

# Seeking Asylum

Trends and Policies in the OECD



Timothy J Hatton



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# Foreword

The number of asylum seekers rose sharply in the 1980s. The result was a political backlash and a public debate characterized by strongly held opinions, often based on questionable interpretations of a very slim body of evidence.

This Report by CEPR Research Fellow Tim Hatton performs a valuable service by setting the record straight. Hatton examines the evolution of asylum seeking over the past thirty years, applying the same tools and approaches that have been used by economists to study the broader issue of international migration. Of course perspectives from outside economics are important as well, and Hatton, an economic historian by training, takes into account the historical context as well as the political economy dimension of asylum seeking.

Hatton begins with the 1951 Refugee Convention, noting that its generosity (by today's standards) owed much to the Cold War, which generated asylum seekers who were viewed with sympathy in Europe and North America. The difficulties, in some sense, began with the end of the Cold War, which coincided with a sharp rise in the number of refugees and a shift in their countries of origin. The result was a strong political backlash against asylum seekers. Even though the number of asylum seekers fell after 1992, animosity towards refugees remains, and policies to reduce their numbers became much tougher, especially after 2001. These policies have worked, in the sense that they have reduced the number of asylum seekers. Hatton's careful analysis reveals, however, that these tougher policies accounted for only a third of the fall in numbers, with most of this coming through border controls and restricting eligibility, not reductions in the living standards of asylum seekers.

Though the number of asylum seekers has fallen, policy-makers must still confront a range of difficult issues. One of the knottiest is how to coordinate policies between the poor countries where refugees first arrive and the developed countries that are their ultimate destination. As Hatton notes, there is no simple solution to this problem, but he argues strongly that there is considerable scope for policy coordination among developed countries, in

particular the EU. In Chapter 11 of the Report he examines how a common asylum policy might be introduced and implemented among the Member States of the EU, looking at issues that range from harmonizing the process of determining refugee status to burden sharing among the Member States.

Social science research can seldom tell us precisely which policy to adopt, but it can play an invaluable role by providing a framework for debate, setting out the available evidence and ensuring that this evidence is interpreted correctly. Tim Hatton's Report achieves each of these goals and will provide a strong foundation for serious debates on asylum in the years to come.

We are grateful to Tim for his work in preparing the Report. Thanks are also due, of course, to the CEPR Publications Team, Samantha Reid and Anil Shamdasani, who produced the Report with their customary speed and professionalism.

Stephen Yeo  
Chief Executive Officer, CEPR  
London, 10 June 2011

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# Preface

This report presents an analytical account of the arrival in the developed world of hundreds of thousands of people fleeing persecution and seeking asylum. It explains the socioeconomic factors that lie behind trends in the number of asylum claims by source and destination. But most important, it analyses the political economy of asylum policies, with a view to understanding the social forces underpinning policy developments in the last two decades. Above all, I hope that this account will be a useful background for those interested in the future development of asylum policy.

This report is part of a programme of research under the title Politics, Economics and Global Governance: The European Dimensions (PEGGED), which is coordinated by the Centre for Economic Policy Research (CEPR) and generously supported by the Seventh Framework Programme for Research and Technological Development (Contract No. SSH7-CT-2008-217559).

The following chapters synthesise my previous published work, and combine it with new material, in the hope that this will provide a broader analysis of the social and economic processes that underpin trends in asylum. Chapters 5, 6 and 8 are based on my article in the *Economic Journal* (2009) while Chapter 9 is a reworking of my article (with Audrey Lim) in *Agenda* (2005). I am grateful for permission to reproduce material from these publications. Other chapters draw less directly on articles that appeared in *Economic Policy* (2004) and the *National Institute Economic Review* (2005). In the process of expanding and updating the quantitative analysis, I have drawn on a variety of other sources and I am especially grateful to Monty Marshall and Pieter Bevelander for providing me with data from their own research. I am grateful to Alison Booth and Giovanni Facchini for valuable comments on an earlier draft and to Mathias Skillingstad for able research assistance.



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# 1 The Challenge of Asylum

Every year hundreds of thousands of people apply for political asylum, seeking sanctuary in the stable, safe and secure countries of the West. Most of them come from poor or middle income countries that are in the grip of civil or international conflicts, countries that systematically persecute minorities, or in which human rights abuses are commonplace. But those who, one way or another, manage to reach OECD countries are a small fraction of all who flee from persecution across international borders or who seek refuge elsewhere within their own country. While it is only the tip of the iceberg of human suffering and misery, the asylum system has become a major source of controversy in the Western countries that are the main focus of this report. As such it raises a number of challenges. One challenge is that faced by the asylum seekers themselves in overcoming the obstacles to gaining some form of sanctuary. Another is the challenge they present to host populations who, while harbouring humanitarian ideals, nevertheless feel threatened by what seems to be an endless stream of unwanted migrants with dubious claims for protection. But perhaps the greatest challenge is that faced by policymakers seeking to strike a balance between adherence to international obligations (and often a genuine desire to exercise compassion) on the one hand, and on the other hand by the media-fuelled popular clamour for much tougher policies.

Over the last 30 years the number of asylum applicants has soared and this has led to intense political controversy and what might be described as a policy backlash. Against this background, there have been claims and counterclaims about the motivations of asylum seekers and the treatment they have received at the hands of the authorities. These have often involved generalisations based on one or a few prominent cases or situations. Sometimes they have been based on interpretations of the wider evidence that are, to say the least, questionable. This report aims to provide an account that is grounded in the quantitative evidence and that is, at least in that sense, objective. It is about how the number applying for asylum has evolved, and how those trends can be understood in terms of the conditions faced by refugees in source and

destination countries. It examines the political economy of asylum policies, how those policies have developed, and the social forces that underpin them. And it evaluates the effects of policy on the total number of asylum seekers and on the reception that they face. While the aim is to understand rather than to judge, the report concludes with an overall evaluation of asylum policies and asks if there are opportunities for politically feasible policies that would better serve refugees and host populations.

While this report rests heavily on my own previous research, it also draws in large measure on the research of many others. Nevertheless, the approach taken here differs from the existing mainstream literature in a number of ways. There is a long and venerable tradition of research into issues related to refugees – a literature that provides rich and detailed description of situations that generate refugees, the conditions faced by particular groups of refugees, and the development of policy towards them. There is also what might be described as a ‘grey’ literature – a large body of reports and websites that have been produced by official bodies and pressure groups engaged in one way or another with refugee issues. Much of this material, including the academic literature, is written in a barely suppressed tone of moral outrage. I have done my best to avoid that here. Instead I take the approach and use the methods that have been developed in the literature on the economics of international migration. Surprisingly, only in the last few years have such methods been used to analyse many of the parallel issues that arise in the context of asylum seekers and refugees. But quantitative analysis alone does not give the full picture, and in order to understand the present we must also appreciate the past. As far as possible I have attempted to embed the analysis presented here in the historical context. In my view it is vital to understanding the political economy of asylum.

The structure of the rest of this report is as follows. Chapter 2 outlines the development of refugee policy during the 20th century. It focuses on international initiatives and particularly on the events that shaped the 1951 Refugee Convention and the legal framework for asylum that evolved from it. The chapter shows that, through a series of stages, and for a variety of historically contingent reasons, a refugee regime emerged with key characteristics that shape asylum policy right up to the present. It provided, in principle, unlimited access to the asylum procedure for applicants with a well founded fear of persecution who are present on a country’s territory, whether or not they are there legally. Against the background of the Cold War, this system spread and expanded in generosity, especially to those fleeing communist regimes. But it came under severe pressure when the Cold War ended and as the nature of asylum flows changed and their total volume swelled.

Chapter 3 presents the aggregate data collected by the United Nations High Commissioner for Refugees on the number of asylum applications to the



developed countries since the early 1980s. It illustrates the steep rise in the 1980s to a peak of three-quarters of a million in 1992 followed by a decline, especially after 2002. It also shows how the patterns differed between source regions and destination countries. Chapter 4 asks if the patterns observed in asylum applications and refugee numbers are paralleled in indices of conflict, violence and human rights abuses. Not surprisingly there is a fairly strong correspondence with civil war and terror, but much less with political regimes and civil rights. The chapter also examines how the changing characteristics of civil conflict impinge on refugee flows. This is followed in Chapter 5 with an econometric analysis of the number of asylum applications generated by 56 of the most strife-prone countries over the years since the early 1980s. The key findings are that high levels of terror and low living standards are the key explanatory forces. But these are not enough to fully explain the 'big surge' in applications during the 1980s – for which other explanations must be found.

Chapter 6 turns to the evolution of asylum policies in the major OECD countries. One measure of policy is the proportion of asylum applicants that gain some form of recognition as refugees. For the developed world as a whole this proportion fell from over 50% in 1982 to less than 20% a decade later and so the surge cannot be explained by more generous asylum policies. The chapter describes in some detail the key elements in the policy backlash that began in the late 1980s. For the period since the late 1990s I present a quantitative index of policy for 19 countries that is based on changes in the rules governing asylum policy rather than simply on recognition rates. This reveals that there was a further increase in the toughness of policy in the first decade of this century. Chapter 7 examines public opinion towards asylum seekers and asylum policy, based on surveys such as the European Social Survey. It looks at which sections of the population hold positive or negative views on several dimensions of policy, and why. I ask what underlies the apparently negative trend in public attitudes towards asylum seekers and I explore the link between public opinion, politics, and the policy backlash.

In Chapters 8 and 9 I examine the effects of tougher asylum policies on the number of asylum claims. Looking across 19 OECD countries I find that tougher policy did indeed reduce asylum applications, particularly between 2001 and 2006. However, the tightening of policy only explains about a third of the decline in applications over that period – a more modest effect than governments might claim. That effect came mainly through enhanced border controls and tougher processing procedures rather than through clamping down on the living conditions of asylum seekers. Chapter 9 looks at one prominent case of a policy backlash – the escalation of tough policies by the Australian government in the aftermath of the attempt to land asylum seekers rescued by the *MV Tampa* in 2001. This is one of the clearest examples of how the deterrent effects on asylum policy work. And it also illustrates

the importance of enforcement and publicity in underpinning the deterrent effects of policy.

In Chapter 10 I ask what happens to asylum seekers once their claim has been resolved. Those who do obtain the right to stay often suffer considerable disadvantage compared with other immigrants, especially in the labour market. As they are not principally labour migrants, refugees are typically less well matched to host country conditions and they may be further disadvantaged by the trauma they have suffered and the asylum process itself. But there is evidence of assimilation and rehabilitation, even though it may be a long process. Not surprisingly, little is known about those whose asylum claims have been rejected except that many of them remain as undocumented migrants. Most of these live a shadowy existence of multiple disadvantage, and often without access to basic services.

Chapter 11 turns to policy. I first ask if the key instrument that underpins asylum policy, the 1951 Refugee Convention, should be scrapped or amended. I argue that it is not as obsolete as some would argue but that it cannot be expected to provide solutions to some of the wider challenges, for which it was never designed. Principal among these challenges is fostering greater cooperation between the poor countries of first asylum and the rich countries of the OECD, something for which the solution is far from obvious. However there is scope for greater cooperation on policy in the developed world and especially among the countries of the European Union. I examine the potential benefits of harmonising and centralising asylum and refugee policy both on a theoretical level and in terms of practical politics. I conclude that there is potential for further developing EU policy not only in the interests of refugees but also in the interests of EU citizens.

I would like to reiterate that my principal objective is not simply to mount a critique of asylum policies past and present and then to roll out a manifesto for policy reforms. Rather, it is to present an account that rests on two themes. One is that it is grounded firmly on quantitative analysis rather than on loose arguments about the causes of asylum flows, the behaviour of asylum seekers, and the effects of policy. The other is that it is based on a realistic approach to the political economy of asylum policy and one that recognises the political constraints faced by policymakers. Only against this background can we have sensible and rational discussions of how to develop new and better policies.

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## 2 The Evolution of Refugee Protection

Seeking asylum is not new. For centuries those facing oppression and persecution have sought refuge in places where they would receive protection and where they could live in peace and toleration. From the flights of the Huguenots in the late 16th and late 17th centuries to the Russian and Eastern European Jews escaping the pogroms in the late 19th century, exile was often associated with religious persecution. In the 19th century political dissidents sometimes fled across borders, as in the European revolutions of 1848, but never in great numbers (Marrus, 1985, ch. 1). With few exceptions they moved without hindrance. But as the 20th century progressed, exile became increasingly associated with war and terror. With the development of immigration controls that required passports and visas, international borders became less porous. As a result, the opportunities for refugees to flee to liberal democracies became more restricted. Mass displacements in the European wars and other major conflicts set the scene for international coordination in policy towards refugees.

### 2.1 Refugee policy to 1951

The First World War and its aftermath created displacements of Europeans on an unprecedented scale, as newly created or reorganised states sought to create more homogeneous populations through ethnic ‘unmixing’.<sup>1</sup> Those displaced included 2 million Poles, a million Germans and hundreds of thousands of Magyars fleeing the former Russian and Austro-Hungarian empires. They were followed in the early 1920s by mass displacements of Greeks and Armenians, each numbering more than a million. In response to these emergencies, in 1921 the newly established League of Nations created a High Commissioner

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<sup>1</sup> This trend was already evident before the First World War in the Balkan conflicts that attended the disintegration of the Ottoman Empire, notably the exchange of populations between Greece, Serbia, Bulgaria and Turkey. The term ‘unmixing’ is attributed to Lord Curzon who was the British Foreign Secretary at the time of the Lausanne Treaty of 1923 (Marrus, 1985, p. 41).

for Refugees, with a specific mandate to assist the large number of Russians driven out by revolution, war and famine, many of whom had been deprived of their citizenship and had therefore become stateless. This first internationally coordinated effort involved issuing identity certificates (which became internationally recognised as travel documents) and negotiating the exchange, repatriation and resettlement of refugees.<sup>2</sup>

In the 1930s, resettlement efforts, particularly of a growing number of Jewish refugees from Germany and Austria, became increasingly difficult as the Great Depression spread and immigration policies became ever more restrictive.<sup>3</sup> In 1933 the League of Nations created a High Commissioner for Refugees from Germany. Formal conventions were drafted under the League's auspices in 1933 (covering Russians and Armenians) and in 1938 (covering refugees from Germany and Austria) but they received little international support.<sup>4</sup> According to one historian, 'as the scale of the Jewish refugee problem grew, any will to resolve it faded. Despite the limited international recognition of the rights of refugees granted at the time, states were unwilling to extend new legal protections to refugees, particularly when these would limit the right of sovereign nations to deport or exclude aliens' (Loescher, 2001, p. 31).<sup>5</sup>

The Second World War created even greater challenges. By 1945 there were over 30 million displaced persons in Europe, not counting the 13 million ethnic Germans expelled mainly from Czechoslovakia, Poland and the Soviet Union. It is estimated that the Soviet Union alone deported more than 3 million members of different ethnic minorities. The early postwar years also witnessed other large scale displacements in South Eastern Europe as well as a number occurring occurring outside Europe. Most notable among the latter was the 14 million refugees created by the partition of India in 1947. Another was the mass displacement of Palestinians that attended the creation of the State of Israel in 1948, which was itself partly the result of the resettlement failures of the 1930s.

In 1943 the allied powers (including the USSR) set up the UN Relief and Rehabilitation Administration (UNRRA), which facilitated the repatriation of about 7 million refugees. At the instigation of the United States, and over the objections of the Soviet bloc, it was replaced in 1947 by the International

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2 The travel documents were known as Nansen Passports after the first High Commissioner, the Norwegian polar explorer Fridtjof Nansen, see Skran, 1995, pp. 102–22.

3 These developments are described in detail by Skran, 1995, pp. 195–223; see also Marrus, 1985, ch. 3, and Loescher, 2001, ch. 2.

4 The 1933 Convention was ratified by only eight states and the 1938 Convention by only three. A 1938 conference at Evian (France) called by US President Franklin Roosevelt also garnered little support for resettlement places for Jewish refugees although it did establish an independent refugee agency, the Intergovernmental Committee on Refugees.

5 For the same reason, refugees fleeing fascist regimes in Spain, Italy and Portugal received little international support although nearly half a million found temporary refuge in France.

Refugee Organisation (IRO).<sup>6</sup> Although the IRO had wider powers for the documentation, relief and relocation of refugees, its mandate was temporary and it was supported by a limited number of countries. Not for the last time refugee policy represented an East–West compromise. As with the earlier organisations, the initial focus was on repatriation rather than resettlement. But the resolution that created the IRO did provide against forced repatriation, and for the first time fear of persecution became a criterion for refugee eligibility.<sup>7</sup> Many of the refugees from the Soviet Union and Eastern Europe did not want to return<sup>8</sup> – something that became a powerful symbol of Western superiority over communism. Ultimately the IRO resettled more than a million European refugees, principally to the United States and Canada, South America and Australia. By contrast very few were repatriated.

Between 1920 and 1950 refugee policy passed through several phases, from a policy directed at providing a legal status for stateless persons, to one concerned with the displacement of certain persecuted groups and then to protection for political dissidents, particularly those fleeing communism.<sup>9</sup> For the most part it was concerned with specific groups or conflicts rather than being a general set of rules that placed wider obligations on third parties. And moreover, the focus gradually evolved from repatriation to resettlement.

## 2.2 The 1951 Refugee Convention

In 1949 the United Nations established the Office of the UN High Commissioner for Refugees (UNHCR) to commence in 1951 with a mandate to provide protection for refugees and to assist governments in finding solutions to refugee problems.<sup>10</sup> This too represented a compromise, this time between the United States, which wanted a temporary agency with limited scope, powers and funding, and the continental Europeans who favoured a wider remit, with the Soviet bloc largely sidelined. It was shortly followed by what has become the key instrument in international refugee policy, the 1951 UN Convention Relating to the Status of Refugees.<sup>11</sup> Following on the heels of the

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6 The development of international institutions prior to the Refugee Convention is described in UNHCR, 2001b, ch. 1.

7 See Hathaway, 1984, pp. 374–6; Loescher, 2001, p. 38.

8 This stands in contrast to the 1920s when the governments of the refugees' homelands were often unwilling to let them return. But it is not surprising given that so many of those who were repatriated in the mid-1940s ended up in Stalin's labour camps.

9 The legal evolution is described by Hathaway (1984) in terms of three phases: juridical, social and individualistic.

10 The statute that defined the functions of the UNHCR was adopted in UN General Assembly Resolution 428(V) on 14 December 1950.

11 26 states participated in the conference, which was held in Geneva from 2 to 25 July 1951. The Convention entered into force on 22 April 1954.

1948 Universal Declaration of Human Rights,<sup>12</sup> it focused on key elements of freedom, on the individual rather than the group, and on resettlement rather than on repatriation.<sup>13</sup>

The two key clauses of the Refugee Convention<sup>14</sup> are Article 1 (A2), which defines a refugee as a person who:

owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.<sup>15</sup>

And Article 33 (1), which provides that:

No Contracting State shall expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.<sup>16</sup>

Reflecting the political compromise that underlay it, the Convention was circumscribed in three ways. First, it originally applied only to those who were displaced before 1 January 1951 and it allowed signatories the option to admit as refugees only those who were displaced in Europe. Second it explicitly excluded more than 6 million displaced Palestinians for whom a separate agency, the UN Relief and Works Agency (UNRWA), had been established in 1949 (and which exists to this day). And third, it covered only those displaced across national borders, and not those displaced within the borders of the country where they experienced persecution (it also excludes military personnel and those who have committed war crimes or other serious crimes). On the other hand, the UNHCR was given operational authority to assist those

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12 Article 14 (1) of the Universal Declaration of Human Rights states: 'Everyone has the right to seek and to enjoy in other countries asylum from persecution.'

13 By contrast the UNHCR Statute Chapter 1 (2) provides that 'The work of the High Commissioner shall be of an entirely non-political character; it shall be humanitarian and social and shall relate, as a rule, to groups and categories of refugees.' Loescher *et al.* (2008, p. 11) point out that eligibility was implicitly placed on an individual basis during the time of the IRO, because of its recognition of the right of the individual not to be repatriated against his or her will. Boswell (2000) argues that the principle of universal liberalism that underlies the individual treatment of asylum seekers dates back to the 19th century.

14 The full text of the Convention and the subsequent Protocol can be found at: [www.unhcr.org/pages/49da0e466.html](http://www.unhcr.org/pages/49da0e466.html).

15 This definition also appeared in the UNHCR Statute, Chapter 2 (6).

16 The *non-refoulement* clause was not original in 1951. It was foreshadowed in Article 3 of the 1933 League of Nations, Convention Relating to the International Status of Refugees, see [www.unhcr.org/refworld/pdfid/3dd8cf374.pdf](http://www.unhcr.org/refworld/pdfid/3dd8cf374.pdf).

displaced more recently and outside Europe, although its initial term was for three years only.

The framing of the Convention profoundly shaped refugee policy in the decades that followed. One aspect is that it is based on individual rights rather than the circumstances of a class or group of individuals – a feature that goes back to the IRO. As a result, each claim for refugee status must be considered on its individual merits by the signatory country to which the individual has applied. Although the Convention does not provide the right to permanent residence in the country of asylum, it does encourage host countries to ‘facilitate the assimilation and naturalization of refugees’ (Article 34). In a number of clauses it further provides that individuals who are granted refugee status must be accorded the same legal rights and access to employment, education, housing and social security as nationals. The right to family reunification is not explicit but is implicit in the non-discrimination provisions and in the preamble.

Most important of all are three interlocking elements that are relevant to asylum policy right up to the present. One is that a signatory state must provide access to procedures to determine whether or not a person claiming asylum qualifies as a refugee on the Convention’s definition. So, in principle, there is no limit to the number of genuine refugees that a state is liable to accept. Second, while there is nothing in the Convention that requires the asylum seeker to be present on the territory of the state in question in order to claim asylum, this essentially follows from the *non-refoulement* clause. Thus, to avoid *refoulement*, asylum seekers present on the territory must have their cases considered under the Convention – something that would not apply to those outside the territory.<sup>17</sup> Third, under Article 31 of the Convention, states must not penalise an asylum claimant because of illegal entry or illegal presence in the country. Thus illegal entry is not a bar to claiming asylum and in principle it does not prejudice admission into the procedure for determining refugee status or the outcome of that process.

### **2.3 Post-1951 expansion**

During the early postwar years a series of refugee crises around the world was met by a range of different initiatives and organisations. These included the UNRWA (1949), which focused on resettling Palestinians, the UN Korean Reconstruction Agency (UNKRA) (1950), which focused on rehabilitation in the Korean peninsula, as well as the Intergovernmental Committee for European Migration (ICEM) (1951) and the United States Escapee Program

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<sup>17</sup> This follows from the fact that an asylum applicant must be afforded refugee protection unless or until their claim is rejected, see Hathaway, 2005, pp. 303–4.

(1952), which focused on refugees from the Soviet Union and Eastern Europe. These all used different definitions of what it meant to be a refugee and on what terms refugees would be accepted. As part of its Cold War strategy the United States backed these international initiatives.<sup>18</sup> From the 1950s US support swung increasingly towards the funding of UNHCR projects in countries with liberal asylum policies. This was particularly important in the refugee crisis created by the Soviet suppression of the Hungarian uprising of 1956, which killed 3,000 and drove another 200,000 into exile.<sup>19</sup>

Despite its support for certain international initiatives, the United States did not sign the Refugee Convention, and instead developed its own domestic refugee resettlement programme. Against the background of the restrictive immigration policy established in the 1920s, this involved a series of legislative measures combined with ad hoc responses to refugee crises.<sup>20</sup> These initiatives were seen as an extension of foreign policy and they were focused on those fleeing communism – something that was enshrined in the 1948 Displaced Persons Act and the 1953 Refugee Relief Act (Bockley, 1995–6). Between 1956 and 1968 over 233,000 were admitted, most of whom were from communist countries and very few of whom had spontaneously migrated to the United States (Loescher, 2001, p. 55). Hence Cubans were favoured over Haitians and Eastern Europeans over Latin Americans. Even after a refugee quota was incorporated into immigration policy, the bulk of refugees were admitted on the basis of executive orders and the overwhelming majority were from communist countries.<sup>21</sup> The United States finally incorporated the terms of the Refugee Convention formally into its domestic legislation in the Refugee Act of 1980.<sup>22</sup>

In the 1960s the focus of international refugee assistance shifted to conflicts in the third world. In Africa there were independence struggles starting with

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18 It is notable that there was no support for the massive but strategically unimportant displacements in the Indian subcontinent.

19 UNCHR involvement in a post-1950 displacement was justified on the grounds that the root cause of the uprising was the establishment of the communist regime in 1947–8. This rationale similarly applied in the ‘Prague Spring’ of 1968. Interventions outside Europe could not be justified in this way, but beginning with the assistance to refugees flooding into Hong Kong in the years following the founding of the People’s Republic of China, the UNHCR used its ‘good offices’ to provide assistance and coordinate humanitarian efforts (Loescher *et al.*, 2008, pp. 23–5). The UNHCR ‘good offices’ interventions were originally sanctioned on a case-by-case basis but a formal mandate was provided by the UN General Assembly in 1959.

20 These ad hoc measures were executive decisions that took the form of the use of parole by the authority of the Attorney General. This was originally intended to provide temporary protection on case-by-case basis, but it was expanded from the Hungarian crisis of 1956 to provide resettlement to groups of refugees chosen at the discretion of the executive.

21 Refugees were first brought into immigration policy as a new preference group in the 1965 Amendments to the Immigration and Nationality Act (of 1952), with a quota of up to 10,200. The legislative background from 1948 up to the 1980 Refugee Act is described by Anker and Posner (1981–2). Of 615,500 refugees admitted between 1968 and 1980, 99% were from communist countries (Bockley, 1995–6, p. 272).

22 Although the USA is not a signatory to the Convention it did accede to the 1967 Protocol (see below), but its provisions were not incorporated into US law until the 1980 Act.



Algeria (1959–62) and including the Portuguese colonies (Angola, Guinea Bissau and Mozambique) and Rhodesia, among others. In countries where independence came relatively quickly there were often extended post-colonial civil wars that created substantial cross-border displacements. Of particular importance were displacements in West Africa (from Ghana, Nigeria), in East Africa (from Ethiopia, Sudan), in the Great Lakes region (from Burundi, Rwanda) and above all from the Congo. By the end of the decade the stock of refugees in Africa had risen to nearly a million. These refugee crises drew growing assistance for relief and repatriation from international organisations. But developed countries were reluctant to resettle refugees, first because the independence conflicts involved some European countries, but also because refugees outside Europe were not covered by the Convention.<sup>23</sup>

In 1967 a United Nations conference in New York produced a Protocol which radically extended the provisions of the Convention to include refugees who were displaced after 1950 and those who were displaced outside Europe.<sup>24</sup> In 1960 22 states had signed the Refugee Convention but by 1970 the number that had ratified either the Convention or the Protocol (which subsumed Articles 2 to 34 of the Convention) had increased to 60. That number increased further to 83 by 1980, 107 by 1990, and 138 by 2000. The Convention has now been signed by 147 countries, a total that includes the whole of the developed world and most of the rest of the world.<sup>25</sup> The growth in international cooperation for refugees was also reflected in the adoption by the Organisation of African Unity (OAU) of a separate refugee convention agreed in Addis Ababa in 1969 (effective 1974), which defined refugees more broadly and also broadened the *non-refoulement* clause.<sup>26</sup>

The 1970s saw major refugee crises in Asia, notably during the break-up of Pakistan, which pushed 10 million Bangladeshis over the border into India. While the Bangladeshis were almost all repatriated, refugees from other conflicts, such as the Asians ejected from Uganda by Idi Amin and the Chileans fleeing the Pinochet regime, increasingly found resettlement in Western countries. But the largest resettlement in the West was the result of conflict in Indochina. Following the withdrawal of the United States from Vietnam, a mounting number of refugees fled from war and oppression in Vietnam, Cambodia and Laos, reaching a peak in 1979–81. A quarter of a million of the ethnic Chinese found refuge in China, and many others ended up in camps

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23 In addition, many of the people caught up in post-independence wars were displaced internally, such as those from Biafra, and hence would not come under the definition of a refugee.

24 The Protocol was agreed as a separate instrument rather than a set of amendments to the Convention which would have required the approval of all the signatories. As a result it is possible accede to both or either.

25 The most important countries that have not acceded to the Convention are in the Middle East, South Asia and South East Asia. They include countries such as Egypt, India and Indonesia.

26 In particular it defines as refugees those fleeing from public order disturbances, civil war or foreign occupation whether or not they could establish a well founded fear of persecution. The text of the African convention can be found at [www.asylumlaw.org/docs/international/Africa.PDF](http://www.asylumlaw.org/docs/international/Africa.PDF).

on the Thai border. A growing number fled by boat, heading for the ASEAN (Association of Southeast Asian Nations) countries of Indonesia, Malaysia, the Philippines, Singapore and Thailand. These countries were not signatories to the Convention and by 1979 they were refusing to accept asylum seekers and 'pushing back' boats. Throughout the 1980s the refugees in the camps and especially the boat people attracted international media attention and eventually many of them were resettled in Western countries, particularly the United States, Canada and Australia as well as in Europe. Of the 2.5 million who were displaced, 1.3 million were resettled in the West (UNHCR, 2001 b, p. 99).<sup>27</sup>

The growing willingness of Western countries to intervene in refugee situations and to provide resettlement, something that had initially been driven by the Cold War agenda, was increasingly underpinned by the gathering momentum of the human rights movement. The year 1966 saw the launch of the so-called UN Bill of Rights which added to the 1948 Declaration a Covenant on Civil and Political Rights and a Covenant on Economic Social and Cultural Rights. It entered into force in 1976 having been ratified by 72 countries. The American Convention on Human Rights declared in 1969 also established a long list of rights, including humane treatment, fair trials, and freedom of association and movement. It became effective in the Americas in 1978. Building on this and the OAU Convention, the Cartagena Declaration on Refugees was agreed in Colombia in 1984, with an expanded definition of a refugee and strengthened provisions for refugee protection.<sup>28</sup> The significance of these instruments for asylum regimes resides more in the humanitarian spirit that they represent than in the specific application of their provisions – something that is reflected in other indicators such as the trebling of funding for the UNHCR between 1977 and 1982, the growth of refugee related non-governmental organisations, and the award of the Nobel Peace Prize to Amnesty International in 1977. And it is worth noting also the close fit between the human rights agenda and the definition of a refugee as a persecuted individual rather than only as part of a group displaced by war – cold or otherwise.

In the 1980s there were ongoing conflicts in Asia, notably in Afghanistan, in the Horn of Africa (Ethiopia, Somalia and Sudan) and South America (Nicaragua, El Salvador and Guatemala). These conflicts received widespread attention and some of them began to generate flows of 'spontaneous' asylum seekers. Around half a million Central Americans fled to the United States, although only a minority were recognised as refugees. In Europe spontaneous arrivals of asylum seekers fleeing the Iran/Iraq war and civil wars in Lebanon and Sri Lanka boosted total applications. More important still were the

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27 The decade-long crisis was eventually brought to an end in 1990 with the UNHCR-brokered Comprehensive Plan of Action. This struck a deal between the USA and ASEAN nations involving a mixture of resettlement and repatriation.

28 The text can be found at [www.asylumlaw.org/docs/international/CentralAmerica.PDF](http://www.asylumlaw.org/docs/international/CentralAmerica.PDF).

consequences of the fall of the Berlin Wall in 1989 and the dissolution of the Soviet Union in 1991. Together these events unleashed a refugee crisis within Europe on a scale not seen since 1945. The immediate impact was a surge of refugees from Central and Eastern Europe, with some 4 million displaced by the break-up of the former Yugoslavia alone. In the former Soviet Union there were conflicts in the Caucasus (notably in Chechnya) and the Central Asian republics, as well as widespread displacement of ethnic Russians.<sup>29</sup> Not only did these events trigger a flow of asylum seekers into Western Europe, they also had the indirect effect of opening a corridor for the transit of asylum seekers from more distant countries in the Middle East and Asia.

By the early 1990s the refugee regime that had been built on the 1951 Convention and that had expanded over four decades was under severe strain. On the one hand, the number of asylum applications had increased dramatically, while, on the other hand, the willingness of Western countries to accept refugees went into decline. This led to a policy 'backlash' which involved the tightening of asylum policies in the developed world and especially in Western Europe. The backlash involved enhanced border controls, stiffer refugee status determination procedures and tougher treatment of asylum seekers generally. These developments are discussed in more detail in Chapter 6, but on a broader level they reflect a number of forces. One is that, with the ending of the Cold War, refugees are no longer seen as escaping communism and thus any strategic value attached to them has evaporated. Furthermore the motivations of asylum seekers arriving spontaneously from a variety of countries and conflicts have become less clear and the case for the granting of permanent settlement is less obvious. Added to this, the rise in illegal immigration, coupled with the September 11, 2001 attacks in the United States, has exacerbated fears that asylum seekers from conflict-ridden countries present not only an economic burden and a social problem, but possibly also a security risk.

To summarize, the first half of the 20th century saw the development of a refugee protection regime that was profoundly influenced by the two great European wars. The Refugee Convention of 1951 was a product of its time and it was an important element of refugee policy during the Cold War. The growth of humanitarian concerns and awareness of refugee situations outside Europe led to its adoption into law and subsequent adaptation to local circumstances by most of the countries of the world. In the last two decades it has produced what some see as unintended consequences that have put asylum systems in Western countries under severe strain. Sixty years after the Convention was first agreed the applicability of the system that was built upon it is now being called into question.

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29 For a comparison of post-Soviet displacements with earlier ethnic unmixings, see Brubaker, 1995.



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## 3 How Many Refugees?

In this chapter I outline trends in the total numbers of asylum seekers and refugees and their distribution by source and destination. These are taken from the database of the UNHCR which, as part of its mandate, collects comprehensive statistics on refugees and asylum seekers. These are collected from individual governments as well as from the UNHCR's own operations. It is worth reiterating that the main focus here is on the flow of asylum applicants into the developed world, although I also look at refugees worldwide.

### 3.1 Asylum applications

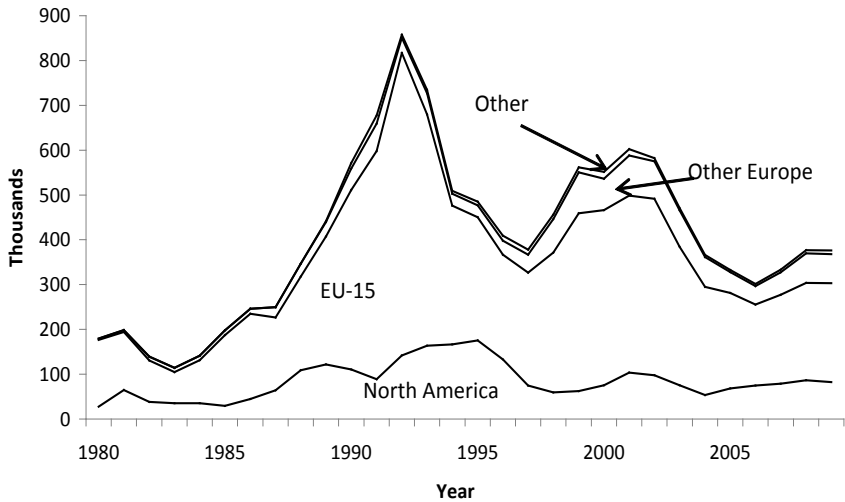
Figure 3.1 plots the time profile of the number of asylum applications to 'industrialized countries' – essentially the OECD plus a few others. These are first instance claims. They are almost always submitted within or at the border of the destination country by applicants who have arrived spontaneously rather than having been transferred through the agency of organisations such as the UNHCR. Total applications increased dramatically from around 100,000 per annum in the mid-1980s to a peak of 850,000 in 1992. After some decline the number reached a second peak of 600,000 in 2001. Since that time the number has halved, representing a return to figures last seen in the 1980s. One of the key issues, examined at length in Chapter 8, is to what extent the decline in applications after 2001 was the result of the policy backlash in the developed world.

The figure also shows how these applications were divided among the receiving regions. The overwhelming majority claimed asylum in Europe, principally the 15 countries of the pre-enlargement European Union. The sharp rise to the peak in 1992 was largely accounted for by the EU-15, as was the ensuing decline and subsequent fluctuation. Over the 30-year period two-thirds of all applications were submitted in the EU-15. Also notable is the increase after the mid-1990s in applications to other European countries, which account for

more than 10% of all applications. Some countries that had previously been sources of asylum applications subsequently became destinations, particularly the Czech Republic, Hungary, Poland and Turkey.

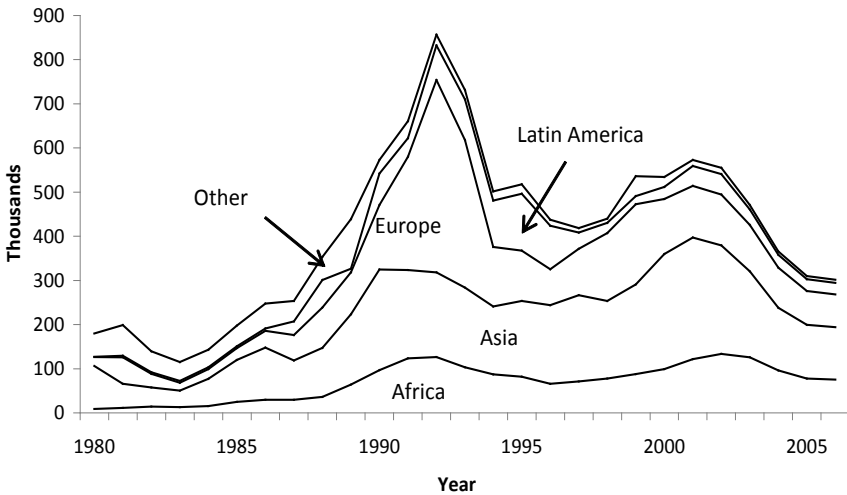
Figure 3.2 shows the profile of asylum applications by region of origin up to 2006.<sup>30</sup> Over the whole period, 37% of applicants originated in Asia, while 17% came from Africa and another 10% came from Latin America and the Caribbean. Europe accounted for 28% and these originated almost entirely from Eastern Europe and the former Soviet Union. The sharp spike in total applications in 1992 was largely the product of events that followed the collapse of the Soviet Union and the fall of the Berlin Wall. But there are also milder humps in applications from Africa and Asia, one in 1990–3 and one a decade later.

**Figure 3.1** Asylum applications by region of asylum, 1980–2009



Sources: 1980–1: UNHCR, 2001a, Table V.1, V.2; 1982–2005: UNHCR, *Statistical Yearbook*, 2001 and 2005, Table C1; 2006–9: UNHCR, 'Asylum Levels and Trends in Industrialized Countries, 2009', Table 1.

30 Figures for the last few years are not available by source region.

**Figure 3.2** Asylum applications by region of origin, 1980–2006

Source: 1980–1: UNHCR, 2001a, Table V.4, V.5; 1982–2005: UNHCR, *Statistical Yearbook*, 2001 and 2005, Tables C2; 2006: UNHCR, 'Asylum Levels and Trends in Industrialized Countries, 2006', Table 1.

Table 3.1 shows annual applications for 19 leading destination countries in five-year periods from 1987–91 to 2002–6. Together they account for 95% of all applications received by industrialised countries over the two decades, and they form the basis for the analysis of asylum policies over the period 1997–2006 in Chapter 8. Among these countries, the largest number of applications was received by Germany with 27% of the 19-country total. This was followed by the US with 14%, the UK with 10% and France with 8%. There are some notable differences in the trends between countries. Thus Austria and Germany, both until recently on the EU's eastern border, show very different patterns. In Austria the numbers fell from 1987–91 to 1992–6 but rose in each subsequent five-year period, whereas in Germany the pattern was exactly the opposite. In the UK the numbers increased until 1997–2001 and then fell, whereas in France the number fell to 1992–6 and rose thereafter. In the 1990s there was a surge in asylum applications to relatively new destinations such as Ireland and Italy as well as to countries that would later join the EU: the Czech Republic, Hungary and Poland.

**Table 3.1** Asylum applications by destination country, 1987–1991 to 2002–2006

	Applications per annum				% change 1997–2001 to 2002–6
	1987–1991	1992–1996	1997–2001	2002–2006	
Australia		7,381	10,470	4,015	–61.7
Austria	19,835	7,795	17,807	26,432	48.4
Belgium	9,460	16,547	27,355	15,730	–42.5
Canada	35,003	26,448	30,821	28,176	–8.6
Czech Republic		1,553	8,059	6,504	–19.3
Denmark	4,377	9,176	10,301	3,615	–64.9
France	45,128	24,044	33,547	51,541	53.6
Germany	146,189	226,461	92,992	41,448	–55.4
Hungary		283	7,232	2,826	–60.9
Ireland		419	6,639	6,587	–0.8
Italy		2,376	14,305	11,770	–17.7
Netherlands	15,534	31,949	39,773	13,734	–65.5
Norway	5,636	4,946	11,086	10,421	–6.0
Poland		1,213	3,796	6,248	64.6
Spain	5,571	9,345	7,490	5,665	–24.4
Sweden	24,963	31,008	14,911	25,875	73.5
Switzerland	25,906	18,771	29,919	16,356	–45.3
UK	27,994	38,900	76,340	52,488	–31.2
US	63,694	129,571	44,223	35,913	–18.8
Total		588,186	487,066	365,345	–25.0

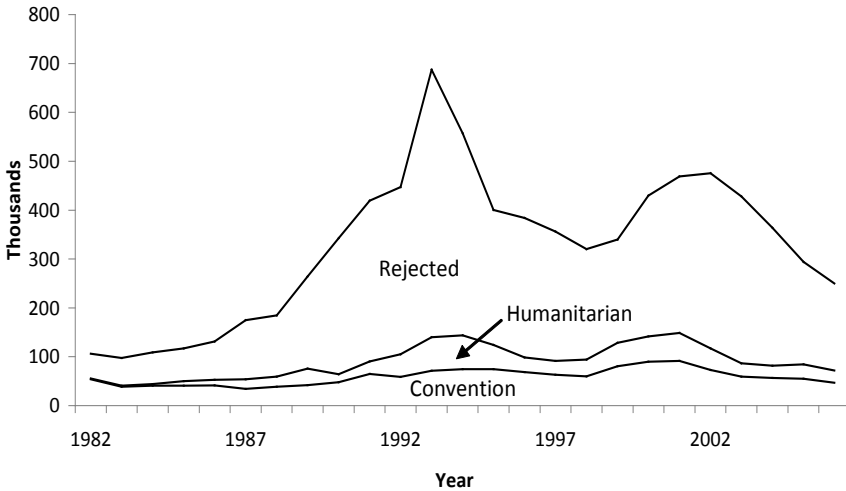
Source: For 1987 to 1996, UNHCR, *Statistical Yearbook*, 2001, Annexes C1 and C2; for 1997 to 2006: UNHCR, *Statistical Yearbook*, 2005 and UNHCR, 'Asylum Levels and Trends in Industrialized Countries, 2006'.

Of particular relevance to what follows later are the diverse trends in applications over the last two five-year periods. As shown in the last column of the table, between 1997–2001 and 2001–6 total applications in these countries declined by 25%. Against this benchmark the fall of 31% for the UK hardly seems dramatic. But there is wide variation in the trends for other countries. Applications fell by more than 60% in Australia, Denmark, Hungary and the Netherlands, while they increased by more than 50% in France, Poland and Sweden and by nearly 50% in Austria. This diversity in trends could be the result of the country's specific location, the source country composition of its



applicants, or of changes in labour market conditions. But it could also be the result of differences in asylum policies – something that will be investigated in Chapter 8.

**Figure 3.3** The determination of asylum claims, 1982–2006



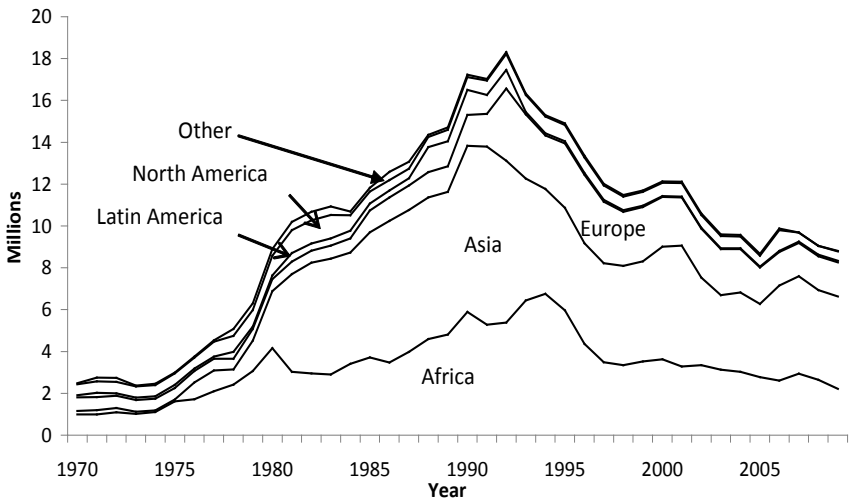
Source: 1982–2004: UNHCR, *Statistical Yearbook*, 2001 and 2004, Annex C29; 2005–6: UNHCR *Statistical Yearbook*, 2006, Tables C8–C10.

A key element of asylum policy, and the most important issue for asylum seekers, is the outcome of the refugee status determination procedure. Figure 3.3 shows the time profile of decisions on refugee status for industrialized countries as a whole since 1982. These are decisions on first instance applications and they exclude applications that were withdrawn or lapsed before a decision was taken and they also exclude the results of appeals. Over the period from 1982 to 2006 the proportion of decisions that resulted in recognition under the definition of the Refugee Convention was 18%. A further 10%, while not qualifying as Convention refugees, were allowed to stay on humanitarian grounds, sometimes on less favourable terms. The total recognition rate (Convention plus humanitarian, as a share of all decisions) fell from over 50% in 1982 to less than 20% in 1990 before rising again. In recent years it has hovered around a quarter. Even accounting for those that were successful on appeal (about 5% of all cases), around two-thirds of all claims end in rejection. The question of what happens to those who are unsuccessful and those who are successful is taken up again in Chapter 10.

### 3.2 The stock of refugees

Figure 3.4 plots the UNHCR's estimates of the total stock of refugees by the continent in which they are located from 1970 to 2009.<sup>31</sup> In the early 1970s the total was a little over 2 million – similar to the numbers in the 1950s and 1960s. It then climbed steeply to a peak of 18 million in 1992, after which there is an uneven decline to less than 9 million in 2009. Although the number has fallen steeply since the early 1990s it is still three and a half times that of the early 1970s. On a per capita basis the trend would be rather less steep. Relative to the world's population the number of refugees increased from 0.7 per thousand in 1970 to 3.4 per thousand in 1990 and then fell to 1.4 per thousand in 2009.

**Figure 3.4** Refugees by region of asylum, 1970–2009



Source: 1970–99: UNHCR, 2001 b, Annex 3; 2000–2005: UNHCR, *Statistical Yearbook*, 2005, Table A5; 2006–9: calculated from UNHCR, *Global Trends: Refugees, Asylum-Seekers, Returnees, Internally Displaced and Stateless Persons*, 2006–9, Table 1.

Perhaps the most striking feature is the similarity between the time profile of the stock of refugees and the flow of asylum applications to the developed countries that was illustrated in Figures 3.1 and 3.2. This is a strong indication that the flow of asylum applications to industrialised countries is driven by the same forces that underpin the ups and downs of refugee displacements worldwide. However, the overall trend in asylum applications is somewhat

31 The UNHCR includes as refugees those who are recognised under the Refugee Convention (or the OAU Convention), those granted protection on humanitarian grounds and those granted temporary protection in the case of a large-scale influx. It does not include asylum seekers with cases pending or internally displaced persons. Those permanently settled in safe countries usually cease being counted as refugees after about ten years.

steeper. In 1980 the flow was 2% of the stock, increasing to 4.7% in 1992 and then reaching another peak of 5.5% in 2002. To some degree this reflects a growing ability to seek refuge further afield. But it is also driven by two other factors. One is the spillover into Western Europe from the turmoil in Eastern Europe and the former Soviet Union. The other is that repatriation rates for refugees increased sharply after the end of the Cold War, something that made an important contribution to the decline in the refugee stock during the 1990s.

A second striking feature of the figure is that, despite the increase in asylum flows to the West, around three-quarters of the world's refugees are located in Asia and Africa – regions where an even greater share of them originated. Although refugees are by definition outside their country of origin, most of them do not get very far and the majority are located in neighbouring countries. According to the UNHCR more than half of the refugees counted in 2008 were in 'protracted refugee situations'. About 30% of refugees, particularly those in Africa, are located in camps, sometimes under appalling conditions where they lack basic necessities and where there is little security. As a result the refugee burden still falls disproportionately on some of the world's poorest countries.

This is illustrated in Table 3.2 which compares some of the poorer countries carrying the greatest refugee burdens with the major OECD refugee hosts. At the top of the left-hand column are Syria, Iran, Pakistan and Jordan, each hosting more than half a million refugees. As the second column shows, for Syria and Jordan, this is more than 50 per thousand of the population. As the right-hand column shows, on a per capita basis the largest refugee hosts in the developed world are Germany, Norway and Sweden with more than seven per thousand. These figures are comparable to some of the poorer nations in the left-hand column. However this hardly reflects the capacity to provide for refugees. Accordingly, the third column in each panel reports the ratio of the number of refugees to the country's GDP in millions of international dollars. Among the poorer countries Syria, Jordan and Chad have more than ten refugees per million dollars while Tanzania, Kenya and the Congo have more than five refugees per million dollars. By contrast the maximum among developed countries is around 0.2 refugees per million dollars.

**Table 3.2** The refugee burden in 2008

Country	Refugees	Refs/ Popn	Refs/ GDP	Country	Refugees	Refs/ Popn	Refs/ GDP
Syria	1105.7	50.47	11.71	Germany	582.7	7.09	0.20
Iran	980.1	13.21	1.20	UK	292.1	4.74	0.13
Pakistan	765.7	9.85	1.74	United States	279.5	0.89	0.02
Jordan	500.4	79.22	16.08	Canada	173.7	5.17	0.13
Tanzania	321.9	7.36	5.99	France	160.0	2.57	0.08
Kenya	320.6	8.05	5.31	Netherlands	77.6	4.68	0.11
Chad	302.7	29.49	18.78	Sweden	77.0	8.33	0.23
China	301.0	0.22	0.04	Italy	47.1	0.79	0.03
Saudi Arabia	240.6	9.35	0.41	Switzerland	46.1	6.10	0.15
India	184.5	0.15	0.06	Austria	37.6	4.49	0.11
Sudan	181.6	4.30	2.07	Norway	36.1	7.50	0.14
Uganda	162.1	4.96	4.39	Denmark	23.4	4.28	0.11
D. R. Congo	155.2	2.35	7.52	Australia	20.9	0.98	0.03
Yemen	140.2	5.94	2.53	Belgium	17.0	1.60	0.04
Nepal	122.3	4.26	3.87	Poland	12.8	0.34	0.02

Source: UNHCR, *Statistical Yearbook*, 2008, Tables 1 and 25; International Monetary Fund, World Economic Outlook Database.

Perhaps a better measure of the ability of countries to host refugee populations would be to express the number of refugees as a ratio to the excess of total GDP over and above the amount required for a modest standard of living. If we were to set that level at a thousand dollars per capita per year then the contrast becomes even starker. The ratio of refugees per million dollars of 'surplus' income is 32.3 for Tanzania, 15.6 for Kenya, 51.7 for Chad and 43.0 for Uganda, and the figure for the Congo is negative. On the other hand, the figures for the developed countries in the right-hand column increase only slightly. This serves to further highlight the limited capacity of poor countries, particularly in Africa, to host refugees. And it puts into even sharper perspective the burdens that developed countries bear in comparison to the poorest countries.

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## 4 Conflict and Persecution

As the preceding chapter illustrated, there was a secular increase in both the flow of asylum applications and the stock of refugees up to the early 1990s, followed by a somewhat uneven decline. It is possible that these trends simply reflect the growing ability of refugees to escape across the border and to seek refuge in more distant countries and continents rather than that the root causes of refugee flights have intensified. Here I examine the global trends in those conditions that form the background to refugee displacements: war and terror, political upheaval and human rights abuses.

### 4.1 War and terror

The most obvious cause of displacement is armed conflict. There are a number of different indicators of the prevalence and intensity of wars and they agree that armed conflict was on the increase until the early 1990s, after which it declined.<sup>34</sup> The total number of ongoing major conflicts increased from 15 in 1970 to 30 in 1980 and 40 in 1990 before declining to 26 in 2000. However these differ widely by the nature of the wars and their scope, intensity and duration.

One measure of the total quantum of conflict is presented in Figure 4.1. Each episode of conflict is given a score, ranging from 1 to 7, that reflects the scale of the conflict and its overall societal impact.<sup>35</sup> A score of one denotes 'sporadic or expressive political violence' – effectively low-level violence by small militant groups. Examples would be periodic outbreaks of violence in places as diverse as Northern Ireland, Pakistan or Nigeria. A score of 7 denotes 'pervasive warfare' – full-scale wars that consume the entire society. Examples

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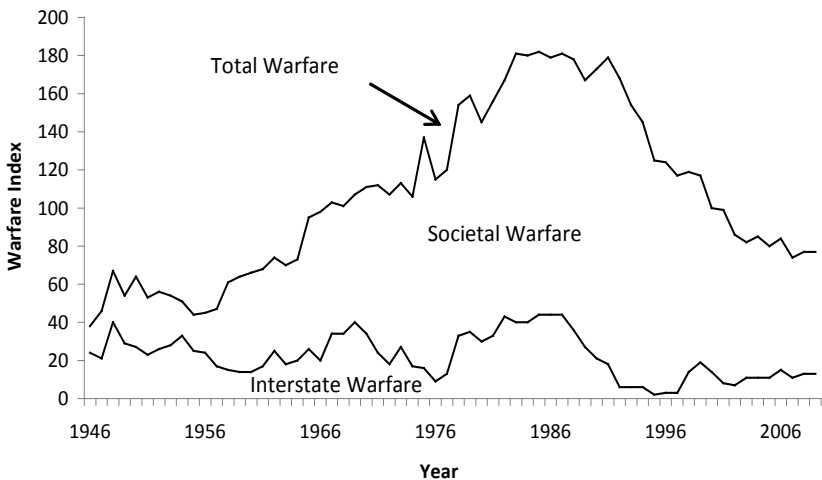
34 Theoretical and measurement issues in civil wars are surveyed in Collier and Hoeffler, 2007, and Blattman and Miguel, 2010.

35 This index was constructed as part of a project on Armed Conflict and Intervention (see Marshall, 1999, 2002). The coding scheme for conflicts can be found at [www.systemicpeace.org/warcode.htm](http://www.systemicpeace.org/warcode.htm).

are Vietnam 1958–75, Cambodia 1975–9, Afghanistan 1978–present, and Rwanda 1994. The scores are then aggregated across all episodes to give the total for a given year.<sup>36</sup>

The top line shows the profile of total societal impact of all types of conflict since 1946. Contrary to popular belief, the Cold War period witnessed a secular rise in violence, often associated with proxy wars, independence struggles and post-colonial internal conflicts. The escalating level of violence reached a peak between 1984 and 1992 and has since declined substantially so that by 2007 the index had returned to levels last seen in the late 1960s. The independence wars of the 1960s and 1970s gave way in the 1980s to interstate wars, often involving recently independent states. But while interstate wars declined from the mid-1980s, civil wars began to decline only in the early 1990s. These local struggles often reflect long-standing ethnopolitical tensions that were unleashed by the ending of the Cold War – the most prominent case being the break-up of the former Yugoslavia.

**Figure 4.1** Global warfare, 1946–2009



Source: Marshall and Cole, 2009, p. 5. Data kindly provided by Monty Marshall.

<sup>36</sup> These scores do not account for year-to-year variations in intensity for a given conflict nor are they weighted by the size of the populations affected.

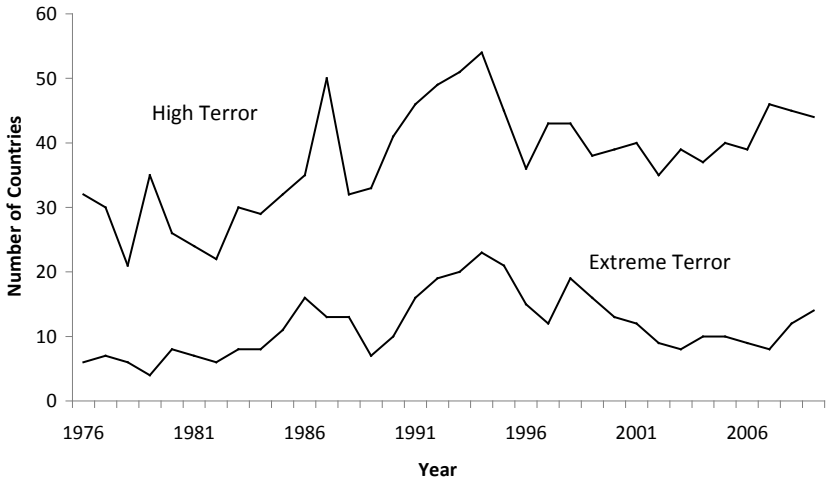
**Table 4.1** Armed conflicts for self-determination

	New armed conflicts	Ongoing at end of period	Conflicts contained	Conflicts settled or won
1966–1970	5	15	2	0
1971–1975	11	23	0	3
1976–1980	10	31	2	0
1981–1985	7	37	0	1
1986–1990	11	43	2	3
1991–1995	20	45	9	9
1996–2000	6	38	7	7
2001–2006	8	26	15	6

Source: Quinn, 2008, Table 5.1.

What lies behind these trends can be seen in Table 4.1, which shows the starts and ends of conflicts for self-determination. Consistent with Figure 4.1, the number of ongoing conflicts reached a peak in the late 1980s and early 1990s, as did the number of new armed conflicts. But these upheavals, often secessionist or irredentist outbreaks in recently emancipated multi-ethnic states, diminished in the 1990s. As the table shows, the number of conflicts either contained or settled rose dramatically from the 1990s. Some of these settlements have been the result of overwhelming force of arms (Tamil Nadu, Banda Aceh, Chechnya) and some have been settled by the creation of new states (ranging from the Yugoslavian successor states and Eritrea to Timor Leste and Southern Sudan). A wide range of conflicts have been contained through negotiation or mediation, leading to a sometimes uneasy peace (Quinn, 2008). One implication of these trends is that, with a few exceptions, post-Cold War conflicts are less protracted, which suggests that refugee displacements may be less sustained than in the past.

Violence and oppression is not only the result of war; human rights abuses and absence of the rule of law are often prevalent even when there is no outright war. An alternative index that measures human rights abuses more widely is the Political Terror Scale (see Wood and Gibney, 2010). This measures terror imposed or created by the state – something that is consistent with the definition of a refugee as someone in fear of persecution by state agents. It measures abuses against physical integrity such as extrajudicial killing, torture, political imprisonment, kidnapping and other forms of coercive repression. It attempts to capture on a five-point scale the scope, intensity and range of human rights abuses. Thus a score of 4 would be where ‘murders disappearances and torture are part of life’ and 5 would be where this extends to the whole society without restraint (Wood and Gibney, 2010, p. 373).

**Figure 4.2** Number of countries in terror, 1976–2009

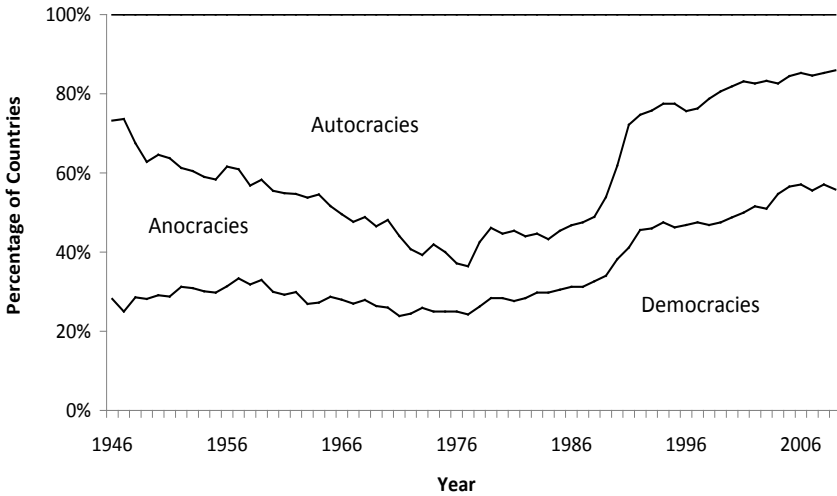
Source: Derived from Political Terror Scale at [www.politicalterrorscale.org/download.php](http://www.politicalterrorscale.org/download.php). This is based on a constant set of countries, constituted as at 2009. Where countries have split, the country index before its dissolution is applied for that period to each successor state.

Figure 4.2 shows that the number of countries rated over 3 on this scale (labelled High Terror) increased from the mid-20s in the late 1970s to a peak of over 50 in 1993–4 before declining to an average of around 40 in the 2000s. The number of countries that evince extreme terror, as measured by values in excess of 4, show a similar pattern, rising from 6 or 7 to a peak of over 20 followed by some decline. While they follow a similar pattern to the indices of warfare, they do suggest that there has been less moderation in human rights abuses than in outright war. Indeed, if we take the average scores rather than the number of extreme cases then there is even less evidence of decline. For middle income countries the average score falls from 2.7 in 1992 to 2.5 in 2009 and for low income countries there is even a slight increase from 3.1 to 3.2. However these measures must be taken with some caution as they include a large number of countries (and some very small countries) with very low levels of human rights abuse.



## 4.2 Democracy and liberty

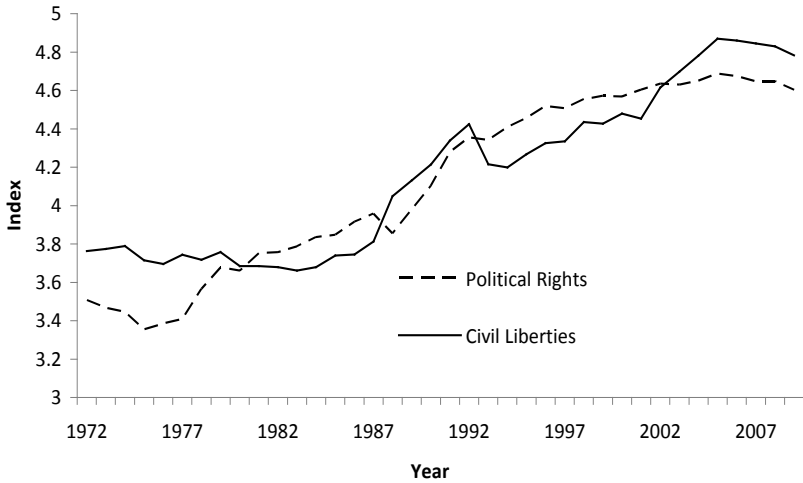
Figure 4.3 Global governance, 1946–2009



Source: Marshall and Cole, 2009, p. 11. Data kindly provided by Monty Marshall.

Terror, insecurity and human rights abuses have deeper causes, and they are often associated with the repressive political regimes of authoritarian governments. Figure 4.3 shows the percentage of all countries whose political regimes are classified as autocratic, democratic or transitional (anocracies). These data are derived from the Polity IV database where each country is scored according to the authority characteristics of its political institutions. Anocracies fall somewhere in the middle with a combination of autocratic and democratic characteristics; these are often polities with weak institutions that may be more prone to civil conflict than those that are more settled. Recent research shows that partial autocracy and partial democracy are the best predictors of conflict (Gates *et al*, 2006; Goldstone *et al*, 2010).

Figure 4.3 is based on the number of countries in each category and so it takes no account of the relative size and number of the countries or of different degrees of democracy or autocracy. The figure shows that for most of the period since the 1960s democracies have been in a minority; however their share has grown strongly since the mid-1980s. The share of autocracies strongly increased up to the mid-1970s after which the trend was reversed, with an especially sharp decline during the 1980s. Perhaps most notable is the increase from the late 1980s of mixed or transitional regimes, which as we have seen, have the potential to generate refugees.

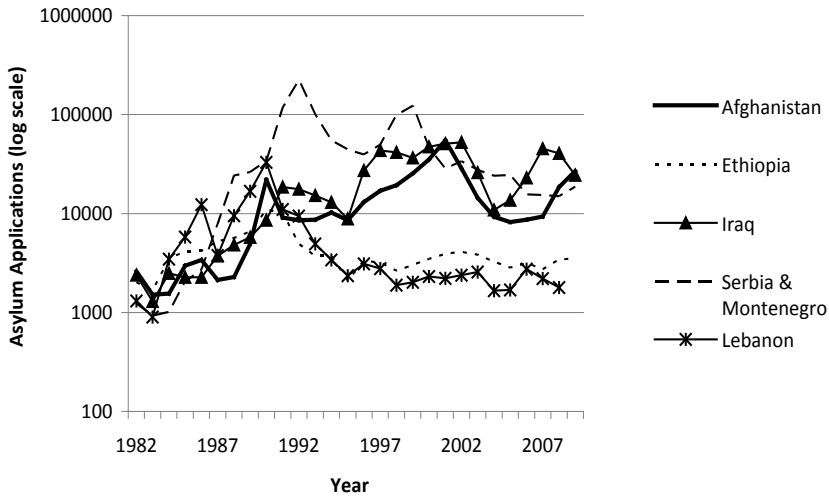
**Figure 4.4** World Freedom Index, 1972 to 2009

Source: Freedom House: [www.freedomhouse.org/template.cfm?page=439](http://www.freedomhouse.org/template.cfm?page=439). Note that the original index has been inverted so that higher values represent greater freedom.

A related measure is the Freedom House index of political rights and civil liberties, which is plotted in Figure 4.4. This is the average for all countries in the world, individually scored on a scale of 1 to 7 where higher numbers represent greater freedom. This is related to both the institutional structure and events and actions, including those of non-state actors. Political freedom relates to electoral processes, political participation and the functioning of government. Civil liberties relates to freedom of expression and association, the rule of law, and personal autonomy. Consistent with the trends observed in political regimes these measures also show a general increase in rights and freedoms since the 1970s, with sharp improvements in political rights during the 1980s, followed by some levelling out from the 1990s. Improvements in civil liberties may of course work in different directions: while they may reduce the incentive to leave a country, they may also widen the opportunities for doing so.

### 4.3 Conflict and asylum

Figure 4.5 Asylum applications from five source countries, 1982–2009



Source: Hatton, 2009, p. F186.

The effects of conflict can be clearly seen in the profiles of asylum applications from individual countries. Figure 4.5 plots these numbers (using a log scale to aid comparability) for five particularly strife-prone nations. Applications from Serbia and Montenegro exhibit a steep rise during the 1980s followed by the peaks associated with the Bosnian war of 1992–3 and the 1988–9 conflict in Kosovo. Similarly the profile of Iraqi applications shows a rise during the first Gulf War of 1990–1 as well as a sustained flow leading up to the invasion of 2003. There is a steep rise in applications from Afghanistan in the late 1980s, associated with the end of the Soviet occupation, with a further increase leading up to the war against the Taliban. In the years since 2006 there is another increase reflecting a further intensification of the war – in contrast to the fall in applications from Iraq, where hostilities were winding down. There are peaks in the early 1990s for applications from Lebanon, associated with the Syrian intervention, and for Ethiopia during the conflict over the secession of Eritrea.

These examples illustrate, not surprisingly, that major conflicts leave a very clear imprint on asylum applications from the countries concerned. But for several reasons the correspondence between conflict and refugee flights is far from uniform. One reason is that refugee flights often occur in bursts at different stages in a conflict, something that can be illustrated by the wars in the Horn of Africa. In the Eritrean conflict the exodus of refugees began in 1967, six years after the onset of guerrilla war but before the revolution

of 1974. Refugees subsequently fled from Tigray, notably in 1984–5, not just because of escalating violence but also because of famine. Prior to this they had been reluctant as Christians to move into Muslim Northern Sudan. In the Ogaden conflict refugees fled not during but after the recapture of the Ogaden by Ethiopian forces, largely because they feared reprisals. And in 2000 renewed hostilities between Ethiopia and the recently independent Eritrea brought a sharp burst of Eritrean displacements. Many of those who were displaced had been refugees before and thus had less hesitation in fleeing a second time (Bariagaber, 2006, ch. 3).

As these and numerous other examples illustrate, the number of refugees generated during a conflict depends on the ethnopolitical nature of the conflict, whether ordinary households are targeted, and the degree to which the violence is generalised. In some conflicts the number of refugees generated is modest compared with the number of those who are internally displaced. Such examples occur where the conflict is far from an international border, where there are greater possibilities for internal flight, and where there are limited prospects for safety and security in neighbouring countries. For example, in 2000 there were around 400,000 Sudanese refugees but over 4 million were internally displaced. For African countries more generally, the number of internally displaced is around three times the number of refugees, while for Asia and the Pacific the proportions are reversed (UNHCR, *Statistical Yearbook*, 2008, p. 68).

As noted in Chapter 3, only a small fraction of those fleeing conflict and persecution become asylum seekers in the OECD. For destitute refugees in camps in continental interiors such as those in Darfur or the Congo, it is particularly difficult to escape. For those with access to resources who are fleeing from countries that are closer to Europe or North America, or with access to air or sea routes, there are greater possibilities for escape. So the proportion arriving in the West as asylum seekers varies widely in comparison with the scale of the persecution and the conflicts that generated them. Nevertheless virtually every conflict anywhere in the world is represented in the asylum statistics and the determinants of the ebb and flow of these numbers are investigated in the next chapter.

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## 5 Explaining Asylum Flows<sup>37</sup>

As the previous chapter showed, war, political turmoil, violent oppression and human rights abuses lie at the root of refugee flights. It is less clear precisely which dimensions of conflict and persecution are the most important and if economic and social factors also play a role. As the UNHCR recognises, 'Many people leave their home countries for a combination of political, economic and other reasons. The mixture of motives is one factor creating a perception of widespread abuse of asylum systems, which is often manipulated by politicians and the media' (2001b, p. 155). Such mixed motives are likely to be especially important among those who turn up as asylum seekers at the doors of the rich nations of the OECD rather than remaining stranded at their first port of call. While there is an extensive literature that documents and analyses the immediate causes that generate refugees, and sometimes the underlying conditions that created them, it is difficult to generalise from specific case studies. Neither is it possible in descriptive analysis to weigh the different underlying factors and relate them quantitatively to the volume of asylum applications. Still less clear is to what extent war, violence and socioeconomic trends can account for the long-term trends in applications that were observed in Chapter 3.

### 5.1 Previous studies

A number of studies have sought to assess the causes of refugee flights using quantitative analysis. Typically they use cross-country analysis to assess the relative effects of measures of conflict and socioeconomic variables. Such variables are sometimes seen as capturing elements of an exit-voice trade-off; whether to leave or instead to fight, resist or just lie low in the hope that a better future will emerge. One issue is the distinction between the proximate causes of refugee exodus, such as violence and terror, and the deeper structural

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37 This chapter closely follows Hatton, 2009, pp. F192-F195.

conditions that give rise to these situations such as political authority, ethnic fractionalisation, poverty, inequality and resource endowments. A second issue is that some variables may be interpreted as intervening conditions. These are obstacles that intervene between the latent desire to escape and the ability to do so. For instance, people may want to escape from an authoritarian regime but find that repressive policies make departure more difficult.

In an important paper Schmeidl (1997) used regression analysis to explain the stock of refugees in over 100 countries during the 1970s and 1980s. She found that the most significant variables were those representing armed conflict, especially civil wars and genocide and politicicide. In the presence of these forces, other variables representing political rights, civil liberties and ethnic tensions were generally not significant. This suggests that the conflict outcomes tend to overshadow the deeper causes of violence. Intervening factors (poverty, population density, geography) also proved to be unimportant unless they were interacted with some measure of conflict. But those interactions seem not to work in the 'right' direction, and Schmeidl (1997, p. 304) surmised that intervening conditions may be less important than some of the previous literature had suggested. Further research has largely confirmed those results. Davenport *et al* (2003) and Moore and Shellman (2005) provide fixed effects estimates for the net refugee stock, including the internally displaced, for over 100 countries. Both studies find that conflict, genocide and protest were the most influential variables, as well as finding some role for political transitions towards democracy.

These studies focus on the (absolute) stock of refugees rather than on the flow of asylum seekers to the developed world. By contrast, Neumayer (2005b) analysed asylum applications to Western Europe by country of origin. The results indicate that asylum flows are largely explained by the same variables that generate total refugee displacements. Like Moore and Shellman (2005) he found that an index of political terror was highly significant, and in addition that autocracy had a positive effect on asylum flows. He also found negative effects for the level and change in origin country GDP per capita, while the share of prime age population and the cumulative stock of past applicants were positive influences. A comparison of the results suggests that some variables such as genocides, famines and natural disasters mainly generate internal and cross-border displacements rather than longer distance flights.<sup>38</sup> On the other hand, economic and demographic factors seem to be more important for longer distance migrations.

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38 However, Moore and Shellman (2006) find that civil war and high levels of dissident violence and government terror increase the number of refugees relative to the number internally displaced.

## 5.2 A sample of countries

Previous studies have provided valuable insights but they have focused mainly on cross-country variation in the conditions that generate refugee displacements and asylum applications. While these have implications for trends over time, very little effort has been made to model those changes directly. Here I examine a set of countries that generated substantial numbers of asylum applications at some time between 1982 and 2006. In this analysis I use five-year averages to minimise possible mismatch in timing between causes and outcomes. The key variables that might be expected to determine asylum applications are presented in Table 5.1. These are unweighted averages for 48 countries. The figures in parentheses are for 56 countries, which include from 1992–6 onwards some of the successor states to the Soviet Union, Yugoslavia and Czechoslovakia. The countries and the data sources are listed in the appendix to this chapter.

**Table 5.1** Conditions in 48/56 origin countries, 1982–2006

	1982–1986	1987–1991	1992–1996	1997–2001	2002–2006
(1) War deaths (per 1,000 popn)	0.299	0.167	0.057 (0.124)	0.049 (0.041)	0.014 (0.012)
(2) Political terror (scale 1 to 5)	3.14	3.35	3.51 (3.39)	3.35 (3.21)	3.35 (3.21)
(3) Democracy (scale –10 to 10)	–4.48	–2.49	0.53 (0.98)	1.31 (1.65)	2.21 (2.48)
(4) Political rights (scale 1 to 7)	2.45	2.80	3.07 (3.19)	3.40 (3.54)	3.62 (3.74)
(5) Civil liberties (scale 1 to 7)	2.54	2.85	3.03 (3.13)	3.27 (3.40)	3.79 (3.90)
(6) GDP per capita (thousand \$US)	3.40	3.39	3.23 (3.34)	3.59 (3.70)	3.99 (4.18)
(7) Population (millions)	60.66	66.75	72.82 (63.89)	78.51 (68.73)	83.81 (73.24)
(8) % of population aged 20–39	27.39	28.08	28.48 (28.95)	28.89 (29.17)	29.22 (29.22)

Source: See appendix to this chapter.

The variables in the first two rows of the table are indicators of war and terror that were discussed in the previous chapter. The third row reports a measure of political authority derived from the Polity IV database on the characteristics of political regimes and transitions between regimes. This is a composite index ranging from –10 (strongly autocratic) to +10 (strongly democratic). There is a strong upward trend for these countries, moving up from moderately autocratic

in 1982–6 to mildly democratic in 2002–6. The Freedom House indices of political rights and civil liberties are reported in rows (4) and (5), where (as in Figure 4.4) higher numbers mean greater freedom. In these countries, as at the global level, both political rights and civil liberties improved substantially over the period, a trend that according to previous studies should have been reducing the number of asylum applications.

Row (6) reports the trend in GDP per capita from the Penn World Tables in thousands of US dollars at 2000 prices. For these countries there is little increase until the most recent decade. As noted earlier, higher average income could make asylum migration more feasible but less desirable. If the latter effect dominates then that might help to explain some part of the decline in applications since the mid-1990s, although it will not account for the earlier upward trend. Row (7) shows the trend in average total population which, by increasing the populations at risk, must have imparted a long-run upward trend to the absolute number of asylum seekers. Row (8) shows the share of population in the migration intensive age group 20–39, possibly adding a further upward twist to total applications.

### 5.3 Regression results

These variables are used to explain the source country asylum applications to industrialised countries. I use the UNHCR's data on first instance applications to industrialised countries, which, as noted earlier, are only a fraction of all refugee flights. The regressions presented in Table 5.2 take as the dependent variable the log of asylum applications per thousand of the source country population for each five-year period, using 48 source countries for 1982–6 and 1987–91 and 56 countries for later periods.<sup>39</sup> The regressions in columns (1) and (2) of Table 5.2 are estimated with random effects, while columns (3) and (4) use fixed effects. The latter are preferred on statistical grounds as they more clearly identify the effects of changes over time in the explanatory variables.

In these regressions the civil rights variable was never significant, largely because it is highly correlated with political rights. Similarly the share of population aged 20–39 was never significant and so both these variables were dropped from the analysis. By contrast, per capita income is always negative and significant, indicating that the poorer a country the more asylum applications it generates. This effect is strong even in the presence of political and conflict variables that are correlated with poverty, something that confirms the UNHCR's view that economic motives are relevant in refugee flights. To

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<sup>39</sup> The log form is used because the dependent variable is bounded at zero; hence using the log avoids predicting a negative number of applications. Restricting the sample to a constant set of 48 countries makes very little difference to the results in Table 5.2.



get a sense of the magnitude of this effect, an increase of a thousand dollars in a country's per capita income would reduce its asylum applications by about 15%. That would be equivalent to the difference in per capita income between Mali and Somalia or between Serbia and Angola.

**Table 5.2** The source country determinants of asylum applications, 1982–2006 (dependent variable: log asylum applications per thousand population)

	(1) RE	(2) RE	(3) FE	(4) FE
Constant	0.015 (0.1)	-2.189 (3.5)	-2.061 (2.9)	-2.278 (3.4)
GDP per capita	-0.144 (2.3)	-0.134 (2.3)	-0.250 (2.5)	-0.268 (2.8)
Democracy	0.079 (2.6)	0.056 (1.9)	0.036 (1.1)	
War deaths	0.403 (2.3)	0.161 (0.9)	0.002 (0.0)	
Political rights	-0.441 (4.8)	-0.296 (3.1)	-0.224 (2.3)	-0.148 (2.1)
Terror scale		0.504 (4.4)	0.667 (5.3)	0.689 (5.9)
Europe	1.988 (4.5)	2.342 (5.2)		
1982–1986	-1.958 (7.5)	-1.785 (7.0)	-1.749 (6.6)	-1.881 (8.6)
1987–1991	-0.012 (0.1)	0.016 (0.1)	0.013 (0.0)	-0.079 (0.4)
1992–1996	-0.111 (0.5)	-0.142 (0.7)	-0.190 (1.0)	-0.198 (1.0)
2002–2006	-0.179 (0.8)	-0.205 (1.0)	-0.152 (0.8)	-0.129 (0.7)
R <sup>2</sup> within	0.41	0.49	0.50	0.49
between	0.29	0.20		
overall	0.34	0.32		
Hausman test	13.7	19.2		
No of observations	264	264	264	264

Note: 'z' statistics in parentheses.

The index of political authority is positive and significant in the first two regressions. At first sight this suggests that the desire to escape from autocratic regimes is outweighed by the difficulty of doing so. But this variable becomes insignificant in the fixed effects model (column 3) and so it has little influence on changes over time. By contrast the index of political rights has a negative

effect that is more robust to different specifications.<sup>40</sup> Thus lack of political rights appears to be a key ingredient that generates asylum applications, as many observers have suggested. Unsurprisingly war has a large positive effect in the first two regressions. According to column (1) an increase of one battle death per thousand of the population increases asylum applications by nearly a half. However in (2) when the terror scale is added to the model the coefficient on war deaths becomes insignificant and in the fixed effects model (3) the coefficient is close to zero. Not surprisingly, the degree of terror is a more powerful predictor of asylum flows than the scale of war, probably because the threats to civilians are only indirectly captured by military casualties. This effect is very large: going up one level on the terror scale increases asylum applications on the order of two-thirds.

The somewhat more parsimonious specification in column (4) can be used to gauge the effects of the key variables on the rise and fall in asylum applications by applying the coefficients to the changes implied by Table 5.1. Here I use a constant set of 48 countries and I report the unweighted average effect. On the upswing, the modest decline in per capita income between 1982–6 and 1992–6 increased applications by about 9%. Over the same period deteriorating political rights also increased applications by 9%, while the rise in political terror boosted average applications by 25%. On the downswing, between 1992–6 and 2002–6, these variables were pushing in the opposite direction. The growth in GDP per capita reduced average applications by 20%, the improvement in political rights reduced them by 8%, while the decline in political terror reduced applications by 15%. If these effects are added up they account for a 43% increase in applications between 1982–6 and 1992–6 and exactly the same percentage decrease between 1992–6 and 2002–6.

There are two other important effects. The first is the dummy for Europe which is reported in the first two columns.<sup>41</sup> The European countries in the dataset are all in Eastern Europe and the coefficient implies that these countries generate a level of asylum applications on the order of three times that of the other countries, all else the same. This is undoubtedly because of their proximity to the countries of the EU. One might expect that this effect would have increased in size from the late 1980s onwards, especially after the fall of the Berlin Wall. But a dummy for Europe for 1987 onwards was not significant, either alone or in combination with a dummy for 2002 onwards for countries that joined the EU in 2004. What the result in Table 5.2 does imply, however, is that events occurring in Europe have a disproportionately large effect on the total number of asylum applications to industrialised countries.

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40 The political authority variable is strongly correlated with the index of political rights (the correlation coefficient is 0.84). When the latter is excluded from the equation the coefficient on political authority becomes negative but it remains insignificant.

41 Other continental dummies were insignificant and so these were excluded from the regressions.

The other effects worth noting are the period dummies that are reported towards the bottom of Table 5.2. The coefficients represent the effects relative to the reference period 1992–6. These are all negative but only that for 1982–6 is significant. This implies that there was a doubling or threefold increase in asylum applications between 1982–6 and 1987–92 for reasons that are not associated with any of the explanatory variables in Table 5.2. Explaining this phenomenon is the subject of the next section.

## 5.4 What accounts for the big surge?

Much attention has been paid to the ups and downs in the number claiming asylum from the late 1980s onwards. As we have seen, a large part of the rise and fall over that period can be accounted for by a few key variables. One reason that the effects in total were so large, especially in the 1990s, is that the post-Soviet upheavals took place on the doorstep of the EU. But the real puzzle is the sharp upward shift in asylum applications in the 1980s that was seen in Table 5.2. It is particularly curious as the major conflicts of the 1980s took place in parts of the globe that were distant from most of the developed world, and particularly from Western Europe.

It is possible that the surge in asylum applications was the indirect result of policy. One hypothesis concerns the guest-worker policies that brought hundreds of thousands of workers to Germany and other European countries in the 1960s. It is sometimes argued that the abrupt ending of these policies in 1973/4 led prospective migrants to switch to using the asylum channel as an alternative means of gaining access to European labour markets.<sup>42</sup> However, there are two reasons for thinking that this effect cannot have been the key factor. The first is that there was a decade-long gap between the *anwerbestopp* and the surge in asylum numbers. Second, the ascent of asylum applications in the 1980s was not confined to the guest-worker countries, or even to countries in Europe. Nevertheless, certain guest-worker countries were affected, notably Turkey and Yugoslavia. Migration from these countries to Germany fell sharply after the early 1970s. But then there was a steep increase in immigration from Turkey, associated with the military coup d'état of 1980, after which migration fell abruptly. Similarly, there were surges from Yugoslavia to Germany, first in the early 1990s when war broke out in Bosnia, and then in 1999 with the conflict in Kosovo. Thus asylum migration was not simply a continuation of the guest-worker migration under another name.<sup>43</sup> Rather, it was that, at times

42 See, for example, Gibney and Hanson, 2005, p. 3; Gibney, 2004, pp. 95–6. One reason why this hypothesis holds so much appeal is the parallel with the surge of illegal immigration from Mexico that followed the ending of the Bracero Program for Mexican guest-workers (see Castles, 2004).

43 Analysing immigration to Germany from Turkey and Yugoslavia, Zimmermann (1996) found that both the cyclical sensitivity and the persistence of the flows declined after 1973.

of conflict, refugees from Turkey and Yugoslavia fled to places where there was already a well established expatriate population.

Other factors were more important in accounting for the worldwide surge. As we have seen (Figure 4.1), the late 1970s saw an increase in interstate wars, in which the West and especially the United States were involved. The war in Vietnam is the classic example and it ultimately resulted in the migration of significant numbers to the United States and other countries (mainly after the war had ended). And as noted in Chapter 2, from the late 1960s onwards, the expanding scope of the refugee regime, underpinned by the developing human rights agenda, led to a shift in international policy towards resettling refugees. This was bolstered by the mass media, which increasingly brought the plight of boat people and other refugees into the front rooms of millions in Western countries.<sup>44</sup> It is also suggested that the widening access to air travel and the fall in its cost were fundamental in accounting for the long-run increase in spontaneous asylum arrivals. The arrival of unsolicited asylum seekers by air undoubtedly grew in importance from the 1990s, but it was rather less important in the 1980s when most spontaneous asylum seekers arrived overland or by boat.

As with all migrations from poor to rich countries, once an initial stream gets started it builds cumulatively through chain migration effects. Once having formed a beachhead at the destination, the pioneer migrants provide information and assistance to subsequent waves of migrants. In an earlier study I found that one of the most important variables that explained the long-run upward trend in asylum applications during the 1980s and 1990s was the cumulative total of past arrivals from the same source (Hatton, 2004, p. 33). But it is important to recognise how this works in a context where those escaping conflict are from poor countries and may have lost whatever resources they once had, and where illegal entry to Western countries was becoming increasingly difficult. One key influence of the importance of diasporas is that they provide the resources to pay for the services of people smugglers and for other expenses to make intercontinental travel possible.<sup>45</sup> The access to such networks is one factor that often distinguishes those who manage to gain entry to the rich countries from those who remain marooned in refugee camps.

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44 Writing in the mid-1980s Teitelbaum observed that 'The coming of age of satellite television has globalized this concern, to the point that film clips of overloaded boats being pushed out into the South China Sea may have caused more concern in the United States than in Malaysia' (1984, p. 445).

45 One compilation of reports on the costs of human smuggling (Petros, 2005) found that the average cost to Europe was around \$10,000 from Asia and around \$6,500 from Africa. However these costs vary widely along different routes, for different means of transport and depending on the provision of other services such as false documents.

Once in place, people smuggling networks fed asylum migration from the late 1980s onwards. Stories about Mexican ‘coyotes’ smuggling migrants across the US border and the longer distance activities of Chinese ‘snakeheads’ are well known but are only the tip of the iceberg. The evidence suggests that, while there exist transnational operations linked to organised crime, most people smuggling is done through loose and flexible horizontal networks which connect the different stages and modes of travel. This involves not just guides and transport but also accommodation at ‘safe’ staging posts, the supply of forged passports and visas, and the connivance of corrupt officials. These networks have become more professional, more businesslike, and more specialised as border controls and policies to apprehend migrants and prosecute people smugglers have developed (UNODC, 2010, ch. 8). Not surprisingly the costs, risks and length of time involved have increased. Many potential illegal immigrants end up marooned in transit countries because they have been abandoned, apprehended or have run out of cash for the onward journey.

Nevertheless the deep channels that have been formed underpin the persistence in illegal migration. Those travelling to the United States largely come through (and from) Mexico, with other routes through the islands of the Caribbean. As several studies have demonstrated, stiffer enforcement on some parts of the US/Mexico border has deflected illegal migrants to different crossings and sometimes other methods, with consequences for the composition of the migrants and their length of stay (Cornelius, 2001; Hanson, 2006; Massey, 2005). As far as Europe is concerned, one key route from the Middle East runs through Turkey and the Balkans, while routes from Asia run through the republics of the former Soviet Union from the east to Ukraine and Belarus. These too have adapted from the former routes that led into the EU (principally Germany and Austria) through transit countries such as Poland and Hungary, before they joined the EU (IOM, 2000). Long routes stretching back to Asia and Africa are one reason why the regressions results in Table 5.2 suggest that there was an upward shift in asylum applications from all source regions in the late 1980s and not just in those from Eastern European countries. Similarly, routes across the Mediterranean from North Africa stretch back to the sub-Saharan regions of West and East Africa (De Hass, 2008). Since 2000, migration into Italy and Spain from countries like Libya, Morocco and Tunisia has been staunches by bilateral agreements and by tougher enforcement on land and sea. It remains to be seen how the revolutions in North Africa will increase the size and persistence of these flows.

## Appendix to Chapter 5: Data Sources

*Asylum Seekers.* The number of asylum applications by source country was obtained from the UNCR Statistical Online Population Database at [www.unhcr.org/statistics.html](http://www.unhcr.org/statistics.html). The 56 countries that are represented in Table 5.1 and that underlie the regression analysis of Table 5.2 are as follows:

Afghanistan*	Colombia*	Islamic Rep. of Iran*	Romania*
Albania*	Dem. Rep. of Congo*	Dem. Rep. of Laos	Russian Federation*
Algeria*	Cuba*	Lebanon	Serbia & Montenegro*
Angola*	Czech Rep.	Liberia*	Sierra Leone*
Armenia*	El Salvador*	Macedonia*	Slovakia
Azerbaijan*	Ethiopia*	Mali	Somalia*
Bangladesh*	Georgia*	Mauritania	Sri Lanka*
Bosnia & Herzegovina*	Ghana	Mexico*	Sudan*
Bulgaria*	Guatemala*	Moldova*	Syrian Arab Rep.*
Burundi	Guinea*	Nicaragua	Togo
Cambodia	Haiti*	Nigeria*	Turkey*
Cameroon*	Hungary	Pakistan*	Uganda
Chile	India*	Peru	Ukraine*
China*	Iraq*	Poland	Viet Nam*

*Note:* Countries marked with \* are those also included in the analysis of annual data in chapter 8.

*Index of Democracy/Autocracy.* Polity IV index of Political Authority at [www.systemicpeace.org/polity/polity4.htm](http://www.systemicpeace.org/polity/polity4.htm). The version used here is the revised combined polity score, which is a composite index based on five components reflecting institutionalised constraints on the authority of the government executive, the competitiveness of the political system, and the degree of public participation.

*Political Rights and Civil Liberties.* Freedom House index at [www.freedomhouse.org/uploads/fiw/FIWAIScores.xls](http://www.freedomhouse.org/uploads/fiw/FIWAIScores.xls). Details are discussed in Chapter 3.

*Political Terror.* Political Terror Scale provided by Mark Gibney at <http://www.politicalterror.org/>. The series used here is the one based on reports of the US State Department. Missing values are filled in either by using the alternative

series based on reports by Amnesty International or by interpolation or extrapolation.

*Battle Deaths in Civil Wars.* The number of battle-related deaths is calculated from the Uppsala/PRIO Armed Conflict Dataset at: <http://www.prio.no/CSCW/Datasets/Armed-Conflict/>. The measure was constructed using the 'best' estimate of deaths in all internal armed conflicts for each country/year. International wars are excluded because they do not necessarily imply persecution of citizens by the state or by a faction within the territory.

*GDP Per Capita.* GDP per capita in US\$ at constant (2000) prices (chain series) from Penn World Tables 6.2 at [http://pwt.econ.upenn.edu/php\\_site/pwt\\_index.php](http://pwt.econ.upenn.edu/php_site/pwt_index.php). Data for 1982–2004 extrapolated to 2006.

*Population.* Total population available from the World Bank at <http://databank.worldbank.org/ddp/home.do>. The share of population aged 20–39 (at five-year intervals) is taken from the UN Population Prospects 2006 Revision originally at <http://esa.un.org/unpp/p2k0data.asp>.





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## 6 A Cool Reception in the West<sup>46</sup>

As we saw in Chapter 2 the foundation of asylum policy is the UN Refugee Convention. All developed countries are signatories to the Convention and for those in the EU it is a condition of membership. As previously noted, the key clauses are the definition of a refugee as someone with a ‘well founded fear of persecution’ and the *non-refoulement* clause, which provides that a person cannot be forcibly returned to a country or territory where he or she may be at risk of persecution. Any asylum claim submitted in a signatory state must be considered under due process whether or not the applicant entered the country legally. Thus, in principle at least, the Convention provides access to asylum procedures and the possibility of gaining refugee status to an unlimited number of applicants. As we have seen, the Convention was conceived in circumstances rather different from today and it did not provide a detailed set of rules for dealing with a mass influx of spontaneous asylum seekers. As a result it left open many ways in which receiving countries can act to deter asylum applications.

### 6.1 Asylum policies in the 1980s and 1990s

In response to the surge of asylum applications the countries of the OECD instigated progressively tougher policies towards asylum seekers.<sup>47</sup> One of the most important policies was to limit access to the country’s territory. In the late 1980s a number of countries began to strengthen their border controls in order to staunch the flow of illegal immigrants who, if they applied for asylum, would then be protected from summary removal. A number of countries, starting with the UK and Germany in 1987, introduced sanctions on airlines and other carriers, which were progressively toughened and which by the late

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<sup>46</sup> This chapter closely follows Hatton, 2009, pp. F195–F201.

<sup>47</sup> Detailed commentaries on the measures taken in the 1980s and 1990s can be found in Wallace, 1999; Widgren, 1994; Zetter et al, 2003. These developments are summarised by Schuster, 2000; Gibney and Hansen, 2005; Hatton, 2005.

1990s had become virtually universal. In addition several countries led by France introduced special airport zones, areas that were not deemed to be part of the country's territory for the purposes of claiming asylum and where asylum seekers could be held for pre-screening and possible deportation. In the EU the relaxation of internal border controls under the Schengen agreement (effective 1995) and the Maastricht Treaty (effective 1993) prompted coordination on tougher external border controls and the imposition of more stringent visa requirements on those from countries that were potential sources of asylum applicants. By 1993 the Schengen countries shared a joint list of 73 source countries, a list that exceeded 150 by 1998.<sup>48</sup>

In the EU the early 1990s saw important reforms to the processing of asylum applications. These followed from the 1990 Dublin Convention and the resolutions of a ministerial meeting in London in 1992. In Dublin it was agreed that, in order to prevent 'asylum shopping', an asylum claim would be dealt with by one state only, specifically the state of first entry. In London resolutions were made on three further issues. The first was the 'safe third country' concept, which allowed member states to reject an asylum claim if the applicant had transited through a country where he or she would be safe from persecution and could have sought asylum. The second was to designate 'safe countries of origin' where there is a presumption of no risk of persecution. The third element was to introduce the concept of 'manifestly unfounded' asylum claims, for which an expedited refugee status determination procedure could be used. Manifestly unfounded claims included those that fell into the safe country of origin or the safe third country categories as well as cases involving forged papers or evidence of criminal activity. In 1994 and 1995 EU ministers reached a series of further resolutions, the most important of which were on readmission agreements with transit countries.<sup>49</sup>

These resolutions were not initially binding on member governments but they were gradually incorporated into individual countries' reforms of their asylum systems. Between 1991 and 1998 most EU countries introduced policy packages that contained some of these measures, although the degree of toughness and the timing differed. A variety of measures that affected the outcome of procedures were also introduced. Particularly contentious was the

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48 The development of border controls is discussed by Boswell, 2003.

49 These are bilateral agreements between an EU state and a non-member state that provide for an asylum seeker to be sent back to the non-member state through which he or she had transited. These agreements extended the safe third country concept outside the EU and they were initially criticised for opening the door to serial *refoulement*. They were applied to the then accession countries and agreed bilaterally with a number of other countries, sometimes also including cooperation on issues of border control and illegal immigration. Boswell (2003) describes the evolution of these policies within the institutional structure of the EU.

adoption of the safe country of origin concept.<sup>50</sup> Other measures included speeding up the processing of claims, limiting the right of appeal and more stringent enforcement of deportation in the event of an unsuccessful claim. Some countries placed tighter restrictions on the granting of humanitarian status to those denied full refugee status under the Convention. Various reforms were also introduced relating to the rights and living conditions for asylum seekers during and after the processing of their claims. During the 1980s a number of countries permitted asylum seekers to work while their applications were being processed but this right was typically withdrawn, as in France in 1991 and Belgium in 1992. A number of countries also restricted access to welfare benefits, sometimes substituting in-kind subsistence for cash benefits and often making these available only at designated reception centres. Several countries dispersed asylum seekers to reception areas across a wide range of localities and some imposed stricter detention rules for those arriving illegally.

Some countries responded to growing political pressure with major revisions to their asylum laws. The most notable of these was Germany, where a change to the Basic Law (the constitution, which included a clause on the right to asylum) was required in order to implement more restrictive policies, and it was duly amended in 1993.<sup>51</sup> In most countries the rules were tightened in a series of steps. In Denmark the Aliens Act of 1983 was amended in the mid-1990s and again in 1998 and 2002. The UK experience best illustrates the step-by-step toughening of asylum rules. An Act of 1993 introduced a fast-track procedure for applicants from safe countries of origin and a 1996 Act introduced the safe third country concept. The 1999 Immigration and Asylum Act established the National Asylum Support System under which asylum seekers were dispersed to centres outside London and vouchers were substituted for welfare benefits. The Act also speeded up the status determination process and tightened border security with increased powers of search and arrest for immigration officers and increased penalties for carriers of undocumented immigrants. This was followed by the 2002 Nationality, Immigration and Asylum Act, under which appeals no longer suspended deportation and permission to work after six months was abolished.

This progressive toughening of policy was undertaken with minimal coordination among EU countries but with an eye to developments in other

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50 There were two other related and equally contentious issues. One was whether the definition of a refugee should relate only to persecution by agents of the state. The other was whether there is an alternative of internal asylum in a safe area within the source country. These two issues are related by the fact that if a person was persecuted by, say, rebels or bandits then it should be possible for them to find safety in another part of the country, whereas if they were persecuted by a national authority then they would not. At one time France and Germany recognized as refugees only those who were at risk of persecution by agents of a state, a rule that was reversed by the latter in 2003.

51 This is described by Bosswick (2000), who describes how the original Article 16 giving the right to asylum was modified by a long list of qualifications.

countries. With strongly rising asylum applications, individual governments feared that drastic reforms in one country would deflect asylum claims towards its neighbours. Within the EU this process has often been seen as a race to the bottom in what one observer described as ‘the common market of deflection’ (Noll, 2000). Some suggested that the solution lay in some form of burden sharing – redistributing asylum applicants from those countries with the largest numbers to those with the least. However, a German proposal to the European Council in 1994 to distribute refugees more equitably was rejected by other states, notably the UK.<sup>52</sup>

## 6.2 Asylum policy since 1997

Since the late 1990s asylum policy has been dominated by two forces. The first relates to developments within Europe, with the harmonisation of policies within the EU. The second relates to the international political backlash from the 9/11 attacks in the United States and the subsequent bombings in Australia, Britain and Spain. Harmonisation of asylum policies across the EU stemmed from the Treaty of Amsterdam (effective 1999), which moved asylum policy from the third pillar (intergovernmental cooperation) to the first pillar (community integration).<sup>53</sup> This marked a shift towards centralised decision-making and gave the European Commission the right to propose legislation from 2002. The European Council meeting at Tampere (Finland) in 1999 reaffirmed that common EU policies would be based on a ‘full and inclusive’ application of the Refugee Convention, stressing that the principle of *non-refoulement* would be honoured. It planned the building of a Common European Asylum System (CEAS) in two stages.

The first stage of the CEAS, up to 1 May 2004, was the harmonisation of certain key elements of asylum policy and it laid down minimum standards in several different areas. The Reception Conditions Directive laid down terms for access to employment and training, housing and subsistence, and health and education services for asylum seekers while their claims are being assessed. The so-called Dublin II Regulation embodied a new mechanism for determining the state responsible for an asylum claim, backed up with a common database for fingerprints. The Qualification Directive established a common set of criteria to be used in the refugee status determination procedure. And the Asylum Procedures Directive covered issues such as the designation of manifestly unfounded claims, and rights to interviews, to legal assistance and to appeals

52 Instead, two Council resolutions in 1995 proposed that, in the event of a mass influx of asylum seekers, countries should respond by offering temporary protection ‘in a spirit of solidarity’. However this amounted to little more than wishful thinking and the resolutions were not invoked even in the Kosovo crisis later in the decade (Thielemann, 2003, p. 260). Subsequent developments on burden sharing are discussed in Chapter 11.

53 This structure was reformed in 2009 by the Treaty of Lisbon.

as well as common rules for granting subsidiary protection.<sup>54</sup> These rules, the impact of which differ across countries depending on their pre-existing policy stance, have been gradually transposed into member state legislation. It should be noted, however, that they do not cover every aspect of asylum policy and that they lay down only *minimum* standards.

While the first stage of the CEAS fell far short of complete harmonisation, it did create some convergence in policy and practice. The second stage of the CEAS, known as the Hague Programme and originally scheduled for completion in 2010, involved deeper cooperation in several areas. One is border control and surveillance, which includes the implementation of the EURODAC fingerprint database established in 2003 and the establishment of the FRONTEX agency to integrate and standardise border procedures in 2005. Another is the further harmonisation of rules and procedures for status determination and appeals. A third area is expanding common standards for reception of asylum seekers in areas such as rights to social security benefits, health, housing and education.<sup>55</sup> And a fourth is fostering integration programmes for recognised refugees, with support from EU refugee funds.<sup>56</sup> Although the Hague programme has not been completed, a European Asylum Support Office has now been established to further harmonise asylum procedures, and EU-level integration is to be carried forward under the Stockholm programme agreed in 2009.

Against the backdrop of EU legislation, member states continued to toughen their national policies. In the late 1990s accession states such as the Czech Republic, Hungary and Poland (countries that had previously been sources of asylum seekers) all enacted legislation to be consistent with EU standards. This involved setting up mechanisms for dealing with manifestly unfounded applications (not implemented in Poland until 2001), adopting safe country of origin and safe third country rules, as well as establishing some form of subsidiary protection. In advance of accession to the EU, these countries also harmonised their visa regulations as well as strengthening their border security – in the case of Hungary with financial support from the EU.

Policy reforms also continued in the older member states. In Denmark the 2002 amendment to the Aliens Act replaced the pre-existing *de facto* refugee status with a much narrower category, which did not carry the right to permanent residence, and also abolished the right to apply for asylum from outside

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54 The regulations laid down in the first stage of the CEAS also include the Temporary Protection Directive and the Family Reunion Directive, although these are generally considered to be of lesser importance.

55 Details of policies, resolutions and legal instruments on asylum can be found on the European Commission website at [http://ec.europa.eu/justice\\_home/doc\\_centre/asylum/doc\\_asylum\\_intro\\_en.htm](http://ec.europa.eu/justice_home/doc_centre/asylum/doc_asylum_intro_en.htm).

56 The European Refugee Fund, which was set up in the aftermath of the Kosovo crisis, is a common fund on which governments could draw for refugee integration projects and to finance emergency temporary protection measures in the event of a mass influx of refugees. Originally funded for 2000–4 it was further extended and augmented by funds for implementing integration and return and developing external border controls.

the country. This and other reforms introduced a number of 'motivational measures' aimed at failed asylum seekers, including detention without limit prior to removal. The Netherlands reacted to political pressure by introducing a range of new border controls in 1998. An Act of 2001 restricted the scope of subsidiary protection and limited the right to appeal. This was followed by a reorganisation of the administration of asylum applications under a new ministry with a commitment to speeding up processing and enforcing deportation procedures. In subsequent years the criteria for recognition were further narrowed and a tougher deportation policy adopted. A number of EU countries further toughened the processing of manifestly unfounded claims, which, according to critics, was tantamount to institutionalising a presumption against their validity.<sup>57</sup> One example is Austria, which in 2004 reduced processing times to three days, making appeals non-suspensive of deportation and restricting the right to apply at the border. But not all policies have been restrictive; a number of countries have introduced proactive integration policies, and some relaxed restrictions on the right to work, like Finland in 2006 (for asylum seekers) and Germany in 2007 (for those with 'tolerated' status).

Following the 9/11 attacks, countries outside the EU also toughened their policies. The USA PATRIOT Act introduced tougher measures against those with suspected links to terrorist organisations as well as dramatically increasing the number of border control agents. An Act of May 2002 further strengthened border controls by setting up an integrated database system for entry and exit linked to fingerprinting and biometric monitoring. Canada also tightened its border security and in an Act of 2001 it introduced tougher measures, including detention for asylum seekers without documents. The enhanced security measures in North America were followed, to varying degrees, by other countries as a result of heightened concerns about terrorism.

One of the most dramatic shifts in policy occurred in Australia. In 1999 Australia introduced three-year temporary protection visas, with much reduced rights for onshore asylum seekers. Then in 2001, in the wake of the crisis that erupted over the attempt to land asylum seekers aboard the *MV Tampa*, a package of new legislation was introduced. This included the excision of a number of islands from Australian territory for the purpose of establishing access to the asylum procedure. The definition of a refugee was narrowed and applicants passing through safe third countries were denied eligibility for a permanent

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57 According to the European Council on Refugees and Exiles, 'Regrettably, over the last decade, many European states have established expedited or accelerated procedures that appear to be based not only on speed but on a "culture of disbelief" whereby most asylum seekers are presumed to be abusing the system. Such procedural developments have severely compromised the capacity of states to correctly assess whether an individual needs protection. Rather than the focus of the procedure being on identifying persons in need of protection, it has shifted towards techniques devised to screen out as many applications as possible. As a result, expedited asylum procedures appear to be increasingly adversarial in nature' (ECRE, 2005b, p. 16).

protection visa. Other provisions included introducing harsher penalties for people-smuggling offences and limiting access to judicial review of asylum decisions. The effects of this draconian toughening of policy on the number of asylum applicants are analysed in detail in Chapter 9.

### **6.3 Measuring asylum policy, 1997–2006**

Policy evolved differently among the refugee receiving countries of the OECD, although it was generally in the same direction. In the EU, member states introduced reforms to bring their policies in line with EU legislation. But, as we have seen, most of the reforms were country-specific responses to political pressures and alleged deficiencies in the existing systems. In order to get a sense of the overall trends and the differences between countries, we need some index of policy. The most widely cited indicator of the toughness of asylum policy is the recognition rate. As noted earlier, this is the proportion of first instance decisions (ie excluding appeals) that resulted in recognition under the Convention or in permission to stay on humanitarian grounds.

The left-hand panel of Table 6.1 shows the recognition rates for the same 19 countries for which the asylum applications were reported in Table 3.1. On average the total recognition rate fell from more than a third in 1997–2001 to about a quarter in 2002–6. However, there is wide variation in both levels and changes across these countries. The most dramatic declines were in the Netherlands, where the recognition rate fell by 43 percentage points, and in Denmark, where it fell by 35 percentage points. Other major asylum countries such as France and Germany, with rates that were already fairly low, had smaller declines. In some countries, notably Austria and Poland, the recognition rate increased between the two periods. It is interesting to compare the change in recognition rates in Table 6.1 with the percentage change in asylum applications that are reported over the same periods in Table 3.1. The correlation coefficient between these changes is 0.46, suggesting that tougher decisions on refugee status may have deterred asylum applications. However, recognition rates depend not just on the status determination procedure but also on the composition and possibly the volume of asylum applications.

Although recognition is a central component of asylum policy it is not the only component, as the preceding sections demonstrated. In order to provide a more comprehensive measure I have constructed a policy index based on major changes in a variety of dimensions of policy. While this exercise is inevitably rather crude, some effort was made to ensure objectivity. The major changes that form the index are based almost entirely on legislation rather than on more impressionistic evidence on the toughness of asylum policy. And they are based on contemporary accounts of recent legislation rather than

on evaluations made retrospectively in the light of the perceived effects of policy. The 15 components of the index are defined in the appendix to this chapter. Starting at zero in the first quarter of 1997, each of the components shifts up by one for a significant toughening of policy and down by one for a policy change that is more generous to asylum seekers. It is important to stress, however, that this is a crude measure of policy change that does not reflect the finer details of policy or its enforcement. Nor does it measure the absolute differences between countries, but merely each country's deviation from its stance in 1997.

**Table 6.1** Asylum recognition rates and policy stance, 1997–2001 and 2002–2006

Receiving country	Recognition rate			Asylum policy index		
	1997–2001	2002–2006	% point change	1997–2001	2002–2006	Change
Australia	21.8	13.7	–8.1	1.1	7.0	6.0
Austria	22.0	40.0	18.0	–0.1	0.4	0.5
Belgium	34.9	27.5	–7.4	1.1	3.4	2.3
Canada	56.4	51.3	–5.1	–0.9	0.3	1.2
Czech Republic	5.7	5.3	–0.4	0.7	1.3	0.6
Denmark	54.7	19.8	–34.9	1.8	4.4	2.6
France	18.0	15.2	–2.7	0.0	2.4	2.4
Germany	17.4	6.7	–10.7	0.7	1.4	0.7
Hungary	25.3	34.7	9.4	0.2	1.9	1.7
Ireland	16.7	9.9	–6.8	1.0	2.4	1.4
Italy	30.1	32.5	2.4	0.4	0.7	0.3
Netherlands	75.1	32.1	–43.0	1.0	4.7	3.7
Norway	37.3	39.8	2.5	0.0	2.2	2.2
Poland	7.2	32.8	25.6	0.0	–1.0	–1.0
Spain	30.8	16.4	–14.4	0.5	2.1	1.6
Sweden	44.4	21.9	–22.5	0.0	–0.2	–0.2
Switzerland	39.3	32.4	–6.9	0.2	1.5	1.3
UK	41.8	22.6	–19.2	0.5	5.3	4.8
US	33.5	32.1	–1.4	0.0	1.9	1.9
Mean	35.0	25.4	–9.5	0.4	2.2	1.8

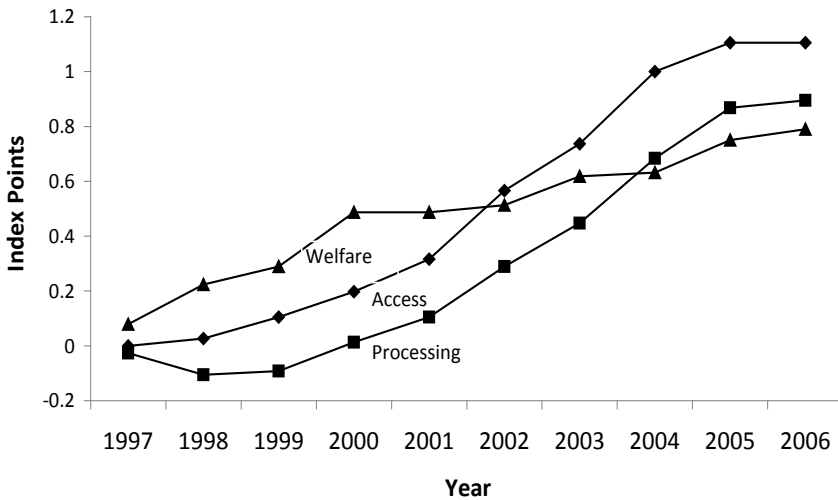
*Source:* Recognition rates from UNHCR, Statistical Yearbook, 2005, Table C14, and 2006, Table 6. For further details of the asylum policy index, see text and the appendix to this chapter.

The right-hand panel of Table 6.1 shows the change in the policy stance for each country between 1997–2001 and 2002–6 (summing over all 15 components of the index). The last row of the table shows that the average policy stance toughened by 1.78 index points between the two periods. But again there is wide variation between countries. The index illustrates a dramatic



toughening of policy across the decade in Australia and the UK followed by the Netherlands and Denmark. In most of the other countries policy became mildly more restrictive and in Sweden and Poland policy became, on balance, more favourable to asylum seekers. The correlation coefficient between changes in the policy index and the percentage fall in asylum applications (Table 3.1) is  $-0.56$ , which is slightly higher than that between asylum applications and the recognition rates. The correlation of  $-0.48$  between changes in recognition rates and in the broader index illustrates that shifts in policy are not fully captured by recognition rates alone.

**Figure 6.1** Components of asylum policy in 19 countries, 1997–2006



Source: See appendix.

The 15 components of policy are divided into three groups, each consisting of five components, as listed in the appendix to this chapter. Those representing the ability of asylum seekers to gain access to the country's territory are labelled 'access'; those representing the toughness of the country's refugee status determination procedure are labelled 'processing'; and those relating to the welfare of asylum seekers during and after processing, including detention policy, the right to seek employment and access to welfare benefit, are labelled 'welfare'. Figure 6.1 displays the evolution of the unweighted 19-country average of these policy components. All three components show a progressive tightening of policy over the decade. As might have been expected, policy towards access and processing became especially restrictive between 2001 and 2005. Policy towards the welfare of asylum seekers also became tougher, but it was a more gradual process. Whether or not this substantial tightening of policy had the desired effect of reducing asylum applications is the subject of Chapter 8. But we turn first to some of the factors that determined policy.

## Appendix to Chapter 6: Derivation of the Index of Changes in Asylum Policies

The different components of the index and the typical changes that they involve are listed in the following table:

<i>Conditions relating to access to territory</i>	
Visa requirements	Change in the stringency of visa requirements such as application from abroad, biometric passports, fingerprinting.
Border controls	Excision of territory; enhanced border patrols; turning back or deporting undocumented arrivals.
Penalties for trafficking	Significantly enhanced apprehension of traffickers; detention/ deportation or imprisonment.
Carrier liability	Significant change in financial or other penalties for carriers by land, sea or air of undocumented arrivals.
Offshore applications	Change in the opportunity to apply for asylum from an embassy or consulate abroad rather than in-country.
<i>Conditions relating to the processing of applications and the determination of status</i>	
Definition of a refugee	Rules relating to the causes of persecution such as gender, persecution by non-state agents, internal flight alternative.
Manifestly unfounded applications	Changes in grounds for applying the presumption of ineligibility, such as 'safe country of origin', 'safe third country', time elapsed since arrival or insufficient documentation.
Speeding up of processing	Typically reducing the maximum period for decisions, or a general decrease in processing times.
Subsidiary status	Changing scope for granting humanitarian status to those not qualifying under the Convention, or significant alteration to the terms of such status.
Appeals	Changes in access to appeals, changing number of levels of appeal, or altering the suspensive effect of appeals.

Conditions relating to the welfare of asylum seekers	
Detention	Changes in rules or practices on the detention of applicants during processing or for those with failed claims.
Deportation	Changes in the practices of deporting failed asylum seekers, including raising targets or widening the set of those eligible for deportation.
Employment	Changes in the right to seek employment while an asylum claim is being determined, or to the waiting time for permission to work.
Access to benefit	Shift from cash to in-kind benefit; access to benefit only at reception centres; dispersal to non-metropolitan reception centres.
Family reunification	Changes in the possibility of family reunification during or after processing.

The asylum policy index was constructed from annual country reports on policy developments given in three sources. These are the OECD's annual publication *International Migration Outlook* (Paris, OECD; formerly *Trends in International Migration*); the country reports of the European Council on Refugees and Exiles (at [www.ecre.org/search/node/country+reports](http://www.ecre.org/search/node/country+reports)) and the country reports of the United States Committee for Refugees and Immigrants (at <http://www.unhcr.org/refworld/publisher/USCRI.html>). These sources were used to identify major changes in different of dimensions of asylum policy in order to create an index of policy change. The index for each component starts at zero in the first quarter of 1997 and increases by 1 for a significant toughening of policy or decreases by 1 for a significant loosening. Thus it captures the direction of *change* in policy stance rather than representing the absolute level relative to other countries. As far as possible the shift is dated in the quarter following its introduction rather than at the time it was announced.

The index is based on a subjective evaluation of announced policy changes as reported by country experts at the time that policy was changed. It is sometimes difficult from this information to assess whether or not a policy change is 'major'. The criterion used here is, first that the policy change is likely to affect a significant proportion of asylum seekers, and second, that it substantially alters access to asylum procedures, or the likelihood of a successful claim, or the material welfare of asylum seekers. Nevertheless this is a crude indicator of what are often subtle and complex changes in the way that asylum systems work, and it takes no account of how the effectiveness of policy is influenced by changes in enforcement or administrative practices that do not catch the headlines.



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# 7 Public Opinion and Asylum Policy

If governments have progressively toughened their asylum policies then they must have done so in the belief that this is what their electors wanted. Thus a first step towards understanding what lies behind asylum policy is to look at the attitudes and beliefs of ordinary citizens to whom governments are ultimately answerable. In recent years economists and others have examined public opinion surveys in order to see who is opposed to immigration and why, but such analyses have not yet been extended to attitudes towards asylum seekers and refugees. Following from that, this chapter asks three questions. The first asks what opinions people actually hold about asylum seekers and how these relate to the individual's personal characteristics. The second asks whether or not there is any evidence that attitudes towards asylum seekers have hardened over time, as might be inferred from the trends in policy that were examined in the previous chapter. The third question asks through what political mechanisms anti-asylum attitudes get translated into tougher asylum policies.

## 7.1 Who is against asylum seekers?

Information on attitudes to asylum seekers is relatively scarce, at least in comparison to that for attitudes to immigrants more generally. However, the first round of the European Social Survey taken in 2002 contains several questions about asylum (the subsequent waves do not). The survey covered more than 40,000 respondents aged 15 and over in 21 European countries. For those who answered the asylum questions, Table 7.1 shows the percentage that agreed or strongly agreed with the statement and the percentage that disagreed or strongly disagreed (the remainder are those who responded 'neither agree nor disagree', or 'don't know').

**Table 7.1** Attitudes from the European Social Survey 2002

Question	% agree	% disagree
Country has more than fair share applying for refugee status	61.6	17.2
Government should be generous in judging applications	32.2	41.8
Most applicants aren't in real fear of persecution in own country	43.9	24.7
People applying for refugee status should be allowed to work	62.9	21.5
While case being considered keep applicants in detention centres	40.2	40.9
While case being considered govt should give financial support	45.2	31.5
Refugees should be entitled to bring close family members	48.2	32.6

Source: ESS Round 1, edition 6.2 from Norwegian Social Science Data Services at <http://ess.nsd.uib.no/>.

The result in the first row shows that more than three-fifths of respondents thought that their country was receiving more than its fair share of asylum seekers, while less than one-fifth thought the opposite. While people in most countries (with a few exceptions such as Finland, Ireland and Poland) thought that their country was taking more than its share, it should be remembered that the survey took place just after a worldwide peak in applications. There is a more even balance of opinion on being generous in judging applications, but nevertheless more than two-fifths favoured being less generous. Interestingly, about the same proportion believed that most applicants were not genuinely in fear of persecution, something that is reflected in the low recognition rates that were observed in Table 6.1.

The next four questions relate to policies that would fall into the 'welfare' category in the policy index described in the previous chapter. Over three-fifths of respondents would prefer that asylum seekers be allowed to work while awaiting a decision. While that may reflect in part a concern that asylum seekers would otherwise be supported by welfare benefits, nevertheless more than 40% of respondents took the view that asylum seekers should be kept in detention and that they should be given financial assistance. Finally nearly a half thought that refugees should be entitled to family reunification. Overall these results do not suggest overwhelmingly negative attitudes towards refugees. On the other hand they do not seem particularly generous towards people who have suffered persecution.

So what types of people evince negative attitudes to asylum seekers? The literature on attitudes towards immigrants and immigration policy typically finds that anti-immigration sentiment is strongest among individuals with low education, among men, among older people and among those who are not themselves first or second generation immigrants. Is the same true for attitudes to asylum seekers? Table 7.2 shows the results of regressing some of the opinions listed in Table 7.1 on a set of individual characteristics. Here the dependent variable is on a scale of 1 to 5 where 'strongly agree' takes the value 5 and 'strongly disagree' takes the value 1. The columns in Table 7.2

correspond to the first six questions in Table 7.1. The regressions also include fixed effects by country.

**Table 7.2** Explaining attitudes to refugees in the ESS 2002

	More than fair share	Generous on apps	No real fear	Allow to work	Keep in detention	Give fin support
Age	0.002 (2.38)	-0.004 (7.16)	0.001 (0.93)	-0.001 (2.65)	0.002 (2.92)	0.001 (2.06)
Female	-0.189 (8.45)	0.009 (0.50)	-0.304 (13.01)	0.024 (1.34)	-0.188 (10.07)	-0.085 (4.97)
Secondary education	0.305 (8.72)	0.364 (13.34)	0.399 (10.92)	0.401 (14.14)	0.274 (9.42)	0.321 (12.00)
Tertiary education	-0.123 (2.95)	0.521 (15.97)	0.114 (2.60)	0.529 (15.62)	-0.008 (0.23)	0.530 (16.57)
Employed	0.045 (1.79)	-0.045 (2.30)	0.020 (0.77)	0.047 (2.33)	0.003 (0.15)	-0.009 (0.50)
Immigrant	-0.369 (9.56)	0.172 (5.69)	-0.098 (2.43)	0.142 (4.54)	-0.201 (6.24)	0.196 (6.60)
Income	0.003 (0.13)	0.023 (1.12)	0.0013 (0.48)	0.073 (3.44)	-0.032 (1.49)	0.087 (4.33)
Constant	3.084 (54.53)	3.533 (80.00)	3.524 (59.61)	3.109 (67.62)	3.297 (70.01)	3.433 (72.20)
R <sup>2</sup> (within)	0.017	0.015	0.014	0.017	0.013	0.017
No of obs	25914	25914	25914	25914	25914	25914

*Source:* ESS Round 1, edition 6.2 from Norwegian Social Science Data Services at <http://ess.nsd.uib.no/>. Regressions include 18 country fixed effects. The number of observations is reduced from the original mainly because of missing data for the categorical income variable, which also involves the omission of three countries, France, Hungary and Ireland. 'z' statistics are in parentheses.

Among the most interesting results are those relating to education. The literature on immigration interprets the universal correlation between low education and anti-immigrant sentiment in two ways. The first is that the less educated are most in fear of labour market competition from low skilled immigrants (Scheve and Slaughter, 2001; Mayda, 2006; O'Rourke and Sinnott, 2006). The other is that the more educated are more tolerant towards minorities and more positive about ethnic and cultural diversity (Dustmann and Preston, 2007; Hainmueller and Hiscox, 2007). The results for attitudes towards asylum seekers are somewhat mixed. In Table 7.2 education is entered as two dummies for the respondent's highest level of education, where the omitted group is those with less than lower secondary education. Respondents with secondary education as their highest level are most likely to agree that the country has more than its fair share and they tend to agree that asylum seekers have no real fear of persecution. Perhaps most important, those with secondary and tertiary education are more likely to agree that the authorities

should be generous in judging applications for refugee status. Thus, the more educated are willing to see more generous policies despite some reservations about the number of asylum seekers and their motivation.

Those with either secondary or tertiary education are more willing than the low educated to allow asylum seekers to work, something that would be consistent with the notion of labour market competition. On the other hand those with secondary education are also more likely to want asylum seekers confined to detention centres. Studies of immigration opinion have also suggested that concerns about the fiscal costs weigh heavily with some citizens (Facchini and Mayda, 2009; Boeri, 2010). The fourth column indicates that those with higher incomes are more willing to allow asylum seekers to work, which would be consistent with concerns about the tax burden. However, in the last column the evidence suggests that those with greater education and higher income are more willing to see financial support provided. It is possible that the low educated are more concerned about competition for a fixed welfare pool, but on the other hand there is no evidence that the non-employed are strongly against giving financial support.

Among the other coefficients we find that women are somewhat more sympathetic than men towards refugees. They are less likely to think that the country has more than its fair share, that refugees have no real fear of persecution, or that they should be placed in detention centres. Not surprisingly those who are immigrants themselves are less likely than non-immigrants to think that the country has more than its fair share and that asylum seekers should be kept in detention. They are also more positive about being generous in judging applications and about financial support. Although they may be more likely than non-immigrants to face labour market competition from refugees, they are more willing to allow them to work.

It is worth examining the relationship between the questions on attitudes to asylum policy and other attitudinal variables. These are presented in Table 7.3 as correlations as they cannot be thought of as causal. The first two rows relate perceptions about immigrants to the views on asylum policy examined in Tables 7.1 and 7.2. Those who believe immigrants take jobs are also likely to think that the country has more than its fair share of refugees and that the processing of applications should be tougher. They are generally against allowing asylum seekers to work and in favour of providing financial support. Those who think that immigrants take out more in benefits than they contribute in tax exhibit the same pattern of attitudes towards refugees except that they are less willing to offer financial support. Although the correlations are not overwhelmingly strong, they support the view that attitudes to immigrants and attitudes to refugees are generally correlated in the expected direction. They also suggest that both labour market and fiscal concerns apply to refugees.



The next two rows show the correlations between non-economic attitudes to immigrants and refugee policy. Those who believe that immigrants enrich the country's cultural life are less likely to think that the country has more than its fair share and generally hold more positive attitudes towards refugees. On the other hand, those who believe that being white should be an important criterion for gaining admission to the country have attitudes to refugee policy that are generally in the opposite direction to those who value cultural diversity. Thus attitudes towards refugees are clearly associated with elements of racism and cultural insularity. This too is consistent with recent studies of attitudes towards general immigration.

**Table 7.3** Correlations between attitudes in the ESS 2002

	More than fair share	Generous on apps	No real fear	Allow to work	Keep in detention	Give financial support
Immig take jobs	0.26	-0.20	0.21	-0.20	0.17	0.24
Tax/benefit burden	0.30	-0.26	0.23	-0.17	0.20	-0.22
Enrich culture	-0.34	0.23	-0.25	0.23	-0.24	-0.27
Should be white	0.20	-0.10	0.17	-0.13	0.22	-0.15
Interest in politics	0.16	-0.00†	0.06	-0.06	-0.10	-0.12
Political right/left	0.12	-0.13	-0.11	-0.07	0.09	-0.07
Trust people	-0.17	0.07	-0.14	0.12	-0.12	0.17
Feel safe	-0.13	0.02	-0.07	0.05	-0.08	0.07

Source: ESS Round 1, edition 6.2 from Norwegian Social Science Data Services at <http://ess.nsd.uib.no/>.

Notes: These correlations are all significant at the 0.001 level except where marked †. The correlations exclude non-responses and 'don't know' so that the number of cases varies between 77% and 95% of the total sample.

The last four rows of the table display the correlations between more general feelings and opinions and attitudes towards asylum and refugees. Those who have higher levels of trust in other people tend to hold more liberal views on asylum policy, as do those who feel safe walking at night in their local area. Thus insecurity is correlated with negative attitudes towards refugees, although the correlations are fairly weak. Those with a stronger interest in politics are more likely to believe that the country has more than its fair share of refugees, but on other issues they are fairly neutral. And although those whose political preferences lie on the right are generally more negative about asylum and refugee policies, again the correlations are rather weak. The main message from these correlations is that significant changes in attitudes towards asylum policies are unlikely to be driven by movements along the mapping between

social or political attitudes and policy preferences. It is more likely to arise from societal shifts in the relationship between any given set of core values that a person holds and their attitudes towards asylum seekers and refugees.

## 7.2 Changing attitudes to asylum

It is widely believed that the gradual toughening of policies toward asylum seekers is a reflection of hardening public attitudes. So has there been a dramatic hardening in attitudes, and if so what explains it? These are surprisingly difficult questions to answer, because of the lack of opinion surveys that ask the same question at different points in time. Even the evidence on attitudes towards immigrants is generally limited to relatively recent times. Contrary to popular belief, it shows that there is no common trend across countries since the 1990s in favour of increasingly anti-immigrant attitudes. Examining opinion in 20 countries in 1995 and 2003, Facchini and Mayda (2008, p. 667) found that 6 became more anti-immigrant while 14 became less anti-immigrant.<sup>58</sup> For the United States the long-run evidence going back to the 1950s indicates some slight rise in anti-immigrant sentiment up to 1993 followed by a slight decline (Hatton and Williamson, 2005, p. 349).

Unfortunately we have even less evidence on trends in attitudes towards asylum policy and refugees. Instead, studies often assert that attitudes have hardened, while only offering evidence for a single point in time. Survey evidence from Finland indicates that the proportion of respondents who think Finland should accept fewer refugees increased from 31% in 1996 to 33% in 2007. However, there are signs that opinions about the characteristics of asylum seekers have become more negative. UK Mori polls for 1997 and 2002 (a time when asylum applications were on the increase) shows a sharp increase, from 11% to 43%, in the proportion of respondents who believed that asylum seekers were motivated by economic reasons. Some longer run evidence comes from Australia. Examining Australian attitudes towards boat people in surveys since the 1970s, K. Betts (2001, p. 44) concludes that 'attitudes to boatpeople had formed and firmed over a quarter of a century. The more experience Australians had of boatpeople arriving, the more unhappy about it they became and the less inclined to offer an open house.'

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58 Facchini and Mayda (2008) use data from the International Social Survey Programme, focusing on the question of whether immigration to the respondent's country should be increased a lot or a little or should be reduced a lot or a little. Similar evidence can be found in the World Values Survey for 1995 and 2005, where anti-immigrant sentiment is measured by the percentage of respondents who would like their country to set strict limits on immigration or prohibit it completely. The results show that, for 11 of the 19 OECD countries listed in Table 6.1 above, the average anti-immigrant sentiment fell from 48% to 44%. In some countries such as Spain where there was a surge of immigration, opinion clearly soured, but others such as Sweden and Switzerland witnessed a shift in the opposite direction.

It seems very likely that attitudes towards asylum seekers have indeed become more negative over the long term. But, as with immigration generally, more negative attitudes can hardly be the result of changes in individual-level variables that are typically found to be important in cross-sectional analysis. Successive generations have more education and tend to hold less racist attitudes, so other things being equal these fundamentals should have been shifting opinion towards more positive and less restrictive attitudes towards refugees. Thus societal shifts in attitudes are pervasive and not due to changes in individuals' characteristics or their core values. Clearly, a hardening of attitudes over the long term could simply be the result of the increase in asylum applications (Lahav, 2004). Some observers suggest that the link between asylum numbers and public opinion is tenuous because most members of the public have only a very vague idea of the absolute numbers involved.<sup>59</sup> But while people may have little idea of the absolute magnitudes involved, they are likely to have much stronger impressions about the *trend* in asylum applications, something that is fed by the media and by political debate.

But it is not just the numbers. One reason for the change in the climate of opinion towards asylum seekers rests on the sharp contrast between the generally positive attitudes towards genuine refugees and the strong desire to clamp down on illegal immigrants. This can be seen particularly clearly in Table 7.4. These are opinions taken from the National Identity module of the International Social Survey Programme for 1995, which is just after the first major peak in asylum numbers. The first row shows that the majority opinion at that time was that immigration should be reduced, except for Ireland and Spain which had not yet experienced a major surge of immigration. The second row shows that the majority opinion in most countries was nevertheless that genuine refugees – those who have been oppressed or persecuted in the origin country – should be given a safe haven. By contrast, the overwhelming majority wanted their country to take stronger measures against illegal immigration. Thus, while most respondents expressed humanitarian attitudes towards genuine refugees they were strongly against illegal immigrants.

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<sup>59</sup> Respondents in the ESS estimated the number of current asylum applications to be several times the actual number. Such overestimates are also found in surveys of attitudes to immigrants as a whole, although they tend to be somewhat less exaggerated (Dustmann and Glitz, 2005; Sides and Citrin, 2007).

**Table 7.4** Public opinion on immigration and asylum, 1995 (percentage of respondents)

	Austria	Germany	Italy	Ireland	Netherlands	Spain	Sweden	UK
Reduce immigration	55.7	77.3	75.6	21.5	61.1	40.0	68.6	67.9
Genuine refugees allowed to stay	75.2	81.2	47.7	72.6	64.7	60.0	66.5	42.9
Stronger measures to exclude illegal immigrants	81.6	87.2	95.0	–	81.4	67.1	–	80.0

Source: ISSP National Identity Survey at <http://zacat.gesis.org/webview/index.jsp?object=http://zacat.gesis.org/obj/fStudy/ZA2880>.

Notes: Percentage of respondents who agree or strongly agree with the following statements: 'the number of immigrants should be reduced'; 'refugees who have suffered political oppression in their own country should be allowed to stay'; 'the country should take stronger measures to reduce illegal immigration'. The total number of responses on which these percentages were calculated includes those who 'neither agree nor disagree' with the statement but excludes respondents who 'can't choose', 'don't know' or refused to answer.

Of course this is only a cross-section, but over time it seems likely that these two contrasting elements of public opinion have become conflated. As a result, the widely held humanitarian instincts have been neutralised or overwhelmed by the strong desire to clamp down on illegal immigrants. As one study of opinion in the UK puts it:

There is a popular assumption that the vast majority of asylum seekers are not in fear of persecution and should not be claiming asylum. In part this stems from confusion over the legal status of an asylum seeker. Many people in the focus groups understood 'genuine' to refer to the way someone entered the UK. They therefore assumed that anyone entering 'illegally' (for example hidden in a lorry) is not a genuine asylum seeker. There was also generally poor knowledge about international issues. Virtually no participant mentioned events such as the wars in Iraq or Afghanistan as potential drivers of asylum. (Lewis, 2005, p. 14)

Another factor is that the issue of asylum became sharply politicised during the 1990s. This was indirectly due to the rise in the numbers but it relied heavily on the way in which the statistics were translated and fed into the public policy debate by politicians and the media.<sup>60</sup> In the case of the media, vivid events such as the deaths of asylum seekers being brought into the country by people smugglers or while working illegally have been used to highlight the negative consequences and to emphasise the link between asylum and

60 An Australian study found that those with the most negative attitudes to asylum seekers often had false beliefs about the facts that strongly resonated with statements by leading politicians that were widely reported in the media (Pedersen et al, 2005)

illegality.<sup>61</sup> More often, however, the press has played to the concerns of the less well informed sections of the public about the apparently preferential treatment given to refugees in public welfare, housing and other social services. By presenting asylum seekers as largely non-whites and/or Muslims, it has also played to racism and xenophobia as well as to latent feelings of insecurity (Greenslade, 2005). One consequence of the systematic negative coverage is that the term 'asylum seeker' has acquired a connotation sharply at odds with its true meaning. It has become a category or label about which it is acceptable to express extreme forms of prejudice while at the same time avoiding overtly racist language (Lewis, 2005).

Important too, is the populist rhetoric of politicians who, by setting the tone of the debate, have encouraged the demonization of asylum seekers by the press as cheats and fraudsters, creating a momentum of opinion to support restrictive policies (Mulvey, 2010). The intention has often been to deflect public hostility towards asylum seekers and away from governments. In part this was response to the widely held perception, particularly in the early 1990s and the early 2000s, that governments were unable to control the number of applications or to keep track of those whose claims had been rejected. Interestingly, a recent study of the attitudes in four waves of the European Social Survey found a strong positive cross-sectional correlation between negative attitudes towards immigration and lack of trust in domestic politics. Those who were most concerned about immigration expressed distrust particularly in the parliament and in politicians (less so for the police and the legal system) (McLaren, 2010). Also interesting is that the study found little relation between anti-immigration attitudes and distrust in the European Parliament, an issue to which we shall return in Chapter 11.

### 7.3 What is the link to policy?

Changing public opinion is one thing, changing policy is another. While the determinants of public opinion are fairly well understood, at least for immigration if not for asylum, the links to policy are much less well researched.<sup>62</sup> Clearly, opinions are transmitted to policymakers through the media and periodically through the ballot box. Anticipating such reactions

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61 A UK MORI poll for 2002 asked respondents to select three words most used by the media when referring to asylum seekers and refugees: 64% nominated 'illegal immigrant' as one of their choices, a number that far outstrips any other category; others included 'bogus' (22%), 'scroungers' (21%) and 'persecuted' (20%), see [www.ipsos-mori.com/researchpublications/researcharchive/poll.aspx?oltemId=1061](http://www.ipsos-mori.com/researchpublications/researcharchive/poll.aspx?oltemId=1061). Of course it might be argued that the press simply plays to existing attitudes and has little effect on forming them. But Facchini et al (2009) find a causal effect running from coverage of illegal immigration by American by TV channels and individual attitudes.

62 One of the few papers that explore quantitatively the links between immigration attitudes and immigration policy is Facchini and Mayda, 2008. They find evidence that lobby groups, particularly trade unions, have an important effect on policy outcomes.

policymakers may simply respond to emerging situations in a way that they believe will avoid or mitigate any deterioration in public approval. But as we have seen, opinion is mediated (or manipulated) by the press and by discourse among politicians and political parties. As a result the imperatives for policy change may not be closely correlated with trends in opinion or with objective circumstances but may instead reflect knee-jerk reactions to perceived crises in public confidence.

One reason that the factors determining asylum policy are not well understood is that we have few quantitative indicators of policy. One approach has been to look at the determinants of asylum recognition rates on the grounds that this is a key indicator of policy toughness. In one such study Holzer et al (2000a) examined the recognition probability for individual asylum seekers in different Swiss cantons (which run semi-independent policies). They found that the higher the percentage of foreigners in a canton, and the more negative public opinion, the lower was the recognition rate. In order to assess the national-level determinants of policy, Neumayer (2005a) examined recognition rates by source country and EU destination country. Controlling for the effects of conflict and human rights abuses in source countries, he found that recognition rates were lower the larger the number of past applications and the higher the share of votes received by right-wing populist governments.

The political science literature identifies strong links between anti-immigration attitudes and the popularity of extreme right-wing parties (Knigge, 1998; Lubbers et al, 2002; Kessler and Freeman, 2005). While extreme right-wing parties appeal to those who also hold racist and xenophobic views, there is also evidence that they gain support from those who link immigration with crime, with potential competition for jobs and welfare, as well as with social insecurity more generally (Rydgren, 2008). In short, the array of values and beliefs that underpin negative attitudes towards the number of immigrants also underlie support for political parties with ethnonationalist platforms that are virulently anti-immigrant.

There was a resurgence of right-wing populist parties in several European countries in the early 2000s just at the time that asylum applications were reaching a peak. In Austria the Freedom Party (Freiheitliche Partei Österreichs, initially led by Jörg Haider) received sufficient support to become part of the ruling coalition after the 1999 election. This was followed by a major reform of immigration and asylum law, with tougher and faster processing and restrictions on the receipt of social benefits. Similarly the Danish Peoples Party (Dansk Folkeparti) first entered coalition government in 2001, an event that was followed in 2002 by the abolition of granting humanitarian status and cuts in welfare benefits. In the Netherlands the 2001 electoral success of the List Pim Fortuyn set in train tougher asylum policies (under immigration minister Rita Verdonk), including accelerated procedures and tougher rules

for deportation. Right-wing populism was revived in 2006 when the Party for Freedom (Partij voor de Vrijheid, led by Geert Wilders) gained sufficient support on an anti-immigration platform to enter the ruling coalition.

In France the influence of the Front National surged with the presidential election of 2002 and in Italy the Lega Nord has been part of the Berlusconi-led governments that have been in office for most of the last decade. These mainstream parties have consistently supported restrictive immigration and asylum policies, although they also have broader agendas. Even small parties that are out of the mainstream have had an influence over policy on immigration and asylum.<sup>63</sup> One example is the British National Party, which has never won a parliamentary seat,<sup>64</sup> but which is widely credited with raising the salience of asylum and immigration and thus influencing the immigration agendas of the mainstream parties. In Flanders the 2001 surge in support for the Vlaams Blok (now Vlaams Belang) sent a strong message to the coalition from which it was excluded. In Sweden, New Democracy (Ny Demokrati) surged in the early 1990s but then went into decline, partly because its policies were adopted by the mainstream parties. In Germany the National Democratic Party (Nationaldemokratische Partei Deutschlands) enjoyed success in the regional elections of 2004 after the failure of a high-profile attempt to ban it.

It is one thing to claim that extreme right-wing parties have affected the political agenda but it is quite another to show that this had any influence on policy outcomes. Apart from the analysis of recognition rates noted above, there is scant evidence because of a lack of quantitative indicators of policy. Here I use the asylum policy index developed in Chapter 6 to test the hypothesis that the right-wing vote matters for policy. The policy index covers 19 countries over the years 1997 to 2006. The measure of support for the far right comes from the Swank database on Comparative Political Parties and covers 16 of the 19 countries.<sup>65</sup> It represents the share of votes received by the parties noted above such as the Freedom Party in Austria, the Vlaams Blok and the National Party in Belgium, the Front National in France and the Lega Nord in Italy. Here shifts in political support come only at election times and then remain constant until the next election. The regressions also include the number of asylum applicants and the national unemployment rate, as well as a set of year dummies.

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63 Van Spanje (2010) presents evidence of 'contagion effects' from extreme right parties to mainstream party agendas; Arzheimer and Carter (2006) find that the electoral success of extreme right wing parties tends to be greater when there is a grand coalition but is reduced by more proportional representation.

64 The BNP did win two seats in the European Parliament in 2009.

65 This can be found at [www.marquette.edu/polisci/faculty\\_swank.shtml](http://www.marquette.edu/polisci/faculty_swank.shtml). Of the 19 countries present in the policy index the Czech Republic, Hungary and Poland are not represented in the data for political party support.

The results of regressions with fixed effects by country are reported in Table 7.5. The log of asylum applications is instrumented to allow for the effect of policy on applications (analysed below in Chapter 8). In the light of the results in Chapter 5, the instruments used represent global warfare (Figure 4.1) and political terror (Figure 4.2). The result for the aggregate index in the first column shows that asylum applications and unemployment have the expected signs, although both are insignificant. But the share of extreme right-wing votes is positive and significant, indicating that policy became tougher as right-wing votes increased. The coefficient implies that a 10 percentage point increase in the share of far right votes increases the policy index by 1.1 points.

**Table 7.5** Determinants of asylum policies

	(1) Policy	(2) Access	(3) Processing	(4) Outcomes
Constant	-15.90 (1.55)	-0.339 (0.09)	-8.427 (1.41)	-7.133 (1.70)
Log asylum applications	1.22 (1.34)	-0.008 (0.02)	0.709 (1.34)	0.521 (1.40)
Right-wing vote	0.111 (3.62)	0.032 (2.94)	0.020 (1.11)	0.059 (4.71)
Unemployment rate	0.100 (0.09)	-0.100 (2.02)	0.111 (1.38)	0.001 (0.01)
R <sup>2</sup> within	0.39	0.54	0.09	0.16
between	0.01	0.03	0.02	0.01
overall	0.16	0.28	0.02	0.01
No of observations	160	160	160	160

*Note:* Instrumental variable fixed effects regressions for 16 countries × 10 years. Year dummies included but not reported. 'z' statistics in parentheses.

The next three regressions show how right-wing votes affect the different components of policy. There is a positive coefficient on access policies and on processing but the latter is insignificant. The strongest effect is on outcomes in the last column. Thus the evidence suggests that the most powerful effect of trends in right-wing support is on the conditions that are faced by asylum seekers during processing. Perhaps this is not surprising, in light of the debates over issues such as welfare payments, housing and above all detention of asylum seekers. But there is one very important caveat. This is that the variables in the regression explain very little of the upward trends in the policy indices that were illustrated in Figure 6.1, most of which are captured by the period dummies. Perhaps there are cumulative effects, but with limited data it is not possible to identify such effects and the results here must be treated as suggestive rather than definitive.



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## 8 Has Policy been Effective?<sup>66</sup>

Since the end of the 1980s governments have struggled to develop effective policies to control the number of asylum applications, and the number of successful claims, against the background of hardening public attitudes towards asylum seekers. As we have seen the number of applications soared to a peak in 1992 and then, after some decline, it reached another somewhat lower peak in 2001. Since then the number of applications in industrialized countries has declined to a level last seen in the 1980s. During the 1990s the tightening of policy seemed to have only modest effects on bringing the numbers down, and governments were motivated to redouble their efforts to reduce the numbers to acceptable levels.

Since 2001 policy in many countries has become even tougher and, this time, there has been a dramatic fall in the number of applications. Not surprisingly governments have been quick to claim that changes in legislation and procedural purges have been much more successful than in the past. For example, in February 2003 British Prime Minister Tony Blair committed the government to a drastic cut in the numbers. Speaking at the Labour Party conference in September that year he announced: 'We have cut asylum applications by half. But we must go further. We should cut back the ludicrously complicated appeal process, de-rail the gravy train of legal aid, fast track those from democratic countries, and remove those who fail in their claims without further judicial interference.'<sup>67</sup> Three years later, in November 2006, the UK Immigration Minister Liam Byrne commented: 'Asylum applications for the year to date are at their lowest level since 1993 and we intend to build on this progress. We have seen in the year so far more failed asylum seekers being removed than predicted unfounded asylum claims, but there is more still to do.'<sup>68</sup>

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<sup>66</sup> This chapter closely follows Hatton, 2009, pp. F202–F208.

<sup>67</sup> The full text of the speech was reported in the *Guardian*, 30 September 2003.

<sup>68</sup> Comments on the asylum statistics for the third quarter of 2006, reported on the Home Office website at [www.homeoffice.gov.uk/about-us/news/asylum-stats-quarterly-1106](http://www.homeoffice.gov.uk/about-us/news/asylum-stats-quarterly-1106). The statement refers to the official target for removals to match the number of claims classified as manifestly unfounded.

As we have seen in Chapter 5, there were forces other than asylum policy that were tending to reduce the numbers from the mid-1990s. These included rising incomes, declining terror and an improving political climate in many source countries. But there was also a hint that the numbers fell after 2001 by more than can be accounted for by these influences alone. This chapter asks: How strong was the deterrent effect of policy? How much of the total decline in applications can it explain? And how far can differences in policy account for the widely varying trends in applications across different receiving countries?

## 8.1 Previous studies

A number of previous studies have analysed asylum applications from the perspective of receiving countries in Europe and elsewhere. They have focused on three questions. One is the role of conditions in destination countries as 'pull factors' in asylum migration, and in particular the role of labour market conditions. Since asylum seekers have often been characterised as labour migrants in disguise, the goal has been to see if variables that are known to influence international migration also determine asylum flows. A second issue is whether or not policies that are aimed at reducing the volume of applications have had any effect. The experience up to the early 1990s, when rising applications went hand in hand with tougher policies, led many observers to question the deterrent effects of policy. And third, if policy does influence the volume of applications, would a convergence in the policy stance among receiving countries lead to a more equitable sharing of the refugee burden? This question arose from discussions in the EU about 'burden sharing' and the potential effects of policy harmonisation.

A number of different methods have been used to identify the effects of policy and other variables on asylum flows. Studies based on interviews with asylum seekers find that their choice of destination is determined by the presence of friends and relatives, while asylum policies and labour market conditions are of secondary importance (Havinga and Böcker, 1999; Robinson and Segrott, 2002; Day and White, 2001). Those that study cross-country correlations generally find an inverse relationship between changes in applications and increases in policy restrictiveness (Vink and Meijerink, 2003; Thielemann, 2004; Zetter et al, 2003). These are consistent with the correlation between policy and applications between 1997–2001 and 2002–6 noted above. Some studies have focused on the effects of major policy reforms in a single country using time series analysis. For Switzerland Holzer et al (2000b) and for Germany Vogler and Rotte (2000) found that specific shifts in policy had negative effects on applications – something that is investigated for Australia in Chapter 9.

Several studies have analysed panel data for destinations. In one such study Thielemann (2006) took as the dependent variable a destination country's share of total applications (adjusted by its share of population) in order to net out source country effects. Using a panel of 20 destination countries for 1985–99 he found that a country's unemployment rate negatively influenced its share of applications, while its foreign-born stock had a positive effect. He also used an index of policy made up of five components, which overall had a negative effect. Examining the individual components of policy he found that the impact of refugee integration policies was weak as compared with the effects of variables representing refugee status determination procedures. However, his analysis did not disaggregate by country of origin and therefore did not allow for differences across destinations in the source country composition of applications.

Neumayer (2004) took shares for each destination of applicants from each origin as the dependent variable (thus also netting out origin country effects) and estimated for the years 1982–99. He found significant effects for the level and growth rate of GDP per capita in the destination, but not for unemployment. In the absence of the migrant stock, variables such as colonial links, common language and distance were all found to be significant in the expected direction (consistent with the empirical evidence on migration). The only policy variable used was the overall recognition rate for the destination. This proved to be positive, suggesting that tougher status determination procedures act as a deterrent, but the effect on a country's share of applications appears to be small. A 10 percentage point reduction in the recognition rate reduces a country's share of applications by only 0.2 percentage points. Neumayer also found that countries with right-wing populist governments had lower shares of asylum applications.

In my earlier study (Hatton, 2004) I examined the level of applications to 14 EU countries by three continents (Africa, Asia and Eastern Europe) for 1981–99, allowing for source effects by continent. Relative income, destination unemployment and the cumulative stock of applications were all important influences. Among the source continent effects, political rights and an index of conflict proved to be the most important. A composite index of asylum policy, similar to the one presented in Chapter 6 above and based on 11 indicators, gave a significant negative coefficient. This implies that the tightening of policy that occurred over the two decades to 1999 reduced asylum claims in the EU by about 150,000, or about 12% of its mean level. A more detailed analysis of EU country shares of applications by origin in the 1990s also supported the negative effect of policy but provided little evidence that tougher policies deflected asylum seekers from one destination country to another.

To summarise, recent econometric studies find that destination country effects matter, particularly the migrant stock and either the change in GDP or the

unemployment rate. They generally find negative policy effects, although these vary in magnitude, and they are often dominated by other variables – a finding that has led some observers to conclude that policy harmonisation would do little to equalise the refugee burden. Finally, few of the existing studies provide estimates of the amount by which policy reduced applications and none provides an estimate for any year after 1999. Hence they cannot address the claims sometimes made by governments about the effectiveness of policy in explaining the recent decline in asylum applications.

## 8.2 Estimating policy effects, 1997–2006

In order to shed further light on the deterrent effects of policy I analyse asylum applications by source country and by destination for the years 1997–2006. The 19 destinations are those listed in Tables 3.1 and 6.1 and the 40 source countries are a subset of those used in the analysis of source country effects in Chapter 5. These are countries for which there were significant flows to several different destinations during the decade.<sup>69</sup> In cases where the bilateral flow from a source to a destination is consistently small these dyads were omitted, leaving 637 bilateral pairs out of a possible 760. Together these account for 80% of all applications to the 19 destination countries. The dependent variable used in the analysis is the log of the annual number of asylum applications from a given source to a given destination for the years 1997 to 2006.<sup>70</sup>

The explanatory variables used here are those that were found to be important in explaining asylum applications by source country in Chapter 5. These include the terror scale and the Freedom House index of political rights. Source country GDP per capita never proved to be significant and so it was dropped from the analysis. When examining bilateral flows it is important to take account of the fact that asylum seekers from a particular source country often concentrate on a few major destinations. As with all migration flows, this is the result of historic ties, such as colonial links, common language and cultural proximity, as well as the physical distance between source and destination. These effects are captured in large part by the stock of previous migrants in the destination country. Here I use the total stock of foreign-born from a given source at a given destination in 2000/1 as reported by the OECD.<sup>71</sup> The vast bulk of these are ordinary migrants, although the total also includes some

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69 These countries are marked with \* in the appendix to chapter 5.

70 The criterion for omitting a dyad from the analysis is when fewer than ten cases were recorded over the whole decade. In cases where the dyad is included but the value for a particular year is missing, it is entered as one before taking the log.

71 The number of foreign-born observed in each OECD country in 2000/1, broken down by country of birth, is taken from the OECD database on immigrants and expatriates at [www.oecd.org/docu/nt/51/0,3746,en\\_2649\\_33931\\_40644339\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/docu/nt/51/0,3746,en_2649_33931_40644339_1_1_1_1,00.html).

successful asylum seekers in the years before 2000. As a measure of economic conditions at the destination I use the unemployment rate.

In order to test the effects of policy I use the two indicators discussed previously in Chapter 6. The first is the destination country's total recognition rate – the proportion of asylum decisions (for applicants from all sources) that resulted in acceptance. This is potentially endogenous since a lower recognition rate may deter those applications that are least likely to result in recognition. The second is the policy index and its three components that were summarised in Figure 6.1. It is worth reiterating that these are fairly crude indicators of policy that may not capture in full the subtle and complex ways in which asylum procedures often work. A further policy-related variable is a dummy for 2002–6 that is interacted with the share of Muslims in the source country. Since the share of Muslims is a single value for each source country, in the presence of fixed source country effects this variable should capture any differential post-2001 effect for Muslims. The aim is to capture any differential effect on applications from Muslims in the aftermath of the 9/11 attacks, not only as a result of asylum policy but also more generally.

Table 8.1 reports four regressions with different fixed effects and estimation methods. That in the first column includes source country fixed effects and a dummy for each destination. Not surprisingly the migrant stock in 2000/1 gives a very strong coefficient with an elasticity of about one-third. This is testimony to the power of the 'friends and relatives effect' that has been identified in many empirical studies of migration. The destination unemployment rate (lagged one year) is strongly negative, supporting the view that asylum applications are sensitive to labour market conditions at the destination. In this case a 1 percentage point increase in the unemployment rate reduces applications by about 10%. Terror and political rights both take significant coefficients that are similar in magnitude to those observed in Table 5.2 for aggregate flows from source countries. The coefficient on the total recognition rate is very small and insignificant, offering little support for the view that higher recognition rates have deterred asylum applications. On the other hand, there is evidence of a significant fall in applications from Muslim countries – equivalent to a decrease of more than a quarter for a country that was 100% Muslim.

**Table 8.1** Asylum applications and recognition rates, 1997–2006 (dependent variable: log asylum applications from source to destination)

	(1) FE	(2) FE	(3) FE	(4) FE-IV
Constant	1.194 (5.7)	1.090 (7.7)	5.167 (31.3)	5.037 (38.3)
Log migrant stock	0.327 (32.3)	0.327 (33.2)		
Total recognition rate	0.002 (1.3)	0.003 (2.3)	0.002 (1.8)	0.016 (6.7)
Terror scale	0.227 (7.2)		0.227 (9.9)	0.220 (9.3)
Political rights	-0.127 (4.5)		-0.124 (6.1)	-0.126 (6.0)
Share Muslim * 2002–6 dummy	-0.317 (5.6)		-0.315 (7.7)	-0.214 (4.8)
Unemployment rate at destination (t-1)	-0.105 (9.1)	-0.043 (3.5)	-0.105 (12.5)	-0.147 (13.7)
Fixed effects (number of FE)	Source (40)	Source*Year (400)	Source*Dest (637)	Source*Dest (637)
Destination dummies	Yes	Yes	No	No
R <sup>2</sup> within	0.46	0.48	0.06	0.02
No of observations	6339	6339	6339	6339

*Note:* There are 637 country pairs in the dataset but 31 observations involving Italy in 2006 are missing. Hence the total number of observations is 6,370–31 = 6,339. ‘z’ statistics are in parentheses.

The second and third columns show what happens with different sets of fixed effects. The second column includes a fixed effect for each source country by year. These completely absorb source country variables, which may be too heterogeneous to be fully captured by the variables included in column (1). The main result is that the recognition rate now becomes significant. Column (3) includes a separate fixed effect for every bilateral pair, which therefore absorbs the effect of the migrant stock. The coefficients on the other variables are very similar to those in column (1), indicating that most of the idiosyncratic variation across dyads is captured by the migrant stock.

The last column treats the total recognition rate as endogenous. As previously noted, the coefficient on the recognition rate will be biased downwards if a decline in the recognition rate tends to deter those who are most likely to be rejected. Here I use as instruments two components of the policy index that are closely related to the processing of applications. These are the components representing policy shifts on the processing of manifestly unfounded claims

and on the granting of subsidiary or humanitarian status.<sup>72</sup> Using these instruments the coefficient on the recognition rate now becomes much larger and more significant. This result suggests that previous studies that have not accounted for the endogeneity of the recognition rate may have underestimated its true effect. On this estimate a fall in the recognition rate of 10 percentage points reduces applications by 16%.

**Table 8.2** Asylum applications and policy, 1997–2006 (dependent variable: log asylum applications from source to destination)

	(1) FE	(2) FE	(3) FE	(4) FE-IV
Constant	1.774 (8.2)	1.662 (10.4)	5.415 (42.5)	5.269 (40.1)
Log migrant stock	0.327 (32.6)	0.327 (33.4)		
Total recognition rate				0.012 (5.1)
Access	-0.169 (5.3)	-0.183 (5.1)	-0.170 (7.4)	-0.214 (9.4)
Processing	-0.197 (6.7)	-0.163 (5.3)	-0.198 (9.3)	
Welfare	0.032 (0.9)	-0.125 (0.3)	0.031 (1.2)	
Terror scale	0.202 (6.4)		0.202 (9.0)	0.207 (8.4)
Political rights	-0.115 (4.1)		-0.113 (5.6)	-0.119 (5.8)
Share Muslim * 2002–6 dummy	-0.039 (0.6)		-0.036 (0.8)	-0.054 (1.1)
Unemployment rate at destination (t-1)	-0.116 (10.3)	-0.048 (3.9)	-0.113 (14.3)	-0.150 (14.2)
Fixed effects (number of FE)	Source (40)	Source*Year (400)	Source*Dest (637)	Source*Dest (637)
Destination dummies	Yes	Yes	No	No
R <sup>2</sup> within	0.47	0.48	0.10	0.05
No of obs	6339	6339	6339	6339

Note: there are 637 country pairs in the dataset but 31 observations involving Italy in 2006 are missing. Hence the total number of observations is 6370–31 = 6339. ‘z’ statistics are in parentheses.

72 The smaller the share of applications treated as manifestly unfounded and the greater the possibilities for granting some form of humanitarian status the higher should be the recognition rate, effects that are supported by the first stage regression. The F statistic in the first stage regression is only 9.6, although the subsidiary status variable is highly significant. The Sargan test for overidentification gives  $\chi^2_{(1)} = 0.9$ , indicating that these are valid instruments.

The different components of the policy index are introduced directly in the regressions reported in Table 8.2. In the simplest fixed effects model of column (1), the policy components representing access and processing have strong negative effects, whereas that reflecting welfare is small and insignificant. The same result holds in columns (2) and (3), where different sets of fixed effects are included. Consistent with other studies this suggests that the two key elements of deterrence are access to the country's territory in order to gain eligibility to lodge an asylum claim and the toughness of the refugee status determination procedure. It is interesting also that in the presence of the more comprehensive policy variables the Muslim effect disappears, suggesting that the coefficient in Table 8.1 may have been picking up the effect of access policies. In column (4) the total recognition rate is substituted for the processing index, using the two subcomponents, for manifestly unfounded claims and subsidiary status, as instruments. The coefficient on access remains strongly significant and the other coefficients are little changed. This adds further support for the view that recognition is an important component of deterrence but not the only one.

### **8.3 Policy and the fall in applications**

These results suggest that asylum policy has a strong deterrent effect, and they contradict those who suggest that policy has been ineffective. On the other hand, this does not imply that the dramatic fall in applications in the years from 2001 was entirely due to policy, as some politicians might claim. So what was the effect of policy on asylum applications over the first few years of this century? I calculate the effects of policy using the coefficients in column (3) of Table 8.2. On average, across the 19 destination countries, the effect of tightening access to territory reduced applications by 14% between 2001 and 2006, while tougher processing policies reduced applications by 17%. However this does not account for all the sources of applications to each destination, nor does it allow for the very different weight of each destination within the 19-country total. To estimate the overall impact of policy I use the coefficients on access and processing (ignoring the insignificant effect of welfare) to calculate the proportionate effect of policy change for each destination, using total applications as the base. This assumes that the effects of policy on those source countries that are excluded from the regressions are the same as for those that are included. The proportional effects are then converted to absolute numbers by evaluating them at the mean of annual applications for 1997–2006.

The first column of Table 8.3 shows the change in total asylum applications between 2001 and 2006 for each of the 19 destination countries. The second column shows the predicted effect of the change in access policies over the same period, and the third column is the predicted effects of processing



policies. The last column shows the combined effect of the two policies taken together, which is different from the sum of individual policies because of the non-linearity of the underlying relationship. To give an example, the effect of tougher policies in Australia was to reduce annual applications by 2,654 over the five-year period as compared with the actual decline of 8,865. While tougher policy 'explains' most of the decline in applications to France, it explains only about a quarter of the decline for Germany. For both the US and the UK it accounts for more than a third of the fall in applications. Thus the UK immigration minister can claim some but by no means all of the credit (if credit there is) for the reduction in asylum applications. For all 19 countries taken together, the effect of policy was to reduce applications by 108,000 per annum, which accounts for a nearly a third of the drop between 2001 and 2006. Against this background the UK does not stand out as particularly exceptional.

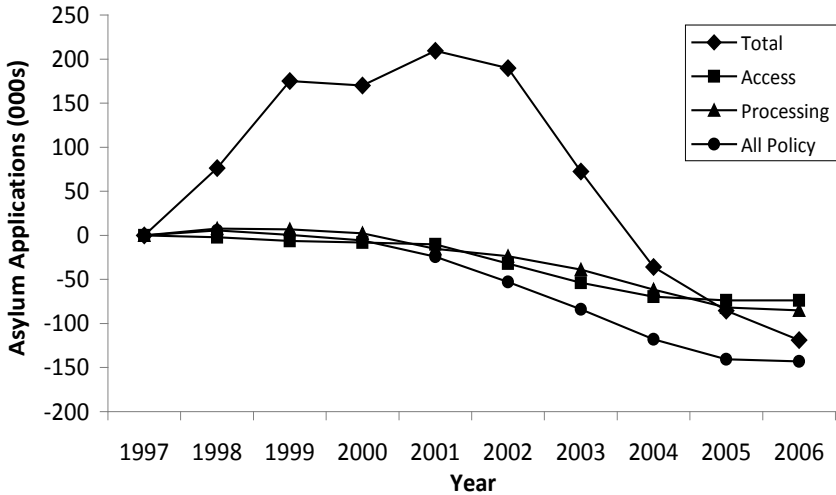
**Table 8.3** The effects of policy on asylum applications, 2001–2006

Country	Change in applications 2001–2006	Effect of access policies	Effect of processing policies	Effect of all policies
Australia	-8,856	-1,685	-1,263	-2,654
Austria	-16,785	0	-4,989	-4,989
Belgium	-12,959	-3,486	0	-3,486
Canada	-21,128	0	-6,653	-6,653
Czech Republic	-15,074	0	0	0
Denmark	-10,592	-1,126	-835	-1,826
France	-23,601	-12,654	-9,596	-19,395
Germany	-67,257	-10,876	-8,064	-17,636
Hungary	-7,444	0	-603	-603
Ireland	-6,015	-1,070	-793	-1,735
Italy	492	0	-1,564	-1,564
Netherlands	-18,109	0	-4,667	-4,667
Norway	-9,462	-1,740	-1,290	-2,821
Poland	-309	-813	685	-239
Spain	-4,179	-1,530	897	-842
Sweden	805	0	2,780	2,780
Switzerland	-10,093	0	-5,219	-5,219
UK	-63,750	-19,158	-7,728	-24,588
USA	-33,823	-11,917	0	-11,917
Total	-328,139	-66,054	-48,904	-108,054

Note: Changes in policy are converted to changes in applications using the following formula:

$$\Delta y = \bar{y} \times [\exp(\beta(p_{2006} - p_{2001})) - 1]$$

where  $\Delta y$  is the predicted change in applications,  $\bar{y}$  is the mean of applications for 1997 to 2006,  $\beta$  is the coefficient estimated in column 3 of Table 8.2, and  $p$  is the policy index for a particular year.

**Figure 8.1** Asylum applications and the effects of policy, 1997–2006

Source: Author's calculations.

So what were the effects of policy over the whole period from 1997? Figure 8.1 shows total applications for all countries and the effect of policy in absolute numbers, all measured as the deviations from the first quarter of 1997. The effects of policy are calculated in the same way as for Table 8.3. Total applications rose by over 200,000 before falling to 120,000 below the level at the beginning of 1997. As is clear from the graph, policy contributed very little to the year-to-year variation in applications. Thus in the years from 1997 to 2001 asylum applications rose strongly despite some tightening of policy. Over the decade as a whole, access and processing policies each contributed about equally to the decline. And although policy accounts for only around a third of the fall in applications on the downswing between 2001 to 2006, if the comparison is made from 1997 to 2006, then it more than accounts for the the decrease in the numbers over the decade as a whole.

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## 9 Shock Tactics: An Australian Case Study<sup>74</sup>

Policies often come in packages and they often represent major shifts in a country's policy stance. Such 'natural experiments' provide a unique opportunity to examine the effect of policy, free of other effects. And they can offer deeper insights into what mattered and why. Several studies have focused on the impact of key policy shifts in individual countries. For Switzerland Holzer et al (2000b) found that the major reform of 1990 sharply reduced applications especially from the Lebanon and Sri Lanka, but not as a result of the change in the recognition rate. For Germany, Vogler and Rotte (2000) found a large negative effect for a dummy representing the 1993 policy reform (the revision of the Basic Law) but weaker effects for other reforms in 1987 and 1991.

Here I examine some unique events that occurred in Australia. On 26 August 2001 a Norwegian freighter, the *MV Tampa*, rescued 433 asylum seekers from their vessel the *KM Palapa 1* that was in distress in the stretch of ocean between the coast of Indonesia and the Australian territory of Christmas Island. At the insistence of the rescued passengers, the captain of the *Tampa* asked the Australian government for permission to land them on Christmas Island – a request that was refused. There followed a week-long stand-off while the world watched the drama unfold. Eventually a settlement was reached under which a third of the passengers were taken to New Zealand and the remainder to the impoverished pacific island of Nauru, in exchange for a generous aid package for Nauru from the Australian government. There followed a dramatic tightening in Australian asylum policy, which was intended to send a strong signal that would prevent such events occurring again.

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74 This chapter draws heavily on Hatton and Lim, 2005.

## 9.1 Australian asylum policy

For decades Australia has operated a programme for accepting refugees through organised resettlement programmes overseen by the UNHCR. In 1981 a Special Humanitarian Programme was added for those whose persecution would not qualify them as refugees under the Convention and in 1991 a Special Assistance Category was established for those escaping civil disorder. For these three categories – known as ‘offshore refugees’ – an annual 12,000 was set, which continued through the 1990s. The other category is ‘onshore refugees’ – spontaneous asylum seekers arriving by air or by sea, either legally or illegally, who claimed asylum and were granted refugee status. Onshore refugees were only ever a minority in the humanitarian programme as a whole but their share rose from 12.5% in 1995/6–1997/8 to 28.6% in 1998/9–2000/1.<sup>75</sup>

From the time of the Vietnam War there were episodic arrivals of boat people. The policy of mandatory detention for unauthorised boat arrivals, which had existed since 1958, was increasingly enforced and it was extended to all unlawful arrivals in the Migration Reform Act of 1992.<sup>76</sup> The gradual toughening of policy on detention and deportation was largely a response to periodic increases in the number of unauthorised arrivals. From 1996/7 onwards onshore grants of asylum were included in the overall target so that they would effectively reduce the numbers accepted through the offshore programmes.

In response to a further surge of arrivals, legislation was passed in 1999 that created three-year Temporary Protection Visas (TPVs), with much reduced rights, for unauthorised arrivals who qualified for protection. TPVs confer the right to work and to certain benefits, including Medicare, but a TPV holder is not entitled to re-enter Australia, once having left, and is not entitled to bring other family members to Australia. TPV holders were eligible to apply for permanent protection after 30 months, a status that could only be granted where the need for protection was ongoing. The introduction of TPVs was followed by legislation that imposed sanctions on people smugglers and provided for the boarding, searching and detention of ships suspected of carrying unauthorised asylum seekers.

In 2001, just one month after the *Tampa* incident, the Australian Senate passed six new bills into law to toughen the asylum regime further. The first two involved the excision of Christmas Island, Ashmore Reef and some other small islands from Australian territory for the purposes of establishing claims to asylum in Australia, and they provided for such arrivals to be processed elsewhere. Applicants who had spent at least seven days in a ‘safe’ country

75 For a chronology of Australian policies in both refugee categories, see Karlsen et al, 2010.

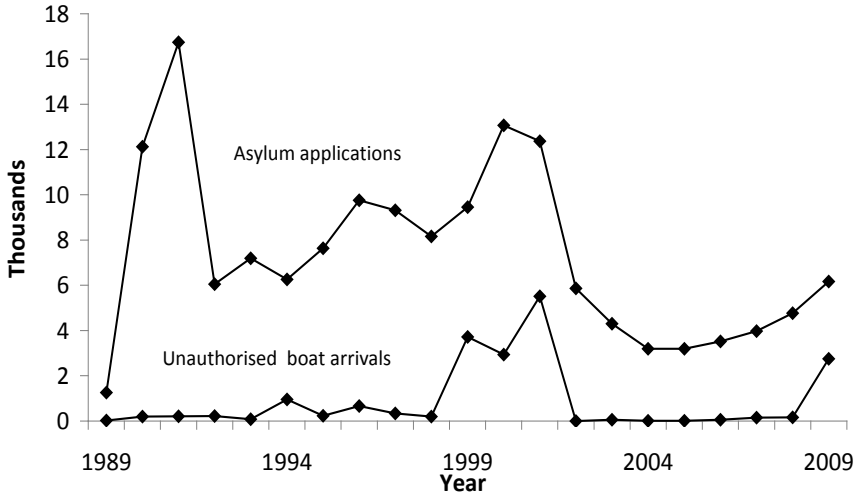
76 The first remote detention facility was established at Port Hedland in 1991.

prior to arriving in Australia were denied eligibility for a permanent protection visa. Another Act significantly narrowed the definition of a refugee used in the status determination procedure to the minimum required by the Refugee Convention. Further provisions included introducing harsher penalties for people-smuggling offences and limiting access to judicial review of migration decisions. With these new regulations in place, Australia's 'Pacific Solution' was complete, and by some accounts it helped Prime Minister John Howard's government to win the election held on 10 November 2001.

Since 2001 there have been two important developments. The first relates to processing and detention. In 2005 time limits were introduced on the processing of asylum claims, and in 2007 offshore processing at Nauru and Manus was terminated (about 70% of those located there were resettled in Australia). There was also a gradual softening of the detention regime and in 2009 the government announced its intention to use detention only as a last resort. As a result the numbers in detention halved between 2001 and 2010. The second is the use of TPVs. In 2004 TPV holders were allowed to apply for permanent visas. But the most important development was in 2008 when TPVs were abolished, so that all those granted protection received permanent visas. These measures have been seen by some as a substantial retreat from the tough policy stance of 2001.

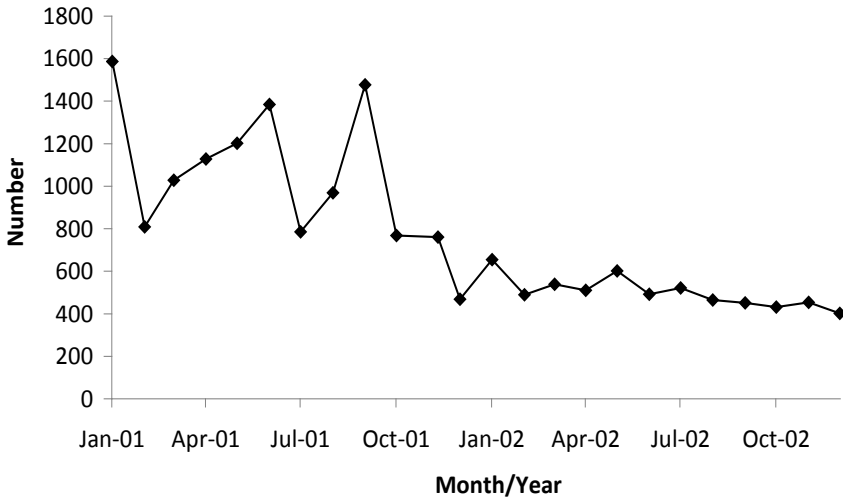
## **9.2 Asylum applications in Australia**

As shown in Figure 9.1, onshore asylum applications peaked at over 13,000 in 1989/90 and then fell off, subsequently rising again to similar levels in 1999/2000 and 2001/02. The earlier peak is associated with applications from places like China (following Tiananmen Square) and Cambodia, while the increase from the early 1990s came from a more diverse range of source countries. The lower graph shows the number of unauthorised applicants arriving by boat. This figure increased to sharply from 1997/8 to over 4,000 in each of the years 1999/2000 and 2000/1. The sharp fall in boat arrival coincides with the much more restrictive post-*Tampa* environment. But it is also notable that the total number of asylum applications declined by a far larger number – from 13,000 in 2000/1 down to 5,000 in 2002/3, and only 3,000 in 2003/4. It is also worth noting that after a period of low applications the number shifted up again after 2008, a point to which we shall return.

**Figure 9.1** Asylum applications and unauthorised boat arrivals, 1989 to 2009

Source: Asylum applications from UNHCR, 2001 a, Table 1, and UNHCR, 2001–9, Table 1; Unauthorised boat arrivals from Phillips and Spinks, 2010, Appendix A.

The exact timing of the post-*Tampa* decline in applications can be seen more clearly in the monthly data for asylum applications plotted in Figure 9.2. The monthly figures are a little volatile but they averaged around 1,000 a month up to September 2001 and then fell to a relatively stable figure of around 500 a month thereafter. The timing of the fall in late 2001 suggests that the discontinuity was associated with the *Tampa* incident and the raft of legislation that followed. However, part of the decline could have been due to worldwide trends, particularly in the wake of the 9/11 attacks in the United States. But Australian applications declined more sharply than those of other countries. On an annual basis, asylum applications to Australia fell by 51% between 2001 and 2002 while those to the United States fell by 6% and those to Canada by 22%. Applications to the EU-15 remained roughly constant between these two years.

**Figure 9.2** Monthly asylum applications to Australia, 2001 and 2002

Source: UNHCR, 2001-9, Table 3 (for 2001 and 2002).

The effect of the policy shift is estimated using quarterly data on applications to selected countries. In order to focus on the period around the *Tampa* incident, the period analysed is from 2000q1 (the earliest available on a quarterly basis) up to 2004q3. The log of total applications is taken as the dependent variable and the regressions include a dummy for each destination. The regressions also include fixed effects for each quarter in order to capture changes in the conditions that affect asylum applications worldwide. The inclusion of the period dummies has little effect on the estimated effects of policy.

In this analysis, Australian policy is captured with a dummy variable for the period from the 2001q4 onwards. As we have seen, a number of other countries also introduced measures to toughen their asylum regimes in the years following 2001 and so it is important also to take these into account. Australia's neighbour New Zealand introduced detention for undocumented arrivals and strengthened its policy in deportation from the end of 2001.<sup>77</sup> In the UK, legislation in 2002 marked the beginning of Prime Minister Tony Blair's purge of asylum seekers, and it included toughening the criterion for manifestly unfounded claims. France and Germany both toughened their policies from the beginning of 2002, with the latter sharply restricting access to subsidiary status. Finally the United States and Canada introduced tougher border protection measures in the wake of 9/11, as well as more stringent

<sup>77</sup> New Zealand's Immigration Amendment Act, 1999, provided that undocumented arrivals could be placed in a detention centre, rather than being granted a temporary visa, and it strengthened the right to deport them without right of appeal. But it was not until after 9/11 that this was enforced on the bulk of undocumented arrivals.

screening of asylum applicants. In the regressions, these countries are taken as the benchmark so that policy in the other countries is relative to policies implemented in North America.

**Table 9.1** Estimates of policy effects on quarterly data (fixed effects regression; dependent variable: log applications)

	(1)	(2)	(3)	(4)
New Zealand dummy (from 2002q1)	-0.34 (4.1)	-0.27 (2.5)	-0.35 (3.7)	-0.21 (1.9)
UK dummy (from 2003q2)	-0.28 (3.3)	-0.25 (2.8)	-0.34 (3.7)	-0.27 (2.7)
Australia dummy (from 2001q4)	-0.81 (9.7)	-0.77 (8.3)	-0.82 (8.7)	-0.74 (7.4)
Germany dummy (from 2002q1)			-0.19 (2.0)	-0.22 (2.4)
France dummy (from 2002q1)			0.52 (5.4)	0.58 (5.9)
Unemployment rate (t-1)		0.04 (1.0)		0.08 (2.2)
R <sup>2</sup> (between)	0.89	0.89	0.82	0.83
No of observations	95	95	133	133
Country dummies	Yes	Yes	Yes	Yes
Period fixed effects	Yes	Yes	Yes	Yes

Note: 't' statistics in parentheses.

The regressions in the first two columns of Table 9.1 include only the English speaking destination countries. Column (1) shows that the policy dummies have statistically significant negative effects for New Zealand from the beginning of 2002 and for the UK from the beginning of 2003. For Australia the coefficient on the dummy that represents the '*Tampa* effect' is large and highly significant. The coefficient implies a drop in asylum applications of 55.5% compared with 28.8% for New Zealand and 24.4% for the UK from 2003. Surprisingly the unemployment rate is not significant when introduced in column (2). This is probably due to the fact that period dummies capture common fluctuations in unemployment as well as source country effects. When France and Germany are added to the dataset in columns (3) and (4) the policy dummy for Germany is negative, as expected, while that for France is positive.



It is possible that the results are influenced by the very different source country compositions of asylum applications among these destinations. However an analysis of annual data by source country, similar to that of Tables 8.1 and 8.2, produced very similar coefficients to those for quarterly data (Hatton and Lim, 2005, p. 127). Similarly, extending the quarterly data to the end of the decade also produced roughly the same results (Rutherford, 2009). Thus all the available evidence points to that fact that Australian policy was highly effective in reducing the number of asylum applications and more so than the policy packages introduced in other countries at around the same time. Right or wrong, that was the goal of policy and the government apparently reaped its reward at the ballot box.<sup>78</sup>

### 9.3 Lessons from Australian experience

The results of Australia's 'natural experiment' are clear and several lessons can be drawn from them. The first is that there are three ingredients to the 'success' of policy in driving down the number of asylum applicants. One is the policy stance itself, which had a number of components, to which we shall return below. The second is the enforcement of those policies. Policies that look tough but are easy to circumvent are unlikely to be an effective deterrent. And third, there is the effective communication of the country's policy stance to the outside world and to potential asylum seekers in particular. These three elements – tough policies, credible enforcement, and effective communication – are standard criteria for policy effectiveness.

It is worth dwelling on the third of these. In the late 1990s Australia's efforts to persuade countries such as Malaysia and Indonesia to tighten up on asylum seekers transiting on their way to Australia met with little success. In October 1999 the Australian government initiated an 'overseas information campaign' aimed at discouraging unauthorised boat arrivals. It included posters, videos and media clips that were targeted at countries of origin and transit and distributed in local languages. This campaign was seen as largely ineffective. But the arrival of the *MV Tampa* on the scene was to change all that: it provided the kind of publicity that media campaigns could not buy at any price. During the week-long stand-off the world's press feasted on the plight of the asylum seekers and the government's hard line in refusing to allow them to land.<sup>79</sup>

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78 McAllister (2003) shows that border protection was the single most important issue in the 2001 election and that this won the election for the Liberal/National coalition. However, there was no major divide between the parties on policy towards asylum seekers and he argues that the coalition's advantage owed more to the concern about terrorism following the 9/11 attacks in the United States.

79 The 'wrongs' are described by Marr and Wilkinson (2003) in a damning blow-by-blow account of the political intrigue surrounding these events. For a somewhat wider perspective see Mares, 2002. The legal issues involved are discussed by Willheim, 2003.

Another wave of publicity followed when some of the asylum seekers who were taken on an Australian naval ship to the island of Nauru refused to disembark. And the publicity continued with the arrival of a further six boats in the next month, several of which were 'pushed' back out to sea.<sup>80</sup> By that time the whole world knew about Australia's 'Pacific Solution'.

From that time the number of applications fell almost immediately, so the message clearly did get across. And it is notable that the number of asylum applications fell by more than the number previously arriving by boat. Both the publicity and the raft of legislation that followed evidently deterred many of those who would otherwise have arrived by air. It is notable also that the effects of policy estimated here is substantially larger than the effect that was estimated in Table 8.3 for Australia on the basis of the policy changes alone (about one-third). It seems likely that this is accounted for by the blaze of publicity followed by the tough enforcement of policy producing a larger effect than the legislative changes alone.

That also raises the question of which policies were the most effective. The results in Chapter 8 suggested that policies on access to territory and on the processing of asylum claims had strong deterrent effects while welfare policies did not. An obvious interpretation is that the probability of gaining permanent settlement matters more to asylum seekers than the discomfort suffered in order to achieve that goal. The key policies put in place in 2001 related to access but this was in combination with other policies enacted at the time and the introduction of TPVs two years earlier. As noted earlier, from 2007 a new Australian government reversed some of the existing policies by abolishing offshore processing and TPVs. In February 2008 the 'Pacific Solution' was formally ended with the closing of the detention centre on Nauru, and TPVs were abolished in August 2008. The number arriving on boats increased from 25 in 2007–8 to 1,033 in 2008–9 and 5,609 in 2009–10. It seems likely that the abolition of TPVs had some effect as it would be interpreted as an increase in the probability of gaining permanent residency.<sup>81</sup> But it is also important that the new government was generally *perceived* as less tough on asylum than its predecessor, something that amplified the effect of what, after all, was only a partial relaxation in policy.<sup>82</sup>

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80 One of these, carrying 187 Iraqis, was boarded by naval personnel from the Australian naval ship HMAS *Adelaide*. The Prime Minister reported to the media that some of these asylum seekers had reacted by throwing their children overboard – a claim that was later denied by senior naval officials.

81 It is also notable that around 90% of those processed on Christmas Island in 2009–10 gained refugee status (Karlsen et al, 2010, p. 19).

82 Crock and Ghezelbash (2010) suggest that 'loose lips' might have been a factor in the recent increase in boat arrivals but they argue against any effect for the abolition of TPVs.

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# 10 What Happens to Asylum Seekers?

Most of the discussion about asylum seekers has focused on whether or not they should be admitted as refugees, and if so, on what terms. But, given that many of them become permanent residents in the host countries, there are also growing concerns about how well they integrate, along which dimensions, and how long that process takes. It is sometimes argued that lack of integration makes refugees a burden; an unwarranted cost to taxpayers and a source of social cleavage. Such arguments filter into public attitudes and underpin calls for more exclusionary policies. On the other hand, host societies are under an obligation to ensure that those who gain permanent residence are treated in a manner that provides the same opportunities that are enjoyed by other immigrants and by the host population. If refugees are disadvantaged then there are arguments for policies that support, or at least do not hinder, the process of integration. Whichever is the case, it is important to get the facts straight.

There is a large literature on immigrants (not focusing specifically on refugees) that examines and assesses the degree to which they assimilate or integrate along various economic and social dimensions. But despite these common concerns, there is comparatively little quantitative research examining if similar patterns apply to refugees. There are reasons to think that the outcomes for refugees will be different from those of other immigrants. The very fact that they come from different origins, under different circumstances, that they are admitted under different criteria and that they are sometimes subjected to a protracted processing period would suggest that their outcomes might differ. This chapter examines some of the available evidence to assess if widely held views about the integration of refugees and their economic status are true, and if policy has helped or hindered that process.

## 10.1 Assimilation experience: income and employment

Much of the immigration assimilation literature has been preoccupied with assessing the post-arrival trajectories of income earnings and employment, but there are other dimensions too, such as education, housing tenure, use of health and welfare benefits and the education of children. The empirical literature typically finds that immigrants are at a disadvantage in the early years after arrival but that over time they assimilate towards the status of the non-immigrant population. However, that process varies between different groups according to origin and personal characteristics. The standard model stresses that immigrants may be positively or negatively selected – something that depends on differences in economic incentives, on the costs of migration, and on the selectivity of immigration policies (Borjas, 1987). One view is that the costs, the risks and the barriers that asylum seekers face make it more likely that they would be positively selected.<sup>82</sup> If they are among the fittest and most enterprising then they should do well in the host society once they become accepted as refugees. On the other hand, refugees are not selected principally on labour market criteria, either through self-selection or by asylum policy, and as a result they might be negatively selected. Whichever is the case, it must be stressed that their economic outcomes depend not just on their personal characteristics but also on the conditions that they face in the host country. This would include elements of policy as well as the prevailing labour market conditions and the receptiveness of the host society.

So how do refugees do? A few studies have used datasets that make it possible to compare refugees with other immigrants. Cobb-Clark (2006) examined the employment status of immigrants to Australia by visa class in the 1990s. Immigrants from all visa classes were observed 18 months after arrival. In general, independent migrants (assessed through the points system), employer-nominated immigrants and business migrants were much more likely to have gained employment than either family class migrants or refugees. For refugees, employment rates were only 20–30% for men and even lower for women, and their unemployment rates were two to three times as high as those of family migrants. Much of the refugee disadvantage remains even after controlling for education and a variety of other personal characteristics. Interestingly, the employment rates of refugees declined between the cohort arriving in the early 1990s and those arriving in the late 1990s, despite the improvement in domestic labour market conditions. Thus, even in an immigrant-friendly country like Australia, refugees seem to have suffered deep disadvantage.

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82 In his analysis Borjas (1987) predicts that, for given characteristics (and leaving aside other disadvantages that they may face), refugees would have higher than average earning power in the host country but lower than average earning power in the source country. This was motivated by the idea that in communist countries the reward system was not strongly correlated with that in the West; thus the most economically able were more likely to suffer suppression or expropriation and were therefore most likely to migrate.

For Canada, Aydemir (2011) examined a cohort of immigrants arriving in 2000/1 over the subsequent two years. He found that refugees initially had substantially lower participation rates and earnings than family migrants, with little evidence of catching up. Taking a longer term perspective, DeVoretz et al (2004) studied refugees who arrived in Canada between 1980 and 2000. By combining immigration and tax records they were able to track immigrants' incomes according to their visa status. After seven years in Canada, those who had arrived as refugees had incomes that were about 40% lower than those arriving through the employment/skills stream, but were about the same as those who had arrived through the family stream. As compared with family migrants, refugees had higher levels of education on average but were less likely to be fluent in English or French. Although their human capital was similar overall to family migrants, refugees were twice as likely to depend on welfare benefits as family migrants. Overall only 52% of refugees aged 20–64 had moved into employment after seven years in Canada.

If refugees suffered substantial (and increasing) disadvantage in immigrant-friendly countries such as Australia and Canada, it seems likely they would fare even worse in Europe. A study of refugees using population register data for the Netherlands finds that refugees' employment rates rose from 15% after one year to one-third after five years (Hartog and Zorlu, 2009, p. 233). The authors also investigated the effects of education on the probability of employment and on the earnings of those who had gained employment. The results show that having a basic education helps on both dimensions, but any additional education beyond this level counts for almost nothing. It is well known that the returns to pre-migration education tend to be low for all immigrants, as compared with education acquired in the host country. But refugees seem to suffer more than other immigrants, perhaps because their migration was unplanned. Thus refugees' skills may not be as easily transferrable to the host country as is the case for other migrants, for whom the decision whether or not to migrate is likely to depend, at least in part, on the transferability of their skills.<sup>83</sup>

The most comprehensive and detailed information on refugee assimilation comes from Sweden. This provides a longer term perspective, as well as distinguishing between refugees who came under resettlement programmes and those who arrived as 'spontaneous' asylum seekers. Figure 10.1 is taken from Bevelander's (2009) analysis of these data. It shows the profiles of employment rates for those aged 20–64 in three immigrant groups by number of years in Sweden. Two features stand out. One is that over the long term – ten years or more – employment probabilities rise steeply. This paints a somewhat more optimistic picture of refugee assimilation than if the focus is solely on

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83 This is the reverse of what the Borjas (1987) model predicts.

the first few years. But it is a long haul and refugees never quite attain the level of native Swedes.

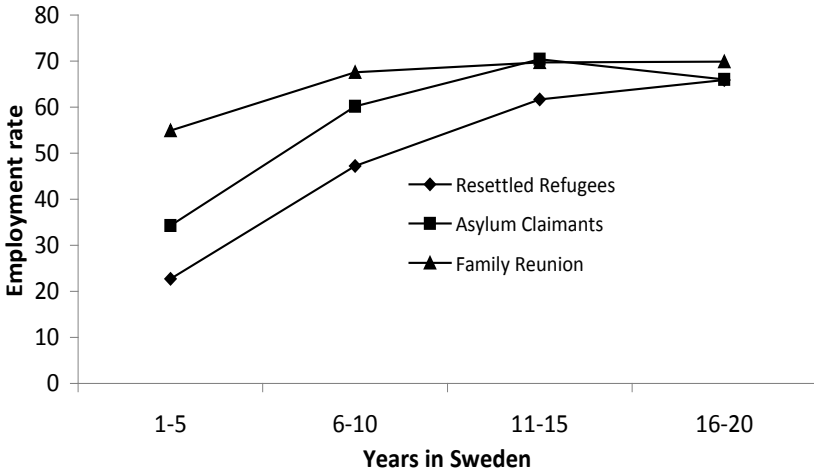
The second feature is that resettled refugees have lower employment rates than those who arrived spontaneously, although both groups eventually catch up with family reunification migrants. This reflects two factors. One is that resettled refugees, who are typically selected from the camps, are likely to be less positively selected than those who migrate to the destination on their own initiative.<sup>84</sup> Hence their initial employability is particularly low. The other is that those who were resettled are the least likely to have networks to help them gain employment. As we have seen in Chapter 8 (Tables 8.2 and 8.3), pre-existing networks (as reflected by the migrant stock) have a sizeable effect on the flow of asylum applications. Family reunification migrants are networked by definition and hence they are more likely to gain employment early on, even though they are not selected on employment criteria.

Analysing the Swedish micro-data, Bevelander and Pendakur (2009) confirm the patterns seen in Figure 10.1 and also the discrete effect of basic education on employment that was observed for the Netherlands. Interestingly they find that, for those who claimed asylum after arrival in Sweden, the time spent prior to obtaining a residence permit had a positive effect on the probability of employment. But this effect is smaller than time spent since obtaining status – a result that is also found for the Netherlands (Hartog and Zorlu, 2009, p. 237). It seems likely the weaker pre-status effect was due to time spent in limbo, without the right to work. Thus, long processing periods serve to retard the pace of assimilation but do not bring it to a halt.

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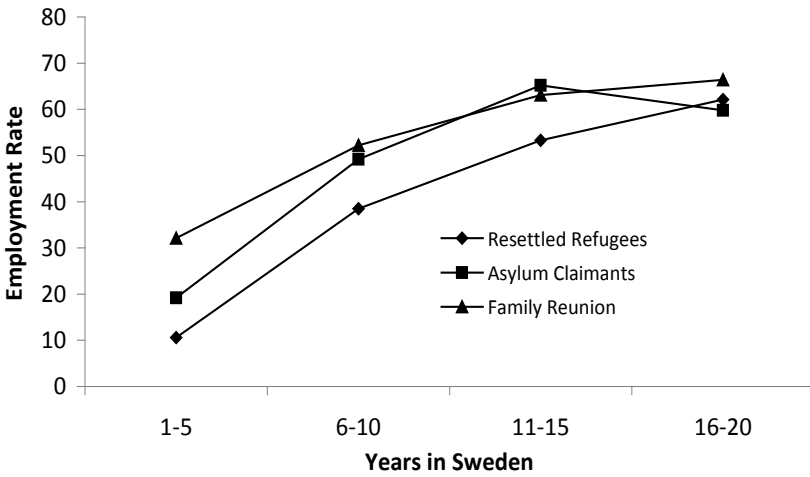
84 Resettled refugees are typically selected by the UNHCR and then 'offered' to the receiving country. As Thomson (2009, pp. 37–42) illustrates, this can create a conflict of interest. While the UNHCR wishes to protect those who are most vulnerable and in need of assistance and support, the receiving country wishes to select those who are most employable and least likely to be a burden to the state (see also Rönnqvist, 2009, p. 139).

Figure 10.1a Employment rates of refugee men in Sweden



Source: Bevelander, 2009, Figure 3.18; data kindly provided by Pieter Bevelander.

Figure 10.1b Employment rates for refugee women in Sweden



Source: Bevelander, 2009, Figure 3.23; data kindly provided by Pieter Bevelander.

Once having gained the right to work there are many impediments still to be overcome. A small sample of refugees in the UK found that only 29% had employment compared with 60% of ethnic minorities generally (Bloch, 2002, p. 88). This is partly because, as new immigrants, they lack contacts and information to access the labour market. But while refugees generally had lower employment rates than others of the same ethnic group, the variation across ethnic groups followed the same pattern as that of non-refugees.<sup>85</sup> Of those in employment nearly two-thirds had gained it through kinship and ethnic networks. Apart from lack of contacts, the most important barriers to employment were lack of education, or lack of recognition of skills, and, above all, lack of language proficiency (Bloch, 2002, p. 114). In these respects refugees are not dissimilar to other recent immigrants, especially those from the poorer parts of the world. But they do seem to suffer some additional penalty. So while refugees may be positively selected on energy and initiative, these qualities are more than offset by the relatively poor match in terms of employability. The latter would account for their early disadvantage, the former for their eventual recovery.

It is sometimes argued that the dispersal of refugees adds a negative twist to their economic progress. Dispersal policies have been introduced in an effort to reduce clustering in gateway cities and to avoid the creation of ghettos, but in practice they have often been driven by the need to find suitable accommodation.<sup>86</sup> For decades Germany has distributed asylum seekers across its Länder in proportion to population, and dispersal systems of various kinds have been introduced in Austria, Belgium, Denmark, the Netherlands, Sweden, and the UK. The Swedish policy, introduced in 1985, dispersed resettled refugees throughout the country, sometimes to remote areas. One study reports that non-employment increased by a third, earnings declined by a quarter, and welfare dependency increased by a half (Edin et al, 2004). Most of this effect was not directly due to dispersal, but rather to the shift in policy focus away from labour market integration towards welfare support.<sup>87</sup> However, dispersal to an initial location with poor employment prospects also had direct negative effects on the employment probabilities of refugees. And these were still visible after five years, despite considerable onward mobility (Åslund and Rooth, 2007).

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85 Similar patterns of ethnic disadvantage can be found all across Europe, see Kahanec and Zimmermann, 2011.

86 For an outline and assessment of the earlier dispersal policies in Sweden, the Netherlands and the UK, see Robinson et al, 2003.

87 The dispersal policy was introduced at the same time that the responsibility for refugees was transferred from the Swedish Labour Market Board to the Swedish Immigration Board. Before the reform, refugees were shifted quickly into work or training. After the reform they were provided with welfare support, initially for 18 months and possibly longer, with less emphasis on training and employment (Edin et al, 2004).



In Denmark a dispersal policy was introduced in 1986. In contrast to the Swedish case, the evidence suggests that this had modest effects on the job finding rate (Damm and Rosholm, 2010). Refugees often moved to more urban locations where there are larger numbers of co-nationals. For the low-skilled, locating in ethnic enclaves led to increased wage rates with only very marginal effects on employment rates (Damm, 2009). Thus the effects of initial dispersal *per se* seem to be modest. What matters more is restrictions on seeking work or limited opportunities for mobility, in combination with generous welfare benefit and housing provisions.

## **10.2 Rehabilitation and integration of refugees**

Labour market assimilation is just one (albeit important) aspect of refugee assimilation. There is a variety of other features of the socioeconomic experience of refugees that govern their welfare and also the degree to which they integrate into the host society. These processes have been a matter for concern among refugee advocates and supporters. There are two important elements that influence the economic progress that refugees make and the degree to which they integrate. One is the characteristics of refugees on arrival in the host country. The other is the conditions that they face during and after the refugees status determination process.

One important characteristic is the health of refugees. Some studies have found that immigrants are typically healthier than the host population, perhaps as a result of positive selection (Razum et al, 2000; Kennedy et al, 2006). But the evidence suggests that this is less true for refugees. In Australia those who arrived on humanitarian visas were twice as likely to self-report less than good health than other immigrants (Chiswick et al, 2008). Among refugees in the UK, one in six suffered from a physical health condition that was serious enough to require treatment, and which potentially affected their activity (Burnett and Peel, 2001). Such conditions include tuberculosis, HIV/AIDS, and respiratory and gastrointestinal disorders, and their incidence is strongly associated with the health environment of the source country. Although much of the attention has been on women and children, it is far from clear that they suffer the greatest health deficits (Iglesias et al, 2003).

A key difference between refugees and other immigrants is that the former have often been traumatised. Some have suffered physical injuries as a result of war and those who are victims of rape or other human rights abuses may be severely traumatised. Many have witnessed killings, sometimes of close relatives, or have been parted from their family members who have been abducted or imprisoned. A meta-analysis of nearly 7,000 refugees in seven OECD countries concluded that 1 in 10 suffered from post-traumatic stress

disorder (PTSD), and 1 in 20 suffered major depression (Fazel et al, 2005). For those involved in the Balkan wars the incidence of PTSD was 20% (Priebe et al, 2010). Thus, although mental health disorders among refugees are lower than is sometimes suggested, nevertheless they are 10 to 20 times the rate of the rest of the population.

These conditions can be exacerbated by their experiences after arrival in the host country.<sup>88</sup> A particular concern is access to health care. A survey of European countries found that while almost all countries offer initial screening for certain medical conditions such as tuberculosis, HIV, and other conditions, these are sometimes only voluntary and sometimes only available for those held in reception centres (Norredam et al, 2005). Even after receiving some form of status, refugees' access to healthcare was found to be the same as for citizens in only 10 out of 23 countries. In some cases treatment was only available for emergencies or for vulnerable groups such as children and pregnant women. In Germany, for example, full access is available only after three years. Other studies have also drawn attention to the fact that effective access to treatment is limited by administrative barriers and sometimes by its cost.

Perhaps the most important single element in the integration of refugee is to gain fluency in the host country language. Studies of immigrant assimilation find that language fluency is strongly associated with a higher probability of employment and with higher earnings (Chiswick and Miller, 1995; Dustmann, 1994) as well as with social integration. For immigrants with limited pre-existing labour market skills, fluency is a necessary condition for gaining education and training, while for others it provides a means of adapting existing skills to the host country context. The acquisition of language skills itself depends on three elements: the economic incentives for doing so, the ease with which fluency can be acquired, and on exposure in the host country. For refugees who are likely to settle permanently the incentives are strong but there are also serious impediments that include health problems and lack of institutional knowledge, limited resources and lack of residential stability.<sup>89</sup>

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88 Studies of refugees placed in Australia's detention centres (a practice now abolished) find that they suffered from a wide range of trauma events, before and during incarceration, leading to despair and depression and sometimes attempted suicide (Steel and Silove, 2001). In part, these disorders were the result of a harsh detention regime – and the longer the detention the worse they became (Green and Eagar, 2010). Those who had experienced detention suffered more mental health problems than those who had received permanent protection, partly because of the uncertainty about their future (Momartin et al, 2006). Although these cases are somewhat extreme, they serve to illustrate that post-arrival experiences can exacerbate or prolong the incidence of trauma-related disorders which retard the process of rehabilitation.

89 One study for the United States finds that soon after arrival refugees earned less and worked fewer hours than other immigrants but ten years later they had overtaken other immigrants on both these dimensions and had also improved their English skills by more (Cortes, 2004). However, refugees are identified only by country of origin and not by entry visa status.

A recent longitudinal survey of refugees in the UK studied their progress from the time of gaining status in 2005 onwards. About half of the refugees had been in employment or self-employment before migration but less than half had any educational qualifications and 27% had less than six years of education. Interestingly, at the time of gaining residency about half had been in the country for more than a year, during which time some had improved their English. This probably accounts for the fact noted above that time before gaining status contributes modestly to subsequent employability (Daniel et al, 2010). In the following 21 months the proportion with a good command of English increased from 26% to 38%, while the proportion with a very low level of English decreased from 38% to 15%. In the ensuing year or so the proportion employed increased from 34% to 40%. Not surprisingly those with the higher skills and language proficiency were most likely to gain employment, although this was typically in jobs that undervalued their qualifications (Cebulla et al, 2010).

Although we lack specific studies of language acquisition for refugees over a range of countries, it seems likely that their patterns will be similar to those for immigrants as a whole. Econometric studies uniformly find that fluency in the host country language is higher the more educated the migrant and the longer the period of residence in the host country. On the other hand, the greater the linguistic distance between the source and destination countries, the more difficult or costly it is to learn the language. Those from Indo-European language origins, and especially from the same Germanic or Romance language group as the host country, generally do best. All these findings are supported in a study of immigrant language proficiency in nine Western countries (Van Tubergen and Kalmijn, 2005). Interestingly the authors also found that immigrants from politically suppressed societies did less well – an indication that refugees face greater disadvantage than other migrants as a result of selection and stress. They also found differences among destinations: notably that immigrant fluency was lower where host country attitudes were more anti-immigrant.

Thus existing evidence suggests that the integration and economic assimilation of refugees presents challenges for integration policies in host countries. Perhaps not surprisingly, the last decade has seen an expansion of integration programmes in countries such as Denmark, Sweden, Norway and the Netherlands, followed by Austria, France, Germany and the UK.<sup>90</sup> These programmes apply to immigrants generally and they have increasingly introduced language requirements as a condition of permanent residency or citizenship (Carrera, 2006). There has also been an expansion in language training for refugees, often coupled with programmes on the host country culture as well as vocational support and mentoring. In some countries such

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90 Policy developments in a variety of countries are discussed in a special issue of the *Journal of Refugee Studies* (2010).

as Denmark these have been customised to the individual's specific needs. Efforts to provide vocational skills have been more limited and apparently less successful, although there has been little formal programme evaluation. And while governments often grant the right to work sooner than the one year required by EU regulations, the period is often extended by bureaucratic delays. More problematic still is the status of those who are not recognised as refugees but have some form of 'tolerated' status and who often face strict limitations on the right to work .

### 10.3 Persistence and disappearance

If we are interested in the fate of those who enter the asylum process then we must be concerned not only with those who eventually receive permission to stay but also with those who are rejected. As we have seen, the total recognition rate (Convention plus humanitarian as a share of all decisions) fell from over a half in the early 1980s to about a quarter in recent years. Even if we take account of those who are successful on appeal and those who gain status on other grounds, around two-thirds of all applicants do not obtain the right to remain in the country.

What happens to them is a rather vexed question. Some are repatriated voluntarily, with or without official assistance, and an increasing proportion are forcibly deported. In the UK removals and voluntary departures increased as a percentage of claims rejected from less than 20% in 1997–2001 to just over a third in 2002–6. In 2006 the UK Home Office reached its target of the number of removals equalling the number of unfounded claims. Nevertheless it is hard to escape the conclusion that, especially in the earlier years, a large proportion of rejected asylum seekers simply stayed on illegally.<sup>91</sup> The National Audit Office (2005) estimated that between 1997 and 2004 the number of rejected applicants who were not known to have left the country was between 155,000 and 283,000. An even larger number of cases (about 400,000) were still 'unresolved' and it was taking over a year to remove those who were rejected on appeal. In a subsequent report the National Audit Office (2009) found that a significant backlog remained and that policy on removals had met with limited success.<sup>92</sup> Around 60,000 of these were still unaccounted for in 2011. In 2009 a little over 17,000 principal applicants for asylum were rejected while about

91 One source estimates that in the EU-15 there were between 1.8 and 3.3 million illegals in 2008, down from 3.1–5.3 million in 2002 (Clandestino, 2009). This seems a somewhat conservative estimate and is substantially lower than the 5–8 million that was widely canvassed earlier in the decade.

92 The National Audit Office (2009, p. 9) noted that delays in processing and limited detention facilities made it difficult to keep track of rejected asylum seekers. In a minority of cases external factors made removal impossible, while in others the process had been aborted by administrative delays, because individuals had absconded or travel documents had expired.

10,000 were either removed or left voluntarily.<sup>93</sup> It seems likely that many of the lost asylum seekers have moved into the underground economy, adding to the existing UK stock of around half a million undocumented migrants.

The pattern in other EU countries has been similar. In the surge of asylum applications in the early 1990s the authorities in most countries failed to keep track of rejected asylum seekers. Towards the end of the decade some countries, such as France, the Netherlands and Switzerland, embarked on repatriation programmes in cooperation with source country governments (Khosher, 2001). But the numbers involved were small. More generally, governments increased their surveillance of, and control over, rejected asylum seekers and strengthened their deportation procedures. Some of these measures have met with limited success. In 2005 the Dutch Immigration Service identified 26,000 applicants whose claims had been rejected prior to 2001 but who were still present. Of these, 41% were given residence permits, but of the remainder, 61% absconded to avoid being removed (ECRE, 2005a, p. 226). In the Netherlands and elsewhere a further tightening of policy in recent years has led to fewer rejected asylum seekers being 'lost'.

This process has been aided by the speeding up of status determination procedures so that there is less opportunity for asylum seekers to disappear while awaiting a decision. It has also been helped by the expansion of detention facilities and by the general decline in asylum claims since 2002. Reforms have occurred in different countries at different times and are still ongoing. In countries where there is a multistage process, the time to first decision has fallen more dramatically than the time to final decision. But waiting time overall has declined. In Denmark the average waiting time to a decision fell from an average of 146 days in 2009 to 41 days in 2010.<sup>94</sup> Similarly in Finland the process has been shortened to four months instead of extending for years. One side-effect of increasing the probability of removal is that some potential asylum seekers may now not apply for asylum at all, fearing that if they are rejected they will not be able to avoid removal.<sup>95</sup>

By their very nature we know much less about rejected asylum seekers who have simply become undocumented migrants. Once lost from official view it is very difficult to know how rejected asylum seekers fare as illegal stayers. It seems likely that their employment rates are no lower than those who have been recognised as refugees. A 2008 survey of 1,100 undocumented adults in

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93 Of those, over 6,000 were forcibly removed, see <http://rds.homeoffice.gov.uk/rds/pdfs10/hosb1510.pdf>, p. 31.

94 See [www.denmark.dk/en/servicemenu/news/generalnews/bigdropinasyllumapplicationwaitingtimes.htm](http://www.denmark.dk/en/servicemenu/news/generalnews/bigdropinasyllumapplicationwaitingtimes.htm)

95 According to ECRE, 'Overly restrictive measures may also cause some refugees to lose faith in the ability of asylum systems to guarantee a fair examination and lead them to reside and work illegally in European states rather than formally lodge a protection claim' (2005b, p. 10). However, a large number still do apply for asylum. It is estimated that about three-quarters of irregular migrants to Italy in 2008 applied for asylum, and of those, half were accepted as refugees.

11 European countries found that about a fifth were in regular employment, while a third had occasional work (Médecins du Monde, 2009, p. 64). On the one hand, their employment options are limited, but on the other hand in the absence of other sources of income such as welfare benefits, they have even greater incentives to gain an independent income. As a result they are likely to seek work in the illegal market at low wages, typically as cleaners or labourers and in sectors such as agriculture, construction, catering and domestic service. Evidence on illegal Mexican immigrants in the United States indicates that they earn around 12–22% less than those who are legal (Kossoudji and Cobb-Clark, 2002; Schluter and Wahba, 2009). Although there is no hard evidence for illegals in Europe, casual empiricism suggests that the situation would be similar, if not worse.

In the survey of illegal immigrants in Europe (Médecins du Monde, 2009), more than a quarter of respondents claimed to be victims of persecution in their home country and, despite their illegal status in the host country, more than 80% intended to stay. Less than half were with their families and 40% were living alone, often in destitution.<sup>96</sup> Less than half of them had secure accommodation: 8% were sleeping rough and a similar number slept in shelters; two-thirds of the rest lived in overcrowded conditions. While a third of men and a quarter of women were in poor health, only around a fifth had effective access to health care. Even where they had the right to health services the majority did not avail themselves of it, either because of the cost and administrative complexity or because of fear of being reported to the immigration authorities (see also PICUM, 2007).

It is doubtful that we shall ever have a full picture of illegal immigrants. Nevertheless it is clear that, while their characteristics seem very much like those of recognised refugees, they are even more disadvantaged by the fact of their social exclusion. It is important to stress, however, that not all illegal immigrants are rejected asylum seekers or individuals who have fled from persecution but never entered the asylum process. In the United States, for example, there are an estimated 11 million undocumented migrants, two-thirds of whom are from Mexico and only a small proportion of whom could potentially claim asylum (and hence they are not discussed in detail here). By contrast, in Europe there is a much greater overlap between the asylum system and illegal immigration. As a result the two have become inextricably linked and thus the issue of illegal immigration has become an integral part of asylum policy.

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<sup>96</sup> Amnesty International (2006) has documented cases of destitution among rejected asylum seekers, arguing that this was a deliberate policy to make them leave the country.

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# 11 A New Start for Policy?

The rise in asylum applications to a peak in the 1990s started a long process of soul-searching about the policies that were allowing this to happen. As we have seen, there was increasing disquiet and political clamour in a number of countries that led directly or indirectly to a dramatic toughening of national asylum policies – something that has been well described as a policy backlash. But it also raised much broader questions about the international refugee regime itself. In particular there are three questions. The first is whether or not the fundamental underpinning for asylum policy, the Refugee Convention, remains an adequate basis for policy, and whether instead it should be reformed or perhaps scrapped altogether. The second is to ask if there is scope, within this framework, for greater regional cooperation between receiving countries, notably within the European Union. The third focuses on how to reform specific branches of policy towards asylum seekers and refugees. This chapter discusses these three issues.

Before proceeding it is important to note two considerations that must be at the core of any evaluation of asylum policies. The first is that any reform to policy must bear in mind the likely effect on the numbers of applicants. We have seen that policy is important in determining the numbers. So there is simply no credibility to policy recommendations that are based on throwaway lines to the effect that, because asylum seekers are fleeing conflict, they will not be deterred by tougher policy. A second and related issue is that, whatever policies are recommended, they must be acceptable to the governments concerned and to the broad majority of voters who elect them. Recognising the political realities is an important first step in framing realistic proposals for policy reform.

## 11.1 Scrap the Convention?

Critics have often argued that the Refugee Convention was a product of its time that has outlived its useful life.<sup>97</sup> They argue that it is not well suited to the sorts of refugee surges that have been observed in the last three decades. In an age when access to travel by air and by sea has increased, when people smuggling has become a multinational industry and when there are enormous incentives for economic migration, it has become something of an anachronism. Some observers have blamed the Convention for governments' inability to control unwanted migration, something that it was never designed for. Yet, in relation to the growth in population and the capacity of developed countries to assist refugees, the refugee burden in recent years does not seem disproportionate as compared with the early postwar years when the refugee regime was created. Rather, the issue is one of decreased tolerance for accepting refugees who arrive spontaneously, often illegally, and who are often suspected of not being genuine.

Perhaps the acid test is whether or not people and governments actually continue to support the Convention. Clearly one option available to sceptical governments would simply be to withdraw from the Convention and introduce policies more suited to their own national needs and values. On the Convention's 50th anniversary in 2001, British Prime Minister Tony Blair insisted that 'its values are timeless but we should stand back and consider its application in today's world'. He went on to argue for 'reform, not of the Convention's values, but of how it operates' (quoted in Achiron, 2001). But at a meeting in Geneva in 2001 attended by the representatives of 140 governments the Convention was reaffirmed by all its signatories. In the global consultations that followed, its strengths and weaknesses were widely debated, and although a range of initiatives were agreed under the rubric of an 'Agenda for Protection', the Convention itself survives unchanged. Much of the frustration has to do with the Convention's vagueness on key issues, such as the terms of entry to asylum procedures and the determination of refugee status, which, some observers would claim, have allowed governments to progressively undermine its key principles. Yet this can also be seen as a source of strength: providing room for manoeuvre has insured the Convention against defections that might otherwise have led to its ultimate collapse.

As we have seen in Chapter 2, the Convention's main provisions were shaped by historical circumstances. But that mere fact does not mean that it is now obsolete. Among the most important of its provisions is the definition of a refugee (Article 1). Some have criticised this clause for its focus on the individual's fear of persecution. Yet it is difficult to see how blanket protection could be afforded for groups or classes of people (as was done in the 1940s

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97 See for example Millbank, 2001.



and in acute situations ever since) without unleashing even greater criticism that it opens the door to people who are not genuine refugees. Others have argued that the definition should be extended to explicitly cover issues such as persecution on the grounds of gender or sexual orientation, persecution by non-state agents, and (as in the OAU Convention and the Cartagena Declaration) in the event of generalised violence or conflict. In fact, those persecuted for reasons not covered by the Convention are often given some form of asylum. However, policy towards those fleeing generalised violence or conflict tends to be less generous and less uniform across countries (see further below).

One of the most controversial issues concerns what many see as the pivotal clause of the Convention, the *non-refoulement* requirement of Article 33. Some critics argue that it is this, above all, that has forced Western governments to open their doors to all comers. But the Convention is unclear about whether *non-refoulement* kicks in only when an asylum seeker arrives on the country's territory or if it applies at or outside the border.<sup>98</sup> Since at least the 1990s the practice of many governments has been to grant entry to asylum procedures only to those who are on the territory. At the same time they have interdicted boats (as in the United States and elsewhere), excised outlying territories (as in Australia) or established special airport zones (as in much of Europe), tightened visa requirements and introduced departure inspections in order to prevent the arrival of potential asylum seekers.<sup>99</sup> As the evidence of chapters 8 and 9 shows, this has been effective in reducing asylum applications to levels that governments and their voters will tolerate. While this can be seen as undermining the spirit of the Convention, it is difficult to see how else to limit the numbers to acceptable levels without making other radical changes.

Nevertheless these practices have been severely criticised on the grounds that, while they may help to deter or deflect those who are not genuine refugees as defined under the Convention, they inevitably have the effect of denying the right to asylum to many who are genuine refugees. Gibney (2006) has argued that one solution is to allow asylum seekers to apply at embassies and

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98 One view is that it applies at the border because the origin of the clause is in Article 3 of the 1933 Refugee Convention (Hathaway, 2005, p. 315). But this applied specifically to refugees who had already been issued with Nansen certificates and so the application is not straightforward. Furthermore, as the 1933 Convention was ratified by only eight countries, the force of precedent appears to be rather weak.

99 These practices have typically been supported by the courts. Thus in 1994 the US Supreme Court found that interdicting boats from Haiti was not in contravention of the Convention. In the UK Court of Appeal the British government successfully defended the screening by its officials of airline passengers embarking in the Czech Republic. (However this was later reversed by the House of Lords, not under asylum law, but on the grounds of discrimination against a specific class of people (the Roma) relative to other Czech citizens.) On the legality of interdiction, see Hathaway, 2005, pp. 308 and 336–40.

consulates in the countries to which refugees escape in the first instance.<sup>100</sup> Some governments did offer that possibility up to the 1990s but most subsequently abolished or restricted it, and it is hard to envisage that they would reverse it. Such a policy would multiply the number of applications without helping to eliminate unfounded claims. In any case, identifying eligible refugees would be better done by organisations such as the UNHCR or the International Organization for Migration, which have the relevant expertise. As it stands, these organisations select far more refugees for resettlement programmes than developed countries are willing to take.<sup>101</sup> And it is clear (as in the case of Australia) that the arrival of spontaneous asylum seekers has reduced the willingness of governments to accept programme refugees. Thus it is not feasible to offer easier access to asylum without restricting the demand for it through some other means.

One possibility is the greater use of temporary protection, a status that would last until the conditions in the source country have improved and the risk of persecution has declined. As we have seen, the Refugee Convention was enacted against the background of the Cold War and in the decades that followed it was used as a basis to provide permanent resettlement for those fleeing communism. However, those conditions have gradually changed. Although some civil wars still lead to protracted refugee situations, the fall of communism has brought a decline in the proxy wars which fuelled their persistence. And as we saw in Chapter 4 (Table 4.1) there has been a sharp increase since 1990 in the number of conflicts that have been contained or resolved. Some would argue that temporary protection is inconsistent with the spirit, if not with the letter, of the Convention. However, the text of the Convention does not require the host country to provide permanent protection to refugees, and it specifically provides for a change of status when source country conditions change.<sup>102</sup> Nevertheless, it takes the resettlement and integration of refugees as the norm – something that reflected the circumstances of the time. But it is surely reasonable to argue that the true spirit of the Convention is that of protection from persecution rather than that of permanent resettlement.

Temporary protection has been used in the case of sudden influxes (such as that from Kosovo) and it could be a route to permanent settlement if conditions in the source country do not improve within a few years. From the point of view of host countries there are two major advantages. One is that offering

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100 Noll (2005) discusses the legal basis for applications (protected entry procedures) at embassies. He finds that there is no requirement under the Refugee Convention and that any obligation under other human rights legislation is weak.

101 In 2008 the UNHCR submitted 121,000 refugees for resettlement, while the number resettled with UNHCR assistance was 67,000 (UNHCR, *Statistical Yearbook 2008*, p. 10).

102 Article 1C(5) provides that a person may cease to be a refugee as defined by the Convention if 'He can no longer, because the circumstances in connexion with which he has been recognized as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality.'

only temporary protection in the first instance would limit the numbers applying, as was illustrated in Chapters 8 and 9. It would probably also decrease the incentive to apply for asylum as a route to permanent migration. More important, limiting the right to resettlement could potentially lead to a greater number being protected from persecution. By curtailing the right to permanent resettlement, governments (and their electorates) might be persuaded to accept larger numbers of those in genuine need. The more that refugees can be seen to return when source country conditions have improved, the more places could be opened up to those with current and pressing needs for protection. But such proposals can be criticised on two grounds. One is that it leads to a two-tier system, where one set of refugees gain permanent protection and another set does not. But this feature already exists, where some asylum applicants gain Convention status while others receive the lesser rights of humanitarian protection. A second issue is the obvious difficulty of returning refugees once the immediate risk of persecution has abated and the likely risk of *refoulement*.

Critics of the current refugee regime often argue that, rather than limiting access and toughening asylum procedures, developed countries should pay more attention to improving conditions in source regions as a means of stemming the flow of applicants for asylum. This should not be interpreted as a shortcoming of the Convention, but rather as a call for a set of complementary strategies. One argument is that the considerable resources ploughed into asylum could be better used in finding ways to prevent or mediate in civil wars or to provide source country governments with incentives for reducing human rights abuses. The only thing worth saying about this is that, if such cost-effective ways of peacemaking were available, they would surely have been adopted long ago. Another variant on this theme is to put more resources into improving living conditions in source countries. Perhaps the best way to illustrate the effect of such policies is to refer to the effects of living standards on asylum flows that were estimated in Chapter 5. They show that a \$1,000 increase in the GDP per capita of source countries would reduce asylum claims by around 20% (Table 5.2). These effects are not negligible, but even if development aid could be shown to work, it would require a vast input of resources to lift source country living standards by enough to make a significant dent on the number of applications.<sup>103</sup> Highly commendable though such policies might be, on any realistic scale they would do little to relieve the need for tough asylum policies.

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103 For a critical evaluation of the literature on the relationship between development aid and economic growth in poor countries see Easterly, 2003, and Easterly and Pfutze, 2008. Easterly concludes: 'In virtually no other field of economics do economists and policymakers promise such large welfare benefits for modest policy interventions as "we" do in aid and growth. The macroeconomic evidence does not support these claims. There is no Next Big Idea that will make the small amount of foreign aid the catalyst for economic growth of the world's poor nations' (2003, p. 40).

Another theme is to augment the international refugee regime through enhanced cooperation between source and destination regions and countries, and in particular through North–South cooperation. Two initiatives launched by the UNHCR are worth noting. The first of these, Agenda for Protection, grew out of the Global Consultations programme that led up to the 50th anniversary of the Convention, and its first aim was to strengthen the implementation of the Convention. It also laid out an ambitious programme that called for North–South collaboration in a number of areas including burden sharing among receiving countries, building refugee reception capacities, addressing security concerns and protecting women and children.<sup>104</sup> However, this programme yielded very little fruit. One reason is that the recommendations were broad in scope and non-binding in practice. Like other such plans, there was no mechanism to make it happen. Another reason is that this particular initiative was rapidly overtaken by another UNHCR-sponsored plan (Loescher et al, 2008, pp. 62–3).

An initiative entitled Convention Plus was launched in 2003 and again it called for strengthening adherence to the principles of the Convention.<sup>105</sup> The ‘Plus’ included a range of general issues as well as programmes targeted to specific refugee situations. The emphasis was on finding durable solutions to refugee situations through enhanced cooperation over resettlement and repatriation, and there was also a focus on development aid and capacity building in countries of first asylum. The main thrust of the programme was on international burden sharing, both in terms of the distribution of refugees and financial assistance. But, as before, there were no mechanisms to make it happen, and thus it was ‘doomed to fail from the outset’ (Zieck, 2009). According to one set of observers: ‘this was due to the polarisation of positions between Northern and Southern States on migration and development’ (Loescher et al, 2008, p. 64).<sup>106</sup>

Although North–South cooperation lay at the heart of Convention Plus the UNHCR called for cooperation under three distinct strands (or prongs) of asylum policy. These included developing durable solutions within source regions and improving asylum procedures. But one of them, the so-called EU

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104 A revised version of this programme can be found at [www.unhcr.org/3e637b194.html](http://www.unhcr.org/3e637b194.html).

105 This was initiated by incoming High Commissioner Ruud Lubbers and first developed in 2002.

106 They go on to explain that: ‘In the development debates, Southern states were left disillusioned by both the reluctance of donor states to offer significant additional assistance and the exclusion of host states from many of the “donor-only” discussions. Meanwhile, Northern states were left disillusioned by the apparent unwillingness of Southern host states to countenance local integration or self-sufficiency opportunities for refugees on their territories. In the irregular migration debate, Northern states wanted a definition of “effective protection” that would make return and readmission of refugees to regions of origin easier. For their part, Southern states wanted a definition that would ensure greater financial commitment by donors to strengthen the refugee protection capacity of host states without this being related to readmission’ (Loescher et al, 2008, p. 64). Betts (2011) argues that the failure of Convention Plus was due to the lack of issue linkage between its different strands, something that might otherwise have fostered greater cooperation.

prong, envisaged a deeper integration of asylum policies in receiving countries, including the establishment of centrally managed closed reception centres for processing certain types of applications. This topic is explored further below.

## **11.2 The political economy of cooperation**

As noted in the previous section, governments around the world have demonstrated that they have little appetite for scrapping the Refugee Convention or replacing it with something radically different. We have also seen that there is a degree of genuine compassion for refugees among the populations of developed countries – at least up to a point. But the fact is that the number of refugees who could potentially be resettled far exceeds the number that it is politically possible to admit and therefore some form of rationing is inevitable. Acting individually, governments have been obliged to respond to swings in public opinion, and particularly to the ebb and flow of extreme right-wing populism, with ever tougher policies in order to maintain the numbers at ‘acceptable’ levels. Given that the provisions of the Convention are fairly elastic, they have managed to stay largely within the letter of the Convention, if not within its spirit.

The question here is whether or not, in the light of these realities, there are potential gains to cooperation among refugee receiving countries. The focus is principally on the countries of the EU, which after all receive more than two-thirds of all applications to industrialised countries. And it is here, above all, that cooperation is politically possible. As we have seen, a process of harmonisation of asylum policies has been underway for more than a decade under the banner of the CEAS. That invites the question of what types of policy coordination could and should be adopted in its further development.

Here I outline in words the findings from a relatively simple theoretical model, the details of which are presented in the appendix to this chapter. In the model, the populations of two countries place a value on providing a safe haven for refugees, but the marginal benefit declines as the number admitted increases. Each country’s citizens place a value on the refugees that their own country admits but they also put some weight on the refugees that are accepted by the other country. Because the benefits from refugees do not flow exclusively to the citizens of the country that accommodates them, refugees have the characteristic of a public good. It is worth stressing that the benefits considered here are those of the populations of the host countries, not the refugees themselves. This reflects the fact that these are the citizens who ultimately determine policy. The gains to the refugees from escaping persecution matter in this model only insofar as they are transformed into the humanitarian motives of the host country population. There is also a positive

cost of refugees that depends on the number of refugees admitted and that falls only on the host country. So the net benefit from refugees to the citizens of one country depends positively on the refugees admitted to their country, positively on the number admitted to the other country, and negatively on the host country cost.

The two countries face different levels of demand for asylum places, reflecting differences in the preferences of those seeking asylum or the proximity of one destination compared with another. Each country's government has a single policy tool, such that a tougher policy reduces the number of refugees admitted. Tougher policy in one country reduces its total applications but deflects some of them to the other country. In this setting, each country chooses its asylum policy taking the other country's policy as given. This produces a Nash equilibrium in policies, where the greater is the cost of refugees, the tougher is policy. The country that faces the higher demand for asylum chooses a tougher policy than the country facing the lower demand. In this framework, where the countries are identical except for the asylum demand that they face, they choose different policies in order to achieve the same number of refugees. If the countries were allowed to differ in other respects then both the policies and the outcomes would differ.

Because countries acting individually do not take account of the value of their refugees to people in other countries, they do not maximise the total social welfare from refugees. Put differently, because there is a public good element, refugee places are underprovided as compared with the social optimum that would be prescribed by a social planner. If, instead of the non-cooperative outcome, we maximise the sum of (net) welfare for the two countries jointly, then policy is less tough and more refugees are admitted. Two points are worth emphasising. The first is that the difference between the social optimum and the Nash equilibrium outcome emerges only in the presence of the public good element, although that difference is magnified if there are deflection effects. The second point is that the social optimum does not imply that the two countries have the same policies. Policy in each country is more generous to refugees than in the Nash equilibrium but the country that faces the higher demand for asylum still has the tougher policies.

During the 1990s it was often argued that some form of burden sharing could have been used to achieve better outcomes. One way of characterising this would be to introduce a common financial pool, to which countries contribute (as a lump sum), and then to redistribute this to countries according to the number of refugees that they take. What this does is to raise the total number of refugees that are admitted by reducing the marginal cost of refugees. Lowering the cost per refugee essentially compensates for the fact that policies that are chosen non-cooperatively are too tough. The establishment of the European Refugee Fund set up in 2000 can be interpreted in this light,

although the amounts redistributed were relatively modest.<sup>107</sup> One advantage of this approach is that it involves negotiating a *common* formula for both countries, whereas setting optimal policies in the absence of burden sharing would involve agreeing on a *different* policy for each country. Nevertheless serious reservations have been expressed about the political feasibility of such a policy (see further below).

As we have seen, the main focus of EU policy since the Treaty of Amsterdam has been on harmonising asylum policies rather than on burden sharing. That raises the question of whether or not welfare could be improved by harmonisation. One way of assessing this is to maximise joint welfare subject to a common asylum policy. The effect is that the country with the larger demand for asylum becomes more generous but the policy of the other country could change either way. An alternative scenario would reflect the often-repeated criticism that harmonisation has been a process of levelling down to the toughest policies. If the country with the toughest policies chooses the joint policy, then it would be tougher (and welfare would be lower) than if harmonisation took place cooperatively. Tougher policies under levelling down could be ameliorated through a lump sum payment/subsidy per refugee scheme, but would still fall short of the social optimum.

What this analysis reveals is that there are essentially two issues. One is that, in the presence of public good effects, the overall number of refugees admitted is too low. The other is that the optimal policy will differ between countries, so that the social optimum cannot be reached with harmonised policies. One possibility would be to have a much more integrated policy – a truly centralised policy – that would include the redistribution of refugees across countries. Such redistribution would compensate for the constraint imposed by a common asylum policy between countries facing different levels of demand for asylum. This would be the equivalent, at the EU level, of the dispersal schemes that have been adopted by individual EU countries. In an integrated asylum system, both forms of burden sharing could be used to reach the optimum. Dispersal across countries would address the problem of the uneven distribution of refugees that is implied by harmonised policies,

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<sup>107</sup> The European Refugee Fund was originally provided with a budget of €216 million over the five years 2000–4, about a third distributed as a lump sum to member states and two-thirds according to the number applying or receiving some form of refugee status. While this represents a significant step forward, it does not seem to have led to any easing of asylum policies. But in the words of one observer: 'Given the total costs of reception in the Member States and the share guaranteed to each Member State, the redistributive effects of the ERF are but a drop in the ocean. It must be praised as a dam-breaker construction with regard to the many dilemmas of fiscal burden-sharing, but its practical role in creating predictability and reducing resort to restrictive migration and asylum policies is rather negligible' (Noll, 2003, p. 245). An enhanced version of the European Refugee fund was established for the years 2005–10 to the value of €604 million, over four-fifths of which is allocated between member states according to the number of asylum seekers and refugees. This was superseded for 2008–13 by a new allocation of €614 million. Unlike its predecessor, this version included the possibility of distributing to a member state €4,000 per refugee for resettlement under certain circumstances.

while financial burden sharing could be used to attain the 'right' number of refugees in total. Of course there are many pitfalls to agreeing on a policy that goes substantially beyond what has been envisaged for the CEAS so far.

A further issue is whether or not any of these outcomes could be achieved through the political process. In an important paper, Facchini et al (2006) analyse how the outcome will be affected when voters in each country delegate to an elected representative the authority to negotiate international policy on their behalf. In the presence of a public good effect the median voter in one country will choose a representative with a lower preference for refugees in the knowledge that the choice of a tougher policy would increase the number of refugees taken by the other country.<sup>108</sup> As a result, the non-cooperative (Nash) outcome is less generous than that described above. Joint welfare is increased when the representatives of each country bargain over the policy settings for both countries but, because of strategic delegation, it still falls short of the social optimum. In this setting, introducing a financial burden sharing scheme does not help because it exacerbates the effect of strategic delegation. Thus, even without the complication of harmonising policies, the political process may limit the possibility of reaching a more desirable outcome through joint decision-making.

What is the likely outcome in terms of practical politics? In the EU the issue is not one of country representatives jointly setting policies that differ among countries, but rather, of ceding the authority to make policy to a supranational body, in this case the European Commission. Clearly that body could be more or less conservative than the direct representatives would be but it would surely attenuate the effects of strategic delegation. However, if governments believed that EU policy would be too generous to refugees they might not be willing to cede the power to make asylum policy to a centralised authority in the first place. This effect can perhaps be seen in the opt-outs from EU-wide immigration and asylum policies that have been negotiated by Britain, Denmark and Ireland.

There are two reasons for thinking that EU governments would be willing to go further in ceding control over immigration and asylum policies than is sometimes supposed. One is the threat of far right political parties. As we saw in Chapter 7, far right parties seem to have a disproportionate influence over asylum policies. And mainstream parties have often felt obliged to adopt tougher policies than they would wish in order to fend off or accommodate the political challenge from the extreme right, something that is often amplified by the press. Thus, in addition to the public good argument set out above, there is also a political argument for centralising authority over asylum. Ceding asylum (and immigration) policy to a centralised authority

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108 In the jargon, refugees at home and abroad are strategic substitutes.



would take it out of domestic politics, something that both centre-left and centre-right parties would probably be glad of. While at first sight this might seem to be anti-democratic, it can be justified on the grounds of reducing the weight given to racism and xenophobia in determining asylum policies.

The second reason relates to the attitudes of the average EU voter. Are European citizens willing to see immigration and asylum policies taken out of the hands of their directly elected representative and passed to what many see as faceless bureaucrats in Brussels? It is useful to look again at the European Social Survey of 2002. The survey asked respondents if they would prefer immigration and asylum policies to be decided at the international level, at the European level, at the national level or at the subnational (regional or local) level. The responses by country are summarised in Table 11.1. Somewhat surprisingly, 57.5% of all those polled wanted to see decisions on immigration and asylum policy made at the supranational level, while those preferring to keep it under national or local control were in a minority. In Belgium, Switzerland, Spain, France, the Netherlands, Poland and Portugal more than two-thirds of respondents wanted to see immigration and asylum policies decided at the European or international level. Only in the Nordic countries, Finland, Norway and Sweden were less than 40% in favour of deciding immigration and refugee policy at the European or international level.

**Table 11.1** Preferred decision level of immigration and refugee policies from ESS 2002

Country	International or European	National or local	Country	International or European	National or local
Austria	58.1	42	Luxembourg	63.6	36.3
Belgium	73.8	26.2	Netherlands	72.4	27.6
Czech Republic	61.8	38.2	Norway	39.6	60.4
Denmark	47.5	52.6	Poland	72.6	27.3
Finland	31.6	68.4	Portugal	71.1	28.9
France	70.8	29.2	Slovenia	60.7	39.3
Germany	55.6	44.4	Spain	66.5	33.4
Greece	63.2	36.9	Sweden	38.8	61.2
Hungary	47	53	Switzerland	66.7	33.2
Ireland	44.5	55.5	United Kingdom	47.7	52.3
Italy	61.9	38.1	Total	57.5	42.5

Source: ESS Round 1, edition 6.2 from Norwegian Social Science Data Services at: <http://ess.nsd.uib.no/>.

It is possible that such opinions do not reflect genuine support for EU policies. Respondents might instead have interpreted the question as meaning that immigrants and refugees would no longer be the responsibility of their particular country, and that instead they would be taken by other countries. That would seem consistent with the results from the ESS in Table 7.1 which showed that more than 60% of respondents agreed or strongly agreed that their country was taking more than its fair share of applicants for asylum. In other words, they may have thought that if policy was decided on a supranational level their country would bear less of the burden. However, across countries, the correlation between that opinion and the preference for policy to be decided at the international or European level is only 0.08. Across all the individuals in the survey it is a shade lower at 0.07. Hence it does not appear that those who favoured supranational decision-making did so simply to reduce what they saw as an inequitable burden.<sup>109</sup>

Attitudes that favour international cooperation over immigration and asylum can be compared with the responses to questions about international coordination in other policy areas where the ESS asked the same question. In three areas – environmental protection, the fight against organised crime, and aid to developing countries – an even larger percentage of respondents wanted to see policy decided at the international or EU level. The percentages who agreed or strongly agreed were 63.2, 73.2 and 75.7 respectively, compared with 57.5% for immigration and asylum. And defence was a little lower at 53.6%. These are all arguably policy areas where there are significant social gains (in the sense outlined above) to setting policy at the international level. By contrast, the percentage who wanted to see social welfare policies decided at the international level was a mere 27%. But perhaps most striking is the fact that support for supranational policy on immigration and asylum exceeds that for agriculture and for interest rates (40.4% and 44.9%). These are both areas where policy is already set at the EU level despite the fact that the social gains from centralisation are far from obvious.

To summarise, there are a number of key elements that together favour deeper integration of asylum policies. The first is that there is genuine support for providing a safe haven to genuine refugees, something that is reflected in public attitudes and in official support for the Convention. And given that refugee protection has the characteristic of a public good, there is a strong presumption that it will be underprovided unless there is coordination across receiving countries. While concerns about greater equity and uniformity in the treatment of asylum seekers have provided the momentum for harmonisation

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109 Neither does it seem to be a result of the particular way that the question was asked in the ESS. The World Values Survey for 2005–8 asked if policy on refugees should be decided by national governments, regional organizations, the United Nations, or by national governments with UN coordination. In none of the countries that are represented in the ESS was there a majority in favour of national governments alone deciding.

of asylum policies, this in turn requires greater centralisation in order to achieve socially superior outcomes. And within the EU deeper integration seems to be both politically desirable and politically feasible.

### **11.3 Reforming EU asylum policy**

There is a strong argument for further centralising European asylum policies by transferring the authority for asylum policy to a centralised body that is independent of local politics and that can impose uniform standards across the EU. Such ideas have been widely canvassed over the last decade but progress towards a genuinely integrated system has been slow. As an illustration, two proposals were made to the European Council in 2003. A proposal by the UK government concentrated on establishing asylum processing centres outside the EU, but this received little support.<sup>110</sup> Another was made by the UNHCR as part of the Agenda for Protection and Convention Plus initiatives noted above. Under this scheme, one or more closed asylum processing centres would be set up within the borders of the EU to act as community-wide clearing houses to which asylum applicants would be transferred for processing. Successful applicants would then be redistributed to member states according to 'agreed criteria' for burden sharing. The scheme also envisaged cooperation between member states on returning failed asylum seekers and financial burden sharing through an enhanced European Refugee Fund.

As we have seen, the principal focus in developing the CEAS over the last decade has been on the deeper harmonisation of asylum policies and specifically on the setting of minimum standards in areas such as status determination procedures and reception conditions. But it has also included the setting up of an integrated border control system (Frontex) and the establishment of the European Refugee Fund.<sup>111</sup> The most recent step is the setting up of a European Asylum Support Office (EASO), which is located in Malta and began operations at the end of 2010.<sup>112</sup> This office is tasked with fostering the exchange of information and the dissemination of best practice methods as well as establishing an early warning system and mechanisms for assisting states that are under 'particular pressure'. Interestingly it is also expected to

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110 This and other proposals for processing centres that were made around the same time are discussed and evaluated by Schuster, 2005.

111 Frontex is far from completely integrated. As Georgiev (2010) points out, Frontex is weaker in some countries on the external boundaries of the EU than the internal pre-Schengen border controls that it has partially replaced.

112 This was set up under regulation 439/2010 of the European Parliament and of the Council, see <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:132:0011:0028:EN:PDF>. It is interesting to note (para. 21) that the UK and Ireland (but not Denmark) have agreed to be covered by this regulation.

assist in the relocation of recognised refugees, but only on an ‘agreed basis’ between member states and with the consent of the individuals concerned.

While these are important steps forward, the control of asylum systems still resides with the member states. Providing assistance, advice and logistical support does not constitute taking control over asylum policies.<sup>113</sup> In order to exert more influence the EU needs to establish a presence, not just in one location, but in all the major countries. One model would be to establish in each country a partnership where policy is determined by the central authority but is carried out by local officials through the administrative systems of the host country.<sup>114</sup> This would allow the implementation of a centrally determined policy to be carried out in a way that would be adapted to local institutional structures. Such an arrangement would have to be underpinned by mechanisms for redistribution and by financial burden sharing.<sup>115</sup> Only then would it be possible to implement a truly EU-wide asylum system. A question immediately follows: if a more centralised system were established, then what should it do?

One important step that is envisaged by the establishment of EASO is the further harmonisation of the refugee status determination procedures.<sup>116</sup> Critics have often called for greater expertise and professionalism in judging asylum claims fairly, efficiently and with the minimum of delay, something that EASO aims to further advance through its training programmes. But, even with greater expertise, decisions can and do vary substantially between countries, notwithstanding the progress that has been made under the processing directives. Even within countries there are wide variations in the way in which decisions are made, as in the case of the Swiss cantons noted in Chapter 7. An even more striking example comes from the United States, where wide variations in recognition rates have been found across regions and jurisdictions, as well as between individual immigration officers and immigration judges (Ramli-Nogales *et al*, 2007).<sup>117</sup> Thus, even where there is a common legal framework, outcomes can differ widely when decisions are made quasi-independently and without full and clear guidelines. Hence centralised control over the implementation of asylum policy is a minimum requirement for implementing fully harmonised refugee recognition procedures.

113 According to Article 1 (6) of Regulation 439/2010: ‘The Support Office shall have no powers in relation to the taking of decisions by Member States’ asylum authorities on individual applications for international protection.’

114 This opens a possible principal–agent problem, which is a further reason to have EU officials ‘embedded’ in local institutions rather than steering policy at arm’s length.

115 Processing asylum applications locally would seem vastly superior to the proposals made in 2003 of first shipping asylum seekers to a central location and then shipping those who were successful back or onwards to another destination.

116 This requirement has been reaffirmed under Article 78 of the Lisbon Treaty.

117 Ramli-Nogales *et al* (2007) found that first instance recognition rates in the years 1999 to 2005 ranged between 26% and 62% across different regional asylum offices. They also found wide variations at each level up to the Boards of Immigration Appeals, even for applicants from the same source country.

One important issue is to establish not only a common definition of a refugee in more detail than is provided by the Convention, but to ensure that common guidelines are used in the way that it is applied. Linked to this is gaining more uniformity in the treatment of asylum seekers from the same source country in different EU states, through centralised intelligence on source country conditions (something that EASO aims to address). This would also be an important precondition for harmonising the criteria for determining which claims could be treated as manifestly unfounded. In addition, greater uniformity should be imposed in the stages through which an appeal can be made and the conditions under which leave to appeal is given. One possibility would be that the highest level of appeals should be dealt with by a devolved branch of the European Court of Justice. Overall, revisions to the status determination procedures should aim to partially reverse the severe toughening of policy that has taken place since the early 1990s. Given that asylum applications are now lower than at any time since the 1980s, a significant easing of policy on status determination would be both practicable and, for the reasons outlined in the previous section, desirable.

It would also be feasible to ease some elements relating to the reception conditions faced by asylum seekers. One of the key findings of Chapter 8 is that the number of asylum claims is influenced by policy towards access and processing, but not by policy towards the welfare of asylum seekers. Although there are strong views to the contrary, it appears that plunging asylum seekers into poverty and destitution, and thus limiting their capabilities, has very little effect on the volume of applications. But while a minimum standard of welfare is important, the key issue is access to employment, as we saw in Chapter 10. Thus the waiting period before acquiring the right to employment should be reduced to no more than three months, perhaps even less. And this needs to be supported by furthering the efforts noted in Chapter 10 of providing training and assistance in order to access the job market. It is worth remembering as well that, despite considerable debate over this issue, public opinion is strongly in favour of allowing asylum seekers to work while their claims are being processed (see Table 7.1).

One of the most contentious issues is policy on detention. Here too the deterrent effect of relaxing harsh detention regimes is likely to be weak. But the more pressing question is that if detention is not used, then how is it possible to avoid the past experience of asylum seekers simply disappearing while their claims are being decided, and especially when they have been rejected? Electronic tagging would be a possibility in cases where there are grounds for believing that an asylum seeker is likely to abscond, and it has been used in the UK since 2006. Other, less intrusive, methods such as reporting requirements, release on bail or bond, and release under supervision by caseworkers, family or the community have been shown to work well in certain cases, even among failed asylum seekers facing deportation. Most countries already have in place

a spectrum of methods, representing differing degrees of enforcement, for keeping track of asylum seekers, although some are rarely used.<sup>118</sup> The evidence suggests that the stronger surveillance and enforcement methods (such as tagging) are normally required only after removal orders have been issued.

There is also the key question of temporary protection versus permanent settlement. In contrast to policies on welfare, those relating to the outcomes of the status determination process do seem to have significant effects on the number of applications. Temporary protection has been seen in the EU principally as a response to exceptional events such as a sudden influx of refugees rather than as a normal outcome of asylum procedures (see further below). Yet, as noted above, the greater use of temporary protection could underpin some expansion of the system. But it would have to take the form of subsidiary protection rather than full Convention status, and it would last only until the causes of displacement have receded.<sup>119</sup> If conditions have not improved sufficiently after a period of, say, two years the case would be automatically reviewed for permanent settlement. Such an arrangement is similar to provisions for subsidiary protection that have long existed in a number of countries. It is therefore vital that subsidiary forms of protection are fully harmonised and the Temporary Protection Directive of 2001 is an important step in that direction. It also points to the key role for EASO in determining where and when conditions in source countries have improved.

As we have seen, further harmonisation of asylum processing and reception policies is inconsistent with improved burden sharing where the demand for asylum differs systematically between countries. The previous section suggested that a system of refugee transfers would be necessary to attain an optimal allocation. A recent report for the European Commission (2010) considered two options. One is to create a relocation mechanism for transferring asylum seekers or refugees from countries receiving greater than proportionate shares to those receiving lower shares. Each country's share could be determined on a formula based on its population, per capita income, population density and perhaps other criteria.<sup>120</sup> The other alternative is to redistribute on a voluntary

118 Field (2006) provides a survey of alternative methods and an evaluation of their effectiveness. The study found that non-coercive methods were less successful in transit countries than in countries of final destination and that they tended to be more successful when combined with positive incentives such as access to welfare services and legal aid. The success of community supervision was demonstrated in the late 1990s by trials in New York conducted by the Vera Institute of Justice, see [www.vera.org/download?file=615/finalreport.pdf](http://www.vera.org/download?file=615/finalreport.pdf). For a discussion of the community-based alternatives to mandatory detention in Australia, see Commonwealth of Australia (2009).

119 Clearly that would mean a limited form of status with fewer rights, such as the right to family reunification. This is consistent with Article 3 (2b) of Council Directive 2003/86/EC of 2003 on the right to family reunification.

120 Such a formula was proposed by Germany during its EU presidency in 1994, in the wake of the mass influx from Eastern Europe and the former Soviet Union. Applying the formulae in the Commission's report to the 2008 pattern of asylum applications or to the number granted some form of status produces results that imply substantial relocation from older EU members to newer members (except for Malta and Cyprus). In my view the formulae applied puts insufficient weight on overall size.

basis 'through an open pledging mechanism'. This alternative will not work for the reasons outlined in the previous section: individual countries have little incentive to offer more places if they know that other countries will bear the burden if they do not.

A second question is whether relocation should apply only to refugees and those granted subsidiary protection in the country where they applied or whether it should apply at the application stage. The report suggests only the former, partly because this is what the government officials surveyed said they would prefer, and partly because the redistribution of asylum seekers would clash with the Dublin II Regulation. This regulation provides for the relocation of applicants according to a set of criteria, particularly where the applicant first entered the EU. While the Dublin Regulation provides some precedent for relocation it has proved costly and bureaucratic.<sup>121</sup> Rather than finding a way of reconciling a new mechanism with the Dublin Regulation, it would be preferable to scrap the latter and replace it with a new and more comprehensive formula for redistribution. Another reason for preferring relocation of asylum seekers is that, insofar as processing takes time, those who are successful can at least begin their orientation in the host country rather than being transferred at a later stage in the process.<sup>122</sup>

Such an arrangement would require a stronger role for EASO. While EASO's existing remit allows it to advise and offer technical assistance on relocation, a more proactive role would be necessary to apply whatever formula was agreed and act as a clearing house for relocation. For this reason too it would need to have an active presence in each of the major recipient countries. Such a process of quota filling would be cumbersome and would need to be underpinned by sufficient financial resources to effect the transfers.<sup>123</sup> However, it would involve fewer transfers than would be the case under the more centralised clearing house schemes that have been previously proposed. Also there is the problem of fixing country quotas in the face of year to year fluctuations in the total number of applications. A partial solution to both these problems would be to set individual country quotas to add up to significantly more than the

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121 It was originally feared by the states on the eastern borders of the EU that the Dublin Regulation would mean significant net transfers to countries that were already facing a disproportionate burden. However, owing to its bureaucratic operation the numbers transferred have been smaller than originally expected. More recently (in 2008) the regulation was criticised by refugee advocates on the grounds that returning asylum seekers to face the unsafe asylum process in Greece was tantamount to *refoulement*.

122 Another misgiving about transferring refugees after the recognition process is that individual states would have a greater incentive to grant recognition knowing that any surplus over their refugee quota would be transferred elsewhere. In that case there would be yet another reason for imposing a common refugee status determination procedure.

123 Evidence from a pilot study of transfers from Malta to France suggests that the transfer cost would be about €1,000, while the total cost including processing and reception is much larger, at around €10,000 (European Commission, 2010, p. 63). The report suggests that the European Refugee Fund should provide financial support for transfers of refugees at a higher rate than the €4,000 currently provided for resettlement programmes.

expected total.<sup>124</sup> Thus transfers would only take place from countries where applications were expected to exceed this upper bound.<sup>125</sup>

Following the Kosovo crisis in 1999, there was much discussion of burden sharing in situations of a sudden influx of refugees.<sup>126</sup> In light of the perceived inadequacies of the response at that time, the EU issued the Temporary Protection Directive (2001), which called for relocation from places or countries where facilities for determining individual refugee status would be overwhelmed by the force of numbers. However, while the Temporary Protection Directive calls for solidarity in achieving a balance of effort between member states, and EASO is tasked with assisting in relocation on an 'agreed basis', there is no formal guideline for redistribution. Thus the existing arrangements rely on a process of wrangling and negotiation that inevitably leads to delay in responding to urgent situations. An obvious way to redistribute those in need of temporary protection would be to apply a formula as suggested above. Thus those countries falling furthest below their quota would be first in line to receive transfers of asylum seekers in the event of a sudden influx. Such arrangements are all the more pressing in the light of the developing refugee crisis in North Africa and the difficulty that Italy and other Mediterranean countries have experienced in gaining the cooperation of other member states.<sup>127</sup>

To summarise, while there has been significant progress in developing the Common European Asylum System, the policy still falls some way short of what is required. It is worth repeating that the case for further integration

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124 It would also be possible to build in an element of intertemporal equalization through periodic adjustment of the quotas.

125 There are, of course, many issues of a practical nature about who would be chosen for relocation and these are discussed in European Commission, 2010. They include issues such as the handling of families and unaccompanied minors, as well as the question of gaining the consent of those to be relocated (something that would be more of a concern if transfers took place after the recognition process). There is also the question of whether sufficient legal basis is provided under Articles 78 and 80 of the Lisbon Treaty (2008). While further legislation may be necessary, these problems are not insurmountable in principle.

126 Barutciski and Suhrke (2001) discuss the issues that arose when, following the NATO air strikes, tens of thousands of refugees gathered at the Blace border crossing into Macedonia at the end of March 1999. In particular they discuss the question of whether halting the displaced persons at the Macedonian border prior to the launch of the Humanitarian Evacuation Programme amounted to *refoulement*.

127 As the Libyan crisis developed in February 2011, the Italian government sought EU assistance on three fronts. First, it has asked for upwards of €100 million to help stabilise the situation on Lampedusa. Second, it has urged the Frontex, the EU border agency, to strengthen its surveillance of the North African coast to avert the surge of boat people. And third, it has asked for other countries to share the burden through an orderly redistribution of asylum seekers throughout the EU. Amid warnings of an influx of over a quarter of a million asylum seekers, Italy was joined by the interior ministers of France, Spain, Malta and Cyprus in calling for assistance from the EU. At the time of writing, the EU has brought forward Joint Operation Hermes, an Italian-led Frontex operation to beef up sea patrols to detect and prevent illegal landings on the coasts and outlying islands, and it has received financial support from the European Refugee Fund. But cooperation on redistribution of those issued with temporary residence permits has been more limited – something that was reflected by the temporary blocking at the border in April 2011 of a train carrying displaced Tunisians from Italy to France.



is underpinned both by economic arguments that see refugees as a form of public good and by the political imperatives underlying policy in individual member states. While there is much to be said for further harmonisation in the treatment of asylum claims across the countries of the EU, this also implies further effort to provide a more effective burden sharing system, and in particular on developing a mechanism for redistributing applicants for asylum. The theory also implies that neither of these goals will be effectively attained without developing a truly European-level asylum system.

## Appendix to Chapter 11: A Model of Asylum Policy

This appendix describes a basic model where refugees are characterised as a public good. The key ingredient is the assumption that societies have some compassion for refugees and hence they gain utility from satisfying these humanitarian motives. Such benefit flowing to one individual does not preclude the same benefit accruing to others and hence providing a safe haven to refugees may be thought of as analogous to a public good. This in turn implies that individuals in one receiving country might be expected to gain some benefit from the knowledge that refugees also find safety in countries other than their own. The second element is that tougher policy in one country may 'deflect' asylum seekers to other countries. These elements can be captured in a two-country model following the framework set out in Hatton (2005). The focus here is on possible gains from different modes of cooperation.

### The basic framework

The net benefit from refugees accruing to the citizens in each of the refugee-receiving countries is represented as:

$$V_1 = \frac{1}{b}r_1^b + \frac{\lambda}{b}r_2^b - cr_1; \quad V_2 = \frac{1}{b}r_2^b + \frac{\lambda}{b}r_1^b - cr_2 \quad (1)$$

where country 1's valuation  $V_1$  depends on the number that are received in country 1,  $r_1$ , and the number that are accepted in country 2,  $r_2$ , minus country 1's cost of refugees,  $cr_1$ . The parameter  $0 < \lambda < 1$  reflects a lower valuation for refugees accommodated abroad while  $0 < b < 1$  reflects diminishing marginal utility for (or diminishing tolerance of) refugees.

The number of refugees accepted in each country depends on overall 'demand' for refugee places, on the generosity of asylum policy, and on deflection effects from policy in the other country:

$$r_1 = A[s\gamma_1 + \beta(s\gamma_1 - (1-s)\gamma_2)]; \quad r_2 = A[(1-s)\gamma_2 + \beta((1-s)\gamma_2 - s\gamma_1)] \quad (2)$$

where  $A$  is total 'demand' for asylum,  $0 < s < 1$  represents the share of asylum seekers with a preference for country 1 and  $(1-s)$  is the share preferring country 2.  $\gamma_1$  is an index of the 'generosity' of country 1's asylum policy; the greater is  $\gamma_1$  more asylum seekers country 1 admits for a given level of demand. The parameter  $0 < \beta < 1$  captures the deflection of asylum seekers from one country to another resulting from policy differences weighted by country shares. Thus, for a given level of overall demand for asylum, country 1 accepts more asylum seekers as refugees the more generous is country 1's policy (the larger is  $\gamma_1$ ) and the less generous is that of country 2 (the smaller is  $\gamma_2$ ). In this set-up, the number of refugees accepted by both countries combined,  $R$ ,

does not depend on the deflection effects, but only on total demand and the weighted average of policy:<sup>128</sup>

$$R = r_1 + r_2 = A[s\gamma_1 + (1-s)\gamma_2] \quad (3)$$

### Non-cooperative policy setting

Here policy is characterised as a Nash equilibrium where there is no joint policy, reflecting the situation that prevailed up to the end of the 1990s. Combining (1) and (2) gives country 1's valuation as:

$$V_1 = \frac{1}{b} [A(s(1+\beta)\gamma_1 - (1-s)\beta\gamma_2)]^b + \frac{\lambda}{b} [A((1-s)(1+\beta)\gamma_2 - s\beta\gamma_1)]^b - cA(s(1+\beta)\gamma_1 - (1-s)\beta\gamma_2) \quad (4)$$

If both countries set policy to maximize their respective valuations, taking the policy of the other country as given, the non-cooperative policy settings,  $N$ , are as follows:

$$\gamma_1^N = \left[ \frac{1 + \beta - \lambda\beta}{c(1 + \beta)} \right]^{\frac{1}{1-b}} [As]^{-1} = \frac{(1-s)}{s} \gamma_2^N \quad (5)$$

In the Nash equilibrium, country 1's policy is tougher ( $\gamma_1$  is lower) the greater is the cost,  $c$ , the greater is total demand for asylum,  $A$ , and the larger is its 'share',  $s$ . Thus the destination most favoured by asylum seekers has tougher policies. Note also that, in the presence of a public good spillover ( $\lambda > 0$ ), policy is tougher the greater is the deflection effect,  $\beta$ . This provides some support for the argument that the presence of deflection effects makes policy tougher than it would have been in their absence. And in the presence of a deflection effect ( $\beta > 0$ ) policy is tougher the greater is the public good spillover.

As the two countries differ only by the demand for asylum that they face, in the Nash equilibrium, policy adjusts to produce the same number of refugees,  $r^N$ , in each country.

$$r_1^N = \left[ \frac{1 + \beta - \lambda\beta}{c(1 + \beta)} \right]^{\frac{1}{1-b}} = r_2^N \quad (6)$$

The number of refugees is also decreasing in the cost per refugee, in the deflection effect, and in the public good spillover. Note that in this setting the 'burden', as reflected by refugee numbers, is equally shared, but policy differs

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128 Note: for the number of refugees in each country to be positive the value of  $\beta$  must be such that:  
 $\frac{1+\beta}{\beta} > \frac{s}{1-s} > \frac{\beta}{1+\beta}$

between the two countries. Note also that an equal distribution of refugees does not imply that these policies are in some sense optimal.

### The social optimum and burden sharing

Here, the social optimum is obtained by maximizing the sum of the valuations of the two countries,  $V_1 + V_2$ . This gives the socially optimal policies denoted  $\gamma^*$  as:

$$\gamma_1^* = \left[ \frac{1 + \lambda}{c} \right]^{1-b} [As]^{-1} = \frac{(1-s)}{s} \gamma_2^* \tag{7}$$

Note that optimal policy is independent of deflection effects but the ratio of country 1's policy to country 2's policy parameter is the same as in the non-cooperative case. In the social optimum, total welfare is maximised, policy is more generous, and the number of refugees is higher (and by the same proportion) in both countries. Thus:

$$\frac{\gamma_1^N}{\gamma_1^*} = \left[ \frac{1 + \beta - \lambda\beta}{(1 + \lambda)(1 + \beta)} \right]^{1-b} = \frac{\gamma_2^N}{\gamma_2^*} = \frac{r_1^N}{r_1^*} = \frac{r_2^N}{r_2^*} < 1 \tag{8}$$

The reason for this is straightforward. Because countries acting individually do not take account of the value of their refugees to people in other countries, they fail to maximize the social surplus from refugees. Policy is tougher, refugees admitted are fewer, and welfare is lower in the Nash equilibrium. Notice that this is entirely due to the public good spillover. For  $\lambda = 0$ , the ratio in (8) is 1 and the non-cooperative outcome is the same as the social optimum. However, in the presence of a public good spillover, the greater is the deflection effect,  $\beta$ , the more the non-cooperative outcomes fall below the social optimum. Hence deflection effects do make things worse relative to the social optimum, and the more so the greater is the public good spillover.

During the 1990s it was often suggested that better outcomes could have been achieved through some form of financial burden sharing. In this model, the social optimum can be achieved by reducing the marginal cost of refugees. In order to mimic the social optimum, marginal cost must be reduced to a level,  $\hat{c}$ , that produces the same policy settings as in the social optimum. This is:

$$\hat{c} = c \frac{(1 + \beta - \lambda\beta)}{(1 + \lambda)(1 + \beta)} < c \tag{9}$$

Feasible reductions to marginal cost could be achieved through a common pool. Both countries contribute to the refugee fund a lump sum amount

$$(c - \hat{c})r^*$$

where  $r^*$  is the socially optimal number of refugees, and each receives back a subsidy per refugee that reduces marginal cost to  $\hat{c}$ . While there is *ex ante* burden sharing, *ex post* each country takes out what it puts in.

### Cooperative harmonisation

Most of the focus of EU asylum policy since the Treaty of Amsterdam has been on policy harmonisation, rather than on finding socially optimal policies that differ for each country. So what are the implications of adopting a common policy that is set cooperatively? Suppose that the harmonisation process involves maximising the sum of welfare,  $V_1 + V_2$ , for a common ‘cooperatively harmonised’ policy parameter  $\gamma^{HC}$ .

$$\gamma^{HC} = \left[ \frac{1 + \lambda}{c} \right]^{\frac{1}{1-b}} A^{-1} [z^b + (1-z)^b]^{\frac{1}{1-b}} \tag{10}$$

where  $z = s(1 + \beta) - (1 - s)\beta$ . Note that when  $s = 0.5$ ,  $z = 0.5$ , and that the whole expression reaches a maximum value when  $s = 0.5$ .

This can be compared with the social optimum policy for country 1 when policies are allowed to differ:

$$\frac{\gamma^{HC}}{\gamma_1^*} = s [z^b + (1-z)^b]^{\frac{1}{1-b}} \tag{11}$$

This ratio is equal to one when  $s = 0.5$  and is greater than one when  $s > 0.5$ . As compared with the unconstrained social optimum, policy is not tough enough for country 1 and too tough for country 2.<sup>129</sup> If policy is constrained to be the same for both countries, then there is no scope for financial burden sharing to bring the outcome closer to the social optimum.

However, policy under cooperative harmonisation could dominate the Nash equilibrium for unconstrained policies. The ratio of these policy settings for country 1 is:

$$\frac{\gamma^{HC}}{\gamma_1^N} = s [z^b + (1-z)^b]^{\frac{1}{1-b}} \left[ \frac{(1 + \beta)(1 + \lambda)}{1 + \beta - \lambda\beta} \right]^{\frac{1}{1-b}} \tag{12}$$

This is simply the ratio in (11) divided by the ratio in (8). Given  $s > 0.5$ , country 1’s policy under cooperative harmonisation is unambiguously more generous to asylum seekers than in the unconstrained Nash equilibrium since both parts

<sup>129</sup> It follows that country 1 has too many refugees and country 2 has too few as compared with the social optimum:  $r_1^{HC} = \frac{z}{(1-z)} r_2^{HC}$ .

of this expression are greater than one. But for country 2, policy could be more or less generous than in the unconstrained Nash equilibrium because, in the expression equivalent to (12) for country 2, the first term is less than one and the second term is greater than one. The greater is  $\lambda$ , the greater is  $\beta$ , and the closer is  $s$  to 0.5, the more likely that policy will be more generous and welfare will be higher for both countries than in the unconstrained Nash equilibrium.

### Levelling down

Under harmonisation, countries are forced to agree on common asylum policies, and it has sometimes been suggested that this process has been one of levelling down to the toughest policies. Rather than constructing bargaining situations for which we have little supporting evidence, consider instead the extreme case where the country with the preference for the toughest policy chooses the common policy. Thus, country 1 maximises  $V_1$  for the common policy parameter,  $\gamma^{HN}$ :

$$\gamma^{HN} = (cz)^{\frac{-1}{1-b}} [z^b + \lambda(1-z)^b]^{\frac{1}{1-b}} A^{-1} \quad (13)$$

Policy under this extreme case of ‘non-cooperative harmonisation’ can be compared with that under cooperative harmonisation in eq. (10)

$$\frac{\gamma^{HC}}{\gamma^{HN}} = [z(1+\lambda)]^{\frac{1}{1-b}} \left[ \frac{z^b + (1-z)^b}{z^b + \lambda(1-z)^b} \right]^{\frac{1}{1-b}} \quad (14)$$

This ratio is greater than one for  $s > 0.5$  but it collapses to one if  $s = 0.5$ . Thus for each country, policy is more generous and total welfare is higher under cooperative harmonisation than under non-cooperative harmonisation. Although the number of refugees differs between countries it is higher by the same proportion for both countries under cooperative harmonisation. As before, country 2 could be better or worse off than in the unconstrained Nash equilibrium.

While it is not possible to achieve the unconstrained social optimum, there is scope for a financial burden-sharing scheme to obtain the same outcome as under cooperative harmonisation. This would involve reducing the marginal cost of refugees in both countries,  $\hat{c}$ , to:

$$\hat{c} = \frac{z^b + \lambda(1-z)^b}{z(1+\lambda)(z^b + (1-z)^b)} c < c \quad (15)$$

Here the burden-sharing marginal cost is decreasing in  $\lambda$  and (for  $s > 0.5$ ) also decreasing in  $\beta$  and in  $s$ . Under the lump sum payment/subsidy per refugee scheme, where both countries contribute the same amount, there is a cross-subsidy to country 1 (which has more refugees) from country 2 of:

$$(c - \hat{c})r_1^{HC} \frac{(z - 0.5)}{z} \tag{16}$$

If  $s$  is sufficiently large, this could make country 2 worse off than in the absence of the burden-sharing scheme. Thus country 2 might be willing to accede to the dominant role of country 1 in selecting the harmonised policy setting, since it too could be made better off. But it might be less willing to agree to financial burden sharing that involved transfers to country 1 in order to get to the cooperatively harmonised outcome.

### An integrated asylum system?

It is useful to consider a case where asylum seekers are distributed between countries by a central authority. In this case there would be no deflection effects since, for asylum seekers, there would be no particular advantage in applying to one country rather than another. Removing deflection effects alone would bring policy closer to the social optimum as illustrated by setting  $\beta$  to zero in (12). Policy could then be set at the level that produces a total number of refugees equal to that generated by the social planner. That gives the policy parameter  $\gamma'$ :

$$\gamma' = \left[ \frac{1 + \lambda}{c} \right]^{\frac{1}{1-b}} [0.5A]^{-1} \tag{17}$$

Some proportion of refugees would then be redirected from their initially preferred country (as represented by  $s$ ) so that each country gets the same number. The share of all refugees who are ‘redirected’ from country 1 to country 2 is:

$$\frac{r_1' - r^*}{2r^*} = s - 0.5 \tag{18}$$

An integrated system could do better than harmonisation alone, partly by removing deflection effects and partly by introducing another form of burden sharing – shifting some refugees away from their preferred country. Thus there could be scope for both types of burden sharing. The reallocation of refugees would compensate for the uneven distribution of refugees across countries imposed by the constraint of a common policy, while a financial burden-sharing scheme would compensate for the failure to agree on the socially optimal number of refugees in total.





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# 12 Summary and Conclusion

Asylum has been an important social and political challenge for most countries of the OECD for the last 20 years. It has proved to be more divisive than almost any other domestic issue as it pits humanitarian ideals and compassion for those who are persecuted against concerns about floods of illegal immigrants and cynical abuses of the asylum system. As a result there has been a passionate debate about the current asylum system and how to reform it. A major goal of this report has been to provide an account that is based on an objective analysis of the facts combined with a realistic view of the political and economic issues involved.

In order to fully appreciate the dilemmas of the present we must understand the past. The cornerstone of policy, the Refugee Convention, grew out of the mass displacements in Europe during the first half of the 20th century. It was crafted against the backdrop of Cold War geopolitics with what were to be enduring consequences. These circumstances led to an asylum regime with three key features. One is that applications for refugee status are individually assessed against the criterion of a 'well founded fear of persecution', something that was once much clearer and easier to apply than it is now. The second is the *non-refoulement* requirement, which essentially means that those claiming asylum within a country's jurisdiction must be admitted to the status determination procedures, potentially without limit to the numbers involved. And third, illegal entry does not in principle prohibit access to asylum procedures or prejudice the outcome of those procedures.

With the Convention as its foundation, the international refugee regime underwent more than 30 years of expansion. An important step was extending its provisions to new situations beyond those arising from the Second World War, and equally importantly, extending its reach to countries and regions outside Europe. In parallel with this, the focus shifted from providing sanctuary for victims of the Cold War to those affected by colonial struggles and post-colonial conflicts and to those fleeing repressive dictatorships. The expansion of the refugee regime was fostered by the momentum of the human rights

and civil rights movements and also by a growing public awareness of conflict and suffering provided by the media, particularly television. These underlying ideological trends, coupled with the involvement of Western countries in a variety of conflicts around the world, led to an expansion in the willingness to accept refugees for resettlement, which reached its apogee in the 1980s.

Within a decade it was followed by the first great surge of asylum seekers, increasingly moving spontaneously and outside the agency of governments and non-governmental organisations. This trend was underpinned by the continuing growth in global conflict and human rights abuse. But it was also fuelled by greater freedom of movement and above all by greater access to the means of escape, sometimes by boat but more often by land and increasingly by air. The surge that began in the 1980s peaked in the aftermath of the fall of the Berlin Wall and the dissolution of the Soviet Union. These events sparked a wave of asylum migration from former communist countries. They also opened Europe's back door to asylum migrants from much further afield. The rising stock of migrants from strife-prone countries combined with the widening and deepening of people-smuggling networks led to a level of persistence in asylum-migration streams that would prove hard to break.

As the numbers mounted, the demand for asylum in the developed world outstripped the supply. The latter was reflected by the diminishing tolerance for accepting ever larger numbers of refugees and a growing conflation of asylum applications with migration for reasons other than persecution and with illegal entry. This led to the first great policy backlash during the 1990s. This produced enhanced border controls and visa regulations, more restrictive refugee status determination procedures and tougher regimes for the welfare and living conditions of asylum seekers. When the number of applications rose again at the end of the 20th century a second round of restrictive measures was enacted, even tougher than the first, enhanced this time by the threat of terrorism.

In the first great surge of asylum applications, tougher policies seemed to have little effect on the numbers, leading some observers to think either that the deterrent effect of tougher policies was weak or that it simply deflected asylum seekers from one country to another. But other effects were at work in source countries and closer analysis reveals that policy tightening did have a significant negative effect on applications. The fall in applications in a wide range of counties after 2001 owed quite a bit to policy, although not as much as some policymakers claimed. The evidence suggests that it was policy on access to territory and the status determination process that were most effective rather than policies on asylum seeker welfare. In the case of Australia, the dramatic fall in applications also owed something to the reputation effect of the *Tampa* incident and the events that followed it.

While much of the debate has been about the deterrent effects of policy, it is important not to lose sight of the plight of asylum seekers themselves. Those who do gain refugee status are among the most disadvantaged of all migrants and only in the last few years have concerted efforts been made to integrate them into host country societies and above all to help them acquire the means to gain economic independence. Such efforts are unlikely to undo the deterrent effects of tougher policies on access and processing. But perhaps more serious is the loss of confidence among voters, especially in Europe, that governments are selecting only those with a genuine fear of persecution and that they are keeping track of those whose claims have been rejected. Mixed migration flows pose a challenge that governments have struggled with long and hard, and to which there are no easy solutions.

On the 60th anniversary of the Refugee Convention there are continuing doubts about its relevance to modern conditions. Yet it represents a symbolic humanitarian commitment that few would want to see abolished. In terms of its specific provisions, the Convention has proved to be both flexible and robust and it has been assimilated by most nations of the world. Thus the challenge is to build on the Convention rather than to replace it. But efforts to enhance it through North–South cooperation have proved singularly unsuccessful. However there are economic and political gains to cooperation between the rich countries that receive asylum seekers. The greatest potential is in Europe, where cooperation has evolved in a decade-long process that is still far from complete. Yet the potential for an integrated asylum regime that is more compassionate and generous, while at the same time gaining the approbation of the vast majority of citizens, is within reach.

Finally, it is important to stress that this report concentrates only on those who seek asylum in the rich countries of the OECD. Even the most disadvantaged of refugees in the West – those who have been traumatised, impoverished or have been rejected as refugees and drifted into the informal economy – are typically far better off than they would be had they ended up facing the destitution and insecurity, often for decades, in the cross-border refugee camps of Africa and parts of Asia. It is true that the numbers in the camps have decreased in the last decade, but still they far exceed those that, one way or another, manage to gain access to the developed world. It is worth reiterating that although improving the refugee regime in the developed world is a commendable endeavour, it is still only the tip of the iceberg.



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Asylum seekers are at the forefront of policy debate in the developed world and are likely to remain so. Tim Hatton's timely new book provides a concise narrative and fresh analysis of the number and composition of asylum seekers, the political and social reaction to them, and the evolution of policy in the OECD. The historical development of international asylum policies is traced from the 1951 Refugee Convention right up to the present. Hatton investigates forces determining the number of asylum applicants, including war and terror in poor source countries, and evaluates the effects of the increasingly restrictive deterrence policies used by the developed world. The book explains how public opinion and politics have led to a backlash against asylum seekers, and studies the effects on those who are admitted as refugees as well as those who are rejected. The key findings are that tougher policies do reduce the number of applicants, and that the choice of asylum policy is constrained by popular opinion as well as by trends in national politics. With these realities in mind, Hatton examines feasible policy options. Highlighting European policy, he argues that a more integrated EU-wide strategy would better serve the interests both of its citizens and of refugees.

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