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Responses to the “refugee crisis”: What is the role of self-image among EU countries?

Abstract

The situation in Europe in 2015 and 2016 has raised many questions about state responses to what has been called “the refugee crisis”, and how these responses correspond with claims of upholding respect for the principle of asylum, and of refugee and migration policies being humanitarian and fair. Refugee policy is influenced by a number of different factors, including a state’s legal obligations, economic situation, political ideology and public opinion. This paper gives an overview of relevant legislation in the field, and of events and developments in migration and asylum policy in 2015 and early 2016. I discuss whether a state’s self-image, and the image it wishes to present, has any impact on policy in extraordinary situations such as the one unfolding in Europe over the last eighteen months. It is argued that the self-image can indeed have some impact, in particular on the way increasingly restrictive measures are presented and explained, however, it is also held that regardless of a state’s self-image or good intentions, a humanitarian asylum policy which upholds respect for human rights, and the principle of asylum in particular, only seems possible when not actually put to the test.

1 Introduction

Migration is often described as one of the great issues of our time, but the movement of people across borders is nothing new. While global migration levels as a whole have remained fairly stable over the last half a decade, migration in different shapes and forms has been increasingly politicised, owing both to so-called economic migration and to the rising numbers of forcibly displaced individuals in the early twenty-first century.¹ The United Nations High Commissioner for Refugees (UNHCR) estimated that in 2015 more than 65 million people had been forced to leave

their homes due to persecution, armed conflicts, generalised violence and other human rights violations.² This is the highest number of displaced individuals yet on record.

It is commonly accepted that states normally have a moral as well as legal right to exercise considerable discretionary control over immigration, over who enters and remains in their territory.³ Complex legal frameworks have therefore been set up to control and regulate migration in different shapes and forms. With an increasing influx of migrants,

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¹ S. Castles, H. de Haas & M.J. Miller *The Age of Migration. International Population Movements in the Modern World* 5th ed. Palgrave Macmillan, 2014, pp. 1, 221, 313-316.

² UNHCR Global Trends Forced Displacement in 2015, available at <http://www.unhcr.org/statistics/country/576408cd7/unhcr-global-trends-2015.html> (last visited 22/06/16).

³ M. Walzer *Spheres Of Justice: A Defense Of Pluralism And Equality* New York, Basic Books Inc., 1983.

the challenges as well as opportunities that migration entails for the countries of origin, transit and destination have grown in complexity.⁴ The challenges are perhaps made particularly visible by the arrival of refugees and asylum seekers who have been forced to migrate rather than having done so voluntarily. The situation could be described as a conflict of interests in legal as well as moral/ethical terms.⁵ The case of refugees and asylum seekers can be seen as an exception to the general rule that states can freely control who enters and settles within their jurisdictions, as it is widely held that democratic states have a duty to accept at least certain numbers of people seeking international protection.⁶ From a legal point of view, the conflict of interests lies mainly between state sovereignty and the right to exercise discretionary control over admissions to a state's territory (a right often described as essential to a state's self-determination) on one hand, and on the other hand, the binding legal obligations of states towards refugees and others in need of international protection as established by international and national law. From a moral/ethical point of view, the rights and claims of those seeking protection can be seen as set against the rights of citizens in the receiving country to have their own basic rights and interests secured, including the distribution of available resources and the right to be able to participate in decisions about who enters and resides in their country.⁷

Why states adopt certain migration policies and why certain migration policies have certain outcomes has been the subject of much scholarly debate.⁸ In brief, a state's migration and asylum policy can be determined by several issues in combination, including the state's legal obligations towards migrants in general and those seeking international protection in particular; economic

conditions, political ideology, public opinion and ethical concerns. A country's self-image and how it wants to be perceived by others as regards respect for human rights can also, I argue here, influence policy and legislation, or at least how it is presented.⁹ "Self-image" in this context refers to how a particular state views itself in the context of its own historical experience, an image which in turn is the image presented to onlookers.¹⁰ Self-image in this sense can be seen as a reflection of national identity and culture and of what are considered fundamental values of a particular country. National identity and self-image are also likely to be influenced by the rational considerations of the political elite, related to national interests and current situations.¹¹ The identity of a state and its self-image from this perspective is thus not static, but a process shaped "by past and present and by human reason"¹².

In liberal democratic states, the conflict of interests described above is clearly visible in the matter of refugee and migration policy. Liberal democracies, not least in Europe, have historically emphasised the importance of a fair and just migration policy and of respecting the principle of asylum and human rights.¹³ This should by no means be understood as a move towards open borders, however, instead, in order to avoid the arrival of too many refugees and asylum seekers, states set up legal and practical barriers to prevent or deter migrants from reaching their territory; barriers such as visa requirements from refugee – and migrant – producing states, increased border surveillance and control, the detection and apprehension of migrants, prevention of illegal employment, repatriation, limiting the possibilities of family reunification and the externalisation of borders through readmission and return agreements enrolling third countries in border control. States have

⁴ United Nations General Assembly, Protection of Migrants, U.N. Doc. A/RES/66/172, 29 Mar. 2012.

⁵ See e.g. the discussion in J. H. Carens *The Ethic of Immigration* Oxford, Oxford University Press, 2013.

⁶ Carens (2013), p. 194, with references. On asylum as a concept, see e.g. M. E. Price *Rethinking Asylum. History, Purpose, and Limits* Cambridge, Cambridge University Press, 2009.

⁷ See discussion in M.J. Gibney *The Ethics and Politics of Asylum. Liberal Democracy and the Response to Refugees* Cambridge University Press, 2004 and A. Nethery "Partialism, Executive Control, and the Deportation of Permanent Residents from Australia" *Population, Space and Place* (2012) Vol. 18, pp. 729-740 (729).

⁸ For a brief overview of the debate, see Castles, de Haas & Miller (2014) pp. 312-316.

⁹ As T.A. Aleinikoff remarked recently, "states want to be seen as respecting rights even when they don't" (ICON-S conference "Borders, otherness & public law", Plenary session 1, 17 June 2016.) Carens suggests that "collective self-image" might influence states towards a (more) generous refugee policy, Carens (2013), p. 223. See also E. Abiri "The Changing Praxis of 'Generosity': Swedish Refugee Policy during the 1990s" *Journal of Refugee Studies* (2000) Vol 13, No. 1, pp. 11-28.

¹⁰ For a discussion of national identity and theories explaining it, see A.L. Clunan *Social Construction of Russia's Resurgence: Aspirations, Identity, and Security Interests* Baltimore, Johns Hopkins University Press 2009, Chapter 1.

¹¹ Clunan (2009) pp. 7-8.

¹² Clunan (2009) p. 8.

¹³ Gibney (2004). This has been argued as not to be construed as eroding the sovereign state (see Castles, de Haas & Miller (2014) p. 313, with references).

been reluctant to admit to the existence of this gap between principles and practice, and instead the measures of deterrence are explained in terms of keeping illegal migrants out.

Against this backdrop, the aim of this paper is to reflect upon the possible influence a country's self-image could have on its asylum policy in the context of the "refugee crisis" of 2015 and early 2016. A discussion is held of how specific EU countries affected by this recent chain of events acted, and how these actions were rationalised and explained by states, so as to contribute to an understanding of how asylum and refugee policies developed as they did over the last 18 months. In the discussion I draw on Carens' arguments about why states have a moral obligation to accept and allow entry to individuals seeking international protection¹⁴, and on Gibney's reasoning on the impartial or partial approaches by states to the right to asylum¹⁵. Joseph H. Carens¹⁶ and Matthew J. Gibney¹⁷ are political scientists with an interest in migration and citizenship, and the ethical and political issues raised by the movement of people across borders. Carens and Gibney both suggest ways of thinking about the gap between theory and practice as regards state obligations, and discuss the conflict of interests outlined above, approaches that can help frame and explain recent developments in migration and asylum policy in Europe. In the discussion, I draw on examples from selected European countries including Sweden, Germany, Hungary and the United Kingdom. The countries were selected on the basis of being important stakeholders in the recent debate, having represented different approaches (generous vs. restrictive) to migration and asylum in a European context. Given the limitations of space for this paper, I do not aspire to present an in-depth analysis of each individual EU country's migration policy or self-image; the aim is rather to show examples illustrating certain tendencies.

The outline of the paper is as follows. This introduction is followed by a description of the legal framework relating to asylum in the European Union: what states are obliged to do. This is followed by a brief overview of the events of 2015 and early 2016 as regards migrant flows in the European region, aiming to provide a snapshot of the situation and responses from the EU and from individual member states. In the final parts of the paper, I discuss the different reactions and responses to the situation of selected countries and reflect upon the extent to which the self-image of a country might have had impact on asylum policy and legislation.

2 The legal framework – what are states obliged to do?

The terminology used in the discussion on people leaving their homes for different reasons can be somewhat confusing, as concepts referred to colloquially do not have the same meaning in law. A *refugee* in legal terms is someone who fulfils the criteria established in article 1A(2) of the 1951 Convention on the Status of Refugees (the Refugee Convention), or corresponding provisions in EU or national law.¹⁸ This is not necessarily the case for all persons who are forcibly displaced; a person that for one reason or another has been forced to leave their home to seek protection elsewhere. An *asylum seeker* is someone who has applied for international protection (asylum) in a country other than their own but whose protection status is yet to be determined. A person considered eligible for international protection can be defined as either a refugee or as a person entitled to subsidiary protection¹⁹, depending on the criteria fulfilled. *Migrant* is an even wider concept, referring to people moving across borders for any reason.²⁰ A clear definition of an *economic migrant* is difficult to find; it is however often applied to describe persons who do not migrate for reasons of protection but for economic reasons such as poverty, work opportunities, and so on. In

¹⁴ As presented in Carens (2013), see note 5 above.

¹⁵ As presented in Gibney (2004), see note 7 above.

¹⁶ Joseph H. Carens is Professor of Political Science at the University of Toronto and is often described as a leading ethical theorist in the field of immigration. See <http://isj.acu.edu.au/people/professor-joseph-carens/>.

¹⁷ Matthew J. Gibney is Professor of Politics and Forced Migration at the University of Oxford. See <https://www.rsc.ox.ac.uk/people/matthew-gibney>.

¹⁸ To qualify as a refugee according to Article 1A(2) a person needs to be outside their country of origin and have a well-founded fear of persecution for reasons of race, nationality, political opinion, religion or membership of a particular social group. The last category is today interpreted as including, for example, persecution for reasons of sex/gender and sexual orientation/identity.

¹⁹ Grounds for subsidiary protection include the risk of being subjected to torture, inhuman or degrading treatment, or serious harm due to armed conflict.

²⁰ The International Organisation for Migration defines a migrant as "any person who is moving or has moved across an international border or within a state away from his/her habitual place of residence, regardless of the person's legal status; whether the movement is voluntary or involuntary; what the causes for the movement are; or what the length of the stay is" (excluding tourists, business travel etc.) <http://www.iom.int/key-migration-terms> (last visited 17/6/2016).

public debate and in the media, the words migrant, refugee and asylum seeker often seem to be used interchangeably, referring to anyone seeking protection and/or a better future.

The two main pillars of international refugee law are the right to seek and enjoy asylum as established in the 1948 United Nations Declaration of Human Rights (Article 14.1) and the principle of *non-refoulement*²¹. The right to asylum is not codified in any binding instrument of international law but its existence forms the basis of the Refugee Convention and its 1967 Protocol. It should be noted that “the right to asylum” is generally understood as the right of the individual to *seek* asylum (international protection) and to be granted such if the necessary requirements are fulfilled; not an obligation for states to provide protection to anyone who claims it.²² The principle of non-refoulement is established by Article 33 of the Refugee Convention, as well as by provisions of international human rights law²³. It is also considered customary law, which means that the rule is binding on states irrespective of whether the state is bound by a treaty in which it is included.²⁴

The Refugee Convention definition of a refugee and the provisions on non-refoulement together form the basis of the obligation of states to persons seeking international protection. The rights of individuals and the corresponding obligations of states vary depending on whether a person is an asylum seeker, a person with confirmed protection status (refugee or other) or a person whose asylum claim has been denied. The picture is complicated further by the fact that although economic migrants in general are not considered in need of international protection, a person can simultaneously be both a refugee and an economic migrant, because there are often multiple reasons for leaving one’s country of origin. What is important to emphasise in this context is that international human rights law applies

to all individuals within the jurisdiction of a state party, irrespective of citizenship or legal status.

In EU law, the EU Charter of Fundamental Rights confirms the right to asylum and the principle of non-refoulement in Articles 18 and 19. Article 18 explicitly refers to the Refugee Convention. Following Article 78 of the Treaty on the Functioning of the European Union (TFEU), the EU is to develop a common policy on asylum. This has been realised mainly through the Common European Asylum System (CEAS), aiming to establish common rules to ensure the fair and equal treatment of asylum seekers regardless of the member state to which they apply for asylum, and to establish minimum standards for national implementation of the common policy. The CEAS builds on the concepts and principles laid out in international refugee law, the Refugee Convention in particular, although an important difference is that the CEAS only applies to third country nationals. Key instruments of the CEAS are the Qualification Directive (on grounds for protection), the Asylum Procedures Directive, the Temporary Protection Directive (on situations of temporary massive influx of asylum seekers), the Receptions Directive, the Dublin III Regulation and the EURODAC Regulation (establishing a European database for fingerprints of asylum seekers). The Dublin Regulation is of particular interest for the movement of asylum seekers as it establishes criteria identifying which member state is responsible for the examination of an asylum claim, which might (but need not necessarily be) the country of first arrival in the EU. In addition to a common policy on asylum, the EU is also to establish a common policy for immigration (TFEU Article 79), both of which “shall be governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States” (TFEU Article 80). The Schengen Agreement, regulating the free movement and removal of internal border control within

²¹ *Non-refoulement* is the obligation of states not to return (refouler) non-nationals to countries in which their life or freedom is threatened, or where they risk being subjected to torture or inhuman or degrading treatment or punishment.

²² See e.g. S. Kneebone “Refugees and Asylum-Seekers in the International Context – Rights and Realities” in S. Kneebone (ed.) *Refugees, Asylum Seekers and the Rule of Law. Comparative Perspectives* Cambridge, Cambridge University Press, 2009, pp. 1-32 (9-11).

²³ UN Convention Against Torture (Article 3), the UN International Covenant on Civil and Political Rights (Article 7), the UN Convention on the Rights of the Child (Articles 6 and 37), and the European Convention on Human Rights (Article 3).

²⁴ The International Law Association (ILA) has defined a rule of customary international law as one that is “created and sustained by the constant and uniform practice of states in circumstances that give rise to the legitimate expectation of similar conduct in the future.” International Law Association London Conference 2000, Committee on the formation of customary (general) international law, Final report of the Committee *Statement of principles applicable to the formation of general customary international law*, p. 8.

the Schengen Area and the legal framework for Frontex, EU's border agency, are additional instruments regulating migration and movement across borders in the region.

Notwithstanding this detailed framework and the measures taken to assist member states in its implementation, studies show that harmonisation of asylum and migration policies, legislation and practice is far from being achieved in the EU – practices still vary substantially between Member States.²⁵ Key obstacles to the common rules and principles working in practice include the lack of political will at a national level to implement EU law effectively, and systemic deficiencies preventing states from fulfilling their obligations according to the common policies.²⁶ The vulnerability of the system when Member States no longer wish to, or are able to, conform to what has been agreed in 2015 became obvious, causing speculation about whether the EU will survive the political crisis caused by the refugee situation and about which direction it will now turn.²⁷

3 A brief overview of events and responses in 2015 and early 2016

The European Union

The migrant routes to Europe, not least across the Mediterranean, have been on the agenda of the EU and its Member States for years. Various measures have been taken, at both the EU and national level, to manage and seize control of the situation. The aim of the majority of these policy initiatives has been to reduce flows of migrants and asylum-seekers into the EU, although it should not be disregarded that the introduction of a common system has

contributed to raising legal standards applicable to asylum-seekers and refugees in certain respects.²⁸ What made the situation different in 2015 was that the number of asylum seekers and migrants trying to reach Europe and the EU rose to unprecedented heights, the result, to a large extent, of ongoing and protracted armed conflicts such as in Syria, Iraq and Somalia.²⁹ Even though the great majority of the individuals forcibly displaced by reasons of persecution, armed conflict or other human rights violations, either do not cross an international border or remained in a neighbouring country, the number of asylum seekers came to dominate the EU's political agenda and the situation became referred to as "the refugee crisis".

The EU responded to the situation in several ways. In May 2015, the European Commission adopted the European Agenda on Migration³⁰, introducing immediate responses as well as longer-term policy changes. Immediate measures introduced by the Agenda included the launch of a military operation at sea, aiming both to search and rescue and to prevent trafficking and smuggling in the Mediterranean; the creation of "hotspots" in frontline member states where asylum seekers and migrants will be identified, registered and fingerprinted and where returns and relocations will be coordinated; and a commitment to relocation and resettlement.³¹ Long-term policy strategy included reducing incentives for irregular migration, defining a new policy on legal migration, saving lives and strengthening the implementation of CEAS. The Agenda for Migration was followed by a number of measures, including decisions on relocation and resettlement in July³² and September³³ by the Justice and Home Affairs Council, the EU Action

²⁵ See e.g. UNHCR, *Safe at Last? Law and Practice in Selected EU Member States with Respect to Asylum-Seekers Fleeing Indiscriminate Violence*, 27 July 2011, available at: <http://www.refworld.org/docid/4e2ee0022.html> (last visited 18/06/16), C. Bauloz, M. Ineli-Ciger, S. Singer & V. Stoyanova (eds.) *Seeking asylum in the European Union: selected protection issues raised by the second phase of the common European asylum system* Leiden/Boston, Brill, 2015.

²⁶ Parallels has been drawn to the EU handling of the Euro crisis, see Editorial comments "From Eurocrisis to asylum and migration crisis: Some legal and constitutional considerations about the EU's current struggles" *Common Market Law Review* (2015) Vol. 52, pp. 1437-1450.

²⁷ Ibid.

²⁸ C. Kaunert & S. Léonard "The European Union Asylum Policy after the Treaty of Lisbon and the Stockholm Programme: Towards Supranational Governance in a Common Area of Protection?" *Refugee Survey Quarterly* (2012) Vol. 31, No. 4, pp. 1–20 (2–4), Bauloz et al (2015).

²⁹ UNHCR, *UNHCR Mid-Year Trends 2015*, 2015, available at: <http://www.refworld.org/docid/568fbb8f4.html> (last visited 18/06/16).

³⁰ COM(2015) 240 final.

³¹ http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/background-information/docs/summary_european_agenda_on_migration_en.pdf (accessed 16/01/26). On the implementation of the relocation and resettlement schemes, see UNHCR's evaluation UN High Commissioner for Refugees (UNHCR), *Building on the Lessons Learned to Make the Relocation Schemes Work More Effectively*, January 2016 <http://www.refworld.org/docid/56a076e24.html> (accessed 16/01/26).

³² <http://www.consilium.europa.eu/en/meetings/jha/2015/07/20/> (visited 27/04/2016).

³³ http://europa.eu/rapid/press-release_STATEMENT-15-5697_en.htm (visited 27/04/2016).

Plan of Return³⁴ of September 2015, the 17-point plan of action on the Western Balkans route of 25 October 2015 and the EU-Turkey Joint Action Plan³⁵ of November 2015 aimed at stemming the flow of migrants from Turkey to the EU. Development at the EU level continued in the same direction in 2016. In March 2016, the much debated EU-Turkey Agreement³⁶ was put in place, aiming to end irregular migration from Turkey to Europe. The Agreement has been strongly criticised for not conforming with international or EU law, the principle of non-refoulement not least, and has even been contested in Greek courts.³⁷ In late spring 2016, the Commission presented far-reaching proposals on reforming the CEAS, including far-reaching reform of the Dublin system and the inclusion of what is called a fairness mechanism, aimed at ensuring that no Member State is left with a disproportionate pressure on its asylum system.³⁸ The proposals are at the time of writing being processed and discussed by Member States.

It is interesting to note that “the crisis” referred to was not primarily that suffered by those fleeing armed conflicts or other human rights violations, but the pressure their arrival put on European countries and asylum systems. Increasingly, migrants seeking to reach Europe’s borders or travelling through EU territory were referred to in terms of “floods”³⁹ and “tidal waves”⁴⁰, language fit for describing natural disasters and catastrophes. Although this kind of wording has long been used by politicians, organisations and individuals with an anti-immigration agenda, it has now

seeped into mainstream vocabulary, normalising the idea of refugees and asylum seekers as a problem and a threat.

State responses

As noted above, the issue of migration, migrants and asylum seekers has been on the agenda of European countries for many years and is not something that suddenly emerged in 2015. The attitudes towards refugees and asylum seekers arriving in Europe expressed by different governments are thus closely linked to national politics. Commentators point to the rise of populist parties and movements as a key factor influencing migration and asylum policies in European countries.⁴¹ In the early days of the refugee situation – the summer and early autumn months of 2015 – European governments responded to what was happening in quite different ways. Some countries adopted what has been described as a ‘welcoming culture’⁴², most notably perhaps Germany, Sweden and Austria, who all expressed their aim and willingness to provide protection for many of those arriving, in particular from Syria. Others, less actively welcoming the asylum seekers to remain on their territory, still allowed asylum seekers to enter and transit through their country without registration, or gave free passage over borders while sometimes also providing assistance along the route (Greece⁴³ and Croatia⁴⁴ are two examples). There were, however, also countries that chose a different path, successively strengthening border controls and building fences to keep potential asylum seekers and people in transit out, temporarily closing their borders, and in some

³⁴ COM(2015) 453 final.

³⁵ See http://europa.eu/rapid/press-release_MEMO-15-5860_sv.htm (last visited 18/06/16).

³⁶ <http://www.consilium.europa.eu/en/press/press-releases/2016/03/18-eu-turkey-statement/> (last visited 18/06/16).

³⁷ The UNHCR has expressed serious concern regarding the agreement and the way in which it is implemented <http://www.unhcr.org/news/press/2016/3/56ec533e9/unhcr-eu-turkey-deal-asylum-safeguards-must-prevail-implementation.html> (last visited 7/6/2016), <http://www.unhcr.org/news/briefing/2016/3/56f10d049/unhcr-redefines-role-greece-eu-turkey-deal-comes-effect.html> (last visited 7/6/2016). On the case in Greek courts challenging the foundations of the EU-Turkey deal, see <https://euobserver.com/migration/133515> (last visited 7/6/2016).

³⁸ See Communication 6 April 2016 from the Commission to the European Parliament and the Council. Towards a reform of the Common European Asylum System and enhancing legal avenues to Europe (COM (2016) 197 final) and European Commission press release Towards a sustainable and fair Common European Asylum System, 4 May 2016 (http://europa.eu/rapid/press-release_IP-16-1620_en.htm, last visited 20/06/2016).

³⁹ <http://edition.cnn.com/2015/09/19/world/migrant-trail-europe/> (last visited 20/01/16).

⁴⁰ <http://www.dailymail.co.uk/news/article-3141005/Tidal-wave-migrants-biggest-threat-Europe-war.html> (last visited 20/01/16).

⁴¹ S. Lehne “The tempting trap of Fortress Europe” Carnegie Europe article 21 April 2016 <http://carnegieeurope.eu/2016/04/21/tempting-trap-of-fortress-europe/ixdx> (visited 21 April 2016), A. Juhász, B. Hunyadi & E. Zgut *Focus on Hungary: Refugees, Asylum and Migration* Prague, Heinrich-Böll-Stiftung, Political capital Kft, 2015.

⁴² Lehne (2016).

⁴³ Medecins sans frontières “Obstacle course to Europe. A policy-made humanitarian crisis at EU borders” report, December 2015 (available at http://www.msf.org/sites/msf.org/files/msf_obstacle_course_to_europe.pdf).

⁴⁴ <https://www.boell.de/en/2016/05/24/european-refugee-crisis-croatian-view> (last visited 16/06/16).

cases even using violence against refugees trying to cross the border (Hungary⁴⁵ and the Czech Republic⁴⁶ being two examples). The latter measures were viewed with concern by, among others, the UN Secretary General.⁴⁷

In the autumn and winter of 2015, as the boats kept arriving on Greek shores and the number of people making their way through Europe remained high, attitudes among European states grew increasingly negative about accepting more asylum seekers and refugees. Stricter measures aimed at stopping or redirecting migration were introduced by country after country. This also applied to the most welcoming countries, examples of measures taken including when, in November, Germany announced that the Dublin Regulation was once again also being applied to Syrian nationals;⁴⁸ and when Austria both announced plans to build fences along its border with Slovenia and introduced new legislation aimed at decreasing the country's attractiveness to asylum seekers⁴⁹. Also in November, Sweden announced that, having accepted more than 149 000 asylum seekers in 2015 alone, it no longer could handle the influx of refugees, and that the system needed 'time to breathe'.⁵⁰ Stricter rules and measures were to be introduced in Sweden. This development continued in late 2015 and early 2016. Further examples included the Swedish government proposing a new temporary bill on asylum, lowering Swedish asylum rules to EU and international minimum standards⁵¹ and when it was suggested in Germany in February 2016 that several North African countries were to be listed as "safe countries"⁵², despite serious concerns about human rights violations.

Rhetoric

The ways in which both politicians and other stakeholders spoke about refugees and asylum seekers also underwent changes during the course of the crisis. Although rhetoric on "being tough on migrants" is nothing new in modern European politics, there nevertheless appeared to be limits to what was acceptable; rejecting the most blatantly racist and anti-immigrant statements. As mentioned above, a distinction has been made between 'illegal migrants'/'economic migrants' on the one side and 'real refugees' on the other, referring to the former as unwanted, unwelcome and as claiming resources to which they had no right; in opposition to 'real refugees'. In 2015 however, asylum seekers and refugees were increasingly referred to in the same negative terms; as a threat to European societies, a threat described both in economic terms (will the welfare systems cope with the influx of so many new beneficiaries?) and in cultural terms (how will European culture, values and customs relate to the arrival of so many migrants from other parts of the world?). Scepticism about refugees and asylum seekers was expressed in different ways, of course: the representatives and leading politicians of some states were simply negative about refugees, asylum seekers and migration in general, while others struggled to explain how their former humanitarian standpoints corresponded with new stricter policies and measures. Examples of the former approach include the Hungarian Prime Minister Victor Orbán stating that large numbers of Muslim migrants were not welcome in Hungary⁵³, that the EU's migration policy was misguided and irresponsible⁵⁴, and that Europe's Christian values were at risk if the influx of non-Christian

⁴⁵ <https://www.boell.de/en/2016/06/13/driven-domestic-politics-ant-immigration-policy-hungary> (last visited 17/06/16).

⁴⁶ <https://www.boell.de/en/2016/05/24/refugees-czech-republic-not-trace-still-problem> (last visited 17/06/16).

⁴⁷ <http://www.un.org/press/en/2015/sgsm17079.doc.htm> (last visited 25/4/2016).

⁴⁸ <https://euobserver.com/migration/131062> (last visited 25/4/2016).

⁴⁹ <http://www.telegraph.co.uk/news/worldnews/europe/austria/11961998/Austria-to-build-border-fence-angering-Germany-and-threatening-Schengen-zone.html> (last visited 24/4/2016) and <http://www.telegraph.co.uk/news/worldnews/europe/austria/11975115/Austria-tightens-asylum-rules-to-counter-record-numbers-of-migrants.html> (last visited 25/4/2016).

⁵⁰ <http://www.regeringen.se/artiklar/2015/11/regeringen-foreslar-atgarder-for-att-skapa-andrum-for-svenskt-flyktingmottagande/> (visited 2016/01/31).

⁵¹ Begränsningar av möjligheten att få uppehållstillstånd i Sverige (utkast till lagrådsremiss) <http://www.regeringen.se/rattsdokument/departementsserien-och-promemorior/2016/02/begransningar-av-mojligheten-att-fa-uppehallsstillstand-i-sverige/> (last visited 27/05/16).

⁵² <http://www.ft.com/intl/cms/s/0/2c6c6622-ca87-11e5-be0b-b7ece4e953a0.html#axzz4AtgJ0FBj> (last visited 7/6/2016).

⁵³ Victor Orbán at press conference at the European Council 3 September 2015 <http://ec.europa.eu/avservices/video/player.cfm?sitelang=en&ref=I108167> (visited 20/01/16).

⁵⁴ Ibid.

migrants continued⁵⁵; leading Polish politician Jarosław Kaczyński claiming that migrants are the carriers of dangerous diseases and that they seek to impose Sharia law on Europe⁵⁶; UK Prime Minister David Cameron using derogatory expressions such as “swarms”⁵⁷ when referring to the people stuck in Calais’ refugee camps, including unaccompanied children; UK Home Secretary Theresa May stating that the definition of refugee should be narrowed as some refugees and asylum seekers were “more deserving than others”⁵⁸; and Slovak Prime Minister Robert Fico stating that his country would fight against immigration from Muslim countries because of the problems and threats it entails⁵⁹. Examples of initially more positive approaches include German Chancellor Angela Merkel in August 2015 stating, on Germany accepting large numbers of asylum seekers, “Wir schaffen das”⁶⁰, thus welcoming those who sought refuge, and Swedish Prime Minister Stefan Löfven proudly proclaiming in September 2015 “my Europe does not build walls”⁶¹. As mentioned above, however, these positive statements were followed in 2015 by less enthusiastic announcements. Statements such as the examples above, I argue, in addition to being political responses to a particular situation, can also be seen as reflecting the state’s self-image: those who want to help but are not (longer) able, and those who would rather turn inwards, rejecting the idea of welcoming foreigners into their societies.

Attitudes towards migrants and asylum seekers among at least parts of the general public also appear to have become more negative at the end of 2015 and early 2016, partly as a result of the terrorist attacks in Paris 13 November 2015 and the sexual harassment and robberies in Cologne on New Year’s Eve 2015, and how these events were reported and described in the media.⁶² Migrants were often described

as perpetrators, as threats, as abusing the freedom available in the West. These events had a visible effect on the discussion of asylum and migration policy, contributing to a shift in focus from protection to national security.⁶³ The commitment of volunteers, NGOs and certain politicians to helping refugees remains strong, however.

In a brief overview such as that provided here it is impossible to do justice to the complex development of migration policy and practice in Europe in 2015 and early 2016. What have been presented are snapshots, indicating a move towards stricter policies, rhetoric and attitudes. It nevertheless feels safe to say that the arrival of unprecedented numbers of asylum seekers and migrants in Europe has put existing EU and domestic migration policies and the values they are to represent very much to the test. It also seems safe to say that migration has become a dividing issue in European societies on many levels.

4 Claims and interests

It seems clear that during this period the democratic European states appear to have been forced to show their cards as regards their commitment and obligations to refugees and migrants. So how can the underlying basis for these positions be described? Matthew Gibney has suggested dividing theories of refugee admission policies into two broad approaches: the *partialist* and the *impartialist* approach.⁶⁴ In short, a partialist approach is based on the idea that states are obliged to give preference to the needs of citizens over those of foreigners. Essential to this approach is the value and importance of a common identity and culture, and how this can best be preserved. Any undermining of these common grounds could, following this approach, lead to the weakening of a just and egalitarian political regime.⁶⁵

⁵⁵ <http://www.faz.net/aktuell/politik/fluechtlingskrise/viktor-orban-wer-ueberrannt-wird-kann-niemanden-aufnehmen-13782061.html> (visited 01/02/16).

⁵⁶ Kaczyński during the Polish election campaign in October 2015 <http://www.politico.eu/article/migrants-asylum-poland-kaczynski-election/> (visited 01/02/2016).

⁵⁷ <http://www.theguardian.com/uk-news/2015/jul/30/calais-migrants-make-further-attempts-to-cross-channel-into-britain> (visited 20/01/16).

⁵⁸ Speech at Tory Congress, October 2015 www.independent.co.uk/news/uk/politics/theresa-may-wants-to-change-the-international-definition-of-refugee-a6681976.html (visited 01/02/16).

⁵⁹ Statement early January 2016 <http://www.independent.co.uk/news/world/europe/slovakia-wants-to-stop-muslim-migrants-from-entering-a6803811.html> (visited 01/02/16).

⁶⁰ <http://www.faz.net/aktuell/politik/angela-merkels-sommerpressekonferenz-13778484.html> (last visited 25/04/16).

⁶¹ <http://www.regeringen.se/tal/2015/09/tal-av-stefan-lofven-vid-manifestationen-for-flyktingar-den-5-september/> (visited 01/02/16).

⁶² Lehne (2016).

⁶³ See e.g. Lehne (2016) and A. Betts “The Elephant in the Room” Foreign Affairs February 2, 2016 (<https://www.foreignaffairs.com/articles/europe/2016-02-02/elephant-room>, visited 27/4/2016).

⁶⁴ Gibney (2004) Ch. 1-2, see also summary in G.P. Freeman “Are Ethical Asylum Policies Politically Sustainable?” (2005) *International Studies Review* Vol 7, 460-462.

⁶⁵ Gibney (2004) s. 32.

The preservation of a common ground is thus not only considered justified, it also allows the state to exclude aliens whose presence and claims might risk the established regime. From a partialist point of view, in order to be legitimate “a refugee policy must reflect the values and interests of the State’s members”⁶⁶. The prerogative of the state to decide who enters and remains in a territory must therefore be both the starting point of any migration policy and the basis upon which decisions are made. It can be added that the partialist position is often referred to, be it true or not, as reflecting public opinion, an opinion sometimes wrongfully argued to be negative about immigration by default.⁶⁷

The impartialist approach, on the other hand, is based on the idea of a common responsibility for humanity where citizens and non-citizens are treated equally and where the state responds impartially to their claims. From an impartialist perspective, restrictions on entrance are problematic, as there is nothing supporting the position that some human beings are entitled to more protection or rights than others based simply on their membership of a certain community (a nation state).⁶⁸ An impartialist approach requires states to let basic and universal human rights take precedence over cohesion of the community, from the position that the contemporary system of nation states is unfair. Ideally, Gibney concludes, impartialist states should allow entry to as many people as possible without threatening the underlying constitutional order.⁶⁹

Joseph Carens, in his seminal work on the ethics of immigration, argues that the case for refugees does not reject the idea that a state under normal circumstances has a right to exercise discretionary control over immigration, rather that it qualifies this view.⁷⁰ Carens emphasises that criticising immigration policies as morally wrong does not mean

rejecting state sovereignty or democratic self-determination. He also points out, however, that “we should distinguish the question of who ought to have the authority to determine a policy from the question of whether a given policy is morally acceptable”.⁷¹ Moral considerations, according to Carens, are thus an inseparable part of migration and asylum policies.

Carens starts his discussion by asking whether we who live in democratic states have a responsibility to admit refugees⁷² and if refusing them entry can be justified.⁷³ Concluding that there is indeed some duty⁷⁴ to admit refugees, Carens then holds that refugees raise four basic kinds of questions for the ethics of immigration: *i*) who should be considered a refugee; *ii*) what is owed (by states) to refugees; *iii*) how responsibilities for refugees should be allocated among different states and what, in particular, is the nature and extent of the obligation of democratic states to admit refugees; and *iv*) are there limits to our obligations to refugees and if so, what are they – in other words when can a state be considered morally entitled to say “we have done enough” and leave refugees to their fate.⁷⁵ The third and fourth questions are those most relevant for this text.

On the allocation of responsibility for refugees and state obligations to admit refugees, Carens holds that, as a result of the principle of state sovereignty and the key importance of the principle of non-refoulement for the current refugee regime, it is the arrival of asylum seekers on a state’s territory, their physical presence, that creates the moral responsibility of states for their fate. That is, if we (the state) do not return those who are at risk of being persecuted or subject to other serious harm in their country of origin, they will no longer be at risk.⁷⁶ In this way, the principle of non-refoulement “sets a constraint on the morally acceptable alternatives”⁷⁷.

⁶⁶ Ibid.

⁶⁷ See e.g. the discussion in S. Ray, “Why UK Asylum Advocacy Should Take Citizens’ Complaints Seriously”, Working Paper Series No. 84, University of Oxford, Refugee Studies Centre, 2012.

⁶⁸ Gibney (2004) Ch. 2. It should be noted that Gibney draws on Carens’ earlier work in his discussion of the impartialist approach.

⁶⁹ Gibney (2004), see also Nethery (2012) p. 731.

⁷⁰ Carens (2013), p. 194-195, see also J.H. Carens “An overview of the ethics of immigration” (2014) *Critical Review of International Social and Political Philosophy*, Vol. 17, No. 5, pp. 538-559.

⁷¹ Carens (2014), p. 539-540.

⁷² Carens uses “refugees” in a wide sense; broader than the strict legal definition of a refugee.

⁷³ Carens (2013), p. 192. Carens explicitly limits his discussion to democratic states, or rather the commitment to democratic principles in a very general sense. Carens (2014), p. 538.

⁷⁴ A duty based on causal connection, humanitarian concern and/or the normative presuppositions of the modern state system (the way the world is organised). Carens (2013), p. 195-196.

⁷⁵ Carens (2013), p. 196-197.

⁷⁶ Carens (2013), p. 207.

⁷⁷ Ibid.

Carens recognises that non-refoulement generates problems, one being that it allows for the allocation of refugee admissions to be determined by the places where people seek asylum, thus creating what can be seen as excessive burdens for neighbouring (poor) countries and distant (rich, democratic) countries.⁷⁸ For distant rich democratic states, Carens holds that the principle of non-refoulement might be seen as (possibly) creating an excessive burden for two reasons: one being the problem of “too many genuine refugees” arriving; the second being the issue of failed asylum claimants. On the first point, Carens recognises that there is a hypothetical risk that distant rich democratic states would be asked to admit a disproportionate share of refugees, as being a refugee there might be more appealing to an individual compared to a poor neighbouring state. He argues, however, that this “unfair burden” is a potential problem rather than an actual one, given the effectiveness of the methods of deterrence and exclusion applied by rich democratic states in order to keep asylum seekers away from their territory, and thus also beyond the scope of the state’s moral obligations.⁷⁹ Carens recognises, however, that many people in these states probably believe that the problem is indeed real; something making it a factor for politicians to take into account when drawing up refugee policies. The real problem, according to Carens, is instead “the moral wrong involved in the use of techniques of exclusion to keep the numbers within bounds”⁸⁰ which are likely to also exclude refugees with valid claims. On the second point, failed asylum seekers, Carens holds that the high number of asylum seekers not qualifying for asylum in itself can be described as a threat, making it easier “to construct everyone seeking refugee status as an asylum abuser”⁸¹ and to defend the use of morally questionable methods of exclusion and deterrence. Carens emphasises that “democratic states cannot meet their moral responsibilities to refugees by establishing a system to protect refugees that they prevent refugees from using.”⁸²

On the possible limits of state obligations to refugees, Carens points to the fact that the international legal framework on asylum does not allow states to turn away asylum seekers

who qualify for international protection, regardless of how many there are.⁸³ In discussing when it would be acceptable for a state to say “enough”, Carens concludes that from a moral perspective the answer would be “almost never”, and that in practice very few states, if any, have taken in so many refugees that they would be morally entitled to turn away those presenting genuine claims for protection. He contends that if one takes the moral rights of refugees seriously, it is difficult to defend why the admission of refugees to a territory in order to protect their most basic needs should be subordinate to less vital interests of members of the community (the host state).⁸⁴ Carens emphasises that “the mere fact that members of a potential receiving society think they have done enough to meet their obligations to refugees is not, in itself, sufficient to establish that they *have* [author’s italics] done enough”⁸⁵.

Gibney’s “impartialist approach” and Carens’ position on the moral obligations of states to admit refugees and what would be morally acceptable limits to those obligations, have much in common.⁸⁶ A state adopting the impartialist approach in a serious manner, in a situation like the one unfolding in 2015, would have if not completely opened its borders, at least refrained from establishing or retaining barriers to keep refugees out, and might also actively have tried to facilitate the entry of refugees into safe countries; humanitarian visas being one example. Looking at the EU member states (and other European, non-EU states) and their responses during the refugee situation so far, however, it is clear that the dominant approach has instead been what Gibney calls the partialist approach, as safeguarding the interests of citizens and other members of the community – and of the identity of the state itself – became the overarching objective, interests described as threatened by the numbers of foreigners seeking entry. Connecting this to Carens’ third point, states adopting this position would argue that their societies must be protected from carrying an excessive burden of the number of asylum seekers arriving; more or less regardless of whether the asylum seekers were seen as “genuine refugees” (as in, for example, Syrians fleeing the conflict in Syria, or Iraqis fleeing Islamic State)

⁷⁸ Ibid.

⁷⁹ Carens (2013), p. 209.

⁸⁰ Ibid.

⁸¹ Carens (2013), p. 213.

⁸² Carens (2013), p. 209.

⁸³ There might be limitations related to the possibility of maintaining public order, but this is a minimal constraint Carens argues, with reference to Walzer (1983). Carens (2013), p. 218.

⁸⁴ Ibid.

⁸⁵ Carens (2013), p. 220.

⁸⁶ Gibney also draws on Carens’ earlier work in his discussion of the impartialist approach.

or “bogus refugees”. Without being able to provide an in-depth analysis in this text of the reasons that this stance is adopted, it is held here that it is a result of ideological deliberations on the purpose and function of the state and its responsibilities⁸⁷; practical reasons such as the limited availability of resources and economic difficulties; and domestic politics.

As the examples above show, the manner in which these deliberations have been manifested and expressed have varied between European countries. Some countries, exemplified by the countries of the Visegrad group⁸⁸, focused in their rhetoric on national identity and common national values, describing themselves as “part of a single civilization sharing cultural and intellectual values and common roots in diverse religious traditions, which they wish to preserve and further strengthen”⁸⁹. The importance attached to the religion of those arriving (i.e. whether they are Muslim or not), and the presumably detrimental effects on European societies if religions other than Christianity were stronger, is prominent in many of these statements, thus framing the migrants as a threat to existing norms and culture.⁹⁰ It can be noted in this context that the countries of the Visegrad group are among those with the lowest limits for immigration in the European Union, but comparatively high levels of xenophobia, a factor that, at least in the Hungarian case, is likely to have played a role in the way that refugee policies have been designed.⁹¹ In another country which has been very negative about accepting asylum seekers during the “crisis”, the UK, where governments for many years have sought to reduce the number of asylum applications made, the reasons for

being negative about accepting refugees seem framed less as a defence of European or British cultural values than as a matter of cost, fear of ethnic tension, disruption of social order and the state’s interest in keeping “bogus refugees” out.⁹² The recent discussion in the UK parliament on the proposed special resettlement schemes allowing certain groups of vulnerable migrant children to find a safe haven in the UK, and the debate about whether children already in Europe – those not having waited patiently in refugee camps – should be included in these schemes, can be understood in the context of some people being more deserving than others.⁹³ These different stances however lead to the same result; a partialist approach in refugee policy.

Carens’ fourth point, about when it is morally acceptable to say no to refugees, is of particular interest in relation to the countries which first adopted a welcoming approach but later became more restrictive; Sweden and Germany being the most obvious examples. Sweden, when moving from being welcoming (although far from going the whole way with the impartialist approach) to introducing some of the strictest measures and barriers in the EU, defended this by saying that “we have done more than our share”; “Sweden cannot help all refugees”; and that “other states need to step up to their responsibilities”; arguments that seem to rest upon the opinion that Sweden indeed was in a position to say “enough” without it being morally wrong and that had the government not acted the way it did, there was a risk of system failure and threats to basic societal services. The accuracy of this narrative has been discussed.⁹⁴ In Germany, the initial generous attitude, personified to some extent by

⁸⁷ Gibney (2004), p. 32.

⁸⁸ The Czech Republic, Hungary, Poland and Slovakia; see www.visegradgroup.eu (visited 27/4/2016).

⁸⁹ <http://www.visegradgroup.eu/about> (visited 27/4/2016).

⁹⁰ It has been argued that the fact that the majority of the refugees arriving in Europe today are Muslims has highlighted the role played by the underlying Islamophobia in many European states in influencing asylum and migration policy. Betts (2016).

⁹¹ Juhász, Hunyadi & Zgut (2015). The authors also argue that the xenophobia in Hungary has been encouraged by the government as part of domestic politics.

⁹² On UK asylum policy, see e.g. M. O’Sullivan “The Intersection between the International, the Regional and the Domestic: Seeking Asylum in the UK” in Kneebone (2009), Gibney (2004), A. Bloch “A New Era or More of the Same? Asylum Policy in the UK” *Journal of Refugee Studies* (2000) Vol. 13, No. 1, pp. 29–42.

⁹³ On the government decision, see <https://www.gov.uk/government/news/new-scheme-launched-to-resettle-children-at-risk> (visited 27/4/2016), on actions taken for children already in Europe also to be included, see e.g. <http://www.dailymail.co.uk/news/article-3503759/Peers-defeat-ministers-allow-3-000-child-refugees-Plans-forward-Labour-Peer-survived-Holocaust.html> (visited 27/4/2016) and <http://www.bbc.com/news/uk-politics-36146116> (visited 27/4/2016), <http://www.theyworkforyou.com/debates/?id=2016-05-11b.619.2> (visited 17/6/16).

⁹⁴ For accounts of the situation in 2015 and early 2016, see e.g. Riksrevisionen RIR 2016:10 Asylboenden – Migrationsverkets arbete med att ordna boenden åt asylsökande, Myndigheten för samhällsskydd och beredskap (MSB) Rapportering av MSB:s uppdrag från regeringen avseende flyktingsituationen dnr 2016-2440, prop. 2015/2016:174 Tillfälliga begränsningar av möjligheten att få uppehållstillstånd i Sverige. The Swedish government in June 2016 announced that the handling of the refugee crisis by the Government and other authorities will be analysed in a government report <http://www.regeringen.se/pressmeddelanden/2016/06/utvardering-av-hantering-av-flyktingsituationen-2015/> (last visited 15/06/2016).

Chancellor Merckel, gradually changed for a number of reasons, including internal critique and changes in public opinion to being more negative about asylum seekers and refugees. This has also been framed as more of a necessity rather than ideological choice, and one made in light of the large numbers of asylum seekers that have nevertheless found refuge in Germany. The partialist approach could thus be referred to by both states as not only rational, but the only possible approach.

5 Self-image and refugee policy – any connection?

So, if countries sooner or later all adopt a partialist approach to refugee policy, putting the interests of their own citizens first and doing their best to prevent and deter asylum seekers from reaching their borders, does a country's self-image play any role? What weight, if any, is attached to moral obligations and reputation in difficult times? Based on the examples given in this paper, self-image and national identity seems to play a role at least in what *point in time* countries have introduced restrictions and obstacles to entry of refugees and asylum seekers, and how these have been explained. For countries such as Hungary, Poland and Slovakia, openness to foreigners and generous refugee and migration policies is not a key element of their self-image; focus instead lies more on preserving existing cultural and societal structures; on the nation "as it is", often in opposition to the cosmopolitan, heterogenic West. Reasons for this might be found in their history as well as in their demographics.⁹⁵ In that context, it is suggested that self-image would not present an obstacle to strict migration policies nor would it affect the way in which such policies are presented; the values connected with such openness and policies are simply not accorded the same weight. Instead, imposing strict policies is considered a necessary thing to do, for the good of the country, and

signals ability to take action. For countries like Sweden and Germany, who first proudly welcomed refugees and asylum seekers but later, when political pressure became too high and reception systems were strained, imposed equally strict measures, including closing borders in practice to potential asylum seekers, other explanatory models have been necessary. These have focused more on necessity and pragmatism in the face of an extraordinary burden; on the risk of system failure and collapse, and on trying to force other stakeholders into doing their share. For Sweden, it has also seemed particularly important to justify the introduction of stricter measures from an ethical point of view. The Swedish government, as well as individual ministers, has described the stricter measures introduced in terms of being forced by events beyond government control, necessary to provide acceptable reception conditions, to prevent the welfare system and other vital aspects of Swedish society from collapsing completely ('we cannot cope'), and as temporary measures that were horrible and painful to implement:⁹⁶ in other words, necessary evils brought about by an extreme situation and by the lack of solidarity of other EU member states who were not accepting their part of the burden.⁹⁷ These explanations could be understood as attempts both to preserve the Swedish self-image of being a humanitarian superpower⁹⁸ – and the image Sweden presents to the world – and to explain the new policy as somebody else's (the EU and other member states) fault or a result of unfortunate circumstances; saying that Sweden is still the forerunner of humanitarianism and human rights it always has been; just not at this moment. This, I would argue, is the official Swedish position. Whether the image of Sweden can survive this new policy in the eyes of others is another question; the comments in international media on recent developments in Sweden indicate astonishment, surprise and sometimes a little *schadenfreude*.⁹⁹

⁹⁵ See e.g. Juhász, Hunyadi & Zgut (2015), O. Shevel *Migration, Refugee Policy, and Statebuilding in Post-Communist Europe* Cambridge, Cambridge University Press, 2009.

⁹⁶ <http://www.svt.se/nyheter/inrikes/romson-i-tarar-det-har-varit-tuftt> (24 November 2015, visited 8/02/16).

⁹⁷ Begränsningar av möjligheten att få uppehållstillstånd i Sverige (utkast till lagrådsremiss) <http://www.regeringen.se/rattsdokument/departementsserien-och-promemorior/2016/02/begransningar-av-mojligheten-att-fa-uppehallstillstand-i-sverige/> (last visited 27/05/16).

⁹⁸ See e.g. L. Schuster, "A Comparative Analysis of the Asylum Policy of Seven European Governments", *Journal of Refugee Studies* (2000) Vol. 13, No. 1, pp- 118–132, 120, O. Larsmo "Därför borde det anses 'osvenskt' att vara nationalist" *Dagens Nyheter* 28 January 2016.

⁹⁹ See e.g. Foreign Policy <http://foreignpolicy.com/2016/02/10/the-death-of-the-most-generous-nation-on-earth-sweden-syria-refugee-europe/> (visited 15 February 2016), The Guardian (opinion) <http://www.theguardian.com/commentisfree/2015/nov/27/sweden-shut-doors-killed-dream-european-sanctuary> (visited 15 February 2016), https://www.washingtonpost.com/world/europe/even-sweden-is-turning-its-back-on-refugees/2015/12/30/6d7e8454-a405-11e5-8318-bd8caed8c588_story.html (visited 17/06/16), <https://www.theguardian.com/world/2016/jan/28/sweden-to-expel-up-to-80000-rejected-asylum-seekers> (last visited 18/06/16).

6 Final reflections

It seems as if a country's self-image is not seriously affected by its actual policies, as long as more or less acceptable changes in policy can be explained and defended with reference to external circumstances, such as the influx of more refugees and migrants than ever before in modern history. Seen this way, self-image is challenged, but can nevertheless remain unchanged if a country wants to uphold its humanitarian ideals but is unable to. A self-image as a "bastion of humanitarianism" only seems to prevent the adoption of strict policies to a certain extent. When seriously challenged, the state follows the general trend and follows the partialist approach to asylum policy, thus signalling that this is the only realistic approach, at least in times of large migration flows. Whether it is the result of an actual crisis in the world, or a political crisis when ideals and agreements are put to the test, does not seem to be the deciding factor. At the end of the day, the interests of one's own community are prioritised before the interests and needs of the Other. Carens, in his discussion on the ethics of immigration, notes this latter point as the main obstacle to creating a satisfactory refugee regime; that is that the admission of refugees does not really serve the interests of rich democratic states.¹⁰⁰ He suggests that refugee policy is one of those areas where "the gap between what morality requires and what serves even long run self-interest is so great that interest can do very little work in supporting morality"¹⁰¹ and that it today is quite difficult to explain why states would be served by an openness to

refugees. Carens suggests that appealing to a collective self-image might be an option, thus linking it to the self-interest of being perceived as, and seeing oneself as, generous and "good". This is a strategy with limitations, however, as it is very much dependent on the openness not being seen as too burdensome by members of the community (and the state), thus making it vulnerable to changes in attitudes and perceptions. As Carens puts it, if the sacrifices of self-interest are relatively small, the fact that morality requires actions that do not serve the self-interest does not play a decisive role, however, the tension between morality and self-interest increases with the number of refugees and asylum seekers, widening the gap between what morality would require democratic states to do, and what they and the members of their communities see as their own interests. Applying this to the recent situation in Europe, it is obvious that what is considered the self-interest of states is top priority, and that doing what, from a moral perspective, one ought to do – accepting more refugees – is not.

A final comment to be made is therefore that, regardless of a state's self-image or good intentions, a humanitarian asylum policy which upholds respect for human rights, the principle of asylum in particular, only seems possible today when not actually put to the test. A humble suggestion for the future is that politicians and other policy makers, when drafting new policies and legislation in the field of migration, should reflect not only on the society we have today, but what kind of society we want for the future.

¹⁰⁰ Carens (2013), p. 223.

¹⁰¹ Ibid.

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