Challenging Rightlessness

On Irregular Migrants and the Contestation of Welfare State Demarcation in Sweden
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Abstract


This thesis explores the political struggles that followed after the appearance of irregular migrants in Sweden. The analysis starts from the assumption that the group’s precarious circumstances of living disrupted the understanding of Sweden as an inclusive society and shed light on the limits of the welfare state’s inclusionary ambitions. The overarching analytical point of entry is accordingly that the appearance of irregular migrants constitutes an opening for contestation of the demarcation of the welfare state. The analysis draws on two strands of theory to explore this opening. Citizenship theory, first, provides insights about the contradictory logics of the welfare state, i.e. the fact that it rests on norms of equality and inclusion at the same time as it is premised on a fundamental exclusion of non-members. Discourse theory, furthermore, is brought in to make sense of the potential for contestation. The study approaches these struggles over demarcation through an analysis of the debates and claims-making that took place in the Swedish parliament between 1999 and 2014. The focal point of the analysis is the efforts to make sense of and respond to the predicament of the group. The study shows that efforts to secure rights and inclusion for the group revolved around two demands. The first demand, regularisation, aimed to secure rights for irregular migrants through status, i.e. through the granting of residence permits, whereas the second demand, access to social rights, aimed to secure rights through turning the group into right-bearers in the welfare state. The thesis concludes that the debates and claims-making during the 2000s resulted in a small, but significant, shift in policy. In 2013, new legislation was adopted that granted irregular migrants access to schooling and health- and medical care. I argue that this was an effect of successful campaigning that managed to establish these particular rights as human rights, and as such, rights that should be provided to all residents regardless of legal status. Overall, however, I conclude that there has been an absence of more radical contestation of the citizenship order, and of accompanying notions of rights and entitlement, in the debates studied.

Keywords: irregular migrants, undocumented migrants, amnesty, regularisation, social rights, welfare state, citizenship, human rights, discourse theory, Sweden
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This thesis is the outcome of my attempts to approach, and begin to make sense of, what I consider to be an emerging political conflict. I first embarked on this project more than six years ago with a vague idea about wanting to address the duality of the welfare state and the normative dilemmas that are brought to the fore by the appearance of irregular migrants. The end result is at the same time in line with and completely different from the study I first set out to do.

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1. INTRODUCTION

Most of them are completely without rights, completely without access to medicine, medical care, dental care, social security or security through labour legislation. Many of these persons are under severe psychological pressure. They are afraid of going out and they are far from living a normal life. They constantly feel chased. It is a fact that the circumstances of many of these people are very difficult (Addr. 39, Lars Lindblad (m), 1999/2000:99).\(^1\)

There are people who live in constant fear of being discovered and deported. These people are on the run from the police although they have not committed any crime and are not criminals. They live completely without the safety net that the rest of us have access to (Motion (fp), 2000/01:Sf605).

There are people who are suffering in our country, people who are living under the most horrible circumstances. They live in Sweden but cannot turn to the medical services when they fall ill. The children cannot attend school. They cannot turn to the police when they become victims of a crime. These people live in Sweden but completely outside of society (Addr. 54, Gustav Fridolin (mp), 2005/06:26).

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\(^1\) The primary material in this thesis consists of various documents from the parliamentary process (for further specification see Chapter two). References to this material will follow the standard in these quotes. In references to minutes from parliamentary debates and motions, I will provide information about party affiliation of the speaker/writer. This will be noted in the form of the established Swedish abbreviations. For a compilation of these see appendix.
This thesis investigates the political debates and claims-making that have taken place in the wake of the appearance of irregular migrants\(^2\) in Sweden. These were spurred by the public indignation that followed after alarming reports about the group’s precarious circumstances of living. The quotes above – in which the lack of rights, vulnerability and fear experienced by people who reside in the country without state authorization are highlighted – are indicative of this response. The study starts from the assumption that the precarity of this group shed light on the exclusionary aspects of the welfare state and consequently disrupted the collective self-image of Sweden as an inclusive society. This disruption, in turn, was followed by a series of debates in which the appropriate way to make sense of, as well as respond to, the situation was fought over.

The study’s overarching analytical point of entry is that the appearance of irregular migrants opened for a problematization and politicization\(^3\) of the exclusionary practices of the Swedish welfare state. I argue that the predicament of this group is bound up with the welfare state in two ways. First, the group’s exclusion from social rights originates in the welfare state’s established principle of entitlement. In accordance with this, access to social rights is withheld from residents that lack a residence permit. Second, the denial of residence permit can as such be linked to restrictive entry policy and perceptions about the need to limit the community of right-bearers in order to safeguard the welfare state.\(^4\) Concordant with this, I argue that the appearance of irregular migrants drew attention to the fact the welfare state – despite universalist commitments – is reserved for citizens and categories of migrants whose residence is sanctioned by the state. That is to say, they shed light on the national character of the welfare state and the consequent limits of its inclusionary ambitions. The consequent struggles are, I contend, only one example among many of emerging conflicts over the demarcation of the welfare state in Sweden. The common denominator of these conflicts is that they are actualized by claims for residence and rights from people who are formally excluded from the welfare state.

The modern welfare states that emerged in the 20th century were premised on the idea of a demarcated community of right-bearers and the inclusionary ambitions have accordingly been restricted in scope from the start. Over time, this community has been somewhat expanded – one example is the inclusion of immigrants with a residence permit – but access to rights has continued to be reliant on recognized membership and membership has continued to be

\(^2\) The term irregular migrants refers to non-citizens whose entry or residence is in violation with state regulations. For a further discussion see page 10.

\(^3\) I use the term politicization to denote the process where a particular state of affairs – in this case the circumstances of irregular migrants – is articulated as a political problem and becomes subject of debate and political struggles.

\(^4\) For further discussion on the link between migration policy and the welfare state see Chapter three.
limited in scope. I argue that the emerging conflicts over the demarcation of the welfare state take several forms. One strand of debates have revolved around the scope of obligation towards people – such as irregular migrants and some categories of EU migrants – that are already present within state borders but excluded from the rights-bearing community of the welfare state. Another strand of debates have revolved around the legitimacy of migration policy more broadly and over the obligation to allow entry for people – refugees or migrants more broadly defined – that want to seek membership. This study seeks to contribute to an understanding of these emerging conflicts through an analysis of the debates and claims-making that took place in the wake of the appearance of irregular migrants.

**Aim and Research Questions**

This thesis thus starts from the assumption that the appearance of irregular migrants brings the boundaries of the welfare state to the fore. These boundaries are, in turn, understood as a manifestation of the exclusionary workings of citizenship. Following this assumption, I consider the subsequent political struggles to be an opening for contestation of the citizenship order. The overarching aim of this study is accordingly to analyse how discourses and practices of citizenship are challenged, defended and (potentially) transformed in these struggles. The study approaches these processes of contestation through an analysis of debates and claims-making that have taken place in one particular arena, namely the Swedish parliament, between 1999 and 2014. This means that the efforts to determine the state’s approach and response to irregular migration are what constitute the focal point of the analysis. Discussions and policy-making that have taken place in local and regional settings are consequently beyond the scope of the study. The analysis is guided by the following overarching research question:

- How has the appearance of irregular migrants, and the following debates and claims-making, affected the Swedish citizenship regime?

This question, in turn, can be decomposed into the following two questions:

5 Lately, the dire circumstances of a particular category of intra-EU migrants in Sweden have become a matter of recurring debates. The circumstances of this group differ from the irregular migrants in several important respects. Most fundamentally, in the sense that they, in contrast to the irregular migrants, have a stronger legal protection as EU citizens. Both groups are however excluded from basic social rights and are as such manifest of the fact that the welfare state’s protection and rights are conditioned on membership. Concordant with this, I argue that the political conflicts that are actualized by the presence of both of these groups belong to the same strand of challenges.

6 With regard to regional level, the debates and claims-making have primarily revolved around access to health- and medical care. On the municipal level, furthermore, there has been discussion about access to support from the social services as well as access women’s shelters and library services.
• How has the appearance of irregular migrants affected established understandings of entitlement to rights and access to membership?
• How has the appearance of irregular migrants affected policy and legislation?

In this introductory chapter I will first define and discuss the concepts *irregular migration* and *irregular migrants*. This is followed by a section that contains a short background to irregular migration and a contextualization of the Swedish case. Thereafter, I introduce the analytical framework and make some brief remarks about the two strands of theorization, citizenship theory and discourse theory, which constitute my main sources of theoretical inspiration. Finally, I turn to a discussion about the contribution of the study and situate it in relation to relevant fields of research.

**Defining and Contextualising Irregular Migration**

The term *irregular migrant* is used to refer to noncitizens that have either crossed state borders or remained within state territory without sanction from the host state (McNevin 2011:18). The category thus incorporates several subgroups of migrants with the common denominator that they, at some point, have contravened rules of entry or residence (Triandafyllidou 2010:3). The group is generally assumed to be made up of three main categories: visa overstayers, former asylum seekers and people who have entered the country clandestinely (cf. Khosravi 2010:98). The latter subcategory, i.e. clandestine entrants, is often estimated to be the smallest subset of the group. The majority, hence, is assumed to be made up of people who at some point have had legal status (Düvell 2006:16). Furthermore, many scholars stress that the status of individual migrants tends to be blurred. Both because migrants often slip between categories – both due to actions taken by themselves and due to shifts in policy and legislation – and because status as such is rarely clear-cut (McNevin 2011:19). Irregularity, it has been argued, is best “conceptualised as a spectrum of compliance with immigration and other relevant laws” (Kraler 2011:309). Concordant with this, the status of many migrants consists of “a mix of regular and irregular aspects, or on a scale between these two” (Düvell 2011:286).

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7 This is reflected in national legislation where definitions of irregular migration tend to refer to factors such as “illegal crossing of borders, irregular entry or stay, lack of residence permits, lack of work permits, obligations to leave the territory or violations of expulsion orders” (Düvell 2011:286).
8 Here it is important to note that not all asylum seekers fall within this category but only those who have had their applications turned down and have an order to leave the country.
Notes on Terminology

The term *irregular migrant* is only one among many terms that are used in scholarly and popular debate to make reference to people whose entry or residence in a country is unauthorized. There are both a number of more general terms – such as *clandestine, illegal, unlawful, undocumented, unauthorized* – and a number of local terms – such as *sans papiers* in France and *nonstatus migrant* in Canada – that are used to refer to this category of migrants (Düvell 2008:484; Triandafyllidou 2010:2; McNevin 2011:19). In Sweden, the preferred terms in everyday discourse has been *gömda/gömda flyktingar* and *papperslösa*. The former translates to “hidden/hidden refugees” and the latter to “without papers” (i.e. a local appropriation of the French term *sans papiers*).

These various terms are often used interchangeably, but have different points of reference (such as law, identity or documents) and come with different genealogies. As highlighted by Düvell, these terms reflect different national histories, contexts and discourses as well as invoke different connotations. Accordingly, terminology becomes crucial as it is linked to particular understandings and come with different political implications (Düvell 2008:484). The term “illegal”, in particular, has been singled out as problematic and is often dismissed in both political and academic debates. References to people as “illegal”, it is argued, come with discriminatory connotations, reinforce the vocabulary of authorities and law and reproduce the criminalisation of migration. Moreover, the term is often avoided as it comes with effects on the estimation of credibility and moral worthiness of migrants (Düvell 2006:29; Khosravi 2010:96; Dauvergne 2008:16). Other objections have been raised towards the other terms. For instance, it has been argued that the term *undocumented* is misguiding, as many people that belong to the group actually do possess different forms of identification and documents. The term *irregular*, furthermore, has been held as problematical as it reproduces the distinction between regular and irregular and thereby reaffirms the state’s authority to distinguish between migrants (McNevin 2011:20). This problem is however of a more general nature as references to the group tend to define them in terms of lack (Sigvardsdotter 2012:13). Concordant with this, it is hard to avoid a terminology that is not based on a binary relationship and defines the group as the opposite of what is considered “normal” or “desirable”.

In this thesis I will use the terms *irregular migrant* and *undocumented migrant* interchangeably. Both of these terms are widely used in the international literature and have the advantage that they, unlike “illegal”, do not carry negative connotations. Furthermore, to clarify, I use these terms analytically when I refer to individuals or groups who reside in Sweden without permission. However, there are circumstances that complicate the use of these terms. First, these analytical terms have not been used frequently in
the Swedish debate where gömd and papperslös have predominated as denominations for this group. Second, the very conceptualization of people as irregular migrants is of rather recent origin in Sweden. Both of these circumstances make the use of analytical terms such as irregular and undocumented problematic. I have therefore chosen to continually indicate, or not translate, the Swedish term when I quote excerpts from my empirical material. Furthermore, I have tried to avoid using the concept irregular migrant anachronistically. This means, more precisely, that I try to avoid this term when I refer to political discussions about the group that took place in the late 20th century. Yet, it should be noted that since I use the term analytically to denote a particular group it is possible to use this to refer to the group regardless of whether this was done at the time. This could, however, in itself be problematized. My study, indeed, reinforces the contemporary discourse(s) that conceptualizes the group as irregular migrants. Furthermore, it is hard to evade the fact that the analytical vocabulary that I have adopted comes with certain assumptions and classificatory systems that I inevitably reproduce.

**The Emergence of Irregular Migration**

Irregular migration is, at a fundamental level, a legal and discursive construct that exists because there is a framework that turns people irregular (Düvell 2011:276). Being an irregular migrant is accordingly not “an a priori objective status”, but a constructed identity and “the outcome of the discursive practices of receiving states” (Bloch et al. 2014:28). Moreover, the designation of some forms of movement as “irregular” or “illegal” is a product of state legislation (Dauvergne 2008:12). This means that migration law is a presupposition for the emergence of irregular migration. Furthermore, in extension, this means that irregular migration is ultimately dependent on a particular organization of political space and corresponding assumptions about the need for, as well as the legitimacy of, a regulation of people’s movement.

The understanding of what constitutes “illegality” has varied both historically and geographically. According to Franck Düvell, irregular migration first emerged as an object of state concern with the introduction of modern migration policies (Düvell 2011). The concept of “illegal aliens” first appeared in the 1920s, in conjunction with the introduction of control techniques such as passports and deportations, but it was not until the late 20th century that “illegal immigrants” started to be widely discussed and addressed as a policy problem. This process was coeval with the introduction of new legislation that criminalised “entry, stay and employment” (Düvell 2006:23-27).

The emergence of irregular migration in Europe thus went hand in hand with the introduction of more restrictive policy. That irregular migration increases when legal paths of entry are shut down is, in one sense, only logical. A number of scholars have however highlighted yet another factor,
namely, the importance of a structural dependency on irregular migrants in the economies of many European countries. Concordant with this, it has been argued that irregular migration is a result of “the interplay between restructured labour markets and increasingly complex immigration controls and categories” (Bloch et al. 2014:17). These scholars thus point to a paradox. On the one hand, irregular migration first started to emerge because recruitment programmes and paths of legal entry for labour migrants were shut down in the wake of economic recession. On the other hand, there seems to have been a continual demand for labour that in turn spurs irregular migration. A closer look at this demand however dissolves the paradox. More precisely because the jobs available for irregular migrants are to be found in the informal sector and to terms and conditions that are inferior to those in the labour market at large. Most irregular migrants in Europe have found employment in expanding service economies – often in sectors such as agriculture, tourism and domestic work – and in labour markets “characterized by temporariness, instability, low skills, low pay and difficult working conditions” (Triandafyllidou 2010:11).

The Irregular Condition

Hence, explanatory accounts tend to stress the importance of both shifts in policy (incorporating the introduction of more strict policy as well as the introduction of policy as such) and demand for precarious labour. The specific combination of factors however varies between countries due to differences in legislation, economy and historical trajectories of migration control. This accordingly means that the composition of irregular migrants, and the paths to irregularity\(^9\), differs in different contexts. One important difference, for instance, is whether the irregular population is primarily made up of former asylum seekers or migrant workers. Although there are difficulties associated with drawing sharp lines between these two categories – both because it is reasonable to assume that local migration regimes effect the statuses prescribed to migrants and the identities they claim, and because individual motivations of many migrants are mixed\(^{10}\) – it is often assumed that former asylum seekers dominate the group in the Scandinavian countries whereas migrants workers are the main category in Southern European countries.

Regardless of other contextual differences, a universal feature of irregularity is the lack of legal status in the country of residence. Irregular migrants lack a status that makes their presence legitimate in the eyes of the state as well as give access to rights that are associated with citizenship and

\(^9\)I use *irregularity* – and related terms such as *undocumentedness* – to refer to the condition of being an irregular migrant.

\(^{10}\)This has, for instance, been noted by Stephen Castles who has argued that mixed motivations make it hard to distinguish between economic migrants and refugees (Castles 2004:211).
legal residence (McNevin 2011:19). This lack of status is, most fundamentally, defined by “deportability”. This concept has been coined by scholars to refer to “the protracted possibility of being deported” and the vulnerabilities that come with being susceptible to deportation (Peutz & De Genova 2010:14).\(^{11}\) The concept thus calls to mind the imminent threat of deportation, and the fear and vulnerability that accompany it, which is a universal feature of irregularity. However, lack of legal status comes with different implications in different contexts due to differences in practices, policies, institutional frameworks and legislation. These determine access to work, housing, social services as well as degree of policing – i.e. possibilities of accessing public spaces – and, hence, in consequence, the substantial meaning of irregularity. Consequently, it is, as highlighted by Maja Sager, the interplay between policies (regarding migration, labour market and social policies regulating undocumented migrants’ access to welfare) and practices (at welfare institutions as well as in civil society) that determines the shape of the irregular condition in different contexts (Sager 2011:20-21). Sweden is, with regard to these factors, an uncharacteristic case due to a comparatively effective internal control.\(^{12}\) In the next section I will discuss this and other characteristics of the Swedish case.

**Irregular Migration in Sweden**

Sweden has historically not been a country associated with irregular migration and the phenomena has only recently started to be debated and researched. Migration scholar Franck Düvell has identified several factors that help explain this comparatively late emergence of interest. One important reason, he argues, is that irregular migration has a rather short history in this context and that the estimated size of the undocumented population is comparatively small. Another is that the character of irregular migration – which is widely understood to be spurred by refusal rates rather than demand for (precarious) labour – has been different in Sweden compared to many other countries. The term irregular migration has, Düvell argues, mainly been associated with labour-driven immigration to countries with large informal sectors of the economy and low levels of regulation and law enforcement. Accordingly, the group of people residing in Sweden without authorization – of which the bulk is estimated to be former asylum seekers in hiding\(^{13}\) – has not been

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\(^{11}\) Deportability, in turn, is a key component in the creation of precarious labour (De Genova 2010:38-39).

\(^{12}\) Internal control is used to denote mechanisms for control – such as ID controls, employer sanctions and inspections at worksites and schools – that take place within state borders. This form of control differs from external control that consists of measures – such as visa restrictions – that are imposed to control entry (Brochmann 1999:12). This use of the term should thus not be conflated with the more delimited concept internal border control that refers to border controls within the Schengen area.

\(^{13}\) It should however be noted that this is an assumption and although it is widely shared among migration scholars there are no systematic studies that confirm it. Many of the studies that have been
conceptualized as irregular migrants. This group has, rather, been made sense of within refugee and asylum discourse (Düvell 2010:3-4).

The Scope and Origin of Irregular Migration in Sweden

There is wide consensus that the number of irregular migrants in Sweden is low in international comparison. Estimations of the size of this population are, by definition, difficult to make and tend to be unreliable (Triandafyllidou 2010:6-9). In Sweden, these estimations are based on, first, estimations from NGOs and trade unions and, second, statistics from the Swedish Police. The latter incorporate former asylum seekers who refuse to obey an order to leave the country. The estimations for Sweden vary greatly. Düvell, with reference to estimations made within the Clandestino project, argues that the number of irregular migrants in Sweden are 8,000-12,000 (Düvell 2010:6). The same figure is mentioned in a report regarding access to health care in the EU (Biffl & Altenburg 2012:59). Other reports estimate the number to be significantly higher. In a report from the National Board of Health and Welfare [Socialstyrelsen], for instance, the number of irregular migrants in Sweden is estimated to be anywhere between 10,000 and 50,000 (Socialstyrelsen 2010:22). Moreover, the research project REGINE states that the number can be anywhere between 15,000 to 80,000. The report however acknowledges that the higher figure is likely to be an overestimation (Baldwin-Edwards & Kraler 2009:49;459).

The composition of the group is equally hard to determine. It is, as already mentioned, generally assumed that the bulk of the irregular migrants in Sweden are former asylum seekers. Many scholars have accordingly linked the emergence of the group to changes in asylum policy. Among those is Tomas Hammar, who has argued that the rise in people who went underground in the 1990s coincided with a rise in the rate of refusals (Hammar 1999:190). Moreover, he highlights that this development was accompanied, and to some extent made possible by, the formation of a sanctuary movement that assisted those who went underground (ibid:194). Both of the factors discussed thus far, i.e. the size and character of irregular migration, stand out in an international perspective. In addition, there are other contextual factors that make the circumstances of irregular migrants in Sweden distinct. Two factors that are often mentioned in the literature is the high degree of regulation and the low access to rights and services.

conducted in the Swedish context confirm the assumption (see for instance Khosravi 2010, Sager 2011, Holgersson 2011, Sigvardsdotter 2012) but their design and methodology limit the scope of generalization.

For a further discussion about recent changes in Swedish asylum policy see Chapter three.
The Degree of Regulation

The high level of regulation, first, has recurrently been singled out as a circumstance that renders it comparatively more complicated to reside in Sweden irregularly (Khosravi 2010:95, Düvell 2010:4). A first aspect that has been highlighted in previous research is the system based upon personal identity numbers [personnummer] that renders it difficult for undocumented migrants to access social security and health care or to obtain employment or housing. Another frequently invoked aspect is the comparatively regulated labour market and the controls imposed by the trade unions that have resulted in a small informal sector (Düvell 2010:4; Hammar 1999:187-88). The (historically) small informal sector in Sweden is often attributed to be the combined effect of a generous welfare system, that has limited the attraction of informal employment, and a high rate of unionization that has led to a presence of unions in most workplaces. More recently, however, deregulations and a rise in subcontracting have resulted in less control and growth of the informal sector (Schierup et al. 2006:215-17).

The Citizenship Regime

In addition to difficulties in finding employment in a highly regulated and policed labour market, the circumstances of undocumented migrants in Sweden are challenging due to an almost complete denial of social rights. Historically, Sweden has been very restrictive when it comes to granting rights to people whose presence in the country is unsanctioned. Up until 2013, when there was a shift in policy with regard to the provision of schooling and medical care,15 undocumented migrants were formally excluded from all services and safety nets of the welfare state.16 Accordingly, Sweden was singled out as one of the most restrictive countries in Europe in comparative studies. For instance, a study on the provision of health care to undocumented migrants placed Sweden (together with Austria) in the most restrictive category out of five possible (PICUM 2007:8). The situation however changed somewhat after the 2013 reform and continual demands for further rights suggest that we might see a further expansion in the future.

This denial of rights is ultimately an effect of the prevailing Swedish citizenship regime. Throughout this thesis I will use this term to denote the regulations, policies and discourses that structure different aspects of

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15 Two important changes were introduced in 2013. First, undocumented children were granted the right to schooling. Second, undocumented children were granted the right to access full subsidized medical care and undocumented adults access to limited subsidized care. For further information about the legislative changes and the debates that preceded them see Chapter six.

16 This statement can however be further qualified. First, because there were exceptions as one category of undocumented children, those who were former asylum seekers, had access to medical care already prior to 2013. Second, because many regions had started to provide medical care already prior to the reform.
citizenship (cf. Neergaard 2009:204-05). I use the term in a wide sense that incorporates both formal and informal aspects of citizenship. Accordingly, in my understanding, the citizenship regime is made up of both legal frameworks, that regulate access to membership and rights, and of conceptions of how one is supposed to be and act in order to be (perceived of as) a citizen. Furthermore, I use the term citizenship regime to bring together dimensions of citizenship that are otherwise often analytically separated into different regimes (such as “migration” or “welfare” regimes). This endeavour is, I contend, not only plausible but also necessary as there is an intimate relationship between different policies. These, more precisely, delimit the circle of rights-bearers and provide systems of categorization – with accompanying sets of rights – and consequently work together to determine the different dimensions of citizenship in a particular context. The Swedish citizenship regime comes, as highlighted in a number of previous studies, with particular implications for undocumented migrants. Among the most noteworthy is that it produces a greater gap between this group and the rest of the population. I will shortly expand on this argument. First, however, I will briefly introduce the Swedish welfare model and the approach to immigrant incorporation. The outline of the core characteristics of these will serve as a springboard for the discussion about the particular circumstances of undocumented migrants in Sweden.

First, with regard to welfare state typologies, Sweden is often advanced as a key example of the so-called social democratic model (cf. Esping-Andersen 1990). The hallmark of this model, according to Diane Sainsbury, is that citizenship – rather than need or contribution in the labour market – constitutes the primary basis of entitlement (Sainsbury 2012:82). The model is associated with a system of comprehensive social provision that, in turn, is taken to diminish reliance on the market. Historically, the social democratic model has entailed efforts to achieve full employment and equality, in opportunities as well as outcomes, has been a key policy goal (ibid.). The Swedish incorporation regime, furthermore, is underpinned by similar

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17 The notion of regime has been widely used in comparative literature on both welfare and migration policy in order to enable “countries to be grouped together in the search for both common and differentiating patterns” (Lister et al. 2007:2). The basic idea behind this use of the concept is that countries cluster around certain institutional patterns and policy logics (ibid.). This is, for instance, how Gosta Esping-Andersen uses the term in his seminal analysis of three different kinds of welfare regimes (Esping-Andersen 1990).

18 It is for instance important to note the relationship between migration policy and citizenship policy as the former tends to do the “dirty work” of the latter; i.e. sort out those individuals that will later become eligible to apply for citizenship (Dauvergne 2009; Anderson 2013). Moreover, I argue, with reference to the study at hand, one cannot understand migration policy without taking conceptions about welfare under consideration.

19 This model is sometimes also referred to as the Scandinavian or the Nordic model.

20 This term is used by Sainsbury to denote “rules and norms that govern immigrants’ possibilities to become a citizen, to acquire permanent residence, and to participate in economic, cultural and political life” (Sainsbury 2012:16). She particularly stresses the need to distinguish between incorporation
ambitions. According to Sainsbury, the Swedish regime, where rights are attributed with basis on residence, can be characterized as inclusive. This is consistent with a development where residence has supplanted citizenship as criteria of eligibility with regard to provision of most rights (ibid.:84-86). Hence, during the post-war period, the egalitarian ambition that underpins the welfare model was expanded to include immigrants. However, the flipside of this policy of inclusive incorporation and equal treatment has been a strong commitment to regulated migration (cf. Borevi 2010:59; Sainsbury 2012:215). Accordingly, restrictive entry policies have been articulated as a precondition for inclusionary ambitions.

I argue that it is at the intersection of these policies and goals that the particular conditions of undocumented migrants in Sweden are produced. These conditions are characteristic in several ways. From the perspective of this group, the most prominent aspect of the Swedish citizenship regime is that it produces a greater gap between the undocumented migrants and the rest of the population. The difference between those who are inside and outside the welfare system is, as argued by Erika Sigvardsdotter, much greater in a comprehensive welfare state with universal coverage in comparison with countries with less comprehensive welfare states (Sigvardsdotter 2012:16). Another characteristic is that this regime, at least historically, has implicated a complete denial of rights for undocumented migrants. The commitment to universalism and egalitarianism has, as highlighted by Helena Holgersson, came with a disapproval of differentiated rights regimes. This in turn has implicated that the idea of “parallel systems” for the undocumented population has been rejected with reference to that this would be irreconcilable with the principle that everybody should be included in the general welfare system (Holgersson 2011:85-86). Another paradoxical effect of the commitment to equality is that it has been considered important to make sure that people do not stay in the country without a permit. Sweden has historically had a tradition of making sure that deportation orders are implemented and that asylum seekers whose applications have been rejected leave the country (Hammar 1999:189). This policy can, according to Holgersson, be understood against the background of the ambition to guarantee everyone the same set of rights. The overarching commitment to equal treatment, that is to say, has come with the perverse effect that enforcement of deportations has become a higher priority in Sweden compared to many other countries (Holgersson 2011:110). In conclusion, hence, Swedish policy – which best can be characterized as an all-or-nothing approach to welfare provision – comes with the effect that the gap between those excluded, such as irregular migrants, and those included becomes comparatively large. Concordant with this, I argue

regimes, which regulate the inclusion of immigrants, and immigration policy regimes, which regulate entry. This is crucial, she argues, as inclusionary incorporation policies do not necessarily go hand in hand with open immigration policies (ibid.).
that the appearance of irregular migrants has shed light on the exclusionary practices of the (national) welfare state and the boundedness of its inclusionary ambitions.

Introduction to the Analytical Framework

The overarching analytical point of entry of this study follows the aforementioned assumption that the appearance of irregular migrants has shed light on the exclusions and hierarchies of the prevailing order and spurred political struggles. These struggles have, most generally, revolved around access to rights and access to membership. It is however access to a particular form of rights – namely social rights – and membership in a particular community – namely the welfare state – that have been the focal point of political debates. In accordance with this I argue that these debates can be conceptualized as struggles over the demarcation of the welfare state. The analysis in the thesis will draw on two strands of theory to make sense of these struggles. The first strand, theorization on citizenship, is brought in to make sense of the dynamics of inclusion and exclusion in the (national) welfare state. The second strand, discourse theory, is brought in to make sense of the potential for contestation. In the following I will briefly outline what each of these theories bring to my analytical framework.

Theorization on Citizenship

I contend that the political debates on irregular migration in Sweden can be conceptualized as citizenship struggles. This does not mean that I argue that the discussion revolves around citizenship narrowly defined. This is clearly not the case. The debates have circled around criteria for residence and principles for entitlement to rights but not around citizenship as such. Furthermore, access to social rights – which has been one of the main points on contention in the debates – has been tied to (legal) residence, rather than citizenship, since the 1960s. Rather, the assertion that the struggles constitute citizenship struggles should be understood in the wider sense that it is the

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21 I will recurrently make use of this denomination in order to emphasize that the argument applies to a particular form of welfare states, i.e. the national. This serves both to highlight this aspect of contemporary welfare states and to open for the possibility of other forms of welfare states. Hence, the denomination is used to stress that the argument applies to a particular way of organizing welfare provision.

22 Henceforth, when I refer to discourse theory it is the theory developed by Ernesto Laclau and Chantal Mouffe that is intended. This approach is also often referred to as the Essex School.

23 This model has been referred to as denizenship (for a further discussion of this concept see Hammar 1990) and gives authorized migrants access to almost the same set of rights as citizens. Residence permit, rather than citizenship, is thus the threshold to most rights (one important exception, however, is political rights).
citizenship regime – and its principles for membership and entitlement to rights – that is the focal point of the debates. A more lengthy discussion about citizenship theory will follow in the next chapter where I outline the analytical framework of the thesis. In this chapter I will settle with a short introduction of two aspects of citizenship that constitute basic starting points of the analysis.

The first aspect is the inherent duality of citizenship. Citizenship is, both conceptually and practically, marked by duality in the sense that it simultaneously conveys inclusionary and exclusionary logics (Brubaker 1992; Bosniak 2006). The welfare state is exemplary of the two logics of citizenship. The idea of social citizenship, epitomized by the welfare state that provides social rights and protection for its members, is representative of the inclusionary logic of citizenship (cf. Marshall & Bottomore 1992). Nevertheless, historically social citizenship has always been limited to a bounded community and consequently the welfare state is also exemplary of the exclusionary logic. The particular balance between the two has however varied. The meaning of the welfare state is historically and spatially specific and there is a great diversity of understandings, practices, and institutions that comes with it. This brings me to the second starting point, which is that citizenship constitutes a site of struggle. The meaning of citizenship – both as idea and practice – is constantly subject of political struggles and has shifted both historically and geographically. Sociologist Saskia Sassen has accordingly argued that the essence of citizenship is its incompleteness. With this notion she attempts to capture the constantly shifting meaning of citizenship and the institution’s ability to accommodate ever-new demands for inclusion. Sassen particularly highlights the claims-making of excluded groups that, she argues, has been one of the key driving forces behind changes (Sassen 2009:228). This aspect of citizenship as a site for claims-making has also been highlighted by anthropologist Nicholas de Genova:

Rather than a secure and stable entitlement accruing ‘naturally’ or inexorably to co-‘nationals’, citizenship has instead been a site of struggle. Citizenship struggles garner and tentatively institutionalize an ever-beleaguered (and by no means assuredly expanding) circle of protections for the presumed ‘rights’ or ‘entitlements’ of those who come to be counted as ‘properly’ belonging ‘inside’ the space of the state (De Genova 2010:51).

Following this, we should thus conceive of citizenship as a site of struggle where the balance between inclusion and exclusion is never settled once and for all but constantly shifting. In these struggles, as noted by De Genova, not only the content and scope of the institutionalized rights that comes with being counted among the citizenry are up for negotiation, but also who is to be included in the citizenry as such.
I argue that these perspective on citizenship provide crucial insights that can help us to better understand the on-going debates on irregular migration. Following the assumptions above, the welfare state can be understood as a site of struggle where the circle of rights-bearers and the scope of rights are under constant negotiation. Historically, it is possible to see a gradual expansion of the circle of rights-bearers in Sweden. One decisive shift took place in the 1960s, following the first wave of post-war labour migration, when immigrants with a residence permit were granted access to social rights. This, I argue, is one example of a historic re-demarcation of the boundaries of the welfare state. Today, I contend, the welfare state is confronted with a new set of demands. This time the challenge is posed by a category that is present as residents but lack the requisite permits, i.e. irregular migrants, and as such is denied access to most rights.

**Discourse Theory**

The nature of this challenge will be further explored with the help of concepts and assumptions from discourse theory. Discourse theory is valuable in two distinct ways. First, because it provides me with an overarching entry to understand the social order, how it has been instituted and how it is transformed. Second, because it provides me with theoretical and methodological resources to analyse and make sense of political debates. In this chapter I will focus on the first contribution and outline how discourse theory provides further resources to understand citizenship struggles. Discussion on the second form of contribution will follow in the next chapter.

I argue that the appearance of irregular migrants – as rightless subjects – constitute an instance of what discourse theory refers to as dislocation. The term refers to “those ‘events’ or ‘crises’ that cannot be represented within an affected discourse, as they function to disrupt and destabilise such orders” (Griggs & Howarth 2004:183). I argue that the exposure of the vulnerability and precarious circumstances of irregular migrants had this kind of unsettling effect as it brought the constitutive tension of the welfare state to the fore.

Dislocations occupy a prominent place in discourse theory where they are held as preconditions of agency and change. More precisely, because they constitute moments where the contingency and historicity of the social order is rendered more visible and thus potentially open for contestation and transformation (Griggs & Howarth 2004:183). Dislocations, that is, tend to bring about reactivations. These, according to Ernesto Laclau, entail “rediscovering, through the emergence of new antagonisms, the contingent

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24 Historically, one can easily identify a trend where political demands have resulted in an expansion of the circle of right-bearers. Indeed, a number of countries seem to follow the route sketched in T.H Marshall’s seminal analysis (Marshall & Bottomore 1992). Yet, it is important not to presuppose constant expansion as recent developments, both the general dismantlement of social citizenship (see for instance Pierson 2006; Jessop 2002) and the refraction of rights of immigrants (see for instance Sainsbury 2012), suggests that rights once secured can be withdrawn.
nature of so-called ‘objectivity’” (Laclau 1990:34-35). In this case, I argue, it is the demarcation of the welfare state that is reactivated. The precarity and rightlessness of the irregular migrants make visible the fact that the universal welfare state is reserved for citizens and the categories of migrants whose presence is sanctioned by the state. In other words, their predicament sheds light on the boundaries of the welfare state and the resultant exclusions.

However, although dislocations are attributed a transformational potential, their outcome is always indeterminate as they can provoke a number of responses (Glynos & Howarth 2007:105). As argued by Laclau, “there is no necessary relation between the dislocation as such […] and the discursive space that is to constitute its principle of reading and its form of representation” (Laclau 1990:65). Every dislocation will thus be followed by attempts to make sense of and respond to the experiences that are contextually specific. Accordingly, the meaning that is ascribed to a dislocation is ultimately dependent on the outcome of political struggles. This thesis investigates precisely these kinds of struggles and the analysis, accordingly, circles around the attempts to make sense of and respond to the dislocation.

Finally, it should be stressed that discourse theory comes with a critical ambition. This ambition is, furthermore, closely linked to the emphasis on the inherent contingency of the social order. According to Jason Glynos and David Howarth, one of the central components of this critique is to “reactivate and make evident options that were foreclosed during the emergence of a practice” (Glynos & Howarth 2007:155). This exercise, in turn, serves to “reveal the non-necessary character of the present social formation” (ibid.). The aim of critical research thus becomes to highlight current exclusion and shed light on their origin in order to show the potential for societal reconfiguration. Concordant with this, my thesis contains a critical element in the sense that it comes with a problematization of the current demarcation of the welfare state, its exclusions, and the historical decisions that led up to it. Moreover, the analysis is guided by an overarching ambition to de-naturalization migration control and to problematize the particular assumptions that underpin it.

**Contribution to Previous Research**

This thesis – that explores the politicization of irregular migration in Sweden – brings new knowledge and insights to several research fields. First and foremost, I consider my study a contribution to the growing body of research that analyses various aspects of irregular migration in Sweden. Just a few years ago, in 2010, this research field was still small enough for a foreword in an anthology on irregular migration in Scandinavia to open with a remark on the lack of research about irregular migration in this context (Düvell 2010:3). The situation has however changed remarkably since, and the last years have
seen a rapid increase in both publications on the topic and initiated research projects. Today there is an array of recent studies that explore various aspects of the circumstances and lived experiences of irregular migrants (Khosravi 2006; Khosravi 2010; Sager 2011; Holgersson 2011, Sigvardsdotter 2012). Furthermore, there is a growing number of studies that analyse specific kinds of policy and legislation with regard to labour (Gunneflo & Selberg 2010; Selberg 2014), health care (Björnberg Cuadra 2012), education (Strange & Lundberg 2014) and social service provision (Björnberg Cuadra & Staaf 2012). However, thus far, there has been a lack of studies that map political debates and policy development more broadly. There are a few comparative studies that analyse recent debates in Sweden as part of a larger analysis (Jørgensen 2012; Jørgensen & Meret 2012) but this thesis is, as far as I know, the first study that systematically investigates parliamentary debates and provides a comprehensive analysis of recent policy development. The study draws from the same strands of theory – critical approaches to migration and citizenship – as many of the previous studies and shares an ambition to problematize state sovereignty and the regulation of mobility. However, in contrast to previous research, which has often aimed to shed light on the experiences and circumstances of irregular migrants, this study aims to analyse how their position in Swedish society has been addressed in political debates. Its main contribution to this research field is accordingly that it gives a more comprehensive understanding of the underpinning logics of policy and maps the discourses on irregular migration and irregularity in Sweden.

In a wider perspective, moreover, my thesis is also a contribution to the strand of research that studies political debates and policy development related to migration and integration in Sweden more broadly. My thesis both draws on and contributes to this field. It draws on it in the sense that my argument builds on insights generated in investigations of policy development during the 20th century. I particularly build on those studies that have studied the interrelationship between notions of the welfare state and formulation of migration policy (see for instance Öberg 1994; Borevi 2002; Johansson 2005; Mörkenstam 2010). It contributes, further, as it complements previous research on Swedish policies on migration as it investigates recent political debates that have not yet been the object of systematic study. Furthermore, in addition to this empirical contribution, I argue that the study’s analytical framework opens for partly new insights and interpretations of previous debates and policy development. For instance, the shift from relative consensus to conflict within this policy area, a shift has attracted some attention in previous research (see for instance Hammar 1999; Spång 2009), can be further explored with the use of concepts and assumptions from

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25 In addition, several books and reports that investigate the circumstances of irregular migrants in Sweden have been published by journalists and NGOs, see for instance Blomgren 2008; Mattson 2008; Molin 2010.
discourse theory. In a similar fashion, critical theorization of citizenship can potentially shed new light on the underpinning logic of migration control and its link to welfare aspirations.

Finally, my study both draws on and contributes to a strand of research that approaches irregular migration from the vantage point of citizenship theories. The analysis is inspired by the growing field of scholarship that explores how the mobilization of irregular migrants contests prevailing conceptions of citizenship and, in doing so, opens up new spaces to make claims for rights (See for instance Sassen 2005; 2009; Nyers 2010; McNevin 2011). In contrast to many of the studies associated with this literature, which focus on the actions and claims of irregular migrants themselves, I however study parliamentary debates and attempts to advocate on their behalf. This is far from insignificant as many scholars associated with this approach put their emphasis precisely on the disruptive effects of acts. This said, I consider the study to be an addition to the literature that investigates claims-making of and on behalf of undocumented migrants in different contexts. In relation to this research field, furthermore, the main contribution of the thesis is that it explores debates and policy making in a different type of context that, analogous to the previous discussion in this chapter, is exemplary of a different form of citizenship regime.

Outline of the Thesis

The thesis is divided into seven chapters. The next chapter contains a further introduction to the analytical framework of the study as well as a presentation of my empirical material and research strategy. This chapter also includes a more general discussion on epistemology, methodology and my understanding of scientific practices. The consequent chapter, “Between the sedimented and the reactivated”, provides further background and aims to contextualize the debates studied in the consequent chapters. The chapter contains a brief introduction to Swedish migration policy and its development over time. Here, I sketch the Swedish logic of control – i.e. the rationality behind policy and its underpinning assumptions – as well as identify the core components of contemporary discourse. This is followed by three analytical chapters that analyse different aspects of the debates on irregular migration. Chapter four, “The politicization of irregularity and the demarcation of a problem of rightlessness”, is an analysis of the conceptualization of the problem. I explore how irregularity was first constituted as a political problem and the subsequent attempts to challenge this reading. Moreover, I study the use of terminology and how it shifts over time. Chapter five and six analyse the claims that have been advanced of behalf of irregular migrants in the Swedish debate. The

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26 The term claims and demands will be used synonymously throughout the thesis.
analysis starts from the assumption that it is possible to make an analytical distinction between demands based on whether they seek to ensure rights by *shifting status* (i.e. regularisation)\(^{27}\) to a category that has an established access to rights or by *granting rights* to a category of residents that currently lack them.\(^{28}\) The main difference between them thus consist in how they address the (lack of) legal status of irregular migrants and, consequently, in how they relate to the category as such. Chapter five, “Rights through status: exploring demands for regularisation”, analyses the first form of demands. This chapter studies the origin of the demand for amnesty and how it has been debated in parliament. Furthermore, I analyse the attempts to link irregular migration to labour migration and demands for regularisation through labour. Chapter six, “Rights beyond status: exploring demands for social rights”, analyses the second form of demands. More precisely, I look at the demands for schooling and medical care. The focal point of the chapter is how the demarcation between citizenship rights and human rights are debated. Chapter seven, finally, consist in concluding remarks. In this chapter I summarize how irregular migration has been politicized in Sweden. I highlight the shifts that have taken place – with regard to terminology, policy and discourse – and their implications.

\(^{27}\) The term regularisation – often used interchangeably with amnesty or legalization – is used to refer to “a process by which a country allows aliens in an irregular situation to obtain legal status in the country” (Sunderhaus 2007:67). For further discussion see Chapter five.

\(^{28}\) I want to stress that this is an analytical separation and that I in no way seek to suggest that the two kinds of demands are mutually exclusive. On the contrary, in the political struggles investigated the two sorts of demands have often come hand in hand and calls for an expansion of social rights to all residents can be read as a strategic move to ensure some basic protection in the absence of a possibility to push through a general amnesty. This set aside, I argue that it is feasible to make an analytical distinction as they come with different effects on a systemic level.
2. ANALYTICAL FRAMEWORK

This chapter contains a presentation of the analytical framework of the thesis. I start with an outline of the study’s theoretical starting points and thereafter proceed to a presentation of my analytical strategy and material. The overarching analytical point of entry of the study is, as argued in the introductory chapter, that the appearance of irregular migrants in Sweden constitutes a disruptive moment that opened for contestation of the citizenship order. The analysis draws on two strands of theory – discourse theory and citizenship theory – to explore these processes of contestation. Discourse theory provides me with resources to understand the form of these struggles whereas citizenship theory provides contextual insights that help me make sense of the specifics of these struggles.

The chapter is divided into three parts. The first part is an overview of theorization on citizenship. The second part, furthermore, introduces some of the key concepts and ontological assumptions of the discourse theory of Ernesto Laclau and Chantal Mouffe. The focal point of the presentation is the understanding of political change and its preconditions. The third and final part consists in an outline of my analytical strategy and a presentation of my empirical material. Here I discuss the implications that follow from adopting discourse theory as an overarching analytical entry and account for how I, more concretely, intend to proceed with my analysis.

Theorization on Citizenship

The meaning of citizenship is, as continuously underlined by many scholars commenting upon it, ambiguous and contested (Faulks 2000; Lister 2003; Kivisto & Faist 2007; Isin & Woods 1999). Ruth Lister has argued that the difficulties of providing a clear-cut definition arise “partly because it incorporates a number of different elements, reflecting competing political traditions, and partly because of both its contextualised and contested nature” (Lister 2003:13). From the perspective of discourse theory the futility of
attempts to delimitate the precise meaning of citizenship comes as no surprise. “Citizenship”, like “welfare”, “freedom” or “equality”, is exemplary of the category of concepts whose meaning is deeply contested. Accordingly, taking a discursive approach to citizenship entails attentiveness to how citizenship is articulated in different theoretical and political projects. The analysis of this thesis is thus underpinned by the assumption that citizenship comes with a multiplicity of meanings. In this opening section of the chapter I will discuss different definitions and understandings of citizenship. Thereafter a section follows in which I outline how theorization on citizenship can be drawn upon to shed light on the dynamics of migration control. This section is in turn followed by a discussion on the mobilizing potential of the ambiguities and tensions of citizenship.

**Defining Citizenship**

Sociologist Saskia Sassen has argued that citizenship, in its narrowest definition, “describes the legal relationship between the individual and the polity” (Sassen 2006:281). This definition stresses the formal status of citizenship while leaving the polity as such unspecified. The same holds for the definition offered by Peter Kivisto and Thomas Faist. They argue that citizenship can be defined in terms of two component features:

The first is that it constitutes membership in a polity, and as such citizenship inevitably involves a dialectical process between inclusion and exclusion, between those deemed eligible for citizenship and those who are denied the right to become members. In its earliest articulation in ancient Greece, the polity in question was the city-state. In the modern world, it was transformed into the nation-state. Second, membership brings with it a reciprocal set of duties and rights, both of which vary by place and time, though some are universal (Kivisto & Faist 2007:1-2).

Kivisto and Faist thus define citizenship in terms of membership and a corresponding set of duties and rights. Their definition is in one sense less formal than Sassen’s as it leaves the specifics of membership aside. Appeals to membership can, at least hypothetically, be broader than legal membership. Their definition, furthermore, is similar to Sassen’s in the sense that it links citizenship to membership in a polity without further specification. In both definitions, the use of the term “polity” is deliberate and serves to delink citizenship from its current articulation with the nation state. Kivisto and Faist, as well as Sassen, highlight that the institution of citizenship has evolved over time and that the polity has shifted from city-states to nation-states.
Citizenship and Nationality

The use of the term polity thus serves to de-emphasize the link between citizenship and the modern state. However, although there is no necessary relationship between citizenship and the state, the historical development during the last centuries – more precisely, in the words of Sassen, “the evolution of polities along the lines of state formation” – has tied these two institutions together (Sassen 2006:281-82). As a result of this historical trajectory, Sassen argues, nationality has become a constitutive element of the institution of citizenship. Consequently, the two terms are currently interlinked:

Today citizenship and nationality both refer to the national state. While essentially the same concept, each term reflects a different legal framework. Both identify the legal status of an individual in terms of state membership. But citizenship is largely confined to the national dimension, while nationality refers to the international legal dimension in the context of an interstate system. The legal status entails the specifics of whom the state recognizes as a citizen and the formal basis for the rights and responsibilities of the individual in relation to the state (Sassen 2006:281).

Sassen thus distinguishes between a national and international sphere, where citizenship is taken to belong to the former and nationality to the latter. However, it should be noted that not all scholars ascribe to this distinction and that many use term citizenship to refer to both the national and international dimension. One of those scholars is Rogers Brubaker. He, like Sassen, draws attention to that citizenship developed in tandem with the rise of the modern territorial state. The development of the modern state entailed, he stresses, the “division of the world’s population into a set of bounded and mutually exclusive citizenries” (Brubaker 1992:22). Unlike Sassen, however, Brubaker holds the international dimension to be integral to the meaning of citizenship. Accordingly, he highlights that citizenship functions as an “international filing system, a mechanism for allocating persons to states” (ibid.:31).

Brubaker is not the only scholar that has noticed this aspect of citizenship. A similar argument has been advanced by Barry Hindess who has expressed criticism of the tendency to conceive of citizenship as something that primarily relates to life within a state. In his view, such a conceptualization of citizenship is incomplete as it disregards from the “role of citizenship in the overall government of the population covered by the modern state system” (Hindess 2000:1495). Accordingly, he advances an interpretation of citizenship that stresses its centrality as a regime of governance whose central components are “the division of humanity into distinct national populations” and the regulation of movement between national territories (ibid.:1494).
line with this Hindess highlights that two conceptions of citizenship coexist in the contemporary world:

One sees it as a complex package of rights and responsibilities accruing to individuals by virtue of their membership of an appropriate polity. The other sees it as a marker of identification, advising state and nonstate agencies of the particular state to which an individual belongs (Hindess 2000:1487).

The first conception is similar to the definition offered by Kivisto and Faist. It stresses the same two components in the form of membership and the bundle of rights and obligations that accompanies this status. The second conception is indicative of a more recent turn of theorization on citizenship. This, rather, draws attention to the global role of citizenship as a principle of allocation and as a means to regulate mobility. A focus on the external aspect of citizenship also sheds light on the role of citizenship in the global distribution of opportunities and privileges. Hindess’ overarching aim is precisely to illuminate the legitimating role that discourses of citizenship fulfil as they normalize the discrimination between “citizens” and various groups of “others” (Hindess 2000; 2004).  

The Duality of Citizenship

Both Brubaker and Hindess argue that the bounded character of citizenship has tended to be neglected in the literature on citizenship. According to Brubaker, there has been a tendency in scholarship to disregard from this aspect and to, rather, emphasize the universal and inclusive dimension of citizenship (Brubaker 1992:72). He argues that this perspective is flawed as it fails to account for the fact that citizenship is marked by duality in the sense that it is simultaneously “internally inclusive” and “externally exclusive” (ibid.:21). The exclusive dimension relates to the boundedness of modern citizenship that has been discussed above. The inclusive dimension, furthermore, is linked to the fact that citizenship is considered to be “an inherently egalitarian ideal” that “implies full legal and political equality

29 This aspect of citizenship is also highlighted within a strand of normative political theory. One of the key figures of this strand is the political philosopher Joseph H. Carens who, in a classic text, made the claim that citizenship can be regarded as a “modern equivalent of feudal privilege” in the sense that it is an inherited status with great bearing on individual life chances (Carens 1987:252). More recently, Ayelet Shachar has developed this argument further in advancing an interpretation of citizenship that stresses its role in the distribution of opportunities on a global scale. Her argument is that citizenship, as membership status, is a crucial factor in the determination of life chances. As such, Shachar argues it should be put under the same kind of scrutiny as other forms of property. Hence, she urges us to think of the intergenerational transfer of citizenship in analogy with the intergenerational transfer of property (Shachar & Hirschl 2007; Shachar 2009).

30 It should however be noted that this argument was advanced as early as in 1992. In the consequent years the exclusionary dimension of citizenship has received increased attention and accordingly the argument is less valid today.
among citizens” (Brubaker 1989:17). The conception of citizenship as “internally inclusive” is hence linked to the understanding of equality as the quintessence of citizenship. The theorization of sociologist T.H. Marshall is exemplary of this reading. He conceptualizes citizenship as a status that is “bestowed on those who are full members of a community” (Marshall & Bottomore 1992:18). From this understanding follows the prescription that all those who possess the status are to be seen as “equal with respect to the rights and duties” that accompanies it (ibid.:18). Internally, that is to say, citizenship rests on an equivalential logic. It constitutes a status as an equal member, with access to the same set of rights, of a community (Torfing 1999:229-30). However, this strand of theorization – that stresses the inclusionary potential of citizenship – tends to presume a bounded community and disregard the effects on outsiders. It is these effects that bring Hindess and Brubaker to emphasize that citizenship comes with contradictory implications.

Both Hindess and Brubaker contribute to a more complex understanding of the nature of modern citizenship. However, in a broader perspective, it should be noted that exclusion is an inherent feature of all identities rather than a characteristic that is unique for citizenship. According to poststructuralist theorizing, all identity is understood to be relational. This implicates that citizenship, as any identity, presupposes the existence of a constitutive outside. Consequently, it can be presumed that “citizens and non-citizens always exist in relation to, and are constitutive of, one another” (Rygiel 2010:39). Anne McNevin further explicates this ontological dimension of citizenship:

The articulation of citizenship, as of any identity, requires the marking of its exterior, a constitutive outside that is always implicit within the identity itself. Citizens, that is, come into being only alongside noncitizens. This relation of identity and difference precludes the possibility of universal inclusion in a community of citizens because that community lacks substance without a constituent measure of alterity. Thus, any reference to the citizen assumes the existence of the noncitizen, and any consequences flowing from citizenship (rights, opportunities, and so on) are enjoyed in the context of the denial of the same to noncitizens (McNevin 2011:16).

Hence according to McNevin, the production of the citizen presupposes boundary drawing and the establishment of difference, i.e. the production of “Others”. This claim can however be further qualified. The discussion above suggests a clear-cut process and simple relationship between the two categories. However, often the citizen is contrasted not to one single category but to a spectrum of status categories that come with different sets of rights (ibid.:16-17). Furthermore, the fact that citizenship, as all identities, is relational does not mean that current exclusions are rendered inevitable. Articulations of relational differences are always only partially fixed, inherently contingent, and open for reconfiguration. The analysis of this thesis
is, in essence, concerned with attempts to rearticulate relationships between citizens and other categories.

**Towards a Broader Understanding of Citizenship**

Hitherto, I have problematized definitions that lay emphasis on citizenship as membership in a polity. These, as discussed above, can be regarded as insufficient in the sense that they confine citizenship to the relationship between individuals and the polity. Consequently, they tend to obscure that the internal and external implications of citizenship differ. These definitions, furthermore, are unsatisfactory in yet another regard as they omit less formal components of citizenship. Ultimately, they are reflective of the dominant understanding of citizenship. This understanding conceives of citizenship as “an institution, legal status or membership in a polity” (Rygiel 2010:30). More recently, this more narrow focus on citizenship as a legal and political status, that comes accompanied by certain institutionalized rights, has been complemented with a more sociological approach. This, according to Kim Rygiel, entails a shift towards the meanings, norms, experiences, practices and identities that are associated with citizenship (ibid.:22-23).

Oftentimes, scholars highlight both formal and informal aspects of citizenship. One example is the following definition, offered by Christian Joppke, who argues that citizenship has three core components:

> […] citizenship as status, which denotes formal state membership and the rules of access to it; citizenship as rights, which is about the formal capacities and immunities connected with such status; and in addition, citizenship as identity, which refers to the behavioral aspects of individuals acting and conceiving of themselves as members of a collectivity, classically the nation, or the normative conceptions of such behaviour imputed by the state (Joppke 2008:37).

Two of Joppke’s components, status and rights, roughly correspond with the definitions offered above.\(^{31}\) However, more interesting for the discussion at hand is that he adds *identity*. Here, identity is used to capture the acts and identifications that relate to citizenship. Joppke thus prefers the term identity to signify the more informal aspects of citizenship. A slightly different terminology is advanced by Engin Isin and Patricia Wood who argue that *practices* form a key component of citizenship:

> Citizenship can be described both as a set of practices (cultural, symbolic and economic) and a bundle of rights and duties (civil, political and social) that define an individual’s membership in a polity (Isin & Wood 1999:4).

\(^{31}\) In a sense, Joppke is even more formalistic as he holds status to denote state membership.
According to Isin and Wood it is important to acknowledge that both practices and status are aspects of citizenship. The concept, they argue, is neither purely sociological nor purely legal but denotes the relationship between the different aspects of citizenship. Accordingly, they are also careful to underline that status is a precondition for individuals to hold rights (ibid.). In a broader perspective, however, the recent turn to identities and practices opens for analyses of how a lack of overlap between formal and informal aspects of citizenship opens up for claims-making. This aspect will be further explored later in this chapter when I turn to the politics of citizenship and the mobilization of tensions.

Citizenship, Welfare and Migration Control

Theorization on the external dimension of citizenship has thus shown that citizenship, in an international perspective, is a key instrument for population management (cf. Hindess 2000; Torpey 1998). Concordant with this, I argue, this strand of scholarship also provides important insight about the underpinning logic and workings of migration control. In this section I will explicate on the links between citizenship and state’s efforts to control people’s movement.

Migration control is, most fundamentally, bound up with a particular way of organizing political space. Measures of control have, as shown by sociologist John Torpey, been introduced parallel with the consolidation of modern territorial states. According to Torpey, regulation of movement, described in terms of “states’ monopolization of the right to authorize and regulate movement”, has been intrinsic to the construction of states and contributes to the reproduction of notions of “state-ness” (Torpey 1998:240). Torpey is not alone in stressing the centrality of control over movement for conceptions of statehood. On the contrary, migration control – in the sense of control over people’s movement across national borders – is widely held to be one of the defining properties of state sovereignty.32 Today, as argued by Rogers Brubaker, all states maintain some form of control of entry:

Depending on circumstances, the state may opt for perfect openness, for absolute closure, or (most likely) for partial and selective exclusion. But while the practice of closure varies across demographic, economic, political, and cultural contexts, the principle and the administrative apparatus of closure are essential to the modern state and its project of territorial rule (Brubaker 1992:24).

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32 However, most scholars tend to presume the state as a given and regard migration control as something inescapable. Torpey, whose overarching aim is to historicize border control and shed light on its link to processes of state building, is highly critical of this tendency.
Brubaker thus stresses that policies on entry, determining degree of closure, vary between states. However, his crucial argument is that the very structure, the “apparatus”, which render closure possible, is a universal feature in the contemporary world. This “apparatus” rests on the articulation of a number of distinctions. Its fundamental pillar is the very demarcation of space into territorial states and the accompanying division of the world into distinct “citizenries”. In addition to these basic conditions, migration control presupposes further principles and systems for categorization in order to determine whether an individual’s presence within a given unit is legitimate or not (Torpey 2008; Hindess 2000; McNevin 2011:14).

**Categorization**

Migration control, that is to say, presupposes a system of distinctions and hierarchies that enables the state to distinguish between its citizens and various categories of non-citizens. These frameworks, in other words, provide means for categorization. Categorization, as practice, entails the sorting of people into different categories which, in turn, are determinative of whether they are considered eligible to enter or stay. Processes of categorization take place both in institutional settings and in everyday life and, accordingly, they have both a juridical and a representational dimension. The former kind of categorization, i.e. the one that takes place in delimited institutional contexts, constitutes exercise of authority and leads to legally binding decisions. The latter kind of categorization, on the other hand, is much broader and plays out in a number of societal arenas – ranging from political debates and established media channels to everyday encounters – where processes of boundary-drawing take place.

The aim of categorization is, somewhat simplified, to distinguish “desirable” migrants from “undesirable” (cf. Rygiel 2010:13). This demarcation is underpinned by contextually specific conceptions of desirability and the precise content of each category has, accordingly, tended to vary. These estimations of desirability, in turn, tend to be made with basis in utility. “Utility” is a broad notion – and, again, contextually specific – that encompasses economic as well as political and cultural factors. Consequently, migrants can be “desirable” both because they are estimated to contribute economically and because they are considered valuable in the pursuit of cultural and political objectives (Zolberg 1999:82). Migration scholar Aristide Zolberg has identified three broad kinds of criteria that have appeared in policies that regulate admission and residence. The first kind is made up of various forms of socioeconomic factors, such as degree of skill, education and wealth. The second comprises cultural factors such as religion, language, nationality and race. The third category, finally, is made up of criteria that relates to estimations about the “putative moral or political disposition” of migrants (Zolberg 1999:82). This incorporates, for instance, expected
propensity to criminality and political activism (ibid.). Criteria based on factors of the first kind are still common in contemporary policies whereas criteria based on factors of the second and third kind have become less frequent over time as discrimination based on religion, nationality and race has become increasingly questioned. However, although these forms of criteria are generally held to be illegitimate, policy continues to be underpinned by assumptions about class, race and gender (cf. Rygiel 2010:14).

The Particular Positioning of Refugees

The migration policies of most states are based on a fundamental distinction between refugees and other categories of migrants. Generally, it is regarded a state prerogative to exclusively determine both degree of openness and criteria for admittance. With regard to refugees, however, most states recognize a responsibility to admit and provide protection to the group (Schuster 2003:3). This obligation to provide refuge is understood both in moral and legal terms. The right to asylum is listed among the universal human rights in the UN Declaration of 1948. Furthermore, states that are signatories to the 1951 UN Convention Relating to the Status of Refugees have committed to provide asylum to individuals who fulfil the requirements for refugee status. According to its definition a refugee is someone who:

[…], owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it (UNHCR 2010:14).

Under this definition refugee status thus rests on three pillars: (1) that a person has left the country of nationality, (2) faces the reality or risk of persecution and (3) that the persecution is due to the factors listed above (Gibney 2004:6). These criteria are rather narrow and omit both people who are internally displaced within the country of nationality and people who are on flight due to other reasons than personal persecution. Furthermore, the definition restricts refugee status to individuals whose motives for flight are political rather than economic. People who leave their country of origin for economic reason are

33 The right to asylum is secured in article 14 of the Declaration that reads “everyone has the right to seek and to enjoy in other countries asylum from persecution.”
34 To be correct, this is the definition provided in an additional protocol signed in 1967. The definition of the Convention, adopted in 1951, had both a geographical (it only applied to Europe) and temporal limit (it only applied to events that took place before 1951). The 1967 protocol removed these limitations and thereafter the definition is universal (UNHCR 2010:2).
regarded as voluntary migrants and consequently placed in another category. The definition has accordingly been criticized and one of the main lines of critique has been the exclusion of people who have fled other life-threatening situations, such as war, natural disasters or poverty, from refugee status (Schuster 2003:21, 105; Gibney 2004:7).

The category of migrants that states recognize an obligation towards, and accompanying right of entry, is thus limited. Furthermore, as highlighted by Liza Schuster, although states formally acknowledge the right to asylum, they have maintained control over asylum procedures and, accordingly, the power to determine who is and is not entitled to asylum (Schuster 2003:23). This, Schuster argues, means that international law does not grant a right to asylum but, rather, a right to request it since individuals must be recognized as refugees to receive asylum (ibid.:105). Despite recurring invocations of moral obligation, and formal recognition of asylum as a right, the granting of asylum thus remains under the discretion of the state. Concordant with this, many scholars have argued that asylum is ambiguously placed at the crossroad between a system founded on state sovereignty and a system founded on universal human rights (Schuster 2003; Benhabib 2004).

Furthermore, the practice to grant asylum is often driven by strategic concerns. Historically, as highlighted by Aristide Zolberg, there has been a tendency for “statecraft and humanitarianism” to go hand in hand (Zolberg 1999:85). According to Zolberg, in many states there has been a practice to grant asylum to “victims of one’s enemies” with the intent to undermine the legitimacy of the other state through a demonstration of its evil (ibid.). A similar argument has been advanced by Schuster who has claimed that asylum has always been both a “practical tool” and an expression of values for states (Schuster 2003:52). However, whereas Zolberg stressed how refugees could be used to de-legitimize political opponents, Schuster directs our attention to how refugees function as a “legitimating device” for the host state (ibid.:6;53). This role has also been noted by Vicki Squire who has argued that “a commitment to the provision of protection for those fleeing persecution is key in articulating a liberal democratic way of life as morally superior” (Squire 2009:5).

Towards a Differentiated Approach

Thus far I have discussed one category of migrants that, at least principally, is treated as a particular case in the policies of many countries. With regard to other categories, states tend to adopt the approach that these should be admitted if they are estimated to be useful and potentially contributive.

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35 This focus is, as argued by Matthew J. Gibney, reflective of the origin of the Convention. More precisely, of the prevalent understanding in the early cold war period that refugees were victims of oppressive regimes. In this context refugee status was exclusively conceived of as the “product of a certain kind of political rule” (Gibney 2004:6).
Historically, this has implicated that large numbers of migrants have been admitted in periods when national economies have been deemed to require an influx of labour whereas restrictions have been instated in conjunction with periods of recession. More recently, during the 2000s, there has been a tendency in many countries to adopt more diversified policies that distinguish between different categories of migrants. These differ from earlier policies in the sense that they entail a selective openness towards specified categories of migrants, namely, those who are considered potentially contributive. This openness however comes coupled with an increase in restrictions and control measures to prevent unwanted prospective migrants from entering (McNevin 2011:3; Nyers & Rygiel 2012:4). This approach to migration has sometimes been referred to as managed migration and its key characteristic is discrimination, via differential regulation, between different types of migrants. Managed migration is often, set in contrast to previous goals of zero-immigration, conceived of as an open policy. Yet, as argued by Squire, it is open only in a very restrictive sense since the goal is to maximise economic and social benefits from migration. This means that managed migration comes with the flipside that migrants who are deemed to be “unproductive” become subject to restrictive control. Accordingly, Squire argues that it remains a “restrictive approach that is articulated according to a logic of selective exclusion” (Squire 2009:23-24).

Logics of Control

Systems of categorization are thus structured around different bases of distinction – such as reasons for migrating or estimated productivity – and provide the principles for the sorting of prospective migrants. These classificatory schemes, moreover, ultimately rest on a number of assumptions about state interest and about how states ought to act in order to promote these. These assumptions form a key component of what I refer to as the logic of control. I use this concept to denote the underpinning rationality of migration control in different contexts. These rationalities are, perhaps needless to say, embedded in different discourses and consequently far from self-evident or undisputed.

Migration scholars have identified a number of factors – related to security, demography, social integration, culture and identity as well as economy – that underpin attempts to control migration. The latter factor, i.e.
economy, is a broad category that encompasses both considerations regarding effects on labour markets and effects on budgets for welfare provision (Brochmann 1999:6). This factor, and aspects that relate to the welfare state in particular, has been highlighted as decisive for the formulation of migration policy in previous research.

Citizenship and Closure

Today, migration policies in many European states are underpinned by the conviction that “economic migration” constitutes a threat to the economic well-being of the state, and to welfare arrangements in particular. This conviction is, as argued by Elspeth Guild, based on a conglomerate of assumptions regarding effects of migration on everything from labour markets to state budgets. First, there is a fear that migration undermines wages and working conditions and threatens the jobs of vulnerable groups. Second, there is a fear that migrants will not be able to provide for themselves and consequently become dependent on state support. This, in turn, is taken to challenge the “absorption capacity” of the state and potentially undermine social solidarity (Guild 2009:132-33).

These forms of concerns are not new. Rather, as underlined by Ruth Lister, the “boundary-staking functions of immigration laws” in modern welfare states “have always been intimately connected to regulation of access to welfare provisions” (Lister 2003:46). William Walters, who has studied the history of deportation, has argued that a link between migration control and welfare was established already in the 19th century. He bases his conclusion on the fact that the use of deportations – the exemplary mechanism of migration control – underwent a shift in the late 19th century. At this point, deportation was increasingly redirected from political to social enemies, and according to Walters this shift coincided with the introduction of early welfare policies and programmes. Consequently, he contends that deportation was transformed into an “instrument to defend and promote the welfare of a nationally-defined population” (Walters 2002:279).

The period, and the policies, that Walters has studied predate the rise of the modern welfare state. However, similar arguments have been advanced with regard to these. Michael Bommes and Andrew Geddes, following in Marshall’s footsteps, have emphasized the links between notions of citizenship and the rise of the welfare state. Modern citizenship, in their reading, can be understood as the “institutionalisation of the social expectation that the state was to assume responsibility for the inclusion of its citizens into society and into the national community” (Bommes & Geddes 2000:2). According to Bommes and Geddes this project was furthermore taken to

39 Walters, moreover, belong to a strand of scholars that analyses migration control as a form of biopolitics. Biopolitics, following Michel Foucault, refers to a form of governance that takes the population and its well-being as its primary objective (Foucault 2003).
implicate closure and, concordant with this, “increased and enhanced welfare provision” came accompanied with efforts to “circumscribe those viewed as members of the community of legitimate welfare receivers” (ibid.).

Initially, hence, citizens were understood to be the natural beneficiaries of welfare ambitions and the welfare state, as a national project, was premised on exclusion. At the heart of the welfare state as a national project is thus a built-in contradiction between an inclusionary and an exclusionary logic. The former logic is manifest in the ambition to secure all citizens an equal status whereas the latter is manifest in the closure towards outsiders this ambition has implicated. I contend that this contradiction, which has been highlighted by theorization on the duality of citizenship, is fundamental to an understanding of the logic of control in contemporary welfare states. The link between welfare and citizenship has unquestionably diminished over time. One important indicator of this is that most states, although to different degrees, have included (legal) immigrants in welfare programmes. However, the underpinning logic of citizenship, which assigns citizens a privileged position, remains more or less unchallenged. It is this logic that, in combination with assumptions about need for closure, results in restrictive migration policies. The conviction that welfare states require closure has, as shown by Walters, a long history and is currently often taken as a given in both political and scholarly debates. From a discourse theoretical perspective it is however important to note that this conviction, although hegemonic, rests on both normative and empirical assumptions that are open for scrutiny.

Citizenship as a Platform for Political Mobilization

Citizenship has thus, as a result of a particular historical trajectory, been articulated together with nationality. This articulation, in turn, has become bound up with a particular form of exclusion, namely, the exclusion of non-nationals from membership and access to rights. The concrete delimitation of citizenship has however shifted over time and been subject to continual struggles. In this section I will outline two different forms of openings for contestation of current exclusions. The first opening consists in tensions that are inherent to notions of citizenship and can be used to claim inclusion and membership. The second opening consists of tensions between norms of citizenship, that are particular, and norms of human rights, that are universal and can be used to claim access to rights.

This argument will be further developed in Chapter three where I link it to a discussion about the historical trajectory of Swedish migration control.
The Tensions of Citizenship

The first opening for contestation thus has its origin in the ambiguities of citizenship itself. Citizenship is, as highlighted in the discussion thus far, premised on exclusion. Citizenship ideals however also carry an inclusionary promise that can be drawn upon to challenge exclusionary practices in contemporary polities. This potential has, for instance, been noted by Peter Nyers and Kim Rygiel who have argued that:

[...]the language of citizenship can inspire movement forward in the aspirations of greater social justice, rights and equity, formulated in the absence, discrepancy or ‘gap’ between the ideal of citizenship and its absence on the ground (Nyers & Rygiel 2012:11).

Nyers and Rygiel, that is to say, stress the divergence between ideals and their realization. There are, in a wider context, numerous examples of such divergences but here the discussion will be limited to two forms of divergences that can be mobilized to claim inclusion for non-citizens.

The first of these divergences has its origin in the fact that citizenship, as ideal and practice, simultaneously implicates universalism and particularism. This dimension has been explored by Linda Bosniak who, echoing Brubaker, has argued that citizenship can be understood both as a commitment against subordination and as an axis of subordination (Bosniak 2008:1). This duality, Bosniak stresses, also means that citizenship comes with a normative ambiguity as it prescribes one form of norm system for those included and another for non-members. This, she argues, is manifest in the fact that citizenship tends to be portrayed as “the highest fulfilment of democratic and egalitarian aspirations” and is invoked “to convey a state of democratic belonging or inclusion” (ibid.:4). These norms of egalitarianism are however only taken to be applicable for members whereas another set of norms is taken to apply to aliens. That is to say, Bosniak concludes, norms of universalism are taken to be applicable within the community whereas exclusion is applied at its edges. According to Bosniak, furthermore, the existence of two sets of contrasting norms opens for contestation. More precisely, this is true because the entrance of non-citizen immigrants into “the spatial domain of universal citizenship” causes uncertainty over what norms to apply. On the one hand, norms of universalism normally apply within this context. On the other hand, these norms are not self-evidently recognized as applicable for the group in question. Concordant with this, Bosniak argues that the presence of immigrants within the borders of the state, and the indeterminacy it brings about, opens for calls for inclusion (ibid.).

In this case, it is the divergence between egalitarian norms and the treatment of non-citizens that are present in the state that constitute the basis for claims-making. Another form of opening for claims-making is based on
the divergence between citizenship conceived as status and citizenship conceived as practice. I have already discussed the recent turn towards practice in citizenship studies. This implies, to recapitulate, a shift from an understanding of citizenship as a “static legal status” to a “dynamic social relation” (McNevin 2012:167). According to Anne McNevin, this conceptual shift is crucial as it brings about a new way of comprehending the politics of citizenship:

Understood in this way, citizenship emerges in practice, in the claims and counter-claims of what it means to belong, in the repetitive acts through which people are marked as one of us or one of them and places as ours or theirs. Citizenship is about being there, legitimately, in public space, and being seen to be there (McNevin 2012:167).

For the discussion at hand, this shift is interesting as it has inspired a number of scholars who have studied struggles of, and on behalf of, irregular migrants. For them, the shift in analytical focus is used as an opening to analyse how people who are formally excluded from citizenship can constitute themselves as political subjects and right-bearers. According to Peter Nyers, who is amongst these scholars, a focus on practices is advantageous because it does not presuppose that non-citizens are deprived of possibilities to make claims and contest the current order (Nyers 2010).

Another form of argument is advanced by Saskia Sassen who focuses on the discrepancy between different understandings of citizenship. She argues that there is a need to distinguish between “citizenship markers arising from the formal apparatus of the nation state, including citizenship as a formal institution, on the one hand, and, on the other, citizenship markers arising outside that formal apparatus” (Sassen 2009:231). According to Sassen, the latter forms of markers can signal forms of informal citizenship. Sassen’s main argument is that undocumented migrants, although formally lacking citizenship, engage in daily practices – such as raising a family or holding a job – that opens for claims for formal inclusion. More precisely, she argues, because engagement in these practices is taken to signal “civic involvement, social deservedness, and national loyalty” (Sassen 2006:294-95). That is to say, Sassen claims that the fact that undocumented migrants engage in the same practices as formally defined citizens in their everyday life produces an informal social contract between them and the surrounding community (Sassen 2005:80). This recognition of non-citizens as fellow community members, in turn, means that they gain a platform to pose demand for formal inclusion, i.e. citizenship status.
The Tension Between Citizenship and Human Rights

Thus far I have explored how two kinds of inherent tensions – the tension between conflicting norm systems and the tension between status and practice – can be mobilized to challenge the exclusionary effects of citizenship. I will now proceed to discuss how another form of tension, the one between citizenship and human rights, can be drawn upon to secure rights for non-citizens. The relationship between citizenship – as status and source of rights – and human rights is blurred and disputed. Bryan Turner and Engin Isin capture one fundamental difference between them in their argument that “[w]hile human rights are regarded as innate and inalienable, the rights of citizens are created by states (Isin & Turner 2008:12). Their remark suggests that the distinguishing factor is that human rights are enjoyed in the capacity of being human whereas citizenship rights are enjoyed in the capacity of being a member of a specified community. According to Turner and Isin the difference thus consists in that the scope and basis of entitlement differ. The genealogy of the two sets of rights, moreover, is disputed. Most importantly, there is a disagreement among scholars over whether human rights should be understood as a continuation of citizenship rights or rather a significant break with those that entails a new way of understanding rights.

A Shared Genealogy?

The American and French revolutions in the 18th century are often highlighted as key moments in the emergence of a discourse of universal rights. The declarative assertions made in association with these epochal events “asserted the equality of all men, the sovereignty of the people, and the inalienable rights of the individual as universal principles” (Jacobson 1997:1). Yet, at this point in time it was assumed that these rights were to be realized within a national framework. Consequently, these revolutions “codified individual rights and freedoms as attributes of national citizenship, thus linking the individual and the nation-state” (ibid.; Soysal 1994:17). Hence, the understanding of rights that emerged at this point is marked by ambiguity. One the one hand, it is universal, as all individuals are equal and entitled to rights, on the other hand, particular as those rights should be fulfilled through citizenship. Accordingly, the difficulties of separating the genealogy of human rights from citizenship rights are partly due to the fact that the modern understanding of both sets of rights has the same origin.41

Originally, there was thus no sharp distinction between human rights and citizenship rights. Human rights, on the contrary, were articulated as rights that were to be realized through citizenship. This conceptualization was still prevailing in 1948 when the UN adopted the Universal Declaration of Human

41 Moreover, I contend that the difficulties of disentangling the two concepts can partly be attributed to the duality of citizenship.
Rights. At this point, human rights were still understood from a state-centric perspective in the sense that the state was taken to be the community in which human rights were to be enjoyed and protected (Kesby 2012:55). Thereafter, the conceptualization of human rights has undergone a transformation and nowadays it is commonplace to understand human rights as something that individuals enjoy regardless of citizenship. Historian Samuel Moyn accredits this shift, entailing a new apprehension of the scope of human rights as well as the responsibility for their implementation, to successful mobilization of NGOs and social movements. He stresses that there is a crucial difference between contemporary understandings of human rights (originating in the 1970s) and all previous conceptualizations of rights in the sense that these have all been predicated on belonging to a political community (Moyn 2010:8;12).

Clashing Frameworks: State Sovereignty vs. Universal Human Rights

In the wake of the codification of a number of rights in the Universal Declaration of Human Rights it is thus possible to identify the emergence of international human rights norms. This development entails both a novel conception of rights in relation to political community and the incorporation of human rights into a judicial framework (Benhabib 2004:7). This framework, i.e. international human rights law, disassociates fundamental rights from citizenship and provides non-citizens with rights irrespective of status (Kesby 2012:98). Yet, whereas few people would question the importance of human rights as a normative framework for thinking about rights, there is widespread agreement that there is a gap between the recognition of human rights, and the ratification of related conventions, and the actual provision of these rights. This gap is particularly big when it comes to migrants and especially those who lack legal status. Hence, whereas it has been argued that migrants intuitively appear to be the example of a group whose rights should be secured – in accordance with human rights theory that “demands that all human beings enjoy human rights protection without exception” – their rights are rarely protected in practice (Dembour & Kelly 2011:1).

The gap between promise and realization is often explained with reference to the fact that the state remains the site of fulfilment of human rights (Kesby 2012:96-97). Often, furthermore, the continual force of state sovereignty, and the fact that it circumscribes international law, is mentioned as an important factor. The tension between contradicting principles is discernible even in the UN Declaration itself. This, as pointed out by Seyla Benhabib, bears marks of

Accordingly, he is critical of genealogies that trace the roots of human rights in previous struggles for citizenship rights and expansion of citizenship. Moyn argues that an important shift occurred in the 1970s when social movements picked up the concept and detached it from its origin in a national context. Consequently, he argues that it is problematic to understand human rights as a step in a teleological development where the scope of rights, and the group these are attributed to, is constantly being expanded (Moyn 2010).
two contradicting principles as it simultaneously establishes a number of universal human rights and recognizes the sovereignty of individual states (Benhabib 2004:11). The tension between state sovereignty and human rights is particularly visible with regard to immigration as movement across borders actualizes the question of rights of non-citizens. Alison Kesby, reflecting on the implications of human rights with regard to the rights of migrants, has noted that the universal applicability of human rights is taken to be circumscribed by national migration policies:

The rights of ‘humanity’—here articulated as ‘human rights’—are not hermetically sealed from the exclusionary practices of the border; rather, as cross-border people flows intensify, the enjoyment of rights within a state’s territory may become linked to immigration status (Kesby 2012:102-103).

Kesby directs our attention to the fact that there is an on-going tension between the prescriptions that follow from recognizing human rights—attributing rights to everyone on the basis of personhood and belonging to humanity—and the logic of migration control that holds migrants to be exempted on the basis of status (ibid.:110). This tension can also be mobilized in political struggles. There is general agreement that existing institutions and legal frameworks generally fail to secure human rights for all. Yet, the increased salience of human rights norms works to undermine the legitimacy of citizenship as a source of privileged treatment and opens for claims-making. In the words of Kesby:

The articulation of the right to have rights as humanity gives voice to the imperative that human rights are to be held irrespective of nationality or citizenship status. They are referable to the status of being human […] A person’s status as a rights-bearer need not be defined by their legal relation to the state of residence. Here international human rights norms stand apart from the imperatives of the territorial border and immigration control (ibid.:116).

Hence, according to Kesby, notions of human rights can be used to challenge the idea that rights can be withheld from certain categories of residents because they lack citizenship or legal status. A similar argument has been made by Ruth Lister who has claimed that notion of human rights, despite the lack of “a robust infrastructure”, can function as a resource for migrants in confrontations with the state (Lister 2003:60-61).

**Norms, Rights and Claims-Making**

All of the tensions explored above are ultimately the result of the placement of migrants between conflicting norm systems and conceptions about entitlement to rights. Scholars like Bosniak and Sassen highlight the inherent tensions
within citizenship, whereas Kesby draws our attention to the tension between human rights and citizenship. In all cases, the core of the argument is that the presence of non-citizen residents within the confines of the state gives rise to uncertainty over which norms to apply. There is, hence, an affinity between them in the sense that they can all be mobilized to reconstitute irregular migrants as “equal subjects of justice” (cf. McNevin 2011:10). The mobilizing potential, furthermore, is ultimately linked to conflicting understandings and conceptions about rights.

Regardless of whether claims for rights are based on tensions that are inherent to citizenship, or to human rights, they ultimately spring from the incongruity between rights one principally holds and rights one actually holds. This rough distinction has been made by a number of scholars, using different terminology and drawing from different theoretical understandings. Kenneth Baynes, for instance, hints at this distinction when he argues that rights are important for emancipatory movements both “as a resource for critique and as goals to be pursued” (Baynes 2000:451). In the former sense, I assume, because ideas about rights and entitlement can be drawn upon to make demands. Demands that, if responded to, give access to rights in the latter sense. That is, I assume, rights that are institutionalized. A similar distinction underpins Hannah Arendt’s emphasis on the importance of “the right to have right” (Arendt 1973:290-302). James Ingram, drawing from Seyla Benhabib, has argued that Arendt’s statement only makes sense if one distinguishes between moral rights – in the sense of rights that “every human being should have” – and positive rights. The former, Ingram argues, tend to be addressed to everyone, i.e. in practice no one in particular, and hence often lack practical effects. Positive rights, on the other hand, are those “real” rights that “are guaranteed such that their violation is prevented, or, if they are violated, their bearer has effective recourse” (Ingram 2008:403).

A number of scholars have expanded on the interplay between ideas of entitlement and the institutionalization of rights. The French philosopher Jacques Rancière is one of those who have brought forward the idea that the force of rights lies in the fact that they are a potential resource for contestation. Rancière, writing on human rights, has suggested that the primary importance of these rests precisely in their transformative potential. That is, he argues, “the strength of those rights lies in the back-and-forth movement between the first inscription of the right and the dissensual stage on which it is put to test” (Rancière 2004:305). On this view, rights do not belong to specific political subjects but are a resource for claims-making that can be mobilized in demands for inclusion and concrete rights. The lack of fulfilment, accordingly, is not understood as a failure but is regarded as the very essence of the idea of human rights. According to Rancière, the subversive potential of human rights, as well as other forms of rights, thus rests in the possibility of those formally excluded to claim inclusion with reference to showing that they de facto should be counted among the holders of these rights. Those who, to
quote Ingram, “have been denied rights they can plausibly claim” (Ingram 2008:412). This thesis draws from this understanding of rights as a resource for contestation. Furthermore, starting in the indeterminacy of citizenship, it investigates how the ambiguities and tensions identified in this chapter can be mobilized in political struggles.

A Discursive Approach to Politics

Thus far I have given an overview of some selected strands of citizenship theory. This body of theorization, to recapitulate, is brought in to make sense of the context of the debates and struggles that I analyse. In this remaining part of the chapter I will turn to an introduction of the other complex of theory that makes up the analytical framework of this thesis. This is the discourse theory developed by political theorists Ernesto Laclau and Chantal Mouffe. Their theory, first introduced in Hegemony and Socialist Strategy (1985), foregrounds the political and its constitutive role in the making of the social. Inspired by several strands of theorization – most importantly Marxism and poststructuralism – Laclau and Mouffe stress the dimension of meaning in political struggles. Discourse theory, hence, puts the struggle over meaning at the centre of analysis and turns our attention to how meaning is instated, sedimented and contested. Laclau and Mouffe’s theoretical intervention, developed and revised under the course of several decades, is far too complex and rich to account for in its entirety. In this chapter I will consequently confine my presentation to some key assumptions and concepts.

The Concept of Discourse

One of Laclau and Mouffe’s overarching arguments is thus that the social order is politically instated. In the following section I will try to unpack and explore this argument. I will start with a discussion on discourse since this concept forms the link between Laclau and Mouffe’s assertion and a number of corresponding claims. Laclau and Mouffe, to start with, use discourse in a wider sense than many other scholars. In fact, their usage of the term diverges from the original linguistic usage to such an extent that it has been referred to as a “misapplication” (Howarth 2000:116). In its original and most restrictive sense, discourse was used to refer to a textual unit. Throughout the last decades, however, the usage of the term has gradually shifted and the application of the term has been extended from spoken and written language...
to wider social practices. This redefinition of discourse is taken one step further by Laclau and Mouffe who have expanded the notion to cover all social phenomena (Torfing 2005:6-8).

In discourse theory, hence, the concept is used in a sense that goes far beyond the conventional understanding of discourse as “talk about something”. The most distinct aspect of this usage is that it rests on a deconstruction of the distinction between discursive and non-discursive practices. According to this understanding, “every object is constituted as an object of discourse” in the sense that “no object is given outside every discursive condition of emergence” (Laclau & Mouffe 1985:107). In their writings, correspondingly, the discursive is taken to refer to the dimension of meaningfulness that structures the social world. Consequently, it cannot be limited to a question of speech, writing or thought (Laclau & Mouffe 1990:104). A discursive structure, Laclau and Mouffe stress, cannot be reduced to a “cognitive” entity as it is “an articulatory practice which constitutes and organizes social relations” (Laclau & Mouffe 1985:96).

Starting from this fundamental understanding, the assertion that the social is politically instated can now be further qualified. More precisely, it is discourse that is constitutive of the social. This argument is based on the fundamental assumption that objects and actions are meaningful. Meaning, furthermore, is conferred by “historically specific systems of rules”, i.e. discourses, that establishes systems of relations and provides positions and identities (Howarth & Stavrakakis 2000:2-3). According to this perspective it is thus discourses that makes it possible for us to make sense of the world and provides us with possibilities for identification and action. In fact, according to discourse theory – as well as poststructuralist theorizing in general – subjects as such are discursively constructed. This understanding of discourse is further explicated in the following quote by Judith Butler:

Discourse is not merely spoken words, but a notion of signification which concerns not merely how it is that certain signifiers come to mean what they mean, but how certain discursive forms articulate objects and subjects in their intelligibility […] Discourse does not merely represent or report on pregiven practices and relations, but it enters into their articulation and is, in that sense, productive (Butler 1995:138).

Butler thus urges us to go beyond an understanding of discourse as representation. Such a view is flawed, she argues, because it misses that subjects as such are discursively constituted.

Discourses, furthermore, are always historical and contingent. These characteristics, in turn, are intimately linked to the assertion that the social order is politically instated. More precisely, because discourses are taken to be produced and modified in political struggles and bound up with the exercise of
power (Howarth & Stavrakakis 2000:9). Social relations, Laclau argues, are always power relations. This claim, in turn, rests on a particular understanding of power. Discourse theory rejects the conventional view of power as a relation between social forces, groups or individuals in favour of a conception of power that highlights the instatement of meaning as an act of power (cf. Laclau 1990:31). Power is thus inherent in any social order and linked to discourses because these are taken to be constitutive of the social.

The Interplay Between the Social and the Political

Power is not the only concept that is reconceptualised in discourse theory. Laclau and Mouffe also advance a distinct understanding and definition of politics and the political. This rests on a distinction between the social and the political. The social, first, is defined as the sedimented and is understood to be all those everyday, taken for granted and unproblematized, practices and understandings that make up our world (Laclau 1994:3-4). These “sedimented forms of ‘objectivity’” are the outcome of historic acts but over time their origin has been erased and forgotten. In the words of Laclau:

> Insofar as an act of institution has been successful, a ‘forgetting of the origins’ tends to occur; the system of possible alternatives tends to vanish and the traces of the original contingency to fade. In this way, the instituted tends to assume the form of a mere objective presence. This is the moment of sedimentation. It is important to realize that this fading entails a concealment (Laclau 1990:34-35).

Whereas the social is defined with reference to the concealment of contingency, the opposite holds for the political that is “the moment of antagonism where the undecidable nature of the alternatives and their resolution through power relations becomes fully visible” (ibid.:35). The political, hence, denotes the instituting dimension that is constitutive of all social practices. According to Laclau, the political accompanies antagonism as it is only in relation to something else that the contingent nature of “objectivity” and “particular acts of institution is shown” (Laclau 1994:3-4). The distinction between the social and the political is thus drawn with regard to the extent the inherent element of contingency is revealed.

The twin concepts of sedimentation and reactivation are key to understanding the process where the politically instated nature of the social order is forgotten and foregrounded respectively. Sedimentation refers to the moment when the traces of the instituting act vanish and its result “assume the form of a mere objective presence” (Laclau 1990:34-35). Reactivation,

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41 Again, this is an assumption that is shared by all strands of poststructuralist theorizing. The writings of Michel Foucault in particular have been decisive for the reconceptualization of power.
concurrently, is the moment when the contingent nature of objectivity is rediscovered and a scope of action appears (ibid.). Moreover, reactivation, i.e. the foregrounding of the political, is closely associated with crisis, which is understood to make the organization of society particularly susceptible to scrutiny.

**Dislocation and Hegemony**

The exemplary moment of reactivation is the so-called *dislocation*. This entails the disruption of prevailing identities and discourses and occur when a stable discourse is confronted with events that cannot be integrated, i.e. explained or represented, into its system of meaning (Howarth & Stavrakakis 2000:13; Torfing 2005:16). I contend that the exposure of the vulnerability and rightlessness of the irregular migrants can be understood as a dislocation. The appearance of this category ruptured dominant discourses and identities and shed light on what I claim to be nationalist underpinnings of the welfare state. In its wake, moreover, followed debates that were essentially concerned with the demarcation of the welfare state. Accordingly, I argue that the politicization of irregular migration also entails a reactivation of the demarcation of the welfare state.

Discourse theory holds dislocations – and the exposure of the inherent contingency of discursive structures they bring about – to have a transformative potential (Howarth & Stavrakakis 2000:13). This potential lies in the fact that dislocations:

> [...] introduce the dimension of time and historicity in that they decentre any sedimented or taken-for-granted system of rules; engender possibility in that they disclose different courses of action for actors to follow; and are connoted with freedom in that their disruption of existing routines and identities allows actors to experience and pursue new courses of action (Griggs & Howarth 2004:183).

At the heart of the dislocation is thus the rendering visible of the contingency of the social order and the openings for change this brings about. Concurrent with this, the concept is central to the discourse theoretical account of the relationship between agency and structure. Here, it is dislocations, as moments where the contingency of the social structure is made visible, that make agency possible, on both the individual and collective level (Glynos & Howarth 2007:79;129). However, it should be stressed that the dislocation of a

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46 This notion of dislocation stresses the importance of particular disruptive moments. Dislocation, however, is used in two ways in discourse theory. First, it is used in a *historical* sense, as in this context. Second, it is used in an *ontological* sense to stress the contingency of all identity (Howarth 2004:268).

47 For further discussion on the nationalist underpinnings of the welfare state see Chapter three.
structure does not mean that “everything becomes possible” (Laclau 1990:43). Laclau stresses that although there is “a widening of the field of the possible” the scope of action is restricted as it “takes place in a determinate situation: that is, one in which there is always a relative structuration” (ibid.). That is, dislocation is not equal to the disappearance of structure altogether but to its partial rupture.

Dislocation, and the corresponding failure of a discourse to make sense of an event or phenomena, leads the way for political struggles and, eventually, results in the articulation of a new discourse (Torfing 2005:16). The concept hegemony, central for Laclau and Mouffe’s account of how meaning is created and stabilized, sheds further light on this process. Hegemony is a key concept in numerous strands of thinking. Laclau and Mouffe’s understanding is influenced by the Italian Marxist Antonio Gramsci, who used hegemony to denote “the organisation of consent” in society (Simon 1982:21). He distinguished consent from domination by means of force and stressed that the former has its basis in political and ideological leadership. In Gramsci’s usage, hence, hegemony is linked to the process of “creating and maintaining a system of alliances by means of political and ideological struggle” (ibid.:22-23). The discourse theoretical understanding of hegemony draws on the Gramscian in the sense that hegemony is understood as an outcome that different political forces struggle to achieve. In contrast to Gramsci, however, antagonism is not understood in terms of an inherent conflict between social classes with predetermined interests but as revolving around the continuous “drawing of boundaries and the creation of political frontiers” (Howarth 2010:313). Accordingly, Laclau and Mouffe make use of the concept to account for the “construction of a predominant discursive formation” (Torfing 1999:101). Furthermore, in discourse theory hegemony has a dual meaning as it refers both to certain practices and certain formations. With regard to the former it refers to a form of coalition building in which differently positioned actors and demands are linked together in a common, more universal, discourse. With regard to the latter it refers to successful outcomes of these kinds of political practices (Howarth 2005:323-24; Howarth 2010:317). In conclusion, dislocation and hegemonic struggles go hand in hand. The dislocation is the moment that initiates hegemonic struggles and these will in turn, if successful, lead to the instatement of a new order.

Analysing Discursive Struggles

In this last section of the chapter I will outline how I intend to study the politicization of irregular migration in Sweden. This contains a presentation of the methodological approach of the thesis as well as a presentation of my empirical material. The methodological approach can, broadly defined, be described as discourse analytical and is inspired by the so-called Essex School
approach to discourse analysis. Discourse theory is, as notoriously remarked on, located at a high level of abstraction and is challenging to operationalize for empirical analysis. In the following pages I will, step-by-step, narrow down how I intend to make use of discourse theory in my analysis. Or, in other words, how I intend to proceed from theory to empirical analysis. The section starts with a short discussion about the Essex school’s approach to research and its underpinning epistemological assumptions, followed by a short presentation of the Essex School approach to discourse analysis and how it differs from other forms of discourse analysis. This is followed by some remarks about discourse and agency and the difference between a discursive-oriented study compared to an actor-oriented. After this I provide some reflections regarding the identification and delimitation of discourse in empirical studies and outline how I practically intend to go about to approach discourses in my analysis. The chapter ends, finally, with a presentation of my empirical material and how it has been selected and collected.

The Essex School as an Approach to Research

At the outset, it should be noted that Laclau and Mouffe have not developed an explicit methodological approach. Moreover, their work has primarily been concerned with ontological, rather than epistemological, matters and not intended to intervene in debates regarding the nature of knowledge or social scientific practice. Rather, their theoretical contributions have unfolded through interventions in more delimited on-going theoretical debates. This said, I maintain that it is possible to discern a scientific outlook in their writings. The following discussion will focus on two aspects of this outlook. First, I will highlight the epistemological underpinnings of discourse theory and the accompanying understanding of knowledge and truth. Second, I will outline and discuss the implications of understanding scientific practice in terms of articulation.

Discourse theory, most fundamentally, starts from the assumption that all meaning is constituted in discourse. This means, as argued by Laclau and Mouffe, that objects are never encountered in their “naked existence” but as “articulated within discursive totalities” (Laclau & Mouffe 1990:104). This assertion, in turn, rests on a distinction between being, which is ascribed by discourse, and existence. With regard to the discussion at hand, the crucial point is that although objects have an existence outside of discourse it is impossible to reach any kind of definite knowledge about these since all meaning, by necessity, has its origin in discourse. The implication of this, in

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48 I.e. the approach to discourse analysis that has been developed by Laclau and Mouffe.
49 Hegemony and Socialist Strategy, the book that introduced the core assumptions and concepts of discourse theory, is a case in point. The book is first and foremost a contribution to an on-going Marxist debate in the 1980s. Accordingly, the argument unfolds through a deconstructive reading of Marxist theory.
turn, is that the possibility of an extra-discursive truth is rejected. Hence, as highlighted by Jacob Torfing, truth is held to be conditioned by discursive truth regimes rather than as a feature of an externally existing reality (Torfing 2005:13-14). This supposition, moreover, bring about a particular understanding of the epistemological status of explanatory accounts produced by researchers. These are, in accordance with the rejection of the possibility to reach true knowledge, conceived of as “candidates for truth or falsity” and are as such evaluated with the standards provided by the “regimes of truth” within which they are produced (Howarth 2005:328).\(^\text{50}\)

The conviction that it is impossible to reach true knowledge, moreover, does not imply a wholesale rejection of the possibility for researchers to produce knowledge that enhances our understanding of the world. It however brings about a shift in the understanding of the research process and its outcome. This means, most importantly, that scientific accounts, in accordance with the overall theoretical framework, are conceptualized as a form of articulation. This specific form of articulation entails the construction of an explanation through the linking of a number of elements (Glynos & Howarth 2007:180-83). The emphasis on research as a form of articulatory practice serves several purposes. First, it is used to highlight the contingent dimension of research. Articulation, according to Glynos and Howarth, is necessary “because any singular explanation involves a plurality of contingent theoretical and empirical elements whose unification cannot be conceived in subsumptive terms” (ibid.:183). Second, the notion of articulation clarifies the importance of judgement. Any articulation, Glynos & Howarth stresses, bears the imprints of the researcher whose decisions, based on theoretical and case-specific knowledge, form the backbone of any scientific explanation (ibid.:183-187). This emphasis on the centrality of judgement rests, I argue, on an acknowledgement of a subjective dimension in the research process and the situatedness of all knowledge. Finally, the notion of articulation is important as it sheds light on the place of critique in the research process. From a discourse theoretical perspective, analysis is not conceived of as a technical exercise but, rather, as an intervention in an on-going struggle over meaning. In line with this the “very identification, characterization, and naming of a discursive pattern” is taken to entail engagement in “a process with a normative and political valence” (ibid.:153).

There is, needless to say, much more to say about both the epistemological underpinnings of discourse theory and its understanding of knowledge and research. However, this short introduction should suffice as a background and in the remainder of the chapter I will account for my analytical strategy. This

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\(^{50}\) This is a further radicalization of the idea of situated knowledge associated with different branches of critical theory. In contrast to perspectives, such as Marxism and Standpoint feminism, that advances the idea of epistemic privilege – in short: the idea that the knowledge of certain groups or individuals is more accurate due to their structural location in society – discourse theory rejects the very idea that that accounts of the world can be more or less accurate.
requires first, a discussion about the form of discourse analysis that I intend to engage in.

The Particularities of the Essex School Approach to Discourse Analysis

The denomination *discourse analysis* is used to refer to a wide range of analytical approaches in different disciplines. These differ both with regard to the understanding of discourse and with regard to how the analysis is conducted (Bergström & Boréus 2000; Winther Jørgensen & Phillips 2002; Howarth 2000). Comparisons of different approaches tend to highlight a number of distinguishing factors such as ontology, focus and purpose (Glynos et al. 2009:5). Marianne Jørgensen and Louise J. Phillips have proposed that different perspectives are best distinguished with basis in focus and scope. The latter factor, i.e. scope, refers to the understanding of the relationship between discourse and the social and the extent to which discourses are held to be constitutive of, or rather, to be constituted by, the social (Winther Jørgensen & Phillips 2002:3). Scope basically refers to ontological assumptions and, in particular, the definition and understanding of discourse. Since I have already discussed Laclau and Mouffe usage of the concept at some length I will leave these differences aside and turn to differences in focus.

These differences, in essence, revolve around the object of study and the level of analysis (Glynos et al. 2009:5). With respect to this factor, there are significant differences between, on the one hand, studies of everyday social interaction and, on the other hand, studies that attempt to map overarching discourses at an institutional or broader societal level (Winther Jørgensen & Phillips 2002:3). Essex School discourse analysis, which is concerned with broader struggles over meaning in society, belongs to the latter strand. The overarching aim of this form of discourse analysis is accordingly to “delineate

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51 At the outset, it should be noted that scholars from the Essex School tend to distinguish between discourse *theory* – that refers to the theory advanced by Laclau and Mouffe and entail a precise set of ontological and epistemological assumptions – and discourse *analysis*. The latter is interpreted in a wider sense and taken to refer to a number of different strategies for the analysis of specified discourses (Howarth 2005:317-18).

52 To recapitulate, one of the distinguishing features of discourse theory is that it rejects the possibility of an analytical separation between discourse and the “world-out-there”. This understanding of discourse is different from many other approaches. It is, for instance, at this point that discourse theory parts ways with its main competing paradigm Critical Discourse Analysis (CDA). In short, CDA operates with an understanding of discourse that makes a distinction between the discursive and non-discursive. Lately a lot of scholars working in this tradition have also started to align their research with the theoretical project of Critical Realism advanced by Roy Bhaskar. Among these is Norman Fairclough who in his later writings put much emphasis on the argument that the concept of discourse has to be defined relationally and that CDA, thus, must focus on the “dialectical relations between discourse and other objects” (Fairclough 2010:4). Furthermore, he explicitly positions himself against other approaches to discourse analysis stressing that “this is a *realist* approach which claims that there is a real world, including the social world, which exists irrespective of whether or how well we know and understand it” (ibid.).
the historically specific rules and conventions that structure the production of meanings in particular historical contexts” (Howarth 2000:128). This focus also has consequences both with regard to the selection of empirical material and how this material is approached. In contrast to some other perspectives – that limit the analysis to close, often linguistically oriented, readings of a single or a few selected texts – an Essex School analysis requires a broader range of material. A fully-fledged analysis, according to Howarth, requires that narrow textual analysis of documents is complemented with other forms of empirical data to enable contextualization (Howarth 2005:342). This is consistent with the understanding of discourse analysis as “the application of discourse theory to empirical case studies, rather than the technical analysis of discourse viewed narrowly as speech or text” (Howarth & Stavrakakis 2000:1). The aim, that is to say, is not to analyse texts in themselves but as an entry to wider societal phenomena and processes. These are in turn – consistent with the assumption that all identity, practices and institutions are discursively constituted – understood to have a meaningful dimension.

In sum, Essex School discourse analysis is distinct both in terms of its understanding of discourse and its analytical approach. The most apparent differences between this and other approaches are found in its fundamental ontological assumptions. There is also, compared to some approaches, a clear difference when it comes to how an analysis is conducted. However, with regard to other approaches, the differences fade at a more practical level. In line with this I believe that the differences between this form of discourse analysis and others should not be exaggerated. Not the least because concrete empirical analyses are in my opinion rarely able to live up to the standards and ambitions set in the literature. This, without hesitation, applies to this study. Consequently, I want to stress already at the outset that I have used the Essex School as a source of inspiration but that the analysis of this thesis in many ways fails to live up to all of the standards listed above. The ambition, for starters, is far more humble. Rather than to map the instatement, sedimentation and contestation of an entire discursive formation my study seeks to account for the politicization of a particular issue in Sweden during a delimited period of time.

Furthermore, I have chosen to abstain from using parts of the terminological apparatus that are associated with the Essex School in my analysis. This means that key concepts – such as element, moment, nodal point and empty signifier – will not appear in the analysis. The decision to omit these concepts, which are intimately associated with the application of discourse theory in empirical studies, clearly calls for further explanation and justification. These concepts were first introduced by Laclau and Mouffé in Hegemony and Socialist Strategy in the context of a highly abstract theoretical discussion. In this context, I argue, the concepts help clarify the authors’ argument. However, although clarifying on a meta-level, I find them to be less
useful for empirical analysis and I have consequently chosen to refrain from using the categories in my empirical analysis. Instead, I have chosen to structure the analysis with basis in a number of indicators inspired by discourse theory. These indicators, which will be further discussed below, are used to detect discursive struggle in my material.

**Discourse Theory and Agency**

The focal point of the study is thus, in accordance with the theoretical and methodological framework, the struggles over meaning that have taken place in the parliamentary debates on irregular migration. The implications of this focus is that it is competing articulations, and discourses, that are the prime object of analysis rather than the intentions, strategic behaviour and interplay of political actors. This is one of the main differences between discourse analysis and more actor-oriented perspectives, which, in contrast, study political debates from the vantage point of actors – often political parties – and with the assumption that these act rationally and to their maximum advantage. I could, no doubt, find examples of strategic behaviour in my material. Nevertheless, given my aim and research interest, strategic considerations, as well as intentions behind different statements, fall outside the scope of this study. This should not be equated to a disinterest in political agency and actors. A discourse analyst, however, approaches actors, their deeds and statements with another set of questions in mind.

Discourse theory, furthermore, comes with a fundamentally different understanding of agency. From this perspective, it is the inherent contingency of the discursive formation, i.e. the structure, which enables agency. Structures, that is, are conceived to be simultaneously enabling and constraining. In line with this, discourse theory comes with an interest for “the way in which political forces and social actors construct meanings within incomplete and undecidable structures” (Howarth 2000:128-29). This implicates a dual focus in the sense that an analysis will take interest in both the articulation of political projects and the structures within which these articulations take place.

This, in turn, suggests that actors are simultaneously constituted *in* discourse and the makers *of* discourse. This positions the perspective somewhere in between different conceptions of discourse. Often, as noted by Carol Bacchi, analyses of discourse start either from the assumption that discourse is something that actors use (i.e. subjects as discourse users) or from the assumption that these actors themselves are the products of discourse (i.e.

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53 This objection is in no way unique and has been discussed by several Essex School scholars. David Howarth, for instance, has argued that Laclau and Mouffe’s theorization, due to an ontological bias, suffers from a lack of specifications and exemplifications. This, he argues, is problematic as it leaves the researcher with concepts that are too thin and formalistic to suffice for analysis (Howarth 2004:267-68).
subjects as constituted in discourse) (Bacchi 2005). The former understanding, i.e. where discourse is conceptualized as a form of resource that actors instrumentally put to use, is rejected by discourse theory outright. Yet, as I have already hinted at, discourse is not reduced to its constitutive dimension but also conceived of as something that political actors produce through articulatory practices. Discourse, consequently, is held to be a result of “an endless series of de facto decisions, which result from a myriad of decentred strategic actions undertaken by political agents aiming to forge a hegemonic discourse” (Torfing 2005:15).

The Identification and Delimitation of Discourse

The term discourse is, most generally, used to denote a system that establishes a set of relations between objects, practices and subjects (Howarth & Stavrakakis 2000:3). This system can, in line with the reasoning above, be more or less encompassing. Consequently, it is, depending on aim and research question, possible to identify discourses – in the delimited sense – of various scope and degree of sedimentation. I will shortly discuss the implications of this with regard to the study at hand. Before I proceed, however, some fundamental remarks regarding the very identification of discourse is warranted.

From a methodological point of view, it is important to note that discourse is an analytical concept. This means that discourses are not “out there” in the form of clearly demarcated entities ready to be discovered. Meaning is constructed discursively through the establishment of a myriad of relations. The delimitation of parts of this larger web as a particular system of meaning, i.e. a discourse, however has to be made by the researcher and it accordingly always contains an element of arbitrariness. Consequently, following Glynos and Howarth, I want to emphasize that a closer specification of discourse is always dependent on the research problem and the level and scope of the analysis. In methodological terms, discourse, should thus be understood as a “heuristic device” that enables concrete analysis rather than something that can be defined and specified beforehand (cf. Glynos & Howarth 2007:125-26).

The aim of the study at hand is to analyse the politicization of irregular migration in the Swedish parliament. The focal point of the analysis will, concordant with the discourse analytical framework, be the articulatory practices of parliamentary actors and the wider structure within which these

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54 In this context, that is to say, I use Bacchi’s distinction to highlight two distinct understandings of discourse. However, it should be noted that her argument is developed in a more particular context. Namely, as part of a critique towards a tendency among many discourse analysts to switch back and forth between an understanding of discourse as a resource and as a constitutive force.

55 Glynos and Howarth’s argument revolves around the concepts “practice” and “regime” and not “discourse”. I however find their argument to be applicable, and illuminating, with regard to this concept as well.
Discourses will primarily be approached as systems of meaning. These systems, in my understanding, rest on “certain assumptions, judgments, and contentions” and “provide the basic terms for analysis, debate, agreement and disagreement about an object” (Glynos et al. 2009:8). This is a more narrow way to approach discourse that focuses on its representative, rather than constitutive, dimension. In the analysis, furthermore, I will reserve discourse for more overarching systems of meaning. I will use articulation or reading when I refer to more delimited statements in which political actors formulate opinions, make interpretations and suggest responses. These articulations, which draw on and form part of discourses, are a key component of hegemonic struggles.

**Forms of Discourse**

I start from the assumption that discourses are sedimented to different degrees. Sedimentation, to recapitulate, is the process where traces of the instituting act have disappeared. This means that discourses that are more sedimented appear to us as natural and given and that their political origin has been forgotten. Sedimented discourses, as argued by Ole Wæver, are of a more fundamental kind and undisputedly structure meaning across a wide spectrum. These discourses, which he refers to as “deeper structures”, are more difficult to politicise and change (Wæver 2005:36-37). The fact that some discourses are more sedimented than others also has direct consequences for analyses of political debates. It means, as highlighted by Wæver, that manifest conflicts must be situated in a larger context of consensus:

> The concept of a ‘dominant’ discourse becomes relative, too. That something is in ‘opposition’ or even ‘marginalised’ means only that it is ‘outside’ and ‘different’ at the level of manifest politics, while it probably shares codes at the next (deeper) level of abstraction. The ‘dominant’ political line and the main opposition most often share a lot (except the question on the agenda), and the more marginalised opposition shares less, but still some basic codes. This follows from the fact that political opponents relate to each other, and therefore almost always deal with some of the same issues and use related concepts and images while struggling to reformulate and conquer other key terms” (Wæver 2005:36).

Wæver’s comment is a reminder that the conflicts, and competing discourses, that can be identified in my material always unfold against a particular backdrop of shared assumptions. In line with this, I start from the assumption that the discourses that I identify in my material can be characterised in different ways. I will first make
reference to discourses as *sedimented*. I reserve this description for overarching discourses that appear as undisputable givens in the debate. Furthermore, I will refer to discourses as *hegemonic* if they successfully sustain a “dominant horizon of social orientation and action” (Torfing 1999:101). In this context, I take this to mean discourses that are more or less undisputed in the debates. I understand these two forms of discourse to be partially overlapping. Or, to be precise, I contend that sedimented discourses always are hegemonic whereas not all hegemonic discourses are sedimented. The difference between them, in my reading, is the degree of forgetfulness. Both are bound up with the maintenance of what Aletta Norval has referred to as a “horizon of intelligibility” (Norval 1996:4). That is, “a framework delineating what is possible, what can be said and done, what positions may legitimately be taken, what actions may be engaged in” (ibid.). However, whereas the political origin of the sedimented discourse has fallen into oblivion, the success of a hegemonic discourse might be of more recent origin. The difference between them can be demonstrated with an example from the debates that I study. These are, on an overarching level, structured with basis in the presupposition that migration control is a necessary, and legitimate, component of state sovereignty. This state sovereignty discourse is, I contend, a sedimented discourse. Nowadays, moreover, the conviction that there is a long-term need for large-scale labour migration is widely shared across the board. This opinion was still marginalised at the turn of the millennium. Over the years, however, it has successively gained ground and today I argue that the conception, and the accompanying discourse, has become hegemonic.

**Approaching Discursive Struggles**

The different forms of discourse, finally, will be approached through the use of a number of indicators. The aim of the analysis is, concordant with discourse theory’s dual focus on agency and structure, to identify both discursive struggles and the framework within which these takes place. That is to say, to speak in the vocabulary of Laclau, I will study both the reactivated and the sedimented (Laclau 1990:34-36).

**Degrees of Contestation**

This analytical strategy is beneficial since it enables me to identify both those aspects of the social order that are challenged and those that are exempted from contestation. One of the aims of this study is to analyse to what extent the hegemonic citizenship order has been problematized or challenged. Accordingly, I will analyse how the arguments and demands relate to both wider notions of citizenship and to the current citizenship regime. I will accordingly consistently speak about both the *citizenship order* and the *citizenship regime* throughout the thesis. The latter term will be used when I refer to the particular arrangements around citizenship in Sweden today.
whereas the former term will be used to denote the underpinning logic of citizenship as such. Furthermore, my analysis is based on a distinction between *contestation* and *change*. Contestation, I argue, takes place any time when there is an attempt to question or challenge the prevailing order, or delimited aspects of it, in the debates. Change, on the other hand, takes place when there is a concrete change of rules or legislation that somehow modifies the prevailing order. My starting point, moreover, is that both contestation and potential change can vary in scope and that it accordingly can be placed on a continuum between minor and radical. For instance, demands for a revision of specific criteria in the Aliens Act [*Utlänningslagen*] constitute a minor form of contestation that, if implemented, would result in minor modifications of the citizenship regime. On the other hand, a challenge aimed at the very principle of citizenship, and its corresponding privileges, would constitute an example of radical contestation.

**Uncovering the Sedimented and the Reactivated in the Debates**

In accordance with the dual focus of discourse analysis the analysis of the thesis consist in two parts. The first part aims to uncover those discourses that structure, and limit, the political debates. A survey that, in turn, is a prerequisite for the assessment of the scope of contestation. This framework will be approached through the identification of assumptions, conceptions and practices that are left undisputed in the debates that I study. In this endeavour, I draw on previous research and theory to enable the identification of more sedimented discourse. The outline of the nationalist logic that underpin migration control is, for instance, dependent on existing literature. The second part of the analysis aims to map the manifest dissensus – or, in the vocabulary of discourse theory, the hegemonic struggles – in the debates. Here I will make use of a number of different indicators.

First, inspired by discourse theory, I will focus on attempts to fix the meaning and connotation of key terms. The study starts from the assumption that there has been a dislocation and consequently also a destabilization of existing systems of meaning. This means, put in the vocabulary of discourse theory, that key terms have become floating signifiers, i.e. that the meaning of these terms has been unfixed. The struggles that follow in the wake of the dislocation consequently revolve around attempts to fix the meanings of these signifiers. The importance of these struggles has also been highlighted by Aletta Norval who has identified the following discursive mechanisms as central to practices of contestation:

> [...] contesting the particular meanings that are associated with key political terms; attempts to redraw political frontiers separating political ‘friends’ from political ‘enemies’ and so contests and potentially reshapes political alliances; attempts to articulate new political demands or to gather together disparate
demands into a unifying project; attempts to disarticulate other elements from oppositional projects; or even a wholesale rejection of particular political processes (Norval 2009:314).

Norval singles out a number of components that tend to be present in a process of politicization. Following her, my reading of the empirical material will focus on the meaning of key terms, the political dividing lines and how demands are linked together.

Furthermore, inspired by policy analyst Carol Bacchi, I will investigate conceptions of problems, their origin and their solutions in the political debates. Bacchi has stressed that it is important to study conceptualizations of “problems” as these are central for the formulation of policy. In her understanding, contrary to general belief, policies create and shape problems rather than address pre-existing problems. In other words, according to Bacchi problems are endogenous rather than exogenous – that is, created within rather than existing outside – to the policy-making process (Bacchi 2009:x-xi). Bacchi’s work is primarily oriented towards policy and the aim is to scrutinize the power relation that is bound up with different conceptualizations of political problems and the accompanying policies. In this study, on the other hand, the analysis of conceptualizations of problems in political debates is used as a means to identify competing discourses. I contend that articulations of the problem, its causes and possible measures that could potentially contribute to its removal are central to the articulation of discourse and consequently I will map the competing attempts to establish a correct understanding of the problem at hand. Furthermore, I consider this approach to be consistent with an ambition among discourse analysts to problematize how something has been problematized (cf. Glynos & Howarth 2007:168).

The empirical analysis is consequently guided by the following overarching question:

• What assumptions, conceptions and practices are contested (the reactivated) and what are left uncontested (the sedimented) in the debates?

In addition to this question, the analyses in the different chapters are underpinned by further, more specific questions. Chapter four, first, focuses on the overarching frames of the politicization of irregular migration and how these shifts over time. This corresponds with the first and second of the questions below. Chapter five and six, moreover, focus on the political claims-making and the particular demands that were posed in the debates. This corresponds with the third question below.

57 As Bacchi is associated with an elaborate methodological approach to the investigation of how problems are constituted in the policy-making process, I wish to stress that the overall analysis in this thesis is not carried out in accordance with this framework.
• How is the “problem” conceptualized in the debates and what understandings of origin and solutions do these conceptualizations come with?
• How are these conceptualizations bound up with struggles over terminology?
• What are the key demands and how are they articulated and linked?

The Empirical Material

The overarching aim of this study is to analyse the contestation of discourses and practices of citizenship that have followed in the wake of the appearance of irregular migrants. These processes of contestation have taken place in a number of societal arenas and can accordingly also be approached in several ways. I have chosen to approach them through an analysis of the debates that have taken place in one particular site, namely, the Swedish parliament. The primary material of this study thus consists of various forms of documents from the parliamentary decision-making process. This material will be supplemented with secondary material, first and foremost in the form of previous studies, which will enable me to contextualize the primary material as well as to identify sedimented discourses and practices. This part of the material, in short, is read with the purpose to familiarize myself with the context and obtain relevant background information.

Presentation of the Primary Material

The primary material can be divided into four categories that will be briefly introduced in this section. This presentation will be of a more general nature and I will consequently not go into specifics about how the material in each category has been collected. More detailed information, as well as a compilation of the material, can however be found in the appendix.

Minutes From Parliamentary Debates

The first category of material is minutes from parliamentary debates in Sweden. These have been collected through a series of searches in the on-line archive of the Swedish parliament. My collection of minutes covers the period between the parliamentary years 1999/2000 and 2013/2014. Basically, this means that it covers all debates on topics that can be subsumed under the rubric migration that have taken place in the Swedish parliament during the 2000s. The extracts from the minutes vary in length and can be divided into four categories. The first category consists of the recurring debates that take place in association with the presentation of committee considerations. With regard to migration, two such debates take place each parliamentary year.
These debates are rather long and consequently most of the more extensive extracts fall into this category. A second category consists of debates on government proposals and a third of more general debates on different topics related to migration. Finally, a fourth category consists of shorter extracts that documents debates that have taken place in conjunction with interpellations and questions from the MPs. All the extracts have been read extensively. This means that I have gained an overview of the main topics and themes of the debates on migration throughout the 2000s. The extracts that specifically relate to irregular migration and migrants have moreover been subject to closer analysis and read more intensively.

**Parliamentary Motions**

Motions, filed by individual MPs or parties, constitute another important category of my primary material. The motions have been located through a two-phase strategy. I first went through all committee considerations and compiled a list of motions that contained references and claims regarding irregular migrants. This list was subsequently supplemented through a series of searches in the on-line archive using a number of search strings.

**Government Bills, Committee Considerations and Official Reports**

The minutes from the parliamentary debates have, furthermore, been complemented with documents from the decision-making process. This entails government bills [propositioner] and committee considerations [utskottsbetänkanden] that relate to the debates that I have studied. More precisely, I have read all of the recurring committee considerations from the Committee on Social Insurance [Socialförsäkringsutskottet], i.e. the committee that is responsible of matters related to migration in the Swedish parliament. Moreover, I have read both the proposals and considerations that have preceded major decisions that have been made with regard to irregular migrants and their situation in Sweden. In addition to these documents I have reviewed a number of Swedish Government Official Reports [SOU, Statens Offentliga Utredningar]. Most importantly, I have read the government reports that pertain to schooling and medical care for irregular migrants.

**Other Materials**

The bulk of the material that has been analysed belongs to the three categories discussed above. I have however also collected a number of reports that have been important for the political debate and policy development in various ways. Among these are both reports produced by different state bodies, such as The National Board of Health and Welfare [Socialstyrelsen] and the

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58 The primary ones constitute the decision on amnesty in 2005 along with the decisions on access to schooling and medical care in 2013.
Migration Board, and by non-state actors. Among the latter is, for instance, a UN report on the right to health produced by Paul Hunt that became very influential in the debate.

**Remarks on the Delimitations and its Limitations**

The bulk of my material consists of minutes from parliamentary debates from the 2000s. This fact can be problematized in a number of ways. In the following I will discuss the limitations that follow from the choice of time period and setting.

**Temporal Limitations**

My investigation starts with the parliamentary year 1999/2000. From this point in time I have systematically collected all debates that have taken place in parliament that relate to migration in general, and irregular migration in particular. This starting point is warranted given that the recent debates about irregular migration took off in the early 2000s. However, there have indeed been debates about the situation of irregular migrants prior to this point. Discussions on the circumstances of gömda, i.e. “hidden refugees”, have taken place both in the 1980s and 1990s. Furthermore, the dislocation as such occurred during this period rather than in the 2000s. Given these facts, my choice of time period clearly needs to be further justified. I contend that my delimitation is defendable given that irregularity was first constituted as a problem in the 2000s. That is, the conceptualization of the problem underwent significant changes during the period that I study. Given that this process is what I aim to study in my thesis, I argue that my choice is feasible. Yet, I have chosen to complement my material with strategically chosen documents from the 1990s in order to sketch a brief background to the debates I study. More precisely, I have decided to look at the discussions that preceded the revision of the Aliens Act in 1996 and the discussion that took place in conjunction with the ratification and implementation of the UN Convention on the Rights of the Child.

**Spatial Limitations**

Furthermore, the choice to study parliamentary debates needs some further explication. I argue that parliamentary debates constitute the obvious starting point if one is interested in how a topic has been politicized. Even more so, I contend, if one is also interested in policy development. The decisions that are made in the parliament are authoritative and consequently the debates and considerations that take place in this arena are by definition relevant. The main advantage of my choice of material is thus that they provide me with an entry to study how the topic has been debated among key actors in the political system.
However, the choice to study parliamentary debates also comes with some disadvantages. First, an exclusive focus on the debates that have taken place in this arena leaves me uninformed about the public debate in general. I assume that political debates in the parliament and in the media take place in parallel with each other. Each is distinct but it is also reasonable to believe that there is interplay between them. This assumption is strengthened by the fact that I can identify spillover effects of media coverage in the debates that I study. Second, a focus on parliamentary debates fails to see the importance of extra-parliamentary campaigning. I assume that it is the political organization of and on behalf of irregular migrants that has placed the issue on the political agenda as well as had an impact on the way the issue is debated. For instance, it is hardly a co-incidence that references to gömda are replaced with references to papperslösa in the parliamentary debates following the formation and campaigning of the group Papperslösa Stockholm. The design of my study however prevents me from studying the possible impact of the general debate and the extra-parliamentary claims-making. Yet, I contend that this is a minor problem as I do not aim to study diffusion. Consequently, it falls outside the scope of my study to trace how the issue was first placed on the political agenda or the influence that actors outside of parliament have had for the way it is debated.

Thus far, I have dwelt upon objections that relate to the possible impact public debate and NGO campaigning can have on parliamentary debates. Another form of objection could be that these debates, as such, would be more interesting to study. One might, for instance, argue that a systematic investigation of media coverage would have given a more comprehensive picture of how irregular migration has been debated in Sweden. Or, one could make the argument that it would be more interesting to study claims-making made by irregular migrants themselves rather than demands advanced on their behalf in parliament. These are, especially given my intention to study contestation, valid objections. It is reasonable to assume that my focus on parliamentary debates means that I miss the more radical forms of contestation that have taken place during the 2000s. However, in the end these would have constituted different types of studies and I maintain that a study of parliamentary debates is called for given their importance for political decision-making. The choice to study parliamentary debates also has the advantage that it allows me to follow policy development. The minutes that I study in this thesis not only provide me with an entry to how irregular migration has been conceptualized but also with information about policy proposals. Through the minutes I can identify both proposals that have been rejected and adopted. This overview of the policy process, in turn, provides me with indications of regime change. Finally, it should be noted that a focus on parliamentary debates does not preclude contextualization. Accordingly, I strive to place the parliamentary debates in a larger context through continual references to broader campaigns and events.
Concluding Remarks

In this chapter I have presented the analytical framework of the thesis. I opened with an introduction to the two strands of theory – citizenship theory and discourse theory – that make up the analytical framework of this thesis. These sections were subsequently followed by a discussion on epistemology, methodology and analytical strategy. With regard to theory, I have argued that the combination of these two bodies of theory form a promising starting point for an analysis of contemporary debates on irregular migration. Theorization on citizenship, first, serves as an advantageous entry for my analysis because it provides insights about the dual nature of citizenship and the interplay between inclusionary and exclusionary logics. This duality, first, provides me with resources to make sense of the logic of migration control in the (national) welfare state. Furthermore, this body of theory provides insights that open for an investigation of citizenship as a site of struggle. In the chapter I have argued that citizenship – both as a concept and as practice – comes with a number of tensions and ambiguities that can be mobilized in political struggles. One decisive factor that enables this mobilization is the gap between ideals of rights and their actualization. This gap, I have argued, constitutes an opening for contestation in the sense that it opens for demands for rights from those who lack formal entitlement. Discourse theory, furthermore, is advantageous as it helps me make sense of the disruptive effects of the appearance of irregular migrants. This is, concordant with the discourse theoretical framework, conceptualized as a dislocation and as such as an opening for a reconfiguration of the social order. Furthermore, again following the theoretical presuppositions, it is assumed that the dislocation paved the way for a series of political struggles. It is these struggles, which essentially consist in attempts to enforce different readings of the dislocation, that form the focal point of the analysis. Discourse theory, finally, has also served as a source of inspiration for my analytical strategy. Concordant with this, the analysis is centred on the struggles over meaning and, in particular, the various attempts to make sense of the appearance of the irregular migrants. This inspiration also extends to matters of epistemology. In the chapter I have discussed the epistemological underpinnings of the theory and the understanding of research as an articulatory practice that it comes with. In line with this, I have stressed that the analysis of this thesis should be conceived of as a theoretically informed reading of these struggles that rests on certain presuppositions.
3. BETWEEN THE SEDIMENTED AND THE REACTIVATED

The political debates on irregular migration took place against the backdrop of several larger discussions and conflicts. At the turn of the millennium, when my analysis starts, there was an on-going controversy over various aspects of asylum policy as well as a burgeoning debate on the need for debate on labour migration. However, in a larger perspective, the debates on irregular migration also played out in a context of shared understandings. The aim of this chapter is to sketch the framework within which the debates on irregular migration took place through a presentation of both of these dimensions. The overarching aim of the chapter can accordingly, put in a discourse analytical vocabulary, be formulated as the identification of the sedimented discourses and the conflicts they leave room for. The chapter is divided into three parts. The first is an overview of Swedish migration policy and the important shifts that it has undergone during the 20th century. The presentation will, by necessity, be brief and focus on important turning points. I devote particular attention to the policy development the last decades as these have been at the centre of the debates regarding the allegedly restrictive turn of Swedish asylum policy. The second part of the chapter discusses the politics of migration in Sweden. Here I account for the process of politicization that was initiated in the 1980s when migration and integration moved from policy areas marked by consensus to conflict. The section also contains an overview of the main dividing lines and points of contention during the last decades. The third part, finally, is an outline of the overarching framework of parliamentary debates. This section aims to identify the shared starting points and assumptions of debates, as well as the conflict it leaves room for. This entails a discussion on, first, the Swedish logic of control, i.e. the underlying rationality of migration control, and, second, the Swedish framework for categorization, i.e. the system of distinctions and hierarchies that enables migration control. These discussions lead up to a concluding section in which I reflect on the interplay between the sedimented and the reactivated in
parliamentary debates. This means that I explicate on both those terms, principles and policy that are uncontested and those that have been made object of manifest struggle.

**Swedish Migration Control: an Overview**

Measures to enable control over immigration were first introduced in the early 20th century in Sweden. The time period 1914-1917 is often singled out as an important turning point that marks the end of an era of free migration. Concordant with this, overviews and periodization of Swedish migration policy tend to start in this period. The subsequent century has seen several shifts in policy and is accordingly often divided into different periods with basis in the kind of control system in place and the dominant form of immigration. Tomas Hammar has suggested that Swedish immigration control during the 20th century can be divided in five periods. These are listed in the table below.

<table>
<thead>
<tr>
<th>Period</th>
<th>Type of Immigration</th>
</tr>
</thead>
<tbody>
<tr>
<td>-1914</td>
<td>Free migration</td>
</tr>
<tr>
<td>1914-1945</td>
<td>Successive creation of legislation</td>
</tr>
<tr>
<td>1945-1972</td>
<td>Labour migration, controlled and monitored by trade unions</td>
</tr>
<tr>
<td>1972-1989</td>
<td>Control system, initially liberal but gradually more restrictive</td>
</tr>
<tr>
<td>1989-</td>
<td>Strict control</td>
</tr>
</tbody>
</table>

(Source: Hammar 1999:171).

The first period after the introduction of migration control, i.e. the period between the end of World War I and World War II, entailed the successive introduction of more legislation and the overarching approach is best characterised as restrictive. This period was succeeded by a more open period. More precisely, by the era of (more or less free) labour migration that lasted from approximately 1945 to the early 1970s. A new period started after 1972, when labour migration was effectively halted, and immigration shifted in character. Thereafter, immigration was more or less restricted to refugees and family members of Swedish residents. Initially, policies on asylum and family reunification were more liberal but were successively revised in a more restrictive direction. 1989 is often mentioned as a turning point that marks the start of a more restrictive asylum policy (Öberg 1994:28-29; Hammar 1999:171). I argue that the introduction of a new labour migration policy in 2008 could be regarded as the start of a new period. Previous periods have been characterized with reference to the dominant form of immigration: labour migrants in the first post-war period and refugees and family members in last decades. In this sense the post-2008 period is distinct as it entails a dual
approach to migration where a liberal\textsuperscript{59} labour migration policy is combined with a restrictive asylum policy. In addition to this, furthermore, it should be noted that Sweden’s entry into the EU in 1995, and the consequent adaptation to common EU policies, has brought about changes in policy.

**The End of Free Movement: the First Measures of Control**

From the 1860s until 1914, Sweden’s approach to migration can be characterized as free in the sense that neither a passport, nor a residence or work permit, was required to enter the country. Up until then, migratory flows were dealt with on an individual basis and legislation provided the state with the possibility to deport foreign citizens in cases where such was found to be necessary (Johansson 2005:193). In the early 20th century a debate on the necessity to impose stricter regulations was initiated and this was followed by the gradual introduction of new legislation. In 1917, a control system was put in place that made use of instruments such as passport and visa requirements. A decade later, in 1927, the first Aliens Act, an amalgamation of all regulations that had been put in place throughout the century so far, was passed. The 1917 decision has been referred to as a breaking point that marks the shift from a focus on individuals that are conceived of as problems, and subsequently subject of deportation, to a focus on regulation in the interest of the state. At this point the principle that the state has a primary responsibility to protect the interest of its citizens was established, a principle that still prevails (Öberg 1994:37; Spång 2009:76).

Scholars who have analysed the debates that preceded the introduction of these first sets of control measures argue that the formulation of policy was shaped by concerns of economic and social nature. Migration was understood to threaten the economic well-being of the state and migrants were regarded as potentially burdensome. Moreover, there was a fear that migration would result in shortage of housing and employment for nationals. However, at this point in time concerns about the cultural and racial background of migrants were also openly voiced. Migrants were taken to pose a threat to the homogeneity of the population because of their inferior cultural and racial origin. In addition, there were concerns about their lack of moral and ways of living (Öberg 1994:37-39; Mörkenstam 2006).

**The Post-War Era**

The end of World War II is often described as yet another breaking point and the post-war era came with two important policy shifts. First, the booming economy resulted in a growing demand for labour and opened for large-scale

\textsuperscript{59} The regulation that was introduced in 2008 is less selective than comparable policies in other European countries. In contrast to these, Swedish policy does not prioritize particular categories of migrants, whether high- or low-skilled, but is open to all migrants who can present a job contract (see for instance Berg & Spehar 2013).
labour migration. Second, the right of asylum was first recognized in legislation with the 1954 Aliens Act. However, until the 1970s economic migrants dominated immigration to Sweden. Concurrent with this, scholars normally distinguish between the period 1945-1972 and the period after 1972 that followed the termination of labour migration. In the beginning of the first period, consistent with a large demand for labour, Sweden embarked on an open policy. This approach was successively abandoned with a tightening of regulation. The first steps towards increased control were taken in the late 1960s as a result of government decisions that introduced a work permit requirement for those wanting to enter the country. Shortly afterwards, in 1972, the opportunities to enter as a labour migrant were further tightened following a trade union decision (Spång 2009:78-79). Thereafter, the opportunities to enter as a labour migrant were practically restricted to citizens from other Nordic countries – and, following the Swedish membership in the EU, other European countries – until 2008. The restrictive policy on labour migration resulted in a shift in the composition of immigrants as labour migrants were succeeded by refugees and people who entered as family members.

The post-war era also came with a discursive shift. This entailed a change of conceptions about the need for migration control. The most noteworthy difference was that references to race disappeared, and cultural concerns were downplayed, in the aftermath of World War II. Social and economic concerns prevailed but it is possible to identify a shift in emphasis as a result of the incorporation of immigrants into the project of social reformation (Mörkenstam 2010). The impact of this norm of equality is reflected in the policies adopted in the 1950s and 1960s. In 1968 a significant decision was made as parliament accepted a government proposal establishing that the overall principle of the universal welfare state – equal social rights for all residents – would apply to immigrants on the same terms as for citizens (Borevi 2002:83). The implication of the adoption of this principle was that an important threshold was placed at the point of entry and that immigrants, once granted a permanent residence permit, were entitled to most of the rights allocated to citizens. Its adoption thus marks the establishment of the denizenship status in Sweden as (legal) residency, rather than citizenship, became the criteria to qualify for different kinds of rights in the welfare state. This decision however came coupled with an affirmation of the need

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60 A few years earlier, in 1951, Sweden had been one of 28 countries that participated in the drafting of the UN Convention Relating to the Status of Refugees.

61 Denizen, here, is the label for the halfway status of (legal) residents who are not citizen and yet enjoy equal access to social rights (cf. Hammar 1990).

62 More precisely, this policy guarantees equality of opportunity. This means that to the extent that immigrants participate in the labour force on par with citizens, they get access to the same set of benefits and social security systems. Accordingly, it should be noted that the principle of equality has not averted discrimination and subordination. The incorporation of migrants into the labour market and society has been described by some scholars as a situation marked by “subordinated inclusion”. A
for regulated immigration (Borevi 2010:59). This meant that inclusionary ambitions explicitly were used to motivate and legitimize migration control. This approach that has been described in terms of an “interdependence of integration and control” (Hammar 1999:175). Later in this chapter I will spell out some of the paradoxes that it generates as I embark on a more exhaustive discussion about the Swedish logic of control.

After the 1972 trade union decision that virtually put an end to labour migration, immigration to Sweden shifted in character as refugees or people entering in the capacity of family members replaced economic migrants. According to Karin Borevi this shift in migration patterns also brought about a shift in the way measures of control were carried out. During the era of labour migration the primary measure of control consisted in that the granting of a residence permit was conditioned on a job offer. Later, preoccupation shifted towards ensuring that those entering had legitimate grounds to apply for asylum, i.e. that they were in fact “real” refugees (Borevi 2010:52; 71).

The Restrictive Turn

There is a wide agreement among scholars that Swedish asylum policy underwent a shift in the mid to late 1980s. Tomas Hammar has referred to this period as a “breaking point” and argued that it marks the initiation of a move from a liberal to a restrictive control policy (Hammar 1999:170; 199). In previous research one moment in particular has been highlighted. This is a government decision – often referred to as the Lucia decision – that was taken in December 1989. At this point the government decided to use an emergency clause in the Aliens Act and restrict residence permits to asylum seekers who fulfilled the requirements of the UN Convention Relating to the Status of Refugees. The decision was justified with reference to pressure on the refugee reception system and inability to maintain an acceptable standard (Spång 2009:84). The implications were significant as only 10% of the asylum applicants at the time belonged to this group (Johansson 2008:208). The Lucia decision was revoked only two years later. Yet, as argued by Mikael Spång, it was the first step towards a more restrictive approach to asylum (Spång 2008:95-96). Several parallel developments during the 1990s contributed to the creation of a restrictive turn. In this section I will disentangle the main components that make up the restrictive turn. I first turn to the changes that were due to alterations in policy at national level and thereafter proceed to discuss the implications of Sweden’s membership in the EU.

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63 In Sweden, the convention is often referred to as the Geneva Convention with reference to the place where it was adopted. It should however not be confused with the Geneva Conventions that define standards of warfare.
**Revision of National Policy**

The *Lucia decision* was controversial as it deviated from a prolonged practice of granting residence permits on more generous grounds than those stipulated in the UN Convention Relating to the Status of Refugees. In Sweden, it became practice to grant residence permits on more generous grounds already in the late 1960s. This practice was eventually codified with the adoption of the 1975 Aliens Act. Apart from refugees, the new law singled out two additional categories as worthy of protection: de facto refugees and conscientious objectors (Johansson 2008:204). Furthermore, the practice of granting residence permits on humanitarian grounds was codified when these were incorporated as a particular category in the 1989 Aliens Act (Prop. 2004/05:170:174). Both policies have subsequently been revised. The categories *de facto* refugee and war refuser were removed in 1997 in conjunction with a substantive revision of the Aliens Act. Instead, a new category, “others in need of protection” [övriga skyddsbehövande], was introduced to complement the convention-based refugee status (Johansson 2008:211). Critics have argued that this meant that the criteria for protection became stricter (Spång 2009:85-86). Furthermore, the 1997 Aliens Act implicated stricter criteria for family reunion as it reserved this right to members of the nuclear family, defined as spouses and children less than 18 years of age (Borevi 2010:91). Further restrictive moves followed in the 2000s. The 2006 Aliens Act removed the category “humanitarian grounds” [humanitära skäl] and replaced it with the category “extraordinarily distressing circumstances” [synnerligen ömmande omständigheter]. The repeal of the category “humanitarian grounds” entailed a revision of the Aliens Act that clearly went beyond terminology. In the government bill that preceded the decision it was explicitly argued that the new category was intended to signal that the category was meant to be used only selectively (Prop. 2004/05:170).64 The revision was consequently also heavily criticized and it was argued that it would result in a more restrictive practice.65

**International Factors**

The above-mentioned revisions of national legislation make up three key components of the restrictive turn. In these cases, changes in criteria have

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64 The decision was preceded by a development where a rising number of asylum seekers were granted residence permits on this ground. The lengthy waiting times in the asylum process was one of the main causes of this development. These resulted in rising rates of mental distress, as well as enabled many migrants to get settled in Sweden, and consequently led to many asylum seekers being granted residence permits on humanitarian grounds, either with reference to illness or to integration. The changes introduced with the 2006 Aliens Act were intended to stem this development.

65 Many critics argued in favour of the less demanding formulation “particularly distressing circumstances” [särskilt ömmande omständigheter] (see for instance Prop. 2004/05:170:185 and 2004/05:SfU17). In June 2014, this camp won a partial victory when parliament decided that evaluations of children should be made with reference to this formulation instead (2013/14:119).
made it increasingly difficult for an asylum seeker to qualify for a residence permit. In addition to this, a number of measures have been taken in order to render it more difficult to apply for asylum in the first case. One such measure is the increased use of visa requirements. This development started to take off already in the mid-1980s (Hammar 1999:181). A major step in restrictive direction was taken in 1992, and again in 1993, when visa requirements were imposed on citizens of Bosnia to decrease the number of asylum applicants (Spång 2008:69-70). Thereafter, the Swedish visa policy has successively become a key component of migration control and an integral part of the efforts to keep the number of asylum seekers down. This development is partly linked to Sweden’s membership in the EU and the accession to the Schengen Agreement\(^66\) in particular, which in effect expanded the list of countries with visa requirements (Hammar 1999:181). The adjustments to the Schengen Agreement have also led to changes in the regulation of carrier sanctions (Spång 2009:88). Finally, with regard to implications of Sweden’s EU membership, the Dublin Regulation has resulted in a rise in rejection rates as it opened for the re-assignment of responsibility to other member states.\(^67\)

The restrictive turn can thus be decomposed into a number of elements. First, revisions in national legislation have made it harder to qualify for residence permits. In particular, the opportunity to be granted a permit on humanitarian grounds has been significantly reduced. Second, the increased use of visa requirements and stricter carrier sanctions have reduced the legal ways of entry and made it harder for potential asylum seekers to enter Sweden in the first place. Finally, the Dublin Regulation has opened for transfers of asylum seekers to other European countries.

These elements, moreover, are of a slightly different nature and it is therefore possible to attribute the restrictive turn to a combination of international and national factors. Tomas Hammar has singled out a number of factors that help account for the restrictive turn in the 1990s. At the national level, he stresses the interplay between a rise in refugee immigration (in particular the rise in refugee immigration from non-European countries) and economic factors. More precisely, he argues that the fact that Sweden experienced a recession, accompanied by record high unemployment rates, budget deficits and cuts in the welfare system, was a contributing factor. At the international level, Hammar stresses the importance of stricter control in

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\(^{66}\) The Schengen Agreement is a fundamental pillar in efforts to dismantle internal borders in the EU and replace them with a common external border (Hansen 2008:66-67). The treaty regulates, among others, visa requirements and carrier sanctions. Sweden signed the Schengen Agreement in 1996 and became an operative member in 2001 (Spång 2007:118). In Sweden, one important effect of the Schengen adjustment has been an increase in internal controls (Johansson 2008:203).

\(^{67}\) The Dublin Regulation, and its precursor the Dublin Convention, is a central component of EU common asylum policy. The regulation sets principles for the allocation of responsibility for examining applications for asylum. The general rule is that the country through which an asylum seeker first enters the union is responsible for processing the asylum seeker’s application for asylum (Hansen 2008:137-38).
many other countries as well as the intensified and institutionalized cooperation in the EU (Hammar 1999:199). Hammar thus singles out a number of changing conditions that took place at this point in time. Others have attempted to problematize the understanding that the situation as such required a decrease in acceptance rates. This strand of research highlights the simultaneous discursive shifts that occurred and stresses that the interpretation and implications of the previously mentioned situations are far from self-evident. Among these is Elisabeth Abiri who stresses the importance of conceptions. According to her, the restrictive turn can be explained with reference to a belief among politicians that integration will suffer if too many people are granted residence permits. Failure to integrate newcomers is understood to constitute a problem since this is assumed to result in an erosion of public support for a generous asylum policy (Abiri 2000).

**From Consensus to Conflict: the Politicization of Migration**

The mid-1980s thus mark a breaking point in the sense that Swedish asylum policy turned increasingly restrictive and rising numbers of asylum seekers had their applications rejected. However, the period constitutes a dividing line in yet another respect as it also marks the moment of politicization of migration and integration in Sweden. There is widespread agreement among Swedish scholars on migration that the policy area was characterized by consensus up until this point. Concordant with this lack of politicization it has been argued that the policy area was marked by an “apolitical tradition” (Hammar 1999:174). The consensual approach was successively abandoned in the 1980s. This decade saw the rise of right-wing populist mobilization to restrict immigration as well as counter mobilization in the form of the formation of NGOs defending the right to asylum (Hammar 1999:178-79; Spång 2009:82-83). Parallel to this development a growing disagreement in parliament was also discernible. The discussions that preceded the adoption of the 1989 Aliens Act hinted at a burgeoning disagreement (Spång 2008:62). Thereafter, in the wake of a number of restrictive measures, two blocs with diverging positions on matters of asylum were formed (ibid.:64-65).

Migration thus moved into a contested political field during the 1980s. The main point of contention thereafter has been the regulation of asylum and family reunification. Furthermore, the regulation of the appeals process has been a recurring topic in parliamentary debates from the late 1980s and onwards. In 1992 the Alien Appeals Board [Utlänningsnämnden] was installed to strengthen the rule of law in the asylum process. Already at this point there were suggestions that the appeals process should be handled by the judiciary rather than in a separate body (Spång 2009:85-86). Later, the
demands for a transfer to the regular court system intensified and in 2006 the Alien Appeals Board was abolished and the appeals process was transferred to special migration courts.\textsuperscript{68}

The process of politicization initiated in the 1980s entailed the formation of a dividing line between two blocs. One bloc defended the move towards a more restrictive policy whereas another bloc was critical of the development and called for a more generous policy. The first bloc was essentially made up of the Social Democrats that formed a minority government from 1994-2006) and the Moderates. The two parties cooperated on issues that related to asylum policy and rules on family reunification throughout more than a decade. This cooperation – often referred to as an “unholy alliance” – enabled a majority in parliament in favour of a restrictive line. This line, and the policies associated with it, was heavily criticized by the remaining five parties in parliament (i.e. the Left Party, the Green Party, The Liberal Party, The Centre Party and the Christian Democrats) on the grounds of being too restrictive (Spång 2009:74).

The political dividing line that was established in the wake of the restrictive turn thus cut across the established left-right division in Swedish politics. The 2006 election however constituted a turning point as it led to a partial re-positioning. The general elections brought a four-party right-wing coalition – commonly known as the Alliance [Alliansen] – to power. This effectively ended cooperation between the Social Democrats and the Moderates. Moreover, this meant that the other three parties in government downplayed their critique of the current asylum policy and subordinated themselves to a common position. The change of government was also significant in another regard as it opened for several policy changes. First and foremost, it enabled the instatement of the new labour migration regime in 2008. This regime, supported by the right-wing government coalition and the Green Party, was heavily disputed (Spång 2009:92). I will discuss this reform further in Chapter five. For now, suffice it to say it opened for labour migration from non-EU countries. The reform, furthermore, entailed the replacement of a system where the need for labour was assessed by the authorities, with a more flexible system that leaves the judgment solely with the employer. The controversy over the new legislation, and the instatement of a new dividing line that followed the left-right divide rather neatly, implicated a further step away from crosscutting alliances on matters of migration policy.

The 2010 election marked yet another turning point with regard to the Swedish debate on migration and integration. After the election, the Sweden Democrats – a party with an openly anti-immigration rhetoric and a platform of severely restricted migration – took seats in parliament for the first time. In the wake of this, the parliamentary dividing lines became more complex. The other seven parties in parliament formed a united front against the Sweden Democrats and strongly condemned the party’s calls for a significantly more

\textsuperscript{68} For further discussion see Chapter five.
restrictive migration policy. Furthermore, the efforts to isolate the party resulted in an agreement on migration policy between the right-wing government and the Green Party. Overall, I contend, it is possible to discern three broad positions on asylum after the entrance of the Sweden Democrats. A first bloc, that gathers a broad majority in parliament, supported existing policies. This position, in turn, was criticized by two camps that either held it to be too restrictive (the Left Party) or too liberal (the Sweden Democrats) respectively.

The Overarching Framework of Conflict

From the 1980s and onwards migration has thus been a contested political field. In the previous section I accounted for the initial politicization as well as sketched the political dividing lines that have crystallized in its wake. In this final section of the chapter I aim to sketch the overarching framework within which struggles over migration policy have played out. The discussion is structured around three dimensions – the logic of control, the framework for categorization and the scope for conflict – that, in different ways, have formed a backdrop to and structured parliamentary debates.

The Swedish Logic of Control

The conviction that the state needs to monitor and regulate migration forms a fundamental starting point of policy formulation in all contemporary states. In the previous chapter I argued that the self-evident status of this assumption is an effect of sedimented discourses, most importantly sovereignty discourse and citizenship discourse, that naturalizes and objectivizes the need for and legitimacy of migration control. The more specific assumptions about why control is needed are however contextually specific and consequently it is possible to discern differences between different states when it comes to conceptions about the need for regulation and how it is justified. In the following section I will outline the particularities of the Swedish case as I sketch its logic of control.

69 This agreement was announced at a press conference in March 2011 and rested on a joint understanding in a number of areas. Furthermore, a number of concrete reforms were listed in the original settlement. With regard to the study at hand, it is worth noting that access to medical care and schooling for irregular migrants was among the reforms agreed upon.

70 In some regards, I argue, the Green Party also belongs to this bloc. The party often took the same principled position as the Left Party in parliamentary debates. However, at the same time the party cooperated with the government and consequently had to defend compromise agreements.

71 An analysis of the development after 2014 is beyond the scope of this investigation. With regard to dividing lines, however, it is worth notice that significant repositioning took place among the right-wing parties in the wake of the 2014 general election. Furthermore, following an increase in the number of asylum seekers during the fall of 2015, further changes have taken place as many parties have abandoned previous positions.
From Racial Concerns to Welfare Concerns

Historically, the nation has been the self-evident point of reference and source of justification in discussions about migration control. The needs of the nation – defined both in cultural and racial terms – were the explicit starting point when the first measures of migration control were adopted (Öberg 1994:37-39; Johansson 2005; Spång 2008:43-44; Mörkenstam 2006). Initially, during the first decades of the 20th century, control measures were openly justified with reference to the need of preserving the racial purity of the nation. References to race however successively disappeared with the disgrace of racial biology. Over time, moreover, the explicit appeals to nationhood were downplayed and the needs of the welfare state replaced the nation as the key point of reference (Mörkenstam 2010). Concordant with this, previous research on Swedish migration policy has highlighted the linkages between migration control and welfare aspirations.

This linkage has, most generally, been described in terms of a conviction that immigration needs to be kept at a level that does not threaten to undermine the welfare state. This conviction can however be decomposed into further elements. In the previous chapters I accounted for some assumptions of a more overarching kind. Among these was the conviction that immigration is associated with costs and thus constitutes a potential drain on state resources. This in turn, is understood to require either cuts in welfare provisions or result in an unbearable rise in public spending. In Sweden, moreover, this threat has tended to be formulated with reference to the inclusionary ambitions of Swedish integration policy. The hallmark of this policy is the principle of equality that was adopted in 1968. This principle, to recapitulate the discussion in the previous section of the chapter, prescribes inclusion of immigrants on equal terms in the welfare state. Concordant with this, the aspiration for equality has often been singled out as a key component of the Swedish logic of control. That is to say, the need for migration control is justified with reference to that it is needed to secure the full inclusion of immigrants in society. However, I contend that a one-sided emphasis on inclusionary ambitions risks obscuring that there is a fundamental ambiguity inherent in this approach. The articulation of regulated immigration as necessary to secure immigrants’ equal standing in society gives the impression that it is the well-being of prospective residents that is the main concern. However, a closer examination reveals a fundamental ambiguity as to whether restrictions on migration have been imposed to secure the maintenance of current welfare arrangements for those already staying in the country or to secure the equal inclusion of those entering.

This ambiguity can, for instance, be discerned in the explanations that have been offered to account for the almost complete halt in labour migration in 1972. On the one hand, previous research has highlighted concerns that continued migration would give rise to a socially stratified society where some
groups of people were left worse off than the majority of the population (Johansson 2005:198). This suggests that fears that current capacity and resources were insufficient to secure full inclusion for arriving migrants were one of the main determinants behind the decision. On the other hand, it has been claimed that one of the main reasons to adopt the principle of equality was to prevent wage and welfare dumping (Spång 2009:78-79). Furthermore, it has been claimed that it was the belief that the inclusion of migrants would be too costly – and as such constitute a threat to the economy of the welfare state – that spurred a restrictive position. The resources necessary to assure adjustment to Swedish circumstances were simply conceived to be unsustainable (Mörkenstam 2010:602). Underpinning this conclusion is the belief that welfare should primarily be reserved for the Swedish population and, further, that economic considerations set a limit to solidarity (Johansson 2005:252). The Swedish approach to migration and integration is thus characterised by a fundamental ambiguity. Restrictions on entry are justified with reference to inclusionary ambitions. Yet, it is evident that there is an unspoken order of priority that primarily reserves resources for current residents. This undercurrent will be further explored in the next section as I disentangle the nationalist underpinnings of the Swedish logic of control.

The Nationalist Underpinnings of Swedish Migration Control

The Swedish logic of control ultimately boils down to two fundamental assumptions: that the state has a right to regulate and that the state needs to regulate as the welfare state requires closure. These principles are of a somewhat different character. The first is of a more normative nature whereas the second is of an empirical nature. In this remaining part of the section I will explicate on the discursive underpinnings of the first principle whereas the second assumption – that rests on a number of more specific assumptions about reality, as well as about causes and effects – will not be further scrutinized. The conviction that the state has the right to determine who is allowed to enter and stay and to what conditions draws on several discourses. In the previous chapter I linked it to notions of sovereignty and citizenship. In this chapter I add a further component as I outline the nationalist underpinnings of Swedish migration policy.

The meaning of the concepts nation and nationalism is disputed and has been subject of many scholarly debates (Anderson 1983; Calhoun 1997; Gellner 1983; Özkirimli 2010). These debates cover a range of different aspects and are far too extensive and diverse to be covered in their entirety here. For the discussion at hand, it is sufficient to draw attention to two forms of fundamental distinctions. The first is the common distinction between ethnic and civic understandings of the nation. The former defines the nation in ethnic terms and is based on an idea of shared descent. The latter, on the other hand, defines the nation in political terms and is based on the idea of
membership in a political community (Johansson 2005:43). In practice, however, it is often hard to disentangle these understandings from each other as conceptions of the nation tend to draw from both. The second distinction is the one between nation and state. The relationship between these two concepts is also somewhat blurred and they are sometimes used interchangeably. This conceptual overlap can first and foremost be attributed to the fact that nationalism tends to come accompanied with aspirations for statehood. Furthermore, nationalist ideas and aspirations have been a key component in the formation of modern states.

There is, as the previous discussion has shown, a wide agreement in the scholarly community that Swedish migration policy was underpinned by nationalist assumptions during the first half of the 20th century. During this period, furthermore, the nation was conceived of in ethnic terms and the need for control was explicitly justified with reference to cultural and racial concerns. The influence of ethnic nationalism has however diminished considerably over time and the ethnic understanding of the nation has successively been replaced with a more civic understanding that more or less equates the nation with the population of the state. Nevertheless, previous research has suggested that there are indications of continual influence of ethnic nationalism and the conceptions of belonging associated with it. Such influence is, for instance, manifest in the fact that some groups of migrants are singled out as more difficult to integrate in society than others (Johansson 2005:229; 242). Overall, however, discourses of ethnic nationalism became marginalised during the post-war era. This period, furthermore, also entailed a decrease in explicit references to the nation. During the early decades of the 20th century control measures were continually justified with reference to the needs and interests of the nation. These kinds of explicit references to the nation were however gradually downplayed and replaced with references to welfare policy and the need to secure an equal standing for all inhabitants. Still, these developments are not tantamount to the disappearance of nationalism altogether and migration policy has continued to be permeated by nationalist ideas and assumptions.

This is, first and foremost, manifest in the very understanding that the state has a legitimate right to regulate immigration. Migration control is underpinned by the assumption that there is a demarcated community of people whose claims should be privileged and whose welfare should be safeguarded. This means that policy rests on nationalist assumptions even if it is inclusive towards immigrants. In the previous section I argued that justifications that focused on inclusionary ambitions, and the need to secure equal standing for immigrants, are marked by ambiguity as it remains undefined whether restrictions are imposed for the sake of current or prospective residents. This ambiguity has also attracted the attention of Nicholas De Genova who has argued that references to inclusionary ambitions often tend to reproduce nationalist discourse. He argues that efforts to include
immigrants who “already reside within the space of a ‘national community’”
come with the flipside that “the constitutive separation of the ‘aliens’ on the
far side of the frontier” is intensified (De Genova 2010:53). This reading rests
on the presumption that inclusion into a “more elemental and fundamental
‘national community’ sustains and upholds the primacy and priority of
‘natives’”. Concordant with this, De Genova draws the conclusion that
“politics of ‘immigrant’ inclusion” is ultimately underpinned by nationalist
assumptions (ibid.:53-54). In De Geneva’s usage, nationalism is used to
denote a discourse that sustains a global order based on a separation of people
and territories. This aspect of nationalism, i.e. as the discursive foundation
of the system of nation-states, has also been discussed by numerous other
scholars. Michael Billig, for instance, has introduced the concept banal
nationalism to expose and problematize the discourse that renders the nation
the given frame of reference in political debates. Others have used the concept
statism to make similar points. Statism, according to Vicki Squire and
Jonathan Darling, is “a mode of thinking and enacting politics that reflects a
struggle to divide people into the categories of ‘citizen’ and ‘noncitizen’”
(Squire & Darling 2013:61). The common denominator of these concepts is
that they serve to draw attention to the discourses that naturalize the
(nation)state and legitimate migration control.

In conclusion, the key component of the Swedish logic of control is
the conviction that immigration needs to be monitored in order to safeguard
current levels of welfare provisions and guarantee a comprehensive inclusion
of immigrants into society. This line of reasoning is, as I have explicated on
above, indicative of a persistent nationalist undercurrent. These convictions, in
turn, spur the need for frameworks for categorization. These are constructed in
response to a need for selection that, ultimately, falls back to the conviction
that there is a need for a selection process. In the next section I will discuss
this further as I outline the specifics of the Swedish framework for
categorization.

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Billig introduced the concept in order to shed light on the everyday practices that reproduce the
nation-state. This, in turn, formed part of an attempt to broaden the understanding of nationalism.
Billig is critical of the common-sense understanding that holds nationalism to be something “extreme”
that is only prevalent in less developed societies rather than an “endemic condition” in established
nations (Billig 1995:6).

Overall, the two concepts can self-evidently not be used interchangeably. In this particular context,
however, there is some overlap between them as both can be used to call attention to a particular form
of thinking that underpins migration policy. With regard to this discussion, the main difference
between the concepts is that one links this mode of thinking to the nation whereas the other links it to
the state. Nevertheless, the fact that Billig tends to take the nation to be co-terminous with the nation-
state suggests that these differences should not be exaggerated.
The Framework for Categorization in Swedish Migration Control

The first step in migration control entails the determination of categories of migrants that are worthy of entry and the establishment of a hierarchical order. The actual sorting of real people into these categories forms the second. The basis of the Swedish system of categorization is provided by the Aliens Act. This constitutes the legal framework for migration control and demarcates a set of categories and corresponding criteria that enable the practical sorting of migrants. The act has been revised on several occasions throughout the post-war era and the schema of categorization has consequently shifted over time. The contemporary legislation grants residence permits on five grounds: need for protection, kinship, employment, studies and humanitarian (SFS 2005:716). These categories, in turn, are reflective of underpinning notions of desirability and desert.

Most fundamentally, the purpose of categorization is to differentiate “desirable” migrants from “undesirable”. Historically, it was the “undesirable” migrants that were the focal point of legislation and debates. According to Ulf Mörkenstam, who has studied the historical understanding of these categories [cf. önskvärd/icke-önskvärd] in Sweden, the distinction has been used to separate those migrants deemed as a threat to the economic well-being of the state or to the racial homogeneity of the nation (Mörkenstam 2006:305). Today’s legislation and political debates, on the other hand, are rather focused on the demarcation of the “desirable migrant”. This category can, moreover, be further decomposed into the subcategories “needed” and “worthy”. Migrants in the former are desirable because they are regarded as useful in a narrow economic sense whereas those in the latter are desirable in the sense that their victimhood makes them worthy of being the objects of moral obligations.

The first category of “desirable” migrants is thus those who are considered to be needed and potentially able to contribute. The labour migrant is the exemplary representative of this category. During the expansive post-war era, labour migrants were highly desired. After 1972 and the virtual termination of labour migration, the labour migrant was reclassified to “undesirable” as

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74 This shift in focus is consistent with the development of migration control. The first measures of control targeted individuals and regulations were constructed to enable deportations. From this perspective it makes sense to focus on the “undesirable”. Later, as control measures shifted towards control of entry, there was a successive shift in focus towards the “desirable”.

75 The distinction between these two subcategories is especially pronounced after the 2008 labour migration reform. This reform established “two paths of entry” and has explicitly been articulated as a dual approach that creates one opening for those deemed worthy of protection and one for those who are needed and deemed potentially contributive and resourceful.

76 When it comes to the categorization of individual migrants these categories are, obviously, to some extent overlapping. People who are regarded as worthy, for instances refugees, can thus also be regarded as potentially contributive.
additional labour was no longer considered to be needed. More recently, in 2008, labour migrants again became “desirable” with the re-instatement of a labour migration regime. The second category of “desirable” migrants, i.e. the “worthy”, make up a complex category with regard to the overarching categories of “desirable” and “undesirable” migrants. Migrants that fall in this category are not necessarily regarded to be potentially contributive. Rather, they qualify as worthy of entry due to victimhood.\(^77\) The refugee, whose worthiness is due to the need for protection, is the exemplary representative of this category. Sweden has made international commitments – most importantly through the ratification of the UN Convention Relating to the Status of Refugees – to provide asylum. Concordant with this, the right of asylum was been recognized in Swedish legislation since the 1954 Aliens Act. Sweden has also had a consistent policy of granting protection on grounds more extensive than those specified in the convention. The precise regulations have changed on several occasions during the 2000s but there has consistently been a practice of granting protection to war refugees and people who fear death sentences and torture.\(^78\) Furthermore, apart from refugees and others in need of protection, there is an additional category of migrants that are considered worthy. These are the people who do not fall into any of the categories discussed above (or, for that matter, any of the other clauses for residence permit in the Aliens Act) but who can sometimes hope to be granted residence permit as a discretionary measure. First, during the early 2000s, this group was granted residence permits on “humanitarian grounds”. Later, after the adoption of the 2006 Aliens Act, this discretionary room has been provided by the clause that allows for residence permits to be granted with reference to “extraordinarily/particularly distressing circumstances”. In accordance with this regulation a person can be granted a residence permit after an overall assessment where his or her state of health, integration in

\(^77\) However, it should be noted that the “worthy” could be regarded as needed if one goes beyond a narrow economic focus. In a broader perspective, the category can, for instance, be regarded as useful to the construction of the nation. In political debates treatment of refugees is recurrently articulated as an indication of moral standing. In accordance with this reading, one can argue that provision of asylum to refugees is integral to the construction of a generous and humane “We”.

\(^78\) First, concordant with the 1997 and 2006 Aliens Acts, residence permits were granted to one additional category apart from refugees. This was the category “others in need of protection” (övriga skyddsbehövande and skyddsbehövande i övrigt respectively). After 2009, a third category was added to make the Aliens Act compliant with the EU directive concerning minimum standards for qualification and status as a refugee. Thereafter residence permits on grounds of protection have been granted to two additional categories besides refugees: those who are “alternatively in need of protection” [alternativt skyddsbehövande] and those who are “otherwise in need of protection” [övrig skyddsbehövande]. The first category grants protection to people who (1) fear death sentences, corporal punishment or torture or (2) run a “severe and personal risk” of injury due to an armed conflict (SFS 2005:716). The second category singles out additional groups as worthy of protection. More precisely, people in need of protection from an armed conflict in the society of origin or people who are unable to return due to an environmental disaster (ibid.). The first category corresponds with a similar category in the EU directive whereas the second category is a national category.
Sweden and the situation in the country of origin has been considered (SFS 2005:716). This category differs from refugees in the sense that they are not considered worthy because they need protection. They are however alike in the sense that worthiness in both cases is established through the recognition of suffering and victimhood. The category “undesirable”, finally, is in a sense a residual category in the contemporary framework. This means that those migrants who fail to qualify to the other categories fall into this one. The “undesirable”, that is, are those who are not sufficiently worthy and potentially burdensome.

**The Scope for Conflict**

The overview of Swedish migration policy in this chapter has entailed both a summary of policy development during the 20th century and an outline of the underpinning pillars of this policy. The discussion suggests that parliamentary debates on migration historically have taken place against the backdrop of a number of shared assumptions that have remained stable over time. The most fundamental amongst these is the assumption that immigration needs to be regulated. I contend that the uncontested status of this assumption, henceforth referred to as the principle of regulated immigration, testifies to the sedimented status of discourses of state sovereignty and nationalism that render the need for, and the legitimacy of, migration control a self-evident starting point. Given the uncontested status of this principle, furthermore, conflicts over migration policy have historically revolved around the framework for categorization. This means, more concretely, struggles over the establishment of principles and the conversion of these into legislation. In addition to this, there have been room for contestation over the implementation of legislation and regulations. The framework for categorization, which supposedly reflects the overarching principles, provides the means for practical evaluations of individual migrants’ claims to enter and stay in the country. These evaluations have often formed a subject matter in debates on migration.

The character of the political conflicts that have taken place the last decades suggests that there is a wide agreement on the principles as such whereas their meaning and implication has been a source of deep disagreement. There have, to exemplify, been extensive debates on asylum policy since the 1980s. These debates have, in essence, revolved around the meaning of the rights of asylum and how it should be balanced with the principle of regulated immigration. The right of asylum is generally recognized as a fundamental component of Swedish policy. The principle has been recognized in Swedish legislation since 1954 and its uncontested status is partly due to it being considered a duty that follows from international commitments. The right of asylum is included in a number of declarations and conventions – most importantly the 1948 UN Declaration of Human Rights
and the 1951 UN Convention Relating to the Status of Refugees – which Sweden has signed and promised to abide by. However, this all-encompassing principled commitment to the right of asylum have came accompanied with deep disagreement over the implications that should follow from its recognition. This is not unique for Sweden as similar struggles have taken place in other countries. Many countries have, like Sweden, incorporated the definition of a refugee that is provided by the UN refugee convention. Yet, as noted by Peter Nyers, “the question of who qualifies for refugee status remains a contested issue and one that is deeply implicated in political and ideological calculations” (Nyers 2006:13). Accordingly, a substantial part of the parliamentary debates the last decades have consisted in efforts to hegemonize a particular reading of the meaning of the right of asylum. The same holds true for other policy principles. There has, for instance, been widespread agreement that Swedish asylum policy should be generous and humane whereas opinions have diverged when it comes to understandings of what this should mean in terms of actual policy.

Struggles over the meaning of key terms have thus been one significant component of debates on migration policy. Another component, which I have already hinted at, is the aspects of categorization that revolve around more practical matters. A considerable part of the debate has for example circled around the Migration Board’s assessments of asylum claims. These discussions, to be more precise, have consisted in efforts to contest or defend assessments that have been made either regarding the refugee status of individuals or groups. In other words, whereas there has been consensus – following the principled recognition of the right of asylum – that refugees should be granted asylum the estimations of concrete cases have been one of the main points of contention in the debates during the last decades.

Historically, that is to say, one core component of conflicts over migration policy has been efforts to advance principles and hegemonize a particular interpretation of their meaning. Another, furthermore, has been efforts to contest the rulings in individual cases. One of the overarching aims of this study is to investigate whether the debates that followed in the wake of the appearance of the irregular migrants contain openings for other forms of contestation and conflicts. The study’s analytical point of entry is that the group’s appearance constitutes a dislocation and that it as such entails a reactivation and an opening for change. However, again following discourse theory, it is also reasonable to assume that this opening is limited and that most of the social order remains sedimented. This study aims to explore how sedimented.
Concluding Remarks

The aim of this chapter has been to contextualise the debates that will be analysed in the consequent three chapters. This has entailed, first, an overview of the Swedish approach to migration control and how it has evolved over time. This overview has shown that Swedish migration policy is marked by both change and continuity. Change in the sense that legislation has undergone a number of significant shifts, both with regard to policy as such and with regard to the assumptions that underpins it, since the adoption of the first Aliens Act. Continuity, furthermore, in the sense that the most fundamental assumptions have remained uncontested over time. The chapter opened with a brief summary of the policy development during the 20th century. This discussion showed that policy has shifted considerable both with regard to the scope of control (from restrictive during the interwar period to liberal during the hey days of labour migration and then back to a more restrictive approach again from the 1980s and onwards) and with regard to the forms of immigration that has been encouraged. One important shift that was highlighted was the virtual termination of labour migration in 1972 and the successive shift towards granting residence permits on grounds of asylum and family reunification. The overview of policy development ended with a section in which I disentangled some of the main components of the restrictive turn. I argued that the recent move towards a more restrictive asylum policy is the combined effect of both national and international factors. With regard to national policy, stricter criteria for asylum and family reunification, as well as a reduction in the scope for humanitarian exceptions, have together made it harder to qualify for residence permits and led to higher rate of refusals. Moreover, international cooperation on visa requirements has made it more difficult for people to apply for asylum in the first place. The overview of policy development was followed by some remarks about the recent politicization of migration in Sweden. In this chapter I have situated this politicization, that has entailed the replacement of consensus with conflict from the mid-1980s and onwards, in relation to disagreement over the move towards a more restrictive policy. Initially, this dissensus led to the formation of two blocs that related to the restrictive measures in opposite ways. One (dominant) bloc found them necessary whereas the other bloc was highly critical. Later, with the instatement of a labour migration regime, the political dividing lines became more complex. Further complexity was added after the election in 2010 when the Sweden Democrats first took seats in parliament.

The latter part of the chapter, furthermore, culminated in an outline of the framework within which contemporary debates on migration take place. This was divided into three parts in which I discussed the Swedish logic of control, the system for categorization and the scope for conflict. With regard to the logic of control, I argued that it has undergone a shift during the 20th century.
Initially, control measures were justified with reference to cultural and racial concerns but over time these have been downplayed and inclusionary ambitions have become the overarching justification for migration control. In the chapter I argued that this development was coterminous with a new articulation of nationalism. More precisely, the successive replacement of an ethnic understanding of the nation with a more civic understanding. This form of nationalism underpins the contemporary logic that holds regulated immigration to be necessary and justified in order to safeguard the welfare of a demarcated community. The identification of this logic was followed by a discussion on the framework for categorization and its underpinning assumptions about bases of desert. With regard to these, I argued that migrants qualify as “desirable” either through being needed or through being worthy. Furthermore, I concluded that the “undesirable” migrants make up a residual category as it is primarily defined in relation to the other categories. Accordingly, the migrants who are not considered sufficiently worthy or as potentially burdensome fall within this category. Finally, I reflected on the scope for conflict in parliamentary debates. These have historically, I argued, been structured around the interplay between generally recognized principles – most importantly the principle of regulated immigration and the rights of asylum – and the different interpretations of their meaning.
4. THE POLITICIZATION OF IRREGULARITY AND THE DEMARCATION OF A PROBLEM OF RIGHTLESSNESS

This thesis sets out to explore how irregular migration and irregularity has been politicized in Sweden. This process was initiated in the last decades of the 20th century when the circumstances of “hidden refugees” – a group of rejected asylum seekers in hiding – first started to receive attention in civil society, the media and by politicians. In the wake of this initial attention a political problem in need of address started to crystallize. The starting point of the analysis is that this “discovery” of the group – or, to be more precise, their precarious circumstances of living – constitutes an instance of what discourse theory refers to as dislocation. In this case, I argue, the dislocation consisted in a disruption of the understanding of Sweden as an inclusive and equal society that secures all residents an acceptable standard of living.\(^7\) The exposure of the vulnerability and rightlessness of the group, and the difficulties of reconciling it with notions of a comprehensive welfare state, accordingly gave rise to attempts to make sense of and respond to the situation. In the subsequent parliamentary debates on the topic, two issues in particular moved to the forefront. The first was the issue of whether the irregular migrants should be granted residence permits. The second was the issue of whether people who reside in the country without authorization should be granted rights and, if so, what the scope of these rights should be. These particular

\(^7\) However, I contend that it is possible to read the appearance of irregular migrants as a dislocation in other senses as well. From a broader perspective, the appearance of irregular migrants can, for instance, be regarded as a dislocation of the very practice of regulation. The group sheds light on the inability of the state to enforce its decisions and de facto control over who resides in the state. Historically, as pointed out by Hammar, Sweden has had a record of enforcing deportations (Hammar 1999:189). Accordingly, one can argue that a situation where increasing numbers of people are making the choice to disregard from authority decisions constitutes a rupture.
debates will be explored in the consequent two chapters. This chapter will instead analyse the overarching framework for the politicization of irregularity and irregular migration in Sweden in the 2000s. This, first and foremost, entails an analysis of how irregularity has been constituted as a political problem and of the different articulations of the problem.

The chapter is divided into four parts. The first part provides a short background to debates and policy-making in the 1990s. The analysis of this thesis is, as previously argued, focused on the development that took place during the 2000s. Yet, as the dislocation and initial politicization took place already in the late 20th century I have found it warranted to make some brief remarks about this period as well. The second part of the chapter explores the demarcation of a problem and sketches its main components. Thereafter, in the third part, I turn to an analysis of the struggles over categorization. These struggles, which essentially consist in efforts to make sense of the composition of the group and the legitimacy of its claims, are important as they are intertwined with various readings of the problem. The fourth part, finally, analyses the successive broadening of claims-making and accompanying attempts to institute new forms of desert. In this part of the chapter I will also explore the gradual replacement of the term gömd with papperslös.

The Formation of a State Approach

The circumstances of “hidden refugees” in Sweden started to be discussed – and became subject of policy formulation – already in the late 20th century. These discussions form the backdrop of the politicization that took place in the 2000s. Both in the sense that it was at this point that irregularity was constituted as a political problem and that it was during this period that the state’s approach to irregular migration started to crystallize. A complete analysis of this early politicization falls outside the scope of this thesis. I will however provide a short introduction to the formation of a state approach as I consider this process key to understanding the positions taken in the debates in the 2000s. This approach is detected through a reading of key reports and

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80 Helena Holgersson’s dissertation provides some insights about the scope of this early politicization. Her study incorporates a minor investigation of the occurrence of three terms – “hidden refugees”, “papperslös” and “illegal immigrants” – in the Swedish parliament and selected media over three decades. Holgersson’s compilation shows that there were scattered references to irregular migrants already in the 1980s. Furthermore, her findings suggest that there are recurring references throughout the 1990s. Judging from the number of references, the debate seems to have been particularly intense in 1994-1996 (Holgersson 2011:123;125). However, it should be noted that it is not entirely clear how the survey was conducted. More precisely, it remains unclear whether the references included in the study refer to discussions about conditions in Sweden or whether there are also references to the situation of irregular migrants in other countries. The fact that she finds references in the media to the term papperslös long before the breakthrough of this term in the Swedish debate suggests that this is the case.
proposals from the period. This analysis is fragmental but I still contend that it provides an important background to the debates studied in this thesis. More precisely, I will discuss three reports (out of which two are commission reports) and two government bills that are indicative of initial responses to the problem of irregularity. The starting point of the considerations in all of the documents in question was the situation of children in hiding.

The circumstances of this group were attended to already in the mid-1990s by a parliamentary commission that had been appointed to review the Aliens Act. In its final report (SOU 1995:75, Svensk flyktingpolitik i ett globalt perspektiv), published in 1995, the commission briefly discussed the situation of children in hiding. The rather brief consideration revolved around the vulnerability of the group – mental health problems and the lack of medical care were argued to be particularly worrisome – and how the state should address it (SOU 1995:75:236-37). The consequent government bill (Prop. 1996/97:25, Svensk migrationspolitik i ett globalt perspektiv) also contained references to undocumented children. Again, the harsh living circumstances of this group were acknowledged. However, although the gravity of the situation was acknowledged, the government rejected all short-term measures that could ease the burden on the group. Calls for access to health- and medical care for undocumented children were for instance rejected with reference to that further investigations were required (Prop. 1996/97:25). Instead, the bill highlighted the importance of considering long-term effects and stressed the need for preventive work. In accordance with this, it was argued that efforts to improve the situation of undocumented children must focus on preventing that hiding “becomes a part of the efforts to get a residence permit” (ibid.). The government’s overall argument was that it is crucial that decision-making is considered to be predictable and consistent in order to foster compliance with decisions. Moreover, large-scale measures that grant residence permits on humanitarian grounds were explicitly rejected with references to that this would reduce the willingness to accept negative decisions (ibid.).

The situation of undocumented children was also considered by the commission (known as the Children’s Committee [Barnkommittén]) responsible for investigating the implementation of the UN Convention on the Rights of the Child. The commission’s final report (SOU 1997:116, Barnets bästa i främsta rumnet – FN:s konvention om barnets rättigheter förverkligas i Sverige) published in 1997 contained conclusions regarding the state’s obligations towards undocumented children under the convention. According to the commission’s interpretation, the state had a responsibility to guarantee the basic needs of this group. This responsibility was however argued to be more limited compared to the state’s responsibility for children who resided in

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81 The process of implementing the convention and the policy debates that have accompanied it will be further discussed in Chapter six. For now, suffice it to say, the commission was appointed in the wake of the ratification of the convention in order to investigate how it should be incorporated into Swedish legislation.
the country legally (SOU 1997:116:69). More concretely, this limited responsibility should, the commission argued, be interpreted as a responsibility to provide health- and medical care on terms equal to that of other children (ibid.:31). The subsequent bill (Prop. 1997/98:182, Strategi för att förverkliga FN:s konvention om barnets rättigheter i Sverige) contained similar conclusions regarding the state’s responsibility for the group (Prop. 1997/98:182:12). Furthermore, in addition to stressing the state’s limited responsibility, the government also emphasized that it would be inconsistent to grant undocumented children full rights as this would mean that different parts of the state would have to operate in opposite directions. Rather, the bill, echoing the bill from the year before, highlighted the need for long-term preventive work (ibid.:12-13).

These reports and bills are indicative of how irregular migration was discussed in the late 1990s. Most importantly, they are illustrative of the focus on children that prevailed during this period. The documents discussed thus far suggest that there was an awareness of the dire circumstances of undocumented children. These circumstances, moreover, were considered to be worrisome and in potential need of intervention from the state. The concerns also resulted in several government appointed investigations into the conditions of undocumented children. The result of one such investigation was published in 1999 with the title When children live hidden [När barn lever gömda]. The investigation, carried out by the National Board of Health and Welfare [Socialstyrelsen] together with the Migration Board, had been appointed with the instruction to examine the scope and causes of the phenomena, i.e. children going underground to avoid deportation, as well as to, if found warranted, make policy recommendations (SoS-rapport 1999:5).

The report’s conclusion echoed those of the commission reports and the bills. Again, the primary recommendations circled around preventive measures in the asylum process (such as shorter waiting times and a more thorough processing of applications) and again it was underlined that it was important that the state adopted a uniform approach. Furthermore, the report repeated the conclusion that undocumented children should be given access to health- and medical care and argued that their access to schooling should be further investigated (SoS-rapport 1999:5:8).

I contend that it is possible to discern the contours of the state approach in these reports and bills. This approach entails a formal recognition of the hardships that undocumented children suffered from and an expressed ambition to decrease their suffering. The response, moreover, was long-term preventive work, while measures such as regularisation, that would have eased the situation for this group in the short term, were explicitly rejected. The state

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82 The report was a follow-up to a similar report published in 1994. Interestingly, the second report argues that the group of undocumented children in Sweden is significantly smaller in the late 1990s compared to the early 1990s (SoS-rapport 1999:5:8).
approach rather rested on the assumption that the state needed to act consistently and that different authorities needed to act in a uniform way.

**The Politicization in the 2000s**

The initial demarcation of a problem thus took place in the 20th century. This meant that there was already a vocabulary – the group was commonly referred to as “hidden refugees” [gömda flyktingar] – and a set of readings of the problem in place at the turn of the millennium. The term “hidden refugees”, which evokes associations to a failed asylum policy, already hints at one of these. According to this reading, advanced in a number of motions and in parliamentary sessions, the group is made up of refugees whose applications for asylum have been rejected because of unduly strict evaluations by the Migration Board. A competing reading, roughly corresponding with the one made in the reports and bills discussed above, rejected claims for refugee status and furthered the understanding that the problem consisted in a lack of clarity and consistency in the asylum process. Initially, i.e. during the first years of the 2000s, the circumstances of irregular migrants were not a matter that received much attention in the parliamentary debates. The existence of the group was known, and a state approach had been formulated, but the level of attention was relatively low. Motions were filed every year and there were recurring discussions – often brought about by questions and interpellations from individual MPs – about the “hidden refugees” and their situation. Overall, however, interest was low and the general discussion was limited to a few references in conjunction with the recurring debates on migration policy. Thereafter, there was a gradual intensification – visible in a growing number of references in the debate and an increase in motions – of both discussions and claims-making.  

**The Conceptualization of the Problem**

The initial debates and claims-making were, following the trajectory of the 1990s, focused on children. Consistent with this focus, conceptualizations of the problem tended to revolve around the suffering of undocumented children and their dire living circumstances. The children, it was argued, were “exposed to protracted mental torture” as their lives were marked by “lack of knowledge, fear and insecurity” (Addr. 98, Per Lager (mp), 1999/2000:93). Moreover, it was highlighted that these children did not have access to “the

\[83\] Again, Holgersson’s compilation is useful. According to her study the major breakthrough can be found in the mid-2000s when there is an increase of references in both the parliamentary debates and the media. The development is most visible in the media where Holgersson finds an increase from about 200 references in 2000 to about 600 references in 2005. Thereafter she identifies a further increase to about 2,500 references in 2008 (Holgersson 2011:123;125).
rights that we take for granted for all other children” (ibid.). The fact that this
group of children were denied the rights attributed to other children was
recurrently singled out as a violation of the Convention on the Rights of the
Child. The focus on children diminished with time as the discussions and
claims-making were widened to include undocumented adults as well. The
same components – i.e. fear, vulnerability and exclusion from rights –
however continued to appear in problem descriptions. This is manifest in the
following quotes that are exemplary of how the problem of irregularity was
articulated in the early 2000s:

Today’s hidden refugees do not only live with the fear of being sent back to
their native countries where maybe torture or imprisonment awaits them, or
having their families split up; they are also rightless without access to e.g.
medical care, dental care or schooling for their children. No human being
should have to live under such circumstances in a democratic society such as
the Swedish (Motion (m), 2000/01: Sf8).

There are people who live in constant fear of being discovered and deported.
These people are on the run from the police although they have not committed
any crime and are not criminals. They live completely without the safety net
that the rest of us have access to (Motion (fp), 2000/01:Sf695).

Again, that is to say, the representations of the group revolved around fear –
fear of detection and fear of consequent return – and the lack of rights along
with exclusion from the welfare state. These components continued to appear
in descriptions of the problem also in subsequent debates. This is, I argue, a
reflection of the fact that the basic conceptualization of the problem, i.e. the
basic components of the problem description, remained more or less the same
over time.

A Problem of Rightlessness

This conceptualization of the problem, more precisely, has rested on the
linking of a range of distinct forms of exclusions and denials of rights. These
different components of the problem – that together make up what I will refer
to as the problem of rightlessness – will be identified and further discussed in
this section.

Exclusion From Society

To start with, there has been a consistent tendency in the parliamentary
debates to highlight the dividing line between “our” society – in the sense of
us legal residents – and the parallel society where undocumented migrants
reside. The latter has often been coupled with the term “shadow”. One
example is an instance where it was suggested that the group “lives in a kind
of shadow world without safety and security” (Motion (v), 2006/07:Sf251), another when it was argued that the group “lives in the shadow of our society without rights and under constant fear” (Addr. 183, Christina Höj Larsen (v), 2010/11:10). Yet another example is the claim that irregular migrants live in the “twilight zone [skymningslandet]” as they live “in the shadows, in basements and corners” (Addr. 10, Peter Eriksson (mp), 2005/06:3). The life in the shadows was, furthermore, recurrently described as a form of “nonexistence” where one is “shielded from the on-going ordinary everyday life” (Motion (m), 2005/06:Sf329). Moreover, it was emphasized that a shadow existence entails a life outside the law and the “security that comes with belonging to a society” (Addr. 87, Kalle Larsson (v), 2004/05:40). Living hidden was accordingly described as the “ultimate form of vulnerability, excluded from all the functions and securities of society that the rest of us take for given” (Addr. 3, Sven Brus (kd), 2005/06:3). The defining feature of this parallel society, in conclusion, was thus the absence of protection from authorities and the lack of security and vulnerability that was taken to follow from it.

**Fear and Mental Distress**

Another recurring component in representations of irregular migrants in these debates was the psychological effects of irregularity. First, there were recurring references to mental suffering in representations of irregular migrants. This tendency is, for instance, reflected in the observation that the group consist of “persons who are under severe mental pressure” (Addr. 39, Lars Lindblad (m), 1999/2000:99). Another example is a remark that highlights the “tremendous psychological distress” that marks the life of irregular migrants (Addr. 3, Bodil Ceballos (mp), 2007/08:83). Furthermore, references to fear were a recurrent component in these representations. This tendency is visible in statements where it was argued that irregular migrants “live in constant fear of detection and deportation” (Motion (fp), 2000/01:Sf605), that they “constantly feel chased” (Addr. 39, Lars Lindblad (m), 1999/2000:99) and that their existence is marked by “concerns about deportation” (Motion (m), 2005/06:Sf329). Given that the irregular migrants first appeared in the debate as “hidden refugees” the focal position of fear – fear of being discovered and sent back to the country one have escaped from – in depictions of the state of irregularity is rather unsurprising.

**Absence of Legal Protection**

Emphasis on fear was thus a common theme in many representations of irregular migrants. Constant fear, with its corresponding lack of mental well-being, was in itself articulated as detrimental but was also linked to lack of safety and to exposure to violence and abuse. More precisely, in the sense that fear was argued to make irregular migrants reluctant to claim their rights.
Denial of rights, or lack of rights, was the most recurrent theme in discussions about the circumstances of irregular migrants. Somewhat simplified, the invoked rights violations were of two kinds. A first category consisted of violations that occur because undocumented migrants are unable to claim certain rights. More precisely because they, out of fear of deportation, abstain from turning to the authorities. One example of this, which was mentioned in the debate, is the inability to report to the police when one becomes the victim of a crime:

Many are abused, subjected to sexual harassment and sometimes even rapes. They cannot turn to society for support even if they become victims of crime, and what is worse is that they often do not dare to report the perpetrators to the police. The papperstösa lack the protection provided by our laws (Motion (s), 2006/07:Sf228).

The quote is exemplary of one form of vulnerability that was taken to follow with unauthorized residency. The existence of irregular migrants was correspondingly described as "lawless" (Motion (mp), 2005/06:Ju365) and "rightless" (Motion (mp), 2005/06:Sf252) with reference to that they, in practice, are unable to turn to the police. The example presented so far is exposure to (sexual) violence. Another frequently invoked example of a crime that is made possible because of reluctance to stand up for one’s rights was violation of labour legislation.

**Exploitation in the Labour Market**

The irregular migrants’ vulnerable position in the labour market was a recurrent theme in the parliamentary debates. This was reflected in statements that claimed that the group was “exploited in a labour market without right” (Motion (mp), 2005/06:Sf252) or that they were “completely exposed to the discretion of the employer” (Motion (s), 2005/06:Sf347). Concordant with this, the irregular migrants were characterized as an “exploited group that is pushed around in the labour market” (Motion (v), 2006/07:Sf251). The circumstances were understood to be severe enough to warrant that the “long hours of duty in an unsafe environment” be compared to conditions of slavery (Addr. 17, Fredrick Federley (c), 2007/08:83). This vulnerability was often linked to fear of deportation and it was argued that irregular migrants abstain from reporting exploitation in the labour market due to the risk of being sent out of the country. A representative example is the statement that “people are forced to accept harmful working conditions and a poor wage because the threat of deportation discourages them from making demands” (Motion (mp), 2005/06:Sf252).
Denial of Social Rights

Exposure in the labour market, and exposure to abuse more generally, are two examples where irregular migrants are exempted from the protection offered by society because they are reluctant to claim rights that they are principally entitled to. There was however another form of rights violation that was invoked repeatedly in the parliamentary debates. In the examples discussed so far, fear of deportation prevents undocumented migrants from enjoying rights that they actually hold. The rights violation I will now turn to is different and consist in the exclusion from social rights. That is, exemption from eligibility to the rights of the welfare state. The exclusion from welfare provisions was recurrently articulated as one of the worst consequences of going into hiding as this leaves individuals outside the safety nets of the welfare state. This exclusion was described as being “left out of the social system” (Addr. 47, Gustav Fridolin (mp), 2004/05:40), being “outside the entire social safety net” (Motion (mp), 2005/06:Sf252) or as living “without the social security the rest of us are used to” (Addr. 2, Kalle Larsson (v), 2007/08:43). Often this form of exclusion was described in rather general terms and it was left unspecified which concrete rights the undocumented migrants were excluded from. When specified it was access to two key public services, schooling and medical care, that were brought forward to exemplify the denial of social rights. These are also the forms of rightlessness that has been most heavily debated.

In conclusion, the problem of irregularity can be decomposed into several different components. I argue that the common denominator of these is that they all spring from irregular migrants’ exclusion from membership and its privileges. The overview has shown that denial of rights is the most predominant theme in descriptions of the problem over the years. Concordant with this, I argue that the problem of irregularity has been articulated as a problem of rightlessness. This articulation, furthermore, has rested on a linkage of various forms of rights violations that range from formal denial of rights to de facto denial of rights.

This articulation has, as already argued, remained predominant over the years. This means that debates about irregular migrants continually have started from the assumption that it is the precarious circumstances of the group that are problematic and in need of address. I contend that this largely is an effect of the fact that the debates most often has been initiated by actors that advocated on behalf of irregular migrants. Other participants in the debates, that often took a reluctant stance towards measures that would give the group access to membership or rights, accordingly had to respond to this formulation of the problem. In these cases, hence, the recognition of the circumstances of irregular migrants as worrisome and problematic did not come accompanied with an affirmation of the legitimacy of their presence or a willingness to grant them rights. On the contrary, a common response was to express regret over the situation at the same time as the rationality of the policy that produced it.
was defended. That is however not to say that attempts to establish the presence of irregular migrants as such as a problem have not been made during the 2000s. Such efforts have been particularly frequent and blatant after 2010 and the Sweden Democrats’ entry into parliament. The party made continuous attempts to discredit the group and establish its presence as a problem. These efforts have however remained unsuccessful so far.\footnote{Moreover, in addition to this, it should be noted that an analysis of other material might had shown other results. The group not only attracted the attention of civil society organizations. Parallel to this, parts of the state apparatus – first and foremost the Migration Board and the police – noted that a rising number of people ignored rejection orders and went underground. It is possible to discern formulations in reports and committee statements that express worries over this development. However, this conceptualization of the problem remains an undercurrent in the parliamentary debate. When the situation of irregular migrants is discussed in parliament it is brought about by concerns over precarity and exclusion.}

The fact that it was the circumstances of irregular migrants – rather than their presence as such – that became subject of political debate is significant from a comparative perspective. A systematic comparison with other countries is beyond the scope of this study. However, judging from the results from previous studies on the politicization of irregular migration in Europe, the conceptualization of the problem in the Swedish debate is somewhat different compared to those in parallel debates in other countries. Scholars have identified the 1990s as the starting point for the politicization of irregular migration in Europe (Vollmer 2011:278). During the 2000s, furthermore, irregular migration became an issue of priority in the EU and in many of its member states the topic received a lot of media coverage (Triandafyllidou 2010:1). Studies have shown that the predominant starting point of political debates, as well as media coverage, in many European states was that irregular migration – in these contexts often referred to as illegal migration – constituted a threat. This conceptualization rested on a linkage of irregular migration to a range of more or less related issues, such as shadow economies and the informal labour market (ibid.). Furthermore, in many countries there has been a tendency to frame irregular migration as a security issue (Huysmans 2006). Finally, scholars have argued that the politicization of irregular migration has tended to come accompanied by attempts from politicians to take a tough stance on the matter (Triandafyllidou 2010:1).

**Making Sense of Rightlessness**

The constitution of the above described political problem was subsequently followed by efforts to make sense of and respond to it. In these political struggles, a number of competing readings of the problem, which rested on different understandings of the situation and its causes, were advanced. The problem was, in its most fundamental sense, consistently articulated as a problem of rightlessness. This articulation rested, as argued in the previous section, on the linkage of several distinct forms of exclusions and denials of
rights. This diversity was also reflected in the readings of the problem that, I argue, can be divided into two broad strands that accord with two ways of articulating a wrong. Most fundamentally, it was two consequences of policy and practice that became subject of indignation and criticism in the wake of the appearance of the irregular migrants. The first is the denial of legal status and the second is the lack of rights granted to those who lack legal status. Concordant with this, the two strands of readings constitute the problem either as an effect of the denial of legal status or as an effect of the denial of rights to those without legal status. These readings, furthermore, were subsequently followed by two demands – for amnesty and for access to basic social rights – that corresponded with the two readings.

These demands, moreover, are representative of two distinct strategies to secure rights to irregular migrants. The first strategy, associated with demands for regularisation, seeks to establish irregular migrants as right-bearers through addressing their lack of legal status. That is to say, it secures rights via the legal status and the set of rights that follows with it. The second strategy, associated with demands for social rights, seeks to establish irregular migrants as right-bearers through an expansion of the set of rights that is granted to all residents regardless of their legal status. Or, to put it differently, this strategy gives the category undocumented migrants access to rights. Demands for provision of medical care and schooling, as well as the ability to access public space without fear, all fall within this latter strategy. The fundamental difference between the two strategies thus originates in how they relate to legal status. The implications of the two strategies are consequently also different both with regard to effects for individual migrants and effects on the citizenship regime. These two strategies will be further explored in the consequent two chapters where I analyse the debate about amnesty and access to social rights. In the remainder of this chapter I will continue to explore the attempts to make sense of and respond to the problem of irregularity. First, I will analyse the debates which addressed the composition of the group. These essentially revolved around whether the former asylum seekers in hiding were refugees or not. These struggles became a focal point in the early 2000s as the question of status was intertwined with an evaluation of the legitimacy of the presence of the group. Second, I will analyse the shift in claims-making that took place in the second half of the 2000s. This entailed a broadening of the target group through the incorporation of irregular migrants that had never applied for asylum in calls for regularisation and social rights. This shift also

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85 This distinction is, I underline, purely analytical. In the debates and claims-making the two forms of readings consistently appear side by side and are thus not mutually exclusive.

86 This corresponds to a distinction made by Linda Bosniak between issues regarding final status and interim treatment. The latter concerns the conditions of people who resides in the country without state authorization and the former the possibilities for the same group to legalize their stay (Keynote speech delivered at the PROVIR closing conference in Bergen, November 2014).
went hand in hand with the introduction of new terminology and the gradual replacement of the term “hidden refugees” [gömda flyktingar].

**Struggles Over Categorization**

From the start, the irregular migrants’ disputed status – in essence: whether they were “proper” refugees or not – formed a focal point in the parliamentary debates. This was partly due to the fact that an understanding of this status formed a key component of different readings of the problem. First and foremost, however, I argue that the intense efforts to make sense of the group must be understood against the backdrop of migration control and its mechanism. The struggles to determine the status of the irregular migrants were, I argue, struggles over categorization. Categorization, in this context, refers to practices that serve to distinguish between different categories of migrants with the purpose of determining the legitimacy of their presence. These practices are, as emphasized in previous chapters, deeply entwined with notions about sovereignty and the need for migration control. Not the least because categorization, as practices of distinction, constitutes one of the fundamental pillars of the policy of regulated immigration.

The debates in the Swedish parliament started, as already highlighted, from a universally shared conviction that a policy of regulated immigration is legitimate and necessary. This in turn meant that the discussion started from the shared assumption that a selection process was warranted as not all prospective immigrants could be allowed to stay in the country. I contend that the shared conviction regarding the need for selection forms the backdrop of the attempts to determine the status of the irregular migrants. Furthermore, the focus on refugee status is logical from the perspective of the policy that was in place at the time. Before 2008, when more liberal legislation on labour migration was adopted, the principal path of entry to Sweden was through refugeehood or kinship. In line with this, prospective immigrants needed to prove that they were refugees, and thus worthy of protection, to render their stay in Sweden legitimate.

Struggles over categorization, furthermore, are intertwined with terminological struggles. The use of terms, and naming in particular, is intrinsically political as terms are associated with different discourses and thus come with distinct ways of comprehending the world. This means, in the context of the debates in question, that the use of terms is central to any representation of the group as it contributes to establish an understanding of the group and its composition. Furthermore, as terminology is bound up with

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87 In Chapter two, to recapitulate, I argued that categorization comes in both an institutional and representational form. The focal point of the analysis at hand is the latter form of categorization. These discussions however took off against the backdrop of a discontent with authority decisions (i.e. institutional categorization).
notions of desert and legitimacy, it also comes with implications for how claims on behalf of the group are received. Denominations are particularly important in relation to migrants as it is determinative of treatment (cf. Guild 2009:13). The categorization “refugee”, for instance, is associated with a moral imperative to provide protection whereas the categorization “economic migrant” on the other hand provides the state with a reason to renounce responsibility. In the remainder of the chapter I will explore the struggles over categorization and the accompanying struggles over terminology. I will first discuss the debates on refugeehood and the efforts to affirm or renounce claims for refugee status. Thereafter, I will broaden the discussion and analyse struggles to establish legitimate presence beyond refugeehood.

**Debating Refugee Status**

The general assumption in the early 2000s was that the irregular migrants were former asylum seekers that had gone underground to avoid deportation. Consistent with this, efforts to make sense of the rising rates of refusals took central scene in the early parliamentary debates. One of the key points of contention was whether the group’s claims for asylum were well-grounded or not. According to one reading, the irregular migrants were refugees whose applications for asylum had been denied because of a restrictive policy and practice. This reading, advanced by the asylum rights movement and its allies in parliament, was however countered by other readings that rested on the dismissal of claims for refugee status. Furthermore, one of the core components of these readings consisted of accounts of why people had decided to go underground. These accounts, that I refer to as rationalities of hiding, will be discerned in the following section as I analyse the attempts to affirm and renounce claims for asylum.

**Affirming Claims for Refugeehood**

According to a first strand of readings, the people in hiding have chosen to go underground because they have genuine grounds for asylum and consequently also valid reasons to fear a return to their countries of origin. Concordant with this reading, fear was continually invoked in the parliamentary debates to confirm the truthfulness of the irregular migrants’ claims for asylum. This tendency is for example manifest in the argument that people do not go underground because “they think it is funny or because they want to cause trouble”, but because “they feel that they cannot return, do not dare to return and that it is not possible to return” (Addr. 42, Kerstin-Maria Stalin (mp), 1999/2000:99). Furthermore, as the following quote is indicative of, this strand of readings rested on a critique of the processing of asylum applications:
Many of those who today, for various reasons, reside in Sweden after having their applications for asylum rejected actually have sufficient reasons to get protection in Sweden, both in accordance with Swedish legislation and in accordance with international conventions that Sweden has undertaken to abide by (Motion (c, fp, kd, mp, v), 2004/05:Sf32).

The quote is exemplary of how going underground was articulated as a result of the authorities’ reluctance to recognize people’s refugee status. This, in turn, was recurrently linked to a broader critique of the processing of asylum applications. The asylum process was recurrently held out as insufficient from a legal point of view and it was argued that “as long as we have an asylum process that fails to guarantee due process, there will be people who hide out of fear of having to return to their former homeland” (Addr. 21, Anne-Marie Ekström (fp), 2003/04:24). There was thus a tendency in the debates to highlight institutional malpractice, and lack of due process in particular, as a decisive factor to account for the rising number of former asylum seekers in hiding. The asylum process was continually argued to fail to live up to the requirements for rule of law and and it was argued that it had “abused” people (Addr. 85, Kalle Larsson (v), 2004/05:40).

There was also a continuous tendency in the debates to invoke the sufferings associated with living underground in order to affirm claims for refugee status. Given the “risks to their mental and physical health”, it was argued, people do not go underground for any insignificant reason but because they “obviously are very afraid of what awaits them” if they were to return (Addr. 39, Lars Lindblad (m), 1999/2000:99). According to this line of argumentation, hence, the very fact that people are hiding from the authorities constitutes evidence of the truthfulness of their claims. The following quote is exemplary of how current suffering was mobilized to verify refugeehood:

To live hidden is associated with the worst form of exposure […] In order to expose oneself and one’s children to this you have to have a very marked fear of the alternative, a fear as well-founded as any fear can be (Addr. 3, Sven Brus (kd), 2005/06:3).

As the quote above attests to, life as an irregular migrant was argued to be so harsh that fear of the alternatives is the only thing that can explain why people choose to stay under these circumstances rather than leave after having their applications for asylum turned down. The fact that the irregular migrants choose an underground existence, despite all the hardships this entail, was thus in itself turned into evidence of their status as proper refugees. Staying in the country irregularly, it was argued, is not something anyone would choose to do if they did not lack all other options.

This strand of readings was intimately associated with references to the group as “hidden refugees”. The use of this denomination in this particular
way was integral to the construction of a moral imperative to recognize the group as real refugees despite their formal lack of such status. The term “hidden refugee” was thus purposive as it served to establish a link between the status of irregular migrants and the – allegedly wrongful – treatment they had received by Swedish authorities.

**Renouncing Claims for Refugeehood**

This strand of readings, that represents irregular migrants as refugees, was questioned from the start. In an early debate about former asylum seekers in hiding, taking place at the turn of the millennium, the Minister of Migration Maj-Inger Klingvall brushed aside claims for refugee status, as well as the use of the denomination “hidden refugees”, with reference to the examination of grounds of asylum that had taken place:

> This is about aliens [utlänningar] who have applied for asylum or residence permit in Sweden, who have been tried and who have not been found to be in need of protection from persecution or for other reasons be allowed to stay in Sweden. He or she should thus as soon as possible leave the country (Addr. 1, Maj-Inger Klingvall (s), 2000/01:65).

The quote is exemplary of how a parliamentary majority recurrently dismissed calls for recognition of refugee status on formal grounds. Since trial has taken place, and people have been denied residence permits by the Migration Board, they can, by definition, not be refugees. This argument thus rests on a strong affirmation of the judicial process and the stated conviction that “the one who is a refugee – in the legal sense” is given protection in accordance with international obligation and the Swedish Aliens Act (Addr. 38, Maj-Inger Klingvall (s), 1999/2000:99).

First and foremost, hence, the rejected applications for asylum were invoked to contest claims for refugee status. In addition to this, readings that presented alternative rationalities of hiding were advanced by those who objected to the use of the denomination refugee. These competing readings challenged the idea that the choice to go underground in itself constituted an affirmation of refugeehood. The following quote is indicative of the basic line of argumentation:

> Those who are hiding do not want to return to their native country, but want to stay in Sweden. Naturally, there might be various reasons to why they do not want to return home [...] But we have a regulated immigration, and that means that not everyone can stay – not everyone who wants to can stay (Addr. 29, Maud Björnemalm (s), 2000/01:104).
In this particular case, no other factors were explicitly presented. The message was simply that there were other reasons than fear of persecution that could explain why people preferred to go underground rather than return to the country of origin. In the debate at large, however, it was recurrently suggested that people were reluctant to return because they dreaded the poverty and destitution that awaited them at return. This assumption was for example repeatedly voiced in the more general debate over the rising rate of refusals\textsuperscript{88} where a recurring argument was that a growing number of asylum seekers lacked proper grounds. According to this reading, hence, it was not changes in policy or practice that were considered to have resulted in a rising rate of refusals but rather a shift in the composition of the asylum seekers. More people, it was argued, got their applications turned down because they failed to fulfil the criteria spelled out in the legislation. The following quotes are exemplary of this reasoning:

Among the asylum seekers only a few have proper grounds for asylum. The majority – and this is probably a fact – buy a journey to the West from a smuggler in the hope of generally speaking, a better life (Addr. 1, Gustaf von Essen (m), 2000/01:104).

Today fewer people are estimated to have grounds of asylum by responsible authorities. To an increasing extent, other reasons cause people to leave their homeland with the hope that another country will offer better conditions. This changed mobility among people [...] is by many taken as an indicator of harsher policy and a change of praxis (Addr. 11, Göte Wahlström (s), 2004/05:99).

The quotes above are representative of the dominant way of refuting claims for refugeehood and accusations of restrictiveness. They are also, moreover, illustrative of a tendency to single out improvement of life chances as an alternative cause for migration. This alternative rationality of hiding rests on the assumption that people go underground because they do not want to return to (materially) inferior conditions in the country of origin. This reading, that is to say, thus advances the gap between circumstances in Sweden and circumstances in the country of origin as an alternative mechanism to fear.

\textsuperscript{88} In the early 2000s there was an intense discussion over the rising rate of refusals and whether these should be interpreted as indications of a restrictive turn. This discussion was wider than the one analysed in this chapter as it concerned a broader group of asylum seekers whose applications had been denied and not only those who had chosen to go underground. Yet, I argue that it provides important clues to this discussion.
Legitimacy Beyond Refugeehood

The struggles over categorization were, as already emphasized, closely intertwined with efforts to establish the irregular migrants’ presence and claims for rights as legitimate. Initially, this more or less amounted to trying to demonstrate that the group consisted of refugees whose applications had been rejected despite grounds for asylum. This strategy was, I argue, only logical given that the group and its circumstances were first attended to in conjunction with a broader critique of the then-current asylum policy. Over time, however, alternative strategies to establish desert started to appear in the debates. For starters, an alternative reading of the problem — that articulated the irregular migrants as potential workers that should be allowed to enter as labour migrants — started to be advanced in the early 2000s.

This strand of readings was the result of attempts to link the burgeoning debate on irregular migrants to demands for increased opportunities for labour migration. More precisely, the advocates of reform advanced the argument that a more flexible labour migration regime would constitute a long-term alternative to a general amnesty. The opening of a new “path” for those ineligible for asylum, they argued, would remove the need to go underground. This argument ultimately rested on the assumption that most irregular migrants were economic migrants, migrating to improve their lives, and lacked sufficient grounds for asylum. This is for instance the underpinning assumption of the following statement:

The reason for this [that people are forced to leave the country despite successful integration] is not that the authorities have made the wrong decision, but that the decisions have been made based on a fundamentally mistaken approach to migration […] the people who need our protection should be allowed to stay. Those who have come to Sweden on other grounds than need for protection should be granted the opportunity to come here through increased labour migration (Addr. 1, Tobias Billström (m), 2005/06:26).

In this statement, an alternative explanation — the lack of a path for labour migration — is advanced to counter accusations of restrictive practice and wrongful decisions. This reading of the problem differs from both of those that have been discussed thus far as it opens for an alternative form of desert. Concordant with this, the irregular migrants were articulated as prospective workers and potential beneficiaries of a reformed labour migration regime. This reading thus affirms the dismissal of the group’s claims for asylum. This dismissal, however, was not accompanied with a condemnation of their presence. Rather, the group was singled out as victims of a protectionist policy.

In conclusion, I argue that three different understandings of the group were discernible in the struggles over categorization in the early 2000s. These
understandings, in turn, were associated with three different articulations of the problem. Concordant with the first, the problem was articulated as a problem of restrictiveness. The irregular migrants were argued to be refugees whose claims for asylum had been denied as a result of a restrictive policy and practice in combination with a lack of due process. The second reading, furthermore, rested on the understanding that the former asylum seekers in hiding lacked grounds for asylum. The problem was accordingly argued to consist in a lack of efficiency, clarity and consistency in the asylum process. The third articulation, finally, advanced the understanding that the irregular migrants were economic migrants, and potential workers, rather than refugees. The denial of residence permits was accordingly argued to be the result of a lacking path of entry for this category. Moreover, these three articulations were bound up with three different ideas about how the circumstances of irregular migrants should be addressed. In accordance with the first reading, the group should be granted residence permits. Often, this reading came accompanied with demands for a general amnesty and calls for a more generous asylum policy. The third reading also opened for opportunities to stay as it came accompanied with calls for new legislation that would open a new path of entry for categories of migrants that had failed to fulfil the criteria for refugee status. The second reading is from this perspective distinct as it offered no solution for the irregular migrants but to return to their countries of origin. The group was argued to lack grounds for asylum and it was consequently argued that the group also needed to leave the country. This reading stressed the need for long-term preventive measures that would have made it less likely that people would have decided to go underground. The three articulations thus brought forward different ideas about the origin of the problem and how it could be rectified.

Towards a Broadening of the Claims-Making

The basic conceptualization of the problem – i.e. the articulation of irregularity as a problem of rightlessness – thus remained rather stable over time during the 2000s. Other aspects of the politicization of irregularity however underwent changes during the time period. Most significantly, the claims-making was broadened in the mid-2000s as the target group of demands was expanded from former asylum seekers in hiding to incorporate all irregular migrants. This process was in turn accompanied by a shift in terminology. In this final section of the chapter I will explore this process and the efforts to establish new forms of desert that it was bound up with.
From Gömda to Papperslösa

Initially, gömda flyktingar ("hidden refugees"), or just gömda ("hidden"), was the most frequently used denomination for people staying in the country without authorization. Gradually, however, this term started to be complemented, and to some extent replaced, with the term papperslösa. This term is a direct appropriation of the French term sans-papiers and can literally be translated as "without papers". Papperslösa, in contrast to the term "hidden refugees", does not immediately evoke associations to asylum policy and can possibly refer to a broader group comprising others in addition to former asylum seekers. Most, generally, the term has tended to be defined either with reference to access to rights or with reference to legal status. An example of the former is when the term was advanced as a denomination for “people who live and work in Sweden but who lack all those rights that we today take for granted” (Motion (mp), 2005/06:Sf252). An example of the latter, furthermore, is when the term was specified as “[meaning that] they lack the formal right to reside in the country” (Motion (v), 2006/07:Sf251). The term papperslösa has however, from the start, been used in an ambiguous way. More precisely, this has occurred because the term has been used both as a generic term, i.e. as a denomination for all irregular migrants, and to refer to a particular subgroup of irregular migrants. This dual usage can be illustrated by the way the term is used by two different MPs in one of the earlier debates where it appears. During this debate, one MP made a reference to “gömda and papperslösa” (Addr. 52, Kalle Larsson (v), 2006/07:37), whereas another used the term to refer to “both those who have applied for asylum and gone underground and those who have never applied for asylum but are here anyway” (Addr. 57, Bodil Ceballos (mp), 2006/07: 37). In the first case, the MP’s use of the term suggests that a distinction is made between two groups. In the second case, on the other hand, the term is invoked to refer to two distinct groups. These two forms of usages have continued to co-exist, side by side, over the years.

Papperslösa as a Subgroup of Irregular Migrants

The first form of usage of the term thus served to distinguish between different subgroups of irregular migrants. More particularly, between former asylum seekers in hiding, i.e. the “hidden refugees”, and people who had never applied for asylum. This usage is for example manifest in a motion that

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89 The term papperslösen was first used in a parliamentary debate in late November 2004 by Green Party MP Gustav Fridolin. He used the term to refer to a man who was a former asylum seeker whose application for asylum had been denied and at the time lived and worked in Sweden without a residence permit. The man, it was stated, “lives completely left out of the social system, papperslösen” (Addr. 47, Gustav Fridolin (mp), 2004/05:40). Shortly afterwards, the term appeared again in a debate that was brought about by an interpellation filed by the same MP (§ 9, 2004/05:61). The consequent parliamentary year (2005/2006) a number of motions were filed that explicitly made use of the term.
explicitly distinguishes between “hidden refugees” [gömda flyktingar] and “papperslösa migrants who have not applied for asylum” (Motion (mp, kd, v), 2005/06:Sf419). Another example is found in a parliamentary debate where papperslösa was defined as “people who have come to Sweden without applying for asylum and who reside and often work in the country without a residence permit” (Addr. 32, Björn Lind (s), 2009/10:26). Initially, before the terminology was settled, different terms were used to refer to this subcategory of irregular migrants. In one early debate, for instance, a distinction was drawn between “hidden refugees” and “illegal immigrants” 90 (Addr. 43, Mauricio Rojas (fp), 2004/05:40). In this case, the latter category was described as workers and contributing members of society that should be allowed to stay. At another occasion, a motion made reference to a group who are “irregular immigrants, i.e. have never applied for residence permits” (Motion (mp), 2005/06:So699). Eventually, however, papperslösa was established as the conventional reference to this group. In this usage, moreover, the term tended to be associated with migrant workers. This is, for instance, reflected in the phrasing “workers without work permits (‘papperslösa’)” (Motion (v), 2005/06:Sk401).

**Papperslösa as Generic Term**

In the second form of usage, on the other hand, papperslösa served as an umbrella term for all irregular migrants. This usage is, for instance, manifest in the following quote:

In today’s Sweden, there are a large number of people who are denominated papperslösa. It is people and entire families who have stayed after the closure of their asylum cases, but also people who have come to Sweden without applying for a residence permit (Motion (s), 2008/09:Sf375).

The quote is indicative of how the term papperslös has been used as a denomination for all categories of people who are staying in the country without authorization. Here, that is to say, the term is used to refer to all people – from former asylum seekers to visa overstayers and people who have entered the country without seeking to regularize their stay – that reside in the country without state authorization. The common denominator of this group is the shared circumstances of living, characterized by a lack of rights and a corresponding precarity, which is a result of their current immigration status.

90 The term “illegal” has generally been avoided by all political actors but the Sweden Democrats. In this case the term was not used to question the group. On the contrary, the speaker called for a legalization of their presence. Yet, the usage of the term was controversial and the terminology was immediately challenged by another MP who stressed that people cannot be labelled illegal (see Addr. 85, Kalle Larsson (v), 2004/05:40).
Sometimes, as in the following quote from a commission report, the use of *papperslös* in the generic sense was explicitly motivated:

In the directive of the investigation both people who evade the execution of an order to leave the country in accordance with the Aliens Act, and people who are in Sweden without having applied for the necessary permits to stay in the country, are described. The former group is sometimes called hidden persons [*gömda personer*], while the latter group is often named *papperslösa* persons […] The investigation has however chosen to use the umbrella term *papperslös* person as the designation for a person who is in Sweden without the necessary permit to stay in the country. It is thus the view of the investigation that it is the unauthorized stay in the country that is important in this context rather than whether the person has been an asylum seeker or not (SOU 2011:48:15-16).

Hence in this case, the use of the term in a generic sense was argued to be the result of careful consideration. The author of the report explicitly acknowledged that the term *papperslös* was being used in more than one way. Moreover, the preference for one of these was explained with reference to that it was the current circumstances of irregular migrants that were relevant for the discussion at hand rather than the origin of their predicament.

**Establishing Desert for Papperslösa**

The gradual breakthrough for the term *papperslös* in the latter half of the 2000s was connected with a broadened understanding of the composition of the group. The analysis thus far has shown that the term was continually used in two distinct ways: either to distinguish between two categories of irregular migrants or to collapse the very same distinction. I contend that both of these usages are indicative of the incorporation of a new category of irregular migrants in discussions and claims-making. The use of *papperslös*, regardless of the specific meaning, reflected recognition of diversity within the group that resides in the country without permits. The need for a term that acknowledged that not all irregular migrants were former asylum seekers was however only one of several factors behind the shift in terminology. Another important factor was deliberate efforts to change the representation of irregular migrants. It is beyond the scope of this investigation to trace the diffusion of the term *papperslös* in the general debate. That said, there are reasons to believe this diffusion to be the result of successful NGO campaigning.\(^9\)

\(^9\) Scholars have identified NGOs, and in particular the network

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\(^9\) This interpretation is further supported by the fact that the MPs Gustav Fridolin (mp) and Kalle Larsson (v) who were the first to use the term in a parliamentary debate, were persons with connections to the extra-parliamentary movement in support of irregular migrants.
Papperslösa Stockholm,\(^92\) as significant actors behind the shift. According to Erika Sigvardsdotter, the network introduced the term in order to challenge representations of irregular migrants that rested on notions of victimhood or illegality (Sigvardsdotter 2012:73). A similar argument has been advanced by Helena Holgersson who has argued that the terminological shift can be read as an attempt to counter the representation of irregular migrants as people who live hidden away, separated from the rest of society, and to re-establish irregular migrants as people with agency. Furthermore, according to her, the term *papperslös* was associated with a discourse about (the right to) free movement (Holgersson 2011:12; 54; 132).\(^93\) That is to say, the introduction and subsequent diffusion of the term *papperslös* can partially be attributed to attempts to challenge representations of irregular migrants as deserving victims in need of protection. This, in turn, forms part of a broader effort to offer alternatives to a strategy that seeks to secure rights for the group through appeals to pity (Sigvardsdotter 2012:73).

The use of the term *papperslös* was thus associated with intents to acknowledge the presence of non-refugees among irregular migrants. Among activists, furthermore, the use of the term was bound up with efforts to establish desert beyond victimhood. A part of the asylum rights movement was however reluctant to use the term because compared to the term “hidden refugees”, it was seen as downplaying suffering and victimhood (Sigvardsdotter 2012:73). This reluctance ultimately sprung from fears that a dissociation from claims for refugee status, and a broader critique of asylum policy, would undermine attempts to secure rights. The long-term implications of the shift in terminology, and the broadening of the claims-making, remain to be seen. However, aspects of the reception of claims on behalf of *papperslösa* in parliament thus far suggest that these fears were not unfounded. In particular, I contend, the identification of a new group of irregular migrants – those who had never applied for asylum – opened for new ways to discredit the group. The following quote is exemplary of this undercurrent of the debate:

> I think that many of those who listen to this debate believe that *papperslösa* are those who have been encouraged by human smugglers to discard their passports, people who have fled without the requisite documentation or people who are not in the possession of the right papers to show the Migration Board. But *papperslösa* are only those who have not made themselves known to Swedish authorities and who usually do not have any intention of doing so (Addr. 17, Fredrick Federley (c), 2007/2008:83).

\(^92\) *Papperslösa Stockholm* was founded in 2006 and one of the first organizations in Sweden that attempted to organize irregular migrants.

\(^93\) Helena Holgersson has argued that each of the three terms – “hidden refugees”, “papperslösa” and “illegal immigrants” – that are predominant in the Swedish debate are linked to a corresponding discourse and a specific representation of irregular migrants (Holgersson 2011:12; 54;132).
This quote, where the term *papperslös* is used in the more narrow sense, i.e. to denote a subgroup rather than in the generic sense, is indicative of a tendency to single out this category of irregular migrants as particularly dubious. In the statement, *papperslös* are represented as people who have entered the country without the intention to make themselves known to the authorities. This alleged reluctance was, in turn, linked to questionable motives. It was, for instance, sometimes suggested that the group came to Sweden “with the intention to work in the black labour market” (Addr. 48, Tobias Billström (m), 2007/08:64).

In conclusion, the breakthrough for the term *papperslös*, and the accompanying recognition of diversity, has been twofold. It has, first, been associated with a broadening of claims-making and accompanying attempts to detach notions of desert from victimhood. The flipside of this process has however been that the group, and in particular its subgroup comprised of those who have not applied for asylum, has been rendered more vulnerable to attacks. The use of the term *papperslös* implicated an increased visibility for this group that in turn opened for attacks on their moral character and motives as well as attempts to attribute them responsibility for their circumstances.

**Struggles Over Legitimacy: Continuity and Change**

The strategies to establish legitimacy for irregular migrants’ presence in society during the 2000s is marked by both continuity and change. Continuity in the sense that invocation of refugeehood, and need for protection, remains as the predominant strategy over time. Change in the sense that this strategy has been supplemented by different forms of openings for alternative forms of desert. I have discussed two such openings. The first is the early attempts to link the presence of irregular migrants to calls for labour migration reform. The primary aim of these articulations was, strictly speaking, to establish support for reform rather than to advocate on behalf of irregular migrants. However, I argue that a side effect of these efforts was that the presence of non-refugees was rendered potentially legitimate. The articulations served as a precursor in the sense that they opened for the possibility that legitimacy could be invoked on other grounds than refugee status. The second opening is the calls for regularisation on behalf of people who had not applied for asylum. These demands will be further explored in the next chapter. For now, suffice it to say that the broadening of claims-making also entailed the invocation of new forms of desert. There is, moreover, continuity with regard to how these

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94 I want to emphasize that I do not seek to suggest that the calls for labour migration reform implicated demands for regularisation. They clearly did not and at this point in time there were no calls for regularisation on other grounds than victimhood. Furthermore, it should also be noted that the parties that linked the fate of the irregular migrants to the absence of a path for labour migration later rejected demands for regularisation in conjunction with the instatement of new legislation. For further discussion see Chapter five.
attempts to establish desert have been countered in the debates. First and foremost, following the general emphasis on refugeehood, the irregular migrants’ need for protection has continually been questioned. The previous analysis has shown that claims for asylum were continually dismissed with reference to trials already having taken place. That is to say, the fact that Swedish authorities had rejected an application for asylum was in itself advanced as evidence that those claims were unfounded. Furthermore, again in line with the previous analysis, claims on behalf of irregular migrants who have not applied for asylum have been outrightly rejected as scandalous and absurd.

The election in 2010, and the entrance of the Sweden Democrats, brought about another form of response as the party made deliberate attempts to question and cast suspicion on irregular migrants. This endeavour also entailed a questioning of the predominant terminology:

To call illegal immigrants hidden refugees [gömda flyktingar] is, pure and simple, a lie, because refugees are always granted residence permits. Hence, it regards people who, despite the world’s perhaps most liberal asylum legislation are not considered to have sufficient grounds to stay in the country (Addr. 47, William Petzäll (sd), 2010/11:17).

The quote above, where the denomination “hidden refugees” is dismissed, is exemplary of the Sweden Democrats’ line of argumentation. To some degree, the quote echoes previous debates as the term is rejected on formal grounds. That is to say, in the sense that the use of the denomination refugee is dismissed with reference to that the people in question had been evaluated and found to lack sufficient claims for asylum. At the same time, however, the use of the term “illegal immigrants” is indicative of a shift. This term has historically been controversial and up until 2010 it appeared very rarely in the parliamentary debates. The Sweden Democrats have however consistently used and defended the term. Representatives of the party have, for instance, argued that use of the term papperslös is “newspeak on the highest level” and that the proper term is illegal (Addr. 11, Jimmie Åkesson (sd), 2010/11:79).

The use of the term “illegal”, moreover, has formed part of a rhetoric that links irregular migrants to criminality. This strategy is for example visible in the claim that “those people who hide illegally in Sweden are, by definition, criminals” (Addr. 66, Björn Söder (sd), 2012/13:109). An assertion that, in turn, rested on the fact that these people have received a negative decision that they do not respect. The use of the term “illegal” is thus, in conclusion, intimately bound up with efforts to throw suspicion on irregular migrants and to undermine the legitimacy of their claims for residence and rights.
Concluding Remarks

This chapter has explored the politicization of irregularity in the 2000s. This has, first and foremost, entailed an analysis of the demarcation of a problem and the subsequent attempts to enforce different readings of this problem. I have argued that the problem, most fundamentally, has been articulated as a problem of rightlessness. This articulation establishes a linkage between a range of distinct components – most importantly fear, vulnerability, exploitability, lack of rights and exclusion from welfare services – that are held out as worrisome and in need of address. This basic understanding has remained more or less the same throughout the period studied. The origin of this problem, and the means for its rectification, has however been articulated in different ways. In the chapter I have shown that competing discourses were invoked to make sense of the appearance of the group. In accordance with this, furthermore, the fate of the irregular migrants became drawn into a number of on-going parallel debates. First and foremost in the sense that they became a focal point in debates over what was perceived as Sweden’s restrictive asylum policy. The struggles over the composition of the group that I have accounted for in this chapter are, in part, a reflection of this controversy. Another example of this is the attempts to link the issue to demands for labour migration that were bound up with a larger struggle over migration policy and its paths of entry. The analysis in this chapter, furthermore, has approached these debates over the composition of the group as struggles over categorization. As such, I have argued, the debates essentially revolved around the legitimacy of the group’s claims for membership. Initially, the efforts to establish desert were primarily oriented towards the group’s need for protection. Over time, however, this focus was widened through efforts to establish other forms of grounds for desert. In addition to this, I have discussed the linkage between the categorization processes and disputes over terminology. The analysis has shown that the use of terms is intimately bound up with different understandings of the group and the legitimacy of its claims.

The chapter has provided numerous examples of contestation of both policies and practices. Swedish legislation, that is to say the Aliens Act, was recurrently criticized on a number of grounds. One strand of critique focused on its alleged restrictiveness and the strict criteria for asylum whereas another strand of critique focused on the lack of opportunities for labour migrants. This debate, I contend, boils down to disagreement over the bases of desert: in the first case the demarcation of the category “worthy” was argued to be too narrow and in the second case an additional category, for those deemed “contributive”, was called for. With regard to practices, furthermore, there was persistent critique of the asylum process. This entailed both critique of how the law was interpreted by the officers at the Migration Board and of the lengthy process and lack of due process. There were thus, without hesitation,
profound conflicts over policy and its outcomes. Nevertheless, from a larger perspective, the debates also bear mark of agreement on a more fundamental level. All of the issues of contention revolve around aspects of categorization – whether the determination of principles or how these are put into practice – but the basic need for, and legitimacy of, categorization is accepted as given. This lack of contestation reflects, I argue, a shared understanding that immigration needs to be monitored, and that selection must take place, to safeguard the welfare state. The character of the disputes, that is to say, is indicative of the uncontested status of the principle of regulated immigration. One overarching conclusion that can be drawn from this observation is that there is an absence of more radical forms of contestation in the debates studied in the sense that the citizenship order remains unchallenged. This claim will be further developed and substantiated in the next two chapters when I turn to a closer analysis of the claims-making on behalf of irregular migrants.
5. RIGHTS THROUGH STATUS: EXPLORING DEMANDS FOR REGULARISATION

In this chapter I will analyse the attempts to secure rights for irregular migrants through status, i.e. through the granting of residence permits. Demands for a large-scale amnesty that would grant “hidden refugees” a right to stay in Sweden started being voiced in the early 2000s in conjunction with a major reform of the asylum process. Initially, these demands were more narrow and only targeted families with children but were over time widened to incorporate all people staying in the country without requisite permits. From the outset, the demands for amnesty were closely linked to the institutional reform that was under way and articulated as restitution for a number of defects of the old order. At this point in time, i.e. the early 2000s, there was widespread agreement that the Swedish system of asylum processing was in need of reform. Consequently, it became feasible to advance claims with reference to a need to compensate for past failures. The calls for amnesty culminated in 2005 when the instatement of a new structure for appeals approached. In conjunction with this, a broad coalition of religious communions and NGOs launched a campaign for amnesty.

The analysis of this chapter is thus preoccupied with efforts to secure rights for irregular migrants through shifting their status. In Sweden, these forms of demands have been articulated as demands for amnesty. From a broader perspective, they however constitute demands for regularisation. This term denotes “any state procedure by which third country nationals who are illegally residing, or who are otherwise in breach of national immigration rules, in their current country of residence are granted a legal status” (Baldwin-Edwards & Kraler 2009:9). Regularisations normally come with specified conditions that irregular migrants must fulfil. Common examples are proof of residence for a certain length of time, employment or a clean criminal
record (Sunderhaus 2007:70). Practices of regularisation have however varied greatly between countries due to different traditions of policy as well as migration trajectories. In the Swedish debate, two forms of regularisations have been debated: regularisation through general amnesty and regularisation through labour. Demands for the former form of regularisation have primarily been advanced with reference to injustices in the asylum process. Demands for the latter, on the other hand, have been voiced in conjunction with the instatement of a more flexible regime of labour migration. This chapter will analyse both kinds of demands.

The chapter is divided into two parts. The first part analyses the demands for amnesty that preceded the instatement of the new institutional order in 2006 whereas the second part analyses the demands that were advanced afterwards. This structure has been chosen because the institutional reform has constituted a turning point in several ways. First, because it was followed by a redrawing of political dividing lines. Second, because the claims-making of the pro-regularisation camp underwent a shift after 2006. This shift entailed both a broadening of the demands themselves and a change in how they were justified. The chapter ends, finally, with some brief conclusions regarding how the demands for amnesty, and the way they are formulated, relate to established notions about citizenship, rights and belonging.

**Amnesty as Restitution – the Pre-Reform Demands for Amnesty**

In Sweden, the calls for amnesty were, from the start, bound up with a critique of the current asylum policy and the processing of applications. The demands

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95 Moreover, one can distinguish between programmes and mechanisms for regularisation. The former are normally limited in time and often entail a large number of applicants, the latter are normally permanent and entail continual individual applications from a smaller number of applicants (Baldwin-Edwards & Kraler 2009:9).

96 There has been a steady increase in regularisation programmes in Europe since the 1990s. This increase has been attributed to several developments. Most generally, regularisations have been identified as a response to “the mismatch between migration policies and states’ capacities to enforce these” (Kraler 2011:298). Scholars have identified a number of different reasons for states to use this measure: to resume command (over its labour markets as well as its population), to clear backlogs of asylum cases, to compensate for previous policy and to facilitate implementation of new policy. Furthermore, states are attracted by the prospect that undocumented migrants will pay taxes and contribute to economic growth. Finally, states offer regularisations as a means to conform to international commitments. These prevent them from enforcing deportations and oblige them to safeguard the human rights of undocumented migrants (Sunderhaus 2007:69-70). Over time, the latter form of rationality has become increasingly decisive and the character of regularisation programmes has shifted towards a more humanitarian orientation. Historically, most regularisations targeted undocumented migrants as workers and were conditioned on employment. Lately, however, there has been an increase in programmes that target rejected asylum seekers and rest on humanitarian justifications (Kraler 2011:301-02).
were advanced against the backdrop of a wide recognition that the current order suffered from institutional deficiencies – ranging from lengthy waiting times to arbitrariness and lack of due process – that had caused human suffering. Regularisation was accordingly brought forward as a form of restitution for people whose applications for asylum had been tried in a flawed system. Calls for amnesty were voiced already at the turn of the millennium and during the first years of the 2000s motions that called for amnesty in one form of the other were filed in parliament every year. It was however first in 2005, in conjunction with imminent institutional reform, that a large-scale campaign for amnesty was launched.

In May 2005, the government finally presented a long-awaited bill (Prop. 2004/05:170, *Ny instans- och processordning i utlännings- och medborgarskapsärenden*) with a proposal for major reform of the Swedish system for asylum processing. The bill, first and foremost, proposed that the heavily criticized Alien Appeals Board [*Utlänningsnämnden*]97 should be abolished and that the appeals process should be transferred to the judiciary.98 This reform, in turn, was taken to require a revision of the Aliens Act to render the legislation more appropriate for trial in courts.99 Concordant with this, the proposed reform entailed considerable changes of both the legislative framework and the institutional structure for the processing of asylum applications. The bill was well-received in parliament where a majority had requested an institutional reform for years.100 The Alien Appeals Board had been a focal point of critique during the debates that preceded the presentation of the bill and all parties welcomed its abolition. The general view was that

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97 This was a special board installed in 1992 in order to strengthen the rights of asylum applicants in the asylum process. The board however soon became subject of critique (Spång 2009:87; Borevi 2012:71-72).

98 More precisely, to four specified administrative courts. The bill assigned three county administrative courts [*länsrätter*] as the courts of first instance and one administrative court of appeals [*kammarrätt*] as the final court of appeal (Prop. 2004/05:170).

99 Among the changes was the replacement of the category “humanitarian grounds” with “extraordinarily distressing circumstances”.

100 The bill as such was thus more or less uncontroversial and the complaints that were voiced primarily revolved around the lengthy policy process. The presentation of the bill had been preceded by many years of debate and continual calls for reform and many accordingly expressed the view that the reform was long overdue. Already in 1999 a commission report (SOU 1999:16, *Ökad rättssäkerhet i asylärenden*) concluded that there was a need for a clearer separation between different instances in the asylum process. Concordant with this it recommended that the handling of appeals should be transferred to the judiciary (SOU 1999:16:17-18). Thereafter it took more than five years before parliament finally decided on a major institutional reform. The lengthy process was heavily criticized and the Social Democratic government was accused of deliberately delaying the process. Part of the delay, however, was due to critique from legal expertise. Both the 2005 bill and a previous draft (referred already in 2002) received profound critique in the judicial preview. Both proposals were dismissed by the Council on Legislation [*Lagrådet*] with the argument that the Aliens Act was inappropriate for judicial decision-making as it left a large scope for discretion (Prop. 2004/05:170:481-88).
the reform would strengthen the rights of asylum seekers and reduce elements of arbitrariness in the decision-making process.

The bill was however controversial as it did not contain a proposal for amnesty. In the months preceding the presentation of the bill a broad extra-parliamentary alliance had campaigned for amnesty. The campaign originated in criticism from the Swedish Archbishop K.G. Hammar. In a sermon in late 2004 Hammar called for the restoration of the right of asylum as well as demanded a general amnesty for “underground refugees”. This led to a petition and a campaign in which 157,000 signatures were collected. The petition was initiated by the Christian Council of Sweden but came to be supported by a broad alliance of religious communions and NGOs. The signatures were eventually handed over to the Minister of Migration, Barbro Holmberg, in conjunction with the presentation of the government bill in May 2005 (Borevi 2010:106).

In parliament, representatives of five parties (all parties except the Social Democrats and the Moderates) filed a joint motion that called for the reform to be accompanied by a general amnesty. The motion proposed that people who had applied for asylum a year before the installation of the new institutional order, and still resided in the country without a residence permit a month before, should be eligible to apply for a residence permit on humanitarian grounds. Such applications, it was further argued, should be accepted unless the applicant had a criminal record, the applicant was unable to prove his or her identity or if the applicant had left the country. The target group was thus not delimited to irregular migrants but also incorporated people who had waited a long period of time for a decision and people who have received a negative decision but not yet left the country. The latter group primarily consisted of people whose deportation orders could not be enforced by Swedish authorities. The proposal was justified with a number of arguments. First, amnesty was advanced as a humanitarian act that would give relief to “society’s most vulnerable” (Motion (c, fp, kd, mp, v), 2004/05:Sf32). Furthermore, the motion stressed that an amnesty was a way to “retroactively correct wrongs committed by the state”. Finally, amnesty was pointed out as a

101 More precisely, there were two parallel campaigns that voiced similar demands. The first, known as Påskuppropet, was initiated by the Christian Council of Sweden. The second, known as Flyktingamnesti 2005, was initiated by a broad network of organisations and political parties (Sager 2011:35:37).

102 In 2005, these two parties were the only opponents of an amnesty. The two parties formed a majority in matters of asylum and upheld a more restrictive policy despite hard critique from the other parties in parliament. A cooperation that was sometimes referred to as the “unholy alliance” by the critics. Comment: The unholy alliance is mentioned in Chapter three where it needs further explanation, consider moving footnote and perhaps keeping one here as well with reference to Chapter three.

103 One more motion, containing the same demand, was filed in response to the bill by representatives of the Liberal Party, the Centre Party and the Christian Democrats. This motion was broader and contained a further list of demands. Among these was a demand for labour migration (2004/05:Sf34).
practical measure that would ensure that the new institutional order could be launched under reasonable working conditions. The proposers of the motion also highlighted that similar measures had been taken by earlier governments under similar circumstances (ibid.).

The 2005 demands for amnesty took off against a historical practice of granting amnesties in conjunction with reforms. In the late 1980s and early 1990s, the Swedish government granted amnesties at several occasions in conjunction with the introduction of new policy. This history formed an important backdrop to and affected the way the demands for amnesty were articulated in the 2000s. Furthermore, the line of argumentation was influenced by previous debates and claims-making during the 1990s. The demands for large-scale regularisation of irregular migrants in the 2000s had precursors already in the 20th century. In the next section I will provide a brief overview of this historical backdrop in order to contextualize the consequent debates on amnesty in the 2000s.

The Prelude – Amnesties and Campaigning in the 1990s

The demands for amnesty in the 2000s were formulated against a rather recent history of prior amnesties. These prior amnesties had been granted through government decisions on several different occasions around the year 1990. During this period there was a series of decisions that granted residence permits to people who had waited for a final decision for a certain period of time. The target group of these measures was thus asylum seekers more broadly rather than irregular migrants. The decisions, furthermore, were primarily taken with the aim to reduce waiting times and reduce the number of open cases. One example is decisions taken in 1989 shortly before a reform. At this point, the government decided that people who had waited for a decision for more than a year, as well as families with children under 17, should be granted residence permits unless there were strong reasons for rejection (Hammar 1999:186; Johansson 2008:207). These amnesties were thus strictly speaking not regularisations as the target group was asylum seekers more broadly rather than irregular migrants. This fact withstanding, the amnesties served as an inspiration for the pro-regularisation camp and were recurrently invoked in both parliamentary debates and in motions (see for instance 2004/05:Sf32) as an example of the feasibility of the demand. The amnesties in the 1990s were thus mobilized as examples of other occasions where exceptions from the rule had been made. Or, to be even more precise, previous occasions when amnesties had been granted in conjunction with major reforms.

The amnesties in the early 1990s were followed by calls for further amnesties already after a couple of years. In conjunction with the adoption of the 1997 Aliens Act, a number of motions that proposed some kind of amnesty were filed. These were formulated in different ways and with slightly different
target groups. One motion called for a new, more humane, trial of families with children in hiding (Motion (v), 1996/97:Sf13), another for a decision to recall deportation orders that had not yet been executed (Motion (c), 1996/97:Sf17) and a third for an expiration of all deportation orders after four years (Motion (kd), 1996/97:Sf21). Yet another motion argued that “hidden refugees” should be granted amnesty after two years in hiding (Motion (mp), 1996/97:Sf18). Although these motions differ in phrasing and exact demands, they expressed a similar conviction that people who had gone into hiding to avoid deportation should be allowed to stay in Sweden. This demand, moreover, was primarily justified with reference to waiting times. Both lengthy waiting times for a decision from the Migration Board to be made and lengthy time waiting for the execution of a negative decision (i.e. leaving the country) were recurrently invoked to claim entitlement to a residence permit. Moreover, many expressed critique of the trial of cases and argued that those in hiding were actually refugees although the authorities had rejected their claims. The Green Party, for instance, argued that the most important measure to prevent further people from hiding was to make sure that “the authorities start to apply existing law correctly” (Motion (mp), 1996/97:Sf18). Hence, there was already at this point a tendency to link the demands for amnesty to a critique of the exercise of authority.

All motions were eventually rejected. This was in line with the state approach that had crystallized during the 1990s. This rested on the understanding that the state needed to act consistently and not create incentives for people to go underground. The need for consistency was emphasized already in the bill itself that contained a passage in which amnesty was explicitly dismissed as a possible solution to the problems suffered by undocumented migrants. Prior amnesties, the government argued, had sent the wrong signals as they had implicated that families were granted residence permits despite a lack of sufficient grounds for asylum. This, in turn, was argued to be worrisome as it could create incentives for people to go underground (Prop. 1996/97:25). This position was affirmed by the responsible parliamentary committee (i.e. the Committee for Social Insurance). The committee, following the bill, stressed the need for preventive measures such as increased predictability and consistency, decreased waiting times and better explanations provided to those who whose applications were turned down. The demands for amnesty and specified time limits were rejected with reference to that such decisions would result in an increase of children in hiding. More precisely because they would signal that people who had managed to keep away from the authorities long enough would be able to stay and thus, it was argued, encouraged more people to go underground (Committee report 1996/97:Sfu5).
Making a Case for Amnesty

By the end of the 20th century there was thus already a burgeoning discussion and two camps, with two distinct readings of amnesty, had already been established. The early debate and claims-making in the 2000s initially followed along a similar path. The proponents of reform advanced amnesty as a humanitarian measure needed to address the dire circumstances of “hidden refugees”. From the start, moreover, the call for regularisation was linked to deficiencies in the asylum procedure and policy failure. The early parliamentary motions can be divided into two broad strands with basis in scope and line of argumentation. The first strand is made up of motions that call for a more delimited amnesty for children and families with children whereas the second strand of motions consist of motions that call for a more general amnesty. With regard to the first category, the call for amnesty was motivated with reference to the children’s vulnerability and suffering. Furthermore, the children’s lack of responsibility for their circumstances was recurrently highlighted. Children, it was argued, “are never guilty” and consequently “we can never blame the children for the situation they are in” (Motion (mp), 2000/01:Sf616). In the second strand of motions, on the other hand, the demand for amnesty was linked to flaws in the asylum process and the imminent institutional reform. For instance, a number of motions called for a general amnesty with reference to the “inadequate processing and trial of applications” (Motion (fp), 2000/01:Sf605). Here, moreover, amnesty was articulated as an “emergency measure” that was required in order to “come to terms with an unacceptable situation” (ibid.). In this case, hence, the imminent reform was mobilized to underline the exceptional character of an amnesty. Similar arguments were also advanced in another motion from the same period. Again, the demand for amnesty was linked to deficiencies in the asylum process and it was argued that people were hiding as a result of a “cynical” refugee policy (Motion (m), 2000/01:Sf8). Accordingly, amnesty was advanced as a measure to “rectify past sins” and “allow for a new start for Swedish refugee policy where the legal rights of the individual are at the centre” (ibid.).

Already in the early 2000s, that is to say, the demands for amnesty rested on the twin notions of reset and restitution. Concordant with this, amnesty was recurrently promoted as a “way to get rid of old debts” and “set the tone for a new and more humane asylum policy” (Addr. 111, Kerstin-Maria Stalin (mp), 2001/02:93). This linkage was further strengthened over time. In the 2005

104 The same motion was filed, more or less unmodified, in the consequent three years as well (reference numbers 2001/02:Sf216, 2002/03:Sf256 and 2003/04:Sf249).

105 It is worth mentioning that the demands for amnesty came coupled with calls for free movement and labour migration reform in this motion. Accordingly, it was argued that amnesty should be granted not only to former asylum seekers in hiding but to all people who resided in the country and were able to support themselves.
debates, that preceded the adoption of the bill, the approaching institutional reform was advanced as a key argument for amnesty. The linkage between reform and regularisation was articulated in numerous ways and served several functions. First, it helped establish amnesty as a feasible and appropriate measure. In parliamentary debates it was repeatedly argued that the institutional reform needed to come accompanied by a “reset” [nollstreck/nollställning] to ensure a smooth start for the new order. An amnesty, it was argued, would improve the conditions for successful implementation as it would enable the new Migration Courts to start their work without a large number of old cases. The linkage to the reform also served to establish historical precedence as it opened for the invocation of historic examples where reforms had come accompanied with amnesties. Finally, the linkage to the institutional reform was valuable as it strengthened the framing of amnesty as an exceptional measure. The pro-regularisation camp used the reform, more precisely the idea of the reform as a turning point, to sidestep the objection that amnesty was a threat to the principle of regulated immigration and that it undermined the principle of individual trial.

First and foremost, however, the linkage to the reform enabled the proponents to advance amnesty as restitution for historic injustices caused by the old order. This articulation of amnesty as restitution started, most fundamentally, from the understanding that the institutional reform was a turning point. The abolishment of the Alien Appeals Board was widely taken to mark the end of a shameful era and the beginning of something new. Concordant with this, it was argued, the state should also take responsibility for past wrongs and compensate people whose applications had been tried in the old system. The following quote is exemplary of this line of argumentation:

The people who have fallen victims to the inhumane, legally questionable and arbitrary asylum policy must obtain redress and a new chance to restart their lives (Addr. 55, Anne-Marie Ekström (fp), 2005/06:3).

Amnesty was thus advanced as compensation for institutional flaws. In the quote above it is arbitrariness and lack of due process, i.e. the incapacity to provide a fair trial of every individual application, which is invoked as ground for restitution. In other cases the long waiting times, and the suffering these had caused in the form of anxiety and mental health problems, were highlighted. Furthermore, in line with the critique of arbitrary decision-making, proponents of amnesty recurrently argued that many irregular migrants, as well as other asylum seekers whose applications had been rejected, in fact had legitimate grounds for asylum. This was for example the understanding advanced in the five-party motion:
Many of those who today, for various reasons, reside in Sweden after having their applications for asylum rejected actually have sufficient reasons to obtain protection in Sweden, both in accordance with Swedish legislation and in accordance with international conventions that Sweden has undertaken to abide by (Motion (c, fp, kd, mp, v), 2004/05: Sf32).

The condemnations of the old order thus differ in scope among the proponents of amnesty. Some held decisions as such to be wrongful whereas others limited their critique to the long waiting times and the suffering these had caused. These differences set aside, all proponents agreed that the flaws of the old order were of such gravity that restitution was called for.

In addition to these arguments, which revolved around the institutional reform, calls for amnesty were justified in (at least) two other ways. There was, first, a propensity to justify amnesty as a humanitarian gesture that would relieve a very vulnerable group from its most acute suffering. Consistent with this, regularisation was advanced as an “act of emergency” that would “establish a basic dignity for individuals who are suffering badly” (Addr. 49, Lars Lindblad (m), 1999/2000:99). There was also a recurrent tendency to stress that the current state of affairs were of such gravity that principles must be set aside in favour of “humanity and compassion” (Addr. 55, Anne-Marie Ekström (fp), 2005/06:3). Often it was emphasized that the irregular migrants would not disappear regardless of whether an amnesty was granted or not and that the parliament’s choice of action consequently determines the future circumstances of the group rather than their presence as such. In line with this, amnesty was argued to be “the difference between anxiety, fear and exclusion, on the one hand, and inclusion and human dignity, on the other hand” (Addr. 3, Sven Brus (kd), 2005/06:3). In these cases, hence, amnesty was advanced as a humanitarian measure because it addressed the immediate suffering of irregular migrants. Regularisation was however invoked with reference to humanitarian concerns in yet another regard. More precisely, there was a recurrent tendency in the debates to stress that it would be wrongful and inhumane to deport people who had spent a significant amount of time in the country. This argument was advanced against the backdrop of lengthy waiting times that had enabled people to become integrated in society in various ways. Consistent with this, examples of successful integration – such as employment, establishment of relationships and acquisition of language skills – were invoked to support the demands for amnesty.

Finally, there was a strand of arguments that justified regularisation with reference to utility. In Chapter three I argued that the grounds for residence permits in the Swedish Aliens Act rest on the assumption that people can qualify either through being worthy or contributive. The arguments for amnesty that have been discussed thus far fall back on notions of worthiness. They all rest on an underpinning assumption of victimhood of some sort. The final strand of arguments, on the other hand, rests on the understanding that a
regularisation of irregular migrants would be economically beneficial. This line of argumentation is for example discernible in the following quote:

This is about people who could bring so much to Sweden, and who could be of great use for us if we took advantage of the resource that these people constitute. A great many of these people have jobs and pay taxes, their children go to school and we know that Sweden will need more people who work in the years ahead (Addr. 9, Birgitta Carlson (c), 2005/06:3).

The emphasis here is on the potential contribution that people would make if given the chance. In essence, that people could be turned into “socially useful citizens and taxpayers” if regularized (Addr. 3, Sven Brus (kd), 2005/06:3). These strands of arguments are different because they hold out irregular migrants as potential sources of utility rather than as victims.

In conclusion, hence, the pro-regularisation camp invoked a number of arguments to further their cause. These arguments were often presented side by side in the debates. The underpinning assumptions of the arguments were however, as the analysis above has shown, different. Some arguments drew on humanitarian discourse and constituted irregular migrants as worthy of residence permits with reference to victimhood. Others drew on utility discourse and constituted them as potentially useful and contributive citizens.

Countering Demands for Amnesty

The opponents countered the demands for regularisation with a series of arguments that, in various ways, emphasized the detrimental long-term effects such a measure would have. These arguments, more specifically, tended to revolve around the signals an amnesty would send. Consistent with this, calls for amnesty in the early 2000s were dismissed as “false and short-term humanitarianism” with reference to that it would “raise expectations for further amnesties and act as a magnet” (Addr. 7, Gustaf von Essen (m), 1999/2000:101). That is to say, there was a tendency to hold out regularisation as a measure that would be detrimental for undocumented migrants, and undocumented children in particular, because it would encourage more people to go underground. The alternative to this form of short-sightedness, it was argued, was to ensure “predictability and consistency” as a preventive measure (Addr. 38, Maj-Inger Klingvall (s), 1999/2000:99). Furthermore, amnesties were argued to be problematic because they implicated that the state upon granting of amnesties would abstain from making individual trials of asylum applications. In line with this, it was repeatedly argued that an amnesty would be detrimental in the long run as it would “undermine and devaluate the legitimacy of the asylum process” (Addr. 7, Gustaf von Essen (m), 1999/2000:101).
These arguments echoed those that were voiced in the late 1990s. Again, the long-term effects were highlighted and as before, furthermore, the alternative was argued to be preventive measures of different kinds. This line of argumentation, which crystallized at the turn of the millennium, continued to persist in the 2005 debate on amnesty. In this debate, the pro-regularisation camp’s call for amnesty as a humanitarian and restitutory act was countered with a series of interrelated arguments that revolved around the need to maintain the integrity of the system of regulated immigration.

First, and most fundamentally, the opponents of amnesty advanced another reading of the meaning of the institutional reform. The pro-regularisation camp, to recapitulate, held the reform as such as evidence that restitution was called for. This interpretation was rejected by the opponents that stressed that the old order, although in need of reform, had processed cases in compliance with the rule of law. Concordant with this, it was argued that “one must have the view that it is possible to implement reforms without saying that, by necessity, everything that has been done historically is completely reprehensible” (Addr. 54, Barbro Holmberg (s), 2005/06:3). This line of argumentation, that is to say, rested on the understanding that reform, as continual improvement, should not be equated with complete lack of legitimacy for the old order. In this case, hence, the moral ground for amnesty was contested through a downplay of the scope of flaws and consequently also the need for restitution.

The opponents’ main line of argumentation however rested on the articulation of amnesty as a threat. First, echoing the arguments from prior debates, it was argued that amnesty would send the wrong signals. The opponents of an amnesty repeatedly returned to the unforeseeable consequences regularisation would have if it was taken into consideration that policy choices could also be read as signals. The following quote is exemplary of this argument:

If one does not follow the law but makes different kinds of one-time decisions it gives people expectations. The result is that we get even more hidden people (Addr. 48, Barbro Holmberg (s), 2005/06:3).

This quote is indicative of a tendency to advance amnesty as a threat with reference to that it would send the signal that it is worthwhile to stay in the country irregularly and consequently encourage more people to go underground. In line with this reading, amnesty was argued to be counterproductive as it would reinforce the very condition it sought to rectify. Furthermore, an amnesty was argued to send the wrong signals in yet another regard. More precisely, because it could be conceived as a reward to those who had refused to accept their rulings. In the debates it was repeatedly stressed that an amnesty would be problematic as it put those “who have
complied with authority decisions and left Sweden when urged to” worse off compared to “those who have ignored the laws and regulations and been in hiding” (Addr. 1, Tobias Billström (m), 2005/06:3). This, more moral, evaluation of effects thus held out an amnesty as unfair because it would disadvantage those who had complied with authority rulings. Another core argument, moreover, was that an amnesty would sidestep one of the fundamental pillars of the asylum process, namely, the individual trial of each applicant. The following quotes are representative of this line of argumentation:

Furthermore, it is not reasonable to relinquish the insistence on individual trial, i.e. that each case should be tried separately and be evaluated on its own grounds. On the contrary, this is the keystone of a good asylum policy (Addr. 1, Tobias Billström (m), 2005/06:3).

To apply for asylum is a human right, and human rights are individual. Therefore every person has a right to get his or her case tried individually. That is the linchpin of the right of asylum. I mean that an amnesty that entails a collective decision about residence permits violates the very foundation of the right of asylum (Addr. 32, Barbro Holmberg (s), 2005/06:3).

As the quotes above attest to, opposition to amnesty was advanced as a safeguarding of the right to asylum. This argument rested on a reading where individual trial was articulated as a key mechanism in the process of sorting out those who had well-founded grounds to stay in the country from those who did not. Individual trial, that is, is supposed to ensure that those most worthy of help are selected. Correspondingly, the disregard of grounds for asylum that an amnesty was taken to imply was singled out as problematic. In sum, the opposition to a general amnesty rested on two main arguments. First, that a regularisation would encourage more people to go underground. This argument, hence, countered the proponents’ argument that amnesty would be a one-time exceptional measure. Second, amnesty was argued to be problematic as it would implicate that the principle of individual trial was temporarily abandoned.

**The Political Dividing Line**

Both the opponents and the proponents thus advanced a number of arguments that drew from various discourses. Humanitarian discourse, first, was invoked, although in opposite ways, by both camps. Furthermore, notions of institutional fairness were mobilized both for and against regularisation. The proponents argued that amnesty was necessary as compensation to people who had been tried in a system that failed to provide trials that were in accordance with the rule of law. The opponents, on the other hand, countered this claim
with the argument that an amnesty would sidestep the principle of individual trial and as such one of the fundamental pillars of asylum policy. This conflict pattern was, I argue, consistent with an overarching agreement on fundamental principles. The character of the conflict suggests that the principles as such were uncontested and that the disagreement rather revolved around how these should be interpreted and fulfilled. This was in turn reflective of a more profound lack of contestation. The parliamentary debates played out against a backdrop where the need for and legitimacy of regulated immigration – consistent with the hegemonic discourses of sovereignty and citizenship – formed an uncontested starting point.

The political dividing line that was established in the 2005 debate was thus formed against a background of shared assumptions. Still, within this larger context of agreement there was scope for fundamentally different readings of the appropriateness of amnesty; readings which formed the basis for how the political dividing line was drawn. The proponents of amnesty, first, gathered around a reading of amnesty as restitution. Concordant with this reading, amnesty was understood to constitute a way for the state to take responsibility for past wrongs. Most importantly, for its historic incapacity to offer asylum seekers a prompt and fair trial. Both the lengthy processing and the lack of due process were considered grounds that all advocates of amnesty could agree upon. Many, moreover, also held the view that these deficiencies had resulted in a failure to recognize well-founded claims for asylum. However, regardless, the articulation of amnesty as restitution made the question of status irrelevant. This enabled the pro-regularisation camp to advance amnesty as a humanitarian act and downplay the more controversial matter of refugee status.

The opponents of amnesty, on the other hand, gathered around the reading of amnesty as a threat. In contrast to the proponents they underlined the importance of an individual trial of each applicant. Individual trial, it was argued, is a cornerstone of the right to asylum and should as such be safeguarded. This camp’s critique of amnesty, moreover, ultimately fell back on an estimation of the claims of those who had been denied asylum. According to the opponents of amnesty these were not refugees and should consequently not have been granted residence permits. To do so, it was argued, would send the wrong signal and encourage more people to go underground. This political camp was thus brought together by the non-recognition of refugee status and the shared conviction that individual trial must be maintained.

The political dividing line in the 2005 debates was thus drawn between two camps that advanced two fundamentally different readings of amnesty. This dividing line, which reflected the main point of contention in the debate (i.e. the appropriateness of amnesty), enabled the creation of two fragile alliances that incorporated actors with different opinions, interpretations and preferences for policy development more broadly. The analysis of claims and arguments thus far has shown that both proponents and opponents of
regularisation advanced arguments that drew on fundamentally different discourses and sometimes pointed in several directions. This lack of coherence can in part be attributed to the fact that both camps were made up of a diverse assembly of actors and parties that managed to find common ground in overarching readings of amnesty.\(^{106}\)

**The Outcome: Partial Regularisation**

The demand for a general amnesty was eventually rejected by the parliamentary majority on September 14, 2005. However, just a couple of months later, on November 9, parliament passed a motion that opened for partial regularisation.\(^{107}\) The motion, more precisely, proposed temporary legislation that would give some categories of former asylum seekers a new, more generous, trial of their applications. The target group consisted of people who had resided in Sweden for a considerable period of time. Most importantly, families with children and people whose deportation orders had not been executed due to circumstances in the country of origin. In the examination of new applications the Migration Board was proposed to pay attention to, amongst others, the new circumstances of the applicants as well as whether it could be considered pressing from a humanitarian perspective [humanitärt angeläget] to grant people residence permits (Motion (mp, s, v) 2005/06Sf431). The temporary legislation was proposed to be in force until March 31, 2006 when the institutional reform and the new Aliens Act were put in force.

The proposal received support from the Social Democrats, the Green Party and the Left Party. In the parliamentary debate the remaining parties voiced harsh critique of the proposed legislation from a legal point of view. Parts of the pro-regularisation camp, namely the Centre Party, the Liberal party and the Christian Democrats, also voted against the proposal. They referenced both judicial concerns as well as to claims that the proposal was not far-reaching enough. The proposal was however eventually passed in chamber, and as a consequence of its adoption, 30,000 applications were handed in during the specified period. Out of these about 76% of the families with children, one of the target groups, were granted residence permits. Other groups were however...

\(^{106}\) This held particularly true for the opponents’ camp that was made up of two parties, the Social Democrats and the Moderates, with fundamentally different positions on migration policy more broadly. The Moderates, first, were deeply critical of Swedish migration policy and, in particular, the lack of a labour migration scheme. The Social Democrats, on the other hand, were more or less content with the status quo. In the debates they expressed their support for the current policy but argued that there was a need for a more clear and consistent asylum process and more efficient enforcement of decisions.

\(^{107}\) The motion was the result of a deal that was struck between the Social Democrats, the Green Party and the Left Party in conjunction with the budget negotiations. The fact that the proposal was presented in a motion, rather than a government bill, was subject of critique in the debate. First and foremost because it was interpreted as a strategy to sidestep the requirements for proper preparation.
less successful and almost 90% of the single adults had their applications

The Post-Reform Demands for Amnesty

The instatement of the new order for asylum processing in 2006 was thus
never accompanied by a general amnesty. Moreover, although a large number
of people were granted residence permits after trial under the new temporary
legislation, a significant number remained in the country irregularly. The
demands for amnesty accordingly continued to be brought forward in the
consequent years. After 2006, however, the political dividing line was redrawn
and the parliamentary support for amnesty weakened considerably. In the
debate that preceded the adoption of the temporary legislation representatives
of the Liberal Party, the Centre Party and the Christian Democrats repeated the
demand for a general amnesty. Shortly after the instatement of the new
institutional order these parties however shifted position and abandoned the
demand.108 This left the Green Party and the Left Party the only parties in
support of regularisation. In the consequent years, both parties regularly filed
motions that demanded large-scale regularisations. During this period,
moreover, the claims-making underwent several significant shifts. The shift
tented, first and most fundamentally, a broadening of the demands and an
incorporation of more groups of irregular migrants. This, in turn, went hand in
hand with a partial shift in how the claims were justified and the invocation of
new discourses.

Towards a Broadening of the Target Group

Both the Green Party and the Left Party thus continued to file motions that
contained demands for regularisation after 2006. The demands were, most
fundamentally, motivated with reference to the temporary legislation being
insufficient. First, because some people who applied were rejected. Second,
because not all people had been eligible to apply. The latter argument is
indicative of a successive broadening of the target group. The 2005 demands
for amnesty were advanced on behalf of three groups out of which “hidden
refugees” constituted one, whereas other categories of irregular migrants –
namely those who had not applied for asylum – were still excluded at this
point. From 2006 and onwards it is however possible to identify a broadening

108 It is beyond the scope of this study to investigate the motives these parties had for their shift in
position. Officially, they motivated their change of opinion with reference to the moment having
passed with the instatement of the new institutional order and that a general amnesty no longer was
feasible. However, the shift in position also coincided with the 2006 election and the formation of a
right-wing coalition government, in which all three of these parties were included. One might therefore
assume that the formation of a government together with the fourth and leading right-wing party, the
Moderates, was a significant factor behind the shift these parties exhibited.
of the target group. This process coincided with the gradual shift in terminology, as well as the accompanying shift in understanding of the composition of the group, that I accounted for in Chapter four.

The successive incorporation of more categories of irregular migrants is indicative of a gradual shift in focus. Historically, amnesties had been granted to groups of asylum seekers in conjunction with reforms and the target groups had often been asylum seekers who had waited for decisions for a considerable amount of time. The 2005 campaign for amnesty still bore traces of this tradition, both in the sense that the campaign coincided with a major reform and in the sense that subgroups of asylum seekers constituted the target group. However, after the instatement of the new institutional order the claims-making for amnesty underwent a shift. In the 2005 debate, the “hidden refugees” was still singled out as one category amongst other that had suffered from the flaws in the asylum process. However, after the instatement of the reform, and the inclusion of other categories of irregular migrants, the call for regularisation became more exclusively linked to this group. This shift also entailed a partial de-linking of the demands from the asylum process. The 2005 demands for amnesty, or reset as it was recurrently referred to, were explicitly advanced in relation to the institutional reform. Although the demands were defended as a humanitarian measure, the main claim was that it would constitute restitution to asylum seekers whose applications had been processed in the old order. The demands that were subsequently advanced were different as they entailed claims-making on behalf of both this group and those irregular migrants that had never applied for asylum.

From 2006 and onwards the motions thus started to contain demands for amnesty for two categories. Concordant with this, a Left Party motion from 2006 called for amnesty for both persons whose applications under the temporary legislation had been rejected and persons who resided in the country “without paper” but who had not applied for asylum (Motion (v), 2006/07:Sf251). The Green Party, moreover, proposed a general amnesty for “papperslösa foreign persons in Sweden” (Motion (mp), 2006/07:Sf223). In this case, the delimitation of the target group was more vague but the formulation “persons who have not been given a deportation order that can be appealed” suggests a similar expansion (ibid.). Similar demands for regularisation of irregular migrants, broadly defined, were thereafter posed in numerous motions that were filed by the two parties during the consequent years.

**Linking Amnesty to Labour Migration**

In the wake of the failure to secure a general amnesty in conjunction with the instatement of the new institutional order, the pro-regularisation camp started to link the demands for amnesty to another imminent reform. This reform, more precisely, was the instatement of a more flexible labour migration
regime. The debate about labour migration took off already at the turn of the millennium and was coincidental with a similar trend in the rest of the EU. In Sweden, the call for policy reform was initiated by representatives of right-wing parties and the Swedish Confederation of Enterprise [Svenskt Näringsliv] and was initially highly controversial. The main argument for reform was that an opening of new paths for labour migrants was necessary in order to meet approaching demographic challenges, and future need for labour in particular, as well as secure continual economic growth (Bucken-Knapp 2009:1;7-9). The calls for reform were eventually responded to in 2008 when the government presented a bill (Prop. 2007/08:147, Nya regler för arbetskraftsinvandring) that opened for increased labour migration.

The burgeoning debate on labour migration was, from the start, partly intertwined with the debate on irregular migration. Initially, in the early 2000s, proponents of amnesty regularly invoked labour migration reform as a long-term alternative to amnesty. This argument rested on the understanding that the opening of a new “path” for those ineligible for asylum would remove the need to go underground. Moreover, labour migration reform was sometimes also articulated as an opportunity for irregular migrants to regularize their stay as labour migrants. In the debates that preceded the institutional reform, the pro-regularisation camp dismissed all arguments that in any way hinted at labour migration as a solution. Regularisation through work, it was argued, would benefit very few irregular migrants as these were occupied in the informal sector and would be unable to present a contract that is in agreement with the standards specified in collective agreements. At this point, moreover, invocation of labour migration reform was understood as an attempt to shift focus away from the need for rectification and from asylum policy. However, after the instatement of the new institutional order, the pro-regularisation camp started to link the demands for regularisation to the imminent labour migration reform. This linkage was two-fold as the reform was articulated both as an opportunity for individual regularisation, premised on employment, and as an opportunity for a more general amnesty. The labour migration reform was, in contrast to the institutional reform, not directly related to the asylum process but the pro-regularisation camp still took it as an opportunity to renew the demands for a general amnesty.

109 The bill, which was a result of an agreement between the four-party right-wing government and the Green Party, was controversial and heavily criticized by the opposition. First and foremost, because it abolished the agency-based labour market consideration and left for the employers to decide whether there was a need for labour. Second, because the new legislation opened an opportunity for former asylum seekers whose applications had been rejected to file a new application with reference to labour market attachment. This regulation, the so-called “change of track” [spårbyte], was presented as a second chance for asylum seekers who were in employment and well integrated in Sweden. The critics however argued that there was a risk that this regulation would undermine the right of asylum (see 2007/08:Sf27 and 2007/98:Sf28).

110 This argument was, for instance, advanced by the Moderates in the 2005 debates on amnesty (see 2005/06:26).
Renewed Calls for Restitution

The broadening of the target group, as well as the attempts to link the demands for amnesty to labour migration, was accompanied by a partial shift in the way these demands were formulated. The pro-regularisation camp continued to stress the need for restitution but after the incorporation of more groups of irregular migrants, this line of argumentation was somewhat downplayed. The parliamentary motions that were filed after the broadening of the target group often provided different justifications for the two groups. For the first group, i.e. the former asylum seekers, amnesty was continually advanced as a measure to “provide redress to those mistreated in the previous process” (Motion (v), 2006/07:Sf251). For the second group, i.e. irregular migrants who had never applied for asylum, the demand for amnesty was justified with reference to that the group should “be given a chance to build a future in Sweden” (ibid.). Overall, the references to the irregular migrants as a potential resource increased significantly. Such references were made already in the early 2000s but after the instatement of the new institutional order they became more prominent. This shift, moreover, went hand in hand with attempts to link the demands for amnesty with the imminent labour migration reform.

Most fundamentally, the demands for amnesty continued to be justified with reference to humanitarian concerns. The irregular migrants’ dire living circumstances were recurrently invoked in both the parliamentary debates and in motions to motivate the need for regularisation. Furthermore, the pro-regularisation camp persisted with the claim that the injustices of the old order were of such magnitude that restitution was necessary. Concordant with this, it was repeatedly argued that “it is time to face the full consequences of the previous lack of due process and give papers to those who need it” (Addr. 38, Kalle Larsson (v), 2006/07:103). After the institutional reform in 2006, the opponents started to invoke the new order, and the need to safeguard its integrity in particular, to respond to this line of argumentation. The pro-regularisation camp however maintained that the reform, although a considerable improvement, was insufficient as it did not provide help to people whose applications had been tried under the old order. Concordant with that, it was repeatedly underlined that those who were deported, or hiding to avoid deportation, had been “tried according to the old legislation that we all agree was not in accordance with the principle of rule of law” (Addr. 27, Bodil Ceballos (mp), 2007/08:83). The proponents of amnesty thus kept insisting on the need for a solution for people who were tried in the old system because, for them, the qualities of the new system were irrelevant.

First and foremost, hence, amnesty continued to be articulated as a measure to deal with the effects of historic injustices. This argument was however supplemented with a stronger emphasis on factors such as contribution and integration. This trend is for example manifest in the often
repeated argument that it would be “a waste of resources to send away people who have already resided in our country for a number of years, who know the language and the culture, and who have already managed to integrate in Swedish society” (Addr. 39, Bodil Ceballos (mp), 2006/07:103). This trend is especially noticeable in the Green Party’s claims-making that often circled around the potential benefits of regularisation. The following excerpt, from a motion filed in 2007, is exemplary of this line of argumentation:

Some of them already work in Sweden [...] They pay rent, buy food and clothes, use all sorts of services in society just like the rest of us. In other words, they too contribute to the national finances just like the rest of us. To throw out 10,000 people would constitute a pure loss for Sweden in terms of job openings, loss of revenue and decreasing profits for the industry just to mention some examples. We consider it to be both inhumane and a waste of resources to not give the papperslösa an opportunity to continue to contribute to our society (Motion (mp), 2007/08:Sf315).

The quote testifies to the partial reorientation that took place after the instatement of the new institutional order. Consistent with this, the potential utility of regularisation, and positive effects on society at large, were highlighted to a larger extent. Spain, which decided on a large-scale regularisation in 2005, was often brought forward as a model to follow. In Spain, it was repeatedly argued, regularisation resulted in that former irregular migrants “pay taxes, can consume in society and have been profitable for Spanish society” (Addr. 27, Bodil Ceballos (mp), 2007/08:83).

Furthermore, after 2006 the proponents started to link the demands for regularisation to the approaching labour migration reform. This linkage was established in two different ways. First, echoing earlier claims-making, the reform was articulated as a new opportunity to grant a general amnesty. Already in the spring of 2006, two years before the presentation of the bill, attempts were made to link the demands for amnesty to the reform that was under way. At this point, a Green Party representative called for the reform to be accompanied with a general amnesty. In conjunction with the introduction of labour migration, it was argued, “the people who reside in Sweden without legal status, so called papperslösa workers, should be offered amnesty” (Addr. 115, Gustav Fridolin (mp), 2005/06:125). This demand rested, as the quote below testifies to, on a similar line of argumentation as the one advanced in the campaign that preceded the institutional reform:

When we introduce a framework for legal migration, labour migration, we should start from scratch. [...] We would get this reset [nollstreck] and be able to proceed without the occurrence of the same situation again. Then there will
be a legal opportunity to come here, and we don’t need to have a new group of *papperslösa* (Addr. 78, Bodil Ceballos (mp), 2006/07:103).

Again, that is to say, the demands for amnesty were articulated as an opportunity to reset the system.\textsuperscript{111} Besides this, there were calls for the reform to come accompanied with an individual opportunity for irregular migrants in employment to regularize their stay. One example of this is a motion from 2008, filed by the Left Party in response to the bill, that urged for transition rules that would enable “asylum seekers and *papperslösa* who reside in Sweden” the possibility to apply for residence permits on the grounds of labour market attachment (Motion (v), 2007/08:Sf27). The demand was motivated with reference to that it would be “completely unreasonable” to exclude irregular migrants from this opportunity if the bill was passed. Not least because it would mean that “people who already live and work here are to be deported at the same time as other labour is imported to do the same work” (ibid.). The two forms of regularisation were thus justified in slightly different ways.

In conclusion, the claims-making after 2006 showed signs of both continuity and change. Overall, the demands were advanced in a similar way and emphasis rested on humanitarian concerns and the state’s need to compensate for past injustices. Nevertheless, the increased focus on irregular migrants as a potential resource, which coincided with the broadening of the target group, is indicative of a slight shift.

**Continual Defence of the System**

Likewise, the opponents of regularisation – that were strengthened by the addition of three more parties after the 2006 election – continued to rely on arguments that echoed those advanced in previous debates. This meant, most fundamentally, that amnesty was articulated as a threat to migration control. Consistent with this, the main arguments in the debate revolved around long-term effects and the ability for the state to maintain control. After 2006, moreover, the opponents started to mobilize the reform, and the improvement it entailed, to counter calls for amnesty.

Most fundamentally, the new institutional order was invoked by former proponents of regularisation to establish calls for amnesty as obsolete. After 2006, they started to argue that the appropriate moment to grant an amnesty had passed with the instatement of the new order. Changed circumstances, that is to say, were brought in to justify why a measure that had been advocated before was no longer conceived to be appropriate. This was indicative of a new way of invoking the reform as a turning point. In 2005, prior to the

\textsuperscript{111} However, this line of argumentation also differs from previous debates in the sense that it implies that it was the absence of a path for labour migrants that has caused people to go underground.
instatement of the reform, this notion served helpful for the proponents of a
general amnesty as it enabled them to advance the reform as an opportunity to
provide redress for past injustices. However, after 2006, when the new order
was in place, the opponents of amnesty started to invoke the notion of the
reform as a turning point in the opposite way. Concordant with this, the
opponents started to advance the need to safeguard the new order as an
argument against amnesty. Now, it was argued, there is a new order that “we
must and shall preserve” and consequently this order needs to be “fully
applicable” (Addr. 23, Fredrick Federley (c), 2007/08:83). Moreover, it was
recurrently claimed that there is a need to await the consequences of the new
order before new measures are taken. One cannot, it was argued, “keep
changing and changing, because it does not secure rule of law” (Addr. 57,
Solveig Zander (c), 2006/07:103). In sum, after 2006, the meaning of amnesty
in relation to the new order became an object of contention. The proponents of
amnesty continued to advance the same argument, i.e. that the victims of the
old order should be offered restitution, whereas the opponents argued that an
amnesty would undermine the credibility of the new order.

After 2006, that it to say, calls for regularisation were dismissed with
reference to the need to safeguard the new legislation and the new institutional
order. Furthermore, echoing prior debates, the demand for amnesty was
dismissed with reference to that such a decision would mean that residence
permits were granted without an individual trial. This, it is continually
claimed, would undermine the legitimacy of the right of asylum. To be more
precise, because it “would not be the grounds for asylum […] that determine
whether one gets to stay in country, but rather the capacity to remain in the
country the longest possible” (Addr. 23, Fredrick Federley (c), 2007/08:83).
This, in turn, was also held out as unjust as it “means that those who follow
the laws adopted by the parliament and leave the country after an asylum
process that has been in accordance with the rule of law end up in a worse
position compared to those who have violated the laws” (Addr. 130, Tobias
Billström (m), 2008/09:37). Consistent with this, amnesty was singled out as a
threat to efforts to uphold the rule of law in the asylum process.

Furthermore, the opponents continued to underline that an amnesty would
be problematic because it would send the wrong signals and create incentives
for people to go underground. This was held out as worrisome in two ways.
First, it was argued to be detrimental from a control perspective as an
expectation of further amnesties “reduces the incentives for those whose
applications have been turned down to comply with the decisions that have
been made” (Addr. 53, Tobias Billström (m), 2007/08:83). This, in turn, was
taken to “undermine the sustainability of the system” (ibid.). The same effect
was, as the following quote testifies to, also held out as troubling from a
humanitarian perspective:
It [i.e. an amnesty] would send the wrong signals and create even more incentive for people who want to stay in the country to go underground, hide or enter as papperslösa in the hope of getting to stay. We would create an underclass society without precedent where people are completely outside the judicial system and the security systems we have (Addr. 23, Fredrick Federley (c), 2007/08:83).

This line of argumentation rested on similar assumptions about incentives and long-term consequences but had a slightly different focus. Again, it was argued that an amnesty would lead to expectations of further amnesties in the future and, consequently, induce people to go underground. However, in this case it was a social effect – namely the cementation of a parallel society – that was highlighted rather than the systemic. This reading thus started from the assumption that regularisation would have a reversed effect in the long run as it would reproduce the very circumstances it was supposed to address.

The 2010s – a Gradual De-Escalation

The pro-regularisation camp was, as I have already discussed, weakened after 2006. In the debates that preceded the decision about the new institutional order, five out of seven parties in parliament were in support of a general amnesty. After 2006, however, only two of these remained. Both the Green Party and the Left Party continued to file motions that called for regularisation of irregular migrants – in the broader sense that also incorporated non-asylum seekers – during the consequent years. All of these were however rejected by a broad parliamentary majority. Among these was the motion filed by the Left Party in conjunction with the adoption of the labour migration bill. This motion, to recapitulate, called for the reform to come accompanied with an opportunity for irregular migrants in employment to regularize their stay as labour migrants. After 2010 there was a de-intensification in claims-making. After this year fewer motions were filed and the references to regularisation in parliamentary debates became less frequent. The conditions of irregular migrants were continually discussed but the focal point of the debate was access to social rights rather than regularisation.

Concluding Remarks

The analysis in this chapter has explored the demands for regularisation of irregular migrants in Sweden. This has entailed an analysis of the claims-making as such, and how it has shifted over time, as well as how it was

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Formally, the motion was rejected with reference to that the proposed measure would delay the implementation process as it would require further considerations and preparations of the bill (2008/09:SfU3:18).
received and debated in parliament. In this concluding section I will make some final remarks about these debates, and the demands for regularisation as such, from a more overarching perspective. The previous chapter concluded that the politicization of irregularity has taken place within a framework where the need for regulation is taken as a given starting point. This means that the scope for conflict is reduced to struggles over either the principles of the framework for categorization or the actual sorting of people. In this chapter I will further develop this claim as well as discuss the ambiguous implications of regularisation.

Calls for regularisation entail a challenge of the exclusionary outcomes of particular citizenship regimes and often come accompanied with critique of particular policies. This was the case in Sweden where the demands were advanced in conjunction with severe criticism of both asylum policy and the processing of individual applications. In accordance with this, the demands for amnesty – as restitution for state wrongdoings – have been conceived of as fundamentally critical by both its advocates and opponents. The demand has also, as the analysis in this chapter has shown, been controversial and it has been met with strong resistance. I argue that this resistance should be interpreted against the backdrop of a shared commitment to the principle of regulated immigration. From this perspective, amnesty – a measure that sidesteps the framework for categorization – is considered potentially threatening. The conflicts that I have accounted for in this chapter accordingly also revolve around whether an amnesty would undermine migration control. The opponents repeatedly advanced the argument that an amnesty would be detrimental as it would create incentives for more people to go underground and undermine the principle of individual trial of each applicant. The advocates, on the other hand, consistently argued that the graveness of the situation, and the fact that it has been caused by historic injustices, calls for exceptional measures. Furthermore, as I have discussed in this chapter, the linking of the demand to the institutional reform enabled the pro-regularisation camp to advance amnesty as a one-time measure that would not threaten the principle of regulated immigration.

**Reinforcement of the Citizenship Order**

In relation to the framework of regulated immigration, that is to say, the demand for amnesty was conceived of as a radical proposal. Nevertheless, as argued by numerous scholars, the implications of regularisations are ambiguous. Experiences from previous regularisations in different contexts suggest that these kinds of programmes often come accompanied with the imposition of more restrictive policy and more controls. Furthermore, they are ambiguous on a more principal level as they simultaneously challenge and reinforce the prevailing citizenship order. They are challenging, first, in the sense that they provide remedies to some of the exclusions that this order
produces. Often, moreover, the demands for regularisation come accompanied with a critique of policies and politics. Nevertheless, demands for regularisation also reinforce the hegemonic citizenship order in a number of senses. First, as argued by Anne McNevin, they strengthen this order in the sense that they “reboot the system, tidying rough edges and anomalies that exposed its cracks and strains” McNevin 2011:151). The measure as such, furthermore, means that rights are secured through incorporation into the current citizenship regime. These kinds of strategies, it has been argued, also “inevitably reproduce the inclusive/exclusive logic of citizenship” (Tyler & Marciniak 2013:146). Furthermore, as pointed out by Peter Nyers, the criteria of regularisation programs often serve to “produce and stabilize notions of citizenship” (Nyers 2010:136). He highlights the role of these criteria in the reproduction of notions of worthiness:

As a method of categorization, these criteria (such as criminality, medical inadmissibility, economic wealth, length of residency, level of “integration”, family connections, or country of origin) separate those “worthy” of legal status, permanent residency, and eventual formal citizenship from those deemed undesirable, unworthy of status, and potentially dangerous to the national body politic (Nyers 2010:136).

According to Nyers, that is to say, the criteria function as a way to reproduce notions of the “good citizen” and single out prospective citizens among the undocumented migrants. In a similar fashion, moreover, arguments for regularisation tend to appeal to and draw on prevailing norms and discourses of citizenship. This tendency has been argued to be paradoxical as it means that protests against “the exclusionary technologies of citizenship”, in order to be successful, are advanced “in the idiom of the regime of citizenship they are contesting” (Tyler & Marciniak 2013:146).

The Ambiguities of Claims-Making

This tension between contestation and reinforcement can also be discerned in the debates that have been analysed in this chapter. The analysis has shown that amnesty, first and foremost, has been motivated with reference to the state’s need to compensate for institutional malfunctions. The demands for amnesty were intimately linked to a critique of the processing of asylum applications and its outcomes. This articulation of amnesty as restitution ultimately established desert for residence permits through suffering and victimhood. Another strand of arguments motivated the need for amnesty with reference to integration. Both social integration – in the sense of being part of a social networks, raising children and speaking the language – and economic integration – in the sense of being a consumer, worker and taxpayer – were recurrently invoked in the parliamentary debates to support the demands for
amnesty. The latter argument in particular is interesting as it serves to constitute the irregular migrants as functioning and contributing member of society that it would be economically unwise to reject. This focus should be interpreted against the background of the framework for categorization that positions burdensome migrants as “undesirable”.

Overall, I contend, the claims-making on behalf of irregular migrants in Sweden has tended to draw on established notions of desert. In line with this, the arguments for regularisation can, somewhat simplified, be subsumed under the two headings *victimhood* and *contribution* that correspond with the primary grounds of desert. The common denominator for arguments that belong to the first category is that entitlement to rights is invoked with reference to victimhood. Practically, victimhood can be established through appeals to refugee status as well as sickness or institutional maltreatment (such as lack of due process or lengthy waiting). Principally, victimhood is understood to constitute a basis of desert both within a (human) rights-oriented and a humanitarian framework. The former holds asylum to be a right whereas the latter holds human suffering as a basis for compassion. The second strand of arguments downplays victimhood and focuses on irregular migrants as functioning and contributing members of society. Arguments that emphasized integration – in the form of employment, relationships and language skills – appeared already in the 2005 debate. Thereafter, in conjunction with the launch of the labour migration reform, references to profitability in a more narrow economic sense increased. These kinds of arguments can, following Saskia Sassen, be understood as attempts to draw attention to common experiences and establish irregular migrants as fellow members of society. Sassen has identified *de facto* citizenship – the performance of practices associated with citizenship – as a platform for claims-making. In short, her argument is that irregular migrants, who are formally excluded from citizenship, can claim entitlement to rights with reference to everyday acts and activities (Sassen 2005; 2006; 2009). This form of claims-making ultimately draws on the established idea that membership comes with both rights and obligations. The irregular migrants, it is argued, fulfil their obligations as de facto members of society and should accordingly be granted the corresponding rights.

Both of these strategies can be used to constitute irregular migrants as right-bearers. The two strands of arguments, and the discourses they draw from, however establish entitlement in fundamentally different ways. Strategies that invoke worthiness, first, recognize people in the capacity of

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113 This focus, moreover, should also be understood in the context of a widespread conception that the prevailing integration policy has failed. A conception that, in essence, rests on a linking of unemployment and welfare dependency among immigrants to a perceived “integration problem”. Hence, the continuous references to irregular migrants as hard-working people and potential taxpayers can be categorized as an attempt to counter the representation of immigrants as burdensome and a drain on public funds.
victims and as subject of compassion. Strategies that invoke contribution, on the other hand, recognize people with basis in the value they create for the community in which they reside. Both strategies accordingly come with certain limitations as they institute different form of hierarchies between categories of migrants. Arguments that emphasise economic and social benefits, to start with, ultimately reinforce the division of migrants into “productive”, i.e. “desirable”, and “unproductive” categories. Humanitarian arguments, on the other hand, run the opposite risk as they tend to “exceptionalize the deservingness of specific categories”, such as refugees or children, with basis in suffering and victimhood (Tyler & Marciniak 2013:153). In relation to irregular migrants, for instance, it has been argued that arguments that make regularisation conditioned on “vulnerability” simultaneously render irregular migrants who do not fall in this category more vulnerable (Kraler 2011:314). Finally, in a broader perspective, both strategies are equally problematical in the sense that they reproduce and reinforce the logic of categorization.

Regularisations, to conclude, thus come with a number of contradictory effects. They entail a challenge to some of the exclusions that the prevailing order produces. From the perspective of its beneficiaries, furthermore, regularisations are highly valued as they provide them with legal status and consequently with security and access to rights. In the parliamentary context, moreover, the demand for amnesty has been conceived of as a radical proposal that challenges the principle of regulated immigration. It has also come accompanied with sharp criticism of both policy and practice. Nevertheless, from a larger perspective, demands for regularisation also tend to reinforce the prevailing order. First, as outlined above, in the sense that both calls for regularisation and criteria for actual programs tend to appeal to existing legislation and, consequently, confirm existing hierarchies and mechanisms for sorting. This means, furthermore, that not only particular notions of desert are reproduced but also the underpinning assumption that not all people are prospective members of the state. That is to say, ultimately, regularisations naturalize the very institution of citizenship and nation state order as they “confirm the spatial logics that separate citizen and territories from unwanted and unworthy outsiders” (McNevin 2011:151).
6. RIGHTS BEYOND STATUS: EXPLORING DEMANDS FOR SOCIAL RIGHTS

In the previous chapter I analysed attempts to secure rights for irregular migrants through status. In this chapter I will turn my attention to another set of demands. More precisely, to different ways of securing limited sets of rights for irregular migrants despite the fact that they lack residence permits and authorized rights to stay. In the Swedish context these kinds of demands have predominantly revolved around access to basic social rights. Most importantly, access to schooling and (subsidized) medical care. Demands for basic social rights for undocumented migrants first started to be voiced at the turn of the millennium. In contrast to the demands for regularisation, which called for inclusion into the prevailing citizenship regime, demands for social rights, by definition, entailed calls for modification of the regime. More specifically, in the sense that these demands challenged the fundamental principle that rights are something that follow from holding a residence permit.

In contrast to demands for regularisation, which largely remain unanswered, demands for basic social rights have been relatively successful. Although the changes in legislation have been less far-reaching than the demands, the 2000s have seen substantive changes in the approach to people who reside in the country undocumented. Historically, the Swedish welfare state has left people who are staying in the country unauthorized without access to any social rights. The residence permit has constituted the threshold

114 Some attention has also been given to the right to access women’s shelters as well as to the inadequacy of labour legislation when it comes to the protection of irregular migrant workers. Finally, the introduction of more or less extensive “safe zones” – here in the meaning of areas where the police are prohibited to search for or apprehend irregular migrants – has been the object of continual debate. The latter has been debated both more narrowly, in the form of a precondition for the actualization of the right to schooling and medical care, and broadly, in the form of a more generalized right to move about in public without running the risk of police controls.
to most rights and without one people have effectively been excluded from all kinds of service provision. The 2000s have seen a gradual change in this regard as there has been a successive expansion of the scope of rights granted to undocumented migrants. The shift was initiated already at the turn of the millennium when one category of undocumented children – former asylum seekers hiding from deportation – were granted access to medical care. About a decade later, in 2013, legislation was put into force that expanded this right to all undocumented children, as well as adults. Moreover, at the same time undocumented children were granted the right to schooling. Both decisions indisputably constitute a significant shift of policy. In this chapter I will analyse the political debate and claims-making that led up to this shift as well as discuss its wider implications.

The chapter starts with a section that discusses the process of implementing the UN Convention on the Rights of the Child in Sweden. I argue that this process, initiated in the 1990s, was of momentous importance as it initiated a discussion about the undocumented children as right-bearers. This section is followed by an analysis of the claims-making and debates that followed in the 2000s. In particular, my focus is on how notions of human rights have been drawn upon in these debates to challenge the approach that denies undocumented migrants access to social rights. Thereafter, I analyse the gradual breakthrough for human rights discourse and the steps towards policy revision. Finally, the chapter ends with a discussion on the implications of the demands, and the reforms they have resulted in, with a particular emphasis on how these relate to the citizenship order.

**The Backdrop: the “Rights of the Child” and the Implementation of the UN Convention on the Rights of the Child in Sweden**

The UN Convention on the Rights of the Child (CRC) was adopted by the General Assembly on November 20, 1989. A few months later, on June 21, 1990, a unanimous parliament voted in favour of a Swedish ratification of the Convention. The ratification was followed by a debate over the consequent implementation in national legislation. More precisely, over whether the Convention should be incorporated into Swedish legislation in its entirety or whether current legislation should be brought into agreement with the intentions spelled out in the Convention. In 1995 parliament voted in favour of the latter strategy and as a result a parliamentary committee, the Children’s Committee [Barnkommittén], was appointed with the task to investigate the preconditions for an implementation of the CRC in Sweden (SOU
The work of the committee resulted in a number of reports. The final report was presented in 1997 (SOU 1997:116, Barnets bästa i främsta rummet – FN:s konvention om barnets rättigheter förverkligas i Sverige) and was a broad overhaul where the formulations and intentions of the CRC were compared with national legislation and practice. The investigation covered a number of policy areas but for the discussion at hand the interesting parts are those that address the rights of undocumented children.

The situation of undocumented children was only briefly addressed in the committee’s final report. With regard to this category of children, the considerations of the committee primarily revolved around the interpretation of the principle of non-discrimination. This principle is established in article 2 of the CRC that reads:

States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status (CRC, Article 2.1, my emphasis).

The implications of article 2, which establishes that states are responsible to secure the rights of all children within their jurisdiction, have been the subject of discussion in both Sweden and other countries. The main area of contention has precisely been the implications with regard to undocumented children. According to the interpretation made by the committee, neither the discussions preceding the drafting of the Convention, nor the guidelines from UN committees, suggested that the state has a duty to secure that undocumented children have access to all the rights stipulated in the CRC. Consequently, the committee concluded that the state has some responsibility for these children.

The commission later affirmed the correctness of this decision. In its main report, the commission argued that the abundance of vague formulations and the amount of articles meant to be implemented gradually make the Convention unsuitable for direct incorporation into legislation. Moreover, the commission underlined that the implementation should be considered a political process where parliament passes legislation rather than leaves the interpretation of the Convention to the judiciary (SOU 1997:116:15). However, the decision has thereafter become an object of contention and demands for an incorporation of the CRC in national legislation have recurrently been made throughout the 2000s. Many of those who hold Swedish asylum policy and practice to be too restrictive have argued in favour of incorporation. More precisely, because they are convinced that this would strengthen the rights of children in the asylum process and put an end to denied asylum applications and deportations. In October 2014, the government announced its intention to incorporate the CRC and an on-going commission is supposed to present a proposal on how this will be accomplished in 2016.

It is also worth mentioning that the committee was instructed to prioritize its investigation into the relationship between the CRC and the Aliens Act. These conclusions were published somewhat earlier in SOU 1996:115.

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but that it is more limited compared to other children that reside in the
country:

Hence, with regard to these children, what can be concluded is that the state has
a responsibility to guarantee that the children have their basic needs satisfied,
yet one can conclude that there is a lessening of responsibility when it comes to
children who are staying in the country illegally (SOU 1997:116:69).

This means, they argued, that the state has a duty to provide emergency care
as well as to assure that the child not fall behind with regard to education.
However, the committee found it reasonable to limit access to such aspects of
health care and education that presuppose that the child is present for a durable
amount of time (“ibid.”). In accordance with this conclusion, the committee
recommended that one category of undocumented children, namely former
asylum seekers in hiding, should be granted access to health care on equal
terms as other children. Moreover, the committee made yet another policy
recommendation that subsequently became important for the debate regarding
the rights of undocumented children. More precisely, it recommended that
asylum-seeking children should be granted access to schooling on equal terms

The subsequent bill (Prop. 1997/98:182, Strategi för att förverkliga FN:s
konvention om barnets rättigheter i Sverige), presented in 1998, contained
similar considerations regarding the state’s responsibility for undocumented
children. The government, like the committee, recognized that the CRC
imposes a duty on the state that applies to all children within its borders, but
maintained that the scope of this duty varies depending on the situation of the
child. Concordant with this, the bill also repeated the committee’s conclusion
that it is reasonable to assume a de-escalation of responsibility with regard to
children who are “staying in the country illegally” (Prop. 1997/98:182:12). In
addition, the government argued that it would be inconsistent to recognize
these children as right-bearers on equal terms:

It is a serious problem that there are children who live hidden and outside of
society. However, incongruous situations would arise if one authority is
instructed to deport a child, whereas another authority is instructed to ensure the
same child equal access to all the rights of the Convention on the Rights of the
Child as children who are staying in the country legally (“ibid.”).
As the quote attests to, the government recognized the circumstances of undocumented children as worrisome. Yet, it remained reluctant to proposals that would grant equal rights to the group and stressed that the main priority must be to prevent that children go into hiding in the first place. However, again following the reasoning of the committee, the government acknowledged that the state has a duty to cater for emergency health care as well as schooling for children who remain in the country after having had their application for asylum denied (ibid.:12-13). In line with this, the government eventually made decisions that were consistent with the recommendations of the committee. In 2000, it decided that former asylum-seeking children in hiding should receive access to health- and medical care on the same terms as asylum-seeking children. Furthermore, in 2001, it presented a bill (Prop. 2000/01:115, _Asylsökande barns skolgång m.m._) that granted asylum-seeking children access to schooling.

**The Initial Claims-Making**

As mentioned above, considerations regarding undocumented children made up a comparatively small part of the commission report. Yet I argue that the work of the commission was vital for turning the circumstances of undocumented children into an area of policy concern as the recommendations of the committee, and the shifts in policy the committee’s work paved the way for, constituted a springboard for further claims-making and debate. In the wake of the implementation process, access to both medical care and schooling was expanded but critics argued that further measures were required in order to comply with the CRC. Most importantly, the critics called for a broadening of the target group. The expansion of medical care was delimited to one category of undocumented children – namely former asylum seekers in hiding – and the expansion of schooling excluded undocumented children altogether, which was held to be incompatible with the CRC. Furthermore, critics argued that there were indications that people abstained from exercising their rights out of fear of the police and that there consequently was a need for

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118 This decision is mentioned in the parliamentary debate and form the backdrop of several motions. Maj-Inger Klingvall refers, for instance, to the decision, that was taken on March 30, in a parliamentary debate the same year (Addr. 38, Maj-Inger Klingvall (s), 1999/2000:99).

119 The fact that the 2001 bill restricted access to schooling to asylum-seeking children was criticized by actors both within and outside of parliament. The proposal for new legislation was, as customary, referred to a number of bodies for consideration before it was presented to parliament. Several of these bodies, including the Save the Children Fund, were critical of the fact that undocumented children were excluded (Prop. 2000/01:115:16). Furthermore, the Liberal Party filed a motion that proposed an investigation to look into measures that could be taken to ensure that also “hidden children” were granted access to schooling in response to the bill (2000/01:Ub48). The motion was eventually rejected by parliament where the Liberals were the only party to vote in its favour. However, in the parliamentary debate that preceded the adoption of the bill representatives from both the Left Party and the Green Party expressed their principled support for granting undocumented children access to schooling (2001/02:21).
further measures. Concordant with this critique, a number of motions that urged for medical care and schooling for all undocumented children were filed during the early 2000s.\(^{120}\)

The initial demands for access to social rights were thus advanced exclusively on behalf of children and the justifications drew heavily on notions of (non)responsibility and emphasized that undocumented children lack responsibility for their predicament. This is, for instance, how a proposal for an investigation into undocumented children’s access to schooling was justified in a motion from 2001. The motion emphasized that children in hiding are in a “very vulnerable situation” and that society has a responsibility to care for them (Motion (fp), 2000/01:Ub48). This responsibility, moreover, was linked to the children’s lack of responsibility for their circumstances. The children, it was stressed, “have not chosen to be in hiding in another country and cannot be blamed for the situation they are in” (ibid.). This kind of justification, which is underpinned by conceptions of innocence, reappeared in a number of other motions that demanded rights on behalf of undocumented children. The following excerpt, from an early Green Party bill, is another example:

> Children are never responsible, and children are never guilty. We can never accuse the children of being responsible for the situation that they are in, but we have a responsibility to provide them with security in our country (Motion (mp), 2000/01:Sf274).

Again, the demand – in this case a call for full access to health- and dental care for “hidden children” – is brought forward with the argument that children should be exempted from responsibility due to their lack of say in the decision to stay in the country unauthorized. This emphasis can be interpreted in several ways. The most straightforward interpretation would be that the articulation of difference simultaneously implies an acknowledgement of responsibility on part of undocumented adults. An acknowledgement that, in turn, would render adults ineligible from rights. In my view, however, it is more plausible to interpret the articulation as an effort to move the rights of children away from considerations about responsibility.\(^{121}\)

The quotes above are representative of one form of articulation, which appeals to notions of innocence and non-responsibility, in order to further the rights of undocumented children. Another form of articulation, on the other

\(^{120}\) For a full compilation of relevant motions see the appendix.

\(^{121}\) This interpretation is also supported by the overall reasoning in the motions. Some of these contain passages that express sympathy for the fate of adults as well. One example is the previously mentioned Green Party motion that states that “one cannot blame the parents and demand that they should take a bigger responsibility for their children, since they are often desperate and terrified of a return” (Motion (mp), 2000/01:Sf274).
hand, appealed to notions of rights. This is manifest in a number of motions that call for schooling and health care with reference to undocumented children having rights under international human rights law. The following excerpts are representative of this line of reasoning:

Article 2 of the Convention on the Rights of the Child establishes that every child within the country must be ensured the rights specified in the Convention. The UN Committee on the Rights of the Child in Geneva has made clear that for children without residence permits this means at least the right to health- and medical care and schooling. This also means that children without residence permits in Sweden must be given access to education and health- and medical care. Today, children who are residing in Sweden “irregularly”, i.e. without applying for residence permits, lack the right to health- and medical care (Motion (kd), 2003/04:Sf271).

Children without residence permits are covered by the UN Convention on the Rights of the Child and the rights it prescribes. Today, children who lack residence permits and who are hidden have a right to health- and medical care. The question of whether this should apply to children whose parents have entered the country illegally should be addressed (Motion (s), 2003/04:Sf323).

The motions quoted above are both critical of the fact that the 2000 decision only applied to one category of undocumented children. This state of affairs, it was claimed, was in violation with the CRC that holds all children to be entitled to medical care regardless of legal status. According to these critics, hence, there was no principal difference between irregular entry and going underground to avoid deportation since the Convention turns all children into right-bearers. In a similar fashion, as manifest in the first quote, the CRC, and the rights of the child, was invoked to call for an expansion of the right to schooling.

The demands for social rights were initially rejected by a parliamentary majority on grounds that echoed those that were offered in conjunction with the implementation of the CRC. Again, the need for long-term preventive work was highlighted and any measures that would ease the immediate hardships of the group – such as access to schooling – were rejected. The difficult living circumstances of undocumented children were acknowledged but subsequently left unaddressed. The following quote is exemplary of the majority position:

According to the Committee [on Social Insurance], it is obvious that children in families that lack permission to be in Sweden, and that keep away from authorities, regularly live under difficult circumstances. It is therefore of great importance that various measures are taken, as well as that projects are initiated and developed with the purpose to prevent that families with children go into
hiding. The Committee observes that access to education is of great importance also for children who lack the right to reside in Sweden. The Committee is however not willing to recommend that also the group of hidden children should be granted an explicit right to education (Committee Comment, 2000/01:SfU8y).

The statement contains all the core elements of the majority response to calls for rights for undocumented children. It is, first, illustrative of a tendency to express sympathy for the group and its members’ harsh living circumstances while rejecting proposals that would address the very same circumstances. Second, it is illustrative of a tendency to stress the need for preventive work. The latter tendency, furthermore, often comes accompanied with a list of measures that have already been taken.

**The Incorporation of Adults**

The initial campaigning on behalf or irregular migrants thus rested on a distinction between children and adults. Concordant with this, the demands that were advanced on behalf of children – whether invoked with reference to the CRC, and the right of the child, or with reference to the lack of responsibility – were articulated to be of a specific nature. Over time, however, the pro-reform camp gradually started to pose demands on behalf of adults as well.

The first indications of a burgeoning debate can be found in the early 2000s. At this point, it was still considered highly controversial to grant undocumented adults access to subsidized health- and medical care and there were no explicit calls for policy revision. However, on several occasions individual MPs posed questions that sparked discussions in which the groups’ access to medical care was briefly addressed. In these early debates, the idea that the state should provide medical care to people who resided in the country without authorization was recurrently rejected by government representatives. The following position, taken by the then current Minister of Migration, is illustrative of the dominant understanding in the early 2000s:

> In my view, the system would be inconsistent and unclear if the state compensated the county councils for health- and medical care that has been provided to people who do not have the right to reside in Sweden (Addr. 1, Maj-Inger Klingvall (s), 2000/01:65).

Hence the primary objection was that it would be inconsistent if the state provided subsidized medical care to undocumented migrants. This interpretation ultimately rested on the understanding that different sets of policy and legislation must be coordinated. Furthermore, it was based on the understanding that people whose applications for asylum had been rejected
should be forced to leave the country. This was also explicitly argued by the Minister who emphasized that the people concerned are foreigners who had been denied residence permits after due process. Finally, the reasoning was underpinned by the assumption that undocumented adults – in contrast to children – are responsible for their circumstances. In the debate at hand, children were singled out as an exception with reference to that they “involuntarily find themselves in a particularly vulnerable situation” (Addr. 1, Maj-Inger Klingvall (s), 2000/01:65). With regard to children, moreover, it was argued that the ratification of the CRC implied an obligation to provide access to medical care.

At the turn of the millennium, hence, provision of subsidized medical care to undocumented adults was still considered controversial. Shortly afterwards, however, the first motions were filed and the campaigning for policy revision started to take off. Initially, the attempts to challenge the current policy – and the corresponding hegemonic order – mobilized humanitarian and ethical arguments. Both themes appear in one of the first motions that explicitly discuss medical care for adults. Here, an investigation into the provision of health- and medical care to “hidden refugees” was proposed with the argument that it could never be considered “reasonable to restrain from taking responsibility for people who are residing in the country ‘illegally’” (Motion (v), 2003/04:Sf279). To do so, it was argued, is both cynical from a humanitarian perspective and it put people in the medical profession in a difficult position. More precisely, because they are confronted with ethical dilemmas due to the fact that the policy is “in violation with the ethical code that all medical personnel are supposed to use as a guideline in their work” (ibid.). The latter factor subsequently became one of the key arguments in the campaign for policy revision. First and foremost, the pro-reform camp invoked medical ethics to question differentiated treatment of different groups of patients. A policy that “excludes certain part of the population” and sidesteps the principle of needs-based care, it was argued, is “irreconcilable with medical ethics and the values that underpins the medical profession” (Motion (kd, mp, v), 2005/06:Sf419). According to the interpretation that was advanced by the proponents of reform, medical ethics preclude discrimination with basis in legal status as the only factor it leaves room for are the medical needs of the patient.

A further line of justification was added in the mid-2000s after the publication of an influential UN report. The report in question was issued by Paul Hunt, the UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, in 2007, as part of an evaluation of Swedish policy and practice on behalf of the UN. Hunt took his starting point in the idea that “the right to the highest attainable standard of health” is a human right and that it, as such, should “be enjoyed by all without discrimination” (Hunt 2007:20). He accordingly expressed concerns that the current Swedish policy was in violation with
international human rights law as it distinguished between different categories of residents. Hunt consequently recommended that the policy should be revised to ensure that “all asylum-seekers and undocumented persons [are offered] the same health care, on the same basis, as Swedish residents” (ibid.). This policy recommendation was immediately picked up by both NGOs and members of political parties and used to strengthen the calls for policy revision. Furthermore, the Hunt report contributed to establish the understanding that access to medical care constituted a human right. In the wake of its publication, it is possible to see a breakthrough for this understanding. During the following years, consequently, a number of motions were filed that explicitly argued, with reference to Hunt, that Swedish policy was in violation with human rights law in general, and the UN Covenant on Economic, Social and Cultural Rights in particular. The report, that is, brought about a shift in how the demand was articulated: from a humanitarian gesture to a vulnerable group to a universal right that should be granted to all regardless of legal status.

This shift was, I argue, significant for two reasons. First, because it rendered the discussion about responsibility, and the associated distinction between children and adults, redundant. Second, because it established a limit on the legitimate scope of migration control. With regard to the first aspect, human rights discourse provided proponents of policy reform with an opening to establish adults as right-bearers. The initial demands for an expansion of the right to medical care were exclusively advanced on behalf of children and drew heavily on notions of (non)responsibility. The invocation of human rights – that establishes both undocumented children and adults as right-bearers – made the issue of responsibility, and accompanying discussions about intent or power to influence the situation, irrelevant. With regard to the second aspect, notions of human rights were important to challenge the conviction that there needed to be consistency between social policy and migration policy. One of the key arguments brought forward by the pro-reform camp has been that provision of health- and medical care, as a human right, should be exempted from consideration as a policy instrument. This is reflected in statements that deem the withholding of medical care, for the sake of deterring prospective migrants, to be “shameful” and “not worthy of a civilized country” (Addr. 3, Gunvor G. Ericson (mp), 2007/08:115). Here, that is, the articulation of the right to medical care as a human right serves to question the use of social policy as a migration control measure.

**Human Rights Versus Sovereignty**

The debate intensified in 2008 when the government presented a bill (Prop. 2007/08:105, *Lag om hälso- och sjukvård åt asylsökande m. fl.*) that proposed legislation regarding the regional responsibility to provide health-, medical-
and dental care to asylum seekers. The bill, which implicated the continual exclusion of undocumented migrants from provision of subsidized medical care, entailed no substantial change in policy. However, after years of claims-making on behalf of undocumented migrants, and the recent publication of Hunt’s report, the fact that the bill entailed no change was in itself controversial and the proposal was met with a wave of criticism. In parliament, motions that urged the government to withdraw and revise the proposal were filed by both the Green Party and the Left Party. Moreover, the presentation of the bill was followed by extra-parliamentary mobilization and a coalition, called the Right to Health Care Initiative [Rätt till vårdinitiativet], was formed to lobby against its adoption.

The consequent parliamentary debates came, concordant with the shift in claims-making outlined above, to revolve around attempts to fix the meaning of human rights. In these debates the interpretation of article 12 of the UN Covenant on Economic, Social and Cultural Rights became a focal point. This states that everyone has a right to “the enjoyment of the highest attainable standard of physical and mental health” and that this right should be exercised without any form of discrimination (ICESCR, Article 12). The meaning, and implications of, this wording – that clearly establishes that access to health-and medical care is a human right – has however been subject of both domestic and international debate. In the parliamentary debates, two competing discourses – that entailed different readings of the scope of human rights and their implications on state sovereignty – were mobilized.

122 The proposal was induced by an EU directive (Directive 2003/9/EG, which specifies minimum requirements with regard to the provision of schooling, medical care and housing conditions) about the receiving conditions of asylum seekers in the member states. In response to the adoption of the directive the government appointed an investigation to review whether Swedish policy and practice was consistent with the standards set by the directive. Generally, the investigation found Sweden to be compliant with EU standards. However, it was recommended that prevailing policy, enforced through agreements between the state and the regions, should be confirmed by law. The bill, in essence, consisted in precisely this and entailed no substantial difference with regard to the scope of care provided by the state.

123 More precisely, in favour of a proposal that would provide both asylum seekers and irregular migrants with access to medical-and dental care on the same terms as other residents. More delimited criticism was offered by the Social Democrats that filed a motion calling for an investigation to ensure that all children would be entitled to medical care. All motions were rejected by the parliamentary committee with reference to that the matter was subject to considerations at the Government Offices and that a proposal was under way (2007/2008:SfU8).

124 The coalition consisted of a number of diverse organizations, ranging from NGOs and asylum rights groups to professional organizations within the health care sector and foundations providing care to irregular migrants on a voluntary basis. The coalition’s demand, and the justifications offered in its platform, was similar to those advanced by the pro-reform camp in parliament. The main arguments were that current policy was in violation with human rights and that it exposed health care staff to an unreasonable dilemma as it forced them to act in conflict with their professional ethics (Rätt till vårdinitiativet, 2008).
The Mobilization of Human Rights Discourse

In the late 2000s, following the publication of Hunt’s report, the pro-reform camp thus started to draw on human rights discourse in its attempts to challenge hegemonic conceptions about state sovereignty and citizenship privilege. This entailed, most fundamentally, that the proponents of reform started to argue that access to subsidized health- and medical care is a human right and that policy revision is necessary to make Swedish legislation compatible with international human rights law. The following quotes are exemplary of this line of argumentation:125:

[Decisions regarding care] should not be made based on where one happens to be born or what citizenship one happens to hold. All people should have the right to health- and medical care as a part of the human rights. Health is a human right (Addr. 37, Gunvor G Ericson (mp), 2007/08:115).

We believe that people who are in our country, regardless of reasons or grounds, have a legitimate right to medical care when in need. Our standpoint is based in the principle of human rights and other related conventions that Sweden has signed (Addr. 39, Lars Gustafsson (kd), 2007/08:115).

These quotes are representative of the interpretation of human rights that was advanced by the proponents of policy reform. This interpretation, most fundamentally, rested on the assumption that access to affordable health- and medical care is a human right. This, in turn, was taken to imply that all residents, irrespective of legal status, should be given access to subsidized care. The quotes, moreover, hint at the general understanding of human rights that underpinned the Swedish debate. According to this, human rights are universal rights, i.e. rights that all human beings are entitled to without discrimination, and that the state has an obligation to provide regardless of legal status. This category of rights was recurrently contrasted with citizenship rights:

Citizenship rights are tied to citizenship while human rights are tied to the individual. Citizenship rights are conditioned on nationality and human rights are universal and thus follow the person regardless of place of residence (Addr. 39, Lars Gustafsson (kd), 2007/08:115).

The quote above is exemplary of how the distinction between human rights and citizenship rights was articulated in the Swedish debate. The former was repeatedly argued to be rights that apply to all whereas the latter was restricted.

125 The quotes do not explicitly address the question of subsidies. However, given the general context of these debates, it is implied that medical care should be accessible and, hence, subsidized.
to a limited group. Human rights, furthermore, were generally interpreted to be limited in scope. This understanding is implicit in the following argument:

Certainly, a person who resides in Sweden without permission cannot be included in all Swedish welfare systems. He or she might also be forced to leave involuntarily. But no person should be left in risk of sickness or death due to lack of care. Therefore, we are working to expand the right to cheap, subsidized care to gömda and papperslösa (Addr. 26, Ulf Nilsson (fp), 2007/08:115).

The excerpt, drawn from a longer line of argumentation that underlines that access to subsidized care is a human right, testifies to the understanding that human rights are less comprehensive than citizenship rights. The import of the statement above is clearly that medical care is an exception to the rule and that it is one of few rights that undocumented migrants are entitled to. This in turn implicates that human rights are supplementary to, rather than in conflict with, citizenship rights. This interpretation was, I contend, hegemonic in the parliamentary debates. Undeniably, there were differences within the pro-reform camp with regard to whether health- and medical care should be provided to irregular migrants on the same terms or whether some form of distinction was warranted.\textsuperscript{126} Overall, however, it is noticeable that human rights were invoked to contest an individual aspect of the citizenship regime, namely the withholding of medical care, but that the very logic of citizenship was left uncontested.

The opponents of reform, on the other hand, advanced another reading of the scope of human rights. They, to be precise, challenged a particular aspect of the reading advanced by the pro-reform camp – namely the interpretation that access to subsidized medical care constitutes a human right – whereas the overall interpretation of human rights was left uncontested. That is to say, the fundamental meaning of article 12, i.e. that access to medical care is a human right, was never challenged in the parliamentary debates. Likewise, there was no disagreement over the fundamental meaning of human rights. These were, it was generally acknowledged, rights that everyone is entitled to regardless of status. The main point of contention, rather, was the demarcation between human rights, on the one hand, and citizenship rights, on the other hand. Accordingly, the opponents of reform advanced the reading that subsidized medical care is a citizenship right. This reading thus established a distinction

\textsuperscript{126} From the start, the pro-reform camp advanced different understandings of the scope of care required. One part made the interpretation that human rights requires equal access to health- and medical care whereas another part made the interpretation that a distinction between undocumented residents and other residents is warranted as long as the former group is provided access to basic care at an affordable rate. Initially, however, these differences were downplayed. The different interpretations, that is to say, are visible already in the early debates but at this point the main dividing line is still drawn with regard to position on subsidies in general.
between access to medical care, which was argued to be a human right, and access to subsidized medical care, which was argued to be a privilege reserved for people with an authorized right to stay in the country. In line with this logic, it was argued that Sweden already fulfils its obligations since “everyone who resides in this country has a right to access emergency care” (Addr. 64, Tobias Billström (m), 2007/08:115). Afterwards, however, “one can request payment to cover the costs of this care” (ibid.). To not do so, i.e. to provide irregular migrants with medical care at a subsidized rate, was, as the following quote testifies to, held to be problematic:

But it becomes problematic if we begin to say that free medical care is a human right. Then we must begin to set limits to determine who is not entitled to free Swedish medical care (Addr. 17, Fredrick Federley (c), 2007/08:115).

The statement above is underpinned by the assumption that it would be absurd if anyone would be entitled to subsidized medical care in Sweden. This assumption, in turn, rests on the conviction that social goods are scarce, and that there is consequently a need for closure. Moreover, the reluctance to grant rights to undocumented migrants was justified with reference to that access to rights rests on fulfilment of obligations. Entitlement to rights, that is to say, was articulated as a privilege reserved for contributing members of society. In line with this, it was argued that it would be problematic to grant the same set of rights to people staying in the country irregularly as to “those who follow laws and regulations and pay taxes” (Addr. 52, Tobias Billström (m), 2007/08:115).

The Mobilization of Sovereignty Discourse

The opponents of reform thus countered the articulation of access to subsidized care as a human right with an alternative interpretation of the demarcation between human rights and citizenship rights. Moreover, those defending the current state of affairs continued to invoke both sovereignty discourse and responsibility discourse. Concordant with the former discourse, it was repeatedly underlined that the state needs to take a consistent approach. The notion of consistency was key to the defence of current policy and in the debate it was linked to a number of more specific arguments. First and foremost, the opponents of reform repeatedly argued that it would be problematic to provide undocumented migrants access to the welfare system with reference to the need to “send consistent signals” (Addr. 62, Tobias Billström (m), 2007/08:115). It was thus, as the following excerpt testifies to, pronounced inconsistent to grant rights to people whose application to stay in the country had been rejected:
A system in which some authorities have the mission to execute deportation orders, whereas other authorities provide the same people with full health- and medical care can be regarded as rather inconsistent (ibid.).

Inconsistency, furthermore, was articulated to be detrimental from a control perspective. According to the opponents of reform, inconsistency undermines respect for authority decisions and obstructs their enforcement. In addition to that, provision of rights was claimed to create incentives for people to reside in the country without permission. This, in turn, was linked to the risk of establishing parallel structures in society. In the debates, the opponents of reform continuously compared the proposed measures – that would grant undocumented migrants access to basic social rights despite the lack of a residence permit – with Southern European migration regimes. These systems, which were argued to require endurance of “a couple of years of suffering, of severe hardships, low wages and no rights” in hope of a residence permit, were repeatedly advanced as deterrent examples (Addr. 19, Fredrick Federley (c), 2007/08:115). According to this chain of association, hence, access to social rights would foster the emergence of a “shadow society” [skuggsamhälle] in which undocumented migrants live in “permanent exclusion” and are exploited and abused in the labour market (Addr. 52, Tobias Billström (m), 2007/08:115).

Finally, the opponents of reform, echoing the arguments of the pro-reform camp a couple of years earlier, also stressed that there is a fundamental difference between children and adults. Children, it was argued, “have not made the choice to be hidden” (Addr. 17, Fredrick Federley (c), 2007/08:115). Consequently, it was not considered to be “a big discussion for us that they, like all other children, should have access to full medical care” (ibid.). The main tenets of this discourse are visible in the following statement:

There is, however, a group that is special in this regard. It is children who reside in Sweden without permission. They live, without fault of their own, under vulnerable and sometimes severe circumstances. They are completely dependent on their parents and on society at large, and they can rarely influence their parents’ decisions. In my view, they should not have to suffer for their parents’ actions. Therefore I find it reasonable to provide children that reside here without permission access to medical care on the same terms as children who are residents of Sweden (Addr. 64, Tobias Billström (m), 2007/08:115).

The quote is illustrative of the foundational assumption of responsibility discourse: that a distinction between different persons, or groups, can be made with basis in degree of responsibility for one’s circumstances. This starting point, combined with the assumption that children, by definition, are without responsibility, underpins the argument that undocumented children, but not
adults, should be given access to medical care. In other words, children, in contrast to their parents, are understood to have no choice and are therefore eligible for rights. In this case, hence, responsibility discourse is invoked to counter the argument that undocumented adults should be granted access to subsidized medical care.

To conclude, two conflicting readings can thus be discerned in the debates regarding provision of medical care to irregular migrants during the 2000s. According to the first reading, advanced by the proponents of reform, irregular migrants should be given access to subsidized health- and medical care. This reading was countered by those who defended the prevailing order with the argument that it would be inconsistent, and detrimental from a control perspective, if the state granted rights to people who lacked permission to reside in the country. These readings, in turn, draw on and reflect two competing discourses – human rights discourse and sovereignty discourse – that entail different understandings of rights and their linkage to legal status. The first of these, i.e. human rights discourse, prescribes individual rights regardless of status whereas the second, i.e. sovereignty discourse, naturalizes and legitimizes migration control. Concordant with the latter discourse it thus remains a state privilege to decide whom to grant access to subsidized health- and medical care. Gradually, I argue, it is possible to see a breakthrough for the first reading. This breakthrough, and the move towards a new hegemony, will be further explored in the next section.

Towards a New Hegemony

The claims-making and debates during the 2000s eventually resulted in the appointment of three commissions with the mission to analyse a potential expansion of undocumented migrants’ access to schooling and health- and medical care.\textsuperscript{127} All three commissions eventually published concluding reports that recommended that undocumented migrants should be given access to social rights although they are residing in the country without permission. In all cases, furthermore, this recommendation was justified with reference to notions of universal human rights. Accordingly, I argue that the commission reports are a first indication of an incipient discursive shift. The reports, to be precise, testify to the breakthrough for human rights discourse and the correspondent weakening of the dominance of state sovereignty discourse.

\textsuperscript{127} The first commission was appointed in March 2006 to analyse the requirements for a regulation of access to schooling for children hiding to avoid deportation. The second commission was appointed in August 2009 and was a supplement to the first. More precisely, it considered whether the conclusions of the first report should apply to a broader group of undocumented children. The third commission, finally, was appointed in January 2010 to consider provision of health- and medical care to irregular migrants.
The Commission Reports – a First Indication of Breakthrough

The first commission report (SOU 2007:34, Skolgång för barn som skall avvisas eller utvisas), an investigation into schooling for “hidden children”, was published in 2007 and concluded that this category of children should be granted a right to education. The justifications offered in the explanatory statement echoed the arguments brought forward in numerous motions:

Children in hiding are in a vulnerable situation that is usually beyond their control. The choice to not obey the deportation order is in most cases made by the parents. The question of the right to education for these children must therefore be considered from the perspective of the individual child. A right to go to school would mean that the children are given an opportunity to get out of their isolation, acquire the same skills as other children and thus prepare themselves for adulthood, regardless of where they will live in the future. In addition, the UN Committee on the Rights of the Child has criticized Sweden for not giving “hidden children” [gömda barn] access to education (SOU 2007:34:16-17).

First, the commission report, like the motions, stressed children’s lack of responsibility for the circumstances they are in and the difference that access to schooling would make in the lives of a very vulnerable group. In addition, again echoing the argumentation of the motions, the recommendations were justified with reference to UN critique. Furthermore, the explanatory statement contained a new conclusion regarding the balance between humanitarian aspects and migration control:

Certainly, there are reasons of principle that can be brought forward to oppose a right to schooling [for “hidden children”] […] above all that such a right would be in conflict with the principle of regulated immigration. However, we make the judgement that the strong individual reasons that speak in favour of a right to schooling outweigh the arguments that can be lodged against it. Consequently, we propose that the children covered by our mission shall have the right to schooling (SOU 2007:34:16-17).

The quote above is significant as it testifies to a shift in the understanding of the relationship between social policy and migration policy. Before, the hegemonic understanding had been that these must be consistent which, in turn, had been taken to imply that social rights must be withheld from people who reside in the country without authorization. This argument was dismissed in the commission report on both empirical and principal grounds. First, with regard to empirical evidence, the commission argued that it knew of “no study or other secure bases of information that shows that there indeed is a connection between an increased entitlement to social benefits and other rights
and the number of people in hiding” (ibid.:140). Second, with regard to principles, the commission expressed the view that it would be unreasonable to deny undocumented children schooling “for the purpose of minimizing the total number of people in hiding”. Rather, it was argued, other measures needed to be taken to ensure that people who had received a deportation order left the country (ibid.:140-41). Finally, the commission invoked notions of (non)responsibility to discard the argument that people who are residing in the country without permission should be excluded from all access to the welfare system. Such an argument, it was argued, “could be of relevance with regard to adults” (ibid.:141). However, with regard to children the circumstances were considered to be different since they had not chosen to stay in Sweden. In line with this, it was argued that children should not be denied the right to education because of choices made by their parents.

The 2007 report is thus significant as it was the first indication of a change in the order of priority. In previous reports, as well as in bills and committee considerations, the need for consistency had always been given top priority. The 2007 report, on the other hand, argued that humanitarian concerns and universal rights needed to take precedence. This, I contend, is a sign of the breakthrough of notions of human rights in the debate and the accompanying weakening of sovereignty discourse. This discursive shift was later confirmed in a second commission report (SOU 2010:5, Skolgång för alla barn) regarding the right to education that was published in 2010. This report confirmed the conclusions drawn in the first report and added that these were applicable to a broader group of children. The conclusions of the 2007 report were, due to the way the commission inquiry was formulated, restricted to former asylum-seeking children in hiding. According to the conclusions advanced in the 2010 report, however, “the reasons that can be presented in support of the right to schooling for children or adolescents who are hiding to avoid the enforcement of deportation orders naturally also applies to all children who are residing in the country without permission” (SOU 2010:5:65).

Thus far, however, it was the rights of children, and the CRC, that had been confirmed by politically initiated investigations. The first acknowledgement of undocumented adults as right-bearers came with the third commission report (SOU 2011:48, Vård efter behov och på lika villkor – en mänsklig rättighet), published in 2011, which was an investigation into the right to health- and medical care. The report recommended that irregular migrants of all ages, as well as asylum seekers, should be given access to full health- and medical care on the same terms as other residents (SOU 2011:48:23). Again, the recommendations were justified with arguments that echoed those advanced by the pro-reform camp in the debate. It was, for instance, argued that current regulations exposed the health- and medical care professions to ethical dilemmas and constituted a working environment problem (ibid.:21). First and foremost, however, the recommendations were
justified with reference to international law. In its explanatory statement the commission argued, with reference to recommendations and interpretations of international law, that the right to health- and medical care applies to all people who are present within state territory regardless of their legal status (ibid.:18-19). In addition, the commission concluded, with reference to the principle of non-discrimination, that care should be provided to all residents on equal terms (ibid.:301).

Moreover, the commission report mirrored the previous reports regarding access to schooling. Like these, the commission stressed that provision of social rights needed to be separated from migration control. In line with this it was argued that provision of health- and medical care and enforcement of decisions made by the Migration Board should be separated. That is to say, the existence of two sets of legislation that rest on different logics was not conceived to be a problem (SOU 2011:48:22;313). The commission maintained that the starting point must be that people with a deportation order should leave the country. As long as they remained in the country, however, they were to be seen as having “an unconditional right to adequate health- and medical care” (ibid.:313). The need to enforce decisions, and maintain regulated immigration, was thus still underlined but it was no longer conceived to trump all other concerns.

In conclusion, hence, I argue that these commission reports are reflective of a discursive shift. At the turn of the millennium, when the debate over the provision of social rights to undocumented migrants first started to take off, the sovereignty discourse was still hegemonic in Sweden. Concordant with this, it was held as self-evident that it is the exclusive privilege of the state to determine whom to admit into the country and whom to grant rights. This conviction was however challenged by the invocation of human rights discourse and, in particular, by the accompanying understanding that undocumented migrants are entitled to rights. I argue that the three commission reports bear witness of the breakthrough of this discourse. All three reports, first, drew conclusions that were at odds with current policy. Moreover, in all three cases, the arguments and justifications echoed those that had been advanced by the advocates of reform in the preceding debates. This, I argue, suggests that the pro-reform camp was successful in enforcing their reading of human rights.

**The Government Bills and the Rearticulation of Human Rights**

The importance of the commission reports should however not be exaggerated. Although they testify to a certain breakthrough for human rights discourse, they are not in themselves evidence of a broader discursive shift. However, I argue that the fact that they were eventually followed by government bills, that more or less conformed to the recommendations, supports the interpretation that such a shift has indeed taken place. Both the
lengthy process\textsuperscript{128} – the first bill was presented in late 2012 and the second in early 2013 – and the fact that the bills, especially the one regarding medical care, deviated somewhat from the commissions’ recommendations is however indicative of continual disagreement.

The first step towards reform was taken in March 2011 when the government initiated collaboration with the Green Party on migration issues.\textsuperscript{129} It however took another year, until June 2012, before a final agreement was reached. This agreement eventually resulted in two bills, presented at short intervals, that contained proposals for a more inclusive policy that would give irregular migrants access to schooling and medical care. The first bill (Prop. 2012/13:58, \textit{Utbildning för barn som vistas i landet utan tillstånd}), presented in December 2012, proposed that all children who were staying in the country without the requisite permits should be granted equal access to schooling (Prop 2012/13:58:9-10). The second bill (Prop. 2012/13:109, \textit{Hälso- och sjukvård till personer som vistas i Sverige utan tillstånd}), presented in March 2013, proposed that undocumented migrants should be granted access to health- and medical care on the same terms as asylum seekers. This meant, more specifically, that adults should be granted access to medical care that “cannot be deferred”\textsuperscript{130} whereas children were to be granted access to fully subsidized care (Prop. 2012/13:109:38-39). In both cases, the proposals followed the overall recommendations of the antecedent reports and the bill’s explanatory statements echoed those advanced by the commissions. However, with regard to both bills, the proposals were less extensive in scope compared to the recommendations that had been put forth

\textsuperscript{128} A full account of the lengthy process, and conceivable explanations of it, is beyond the scope of this study. The first report, published already in 2007, was left unaddressed for two years. Officially, the lengthy process was explained with reference to the inadequacy of the investigation. The commission had been appointed by a Social Democratic government but delivered its conclusions to the four-party right-wing government that took office in 2006. The new government consequently justified its lack of action with the need for a supplementary investigation. However, it also took some time before the concluding reports from the two consequent commissions – both appointed by the new government – were followed by government bills. The slow process has generally been attributed to internal differences within the government. The Moderates, the leading party in the coalition, was initially opposed to giving undocumented migrants access to social rights whereas the other three parties were in favour of reform.

\textsuperscript{129} The collaboration was formed in response to the parliamentary situation that occurred after the 2010 election. With regard to the discussion at hand, the election had two important consequences: the four-party right-wing government lost its majority and the Sweden Democrats won their first seats. The stated purpose of the collaboration was accordingly to ensure a stable majority on matters of migration and to minimize the influence of the Sweden Democrats within this policy area. For the discussion at hand it is worth noticing that provision of schooling and subsidized medical care to irregular migrants were among the aims listed in the platform for the agreement.

\textsuperscript{130} The term is controversial and was first used in the preparatory work for the law regulating the reception of asylum seekers (LMA, \textit{Lagen om mottagande av asylsökande m.fl.}). In the bill it is defined as an expansion of immediate care, i.e. not only emergency care but also care that is provided when even a moderate delay would have severe consequences for the patient (Prop 2012/13:109:18-19).
in the commission reports. Furthermore, there was a noticeable difference in terms of the arguments that were highlighted. Most importantly, the references to rights were significantly downplayed in the bills compared to the reports.

The first bill, regarding schooling, was relatively uncontroversial. The proposal was roughly in accordance with the recommendations and the explanatory statements echoed the previous reports. In line with these, the proposal was justified with reference to the difference access to education would make in the lives of a very vulnerable group and that children generally lack responsibility for the situation they are in. Furthermore, the bill made references to the CRC – that grants all children a right to education – and the obligation to comply with international law. In line with this, the fact that Sweden on several occasions had received recommendations from UN bodies to revise its regulations regarding schooling for undocumented children was put forth to justify the proposal (Prop. 2012/13:58:10-13).

The second bill, regarding health- and medical care, was considerably more contested. To some extent, this can be attributed to the fact that the bills targeted slightly different groups and that measures that relate to undocumented adults are more disputed. However, part of the controversy over the second bill was due to relatively large differences between the proposal and the commission’s recommendations. First and foremost, the proposal granted undocumented adults access to health- and medical care on the same terms as asylum seekers rather than, as recommended by the commission, on equal terms as other residents. This difference corresponded with diverging conclusions regarding the implications of human rights law and, in particular, how the principle of non-discrimination should be interpreted. The government, in contrast to the commission, advanced the interpretation that the principle does not preclude all forms of distinction. Distinction, it was argued, with reference to comments made by the UN Committee on Economic, Social and Cultural Rights, does not need to be discriminatory “if the basis for distinction is reasonable and objective and its purpose consistent with the Convention” and if it is proportionate to its ends (Prop. 2012/13:109:31-39-40). This wording was used by the government to justify that undocumented adults’, as well as asylum seekers’, access to medical care would be limited.

Furthermore, there is an overall difference between how the reform was justified in the commission report compared to the bill. The main argument of

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131 The proposal for legislation however deviated from the recommendations with regard to the scope of schooling granted. The government bill was restricted to the first preschool year (förskoleklass), the nine years of compulsory school (grundskola) and high school (gymnasium) whereas the investigation proposed that the right to schooling should also include nursery school. The exclusion of nursery schools was defended on two grounds. First, it was argued that the inclusion of nursery school would cause practical problems since it, unlike the other forms of schools, is not free of charge. Second, it was argued that the provision of nursery school is, at least partly, linked to employment. Consequently, the exclusion of nursery school was taken to be reasonable given the scope for a lessening of responsibility that the CRC allows for (Prop. 2012/13:58:13).
the commission was that undocumented migrants are entitled to health- and medical care because this is a human right. In the bill, on the other hand, this argument was downplayed. The explanatory statement of the bill consequently opens with the argument that all persons who reside in the country, irregular migrants included, “should be enabled to live a dignified life” (Prop. 2012/13:109:38). This, in turn, included access to basic health- and medical care. Furthermore, it was stressed that the proposed legislation would create a legislative foundation for a practice that was taking place in many regions already as well as remove some of the problems, of practical or ethical nature, that the medical profession was confronted with as a result of current legislation (ibid.:38-39). Thereafter, first, human rights and the requirements of international law were discussed. With regard to these, the bill concluded:

Health- and medical care can be regarded as a human right that, in addition to the UN Universal Declaration of Human Rights, is protected in several other key documents. A basis for the considerations that are made in the bill are consequently the international conventions and obligations that Sweden has committed to and declared itself willing as a country to follow (Prop. 2012/13:109:39).

The quote above can be read as a confirmation of the commission’s understanding that access to subsidized medical care is a human right. Yet, the differences in phrasing and emphasis between the bill and the report – that was imbued with human rights discourse – are noteworthy. This difference was, I argue, reflective of the balance of forces in the ongoing hegemonic struggles and, to be more precise, the partial success of the pro-reform camp. This had successfully managed to build consensus around the idea that the state should provide irregular migrants with subsidized medical care. Yet, the downplay of human rights in the bill was a sign of continual disagreement over the interpretation of human rights.

Overall, however, the bills are indicative of a discursive shift. This is most visible in the considerations regarding effects on migration control. Both bills contain sections where the advantages of an expansion of rights are weighed against the possibilities that this will spur more people to go underground. In these, it is argued that the proposals of the bills “could be regarded to make it easier for people to reside in the country without permission” (Prop. 2012/13:58:37; Prop. 2012/13:109:56). Possibly, it is argued, their realization

132 Many county councils [landsting] had already decided on local policies that granted undocumented migrants access to health- and medical care on more generous terms than national legislation (for further details see Sigvardsdotter 2012:87-90).

133 The downplay of human rights is even more evident in the considerations from the parliamentary committees that contain no references to human rights whatsoever (2012/13:SoU20; 2012/13:SfU6y). One of them, however, makes the remark that the proposal is not in conflict with EU law or international agreements (2012/13:SoU20:13).
could also “imply that more people are attracted to come to the country without such a permit” (ibid.). In both bills, however, it is concluded, with reference to conclusions drawn by the commissions, that there is no empirical proof that suggests that “an increased right to access social benefits” have an effect on “the number of people residing in the country without permission” (ibid.). Furthermore, regardless of whether these fears are unfounded or not, it is concluded that these consequences must be weighed against the benefits for those affected (ibid.). These conclusions are, from a historical perspective, noteworthy as they implicate a break with the previous hegemony. Prior to these bills, the political majority had taken the position that provision of rights to people who are staying in the country without requisite permits are inconsistent and undermine migration control. Now, however, these considerations are articulated to be secondary to the needs and rights of undocumented migrants.

The bills, hence, suggest a significant modification of the state’s approach towards undocumented migrants. This shift in position, in turn, was brought about as a result of the hegemonic struggles. In the wake of these, a majority abandoned the view that migration policy should take precedence over social policy. The need to enforce decisions was still underlined but it was no longer understood to trump all other concerns. This development went hand in hand with the recognition of undocumented migrants as right-bearers. This recognition was, as I have already discussed, very limited in scope. The bills reflected the new consensus that had been forged – according to which undocumented migrants were understood to be entitled to education and medical care – as an outcome of the debates during the 2000s.

**Continual Dissensus Over the Meaning of Human Rights**

Both bills were eventually debated and voted on in parliament in May 2013, with a few weeks’ interval, and the political positions were similar on both occasions. Somewhat simplified, the bills were supported by a broad parliamentary majority and critiqued, on fundamentally different grounds, by the Left Party and the Sweden Democrats. The Left Party considered the bills to be insufficient and called for full and equal care for all and for further revisions of regulations regarding police intervention in schools and hospitals. The Sweden Democrats, on the other hand, opposed the bills in their entirety and challenged the very idea that the state should provide irregular migrants with subsidized care or schooling. The political dividing lines in these debates can, I argue, accordingly best be characterized in terms of a moderate majority challenged by two opposite poles. Both of the bills were accordingly passed with a wide margin and the new legislation came into force June 1, 2013.

The majority view was thus that there are some social rights that all residents should be granted access to regardless of legal status. This view, and the consequent support for policy reform, was justified with reference to a
number of arguments. With regard to the first bill, relating to schooling, there was a recurring tendency to justify the bill with humanitarian arguments. The bill, that is to say, was articulated as a measure that should be “self-evident in a country that wants to stand up for humanity, solidarity, freedom and the equality of all people” (Addr. 155, Tina Acketoft (fp), 2012/13:101). Correspondingly, many emphasized the difference that access to schooling would make for a very vulnerable group. Schools were recurrently described in terms of places of refuge that would provide undocumented children with some safety, stability and normality. First and foremost, however, the reform was justified with reference to human rights:

To go to school is a human right. According to the Convention on the Rights of the Child all children have a right to education. The Convention establishes that no child should be discriminated against. That parents choose to keep living in hiding cannot be allowed to interfere with children’s development (Addr. 157, Annika Eclund (c), 2012/13:101).

Children do not choose to live their lives in hiding. Children are children, and they are entitled to go to school. But the children we are discussing today have so far not been allowed to go to school at all. Yet, it is a human right for all children to acquire a basic education (Addr. 158, Cecilia Dalman Eek (s), 2012/13:101).

The quotes above are exemplary of the impact of human rights discourse on the parliamentary debate. This establishes education as an inviolable right that the state has a duty to provide. The quotes are, moreover, indicative of yet another discourse. In both excerpts the fact that undocumented children have not made the decision to stay in the country irregularly is emphasized. This is reflective of the previously mentioned responsibility discourse that represents children as innocent. According to this discourse, which rests on a fundamental distinction between children and adults, children are entitled to rights since they cannot be blamed for the situation they are in.

Similar arguments and justifications reappeared in the discussions on the bill regarding access to health- and medical care. In this case, the shift in policy was primarily justified on two grounds: with reference to that the new legislation would relieve the medical profession from problems of application and with reference to that access to health- and medical care is a human right.

The first form of justification primarily revolved around the working conditions, first and foremost the exposure to ethical dilemmas, of doctors and nurses. The new legislation, it was argued, would be an improvement for the medical profession that no longer would have to “choose between their professional ethics and Swedish law” (Addr. 13, Anders W Jonsson (c), 2012/13:109). An argument that, in turn, rested on the understanding that the
The linchpin of these ethics is “to treat all people equally regardless of sex, age, origin or social position” (ibid.). The second form of justification, that the following quotes are exemplary of, rested on the understanding that access to affordable, i.e. subsidized, health- and medical care is a human right.

[It is] a matter of course that all people who reside in our country should have the right to health- and medical care, even if one is a so-called gömd or papperslös. The right to health- and medical care is the foundation of a human right, regardless of whether one has one’s papers in order or not (Addr. 45, Anders Andersson (kd), 2012/13:109).

[N]obody should be denied acute- and immediate care in Sweden. Everybody should receive care regardless of whether they are unable to pay or lack the requisite permit. The right to health is a human right (Addr. 63, Ismail Kamil (fp), 2012/13:109).

The quotes above are representative of how the parliamentary majority invoked notions of human rights to justify the need for reform. The quotes, moreover, are indicative of the basic components of the consensus that had emerged in the wake of prior debates and campaigning. This rested on the understanding that all residents, regardless of legal status, should be granted access to subsidized medical care. However, as the second quote hints at, human rights were interpreted to be less extensive in scope. The consensus position was, following the conclusion of the bill, that human rights law leaves room for differentiated treatment. That is to say, according to the parliamentary majority it was not considered a problem that the proposed legislation distinguished between different categories of residents as it guaranteed everybody basic level access. The following quote is exemplary of how this differentiation was justified:

The principle that people who are not residents in Sweden, and are not included in the Swedish health insurance system, pay for themselves is reasonable. At the same time, Sweden has, through international conventions, committed to ensuring that all people are guaranteed the best possible health through medical care in the case of illness. Therefore, we consider it reasonable that papperslösa are given access to care on the same terms as asylum seekers (Addr. 1, Eva-Lena Jansson (s), 2012/13:109).

The quote, in which the new legislation is described in terms of a balancing act between two contradictory principles, testifies to the continual force of sovereignty discourse. Human rights law, that prescribes access to affordable health- and medical care, is here contrasted with another principle. This
principle, in turn, is consistent with the historically hegemonic conception that access to social rights is a privilege reserved for citizens.

According to the general consensus, hence, the bill was considered well-balanced and reasonable. This consensus – and the understanding of human rights it rested on – was however challenged from two directions. According to a first competing reading, advanced by the Left Party, any form of discrimination between different categories of residents was taken to be inconsistent with human rights law. Since the right to health is a human right, it was argued, there is “no reason to limit the scope of the care papperslösa are entitled to” (Motion (v), 2012/13:So12). Restrictions of any kind, moreover, were claimed to be incompatible with “the international conventions on human rights that Sweden has ratified” (ibid.). In this case, hence, the general consensus was challenged by a more radical invocation of human rights discourse. The other competing reading, on the contrary, rejected the very understanding that access to subsidized medical care is a human right. This reading, advanced by the Sweden Democrats, rested on a fundamentally different demarcation between citizenship rights and human rights. The latter was, consistent with the previously hegemonic understanding, understood to be limited to formal access and not taken to require access to subsidies. In line with this it was maintained that “it is not a human right to get access to state subsidized medical care in a country that you reside in illegally”. This, it is argued, was not “the ambition when the text of the convention was drafted” (Addr. 41, Björn Söder (sd), 2012/13:109).

The Sweden Democrats’ opposition to the bill was, given that they had continuously taken a tough stance against irregular migrants, unsurprising. The party advanced the reading that the bill would endow irregular migrants with privileges that “Swedes and others who reside in Sweden legally” did not have access to (Addr. 2, Björn Söder (sd), 2012/13:109). This was argued to be “shameful” since privileges were to be granted to people “who have never contributed to our common welfare society and who violate Swedish law” (ibid.). This line of argumentation, that suggested a conflict between “criminal foreigners” and “Swedes”, clearly had nationalist underpinnings. Other arguments, on the other hand, echoed those advanced by other parties a couple of years earlier. One example of this is the critique representatives of the party voiced over the allegedly inadequate impact assessments in the debates over both bills. Another example of this is the emphasis on the need for consistency. This was one of the primary arguments advanced by the party in the discussions regarding the education bill:

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134 Furthermore, both bills were criticized by the Left Party on the grounds that further measures were required to ensure that irregular migrants did not restrain from seeking consultation because of fear of the police.

135 The Sweden Democrats were particularly critical of the fact that irregular migrants, like asylum seekers, would pay lower fees compared to other residents. This was the basis of the recurrent references to preferential treatment.
For me it is completely absurd that we have a public authority whose task it is to deport people who are residing in the country illegally at the same time as we have politicians who say that children of illegal immigrants should have a right to schooling. It is rather obvious that different laws are in conflict (Addr. 147, Carina Herrstedt (sd), 2012/13:101).

The quote above is indicative of how the party invoked lack of consistency as a ground for dismissal. Historically, this used to be the standard argument against granting rights to irregular migrants. In 2013, however, the Sweden Democrats was the only party that advanced the interpretation that the need for consistency should take precedence over other interests. This said, the fact that a number of MPs explicitly highlighted that there is a tension between enforcement of migration control and provision of rights suggests that sovereignty discourse was far from repressed.

In the wake of the hegemonic struggles during the 2000s, hence, a new consensus had been forged. The consensus, most fundamentally, entailed recognition that undocumented migrants are entitled to some basic rights – such as medical care and education – as these are universal human rights. The emergence of this consensus, furthermore, went hand in hand with the gradual breakthrough for human rights discourse that, in contrast to the previously hegemonic sovereignty discourse, privileges individual rights over the state’s interest in migration control. That is to say, over the course of a decade, the rise of human rights discourse, and the parallel weakening of sovereignty discourse, resulted in a significant discursive shift and an accompanying party repositioning. This said, the tendency to downplay human rights, as well as the continual disputes over their scope, suggests that human rights discourse has not yet become hegemonic. The dominant understanding of human rights, moreover, held these to be limited in scope and supplementary to, rather than competing with, citizenship rights.

**Concluding Remarks**

The analysis in this chapter has explored the demands for social rights, more precisely access to education and medical care, in Sweden. This has entailed, first and foremost, an account of the gradual breakthrough for human rights discourse and the parallel weakening of sovereignty discourse. The demands

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136 The existence of such a tension was, for example, explicitly addressed by a representative of the Moderates who argued that there is a conflict between maintaining that society should be governed by law, i.e. that decisions regarding asylum should be enforced, and “our moral and human conviction” (Addr. 149, Michael Svensson (m), 2012/13:101). The latter, he claimed, leads to the conclusion that children, “who are kept hidden by their parents and who cannot influence their situation or legal status”, should have access to education (ibid.).
for social rights have, in contrast to demands for regularisation that were analysed in the previous chapter, been relatively successful. They have resulted both in the instatement of a number of investigations and in actual change of policy and legislation. These changes, moreover, have implied that the dominant principle of the welfare state – the denizenship principle – has been somewhat modified. In this concluding section I will make some final remarks about this discursive shift and the change in policy that it paved the way for. The discussion will focus on how the claims-making and the change in policy relate to the prevailing citizenship regime and its underpinnings logics.

The debates studied in this chapter essentially revolve around whether people who reside in the country without authorization from the state should have access to rights. At the turn of the millennium, when the debate about irregular migrants took off in Sweden, this group was denied access to all forms of rights. This state of affairs was in accordance with the hegemonic understanding at the time that held it to be self-evident that rights should be reserved for residents with legal status. Denial of rights, moreover, was considered an integral part of consistent migration control and it was assumed that social policy should work in tandem with, and reinforce, the commitment to regulated immigration. It was this practice, and its underpinning conceptions, that became subject of scrutiny during the 2000s. The demand for social rights for undocumented migrants challenged both the idea of consistency and the idea that rights should be dependent on holding a residence permit. Both aspects were, I contend, fundamental pillars of the Swedish approach to migration and integration at the time. The debates eventually paved the way for new legislation and since July 1, 2013, undocumented migrants have a formal right to both schooling and subsidized medical care. The new legislation has, as discussed earlier in this chapter, however been subject of critique. Both sets of legislation have been criticized because the measures to guarantee that irregular migrants feel safe to claim their rights are seen as inadequate. Furthermore, the fact that the new legislation regarding health- and medical care entails continual distinction between different categories of residents – undocumented adults, as well as asylum seekers, are only granted restricted access to subsidized care – has been controversial. This critique set aside, it remains clear that Swedish policy, previously often singled out as one of the most restrictive in Europe, has been revised in a more inclusionary direction.

**Human Rights Discourse as Resource for Contestation**

The analysis in this chapter has shown that the notion of universal rights has been instrumental for efforts to counter the hegemonic sovereignty discourse and establish undocumented migrants as right-bearers. The analysis, furthermore, has shown that there have been continual struggles over how the
meaning of human rights should be interpreted during the 2000s. The main point of contention in these struggles has been the scope of human rights and how these should be demarcated from citizenship rights. Human rights are, most generally, understood to be rights that should be provided to all people without any discrimination. This form of rights, furthermore, is generally held to co-exist with a more extensive set of rights that are withheld for residents with an authorized right to stay. There have, as discussed in this chapter, been intense debates over the exact demarcation between these two sets of rights and over the exact scope of human rights. For the discussion here, however, the interesting point to make is that no overall challenge of citizenship as grounds for entitlement has been posed so far. Rather, it is a number of specified rights – most importantly access to schooling and medical care – that have been singled out as human rights. In accordance with this, I contend, it is possible to draw the conclusion that this interpretation of human rights opens for the introduction of a differentiated rights regime where citizens, as well as legal residents, are given a privileged status whereas others are left with the basic rights that are recognized as human rights.

Human rights discourse, and the accompanying notion of universal rights, can potentially be mobilized to challenge the very logic of citizenship. My analysis has however shown that this form of radical contestation has been absent in the parliamentary debates. I argue that the fact that all readings of human rights have recognized two sets of rights – citizenship rights and human rights – ultimately means that they affirm the legitimacy of citizenship. In conclusion, that is to say, notions of human rights have been mobilized to challenge some of the most exclusionary effects of the prevailing citizenship regime whereas the overall legitimacy of citizenship has remained uncontested.

**Towards a Differentiated Approach to Rights**

The gradual breakthrough of human rights discourse, and the recognition of some rights as human rights, has thus resulted in that undocumented migrants have been recognized as right-bearers. This recognition, furthermore, has also resulted in a revision of the approach that was adopted in 1968. The hallmark of this approach, to recapitulate, is the principle of equality that prescribes equal treatment between permanent legal residents and citizens on most areas of significance. The adoption of this principle made residence, rather than citizenship, the precondition to access social rights. However, as the residence permit became the new threshold to rights, access has been limited to migrants whose residence is sanctioned by the state and undocumented migrants have accordingly been completely excluded from the provision of rights. The 2013 reforms, that granted undocumented migrants access to education and medical care, constitute a first departure from this approach as they bring about a partial modification of the criteria for qualification for rights. The approach to
rights provision that was adopted in 1968 meant that the primary demarcation line was drawn between residents with an authorized right to reside in the country and others. This demarcation was partially modified in 2013 as undocumented migrants were granted rights despite their lack of legal status. The reforms however implied yet another departure from the previous approach as the decision to grant a limited set of rights to people who lack residence permits implies a more diversified approach to rights provision. Concordant with this, I argue that recent developments open for several different interpretations. One reading suggests that the 2013 reforms constitute a further step in the same direction as the 1968 decision. This decision weakened the link between citizenship and rights and the 2013 reforms can be interpreted as a further step towards de-linking as it undermines the link between legal status and access to rights. Another reading however suggests that it constitutes a break with the 1968 decision as it entails the abandonment of the ambition to provide equal terms.
7. CONCLUSIONS

This thesis set out to explore the political struggles that followed after the appearance of irregular migrants in Sweden. The starting point of the analysis has been that the group, and its precarious circumstances of living, has disrupted the understanding of Sweden as an inclusive society where all residents have access to basic social rights. I have, following discourse theory, argued that this disruption should be conceptualized as a dislocation and that it conveys a potential for contestation of the prevailing order. This order, furthermore, has been conceptualized as a citizenship order. The overarching aim of the study has accordingly been to explore how discourses and practices of citizenship have been contested in the wake of the group’s appearance.

The analysis has focused on a number of interrelated aspects of the politicization of the circumstances of irregular migrants in the 2000s. First, I have analysed how irregularity has been constituted as a political problem and the consequent struggles to enforce different readings of this problem. I have argued that the problem, most fundamentally, has been articulated as a problem of rightlessness in the parliamentary debates. This means that it is the circumstances of the group – their exclusion from welfare services, their vulnerable position in the labour market and their fear – that have been advanced as the problem that needs to be rectified. Second, I have investigated the parallel claims-making that has taken place on behalf of irregular migrants. I have identified two main demands – regularisation and access to social rights – that correspond with two ways of articulating a wrong as well as with two distinct strategies to secure rights for the group.

In this chapter I will provide some final reflections on the debates and claims-making that have taken place in the Swedish parliament during the 2000s. The previous chapters have contained discussions on how arguments and demands relate to the citizenship regime and established notions of rights and entitlement. In this chapter I will bring these discussions together and provide some overarching comments on the scope of contestation and change that have followed in the wake of the politicization of the circumstances of irregular migrants. Finally, I will briefly consider potential long-term
implications of the 2013 reforms. However, before I proceed to these discussions I will revisit the theoretical starting points of the thesis and discuss how they have structured and influenced the analysis.

Revisiting the Theoretical Framework

I have argued, following David Howarth and Jason Glynos, that research should be understood as an articulatory practice. This means, among other things, that analyses and conclusions should be conceived of as theoretically informed readings. The analytical framework of the study is inspired by two strands of theory that have enabled me to make sense of different aspects of the debates on irregular migration. I argue that both of these have been of decisive importance as they have provided the study with a particular focus and enabled certain analyses.

The two strands of theory have thus provided me with different kinds of insights. Citizenship theory, for starters, has provided me with two starting points that have been important for the analysis. The first is that citizenship is characterized by duality and that it accordingly conveys both inclusionary and exclusionary logics. The second is that citizenship is a site of struggle and that the dynamics between inclusion and exclusion are constantly shifting. Taken together, these starting points have enabled me to analyse both the exclusions and hierarchies of citizenship and how they are challenged.

Citizenship theory has, most fundamentally, been useful as it has enabled me to characterize the prevailing order as a citizenship order that is bound up with certain forms of hierarchies and privileges. In addition to this, the notion of duality has been advantageous as it has provided me with means to make sense of the contradictory logics of the (national) welfare state. This rests on norms of equality and inclusion while at the same time being premised on a fundamental exclusion of non-members. This insight, in turn, has enabled me to make sense of the underpinning logic and workings of migration control. This has, for instance, directed my interest to the processes of categorization. Theorization on citizenship, in short, has provided me with a vocabulary and a set of assumptions that have enabled me to characterize and make sense of the prevailing order.

Citizenship theory has however also supplied me with analytical tools to make sense of various forms of contestations of this order. In Chapter two I identified two forms of tensions – namely tensions within citizenship and tensions between citizenship and human rights – that I argued could be drawn upon to challenge exclusionary outcomes of citizenship. The analysis in subsequent chapters has shown that both tensions have been mobilized in the debates in the 2000s. First, and most fundamentally, I contend that the very debate about irregular migration was actualized because of a tension between ideals of inclusion and an exclusionary practice. The analysis has shown that
the factor that spurred widespread indignation in the early 2000s was the circumstances of the group, and the denial of rights in particular. Social rights are widely held to be the quintessence of Swedish citizenship and consequently exclusion from the social safety net was regarded as the most grave of exclusions. Furthermore, I argue that the tension between citizenship as status and practice was mobilized in conjunction with calls for regularisation. The analysis in Chapter five has shown that various examples of both social and economic integration have recurrently been invoked to legitimize demands for regularisation. This is, I contend, an example of how practices of irregular migrants are used as a platform for claims for inclusion. Finally, the analysis has confirmed that the tension between citizenship rights and human rights has been mobilized in the debates studied. More precisely, I have shown that the notion of universal human rights has been invoked to challenge the linkage between legal status and entitlement to rights and to establish irregular migrants as right-bearers in the welfare state.

Further theoretical resources to understand processes of contestation, and their limitations, have been provided by discourse theory. The analysis of the thesis starts from the assumption that the appearance of irregular migrants constitutes a dislocation. This means, following the assumptions of discourse theory, that the group’s appearance is taken to be an opening for contestation of the prevailing order. Dislocations entail a reactivation of the sedimented and come with the effect that the political origin of the social order is made visible. Dislocations, however, do not mean that everything becomes possible. These entail a partial rupture of the structure but not the disappearance of structure altogether. This means that the opening for change is normally of more limited scope. Furthermore, it is important to note that the outcome of reactivations is always indeterminate as it is ultimately dependent on the outcome of political struggles.

The overarching aim of the analysis has been to investigate the contestation that followed in the wake of the appearance of irregular migrants in Sweden. In the next sections I will discuss the scope and forms this contestation has taken as well as the outcomes of it. I distinguish between contestation, which refers to all forms of attempts to challenge aspects of the prevailing order, and change, which refers to shifts in practices, policy and legislation that are the outcomes of contestation. Furthermore, following the discussion in Chapter two, I assume that both contestation and change can be of either radical or minor character. In the context of this study the term radical is reserved for contestations that challenge the very principle of citizenship.
The Scope of Contestation

The analysis of the parliamentary debates has shown that a number of circumstances related to practices and policies became subject to scrutiny during the 2000s. The subsequent contestations can, somewhat simplified, be divided into two broad strands. The first strand consists of challenges of various practices and policies that form part of migration policy more narrowly defined. This entails challenges both of legislation as such and of how it is interpreted and implemented. Somewhat simplified, contestation that revolves around aspects of categorization fall into this category. The second strand, furthermore, consist of various forms of challenges of the principle that people without residence permits should not have access to rights. Both forms of contestation have come associated with calls for rights for undocumented migrants and have consequently also challenged some of the exclusions that the citizenship regime produces. Nevertheless, they relate to hegemonic conceptions about membership and rights in different ways.

The principled nature of the contestation that falls into the first category revolves around criteria for residence permit and their application. A concrete example is, for starters, the persistent calls for revision of the Aliens Act that have been discerned in the debates. The analysis in the previous chapters has shown both continual demands for a more “generous” asylum policy and for increased opportunities for labour migration. With regard to asylum policy, moreover, I argue that it is the application, rather than the legislation as such, that has primarily been criticised. The empirical investigation has shown a widespread and profound dissatisfaction with the processing of asylum applications and its outcomes. The discontent peaked in the early 2000s, before the institutional reform, when there was a wide agreement that the process failed to deliver trial in accordance with the rule of law. Thereafter, the critique of asylum processing in the debates became sparser. Another example that also falls into this category of contestation is demands for regularisation. These make up a particular subcategory, as it is the very denial of status as such that constitutes the contested. However, as the analysis in Chapter five has shown, demands for regularisation have been closely linked to critique of institutional deficiencies and allegedly restrictive evaluations by the Migration Board.

I argue that this strand of contestation ultimately leaves the overarching principles, as well as the underpinning logic, of the citizenship regime unproblematized. There is critique – sometimes profound – of both legislation and its outcome in the form of decision-making. Nevertheless, in a wider perspective, these forms of disagreement come with the effect that the legitimacy of regulation as such is left uncontested. This means, in extension, that the privileged position of citizens, as well as the fact that not all people are potential members, is recognized. Demands for regularisation are slightly
more radical as they call for a measure that would implicate that the law, although only temporarily, is set aside. Yet, in other ways, also this demand confirms the legitimacy of the prevailing order. Both in the sense that regularisation as such entails inclusion through status and in the sense that the need for inclusion has tended to be justified through appeals to prevailing notions of desert. Overall, that is to say, my conclusion is that this strand of contestation leaves the linkage between membership and rights, as well as the need for closure, uncontested. The later demands for regularisation, where residence permits are claimed for both former asylum seekers and other categories of irregular migrants, are however slightly more complex in this regard. Demand for inclusion for all people who reside in the country without permits, without special requirements, could be interpreted as a demand for all-embracing membership. Such a demand, I contend, clearly challenges the prevailing order that is premised on closure and categorization.

The second strand of contestation is of a more radical character in the sense that it calls for rights for a group that is denied access within the current citizenship regime. Demands for social rights for irregular migrants essentially seek to establish a new category of residents as rights-bearers in the welfare state. This, in turn, means that they challenge one of the fundamental pillars – namely the denizenship principle – of the regime. In accordance with this principle, which ties social rights entitlement to the possession of a residence permit, irregular migrants are excluded from access. However, in a wider perspective, the second strand of contestation has also been limited in scope. This argument is based on the interpretation that the more radical potential of human rights discourse has remained unexploited. The analysis in Chapter six has shown that the mobilization of this discourse was of decisive importance to challenge the linkage between legal status and entitlement to rights. However, it also showed that a number of specified rights – first and foremost schooling and health- and medical care – are what have been articulated as human rights in the debates rather than social rights as such. This means, I contend, that the radical potential of the notion of universal human rights – which could potentially be mobilized to challenge the very notion of citizenship rights – remains unexploited. The dominant interpretation of human rights is rather that these constitute a set of basic rights that are complementary to citizenship rights. This interpretation, I argue, essentially confirms the legitimacy of citizenship rights. In conclusion, hence, the second strand of contestation has entailed a partial questioning of established notions about rights and their link to membership.

Overall, the conclusions from the analysis of the debates thus indicate an absence of more radical forms of contestation of the prevailing citizenship order. Indeed, both demands for regularisation and demands for social rights have been controversial, and have been met with fierce resistance with reference to that they would undermine the state’s ability to control immigration. Nevertheless, although controversial from a control perspective,
none of the demands challenge the citizenship order on a more fundamental level. I want to underline that this conclusion is in no way intended as critique of the demands as such. Regularisation – that gives access to a comprehensive set of rights and the opportunity to enjoy these without fear of deportation – clearly remain the most advantageous measure from the perspective of individual migrants. In light of this, it is perfectly logical that regularisation, and full inclusion in the citizenship regime, has been articulated as the long-term goal by those advocating on behalf of irregular migrants. Likewise, access to social rights, however limited in scope, gives some relief to people who reside in the country without permission and is as such warranted from an advocacy perspective. Both demands, hence, serve to improve the circumstances of the group and are, given the strength of the prevailing order, feasible responses to the exclusions it produces. My intent is accordingly not to criticize the lack of more radical proposals but to draw attention to the lack of problematization and contestation of the principles, and discourses, which produce irregularity. This lack of contestation is, ultimately, an indication that the citizenship order has remained sedimented.

The Scope of Change

Thus far I have discussed the forms and scope of the contestation that has taken place during the 2000s. In this section I will turn to a discussion about the changes in policy and legislation that have taken place during the same period. This entails, moreover, the identification of accompanying discursive shifts. The analysis has shown that the two main demands, regularisation and access to social rights, have had varying degrees of success. Demands for amnesty, first, have largely remained unanswered. The campaign that preceded the 2006 institutional reform resulted in temporary legislation under which some irregular migrants were able to regularise their stay. The implementation of the order however also resulted in a marginalisation of the pro-regularisation camp. Demands for social rights, on the other hand, have been more successful and resulted in legislative change. In this section I will discuss this reform and the process that preceded it.

Irregular migrants first became subject of state concern already in the late 20th century. In the wake of the group’s appearance, a state approach, whose contour was sketched in Chapter four, crystallized. This approach, to recapitulate, established consistency as the overarching policy aim. The implication of this was that concrete measures, such as amnesty or access to social rights, that would improve the situation of irregular migrants, were rejected with reference to that they would undermine migration policy. At the turn of the millennium, the starting point of this study, humanitarian concerns were thus explicitly subordinated to migration control. This approach, and the balance between goals that underpinned it, was however increasingly
challenged, not the least through demands for social rights, during the 2000s. The study has shown that the debate on irregular migrants’ access to social rights took off in the late 1990s in conjunction with the implementation of the UN Convention on the Rights of the Child in Sweden. At this point, the idea that irregular migrants – initially children but later also adults – are entitled to social rights started to be voiced. Rights that are human rights, it was argued, are universal and consequently all residents should be entitled to them regardless of legal status. The debate and claims-making finally resulted in the instatement of public investigations regarding irregular migrants’ access to schooling and health- and medical care. These concluded that access to both of these rights should be regarded as a human right with the consequence that they should be provided to all residents. The commission reports were eventually followed by two government bills in 2013. These followed the overall recommendations from the commission reports and proposed that irregular migrants’ access to education and health- and medical care should be confirmed in law. The government proposal however distinguished between children and adults. This, more concretely, meant that children were proposed to be provided full access to subsidized care whereas adults were only granted limited access. Both bills were eventually passed in parliament with broad support and the new legislation went into force June 1, 2013.

I argue that the new legislation should be conceived of as a change of the citizenship regime. The new legislation is clearly limited in scope. Both in the sense that it only gives access to two specified rights and in the sense that it rests on continual distinction as undocumented adults only enjoy restricted access to medical care. Nevertheless, from a wider perspective I argue that even this small modification of the citizenship regime is significant as it entails a first break with the approach to immigrant incorporation that was adopted in 1968. This approach, to recapitulate, linked access to social rights to the possession of a residence permit. I have argued that this change was made possible through a discursive shift. The previous chapter traced the gradual breakthrough of human rights discourse, and the contemporaneous weakening of sovereignty discourse, during the 2000s. The analysis showed that the mobilization of the notion of universal rights, and the establishment of undocumented migrants as right-bearers, was of decisive importance as it opened for the decoupling of policy and established a limit to the scope of migration control.

**Reflections on Long-Term Implications**

The change in legislation in 2013 thus implicates a change, although minor, of the Swedish citizenship regime. The change, and the long-term effects of this, can however be interpreted in several ways. In Chapter six I hinted at some of this ambiguity when I discussed how the reforms relate to the principle that
was adopted in 1968. I argued that the new legislation could be interpreted both as a further step in the same direction and as a break dependent on what aspect of it you choose to emphasize. It is, first, possible to interpret the reforms as a further de-linking of rights from citizenship and as an expansion of the circle of right-bearers. However, it is also possible to interpret them as a departure from the principle in the sense that they have resulted in a more differentiated rights regime. In this final part of the chapter I aim to further disentangle these ambiguous effects and discuss how these could be interpreted in relation to the development at large.

In accordance with a first possible reading, the decision to grant undocumented migrants access to schooling and medical care can be interpreted as a measure that undermines the exclusionary effects of migration policy. This interpretation rests on the assumption that the regulation of access to social rights is a mechanism for internal control. Following this assumption, measures that challenge and undermine the ability to uphold these forms of control constitute relief for people who reside in the country without authorization.

Lately, internal borders, and their relationship to migration policy, have turned into a subject of scholarly interest. This is primarily a result of a rise in local strategies that seek to challenge state sovereignty through “regularization from below”. These strategies aim to create safe places where people can work and live despite lack of legal status.137 In the wake of this development scholars have turned their attention to the internal borders that are activated in contact with authorities and service providers. These are borders that “exist whenever and wherever people living with precarious immigration status come into contact or confrontation with institutional settings” as these require some form of identification (McDonald 2012:132-34). One of the key arguments that have been advanced by this strand of scholarship is that restrictive migration policies can be undermined through the unmaking or weakening of these internal borders. Strictly speaking, the decision to grant irregular migrants access to schooling and education is different from the examples that have been discussed in this strand of literature. The common denominator of these examples is that they are local initiatives – such as decisions taken by local governments or campaigns launched by civil society organizations – that in various ways challenge (national) migration policy from below. The Swedish case is obviously different in this regard as the decision in question was taken by the national parliament. This difference set aside, I contend that insights from these studies can be used to make sense of potential implications of the 2013 reforms. These were, as previously underlined, motivated with reference to human rights and not explicitly

137 For further info about these strategies see McDonald 2012; Varsanyi 2006; Varsanyi 2008.
articulated as a strategy to dismantle internal borders. Nevertheless, one of the effects of the reforms is that it becomes easier, although only marginally, to reside in the country without a residence permit. This effect, in turn, could be interpreted as a step that undermines internal borders.

The same applies, furthermore, to another measure – the introduction of safe zones – that has been called for in the debates. The need for safe zones has recurrently been brought up in conjunction with demands for schooling and medical care during the 2000s. The introduction of safe zones, in this context, has been taken to require a revision of legislation that would prohibit the police to search and apprehend irregular migrants in schools or health care facilities. In addition to this, I argue that some of the critique that was directed at the controversial REVA project – a strategy to increase the number of deportations – could be interpreted as calls for safe zones. The fact that the revelation of the project led to heated debates about internal border control [inre utlänningskontroll] could be taken as an indication of support for efforts to create safe places in society for the undocumented population.

The first reading of the implications of the reforms thus focuses on their potential to undermine the exclusionary effects of migration policy. These could, however, also be read as a first step towards the consolidation of a divided society. In accordance with such a reading, the 2013 reforms could be interpreted as a rapprochement to a European standard where undocumented migrants are granted minimum rights. This reading is, given the development at large, not inconceivable. In Sweden, undocumented migrants were granted access to education and medical care after a successful political campaign that managed to establish the understanding that these are human rights and as such need to be provided to all residents regardless of legal status. The rationality that underpinned the decisions was thus that the state is obliged to provide this group with basic rights to fulfil its commitment with regard to human rights legislation. The recognition was however strictly limited to two specified rights and did not come accompanied by any openings for the group to regularise its stay. Consequently, it is also possible to interpret the 2013

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138 However, judging from the counter arguments that were advanced in the debates, there was a fear among the opponents that access to social rights would have this kind of effect. One of the key arguments against reform was precisely that it would undermine a consistent approach to migration control.

139 The acronym REVA roughly translates to “Legally Secure and Efficient Enforcement” [Rättssäkert och effektivt verkställighetsarbete] and is an EU-financed cooperation between the Migration Board, the police and the Prison and Probation Service that was initiated in 2009 to increase the rate of deportations. The project became subject of heated debates during the spring of 2013 after reports that linked it to an increase in internal border controls.

140 However, it should be noted that it was two aspects of these controls that were singled out as problematic. The first was the fact that they aimed to find irregular migrants and increase the rate of deportations. Another was the fact that the controls as such were argued to be based on racial profiling. I argue that the public debate primarily came to revolve around the latter aspect.
reforms as the introduction of two parallel structures: one for residents with an authorized right to stay and one for others.

The two readings discerned above are strictly speaking not mutually exclusive. Rather, the main difference between them is to be found in expectations about the future. The first reading, I argue, approaches the reforms as one step towards more comprehensive inclusion. This is also, I contend, how the demand for social rights has been articulated. That is to say, as a necessary, but insufficient, measure pending regularisation. The second reading, on the other hand, approaches the reforms as an adjustment and response to the permanent presence of an undocumented population. I argue that it is far too early to evaluate these readings. However, this said, the developments of the last years have shown no openings towards further inclusion of irregular migrants. The demand for regularisation has, as already noted, been less successful compared to the demands for social rights. The campaign for amnesty in 2005 resulted in temporary legislation under which some irregular migrants were able to regularise their stay. The legislation was however not a general amnesty. This meant both that not all applications were approved and that not all people were eligible to apply in the first place. Consequently, the legislation did not provide a solution for all irregular migrants. Furthermore, after the implementation of the institutional reform, the pro-regularisation camp has been marginalised. Demands for amnesty have continued to be voiced, but the overall support for this kind of measure has been severely reduced. Gradually, moreover, there has been a decrease in motions that call for regularisation. Taken together, this suggests that the likelihood of full scale regularisation in the near future is low.

It has been suggested that a state can respond to the presence of irregular migrants in four ways. These range from expulsion to regularisation. In between these extremes, moreover, the state can choose to disregard the group or to tolerate its presence (cf. Sunderhaus 2007). I would argue that Swedish policy, at least in practice, has taken steps towards the latter two approaches. Expulsion, first, remains the explicit goal and there have been efforts to increase the rate of deportations. However, there are reasons to believe that large-scale deportations would be controversial. Recent protests against internal border controls, and the debate over REVA, are indications of the response that would follow. Regularisation, on the other hand, has thus far been dismissed in the Swedish debate and I have noted both a marginalisation and a gradual de-escalation of this demand during the period studied. This leaves the state with the options to disregard or tolerate the group. I argue that the 2013 decisions to grant rights to undocumented migrants – although enforced with reference to human rights – can be taken to imply an acceptance of the group’s continual presence and their entitlement to basic rights. This said, Sweden is still far away from the situation in many other European countries, where an undocumented population, employed in large-scale
informal labour markets, resides in the country with implicit recognition from the authorities.

Final Words

The analytical point of entry of this study has been that the appearance of irregular migrants resulted in a reactivation of the demarcation of the welfare state. The overarching aim has accordingly been to study the contestation and changes that followed in the wake of the politicization of the circumstances of the group. The analysis has, in particular, focused on how debates and claims-making related to the prevailing citizenship order. This focus was guided by the assumption that the group’s appearance opened for contestation of prevailing understandings of membership, rights and entitlement. The analysis has shown that both aspects of policy and practices have been challenged in conjunction with the politicization of the circumstances of irregular migrants. The analysis has also shown that the debates and claims-making have resulted in a small, but yet significant, change of the Swedish citizenship regime. However, judging from the debates that I have analysed, the potential for more radical contestation remains unexploited. This conclusion is however, given the sedimented status of sovereignty and citizenship discourses, not surprising. The theoretical assumption, following discourse theory, is that reactivations open for contestation but that this is likely to be limited in scope. This follows from the assumption that it is delimited discourses, rather than the social order as such, that tend to be dislocated. This in turn means that dislocations are normally responded to in ways that do not threaten the fundamentals of the prevailing order. The outcome of the struggles that I have studied confirms this assumption. My analysis suggests that these struggles, so far, have ended in a broad consensus about an approach to irregular migrants that entail a slight regime modification. The last years, furthermore, seem to have entailed a de-escalation of debate and claims-making in the parliamentary arena. There is remaining discord between different camps with regard to policy preferences but the lack of explicit debate and the absence of motions together suggest a de-intensification of these conflicts.

\[141\] I want to emphasise that this conclusion only applies to the more delimited parliamentary debates that form the basis of my empirical study. I am convinced that a study of asylum groups and extra-parliamentary debates would yield different results.
EPILOGUE

This thesis has formally studied the period between 1999 and 2014 and the empirical material that has been collected ends with the debates that took place in the spring of 2014. This means that the analysis in the thesis has only covered events and debates that have taken place within this particular time frame and later developments, some of decisive character, are consequently not included. For this reason, I have chosen to add a few remarks about the most recent course of events and how the results of my study should be interpreted in the light of these developments.

There are, somewhat simplified, three important shifts that have taken place since the end of the study. First, the election in the fall of 2014 resulted in a re-orientation in a more restrictive direction in Sweden. In the wake of the continual success of the Sweden Democrats, several right-wing parties in parliament started to express support for a more restrictive asylum policy. Overall, there was a sharp shift in how migration, and asylum in particular, was publically debated in the wake of the election. A second shift took place in the summer of 2015 when reports of shipwrecks and drownings in the Mediterranean Sea spurred a debate about asylum. This debate peaked in late summer 2015 when the publication of a picture of a drowned refugee boy at a beach in Turkey caused indignation all over Europe. The boy’s fate contributed to spark debate about dangerous escape routes and the need for legal routes to the EU. In Sweden this led to a public debate where the implications of core components of EU policy – such as visa requirements, carrier sanctions and the Dublin Regulation – were scrutinized. The arrival of increasing numbers of asylum seekers in the early fall was also accompanied by an upsurge of voluntary initiatives and fund-raising campaigns. This second shift, that contained an opening for radical critique and claims-making, was however soon succeeded by yet another shift. The third shift, which took place in the fall 2015, entailed a rapid change of focus in both media coverage and the political debate. This meant, most importantly, that the previous focus on the needs of asylum seekers was replaced by a focus on numbers and on the limits of state capacity. The “refugee crisis”, that is to say, was rearticulated as
a crisis for Sweden. The response to this “crisis”, moreover, was argued to be measures that in different ways would reduce the number of asylum seekers. In late fall, at the time of writing, this articulation has become dominant in both media coverage and political debates. During the fall, furthermore, a number of restrictive measures have been announced and decided upon. These entail the reintroduction of border controls and ID requirements as well as a temporary suspension of the regular Aliens Act. The proposed temporary legislation implicates a significantly stricter asylum policy. Among the list of proposed changes are temporary residence permits, the repeal of several categories in the Aliens Act and restrictions on family reunification. The government’s justification for these changes has been the need to adjust Swedish legislation to the minimum standard specified in international and EU law. Critics have however argued that the reintroduced border controls, and ID requirements in particular, mean that the very right to apply for asylum has been severely restricted.

The recent development has bearing on the results of this study both directly and indirectly. Directly, first, in the sense that there has been a noticeable change in attitude towards irregular migrants parallel to the restrictive turn. The Minister of Migration, Morgan Johansson, has for instance explicitly articulated the presence of irregular migrants as a problem at a number of occasions. In these statements, irregular migrants have been contrasted with refugees who, as opposed to the irregular migrants, have been argued to have proper grounds to stay in Sweden. Moreover, the ability to provide protection to refugees has been linked to the ability to make sure that both asylum seekers whose applications have been rejected and irregular migrants are deported. These statements have also come accompanied with announcements that the police will increase the number of internal controls and step up the efforts to find people who reside in the country without permits (See for instance Lönnaeus 2015). Taken together this indicates that the circumstances of irregular migrants most likely will become harder in the near future. Indirectly, furthermore, the overall development could be read as a shutdown of openings for contestation of the prevailing order. The recent response to the increasing number of asylum seekers – in the form of a more restrictive asylum policy and more repression towards irregular migrants – rather suggest that the reactivation of the demarcation of the welfare state has resulted in a confirmation of the need for closure. However, although expected given the sedimented status of sovereignty and citizenship discourses, this response was not necessary. The shifts in discourse, and the accompanying shifts in policy, that have taken place the last few months can be interpreted in several ways. Many would argue that they were the natural response to a confrontation with “reality” and only to be expected given the large increase of asylum seekers. I find this interpretation, which ultimately confirms the change in policy as a necessary answer, deeply problematical. Consequently, in line with the theoretical starting points of this thesis, I want to emphasize
that neither this articulation of the problem, nor the policy prescriptions that follow from it, should be taken as given but as the outcome of hegemonic struggles. In the long run, furthermore, this leaves open for future contestation. The emerging conflicts that I identified in the introductory chapter are not likely to disappear and consequently I argue that the struggle over the demarcation of the welfare state, in the long run, is far from settled.
**APPENDIX**

1. Abbreviations of Parties in the Swedish Parliament

<table>
<thead>
<tr>
<th>Abbr.</th>
<th>Swedish name</th>
<th>English name</th>
<th>Ideological orientation</th>
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<tbody>
<tr>
<td>(c)</td>
<td>Centerpartiet</td>
<td>The Centre Party</td>
<td>Liberal-Agrarian</td>
</tr>
<tr>
<td>(fp)</td>
<td>Folkpartiet</td>
<td>The Liberal Party</td>
<td>Liberal</td>
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<tr>
<td>(kd)</td>
<td>Kristdemokraterna</td>
<td>The Christian Democrats</td>
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<td>(m)</td>
<td>Moderaterna</td>
<td>The Moderates</td>
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<tr>
<td>(mp)</td>
<td>Miljöpartiet</td>
<td>The Green Party</td>
<td>Green</td>
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<tr>
<td>(s)</td>
<td>Socialdemokraterna</td>
<td>The Social Democrats</td>
<td>Social democratic</td>
</tr>
<tr>
<td>(sd)</td>
<td>Sverigedemokraterna</td>
<td>The Sweden Democrats</td>
<td>Nationalist (far-right)</td>
</tr>
<tr>
<td>(v)</td>
<td>Vänsterpartiet</td>
<td>The Left Party</td>
<td>Socialist</td>
</tr>
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</table>
2. Compilation of Parliamentary Motions Regarding Irregular Migrants

The motions have been collected through a two-phase strategy. I first listed the motions regarding irregular migrants that were considered by the Committee on Social Insurance [Socialförsäkringsutskottet]. These were thereafter complemented with additional motions that were found through a search for key terms (gömd, papperslös and amnesti) in the parliaments on-line archive.

<table>
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<td>Liberal flyktingpolitik</td>
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3. Compilation of Minutes From Parliamentary Debates

The minutes have been collected through a number of searches in the parliaments' on-line archive. More precisely, the following words were used as search-strings: migration, integration, invandr*, asyl, arbetskraftsinvandring, flykting, gömd, papperslös, amnesti, irreguljär, odokumenterad and illegal. After a modification of the aim of the thesis some of the minutes that were collected in this process, more precisely those that related to integration policy, were removed. In all, this part of the primary material consists of 340 excerpts of varying length from the parliamentary debates. The table shows the number of excerpts from each category and how they are distributed over the years.

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- Prop. 1997/98:182, Strategi för att förverkliga FN:s konvention om barnets rättigheter i Sverige
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- Prop. 2004/05:170, Ny instans- och processordning i utlännings- och medborgarskapsärenden
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SOU 2007:34, Skolgång för barn som skall avvisas eller utvisas
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