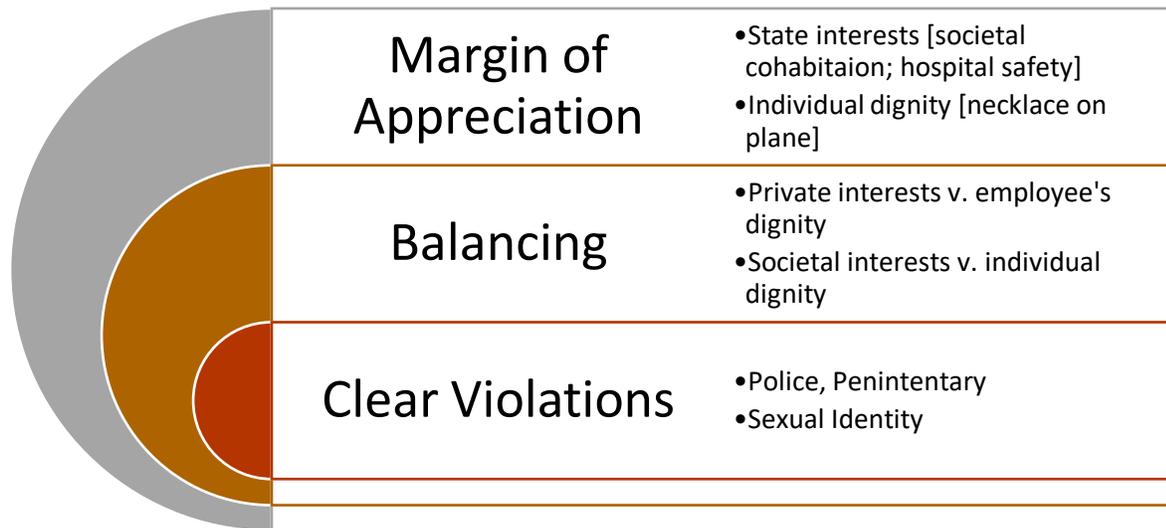


Figure 16 Judicial tools used to decide cases linking individual dignity and the body

3.7.2 Identity: Psychological

While the psychological and corporeal pathways towards human dignity are at times linked—defilement of one’s body usually has severe psychological consequences—the two are distinguished by the manner in which they originate. Abasing one’s dignity through attacks to their identity can transpire psychologically without physical contact or spatial dislocation. This is particularly true with humiliation and degradation of self-worth, which Shultziner & Rabinovici (2012) argue constitute a psychological dislocation between individual and autonomy.³⁵⁶

Courts have time again reached this very conclusion, often through a reading of degradation and humiliation leading to an infringement of human dignity. In *Miller v. Minister of Defense*, a case involving gender discrimination for fighter pilots, Justice Doner of the Israeli Supreme Court articulated, “There is no reasonable way of construing the right to dignity, as stated in the Basic Law, such that the degradation of a human being will not be considered a violation of that right.”³⁵⁷ Similar jurisprudential reasoning has come out of Strasbourg. In *Orsus v. Croatia*, a case involving discrimination of Roma

³⁵⁶ Shultziner & Rabinovici (n304) p105.

³⁵⁷ HCJ 4541/94 *Miller v. Minister of Defence* p 44.

schoolchildren, the ECtHR ruled that if humiliation and lack of respect are generated through unequal access to equal education, the dignity of the children is undermined.³⁵⁸ In *Iwanczuk v. Poland*³⁵⁹ humiliation and debasement from vulgar comments while being strip-searched by prison guards “showed a lack of respect for the applicant’s human dignity” and in *Price v. United Kingdom* a long-term impact to one’s autonomous nature may be derived from “possibly breaking their physical or moral resistance”³⁶⁰ and reifying them through adverse detention conditions.³⁶¹ In *Ireland v. the United Kingdom*, a case involving extrajudicial interrogation methods against IRA members in England, the ECtHR found “techniques”³⁶² that “arouse in their victims feelings of fear, anguish and inferiority capable of humiliating and debasing them”³⁶³ whether physical or purely psychological, are in violation of Article 3, covering torture, inhuman, degrading treatment or punishment. And the court has said on numerous occasions that the purpose of Article 3 is to protect one’s dignity.³⁶⁴

Techniques, of course, suggest an exogenous agent. In Strasbourg’s jurisprudence, this agent has frequently acted with an intent to instrumentalize the humiliated, tortured, or degraded subject, as the United Kingdom interrogators exhibited in the previous example. The question then for a dignity-based reading of refugee transfers is what level of due diligence a State would need in order to avoid liability for an Article 3 violation. Is it enough that the State has no intent for transfers to lead to psychologically-derived debasement and humiliation? Are reasonable quality of protection checks of third-party transfer States sufficient? Here, three points require examination: intent, intensity and social reality.

3.7.3 Intent

To be linked to the criteria of ‘degrading or inhuman’ Strasbourg has acknowledged that an “inevitable” typology of suffering must be present. Critically, whether treatment has exceeded the ‘inevitable’ threshold is not contingent on the victim’s behavior³⁶⁵ nor intent of the perpetrator.³⁶⁶ A violation of dignity may therefore occur regardless of the inflicting agent’s *mens rea*. Even in the absence of intent,

³⁵⁸ *Oršuš and Others v. Croatia* (15766/03), 16 March 2010. The decision was in part based upon UNESCO’s definition of discrimination under Article 1 of the Convention against Discrimination in Education, in terms of “national or social origin” at 96.

³⁵⁹ *Iwanczuk v. Poland*, no. 25196/94, 15 November 2001 §59.

³⁶⁰ *Price v. United Kingdom*, no. 33394/96 §75

³⁶¹ *Ibid* §95: “the act of depriving someone of his liberty brings with it the responsibility for the State to detain him under conditions which respect the inherent dignity of the human person.”

³⁶² *Ireland v. The United Kingdom* (App no 5310/71) ECHR 13 December 1977 §167.

³⁶³ *Ibid*.

³⁶⁴ *Tyrer (n327)* §33. The question then becomes: does there need to be a degree of permanence in barriers to identity, or is a single instance of stigmatization sufficient to constitute a formative violation?

³⁶⁵ *Chahal v. the United Kingdom*, 15 November 1996, §79; *Georgia v. Russia* [GC], no. 13255/07, §192.

³⁶⁶ *Labita v. Italy* [GC], no. 26772/95, §119, ECHR 2000. Although intent may be considered when determining whether an Article 3 threshold has been breached. See: *Egmez v. Cyprus*, no. 30873/96, ECHR 2000, §78; *Krastanov v. Bulgaria*, no. 50222/99, (September 2004), §53.

humiliation can still, for instance, fall within the parameters of an Article 3 violation and negatively impact an individual's dignity.³⁶⁷ Underscoring this point the Court proposed that the standard for an Article 3 violation may be subjective: whether "the victim is humiliated in his or her own eyes."³⁶⁸ This is in consonance with the psychology literature showing that humiliation and self-worth are intimately subjective.³⁶⁹ A tricky, albeit important aspect of the humiliation-dignity nexus is therefore perception.

Intuitively, individuals process actions differently. What constitutes shame, fear, degradation, and pain in one person is not necessarily generalizable to her neighbor. And yet, because no instrument is capable of divining the genuine scope of perception, ultimately, courts must abide by a reasonableness and proportionality-based standard for determining subjectivity. Reasonableness has often been extracted within the framework of what the social community deems acceptable. This logic is not far removed from the Rawlsian notion of public reason (Rawls, 1997)³⁷⁰ and has been frequently picked up by the ECtHR in Article 3 violations. In one such example, despite attempts to provide care for an 84-year old paraplegic convicted of crimes against humanity and genocide but unable to care for himself in prison, in *Farbtuhs v. Latvia*, the plaintiff was found to have been subject to humiliation and feelings of inferiority, falling under Article 3, due to the Latvian penitentiary system's inability to provide for the prisoner's basic health needs.³⁷¹ Ultimately it is up the judges to discern whether an act could have reasonably caused humiliation in a victim's eyes.

This implication likewise resonates in *Christine Goodwin v. United Kingdom*,³⁷² a case involving the refusal to change the gender of a post-op transsexual on her national identification card. Strasbourg concluded that denial of recognition of identity change from transgender surgery creates "a conflict between social reality and law arises which places the transsexual in an anomalous position, in which he or she may experience feelings of vulnerability, humiliation and anxiety."³⁷³ The threshold for an Article 3 violation is therefore not the magnitude of physical pain, but subjective feelings. This would be in line with Margalit (1998) who notes that, "human beings are creatures capable of feeling pain and suffering not only as a result of physically painful acts but also as a result of acts with symbolic meaning"³⁷⁴ and may carry a long-term impact on the individual's psyche.

³⁶⁷Valašinas v. Lithuania, no. 44558/98, §101, ECHR 2001-VIII; and Iwańczuk v. Poland, no. 25196/94, §52, 15 November 2001).

³⁶⁸ *Smith and Grady v. the United Kingdom*, §120. See also *Tyrer v. the United Kingdom* judgment (n327) §32.

³⁶⁹ Shultziner & Rabinovici, (n304) p112.

³⁷⁰ Rawls, J. (1997). The idea of public reason revisited. *The University of Chicago Law Review*, 64(3), 765-807.

³⁷¹ *Farbtuhs v. Latvia*, no. 4672/02, 02 December 2004 §58.

³⁷² *Goodwin* (n307).

³⁷³ *Goodwin* (n307) §77.

³⁷⁴ Margalit, A. (1998). *The decent society*. Harvard University Press p34.

3.7.4 Intensity

Here we broach a connecting element: the intensity used to reach a particular goal.³⁷⁵ It is not merely intent or self-perception, but also, from the ECtHR's point of view, that the "method of the execution" does not lead to "an intensity exceeding the unavoidable level of suffering inherent in [the process]."³⁷⁶ Even where there is no malignant purpose, such as in *Jallah v. Germany*, a case of police forcing a drug dealer to take an emetic in order to obtain the plastic bag of drugs he swallowed in police presence, if the goal leads to "grave interference" with a subject's mental integrity it may constitute inhuman and degrading treatment, particularly if a less severe method was possible and if the procedure had the reasonable possibility of creating feelings of inferiority and humiliation.³⁷⁷ Minimum-level of severity as a tool to clarify violations of dignity under Article 3 has also been made clear in *Ireland v. United Kingdom*, where the Court found that distinguishing deprivation of liberty from mere restrictions was a matter of intensity, not substance.

This point is likewise evident from the negative approach Strasbourg has employed to edify the lower bounds of permissible behavior. In *Lopez-Ostra v. Spain*, the Court found that a waste treatment plant in the vicinity of the claimant's house was not enough to be considered an infringement of Article 3 since the health risk to local families impaired quality of life, but "not enough to infringe the fundamental rights."³⁷⁸ Whilst in *Guzzardi v. Italy* a holistic approach used to determine whether an Article 5 violation (restriction on liberty) had taken place found that a violation was a matter of intensity not substance. This reasoning is echoed in *Tommaso v Italy* where restrictions to Mr. Tommaso's liberty were not understood by Strasbourg judges to amount to deprivation of liberty (Article 5 violation), since there had been an acceptable change of intensity to his liberty (i.e., restriction, but not deprivation).

Nevertheless, while perception and intensity remain in the realm of judicial discretion there are some acts that constitute a social fact of humiliation or degradation. Courts have linked these particular types of behavior as being inconsistent with dignity. As Webster (2016) notes, Strasbourg's usage of "in principle" in *Yankov v. Bulgaria* to explain how forcibly shaving a prisoner's hair, could result in

³⁷⁵ Not only can there be a violation of dignity without intent, but simply breaking down resistance, either morally or physically may lead to degrading treatment. *Hunde v. Netherlands*, (05 July 2016) ECtHR. Here, the purposive element links severity with goal. A thread running between a conscious effort and the breaking down of conscience. The humiliator's actions are goal-based. They seek to obtain information or met out punishment in order to elicit a particular response. *Gifgen vs. Germany*, Application no. 22978/05 June 2010, § 89.

³⁷⁶ Kudła (n254) §94.

³⁷⁷ *Jallah v Germany* (App no 54810/00) ECHR 11 July 2006 § 82. In the case of *Jallah*, allowing the bag to be excreted naturally.

³⁷⁸ *Lopez Ostra v. Spain* (41/1993/436/515) ECHR §11.

degradation of the prisoner's dignity, reveals how acts may constitute a social fact of violating dignity. In such cases there is a clearer path for the courts. It is doubtful, though, that refugee transfers could constitute an 'in principle' situation, since the social fact of refugees being transferred to any location where they can receive protection overrides other concerns. Based on previous reasoning of the European Courts, a protection market would not *prime facie* appear "in principle" to humiliate, as previous rulings against refugee transfers have been tied to the conditions of their treatment, not the movement itself.³⁷⁹ However, it is also true that the Court has ruled against cases where autonomy is restricted or coercively decided, and this point warrants further exploration.

3.7.5 Restricting autonomy

The legal question at hand is the degree to which transferring protection is a restriction of individual autonomy, *stricto sensu*, that may reasonably lead to humiliation. Such restrictions would likely have real consequences for a refugee's dignity. Looking at the jurisprudence of the European courts, the conditions laid out whereby autonomy is restricted typically involve impeding the ability to make a decision, *not make a specific decision*. Intentionally removing one's ability to choose is what the Court has ruled may violate human dignity, not removing their number of choices. So, in the commonly cited example of *UK v Ireland*, it is facilitating the "break[ing] of the will" that denies a barrier to the functioning of one's personality, not limiting the ability for the will to actualize itself in pre-selected environments. In this sense refugee transfers do not impede such a definition of autonomy. Autonomy, however, may also be restricted through exclusion from society.

The psychological basis for this linkage is the notion of community. Dignity and community flow multi-directionally. Individuation develops in consonance with community and requires some baseline of attachment and recognition.³⁸⁰ In the *Lifetime Imprisonment Case*, the FCC makes this very point: that the individual's "potential to determine himself in freedom and develop from within... is related to the community and bound by it."³⁸¹ This thinking is in line with an early decision by the FCC found that, the Basic Law did not see man as an "isolated sovereign individual"³⁸² but rather "has decided the tension between individual and society in favour of the person's orientation and commitment to a community."³⁸³

³⁷⁹ *Tarakhel v. Switzerland* (n251); *M.S.S. v. Belgium and Greece*, (n250); *A.S. v. Switzerland* (n176).

³⁸⁰ The Hegelian notion of *Sittlichkeit*, for instance, presupposes recognition by the community, as does dignity in the foundational writings of Paine and Renouvier.

³⁸¹ 45 BVerfGE 187 (1977). Last accessed December 18, 2015 from < <http://www.hrcr.org/safrica/dignity/45bverfge187.html>>.

³⁸² BVerfGE 4, 7 [15].

³⁸³ *Ibid.*

Though a pluralistic society will naturally have a diversity of belief structures, they are unified by a thread of community recognition, what Robert Post has observed, “arises from full membership in society”³⁸⁴ a notion at the center of Hegelian thought. That is, the formation of self is not a purely internal exercise and presupposes reflexivity. The pathway to dignity (or on the other side of the coin, self-respect) is recognition by an external body *under certain conditions*. Among these conditions is a rigor that moves beyond symbolic gestures to meaningful inclusion. In our context, the refugee must be viewed as not only an autonomous individual with intrinsic dignity, but also as part of the broader society.

Process philosophy augments our understanding here: self-consciousness is frequently formed through objectification of the self, by way of popular expression: ‘putting oneself in another’s shoes’ then looking back unto oneself. Without the structured environment within which inter-subjectivity is facilitated, the objectified self cannot form. It is through these experiential transfers that the individual is able to become an object to himself (Mead, 1934). To this point neither refugee nor host is a passive actor. Each influence and is influenced by his environment. Each takes actions vis-a-vis objects created by social activity. Accordingly, perception becomes an interactive mechanism catalyzing object relation between an individual and her social environment, not a purely cognitive function removed from the external. To paraphrase Axel Honneth (2007) recognition must transcend the symbolic plane to reach some tangible fulfillment.³⁸⁵

An essential implication of equating self-realization with membership in a community –and by extension dissuading exclusion– is protecting rights relating to personality and identity. Typically, these rights are interpersonal in character and are often exemplified in rulings against hate speech or group discrimination.³⁸⁶ Courts have clearly indicated that actions targeting a group’s identity adversely impacts their dignity. Limitations have been placed on several artistic productions due to their capacity to degrade the identity and self-worth of groups.³⁸⁷ Germany’s ban on Nazi imagery recalls protection of group identity,³⁸⁸ as does the prohibition of a Canadian schoolteacher disseminating anti-semitic material.³⁸⁹ In

³⁸⁴ Post, R. C. (1986). The social foundations of defamation law: Reputation and the Constitution. *California Law Review*, 691, 711.

³⁸⁵ Honneth, A. (2007). Recognition as ideology. *Recognition and power: Axel Honneth and the tradition of critical social theory*, p. 329-330.

³⁸⁶ Whitman (n302) p1151.

³⁸⁷ For example, BVerfGE, 64 274 for a German Court ruling on peep-shows and the dignity of women.

³⁸⁸ Stfgesetzbuch Art 86a; See also *Mephisto Case* BVerfG 1971, 30 BVerfGE 173. Also, Norbert Hofer’s comments about refusing to advocate an overturn on the Austrian ban of Nazi paraphernalia due to the alleged anti-Semitism among Syrian refugees. The Guardian. Last accessed 05 May 2016 from < <http://www.theguardian.com/world/2016/apr/25/austrian-far-right-partys-triumph-presidential-poll-turmoil-norbert-hofer>>.

³⁸⁹ The defendant told his students, that the Holocaust was used to bring about sympathy for Jews and the Jews were in a worldwide conspiracy for world domination, among other similar such claims.

the latter case, *R. v. Keegstra*, the Canadian Supreme Court found that preventing harm against an identifiable group overrode freedom of expression:³⁹⁰

*A person's sense of human dignity and belonging to the community at large is closely linked to the concern and respect accorded the groups to which he or she belongs. The derision, hostility and abuse encouraged by hate propaganda therefore have a severely negative impact on the individual's sense of self-worth and acceptance.*³⁹¹

Being transferred to States that have a consistent record of discrimination against the transferee's group or refugees in general might therefore preclude transfers. And yet here we must be careful not to include widespread discrimination with situations where the dignity of the individual has been pitted against societal goals. Consider the ban on the Islamic veil (*niqab*) in France, reasoned through promoting social cohesion. The ECtHR has found the ban within the margin appreciation of the French State and therefore not in violation of Article 9 (right to freedom of religion).³⁹² Nevertheless, the ban constitutes an affront to the dignity of many women wearing *niqab* by limiting their ability to live as autonomous individuals. Or consider the ban on dwarf throwing in the French towns of Morsang-sur-Orge and Aix-ev-Provence. The UN Human Rights Committee has stated that the ban must be upheld despite the dwarves themselves petitioning for the throwing practice to continue. The Committee reasoned that bans negatively impacting the livelihood of a few individuals, in this case the dwarves, may be "necessary in order to protect public order, which brings into play considerations of human dignity."³⁹³ Limitations on individual autonomy are thus in some cases permissible when proportionate to non-discriminatory societal aims.³⁹⁴

And yet, to ensure that balancing does not become exclusion, the architecture of placing limits on human dignity must not exceed a proscribed metric. Often, in the European regional system, such cases stipulate a threshold of "go beyond that inevitable element [of suffering or humiliation]"³⁹⁵ or have "exceeded a minimum level of severity" – both relative metrics.³⁹⁶ Neither metric, it must be added, necessarily place community over individual needs. This is a crucial point. It means that while margin of appreciation may be afforded to State-level arguments, dignity-debilitating exclusion may run counter-majoritarian. In such

³⁹⁰ *R. v. Keegstra*, [1990] 3 S.C.R. 697 See also *R v Krymowski* [2005] 1 S.C.R. 101.

³⁹¹ *Keegstra* (n390) at 746.

³⁹² *Ebrahimian v. France* (application no. 64846/11) (2015). *S.A.S. v. France*, (n257).

³⁹³ *Manuel Wackenheim v France*, U.N. Doc. CCPR/C/75/D/854/1999 (2002), at 7.3.

³⁹⁴ Alexy, Robert. "Constitutional rights, balancing, and rationality." *Ratio Juris* 16, no. 2 (2003): 131-140; Alexy, R. (2005). Balancing, constitutional review, and representation. *International Journal of Constitutional Law*, 3(4), 572-581.

³⁹⁵ *V v. the United Kingdom*, no 2488/94, (10 December 1999) §71.

³⁹⁶ *Kudła* (254) §91. Also note in *Gäfgen* (n375) §88 factors motivating an above-minimum reading include intention, motivation, context (e.g., emotions).

cases, the dignity of the individual supersedes what a large component of society understands as dignity. For example, though the State of Texas concluded that homosexual acts offended the autonomous existence of many of its citizens, in *Lawrence v. Texas*, the US Supreme Court invalidated Texas' anti-sodomy statute. The Court found the ability for consenting adults to engage in homosexual relationships "central to personal dignity and autonomy"³⁹⁷regardless of contrary views held by a large segment of society. Supporting this legal reasoning, in *Alekseyev v Russia*, the ECtHR is clear that "it would be incompatible with the underlying values of the Convention if the exercise of Convention rights by a minority group were made conditional on its being accepted by the majority,"³⁹⁸ and earlier, in *Young, James and Webster v. United Kingdom* that "democracy does not simply mean that the views of a majority must always prevail: a balance must be achieved which ensures the fair and proper treatment of minorities and avoids any abuse of a dominant position."³⁹⁹The ECJ has likewise chimed in, finding that Community values against discrimination took precedence over regional identity.⁴⁰⁰ This means that juridical tools (i.e., proportionality analysis) may not easily employ numerical or national identity reasoning for policies that may adversely impact the dignity of asylum seekers.

How might this play out in the refugee context? On the one hand, transfers might be precluded if refugees can legitimately argue that their dignity as individuals within a group will be adversely impacted by transfer to a particular state.⁴⁰¹ For instance, if a refugee has formed social ties and sees herself as part and parcel of a particular community, being upended and transferred could very well be argued as being humiliating and a barrier to investing in that particular community in the first place. So too might be claims of group-based discrimination.

3.7.6 Exclusion from Scarce Resources

The Universal Declaration of Human Rights affirms dignity in metric terms: human beings are "equal in dignity and rights."⁴⁰²A number of positive obligations are required to satisfy this equality. Social security, for instance, is deemed indispensable for both dignity and development of the personality, as is the right to work.⁴⁰³ Both must be offered without discrimination.⁴⁰⁴This logic is likewise directed

³⁹⁷ *Lawrence v. Texas* 539 U.S. 558 at 574.

³⁹⁸ *Alekseyev v Russia* Application No 14599/09, Merits, 21 October 2010, §81.

³⁹⁹ *Young, James and Webster v United Kingdom* 7806/77 [1981], 4 EHRR 38, §63.

⁴⁰⁰ ECJ 6 June 2000 – C-281/98 – *Roman Angonese v Cassa di Risparmio di Bolzano S.p.A.*

⁴⁰¹ Falling under the 'protected characteristic' category, depends on whether is "whether a group is united by an immutable characteristic or by a characteristic so fundamental to human dignity that a person should not be compelled to forsake it." Türk & Nicholson (n290) p17.

⁴⁰² UDHR (n24) Article 1.

⁴⁰³ *Ibid* Art 22; ICCPR at Art 9.

⁴⁰⁴ CESCR, *General Comment No. 19: The right to social security (Art. 9 of the Covenant)*, 4 February 2008, E/C.12/GC/19, at 29; European Committee on Social Rights, *European Federation of National Organisations working with the Homeless*

towards non-contributory welfare schemes.⁴⁰⁵ Positive rights to a minimum standard of benefits are present in several domestic European constitutions and have been adjudicated in their respective constitutional courts. The Constitutional Court of Hungary, for example, grounds the right to social security as “necessary for the realisation of the right to human dignity.”⁴⁰⁶ Italy and Switzerland’s High Courts have derived social welfare rights and housing, respectively, through an interpretation of dignity,⁴⁰⁷ and Karlsruhe has interpreted non-contributory social welfare benefits as the right to a dignified minimum existence.⁴⁰⁸

Could refugees avoid transfers by claiming that their new host State is unable to provide benefits ensuring a dignified minimum existence? Could they argue, as Denise Réaume (2002) has on a related point, that “there are some benefits or opportunities, some institutions or enterprises, which are so important that denying participation in them implies the lesser worth of the excluded”?⁴⁰⁹ Quite possibly. But in such cases, a distinction must be drawn between deprivation of scarce goods, and the impoverishment of an individual’s sense of worth caused by denial of access to a minimum quantity of resources in that particular State. It is important to recall that there is no legal basis for a refugee-hosting State’s understanding of fundamental, as derived vis-a-vis the social contract between State and citizen, as being equal to the understanding of other transfer States. What is required is that a minimum standard be linked to the status quo in that particular transfer State. This means that, as per *Müslim v. Turkey*, financial assistance for refugees to meet a self-desired standard of living is not an obligation of the State.⁴¹⁰ That standard, however, cannot drop below a minimum standard in that State, often articulated as emergency levels.⁴¹¹ Therefore, though minimum may not be discriminatory, it is not at all times equal. Frequently, the legislature is afforded an interpretative margin of appreciation to calculate “the amount of what guarantees the physical and social existence of a human being.”⁴¹² Still, minimum benefits cannot be discriminatory. A recent ruling from the CJEU in *Ayubi v. Bezirkshauptmannschaft Linz-Land*,

(*FEANTSA v. the Netherlands*, Complaint No. 86/2012; Karlsruhe has cited ICESCR in its *Asylum Seekers Benefits Case*, BVerfG, Judgement of 18 July 2012 – 1BvL 10/10 – Rn. (1-110): “complete exclusion from cultural life may hardly be compatible with Article 15.1.a of the ICESCR” at §57, 97.

⁴⁰⁵ (CESCR), General Comment No. 19 (n404) p37,38.

⁴⁰⁶ Alkotmánybíróság (AB) [Constitutional Court] 32/1998 (Hung.), as quoted in McCrudden (n292) p693.

⁴⁰⁷ V. v. Einwohnergemeinde X. und Regierungsrat des Kantons Bern (BGE/ATF 121 I 367) Swiss Federal Court; Other Constitutional Courts, it must be noted, have strayed from dignity as a foundation for social rights. Dupré, C. (2003). *Importing the law in post-communist transitions: the Hungarian Constitutional Court and the right to human dignity*. Bloomsbury Publishing, 77.

⁴⁰⁸ *Hertz IV case*. BVerfG, 1 BvL 1/09.

⁴⁰⁹ Réaume, D. G. (2002). Discrimination and dignity. *La. L. Rev.*, 63, 688.

⁴¹⁰ *Müslim v. Turkey* (n195) §85.

⁴¹¹ Conference of European Churches (CEC) v. the Netherlands (complaint no. 90/2013), Council of Europe: European Committee of Social Rights, 21 January 2013.

⁴¹² Note that in the case of *Hertz IV*, the legislature has leeway (*Gestaltungsspielraum*) to calculate welfare benefits that fulfill the quality of maintaining human dignity, being non-discriminatory and that are needs-based. *Hertz IV*, (n330), at 14.

clarified that Austrian provinces must provide minimum benefits to refugees in the same manner given to Austrian nationals.⁴¹³ *Ayubi* clarified that Article 29 of the Qualification Recast means social assistance benefits are linked to refugee status not residence permits. EU Member States have to make certain “that every refugee to which it grants its protection enjoys the same level of social assistance as that provided for its nationals.”⁴¹⁴ Based on this ruling, it is likely that Austria could be successfully challenged in the CJEU, on their recent proposition of cutting benefits of EU workers in Austria whose children live outside of Austria, based on the worker’s residency status, if those workers are refugees.⁴¹⁵

Above a minimum core, it is not a one-for-one relationship of social welfare goods that is the issue, but how groups on both sides (refugees and citizenry) perceive inclusion. Accordingly, in *Asylum Seekers*, the FCC positioned the right to a dignified minimum existence as “encompassing both the physical existence of a human being as well as the possibility to maintain interpersonal relationships and a minimal degree of participation in social, cultural, and political life.”⁴¹⁶ Often, proportionality and margin of appreciation have been applied to such cases where dignity is linked to social welfare rights. The Canadian Supreme Court, in a prominent example, has been quite clear that social welfare benefits may be limited when they promote, rather than depreciate dignity. This has been true not only of a dearth of provisions, but an excess. In *Goslin v. Quebec*, dealing with conditional welfare benefits for those under 30, Louise Goslin challenged legislation that provided full-benefits only if recipients would participate in one of three workforce programs in order to empower youths to seek gainful employment or go to school.⁴¹⁷ The Canadian Supreme Court found that there had been no violation of denying welfare benefits to those who refused to participate in workforce programs, since “[Ms. Gosselin had] not demonstrated that the government treated her as less worthy than older welfare recipients” and that the workforce program incentivized working towards “the realization of goals that go to the heart of the equality guarantee: self-determination, personal autonomy, self-respect, feelings of self-worth and empowerment...the stuff and substance of essential human dignity.”⁴¹⁸ The lack of a homogeneous absolute metric is likewise clear from Strasbourg’s inadmissibility ruling in *Budina v. Russia*, where a disabled pensioner’s social welfare income, though low in absolute terms did not meet the minimum threshold to be linked to “serious deprivation or want incompatible with human dignity” and thus, an Article 3 violation.⁴¹⁹ The allocation

⁴¹³ See also Case C-443/14 *Kreis Warendorf v. Ibrahim Alo and Amira Osso and Region Hannover* [2016] §48.

⁴¹⁴ Case C-713/17 *Ayubi v. Bezirkshauptmannschaft Linz-Land* [2018] §38.

⁴¹⁵ EurActiv. ‘Austria wants to cut family benefits for children living abroad 09 January 2019. Last accessed 19 February 2019 from <<https://www.euractiv.com/section/politics/news/austria-wants-to-cut-family-benefits-for-children-living-abroad/>>.

⁴¹⁶ *Asylum Seekers* (n327) §1.

⁴¹⁷ *Gosselin v. Quebec* (Attorney General), [2002] 4 S.C.R. 429, 2002 SCC 84, no paragraph numbers for citation.

⁴¹⁸ *Ibid.*

⁴¹⁹ *Budina V. Russia* Application no. 45603/05 (June 2009).

of goods in these cases is linked to societal values and the relative purchasing power of what society considers necessary.

Even as we speak of core commonality, then, the plurality by which dignity is applied is largely impacted by culture and context. Discriminating goods, by having an EU Member State fund transferred refugees with disproportionately quantitative (but not necessarily relative qualitative) differences in social rights does not in itself undermine dignity.⁴²⁰ As the Inter-American Court of Human Rights has concluded “not all differences in legal treatment are discriminatory as such, for not all differences in treatment are in themselves offensive to human dignity.”⁴²¹ However, as per *Gosselin*, context must be examined in order to determine whether a practice is discriminatory, “whether the distinction, viewed in context, treats the subject as less worthy, less imbued with dignity, on the basis of an enumerated or analogous ground.”⁴²²

3.7.7 Summation

By virtue of being signatory and active participants of the Refugee Convention, States agree to include themselves in a moral community that protects individuals fleeing persecution. That this inclusion may at times require territorial exclusion cannot constitute a legal infringement of an individual’s dignity, since there is no claim to a particular jurisdiction, only to be hosted in a safe and law-abiding territory. Inclusion in an amorphous body of States supersedes the notion of an individual territorial-based reading of exclusion and is clearly elucidated through the category of those excluded from refugee protection under Article 1F of the GRC: those determined to have committed crimes seriousness upon the collective human dignity (i.e., war crimes, crimes against humanity).⁴²³ However, where refugees have developed deep economic and familial ties, other moral and jurisprudential concerns apply (infra, 3.2). Herein the line is drawn between transfers designated *ex ante*, before community attachments are formed and concerns pertaining to social justice and exclusion from an already engaged moral community. Transfers arranged in advance of social ties and executed without long delays would not have foreseeable legal challenges.

⁴²⁰ Neither does it breach Article 14 of the ECHR relating to discriminatory treatment.

⁴²¹ Inter-American Court of Human Rights, Advisory Opinion OC-4/84 of 19 Jan. 1986 (*Proposed Amendments to the Naturalization Provision of the Constitution of Costa Rica requested by the Government of Costa Rica*) §55.

⁴²² *Gosselin v Quebec* [2002] SCC 84.

⁴²³ UNHCR. (2003) ‘Guidelines on International Protection: Application of the Exclusion Clauses: Article 1F of the 1951 Convention Relating to the Status of Refugees’ HCR/GIP//03/05. Also, case law where exclusion couldn’t be based on threats to the community.

3.8 Incommensurability

Circumscribing spatial and identity-related cases is the overarching issue of societal versus individual dignity. A glimpse of this contestation was seen in *S.A.S.*: both the French claim of living together and individual's donning of *niqab* could easily be traced back to dignity-entailing roots of autonomy. Yet the Court in *S.A.S.* did not position the French claims as one of dignity. Moreover, the non-obligatory nature of *niqab* in Islamic law left some question as to whether face veils were in fact central to the dignity of *niqabi* women. Yet what happens if: (a) an EU member or third part transfer State restricts the right of subset of refugees to live as an autonomous individual, impairing their ability to become a full member of the community or (b) an EU member state refuses to host refugees, claiming that ineffective integration infringes on their society's dignity? Put another way, if refugees are absorbed at a pace the host State feels unable to properly integrate thereby creating discord between the individual right of refugees to freely develop their personality and the value of the community's self-identity, can transfers be validated on the basis of infringing on the dignity of the community even if they also impact the dignity of the individual refugee?

To answer this question, it is first necessary to go broad and answer the following: are some rights and values incommensurable? As Isaiah Berlin would have it, absolute quantum unable to be measured and balanced?⁴²⁴ Or does there exist a framework by which rights and values, even the most fundamental, can be pitted against one another? And if so, is dignity one such value? Barroso (2012) purports that it is essential to view dignity as a relative principle that can be interpreted by its unique contextual parameters since “a shock of absolutes is insolvable.”⁴²⁵ Along similar lines, Dworkin, argues that principles often need to be reconciled against one another due to their respective “dimension of weight.”⁴²⁶ Blake (2013) posits that the component which is “more central” has priority. European courts have had to tackle these questions on numerous occasions. Both Strasbourg and Luxembourg have weighed in on whether fundamental rights can be balanced, whether absolute rights can be balanced, and the potential for fundamental rights to be balanced with absolute rights.

Consider a concrete application of two fundamental rights. In *Evans v. United Kingdom*, Mrs. Evans, who froze her fertilized eggs after being diagnosed with ovarian cancer, asked the court to preserve the integrity of her eggs, after her husband wanted the gametes destroyed. Legally, this involved the husband's right under Article 8 (private life) versus Mrs. Evans' right also under Article 8 (family). The

⁴²⁴ Berlin, I. (2002). *Liberty*, ed. Henry Hardy. Oxford: Oxford University Press, 35, 31.

⁴²⁵ Barroso (n292) p357.

⁴²⁶ Dworkin, R. (1978). *Taking rights seriously* (Vol. 136). Harvard University Press p26.

English Court of Appeal had rejected Mrs. Evans' claim to which the ECtHR found no violation.⁴²⁷The English Court's logic is at the heart of our conundrum. Balancing two Article 8 claims, private life versus family, both founded on the dignity of an autonomous individual, would "require a balance to be struck between two entirely incommensurable things. Whatever decision was arrived at... would be practically impossible to justify."⁴²⁸ In the absence of a measurable framework justifications resided in the margin of appreciation provided to the UK High Court.⁴²⁹ Similar reasoning has been used in several cases involving assisted suicide where the right to determine one's death in a dignified manner (Right to Private Life, Article 8 ECHR) and the State's positive obligation to protect life (Article 2 ECHR) was afforded a wide margin of appreciation in favor of the State's Article 2 obligation.⁴³⁰

In contrast to absolute rights upon which no exception or derogation is permissible, fundamental rights rely heavily on context. This point is evident in *RE A*, a case where Mary, a conjoined twin with no chance to survive, was deemed to have less of a right to life than her sister, Jodie, that could be saved by separation.⁴³¹The court, invoking the common law principle of necessity found that Jodie's gain from a successful separation would be "the bodily integrity and dignity which is the natural order for all of us" whereas Mary, who had no chance to live out her life, separated or conjoined was "designated for death" and her life "fatally compromised."⁴³²However, the High Court of England and Wales was clear that their reasoning was not founded on a balancing between lives, but rather a case where it was "impossible not to put in the scales of each child the manner in which they are individually able to exercise their right to life."⁴³³ Nevertheless, it is clear that balancing took place between two incommensurable rights, albeit incommensurable rights *of different magnitude*.

Let us look at another example. Dignity, even in the *Grundgesetz's* absolutist interpretation is subject to balancing. As we have seen (infra 3.3) when the individual's conception of dignity comes into conflict with society's the court must make a choice based on reasonableness and proportionality, even in the absence of a measuring stick or reference point.⁴³⁴ Karlsruhe has been very clear on this point, whether,

⁴²⁷ *Evans v. United Kingdom*, 43 EHRR (2007).

⁴²⁸ *Evans v. Amicus Healthcare Ltd* [2004] EWCA Civ 727, at §66. See also HCJ 4541/94 *Miller* (n279) p.277: "the right to dignity (including the prohibition of group discrimination derived from it) is also not an absolute right but a relative one, and a balance must be struck between it and other legitimate values and interests."

⁴²⁹ Had one of the rights been an absolute right, say, the right to be free from torture (Article 3 ECHR), there would not have been difficulty reaching a justification.

⁴³⁰ *Petty v. UK*, Application no. 2346/02, (29 April 2002); *Haas v. Switzerland* (App no 31322/07) ECHR 20 January 2011

⁴³¹ *Re A* [2001] 2 WLR 480.

⁴³² *Ibid* §197.

⁴³³ *Ibid*.

⁴³⁴ Proportionality is frequently utilized in competing claims of dignity. Abortion cases, by virtue of the contestation between claims of two competing forms of rights must be subject to some form of metric. In the *Second Abortion Case*, the woman's right to personality and dignity and the mandate to protect her fetus is treated to a proportionality metric.

from a utilitarian point of view, the dignity of the individual can be sacrificed for the few, or the few for the many. In *Aviation Security*, the FCC deliberated over whether it was constitutional for the German Minister of Defense to order a hijacked plane to be shot down from the sky in order to potentially save lives. It found a breach of the constitutional right to dignity of those on the plane under Article One of the *Grundgesetz* even in light of potentially saving lives on the ground.⁴³⁵ The Court's reasoning bears some scrutiny.

By divesting of the passengers' lives for the presumption of preventing larger scale casualties, the law was reifying (*verdinglicht*) and delegating (*zugleich entrechtlicht*) them.⁴³⁶ As Lepsius (2011) points out, "A far-reaching implication of the decision also signals the authorities that collective goods may not, under any circumstances, outstrip individual rights"⁴³⁷ but also, uncertainty cannot raise the value of violating a negative right (not to kill) over a positive right (to preserve). Applying Lepsius' interpretation to the refugee crisis, one might argue that transfers undermining the dignity of individual refugees cannot be implemented for the presumed benefit of the host social and political community's conception of a dignified existence (e.g., "living together" in *S.A.S.*).

And yet, as we have seen in several cases, individual rights cannot outweigh the dignity of the community. In *Omega*, for instance, a British laser-tag company simulating homicide was ruled by the German lower courts as violating dignity and public values, which was deemed more pressing than the Omega's right to provide services and free movement of economic goods (TEU Art. 49 and 28, respectively). The German ruling was upheld by the ECJ on the basis of subsidiarity, claiming that individual rights cannot always outweigh public interest and the values of a community. Wherein lies the distinction? Shooting down a plane under the presumption of saving lives provides no alternative space for the passengers to express their objective and subjective sense of dignity. It reifies by way of presumption. In *Omega*, alternatives were present.

Presumption has played an integral role in balancing competing absolute rights. In *Gäfgen v. Germany*, the police threatened Mr. Magnus Gäfgen, who abducted 11-year-old Jakob, with torture, if he did not reveal the boy's location. The ECtHR, in *Gäfgen*, failed to balance the competing rights of Mr. Magnus

⁴³⁵ BverfGE, 1 BvR 357/05. The FCC ruled on the constitutionality of the Air-Transport Security Act of 2004 (*Leftsischerheitsgesetz*) signed by President Horst Kohler, in January 2005. BGBI. I, §78.

⁴³⁶ This discussion is derived from Lepsius, O. (2006). Human dignity and the downing of aircraft: The German federal constitutional court strikes down a prominent anti-terrorism provision in the new air-transport security act. *German LJ*, 7, 766. Moreover, through the Court could merely have invoked Article 2 (right to life), it tethered Article 2, which is subject to a limitation clause under the proportionality principle (*Grundgesetz der Verhältnismässigkeit*) with Article 1 (dignity) which is absolute and not subject to limitation, thereby precluding parliamentary purview. *Ibid* at 768.

⁴³⁷ Lepsius (n436) p770.

Gäfgen not to be subject to torture, inhuman, and degrading punishment and the rights of Jakob.⁴³⁸ In fact, the Court was clear that State parties, including the police, were ‘not obliged’ to safeguard the child’s right to life at the expense of an Article 3 violation against Mr. Gäfgen.⁴³⁹ Strasbourg found that the right to be free of an Article 3 violation was to be applied “under any circumstance, even the most difficult” and that an Article 3 violation “does not allow for any exceptions or justifying factors or balancing of interests, irrespective of the conduct of the person concerned and the nature of the offence at issue.”⁴⁴⁰ It is the threshold requirement then, not a balancing between competing rights or public interest that triggered an Article 3 violation. Smet (2013) illustrates this point by way of example: whether an arresting police officer’s conduct triggers an Article 3 violation depends not on the arrest itself (which may be in the public interest), but the force used in conducting the arrest (the force needed for a non-resisting suspect will be different than one physically resisting).⁴⁴¹ Gäfgen reveals that proportionality may be restricted by not only positive versus negative obligations (in this case, the positive right to save a life versus the negative right not to take a life), but also, by agency. Kantian in its nature, direct versus indirect agency challenges the instrumentalization of a human being as a means to an end.⁴⁴² On a level playing field, one life to one life, the negative obligation may trump the positive one.

Competing individual-societal claims to dignity have often avoided the meticulous reasoning of the German High Court, instead resolving disputes through testing ‘threats to the life of the nation’ (Article 15, ECHR). In *A. v. Secretary of State for the Home Department*, Strasbourg contemplated whether the detention of alleged terrorists without trial was in violation of the ECHR. The ECtHR sided with the Home Department, finding a wide margin of appreciation in the preemptive risk-reducing measures of a presumptive emergency.⁴⁴³ Here circumstances reasonably leading to an infringement of dignity were validated through a presumptive benefit to the community. In an eponymous case, *A. v. Secretary of State for the Home Department (no 2.)*, the Court ruled that while information from torture might be used in a ticking-time bomb scenery, it was inadmissible as evidence, and could not be used to certify terrorist affiliation. Where evidence was gathered (foreign or domestic power) was irrelevant, as the prohibition on torture outweighed other concerns and could not be circumstantially derogated based on origin.⁴⁴⁴ In many

⁴³⁸ Note, the right to life is not an absolute right under the European Convention. Greer’s argument of balancing Jakob’s Article 8 right to life against Mr. Gäfgen’s Article 3 right not to be subject to threats of torture, are thus not technically speaking competing absolute rights under the Convention. For a detailed explanation see Smet, S. (2013). Conflicts between Absolute Rights: A Reply to Steven Greer. *Human Rights Law Review*, 13(3), p. 481.

⁴³⁹ Gäfgen (n375) §107. See also *M.S.S (n250)* §218.

⁴⁴⁰ *Gäfgen (n375)* §10.1

⁴⁴¹ Smet (n438) p. 477.

⁴⁴² *Saadi v. United Kingdom*, 13229/03, Council of Europe, ECtHR, 29 January 2008, dissenting opinion.

⁴⁴³ *A. v. Secretary of State for the Home Department* [2004] UKHL 56; [2005] 2 WLR 87 (HL).

⁴⁴⁴ Though torture in *A. v. Secretary of State for the Home Department (no 2.)* and *Jalloh v. Germany* has been deemed to make evidence inadmissible, in *Gäfgen*, the Court seems to suggest that evidence obtained through inhuman treatment is admissible.

ways, the Court's refusal to allow evidence tainted by an Article 3 violation falls in line with *Hamdi v. Rumsfeld*, a due process case before the U.S. Supreme Court, challenging an 'enemy combatant' designation. Justice Sandra Day O'Connor's opinion impresses that the Court has "long since made clear that a state of war is not a blank check for the President when it comes to the rights of the Nation's citizens." The dignity of the many under the presumption of emergency cannot trample the dignity of individuals.⁴⁴⁵ Necessity may not always require proof,⁴⁴⁶ but it must nevertheless answer to the dignity of the rights it wishes to trample.

How then does this tie into refugee transfers? Perceived costs arising from the refugee regime, even if calculated to adversely impact the dignity emanating from the fundamental (albeit not the absolute) rights of the EU Member State's social and political community, cannot be used as an excuse for violating the fundamental rights of refugees. Even as Courts have increasingly found a common instrument in proportionality⁴⁴⁷ a dignified alternative must be in place for competing conceptions to be adjudged. Only after a reasonable alternative has been emplaced can potential clashes of fundamentals be afforded a margin of appreciation. Proportionality, in this case, advances reasonableness: the dignity and integrity of the refugee's fundamental rights cannot be trumped by positive obligations towards citizenry.⁴⁴⁸

Moreover, dignity plays an important function in balancing rights. Whereas an absolute right, such as those that fall under Article 3, cannot be considered incommensurable when pitted against, for example, Article 8 or Article 5 violations, if a violation of one's human dignity can be tied to the Article 5 or 8 violation, both non-absolute rights, a right lacking the "absolute" title under the European Convention may prompt a conflict between domestic and supranational courts, irrespective of supranational primacy dictated by the Lisbon version. More specifically, since several EU States have dignity as an absolute right etched into their constitutive document and the ECHR speaks of dignity only concerning the death penalty in Protocol No. 13, there is a potential conflict of absolutes, even though Strasbourg has remarked on several occasions that absolute rights such as Article 3 are grounded in human dignity.

⁴⁴⁵ *Hamdi v. Rumsfeld*, 542 U.S. 507 (2004) (Sandra Day O'Connor, opinion) at 3D.

⁴⁴⁶ Dauber, M. L. (2005). The sympathetic state. *Law and History Review*, 23(02), 387-442. Interestingly, emergency and necessity has frequently hinged on control. That is, whether the emergency was controllable by the individual or due to external forces against which they could not have reasonably expected to protect themselves. Not irrelevant to our analysis, a similar argument has been made for defining a refugee. In *Korablina v. Immigration and Naturalization Service, the U.S. 9th Circuit Court of Appeals* found that "persecution may be found by cumulative, specific instances of violence and harassment toward an individual and her family members not only by the government, but also by a group the government declines to control." *Korablina v. Immigration and Naturalization Service*, 97-70361, United States Court of Appeals for the Ninth Circuit, 23 October 1998.

⁴⁴⁷ See *Miller* (n279), *State v. Makwanyane and Mchunu*, 1995 (6) BCLR 665 (CC) which subsumes dignity beneath the right to life, and the *Conseil Constitutionnel's* treatment of the *Abortion Decision of 2001* (the latter drawn to my attention by McCrudden (n268) p699).

⁴⁴⁸ *Opuz v. Turkey, Application no 33401/02, Council of Europe, ECtHR, 9 June 2009.*

3.9 Avoiding dignity-based claims to transfers

The law, as guardian of human dignity facilitates conditions whereby individuals may achieve and maintain a dignified existence. Often the institutionalization of norm-generation comes from enforcing *lex lata*, but also, preempting developments in *lex ferenda*. Anticipating developments in law is critical towards avoiding human and legal costs. Unfortunately, anticipating high transaction costs exclusively through refugee law or refugee-related case law limits the scope of prediction. Developments in the law are likely to consider dignity from unrelated content and apply their legal reasoning to refugee-specific cases. These cases are likely to fall under three domains: spatial dislocation and search for *terra firma*, identity emanating from physical and psychological minutia, and how her individual dignity-related considerations interact with societal needs.⁴⁴⁹ These three areas mark common waystations in the refugee's journey from persecuted to safety and inclusion. Transferring refugees must consider the refugee experiences: While refugee case law has of course drawn from a variety of unrelated content, there has not been a systematic analysis into how unrelated jurisprudence from common waystations may develop into robust challenges to transfers. In light of these mechanics and from the above contextualized discussion of jurisprudence, from a policy and mechanism design point of view, refugee transfers must comport to the following:

- (a) Although monitoring mechanisms must ensure that fundamental human rights ensuring a dignified existence are met, these rights need not be equal in quantity nor quality to that offered by other EU Member States. They must, however, not dip below a minimum justiciable level as defined by European jurisprudence and must comport to a defined standard of living in the hosting State.
- (b) Gauging dignity-grounded claims from the host community is challenging but can be approximated on an equal basis to refugee claims. This means that the integration infrastructure of each transfer State should be assessed at regular intervals to include labor market capacity, reception quality, and the political viability of increasing the number of refugees hosted.

⁴⁴⁹ Even outside the limitation of Bourdieu's *habitus*, innovation absent a prior pool of societal values must respond to environmental conditions, and social action shaped by the interaction of competing groups sparks developments in the law. The perception of dignity as central to moral intuition in an agent's action strategies is likewise impacted by the diffusion of emerging law, allowing the formation and replication of new structurally supported habits, which subsequently activate new interpretations to problems arising from previous interpretations of dignity. Bourdieu, in fact, argues that creative adaptation is a habitus itself.

Discussing immigration, Blake (2013) writes that “the right to exclude, on my account, is capable of being trumped by the rights of others.”⁴⁵⁰ Yet others does not always mean outgroup.

- (c) When considering who to accept as a transferee, State-level selection criteria must not include discriminatory variables (ethnicity, religion). However, disputes over religious paraphernalia and other non-discriminatory State-specific laws potentially affecting a refugee’s dignity should be considered before allocation and included in any quota-based matching mechanism.
- (d) To the degree possible, preferences of refugees should be taken into consideration when allocating transfers. This means that while not every refugee will be transferred to a destination of her choice, to the extent possible, including refugees in the decision-making process is crucial towards bestowing a sense of autonomous choice for the group. This may mean that a supranational clearinghouse with top-down allocation will be most effective.
- (e) Recognition that dignity exists in each person implies that there are boundaries over what constitutes permissible behavior towards another human. Relativity on an individual basis must thus come to terms with constraints on action. In practical terms this means investigation of third-party States to ensure quality of reception and living conditions (i.e., non-discriminatory treatment particularly regarding education, sexual orientation, and physical security), as well as the State of law enforcement and penitentiary systems irrespective of whether that State is party to European or international human rights conventions.

3.10 Conclusion

The legality of refugee transfers can be derived from both specific rules and case law involving dignity. Only by satisfying primary legal obligations *in addition to* ensuring the dignity of a refugee is satisfied in its multiple dimensions can transfers be sanctioned. While this is hardly a novel conclusion, the approach taken to elucidate dignity is. Departing from an action-centric ontology, this chapter argues that the law guiding the dignity of refugees and their hosts is formed and sustained through an active diffusion of creative action, interpersonal relationships, and structural-level variables. These three elements enter into kaleidoscopic relationship where a constant state of interaction impacts the structure of agency, influencing institutional development, specifically the ushering in of *lex ferenda* critical to the growing case law on human dignity.⁴⁵¹

⁴⁵⁰ Blake, M. (2013). Immigration, jurisdiction, and exclusion. *Philosophy & Public Affairs*, 41(2), 119.

⁴⁵¹ This does not portend to be a descriptive tool for causal explanations of micro-to-macro or macro-to-micro diffusion, but rather a guiding tool through the process by which actions grounded in beliefs must be reconsidered, and how those reconsiderations impact the law on an institutional level.

The law dictates that returning a refugee to a country she may be tortured or subject to cruel, inhuman, or degrading punishment is illegal. Positive rights also add a dimension of state responsibility: incremental rights relating to health, family, and finance prohibit transferring a refugee where social and economic ties have been built. In the case of an appeal, transferees must have their case reviewed to determine whether the new host country will constitute a reasonable threat to the individual refugee's sense of dignity. Reasonable and non-discriminatory, do not however convert into equality along all dimensions. So long as a minimum core of dignity can be maintained in the transfer State and the transfer process, there is no legal or moral claim by the refugee onto a specific country or region. As Christopher McCrudden concludes, "Dignity allows each jurisdiction to develop its own practice of human rights."⁴⁵² This may mean that the right to transfer refugees, in effect, protecting but not hosting, may be crucial in the long run for both refugees and those states who continue to offer them protection under international law.

3.11 Moving from Allocation to Integration

Part I outlined a system of allocation as a solution to the disequilibrium between economic and social forces, and the legal requirement to protect refugees. The proposed EU-OIC market mechanism addressed the cost of protection through trading protection quotes, enabling Member States to protect refugees without hosting more than social and economic forces prescribe. A second way to address the cost of protection is through integration. Because the perceived cost of hosting refugees is often tied to how well they integrate into the labor market and socio-cultural domains, increasing successful integration should lower the cost of hosting, thereby increasing the amount of refugees States are willing to absorb.

The EU-OIC market mechanism accounts for integration in its mechanism design (infra 2.4.7). More generally, integration programs with successful outcomes should lower the cost of hosting, whether tied to a market or otherwise. Part II engages the nexus of integration and the cost of protection. Two studies, both using original datasets, seek to evaluate mentoring as an integration program. Chapter IV looks at mentoring from the perspective of refugees, and Chapter V from the host population. If a mentoring program positively impacts integration outcomes, it will help answer this monograph's central research question: how to bring social and economic forces into equilibrium with refugee law.

⁴⁵² McCrudden (n268) p720.

Part II

Chapter IV Mentoring as an Integration Strategy:

4.1 Introduction

Integration of refugees into a sovereign nation –even the most pluralistic of them– frequently resemble an arranged marriage. As out-group moves to in-group, new hierarchies of order are expected, and responsibilities imposed. And like many newlyweds, younger refugees must eventually take on the role of the provider. Not only must they provide for the current generation, but the past ones as well. In Europe, this is acutely true: low fertility rates mean that refugees involved in the ‘third demographic transition’ will occupy higher skilled jobs, provide benefits for retirees, as well as have a decisive role in the cultural relevance of customs (Coleman, 2006).⁴⁵³

Whether refugees fulfill their nuptial vows largely depends on whether they are integrated. This is particularly true of labor market integration, frequently cited as the bedrock of socio and cultural integration (Sniderman, 2004).⁴⁵⁴ Yet what strategies lead to effective labour market integration? Educational achievement has frequently been tied to positive integration outcomes, as has social cohesion (Spoonley et al., 2005).⁴⁵⁵ Yet beneath these broad categories are a range of context-dependent factors that have defied uniform effects.⁴⁵⁶ Lack of uniformity is not merely a consequence of diverse institutional frameworks and heterogeneous populations, but the dynamism inherent in the *process of* integration (Officer & Taki, 2013).⁴⁵⁷ Rather than a model with a clearly defined hierarchy, integration may be envisioned as a series of overlapping domains, in particular, employment, education and meaningful contact with the local population. A mentoring integration program, Chapter IV argues, will

⁴⁵³ Coleman, D. (2006). Immigration and Ethnic Change in Low-Fertility Countries: A Third Demographic Transition. *Population and development Review*, 32(3), 401-446.

⁴⁵⁴ Sniderman & Hagendoorn (n18).

⁴⁵⁵ Spoonley, P., Peace, R., Butcher, A., & O’Neill, D. (2005). Social cohesion: A policy and indicator framework for assessing immigrant and host outcomes. *Social Policy Journal of New Zealand*, 24(1), 85-110.

⁴⁵⁶ Mixed evidence, for instance, exists for the impact of parental education on integration (Grätz, 2015; Schnepf, 2008), as well as the significant of strong co-ethnic networks (Portes et al., 2005, 1019; Waters et al., 2010). In the grand scheme of things, there has not been a generalizable institutional explanation able to account for differences in successful integration strategies (Alba & Foner, 2014, S264). Nor have individual or family-level factors yielded pan-European uniform effects.

⁴⁵⁷ Officer, D., & Taki, Y. (2013). The Needs of Refugees and the Integration Process in Cyprus. *Report commissioned by the Cyprus Office of UNHCR and conducted by INDEX: Research & Dialogue*.

successfully manage the interdependence of these correlates and determinants, and by doing so, positively impact labour market outcomes among mentored refugees.

Mentoring can be defined as a type of developmentally-oriented coaching in which an experienced mentor acts as a role model to a mentee who has less experience (Eby et al., 2013).⁴⁵⁸ Mentoring is often separated into two broad categories: instrumental, which targets a specific goal, and socio-psychological, which nurtures emotional needs. Both categories help to leverage the mentee emotionally, socially, and at times professionally. In situations where refugees arrive without linguistic or familial roots, nor the tools to navigate institutions and culture-specific social cues, mentors can use their knowledge of local institutions and customs to bridge informational and social inequalities.

In the literature, mentoring has been shown to target many of the disadvantages shown to adversely affect labor market integration.⁴⁵⁹ Mentors positively impact the social skills needed to succeed in the labor market (Lerner, 2005) career outcomes (Allen et al., 2004),⁴⁶⁰ raise social mobility (Heckman & Mosso, 2014), behavior and attitudinal outcomes (Eby et al., 2008) and may increase intrinsic job rewards (McDonald & Lambert, 2014).⁴⁶¹ At the structural level mentoring has been shown to affect variables such as age at immigration (Corak, 2012), income inequality (Schneeweis, 2011), and peer concentration (Schneeweis, 2015).⁴⁶² Qualitative studies have also provided insight into the processes through which mentoring positively affects socio-emotional capacity and builds secure identities (Rhodes, 2008; Rhodes, 2005; Roffman et al., 2003), both of which are later hypothesized to impact labor market outcomes.⁴⁶³

While the positive effects of mentoring on socio-economic outcomes are well-established, to the author's knowledge there have been no empirical studies linking mentoring to refugee labour market outcomes.

⁴⁵⁸ Eby, L. T., Allen, T. D., Evans, S. C., Ng, T., & DuBois, D. L. (2008). Does mentoring matter? A multidisciplinary meta-analysis comparing mentored and non-mentored individuals. *Journal of vocational behavior*, 72(2), 254-267.

⁴⁵⁹ Meta analyses, however, have yielded modest results. Dubois et al., 2002; Dubois et al., 2011. The latter accounts for 73 (the former 55) studies and found modest positive impacts in academic, social, behavioral and emotional indicators.

⁴⁶⁰ But see: Wanberg et al., (2003).

Lerner, R. M. (2005). Promoting positive youth development: Theoretical and empirical bases. In *White paper prepared for the workshop on the science of adolescent health and development, national research council/institute of medicine. Washington, DC: National Academies of Science*, 5; Allen, T. D., Eby, L. T., Poteet, M. L., Lentz, E., & Lima, L. (2004). Career benefits associated with mentoring for proteges: a meta-analysis. *Journal of applied psychology*, 89(1), 127.

⁴⁶¹ McDonald, S., & Lambert, J. (2014). The long arm of mentoring: A counterfactual analysis of natural youth mentoring and employment outcomes in early careers. *American Journal of Community Psychology*, 54(3-4), 262-273; Heckman, J. J., & Mosso, S. (2014). *The economics of human development and social mobility* (No. w19925). National Bureau of Economic Research.

⁴⁶² Corak, M. (2012). Age at immigration and the education outcomes of children. *Realizing the potential of immigrant youth*, 90-116; Schneeweis, N. (2011). Educational institutions and the integration of migrants. *Journal of Population Economics*, 24(4), 1281-1308; Schneeweis, N. (2015). Immigrant concentration in schools: Consequences for native and migrant students. *Labour Economics*, 35, 63-76.

⁴⁶³ Roffman, J. G., Suarez-Orozco, C., & Rhodes, J. E. (2003). Facilitating positive development in immigrant youth. *Community youth development: Programs, policies, and practices*, 90-117;

Rhodes, J.E. (2005). A model of youth mentoring. In D.L. Dubois & M.J. Karcher (Eds.), *Handbook of youth mentoring* (pp. 30-43). Thousand Oaks, CA: Sage; Rhodes, J. E. (2008). Improving youth mentoring interventions through research-based practice. *American Journal of Community Psychology*, 41(1-2), 35-42.

Addressing this gap, Chapter IV adds value to the literature by evaluating a particular intervention (mentoring), among a particular subset of refugees (Arabic speaking humanitarian migrants), in a particular region (three European Union countries).⁴⁶⁴ Refugees were asked whether they had a mentor, whether that mentor aided in bridging institutional barriers, inculcating meaningful interpersonal contacts, and whether the mentor was integral towards attaining gainful employment. The results show that mentoring has a positive effect on the labour market participation of refugees, especially when the mentoring program includes an educational component, and when mentors help mentees foster meaningful social connections with the local population.

4.1.1 Definitions

By integration this study follows Berry (1997), as well as Alba & Foner (2014) in defining “processes that allow members of immigrant groups to attain, usually gradually and approximately, the opportunities afforded long-term native citizens of obtaining such valued societal goals as improved socioeconomic position for themselves and their children and to gain inclusion and acceptance in a broad range of societal institutions.”⁴⁶⁵ Attaining suggests breaching or dismantling impediments to participation, a process noted in earlier definitions of integration (Kymlicka, 1995).⁴⁶⁶ Furthermore, mentoring goes beyond equalizing roles in public institutions— it is meant to make social boundaries porous and allow socio-cultural lineages to diffuse into mainstream society through fostering meaningful interpersonal relationships that recognize value in diversity.⁴⁶⁷

4.1.2 Limits & Complications

Refugees are humanitarian migrants who fall under the Geneva Refugee Convention definition of a refugee.⁴⁶⁸ Humanitarian migrants who are not determined to be refugees but whose return jeopardizes their safety frequently attain subsidiary status.⁴⁶⁹ The majority of quantitative integration-related literature focuses on migrants in general with very few studies distinguishing humanitarian from other immigrant categories.⁴⁷⁰ Decoupling what constitutes ‘effectiveness’ of refugee integration strategies from monolithic

⁴⁶⁴ Because these are not random clinical trials but self-reported experiences, I use the word ‘evaluate’ rather than ‘test’. I thank a reviewer for pointing out this semantic difference.

⁴⁶⁵ Alba & Foner (2014), p. S263; Berry, J. W. (1997). Immigration, acculturation, and adaptation. *Applied psychology*, 46(1), 15.

⁴⁶⁶ Kymlicka, W. (1995). *Multicultural citizenship: A liberal theory of minority rights*. Clarendon Press.

⁴⁶⁷ This is distinct from the definition of assimilation, that is, a unidirectional adaptation to dominant social norms involving a gradual erosion of unique identities. By integration then, this paper aims to describe the process by which persecuted individuals become functional members of an economic, social and political community, and find in her host country a normative alignment with their core values. Permeability must exist between refugee identity in the public sphere, identity as a member of the political community, and unique ethno-cultural identity. This resembles the acculturation literature which looks at different paths immigrants take to retain their old, prioritize new, or balance both identities (Berry, 1997; Constant & Zimmerman 2008).

⁴⁶⁸ Refugee Convention (n15) art 31.

⁴⁶⁹ European Union: Council of the European Union, *Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast)*, 20 December 2011, OJ L. 337/9-337/26.

⁴⁷⁰ See Rositter and Rositter (2009) for an exception.

‘migrant’ indicators is unsurprisingly complicated. Secondly, several components of the data limit its generalizability. Some of the indicators capture broad topics such as educational support of interpersonal relationships. While the author tried to clarify generalities through post questionnaire interviews (Appendix A), there remains considerable variance on the content contained in each indicator.

4.2 Literature and Hypotheses

To be considered a successful labour market intervention strategy mentoring must positively affect the determinants, largely derived from the labor economics, educational, applied psychology, and acculturation literature, shown to aid effective integration. As theorized in the introductory section, mentoring may simultaneously address these determinants thereby avoiding a differential model of integration whereby inclusion at one level fails to permeate to a wider social diffusion or political rights.⁴⁷¹ The remainder of Chapter 4.2 explores this simultaneity, revealing how the social net return of mentoring refugees may be realized through fostering social capital, the role of information, and inculcating interpersonal connections between refugees and the host population. Figure 17 lays out the conceptual framework for Chapter IV.

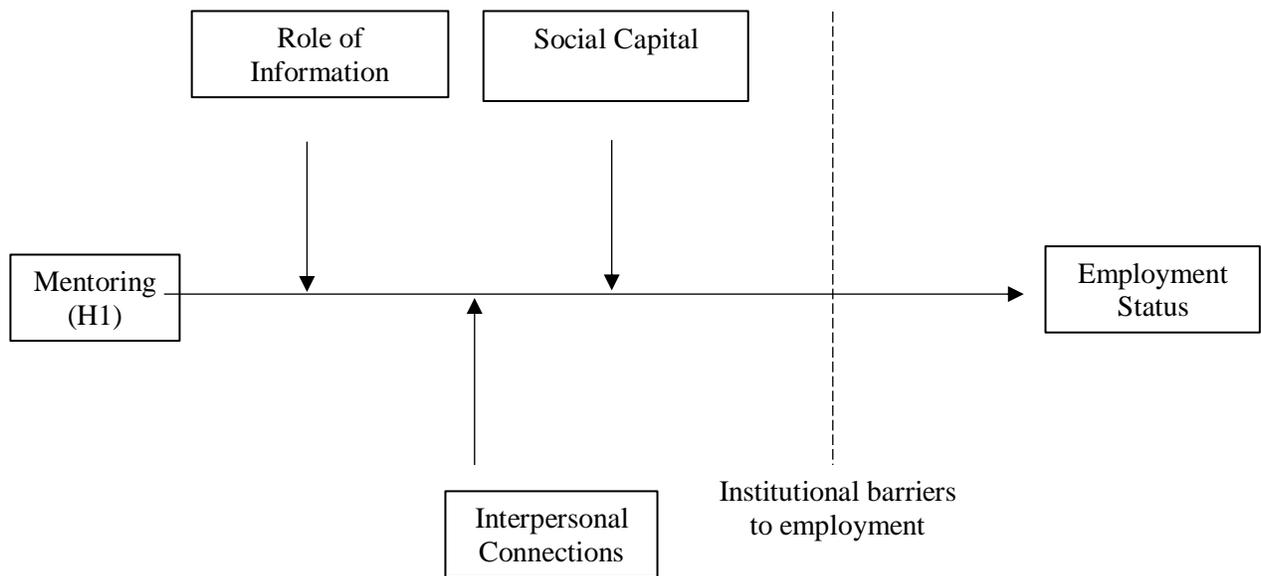


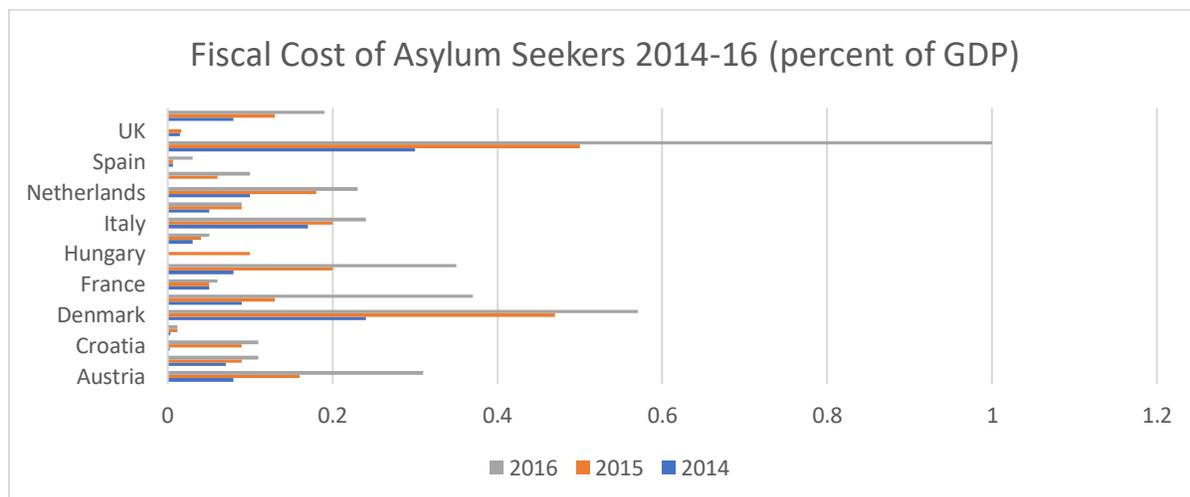
FIGURE 17 CONCEPTUAL FRAMEWORK OF CHAPTER IV

⁴⁷¹ For a modern application of Castles’ model see: Cebolla-Boado, and Finotelli, (2015).

4.2.1 Social Capital and Labour Market Outcomes

Integration is often conceptualized as hierarchical process whereby economic assimilation becomes the basis for social, educational, and national: if one contributes fiscally they are valuable to society and have earned the right to be valued (Volleburgh et al., 2017).⁴⁷² In macroeconomic terms, effective economic integration is frequently measured by net fiscal impact (NFI): the difference between tax-based contributions minus the cost of services and benefits received.

Research has not found a substantial impact from refugees, positive or negative, on the NFI. A 2016 European Commission report, for example, found the macroeconomic impact of refugees calculated as moderate to negligible, with short-term rises in public spending,⁴⁷³ while a recent IMF study (figure 18) found a small increase in GDP growth from refugees over the short-term, with uncertainty surrounding longer term effects on the economy (IMF, 2016).⁴⁷⁴



⁴⁷² Vollebergh, W., Veenman, J., & Hagendoorn, L. (Eds.). (2017). *Integrating Immigrants in the Netherlands: Cultural Versus Socio-Economic Integration: Cultural Versus Socio-Economic Integration*. Routledge.

⁴⁷³ Moreover, recent EU forecasts have ranged from .1% to .6% additional spending, predominately from rescue operations, housing, integration and welfare. EC. An Economic Take on the Refugee Crisis: a macroeconomic Assessment for the EU. Institutional Paper 033 (July 2016) at 3.

⁴⁷⁴ On the latter point, humanitarian migrants take longer than economic migrants to have a net positive effect on their host country's budgets. The 10-15 year time frame calculated in a recent OECD study stands in stark contrast to that of economic migrants who often have a positive effect immediately. This finding is in consonance with the Australian Migrant Fiscal Impact Model that shows convergence for humanitarian migrants after 15 years. (OECD 2013, p. 134). Though from a lifetime perspective, does not reach a net positive value.

FIGURE 18 IMF ESTIMATES: FISCAL COST OF ASYLUM SEEKERS AS % OF GDP 2014-2016.⁴⁷⁵

Dustmann et al., (2016) find that employment probabilities of refugees, though less favorable than that of economic migrants, increase by year, and that the refugee-native employment gap loses its statistical significance at between 15 to 19 years.⁴⁷⁶ Their results are displayed in figure 19. Whether there is a net fiscal benefit is typically dependent on myriad factors: age at migration, pre-existing institutional conditions, family structure, whether the immigration is humanitarian or labour-related, and reference year(s) of analysis. Moreover, conclusions vary considerably with methodological approach and location.⁴⁷⁷

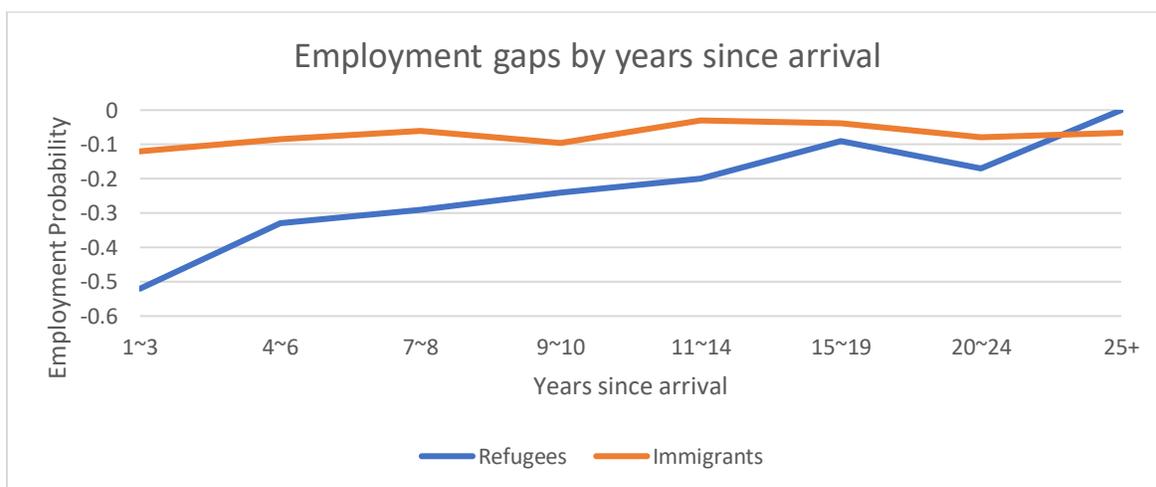


FIGURE 19 REFUGEE/NON-HUMANITARIAN MIGRANT EMPLOYMENT GAPS. ADAPTED FROM DUSTMANN ET AL., (2016).

What is clear is that employment is widely considered the most significant variable catalyzing long-term durable integration and is crucial for the net fiscal contribution of refugees to be positive, particularly in social welfare States (OECD, 2013). What then are the structural barriers towards refugees obtaining gainful employment and how are they mitigated? One important barrier cited in the literature is the lack

⁴⁷⁵ IMF staff estimates. IMF (2016), p. 12.

⁴⁷⁶ Dustmann, C., Fasani, F., Frattini, T., Minale, L., & Schönberg, U. (2016). On the Economics and Politics of Refugee Migration. IZA. DP No. 10234 p27. In addition, Bratsberg et al (2014) researching the linkage between firm bankruptcy and unemployment, find that employment for low income migrants may “lose steam” and even “go in reverse” before reaching parity with natives. And Algan et al., (2010) finds that the native-foreign born unemployed differential continues inter-generationally.⁴⁷⁶ Storesletten (2003) finds negative intergenerational effects are due to economic assimilation. Conventional modes of promoting gainful employment for refugees may therefore require an initial dose of expenditure and patience not required of other subsets. Also, Sarvimäki (2011) finds that among migrants to Finland, only males from OECD reach parity with Finnish employment rates. Income transfer differences, however, are negligible after 20 years. Sarvimäki, M. (2011). Assimilation to a welfare state: Labor market performance and use of social benefits by immigrants to Finland. *The Scandinavian Journal of Economics*, 113(3), 665-688.

⁴⁷⁷ Complication calculating general accounting, dynamic modeling and insufficient data on the cost of labour market integration and health care usage makes the fiscal impact on welfare systems difficult to predict EC. An Economic Take on the Refugee Crisis: a macroeconomic Assessment for the EU. Institutional Paper 033 (July 2016) at 17.

of social capital.⁴⁷⁸ Social capital, defined here as “the information, trust, and norms of reciprocity inhering in one’s social networks”⁴⁷⁹ may lower transaction costs by reducing the uncertainty employers face while screening applicants (Ioannides & Loury, 2004; Smith, 2005), as well as make job searching more efficient for applicants (Mouw, 2003).⁴⁸⁰ For refugees, lack of social capital is frequently the result of arriving in a country without an extended social network. This absence may adversely affect sense of belonging, access to institutions, and impede landing higher paid and prestigious jobs (Lin, 2002).⁴⁸¹ While some refugees have connections from diaspora communities this rarely provides the same benefit as inter-ethnic connections (Lancee, 2012).⁴⁸² In some cases, co-ethnic networks may even work to the detriment of over-qualified refugees, as their compatriots are more likely to be engaged in low-skilled employment.⁴⁸³ Socio-economic inequalities may then begin from the day of arrival.

4.2.2 Mentoring and Social Capital

Overcoming these disadvantages frequently necessitate not merely bridging inequalities grounded in historical and institutional circumstances (Mollenhorst et al., 2008), but actively promoting interactions with the host population (Verhaeghe et al., 2013).⁴⁸⁴ These interactions may in turn increase the flow of information, aid in job contacts (Scherger & Savage, 2010; Goldthorpe, 2007)⁴⁸⁵ and lead to higher wages (Edin et al., 2003).⁴⁸⁶ A structured mentoring program able to formatively assess the quality of

⁴⁷⁸ Friesen, M. R. (2011). Immigrants' integration and career development in the professional engineering workplace in the context of social and cultural capital. *Engineering Studies*, 3(2), 79-100.

⁴⁷⁹ Woolcock, M. (1998). Social capital and economic development: Toward a theoretical synthesis and policy framework. *Theory and society*, 27(2), p153.

⁴⁸⁰ Ioannides, Y. M., & Datcher Loury, L. (2004). Job information networks, neighborhood effects, and inequality. *Journal of economic literature*, 42(4), 1056-1093; Smith, S. S. (2005). “Don’t put my name on it”: Social capital activation and job-finding assistance among the black urban poor. *American Journal of Sociology*, 111(1), 1-57; Mouw, T. (2003). Social capital and finding a job: do contacts matter?. *American sociological review*, 68-898.

⁴⁸¹ This has been shown to be true to access the labour market even when controlling for levels of education and employment status (Verhaeghe et al., 2013 at 691). See also Kazemipur, A. (2006). The market value of friendship: Social networks of immigrants. *Canadian Ethnic Studies*, 38(2), 47.

⁴⁸² Lancee, B. (2012). The economic returns of bonding and bridging social capital for immigrant men in Germany. *Ethnic and Racial Studies*, 35(4), 664-683.

⁴⁸³ Although in some cases, an ethnic network provides the support needed for growth. In these scenarios, mentor-mentee matches should strongly consider ethnicity as a criterion. Among many other studies, see Zou & Kim (2006). Also, several studies find a positive effect of migrant networks on employment and earnings (e.g., Aguilera, 2005), however, the effect seems to hold only for low positions (Kalter & Kogan, 2014). Aguilera, M. B. (2005). The impact of social capital on the earnings of Puerto Rican migrants. *The Sociological Quarterly*, 46(4), 569-592; Kalter, F., & Kogan, I. (2014). Migrant networks and labor market integration of immigrants from the former Soviet Union in Germany. *Social Forces*, 92(4), 1435-1456.

⁴⁸⁴ Mollenhorst, G., Völker, B., & Flap, H. (2008). Social contexts and personal relationships: The effect of meeting opportunities on similarity for relationships of different strength. *Social Networks*, 30(1), 60-68; Verhaeghe, P. P., Li, Y., & Van de Putte, B. (2013). Socio-economic and ethnic inequalities in social capital from the family among labour market entrants. *European sociological review*, 29(4), 683-694.

⁴⁸⁵ This line of reasoning is often derived from rational action theory and involves the prestige or expected future reward from disseminating information. While not our specific case, there link is clear. Scherger, S., & Savage, M. (2010). Cultural transmission, educational attainment and social mobility. *The Sociological Review*, 58(3), 406-428; Goldthorpe, J. H. (2007). *On sociology. 2. Illustration and retrospect*. Stanford University Press.

⁴⁸⁶ Cutler et al., (2008) finds the opposite effect for low education and low earning immigrants. Edin, P. A., Fredriksson, P., & Åslund, O. (2003). Ethnic Enclaves and the Economic Success of Immigrants-Evidence from a Natural Experiment. *Quarterly Journal of Economics*, 118(329-357).

interactions and intercede where appropriate should increase the social capital of their mentees. These suggestions are in line with European Commission proposals that promote employment coaching and mentoring as active labour market policies to raise levels of social and knowledge capital.⁴⁸⁷

Successful examples of this strategy have been job placement projects where mentors act as employment coaches such as the Dutch Council for Refugees' (VluchtelingenWerk) Emplooi project. Guidance is provided both at the individual refugee as well as institutional level, where both companies and schools receive guidance and support. Emplooi likewise promotes entering the workforce and has seen mentoring positively impact gainful employment for refugees. Such success stories are not infrequent. Upwardly Global, a San Francisco based nonprofit saw a 900% increase in the wages of 500 mentored participants, while Un Parain 1 Emplooi, in France has helped hundreds of largely migrant populations land their first job.⁴⁸⁸ KVINFO in Denmark has found success breaking down cultural and labor market barriers and promoting gender equality with matches mentor-mentees based on similar educational and professional interest, while InCharge provides mentoring in Germany with a focus on provided individualized employment support. Often these programs overlap with apprenticeship programs, job-activation, and other employment-related schemes. Tellingly, several employment initiatives that use mentoring as their primary vehicle are centrally funding by governments worried about the impact of unemployment on social cohesion. The Parrainage program in France, in one example, focuses on youth employment and is partially funded by the French National Agency for Social Cohesion; Link2Work, an organization oriented towards youth unemployment, is funded by the Dutch Ministry of Social Affairs and Employment (Petrovic, 2015).⁴⁸⁹

Based on its potential to foster social capital, frequently shown to improve labour market outcomes, the first hypothesis is formulated as follows:

H₁ Refugees who have been mentored will have a higher probability of employment than those who have not been mentored.

4.2.3 The Role of Information in Educational Explanations

A well-established interdisciplinary corpus of research has found that education is a strong determinant in successful labour market integration. Empirical evidence has pointed to education playing a significant role in migrant contribution to overall growth, societal prosperity, social cohesion, and inter-generational

⁴⁸⁷ European Commission, 033, July 2016 p27.

⁴⁸⁸ Upwardly Global. 'A look at skilled Immigrant workers in the U.S.' (April 2013). Last accessed January 23, 2017 from <https://www.upwardlyglobal.org/UpwardlyGlobalEconomicImpactReportApril2013.pdf>.

⁴⁸⁹ Petrovic, M. (2015). Mentoring practices in Europe and North America: strategies for improving immigrants' employment outcomes. Brussels: Migration Policy Institute Europe, p3.

occupational mobility (Woessmann, 2016).⁴⁹⁰ Particularly important for this study, mentoring has shown a positive effect on educational outcomes for disadvantaged and at-risk youth, a population subset underrepresented in the labor market (Rodríguez-Planas, 2012; Tolan et al., 2008).⁴⁹¹ Many of these conclusions cascade from basic human capital theories that link education to earnings (e.g., Mincer 1974), or signal theory, where skills developed in the classroom transmit positive signals during job interviews conducted under imperfect information (Spence, 1973; Ermini et al., 2017).⁴⁹²

Informational asymmetries play a formidable role in educational achievement. They impact how migrants navigate the education system, engage their child's learning, and enable parent-teacher coordination, thereby playing an active role in their child's achievement. Because parental support is often needed for success in the classroom, lack of first-hand knowledge, frequently a result of language capacity or insufficient diffusion of domain-specific knowledge (Kanno & Varguese, 2010) prevents equalization with the local population. To education's positive impact on employment, an integration program needs to address the institutional, teacher input, family-level, and behavioral factors influencing educational achievement.

4.2.4 Institutional Factors

Institutional factors typically refer to tracking and resource allocation. Tracking – the separation of pupils by curriculum based on academic ability—often leads to negative educational outcomes (Borgna & Contini, 2014; Van de Werfhorst et al., 2010), and imparts a more significant role to family effects, particularly in systems with early tracking (Brunello & Checchi, 2007; Parker et al., 2016; Schütz et al., 2008).⁴⁹³ In a landmark cross-country study, Crul and Schneider (2010) show that highly stratified systems

⁴⁹⁰ Woessmann (2016) argues that skills learned, as measured on math and science achievement tests, is “very closely linked” to long-term growth rates and accounts for nearly 75% of the cross-country variation in growth the past 50 years, at 7. However, others studies have found little or a negative effect. This may well be due to omitted variable bias derived from negative selection effects (Holmlund & Silva, 2014; Rodríguez-Planas, 2012). Bernstein, L., Rappaport, C. D., Olsho, L., Hunt, D., & Levin, M. (2009). Impact Evaluation of the US Department of Education's Student Mentoring Program. Final Report. NCEE 2009-4047. *National Center for Education Evaluation and Regional Assistance*. Holmlund, H., & Silva, O. (2014). Targeting noncognitive skills to improve cognitive outcomes: evidence from a remedial education intervention. *Journal of Human Capital*, 8(2), 126-160; Woessmann, L. (2016). The economic case for education. *Education Economics*, 24(1).

⁴⁹¹ Rodríguez-Planas, N. (2012). Mentoring, educational services, and incentives to learn: What do we know about them?. *Evaluation and program planning*, 35(4), 481-490; Tolan, P., Henry, D., Schoeny, M., Bass, A., Lovegrove, P., & Nichols, E. (2013). Mentoring interventions to affect juvenile delinquency and associated problems: A systematic review. *Campbell Systematic Reviews*, 9(10).

⁴⁹² Mincer, J. (1974). Schooling, Experience, and Earnings. *Human Behavior & Social Institutions* No. 2. Also, for a more recent link to immigrants, see: Borjas, G. J. (2014). *Immigration economics*. Harvard University Press; Spence, M. (1973). Job market signaling. *The quarterly journal of Economics*, 87(3), 355-374. For a recent example of how skills developed during graduate programs can empower labor market bias, see: Ermini, B., Papi, L., & Scaturro, F. (2017). An Analysis of the Determinants of Over-Education Among Italian Ph.D Graduates. *Italian Economic Journal*, 1-41.

⁴⁹³ The effect was also found on countries with weaker pre-school networks. Borgna, C., & Contini, D. (2014). Migrant achievement penalties in western europe: do educational systems matter?. *European Sociological Review*, jcu067; Van de Werfhorst, H. G., & Mijs, J. J. (2010). Achievement inequality and the institutional structure of educational systems: A comparative perspective. *Annual review of sociology*, 36, 407-428; Brunello, G., & Checchi, D. (2007). Does school tracking affect equality of opportunity? New international evidence. *Economic policy*, 22(52), 782-861; Parker, P. D., Jerrim, J., Schoon, I., & Marsh, H. W. (2016). A Multination Study of Socioeconomic Inequality in Expectations for Progression to Higher

of tracking impact whether migrant groups receive tertiary education. Their research, using TIES (The Integration of Europe Second Generation) data, find that second generation Turks receive a college or university education in France (39.6%), Sweden (37.1%), the Netherlands (25.6%), but in Germany, a country with early tracking and close to impermeable mobility, only 3%.⁴⁹⁴ Along similar lines, Alba & Foner (2014) and Alba & Hollaway (2013) suggest that Germany's highly stratified system of tracking and the United States' decentralized funding account for the two largest disadvantages for low status immigrant children.⁴⁹⁵ However, others have found lack of a significant effect on tracking (Fossati, 2011) or even a positive impact (Dronkers et al., 2012) depending on age, economic, marginalization, background, parental, education, and a host of other variables.⁴⁹⁶

From an intervention point of view, more favorable institutional arrangements may facilitate educational achievement and its concomitant labor market empowerment. It may also result in less dependency on family-level factors (Schnell et al., 2015).⁴⁹⁷ Unfortunately, institutional changes such as centralized funding schemes producing a more equitable distribution of resources, or central examinations to attenuate the impact of tracking (Bol et al., 2014) are uncommon. And when they are implemented in whole or piecemeal, they often miss their target outcome.⁴⁹⁸ Highlighting this point is the fact that common interventions, such as increasing resources in schools with high minority populations do not get at the determinants of inequality: attenuating institutional inequality through spending has not proven to systematically raise international achievement scores (Woesmann, 2016), nor have native-immigrant achievement gaps been tempered by resources.⁴⁹⁹ Mentoring then may compensate for educational inequalities that Member States are not willing to address structurally (i.e., removing early tracking) or that fail to yield results, by mitigating individual-level informational barriers adversely affecting educational achievement. Evidence for such speculation is present in Gordon et al. (2009) where

Education The Role of Between-School Tracking and Ability Stratification. *American Educational Research Journal*, 53(1), 6-32; Schütz, G., Ursprung, H. W., & Wößmann, L. (2008). Education policy and equality of opportunity. *Kyklos*, 61(2), 279-308.

⁴⁹⁴ The study tested the highest diploma of second-generation Turks who had a father with at maximum, a primary education. Crul, M., & Schneider, J. (2010). Comparative integration context theory: participation and belonging in new diverse European cities. *Ethnic and racial studies*, 33(7), 1249-1268.

⁴⁹⁵ On the PISA 'school taught skills' indicator.

⁴⁹⁶ Interestingly, Bernardi & Radl (2014) have found that when selection (e.g. tracking) takes place at an early age, the penalty of divorce on educational achievement increases 3%.

⁴⁹⁷ In their study, education systems which provide more favourable institutional arrangements render second-generation Turks less dependent on family factors and resources and ultimately lead to opportunities to advance in their higher education. Schnell, P., Fibbi, R., Crul, M., & Montero-Sieburth, M. (2015). Family involvement and educational success of the children of immigrants in Europe. Comparative perspectives.

⁴⁹⁸ Bol, T., Witschge, J., Van de Werfhorst, H. G., & Dronkers, J. (2014). Curricular tracking and central examinations: Counterbalancing the impact of social background on student achievement in 36 countries. *Social Forces*.

⁴⁹⁹ On a related point, simply restructuring existing resources more efficiently was shown in a study of ALMPs (active labour market programs) in Finland to increase earnings and reduce reliance on social benefits even when controlling for immigrant background (Sarvimäki, & Hämäläinen, 2016). Directing existing resources in an immigrant specific, individualized approach may benefit from ongoing information provided by mentors.

mentoring's ability to mitigate structural discrimination and model pro-social behavior resulted in significantly higher achievement scores than their non-mentored peers.⁵⁰⁰

4.2.5 Family-level and teacher input factors

The inability for students and parents to communicate effectively with teachers is detrimental towards mitigating problematic behavior and scholastic inadequacy. Social relatedness, to include impacts of teacher input frequently predict academic motivation with particular salience to boys (Furrer & Skinner, 2003), so that fostering teacher-student and parent-teacher engagement often positively impact emotion, behavior, and achievement (Fredricks et al., 2004; Skinner et al., 2008).⁵⁰¹ Hughes (2007) details how a less supportive relationship between African American parents with teachers relative to Caucasian and Hispanic parents was a factor in lower educational achievement among African American students.⁵⁰² This has likewise been shown to be true with refugees in Australia whose difficulty communicating with teachers hampered their achievement (Joyce et al., 2010).⁵⁰³

A similar trajectory exists for behavioral factors. Non-cognitive 'soft skills' such as motivation and personality characteristics often impact the educational success of migrants. Impatience, lack of self-control, and time-inconsistent preferences (i.e., instant gratification) have been linked to school performance (Golsteyn et al., 2014; Cadena & Keys 2015) and may have intergenerational resonance on educational outcomes (Dohmen et al., 2012; Langenhof et al., 2016; Kosse & Pfeiffer, 2014; Gronqvist et al., 2010).⁵⁰⁴ These predictions are in line with results linking impatience and lack of self-control to misbehavior in time preference behavioral experiments (Sutter et al., 2013), as well as in line with the behavioral economics literature, which is glutted with studies revealing how present bias discounts future

⁵⁰⁰ But see Kilburg (2007) where a two-year investigation of 149 mentoring teams revealed insurmountable institutional barriers such as time, apathy, and poor district-level coordination. Gordon, D. M., Iwamoto, D., Ward, N., Potts, R., & Boyd, E. (2009). Mentoring urban Black middle-school male students: Implications for academic achievement. *The Journal of Negro Education*, 78(3), 277.

⁵⁰¹ Furrer, C., & Skinner, E. (2003). Sense of relatedness as a factor in children's academic engagement and performance. *Journal of educational psychology*, 95(1), 148; Fredricks, J. A., Blumenfeld, P. C., & Paris, A. H. (2004). School engagement: Potential of the concept, state of the evidence. *Review of educational research*, 74(1), 87; Skinner, E., Furrer, C., Marchand, G., & Kindermann, T. (2008). Engagement and disaffection in the classroom: Part of a larger motivational dynamic?. *Journal of educational psychology*, 100(4), 765.

⁵⁰² Hughes, J., & Kwok, O. M. (2007). Influence of student-teacher and parent-teacher relationships on lower achieving readers' engagement and achievement in the primary grades. *Journal of educational psychology*, 99(1), 39.

⁵⁰³ Joyce, A., Earnest, J., De Mori, G., & Silvagni, G. (2010). The experiences of students from refugee backgrounds at universities in Australia: Reflections on the social, emotional and practical challenges. *Journal of Refugee Studies*, 23, 82–97.

⁵⁰⁴ But see, Anger (2012) who finds no socio-economic impact on intergenerational mobility. Golsteyn, B. H., Grönqvist, H., & Lindahl, L. (2014). Adolescent time preferences predict lifetime outcomes. *The Economic Journal*, 124(580), F745; Cadena, B. C., & Keys, B. J. (2015). Human capital and the lifetime costs of impatience. *American Economic Journal: Economic Policy*, 7(3), 127; Dohmen, T., Falk, A., Huffman, D., & Sunde, U. (2012). The intergenerational transmission of risk and trust attitudes. *The Review of Economic Studies*, 79(2), 645-677; Langenhof, M. R., Komdeur, J., & Oldehinkel, A. J. (2016). Effects of parenting quality on adolescents' personality resemblance to their parents. The TRAILS study. *Journal of Adolescence*, 51, 163-175; Kosse, F., & Pfeiffer, F. (2013). Quasi-hyperbolic time preferences and their intergenerational transmission. *Applied Economics Letters*, 20(10), 985; Gronqvist, E., Ockert, B., & Vlachos, J. (2010). The intergenerational transmission of cognitive and non-cognitive abilities.

payoffs.⁵⁰⁵ While ignoring the large returns of education might also be due to informational asymmetries (Oreopoulos & Dunn, 2013; Jensen, 2010), in many cases they are likely impacted by self-control issues (Oreopoulos 2007).⁵⁰⁶ If we recognize that soft skills play a significant role in achievement, then an education production model must include behavioral indicators (e.g., present bias, self-control, and peer-group effects) alongside established school input factors such as class size and available resources.⁵⁰⁷

What a successful intervention would then need to target are the psycho-emotional issues that adversely impact educational outcomes. Information plays an integral role in guiding the veracity of such support. Positive behavior support interventions in New Hampshire led to gains in mathematics achievement (Muscott et al., 2008) and instilling prosocial behavior has been linked to positive achievement outcomes among learners with behavioral or emotional problems (Rathvon, 2008; Tolan et al., 2014; DeWit et al., 2016b; Meyerson 2013).⁵⁰⁸ Erdem et al., (2016) find that the emotional stability inculcated by a mentor to youth with behavioral problems is a critical factor in promoting positive youth development. Because the marginal costs for choosing a lower track, dropping out, or more generally, succumbing to present bias may adversely impact long-term human capital, an intervention employing an external commitment device might equalize the benefits of education or raise them above the marginal costs.⁵⁰⁹

4.2.6 Mentoring and the role of information

Mentoring has often shown an ability to positively impact informational asymmetries in educational institutions. Concrete examples have often come from mentoring programs providing tailored instrumental support that have targeted structural inequalities (i.e., differentiation in educational resources) and family-level informational asymmetries. One such program is SAMIE, which has

⁵⁰⁵ Sutter, M., Kocher, M. G., Glätzle-Rützler, D., & Trautmann, S. T. (2013). Impatience and uncertainty: Experimental decisions predict adolescents' field behavior. *The American Economic Review*, 103(1), 512.

⁵⁰⁶ Testing this proposition is risky as endogeneity from institutional variables may likely in-classroom influence behavior. Peer group effects have been suggested by studies analyzing the impact of minority concentrations in schools, the salience and size of among groups, particularly those portrayed negatively (Alesina et al., 2016) as well as experimental papers, such as Adida et al., (2011) that show a bias towards Muslim immigrants by Christian participants as the number of Muslims in the experimental group increased; Oreopoulos, P. (2007). Do dropouts drop out too soon? Wealth, health and happiness from compulsory schooling. *Journal of public Economics*, 91(11), 2213-2229; Oreopoulos, P., & Dunn, R. (2013). Information and college access: Evidence from a randomized field experiment. *The Scandinavian Journal of Economics*, 115(1), 3-26; Jensen, R. (2010). The (perceived) returns to education and the demand for schooling. *Quarterly Journal of Economics*, 125(2).

⁵⁰⁷ Extrinsic incentives, however, have met with mixed results in the literature. Positive impacts on attendance (Angrist et al., 2006) for instance, have been stonewalled by mixed results on achievement (Bettinger et al., 2012; Angrist & Lavy, 2009). Peer group effects also figure into the overall education production (Antecol et al., 2016; Boucher et al., 2014; Socrdote, 2011) but see (Angrist, 2014).

⁵⁰⁸ Muscott, H. S., Mann, E. L., & LeBrun, M. R. (2008). Positive behavioral interventions and supports in new hampshire effects of large-scale implementation of schoolwide positive behavior support on student discipline and academic achievement. *Journal of positive behavior interventions*, 10(3), 201; Rathvon, N. (2008). *Effective school interventions: Evidence-based strategies for improving student outcomes*. Guilford Press p23; Meyerson, D. A. (2013) Mentoring Youth with Emotional and Behavioral Problems: A Meta-Analytic Review" *College of Science and Health Theses and Dissertations*. 56 p27. https://via.library.depaul.edu/csh_etd/56.

⁵⁰⁹ Moreover, because the success of extrinsic incentives has proven heterogeneous (Gneezy et al., 2011) it is uncertain, *prime face* why they should work particularly on refugees. Refugee characteristics i.e., (age, gender, institutional access) may be the mitigating factor in a successful mentoring intervention, a point explored in the second stage of the empirical design.

successfully targeted educational integration of unaccompanied minors in France. Rock Your Life, consisting of over 40 papers within Germany and Switzerland pair underprivileged youth and a college student for two years, aiming to navigate the rigid German education system and increasing social mobility: transmission of know-how between choices in the education system aids in avoiding hasty decisions over whether to choose a vocational or tertiary track (Buis, 2013).⁵¹⁰ In another example, mentoring projects under the umbrella, European Network of Educational Support Projects (ENESP),⁵¹¹ such as MentorprojectSKC and Junge Vorbilder have offered level-appropriate guidance often in educational settings. The Amsterdam based MentorprojectSKC, for instance, has forged strong collaborative ties with primary and secondary schools, focusing on preparing mentees socially and academically for transitions; Junge Vorbilder focuses on helping immigrant and low-income learners transition between lower (lower to upper secondary) academically through providing tertiary education matriculated mentors from immigrant families.

As for adult education, a mentor that compliments job or language training programs may assist the mentee with host-country specific skills (i.e., knowledge gestures, linguistic cues, and societal expectations concerning behavior and dress) that have been shown to decrease the uncertainty interviewers encounter in the face of imperfect information (Stiglitz, 1975; Kogan, 2016).⁵¹² Mentoring may also decrease stress and increase quality of life for adult refugees having a concomitant impact on their employability.⁵¹³ While self-selection into these adult programs is naturally a concern, as is adverse selection (Aiyar, S. et al., 2016)⁵¹⁴ the literature provides sufficient evidence for a net positive impact on adult refugees. Taking into account both the benefit to youth and adults, the second hypothesis is derived forthwith:

H₂: Refugees whose mentoring contains an educational component will positively impact the probability of employment.

⁵¹⁰ This in light of studies showing that vocational tracks may have long-term drawback of slower adaptability to structural changes in the economy (Hanushek et al., 2016, p. 36). Buis, M. L. (2012). The composition of family background: The influence of the economic and cultural resources of both parents on the offspring's educational attainment in the Netherlands between 1939 and 1991. *European Sociological Review*, jcs009.

⁵¹¹ Sirius. 'Definition of Goals: Designing and Planning of Mentoring Projects. 2017. Last accessed January 6, 2017 from <<http://www.sirius-migrationeducation.org/the-handbook/1-definition-of-goals-designing-and-planning-of-mentoring-projects/>>

⁵¹² And more generally, for the interaction of hiring and completion for education: Stiglitz, J. E. (1975). The theory of "screening," education, and the distribution of income. *The American economic review*, 65(3), 283-300; for immigrant-specific impact see Kogan, I. (2016). Integration Policies and Immigrants' Labor Market Outcomes in Europe. *Sociological science*, 3 p339.

⁵¹³ Goodkind, J. R. (2005). Effectiveness of a community-based advocacy and learning program for among refugees. *American Journal of Community Psychology*, 36(3-4), 387-408.

⁵¹⁴ Aiyar, S. et al., (2016). The refugee surge in Europe. *Europe: Imfstaff Discussion Note (SDN/16/02)*; Also, transferability of skills might adversely impact the impact of education but not necessarily interact with the upskilling that mentoring might have on adult refugees. For a comprehensive look at the implications of transferability, see Chiswick, B. R., & Miller, P. W. (2009). The international transferability of immigrants' human capital. *Economics of Education Review*, 28(2), 162-169.

4.2.7 Identity and Mentoring

For over half a century the social-psychology cannon has drawn clear links between identity, society, and meaning (Fromm, 1955; Markus, 1977; Erikson; 1959). On meso and individual levels, a strong sense of self promotes self-confidence, which may lead to positive labour market outcomes (Chen et al., 2017).⁵¹⁵ Yet in the context of integration, the link between identity and society takes upon an added dimension. Having a strong ethnic identity has been correlated with negative labour market outcomes particularly when there is neither assimilation nor integration with the dominant culture (Nekby & Rodin, 2010; Zimmermann & Constant, 2007).⁵¹⁶ Others have found only a weak link between identifying with either host or country of origin and labour market outcomes (Dustman & Casey, 2010).⁵¹⁷ Tellingly, labour market policies aiming to employ non-Europeans into the EU have been found to vary depending on the potency of the immigrant's identity (Bisin et al., 2011).⁵¹⁸

What is argued here is not that mentoring helps job seekers' identification in the deeper sense of self-identity, but through an ongoing process of being accepted into society. Being accepted is the initial layer of identification that continues along the migrant experience.⁵¹⁹ Psychological and sociocultural adaptation are impacted by a sense of belonging and critical to functioning within a new culture. Of primary significance to the integration-identity nexus then is how interpersonal interactions and perceptions of discrimination impact identification. Over and over research has found a negative correlation between positive integration outcomes and discrimination (Jasinskaja-Lahti et al., 2009).⁵²⁰ And per human capital theory, discrimination disincentivizes investing time learning a new language and specific job skills (Dancygier & Laitin, 2014) and may stunt the self-reflection necessary to either assimilate or integrate into society (Fokemma & Haas, 2015).⁵²¹

⁵¹⁵ But see Bisin et al., (2011) whose study using European Social Survey data found that a strong identity imparted negative labour market effects for both first and second-generation immigrants. Bisin, A., Patacchini, E., Verdier, T., & Zenou, Y. (2011). Ethnic identity and labour market outcomes of immigrants in Europe. *Economic Policy*, 26(65), 57-92; Chen, W., Grove, W. A., & Hussey, A. (2017). The role of confidence and noncognitive skills for post-baccalaureate academic and labor market outcomes. *Journal of Economic Behavior & Organization*, 138, 10-29.

⁵¹⁶ Nekby, L., & Rödin, M. (2010). Acculturation identity and employment among second and middle generation immigrants. *Journal of Economic Psychology*, 31(1), 42; Constant, A. F., & Zimmermann, K. F. (2008). Measuring ethnic identity and its impact on economic behavior. *Journal of the European Economic Association*, 6(2-3), 424-433.

⁵¹⁷ Casey, T., & Dustmann, C. (2010). Immigrants' identity, economic outcomes and the transmission of identity across generations. *The Economic Journal*, 120(542), F31-F51.

⁵¹⁸ Bisin, A., Patacchini, E., Verdier, T., & Zenou, Y. (2011). Ethnic identity and labour market outcomes of immigrants in Europe. *Economic Policy*, 26(65), 57-92.

⁵¹⁹ This differs qualitatively from the four stages (not processes) delineated in the acculturation literature within which acculturation transpires: marginalization from societal interaction as well as cultural maintenance; separation from the host culture whilst maintaining one's cultural identity; assimilation, the unidirectional interaction with a new culture, and integration, balancing cultural maintenance with broader society (Berry et al., 2006).

⁵²⁰ Jasinskaja-Lahti, I., Liebkind, K., & Solheim, E. (2009). To identify or not to identify? National disidentification as an alternative reaction to perceived ethnic discrimination. *Applied Psychology*, 58(1), 105-128.

⁵²¹ Dancygier, R. M., & Laitin, D. D. (2014). Immigration into Europe: Economic discrimination, violence, and public policy. *Annual Review of Political Science*, 17, 43-64; Fokkema, T., & Haas, H. (2015). Pre-and Post-Migration Determinants of Socio-Cultural Integration of African Immigrants in Italy and Spain. *International Migration*, 53(6), 3-26.

Mentoring is unusually helpful in this regard: because naturally occurring inter-ethnic contact is often affected by structural constraints, mentoring may bring refugees together in situations otherwise unlikely. Here we turn to the contact hypothesis, a sociological theory positing that diverse interactions reduce out-group hostility most effectively when there is a cooperative environment among equals and promoted by authorities (Allport 1954; Bettencourt et al., 1992).⁵²² If interactions lead to less discrimination, they may also incentivize many refugees to invest in location-specific capital. Yet here one must tread carefully. Interactions alone do not foster social capital. Prominent studies have concluded that ethnic diversity may even reduce social trust (Putnam, 2007) and that increased proximity is positively correlated with immigrant prejudice (Fetzer, 2000).⁵²³ Both findings are problematic since generalized trust is frequently a prerequisite for collective action and distributional equity (Levi, 1998).⁵²⁴ Optimistically, many studies that show a negative impact have relied on census data as a proxy for diversity (i.e., Alesina & La Ferrara, 2002).⁵²⁵ And numerical diversity, while instructive of probabilities, does not inform the reader about the quality of the interactions.

Research measuring the quality of interactions, on the other hand, has frequently shown positive results from immigrant-native interactions. Ellison et al., (2011) shows that contact with immigrants can lead to less punitive and more empathetic attitudes towards immigrants.⁵²⁶ Atkinson (2018) discusses cases of mentoring refugees in Australia that led to shared goals and a new collective identity. Kanas and Van de Lippe (2011) find a positive effect of mentoring on employment in Germany when there is contact with Germans.⁵²⁷ Grey & Woodruff (2005) show that proximity with the native population may lead to an

⁵²² Martinović (2013) in a study of inter-ethnic contact in the Netherlands finds that higher-educated native Dutch initiate contact less than higher-education immigrants, with education therefore being the most robust determinant of initiating inter-ethnic contact. If structural constraints are indeed more potent than preferences, as Martinović concludes, interventions might target opportunities to bring together groups that would otherwise not engage in a natural setting. These conclusions are particularly interesting in light of Volker et al., (2008) who find that immigrants, not native Dutch, have more ethnically homogenous social networks. This also raises the question over whether contact is preference-generated based on attitudinal determinants or spearheaded by sociodemographic characteristics such as education, age, relative size of outgroup. Allport, G. W. (1954). *The nature of prejudice*. Garden City, NY: Doubleday; Bettencourt, B. A., Brewer, M. B., Croak, M. R., & Miller, N. (1992). Cooperation and the reduction of intergroup bias: The role of reward structure and social orientation. *Journal of Experimental Social Psychology*, 28(4), 301-319.

⁵²³ Putnam, R. D. (2007). *E pluribus unum: Diversity and community in the twenty-first century the 2006 Johan Skytte Prize Lecture*. *Scandinavian political studies*, 30(2), 137-174; Fetzer, J. S. (2000). *Public attitudes toward immigration in the United States, France, and Germany*. Cambridge University Press.

⁵²⁴ Putnam's work on ethnic diversity and trust has been debunked by: Abascal, M., & Baldassarri, D. (2015). Love thy neighbor? Ethnoracial diversity and trust reexamined. *American Journal of Sociology*, 121(3), 722-782; Levi, M. (1998) 'A State of Trust', in V. Braithwaite and M. Levi (eds), *Trust and Governance*. New York: Russell Sage Foundation, pp. 77-101.

⁵²⁵ Alesina, A., & La Ferrara, E. (2002). Who trusts others?. *Journal of public economics*, 85(2), 208.

⁵²⁶ Ellison, C. G., Shin, H., & Leal, D. L. (2011). The contact hypothesis and attitudes toward Latinos in the United States. *Social Science Quarterly*, 92(4), 938-958.

⁵²⁷ Kanas, A., Van Tubergen, F., & Van der Lippe, T. (2011). The role of social contacts in the employment status of immigrants: A panel study of immigrants in Germany. *International Sociology*, 26(1), 95-122. As the authors note in their abstract, "The positive effect of having German contacts remains when social contacts are lagged, when host-country human capital is taken into account and also when unmeasured time-constant characteristics of immigrants are considered."

inclusive environment for immigrants, while Okamoto & Ebert (2016) reveal how this is true in consonance with an increase in visibility, political and demographically.⁵²⁸ On the one hand this may mean that when environment promotes multicultural policies, individuals will be respectful towards inclusionary attitudes, on the other, that political, institutional, and environmental (i.e., socialization) opportunities for multicultural interaction are needed to be in place for attitudinal shifts towards inclusion to transpire.⁵²⁹

Mentoring typically fosters an introspective component through open-communication and trust with the mentor who guides alternate pathways to reflection and sustainable action. Ranging from existential questions such as ‘who am I,’ ‘who do I want to be,’ and ‘what is my place in society’ to the ability-centered focus questions ‘what can I do,’ and ‘what do I want to be able to do’ (Voss et al., 2013) a mentee’s place in society is engaged.⁵³⁰ Answering these questions is of particular salience for refugees who enter society with less roots and more questions than natives. Clarifying one’s own place, under the guidance of a local mentor, provides a pathway to balance cultural identity with that of the host society.

This of course beckons the question: to what length of time mentoring would need to impact this process and labour market outcomes? It is not at all clear that a mentoring program of three months or even two years would be sufficient to acculturate a refugee, or, more specifically, affect her labour market status. On the other hand, the opposite is also true: addressing perceptions of discrimination through meaningful interpersonal contact might incentivize effort to invest in the human capital skills unique to a host nation (e.g., language, sector-specific job training). The *process of ‘contact’* may clarify populist views against foreigners, potentially dispelling stereotypes formed from lack of contact with an out-group. This may include stereotypes about cultural practices, violence, and lifestyle. Proximity also allows for humanizing metrics through nuanced accounts made invisible by large-n statistics (e.g., migrant-native unemployment differentials). Mentoring frequently offers such opportunities when project designs incorporate inter-ethnic group social activities such as sports, clubs, and informal gatherings. *Giovani al Centro*, in an example, one of ENESP’s projects, promotes intercultural friendships in Turin through providing afterschool support for teens. In another example, both the Austrian *Mentoring for Migrants and Diversity*

⁵²⁸ Grey, M. A., & Woodrick, A. C. (2005). Latinos have revitalized our community: Mexican migration and Anglo responses in Marshalltown, Iowa. *New destinations: Mexican immigration in the United States*, 6, 147; Okamoto, D., & Ebert, K. (2016). Group Boundaries, Immigrant Inclusion, and the Politics of Immigrant–Native Relations. *American Behavioral Scientist*, 60(2), 224-250.

⁵²⁹ It is also not clear, as the authors themselves note, if their results are generational or life cycle propelled. As the authors likewise admit, there are also concerns about self-selection (and therefore reverse causality) that plague such research designs, a point addressed in the empirical section.

⁵³⁰ Vos et al. (2013). *Met mentoring naar de top! Toekomst, ontwikkeling en perspectief* (Groningen, Netherlands: Institute voor integratie en sociale weerbaarheid) as mentioned in Crul and Schneider (2014). Risk-taking, in the adolescent psychology literature is linked to a sense of isolation, which is why risky behavior increases in group settings where peer pressure is frequently present (Gardner & Steinberg, 2005). The psychosocial support derived from unconditional acceptance, positive role modeling, and a strong emotional connection may mitigate these peer effects.

as *Chance* project has provided regular interpersonal contact with refugees seeking jobs or apprenticeship programs. So that, while institutional structures are frequently resistant to change, identity is non-static: it may be localized, shift form over time, and have an impact at all stages of the migrant's job seeking.

In consonance with policy advice from the literature suggesting that government programs should prevent isolation and engage immigrants to participate in meaningful interaction in the daily life of their host society (Berry et al., 2006) the third hypothesis is formed:

H₃ Mentoring which helps facilitate meaningful interpersonal interactions will positively impact the probability of a refugee's employment.

4.2.8 Summary of mentoring's impact on the determinants and correlates of integration

Rather than conceptualizing successful integration as solid-state building blocks, one leading off another, this chapter suggests that the correlates and determinants of integration interact with one another, impacted by non-static attitudes towards ascriptive features, migration policies, and inclusive signals from institutions. An intervention strategy must engage these interactive processes multi-directionally. Not only must it respond to host population concerns over an increasingly heterogeneous social lattice and increasing diverse political landscape, but also, address concerns of refugees. It must provide coherent pathways towards group membership. It must also navigate the labor market and educational institutions, along the way, providing the human support necessary to address residual effects from trauma and other obstacles refugees face when integrating into society (e.g., family-level inequalities, lack of domain-specific knowledge, dearth of incentives to assimilate). It must also have the capacity to coordinate institutions. A mentoring program, if well-designed, will effectively do so.

4.2.9 Types of Mentoring

Although I hypothesize that mentoring as a monolithic indicator has a positive impact on integration, there exists an extensive body of literature disaggregating mentoring by attributes, typically including the respective ages of the mentor and mentee, the frequency of contact, language capacity of mentor, and type of mentoring (Casey & Dustmann, 2010).⁵³¹ On the latter point, there are several subcategories of mentoring such as natural mentoring (formed without formal structure)⁵³² and youth initiated mentoring; it may be that different types of mentors are needed during different life phases (Fruht & Wray-Lake,

⁵³¹ Casey, T., & Dustmann, C. (2010). Immigrants' identity, economic outcomes and the transmission of identity across generations. *The Economic Journal*, 120(542). Also, in the not-immigrant literature age has a significant impact on the rapidity and receptivity. social and emotional impacts from interventions (Currie, 2001). Currie, J. (2001). Early childhood education programs. *The Journal of Economic Perspectives*, 15(2), 213-238.

⁵³² Nekby, L., & Rödin, M. (2010). Acculturation identity and employment among second and middle generation immigrants. *Journal of Economic Psychology*, 31(1), 35-50; Zimmermann, L., Zimmermann, K. F., & Constant, A. (2007). Ethnic Self-Identification of First-Generation Immigrants. *International Migration Review*, 41(3), 769-781.

2013).⁵³³ While the psycho-emotional aspects of mentoring might benefit eventually from formal and informal mentors, integrating refugees would seemingly require a structured mentoring program to use its organizational abilities, industry know-how, and monitoring capacity to coordinate the institutional-level barriers that newcomers face. As such, the level of organization and commitment needed to satisfy the first three hypotheses would intuitively require a structured program. By that token, the final hypothesis is formed. Figure 20 displays the links between the conceptual framework and hypotheses.

H4: Formal mentoring will have a more positive impact on the probability of a refugee’s employment than naturally occurring mentoring.

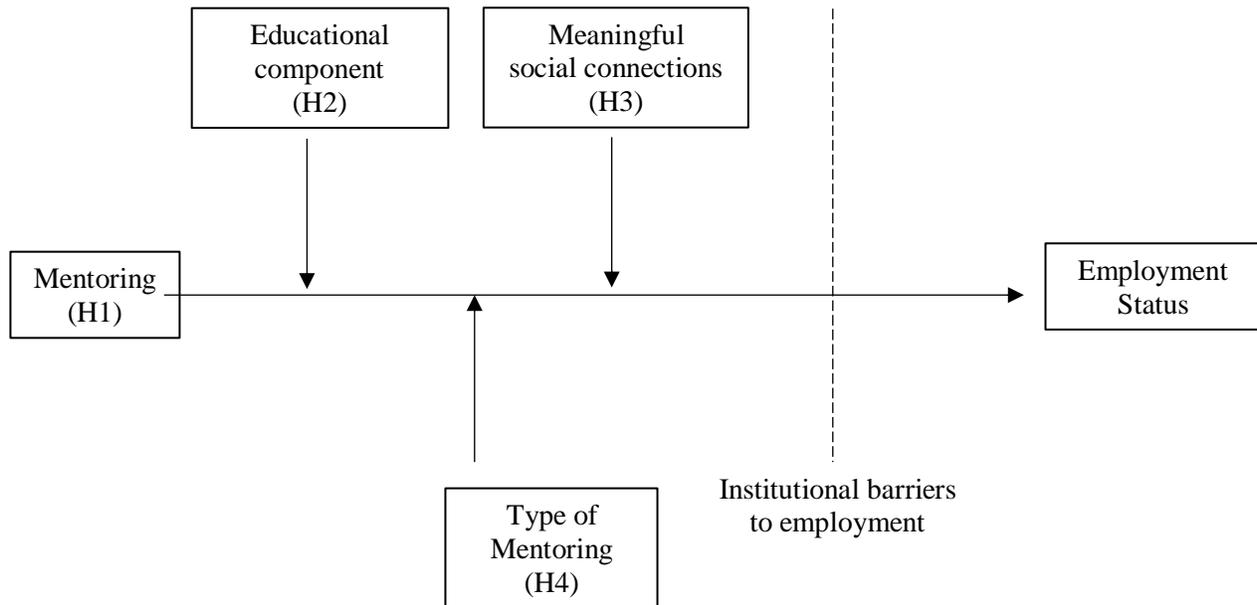


FIGURE 20: CONCEPTUAL FRAMEWORK SUMMARIZING THE HYPOTHESIZED LINKS BETWEEN MENTORING AND EMPLOYMENT STATUS OF REFUGEES

⁵³³ Fruiht, V. M., & Wray-Lake, L. (2013). The role of mentor type and timing in predicting educational attainment. *Journal of youth and adolescence*, 42(9), 1459-1472.

4.3 Empirical Design & Results

4.3.1 Sampling Strategy

Data was collected from February 2017 to August 2017 in Greece, Italy, and Germany. These three locations were chosen due to their high concentration of Arabic-speaking refugees and the fact that each country had several functional mentoring programs targeting asylum seekers. Data collection was conducted in three places: mosques during Friday prayers, public parks, and outside a single metro station with high concentrations of migrants. The choice of Friday prayers was done to ease potential socio-economic bias. That is, it is possible, but by no means certain, that unemployed migrants would be more available to spend time in parks than go to a mandatory religious service. The Friday prayer (*salat jumah*) is the only religious service that is mandatory for all Muslims to attend regularly no matter what their labor market status.⁵³⁴ The final sample consisted of 295 Arabic speaking humanitarian migrants of which 68 were mentored. Out of 306 individuals asked to participate in the survey, 9 declined, 8 of which were Kurdish with no other similar observable characteristics.

4.3.2 Selection Effects

Two issues pertaining to selection arose while conducting data collection. The first is self-selection into a mentoring program. Participants who already possessed the skills that employers deem valuable might have the initiative to participate in a mentoring intervention, or even the survey itself. As Kogan (2016) extrapolates

The selection issue is an obvious challenge when gauging the effectiveness of integration policy instruments. Do policy interventions have a causal effect, or are effects driven by the self-selection of individuals with specific characteristics that are likely to correlate with the observed outcomes of the intervention policy measures?... Yet these favorable unobserved (in the data) characteristics might be the ones that employers observe during a job interview that lead to a job offer or better employment conditions. Reliance on labor market counseling, by contrast, might have negative connotations that individuals are not confident or resourceful enough to succeed in the labor market on their own.⁵³⁵

⁵³⁴ There are exceptions to this obligation, for example, menstruating women. Sadeghi, B. (2013). *The logic of law making in Islam: Women and prayer in the legal tradition*. Cambridge University Press.

⁵³⁵ Kogan (n511) p340.

The lack of treatment and control groups may mean that, as per Kogan's above comments, survey participants who were mentored had characteristics that made them more amenable to join and benefit from a mentoring program. Unfortunately, logistics and financing did not permit randomized clinical trials. The author thus acknowledges that results must be interpreted in light of potential selection effects into a mentoring program.

The second selection issue stems from the sampling strategy. Because participants were not selected through randomized clinical trials, there may have been self-selection towards survey participation. Gathering participants from three distinct public arenas attempted to attenuate these selection effects.

4.3.3 Data and Methodology

Refugees provided data that captured their employment status, and a range of socio-demographic characteristics. They were also asked if they participated in a mentoring program, and if so, they received follow-up questions on the nature and quality of the mentoring program.

In this study, the dependent variable in all analyses was a dichotomous employment status variable indicating whether a refugee is unemployed or employed. Four types of treatment were considered, namely, whether respondents participated in a mentoring program (yes; no), whether the mentoring program contained an educational component (no mentoring; mentoring with educational component; mentoring without education component), whether the mentor helped build meaningful friends (no mentoring; mentor helped make friends, mentor did not help make friends), and whether mentoring was formal or not naturally occurring (no mentoring; formal mentor; naturally occurring mentoring).

Since it is unknown whether the refugees were randomly assigned to these treatments, a Coarsened Exact Matching (CEM) was employed, which is a matching technique used to estimate treatment effects and make causal inferences based on observational data (King and Nielsen 2016; King et al. 2011).⁵³⁶ Because CEM is a reducing matching method, explained by Blackwell and his co-authors (2009) as “that the balance between the treated and control groups is chosen by ex ante user choice rather than discovered through the usual laborious process of checking after the fact, tweaking the method, and repeatedly re-estimating”⁵³⁷ imbalances in particular variables do not affect the

⁵³⁶ King, G., & Nielsen, R. (2016). Why propensity scores should not be used for matching. *Copy at [http://j. mp/1sexgVw](http://j.mp/1sexgVw) Download Citation BibTex Tagged XML Download Paper, 378*; King, G., Nielsen, R., Coberley, C., Pope, J. E., & Wells, A. (2011). Comparative effectiveness of matching methods for causal inference. *Unpublished manuscript, 15*.

⁵³⁷ Blackwell, M., Iacus, S., King, G., & Porro, G. (2009). cem: Coarsened exact matching in Stata. *The Stata Journal, 9*(4), 524.

imbalance of other variables.⁵³⁸ Moreover, CEM produces a balanced sample by pruning the data such that observations that cannot be exact matched are dropped from subsequent analyses. This helps estimate counterfactuals in the mentoring variables and is advantageous given the small sample of those mentored.

The first step is to select a number of covariates on which to match the sample of treated and untreated respondents. This is necessary to account for the possibility that refugees' background characteristics affect both their probability of receiving mentoring and the probability of being employed. In other words, it accounts for selection into mentoring programs (given selected covariates), and therefore reduces endogeneity problems. CEM enables an approximation of a counterfactual for treated individuals, meaning an estimate of what the employment probability for treated individuals would have been if they had not received the treatment.

Available covariates were gender (male; female), age (15-18; 19-22; 23-30; 31-40; 41-50; 51-65; 66-100) educational background (completed graduate degree, completed undergraduate degree, some university, not finished high school; other), country of origin (Middle Eastern; African)⁵³⁹, religion (Muslim; Christian), legal status (waiting for determination; refugee status; no legal status), the time spent in the current country (< 6 months; 6-12 months; > 12 months), and the country of mentoring (Greece; Italy; Germany). Descriptive statistics of the dependent variable, treatment variables and potential covariates are displayed in Table 1.

⁵³⁸ Ibid.

Table 1: Descriptive statistics of respondent characteristics and mentoring programs

	N	%		N	%
Dependent Variable			Covariates		
Employment Status			Mentoring		
Unemployed	130	44.2	Greece	63	55.25
Employed	164	55.7	Italy	73	24.75
Treatment Variables			Germany	59	20.00
Mentoring			Gender		
Not mentored	227	76.9	Female	83	28.14
Mentored	68	23.0	Male	212	71.86
With educational component	44	14.9	Age		
Without educational	25	8.47	15-18	31	10.51
Mentor helped make friends	57	19.3	19-22	62	21.02
Mentor did not help make	12	4.07	23-30	71	24.07
Mentoring occurred naturally	32	10.8	31-40	57	19.32
Formal mentor	36	12.2	41-50	47	15.93
			51-65	21	7.12
			66-100	6	2.03
			Education		
			No Answer	59	20.07
			Completed	43	14.63
			Some	56	19.05
			Not Finished	46	15.65
			Completed	90	30.61
			Country of origin		
			Middle Eastern	269	91.19
			African	26	8.81
			Religion		
			Muslim	268	90.85
			Christian	27	9.15
			Legal status		
			Waiting for	100	33.90
			Refugee status	124	42.03
			No legal status	71	24.07
			Months in country		
			< 6 months	134	45.58
			6-12 months	80	27.21
			> 12 months	80	27.21

Note: N = 295

Chosen covariates were expected to be associated with both the outcome (i.e., employment) and the treatment (i.e., mentoring program). Based on the literature review, it was expected that educational background, legal status, and time spent in country to fulfil these criteria. After, a series of logistic regression analyses was performed predicting the probability of participating in the different types of mentoring programs based on the selected covariates (see Table 2). As expected, time spent in country consistently predicted participation in mentoring programs. Those who were in a country for longer generally had a higher probability of participation in a mentoring program. Legal status and educational background were less consistently related, at least according to conventional levels of significance. However, several coefficients were marginally significant, and the overall models explained between 9% and 13% of the variance in the probability of participating in the different mentoring programs. Given that participation in mentoring programs depended in part on these covariates, the sample can be considered unbalanced with regard to these relevant covariates.

	(1)	(2)	(3)	(4)	(5)	(6)	(7)
	Mentor	Mentor <i>without</i> education	Mentor <i>with</i> education	Mentor did <i>not</i> help make friends	Mentor <i>did</i> help make friends	Mentor occurred naturally	Mentor was formally assigned
Education							
Not Finished High	Ref	Ref	Ref	Ref	Ref	Ref	Ref
Completed Graduate	3.05 (1.75)	3.79* (2.46)	0.61 (0.58)	2.60 (1.62)	3.17 (3.74)	2.04 (1.58)	2.97 (2.15)
Some University	1.83 (1.06)	2.29 (1.51)	0.53 (0.50)	2.07 (1.28)	0.78 (1.12)	2.37 (1.78)	1.14 (0.91)
Completed	2.07 (1.08)	1.65 (1.02)	1.51 (1.07)	2.24 (1.26)	1.06 (1.32)	1.47 (1.05)	2.32 (1.56)
Other	2.04 (1.15)	0.78 (0.58)	2.71 (1.94)	1.62 (1.01)	3.86 (4.32)	3.49 (2.52)	0.75 (0.63)
Legal status							
Waiting for Refugee status	Ref 0.62 (0.23)	Ref 0.89 (0.39)	Ref 0.28* (0.15)	Ref 0.62 (0.25)	Ref 0.72 (0.50)	Ref 0.86 (0.42)	Ref 0.50 (0.24)
No legal status	0.65 (0.29)	0.73 (0.42)	0.50 (0.32)	0.75 (0.37)	0.24 (0.26)	0.54 (0.34)	0.84 (0.49)
In country for							
< 6 months	Ref	Ref	Ref	Ref	Ref	Ref	Ref
6-12 months	3.38** (1.41)	4.38** (2.31)	2.14 (1.27)	3.47** (1.63)	1.68 (1.24)	2.48 (1.42)	3.37* (1.84)
> 12 months	7.14*** (2.95)	6.88*** (3.52)	4.68** (2.73)	9.45*** (4.27)	0.65 (0.61)	9.83*** (5.23)	2.79 (1.54)
<i>N</i>	294	269	250	282	237	258	262
pseudo <i>R</i> ²	0.15	0.17	0.14	0.18	0.08	0.10	0.20

Table 2: Results of logistic regression analyses estimating the probability of entering different mentoring programs predicted by educational background, legal status, and months spent in the receiving country.⁵⁴⁰

To reduce imbalance between the groups of treated and untreated refugees, exact matching was employed based on the selected covariates, namely educational background, legal status, and time spent in country. Since the balanced sample does not differ with regard to covariates –participation in a mentoring program

⁵⁴⁰ One participant left a category blank and so was excluded from the analysis. The changed n=295 to n=294.

is the only difference between the two groups– it is unnecessary to control for covariates in subsequent analyses (King et al. 2011, 2016). Effect sizes of simple mean comparisons can be interpreted as average treatment effects on the treated. Covariates on which the sample was matched can, however, be included in order to show the effect of the covariates on the outcome of interest.

4.3.4 Results

A series of logistic regression analyses were performed on the balanced sample estimating average treatment effects on the treated with different mentoring programs as treatment and probability of employment as outcome. Results including estimates of the covariates are displayed in Table 3. Results that excluded covariates indeed produced the exact same pattern of results.

Table 3: Logistic Regression Analyses Estimating Average Treatment Effects on the Treated with Different Mentoring Programs as Treatment and Probability of Employment as Outcome

Model:	(1)	(2)	(3)	(4)	(5)	(6)	(7)
Mentoring	2.50* (0.92)						
Mentoring with education		2.70* (1.25)					
Mentoring without education			2.60 (1.42)				
Mentor helped make friends				5.67*** (2.72)			
Mentor did not help make friends					0.33 (0.23)		
Mentor was assigned						3.54* (1.84)	
Mentoring occurred naturally							1.62 (0.80)
Not Finished High School	Ref.	Ref.	Ref.	Ref.	Ref.	Ref.	Ref.
Completed Graduate Degree	1.41 (0.84)	1.51 (0.94)	2.37 (2.49)	1.35 (0.88)	1.71 (2.05)	0.52 (0.43)	3.30 (2.32)
Some University	1.32 (0.81)	1.15 (0.74)	8.75 (11.12)	1.66 (1.14)	0.59 (0.97)	0.64 (0.50)	1.98 (1.82)
Completed Undergraduate Degree	1.47 (0.81)	1.64 (0.96)	10.45* (9.63)	1.74 (0.99)	2.25 (4.09)	0.81 (0.63)	2.79 (1.73)
Other	0.43 (0.25)	0.35 (0.27)	1.74 (1.18)	0.61 (0.40)	0.42 (0.39)	0.18* (0.14)	0.76 (0.60)
Waiting for determination	Ref.	Ref.	Ref.	Ref.	Ref.	Ref.	Ref.
Refugee status	0.88	0.74	1.28	0.82	0.79	0.72	1.72

	(0.38)	(0.39)	(0.76)	(0.36)	(1.18)	(0.36)	(1.37)
No legal status	0.48 (0.26)	0.75 (0.45)	0.91 (0.73)	0.72 (0.43)	1.00 (.)	0.38 (0.22)	1.25 (1.62)
In country for < 6 months	Ref.						
In country for 6-12 months	1.48 (0.76)	2.30 (1.48)	0.78 (0.49)	1.82 (1.12)	2.66 (2.49)	1.71 (1.00)	1.06 (0.93)
In country for > 12 months	1.89 (0.92)	2.14 (1.29)	0.53 (0.39)	2.51 (1.33)	1.00 (.)	2.29 (1.25)	1.20 (1.28)
Observations	223	197	127	203	80	165	151
Pseudo R^2	0.09	0.07	0.12	0.11	0.11	0.14	0.07

Note: Coefficients presented are odds ratios. Standard errors in parentheses * $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$

Regarding the first hypothesis ($H1$), evidence was found that mentoring has a significant and positive average treatment effect on the treated. Those who received mentoring were 2.5 times more likely to be employed compared to those who did not receive any mentoring (see Model 1, Table 3). Considering the second hypothesis ($H2$), results showed that mentoring *with* an educational component had a positive and significant effect on the probability of employment. Those who received mentoring *with* an educational component were 2.7 times more likely to be employed after receiving this treatment (see Model 2). Those who received mentoring *without* an educational component were not significantly more likely to be employed (Model 3). Even though the effect size was considerable, namely odds ratio = 2.60, the standard error was relatively high, suggesting that there was a lot variance with regard to the effectiveness of this mentoring strategy⁵⁴¹. Overall, these results lend support to Hypothesis 2, suggesting that mentoring *with* an educational component is a more successful treatment than mentoring *without* an educational component.

The third hypothesis ($H3$) suggested that mentoring that helps form meaningful social connections with locals will be more successful in improving employment status than mentoring that does *not* help make meaningful connections. The results suggest that this is the case. Refugees who participated in mentoring programs that did *not* help make local friends did not increase their chances of being employed (Model 5). However, mentoring programs that *did* help make local friends, showed significant increases in their employment probabilities. Their chance of being employed was 5.67 times larger after participating in a mentoring program that helped them make local friends (see Model 4).

⁵⁴¹ This may also be due to the small sample size.

Finally, the fourth hypothesis (H4) predicted that mentors that were formally assigned would be more successful in improving their mentees' employment status than mentors that naturally emerged. The results support this hypothesis by showing that programs where mentors were formally assigned improved the employment status of their mentees by 3.54. In contrast, mentoring that occurred naturally showed lower increases in employment probabilities, namely an increase by factor 1.62, which was not statistically significant.

4.4 Discussion

Based on its ability to bridge informational asymmetries and promote social cohesion, Chapter IV hypothesized that mentoring would have a positive impact on gainful employment. These predictions are derived from several strands of literature that show how increasing sense of belonging through building meaningful relationships increases cohesion, as well as from signal theory that shows how filling gaps in location-specific information may engender positive signals at job interviews thereby lowering that gap employers face in the screening process. The results confirmed these predications. Respondents who were mentored showed an increased probability of being employed, and this was particularly the case when there was an educational component to the mentoring or when meaningful interpersonal connections were formed. While 'educational component' can refer to a gamut of mentoring-related aspects, post-questionnaire interviews suggest that for the large majority of respondents, mentors worked with teachers and school administrators to explain course content, pathways towards graduation, and help with homework.⁵⁴² In short: knowledge of educational institutions, language capacity, and best practice learning habits. When the mentor was not assigned these results lost their significance.

4.4.1 Intuitive Results?

While previous research sets the stage for the predictions, it is not intuitive that mentoring would have a positive impact on labour market outcomes. So while studies applying big (Caliendo & Schmidl, 2016; Escudero, 2015)⁵⁴³ and country-specific data (Joonas & Nekby, 2012; Saniter & Siedler, 2013)⁵⁴⁴ have revealed positive impacts on job search assistance, employment incentives, and labour market impacts from counseling, respectively, and while a positive effect was likewise documented with wage subsidy and language programs (Clausen et al., 2009),⁵⁴⁵ immigrant-individualized training with a language

⁵⁴² See Appendix A for a sample of the interview questions.

⁵⁴³ The most effective ALMP is Escudero's analysis is start-up incentives with a disjuncture in program continuity having the strongest negative effect for labour market variables. Escudero, V. (2015). Are Active Labour Market Policies Effective in Activating and Integrating Low-Skilled Individuals?: An International Comparison. Working Paper No. 3, ILO, Geneva.

⁵⁴⁴ Joonas, P. A., & Nekby, L. (2012). Intensive coaching of new immigrants: an evaluation based on random program assignment. *The Scandinavian Journal of Economics*, 114(2), 575-600. Saniter, N., & Siedler, T. (2013). The effects of occupational knowledge: job information centers, educational choices, and labor market outcomes.

⁵⁴⁵ Also, Clausen, J., Heinesen, E., Hummelgaard, H., Husted, L., & Rosholm, M. (2009). The effect of integration policies on the time until regular employment of newly arrived immigrants: Evidence from Denmark. *Labour Economics*, 16(4), 409-417;

component (Sarvimäki & Hämäläinen, 2016)⁵⁴⁶ and with high-skilled immigrants participating in training programs (Cohen-Goldner & Eckstein, 2010),⁵⁴⁷ these effect may very well depend on the type of training (Thomsen et al., 2013).⁵⁴⁸ Often these studies have used data from the European Social Survey or Migration Integration Index (e.g., Hadjar & Bakes, 2013).⁵⁴⁹ Moreover, despite many papers showing positive effects other papers have found uncertainty in the integration policy-labour market outcome nexus (Bilgili et al., 2015).⁵⁵⁰ Research has also found a negative impact on counseling and labor market training, due to negative signals from job search assistance (Kogan, 2016).⁵⁵¹ On a meta level, a recent analysis of four Active Labour Market Programmes (ALMPs) across Europe – subsidized public sector employment, training, job search help, and wage subsidies – found that only wage subsidies showed an increase in employment rates among immigrants (Butschek & Walter, 2014).⁵⁵² Related studies from the Labour Economics and Integration literature have reported inconclusive results of the impact of job training on labour market outcomes. The single study linking mentoring to labour market outcomes within the European Union concludes that mentoring aids in job retention (Gonçalves et al., 2017).⁵⁵³ Whether negative signals and adverse selection negate the positive effect from a proposed mentoring intervention remains open.

4.4.2 Drawbacks

While mentoring may aid integration on several fronts, nevertheless negative cases may arise. These include exposure to negative peer behavior and breaking bonds with parents (Rodriguez Plantas, 2014, 2012; Spencer 2007).⁵⁵⁴ Furthermore, in meta-analyses, at-risk youths have yielded tepid, albeit positive,

⁵⁴⁶ Sarvimäki, M., & Hämäläinen, K. (2016). Integrating immigrants: The impact of restructuring active labor market programs. *Journal of Labor Economics*, 34(2), 479-508.

⁵⁴⁷ The paper tests a sample of women from the former Soviet Union who migrated to Israel. The effect was not pronounced for blue-collar occupations. Cohen-Goldner, S., & Eckstein, Z. (2010). Estimating the return to training and occupational experience: The case of female immigrants. *Journal of Econometrics*, 156(1), 86-105.

⁵⁴⁸ The authors find that while job training didn't improve labour market outcomes, aptitude tests had a positive effect on immigrants. Results were gender-dependent. Thomsen, S. L., Walter, T., & Aldashev, A. (2013). Short-term training programs for immigrants in the German welfare system: do effects differ from natives and why?. *IZA Journal of Migration*, 2(1), 24.

⁵⁴⁹ Uses data from the European Social Survey and Migrant Integration Policy Index to test the gap between migrants and non-migrants in terms of their Subjective Well-Being. Hadjar, A., & Backes, S. (2013). Migration background and subjective well-being a multilevel analysis based on the European social survey. *Comparative Sociology*, 12(5), 645-676.

⁵⁵⁰ Bilgili, Ö., Huddleston, T., & Joki, A. L. (2015). The Dynamics between Integration Policies and Outcomes: Synthesis of the Literature. *The Migration Policy Group*.

⁵⁵¹ Kogan (n511).

⁵⁵² Butschek, S., & Walter, T. (2014). What active labour market programmes work for immigrants in Europe? A meta-analysis of the evaluation literature. *IZA Journal of Migration*, 3(1), 48. But see Caliendo & Schmidl (2016) whose meta-analysis finds that job search assistance had significant positive effects for youths, while labour market training programs yielded mixed results, questioning, overall, the utility of ALMPs. Caliendo, M., & Schmidl, R. (2016). Youth unemployment and active labor market policies in Europe. *IZA Journal of Labor Policy*, 5(1), 1.

⁵⁵³ Gonçalves, M., Farcas, D., Leitão, T., Giorgakis, G., Valeriu, S. F., Traian, M. P., & Kovacs, K. (2017). Evidence Review on Labour Market and Job Place Retention: Mentoring Pathways Towards Employment. *Journal of Organisational Transformation & Social Change*, 1-25.

⁵⁵⁴ Rodríguez-Planas (n491).

results from mentoring. (Dubois et al., 2011; Rhodes, 2008). Since many refugees would likely fall into the at-risk category, at least initially, these findings are of some concern.

A closer look suggests that the negligible or potentially negative effects may simply be a matter of mechanism design. Quality (Herrera, 2004),⁵⁵⁵ attitude (Karcher et al., 2010) and length of mentor commitment (Karcher, 2008) have all been shown to impact key outcomes.⁵⁵⁶ Mitigating adverse effects may simply be a matter of how a mentoring program is formed. On the issue of commitment length, for example, Rodriguez-Plantas (2014) suggests that instances of statistically insignificant positive impact might be derived from early closures. Supporting this position is Zilberstein & Spencer (2014) as well as Grossman & Rhodes (2002), the latter finding that the positive impact of mentoring is significantly stronger if the mentor-mentee match lasts at least one year. Mechanism design, of course, must temper the underlying reasons for early termination.⁵⁵⁷

Avoiding negative side effects requires addressing correlates of positive program-based mentoring during the mechanism design stage and adjusting for unexpected situations. These correlates include the role of parents (Taylor and Porcellini, 2013); family environment i.e., frequent mobility (Schlafer et al., 2009);⁵⁵⁸ behavioral problems (Grossman & Rhodes, 2002); type of mentoring;⁵⁵⁹ motivation for mentoring (Larsson et al., 2016; Kupersmidt & Rhodes, 2014; DeWit et al., 2016); frequency of contact (Raposa et al., 2016; Karcher et al., 2006) and ineffective mentor-mentee matches (Sue et al., 2014; Kupersmidt et al., 2017).⁵⁶⁰ Given the breadth of these variables, predicting how risks will attenuate positive effects of refugee mentorship programs will be difficult to generalize. Variation within each group, may undermine

⁵⁵⁵ But see Cavell et al., (2009).

⁵⁵⁶ Duration was negatively impacted by elevated levels of mentee's environmental stress. Karcher, M. J. (2008). The study of mentoring in the learning environment (SMILE): A randomized evaluation of the effectiveness of school-based mentoring. *Prevention Science*, 9(2), 99.

⁵⁵⁷ Lack of enduring effects has also been shown in the mentoring literature and does not seem robustly effected by mechanism design. For labor market outcomes. However, this effect would have resonance in employee retention, not our outcome variable employment. See: Herrera, C., Grossman, J. B., Kauh, T. J., Feldman, A. F., & McMaken, J. (2007). Making a difference in schools: The Big Brothers Big Sisters school-based mentoring impact study. *Public/Private Ventures*.

⁵⁵⁸ Shlafer, R. J., Poehlmann, J., Coffino, B., & Hanneman, A. (2009). Mentoring children with incarcerated parents: Implications for research, practice, and policy. *Family relations*, 58(5), 507-519.

⁵⁵⁹ Youth Initiated Mentoring (YIM) where youths find their mentors from non-parental adults within their existing social framework, may expedite trust and augment the meaningfulness of the mentor-mentee relationship, particularly when both are of the same race (Schwartz et al., 2013). Though see Rhodes et al., 2003 for a different finding on the impact of race in matching procedures. However, YIM has been shown to show social support without augmenting social networks, educational ties, or opportunity structures (Abelev, 2009). Social leveraging may be better activated through high-resource mentors outside the mentee's social network (Spencer et al., 2016). Although see Portes and Landolt (2000) who argue that reinforcing existing connections may prove more effective than forging new social bonds. Context may also prove critical: Spencer et al., (2013) analyze an intensive intervention program, NGYCP, and thus have only high-risk adolescents as their population. Furthermore, familiarity may allay initial tension and mistrust occasionally characteristic of matches from different social milieu (Spencer, 2007).

⁵⁶⁰ Also see: Pryce et al., 2013. Kupersmidt, J. B., Stump, K. N., Stelter, R. L., & Rhodes, J. E. (2017). Predictors of premature match closure in youth mentoring relationships. *American journal of community psychology*, 59(1-2), 32; Sue, J. L., Craig, W. M., Dunn, V., & Luca-Huger, T. (2014). The Active Ingredient: An Examination of the Mentoring Relationship. Do relationships matter? An examination of a school-based intergenerational mentoring program, 60.

traditional in-group/outgroup boundaries (Wimmer & Glick Schiller, 2002), while specific environmental factors potentially alter the notion of monolithic positive mentoring covariates.⁵⁶¹ The empirical analysis controls for gender, educational background, nationality, religion, legal status and duration of mentoring.

4.5 Conclusion

While the numbers of refugees reaching Europe has plummeted dramatically from 2015 and 2016 to 2017, integration remains a central issue for EU Member States. This is true not only for those who host, but, because of the Single market and freedom of movement, all 28 States. It is critical for both the EU economy as well as intra-State social cohesion that refugees and those under subsidiary protection enter and remain in the labor market. This necessitates interventions that go beyond placement and targeted upskilling, but give guidance that is dynamic and proactive, targeting processes as they unfold.

Chapter IV investigated whether mentoring in Greece, Italy, and Germany had a positive impact on the employment of Arabic speaking refugees. It hypothesized that mentoring would include location-specific capital needed to bridge informational asymmetries and send positive signals to employers, as well as foster the social capital and sense of belonging shown to positively affect labor market entry. The results confirm these predictions and place a burden of action on State and EU-level officials to further investigate whether mentoring could prove an effective intervention at the supranational level.

Chapter V: Public Opinion and Integration: The Case of Germany

5.1 Introduction

Promoting social cohesion and facilitating labour market success for refugees has been a notable concern of several EU Member States. This has not only been true for refugee-hosting countries, such as the Netherlands, Germany, and Italy, but also States that host few refugees, such as Latvia and Poland. Intra-EU labor mobility means that a single State's integration policies are not insular and that ineffective integration within one EU State may spill over to neighboring countries. A similar implication can be said for the unique socio-political identity of States where refugees can be expected to obtain full citizenship rights (cf. *infra*, Miller, 2015).

⁵⁶¹ Wimmer, A., & Glick Schiller, N. (2002). Methodological nationalism and beyond: nation–state building, migration and the social sciences. *Global networks*, 2(4), 323.

Predicting the success of an integration programs has been difficult because of the complexity of measuring integration (Bernstein & DuBois, 2018).⁵⁶² Integration consists not only of easily observable criteria, such as labor market participation (Bansak et al., 2018), but also of phenomena that are not easily measured, such as inter-group relations with the host community (Ager & Strang, 2008).⁵⁶³ We can, however, capture the host population's perceptions of successful integration and whether a refugee integration program adequately addresses the host population's needs. If it fails to do so, the host population may either put pressure on their elected officials to change policies or fail to positively engage the program. Identifying a successful integration program thus requires knowledge of which refugee characteristics are perceived by the host population to be amenable to successful integration, which are not, and how an integration program interfaces with the two. If a characteristic (i.e., education, country of origin) is more salient in making a refugee desirable than her participation in an integration program, then integration programs should concentrate on modulating the perception of the host population vis-à-vis said characteristic. In this way, testing characteristics that make a refugee more desirable or amendable to integration, provides a litmus test for forming integration interventions and tweaking existing ones.

Chapter V again focuses on mentoring. While Chapter IV focused whether mentoring has had a positive impact on integration outcomes, Chapter V tests whether mentoring may lead to refugees being perceived as more 'desirable' by the host population.⁵⁶⁴ The importance of desirability is twofold: research has drawn a link between integration policies and public perception. Public support for targeted integration programs frequently aids in achieving outcome measures; on the contrary, policies perceived to inadequately address local needs have frequently faltered from lack of local engagement (Bloemraad & De Graauw, 2012).⁵⁶⁵ Success of an EU or State-level integration program may therefore depend on whether the program can address key concerns of a population in the design phase. By knowing what attributes are more salient (e.g., "desirable") to a particular population, and how those attributes interact with a particular integration program, a bespoke mechanism targeting local needs can be crafted.

Unsurprisingly then, Chapter V orients its empirical lens on local needs. In practical terms this means measuring the individual and group-level characteristics that a refugee-hosting population perceives will promote integration, or on the flip side, foment perceptions of a threat. How individual-level immigrant

⁵⁶² Bernstein, H., & DuBois, N. (2018). Bringing evidence to the refugee integration debate. *Washington, DC: Urban Institute*. https://www.urban.org/research/publication/bringing-evidence-refugee-integration-debate/view/full_report.

⁵⁶³ Ager, A., & Strang, A. (2008). Understanding integration: A conceptual framework. *Journal of refugee studies*, 21(2), 166-191; Bansak, K., Ferwerda, J., Hainmueller, J., Dillon, A., Hangartner, D., Lawrence, D., & Weinstein, J. (2018). Improving refugee integration through data-driven algorithmic assignment. *Science*, 359(6373), 325-329.

⁵⁶⁴ Council of Europe (2017) Measuring Integration in Germany and Europe. Possibilities and Limits of Existing Integration Monitoring. Last accessed 23 July 2018 from <https://www.coe.int/t/dg3/migration/archives/documentation/Series_Community_Relations/Measurement_indicators_integration_en.pdf>.

⁵⁶⁵ Bloemraad & De Graauw (n19).

attributes interface with local population perception has been tested in several recent studies (Sobolewska et al., 2017; Hainmueller and Hopkins 2015).⁵⁶⁶ In Hainmueller and Hopkins (2015), for instance, American's opinions towards largely Mexican immigrants are tested using a conjoint design with the result that, regardless of most social background characteristics Americans prefer educated immigrants, preferably in more prestigious jobs and disdain those who entered the United States illegally or have no concrete plans to work.

Advancing their scholarship, this analysis employs a conjoint causal interference tool applied to the case of Germany which is selected due to the high influx of immigrants from 2015 to 2017. The conjoint design places mentoring alongside ten outcome variables from the migration and labor market literature shown to impact the perception of the German population towards successful integration. It tests whether participating in a mentoring program has significant bearing on whether an immigrant is perceived as more 'desirable' for the German population. This design aims to answer whether mentoring will impact the perception of threat of native population, and, consequently, a mentoring integration program.

The results show that in Germany, attributes suggesting employability such as language skills, education, and motivation to find a job make an immigrant more desirable. However, if the individual is enrolled in a mentoring program with a local mentor, the effect of education largely dissipates. The same phenomenon was found for religion and language abilities suggesting that a well-designed mentoring program is perceived as a mechanism able to mitigate many of the 'less desirable' characteristics.

Added Value

This chapter adds value to the literature in two ways. Firstly, it presents an argument for mentoring integration programs for refugees. While there have been calls for increased funding for Active Labour Market Policies (ALMPs) at the EU level (European Commission 2016), to the author's knowledge there have been no studies using quantitative data from the host population's point of view to advocate for a mentoring program.⁵⁶⁷ Secondly, very few studies have been able to empirically demonstrate which individual-level characteristics interact with a specific refugee integration policy. This has important implications on how a mentoring intervention is presented to the general population, as well as the location-specific characteristics that a program should target.

Terminology

⁵⁶⁶ Hainmueller, J., & Hopkins, D. J. (2015). The hidden American immigration consensus: A conjoint analysis of attitudes toward immigrants. *American Journal of Political Science*, 59(3), 529-548.

⁵⁶⁷ European Commission (2016c). Action Plan on the integration of third country nationals. (July 2016) 377 final.

Refugees are humanitarian immigrants who fall under the 1951 Geneva Refugee Convention of persecuted. Determination of status often takes several months and may take years. In popular parlance, those awaiting status determination are often called asylum seekers. In addition, many humanitarian immigrants who are not afforded refugee status are given subsidiary status and remain in their host country. Integration is a concern for all types of humanitarian immigrants, whether being granted refugee status or not. This chapter therefore discusses and tests the desirability of immigrants, and controls for type (i.e., economic, humanitarian) in the analyses. To the author's knowledge, there is no literature observing a significant difference on how refugees and non-refugee humanitarian migrants are perceived by the general public.

5.2 Background Literature

Public Opinion and Integration

Public opinion is integral to how a mentoring integration program is designed and implemented. If EU populations observe that their politicians are not adequately representing their integration preferences they may vote with their feet, forcing politicians to more closely align policymaking with constituent demands. An extensive body of research, frequently falling under the tutelage of policy responsiveness theory, has tried gauging the causal direction of policy and domestic public opinion (Arnold and Franklin, 2012; Lahav & Guiraudon, 2006).⁵⁶⁸ Does the local population influence its elected officials to the extent that the officials will represent their interests at the supranational level? Or do officials accept supranational policies without regard to their constituents' preferences, irrespective of electoral turnover?

Recent evidence suggests that public opinion exerts significant leverage in crafting integration policy outcomes. In Sweden, Germany, and Austria, for example, local populations advocating for labor market integration has been a driver in forming policies to reduce the inflow of unauthorized migrants, while simultaneously, increasing spending for integration programs (European Parliament, 2018).⁵⁶⁹ In Germany, local perception that refugee credentials were not being effectively evaluated catalyzed programs to evaluate credential and upskill, such as Perspectives for Refugees. Local efforts were likewise instrumental in promulgating legislation to ease refugee gains in the German labor market: the Integration Law of 2016 placed a moratorium on EU or German national job hiring preference to bolster refugee employment.⁵⁷⁰ Across the channel, Sobolewska and co-authors (2017) show that attitudes

⁵⁶⁸ Arnold, C., & Franklin, M. N. (2012). Introduction: Issue congruence and political responsiveness. *West European Politics*, 35(6), 1217-1225; Lahav, G., & Guiraudon, V. (2006). Actors and venues in immigration control: Closing the gap between political demands and policy outcomes. *West European Politics*, 29(2), 201-223.

⁵⁶⁹ European Parliament. (2018). Integration of Refugees into Germany, Austria, and Sweden: a Comparative Analysis. IP/A/EMPL/2016-23 January 2018.

⁵⁷⁰ ILO. Integrationsgesetz. Bundesgesetzblatt Teil I, 2016-08-05, vol. 39, pp. 1939-1949. Last accessed February 25, 2019 from http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=104000&p_count=16&p_classification=01.

towards Muslims in the UK, particularly notions of gender equality, impacted whether an individual was predicted to successfully integrate and had subsequent policy implications.⁵⁷¹ At a macro level, utilitarian and identity-based concerns by EU Member States over enlarging the EU has precipitated discussion over whether and how integration will unfold (Toshkov, 2017).⁵⁷² Several studies (i.e., Arnold and Franklin, 2012) have explored this link between public opinion and integration policies using the Migrant Integration Policy Index (MIPEX). The MIPEX consists of 167 indicators in 38 countries and helps evaluate how governments are going about integrating migrants and what future policies might be effective.⁵⁷³ Results have frequently shown that public calls for restrictive policies have been echoed by policymakers and resulted in restrictive immigration policies (Ruedin et al., 2015; Ford et al., 2015).⁵⁷⁴

It is noteworthy that research has also found the opposite. Morales & Ruedin (2015) and Odman & Bale, (2015) show that while public opinion has become increasingly restrictive or favored the status quo, corresponding immigration policies tend to be increasingly lenient. This disconnect between policy and public opinion has likewise been noted in several empirical studies (Akkerman, 2015; Brady & Finnegan, 2014; Huddleston et al., 2011; Bale et al., 2010).⁵⁷⁵ Esses et al., (2017) argues that generally speaking, links between local population perception, their demands on their elected officials, and subsequent integration policies cannot be considered causal.⁵⁷⁶ Whether a causal link exists seems to depend on type of immigrant, the specific host population, and exogenous shocks.

So, whilst contradicting studies have found both a significant effect from democratic responsiveness (e.g., Wlezien and Soroka 2012), as well as skepticism over the ability of public opinion to maneuver calculating politicians (Lax and Phillips, 2012), and whilst generalizable conclusions appear dubious at

⁵⁷¹ Sobolewska, M., Galandini, S., & Lessard-Phillips, L. (2017). The public view of immigrant integration: multidimensional and consensual. Evidence from survey experiments in the UK and the Netherlands. *Journal of Ethnic and Migration Studies*, 43(1), 58-79.

⁵⁷² Toshkov, D. D. (2017). The impact of the Eastern enlargement on the decision-making capacity of the European Union. *Journal of European Public Policy*, 24(2), 177-196.

⁵⁷³ MIPEX (2018) Last Accessed 15 May 2018 from <http://www.mipex.eu/what-is-mipex>.

⁵⁷⁴ Ruedin, D., Alberti, C., & D'Amato, G. (2015). Immigration and integration policy in Switzerland, 1848 to 2014. *Swiss Political Science Review*, 21(1), 5-22; Ford, R., Jennings, W., & Somerville, W. (2015). Public opinion, responsiveness and constraint: Britain's three immigration policy regimes. *Journal of Ethnic and Migration Studies*, 41(9), 1391-1411.

⁵⁷⁵ Morales, L., Pilet, J. B., & Ruedin, D. (2015). The gap between public preferences and policies on immigration: A comparative examination of the effect of politicisation on policy congruence. *Journal of Ethnic and Migration Studies*, 41(9), 1495-1516; Odman, P., & Bale, T. (2015). Immigration into the mainstream: Conflicting ideological streams, strategic reasoning and party competition. *Acta Politica*, 50(4), 365-378. Brady, D., & Finnegan, R. (2014). Does immigration undermine public support for social policy?. *American Sociological Review*, 79(1), 17-42; Huddleston, T., Niessen, J., Chaoimh, E. N., & White, E. (2011). *Migrant integration policy index III*. British Council; Bale, T., Green-Pedersen, C., Krouwel, A., Luther, K. R., & Sitter, N. (2010). If you can't beat them, join them? Explaining social democratic responses to the challenge from the populist radical right in Western Europe. *Political studies*, 58(3), 410-426; Akkerman, T. (2015). Immigration policy and electoral competition in Western Europe: A fine-grained analysis of party positions over the past two decades. *Party Politics*, 21(1), 54-67.

⁵⁷⁶ Esses, V. M., Hamilton, L. K., & Gaucher, D. (2017). The global refugee crisis: empirical evidence and policy implications for improving public attitudes and facilitating refugee resettlement. *Social Issues and Policy Review*, 11(1), 78-123.

best (Bølstad, 2015)⁵⁷⁷ it simply may be that the role of domestic politics in EU decision making is situational dependent. Supporting a context-contingent view is Wratil (2015) who finds that national governments adopting EU-level policies that reflect domestic public opinion depends on electoral incentives, particularly upcoming elections in majoritarian systems. Dellmuth & Chambers (2015, 2018) find support for EU integration policies impacted not by distributional policies (e.g., whether a particular domestic audience receives EU funds), but whether they are predisposed to EU integration and can interpret political messages signaling economic solidarity.⁵⁷⁸ In such cases, if EU policies are not perceived as representing the needs of Member States a democratic deficit appears, and policy alignment might be merely coincidental (Follesdal and Hix, 2006).⁵⁷⁹

Salience and accessibility also affect the policymaking-public opinion nexus. Some issues are simply not perceived by the vast majority of the population as critical, and access to information, particularly ways the public voice concern over misaligned policy, may not be transparent. Nevertheless, while some studies have questioned the salience of EU-level policymaking to the general public (Lax and Phillips 2009, 2012) or difficulty obtaining clear information on who to lobby (Enikolopov et al., 2011; Snyder and Strömberg 2008) refugee-related issues are highly politicized, visible, and not remotely in the realm of nebulous or technocratic-relegated information.⁵⁸⁰ Given the wide visibility and polarizing capacity of integration-themed policies, public opinion is instrumental in the ability for national government bodies to invest in, and successfully implement a mentoring mechanism. Unfortunately, due to lack of sufficient data, this analysis is unable to measure democratic responsiveness to a particular integration policy. It is, however, able to measure the role of perceived threat and suggest how a population might react to a mentoring integration program.

5.2.1 The Role of Perceived Threat

Operating under the evidence-based premise that public opinion often bears significant weight on domestic and supranational immigration policies, the next step in crafting a mentoring integration program is to elucidate the roots of public opinion and address their concerns. Whether, for instance,

⁵⁷⁷ Wlezien, C., & Soroka, S. N. (2012). Political institutions and the opinion-policy link. *West European Politics*, 35(6), 1407-1432; Lax, J. R., & Phillips, J. H. (2012). The democratic deficit in the states. *American Journal of Political Science*, 56(1), 148-166; Bølstad, J. (2015). Dynamics of European integration: Public opinion in the core and periphery. *European Union Politics*, 16(1), 23-44.

⁵⁷⁸ Chalmers, A. W., & Dellmuth, L. M. (2015). Fiscal redistribution and public support for European integration. *European Union Politics*, 16(3), 386-407; Dellmuth, L. M., & Chalmers, A. W. (2018). All spending is not equal: European Union public spending, policy feedback and citizens' support for the EU. *European Journal of Political Research*, 57(1), 3-23.

⁵⁷⁹ Follesdal, A., & Hix, S. (2006). Why there is a democratic deficit in the EU: A response to Majone and Moravcsik. *JCMS: Journal of Common Market Studies*, 44(3), 533-562.

⁵⁸⁰ Lax, J. R., & Phillips, J. H. (2009). Gay rights in the states: Public opinion and policy responsiveness. *American Political Science Review*, 103(3), 367-386; Enikolopov, R., Petrova, M., & Zhuravskaya, E. (2011). Media and political persuasion: Evidence from Russia. *American Economic Review*, 101(7), 3253-85.; Snyder Jr, J. M., & Strömberg, D. (2010). Press coverage and political accountability. *Journal of political Economy*, 118(2), 355-408.

biases related to religion, education, employability, and ethnicity are more salient than the predicted success of an integration program. If biases outweigh the predicted benefit, then those biases should be systematically addressed at the initial phase and formatively adapted. For example, if a particular religion makes an immigrant less desirable to a specific population, even taking into account participation in a mentoring integration program, then a mentoring program in that location must target intervention measures proven to reduce bias in that faith. Practically speaking, this may entail interfaith social groups, mediation, or workplace counseling.⁵⁸¹

Immigrant “desirability” is directly linked to perceived threat. Perception is distinct from actual threats, with the former being more significant in prejudicial attitude formation (Rosenstein, 2008).⁵⁸² Perception, of course, is filtered through cognitive mechanisms— heuristics, prior biases, conceptions of national or local identity, to name a few, and are subject to environmental effects.⁵⁸³ The underlying reasons for threat formation are manifold: group-level power struggles driven by resource scarcity or prestige (Ethnic Competition Theory), a group’s positive social identity formed through out-group competition (Social Identity Theory) or a combination of group and contextual factors (Ethnic Composition Theory).⁵⁸⁴ What is most salient for this analysis is how an integration mechanism interfaces *ex ante* with perceptions of threat.⁵⁸⁵ That is, if attribute *x* leads to humanitarian migrant *y* being perceived as undesirable, will intervention *z* mitigate the negative effects of *x*?

Type of integration program has been shown to impact the perception of group threat. Contact theory, in one example hypothesizing positive outcomes from meaningful interpersonal contact.⁵⁸⁶ Programs that

⁵⁸¹ *Infra* 4.4

⁵⁸² Rosenstein, J. E. (2008). Individual threat, group threat, and racial policy: Exploring the relationship between threat and racial attitudes. *Social Science Research*, 37(4), 1130-1146.

⁵⁸³ In turn, anti-immigrant cognitive biases are frequently catalyzed by media framing (Watson & Riffe, 2013; Hopkins, 2010; Boomgaarden & Vliegenthart, 2007) and may cause anxiety about media targeted immigrant populations and build off group bias, regardless of the actual threat posed (Brader et al., 2008). Though prominent studies from Snyder et al., (2004) and Scheve & Slaughter (2001) find that immigration-related policy preferences are not guided by the respondent’s community. On the latter point, Hainmueller et al., (2015) suggest that the manner labor market effects are framed by politicians and the media may be more responsible for public opinion than the actual effects themselves. On the flip side, employment strategies with a concomitant focus on portraying immigrants without stereotyping and bias may allay native attitudes, particularly in social welfare states, which are impacted by media predictions about immigrants on social benefits (Facchini & Mayda, 2009; Dustmann & Preston, 2006; Hanson et al., 2006).

⁵⁸⁴ Wright, M. (2011). Policy regimes and normative conceptions of nationalism in mass public opinion. *Comparative Political Studies*, 44(5), 598-624.

⁵⁸⁵ This is distinct, of course, from opinions about immigration itself. Meuleman, B. (2011). Perceived economic threat and anti-immigration attitudes: Effects of immigrant group size and economic conditions revisited. *Cross-cultural analysis: Methods and applications*, 218-310; Wagner, U., Christ, O., Pettigrew, T. F., Stellmacher, J., & Wolf, C. (2006). Prejudice and minority proportion: Contact instead of threat effects. *Social psychology quarterly*, 69(4), 380-390; Pettigrew, T. F., & Tropp, L. R. (2008). How does intergroup contact reduce prejudice? Meta-analytic tests of three mediators. *European Journal of Social Psychology*, 38(6), 922-934.

⁵⁸⁶ Callens, M. S. (2015). *Integration policies and public opinion: in conflict or in harmony?* (No. 2015-02). LISER, 8.

have an extensive interpersonal component should mitigate prejudices (Pettigrew & Tropp, 2008; Wagner et al., 2006). And this is in fact frequently the case.⁵⁸⁷ Inclusive programs, particularly those with an extensive interpersonal component have been shown to mitigate prejudices (Meuleman, 2011). Moreover, meta-analysis of the literature has found that inclusive integration policies are correlated with lower perceived threat by the host population and that intergroup norms frequently drive a population's attitude towards immigrants (Callens, 2015).⁵⁸⁸ In one such study, Schlueter et al., (2013) using Eurobarometer and European Value Survey data find that permissive policies were associated with decreased perception of immigrant threat among the general population.⁵⁸⁹ These results have been supported by case studies, suggesting that intergroup norms drive a population's attitude towards immigrants (Callens & Meuleman, 2017).⁵⁹⁰ It may then be that "Integration policies seem to establish the norms of how intergroup relations should be and therefore will regulate public opinion."⁵⁹¹

Nevertheless, other studies have found considerable variation in the impact of policy on group threat. Using MIPEX overall score data, not a particular policy strand, Dinsen & Hoogue (2010) find that integration policies fail to positively impact immigrants' trust in the host population nor foster national pride in their host country (Reekens & Wright, 2013).⁵⁹² The lack of uniform results for many contextual factors (i.e., labour market, religion) guiding perception of immigrant threat may be driven by shifts in the labor market, crime, or large-scale national-level shocks (Legewie, 2013).⁵⁹³ In an attempt to disentangle contextual factors, this analysis focuses on two domains underpinning discriminatory perceptions in the recent literature: labour market and sociocultural factors. If labour markets concerns take prominence over sociocultural concerns, then attributes related to employability –education, years employed, even profession under certain circumstances– should prove salient in choice of immigrant. However, if sociocultural concerns are more salient among the general population then issues pertaining to religion, ethnicity, and country of origin will be more salient.

⁵⁸⁷ Perceived threat of immigrants may also increase with size and contact (Meuleman, 2011).

⁵⁸⁸ Callens 2015 (n586).

⁵⁸⁹ Schlueter, E., Meuleman, B., & Davidov, E. (2013). Immigrant integration policies and perceived group threat: A multilevel study of 27 Western and Eastern European countries. *Social Science Research*, 42(3), 670-682.

⁵⁹⁰ Callens, M. S., & Meuleman, B. (2017). Do integration policies relate to economic and cultural threat perceptions? A comparative study in Europe. *International Journal of Comparative Sociology*, 58(5), 367-391.

⁵⁹¹ Callens 2015 (n586), p11.

⁵⁹² Dinesen, P. T., & Hooghe, M. (2010). When in Rome, do as the Romans do: the acculturation of generalized trust among immigrants in Western Europe. *International Migration Review*, 44(3), 697-727; Reeskens, T., & Wright, M. (2013). Nationalism and the cohesive society: A multilevel analysis of the interplay among diversity, national identity, and social capital across 27 European societies. *Comparative Political Studies*, 46(2), 153-181. However, institutional quality was found to positively effect generalized trust. It may be that the integration programs measured in the MIPEX overall score suffer qualitatively. See: Dinesen, P. T. (2011). Where you come from or where you live? Examining the cultural and institutional explanation of generalized trust using migration as a natural experiment. *European sociological review*, 29(1), 114-128.

⁵⁹³ Legewie, J. (2013). Terrorist events and attitudes toward immigrants: A natural experiment. *American Journal of Sociology*, 118(5), 1199-1245.

No matter which domain proves more prominent, public opinion may be critical not only for the initial acceptance of a policy but its continued support.⁵⁹⁴ In the case of mentoring refugees, this requires knowing what issues are most important to the local population and addressing them in the program design. Below the specific case of Germany is discussed and linked to relevant literature from the Labour Economics, Sociology, and Acculturation canons to form this study's hypotheses.

5.2.2 The German Case

Germany has granted refugee, subsidiary, or humanitarian status to over a million applicants from 2015 to 2018 with hundreds of thousands of applications still pending.⁵⁹⁵ The legal basis for asylum in Germany is the 1951 GRC, as well as the German Basic Law (Article 16a) which allows for asylum on the grounds of political persecution.⁵⁹⁶ Several recent pieces of domestic legislation have aimed to more efficiently streamline the asylum process. The Residence Act of 2005 enabled "structural integration measures" and "channels" for labour market grounded migration, while ten years later, in 2015, with Syrians fleeing civil war in mass numbers, Germany suspended the Dublin Regulation by enacting its sovereignty clause and over a million refugees were permitted to enter German territory. Despite the fact the number of asylum seekers has drastically subsided from its 2015 levels, integration continues to be a major division point in German society.

Broadly speaking, German society seems to be of two minds. Some worry that refugees will be unable to integrate and will form so-called parallel societies, where education, labor and culture are resistant to full societal integration (Mueller, 2006).⁵⁹⁷ Others within German society are more optimistic about the settling-in process. They see refugees a part of an answer to an aging society, or value humanitarian considerations over integration concerns. On the former point, Deutsche Bank and IMF studies both suggest that successful integration into the labor market could greatly offset looming age-related demographic problems (Aiyar et al., 2016; Deutsche Bank, 2015).⁵⁹⁸

⁵⁹⁴ Unfortunately, research is unclear whether an integration policy must already be successfully ensconced to change the general population's attitudes towards specific immigrant attributes (i.e., religion, ethnicity, education), or whether attitudes impact the choice of integration mechanism. It would seem that there is evidence for both directions (Callens & Meuleman, 2016). Callens, M. S., & Meuleman, B. (2016). Do integration policies relate to economic and cultural threat perceptions? A comparative study in Europe. *International Journal of Comparative Sociology*, 0020715216665437.

⁵⁹⁵ BAMF. Annual Asylum Report. (2018) Last accessed February 27, 2018 from <http://www.bamf.de/SharedDocs/Anlagen/DE/Downloads/Infothek/Statistik/Asyl/201801-statistik-anlage-asyl-geschaeftsbericht.html?nn=7952206>.

⁵⁹⁶ Article 16a reads: "Persons persecuted on political grounds shall have the right of asylum."

⁵⁹⁷ Mueller, C. (2006). Integrating Turkish communities: a German dilemma. *Population research and policy review*, 25(5-6), 419-441.

⁵⁹⁸ Aiyar, S., Barkbu, B. B., Batini, N., Berger, H., Detragiache, E., Dizioli, A., ... & Spilimbergo, A. (2016). *The refugee surge in Europe*. Washington, DC: International Monetary Fund; Deutsche Bank. (2015). Influx of refugees: an opportunity for Germany. Last accessed March 02, 2018 from https://www.dbresearch.com/PROD/RPS_EN-PROD/PROD000000000441803/Influx_of_refugees%3A_An_opportunity_for_Germany.PDF.

Foreseeing divisions within German society, the Federal Office for Migration and Refugees (BAMF) has initiated a series of integration programs to address concerns over humanitarian migrants adapting to German society. Many (*Volkshochschulen*) have focused on adult language learning and civics for refugees. Legal barriers to integration have likewise been addressed. The Integration Act of 2016 allows rejected asylum seekers temporary residency to complete their vocational upskilling programs. There have also been a number of regional initiatives i.e., in North Rhine-Westphalia, as well as private-public efforts.⁵⁹⁹ Nonetheless, statistically speaking, labour market interventions and other large-scale integration programs have had limited success in Germany. The One Euro program, for instance, a German government subsidized labor endeavor aimed at providing practical work experience and language skills, has had less than 5,000 out of the set goal of 1000,000 refugees employed as of January 2017.

5.3 Mentoring in Germany

Mentoring has been employed in Germany for many years including initiatives specifically for mentoring refugees. Mentoring programs within Germany have cooperated with federal and state-level governments, as well as private job consulting actors. InCharge, for example, focuses on mentoring refugees with a focus on gaining long-term employment. For 12 weeks, InCharge recommends one hour a week to guide refugees through the German labor market, often in a field of the mentor's expertise.⁶⁰⁰ People Support People (Menschen stärken Menschen) another federally-supported program (10 million Euro in fiscal year 2018) seeks to forge durable interpersonal connections. In another example, Refugees on Rails helps get tech equipment and train refugees in the art of computer programming with a look towards Germany's projection of needs for high-skilled tech labor, while Junge Akademie, a TU Munich directed program, tandems with another organization, Buddies for Refugees to help talented refugee students. Start with a Friend, operating in in Berlin and nine other German cities matches 'tandem partners' with the hope of integrating refugees into the community and promoting social cohesion. Dozens of other mentoring projects have gained funding and are up and running in Germany, often with success (Bardin 2017; Lange et al., 2017).⁶⁰¹

Several studies support the positive impact of mentoring in Germany. Schlimbach (2010) finds a positive impact on employment in Germany from mentoring high school students,⁶⁰² while Kontos (2003)

⁵⁹⁹ Otto Benecke Stiftung. Bildungsberatung Garantiefonds Hochschulbereich. Last accessed February 26 2018 from <https://www.obs-ev.de/programme/foerderprogramm-garantiefonds/>.

⁶⁰⁰ https://www.incharge.jobs/assets/Haeufig_gestellte_Fragen.pdf

⁶⁰¹ Bardin, A. L. (2017). Integration of Immigrants with Different Cultural Background: the German Experience. *Polis. Political Studies*, 6(6), 169-177; Lange, M., Pfeiffer, F., & den Berg, G. J. (2017). Integrating young male refugees: initial evidence from an inclusive soccer project. *Journal for Labour Market Research*, 51(1), 6.

⁶⁰² Schlimbach, T. (2010). Intergenerational mentoring in Germany: Older people support young people's transitions from school to work. *Working with Older People*, 14(4), 4-15; Kontos, M. (2003). Self-employment policies and migrants' entrepreneurship in Germany. *Entrepreneurship & Regional Development*, 15(2), 119-135.

concludes that mentoring in Germany aids in self-employment, particularly entrepreneurial schemes. These results are in consonance with the broader European literature.⁶⁰³ The OECD has also chimed in recently. A 2017 study entitled *Finding their Way: labour market integration of refugees in Germany* finds that mentoring does have a positive effect on labour market integration but has not been used widely.⁶⁰⁴ The study proceeds to discuss several effective ‘mentoring for refugees’ projects in Germany, including *Land* in Brandenburg. It must be noted that while the OECD study notes the effectiveness of mentoring initiatives geared towards language learning and navigating the German bureaucracy, it also reiterates the need for larger-scale mentoring programs aimed at employment.⁶⁰⁵

The German population has likewise been receptive to initiatives open to all EU States, such as *Ment*, which promotes entrepreneurship through mentoring. Germans are then likely to be familiar with some type of mentoring initiative, whether as a participant, word of mouth, or through media. While this may be confused with broader integration programs, such as *Flüchtlingsintegrationsmaßnahmen*, a four-year initiative running until 2020 that aids refugees in finding temporary employment, the distinctions in popular media are often clearly delineated.⁶⁰⁶ Moreover, even without expert knowledge, there is some degree of implicit understanding that exposure with native speakers may reasonably lead to higher levels of linguistic proficiency (Long, 1996) and acculturation (Rotich, 2011).⁶⁰⁷ Mentoring may also convey effort to integrate and trainability, that latter which, as per signal theory, has been shown to increase the perception of employability (Di Stasio, 2014).⁶⁰⁸ As such, the baseline hypothesis argues that participating in a mentoring program will make an individual more desirable.

H₁ Mentoring will make an immigrant more desirable than an unmentored immigrant.

The question then turns to attributes that make an immigrant more or less desirable, and how those attributes are impacted by participation in a mentoring program.

⁶⁰³ Roycroft, K. (2014). *Mentoring for employment success: A review of the literature*. Manchester, UK: Manchester Metropolitan University, Faculty of Education, Community Audit and Evaluation Centre.

⁶⁰⁴ OECD. (2017). *Finding their way: labour market integration of refugees in Germany* p14. Last accessed 22 February 2019 from <https://www.oecd.org/els/mig/Finding-their-Way-Germany.pdf>.

⁶⁰⁵ *Ibid* p63.

⁶⁰⁶ Rietig, V. (2016). *Moving Beyond Crisis: Germany's New Approaches to Integrating Refugees Into the Labor Market*. Washington, DC: Migration Policy Institute p20-21.

⁶⁰⁷ Long, M. H. (1996). Authenticity and learning potential in L2 classroom discourse. *University of Hawai'i Working Papers in English as a Second Language* 14 (2); Rotich, J. (2011). Mentoring as a Springboard to Acculturation of Immigrant Students into American Schools. *Journal of case studies in Education*, 1.

⁶⁰⁸ Di Stasio, V. (2014). Education as a signal of trainability: Results from a vignette study with Italian employers. *European Sociological Review*, 30(6), 796-809.

5.3.1 Labour Market

In the Economics literature, perceived threat has been shown to affect labor market access (Schlueter et al., 2013).⁶⁰⁹ Realistic conflict theory (alternatively, group conflict theory) predicts that rational individuals will feel threatened by competition for scarce resources (Scheepers, 2002).⁶¹⁰ However, to maintain its pay-as-you-go pension system, Germany desperately needs workers (Horn and Schweppe 2015).⁶¹¹ It is no surprise then that for Germans, labor market participation is cited in 2016 Integration Barometer data as the most critical criterion to be integrated in German society (Expert Council, 2016), a point at odds with competition theory.⁶¹²

Factors perceived to expedite gainful employment should therefore make a migrant more desirable (Bleakly & Chin, 2004).⁶¹³ These are ‘education’, ‘ability to speak German’, ‘and having plans for work’ (Dumont et al., 2016).⁶¹⁴ To highlight the enabling role of education, language, and motivation, we also consider job experience. On the surface, job experience, while frequently signaling the ability to function in a particular occupation does not necessarily translate well into the German setting. Recent literature has shown that even asylum seekers with prior professional experience have required upskilling (Degler Liebig, and Senner, 2017) and additional licensure (Klingler & Marckmann, 2016).⁶¹⁵ It is therefore unclear whether having job experience would make a migrant more likely to integrate into the labor market.

H₂: Higher levels of education, concrete plans to find employment, pronounced motivation for employment, and having a command of the German language make an immigrant more desirable.

Now the analysis turns to the mitigating effects that mentoring could have upon labour market attributes. With regard to education, mentoring should improve desirability in one of two ways. First, many refugees are of university age or have chosen to return to school. Mentoring has often positively impacted educational outcomes, including for at-risk populations by bridging location-specific informational

⁶⁰⁹ Schlueter, E., Meuleman, B., & Davidov, E. (2013). Immigrant integration policies and perceived group threat: A multilevel study of 27 Western and Eastern European countries. *Social Science Research*, 42(3), 670-682.

⁶¹⁰ Scheepers, P., Gijsberts, M., & Coenders, M. (2002). Ethnic exclusionism in European countries. Public opposition to civil rights for legal migrants as a response to perceived ethnic threat. *European sociological review*, 18(1), 17-34.

⁶¹¹ Horn, V., & Schweppe, C. (Eds.). (2015). *Transnational aging: current insights and future challenges*. Routledge.

⁶¹² The Expert Council of Germans Foundations on Integration and Migration. (2016). *Many Gods, One State: Religious Diversity and Participation in Germany as an Immigration Country 2016 Annual Report with Integration Barometer Summary of the 2016 Integration Barometer*.

⁶¹³ Bleakley, H., & Chin, A. (2004). Language skills and earnings: Evidence from childhood immigrants. *Review of Economics and statistics*, 86(2), 481-496.

⁶¹⁴ Dumont, J. C., Liebig, T., Peschner, J., Tanay, F., & Xenogiani, T. (2016). How are refugees faring on the Labour Market in Europe? A first evaluation based on the 2014 EU Labour Force Survey ad hoc module. *European Commission DG Employment Working Paper*, (1).

⁶¹⁵ Degler, E., Liebig, T., & Senner, A. S. (2017). Integrating Refugees into the Labour Market-Where Does Germany Stand?. *ifo DICE Report*, 15(3), 6-10; Klingler, C., & Marckmann, G. (2016). Difficulties experienced by migrant physicians working in German hospitals: a qualitative interview study. *Human resources for health*, 14(1), 57.

asymmetries or providing emotional support (Rodríguez-Planas, 2012)⁶¹⁶. Secondly, lack of institutional knowledge gained at the school level may impact linguistic cues and behavioral expectations, both shown to affect uncertainty that interviewers face (Kogan, 2016).⁶¹⁷ Participation in a mentoring program is likely to allay these institutional effects.

The second attribute whose interaction is tested is German language acquisition. Mentoring programs (infra: ‘Mentoring in Germany’) have revealed consistent increases in German language proficiency. In turn, this would afford immigrants with increased opportunities to navigate the German labor market. Language levels should therefore be positively affected by participation in a mentoring program.

The third attribute tested, work experience, while not salient to migrant desirability without mentoring, should, based on social capital theories, be significant with mentoring. Social capital, the information, trust, and norms of reciprocity inherent in social structures, suggests that as a refugee is mentored, the mentee will guide and support them, frequently to include those with location-specific information. Such interactions have been shown to increase wages by facilitating job contacts, and increasing information flow (Scherger & Savage, 2010).⁶¹⁸ Mentoring programs in Germany, such as InCharge, have often succeeded in providing individualized support through building off a refugee’s prior experience. Social capital may in turn lead to prior job experiencing becoming valuable.

H_{2a}: Mentoring will mitigate the desirability difference of education and job experience.

5.3.2 Social Cohesion and National Identity

Recent studies have often downplayed the significance of individual-level economic explanations. Semyonov and colleagues (2004), for instance, studying the correlates of discriminatory attitudes towards foreigners in Germany, find that perceived size of the minority group is more significant in forming discriminatory attitudes about crime, housing, and employment than specific job-related concerns.⁶¹⁹ Tsukamoto and Fiske (2018) find that vulnerability to perceived value is related prejudice.⁶²⁰ While Hainmueller and Hopkins (2015) find that sociotropic concerns about cultural impact are more pronounced than economic factors in forming attitudes about immigrants; ethnicity and religion, in their study are often more potent catalysts towards forming discriminatory attitudes than job type or

⁶¹⁶ Rodríguez-Planas (n491).

⁶¹⁷ Kogan (n511).

⁶¹⁸ Scherger, S., & Savage, M. (2010). Cultural transmission, educational attainment and social mobility. *The Sociological Review*, 58(3), 406-428.

⁶¹⁹ Semyonov, M., Raijman, R., Tov, A. Y., & Schmidt, P. (2004). Population size, perceived threat, and exclusion: A multiple-indicators analysis of attitudes toward foreigners in Germany. *Social Science Research*, 33(4), 687.

⁶²⁰ Tsukamoto, S., & Fiske, S. T. (2018). Perceived threat to national values in evaluating stereotyped immigrants. *The Journal of social psychology*, 158(2), 157.

education.⁶²¹ Other studies have found a largely complementary role between non-economic and economic factors (Facchini, et al., 2013).⁶²²

Like many EU States, in Germany, labor market needs and humanitarian norms are countered by concerns over national identity. The recent surge in right-wing parties (e.g., AfD) are strongly grounded in fears that foreigners will upend German society and national identity. From where then do socio-cultural fears stem? Interestingly, a wealth of data, such as the 2016 Integration barometer, reveal that Germans found inter not intra-ethnic contact as generating optimism about coexistence, positive integration and breaking down prejudices (Expert Council, 2016).⁶²³ So, while Gorodzeisky and Semyonov (2015) have shown that racial prejudice increases negative attitudes towards immigrants, in the case of Germany, race and ethnicity are not salient markers.⁶²⁴

While ascribed features such as race should not be salient, this study hypothesizes that religion will. Evidence for bias against persecuted Muslims comes from Gerhards and colleagues (2016) who assess this prejudice as a projection of general concern that refugees will threaten German culture and core values.⁶²⁵ Their data reveals that respondents who felt that refugees undermine German's cultural and core values opposed admitting persecuted Muslims.⁶²⁶ Along similar lines, religion has been cited as a primary determinant in threat perception in several German federal states (Renner et al. 2018).⁶²⁷ Other studies have shown that the German population are able to distinguish between ethnicity and religion when forming attitudes about migrants (Czymara and Schmidt-Catran 2017).

H_{3A} Being a Muslim will make an immigrant less desirable than other religions.

There is also an expected significant effect based on the immigrant's gender. This is because the bias against Muslims is in many cases grounded in their perceived attitude towards women (Bruneau et al.,

⁶²¹ Evidence also exists that both high and low-skilled workers prefer high skilled workers regardless of substitutable or complimentary skills. That is, rather than varying by industry, preferences for refugees are determined by a respondent's individual characteristics (Hainmueller, Hiscox, & Margalit, 2015).

⁶²² Although when values and beliefs are accounted for, high risk of unemployment is correlated to negative attitudes about immigrants irrespective of the Swiss' level of education. Facchini, G., Mayda, A. M., & Puglisi, R. (2013). 5 Individual Attitudes towards Immigration. *Immigration and Public Opinion in Liberal Democracies*, 52, 129. Also, country of immigrant origin proved the most significant predictor of granting citizenship. Pecoraro, M., & Ruedin, D. (2017). *The Share of Foreigners in One's Occupation and Attitudes Towards Foreigners* (No. 17-06). IRENE Institute of Economic Research.

⁶²³ However, those who experienced discrimination had a less optimistic perception about the integration climate. Many Gods, One State: Religious Diversity and Participation in Germany as an Immigration Country 2016 Annual Report with Integration Barometer Summary of the 2016 Integration Barometer

⁶²⁴ Gorodzeisky, A., & Semyonov, M. (2015). Not only competitive threat but also racial prejudice: Sources of anti-immigrant attitudes in European societies. *International Journal of Public Opinion Research*, 28(3), 342.

⁶²⁵ Gerhards & Schupp (n16) p245.

⁶²⁶ Ibid.

⁶²⁷ Renner, W., Thomas, A., Mikulajová, M., & Newman, D. (2018). Threat Perception and Modern Racism as Possible Predictors of Attitudes towards Asylum Seekers: Comparative Findings from Austria, Germany, and Slovakia. *International Journal of Business and Social Research*, 7(12), 10-12.

2018) and homophobia in Muslim men (Reese & Jonas, 2014).⁶²⁸ Some of this bias may be related to the marital status of these men. Plener et al. (2017), for instance, discuss the possibility that German prejudice over accepting additional unaccompanied minors is founded on concerns about male refugees sexually harassing Germans.⁶²⁹ Events such as the Cologne 2015 New Year's Eve assault frequently articulated the Muslim male in predatory language, often suggesting further similar problems. These major events act as shocks to the system and have been shown to negatively impact public perception of immigrants (Czymara & Schmidt-Catran, 2017). Von Hermanni and Neumann (2018) support these conclusions. In their study evaluating attitudes towards immigrants, participants from Dresden who perceived refugees as threatening depended largely on the respondent's fear of refugee-related criminal activities.⁶³⁰ While this Chapter's dataset does not provide for insight into whether a male immigrant is married or unaccompanied, it is able to use the above studies to form a hypothesis at the intersection of religion and gender. Accordingly, bias against Muslims should be lower in Muslim women than in Muslim men.

H_{3B} Being a Muslim man will make an immigrant less desirable than being a Muslim woman.

Mentoring could allay some amount of undesirability faced by Muslim refugees, irrespective of gender. This is because ingroup-out group interactions promoted by authorities have been shown to reduce hostility (Bettencourt et al., 1992) and foster empathy Ellison et al., (2011).⁶³¹ This is true of religion, as well. In a recent study by Kanas and colleagues (2017) interreligious friendships between Christians and Muslims reduced negative attitudes towards the outgroup.⁶³² However, in their study, casual contact increased negative outgroup hostilities suggesting that the quality of interaction mediates the outcome of contact. Mentoring, in this regard, has been shown to promote meaningful interactions that impact interfaith understanding and mutuality between religions (Griffiths et al., 2009).⁶³³

⁶²⁸ Bruneau, E., Kteily, N., & Laustsen, L. (2018). The unique effects of blatant dehumanization on attitudes and behavior towards Muslim refugees during the European 'refugee crisis' across four countries. *European Journal of Social Psychology*, 48(5), 645-662; Reese, G., Steffens, M. C., & Jonas, K. J. (2014). Religious affiliation and attitudes towards gay men: On the mediating role of masculinity threat. *Journal of Community & Applied Social Psychology*, 24(4), 340-355.

⁶²⁹ Plener, P. L., Groschwitz, R. C., Brähler, E., Sukale, T., & Fegert, J. M. (2017). Unaccompanied refugee minors in Germany: attitudes of the general population towards a vulnerable group. *European child & adolescent psychiatry*, 26(6), 739. See also Bielicki (2018) for a discussion on the German media and portraying predatory activities of male refugees. Also: Bielicki, J. (2018). Cologne's New Year's Eve Sexual Assaults: The Turning Point in German Media Coverage. In *Refugee News, Refugee Politics* (pp. 184-190). Routledge.

⁶³⁰ von Hermanni, H., & Neumann, R. (2018). 'Refugees welcome?' 'The interplay between perceived threats and general concerns on the acceptance of refugees—a factorial survey approach in Germany. *Journal of Ethnic and Migration Studies*, 1-26.

⁶³¹ Bettencourt, B. A., Brewer, M. B., Croak, M. R., & Miller, N. (1992). Cooperation and the reduction of intergroup bias: The role of reward structure and social orientation. *Journal of Experimental Social Psychology*, 28(4), 301; Ellison 2011 (n526).

⁶³² Kanas, A., Scheepers, P., & Sterkens, C. (2017). Positive and negative contact and attitudes towards the religious out-group: Testing the contact hypothesis in conflict and non-conflict regions of Indonesia and the Philippines. *Social science research*, 63, 95-110.

⁶³³ Griffiths, M., Sawrikar, P., & Muir, K. (2009). Culturally appropriate mentoring for Horn of African young people in Australia. *Youth Studies Australia*, 28(2), 32.

H_{3c} Mentoring will reduce the undesirable effect of being Muslim.

Here, the German voter is disaggregated in order to form the final sub-hypothesis. In recent years, Germany –like many other Western countries – has experienced a rise of far-right politics. In Germany, there are regional variations in the support for anti-Muslim agendas, such as those of the far-right party AfD, which was formed specifically as a reaction to the influx of Muslim and Arabic-speaking refugees. In the 2017 national elections, support for AfD was about twice as large in Eastern German federal states (i.e., states that belonged to the former German Democratic Republic) compared to Western federal states. In this analysis, regional variations in Muslim desirability are expected to depend on concentration of AfD support.

H_{3D} Being a Muslim will make a migrant less desirable in federal states with high AfD support compared to states with low AfD support.

Because religion and country of origin intersect, in our empirical analyses we also explore to what extent country of origin relates to migrant desirability. On the one hand, being from a predominantly Muslim country might make migrants less desirable because people might use country of origin as a proxy for religion (e.g., most Syrians are Muslims). On the other hand, in this study, respondents receive information on both the migrant's country of origin *and* religion (e.g., migrant is from Syria and a Christian), which means that respondents do not need to infer religion from country of origin. Given these contrasting predictions, the analyses of country of origin remain exploratory. However, including country of origin enable a more rigorous test of Hypotheses H_{3A-C}, because it is possible to distinguish immigrant desirability that is driven by preferences for specific religions from preferences for specific countries of origin.

5.3.3 Norm-driven attributes

Mentoring programs, and integration programs more generally, target not only humanitarian migrants, but those who have come for family reunification or economic reasons. Research from the Political Psychology canon has explored whether type of migrant leads to immigration-related prejudice (Ryan 2017).⁶³⁴ Often, economic migrants are perceived as coming 'illegally' or for 'illegitimate' non-humanitarian reasons. A similar conclusion has come from economic-oriented studies measuring public attitude towards illegal and legal migration (Hatton 2017).⁶³⁵ Mentoring programs that have mixed participants might not make a refugee more desirable unless it is clear that the mentee is an actual refugee

⁶³⁴ Ryan, T. J. (2017). No compromise: Political consequences of moralized attitudes. *American Journal of Political Science*, 61(2), 409-423.

⁶³⁵ Hatton, T. (2017). *Public Opinion on Immigration in Europe: Preference versus Salience* (No. 10838). Institute for the Study of Labor (IZA).

or asylum seeker. In other words, humanitarian migrants with a clear moral-grounded reason for entering Germany should allay some of the negative effects experienced by purely economic migrants. In support of this is data from the March 2016, German Socio-Economic Panel's (SOEP) 'Barometer of Public Opinion on Refugees in Germany revealing that while norm commitments to international law are high: over 80 percent of respondents wanted to offer safe haven to those fleeing persecution.⁶³⁶

H₄: Being a humanitarian immigrant will increase desirability over an economic immigrant.

5.4 Methods and Results

Methods

The empirical design is a choice-based conjoint design inspired by Hainmueller and Hopkins (2015). It measures the opinions of the German host population towards the characteristics of potential immigrants by presenting multiple characteristics which must be judged aggregately. Hainmueller, Hangartner, and Yamamoto (2015) find that conjoint designs may closely align structural effects with real-world preferences.⁶³⁷ The conjoint analysis in this paper aims to tease out perceptions of the host population towards mentoring as an integration mechanism and reveal which migrant attributes are most salient for the local population.

Research Design

Ten attributes are included, each with several levels (e.g., gender is an attribute, and levels within the attribute of gender are "male" and "female"). The first eight levels are verbatim from Hainmueller and Hopkins (2015): (1) country of origin ("Sudan", "Afghanistan", "Syria", "Eritrea", "Nigeria", "Pakistan", "Serbia", "Kosovo"); (2) gender ("male", "female"); prior visits to Europe ("never", "once as a tourist", "many times as a tourist", "business trips"); (3) employment ("waiter", "construction worker", "teacher", "doctor" "IT", "gardener", "student") (4) language capacity ("broken German", "tried German but was unable to speak", "fluent German", "used interpreter") (5) education ("no formal", "finished 4th grade", "finished 8th grade", "high school", "university or college", "doctorate") (6) reason for migrating ("humanitarian", "family reunion", "economic", "seek better job") (7) employment plans ("contract with employer", "interviews with employer", "will look for work", "no plans to look for work"); (8) job experience ("none", "1-2 years", "3-5 years", "5+ years") Two additional attributes (9) religion ("Atheist",

⁶³⁶ DIW. German Socio-Economic Panel's (SOEP) 'Barometer of Public Opinion on Refugees. 28 April 2017.

⁶³⁷ Hainmueller, J., Hangartner, D., & Yamamoto, T. (2015). Validating vignette and conjoint survey experiments against real-world behavior. *Proceedings of the National Academy of Sciences*, 112(8), 2398.

"Muslim", "Christ", "Other") and (10) will participate in a mentoring program with a local mentor ("no", "yes") are also included.

Randomization and Sampling

The conjoint design was distributed through the online survey tool platform Qualtrics. Respondents were recruited randomly through social media, accounting for geographic basis. Migrant profiles were randomly generated given a range of restrictions to make the migrant profiles more realistic.⁶³⁸

Respondents were presented two randomly generated migrant profiles at a time, and asked the following question “If it was up to you, which of the two migrants should be allowed to live in your municipality?” Each respondent went through five of these selection tasks, meaning that they saw a total of ten migrant profiles. After each choice, the respondent had to rate both Migrant 1 and Migrant 2 on a sliding scale of one to seven.⁶³⁹ The final data set consisted of 3,610 migrant profiles rated by 361 respondents. Nine respondents did not fill out the entire conjoint resulting in their answers being excluded. The final sample for analysis consisted of 352 respondents. Descriptive statistics of respondents are displayed in Table 4.

⁶³⁸ The restrictions fell under two categories. The first ensured that respondents would be presented with realistic choices. So professions that required education (doctors, teachers, IT workers) were barred from being matched with levels of education below a college degree. The same was true for job experience: the aforementioned professions could not have ‘no work experience’. The second category was aimed to disentangle religion from race. No Serbs could be Muslim and no Kosovars could be Christian.

⁶³⁹ The exact questions are as follows: “Bitte stufen sie Migrant 1 auf einer Skala von 1 bis ein.1 bedeutet, dass Migrant 1 definitiv in Deutschland akzeptiert werden sollte, und 7, dass Migrant 1 definitiv abgelehnt werden sollte.”; “Bitte stufen sie Migrant 2 auf einer Skala von 1 bis ein.1 bedeutet, dass Migrant 2 definitiv in Deutschland akzeptiert werden sollte, und 7, dass Migrant 1 definitiv abgelehnt werden sollte.”

Table 4: Descriptive Statistics of Respondents

Respondent Attribute	<i>Frequencies</i>	Respondent Attribute	<i>Frequencies</i>
Gender		Migration background	
Woman	226	Both parents German	329
Man	142	Not both parents German	39
Age (years)		Religion	
18-22	46	Atheist	155
23-30	114	Christ	156
31-40	96	Muslim	14
41-55	88	Other	43
56-70	22	Education	
71+	20	No secondary education	33
Nationality		Secondary education	148
German	334	Completed Bachelors	91
EU-citizen	24	Completed Masters	92
No EU-citizen	10	Employment	
Federal state of residence		Full-time	255
Baden-Württemberg	39	Part-time	79
Bavaria	89	Unemployed	33
Berlin	20	Other	10
Brandenburg	23	Job	
Bremen	4	IT	32
Hamburg	5	Construction worker	3
Hesse	37	Doctor	12
Mecklenburg West. Pomerania	9	Student	95
Lower Saxony	19	Teacher	18
North Rhine-Westphalia	58	Waiter	5
Rhineland-Palatinate	9	Unemployed	8
Saarland	10	Other	195
Saxony	19		
Saxony-Anhalt	15		
Schleswig Holstein	17		
Thuringia	4		

Note: $N = 352$

5.5 Results

The data were analyzed in R using the conjoint-package (version 2.0.6) which was specifically written to estimate Average Marginal Component-specific Effects (AMCE) and Average Component Interaction Effects (ACIE) in conjoint experiments (Hainmueller, Hopkins, and Yamamoto, 2014).⁶⁴⁰ AMCE refer to the main effects of different attribute levels on the probability of being selected as a migrant who is granted permission to live in the respondent's municipality. ACIE refer to interaction effects between immigrant attributes and interaction effects between migrant attributes and respondent characteristics. As in regular logistic regression analyses, the effects of categorical variables are interpreted against a reference attribute level. The results are presented in Figures 21 and 22. Figure 1 displays the probability of being selected as the preferred migrant to live in the respondent's municipality predicted by migrant attributes. The dots represent point estimates of the probability of being selected compared to the respective reference category. The bars around the dots represent 95% confidence intervals. If error bars do not overlap, then the estimated probabilities are significantly different.

Mentoring

The first hypothesis stated that a mentored immigrant is more desirable than an unmentored immigrant (H_1). Support was found for this hypothesis. Those who will participate in a mentoring program with a local had a 5.13% higher probability of being selected compared to those who will not receive mentoring (see Figure 21).

Discrimination Based on Employability

The second hypothesis stated that characteristics redolent of employability (education, work plans, language skills) would make an immigrant more desirable. This was confirmed. Compared to those who did not have any formal education, those who had a high school degree were 22.47% more likely, those who had a university or college degree were 31.38% more likely, and those with a doctorate degree were 28.63% more likely to be chosen. The difference between no formal education and having finished either 4th or 8th grade was not statistically significant.

Similar results were found for work plans and language skills. Compared to those who already have a contract with an employer, those who had no concrete working prospects were less likely to be chosen. Those who already had a contract with an employer were 9.73% more likely to be selected than those who only had interviews with an employer, and 11.47% more likely than those who will look for work. Those who had no plans to look for work were the least likely to be chosen, namely 14.35% less likely

⁶⁴⁰ Hainmueller et al. (2015) (n637).

than those who already had a contract, however, this effect was not statistically significant. The large 95% confidence interval around the point estimate of those who had no plans to look for work suggests that there was a lot of variation with regard to whether no plans to look for work made an immigrant less desirable. On the language front, compared to those who used an interpreter, broken German speakers were 9.23% more likely to be chosen, and those who spoke fluent German were 17.87% more likely to be chosen. There was no statistically significant difference between those who spoke with an interpreter and those who tried speaking German but were unable to.

The analysis further explored another characteristic, job experience, that suggests employability. Results show that those who had 1-2 years, 3-5 years, or more than 5 years of experience were not more desirable compared to those who have no job experience. This is in line with Eurobarometer opinion polls and reports about the German labor market showing upskilling has typically been required for most refugees regardless of their previous experience. If training would be expected, then additional work experience should have a negligible effect, and this might explain the null finding.

Discrimination Based on Religion and Origin

With regard to religious discrimination, findings reveal that religious refugees were generally less desirable than atheist refugees. In line with H_{3A} , Muslims were the least desirable, namely 5.5% less desirable compared Atheists, other religious refugees were 4.88% less desirable. Christians were 3.12% less desirable than Atheists, however this effect was not significant. Further, the analysis then tested whether being a Muslim male makes a migrant less desirable than being a Muslim female (H_{3B}). To this end, an interaction term was added for the interaction between gender and religion. Results are presented in Table 5 (Model 1). Similar to the previous analysis, a significant and negative main effect of being Muslim was found. Moreover, being a man makes a refugee 9.2% less desirable than being a woman. However, none of the interaction effects between gender and religion were significant. This suggests that even though being male or Muslim is seen as less desirable, there is no additional penalty for being both.

Finally, it was tested whether being a Muslim makes a migrant less desirable in federal states with high AfD support compared to states with low AfD support (H_{3C}). Based on the results of the 2017 federal elections in Germany, the analysis compared federal states that showed the most support for the right-wing political party AfD (above 12%) to federal states with medium support (8-12%) and federal states with low support (below 8%). These cut-off points were selected to create categories that are relatively even in size. Results are presented in Table 5 (Model 2). Religion of refugees did not play a role in states with low support for AfD. In states with medium support for AfD, Muslim refugees were 13.6% less

likely to be selected compared to Atheists. And in states with high support for AfD, Muslims were 15.4% less likely to be selected compared to Atheists. These results lend support to Hypothesis H_{3C}.

Table 5: Interaction Effects of Religion and Gender (Model 1) and Interaction effects between Religion and Support for Far-Right Political Party AfD (Model 2)

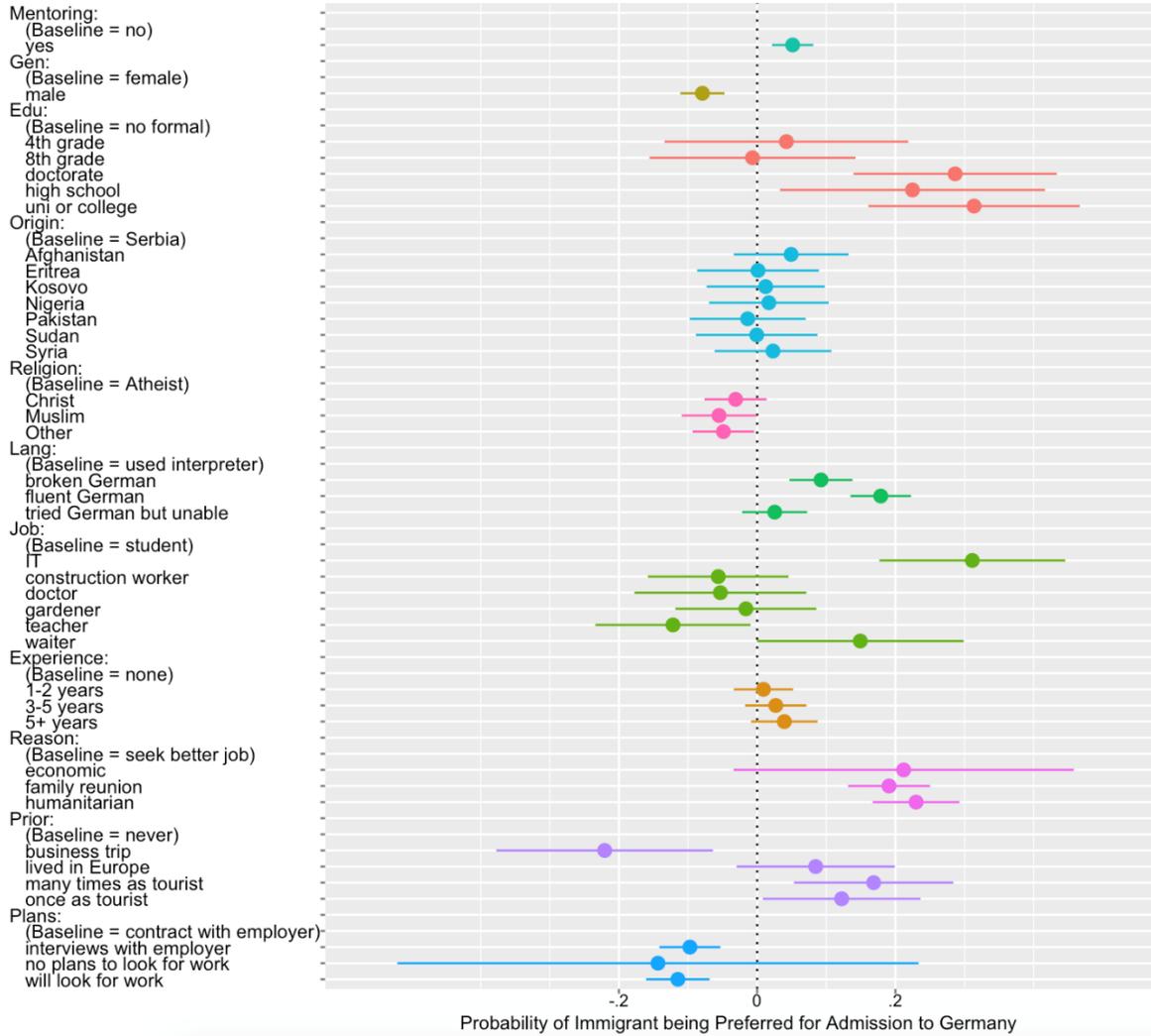
	Model 1 (testing H _{3B})	Model 2 (testing H _{3C})
Ref: Woman		
Man	-.092*** (.018)	
Ref: Atheist		
Christian	-.033 (.023)	-.031 (.023)
Muslim	-.054* (.026)	-.056* (.027)
Other	-.049* (.023)	-.049* (.022)
Man x Christian	.034 (.044)	
Man x Muslim	-.003 (.05)	
Man x Other	.063 (.046)	
Low AfD support x		-.023
Christian		(.038)
Low AfD support x		-.009
Muslim		(.042)
Low AfD support x		.007
Other		(.035)
Medium AfD support x		-.012
Christian		(.038)
Medium AfD support x		-.080 ⁺
Muslim		(.044)
Medium AfD support x		-.095**
Other		(.037)
High AfD support x		-.094 ⁺
Christian		(.053)
High AfD support x		-.098 ⁺
Muslim		(.058)
High AfD support x		-.070
Other		(.047)

Note: Standard errors in parentheses. ⁺ $p < 0.10$, * $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$. All models presented are adjusted for main effects of all remaining refugee attributes.

Exploratory Analyses

Considering the exploratory analyses, no evidence was found that being from a non-European country was related to immigrant desirability (figure 21). Specifically, the desirability of immigrants from Serbia did not differ from the desirability of immigrants from Afghanistan, Eritrea, Nigeria, Pakistan, Sudan and Syria. Similarly, immigrants from these non-European countries were not less desirable than migrants from Kosovo and Serbia. This was likewise the case when interacting country of origin with AfD vote by federal states. To test whether there was racial discrimination, the analysis compared the combined effect of being from Serbia or Kosovo to the combined effect of the African and Arabic country and found no evidence of racial discrimination.

Figure 21: Probability of Being Chosen as the Preferred Migrant predicted by Migrant Attributes



Discrimination Based on Norms

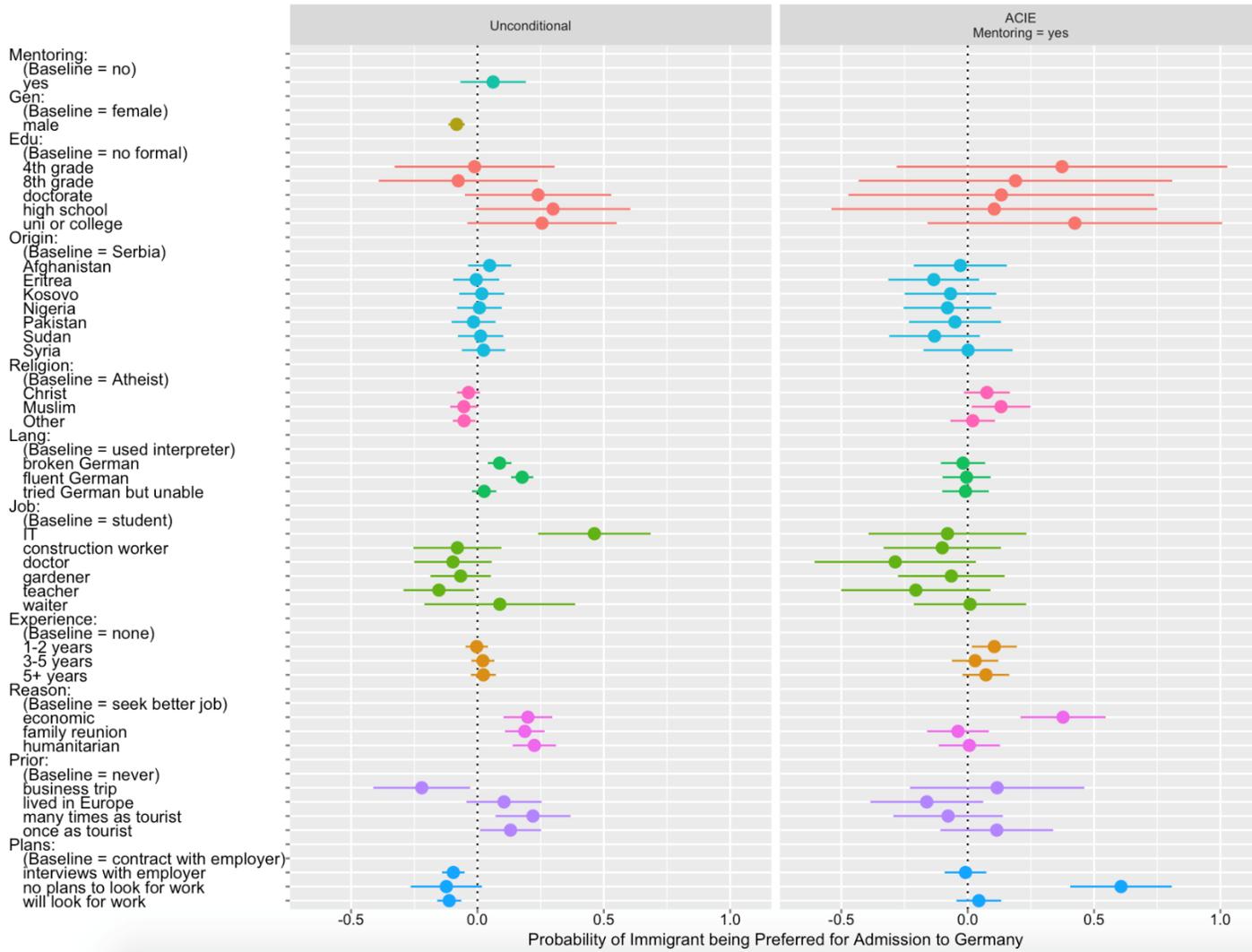
Next, the analysis tested whether being a humanitarian migrant increased desirability over being an economic migrant (H_4). Those who came for humanitarian reasons were 22.99% more likely to be chosen than those who came to seek a better job. Those who came for economic reasons were not statistically different in their desirability compared to humanitarian immigrants. However, it is worth noting the large confidence intervals for those who came for economic reasons, which again suggests that there was little consensus among respondents as to whether refugees who come for economic reasons are desirable.

Mentoring Interaction Effects

Finally, to what extent the effects of other migrant attributes could be mitigated by mentoring was tested. To this end, mentoring was interacted with all other migrant characteristics. Figure 22 displays the results in a graph. While the main effects showed several significant benefits of employability, interacting mentoring with these characteristics revealed a different picture. Many characteristics pointing to employability were no longer beneficial once immigrants participated in mentoring programs (H_{2a}). Specifically, desirability was no longer different for immigrants with different education or language levels. Immigrants with no pronounced motivation for employment were no longer at a disadvantage if they also participated in a mentoring program. Surprisingly, among those who received mentoring, having no plans to look for work made migrants 61% more desirable compared to having a contract with an employer. This counter-intuitive finding is discussed in the discussion section.

Finally, whether mentoring made a Muslim immigrant more desirable (H_{3c}) was tested. While Muslims were previously shown to be less desirable than immigrants of other religions, this pattern was reversed for Muslim immigrants who participated in a mentoring program. Among mentored respondents, they were the most desirable religious group, namely 13% more desirable than atheists. Among those mentored, none of the other religious groups significantly differed from one another.

Figure 22: Interaction Effects of Migrant Attributes and Participation in a Mentoring Program on Probability of Being Preferred for Admission



5.6 Discussion & Conclusion

The aim of Chapter V was to test how particular immigrant attributes interfaced with the German population's notion of a desirable immigrant. It also tested whether participation in a mentoring intervention tempered the effects of these attributes.⁶⁴¹ The results confirmed several predictions from the literature, while falsifying others.

Confirming the labor market hypothesis, Germans' concerns to integrate immigrants into the labor market (represented by language, education, and work plans) was a decisive factor in desirability, and consistent with public opinion polls and recent scholarship (e.g., Heckman 2016), characteristics redolent of employability were valued. However, work experience did not resonate in the German market where upskilling was common among even qualified and experienced refugees.⁶⁴² Mentoring, as expected, mitigated the effects of language, and education, but not work plans. The first two are attributed to the informational symmetries that mentoring helps bridge, as well as the social capital it fosters. Why work plans were not affected –immigrants who had plans to work did no better when mentored– may be due to negative signaling of a motivated work still needed to participate in a state-sponsored integration initiative. Signal Theory suggest that willingness to enter into employment skills-enhancing initiatives, and more generally, integration programs, transmits positive signals to employers conducting interviews under imperfect information (Ermini et al., 2017). However, respondents might be skeptical over whether somebody already possessing the necessary qualifications and motivation would need additional human resources.

These aforementioned results suggest that a mentoring intervention in Germany might focus on inter-specialization matching to allay the negative signaling effect, and boost domain-specific social capital. Such programs have already proved successful on a local level. Sales Force and Buddy Force, for example, have documented success in matching refugees to with mentors in the same area of employment.⁶⁴³

⁶⁴¹ While there is not a flawless link between public perception of desirability and ability to integrate, the two are connected by a clear logical thread. Populations hosting refugees, typically perceive integration as of primary importance; therefore, refugees who are perceived to integrate better are perceived as more desirable. Still, there is no one-to-one link between desirability and integration and so any firm statements connecting the two should be met cautiously.

⁶⁴² Heckmann, F. (2016). Understanding the Creation of Public Consensus: Migration and integration in Germany, 2005 to 2015. Migration Policy Institute.

⁶⁴³ Salesforce. Refugee Integration. Last accessed 21 June 2017 from <http://www.salesforce.org/get-little-help-friends-buddyforce-helps-refugees-integrate-german-society/>.

In the domain of social cohesion and national identity, there were no significant differences in the desirability of migrants coming from non-European countries compared to European countries. This was to be expected given that the history of parallel societies in Germany, and more generally, failure to integrate, has not been related to race (Funk 2016).⁶⁴⁴ On the other hand, religion was a salient marker: Muslims were less likely to be deemed desirable. The bias against Muslims was especially prominent in Federal States with high concentrations of far-right voters. This may mean that, rather than focus on allaying the concern of the German population over ascribed markers, focusing on inter-religious mentor-mentee matches or local interfaith would be more effective. Inter-faith mentoring has shown notable success in Australia, for instance, Iftiin, a program between Somali Muslims and Jewish civil society; other instances of culturally appropriate mentoring have proven successful (Griffiths, 2009).⁶⁴⁵ A similar paradigm might be applied in Germany, particularly in areas of high AfD concentration.

5.7 Limitations and Future Research

As with most preference-based questionnaires, external validity is a concern. Even the best-crafted conjoint experiment remains a measure of stated preferences. This limits the findings in two ways: first, it is unclear to what extent the stated preferences translate to actual, observable behaviors. Research shows that attitudes do not directly translate to behaviors in part because behaviours are often contextually dependent, meaning that respondents might very well behave differently in another context (i.e., in their own neighbourhood instead of a survey).⁶⁴⁶ With anticipatory predictions, this analysis does not test for the type of contact, which may be critical towards whether an intervention will yield positive results (Barlow et al. 2012).⁶⁴⁷ Second, this study is unable to account for social desirability. Since respondents' choices have no real-life consequences, it is unclear to what extent respondents adjusted their stated preferences to align more with a socially desirable answer. Especially in the context of Germany's recent refugee influx, German respondents may have felt the pressure to reproduce the image of Germany as a welcoming country.

Lastly, competition threat theory suggests that workers will discriminate against immigrants who share the same profession. However, while labor competition was computed in an exploratory analysis, Chapter V avoided forming a hypothesis for several reasons. Not only is the support for labor competition highly

⁶⁴⁴ Funk, N. (2016). A spectre in Germany: refugees, a 'welcome culture' and an 'integration politics'. *Journal of Global Ethics*, 12(3), 289-299.

⁶⁴⁵ Griffiths (n633).

⁶⁴⁶ Paolini, S., Harwood, J., & Rubin, M. (2010). Negative intergroup contact makes group memberships salient: Explaining why intergroup conflict endures. *Personality and Social Psychology Bulletin*, 36(12), 1723-1738.

⁶⁴⁷ Barlow, F. K., Paolini, S., Pedersen, A., Hornsey, M. J., Radke, H. R., Harwood, J., ... & Sibley, C. G. (2012). The contact caveat: Negative contact predicts increased prejudice more than positive contact predicts reduced prejudice. *Personality and Social Psychology Bulletin*, 38(12), 1629-1643.

controversial in the literature, but whence applied to the German case, no generalizable hypothesis is evident. Germany has a relatively low unemployment rate (3.6% in 2017) suggesting that competition might not be generalizable across professions. Tidbits gleaned from the labor market literature are likewise unhelpful. For example, that higher educated graduates entering the market for analytical jobs in Germany have experienced a decline in employment shares, as well as a decline in starting wages and wage growth for those with higher education (Reinhold and Thomsen, 2017) does not translate into IT workers discriminating or challenging migrants for IT jobs.⁶⁴⁸ Secondly, immigrants receive 15% lower wages than Germans with an explained gap of only 5% (Ohlert et al., 2016).⁶⁴⁹ This may mean that higher earnings employees won't be threatened with low wage earners. On the other hand, it could also mean that glutted professions will feel increased competition from being undercut by low salary earning migrants.⁶⁵⁰ The literature likewise reveals a wide variance between specific groups (Murillo-Huertas and Simón, 2017; Lehmer and Ludsteck, 2011; Bartolucci, 2014), wage settings, and relationships with firm profits.⁶⁵¹

As expected, the exploratory analysis did not uncover any systematic evidence of threat between professions. For example, compared to IT specialists, construction workers, gardeners, students and waiters were seen as less desirable. In order to explore to what extent, the effect of a migrant's job depends on a respondent's job, interaction effects were estimated between migrant and respondent jobs. Respondents who were IT specialists themselves, did not have a preference for IT specialists over other professions, and they did not display a preference for any other migrant job. The same was true for respondents who were construction workers. Respondents who were doctors, found migrant doctors significantly less desirable than IT specialists who were the reference group. Respondents who reported to work in the job category "other" significantly disliked construction workers and waiters over IT specialists. Those respondents who were waiters, significantly preferred migrant doctors and teachers. Unemployed respondents preferred migrant students and teachers. Respondents who were students

⁶⁴⁸ University graduates from both regular and applied science institutions (*Fachhochschul*), as opposed to those with vocational and apprenticeship training as well as those without formal qualifications. Reinhold, M., & Thomsen, S. (2017). The changing situation of labor market entrants in Germany. *Journal for Labour Market Research*, 50(1), 161.

⁶⁴⁹ Ohlert, C., Beblo, M., & Wolf, E. (2016). Competition, Collective Bargaining, and Immigrant Wage Gaps Within German Establishments. *Wage Inequality in Germany and the Role of Organisations*, 87.

⁶⁵⁰ In fact, Becker's assertion that increased competition reduces wage differentials (Becker 1971) has been supported in several recent studies (Ludsteck, 2014; Schäfer & Gottschall, 2015; Berson, 2016) with the implication that the labor market competition hypothesis might be location specific.

⁶⁵¹ Murillo-Huertas, I. P., & Simón, H. (2017). Immigrant Relative Wages at the Great Recession: Evidence with Matched Employer-Employee Data for Spain. *Bulletin of Economic Research*, 69(1), 77-107; Lehmer, F., & Ludsteck, J. (2011). The immigrant wage gap in Germany: Are East Europeans worse off?. *International migration review*, 45(4), 872-906; Bartolucci, C. (2014). Understanding the native-immigrant wage gap using matched employer-employee data: evidence from Germany. *ILR Review*, 67(4), 1166-1202.

significantly disliked migrant doctors, as well as migrant construction workers and waiters. In short, no robust trend supported by the literature was found.

The lack of intra-specialization competition is a critical component in the mentoring integration narrative. It allows for domain-specific knowledge to be passed on through an integration program without excessive risk of a backlash. The lack of competition is attributed to two pathways. The first, that migrants earn significantly less than their German counterparts. So, where there are no location-specific occupational shortages migrants would intuitively be welcome to contribute to the ailing pension system. This would especially be the case if the migrant was an asylum seeker. The second pathway was type of migrant. Whether an asylum seeker, family member, or economic migrant impacted on whether a migrant was desirable based on occupation. This suggests that in most situations, humanitarian norms take precedence over labour competition concerns and that a mentoring program should focus on the norm-based side of the integration mechanism.

This leads to the normative point of scale. Who is to be responsible for ensuring that a mentoring integration program is successful? Is guardianship a State-level responsibility? Supranational? Should a sub-regional level entity oversee implementation? Or is it simply a matter of States transposing EU directives without oversight? Lack of clarity presents a dilemma: despite integration remaining a national competency, intra-EU labour mobility means ineffective integration within one EU State may spill over to neighboring countries. Moreover, in addition to accounting for spillovers, a successful mentoring program would need to address the main barriers towards effectiveness: lack of steady resources (Fernandes-Alcantara, 2017), ineffective program design (i.e., training, matching) (Crisp, 2009), barriers to institutional access (Givens et al., 2005) and lack of mentor commitment (Strauss et al., 2013).⁶⁵²

Taking into account the potential for negative spillovers, the abovementioned barriers to successful implementation, Chapter V argues for a mentoring integration effort coordinated at the supranational level. Supranational coordination will help ensure consistent funding,⁶⁵³ Union-wide measurable outcomes, and the ability to tie integration into refugee intake strategies at the supranational level. Still, a such an approach validated at the theoretical level through a fiscal federalism reading of internalizing

⁶⁵² Fernandes-Alcantara, A. (2017) Congressional Research Service. 7-5700; Vulnerable Youth: Federal Mentoring Programs and Issues. Girves, J. E., Zepeda, Y., & Gwathmey, J. K. (2005). Mentoring in a post-affirmative action world. *Journal of Social Issues*, 61(3), 449-479; Crisp, G. (2009). Conceptualization and initial validation of the College Student Mentoring Scale (CSMS). *Journal of College Student Development*, 50(2), 177-194; Straus, S. E., Johnson, M. O., Marquez, C., & Feldman, M. D. (2013). Characteristics of successful and failed mentoring relationships: a qualitative study across two academic health centers. *Academic medicine: journal of the Association of American Medical Colleges*, 88(1), 82.

⁶⁵³ Article 79(4) TFEU allows for incentives and support at the European level for integration programs, which will allow for preplanned budgets, less reliance on individual project managers or subject to less external interference. Lack of funding at the national level has emasculated several integration programs i.e. the Dutch Common Integration Agenda.

spillovers from ineffective integration (Genschel, P., & Jachtenfuchs, 2018) is not without its drawbacks. One of the central criticisms of supranational-driven initiatives has been insensitivities to local preferences.⁶⁵⁴ This has been shown in a number of studies, notably, Besley & Coate (2003) and suggests a de-centralized, not centralized approach.⁶⁵⁵ Top-down directives transposed nationally could miss on-the-ground institutional knowledge and information about preferences, both critical to addressing location-specific integration needs. Within a Brussels-driven mentoring initiative, considerable latitude must therefore be provided at national, regional, and local levels. Rather than harmonization the needs and perceptions of the host population must be satiated.

In the context of tailoring a supranational-directed initiative, countering the location-specific private information that frequently plagues centralized distribution of goods, requires accounting for the perception of the host population that a mentoring program will help make a refugee integrate successfully and which immigrant traits are more or less amendable to integration in that particular area. However, given that not all the attributes improved when interacting with mentoring (i.e., reasons for migration) mechanism design may have tailor each integration program country or region-specifically.

5.8 Conclusion

While the Political Economy literature provides a wealth of research analyzing the *ex ante* decision-making process for allocating centralized goods and services, before designing a centralized integration mechanism, public opinion should be considered. Public opinion has become increasingly important to how policymakers address migration policy. Perception of which traits make a migrant more likely to integrate may impact choice of policy and its implementation. In this study, a mentoring intervention using local mentors and location-specific information shows the capacity to sway public opinion towards making a migrant more desirable. States and refugees must transpire within local institutions and program entrepreneurship must address the diversity of needs of heterogeneous target populations.⁶⁵⁶ This will allow the EU to move beyond soft coordination without overreaching its competencies or micro-managing implementation.

⁶⁵⁴ Genschel, P., & Jachtenfuchs, M. (2018). From market integration to core state powers: the Eurozone crisis, the refugee crisis and integration theory. *JCMS: Journal of Common Market Studies*, 56(1), 178-196.

⁶⁵⁵ Besley, T., & Coate, S. (2003). Centralized versus decentralized provision of local public goods: a political economy approach. *Journal of public economics*, 87(12), 2611-2637.

⁶⁵⁶ A well-designed mentorship program will allow the EU to move beyond soft coordination without overreaching its competencies or micro-managing implementation.

Chapter VI: Conclusion

There are no quick fixes. No snake elixirs or miracle cures that will stop the flows of refugees to Europe. Being a systemic problem, persecution requires addressing roots: poverty as a root of war, intolerance as a root of violence, smuggling routes, and an increasingly sophisticated migration. While many EU Member States have slowly adapted to address these roots, future crisis with new actors and different innovative ways to reach Europe are very real possibilities. The European Union needs to be prepared for shocks to its asylum system. It was woefully unprepared for surges in asylum seekers from the Syrian civil war, unrest in the East African Horn, and fallout from conflict in North Africa.

Despite EU governments taking meaningful and significant measures to improve their asylum systems future surges may still overwhelm intake centers, labour markets, and lead to negative public opinion. As we have seen, public opinion frequently nudges local politicians to make reforms at the national and supranational level. This includes deterring or outright refusing to host those in need of protection. These decisions threaten to break with international human rights law norms and narrow the scope of protection for those fleeing persecution.

Returning to the research question posed at the introduction: how can institutional solutions to refugee allocation and integration bring social and economic forces into equilibrium with the law? The first institutional solution offered involved allocation. In order to maximize social welfare, EU States must have control over how many individuals are absorbed into on their territory. Assigning costs and benefits to protection guides allocation and is part of their sovereign preference. Subsumed beneath the word *sovereignty* are a gamut of economic, cultural and societal concerns that may prevent States from maximizing their social welfare if they cannot limit the amount of asylum seekers entering their territory. The answer then lies in a mechanism able to account for how States perceive the costs and benefits of protection, yet does lead to a suboptimal level of protection.

The institutional solution offered by this dissertation to efficiently allocate protection was an EU-OIC protection market. The market mechanism enables EU States to protect without hosting greater than their preferences dictate. Such a mechanism disincentivizes freeriding, misrepresenting preferences for hosting, or making claimant determinations stricter: the so-called race to the bottom in asylum claim standards. While the Organisation of Islamic Cooperation may seem to many as an unreliable partner –in the past they have proven inconsistent in peacekeeping operations and calls for unconditional non-violence– still, the OIC counts as its Member States the majority of refugee-producing and refugee-transiting countries. Its inclusion provides an opportunity for Global South actors to coordinate asylum applications, effectuate

lower transaction costs, increase deterrent measures, and increase safety for those preparing perilous land and seaborne journeys.

Refugee transfers may be efficient from an economic point of view, but there remain multi-layered concerns about its legality. Quality of protection, reifying human beings, and monitoring safety and dignity count as the primary human rights issues. Potential transaction costs associated with legal challenges could make such a market unfeasible. Chapter III addressed these challenges through both refugee law and case law involving human dignity. Its legal analysis revealed that the key to preventing dignity-grounded violations weighs heavily in the design mechanism phase. Firstly, autonomy must be provided to refugees insofar as it is possible. In particular, this applies to the matching mechanism. EU and OIC States whose domestic laws debilitate the autonomy of those adhering to a particular social, religious, or ethical stream of belief should be given priority to be matched to States where actualizing such tenets is permissible.

Secondly, intensity, intent, and balancing individual with societal rights also play a major factor in ensuring that the dignity of refugees is not violated. This means that restrictions on exercising autonomy are clearly articulated in the language of inclusiveness. Perceptions of exclusion due to ascribed characteristics such as race or religion are likely to be successfully challenged. It is thus important that limitations are framed as societal prescriptions not curbing individual rights. Yet framing does not speak to balancing: in issues when individual rights have come in conflict with State rights, courts have often afforded a wide margin of appreciation (i.e., *S.A.S.*). It may be that how limitations on exercising individual autonomy are articulating and providing options to exercise that autonomy in a non-traditional manner, satisfy due diligence concerns.

A market is one solution to reach an optimal level of protection. Yet a market deals primarily with allocation. Effective integration measures are likewise critical to lower the perceived costs of hosting. Less costly hosting may reasonably lead to increasing the number of refugees protected within one's own borders. Mentoring, Chapters IV and V argued, could be one such effective integration strategy and lower the cost of hosting. Chapter V empirically tested this proposition among Arab-speaking refugees in Italy, Germany, and Greece. The results were overwhelmingly positive for labour market participation: mentoring does aid in promoting gainful employment because of its impact on negative signaling, language upskilling, access to location-specific institutional knowledge, and meaningful interpersonal connections. However, as Chapter V revealed, different EU countries may have very different location-specific needs. Even within Germany, different Länder had varying perceptions on how religion, education, and job experience impacted immigrant desirability. Even if a mentoring program is forged at

the EU level and monitored through harmonized instruments, it must be adapted at the sub-regional level. Mentor-mentee matches must address local labour market trends, fears, and bigotry.

That brings us to the question of feasibility. Is an EU-OIC market-based mechanism for protection or an EU centralized mentoring intervention feasible? Any answer to this question is of course subjective. Still, one must consider the status quo. As of August 2018, asylum seeker inflows have drastically reduced from their 2014-2016 numbers. Bilateral treaties with Jordan and to some extent Turkey have proven fruitful. The New York Declaration appeared to be a major step forward for protecting refugees, at least on paper. From this point of view, a major overhaul in the asylum system, one that includes 57 other nations would not seem in the EU's best interest.

Still, there are other points to consider, the most important of which are long-term considerations. The 'crisis' of 2014-2016 transpired not only because of the Syrian Civil War and easier access to Europe, but because the Union failed to prepare itself for potential crises. Myopic asylum procedures looked at current figures and short-term projections without adequate consideration of external shocks. The instability in many Global South countries means that a crisis could easily erupt in the near future. Egypt, for instance, with a population of over 90 million, is just across the Mediterranean. Consequently, the viability of an OIC-EU collaboration may largely depend on how farseeing policymakers are in Brussels and their willingness to calculate long-term risks.

In contrast to a full-scale market mechanism, a centralized mentoring program would not require such acute risk assessment skills. Mentoring programs have already been funded by Brussels and at the State level. Many have proven successful. Addressing their shortcomings through centralized funding and oversight is feasible and could be realized. The key, aside from run of the mill coordination issues, is solid empirics to support an EU-wide mentoring program. To this end, both Chapters IV and V aimed to provide robust scholarship. Both studies contained original datasets collected by the author. The first dataset, of Arab-speaking refugee outcomes, the second, a randomized sample from the German population. Both add fodder to a centralized mentoring program, one able to address location-specific needs but also increase accountability and coordinate inter-jurisdictional externalities. Indeed, the two empirical studies constitute not only a contribution to the literature, but to policy as well.

While the empirical sections, Chapters IV and V contribute to the literature on Integration, Acculturation, and Law and Economics, Part II to the Market-Based literature, and Part III to the Refugee Law canon, all four have their limitations. The OIC-EU proposal can't anticipate non-dyadic costs such as security that figures into quota prices. Further, the willingness and capacity of the OIC to reign in some of its members who are considered to perpetrate or implicitly accept human rights violations is unknown. Would, for

example, refugees be forced to share their sexual identity with authorities in order not to be sent to a country where homosexuality is explicitly or implicitly persecuted? These questions remain unknown and constitute a limitation to the study. Moving forward, *The Legality of Refugee Transfers*, displays several limits. Though the study seeks to take an evolutionary approach and predict future law, whether margin of appreciation would be granted by the ECtHR to EU States in areas of a refugee's identity, or her spatial dislocation through unreciprocated transfers to third-party States remains unknown.

Naturally, the two empirical studies likewise have limitations. The relatively small n of the Arabic-speaking refugee dataset makes drawing robust conclusions difficult. Though the study attempted to mitigate this through Coarsened Exact Matching (CEM) to approximate the counterfactual of individuals treated, CEM may not have been entirely accurate or have sufficiently counteracted the effects of the small sample. The conjoint design, though with several thousand observations, is also lower in number compared to studies with a similar empirical design (i.e., Hainmeuller and Hopkins, 2015). To appreciate location-specific differences, more participants from Germany's Länder would need to be included. Unfortunately, the sample distribution by Federal State is currently imbalanced.

Still, despite these limitations this dissertation makes a number of contributions to the literature and policy circles. To seal the cracks mentioned in the previous paragraph, there are a number of suggestions for future research. Foremost, more empirical work should be done to assess the impact that mentoring has on refugees in different EU locations. DIW Berlin is currently conducting a controlled study that tests the effects of mentoring on a host of labor market and socio-cultural indicators. More studies are needed. More studies are also needed to assess the impact of a wide variety of integration policies on host populations.

That the law is out of step with social and economic forces is not necessarily a bad thing for Europe. It shows how far the European Community has agreed to limit their sovereignty in the name of human rights. That's a good thing. Now it's time to find solutions that bring these laws in line with State interests, solutions that sacrifice neither the extraordinary developments in international law over the past seventy years nor the right of European citizens to decide the trajectory of their unique communities

REFERENCES

REFERENCES

Books and Journals

- Abascal, M., & Baldassarri, D. (2015). Love thy neighbor? Ethnoracial diversity and trust reexamined. *American Journal of Sociology*, 121(3), 722-782.
- Abdulkadiroğlu, A., & Sönmez, T. (2003). School choice: A mechanism design approach. *American economic review*, 93(3), 729-747.
- Abelev, M. S. (2009). Advancing Out of Poverty Social Class Worldview and Its Relation to Resilience. *Journal of Adolescent Research*, 24(1), 114-141.
- Adda, J., Dustmann, C., & Görlach, J. S. (2015). The Dynamics of Return Migration, Human Capital Accumulation, and Wage Assimilation.
- Adepoju, A., Van Noorloos, F., & Zoomers, A. (2010). Europe's Migration Agreements with Migrant-Sending Countries in the Global South: A Critical Review. *International migration*, 48(3), 42-75.
- Adida, C. L., Laitin, D., & Valfort, M. A. (2012). 'One Muslim is Enough!' Evidence from a Field Experiment in France. *Evidence from a Field Experiment in France (January 28, 2012)*.
- Agamben, G. (1998). *Homo sacer: Sovereign power and bare life*. Stanford University Press.
- Ager, A., & Strang, A. (2008). Understanding integration: A conceptual framework. *Journal of refugee studies*, 21(2), 166-191.
- Aguilera, M. B. (2005). The impact of social capital on the earnings of Puerto Rican migrants. *The Sociological Quarterly*, 46(4), 569-592.
- al-Alusi, S. *Ruh al-Ma'ani fi Tafsir al-Qur'an al-'Azim*, Beirut: Dar al-Turath al-'Arabi, nd., Vol. XV, 117.
- Aiyar, S., Barkbu, B. B., Batini, N., Berger, H., Detragiache, E., Dizioli, A., ... & Spilimbergo, A. (2016). *The Refugee Surge in Europe; Economic Challenges* (No. 16/2). International Monetary Fund.
- Akkerman, T. (2015). Immigration policy and electoral competition in Western Europe: A fine-grained analysis of party positions over the past two decades. *Party Politics*, 21(1), 54-67.
- Alba, R., & Foner, N. (2014). Comparing immigrant integration in North America and Western Europe: How much do the grand narratives tell us?. *International Migration Review*, 48(s1).

- Alba, R., & Holdaway, J. (Eds.). (2013). *The children of immigrants at school: A comparative look at integration in the United States and Western Europe*. NYU Press.
- Alesina, A., Harnoss, J., & Rapoport, H. (2016). Birthplace diversity and economic prosperity. *Journal of Economic Growth*, 21(2), 101-138.
- Algan, Y., Dustmann, C., Glitz, A., & Manning, A. (2010). The economic situation of first and second-generation immigrants in France, Germany and the United Kingdom. *The Economic Journal*, 120(542), F13.
- Allen, T. D., Eby, L. T., Poteet, M. L., Lentz, E., & Lima, L. (2004). Career benefits associated with mentoring for proteges: a meta-analysis. *Journal of applied psychology*, 89(1), 127.
- Alesina, A., & La Ferrara, E. (2002). Who trusts others?. *Journal of public economics*, 85(2), 207-234.
- Alexy, Robert. (2003). Constitutional rights, balancing, and rationality. *Ratio Juris* 16, no. 2 131-140.
- Alexy, R. (2005). Balancing, constitutional review, and representation. *International Journal of Constitutional Law*, 3(4), 572-581.
- Alexy, R., & Rivers, J. (2009). *A theory of constitutional rights*. Oxford University Press.
- Allain, J. (2001). The jus cogens Nature of non-refoulement. *International Journal of Refugee Law*, 13(4), 533-558
- Allport, G. W. (1954). *The nature of prejudice*. Garden City, NY: Doubleday.
- Altindag, O., & Kaushal, N. (2017). Do refugees impact voting behavior in the host country? Evidence from Syrian Refugee inflows in Turkey.
- Andreoni, J. (1990). Impure altruism and donations to public goods: A theory of warm-glow giving. *The economic journal*, 100(401), 464-477.
- Anger, S. (2012). *The intergenerational transmission of cognitive and non-cognitive skills during adolescence and young adulthood* (No. 473). SOEPpapers on Multidisciplinary Panel Data Research.
- Angrist, J. D. (2014). The perils of peer effects. *Labour Economics*, 30, 98-108.
- Angrist, J., Bettinger, E., & Kremer, M. (2006). Long-term educational consequences of secondary school vouchers: Evidence from administrative records in Colombia. *The American Economic Review*, 96(3), 847-862.
- Angrist, J., & Lavy, V. (2009). The effects of high stakes high school achievement awards: Evidence from a randomized trial. *The American Economic Review*, 99(4), 1384-1414.
- Antecol, H., Eren, O., & Ozbeklik, S. (2016). Peer Effects in Disadvantaged Primary Schools Evidence from a Randomized Experiment. *Journal of Human Resources*, 51(1), 95-132.
- Arnold, C., & Franklin, M. N. (2012). Introduction: Issue congruence and political responsiveness. *West European Politics*, 35(6), 1217-1225.

- Arrow, K. (1973). The theory of discrimination. In *Discrimination in Labor Markets*, ed. O Oshenfelter, A Rees. Princeton, NJ: Princeton University Press.
- Åslund, O., Böhlmark, A., & Skans, O. N. (2015). Childhood and family experiences and the social integration of young migrants. *Labour Economics*, 35, 135-144.
- Atkinson, M. (2018). Refugee mentoring: Sharing the journey. *Peace and Conflict: Journal of Peace Psychology*, 24(3), 338.
- Austin (2009). "The Relative Ability of Different Propensity Score Methods to Balance Measured Covariates between Treated and Untreated Subjects in Observational Studies." *Medical Decision Making* 29: 661–77.
- Avitabile, C., Clots-Figueras, I., & Masella, P. (2013). The effect of birthright citizenship on parental integration outcomes. *Journal of Law and Economics*, 56(3), 777-810.
- Azzolini, D., Schnell, P., & Palmer, J. R. (2012). Educational achievement gaps between immigrant and native students in two "new" immigration countries Italy and Spain in comparison. *The ANNALS of the American Academy of Political and Social Science*, 643(1).
- Bach, S., Brücker, H., Haan, P., Romiti, A., van Deuverden, K., & Weber, E. (2017). Refugee integration: A worthwhile investment. *DIW Economic Bulletin*, 7(3/4), 33-43.
- Bale, T., Green-Pedersen, C., Krouwel, A., Luther, K. R., & Sitter, N. (2010). If you can't beat them, join them? Explaining social democratic responses to the challenge from the populist radical right in Western Europe. *Political studies*, 58(3), 410-426.
- Balleix, C. (2014). From Lampedusa to the Post-Stockholm Programme: Difficult European solidarity in the field of migration. *Brussels: Egmont Institute*.
- Bansak, K., Ferwerda, J., Hainmueller, J., Dillon, A., Hangartner, D., Lawrence, D., & Weinstein, J. (2018). Improving refugee integration through data-driven algorithmic assignment. *Science*, 359(6373), 325-329.
- Barak A. (1994). Human dignity as a constitutional right. *Haprklit*, 41(1-2).
- Bardin, A. L. (2017). Integration of Immigrants with Different Cultural Background: the German Experience. *Polis. Political Studies*, 6(6), 169-177.
- Barlow, F. K., Paolini, S., Pedersen, A., Hornsey, M. J., Radke, H. R., Harwood, J., ... & Sibley, C. G. (2012). The contact caveat: Negative contact predicts increased prejudice more than positive contact predicts reduced prejudice. *Personality and Social Psychology Bulletin*, 38(12), 1629-1643.
- Barone, G., D'Ignazio, A., de Blasio, G., & Naticchioni, P. (2016). Mr. Rossi, Mr. Hu and politics. The role of immigration in shaping natives' voting behavior. *Journal of Public Economics*, 136, 1-13.
- Barroso, L. R. (2012). Here, There, and Everywhere: Human Dignity in Contemporary Law and in the Transnational Discourse. *BC Int'l & Comp. L. Rev.*, 35, 356.

- Bartolucci, C. (2014). Understanding the native–immigrant wage gap using matched employer–employee data: evidence from Germany. *ILR Review*, 67(4), 1166-1202.
- Battaglini, M., & Harstad, B. (2018). The Political Economy of Weak Treaties. (No. w22968). National Bureau of Economic Research.
- Bayram, A. B. (2017). Good Europeans? How European identity and costs interact to explain politician attitudes towards compliance with European Union law. *Journal of European Public Policy*, 24(1), 42-60.
- Becker, G. S. (2010). *The economics of discrimination*. University of Chicago press.
- Berger, M., & Heinemann, F. (2016). *Why and how there should be more Europe in asylum policies* (No. 1/2016). ZEW policy brief.
- Berger, J., & Strohner, L. (2017). Economic Analysis of the Refugee Influx to Austria. *Border Crossing*, 7(1), 1-12.
- Berlin, I. (2002). Liberty, ed. Henry Hardy. *Oxford: Oxford University Press*, 35, 31.
- Bernardi, F., & Radl, J. (2014). The long-term consequences of parental divorce for children’s educational attainment. *Demographic research*, 30, 1653-1680.
- Bernstein, H., & DuBois, N. (2018). Bringing evidence to the refugee integration debate. *Washington, DC: Urban Institute*. https://www.urban.org/research/publication/bringing-evidence-refugee-integration-debate/view/full_report.
- Bernstein, L., Rappaport, C. D., Olsho, L., Hunt, D., & Levin, M. (2009). Impact Evaluation of the US Department of Education's Student Mentoring Program. Final Report. NCEE 2009-4047. *National Center for Education Evaluation and Regional Assistance*.
- Berson, C. (2016). Private Versus Public Sector Wage Gap: Does Origin Matter?. *Metroeconomica*, 67(4), 717-741.
- Berry, J. W. (1997). Immigration, acculturation, and adaptation. *Applied psychology*, 46(1), 5-34.
- Besley, T., & Coate, S. (2003). Centralized versus decentralized provision of local public goods: a political economy approach. *Journal of public economics*, 87(12), 2611-2637.
- Besley, T., & Smart, M. (2007). Fiscal restraints and voter welfare. *Journal of public Economics*, 91(3), 755-773.
- Bettencourt, B. A., Brewer, M. B., Croak, M. R., & Miller, N. (1992). Cooperation and the reduction of intergroup bias: The role of reward structure and social orientation. *Journal of Experimental Social Psychology*, 28(4), 301-319.
- Bettinger, E. P., Long, B. T., Oreopoulos, P., & Sanbonmatsu, L. (2012). The role of application assistance and information in college decisions: Results from the H&R Block FAFSA experiment. *The Quarterly Journal of Economics*, 127(3), 1205-1242.

- Betts, A. (2003). Public goods theory and the provision of refugee protection: The role of the joint-product model in burden-sharing theory. *Journal of refugee studies*, 16(3), 274-296.
- Bielicki, J. (2018). Cologne's New Year's Eve Sexual Assaults: The Turning Point in German Media Coverage. In *Refugee News, Refugee Politics* (pp. 184-190). Routledge.
- Bilgili, Ö., Huddleston, T., & Joki, A. L. (2015). The Dynamics between Integration Policies and Outcomes: Synthesis of the Literature. *The Migration Policy Group*.
- Bisin, A., Patacchini, E., Verdier, T., & Zenou, Y. (2011). Ethnic identity and labour market outcomes of immigrants in Europe. *Economic Policy*, 26(65), 57-92.
- Blackwell, M., Iacus, S., King, G., & Porro, G. (2009). cem: Coarsened exact matching in Stata. *The Stata Journal*, 9(4), 524-546.
- Blake, M. (2013). Immigration, jurisdiction, and exclusion. *Philosophy & Public Affairs*, 41(2), 103-130.
- Blanden, J. (2013). Cross-country rankings in intergenerational mobility: a comparison of approaches from economics and sociology. *Journal of Economic Surveys*, 27(1), 39.
- Blalock, H. M. (1967). *Towards a Theory of Minority Group Relations*, New York: John Wiley and Sons.
- Bleakley, H., & Chin, A. (2004). Language skills and earnings: Evidence from childhood immigrants. *Review of Economics and statistics*, 86(2), 481-496.
- Blocher, J., & Gulati, M. (2016). Competing for Refugees: A Market-Based Solution to a Humanitarian Crisis. *Colum. Hum. Rts. L. Rev.*, 48, 53.
- Bloemraad, I., & De Graauw, E. (2012). Immigrant integration and policy in the United States: A loosely stitched patchwork. *International perspectives: Integration and inclusion*, 205-232.
- Boffa, F., Piolatto, A., & Ponzetto, G. A. (2015). Political centralization and government accountability. *The Quarterly Journal of Economics*, 131(1), 381-422.
- Bol, T., Witschge, J., Van de Werfhorst, H. G., & Dronkers, J. (2014). Curricular tracking and central examinations: Counterbalancing the impact of social background on student achievement in 36 countries. *Social Forces*.
- Bølstad, J. (2015). Dynamics of European integration: Public opinion in the core and periphery. *European Union Politics*, 16(1), 23-44.
- Boockmann, B., Thomsen, S. L., Walter, T., Göbel, C., & Huber, M. (2015). Should welfare administration be centralized or decentralized? Evidence from a policy experiment. *German Economic Review*, 16(1), 13-42.
- Boomgaarden, H. G., & Vliegthart, R. (2007). Explaining the rise of anti-immigrant parties: The role of news media content. *Electoral studies*, 26(2), 404-417.
- Bourdieu, P. (1990). *The logic of practice*. Stanford University Press.

- Borgna, C., & Contini, D. (2014). Migrant achievement penalties in western europe: do educational systems matter?. *European Sociological Review*, jcu067.
- Borjas, G. J. (2011). *Heaven's door: Immigration policy and the American economy*. Princeton University Press.
- Borjas, G. J. (2014). *Immigration economics*. Harvard University Press; Spence, M. (1973). Job market signaling. *The quarterly journal of Economics*, 87(3), 355-374.
- Borjas, G. J., & Katz, L. F. (2007, May). The evolution of the Mexican-born workforce in the United States. In *Mexican immigration to the United States* (pp. 13-56). University of Chicago Press.
- Boswell, C. (2003). Burden-sharing in the European Union: lessons from the German and UK experience. *Journal of Refugee Studies*, 16(3), 316-335.
- Boucher, V., Bramoullé, Y., Djebbari, H., & Fortin, B. (2014). Do peers affect student achievement? Evidence from Canada using group size variation. *Journal of applied econometrics*, 29(1), 91-109.
- Botha, H. (2009). Human dignity in comparative perspective. *Stellenbosch Law Review= Stellenbosch Regstydskrif*, 20(2), 171-220.
- Brader, T., Valentino, N. A., & Suhay, E. (2008). What triggers public opposition to immigration? Anxiety, group cues, and immigration threat. *American Journal of Political Science*, 52(4), 959-978.
- Brady, D., & Finnigan, R. (2014). Does immigration undermine public support for social policy?. *American Sociological Review*, 79(1), 17-42.
- Brandsma, G. J., Heidbreder, E., & Mastenbroek, E. (2016). Accountability in the post-Lisbon European Union. *International Review of Administrative Sciences*, 82(4), 621-637.
- Bratsberg, B., Raaum, O., & Røed, K. (2014). Immigrants, labour market performance and social insurance. *The Economic Journal*, 124(580), F644-F683.
- Braun, R., & Koopmans, R. (2009). The diffusion of ethnic violence in Germany: The role of social similarity. *European sociological review*, jcp056.
- Brekke, J. P., & Brochmann, G. (2015). Stuck in transit: secondary migration of asylum seekers in Europe, national differences, and the Dublin regulation. *Journal of Refugee Studies*, 28(2), 145-162.
- Brewer, E. C. (2001). *The Wordsworth dictionary of phrase and fable*. Wordsworth Editions.
- Brown, H. (2010). 'They must be discontented': racial threat, black mobilization and the passage of school closing policies. *Ethnic and Racial Studies*, 33(8), 1392-1411.
- Brunello, G., & Checchi, D. (2007). Does school tracking affect equality of opportunity? New international evidence. *Economic policy*, 22(52), 782-861.
- Bruneau, E., Kteily, N., & Laustsen, L. (2018). The unique effects of blatant dehumanization on attitudes and behavior towards Muslim refugees during the European 'refugee crisis' across four countries. *European Journal of Social Psychology*, 48(5), 645-662.

- Brunner, B., & Kuhn, A. (2018). Immigration, cultural distance and natives' attitudes towards immigrants: evidence from Swiss voting results. *Kyklos*, 71(1), 28-58.
- Bubb, R., Kremer, M., & Levine, D. I. (2011). The economics of international refugee law. *The Journal of Legal Studies*, 40(2), 367.
- Buchanan, J. M., & Tullock, G. (1962). *The calculus of consent* (Vol. 3). Ann Arbor: University of Michigan Press.
- Buis, M. L. (2012). The composition of family background: The influence of the economic and cultural resources of both parents on the offspring's educational attainment in the Netherlands between 1939 and 1991. *European Sociological Review*, jcs009.
- Butschek, S., & Walter, T. (2014). What active labour market programmes work for immigrants in Europe? A meta-analysis of the evaluation literature. *IZA Journal of Migration*, 3(1), 48
- Cadena, B. C., & Keys, B. J. (2015). Human capital and the lifetime costs of impatience. *American Economic Journal: Economic Policy*, 7(3), 126-153.
- Caliendo, M., & Schmidl, R. (2016). Youth unemployment and active labor market policies in Europe. *IZA Journal of Labor Policy*, 5(1), 1.
- Callens, M. S. (2015). *Integration policies and public opinion: in conflict or in harmony?* (No. 2015-02). LISER, 8.
- Callens, M. S., & Meuleman, B. (2017). Do integration policies relate to economic and cultural threat perceptions? A comparative study in Europe. *International Journal of Comparative Sociology*, 58(5), 367-391.
- Carozza, P. G. (2008). Human dignity and judicial interpretation of human rights: A reply. *European Journal of International Law*, 19(5), 940.
- Casey, T., & Dustmann, C. (2010). Immigrants' identity, economic outcomes and the transmission of identity across generations. *The Economic Journal*, 120(542), F31-F51.
- Cavell, T. A., Elledge, L. C., Malcolm, K. T., Faith, M. A., & Hughes, J. N. (2009). Relationship quality and the mentoring of aggressive, high-risk children. *Journal of Clinical Child & Adolescent Psychology*, 38(2), 185-198.
- Cebolla-Boado, H. and Finotelli, C. (2015) 'Is there a North-South divide in integration outcomes? A comparison of the integration outcomes of immigrants in Southern and Northern Europe', *European Journal of Population*, 31(1): 77–102.
- Cebolla-Boado, H., & Garrido Medina, L. (2011). The Impact of Immigrant Concentration in Spanish Schools: School, Class, and Composition Effects. *European Sociological Review*, 27(5).
- Chalmers, A. W., & Dellmuth, L. M. (2015). Fiscal redistribution and public support for European integration. *European Union Politics*, 16(3), 386-407.

- Checchi, D., Fiorio, C. V., & Leonardi, M. (2013). Intergenerational persistence of educational attainment in Italy. *Economics Letters*, 118(1), 232.
- Chen, Y., & Sönmez, T. (2002). Improving efficiency of on-campus housing: An experimental study. *American Economic Review*, 92(5), 1669-1686.
- Chen, W., Grove, W. A., & Hussey, A. (2017). The role of confidence and noncognitive skills for post-baccalaureate academic and labor market outcomes. *Journal of Economic Behavior & Organization*, 138, 10-29.
- Chiswick, B. R., & Miller, P. W. (2009). The international transferability of immigrants' human capital. *Economics of Education Review*, 28(2), 162-169.
- Cialdini, R. B., & Goldstein, N. J. (2004). Social influence: Compliance and conformity. *Annu. Rev. Psychol.*, 55, 591-621.
- Cingranelli, D., & Filippov, M. (2018). Are Human Rights Practices Improving?. *American Political Science Review*, 112(4), 1083-1089.
- Clapham, A. (2006). *Human rights obligations of non-state actors*. Oxford University Press.
- Clausen, J., Heinesen, E., Hummelgaard, H., Husted, L., & Rosholm, M. (2009). The effect of integration policies on the time until regular employment of newly arrived immigrants: Evidence from Denmark. *Labour Economics*, 16(4), 409-417.
- Clemens, M. A., & Postel, H. M. (2017). *Deterring emigration with foreign aid: An overview of evidence from low-income countries* (No. 136). IZA Policy Paper.
- Coase, R. H. (1960). *The problem of social cost* (pp. 87-137). Palgrave Macmillan UK.
- Cobb-Clark, D. A., Sinning, M., & Stillman, S. (2012). Migrant youths' educational achievement the role of institutions. *The ANNALS of the American Academy of Political and Social Science*, 643(1), 19.
- Cohen-Goldner, S., & Eckstein, Z. (2010). Estimating the return to training and occupational experience: The case of female immigrants. *Journal of Econometrics*, 156(1), 86-105.
- Coleman, D. (2006). Immigration and Ethnic Change in Low-Fertility Countries: A Third Demographic Transition. *Population and development Review*, 32(3), 401-446.
- Coleman, J. S. (1986). Social theory, social research, and a theory of action. *American journal of Sociology*, 1309-1335.
- Coleman, M. (2007). A geopolitics of engagement: Neoliberalism, the war on terrorism, and the reconfiguration of US immigration enforcement. *Geopolitics*, 12(4), 607-634.
- Cooter, R., & Ulen, T. (2016). *Law and economics*, 6th edition. *Berkeley Law Books*.
- Conrad, C. R. (2014). Divergent incentives for dictators: domestic institutions and (international promises not to) torture. *Journal of Conflict Resolution*, 58(1), 34-67.

- Conrad, C. R., Hill Jr, D. W., & Moore, W. H. (2018). Torture and the limits of democratic institutions. *Journal of Peace Research*, 55(1), 3-17.
- Constant, A. F., & Zimmermann, K. F. (2008). Measuring ethnic identity and its impact on economic behavior. *Journal of the European Economic Association*, 6(2-3), 424-433.
- Corak, M. (2012). Age at immigration and the education outcomes of children. *Realizing the potential of immigrant youth*, 90-116.
- Cottrell, C. A., Richards, D. A., & Nichols, A. L. (2010). Predicting policy attitudes from general prejudice versus specific intergroup emotions. *Journal of Experimental Social Psychology*, 46(2), 247-254.
- Crisp, G. (2009). Conceptualization and initial validation of the College Student Mentoring Scale (CSMS). *Journal of College Student Development*, 50(2), 177-194.
- Crul, M., & Schneider, J. (2010). Comparative integration context theory: participation and belonging in new diverse European cities. *Ethnic and racial studies*, 33(7), 1249-1268.
- Crul, M., & Schneider, J. (2014). Mentoring: What can support projects achieve that schools cannot?.
- Currie, J. (2001). Early childhood education programs. *The Journal of Economic Perspectives*, 15(2), 213-238.
- Cutler, D. M., Glaeser, E. L., & Vigdor, J. L. (2008). When are ghettos bad? Lessons from immigrant segregation in the United States. *Journal of Urban Economics*, 63(3), 759-774.
- Czaika, M. (2009). Asylum cooperation among asymmetric countries. In *The Political Economy of Refugee Migration and Foreign Aid* (pp. 88-113). Palgrave Macmillan, London.
- Czymara, C. S., & Schmidt-Catran, A. W. (2017). Refugees Unwelcome? Changes in the Public Acceptance of Immigrants and Refugees in Germany in the Course of Europe's 'Immigration Crisis'. *European Sociological Review*, 33(6), 735-751.
- Dalton, B. (2004). Creativity, habit, and the social products of creative action: Revising Joas, incorporating Bourdieu. *Sociological Theory*, 22(4), 603-622.
- Dancygier, R. M. (2010). *Immigration and conflict in Europe*. Cambridge University Press.
- Dancygier, R. M., & Donnelly, M. J. (2013). Sectoral economies, economic contexts, and attitudes toward immigration. *The journal of politics*, 75(01), 17-35.
- Dancygier, R. M., & Laitin, D. D. (2014). Immigration into Europe: Economic discrimination, violence, and public policy. *Annual Review of Political Science*, 17, 43-64.
- Danhier, J., & Martin, É. (2014). Comparing compositional effects in two education systems: The case of the Belgian communities. *British Journal of Educational Studies*, 62(2), 171-189.
- Dauber, M. L. (2005). The sympathetic state. *Law and History Review*, 23(02), 387-442.

- Degler, E., Liebig, T., & Senner, A. S. (2017). Integrating Refugees into the Labour Market-Where Does Germany Stand?. *ifo DICE Report*, 15(3), 6-10.
- Dekker, R., Emilsson, H., Krieger, B., & Scholten, P. (2015). A local dimension of integration policies? A comparative study of Berlin, Malmö, and Rotterdam. *International Migration Review*, 49(3), 633-658.
- DeBono, D. (2018). In defiance of the reception logic: The case for including NGOs as human rights monitors in the EU's policies of first reception of irregular migrants. *Peace and Conflict: Journal of Peace Psychology*, 24(3), 291.
- de la Croix, D., & Docquier, F. (2015). An incentive mechanism to break the low-skill immigration deadlock. *Review of Economic Dynamics*, 18(3), 593-618.
- De Vroome, T., & Van Tubergen, F. (2014). Settlement intentions of recently arrived immigrants and refugees in the Netherlands. *Journal of Immigrant & Refugee Studies*, 12(1), 47-66.
- Delacrétaz, D., Kominers, S. D., & Teytelboym, A. (2016). Refugee resettlement. *Unpublished*.
- Dellmuth, L. M., & Chalmers, A. W. (2018). All spending is not equal: European Union public spending, policy feedback and citizens' support for the EU. *European Journal of Political Research*, 57(1), 3-23.
- DeWit, D. J., DuBois, D., Erdem, G., Larose, S., Lipman, E. L., & Spencer, R. (2016). Mentoring Relationship Closures in Big Brothers Big Sisters Community Mentoring Programs: Patterns and Associated Risk Factors. *American journal of community psychology*, 57(1-2), 60-72.
- DeWit, D. J., DuBois, D., Erdem, G., Larose, S., & Lipman, E. L. (2016b). The Role of Program-Supported Mentoring Relationships in Promoting Youth Mental Health, Behavioral and Developmental Outcomes. *Prevention Science*, 17(5), 646-657.
- Di Stasio, V. (2014). Education as a signal of trainability: Results from a vignette study with Italian employers. *European Sociological Review*, 30(6), 796-809.
- Dinas, E., Matakos, K., Xefteris, D., & Hangartner, D. (2018). Waking Up the Golden Dawn: Does Exposure to the Refugee Crisis Increase Support for Extreme-Right Parties?. *Political Analysis*, 1-11.
- Dinesen, P. T., & Hooghe, M. (2010). When in Rome, do as the Romans do: the acculturation of generalized trust among immigrants in Western Europe. *International Migration Review*, 44(3), 697-727.
- Dinesen, P. T. (2011). Where you come from or where you live? Examining the cultural and institutional explanation of generalized trust using migration as a natural experiment. *European sociological review*, 29(1), 114-128.
- Dohmen, T., Falk, A., Huffman, D., & Sunde, U. (2012). The intergenerational transmission of risk and trust attitudes. *The Review of Economic Studies*, 79(2), 645-677.
- Downs, G. W., & Jones, M. A. (2002). Reputation, compliance, and international law. *The Journal of Legal Studies*, 31(S1), S95-S114.

Dronkers, J., Van der Velden, R., & Dunne, A. (2012). Why are migrant students better off in certain types of educational systems or schools than in others?. *European Educational Research Journal*, 11(1), 11-44.

DuBois, D. L., Holloway, B. E., Valentine, J. C., & Cooper, H. (2002). Effectiveness of mentoring programs for youth: A meta-analytic review. *American journal of community psychology*, 30(2), 157-197.

Dubois, D.L., Portillo, N., Rhodes, J.E., Silverthorn, N., & Valentine, J.C. (2011). How effective are mentoring programs for youth? A systematic assessment of the evidence. *Psychological Science in the Public Interest*, 12(2), 57-91.

Durlauf, S. N., & Blume, L. (Eds.). (2008). *The new Palgrave dictionary of economics* (Vol. 6, pp. 631-34). Basingstoke: Palgrave Macmillan.

Dupré, C. (2003). *Importing the law in post-communist transitions: the Hungarian Constitutional Court and the right to human dignity*. Bloomsbury Publishing.

Dumont, J. C., Liebig, T., Peschner, J., Tanay, F., & Xenogiani, T. (2016). How are refugees faring on the Labour Market in Europe? A first evaluation based on the 2014 EU Labour Force Survey ad hoc module. *European Commission DG Employment Working Paper*, (1).

Durlauf, S. N., & Blume, L. (Eds.). (2008). *The new Palgrave dictionary of economics* (Vol. 6, pp. 631-34). Basingstoke: Palgrave Macmillan.

Dustmann, C., & Preston, I. (2006). Is immigration good or bad for the economy? Analysis of attitudinal responses. *Research in Labor Economics*, 24(1), 3-34.

Dustmann, C., & Weiss, Y. (2007). Return migration: theory and empirical evidence from the UK. *British Journal of Industrial Relations*, 45(2), 236-256.

Dustmann, C., Machin, S., & Schönberg, U. (2010). Ethnicity and educational achievement in compulsory schooling. *The Economic Journal*, 120(546), F272-F297.

Dustmann, C., Fabbri, F., & Preston, I. (2011). Racial harassment, ethnic concentration, and economic conditions. *The Scandinavian Journal of Economics*, 113(3), 689-711.

Dustmann, C., Frattini, T., & Lanzara, G. (2012). Educational achievement of second-generation immigrants: an international comparison. *Economic Policy*, 27(69), 143-185.

Dustmann, C., & Frattini, T. (2014). The fiscal effects of immigration to the UK. *The economic journal*, 124(580), F593-F643.

Dustmann, C., Fasani, F., Frattini, T., Minale, L., & Schönberg, U. (2016a). On the Economics and Politics of Refugee Migration. IZA. DP No. 10234.

Dustmann, C., Vasiljeva, K., & Damm, A. P. (2016b). Refugee migration and electoral outcomes. *CReAM DP*, 19, 16.

Dustmann, C., Fasani, F., Frattini, T., Minale, L., & Schönberg, U. (2018). On the economics and politics of refugee migration. *Economic policy*, 32(91), 497-550.

- Dworkin, R. (1978). *Taking rights seriously* (Vol. 136). Harvard University Press.
- Eby, L. T., Allen, T. D., Evans, S. C., Ng, T., & DuBois, D. L. (2008). Does mentoring matter? A multidisciplinary meta-analysis comparing mentored and non-mentored individuals. *Journal of vocational behavior, 72*(2), 254-267.
- Echenique, F., & Yenmez, M. B. (2015). How to control controlled school choice. *American Economic Review, 105*(8), 2679-94.
- Echevarria, J., & Gardeazabal, J. (2016). Refugee gravitation. *Public Choice, 169*(3-4), 269-292.
- Edin, P. A., Fredriksson, P., & Åslund, O. (2003). Ethnic Enclaves and the Economic Success of Immigrants-Evidence from a Natural Experiment. *Quarterly Journal of Economics, 118*(329-357).
- Eichenberger, R. (1994). The benefits of federalism and the risk of overcentralization. *Kyklos, 47*(3), 403-420.
- Eidelman, S., & Crandall, C. S. (2012). Bias in favor of the status quo. *Social and Personality Psychology Compass, 6*(3), 270-281.
- Ellison, C. G., Shin, H., & Leal, D. L. (2011). The contact hypothesis and attitudes toward Latinos in the United States. *Social Science Quarterly, 92*(4), 938-958.
- Elmadmad, K. (2008). Asylum in Islam and in modern refugee law. *Refugee Survey Quarterly, 27*(2), 51-63.
- Enderlein, H., & Koenig, N. (2016). Towards Dublin IV: Sharing norms, responsibility and costs. *Jacques Delors Institut–Berlin policy paper, (169)*.
- Enikolopov, R., Petrova, M., & Zhuravskaya, E. (2011). Media and political persuasion: Evidence from Russia. *American Economic Review, 101*(7), 3253-85.
- Erdem, G., DuBois, D. L., Larose, S., Wit, D., & Lipman, E. L. (2016). Mentoring relationships, positive development, youth emotional and behavioral problems: investigation of a mediational model. *Journal of Community Psychology, 44*(4), 464-483.
- Erikson, E. H. (1959). Identity and the life cycle: Selected papers. *Psychological issues*.
- Ermini, B., Papi, L., & Scaturro, F. (2017). An Analysis of the Determinants of Over-Education Among Italian Ph. D Graduates. *Italian Economic Journal, 1-41*.
- Ersanilli, E., & Koopmans, R. (2011). Do immigrant integration policies matter? A three-country comparison among Turkish immigrants. *West European Politics, 34*(2), 208-234.
- Escudero, V. (2018). Are active labour market policies effective in activating and integrating low-skilled individuals? An international comparison. *IZA Journal of Labor Policy, 7*(1), 4.
- Esarey, J., & DeMeritt, J. H. (2017). Political context and the consequences of naming and shaming for human rights abuse. *International interactions, 43*(4), 589-618.

Esses, V. M., Hamilton, L. K., & Gaucher, D. (2017). The global refugee crisis: empirical evidence and policy implications for improving public attitudes and facilitating refugee resettlement. *Social Issues and Policy Review*, 11(1), 78-123.

European Migration Network. (2017). Returning rejected asylum seekers: policy and practices in the Netherlands.

Expert Council of Germans Foundations on Integration and Migration. (2016). *Many Gods, One State: Religious Diversity and Participation in Germany as an Immigration Country 2016 Annual Report with Integration Barometer Summary of the 2016 Integration Barometer*.

Facchini, G., Lorz, O., & Willmann, G. (2006). Asylum seekers in Europe: The warm glow of a hot potato. *Journal of Population Economics*, 19(2), 411-430.

Facchini, G., & Mayda, A. M. (2009). Does the welfare state affect individual attitudes toward immigrants? Evidence across countries. *The review of economics and statistics*, 91(2).

Facchini, G., Mayda, A. M., & Puglisi, R. (2013). 5 Individual Attitudes towards Immigration. *Immigration and Public Opinion in Liberal Democracies*, 52, 129.

Falch, T., & Strøm, B. (2005). Teacher turnover and non-pecuniary factors. *Economics of Education Review*, 24(6), 611.

Falk, A., Kuhn, A., & Zweimüller, J. (2011). Unemployment and Right-wing Extremist Crime. *The Scandinavian Journal of Economics*, 113(2), 260-285.

Falkner, G. (2016). Fines against Member States: An effective new tool in EU infringement proceedings?. *Comparative European Politics*, 14(1), 36-52.

Fariss, C. J. (2018). The changing standard of accountability and the positive relationship between human rights treaty ratification and compliance. *British Journal of Political Science*, 48(1), 239-271.

Fernandes-Alcantara, A. (2017) Congressional Research Service. 7-5700; Vulnerable Youth: Federal Mentoring Programs and Issues.

Fernández-Huertas Moraga, J., & Rapoport, H. (2015). Tradable refugee-admission quotas and EU asylum policy. *CESifo Economic Studies*, 61(3-4), 638-672.

Ferraz, C., & Finan, F. (2011). Electoral accountability and corruption: Evidence from the audits of local governments. *The American Economic Review*, 101(4), 1274-1311.

Fetzer, J. S. (2000). *Public attitudes toward immigration in the United States, France, and Germany*. Cambridge University Press.

Foged, M., & Peri, G. (2016). Immigrants' Effect on Native Workers: New Analysis on Longitudinal Data. *American Economic Journal: Applied Economics*, 8(2), 1-34.

Follesdal, A., & Hix, S. (2006). Why there is a democratic deficit in the EU: A response to Majone and Moravcsik. *JCMS: Journal of Common Market Studies*, 44(3), 533-562.

- Fokkema, T., & Haas, H. (2015). Pre-and Post-Migration Determinants of Socio-Cultural Integration of African Immigrants in Italy and Spain. *International Migration*, 53(6), 3-26.
- Ford, R., Jennings, W., & Somerville, W. (2015). Public opinion, responsiveness and constraint: Britain's three immigration policy regimes. *Journal of Ethnic and Migration Studies*, 41(9), 1391-1411.
- Fortin, A. (2000). The meaning of 'Protection' in the Refugee Definition. *International Journal of Refugee Law*, 12(4), 548-576.
- Fossati, F. (2011). The effect of integration and social democratic welfare states on immigrants' educational attainment: a multilevel estimate. *Journal of European Social Policy*, 21(5), 391-412.
- Fragiadakis, D., Iwasaki, A., Troyan, P., Ueda, S., & Yokoo, M. (2016). Strategyproof matching with minimum quotas. *ACM Transactions on Economics and Computation*, 4(1), 6.
- Frankena, W. K. (1986). The ethics of respect for persons. *Philosophical Topics*, 14(2), 149-167.
- Fredricks, J. A., Blumenfeld, P. C., & Paris, A. H. (2004). School engagement: Potential of the concept, state of the evidence. *Review of educational research*, 74(1), 59-109.
- Friesen, M. R. (2011). Immigrants' integration and career development in the professional engineering workplace in the context of social and cultural capital. *Engineering Studies*, 3(2), 79-100.
- Fromm, E. (1955). *The sane society*. Routledge. New York.
- Fruht, V. M., & Wray-Lake, L. (2013). The role of mentor type and timing in predicting educational attainment. *Journal of youth and adolescence*, 42(9), 1459-1472.
- Funk, N. (2016). A spectre in Germany: refugees, a 'welcome culture' and an 'integration politics'. *Journal of Global Ethics*, 12(3), 289-299.
- Furrer, C., & Skinner, E. (2003). Sense of relatedness as a factor in children's academic engagement and performance. *Journal of educational psychology*, 95(1), 148.
- Fyfe, R. J. (2007). Dignity as theory: competing conceptions of human dignity at the Supreme Court of Canada. *Sask. L. Rev.*, 70, 1
- Gale, D., & Shapley, L. S. (1962). College admissions and the stability of marriage. *The American Mathematical Monthly*, 69(1), 9-15.
- Gammeltoft-Hansen, T. (2011). *Access to Asylum: International refugee law and the globalisation of migration control* (Vol. 77). Cambridge University Press.
- Gammeltoft-Hansen, T., & Tan, N. F. (2017). The end of the deterrence paradigm? Future directions for global refugee policy. *Journal on Migration and Human Security*, 5(1), 43-44.
- Gardner, M., & Steinberg, L. (2005). Peer influence on risk taking, risk preference, and risky decision making in adolescence and adulthood: an experimental study. *Developmental psychology*, 41(4), 625.
- Garlick, M. (2006). The EU Discussions on Extraterritorial Processing: Solution or Conundrum?. *International Journal of Refugee Law*, 18(3-4), 601-629.

- Garrido, M. M., Kelley, A. S., Paris, J., Roza, K., Meier, D. E., Morrison, R. S., & Aldridge, M. D. (2014). Methods for constructing and assessing propensity scores. *Health services research, 49*(5), 1701-1720.
- Garriga, A. C. (2016). Human rights regimes, reputation, and foreign direct investment. *International Studies Quarterly, 60*(1), 160-172.
- Gathmann, C., & Keller, N. (2014). *Returns to Citizenship? Evidence from Germany's Recent Immigration Reforms* (No. 8064). Institute for the Study of Labor (IZA).
- Geddes, A., & Scholten, P. (2015). Policy analysis and Europeanization: An analysis of EU migrant integration policymaking. *Journal of Comparative Policy Analysis: Research and Practice, 17*(1), 41-59.
- Genschel, P., & Jachtenfuchs, M. (2018). From market integration to core state powers: the Eurozone crisis, the refugee crisis and integration theory. *JCMS: Journal of Common Market Studies, 56*(1), 178-196.
- Gerhards, J., Hans, S., & Schupp, J. (2016). German public opinion on admitting refugees. *DIW Economic Bulletin, 6*(21), 243-249.
- Gil-Bazo, M. T. (2015). The Safe Third Country Concept in International Agreements on Refugee Protection Assessing State Practice. *Netherlands Quarterly of Human Rights, 33*(1), 42-77.
- Girves, J. E., Zepeda, Y., & Gwathmey, J. K. (2005). Mentoring in a post-affirmative action world. *Journal of Social Issues, 61*(3), 449-479.
- Giulietti, C. (2014). The welfare magnet hypothesis and the welfare take-up of migrants. *IZA World of Labor*.
- Golsteyn, B. H., Grönqvist, H., & Lindahl, L. (2014). Adolescent time preferences predict lifetime outcomes. *The Economic Journal, 124*(580), F739-F761.
- Goldthorpe, J. H. (2007). *On sociology. 2. Illustration and retrospect*. Stanford University Press.
- Gonçalves, M., Farcas, D., Leitão, T., Giorgakis, G., Valeriu, S. F., Traian, M. P., & Kovacs, K. (2017). Evidence Review on Labour Market and Job Place Retention: Mentoring Pathways Towards Employment. *Journal of Organisational Transformation & Social Change, 1*-25.
- Goodkind, J. R. (2005). Effectiveness of a community-based advocacy and learning program for among refugees. *American Journal of Community Psychology, 36*(3-4), 387-408.
- Goodliffe, J., & Hawkins, D. G. (2006). Explaining commitment: States and the convention against torture. *The Journal of Politics, 68*(2), 358-371.
- Goodwin-Gill, G. S., & McAdam, J. (2007). *The refugee in international law*. Oxford University Press.
- Goodwin-Gill, G. S. (2014). The international law of refugee protection. *The Oxford Handbook of Refugee and Forced Migration Studies*.

- Gordon, D. M., Iwamoto, D., Ward, N., Potts, R., & Boyd, E. (2009). Mentoring urban Black middle-school male students: Implications for academic achievement. *The Journal of Negro Education*, 78(3), 277.
- Gorodzeisky, A., & Semyonov, M. (2015). Not only competitive threat but also racial prejudice: Sources of anti-immigrant attitudes in European societies. *International Journal of Public Opinion Research*, 28(3), 331-354.
- Gneezy, U., Meier, S., & Rey-Biel, P. (2011). When and why incentives (don't) work to modify behavior. *The Journal of Economic Perspectives*, 25(4), 191-209.
- Grätz, M. (2015). When growing up without a parent does not hurt: Parental separation and the compensatory effect of social origin. *European Sociological Review*, 31(5).
- Grey, M. A., & Woodrick, A. C. (2005). Latinos have revitalized our community: Mexican migration and Anglo responses in Marshalltown, Iowa. *New destinations: Mexican immigration in the United States*, 6, 133-154.
- Griffiths, M., Sawrikar, P., & Muir, K. (2009). Culturally appropriate mentoring for Horn of African young people in Australia. *Youth Studies Australia*, 28(2), 32.
- Grigonis, S. (2016). EU in the face of migrant crisis: Reasons for ineffective human rights protection. *International Comparative Jurisprudence*, 2(2), 93-98.
- Gronqvist, E., Ockert, B., & Vlachos, J. (2010). The intergenerational transmission of cognitive and non-cognitive abilities.
- Gross, N. (1999). The creativity of action. *Theory & Society*, 28(2).
- Grossman, J. B., & Rhodes, J. E. (2002). The test of time: Predictors and effects of duration in youth mentoring relationships. *American journal of community psychology*, 30(2), 199-219.
- Grüner, H. P. (2017). *Externalities, Institutions and Public Perception: The Political Economy of European Integration Revisited* (No. 057). Directorate General Economic and Financial Affairs (DG ECFIN), European Commission.
- Guzman, A. T. (2002). A compliance-based theory of international law. *Calif. L. Rev.*, 90, 1823.
- Ha, S. E. (2010). The consequences of multiracial contexts on public attitudes toward immigration. *Political Research Quarterly*, 63(1), 29-42.
- Habermas, J. (1994). *Postmetaphysical thinking: Philosophical essays*. MIT Press.
- Habermas, J. (1996). *Between facts and norms* (W. Rehg, Trans.). Cambridge: Polity Press.
- Habermas, J. (2012). *The concept of human dignity and the realistic utopia of human rights* (pp. 63-79). Springer Netherlands.
- Hadjar, A., & Backes, S. (2013). Migration background and subjective well-being a multilevel analysis based on the European social survey. *Comparative Sociology*, 12(5), 645-676.

- Hainmueller, J., & Hopkins, D. J. (2014). Public attitudes toward immigration. *Annual Review of Political Science*, 17.
- Hainmueller, J., & Hopkins, D. J. (2015). The hidden American immigration consensus: A conjoint analysis of attitudes toward immigrants. *American Journal of Political Science*, 59(3), 529-548.
- Hainmueller, J., Hiscox, M. J., & Margalit, Y. (2015). Do concerns about labor market competition shape attitudes toward immigration? New evidence. *Journal of International Economics*, 97(1), 193-207.
- Hainmueller, J., Hangartner, D., & Yamamoto, T. (2015). Validating vignette and conjoint survey experiments against real-world behavior. *Proceedings of the National Academy of Sciences*, 112(8), 2395-2400.
- Halla, M., Wagner, A. F., & Zweimüller, J. (2017). Immigration and voting for the far right. *Journal of the European Economic Association*, 15(6), 1341-1385.
- Halperin, E. (2011). Emotional barriers to peace: Emotions and public opinion of Jewish Israelis about the peace process in the Middle East. *Peace and Conflict*, 17(1), 22-45.
- Halpin, H., & Monnin, A. (2016). The Decentralization of Knowledge. *First Monday*, 21(12).
- Hanson, G. H. (2006). Illegal migration from Mexico to the United States. *Journal of Economic Literature*, 44(4), 869-924.
- Hanson, G. H., Scheve, K., & Slaughter, M. J. (2009). Individual preferences over high-skilled immigration in the United States. *Skilled Immigration Today: Problems, Prospects, and Policies*, 207-46.
- Hanushek, E. A. (2016). Will more higher education improve economic growth?. *Oxford Review of Economic Policy*, 32(4), 538-552.
- Hanushek, E. A., & Woessmann, L. (2012). Do better schools lead to more growth? Cognitive skills, economic outcomes, and causation. *Journal of Economic Growth*, 17(4), 267-321.
- Hanushek, E. A., Schwerdt, G., Woessmann, L., & Zhang, L. (2016). General education, vocational education, and labor-market outcomes over the life-cycle. *Journal of Human Resources*.
- Hashim Kamali, M. (2002). The dignity of man. *An Islamic perspective. Cambridge: The Islamic Texts Society*.
- Hathaway, J. C. (2005). *The rights of refugees under international law*. Cambridge University Press.
- Hathaway, O. A. (2007). Why do countries commit to human rights treaties?. *Journal of Conflict Resolution*, 51(4), 588-621.
- Hatton, T. J. (2014). The economics of international migration: A short history of the debate. *Labour Economics*, 30, 43-50.
- Hatton, T. J. (2014b). The Slump and Immigration Policy in Europe. In *Crisis and Migration: Implications of the Eurozone crisis for Perceptions, Politics, and Policies of Migration*. Nordic Academic Press.

- Hatton, T. J. (2015). Asylum Policy in the EU: the case for deeper integration. *CESifo Economic Studies*, 61(3-4), 605-637.
- Hatton, T. J. (2016). Refugees, asylum seekers, and policy in OECD countries. *American Economic Review*, 106(5), 444.
- Hatton, T. (2017). *Public Opinion on Immigration in Europe: Preference versus Salience* (No. 10838). Institute for the Study of Labor (IZA).
- Hahn, R. W., & Stavins, R. N. (2011). The effect of allowance allocations on cap-and-trade system performance. *The Journal of Law and Economics*, 54(S4), S267-S294.
- Hathaway, J. C. (1999). International Refugee Law: The Michigan Guidelines on the Internal Protection Alternative. *Mich. J. Int'l L.*, 21, 131.
- Hathaway, J. C. (2005). The right of states to repatriate former refugees. *Ohio St. J. on Disp. Resol.*, 20, 175.
- Heath, A. F., Fisher, S. D., Rosenblatt, G., Sanders, D., & Sobolewska, M. (2013). *The political integration of ethnic minorities in Britain*. Oxford University Press.
- Heath, A. F., Rethon, C., & Kilpi, E. (2008). The second generation in Western Europe: Education, unemployment, and occupational attainment. *Annu. Rev. Sociol.*, 34, 211-235.
- Heckman, J. J., & Mosso, S. (2014). *The economics of human development and social mobility* (No. w19925). National Bureau of Economic Research.
- Heckmann, F. (2016). Understanding the Creation of Public Consensus: Migration and integration in Germany, 2005 to 2015. Migration Policy Institute.
- Helbling, M. (2014). Opposing muslims and the muslim headscarf in western europe. *European Sociological Review*, 30(2), 242-257.
- Helbling, M., & Traunmüller, R. (2016). How state support of religion shapes attitudes toward Muslim immigrants: New evidence from a sub-national comparison. *Comparative Political Studies*, 49(3), 391-424.
- Hello, E., Scheepers, P., & Slegers, P. (2006). Why the more educated are less inclined to keep ethnic distance: An empirical test of four explanations. *Ethnic and Racial Studies*, 29(5), 959-985.
- Hendrix, C. S., & Wong, W. H. (2013). When is the pen truly mighty? Regime type and the efficacy of naming and shaming in curbing human rights abuses. *British Journal of Political Science*, 43(3), 651-672.
- Henry, L. M. (2011). The jurisprudence of dignity. *U. Pa. L. Rev.*, 160, 176.
- Hermann, S. K. (2011). Social Exclusion: Practices of Misrecognition. *Humiliation, Degradation, Dehumanization: Human Dignity Violated*, 144.
- Herrera, C. (2004). School-Based Mentoring. A Closer Look. *Public/Private Ventures*.

- Herrera, C., Grossman, J. B., Kauh, T. J., Feldman, A. F., & McMaken, J. (2007). Making a difference in schools: The Big Brothers Big Sisters school-based mentoring impact study. *Public/Private Ventures*.
- Higginbotham, B. J., MacArthur, S., & Dart, P. C. (2010). 4-H Mentoring: Youth and families with promise—adult engagement and the development of strengths in youth. *Journal of prevention & intervention in the community*, 38(3), 229-243.
- Hill Jr, D. W. (2010). Estimating the effects of human rights treaties on state behavior. *The Journal of Politics*, 72(4), 1161-1174.
- Holcombe, R. G. (2012). Make economics policy relevant. *Independent Review*, 17(2).
- Holmlund, H., & Silva, O. (2014). Targeting noncognitive skills to improve cognitive outcomes: evidence from a remedial education intervention. *Journal of Human Capital*, 8(2), 126-160.
- Holzgrefe, J. L., & Keohane, R. O. (Eds.). (2003). *Humanitarian intervention: ethical, legal and political dilemmas*. Cambridge University Press.
- Honneth, A. (1996). *The struggle for recognition: The moral grammar of social conflicts*. MIT Press.
- Honneth, A. (2007). Recognition as ideology. *Recognition and power: Axel Honneth and the tradition of critical social theory*, p. 329-330.
- Hopkins, D. J. (2010). Politicized places: Explaining where and when immigrants provoke local opposition. *American Political Science Review*, 104(01), 40-60.
- Horn, V., & Schweppe, C. (Eds.). (2015). *Transnational aging: current insights and future challenges*. Routledge.
- Huddleston, T., Niessen, J., Chaoimh, E. N., & White, E. (2011). *Migrant integration policy index III*. British Council.
- Hug, S., & Wegmann, S. (2016). Complying with human rights. *International interactions*, 42(4), 590-615.
- Hughes, J., & Kwok, O. M. (2007). Influence of student-teacher and parent-teacher relationships on lower achieving readers' engagement and achievement in the primary grades. *Journal of educational psychology*, 99(1), 39.
- Hynie, M. (2018). Refugee integration: Research and policy. *Peace and Conflict: Journal of Peace Psychology*, 24(3), 265.
- Ibsen, A., Patacchini, E., Verdier, T., & Zenou, Y. (2011). Ethnic identity and labour market outcomes of immigrants in Europe. *Economic Policy*, 26(65), 57-92.
- Ioannides, Y. M., & Datcher Loury, L. (2004). Job information networks, neighborhood effects, and inequality. *Journal of economic literature*, 42(4), 1056-1093.
- Jack, B. (2013). Article 260 (2) TFEU: An Effective Judicial Procedure for the Enforcement of Judgements?. *European Law Journal*, 19(3), 404-421.

- Jacobs, D., & Herman, B. (2009). The nexus between immigrant integration policy and public opinion in the European Union. In *Legal Frameworks for the Integration of Third-Country Nationals* (pp. 113-140). Brill.
- Jaramillo, J. R. (2013). Scoppola v. Italy (No. 3): The Uncertain Progress of Prisoner Voting Rights in Europe. *BC Int'l & Comp. L. Rev.*, 36.
- Jasinskaja-Lahti, I., Liebkind, K., & Solheim, E. (2009). To identify or not to identify? National disidentification as an alternative reaction to perceived ethnic discrimination. *Applied Psychology*, 58(1), 105-128.
- Jefferson, T. (1829). *Memoirs, correspondence and private papers of Thomas Jefferson, late President of the United States* (Vol. 2). Colburn and Bentley.
- Jensen, R. (2010). The (perceived) returns to education and the demand for schooling. *Quarterly Journal of Economics*, 125(2).
- Joas, H. (1996). *The creativity of action*. University of Chicago Press.
- Joona, P. A., & Nekby, L. (2012). Intensive coaching of new immigrants: an evaluation based on random program assignment. *The Scandinavian Journal of Economics*, 114(2), 575-600.
- Jones, W., & Teytelboym, A. (2017). The international refugee match: A system that respects refugees' preferences and the priorities of states. *Refugee Survey Quarterly*, 36(2), 84-109.
- Joseph, S., & Castan, M. (2013). *The international covenant on civil and political rights: cases, materials, and commentary*. Oxford University Press.
- Joyce, A., Earnest, J., De Mori, G., & Silvagni, G. (2010). The experiences of students from refugee backgrounds at universities in Australia: Reflections on the social, emotional and practical challenges. *Journal of Refugee Studies*, 23, 82-97.
- Kahanec, M., Pytlikova, M., & Zimmermann, K. F. (2016). The free movement of workers in an enlarged european union: institutional underpinnings of economic adjustment. In *Labor Migration, EU Enlargement, and the Great Recession* (pp. 1-34).
- Kälin, W. (2001). Supervising the 1951 Convention on the Status of Refugees: Article 35 and beyond. *prepared for the Cambridge Expert Roundtable (9-10 July 2001)*.
- Kalter, F., & Kogan, I. (2014). Migrant networks and labor market integration of immigrants from the former Soviet Union in Germany. *Social Forces*, 92(4), 1435-1456.
- Kamada, Y., & Kojima, F. (2015). Efficient matching under distributional constraints: Theory and applications. *American Economic Review*, 105(1), 67-99.
- Kammeyer-Mueller, J. D., & Judge, T. A. (2008). A quantitative review of mentoring research: Test of a model. *Journal of Vocational Behavior*, 72(3), 269-283.

- Kanas, A., Scheepers, P., & Sterkens, C. (2017). Positive and negative contact and attitudes towards the religious out-group: Testing the contact hypothesis in conflict and non-conflict regions of Indonesia and the Philippines. *Social science research*, 63, 95-110.
- Kanas, A., Van Tubergen, F., & Van der Lippe, T. (2011). The role of social contacts in the employment status of immigrants: A panel study of immigrants in Germany. *International Sociology*, 26(1), 95-122.
- Kanno, Y., & Varghese, M. M. (2010). Immigrant and refugee ESL students challenges to accessing four-year college education: From language policy to educational policy. *Journal of Language, Identity & Education*, 9, 310-328.
- Karcher, M. J. (2008). The study of mentoring in the learning environment (SMILE): A randomized evaluation of the effectiveness of school-based mentoring. *Prevention Science*, 9(2), 99.
- Karcher, M. J., Davidson, A. J., Rhodes, J. E., & Herrera, C. (2010). Pygmalion in the program: The role of teenage peer mentors' attitudes in shaping their mentees' outcomes. *Applied Developmental Science*, 14(4), 212-227.
- Karcher, M. J., Kuperminc, G. P., Portwood, S. G., Sipe, C. L., & Taylor, A. S. (2006). Mentoring programs: A framework to inform program development, research, and evaluation. *Journal of Community Psychology*, 34(6), 709-725.
- Kates, M., & Pevnick, R. (2014). Immigration, jurisdiction, and history. *Philosophy & Public Affairs*, 42(2), 179-194.
- Kaye, L., & Smith, C. (2014). Understanding the Role of Parent Engagement To Enhance Mentoring Outcomes: Final Evaluation Report.
- Kazemipur, A. (2006). The market value of friendship: Social networks of immigrants. *Canadian Ethnic Studies*, 38(2), 47.
- Keith, L. C., Tate, C. N., & Poe, S. C. (2009). Is the law a mere parchment barrier to human rights abuse?. *The Journal of Politics*, 71(2), 644-660.
- Kelley, N. (2002). Internal flight/relocation/protection alternative: Is it reasonable?. *International Journal of Refugee Law*, 14(1), 4-44.
- Keohane, R. O. (2005). *After hegemony: Cooperation and discord in the world political economy*. Princeton University Press.
- Keohane, R. O., & Victor, D. G. (2016). Cooperation and discord in global climate policy. *Nature Climate Change*, 6(6), 570.
- Khan, A. A. (2016). Can International Law Manage Refugee Crises. *Oxford U. Undergraduate LJ*, 54.
- Kilburg, G. M. (2007). Three mentoring team relationships and obstacles encountered: A school-based case study. *Mentoring & Tutoring*, 15(3), 293-308.
- King, R., & Lulle, A. (2016). Research on Migration: Facing Realities and Maximising Opportunities. *A Policy Review. EC, Bruxelles*.

- King, G., & Nielsen, R. (2016). Why propensity scores should not be used for matching. *Copy at <http://j.mp/1sexgVw> Download Citation BibTex Tagged XML Download Paper*, 378.
- King, G., Nielsen, R., Coberley, C., Pope, J. E., & Wells, A. (2011). Comparative effectiveness of matching methods for causal inference. *Unpublished manuscript*, 15.
- Kilpi-Jakonen, E. (2011). Continuation to upper secondary education in Finland: Children of immigrants and the majority compared. *Acta Sociologica*, 54(1), 77-106.
- Klatt, M. (Ed.). (2012). *Institutionalized reason: the jurisprudence of Robert Alexy*. Oxford University Press.
- Klibanoff, P., & Poitevin, M. (1999). A theory of (de) centralization. *CIRANO discussion papero. Mimeo*.
- Klingler, C., & Marckmann, G. (2016). Difficulties experienced by migrant physicians working in German hospitals: a qualitative interview study. *Human resources for health*, 14(1), 57.
- Koch, A., Nafziger, J., & Nielsen, H. S. (2015). Behavioral economics of education. *Journal of Economic Behavior & Organization*, 115, 3-17.
- Kochenov, D. (2017). Busting the myths nuclear: A commentary on Article 7 TEU. EUI Working Paper No Law 2017/10, University of Groningen Faculty of Law.
- Kochenov, D., & Pech, L. (2015). Monitoring and Enforcement of the Rule of Law in the EU: Rhetoric and Reality. *European Constitutional Law Review*, 11(3), 512-540.
- Koethenbueger, M. (2008). Revisiting the “decentralization theorem”—on the role of externalities. *Journal of Urban Economics*, 64(1), 116-122.
- Kogan, I. (2016). Integration Policies and Immigrants’ Labor Market Outcomes in Europe. *Sociological science*, 3, 335-358.
- Kontos, M. (2003). Self-employment policies and migrants' entrepreneurship in Germany. *Entrepreneurship & Regional Development*, 15(2), 119-135.
- Kosse, F., & Pfeiffer, F. (2013). Quasi-hyperbolic time preferences and their intergenerational transmission. *Applied Economics Letters*, 20(10), 983-986.
- Kretzmer, D., & Klein, E. (2002). *Concept of Human Dignity in Human Rights Discourse*. Columbia University Press.
- Kupersmidt, J. B., & Rhodes, J. E. (2014). Mentor training. *Handbook of youth mentoring*, 439-456.
- Kupersmidt, J. B., Stump, K. N., Stelter, R. L., & Rhodes, J. E. (2017). Predictors of premature match closure in youth mentoring relationships. *American journal of community psychology*, 59(1-2), 25-35.
- Kuch, H. (2011). The Rituality of humiliation: Exploring symbolic vulnerability. In *Humiliation, Degradation, Dehumanization* p37-56, Springer, Netherlands.
- Kymlicka, W. (1995). *Multicultural citizenship: A liberal theory of minority rights*. Clarendon Press.

- Lacan, J., & Fink, B. (2006). *Ecrits: The first complete edition in English*. WW Norton & Company.
- Ladson-Billings, G. (2006). From the achievement gap to the education debt: Understanding achievement in US schools. *Educational researcher*, 35(7), 3-12.
- Lahav, G., & Guiraudon, V. (2006). Actors and venues in immigration control: Closing the gap between political demands and policy outcomes. *West European Politics*, 29(2), 201-223.
- Lancee, B. (2012). The economic returns of bonding and bridging social capital for immigrant men in Germany. *Ethnic and Racial Studies*, 35(4), 664-683.
- Lange, M., Pfeiffer, F., & den Berg, G. J. (2017). Integrating young male refugees: initial evidence from an inclusive soccer project. *Journal for Labour Market Research*, 51(1), 6.
- Langenhof, M. R., Komdeur, J., & Oldehinkel, A. J. (2016). Effects of parenting quality on adolescents' personality resemblance to their parents. The TRAILS study. *Journal of Adolescence*, 51, 163-175.
- Lareau, A. (2011). *Unequal childhoods: Class, race, and family life*. Univ of California Press.
- Larsson, M., Pettersson, C., Eriksson, C., & Skoog, T. (2016). Initial motives and organizational context enabling female mentors' engagement in formal mentoring—A qualitative study from the mentors' perspective. *Children and Youth Services Review*, 71, 17-26.
- Lax, J. R., & Phillips, J. H. (2009). Gay rights in the states: Public opinion and policy responsiveness. *American Political Science Review*, 103(3), 367-386.
- Lax, J. R., & Phillips, J. H. (2012). The democratic deficit in the states. *American Journal of Political Science*, 56(1), 148-166.
- Lebech, M. (2004). What is human dignity?. *Maynooth philosophical papers*, (ed. by M. Lebech, Maynooth), 59-69.
- Legewie, J. (2013). Terrorist events and attitudes toward immigrants: A natural experiment. *American Journal of Sociology*, 118(5), 1199-1245.
- Lehmer, F., & Ludsteck, J. (2011). The immigrant wage gap in Germany: Are East Europeans worse off?. *International migration review*, 45(4), 872-906.
- Lee, L. T. (1986). The Right to Compensation: Refugees and Countries of Asylum. *American Journal of International Law*, 80(3), 532-567.
- Leerkes, A., van Os, R., & Boersema, E. (2017). What drives 'soft deportation'? Understanding the rise in Assisted Voluntary Return among rejected asylum seekers in the Netherlands. *Population, Space and Place*, 23(8), e2059.
- Lenner, K., & Turner, L. (2018). Making refugees work? The politics of integrating Syrian refugees into the labor market in Jordan. *Middle East Critique*, 1-31.

- Lepsius, O. (2006). Human dignity and the downing of aircraft: The German federal constitutional court strikes down a prominent anti-terrorism provision in the new air-transport security act. *German LJ*, 7, 766.
- Lerner, R. M. (2005). Promoting positive youth development: Theoretical and empirical bases. In *White paper prepared for the workshop on the science of adolescent health and development, national research council/institute of medicine*. Washington, DC: National Academies of Science.
- Lerner, R. M., Dowling, E. M., & Anderson, P. M. (2003). Positive youth development: Thriving as the basis of personhood and civil society. *Applied Developmental Science*, 7(3), 172-180.
- Levi, M. (1998) 'A State of Trust', in V. Braithwaite and M. Levi (eds), *Trust and Governance*. New York: Russell Sage Foundation, pp. 77–101.
- Liebig, T., & Mo, J. (2013). The fiscal impact of immigration in OECD countries. *International Migration Outlook 2013*.
- Liguori, A. (2015). *The extraterritorial processing of asylum claims*. JMCE Migrants, Jean Monnet Centre of Excellence on Migrants' Rights in the Mediterranean.
- Lin, N. (2002). *Social capital: A theory of social structure and action* (Vol. 19). Cambridge University Press.
- Lindner, E. G. (2001). Humiliation and human rights: Mapping a minefield. *Human Rights Review*, 2(2), 51.
- Locke, J., & Laslett, P. (1988). *Locke: Two Treatises of Government Student Edition*. Cambridge University Press.
- Loescher, G., & Milner, J. (2013). *Protracted refugee situations: Domestic and international security implications*. Routledge.
- Loescher, G., Milner, J., Newman, E., & Troeller, G. (2007). Protracted refugee situations and the regional dynamics of peacebuilding: Opinion. *Conflict, security & development*, 7(3), 491-501.
- Long, M. H. (1996). Authenticity and learning potential in L2 classroom discourse. *University of Hawai'i Working Papers in English as a Second Language 14* (2).
- Ludsteck, J. (2014). The impact of segregation and sorting on the gender wage gap: Evidence from German linked longitudinal employer-employee data. *Ilr Review*, 67(2), 362-394.
- Lupu, Y. (2015). Legislative veto players and the effects of international human rights agreements. *American Journal of Political Science*, 59(3), 578-594.
- Malhotra, N., Margalit, Y., & Mo, C. H. (2013). Economic explanations for opposition to immigration: Distinguishing between prevalence and conditional impact. *American Journal of Political Science*, 57(2), 391-410.
- MacDonald, F. (2017). Positioning young refugees in Australia: media discourse and social exclusion. *International Journal of Inclusive Education*, 21(11), 1182-1195.

- Macklin, R. (2004). Reflections on the human dignity symposium: is dignity a useless concept?. *Journal of palliative care*, 20(3), 212.
- Mandemakers, J. J., & Kalmijn, M. (2014). Do mother's and father's education condition the impact of parental divorce on child well-being?. *Social science research*, 44, 187-199.
- Margalit, A. (1998). *The decent society*. Harvard University Press.
- Marks, A. K., Szalacha, L. A., Lamarre, M., Boyd, M. J., & Coll, C. G. (2007). Emerging ethnic identity and interethnic group social preferences in middle childhood: Findings from the Children of Immigrants Development in Context (CIDC) study. *International Journal of Behavioral Development*, 31(5), 501-513.
- Markus, H. (1977). Self-schemata and processing information about the self. *Journal of personality and social psychology*, 35(2), 63.
- Martinović, B. (2013). The inter-ethnic contacts of immigrants and natives in the Netherlands: A two-sided perspective. *Journal of Ethnic and Migration Studies*, 39(1), 69-85.
- Maxwell, R. (2009). Caribbean and South Asian identification with British society: The importance of perceived discrimination. *Ethnic and Racial Studies*, 32(8), 1449-1469.
- Mayda, A. M. (2006). Who is against immigration? A cross-country investigation of individual attitudes toward immigrants. *The review of Economics and Statistics*, 88(3), 510-530.
- McCrudden, C. (2008). Human dignity and judicial interpretation of human rights. *European Journal of international Law*, 19(4)
- McDonald, S., & Lambert, J. (2014). The long arm of mentoring: A counterfactual analysis of natural youth mentoring and employment outcomes in early careers. *American journal of community psychology*, 54(3-4), 262-273.
- McEntire, K. J., Leiby, M., & Krain, M. (2015). Human rights organizations as agents of change: An experimental examination of framing and micromobilization. *American Political Science Review*, 109(3), 407-426.
- Mead, G. H. (1934). *Mind, self and society* (Vol. 111). University of Chicago Press.: Chicago.
- Mechlem, K. (2009). Treaty bodies and the interpretation of human rights. *Vand. J. Transnat'l L.*, 42, 905.
- Mégret, F., & Hoffman, F. (2003). UN as a Human Rights Violator-Some Reflections on the United Nations Changing Human Rights Responsibilities, The. *Hum. Rts. Q.*, 25, 314.
- Meijers, F. (2008). Mentoring in Dutch vocational education: An unfulfilled promise. *British Journal of Guidance & Counselling*, 36(3), 237-256.
- Memmi, A. (2013). *The colonizer and the colonized*. Routledge; Fukuyama, F. (2006). Identity, immigration, and liberal democracy. *Journal of Democracy*, 17(2), 5-20.

- Ménard, C. (2004). The economics of hybrid organizations. *Journal of Institutional and Theoretical Economics JITE*, 160(3), 345-376.
- Merleau-Ponty, M. (1967). *The structure of behavior*. Boston: Beacon Press.
- Meuleman, B. (2011). Perceived economic threat and anti-immigration attitudes: Effects of immigrant group size and economic conditions revisited. *Cross-cultural analysis: Methods and applications*, 218-310.
- Meyer, M. (2002). Dignity as a (modern) virtue. *The concept of human dignity in human rights discourse*, 195-208.
- Meyer, J. W., Boli, J., Thomas, G. M., & Ramirez, F. O. (1997). World society and the nation-state. *American Journal of sociology*, 103(1), 144-181.
- Meyerson, D. A. (2013) Mentoring Youth with Emotional and Behavioral Problems: A Meta-Analytic Review" *College of Science and Health Theses and Dissertations*.
- Migali, S., & Andersen, T. M. (2016). *Migrant Workers and the Welfare State* (No. id: 10922).
- Miller, D. (2008). National responsibility and global justice. *Critical review of international social and political philosophy*, 11(4), 383-399.
- Miller, D. (2013). *Justice for earthlings: essays in political philosophy*. Cambridge University Press.
- Miller, D. (2015). Justice in immigration. *European Journal of Political Theory*, 14(4), 391-408.
- Mincer, J. (1974). Schooling, Experience, and Earnings. *Human Behavior & Social Institutions* No. 2.
- Mitchell, S. A. (1981). The origin and nature of the “object” in the theories of Klein and Fairbairn. *Contemporary Psychoanalysis*, 17(3), 376.
- Mittal, S. (2010). Constitutional stability in a changing world: Institutions, knowledge and adaptive efficiency. Working paper. Department of Political Science, Stanford University.
- Mollenhorst, G., Völker, B., & Flap, H. (2008). Social contexts and personal relationships: The effect of meeting opportunities on similarity for relationships of different strength. *Social Networks*, 30(1), 60-68.
- Möller, K. (2007). Balancing and the structure of constitutional rights. *International Journal of Constitutional Law*, 5(3), 453-468.
- Möllers, C. (2009). Democracy and Human Dignity: Limits of a Moralized Conception of Rights in German Constitutional Law. *Israel Law Review*, 42(02), 420.
- Momin, S. (2017). A Human Rights Based Approach to Refugees: A Look at the Syrian Refugee Crisis and the Responses from Germany and the United States. *Duke FL & Soc. Change*, 9, 55.
- Monheim-Helstroffer, J., & Obidzinski, M. (2010). Optimal discretion in asylum lawmaking. *International Review of Law and Economics*, 30(1), 86-97.

- Moncrieffe, J. (2006). The Power of Stigma: Encounters with 'Street Children' and 'Restavecs'. *IDS Bulletin*, 37(6), 34-46.
- Moore, C., Ricker, A., Forbes, J. M., & Ayer, A. (2017). Discrimination Based Upon Race, Religion, and Ethnicity When Filing for Asylum in the European Union (Policy Paper).
- Moraga, J. F. H., & Rapoport, H. (2014). Tradable immigration quotas. *Journal of Public Economics*, 115, 94-108.
- Morales, L., Pilet, J. B., & Ruedin, D. (2015). The gap between public preferences and policies on immigration: A comparative examination of the effect of politicisation on policy congruence. *Journal of Ethnic and Migration Studies*, 41(9), 1495-1516.
- Moravcsik, A. (2000). The origins of human rights regimes: Democratic delegation in postwar Europe. *International Organization*, 54(2), 217-252.
- Mountz, A. (2011). The enforcement archipelago: Detention, haunting, and asylum on islands. *Political Geography*, 30(3), 118-128.
- Mouw, T. (2003). Social capital and finding a job: do contacts matter?. *American sociological review*, 68, 868-898.
- Mueller, C. (2006). Integrating Turkish communities: a German dilemma. *Population research and policy review*, 25(5-6), 419-441.
- Murillo-Huertas, I. P., & Simón, H. (2017). Immigrant Relative Wages at the Great Recession: Evidence with Matched Employer-Employee Data for Spain. *Bulletin of Economic Research*, 69(1), 77-107.
- Muscott, H. S., Mann, E. L., & LeBrun, M. R. (2008). Positive behavioral interventions and supports in new hampshire effects of large-scale implementation of schoolwide positive behavior support on student discipline and academic achievement. *Journal of positive behavior interventions*, 10(3), 190-205.
- Nadig, A. (2002). Human smuggling, national security, and refugee protection. *Journal of refugee studies*, 15(1), 1-25.
- Narkowicz, K. (2018). 'Refugees Not Welcome Here': State, Church and Civil Society Responses to the Refugee Crisis in Poland. *International Journal of Politics, Culture, and Society*, 31(4), 357-373.
- Nekby, L., & Rödén, M. (2010). Acculturation identity and employment among second and middle generation immigrants. *Journal of Economic Psychology*, 31(1), 35-50.
- Neumayer, E. (2005). Do international human rights treaties improve respect for human rights?. *Journal of conflict resolution*, 49(6), 925-953.
- Newman, B. J. (2013). Acculturating contexts and Anglo opposition to immigration in the United States. *American Journal of Political Science*, 57(2), 374-390.
- Nielsen, R. A., & Simmons, B. A. (2015). Rewards for Ratification: Payoffs for Participating in the International Human Rights Regime?. *International Studies Quarterly*, 59(2), 197-208.
- Nuttall, J. (1998). Fairbairnian object relations: The challenge to the moral defence in gay men with HIV. *Psychodynamic Counselling*, 4(4), 445-461.

- Oates, W. E. (1999). An essay on fiscal federalism. *Journal of economic literature*, 37(3), 1120-1149.
- Odmalm, P., & Bale, T. (2015). Immigration into the mainstream: Conflicting ideological streams, strategic reasoning and party competition. *Acta Politica*, 50(4), 365-378.
- OECD. The Fiscal Impact of immigration in OECD countries. June 2013.
- OECD. Finding their way: labour market integration of refugees in Germany. March 2017.
- Officer, D., & Taki, Y. (2013). The Needs of Refugees and the Integration Process in Cyprus. *Report commissioned by the Cyprus Office of UNHCR and conducted by INDEX: Research & Dialogue*.
- Ohlert, C., Beblo, M., & Wolf, E. (2016). Competition, Collective Bargaining, and Immigrant Wage Gaps Within German Establishments. *Wage Inequality in Germany and the Role of Organisations*, 87.
- Okamoto, D., & Ebert, K. (2016). Group Boundaries, Immigrant Inclusion, and the Politics of Immigrant–Native Relations. *American Behavioral Scientist*, 60(2), 224-250.
- Oreopoulos, P. (2007). Do dropouts drop out too soon? Wealth, health and happiness from compulsory schooling. *Journal of public Economics*, 91(11), 2213-2229.
- Oreopoulos, P., & Dunn, R. (2013). Information and college access: Evidence from a randomized field experiment. *The Scandinavian Journal of Economics*, 115(1), 3-26.
- Ortega, F., & Polavieja, J. G. (2012). Labor-market exposure as a determinant of attitudes toward immigration. *Labour Economics*, 19(3), 298-311.
- Otto, A. H., & Steinhardt, M. F. (2017). The Relationship between Immigration and the Success of Far-right Political Parties in Germany. *ifo DICE Report*, 15(4), 20-23.
- Parker, P. D., Jerrim, J., Schoon, I., & Marsh, H. W. (2016). A Multination Study of Socioeconomic Inequality in Expectations for Progression to Higher Education. The Role of Between-School Tracking and Ability Stratification. *American Educational Research Journal*, 53(1), 6-32.
- Paolini, S., Harwood, J., & Rubin, M. (2010). Negative intergroup contact makes group memberships salient: Explaining why intergroup conflict endures. *Personality and Social Psychology Bulletin*, 36(12), 1723-1738.
- Pecoraro, M., & Ruedin, D. (2015). A foreigner who does not steal my job: The role of unemployment risk and values in attitudes toward equal opportunities. *International Migration Review*.
- Peers, S., Hervey, T., Kenner, J., & Ward, A. (Eds.). (2014). *The EU Charter of fundamental rights: a commentary*. Bloomsbury Publishing.
- Petersen, M. J. (2012). *Islamic or universal human rights? The OIC's independent permanent human rights commission* (No. 2012: 03). DIIS Reports/Danish Institute for International Studies.
- Peterson, T. M., Murdie, A., & Asal, V. (2018). Human rights, NGO shaming and the exports of abusive states. *British Journal of Political Science*, 48(3), 767-786.

- Petrovic, M. (2015). Mentoring practices in Europe and North America: strategies for improving immigrants' employment outcomes. Brussels: Migration Policy Institute Europe.
- Pettigrew, T. F., & Tropp, L. R. (2008). How does intergroup contact reduce prejudice? Meta-analytic tests of three mediators. *European Journal of Social Psychology*, 38(6), 922-934.
- Pevnick, R. (2011). *Immigration and the Constraints of Justice: Between Open Borders and Absolute Sovereignty*. Cambridge University Press.
- Phalet, K., Deboosere, P., & Bastiaenssen, V. (2007). Old and new inequalities in educational attainment Ethnic minorities in the Belgian Census 1991—2001. *Ethnicities*, 7(3), 390-415.
- Pinker, S. (2008). The stupidity of dignity. *The new republic*, 28 May 2008.
- Plener, P. L., Groschwitz, R. C., Brähler, E., Sukale, T., & Fegert, J. M. (2017). Unaccompanied refugee minors in Germany: attitudes of the general population towards a vulnerable group. *European child & adolescent psychiatry*, 26(6), 733-742.
- Poe, S. C. (2004). The decision to repress. *Understanding human rights violations: new systematic studies*. Aldershot: Ashgate, 16-42.
- Portes, A., Fernandez-Kelly, P., & Haller, W. (2005). Segmented assimilation on the ground: The new second generation in early adulthood. *Ethnic and racial studies*, 28(6).
- Portes, A., & Landolt, P. (2000). Social capital: Promises and pitfalls of its role in development. *Journal of Latin American Studies*, 32, 526–547.
- Post, R. C. (1986). The social foundations of defamation law: Reputation and the Constitution. *California Law Review*, 691, 711.
- Pratto, F., Sidanius, J., & Levin, S. (2006). Social dominance theory and the dynamics of intergroup relations: Taking stock and looking forward. *European review of social psychology*, 17(1), 271-320.
- Pryce, J., Kelly, S. M., & Guidone, R. S. (2013). Mentor and youth matching. *Handbook of Youth Mentoring*. Thousand Oaks, CA: Sage, 427-38.
- Putnam, R. D. (2007). E pluribus unum: Diversity and community in the twenty-first century the 2006 Johan Skytte Prize Lecture. *Scandinavian political studies*, 30(2), 137-174.
- Quillian, L. (1996). Group threat and regional change in attitudes toward African-Americans. *American Journal of Sociology*, 816-860.
- Radiojević, Z., & Raičević, N. (2018). Financial sanctions against member states for infringement of EU law. *EU and comparative law issues and challenges series*, 1, 171-191.
- Raposa, E. B., Rhodes, J. E., & Herrera, C. (2016). The Impact of Youth Risk on Mentoring Relationship Quality: Do Mentor Characteristics Matter?. *American Journal of Community Psychology*.

- Ramakrishnan, S. K., & Wong, T. (2010). Immigration policies go local: The varying responses of local governments to low-skilled and undocumented immigration. In M. Varsanyi (Ed.), *Taking local control: Immigration policy activism in US cities and states*. Stanford, CA: Stanford University Press.
- Rao, N. (2011). Three Concepts of Dignity in Constitutional Law. *Notre Dame L. Rev.*, 86, 186.
- Rathvon, N. (2008). *Effective school interventions: Evidence-based strategies for improving student outcomes*. Guilford Press.
- Rawls, J. (1997). The idea of public reason revisited. *The University of Chicago Law Review*, 64(3), 765-807.
- Rawls, J. (2005). *Political liberalism*. Columbia University Press.
- Raz, J. (1991). Free expression and personal identification. *Oxford Journal of Legal Studies*, 312
- Réaume, D. G. (2002). Discrimination and dignity. *La. L. Rev.*, 63, 688.
- Reese, G., Steffens, M. C., & Jonas, K. J. (2014). Religious affiliation and attitudes towards gay men: On the mediating role of masculinity threat. *Journal of Community & Applied Social Psychology*, 24(4), 340-355.
- Reeskens, T., & Wright, M. (2013). Nationalism and the cohesive society: A multilevel analysis of the interplay among diversity, national identity, and social capital across 27 European societies. *Comparative Political Studies*, 46(2), 153-181.
- Reinhold, M., & Thomsen, S. (2017). The changing situation of labor market entrants in Germany. *Journal for Labour Market Research*, 50(1), 161.
- Rengs, Bernard et al. (2017) Labour market profile, previous employment and economic integration of refugees: An Austrian case study, Vienna Institute of Demography Working Papers, No. 13/2017, Austrian Academy of Sciences (ÖAW), Vienna Institute of Demography (VID), Vienna.
- Renner, W., Thomas, A., Mikulajová, M., & Newman, D. (2018). Threat Perception and Modern Racism as Possible Predictors of Attitudes towards Asylum Seekers: Comparative Findings from Austria, Germany, and Slovakia. *International Journal of Business and Social Research*, 7(12), 10-22.
- Resnik, J., & Suk, J. C. H. (2003). Adding Insult to Injury: Questioning the Role of Dignity in Conceptions of Sovereignty. *Stanford Law Review*, 1921-1962.
- Rhodes, J. E., Grossman, J. B., & Resch, N. L. (2000). Agents of change: Pathways through which mentoring relationships influence adolescents' academic adjustment. *Child development*, 71(6), 1662-1671.
- Rhodes, J. E., Reddy, R., Grossman, J. B., & Lee, J. M. (2003). Same versus cross-race matches in mentoring programs: A comparison. *Journal of Applied Social Psychology*, 32, 2114-2133.
- Rhodes, J.E. (2005). A model of youth mentoring. In D.L. Dubois & M.J. Karcher (Eds.), *Handbook of youth mentoring* (pp. 30-43). Thousand Oaks, CA: Sage.
- Rhodes, J. E. (2008). Improving youth mentoring interventions through research-based practice. *American Journal of Community Psychology*, 41(1-2), 35-42.

- Rietig, V. (2016). *Moving Beyond Crisis: Germany's New Approaches to Integrating Refugees Into the Labor Market*. Washington, DC: Migration Policy Institute.
- Ritter, E. H. (2014). Policy disputes, political survival, and the onset and severity of state repression. *Journal of Conflict Resolution*, 58(1), 143-168.
- Rodríguez-Planas, N. (2012). Mentoring, educational services, and incentives to learn: What do we know about them?. *Evaluation and program planning*, 35(4), 481-490.
- Rodríguez-Planas, N. (2014). Do youth mentoring programs change the perspectives and improve the life opportunities of at-risk youth?. *IZA World of Labor*.
- Roffman, J. G., Suarez-Orozco, C., & Rhodes, J. E. (2003). Facilitating positive development in immigrant youth. *Community youth development: Programs, policies, and practices*, 90-117.
- Roper, S. D., & Barria, L. A. (2010). Burden sharing in the funding of the UNHCR: refugee protection as an impure public good. *Journal of Conflict Resolution*.
- Rosas, 'The Charter and Universal Human Rights Instruments', in: Peers, S., Hervey, T., Kenner, J., & Ward, A. (Eds.). (2014). *The EU Charter of fundamental rights: a commentary*. Bloomsbury Publishing.
- Rosenstein, J. E. (2008). Individual threat, group threat, and racial policy: Exploring the relationship between threat and racial attitudes. *Social Science Research*, 37(4), 1130-1146.
- Rossiter, M. J., & Rossiter, K. R. (2009). Diamonds in the rough: Bridging gaps in supports for at-risk immigrant and refugee youth. *Journal of International Migration and Integration*, 10(4), 409.
- Roth, A. E., & Sotomayor, M. (1992). Two-sided matching. *Handbook of game theory with economic applications*, 1, 485-541.
- Rotich, J. (2011). Mentoring as a Springboard to Acculturation of Immigrant Students into American Schools. *Journal of case studies in Education*, 1.
- Rowe, E., & O'Brien, E. (2014). 'Genuine' refugees or illegitimate 'boat people ': Political constructions of asylum seekers and refugees in the Malaysia Deal debate. *Australian Journal of Social Issues*, 49(2), 171-193.
- Roycroft, K. (2014). Mentoring for employment success: A review of the literature. *Manchester, UK: Manchester Metropolitan University, Faculty of Education, Community Audit and Evaluation Centre*.
- Ruedin, D., Alberti, C., & D'Amato, G. (2015). Immigration and integration policy in Switzerland, 1848 to 2014. *Swiss Political Science Review*, 21(1), 5-22
- Ryan, T. J. (2017). No compromise: Political consequences of moralized attitudes. *American Journal of Political Science*, 61(2), 409-423.
- Sacerdote, B. (2011). Peer effects in education: How might they work, how big are they and how much do we know thus far?. *Handbook of the Economics of Education*, 3, 249-277.
- Sachs, J. D. (2016). Toward an international migration regime. *American Economic Review*, 106(5), 451-55.

- Sadiq, K., & Pevnick, R. (2011). Immigration and the Constraints of Justice: Between Open Borders and Absolute Sovereignty. *Perspectives on Politics*, 9(4), 930.
- Sajons, C. (2016). *Birthright citizenship and parental labor market integration* (No. 16/07). Freiburger Diskussionspapiere zur Ordnungsökonomik.
- Sandler, T., & Hartley, K. (2001). Economics of alliances: The lessons for collective action. *Journal of economic literature*, 39(3), 869-896.
- Saniter, N., & Siedler, T. (2013). The effects of occupational knowledge: job information centers, educational choices, and labor market outcomes.
- Sarvimäki, M. (2011). Assimilation to a welfare state: Labor market performance and use of social benefits by immigrants to Finland. *The Scandinavian Journal of Economics*, 113(3), 665-688.
- Sarvimäki, M., & Hämäläinen, K. (2016). Integrating Immigrants: The Impact of Restructuring Active Labor Market Programs. *Journal of Labor Economics*, 34(2), 479-508.
- Schäfer, A., & Gottschall, K. (2015). From wage regulation to wage gap: how wage-setting institutions and structures shape the gender wage gap across three industries in 24 European countries and Germany. *Cambridge Journal of Economics*, 39(2), 467-496.
- Scheepers, P., Gijsberts, M., & Coenders, M. (2002). Ethnic exclusionism in European countries. Public opposition to civil rights for legal migrants as a response to perceived ethnic threat. *European sociological review*, 18(1), 17-34.
- Schneewind, J. B. (2002). *Groundwork for the Metaphysics of Morals*. Yale University Press.
- Scherger, S., & Savage, M. (2010). Cultural transmission, educational attainment and social mobility. *The Sociological Review*, 58(3), 406-428.
- Shaffer, G. (2012). International law and global public goods in a legal pluralist world. *European journal of international law*, 23(3), 681.
- Shlafer, R. J., Poehlmann, J., Coffino, B., & Hanneman, A. (2009). Mentoring children with incarcerated parents: Implications for research, practice, and policy. *Family relations*, 58(5), 507-519.
- Schlimbach, T. (2010). Intergenerational mentoring in Germany: Older people support young people's transitions from school to work. *Working with Older People*, 14(4), 4-15.
- Schlueter, E., Meuleman, B., & Davidov, E. (2013). Immigrant integration policies and perceived group threat: A multilevel study of 27 Western and Eastern European countries. *Social Science Research*, 42(3), 670-682.
- Schmitt, C. (1985). *Political theology: Four chapters on the concept of sovereignty*. University of Chicago Press.
- Schmidt, P., Raijman, R., & Hochman, O. (2016). National identity and exclusion of non-ethnic migrants: Germany and Israel in comparative perspective. In *Dynamics of National Identity* (pp. 90-108) Routledge.
- Schopenhauer, A., & Bullock, A. B. (2005). *The Basis of Morality*. Courier Corporation.

- Schneeweis, N. (2011). Educational institutions and the integration of migrants. *Journal of Population Economics*, 24(4), 1281-1308.
- Schneeweis, N. (2015). Immigrant concentration in schools: Consequences for native and migrant students. *Labour Economics*, 35, 63-76.
- Schnell, P., & Azzolini, D. (2015). The academic achievements of immigrant youths in new destination countries: Evidence from southern Europe. *Migration Studies*, 3(2), 217-240.
- Schnell, P., Fibbi, R., Crul, M., & Montero-Sieburth, M. (2015). Family involvement and educational success of the children of immigrants in Europe. Comparative perspectives.
- Schnepf, S. V. (2008). *Inequality of Learning amongst Immigrant Children in Industrialised Countries* (No. 3337). Institute for the Study of Labor (IZA).
- Scholten, P., Collett, E., & Petrovic, M. (2016). Mainstreaming migrant Integration? A critical analysis of a new trend in integration governance. *International Review of Administrative Sciences*, 0020852315612902.
- Scholten, P., & Penninx, R. (2016). The Multilevel Governance of Migration and Integration. In *Integration Processes and Policies in Europe* (pp. 91-108). Springer International Publishing.
- Schuck, P. H. (1997). Refugee burden-sharing: a modest proposal. *Yale J. Int'l L.*, 22, 243.
- Schuck, P. (2014). Refugee Burden-Sharing: A Modest Proposal Fifteen Years Later?.
- Schütz, G., Ursprung, H. W., & Wößmann, L. (2008). Education policy and equality of opportunity. *Kyklos*, 61(2), 279-308.
- Schwartz, S. E., Rhodes, J. E., Spencer, R., & Grossman, J. B. (2013). Youth initiated mentoring: Investigating a new approach to working with vulnerable adolescents. *American Journal of Community Psychology*, 52(1-2), 155-169.
- Semyonov, M., Raijman, R., Tov, A. Y., & Schmidt, P. (2004). Population size, perceived threat, and exclusion: A multiple-indicators analysis of attitudes toward foreigners in Germany. *Social Science Research*, 33(4), 681-701.
- Seufert, G. (2016). Turkey as partner of the EU in the refugee crisis: Ankara's problems and interests. *Wissenschaft und Politik*, German Institute for International and Security Affairs.
- Sheridan, A. (2017). Returning rejected asylum seekers: practices and challenges in Ireland. *Economic and Social Research Institute (ESRI) Research Series*.
- Shlafer, R. J., Poehlmann, J., Coffino, B., & Hanneman, A. (2009). Mentoring children with incarcerated parents: Implications for research, practice, and policy. *Family Relations*, 58, 507-519.
- Shultziner, D., & Rabinovici, I. (2012). Human dignity, self-worth, and humiliation: A comparative legal-psychological approach. *Psychology, Public Policy, and Law*, 18(1), 105.

- Sikkink, K. (2011). *The Justice Cascade: How Human Rights Prosecutions Are Changing World Politics (The Norton Series in World Politics)*. WW Norton & Company.
- Simmons, B. A. (2000). International law and state behavior: Commitment and compliance in international monetary affairs. *American Political Science Review*, 94(4), 819-835.
- Skinner, E., Furrer, C., Marchand, G., & Kindermann, T. (2008). Engagement and disaffection in the classroom: Part of a larger motivational dynamic?. *Journal of educational psychology*, 100(4), 765.
- Skov, G. (2016). Transfer Back to Malta: Refugees' Secondary Movement Within the European Union. *Journal of Immigrant & Refugee Studies*, 14(1), 66-82.
- Smet, S. (2013). Conflicts between Absolute Rights: A Reply to Steven Greer. *Human Rights Law Review*, 13(3), p. 477.
- Smith, S. S. (2005). "Don't put my name on it": Social capital activation and job-finding assistance among the black urban poor. *American Journal of Sociology*, 111(1), 1-57.
- Smith-Cannoy, H. (2012). *Insincere Commitments: Human Rights Treaties, Abusive States, and Citizen Activism*. Georgetown University Press.
- Sniderman, P. M., Hagendoorn, L., & Prior, M. (2004). Predisposing factors and situational triggers: Exclusionary reactions to immigrant minorities. *American political science review*, 98(1), 35-49.
- Snyder Jr, J. M., & Strömberg, D. (2010). Press coverage and political accountability. *Journal of political Economy*, 118(2), 355-408.
- Sobel, J. (1985). A theory of credibility. *The Review of Economic Studies*, 52(4), 557-573.
- Sobolewska, M., Galandini, S., & Lessard-Phillips, L. (2017). The public view of immigrant integration: multidimensional and consensual. Evidence from survey experiments in the UK and the Netherlands. *Journal of Ethnic and Migration Studies*, 43(1), 58-79.
- Somer-Topcu, Z. (2015). Everything to Everyone: The Electoral Consequences of the Broad-Appeal Strategy in Europe. *American Journal of Political Science*, 59(4), 841-854.
- Sommarribas, A., Petry, D., Marcus, N., & Nienaber, B. (2016). *Resettlement and Humanitarian Admission Programmes in Europe—what works?*. University of Luxembourg.
- Spahl, W., Weiss, S., Kohlenberger, J., & Buber-Ennsner, I. (2017). *Immigration and the social welfare state in Austria, Germany, and Switzerland: A comparative meta-study* (No. 18/2017). Vienna Institute of Demography Working Papers.
- Spence, M. (1973). Job market signaling. *The quarterly journal of Economics*, 87(3), 355-374.
- Spencer, R. (2007). "It's Not What I Expected" A Qualitative Study of Youth Mentoring Relationship Failures. *Journal of Adolescent Research*, 22(4), 331-354.
- Spencer, R., Basualdo-Delmonico, A., & Lewis, T. O. (2011). Working to make it work: The role of parents in the youth mentoring process. *Journal of Community Psychology*, 39(1).
- Spencer, R., Tugenberg, T., Ocean, M., Schwartz, S. E., & Rhodes, J. E. (2016). "Somebody Who Was on My Side" A Qualitative Examination of Youth Initiated Mentoring. *Youth & Society*, 48(3), 402-424.

- Spoonley, P., Peace, R., Butcher, A., & O'Neill, D. (2005). Social cohesion: A policy and indicator framework for assessing immigrant and host outcomes. *Social Policy Journal of New Zealand*, 24(1), 85-110.
- Stähler, N. (2017). A model-based analysis of the macroeconomic impact of the refugee migration to Germany. Bundesbank Discussion Paper No 05/2017.
- Steinmayr, A. (2016). *Exposure to Refugees and Voting for the Far-Right. (Unexpected) Results from Austria*. Verein für Socialpolitik/German Economic Association.
- Stephan, W. G., & Stephan, C. W. (1996). Predicting prejudice. *International Journal of Intercultural Relations*, 20(3-4), 409-426.
- Stern, David G., 2004, *Wittgenstein's Philosophical Investigations: An Introduction*, Cambridge: Cambridge University Press, 11.
- Stewart, E. S. (2012). UK Dispersal Policy and Onward Migration: Mapping the Current State of Knowledge. *J. Refugee Stud.*, 25.
- Stiglitz, J. E. (1975). The theory of "screening," education, and the distribution of income. *The American economic review*, 65(3), 283-300.
- Stolle, D., & Harell, A. (2013). Social capital and ethno-racial diversity: Learning to trust in an immigrant society. *Political Studies*, 61(1), 42-66.
- Storesletten, K. (2003). Fiscal implications of immigration—A net present value calculation. *The Scandinavian Journal of Economics*, 105(3), 487-506.
- Straus, S. E., Johnson, M. O., Marquez, C., & Feldman, M. D. (2013). Characteristics of successful and failed mentoring relationships: a qualitative study across two academic health centers. *Academic medicine: journal of the Association of American Medical Colleges*, 88(1), 82.
- Sue, J. L., Craig, W. M., Dunn, V., & Luca-Huger, T. (2014). The Active Ingredient: An Examination of the Mentoring Relationship. Do relationships matter? An examination of a school-based intergenerational mentoring program, 60.
- Suhnan, A., Pedersen, A., & Hartley, L. K. (2012). Re-examining prejudice against asylum seekers in Australia: The role of people smugglers, the perception of threat, and acceptance of false beliefs. *The Australian Community Psychologist*, 24(2), 79-97.
- Suhrke, A. (1998). Burden-sharing during refugee emergencies: the logic of collective versus national action. *Journal of refugee studies*, 11(4), 396-415.
- Sutter, M., Kocher, M. G., Glätzle-Rützler, D., & Trautmann, S. T. (2013). Impatience and uncertainty: Experimental decisions predict adolescents' field behavior. *The American Economic Review*, 103(1), 510-531.
- Sweet, A. S., & Mathews, J. (2008). Proportionality balancing and global constitutionalism. *Colum. J. Transnat'l L.*, 47, 72.
- Sykes, A. O. (2013). International cooperation on migration: Theory and practice. *The University of Chicago Law Review*, 80(1), 315-340.

- Tarau, D. (2014). Criminal Law's Principle of Humanism in Romania at the Beginning of 21st Century. *Lumia journals*, year III, Issue 1, 55-62.
- Taylor, A. S., & Porcellini, L. (2013). Family involvement. In D. L. DuBois & M. J. Karcher (Eds.), *Handbook of youth mentoring* (2nd edn, pp. 457–468). Los Angeles: Sage Publications.
- Teney, C., Devleeshouwer, P., & Hanquinet, L. (2013). Educational aspirations among ethnic minority youth in Brussels: Does the perception of ethnic discrimination in the labour market matter? A mixed-method approach. *Ethnicities*, 1468796812472009.
- Thielemann, E. R. (2003). Between interests and norms: Explaining burden-sharing in the European Union. *Journal of refugee studies*, 16(3), 253-273.
- Thielemann, E. R., & Dewan, T. (2006). Why States Don't Defect: Refugee Protection and Implicit Burden-Sharing?. *Department of Government and European Institute, London School of Economics*, (March 2003), 14.
- Thomsen, S. L., Walter, T., & Aldashev, A. (2013). Short-term training programs for immigrants in the German welfare system: do effects differ from natives and why?. *IZA Journal of Migration*, 2(1), 24.
- Thym, D. (2013). EU migration policy and its constitutional rationale: A cosmopolitan outlook. *Common Market L. Rev.*, 50, 709.
- Thym, D., & Hailbronner, K. (2016). Introduction: EU Immigration and Asylum Law: Constitutional Framework and Principles for Interpretation. *published in: Kay Hailbronner and Daniel Thym (eds.): EU Immigration and Asylum Law. Commentary, 2nd edition (CH Beck/Hart/Nomos, 2016)*, 1-29.
- Tolan, P., Henry, D., Schoeny, M., Bass, A., Lovegrove, P., & Nichols, E. (2013). Mentoring interventions to affect juvenile delinquency and associated problems: A systematic review. *Campbell Systematic Reviews*, 9(10).
- Tolan, P. H., Henry, D. B., Schoeny, M. S., Lovegrove, P., & Nichols, E. (2014). Mentoring programs to affect delinquency and associated outcomes of youth at risk: A comprehensive meta-analytic review. *Journal of experimental criminology*, 10(2), 179-206.
- Toshkov, D., & de Haan, L. (2013). The Europeanization of asylum policy: an assessment of the EU impact on asylum applications and recognitions rates. *Journal of European Public Policy*, 20(5), 661-683.
- Tsukamoto, S., & Fiske, S. T. (2018). Perceived threat to national values in evaluating stereotyped immigrants. *The Journal of social psychology*, 158(2), 157-172.
- Türk, V., & Nicholson, F. (2003). Refugee protection in international law: an overall perspective. *Refugee Protection in International Law: UNHCR's Global Consultations on International Protection*, 3-45.
- Van de Werfhorst, H. G., & Mijs, J. J. (2010). Achievement inequality and the institutional structure of educational systems: A comparative perspective. *Annual review of sociology*, 36, 407-428.
- Van der Noll, J. (2010). Public support for a ban on headscarves: A cross-national perspective. *International Journal of Conflict and Violence (IJCV)*, 4(2), 191-204.

- Verhaeghe, P. P., Li, Y., & Van de Putte, B. (2013). Socio-economic and ethnic inequalities in social capital from the family among labour market entrants. *European sociological review*, 29(4), 683-694.
- Völker, B., Pinkster, F., & Flap, H. (2008). Inequality in social capital between migrants and natives in the Netherlands. *Kölner Zeitschrift für Soziologie und Sozialpsychologie*, (Sonderheft 48), 325-350.
- Vollebergh, W., Veenman, J., & Hagendoorn, L. (Eds.). (2017). *Integrating Immigrants in the Netherlands: Cultural Versus Socio-Economic Integration: Cultural Versus Socio-Economic Integration*. Routledge.
- von Hermanni, H., & Neumann, R. (2018). 'Refugees welcome?' The interplay between perceived threats and general concerns on the acceptance of refugees—a factorial survey approach in Germany. *Journal of Ethnic and Migration Studies*, 1-26.
- Vos et al. (2013). Met mentoring naar de top! Toekomst, ontwikkeling en perspectief (Groningen, Netherlands: Institute voor integratie en sociale weerbaarheid).
- Vroome, T., Verkuyten, M., & Martinovic, B. (2014). Host national identification of immigrants in the Netherlands. *International Migration Review*, 48(1), at 81.
- Wacquant, L. (2005). Habitus. *International encyclopedia of economic sociology*, 315-19.
- Wagner, U., Christ, O., Pettigrew, T. F., Stellmacher, J., & Wolf, C. (2006). Prejudice and minority proportion: Contact instead of threat effects. *Social psychology quarterly*, 69(4), 380-390.
- Wanberg, C. R., Welsh, E. T., & Hezlett, S. A. (2003). Mentoring research: A review and dynamic process model. *Research in personnel and human resources management*, 22, 39-124.
- Watson, B. R., & Riffe, D. (2013). Perceived threat, immigration policy support, and media coverage: Hostile media and presumed influence. *International Journal of Public Opinion Research*, 25(4), 459-479.
- Weldon, S. A. (2006). The institutional context of tolerance for ethnic minorities: A comparative, multilevel analysis of Western Europe. *American Journal of Political Science*, 50(2), 331-349.
- Wellman, C. H. (2008). Immigration and freedom of association. *Ethics*, 119(1), 109-141.
- Wells, H. G. (2017). *The Rights of Man*. Vintage.
- Wenneras, P. (2012). Sanctions against Member States under article 260 TFEU: alive, but not kicking. *Common Market L. Rev.*, 49, 145.
- Whitman, J. Q. (2004). Human dignity in Europe and the United States: the social foundations. *Human Rights Law Journal*, 25, 17-23.
- Whitman, J. Q. (2004). The two western cultures of privacy: dignity versus liberty. *Yale Law Journal*, 1151-1221.
- Wimmer, A., & Glick Schiller, N. (2002). Methodological nationalism and beyond: nation–state building, migration and the social sciences. *Global networks*, 2(4), 323.

Wirtz, C., van der Pligt, J., & Doosje, B. (2016). Negative attitudes toward Muslims in The Netherlands: The role of symbolic threat, stereotypes, and moral emotions. *Peace and Conflict: Journal of Peace Psychology*, 22(1), 75.

Wlezien, C., & Soroka, S. N. (2012). Political institutions and the opinion–policy link. *West European Politics*, 35(6), 1407-1432.

Woessmann, L. (2016). The economic case for education. *Education Economics*, 24(1).

Woessmann, L. (2016b). The importance of school systems: Evidence from international differences in student achievement. *The Journal of Economic Perspectives*, 30(3), 3-31.

Woolcock, M. (1998). Social capital and economic development: Toward a theoretical synthesis and policy framework. *Theory and society*, 27(2), 151-208.

Zarate, M. A., Garcia, B., Garza, A. A., & Hitlan, R. T. (2004). Cultural threat and perceived realistic group conflict as dual predictors of prejudice. *Journal of experimental social psychology*, 40(1), 99-105.

Zavadny, M., & Orrenius, P. (2010). *Beside the Golden Door: US Immigration Reform in a New Era of Globalization*. American Enterprise Institute.

Zhou, M., & Kim, S. (2006). Community forces, social capital, and educational achievement: The case of supplementary education in the Chinese and Korean immigrant communities. *Harvard Educational Review*, 76(1), 1-29.

Zieck, M. (2005). Vanishing Points of the Refugee Law Regime. *Immigr. & Nat'lity L. Rev.*, 26, 243

Zilberstein, K., & Spencer, R. (2014). Breaking bad: an attachment perspective on youth mentoring relationship closures. *Child & Family Social Work*.

Court Cases

Supreme Court (Canada)

Gosselin v. Quebec (Attorney General), [2002] 4 S.C.R. 429

Law v. Canada (Minister of Employment and Immigration) [1999] 1 SCR 497

R. v. Kapp, [2008] SCC 41, 2 SCR 483

R. v. Keegstra, [1990] 3 S.C.R. 697

R v Krymowski [2005] 1 S.C.R. 101

Supreme Court (Germany)

30 BVerfGE 173

49 BVerfGE 286

BVerfGE 121, 175

BVerfGE, 60, 123

BVerfG, 1 BvL 1/09

BverfGE, 1 BvR 357/05

45 BVerfGE 187

BverfGE 4, 7

BVerfGE1

BverfGE, 64 274

1BvL 10/10

Supreme Court Cases (United States)

Brown v. Board of Education of Topeka, 347 U.S. 483 (1954)

Brown v. Plata, 563 U.S. 493 (2011)

Hamdi v. Rumsfeld, 542 U.S. 507 (2004)

Hope v. Pelzer 536 U.S. 730 (2002)

Ford v. Wainwright 477 U.S. 399 (1986)

Immigration and Naturalization Service v. Cardoza-Fonseca 480 U.S. 421 (1987)

Lawrence v. Texas 539 U.S. 558 (2003)

Planned Parenthood of Southeastern Pennsylvania v. Casey, 505 U.S. 833 (2002)

Procunier v. Martinez, 416 U.S. 396 (1974)

Rochin v. California, 342 U.S. 165 (1952)

Roper v. Simmons 543 U.S. 551 (2005)

Schmerber v. California 384 U.S. 757 (1966)

Thornburgh v. Abbott, 490 U.S. 401 (1989)

Thornburgh v. American College of Obstetricians and Gynecologists, 476 U.S. 747 (1986)

Trop v. Dulles 356 U.S. 86 (1958)

European Court of Human Rights

A.M.E. v. the Netherlands (App no 51428/10) ECHR 5 February 2015

A.S. v. Switzerland (App no 39350/13) ECHR 30 June 2015

Al-Skeini and Others v. United Kingdom (App no 55721/07) ECHR 07 July 2011

Alekseyev v Russia (App No 14599/09) ECHR 21 October 2010

Artico v. Italy (App no 6694/74) ECHR 13 May 1980

Amrollahi v. Denmark (App No 56811/00) ECHR 11 July 2002

Armoniene v. Lithuania (App no. 36919/02) ECHR 11 February 2010

Bankovic and Others v. Belgium and Others (App no 52207/99) ECHR 12 December 2001

Bouyid v. Belgium (App no 23380/09) ECHR 2015

Belgium v. Belgium A 6 (1968); 1 EHRR 241

Biao v. Denmark (Appl. No. 38590/10) ECHR 24 May 2016.

Bosphorus Hava Yolları Turizm ve Ticaret Anonim Şirketi v. Ireland (App No 45036/98) ECHR 30 June 2005

Budina V. Russia (App no 45603/05) ECHR June 2009

Chahal v. the United Kingdom (App no 70/1995/576/662) 15 November 1996

Christine Goodwin v. the United Kingdom (App no 28957/95) ECHR July 11, 2002

Ebrahimian v. France (App no 64846/11) ECHR 26 November 2015

Egmez v. Cyprus (App no 30873/96) ECHR 18 Sep 2000

Evans v. United Kingdom (App no 6339/05) EHRR 07 March 2006

Eweida v United Kingdom (App no 48420/10) ECHR 27 July 2013

Farbtuhs v. Latvia (App no 4672/02) ECHR 02 December 2004

Gäfgen v. Germany (App no. 22978/05) ECHR 01 June 2010

Georgia v. Russia [GC] (App no 13255/07) ECHR 03 July 2008

Haas v. Switzerland (App no 31322/07) ECHR 20 January 2011

Hirsi Jamaa and Others v. Italy (App No. 27765/09) ECHR 23 February 2012

Hunde v. Netherlands (App no 17931/16) ECHR 05 July 2016

I v. United Kingdom (App no 25680/94) ECHR 11 July 2001

Ireland v. The United Kingdom (App no 5310/71) ECHR 13 December 1977

Issa and Others v. Turkey (App no 31821/96) ECHR 16 November 2004

Iwańczuk v. Poland (App no 25196/94) ECHR 15 November 2001

Jallah v Germany (App no 54810/00) ECHR 11 July 2006

Krastanov v. Bulgaria (App no 50222/99) ECHR 30 September 2004

Kudła v. Poland (App no 30210/96) ECHR 26 October 2000

Labita v. Italy (App no 26772/95) ECHR 06 April 2000

Leyla Şahin v. Turkey (App no 44774/98) ECHR 10 November 2005

López Ostra v. Spain, (App no 16798/90) ECHR 9 December 1994

Lustig-Prean and Beckett v. UK, (Application nos. 21417/96 and 32377/96) ECHR 27 September 1999

M.S.S. v. Belgium and Greece (App no 30696/09) ECHR 21 January 2011

Medvedyev and Others v. France (App no 3394/03) ECHR 29 March 2010

Müslim v. Turkey (App no. 53566/99) ECHR 26 April 2005

Öcalan v. Turkey (App no 46221/99) ECHR 09 June 2003

Opuz v. Turkey (App no 33401/02) ECHR 9 June 2009

Oršuš and Others v. Croatia (App no 15766/03) ECHR 16 March 2010

Petty v. UK (App no. 2346/02) ECHR 29 April 2002

Price v. United Kingdom, (App no. 33394/96) ECHR 10 July 2001

S.A.S. v. France, [GC] (App no 43835/11) ECHR 01 July 2014

Saadi v. United Kingdom, 13229/03, ECHR, 29 January 2008

Schmidt v. Germany (App no 32352/02) ECHR 5 January 2006

Smith and Grady v. the United Kingdom (App no 33985/96) ECHR 27 December 1999

Soering v. the United Kingdom, 7 July 1989, Series A no. 161

Svinarenko and Slyadnev v. Russia [GC], (App no 32541/08) ECHR 07 July 2014

Tarakhel v. Switzerland (Application no. 29217/12) ECHR 4 November 2014

Tyrer v. the United Kingdom (App no 5856/72) ECHR 15 March 1978

V v. the United Kingdom (App no 2488/94) ECHR 10 December 1999

Valašinas v. Lithuania (App no 44558/98) ECHR 24 July 2001

Young, James and Webster v United Kingdom (App no 7806/77) (1981) 4 EHRR 38

European Court of Justice

Case C-33/76 *Rewe vs. Landwirtschaftskammer für das Saarland* [1976]

Case C-69/10 *Samba Diouf* [2011]

Case C – 36/02, *Omega Spielhallen und Automatenaufstellungs- GmbH v. Oberbürgermeisterin der Bundesstadt Bonn* [2004] ECR I – 9609

Case C-39/72 *Commission vs. Italy* [1973]

Case C-157/15 *Achbita vs. G4S Secure Solutions* [2015]

Case C-175/08 *Salahadin Abdulla and Others v. Bundesrepublik Deutschland* [2010]

Case C-281/98 *Roman Angonese v Cassa di Risparmio di Bolzano S.p.A.* [2000]

Case C-443/14 *Kreis Warendorf v. Ibrahim Alo and Amira Osso and Region Hannover* [2016]

Case C-508/10 *Commission vs. Netherlands* [2012]

Case C-540/03 *Parliament vs. Council* [2006]

Case C-578/08 *Chakroun* [2010]

Case C-617/10 *Akerberg Fransson* [2013]

Case C-713/17 *Ayubi v. Bezirkshauptmannschaft Linz-Land* [2018]

International Court of Justice

Mavrommatis Palestine Concessions (Greece v. U.K.), 1924 P.C.I.J. (ser. B) No. 3 (Aug. 30)

Panevezys-Saldutiskis Railway (Est. v. Lith.), 1938 P.C.I.J. (ser. A/B) No. 76 (Feb. 28)

Court Cases (Misc)

Alkotmánybíroság (AB) [Constitutional Court] 32/1998 (Hung.)

V. v. Einwohnergemeinde X. und Regierungsrat des Kantons Bern (BGE/ATF 121 I 367) Swiss Federal Court

HCJ 366/79 *Katalan v. Prison Authority*, 34(3) PD 294 [128]

HCJ 4541/94 *Miller v. Minister of Defence*.

Arggello-Garcia v. Canada, [1993] F.C. 635

Oskoy v. Canada, [1993] F.C. 644

S V. Jordan and Others (Sex Workers Education and Advocacy Task Force and Others as Amici Curiae) (CCCT31/0) [2002]

Plaintiff M70/2011 v. Minister for Immigration and Citizenship; and Plaintiff M106 of 2011 v. Minister for Immigration and Citizenship, [2011] HCA 32, Australia: High Court, 31 August 2011

State v. Makwanyane and Mchunu, 1995 (6) BCLR 665 (CC).

State of Ohio v. Dario Williams (2004 WL 1902368 (Ohio App. 8 Dist.)).

Secretary of State for the Home Department v. Khalif Mohamed Abdi, English Court of Appeal (Civil Division), [1994] Imm AR 402, 20 April 1994, Gibson LJ

T. v. Secretary of State for the Home Department, UK House of Lords, 22 May 1996, [1996] 2 All ER 865, [1996] 2 WLR 766

R. (Hoxha) v. Secretary of State for the Home Department, [2002] EWCA Civ

Evans v. Amicus Healthcare Ltd [2004] EWCA Civ 727

Re A [2001] 2 WLR 480

Gates v. Collier, 501 F.2d 1291

A. v. Secretary of State for the Home Department [2004] UKHL 56; [2005] 2 WLR 87 (HL).

Korablina v. Immigration and Naturalization Service, 97-70361, United States Court of Appeals for the Ninth Circuit, 23 October 1998

European Union Documents

Council of Europe Resolution CM/ResChS (2015)5, Conference of European Churches (CEC) v. the Netherlands, Complaint No. 90/2013

Council (of Ministers) of the European Union, Conclusions on a Common Framework for Genuine and Practical Solidarity Towards Member States Facing Particular Pressures on their Asylum Systems, Including Through Mixed Migration Flows, 8 March 2012

Council Conclusions on EU Return Policy adopted at the Justice and Home Affairs Council meeting of 5 and 6 June 2014.

Directive 2008/115/EC, 2008.

Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (Asylum Procedures Directive) [2013] OJ L180/60.

Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection

Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.

Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013

Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (OJ L 212, 7.8.2001, "Temporary Protection Directive") 23(1, 2)

ECA European Agenda on Migration. Brussels: COM (2015) 240 final.

European Commission. 'An Economic Take on the Refugee Crisis: A Macroeconomic Assessment for the EU.' (July 2016) Institutional Paper 033

European Commission. EU Action Plan on Return. COM (2015) 453.

European Commission. On a more effective return policy in the European Union -a renewed action plan. COM (2017) 200.

European Commission. (2016b) Research on Migration: Facing Realities and Maximising Opportunities.

European Commission. A European Agenda on Migration. Brussels: COM (2015) 240 final.

European Commission. An Economic Take on the Refugee Crisis: a macroeconomic Assessment for the EU. Institutional Paper 033 (July 2016).

European Commission. Action Plan on the integration of third country nationals. (July 2016) 377 final.

European Council. Orders of the General Court in Cases T-192/16, T-193/16 and T-257/16 NF, NG and NM v European Council (February 2017).

European Committee on Social Rights, *European Federation of National Organisations working with the Homeless (FEANTSA) v. the Netherlands*, Complaint No. 86/2012

European Parliament (2015). 'Economic challenges and prospects of the refugee influx'.

European Parliament (2016). Secondary movements of asylum seekers in the EU asylum system.

European Parliament. (2018). Integration of Refugees into Germany, Austria, and Sweden: a Comparative Analysis. IP/A/EMPL/2016-23 January 2018.

European Union: Council of the European Union, Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for

persons eligible for subsidiary protection, and for the content of the protection granted (recast), 20 December 2011, OJ L. 337/9-337/26; 20.12.2011, 2011/95/EU

European Union, Council Document 7773/94 ASIM 124

Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013

United Nations

United Nations General Assembly. 'In safety and dignity: addressing large movements of refugees and migrants. Report of the Secretary-General'. (21 April 2016).

Human Rights Committee, General Comment No. 15, The Position of Aliens Under the Covenant (1986).

Manfred Nowak, U.N. Covenant on Civil and Political Rights, commentary 228 (1993)

Global Consultations on International Protection, 'Summary Conclusions – Family Unity', Geneva expert roundtable, Nov. 2001

Consolidated Version of the Treaty on the Functioning of the European Union, Oct. 26, 2012, 2012 O.J. (C 326/18)

European Union: Council of the European Union, Presidency Conclusions, Tampere European Council, 15-16 October 1999

European Commission, 'Article 7 of the Treaty on European Union – Respect for and promotion of the values on which the Union is based' [2003] (COM(2003) 606 final).

Global Consultations on International Protection (2001) 'Summary Conclusions – Article 31 of the 1951 Convention', expert roundtable, Geneva, Cambridge University Press

Conference of European Churches (CEC) v. the Netherlands (complaint no. 90/2013), Council of Europe: European Committee of Social Rights, 21 January 2013

Expert Roundtable, Lisbon, Port., May 3-4, 2001, *Summary Conclusions: Cessation of Refugee Status*, at para 2 (June 2003).

Human Rights Committee, General Comment No. 15, (1986) 'The Position of Aliens under the Covenant'

Manuel Wackenheim v France, U.N. Doc. CCPR/C/75/D/854/1999 (2002)

Inter-American Court of Human Rights, Advisory Opinion OC-4/84 of 19 Jan. 1986 (*Proposed Amendments to the Naturalization Provision of the Constitution of Costa Rica requested by the Government of Costa Rica*),

International Law Commission, 'Articles on the Responsibility of States for Internationally Wrongful Acts', UNdoc. A/CN.4/L.602, 31 May 2001

UNHCR

UNHCR. 'Legal considerations on the return of asylum-seekers and refugees from Greece to Turkey as part of the EU-Turkey Cooperation in Tackling the Migration Crisis under the safe third country and first country of asylum concept' (23 March 2016) at 3.

UNHCR. *UNHCR Provisional Comments on the Proposal for a Council Directive on Minimum Standards on Procedures in Member States for Granting and Withdrawing Refugee Status (Council Document 14203/04, Asile 64, of 9 November 2004)*, 10 February 2005,

UNHCR. *Improving Asylum Procedures: Comparative Analysis and Recommendations for Law and Practice - Detailed Research on Key Asylum Procedures Directive Provisions*, March 2010,

UNHCR. 'Legal considerations on the return of asylum-seekers and refugees from Greece to Turkey as part of the EU-Turkey Cooperation in Tackling the Migration Crisis under the safe third country and first country of asylum concept' (23 March 2016).

UNHCR. (2003) 'Guidelines on International Protection: Application of the Exclusion Clauses: Article 1F of the 1951 Convention Relating to the Status of Refugees' HCR/GIP//03/05.

UNHCR. Guidelines on International Protection No. 3: Cessation of Refugee Status under Articles 1(C)(5) and (6) of the 1951 Convention relating to the Status of Refugees, U.N. GAOR, 58th Sess., U.N. Doc. HCR/GIP/03/03 (2003) §14

UNHCR. 'Handbook-Voluntary Repatriation: International Protection, January 1996 2.3

UNHCR. Note on Cessation Clauses, 30 May 1997, EC/47/SC/CRP.30

UNHCR. *Summary Conclusions on the Concept of "Effective Protection" in the Context of Secondary Movements of Refugees and Asylum-Seekers (Lisbon Expert Roundtable, 9-10 December 2002)*

UNHCR. (2003) 'Interpreting Article 1 of the 1951 Convention Relating to the Status of Refugees)

UNHCR. Legomsky, Stephen H, (2003) Secondary Refugee Movements and the Return of Asylum Seekers to Third Countries: The Meaning of Effective Protection.

UNHCR. (2017) Mixed migration trends in Libya: changing dynamics and protection challenges

Covenants and Treaties

African Charter on Human and Peoples' Rights, 1981, 21 ILM (1982) 58; Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, 1998, OAU Doc OAU/ LEG/EXP/AFCHPR/PROT/III.

American Declaration of the Rights and Duties of Man, OAS Res XXX (1948)

American Convention on Human Rights, OAS Treaty Series No. 36, 1144 UNTS 123

Charter of Fundamental Rights of the European Union (2000/C 364/01), OJ (2000) C 364/1
European Social Charter (Revised), ETS No. 163 (1996)

Consolidated Version of the Treaty on European Union [2008] OJ C115/13.

Convention (III) relative to the Treatment of Prisoners of War, Geneva, 12 Aug. 1949.

Convention on the Rights of the Child, opened for signature 20 November 1989, 1577 UNTS

Convention Relating to the Status of Refugees, July 28, 1951, 19 U.S.T. 6260, 189 U.N.T.S. 150
(Hereinafter 1951 Refugee Convention]

Convention Relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954)
189 UNTS 137.

Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on
Human Rights, as amended) (ECHR).

Convention on the Elimination of All Forms of Discrimination against Women, GA Res 34/180, 34 UN
GAOR Supp (No. 46), at 193, UN Doc A/34/46.

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, GA Res
39/46, annex, 39 UN GAOR Supp (No. 51), at 197, UN Doc A/39/51 (1984).

Convention on the Rights of the Child, GA Res 44/25, annex, 44 UN GAOR Supp (No 49), at 167, UN
Doc A/44/49 (1989).

1984 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1465
UNTS 85 / [1989] ATS 21

European Convention, on Human Rights and Fundamental Freedoms, *opened for signature* Nov. 4, 1950,
213 U.N.T.S. 222, E.T.S.

European Convention on Human Rights, ECHR, 213 UNTS 222

Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women
Convention of Belem ILM (1994)

Inter-American Convention to Prevent and Punish Torture, OAS Treaty Series No. 67, 25 ILM (1992)

International Covenant on Civil and Political Rights (ICCPR), GA Res 2200A (XXI), 21 UN GAOR
Supp (No. 16), at 52, UN Doc A/6316 (1966), 999 UNTS 171.

International Convention on the Elimination of All Forms of Racial Discrimination GA Res 2106 (XX),
Annex, 20 UN GAOR Supp. (No. 14) at 47, UN Doc A/6014 (1966), 660 UNTS 195.

International Covenant on Economic, Social and Cultural Rights (ICESCR), GA Res 2200A (XXI), 21
UN GAOR Supp (No 16), at 49, UN Doc A/6316 (1966), 993 UNTS 3;
CONVENT

International Convention on the Protection of the Rights of All Migrant Workers and Members of their
Families, GA Res 45/158, annex, 45 UN GAOR Supp (No. 49A), at 262, UN Doc A/45/49 (1990).

International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR).

League of Arab States, Arab Charter on Human Rights, May 22, 2004, reprinted in 12 INT'L HUM. RTS. REP. 893 (2005) (entered into force Mar. 15, 2008)

Organization of American States (OAS), American Convention on Human Rights, "Pact of San Jose", Costa Rica, 22 November 1969

Protocol No. 7 to the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms, *opened for signature* Nov. 22, 1984, 24 I.L.M. 435, E.T.S. No. 117, at 2 (entered into force Nov. 1, 1988).

1967 Protocol relating to the Status of Refugees, *opened for signature* January 31, 1967, 19 U.S.T. 6223, 606 U.N.T.S. 267 (entered into force Oct. 4, 1967) (as of Aug. 11, 2004, 142 states parties) [hereinafter 1967 Protocol]

Protocol 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), Council of Europe, CETS No. 184

Protocol Additional to the Geneva Conventions of 12 Aug. 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977.

Statute of the Office of UNHCR, G.A. Res. 428 (V), U.N. GAOR, 5th Sess., 325th mtg., U.N. Doc. A/Res/428 (1950) [hereinafter Statute of UNHCR]

United Nations, Charter of the United Nations, 24 October 1945, 1 UNTS XVI

UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III).

UN General Assembly, *2005 World Summit Outcome: bresolution / adopted by the General Assembly*, 24 October 2005, A/RES/60/1

UN General Assembly, Human Rights Council: Resolution adopted by the General Assembly, 3 April 2006, A/RES/60/251

UN General Assembly, Universal Periodic Review. National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, 13 November 2015, A/HRC/WG.6/23/AUS/1

UN General Assembly, *International Covenant on Economic, Social and Cultural Rights, at art 9; International Covenant on Civil and Political Rights and Optional Protocol to the International Covenant on Civil and Political Rights*, 16 December 1966, A/RES/2200. Right to work at 23(2).

UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 19: The right to social security (Art. 9 of the Covenant)*, 4 February 2008, E/C.12/GC/19

Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III) (UDHR).

Organisation of Islamic Cooperation

OIC. 'Charter and History'. Accessed last February 12, 2018 from < <https://www.oic-oci.org/home/?lan=en>>.

OIC, 'Organization of the Islamic Conference. Ten Year Programme of Action' (2005) <<http://www.oic-oci.org/ex-summit/english/10-years-plan.htm>> accessed 15 December 2012

OIC, 'Amended Charter' (2008) <<http://www.oic-oci.org/is11/english/Charter-en.pdf>> accessed 03 March 2018

OIC. (2011). 'Statute of the OIC Independent Permanent Commission on Human Rights' <<http://www.oicun.org/75/20120607051141117.html>> accessed 15 October 2016

OIC, 'Department of Social and Cultural Affairs' (2011) 17 OIC Journal 1,15

OIC Constitution (2008). Last accessed 30 December 2016 from <<http://www.oic.org>>

Internet Articles

The World Bank. 'Refugee population by country or territory of asylum' <<http://data.worldbank.org/indicator/SM.POP.REFG>> Last accessed February 1, 2016

The Telegraph. 'Each Syrian to Cost 24,000 Pounds a Year' (October 9. 2015). Last accessed August 9, 2016 from <http://www.telegraph.co.uk/news/politics/11941580/Each-Syrian-refugee-to-cost-Britain-24000-a-year.html>

CESifo Group Munich, 'Cost of refugees to reach ten billion Euro' Last accessed January 31, 2016 from http://www.cesifo-group.de/ifoHome/presse/Pressemitteilungen/Pressemitteilungen-Archiv/2015/Q3/pm-20150920_sd18_fluechtlinge.html

Department of Immigration and Border Protection (2016). Department of Immigration and Border Protection Annual Report 2015-16 as mentioned in Refugee Council of Australia. 'Recent Changes in Australian Refugee Policy' (2017. Last accessed July 8, 2016 from < <http://www.refugeecouncil.org.au/publications/recent-changes-australian-refugee-policy/> >.

Appendix A: Immigrant Questionnaire and Interview

Dates: February-May 2017

Interviewer: Akiva Weiss

Locations: Athens, Chania, Rhodes, Palermo, Hamburg, Bremen

Language: English/Arabic.

Instructions

Thank you for agreeing to participate in this important survey measuring the impact of mentoring on asylum seekers and refugees. The project will be completed in 3 months and aims to better inform EU policy makers about the needs of refugees. This questionnaire is completely confidential. It will be entered into a database along with thousands of other respondents. Thank you.

Questions:

Have you been mentored?

Was a mentor assigned or did mentoring occur naturally?

Was the mentor male or female?

What was the duration of the mentorship?

Was the mentor from the same social group/ethnic community as you?

Did the mentor speak Arabic?

On a scale from 1-7:

Did the mentor help you make business contacts outside of your community/social group?

Did the mentor help you make meaningful friends from the native host population?

Did the mentor help you navigate public institutions?

Did the mentor provide emotional support?

Did the mentor help you with family problems?

Did the mentor help you with educational support?

Did your employment status change during the mentoring relationship?

Did the mentor impact that change?

If so: (a) positively or (b) negatively

About You:

Gender

Nationality

Time in Country

Religion

Family Members in country

Current Occupation

Former Occupation (in your home country)

Please circle only one:

Legal Status: (a) refugee (b) temporary protection status (c) waiting for decision (d) no status (e) citizen

Labor market status: (a) full-time employment (b) part-time employment (c) unemployed

Education Level: (a) not finished high school (b) some university (c) completed undergraduate degree (d) completed graduate degree

I just have a few more questions to ask.

Feel free to answer them in as much or as little detail as you're comfortable.

1. If your mentor helped you make meaningful friendships can you describe them: for example, their age, personality, social standing?
2. Do you think you would have made friends with them without the mentor's help?
3. Did you visit any of their places of work?
4. Did you visit any of their homes?
5. Did they visit your home?
6. If you had a mentor help you with education in which ways did he or she help?
7. Did they visit the schools?
8. Did they meet with teachers or administrators?
9. Did the mentor help you more with immediate concerns like homework and course content or longer-term aspects like graduation?
10. Did your mentor try and link your education with future employment opportunities?
11. If your mentor helped you with learning the local language, in which way did he or she help?
12. Have you ever gone out for a meal with your mentor?
13. If so, please tell me about the place.
14. Did your mentor speak Arabic? If not, was he or she interesting in learning Arabic?

