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GERMANY'S REFUGEE POLICY MAKING CRISIS: HOW THE CLASH OF
NORMATIVE SYSTEMS AFFECTED THE DECISION MAKING PROCESS

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BY

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Abstract

Although Germany has had a long history of restrictive and uncoordinated immigration and integration policies, the country seemed to experience a paradigm shift during the refugee crisis in 2014/15. In the light of unprecedented support from actors across the political spectrum, the country introduced a variety of pro-refugee policies, actively welcoming and integrating refugees. However, this approach was ephemeral. Shortly after the initiation of the aforementioned liberal agenda, the country reversed its approach introducing a number of conservative policies outsourcing migration control, increasing refugee responsibilities, and decreasing requirements for deportation and repatriation. This thesis investigates the dynamics of Germany's refugee policy making by analyzing (1) the initial liberal reaction, followed by (2) the shift to less liberal policies. The empirical findings illustrate that actors utilized different sets of norms in order to advance their preferred policy response during the decision making process. The incompleteness of rule systems and the existence of overlapping refugee and asylum norms on different levels of analysis led to arguments amongst different actors on how to interpret norms and which policies to implement. Further, both logics of appropriateness and logics of consequences figured centrally in public debates which confirms that policy decisions are a product of mixed motives.

Introduction

Overview

Germany has had a long history of restrictive immigration policies as well as disconnected and neglected refugee integration measures. This is reflected in numerous conservative citizenship and residency laws, deportation procedures, and repatriation agreements with home or third countries. While the introduction of the National Integration Plan (NAP) in 2005 signaled initial steps toward a more progressive approach to immigration, politicians across the political spectrum continued to push for conservative measures.¹

With the beginning of the refugee crisis in 2015, the country seemed to experience a paradigm shift. Germany initiated unprecedented liberal migration policies accompanied by a pronounced *Willkommenskultur*. However, this approach proved ephemeral. Shortly after the introduction of the aforementioned liberal response, the country reversed its approach, reinstating a number of rather restrictive policies outsourcing migration control, increasing refugee responsibilities, and decreasing requirements for deportation and repatriation.

This study investigates the dynamics of Germany's refugee policy making by explaining (1) the initial liberal reaction, followed by (2) the shift to more conservative policies. I argue that Germany's introduction of liberal refugee policies as well as the shift back to more restrictive policies are the result of actors utilizing different sets of

¹ Petra Bendel, *Coordinating immigrant integration in Germany: Mainstreaming at the federal and local levels*, (Brussels: Migration Policy Institute, 2014): 1-3.

norms. The liberal policy response as well as the return to a conservative agenda illustrates how both logics of appropriateness and logics of consequences played a role in the decision making processes.

In the following sections of the introduction, I will first offer a brief empirical background on the development of Germany's policies with regards to the current refugee crisis, before identifying the puzzles and the theoretical framework. I will then proceed to discuss the significance of the study, the methodological approach and finally provide a chapter overview.

Empirical Background

As a result of economic and political insecurity in the Middle East and many North African countries, more and more refugees started migrating towards Europe in 2014. The Dublin System of the European Union required that the asylum status of migrants be determined in the first European country of arrival. While especially peripheral countries responsible for carrying the majority of the asylum burden have criticized this system for its asymmetry for decades, Dublin's unsustainability became evident during spring and summer 2015.² The number of newly arriving refugees overwhelmed EU states bordering on the Mediterranean. Faced with a humanitarian crisis and a failed European asylum system, the German Chancellor Angela Merkel, announced the suspension of Dublin, guaranteeing refugees a safe and legal passage throughout Europe.³ This sparked an unprecedented *Willkommenskultur* (welcoming

² Ferruccio Pastore and Giulia Henry, "Explaining the Crisis of the European Migration and Asylum Regime," *The International Spectator* 51 (2016): 50-51.

³ Matthew Holehouse, Justin Huggler, and Andrea Vogt, "Germany Drops EU Rules to Allow in Syrian Refugees," *The Telegraph*, August 24, 2015, 1.

culture) within Germany, triggering the emergence of numerous pro-refugee groups and clubs and overwhelmingly positive attitudes.⁴ Though other European countries seemed reluctant and somewhat irritated with Germany's liberal approach, the German government defended its decision and continued to push for a humanitarian response throughout Europe. Germany's reaction was seen as inspiring by countries such as the United States and Canada, placing the country in a global leadership role with regards to the refugee crisis. However, with the intensification of the refugee influx, Germany's liberal refugee policy course was ephemeral.

As early as fall 2015, the German Congress started discussing restrictions to existing immigration and asylum policies in order to deter new refugees from coming and to accelerate asylum procedures and deportations. One of the first measures that the German Congress passed was the so-called "Asylum Packages I and II" (*Asylpakete I und II*).⁵ Both packages include stricter right to stay and easier deportation requirements. Albania, Kosovo, and Montenegro as well as the Maghreb⁶ states were declared "safe countries of origin" aiming at expediting the asylum process and simplifying repatriations.⁷ In addition to the two asylum packages, the right to stay was further restricted in order to enable termination of residency of long-term tolerated individuals, a reentry ban, and the deportation of criminal foreigners who were

⁴ Josef Joffe, "Das Deutsche Wunder," *Zeit Online*, September 12, 2015, 1, accessed October 12, 2016, <http://www.zeit.de/2015/37/willkommenskultur-deutschland-fluechtlinge-zeitgeist>.

⁵ Asylgesetz (AsylG) [Asylum Act] §§ 1, 2, 3, 4, 5, 13, 18a, 25, 30a, 31, 44, 47, 59, 60

⁶ Maghreb refers to the region of Northwest Africa and includes Morocco, Algeria, Tunisia, Libya, and Mauretania.

⁷ Katharina Schuler, "Viel Härte, Wenig Wirkung," *Die Zeit*, February 25, 2016, n.p., accessed July 25, 2016, <http://www.zeit.de/politik/deutschland/2016-02/asylpaket-ii-abschiebungen-familiennachzug>.

sentenced to a minimum of one year.⁸ Finally, just a few months following Merkel's public invitation welcoming all refugees into Germany, the country reestablished border controls.⁹ Therefore, the country's development of refugee policies throughout 2015-2016 poses the following two research questions: 1) why was Germany's initial reaction to the refugee crisis so liberal, especially considering the country's rather conservative past approaches, and 2) why was this liberal approach reversed and replaced by a more restrictive system?

Puzzles and Theoretical Framework

This thesis addresses two distinct but related puzzles evident in Germany's response to the refugee crisis. First, from a rationalist perspective, it is puzzling why Germany would reverse its traditional, conservative approach to asylum and initiate, in material terms, a costly open door policy framework. A rationalist investigation might point to the economic benefits such as the influx of skilled workers, the long-term contributions to the social security system, and balancing decreasing birth rates. However, this explanation is incomplete at best as it fails to account for why the German government did not initiate liberal policies earlier to attract regular rather than irregular migrants. Furthermore, the empirical evidence suggests that material factors played a peripheral role in the initial decision making process. Hence, constructivist theories provide better tools to help explain how the different sets of norms interacted during the initial policy decision making process.¹⁰ In reality, actors across the political

⁸ "Straffällige Ausländer Leichter Ausweisen," Bundesregierung, last modified March 17, 2016, <https://www.bundesregierung.de/Content/DE/Artikel/2016/01/2016-01-27-straftaellige-auslaender.html>.

⁹ "Deutschland führt Grenzkontrollen wieder ein," *Zeit Online*, September 13, 2015, 1, <http://www.zeit.de/politik/deutschland/2015-09/fluechtlinge-grenzkontrollen-oesterreich>.

¹⁰ Christian Reus-Smit, "The Constitutional Structure of International Society and the Nature of Fundamental Institutions," *International Organization* 51, no 4 (1997): 555-589.

spectrum started appealing to liberal norms and opposed the existing conservative policy framework. This triggered a normative conflict between actors who pushed for the liberalization of refugee policies and actors who continued to argue for restricting refugee numbers and prioritizing citizens. The government's initial liberal approach to the refugee crisis was motivated by fulfilling obligations under international law and applying European values and norms on human rights.¹¹ Furthermore, the coverage of the crisis and the depictions of refugees suffering led to a great mobilization of actors who identified Germany's liberal values and leadership role as reasons to replace the conservative refugee framework with a liberal approach. A short and clear causal chain that enabled actors to connect Germany's moral responsibility with the refugee crisis, reinforced the appropriateness of liberal refugee policies.

However, Germany's reintroduction of conservative policies shortly after initiating unprecedented liberal measures in the first half of 2015 represents the second puzzle. It is a puzzle for constructivists because the factors which triggered the liberalization of policies still remained throughout the shift back to a restrictive agenda. A rationalist explanation might hypothesize that Germany realized the rising economic and security costs which triggered the return to traditional, restrictive policies. While this argument seems to be promising and straight forward, it fails to address the complexity of the decision making process, and how both logic of consequences and logic of appropriates played a role in the shift.¹² The high refugee numbers certainly

¹¹ Martha Finnemore and Kathryn Sikkink, "International Norm Dynamics and Political Change," *International Organization* 52, no. 4 (1998): 887-917.

¹² Emanuel Adler and Vincent Pouliot, "International Practices," *International Theory* 3, no. 1 (2011): 1-36; Harald Muller, "Arguing, Bargaining and All That: Communicative Action, Rationalist Theory and the Logic of Appropriateness in International Relations," *European Journal of International Relations* 10, no. 3 (2004): 395-495.

increased economic and security concerns amongst actors. However, actors perceived material factors differently depending on which norms they had internalized and prioritized. While this does not suggest that they did not also recognize alternative norms and attribute validity to contradicting norms, actors used different normative arguments in order to advance their preferred policy framework. Liberal actors pushed for the continuation of the liberal policy agenda by stressing that material consequences could be alleviated through successful refugee integration, and that the expansion of refugee protection is the most appropriate policy response. Conservative actors, on the other hand, utilized different sets of norms such as Germany's responsibility to its own citizens and argued that a return to restrictive policies would limit material and reputational costs and represent a more appropriate policy reaction. European and domestic actors also criticized Germany's unilateral approach and claimed that it violated procedural rules and the democratic decision making process. Furthermore, Germany's departure from long-standing, conservative asylum practices irritated domestic and European actors and decreased overall solidarity.¹³ In the light of decreasing solidarity and increasing criticisms from national and regional actors, policy makers concluded that a shift back to more conservative policies would be both less costly and more appropriate.

The dynamic development of German refugee policies illustrates the complexity of norm interaction. Actors appealed to different sets of norms and rules, which were located in the institutions of the international, the EU, and the German domestic system, in order to advance their preferred policy agenda. Domestic norms were reinforced

¹³Antje Wiener, "Enacting Meaning-in-use: Qualitative Research on Norms and International Relations," *Review of International Studies* 35, no. 1 (2009): 175-193.

vertically when actors utilized similar norms on the regional and international level. In terms of horizontal interaction, norms and rules on the same level of analysis were often incompatible or inconsistent with regards to the behavior they required from actors. This created arguments amongst different actors about which norms should be embraced, how they should be interpreted, and what constitutes the appropriate policy response. While conservative actors argued that adhering to the long-standing, restrictive policy framework and protecting German citizens should remain the country's main priority, liberal actors stressed the importance of expanding refugee protection and an open door policy. Ultimately, actors were motivated both by principled deliberation and also by strategic pursuit of goals in the ways that they interpreted and employed rules and norms.

Significance

International migration, the movement of refugees in particular, will continue to pose a challenge to states and demand sustainable individual as well as collective action. The Syrian refugee crisis has been called the “worst humanitarian crisis of our time,” and state response to it will ultimately influence future practices.¹⁴ The policies initiated and upheld throughout the next few years might be detrimental to the evolution of universal norms and law with regards to refugees. Depending on how global actors respond, notions such as refugee status, the principle of *non-refoulement*, as well as the practice of migration control might change.¹⁵ With Germany as one of the most influential and leading actors in the refugee crisis, the country's policy approach to

¹⁴ P.J. Tobia, "The Worst Humanitarian Crisis Since World War II," *PBS*, July 29, 2015, 1, accessed October 4, 2016, <http://www.pbs.org/newshour/updates/worst-humanitarian-crisis-since-world-war-ii/>.

¹⁵ Jef Huysmans, *The Politics of Insecurity: Fear, Migration, and Asylum in the EU* (New York: Routledge, 2006).

asylum and refuge will shape the European Union's approach and will potentially serve as a model for non-European states.

More generally, the findings of this study illustrate how sets of norms interact and influence the policy making process. The incompleteness of rule systems leads to different interpretations of norms, which in turn triggers arguments about policy prescriptions. Therefore, decision makers encounter a variety of norms and rules as well as actors with diverging policy preferences. This reinforces our understanding that a norm on a particular issue area does not exist in a vacuum, but rather that the policy environment is shaped by vertical and horizontal norm interaction which modifies respective norms and rules and changes policy responses.

The regional asylum system figures centrally in Germany's development of refugee policies. Existing research has treated norms beyond the domestic level as international, often without distinguishing between regional and global rule systems. However, as this case study shows, the European asylum system is distinct and highly influential in domestic policy making as it specifies broad international norms and turns them into binding legislation. Consequently, regional normative systems should be considered independently in their function of diffusing norms and shaping domestic policies.

Future IR scholarship should continue to explore how normative systems, in particular different sets of norms, interact in practice. Investigating decision making processes and policy responses will help researchers to expand on existing literature on norms and rules. This will also contribute to our understanding of how and why certain normative arguments trigger shifts in policies while others do not. Additionally, policy

makers consider a variety of factors before changing long-standing policies. Therefore, scholars should consider how both logic of appropriateness and logic of consequences shape the decision making process.

Methodology

In order to understand Germany's refugee policy making, including its initial liberal reaction and the shift towards a more restrictive approach, I conducted a series of semi-structured interviews over a period of three months with Congressional representatives of the German government, local politicians, migration scholars and experts, and civil society. During an internship in a Congressional Office in Berlin, I was able to experience the refugee policy making dynamics in meetings, briefings, and official hearings. While I did not interview refugees themselves, I volunteered in different refugee camps and spoke with volunteers and local politicians in order to gain a better understanding of the overall organization of services and, in particular, how and to which degree federal decisions have been perceived and implemented on the local level.

Following the data collection process, I coded the interviews. I used discourse analysis in order to find similar patterns and to identify the main drivers for Germany's refugee policies.¹⁶ Additionally, I analyzed hearing protocols, reports by civil society and the opposition, as well as scholarly articles on the development of European migration control and securitization. In order to gain an understanding of Germany and

¹⁶ Charlotte Epstein, *The Power of Words in International Relations: Birth of an Anti-Whaling Discourse* (Boston: MIT Press, 2008); Anna Holzscheiter, "Between Communicative Interaction and Structures of Signification: Discourse Theory and Analysis in International Relations," *International Studies Perspectives* 15, no. 2 (2013): 142-162; Jennifer Milliken, "The Study of Discourse in International Relations: A Critique of Research and Methods," *European Journal of International Relations* 5, no. 2 (1999): 225-254; Muller, "Arguing, Bargaining," 395-495; Antje Wiener, "Enacting Meaning-in-use," 175-193.

Europe's legal obligations with regards to refugee protection, I reviewed international refugee, human rights, and European law.

I contacted the interviewed participants personally in meetings or via email and informed them about the scope and goal of my research. A total of 20 participants volunteered to be interviewed for an average of 20 to 40 minutes. Interviews aimed at identifying the main drivers for the (1) initial liberal refugee response and the (2) following shift towards more restrictive policies. In order to gain a general understanding of the interviewees' perception of the refugee crisis policy making, each individual was asked to describe the overall policy development and Germany's reaction. Follow-up questions investigated why the German government initiated such liberal policies, why there seems to be a shift towards less liberal policies, and the consequences associated with both liberal and conservative policies. Participants were also asked to describe their preferred policies, and what future policies they anticipate for Germany and Europe. All interviews were recorded with digital audio and transcribed for further analysis.

Interviewees are from a diverse demographic background and represent a broad spectrum of political and personal perspectives and affiliations. In order to maintain the participants' anonymity and privacy, no identifying information was collected or recorded. However, Table 1 provides a general overview of the interviewees' profiles.

Table 1. Interview profiles

| Congressional Politicians | | Local Politicians | Civil Society/Volunteers | | Migration Experts | |
|---------------------------|---|-------------------|--------------------------|---|------------------------------------|---|
| Party Affiliation | | | Organization | | Institution | |
| CDU/CSU | 3 | 2 | Amnesty International | 1 | Akkon University of Human Sciences | 1 |
| SPD | 3 | 2 | Caritas | 1 | University of Nuremburg | 1 |
| Die Linke | 1 | N/A | Red Cross | 1 | Criminal Investigation Department | 1 |
| Die Grünen | 1 | N/A | ProAsyl | 1 | Osnabrueck University | 1 |
| Sex | | | | | | |
| Female | 4 | 1 | | 3 | | 1 |
| Male | 4 | 3 | | 1 | | 3 |
| Total Participants=20 | | | | | | |
| | 8 | 4 | | 4 | | 4 |

Chapter Overview

The first chapter will provide the theoretical framework on norm interaction and regime theory. I first explore the empirical background of Germany's policy making before explaining the puzzles and connecting such to relevant international relations (IR) theory. In the second chapter, I address Germany's initial liberal reaction to the refugee crisis and offer an analysis of how liberal norms were activated and utilized by actors in order to push for the open door agenda. I discuss the shift from this liberal approach to more traditional, restrictive policies in the third chapter. I will consider how normative conflict produced arguments amongst different actors, and how both logic of appropriateness and logic of consequences figured centrally in the policy shift. Finally, the conclusion will summarize the argument and the findings as well as revisit the significance of the study and the implications for IR theory and the future policy course.

Chapter 1: The Theoretical Framework

Introduction

Germany's approach to the refugee crisis - the country's initial open door policy followed by the return to more conservative measures - illustrates the complexity of normative systems.¹⁷ Throughout the crisis, actors appealed to different norms in order to promote their policy preferences. Whereas conservative actors stressed the importance of adhering to long-standing, restrictive procedures, liberal actors urged to expand and strengthen pro-refugee policies. This created tensions between different sets of norms and triggered arguments about the appropriate policy reaction.

Germany responded to the refugee crisis with an unprecedented open-door agenda. For decades, the country had consistently stressed adherence to European asylum mechanisms and the right of member states to individually control immigration policies. However, with the escalating humanitarian crisis in the Middle East and increasing numbers of people fleeing from persecution, Germany changed its conservative approach and initiated a number of liberal policies. The country suspended the Dublin Regulation¹⁸ in spring 2015, and announced in August that it would not return any Syrian refugees. Germany also mobilized a variety of resources for accommodating refugees in an effort to provide holistic access to asylum and protection. For rationalists, Germany's decision to liberalize its traditional, conservative

¹⁷ Parts of this chapter are forthcoming in the publication "Compromising Refugeehood: Access to Asylum and *Non-Refoulement* in the European Union. Discrepancies between International and European Refugee and Human Rights Law" in the University of Oklahoma's Journal of Global Affairs, Volume VI, 2017.

¹⁸ The Dublin system requires that the asylum status of migrants must be determined in the first European country of arrival. It allows countries to return asylum seekers to the respective first country of arrival.

stance on asylum and refugee procedures presents a puzzle. Rationalist scholars expect states to behave in a self-interested, utility maximizing manner; however, the shift to liberal policies was costly and reversed long-standing conservative policies.¹⁹ It is possible that economic benefits could be gained from the policy shift as a result of the influx of skilled workers, long-term contributions to the social security system, and balancing decreasing birth rates. Yet, such arguments fail to explain why the German government did not create a more sustainable migration system earlier to attract regular migrants. Additionally, the German government was well aware that the intake of refugees constitutes a short and long-term economic risk, as costs might outweigh the benefits.²⁰ Hence, constructivist scholarship is better equipped to account for the change in policy as it provides tools to analyze the normative conflict evident in the empirical data. The research question is why liberal norms were activated in this particular situation and not before, and why were they more successful than preexisting conservative norms? An investigation of the interaction between domestic, regional, and international norms suggests that similar norms complement and strengthen one another and give actors more chances to promote preferred norms. Actors were able to advocate for a liberal response because of the severity of the humanitarian crisis. They stressed Germany's moral obligations to help, and framed the introduction of liberal policies as the most appropriate behavior regardless of economic consequences.

¹⁹ Robert O. Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy* (Princeton University Press, 1984); Kenneth N. Waltz, *Theory of International Politics* (Reading, Mass: Addison-Wesley Pub. Co, 1979).

²⁰ Reports confirm that the German government knew the estimated costs of accommodating refugees. In interviews, Congressional Representatives stressed that they were aware of the economic costs and that economic benefits were peripheral in the decision making process.

However, shortly after the introduction of liberal refugee policies, the German government reversed its open door agenda and reinstated more conservative measures. The country passed laws to deport and repatriate failed asylum seekers to safe countries of origin or safe third countries, and reestablished border controls. Additionally, rights of refugees and access to services were increasingly linked to obligations and subject to cuts. On the European level, talks about a fairer, human rights oriented asylum system and refugee resettlement were replaced by discourse on securing Europe from irregular migrants and terrorists.²¹ From a rationalist standpoint this presents a straightforward story of Germany reversing a costly liberal policy course. Domestic and European systemic failure overburdened Germany and other member states, and led to the policy shift back to traditional, conservative policies. While this surely is part of the explanation, it does not account for the complexity of the underlying motivations of the policy shift. The rationalist explanation is helpful but incomplete as it overlooks the role of norm interaction and contestation that can be identified in the case study. From a constructivist perspective, it is puzzling why liberal refugee norms were successfully challenged shortly after their introduction, leading to a return to more conservative policies. The empirics suggest that decision makers not only encountered norms that compete vertically but also horizontally, making the decision process even more complex. This further illustrates the interaction of simultaneously valid but potentially incompatible norms at various levels of analysis. The tensions between different sets of norms account for the development and change of normative systems, and shapes

²¹ Jean-Claude Juncker, "State of the Union 2016: Towards a better Europe - a Europe that protects, empowers and defends," (speech, Strasbourg, September 14, 2016), European Commission, 1-9.

subsequent policy outcomes.²² Additionally, the findings illustrate that material factors alone did not trigger the policy shift. Rather, the combination of both logics of consequences and logics of appropriateness provide a more sophisticated explanation. By unilaterally initiating liberal policies, Germany challenged long-standing domestic and European asylum norms and practices, undermining actors' ontological security and their understanding of procedurally legitimate behavior. Conservative actors framed the continuation of liberal refugee policies as costly and inappropriate and argued that a return to restrictive measures aligns with the preexisting normative order.

In the following paragraphs, I will review the theoretical framework for Germany's refugee policy making. In the first section, I introduce regime theory and discuss the dynamics within and between the relevant European regimes. The second part of this chapter investigates Germany's unprecedented pro-refugee approach in order to show how liberal norms were activated and accumulated enough moral pressure so that the government revised traditional, conservative policies. This will be followed by the third section, which focuses on the policy reversal as a result of the normative conflict between different sets of rules on the domestic, regional, and international level. Finally, I will identify existing gaps in the IR literature, and show how this study and its findings expand current IR scholarship with regards to global governance and international organization literature.

²² Wayne Sandholtz, "Dynamics of International Norm Change: Rules against Wartime Plunder," *European Journal of International Relations* 14, no. 1 (March 2008): 103.

Regime Theory

What is a Regime?

The study of international regimes has been a focal point in international relations for four decades now.²³ Krasner defines regimes as “implicit or explicit principles, norms, rules, and decision making procedures around which actors’ expectations converge in a given area of international relations.”²⁴ Scholars of different schools of thought disagree on the origins of regimes and their impact. While realists argue that regimes only obscure power relations, institutionalists recognize their importance as a means of maximizing benefits.²⁵ Constructivists stress that consistent patterned behavior creates intersubjective expectations, shapes state identity, and results in the creation of regimes.²⁶ Regimes are therefore more than just products of state interest. They are quite robust and not easily reformed.²⁷ The normative element added by constructivist research has offered insightful analyses of international regimes that go beyond the rationalist account. It has opened up a discussion on how not only states construct and use regimes, but also how regimes influence state interest and behavior. Furthermore, non-state actors have been included in the debate as agents overseeing and carrying out functions of the regime. Many regimes have such governing organizations,

²³ Stephan Haggard and Beth A. Simmons, "Theories of International Regimes," *International Organization* 41, no. 03 (1987): 491-517.

²⁴ Stephen D. Krasner, "Structural causes and regime consequences: regimes as intervening variables," *International Organization* 36, no. 02 (1982): 186.

²⁵ See Robert O. Keohane, "The Demand for International Regimes," *International Organization* 36, no. 02 (1982): 325-355; Susan Strange, "Cave! Hic Dragones: A Critique of Regime Analysis," *International Organization* 36, no. 02 (1982): 479-496; Kenneth N. Waltz, *Theory of International Politics* (Reading, Mass: Addison-Wesley Pub. Co, 1979).

²⁶ See for example Friedrich Kratochwil and John G. Ruggie, "International Organization: A State of the Art on an Art of the State," *International Organization* 40, no. 04 (1986): 753-775; John G. Ruggie, "International Regimes, Transactions, and Change: Embedded Liberalism in the Postwar Economic Order," *International Organization* 36, no. 02 (1982): 379-415; Oran R. Young, "Regime Dynamics: The Rise and Fall of International Regimes," *International Organization* 36, no. 02 (1982): 277-297.

²⁷ Young, "Regime Dynamics," 279.

and regimes typically consist of both formal and informal arrangements.²⁸ As social systems, regimes are platforms for negotiation and bargaining, which commonly results in disagreement and non-compliance. However, this does not serve as a proof of instability but rather that social practices and expectations are resistant to change.²⁹

How do Regimes Evolve?

Much literature on regimes has focused on how actors create and change regimes. Institutionalist suggest that states purposefully seek informal and formal agreements in order to diminish transaction costs. These scholars argue that state interests could not have been achieved without the regime, or that benefits gained from the regime outweigh the costs.³⁰ Institutions represent a rational response by states to address and resolve problems, making regimes no more than deliberately planned and controlled outcomes of state negotiations.³¹ States certainly play a key role in the creation of regimes; however, it is arguable whether or not the actors who created a regime remain in control at all times. Many regimes are intrusive and limit state power or establish certain, often times costly, obligations.³² As institutions develop, they often “produce undesirable and even self-defeating outcomes,” while remaining intact.³³ It is therefore important to recognize that influence is not only exhibited from the “bottom up,” but also from the “top down.” Additionally, regimes are not always explicitly planned and coordinated amongst actors. They might emerge as a result of existing,

²⁸ Young, "Regime Dynamics," 277.

²⁹ *Ibid.*, 279-280.

³⁰ Keohane, "The Demand," 331.

³¹ Barbara Koremenos, Charles Lipson, and Duncan Snidal, "The Rational Design of International Institutions," *International Organization* 55, no. 4 (2001): 762.

³² The Human Rights, the Humanitarian, and Refugee Regime are examples of this.

³³ Michael N. Barnett and Martha Finnemore, "The Politics, Power, and Pathologies of International Organizations," *International Organization* 53, no. 4 (1999): 701.

informal understandings of appropriate behavior. Patterned state interactions create expectations, which then may lead to formal agreements and ultimately to a regime.³⁴

An analysis of norm emergence is essential for understanding how convergent behavior and expectations mature into a regime.

Finnemore and Sikkink have developed a model that allows scholars to conceptualize norms and their life cycles.³⁵ In the first stage, norm entrepreneurs try to persuade decision makers to adopt and internalize certain norms. In order to establish a norm's legitimacy, entrepreneurs often engage in framing and use organizational platforms.³⁶ In the second stage, the norm is institutionalized on the international level and is increasingly accepted amongst states. The final stage indicates the norm's internalization. At this point, the norm is legitimate and expected to be followed. Therefore, as national norms become internationally diffused, they socialize actors and create mutual expectations and perceptions of appropriate behavior. It is important to note that not all norms result in regimes. Nevertheless, antecedent norms guide state behavior, shape expectations and interests and are therefore important drivers in the regime creation process. Once a regime is created, it governs state behavior in a specific issue area. As states face a multitude of challenges due to the increasingly interconnected nature of the international system, more and more regimes have emerged over the last few decades. While this institutionalization is beneficial to state and non-state actors, it has also complicated regime governance.

³⁴Alexander Wendt, "Driving with the Rearview Mirror: On the Rational Science of Institutional Design," *International Organization* 55, no. 4 (2001): 1019-1049; James G. March and Johan P. Olsen, "The Institutional Dynamics of International Political Orders," *International Organization* 52, no. 4 (1998): 943-969; Young, "Regime Dynamics," 277-279.

³⁵ Martha Finnemore and Kathryn Sikkink, "International Norm Dynamics and Political Change," *International Organization* 52, no. 4 (1998): 895-905.

³⁶ Finnemore and Sikkink, "International Norm," 895-900.

Although early models of norm emergence and diffusion are of foundational importance to IR scholarship, they only provide a simplistic, often times linear or cyclical view of how a singular norm spreads. The most commonly overlooked factors in normative research are (1) the existence of multiple rule systems on any given subject area and their complex vertical and horizontal interaction and (2) the importance of regional regimes as a barrier or catalyzer for norm diffusion. In reality, multiple norms and rules on the same subject interact simultaneously, resulting in the contestation of meanings, which in turn complicates the decision making process and policy implementation.³⁷ The different interpretation of norms is especially visible when international norms are translated into domestic ones. Norms are subject to “localization,” referring to the process of adjusting international norms in order to integrate them into domestic normative system.³⁸ Regional norms have not often been an explicit object of study as existing scholarship mainly focused on international to national and vice versa norm diffusion. This homogenizes different sets of norms and rules and underestimates the independent role of regional rule systems. However, the regional level functions as a filter or catalyzer when norms spread from the bottom up or top down. Many regional systems of norms are well developed, and their provisions figure centrally in domestic policy making. The lack of theoretical treatment of the regional level has created a void for a more sophisticated model of norm interaction and has homogenized different sets of norms.

³⁷ Wayne Sandholtz, "Dynamics of International Norm Change: Rules against Wartime Plunder," *European Journal of International Relations* 14, no. 1 (March 2008): 101-131; Antje Wiener, "Enacting Meaning-in-use: Qualitative Research on Norms and International Relations," *Review of International Studies* 35, no. 01 (2009): 181.

³⁸ Amitav Acharya, "How Ideas Spread: Whose Norms Matter? Norm Localization and Institutional Change in Asian Regionalism," *International Organization* 58, no. 02 (2004): 244.

A better understanding of the complexity of rule systems would allow for a more advanced categorization of actors in their capacity as individual norm entrepreneurs or collective social movements.³⁹ Actors need to build congruence between transnational and local norms by framing norms in accordance with both domestic as well as regional, preexisting beliefs and expectations.⁴⁰ This is a highly complicated process as domestic and regional normative systems might differ from one other. Furthermore, with the multitude of actors engaged in policy debates, all of whom have been socialized differently, policy preferences are not only heterogeneous across camps, but might also differ within specific camps. Diverging interpretations of what constitutes appropriate behavior, given the different sets of rules, are not uncommon.⁴¹ Therefore, actors need to persuade their audiences that following a particular set of norms falls in line with the longstanding, normative system. The existence of multiple rule systems in any given society and the subsequent vertical as well as horizontal interaction of overlapping norms complicates the policy making process and will be discussed in more detail in the next section.

Regime Complexes

Throughout the 20th century, most regimes were somewhat isolated and held a monopoly over one particular issue area. However, globalization has led to a rapid “institutional proliferation.”⁴² Hence, many regimes overlap with one another, have authority over the same or similar issues, and may complement or contradict one

³⁹ Acharya, "How Ideas," 242.

⁴⁰ Wayne Sandholtz, "Dynamics of," 105.

⁴¹ Friedrich V. Kratochwil, *Rules, Norms and Decisions: On the Conditions of Practical and Legal Reasoning in International Relations and Domestic Affairs* (Cambridge: Cambridge University Press, 1989), 60, 190. Wayne Sandholtz, "Dynamics of," 106.

⁴² Alexander Betts, "The Refugee Regime Complex," *Refugee Survey Quarterly* 29, no. 1 (2010): 12-13.

another.⁴³ Raustiala and Victor define a regime complex as “an array of partially overlapping and nonhierarchical institutions governing a particular issue-area.”⁴⁴ A complex arises as a result of “legal inconsistencies,” referring to the lack of cross-regime norm and rule coordination.⁴⁵ Their focus on the legal element highlights the non-agentic authority of regimes and shows that competing laws and rules drive actor interpretation and behavior. Therefore, to qualify as a regime complex, institutions must not only overlap but norms and principles must also be somewhat divergent. Orsini, Morin and Young include the contradictory nature of a regime complex in their definition and specify it as “a network of three or more international regimes that relate to a common subject matter; exhibit overlapping membership; and generate substantive, normative, or operative interactions recognized as potentially problematic whether or not they are managed effectively.”⁴⁶ This extends the traditional definition and helps to better conceptualize a regime complex. Existing and evolving regime complexes present an obstacle for actors involved in a particular regime. Interests and values of both state and non-state actors may be compromised as one regime shares authority over an issue with a contradictory regime. As Betts points out, international organizations within the regimes face the task of adjusting to the changing environment.⁴⁷ In order to ensure the norms of one regime and counter those of a contradictory regime, organizations have started to expand their scope and purpose.

⁴³ Betts, "The Refugee," 12-13.

⁴⁴ Kal Raustiala and David G. Victor, "The Regime Complex for Plant Genetic Resources," *International Organization* 58, no. 02 (2004): 278.

⁴⁵ Raustiala and Victor, "The Regime." 277.

⁴⁶ Amandine Orsini, Jean-Frédéric Morin, and Oran Young, "Regime Complexes: A Buzz, a Boom, or a Boost for Global Governance?," *Global Governance* 19, no. 1 (2013): 29.

⁴⁷ Alexander Betts, "Regime Complexity and International Organizations: UNHCR as a Challenged Institution," *Global Governance* 19, no. 1 (2013): 69.

As a result of overlapping regimes, state and non-state actors have also started to engage in forum shopping⁴⁸ and regime shifting.⁴⁹ Forum shopping refers to actors choosing “international venues based on where they are best able to promote specific policy preferences.”⁵⁰ Regime shifting occurs when states “move from addressing problems through one regime to addressing those problems through an alternative regime.”⁵¹ Such behavior has reinforced regime complexes and complicated policy making. In order to develop mutually agreeable procedures, negotiators often need to compromise and adopt broad rules that leave enough room for interpretation. On the other hand, regime complexes balance power structures and counter regime monopolies. They furthermore enable a variety of actors to partake in the negotiation process. Overall, regime complexes complicate policy making in the respective issue areas.

Relating the literature on regime complexes to Sandholtz’s conception of rule systems, we observe that the increasing density of regime complexes leads to more complex rule systems. Increasingly complex rule systems create more ambiguity and situations in which actors will wind up with differing interpretations of what kinds of behavior and policies are appropriate. The horizontal and vertical interaction of different sets of norms will be illustrated more clearly in the case of the European refugee regime complex.

⁴⁸ See Kenneth W. Abbott and Duncan Snidal, "Why States Act Through Formal International Organizations," in *The Politics of Global Governance: International Organizations in an Interdependent World*, ed. Brian Frederick and Paul F. Diehl (Boulder: Lynne Rienner Publishers, 2015), 27-65.; Marc Busch, "Overlapping Institutions, Forum Shopping, and Dispute Settlement in International Trade;" Raustiala and Victor, "The Regime."

⁴⁹ Laurence Helfer, "Regime shifting: The TRIPS Agreement and the New Dynamics of International Intellectual Property Making," 1-83; Alexander Betts "Institutional Proliferation and the Global Refugee Regime," 53-58.

⁵⁰ Alexander Betts, "The Refugee," 14.

⁵¹ *Ibid.*

The Refugee Regime Complex

The international refugee regime was created shortly after the Second World War. It consists of the 1951 Convention Relating to the Status of Refugees (Refugee Convention) and the 1967 Protocol that eliminates temporal and geographic limitations. The organization that governs and oversees the implementation of the provisions is the United Nations High Commissioner for Refugees (UNHCR). While the refugee regime remains the most “developed and coherent aspect of global migration governance,” a number of parallel regimes have evolved.⁵² As such not only overlap, have authority over similar issues and either reinforce or weaken one another, we may speak of a refugee regime complex. The human rights regime ensures universal protection and basic rights for vulnerable individuals that go beyond the refugee regime. Other regimes such as the development regime or the humanitarian regime focus on preventing the root causes of forced migration and provide services for internally displaced persons.⁵³ The interactions between these regimes are mostly complementary. However, the most problematic alternative regime that addresses areas related to migration and asylum is the travel regime. While there is no formal international travel regime, countries have created a transnational network of implicit and explicit arrangements and agreements to collectively manage the flow of migrants.⁵⁴ Strict visa requirements, international transit zones, excessive security checks, and border control are some of the negotiated measures.⁵⁵ This has negatively impacted access to asylum and refugee protection.

⁵² Betts, “The Refugee,” 13.

⁵³ Betts, “Regime Complexity,” 72.

⁵⁴ Betts, “Regime Complexity,” 74; Rey Koslowski, *Global Mobility Regimes* (Basingstoke: Palgrave Macmillan, 2011).

⁵⁵ Betts, “Regime Complexity,” 74.

Regime complexes are not necessarily purely international, as many states have developed their own refugee regime complex with differing norms, principles, procedures, and rules. Therefore, it is helpful to recognize that the global refugee regime complex consists of multiple individual regimes at the regional and national levels.⁵⁶ Analyzing region-specific refugee regime complexes adds an additional layer of specificity to the ongoing IR debate and is essential to understanding policy making processes. The European refugee regime complex is a prime example of the dynamic interactions between state and non-state actors.

Just as other refugee regime complexes, the European one includes a multitude of regimes such as the labor, human rights, humanitarian, development, security, and the travel regime which all intersect with the refugee regime.⁵⁷ As aforementioned, the junctures of the travel-refugee regime are most problematic in this regard, and I will therefore focus on such. The European refugee regime is directly connected to and reflects the core principles of the international refugee regime. However, the European Union (EU) has developed specific rules and procedures to accommodate asylum seekers' needs and ensure higher standards of protection. The two core instruments of the European refugee regime are the European Convention on Human Rights 1950 (ECHR) and the Charter of Fundamental Rights of the European Union (CFR). With regards to refugee law, Article 3 of the European Convention on Human Rights not only refers to a general prohibition of torture, degrading or inhuman treatment and punishment, but also includes *non-refoulement* to areas where such might occur.⁵⁸ The

⁵⁶ Alexander Betts refers to this as institutions being “nested,” meaning “regional or issue-specific institutions may be part of wider multilateral framework.” See “The Refugee,” 13.

⁵⁷ Betts, “The Refugee,” 22.

⁵⁸ Article 3 of the European Convention on Human Rights.

CFR, which is based upon the ECHR, also addresses refugee issues. Article 4 condemns any form of ill-treatment, Article 18 ensures the right to asylum, and Article 19 prohibits the return to a country where there is a risk of the inhuman or degrading treatment, punishment, torture, or the death penalty.⁵⁹ The European Court of Human Rights (ECtHR) and the Court of Justice of the European Union (CJEU) are the main legal bodies that ensure member states' adherence to international and European standards of refugee protection. The CJEU is responsible for correct interpretation and application of the CFR.⁶⁰ National courts might request a preliminary ruling with regards to questions on asylum.⁶¹ Furthermore, the court holds institutions as well as member states accountable for violations of EU law. When it comes to protection of human rights and fundamental freedoms as laid out in the European Convention, the ECtHR is the main legal body to judge state violations. In addition to the European legal system, a number of NGOs, IGOs and private actors provide services to asylum seekers and potential refugees. In general, the European refugee regime is well developed and equipped to ensure quality protection. In an effort to balance the pervasive nature of the international and European refugee regime as well as to manage the increased numbers of migrants arriving in Europe throughout the 70s and 80s, European members started to expand an alternative regime: the travel regime.⁶²

While the overall travel regime has existed for thousands of years, regional travel regimes have only recently become institutionalized in an effort to regulate

⁵⁹ Articles 4, 18, and 19 of the Charter of Fundamental Rights of the European Union.

⁶⁰ Article 19 of the *Consolidated Version of the Treaty on European Union*.

⁶¹ Article 267 of the *Consolidated Version of the Treaty of the Functioning of the European Union*.

⁶² The travel regime refers to norms, rules, and procedures that regulate the cross-border movement of people. It may encapsulate permanent or quasi-permanent relocation of people as well as occasional, short-term business and leisure trips.

human mobility more efficiently. In this context, the beginnings of the European travel regime can be traced back to the Schengen Agreement of 1985. With its implementation five years later, the EU realized the abolition of internal and application of external border controls. This introduced the Schengen visa regime with a “four-tier access control model”⁶³ that includes migration control and surveillance within and outside the union as well as faster deportation and expulsion mechanisms.⁶⁴ The EU requires visas from individuals coming from “all countries in Africa, the Caribbean and Asia as well as a number of countries in Eastern Europe, Central America and the Pacific Rim.”⁶⁵ People with a visa requirement are subject to additional background checks and might be denied entry at any time. Embassies and consulates are encouraged to place individuals into “special risk categories” such as “the unemployed, persons without regular income, etc.”⁶⁶ The visa system represents a central part of the travel regime. It has restricted individuals’ access to protection, as most asylum seekers originate from countries with visa requirements or fall into one of the risk groups.

Additionally, the EU has created the Common European Asylum System (CEAS) in order to harmonize asylum procedures and to ensure the same treatment in every member state. It consists of the Dublin regulation and numerous directives, which are all binding to members.⁶⁷ The Dublin system is essential in this regard as it

⁶³ EU Finnish Presidency, Council Conclusions of 4-5 Dec. 2006, Press Release 15801/06.

⁶⁴ The Hague Programme, [2005] OJ C 53/1, para. 1.7.2.

⁶⁵ Thomas Gammeltoft-Hansen and Hans Gammeltoft-Hansen, "The Right to Seek – Revisited. On the UN Human Rights Declaration Article 14 and Access to Asylum Procedures in the EU," *European Journal of Migration and Law* 10, no. 4 (2008): 448.

⁶⁶ Gammeltoft-Hansen and Gammeltoft-Hansen, “The Right,” 448. See also Common Consular Instructions on Visas, 2005/C 326/01, section V.

⁶⁷ The most important Directives are: the Reception Conditions Directives which standardizes reception conditions and access to basic services; the Qualification Directive which establishes criteria for receiving refugee status and subsidiary protection; and the Asylum Procedures Directive which standardizes asylum procedures.

determines which state is responsible for an asylum application. The system foresees that asylum claims are to be lodged and evaluated in the first European country of arrival. Refugees who do not follow the Dublin provisions may be returned to the initial country that is responsible for their asylum application. This does not only entail expulsion to a different European country, but might include removal to another ‘safe’ third country. While the CEAS appears to be a promising measure of the refugee regime rather than the travel regime, the homogenization of asylum throughout Europe has compromised the overall quality of refugee protection. The CEAS only sets minimum standards for refugee protection, which has encouraged member states to adjust, and often times reduce, their national standards.⁶⁸ The Dublin Regulation not only fails to distribute responsibility fairly amongst member states, but also impedes individuals’ rights to free movement and to seek asylum in their desired country.⁶⁹ Additionally, the EU has engaged in outsourcing and offshoring migration control and protection. Offshoring refers to externalizing a state’s own migration authorities and outsourcing includes transferring migration responsibilities to private actors or third states.⁷⁰ The EU has entered into agreements with various other countries and diffused migration and protection duties to authorities of respective states. The deployment of immigration

⁶⁸ Maryellen Fullerton, "A Tale of Two Decades: War Refugees and Asylum Policy in the European Union," *Washington University Global Studies Law Review* 10, no. 1 (2011): 98.

⁶⁹ Countless civil society reports as well as statements of European members and the EU itself have identified an unfair distribution of responsibility. See Susan Fratzke, *Not Adding Up The Fading Promise of Europe's Dublin System*, (Brussels: Migration Policy Institute, 2015), <http://www.migrationpolicy.org/research/not-adding-fading-promise-europes-dublin-system>; Sheila Maas et al., *Evaluation of the Dublin III Regulation*, (Brussels: European Commission, 2015), https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/asylum/examination-of-applicants/docs/evaluation_of_the_dublin_iii_regulation_en.pdf.

⁷⁰ Thomas Gammeltoft-Hansen, *Access to Asylum: International Refugee Law and the Globalisation of Migration Control* (Cambridge: Cambridge University Press, 2011), 16.

liaison officers (ILOs) plays a central part in this practice. While ILOs supposedly only assist but not influence third country authorities, they often exercise direct control.⁷¹

Furthermore, the EU increasingly delegates migration control and protection to private actors. Carrier sanctions against airlines and other transport companies are common.⁷² The EU's restrictive travel regime has created a lucrative private security industry, including a large number of companies hiring security personnel and border guards carrying out deportation and control services. It has strengthened the roles of Frontex and the International Organization for Migration (IOM) as entities to manage irregular migration. Their scope and purpose was expanded, and they now exercise much more authority in carrying out border control measures and sea rescue missions. The various restrictive policies have created norms, principles, and rules restricting asylum and immigration. Consequently, the travel regime has reduced rather than enabled refugee protection and encouraged states to shift regimes.⁷³

By addressing asylum and immigration through the travel regime, states have obscured their responsibility to refugee protection and "bypass[ed] without overtly violating" the refugee regime.⁷⁴ Therefore, the European refugee-travel regime complex has benefited member states and non-state actors concerned with migration control and challenged human rights and refugee protection non-state actors as well as the European legal system. Nevertheless, the tensions between the two regimes continue, provoking disputes over the appropriate policy response to migrant and refugee flows.

⁷¹ Gammeltoft-Hansen and Gammeltoft-Hansen, "The Right," 452.

⁷² *Ibid.*, 450.

⁷³ Alexander Betts, "Institutional Proliferation and the Global Refugee Regime," *Perspectives on Politics* 7, no. 01 (2009): 53-54.

⁷⁴ Betts, "The Refugee," 15.

With the beginning of the refugee crisis and during the first half of 2015, the international and European refugee regimes were more dominant than the travel regime. Instead of limiting access to asylum and returning irregular migrants, the EU voiced support and acknowledged their responsibility to protect. Germany took on the main leadership in the pro-refugee campaign and even suspended the Dublin Regulation, the centerpiece of the European asylum system and the travel regime. Besides pushing European liberal measures, the country initiated a number of unprecedented national policies in order to ensure access to asylum and protection. However, during the second half of 2015, European members, foremost Germany, refocused their attention towards the travel regime. On the EU level, a number of new conservative measures have been discussed and passed including an even stricter border management system and additional agreements to repatriate failed asylum seekers to countries such as Afghanistan and Sudan. Germany also turned its back to the refugee regime and reversed its liberal policy course.

Having discussed international regimes and the European refugee regime complex, the two core questions remain: (1) Why was the refugee regime so pronounced in the beginning, and what motivated Germany to shift from its long-standing, restrictive immigration and asylum policies towards unprecedented liberal policies, and (2) why has the travel regime regained dominance, and what made Germany reverse its liberal policy course?

The Initiation of Liberal Refugee Policies

The discussion of the international and regional refugee and travel regimes provides the foundation for understanding the complexity of European as well as

German refugee policy making. It is apparent that decision makers face a dilemma: competing international and regional norms. If that was not enough, states also encounter a variety of domestic norms. These various domestic rule sets not only compete with and complement one another but also intersect with regional and international norms. Interaction amongst norms is therefore both vertical and horizontal (see Figure 1.1. for a visualization of norm interaction and Table 1.1. for a description of the various norms). In my efforts to explain Germany's break with its long-standing restrictive immigration and refugee policies and shift towards a liberal approach, I will illustrate how various norms were activated and seen as the most appropriate behavior.

Figure 1.1. Vertical and horizontal interaction of liberal and conservative refugee norms in Europe

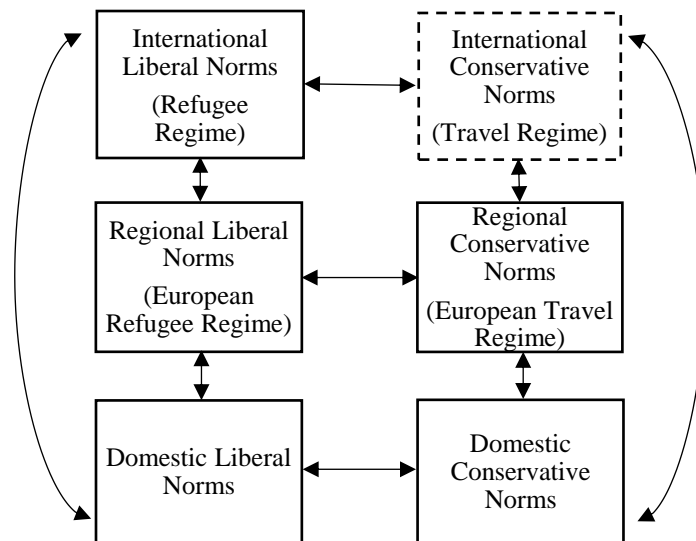


Table 1.1. Mechanisms of liberal and conservative refugee norms in Europe

| | Liberal | Conservative |
|----------------------|---|--|
| Domestic | Basic Law (Grundgesetz): right to asylum Actors: Federal Office for Migration and Refugees (BAMF), Red Cross, ProAsyl, Amnesty International, Catholic, Caritas | Safe third country agreements, Asylum Packages I and II residence termination law Actors: conservative parties (CDU/CSU, AfD), pressure from right-wing groups (Pegida) |
| Regional | ECHR, CFR, courts: ECtHR, CJEU Actors: Amnesty International, ECRE, AEDH, Comece, ENOMW | CEAS/Dublin Regulation, safe third country agreements, repatriation agreements, EU-Turkey Deal, Actors: Frontex, IOM, private border and migration control |
| International | Refugee Convention 1951 and Protocol 1967 Main Actor: UNHCR Others: HRW, Amnesty International, International Rescue Committee | Formal and informal bilateral agreements (transregional, therefore international) |

Both liberal and conservative immigration and refugee norms have been competing on the regional and national levels. While the travel regime has been strong, and Germany has had a long history of restrictive refugee and immigration policies, liberal norms became more influential at the beginning of the refugee crisis. In this regard, norm empowerment has played an important role. Decision makers and societal actors have changed discourse and behavior in order to promote liberal refugee norms and policies.⁷⁵ Finnemore and Sikkink note that state and non-state actors look for new ideas or norms or attempt to strengthen existing alternative ones in an effort to remedy specific emergency situations, conflict, or crises.⁷⁶ The humanitarian crisis in the Middle East and the respective mass influx of refugees into Europe constitute such a situation. Consequently, both political and societal actors started supporting pro-refugee

⁷⁵ Jeffrey T. Checkel, "Norms, Institutions, and National Identity in Contemporary Europe," *International Studies Quarterly* 43, no. 1 (1999): 88.

⁷⁶ Finnemore and Sikkink, "International Norm," 909.

norms. The majority of the government, civil society organizations, media as well as citizens pushed for more liberal policies.⁷⁷

For existing liberal norms to be empowered and activated, the domestic environment and the salience of the norm are important. This means that societal pressure from national and transnational non-state actors is not only present, but it is also able to influence the policy debate and course. In Germany, a variety of actors, especially civil society, NGOs, IGOs played an active role in the drafting of the new, liberal approach. Additionally, the norm needs to be salient. In this case, liberal refugee norms are salient as they not only exist on one level, but on the national, regional, and international level. They are institutionalized in international and regional treaties as well as incorporated in Germany's domestic legal system. Hence, national, regional, and international refugee norms reinforced and strengthened one another. Both state and non-state actors highlighted the importance of refugee protection and state responsibility. While in the past, agentic pressure was not as pronounced and therefore prevented liberal norms from being activated, the severity of the recent refugee crisis triggered a much stronger reaction from national and international actors demanding a liberal response.

Furthermore, state identity is driven by values and norms.⁷⁸ The above-mentioned normative dynamics revealed Germany's self-understanding as a "responsible and progressive state."⁷⁹ In this regard, states reflect on their values and

⁷⁷ Checkel, "Norms, Institutions," 99-101.

⁷⁸ Christine M. Korsgaard, *Self-constitution: Agency, Identity, and Integrity* (Oxford: Oxford University Press, 2009).

⁷⁹ Alexander Betts, "The Normative Terrain of the Global Refugee Regime," *Ethics & International Affairs* 29, no. 04 (2015): 367.

principles and acknowledge state responsibility and moral obligations beyond their territory as a result of an increasingly interconnected world.⁸⁰ Other international actors as well as citizens expect states with a progressive identity to act in a particular way. Therefore, identity is closely connected to a state's reputation. Failing to behave in accordance with one's expected identity might be costly both at the domestic and international levels, as it threatens state legitimacy and authority. This perspective suggests that self-interest is the result of actors' calculations of expected outcomes.⁸¹ Policy decisions are therefore strategic and driven by the desire to maximize benefits.⁸² However, even more important was the logic of appropriateness in regards to Germany's policy reaction. As discussed earlier, the moral pressure applied by a variety of actors who appealed to liberal refugee norms reinforced the German government's perception that, irrespective of the consequences, an open door policy is the most appropriate response. Therefore, the interaction of various norms and the respective pressure shapes national actors' perception of costs as well as appropriate behavior, which in turn influences policy outcomes.⁸³

In the context of state identity, a brief discussion of legitimacy and authority is necessary to understand Germany's shift to liberal policies. Legitimacy is described as a form of power, specifically a social power, constructed through norms, identity and

⁸⁰ Betts, "The Normative," 365. See also J.C. Sharman, "International Hierarchies and Contemporary Imperial Governance: A Tale of Three Kingdoms," *European Journal of International Relations* 19, no. 2 (2013): 189-207.

⁸¹ James G. March and Johan P. Olsen, "The Institutional Dynamics of International Political Orders," *International Organization* 52, no. 4 (1998): 949-951.

⁸² *Ibid.*, 949-950.

⁸³ Checkel, "Norms, Institutions," 87.

rhetoric.⁸⁴ It is the “belief by an actor that a rule or institution ought to be obeyed.”⁸⁵ Not only norms and rules can be legitimate, but also physical entities such as organizations or states. Legitimacy gives state or non-state actors authority over defined geographic regions, issue areas, or in specific situations. Authority also includes having “expertise that is considered trustworthy.”⁸⁶ This does not mean that authority is never questioned or contested, but rather that authority is legitimate to varying degrees, and that multiple forms of authority can exist simultaneously.⁸⁷ As mentioned above, liberal norm pressure activated Germany’s moral responsibility. In a regional and international leadership role, the country perceived itself as legitimate authority to push for a shift towards liberal refugee policies throughout Europe. Germany assumed other member states to experience the pro-refugee normative pressure in a similar way and therefore expected them to follow and adhere to this particular interpretation of European values. A similar process occurred at the domestic level. Conformity amongst the majority of politicians, organizations, and the broader society consolidated the legitimacy of liberal refugee policies.

Though many international and regional actors as well as the broader domestic audience supported Germany’s liberal approach, the country’s unilateral decision was soon subject to harsh criticism. European and domestic actors appealed to traditional conservative norms and contested Germany’s regional and national agenda change. Consequently, Germany started reversing its liberal policy course mid-September 2015.

⁸⁴ Ian Hurd, "Legitimacy and Authority in International Politics," *International Organization* 53, no. 2 (1999): 379-408.

⁸⁵ *Ibid.*, 381.

⁸⁶ Michael Zürn, Martin Binder, and Matthias Ecker-Ehrhardt, "International Authority and Its Politicization," *International Theory* 4, no. 01 (2012): 85.

⁸⁷ *Ibid.*

Reintroduction of Conservative Refugee Policies

In order to understand the complexity of the policy shift, it is necessary to review the interaction between different sets of rules. A consequentialist perspective would suggest that Germany's shift back to a conservative approach is a straightforward story of a country correcting a costly policy decision. Economic and security factors certainly played a part; however, they alone are insufficient to account for the actual social process through which the return to restrictive policies was accomplished. Actors appealed to norms in order to frame their preferred policy options. This allowed conservative actors to portray the reintroduction of more restrictive policies as both less costly and more appropriate than continuing the liberal agenda. The interaction between various norms illustrates that German policy makers were faced with a dilemma. On one hand conservative domestic and regional norms regained a strong foothold because a variety of actors started to appeal to them. In the domestic arena, conservative parties, groups, local politicians, employers, and citizens increasingly contested the newly activated and embryonic liberal refugee policy framework. On the regional level, European leaders voiced their disapproval of Germany's unilateral decision to suspend the Dublin system. They argued that Germany had violated the long-standing European asylum mechanisms and the well-established travel regime. On the other hand, national and transnational proponents of the refugee regime tried to counter the intensifying conservative norms.

Much IR literature has focused on competing norms either from top down, when international norms are contested in the domestic arena, or from bottom up, when new

domestic norms are uploaded to the international level.⁸⁸ However, norm interaction is much more complex than existing literature suggests. In the German case, domestic, regional and international norms compete horizontally and vertically and reinforce one another vertically. This is apparent in discourse as various actors attempt to strengthen domestic norms by appealing or challenging regional or international norms and vice versa. Norm contestation is therefore not a hierarchical or sequential, but a fluid simultaneous process. Grouping domestic norms together and assuming that regional and international norms are similar enough to be homogenized obliterates norm dynamics and the dilemma decision makers face when choosing policy options.⁸⁹

On the domestic level, liberal and conservative norms have been competing throughout the refugee crisis. This has given rise to normative conflicts and triggered arguments about the meaning of rules and appropriate behavior.⁹⁰ Domestic as well as transnational actors have been important in the decision making process as such advocated their preferred norms by using national, regional, and international norms while trying to delegitimize undesirable norms.⁹¹ On the European level, leaders stressed the importance of adhering to the preexisting travel regime, reprimanded Germany's turn away from it, and challenged the push towards liberal norms. The

⁸⁸ See Amitav Acharya, "How Ideas," 239-275; Checkel, "Norms, Institutions," 84-114; Andrew P. Cortell and James W. Davis, "How Do International Institutions Matter? The Domestic Impact of International Rules and Norms," *International Studies Quarterly* 40, no. 4 (1996): 451-478; Andrew P. Cortell and James W. Davis, "When Norms Clash: International Norms, Domestic Practices, and Japan's Internalisation of The GATT/WTO," *Review of International Studies* 31, no. 01 (2005): 3-25; Finnemore and Sikkink, "International Norm," 887-917; Amy Gurowitz, "Mobilizing International Norms: Domestic Actors, Immigrants, and the Japanese State," *World Politics* 51, no. 03 (1999): 413-445; Jeffrey W. Legro, "Which Norms Matter? Revisiting The "Failure" of Internationalism," *International Organization* 51, no. 1 (1997): 31-63; Antje Wiener, "Enacting Meaning-in-use," 175-193.

⁸⁹ Cortell and Davis (1996: 454) stress that the state is not a unitary actor as it encounters a host of different actors with different priorities.

⁹⁰ Sandholtz, "Dynamics of," 101.

⁹¹ Cortell and Davis, "How Do," 453.

international refugee regime was therefore not only competing with domestic conservative norms, but also with the distinct and well-established European travel regime. For this multi-layered process of contestation to work, actors appealed to specific norms and countered others in the pursuit of achieving a preferred policy course. While proponents of pro-refugee policies continued to stress Germany's moral obligations, conservative actors highlighted the well-established, traditional policies.⁹² However, why did conservative actors and discourse in favor of conservative refugee norms succeed over the newly activated liberal refugee policy course?

Conservative actors were able to portray longstanding, conservative refugee policies as both less costly and more appropriate than continuing the open door policies. Germany's unilateral approach and the lack of communication intensified the material pressure for all actors involved. Besides increased costs, actors were also reluctant to accept and follow the liberal agenda because of long-standing conservative policies. Conservative actors were able to stress that the liberal response to the refugee crisis was neither consistent with preexisting norms and rules, nor did it reflect how previous crises were resolved.⁹³ Therefore, a return to restrictive policies was portrayed as the most appropriate behavior. The existence of a long-standing conservative normative system with regard to asylum and refugee protection was decisive in the argumentation process of conservative actors. This necessitates a brief discussion on norm robustness and the type of norms.

⁹² Harald Muller, "Arguing, Bargaining and All That: Communicative Action, Rationalist Theory and the Logic of Appropriateness in International Relations," *European Journal of International Relations* 10, no. 3 (2004): 395-495.

⁹³ Sandholtz, "Dynamics of," 106.

The categorization of norms - whether or not a norm is robust and what kind of norm it is - has been a central part of constructivist research. Some scholars argue that a norm is more likely to be robust and less contested when specificity, durability and concordance are high.⁹⁴ However, others stress that ambiguous norms and rules are easier achieved and implemented, and that even the most precise normative systems are incomplete and unable to cover every situation.⁹⁵ Liberal refugee norms are broad and less precise. While they may be incorporated in treaties, laws, and debates, their lack of specificity has led to different interpretations and somewhat divergent practices. Therefore, the meaning attached to traditional liberal refugee norms differs from the respective meaning in use.⁹⁶ This does not suggest that such norms are irrelevant; actors are reluctant to violate the provision of refugee protection. However, actors are able to challenge them more easily and evoke more robust norms as long as such do not blatantly violate refugee protection.⁹⁷ Furthermore, the density of regimes in the case of migration and asylum has created multiple, permissible interpretations and policy prescriptions. Consequently, actors have been able to portray conservative policies as an equally appropriate response to the refugee crisis.

Additionally, the travel regime and Germany's conservative immigration policies have been well established. They represent specific, long-standing norms and practices, which are sticky and persist even when alternative norms have been activated. Conservative norms and rules have created a regional and domestic social structure with

⁹⁴ Kenneth W. Abbott et al., "The Concept of Legalization," *International Organization* 54, no. 3 (2000): 401-41; Legro, "Which Norms," 34-35; Wiener, "Enacting Meaning-in-use," 185.

⁹⁵ Kenneth W. Abbott and Duncan Snidal, "Hard and Soft Law in International Governance," *International Organization* 54, no. 3 (2000): 421-456; Sandholtz, "Dynamics of," 105-106.

⁹⁶ Wiener, "Enacting Meaning-in-use," 181-182.

⁹⁷ Sandholtz, "Dynamics of," 101-131.

shared expectations, obligations, and knowledge. Over time, adherence to the travel regime and national conservative policies has become the status quo.⁹⁸ Actors rely on such habitual behavior and may be reluctant to accept change. Again, as rule systems allow for multiple interpretations, actors are able to use these existing rules that are endemic parts of social life in processes of interpretation and application.

In the case of Germany, domestic actors such as employers, local politicians and communities, conservative groups and parties were so used to traditional rules and practices that the implementation of the new liberal mechanisms was challenging and time-consuming. It was not the fact that policies were economically unbearable and costly or that such increased the security risk for the national population, but more so that actors interpreted sets of norms and rules differently and portrayed conservative agenda as an alternative, permissible policy prescription. As a result, social recognition for liberal policies steadily decreased. On the European level, Germany's break with the travel regime and its unilateral decision to suspend the very core of the CEAS triggered both rebuke and rejection of liberal policies. As one of the main proponents of the European asylum mechanisms, Germany's departure from the normative system surprised European leaders. In moving unilaterally, the country not only violated its EU partners' understanding of appropriate procedural rules, but also disrupted the status quo. The lack of experience with liberal refugee practices and norms and reluctance to accept the policy shift, precluded Germany's legitimacy and authority on the subject matter. Both domestic and regional opposition to change long-standing conservative

⁹⁸ Ted Hopf, "The Logic of Habit in International Relations," *European Journal of International Relations* 16, no. 4 (2010): 543.

norms and practices and increasing pressure to renounce the newly introduced liberal approach, made Germany re-evaluate its policy decision.

As discussed earlier, the decision making process was shaped by both logic of consequences and logic of appropriateness. Competing liberal and conservative norms placed the German government in a decision making dilemma. While pressure for the continuation of pro-refugee norms and policies remained high, the demand for reverting to the status quo rose simultaneously. Compared to the domestic, regional, and international refugee regime, the travel regime in combination with domestic conservative norms was, both in theory and practice, much more robust and well established. Germany's departure from traditional norms and practices in refugee issues disrupted its national and European ontological security. The initiation of the liberal approach to the refugee crisis ran contrary to domestic and regional actor's experiences and their "sense of continuity."⁹⁹ In the light of severe domestic and regional criticism, Germany's reputation and leadership role was threatened. The country realized that its liberal policies were discordant with the expected behavior in the given social community. It lacked the legitimacy to convince other European governments to adopt liberal policies. Additionally, ignoring domestic and regional concerns would have been costly and strategically unwise. Consequently, the German government reevaluated its liberal policy agenda and found a return to restrictive policies as less costly and more appropriate.

⁹⁹ Anthony Giddens, *Modernity and Self-Identity: Self and Society in the Late Modern Age* (Stanford, Calif: Stanford University Press, 1991), 243.

Contributions to IR Literature

Much of the existing literature has focused on how international norms are internalized on the regional or domestic level, or how domestic norms become globally diffused and legitimate.¹⁰⁰ In this context, scholars have attempted to understand norm contestation, specifically when international norms clash with domestic norms and vice versa.¹⁰¹ This has produced a quality rich theoretical debate that is backed up by much empirical evidence. Moreover, such has offered critical insights into the policy decision making process and added value to prevailing theories and explanations. However, empirical studies have predominantly investigated vertical interactions between norms. This somewhat homogenizes norms at each level of analysis and gives little attention to the distinct, individualistic character that norms acquire through the internalization and interpretation process. It furthermore ignores the existence of multiple norms and rules across the different levels of analysis, which are incomplete and internally inconsistent.¹⁰² It also undermines the complexity of the decision making process as it presumes that actors mainly encounter one specific norm that is competing vertically or is interpreted differently amongst actors. However, policy decisions are made under much more complex circumstances as norms have become less isolated and tend to overlap with one another. Besides vertical competition, norms also clash horizontally (different domestic norms with similar scope). This is important as it further illustrates that the state should not be treated as a unitary actor with a single defined interest. Some recent scholarship has addressed not only how various actors interpret a norm, but also

¹⁰⁰ See Checkel (1999), Finnemore and Sikkink (1998), Gurowitz (1999).

¹⁰¹ See Acharya (2004), Cortell and Davis (1996, 2005), Legro (1997).

¹⁰² Mark Raymond and Laura DeNardis, "Multistakeholderism: Anatomy of an Inchoate Global Institution," *International Theory* 7, no. 3 (2015): 572-616; Sandholtz, "Dynamics of," 105-106.

how they interpret and use norms that complement and compete with one another in scope and purpose.¹⁰³ However, more needs to be done in this regard in order to expand the theoretical framework of norms. Acknowledging the differences within (horizontal) as well as between (vertical) domestic, regional and international norms, will help to better conceptualize norms in theory and explain the dynamics of policy making.

In this chapter, I offered a detailed discussion of regime theory and the European refugee regime complex. As mentioned above, a large literature has investigated the relationship between international and domestic norms while underestimating regional norms and regimes. However, a regional regime may act as an important catalyst in the national decision making process. It is possible that a regional regime is stronger and more established than international or even some domestic norms and rules. The European travel regime serves as an example that not only long-standing national but also regional norms and practices influence and trigger policy changes.¹⁰⁴ This is because they overlap and reinforce each other, while each maintains legitimacy in specific areas and proposes respective procedures and solutions. Therefore, domestic and regional norms may join together and compete with international, regional and domestic norms. Furthermore, regional regimes not only enable domestic and international actors to advance or contest norms, but also involve a variety of actors that are distinctively supranational. The European legal system for example has played an important role for both the international and regional refugee and travel regime. Consequently, future IR scholarship should factor in the effects of regional regimes on policy making and overall norm evolution.

¹⁰³ Sandholtz, "Dynamics of," 101-131.

¹⁰⁴ See Betts (2010, 2013); Koslowski (2011).

Conclusion

In this chapter, I discussed the theoretical framework for Germany's refugee policy course. Regime theory and the European refugee regime complex are central for understanding Germany's initial liberal approach as well as the shift back to conservative policies. European states have many different interpretations of asylum and refugee norms, which have resulted in very distinct state-centered domestic norms and practices. With the continuous European integration, asylum and migration has been "uploaded" to the European level and created both conservative and liberal norms, laws, and policies. As asylum and migration have been more and more socialized on the European level, states have increasingly relied on European asylum norms and practices. Many distinct European norms and practices have developed, which were incorporated into domestic arenas (Dublin responsibility as an example). Therefore, both European regional norms and domestic norms influence each other and are somewhat convergent, but also distinct and often address different policy areas (asylum services and procedures distinctly national, Dublin: European).

Considering Germany's initial liberal policy reaction, it appears that liberal domestic, regional, and international norms complemented and strengthened one another and gave actors more chances to promote preferred norms. As the refugee crisis was seen as a severe humanitarian crisis, actors stressed moral obligations and Germany's identity as a progressive, liberal state. Deviant behavior would have been costly for the country's reputation and contrary to its perceived identity in this specific situation. Germany's decision to initiate a liberal agenda was therefore shaped by both logic of consequences and logic of appropriateness.

Germany's reversal of its liberal policy course illustrates even more clearly the complexity of norm interaction and the dilemma decision makers face. As rule systems are incomplete and leave room for interpretation, actors are able to appeal to different norms in order to advance their preferred policy prescription. This leads to normative conflicts and triggers opposition, especially during crisis situations. In the German case, actors challenged alternative norms on the same or different levels of analysis. Conservative norms regained a strong foothold and were promoted by a variety of conservative actors. These actors used the existence of long-standing, restrictive migration and asylum norms and practices to counter the pro-refugee agenda. Germany's deviant behavior violated long-standing domestic and European asylum norms, as well as shared understandings about legitimate rule-making procedures. Therefore, the continuation of liberal refugee policies, which had intensified material pressure on local communities and disrupted national and regional ontological security, was seen as costly and inappropriate. Conservative actors successfully framed the long-standing restrictive normative framework as beneficial and appropriate, and convinced policy makers that a retreat toward more conservative policies was best suited to manage the refugee crisis.

Chapter 2: Germany's Initial Liberal Policy Response

Introduction

In this chapter, I will discuss Germany's unprecedented liberal reaction towards incoming refugees throughout 2015. While the country has had considerable amount of experience with regular and irregular migration flows, it had previously followed a rather restrictive immigration agenda. Germany's past immigration policies and responses to mass migrant inflows prior to the 2015/16 refugee crisis focused on limiting the time that migrants as well as refugees were able to stay in the country framing them as "temporary guests" or "officially tolerated."¹⁰⁵ It was not until 2000 that policy makers recognized Germany as a country of immigration and took first steps towards integration measures. With regards to the European migration and asylum system, Germany has been one of the main proponents of the CEAS and the Dublin Regulation, placing the burden on peripheral member states and restricting overall migration to Europe. Germany's open door policy in 2015 was therefore surprising for many stakeholders and migration scholars. Some experts argue that the economic benefits gained from the refugee influx have been the main driver.¹⁰⁶ As the country

¹⁰⁵ Marina Martinovic, "Refugees Reloaded - Lessons From Germany's Approach to Bosnian War," *Deutsche Welle*, February 2, 2016, n.p., accessed July 25, 2016, <http://www.dw.com/en/refugees-reloaded-lessons-from-germanys-approach-to-bosnian-war/a-19021249>.

¹⁰⁶ Katie Allen, "Refugees Hold Key to German Economic Growth, IMF Says," *The Guardian*, May 9, 2016, 1, accessed January 29, 2017, <https://www.theguardian.com/business/2016/may/09/germany-imf-economy-growth-refugees-migrants-labour-ageing-population>; Tina Bellon and Caroline Copley, "In Aging Germany, Refugees Seen as Tomorrow's Skilled Workers," *Reuters*, September 10, 2015, 1, <http://www.reuters.com/article/us-europe-migrants-germany-training-anal-idUSKCN0RA1E920150910>; Chris Cottrell, "Tapping Refugees to Combat Germany's Labor Shortage," *Deutsche Welle*, September 2, 2015, 1, accessed January 29, 2017, <http://www.dw.com/en/tapping-refugees-to-combat-germanys-labor-shortage/a-18688541>; Friedrich Heckmann, *Understanding the Creation of Public Consensus: Migration and Integration in Germany, 2005 to 2015*, (Washington, DC: Migration Policy Institute, 2016),

faces an aging population and decreasing birth rates, it is in dire need of skilled labor to stabilize the social security system and to stay economically competitive. However, empirical evidence shows that while economic factors might have served as additional leverage to persuade sceptics, the main motives for liberal policies were based on humanitarian and moral norms.

An investigation of interview data, government documents, reports from civil society organizations, as well as media sources indicates that the German government regarded a liberal policy response to the refugee crisis as the most appropriate behavior due to the predominant human rights and refugee protection norms. A variety of pro-refugee actors appealed to these norms and applied additional pressure to influence the country's decision making process. The liberal norms and the subsequent agentic pressure and support were activated because of the particular emergency situation and the severity of the humanitarian crisis in the Middle East. The country's identity as a progressive, multi-cultural society that embraces European values of freedom, justice, and human rights fit with the pro-refugee norms and policies. The internal and external pressure as well as the support from a variety of actors activated preexisting pro-refugee norms, which became more dominant than restrictive norms, ultimately triggering the initiation of unparalleled liberal policies.

This chapter will first offer a brief overview of Germany's liberal policy response to the current refugee crisis that is distinct from past approaches to accepting and accommodating large numbers of migrants. I will then discuss the empirical study

<http://www.migrationpolicy.org/research/understanding-creation-public-consensus-migration-and-integration-germany-2005-2015>.

and present the most dominant themes. In the last section, I illustrate the relationship between the various themes, and how they help explain the liberal policy response in 2015.

German Refugee Policy

In this section, I will first provide a brief overview of Germany's past restrictive refugee policies before discussing the country's most recent liberal response. As reviewing all of the German legislation on migration would be too extensive, I focus on asylum and refugee policies beginning in the 1980s up until the 2000s. In addition to formal policies and laws, I consider more informal measures and discourse. Though national and supranational initiatives are interconnected, I distinguish between them in order to highlight the liberalization process on different levels.

Review of Past Restrictive Refugee Policies on the National Level

Throughout the 1980s, asylum applications in Germany increased considerably. The German government responded with the Asylum Procedure Code (*Asylverfahrensgesetz*) 1982, which aimed at restricting asylum appeals, limiting welfare services, and accelerating expulsions – all in an effort to deter potential asylum seekers.¹⁰⁷ In addition, the Asylum Procedure Code established that the asylum claims of individuals who had previously stayed in a 'safe third country' should be denied.¹⁰⁸ Because Germany's narrow interpretation of the right to asylum only included individual political persecution, a large number of refugees were excluded from asylum

¹⁰⁷ Wolfgang Bosswick, "Development of Asylum Policy in Germany," *Journal of Refugee Studies* 13, no. 1 (March 2000): 46.

¹⁰⁸ Ibid.

in Germany.¹⁰⁹ These restrictive policies were accompanied by negative public discourse on asylum and refugees. The mass influx of asylum seekers was commonly referred to as the '*Asylanten Problem*' (asylum seeker problem), and politicians accused individuals of fraudulently claiming asylum and exploiting the German asylum system (*Asylmissbrauch*, abuse of asylum).¹¹⁰ In 1991, the Aliens Act was passed in order to expedite asylum procedures and to deport failed asylum seekers immediately.¹¹¹ When violence against foreigners increased, the government further restricted access to asylum.¹¹² Application numbers and expulsions decreased following an amendment to Article 16 of German Basic Law that strengthened the 'safe third country' concept and included a temporary rather than full refugee status.¹¹³ In 1992, German policy makers introduced airport procedures that allowed detention in international zones of individuals without travel or visa documentation.¹¹⁴ German restrictive policies continued with the *Asylbewerberleistungsgesetz* (Asylum Seekers' Benefits Act) of 1993, which reduced benefits available to 'tolerated persons' to a bare minimum.¹¹⁵ The trend of restrictive policies continued throughout the 1990s and early 2000s, as most asylum seekers were granted temporary protection status (*Duldung*) or limited access to social services.

Germany experienced a paradigm shift in immigration policy with the new millennium. The government first recognized Germany as a country of immigration and

¹⁰⁹ Bosswick, "Development," 46.

¹¹⁰ Ibid.

¹¹¹ Ibid., 48.

¹¹² Ibid., 49.

¹¹³ Ibid., 49-50

¹¹⁴ Ibid., 51.

¹¹⁵ Ibid., 52.

introduced a number of progressive policies such as the naturalization law, integration policies, and easier access for high skilled workers.¹¹⁶ Discourse also framed immigrants as a viable source for enhancing economic growth and multiculturalism. However, these measures mainly targeted an improvement in integration of immigrants already residing in Germany and did not include liberalizing overall access to asylum. No major legislation has been passed since 2005 to simplify access to asylum or encourage a more liberal approach. Public and political debates remained focused on criminalizing fraudulent asylum claims and restricting protection status.

Review of Past Restrictive Refugee Policies on the Supranational Level

Throughout the 1980s, Germany advocated for Europeanizing migration and asylum policy in order to establish additional mechanisms to control and restrict irregular migration flows. With the introduction of Schengen and the abolishment of internal border checks, the EU agreed to better guard its external borders. This marked the “starting point for a joint policy of immigration control” and established rules for asylum and refugee procedures.¹¹⁷ The Dublin Convention of 1990 shifted the responsibility for protecting Europe’s external borders and examining asylum applications to peripheral member states. Regardless of criticism from southern European member states and international organizations, Germany insisted on the adherence to the Dublin principles. The country also pushed for more restrictive

¹¹⁶ Petra Bendel, *Coordinating Immigrant Integration in Germany*, (Brussels: Migration Policy Institute Europe, 2014), accessed July 25, 2016.

¹¹⁷ Marcus Engler and Jan Schneider, *German Asylum Policy and EU Refugee Protection: The Prospects of the Common European Asylum System (CEAS)*, (Osnabrück: Institute for Migration Research and Intercultural Studies (IMIS), 2015), <http://www.bpb.de/gesellschaft/migration/kurz dossiers/207657/german-asylum-policy-and-eu-refugee-protection>.

measures with regards to the European asylum system by campaigning for the ‘safe third country’ notion and denying asylum claims from individuals who originated from or had previously stayed in such a country. When the talks about the Common European Asylum System (CEAS) began, Germany again fully supported the efforts to further harmonize migration and asylum policy. The Directives only established minimum protection standards and also included mechanisms for faster deportations, coercive measures, as well as (re-)entry bans.¹¹⁸ The CEAS is based on the principle of mutual recognition and therefore considers all European countries as having the same refugee standards. This has led to many instances of repatriations and deportations and compromised refugeehood. Nevertheless, Germany has consistently stressed the importance of the CEAS and Dublin and has been reluctant to change the system and adjust burden sharing. Additionally, the country has also concluded a number of bilateral agreements with neighboring countries to improve border controls in an effort to limit migrants reaching Germany as well as to repatriate third country nationals.¹¹⁹ This restrictive policy approach was questioned throughout the refugee crisis, which began in 2014, as will be illustrated in the following section.

Liberal Refugee Policies on the National Level

For the first time in history, the German government actively prioritized (1) the expansion of refugee protection and (2) integration over repatriation and temporary protection measures. Prior to 2015, as discussed above, Article 16 of the Basic Law was interpreted in very narrow way, excluding a large number of asylum seekers. Most

¹¹⁸ Engler and Schneider, *German Asylum*.

¹¹⁹ Bosswick, "Development of," 55.

applicants were either denied asylum or only received subsidiary or temporary status. However, Angela Merkel expanded this definition and the individual right to asylum when she stated that any Syrian refugee in Germany qualifies for protection and would not be returned.¹²⁰ With that, she suspended the requirement for refugees to prove individual persecution and simplified access to asylum to all individuals from war-torn countries. Overall asylum procedures were accelerated in order to guarantee full refugee status to the most vulnerable individuals.

Angela Merkel also stated that asylum seekers and refugees “need[ed] our help so they can integrate quickly.”¹²¹ While there have been integration measures in the past, such by no means compare to Germany’s contemporary integration agenda. Within a few months, Germany created an unprecedented integration infrastructure of physical and social capital in order to facilitate refugee inclusion. Following Merkel’s lead, the government increased funding for communities to one billion Euros for 2015¹²² and six billion for 2016.¹²³ A national action plan was established in order to support communities and foster integration measures for refugees. In addition to the 5.500 new government jobs in the Federal Office for Migration and Refugees (*BAMF*) and the federal police, new jobs were created in local job centers, migration and social

¹²⁰ "Schnellere Verfahren für Flüchtlinge aus Syrien und Irak," *Spiegel Online*, November 11, 2014, 1, <http://www.spiegel.de/politik/deutschland/schnellere-asylantraege-fuer-christen-und-jesiden-aus-syrien-a-1002293.html>; "Dublin-Verfahren Ausgesetzt Syrien-Flüchtlinge Dürfen in Deutschland Bleiben," *Spiegel Online*, August 25, 2015, 1, accessed January 29, 2017, <http://www.spiegel.de/politik/deutschland/syrien-fluechtlinge-deutschland-setzt-dublin-verfahren-aus-a-1049639.html>.

¹²¹ Michelle Martin, "Merkel Says Germany Must Learn from its 'Guest Worker' Mistakes for Refugee Crisis," *Reuters*, September 9, 2015, 1, <http://www.reuters.com/article/us-europe-migrants-germany-merkel-idUSKCN0R90S520150909>.

¹²² Die Bundesregierung, "Flüchtlinge: Bund Verdoppelt Finanzhilfen," last modified June 18, 2015, <https://www.bundesregierung.de/Content/DE/Artikel/2015/06/2015-06-18-spitzentreffen-im-kanzleramt.html>.

¹²³ "Merkel: Schwarze Null trotz Flüchtlingskrise," *Deutsche Welle*, September 9, 2015, 1, <http://www.dw.com/de/merkel-schwarze-null-trotz-fl%C3%BChtlingskrise/a-18702832>.

service agencies, as well as schools.¹²⁴ Numerous local programs were established to provide language and job skills in order to speed up the integration process for asylum seekers.¹²⁵

Liberal Refugee Policies on the Supranational Level

The two liberal initiatives on the European level were the suspension of the Dublin system and the continued push towards a quota system. Germany has been one of the main proponents of the CEAS and the Dublin Regulation and stressed adherence to the system. However, the mass influx of refugees during spring and summer 2015 caused Angela Merkel to announce that the country would voluntarily stop returning refugees, who had arrived in Germany, to the first European country of arrival. Germany's welcoming message affected not only the country itself, but also undermined the provisions of the Dublin System, as many refugees were encouraged to travel towards Central Europe. The decision was supported by the UNHCR who had been critical of the Dublin Regulation,¹²⁶ as well as by the European Commission, which "welcome[ed] this act of solidarity."¹²⁷

¹²⁴ Dietrich Creutzburg, "Tausende Neue Stellen – Öffentlicher Dienst Rüstet auf," *Frankfurter Allgemeine*, January 11, 2016, 1, accessed January 29, 2017, <http://www.faz.net/aktuell/wirtschaft/wirtschaftspolitik/fluechtlingskrise-tausende-neue-stellen-oeffentlicher-dienst-ruestet-auf-14008655.html>.

¹²⁵ Victoria Rietig, *Moving Beyond Crisis Germany's New Approaches to Integrating Refugees into the Labor Market*, (Washington, DC: Migration Policy Institute, 2016), <http://www.migrationpolicy.org/research/moving-beyond-crisis-germany-new-approaches-integrating-refugees-labor-market>.

¹²⁶ Susan Fratzke, *Not Adding Up The Fading Promise of Europe's Dublin System*, (Brussels: Migration Policy Institute, 2015), <http://www.migrationpolicy.org/research/not-adding-fading-promise-europes-dublin-system>.

¹²⁷ Andrea Dernbach, "Deutschland Setzt Dublin-Regeln für aus Syrien Flüchtende aus," *Der Tagesspiegel*, August 25, 2015, 1, accessed January 29, 2017, <http://www.tagesspiegel.de/politik/wende-in-der-asylpolitik-deutschland-setzt-dublin-regeln-fuer-aus-syrien-fluechtende-aus/12229884.html>.

Going beyond the Dublin Regulation, the German government also stressed the need for more burden sharing. Hence, the country fully supported the refugee quota plan that aimed at distributing 120.000 refugees amongst EU member states.¹²⁸ Merkel stressed that a fair resettlement system would avoid the problems of a few countries carrying the majority of the refugee burden.¹²⁹ The German government was praised by peripheral countries such as Greece and Italy for taking such an unprecedented liberal approach and responsibility beyond European and international standards.

Overall, Germany initiated a number of national policies and supported supranational measures that illustrate a distinctly more liberal approach to the recent refugee influx. Past national policies focused on limiting refugee status and protection periods. With regards to European measures, Germany had been supportive of the CEAS and the Dublin Regulation limiting migrants' and refugees' access to central Europe. However, the new liberal policies reflected a paradigm shift. The German government devoted a large amount of resources for integration programs and suspended the Dublin Regulation indicating their readiness to welcome and accept refugees permanently.

However, inviting refugees to Germany and introducing short and long term integration measures is a costly policy decision. It is therefore puzzling for rationalists as to why the German government would shift its longstanding focus from restrictive to

¹²⁸ Ian Traynor, "Germany to Push for Compulsory EU Quotas to Tackle Refugee Crisis," *The Guardian*, October 23, 2015, 1, accessed January 29, 2017,

<https://www.theguardian.com/world/2015/oct/23/refugee-crisis-germany-push-compulsory-eu-quotas>.

¹²⁹ "Merkel Says Refugee Burden Can't Fall on Just a Few Countries," *Reuters*, September 3, 2015, 1 accessed January 29, 2017, <http://www.reuters.com/article/europe-migrants-germany-idUSL5N1193L920150903>.

more liberal policies. Certainly, a rationalist explanation points towards long-term economic benefits gained from well-integrated refugees. As Germany's workforce is aging and the country faces a labor shortage, experts suggest that refugees could alleviate the pressure on the social security system and contribute to economic growth.¹³⁰ German politicians and employers have also acknowledged the potential benefits for the German and European economy.¹³¹ While these are valid arguments for increasing the number of refugees, it does not explain why the German government failed to introduce more migrant-friendly policies earlier to attract regular migrants. Therefore, a rationalist explanation is unable to account for the timing of the shift. Furthermore, the costs associated with taking in and accommodating large numbers of asylum seekers present an immediate economic burden. However, it is difficult to estimate the long-term costs of refugees and asylum seekers as most migration studies focus on the economic impacts of voluntary rather than forced migrants.¹³² As especially vulnerable individuals, refugees may need more assistance to adjust to the host country than voluntary migrants, placing an additional, unpredictable strain on public services. In Germany, the educational and professional level varies greatly

¹³⁰ See for example Tina Bellon and Caroline Copley, "In Aging," 1; Markus Dettmer, Carolin Katschak, and Georg Ruppert, "German Companies See Refugees as Opportunity," *Spiegel Online*, August 27, 2015, 1, <http://www.spiegel.de/international/germany/refugees-are-an-opportunity-for-the-german-economy-a-1050102.html>; Julia Kollwe, "IMF Says Refugee Influx Could Provide EU Economic Boost," *The Guardian*, January 20, 2016, 1, <https://www.theguardian.com/business/2016/jan/20/imf-refugee-influx-provide-eu-economic-boost>.

¹³¹ Various Congress Representatives stated that employed refugees could benefit Germany. See also Deutscher Bundestag, *Plenarprotokoll 18/120 - Stenografischer Bericht*, (Berlin, 2015), <http://dip21.bundestag.de/dip21/btp/18/18120.pdf>. In a study conducted by the SZ, employers also expressed that refugee integration will benefit the country see: Ulrich Schäfer, "Sie Arbeiten am Nächsten Wirtschaftswunder," *Süddeutsche Zeitung*, September 24, 2015, 1, <http://www.sueddeutsche.de/wirtschaft/fluechtlinge-sie-arbeiten-am-naechsten-wunder-1.2661310>.

¹³² Uri Dadush and Mona Niebuhr, "The Economic Impact of Forced Migration," Carnegie, last modified April 22, 2016, <http://carnegieendowment.org/2016/04/22/economic-impact-of-forced-migration-pub-63421>.

amongst the newly arrived refugees, and 70 percent do not have any sort of vocational training or formal job qualifications.¹³³ Hence, the integration process will take at least a decade.¹³⁴ Politicians and civil society agree that Germany's open door policy is not only costly but potentially risky if integration fails. Germany will have to "invest tremendously" before it can even "think about reaping some benefits."¹³⁵ Others clearly stated that refugees are not the solution to Germany's labor shortage and demographic challenge.¹³⁶

The overall interview data suggests that economic motivations played a peripheral role in the decision making process. One Congress Representative nicely summarized this by saying "considering the economic costs, this [liberal] policy shouldn't have happened the way it did regardless of Germany's strong economic position." Furthermore, several civil society representatives also confirmed that "the government knew without a doubt about the economic consequences"¹³⁷ but "[they] did it anyways."¹³⁸ This suggests that the German government did not simply behave in a consequentialist manner, but that logic of appropriateness significantly influenced the

¹³³ Anna-Katharina Rich, *Asylerstantragsteller in Deutschland im Jahr 2015: Sozialstruktur, Qualifikationsniveau und Berufstätigkeit*, (Nürnberg: Bundesamt für Migration und Flüchtlinge, 2016), http://www.bamf.de/SharedDocs/Anlagen/DE/Publikationen/Kurzanalysen/kurzanalyse3_sozial-komponenten.pdf?__blob=publicationFile; Sascha Balasko, Christoph Heinnemann, and Christian Kerl, "Arbeitsagentur Räumt ein: Integration der Flüchtlinge "Schwierig", " *Berliner Morgenpost*, June 1, 2016, 1., accessed July 25, 2016, <http://www.morgenpost.de/politik/article207627863/Arbeitsagentur-raeumt-ein-Integration-der-Fluechtlinge-schwierig.html>

¹³⁴ Joachim J. Hesse, "Staatsversagen? Bankrotterklärung Europas? Anmerkungen zur Flüchtlingskrise," *Journal for Comparative Government and European Policy* 13 (March 2015): 342.

¹³⁵ Interview with a SPD Congressman, 04 July, 2016.

¹³⁶ Interview with a local politician, 20 July, 2016. See also Cerstin Gammelin, "Ein Zuschussgeschäft," *Sueddeutsche Zeitung*, May 30, 2016, 1, accessed July 25, 2016, <http://www.sueddeutsche.de/wirtschaft/fluechtlinge-ein-zuschuss-geschaeft-1.3011871>

¹³⁷ Interview with a civil society representative, 17 June, 2016.

¹³⁸ Interview with a civil society representative, 15 June, 2016.

shift towards more liberal policies. This is also supported by the findings of the empirical study which I will demonstrate below.

Empirical Study: Motivations for Germany's Liberal Refugee Policies

As already mentioned above, interview data provides detailed insights into the initial decision making and thought process of policy makers. I conducted 18 in-person and two telephone interviews with congress members, representatives of civil society organizations, migration and security experts, and local politicians. Congressional members of all parties currently holding seats in the German Bundestag were interviewed in order to collect representative data.¹³⁹ Civil society representatives, migration and security experts had either been actively involved or had followed Germany's refugee policy making and were therefore able to comment on the overall development of the country's refugee agenda. Interviews with local politicians revealed how federal policies were perceived and implemented in communities.

In addition, government documents, media sources, and reports from civil society organizations further reaffirm the evidence from the interviews. A context analysis of the discourse suggests that Germany's initiation of liberal policies was motivated by more than economic factors. It even appears that potential economic benefits were only mentioned in order to further strengthen already agreed upon liberal policies. The most prevalent themes of the discourse analysis can be grouped into the following four main categories: (1) values/norms, (2) responsibility, (3) pressure/support, and (4) leadership will be discussed in more detail below.

¹³⁹ The four major parties are the Social Democratic Party (SPD), Christian Democratic Union/Christian Social Union (CDU/CSU), the Greens (die Grünen), and the Left (die Linke).

Values/Norms

Despite the variety of professions of interviewees, all study participants directly or indirectly mentioned German or European values and principles as decisive in the decision making process. They emphasized national or international law, sense of community, and values such as social justice, peace, empathy, and humanity. In Congressional debates, politicians stated that the right to asylum is so important that it is in fact nonnegotiable.¹⁴⁰ Angela Merkel requested that the government “remember our fundamental values that are guided by Article 1 of our constitution: human dignity is inviolable”¹⁴¹ and refused a cap on refugees because article 16a of the German constitution does not have provisions.¹⁴² A Congressman indicated that “it is the thought of our constitution to provide unlimited protection to refugees,” and another one stated that “through our fundamental laws, we promise to help the most vulnerable individuals.”

Besides national law, interview participants pointed towards the 1951 Refugee Convention and the European Convention on Human Rights. With regards to international treaties, a Congressman stressed that Germany has taken “an oath” to protect refugees and “this promise needed to be kept.”¹⁴³ Angela Merkel indicated that a “decisive founding impulse of a united Europe would get lost, namely that of the close connection with universal human rights” if Germany and Europe could not find a

¹⁴⁰ Deutscher Bundestag, *Plenarprotokoll 18/119 - Stenografischer Bericht*, (Berlin, 2015), <http://dip21.bundestag.de/dip21/btp/18/18119.pdf>. Deutscher Bundestag, "Plenarprotokoll 18/120."

¹⁴¹ Angela Merkel, "Wir Brauchen eine Faire Lastenverteilung," by Rheinische Post, *Rheinische Post*, September 11, 2015, 1, accessed January 19, 2017,

<https://www.bundeskanzlerin.de/Content/DE/Interview/2015/09/2015-09-11-merkel-rp.html>.

¹⁴² Angela Merkel, interview by Anne Will, *Anne Will*, Berlin: ARD, October 7, 2015.

¹⁴³ Interview with a CDU Congressman, 09 June, 2016.

solution. Another politician referred to national and European refugee law as “a commandment [...] to give a home to anybody who is fleeing war, persecution, or poverty.”¹⁴⁴ Accepting refugees was not only a legal obligation or duty, but “simply the right thing to do.”¹⁴⁵ In addition to political actors, civil society organizations also stressed the importance of European and international refugee law. The Carnegie Institute has called Merkel “a heroine for human rights groups and liberals across Europe for her policy toward the refugees.”¹⁴⁶ The think tank, while praising German policies, stated that other European countries did not live up to the “promise [...] in the 1951 refugee convention” and “discarded [their] values” because they failed to “extend protection and basic human rights to the refugees.”¹⁴⁷

Additionally, all interviewees linked Germany’s liberal policy reaction to German and European values and sense of community. A Congresswoman stated that “humanity” came first and that the liberal policy course combined values such as “democracy, freedom, and peace.”¹⁴⁸ Another Congressman pointed out that this crisis revitalized Germany’s “awareness of [liberal] values.”¹⁴⁹ Connecting German policies with the EU, discourse was framed around the term *Wertegemeinschaft* (community of values). A Congressman mentioned that “we need to reconsider our sense of values if we want to solve this crisis.”¹⁵⁰ He added that “the European project is based on liberal

¹⁴⁴ Interview with a SPD Congressman, 04 July, 2016.

¹⁴⁵ Interview with a SPD Congressman, 04 July, 2016.

¹⁴⁶ Judy Dempsey, "Merkel's Refugee Crisis," Carnegie, last modified September 14, 2015, <http://carnegieeurope.eu/strategieurope/?fa=61268>.

¹⁴⁷ Ibid.

¹⁴⁸ Interview with a SPD Congresswoman, 20 June, 2016.

¹⁴⁹ Interview with a CDU Congressman, 09 June, 2016.

¹⁵⁰ Interview with a SPD Congressman, 07 July, 2016.

values and human rights, ignoring such would be like destroying our foundation.”¹⁵¹

Another Congressman from the CDU asked “what is Europe worth, if we don’t find a unified response to this crisis?”¹⁵² He continued stating that “[liberal policies] not only save refugees. They save us” as “we can prove our values.”¹⁵³ This is particularly significant as actors across the political spectrum including conservative party members recognized and appealed to liberal norms.

As illustrated above, many actors appealed to liberal refugee norms and rules in order to promote a pro-refugee agenda. However, other actors challenged this approach by stressing adherence to alternative, conservative norms and rules. Civil society representatives and migration experts identified a societal split throughout the refugee crisis. One interviewee indicated that “opinions on what constitutes the right policy response were mixed from the beginning.”¹⁵⁴ Another one echoed the statement and added that “there were disagreements in Congress as well as amongst the broader society.”¹⁵⁵ In regards to the political debate, especially members of the CDU/CSU, Merkel’s own party, were critical of liberalizing refugee policies. One CSU Congressman said that “abandoning [our] well-established refugee system in favor of [a new] approach is not the solution.”¹⁵⁶ Another one indicated that “we should continue following the rules that we have in place. Instead of opening the borders, we should just adjust the existing policy framework.”¹⁵⁷ A SPD Congressman confirmed this by stating

¹⁵¹ Interview with a SPD Congressman, 07 July, 2016.

¹⁵² Interview with a CDU Congressman, 09 June, 2016.

¹⁵³ Ibid.

¹⁵⁴ Interview with a civil society representative, 24 May, 2016.

¹⁵⁵ Interview with a migration expert, 18 July, 2016.

¹⁵⁶ Interview with a CDU Congressman, 17 June, 2016.

¹⁵⁷ Interview with a CDU Congressman, 09 June, 2016.

that “the chancellor’s approach to the refugee crisis was supported by us and the opposition, rather than by her own people in the party. Kind of disappointing.”¹⁵⁸

Conservative actors applied a much more narrow reading of international and regional law and stressed the country’s right to limit immigration. One Congresswoman said that “we are keeping our promise by protecting refugees under the existing [conservative] system. Those [refugees] who do not fall under the protection standards of the German and European system, must leave the country.”¹⁵⁹ In a Congressional debate, one Congressional representative clearly summarized this stance:

Refugee is [...] a clearly defined term in international law, just as the right to asylum. The clear criterion is persecution, not economic hardship. That somebody comes to us because he does not see an economic or personal perspective in his home country, is of course no crime, but also no reason for asylum. I do not find this to be an inhuman or cynical attitude.¹⁶⁰

This exemplifies rule-guided behavior as even actors who opposed the liberal policy shift appealed to norms in order to articulate the appropriateness of continuing the conservative agenda.

Ultimately, actors utilized both liberal and conservative norms and rules from the beginning of the refugee crisis. While a great majority promoted a much more liberal reading, other stakeholders continued to emphasize the traditional, conservative approach to asylum and migration.

¹⁵⁸ Interview with a SPD Congressman, 04 July, 2016

¹⁵⁹ Interview with a CDU Congresswoman, 09 June, 2016.

¹⁶⁰ Deutscher Bundestag, *Plenarprotokoll 18/119 - Stenografischer Bericht*, (Berlin, 2015), <http://dipbt.bundestag.de/doc/btp/18/18119.pdf>.

Responsibility

The theme of responsibility is closely related to norms and values as responsibility implies that an actor is subject to a standard of appropriate behavior that guides his or her actions. However, while Germany might acknowledge the norm of refugee protection, actors disagree on what responsibility this includes and who is responsible to act. Therefore, this section introduces responsibility as a distinct theme from the above discussed norms and values in order to emphasize the diverging normative interpretations of responsibility.

When study participants were asked why the German government reacted in such a liberal way to the recent refugee crisis, “responsibility” was one of the most frequently used terms.¹⁶¹ Responsibility can be further categorized into (1) the reasons for Germany’s responsibility and (2) what kind of responsibility. For the former, the data suggests that policy makers perceived a sense of responsibility because of Germany’s capabilities, history, and the severity of the crisis. In the case of the latter, individuals indicated that Germany should take responsibility by accepting more refugees into Germany, addressing the root causes of conflicts, and sharing the refugee burden fairly amongst global players.

Capabilities are repeatedly used as a reason for Germany’s responsibility in the refugee crisis. One Congressman stated that the country should take in more refugees because of its “comfortable economic situation.”¹⁶² As the “winner of European

¹⁶¹ The word *Verantwortung* (*responsibility*) in context with Germany’s role in the refugee crisis was mentioned 35 times.

¹⁶² Interview with a SPD Congressman, 22 June, 2016.

politics,” Germany is seen to have sufficient fiscal and material resources to accommodate refugees.¹⁶³ This meant that the country would also have to “take in more refugees than other countries in the future.”¹⁶⁴ Some congressional representatives connected Germany’s capabilities with the global economy. One mentioned that Germany had profited from “exploiting poorer countries” and that the “unfair global economic order” had intensified human mobility.¹⁶⁵ Yet another one voiced in a parliamentary hearing that “the European Union, Germany, and the USA carry responsibility and blame for escalating the misery [in the developing world]” and should therefore help.¹⁶⁶ Amnesty International has also called onto economically leading countries to take on more responsibility.¹⁶⁷

Besides capabilities, Germany’s history was mentioned as a reason for responsibility. In a parliamentary debate, one politician said that “the end of the [Second] World War marks the pacification from genocide and humanitarian catastrophe” and “from this history grows responsibility.”¹⁶⁸ Another Congressman argued that “considering our history, [...] we are responsible to treat refugees well in every aspect.”¹⁶⁹ Thomas de Maiziere, the German Minister of Interior, confirmed

¹⁶³ Ibid. See also Plenarprotokoll 18/119 and 18/120.

¹⁶⁴ Deutscher Bundestag, " Plenarprotokoll 18/120."

¹⁶⁵ Interview with a SPD Congressman, 07 July, 2016.

¹⁶⁶ Deutscher Bundestag, *Plenarprotokoll 18/106 - Stenografischer Bericht*, (Berlin, 2015), <http://dipbt.bundestag.de/doc/btp/18/18106.pdf>.

¹⁶⁷ Amnesty International, "Reichere Länder Müssen Mehr Verantwortung für die Flüchtlinge Übernehmen," last modified October 12, 2015, <http://www.amnesty.de/2015/10/12/reichere-laender-muessen-mehr-verantwortung-fuer-die-fluechtlinge-uebernehmen>.

¹⁶⁸ Deutscher Bundestag, *Plenarprotokoll 18/104 - Stenografischer Bericht*, (Berlin, 2015), <http://dip21.bundestag.de/dip21/btp/18/18104.pdf>.

¹⁶⁹ Deutscher Bundestag, *Plenarprotokoll 18/112 - Stenografischer Bericht*, (Berlin, 2015), <http://dipbt.bundestag.de/doc/btp/18/18112.pdf>.

Germany's historic responsibility in order to justify its liberal policies.¹⁷⁰ A representative of a civil society organization stated that many of the activists and politicians still remembered or personally experienced post-war displacement and therefore "see such [liberal] policies as the right response."¹⁷¹ Newspaper articles and reports by think tanks also associated Germany's open door policies with lessons learnt from the past.¹⁷²

The severity of the crisis also played a role for Germany recognizing its responsibility. In interviews, congressional representatives said it was "acute emergency assistance,"¹⁷³ and "one of the worst humanitarian crises"¹⁷⁴ that motivated policy makers to initiate liberal policies. A civil society representative said that the crisis "left nobody unmoved - not even the most conservative politician,"¹⁷⁵ and another interviewee described the crisis as a specific *Umbruchsituation* (situation for radical change or revolutionary atmosphere) with regards to German refugee policies.¹⁷⁶ When asked why the recent refugee crisis was perceived as more severe and triggered a different response than other humanitarian crises in the past, study participants indicated that the media played an important role. "You couldn't escape the reports and the

¹⁷⁰ Bundesministerium des Innern, "Deutschland Übernimmt eine Besondere Verantwortung für Flüchtlinge," last modified June 20, 2014, <http://www.bmi.bund.de/SharedDocs/Pressemitteilungen/DE/2014/06/weltfl%C3%BChtlingstag.html>.

¹⁷¹ Interview with a civil society representative, 15 June, 2016.

¹⁷² Paul Carrel and Noah Barkin, "Refugee Crisis Shows the Changing Soul of Germany," *Reuters*, September 13, 2015, 1, accessed January 29, 2017, <http://www.reuters.com/article/us-europe-migrants-germany-insight-idUSKCNORD0JU20150913>; Thembisa Fakude, "Germany's Efforts to Resolve the Refugee Crisis," *Aljazeera Centre for Studies*, November 16, 2015, 1, accessed January 29, 2017, <http://studies.aljazeera.net/en/reports/2015/11/201511161209173246.html>; Sérgio Costa, "Es Liegt in der Historischen Verantwortung Europas, Flüchtlinge Willkommen zu Heißen," *The Huffington Post*, July 30, 2015, 1, accessed January 29, 2017, http://www.huffingtonpost.de/sergio-costa/liebe-fluechtlinge-es-ist-gut-das-ihr-da-seid_b_7902544.html.

¹⁷³ Interview with a SPD Congresswoman, 28 June, 2016.

¹⁷⁴ Interview with a SPD Congressman, 22 June, 2016.

¹⁷⁵ Interview with a civil society representative, 13 July, 2016.

¹⁷⁶ Interview with a civil society representative, 17 June, 2016.

pictures,” said one politician, “every day new headlines about bombings and people dying.”¹⁷⁷ A migration expert added that besides the media coverage, people could actually see the effects of the crisis. “These poor refugees weren’t somewhere in the Middle East far away, they were here. Right in front of our door,” he continued.¹⁷⁸ Consequently, the combination of both a strong liberal media campaign as well as the proximity of suffering refugees activated an increased sense of responsibility.

As the second part of responsibility, interviewees were asked to describe what kind of responsibility they ascribed to the German government. One of the most frequent answers was that the country was expected to take in more, or an overall large number, of refugees. Especially civil society representatives voiced their preference for the continuation of liberal policies. Many organizations publicly stated that Germany should accept its responsibility and therefore accept more refugees.¹⁷⁹ Congressional representatives also supported taking in more refugees in 2015. One Congresswoman stated that in hearings, congressional representatives were encouraged to post “refugees welcome” on their social media platforms or party websites in an effort to reflect the government’s continued commitment to its open door policies.¹⁸⁰ Leading politicians reaffirmed support for Angela Merkel’s policy course. In April 2015, Volker Kauder, the union fraction leader, stated that it would not be a problem for Germany to take in

¹⁷⁷ Interview with a Congresswoman of die Grünen, 15 June, 2016.

¹⁷⁸ Interview with a civil society representative, 13 July, 2016.

¹⁷⁹ "Diakonie: Mehr Flüchtlinge Aufnehmen," *n-tv*, August 19, 2015, 1, accessed January 29, 2017, <http://www.n-tv.de/politik/Diakonie-Mehr-Fluechtlinge-aufnehmen-article15748726.html>; ProAsyl, "Warum Deutschland Mehr Syrische und Irakische Flüchtlinge Aufnehmen Muss," last modified March 1, 2015, <https://www.proasyl.de/hintergrund/warum-deutschland-mehr-syrische-und-irakische-fluechtlinge-aufnehmen-muss/>.

¹⁸⁰ Interview with a SPD Congresswoman, 27 June, 2016.

“significantly more refugees.”¹⁸¹ Five months later in September, Vice Chancellor Sigmar Gabriel suggested that the country could cope with 500,000 refugees per year.¹⁸² In addition, the media connected Germany’s responsibility with taking in more refugees. Articles address numerous reasons as to why the country should accept more refugees and continue to liberalize its policies.¹⁸³ While most actors considered accepting and accommodating refugees as Germany’s most vital responsibility, there were others who highlighted the country’s responsibility to its citizens. One Congressman said that “it is hard to justify more money for accommodating refugees, when simultaneously services for citizens are on the decrease.”¹⁸⁴ With that, some conservative actors tried to counter the government’s open door policies and diffuse Germany’s responsibility.

Besides helping refugees to come and stay in Germany, the data shows that addressing the root causes was another repeatedly mentioned responsibility. This claim was used by both conservative actors who favored traditional, restrictive refugee policies as well as by liberal actors who viewed fighting the root causes as a long-term measure in addition to accepting more refugees in Germany. Even before the country began to liberalize its policies in 2015, the topic of humanitarian assistance and

¹⁸¹ "Deutschland Kann Noch Deutlich Mehr Flüchtlinge Aufnehmen", *Spiegel Online*, March 15, 2015, 1, accessed January 29, 2017, <http://www.spiegel.de/politik/deutschland/kauder-spricht-sich-fuer-mehr-fluechtlinge-in-deutschland-aus-a-1028659.html>.

¹⁸² "Gabriel Hält 500.000 Flüchtlinge pro Jahr für Verkraftbar", *Spiegel Online*, September 8, 2015, 1, accessed January 29, 2017, <http://www.spiegel.de/politik/deutschland/fluechtlinge-gabriel-haelt-500-000-pro-jahr-fuer-verkraftbar-a-1051862.html>.

¹⁸³ Sebastian Christ, "Das ist der Überzeugendste Grund, Warum Wir Flüchtlinge Aufnehmen MÜSSEN," *The Huffington Post*, April 22, 2015, 1, accessed January 29, 2017, http://www.huffingtonpost.de/2015/04/22/fluechtlinge-aufnehmen-muessen_n_7115914.html; Ludger Pries, "Lasst Doch die Flüchtlinge das Land Selbst Ausschauen," *Frankfurter Allgemeine*, September 3, 2015, 1, accessed January 29, 2017, <http://www.faz.net/aktuell/feuilleton/debatten/was-europa-den-fluechtlingen-schuldet-13780084.html>.

¹⁸⁴ Interview with a CDU Congressman, 09 June, 2016.

development was frequently discussed in parliamentary hearings.¹⁸⁵ Politicians across the political spectrum connected combating the causes of flight to both ensuring human safety and a better future as well as to decreasing the refugee flow to Europe. They furthermore criticized the lack of resources provided humanitarian programs and peace-building missions.¹⁸⁶ Especially the opposition has repeatedly called on the government to increase resources for development assistance in order to fight poverty, injustice, racism, and conflict in developing regions.¹⁸⁷ However, they also stressed that focusing on the root causes is not the main solution and no substitute for accepting more refugees. In an interview a Congresswoman pointed out that “conservatives try to divert attention to root causes as an excuse to hinder refugees from coming to Germany. That’s not acceptable.”¹⁸⁸ With the increasing numbers of refugees, discourse has focused more and more on decreasing the reasons for flight. In a parliamentary debate in early September 2015, addressing the root causes (*Fluchtursachen bekämpfen*) appeared 70 times.¹⁸⁹ Civil society representatives supported the government’s commitment to continued and increased humanitarian and development assistance, but also identified this as a long-term measure rather than an immediate solution to the refugee crisis. Migration experts pointed out that Germany should focus on fragile and failing states and invest in crisis prevention and state and peace building.¹⁹⁰ In addition

¹⁸⁵ See Plenarprotokol 18/94, 18/99, and 18/100.

¹⁸⁶ See Plenarprotokol 18/112.

¹⁸⁷ See the proposal of the opposition: Deutscher Bundestag, *Fluchtursachen statt Flüchtlinge Bekämpfen*, (Berlin, 2015), <http://dip21.bundestag.de/dip21/btd/18/070/1807046.pdf>.

¹⁸⁸ Interview with a die Linke Congresswoman, 05 July, 2016.

¹⁸⁹ See Plenarprotokol 18/120.

¹⁹⁰ Interviews with migration experts, 02 and 29 June, 2016. See also Lutz Warkalla, "Entwicklungspolitik Gegen Fluchtursachen," *General Anzeiger*, December 6, 2015, 1, accessed January 30, 2017, <http://www.general-anzeiger-bonn.de/news/wirtschaft/region/Entwicklungspolitik-gegen-Fluchtursachen-article1779678.html>.

to countering political and economic instability, one scholar said that limiting the effects of climate change in vulnerable regions should be central on the Germany's agenda as such will produce the "next big wave of refugees."¹⁹¹ Overall, all study participants saw Germany's responsibility in addressing the root causes of migration in the medium and long term and increasing resources for humanitarian and development politics.

Finally, burden sharing was named as another part of Germany's responsibility. This included not only advocating for more solidarity amongst industrialized countries in an effort to increase refugee resettlement, but also acknowledging that southern European and developing countries need more assistance with carrying the refugee burden. Civil society organizations have been actively reporting the lack of burden sharing in the light of the recent refugee crisis. Amnesty International has criticized rich countries' reluctance to accept the responsibility for refugee protection and sharing the burden.¹⁹² Similarly, Carnegie, the MPI, and the World Economic Forum (WEF) have pointed out the global community's shortcomings in adequately addressing the crisis and working together.¹⁹³ The media has also identified US and Russian response to the refugee crisis as insufficient and has called on the governments to take a more pro-

¹⁹¹ Interview with a migration expert, 17 June, 2016.

¹⁹² Salil Shetty, "Tackling the Global Refugee Crisis: Sharing, Not Shirking Responsibility," Amnesty International, last modified October 4, 2016, <https://www.amnesty.org/en/latest/campaigns/2016/10/tackling-the-global-refugee-crisis-sharing-responsibility/>.

¹⁹³ Pierini and Hackenbroich, "A Bolder," Demetrios G. Papademetriou, *Beyond Asylum Rethinking Protection Policies to meet Sharply escalating needs*, (Washington, DC: Migration Policy Institute, 2015), <http://www.migrationpolicy.org/research/beyond-asylum-rethinking-protection-policies-meet-sharply-escalating-needs-transatlantic>; Phil Orchard, "Why We Need a Global Response to the Refugee Crisis," World Economic Forum, last modified September 10, 2015, <https://www.weforum.org/agenda/2015/09/why-we-need-a-global-response-to-the-refugee-crisis/>.

active role in resolving the crisis.¹⁹⁴ In an interview, one Congressman expressed his disappointment at the lack of international cooperation with regards to the refugee crisis. He stated that he “would like to ask the USA and Russia and many other industrialized countries to finally take on responsibility.”¹⁹⁵

Besides highlighting the importance of an overall global response, interviewees specifically identified more European solidarity and burden sharing as essential to managing the influx of refugees. Almost all interview participants mentioned the need for more European solidarity with regards to refugee resettlement and a quota system. They pointed out that Germany had taken responsibility by pushing for a united European solution and more burden sharing. In parliamentary debates, congressional representatives discussed the fair distribution of refugees, the unsustainability of the Dublin Regulation, and the responsibility to ease the burden from southern European states.¹⁹⁶ One Congressman called the reactions of some European governments as “shameful,”¹⁹⁷ another one described the poor implementation of the agreed quotas as “ridiculous.”¹⁹⁸ Angela Merkel also viewed the lack of solidarity as unacceptable and stated that “it cannot be that three quarters of all asylum seekers are absorbed by only five member states of the EU.”¹⁹⁹ Think tanks and civil society organizations have censured the EU’s inability to find a solution. The European Policy Center called the

¹⁹⁴ Kathleen Newland, "Why U.S. Should Do More for Refugees," *CNN*, September 9, 2015, 1, accessed January 30, 2017, <http://www.cnn.com/2015/09/09/opinions/newland-europe-refugee-crisis/>; Bill Frelick, "Russia Needs to Pull its Weight in Solving Syria's Refugee Crisis," *CNN*, September 14, 2016, 1, accessed January 30, 2017, <http://www.cnn.com/2016/09/14/opinions/russia-must-pull-its-weight-with-refugees-frelick-opinion/>.

¹⁹⁵ Interview with a CDU Congressman, 09 June, 2016.

¹⁹⁶ See Plenarprotokol 18/94, 18/99, 18/100, 18/103, 18/106, 18/110, 18/112, 18/113, 18/117, 18/118, 18/119, and 18/120.

¹⁹⁷ See Plenarprotokol 18/106.

¹⁹⁸ Interview with a CDU Congressman, 09 June, 2016.

¹⁹⁹ See Plenarprotokol 18/112.

situation “not a refugee crisis [...] but a crisis of solidarity.”²⁰⁰ Carnegie and the ECFR have published a number of reports that address the EU’s incapability to find a common approach and share the burden.²⁰¹ Other reports have analyzed the shortcomings of the Dublin Regulation and the uneven distribution of refugee responsibility.²⁰² Overall, the data suggests that Germany perceives burden sharing and more European solidarity as part of their responsibility with regards to the refugee crisis.

Pressure/Support

Another dominant theme throughout the discourse can be broadly categorized as pressure or support. Pressure refers to the unprecedented activism from various stakeholders pushing for liberal refugee policies. Citizens, politicians, the media, and civil society voiced liberal policy preferences and influenced the decision making process. Support refers to actors’ willingness to help accommodate refugees in Germany. It includes the steep increase in voluntarism of politically active and inactive members of society. As the two categories are not mutually exclusive, they are grouped together. However, this is not to say that an actor who applied pressure was

²⁰⁰ Juliane Schmidt, *Europe and the Refugees: A Crisis of Values*, (Brussels: European Policy Centre, 2016), http://www.epc.eu/pub_details.php?cat_id=4&pub_id=6656&year=2016.

²⁰¹ Marc Pierini, "How to Establish a Workable EU Refugee Policy," Carnegie, last modified September 11, 2015, <http://carnegieeurope.eu/strategieurope/61261>; Judy Dempsey, "Merkel’s Refugee Mission," Carnegie, last modified November 5, 2015, <http://carnegieeurope.eu/strategieurope/?fa=61872>; Dempsey, "Central Europe’s;" Pierini and Hackenbroich, "A Bolder;" Angeliki Dimitriadi, "Burden Sharing, Where Art Thou?," The European Council on Foreign Relations, last modified November 11, 2015, http://www.ecfr.eu/article/commentary_burden_sharing_where_art_thou5003.

²⁰² Fratzke, "Not Adding;" Collett, "The Development;" Jan Schneider and Steffen Angenendt, *Krise der Europäischen Asylpolitik: Kollektive Aufnahmeverfahren mit Fairen Quoten Einrichten*, (Berlin: Sachverständigenrat deutscher Stiftungen für Integration und Migration, 2015); Stefan Lehne, "How the Refugee Crisis Will Reshape the EU," Carnegie, last modified February 4, 2016, <http://carnegieeurope.eu/2016/02/04/how-refugee-crisis-will-reshape-eu-pub-62650>.

simultaneously engaging in support. Both pressure and support enabled what has been termed *Willkommenskultur* (welcoming culture).

As a result of the deteriorating humanitarian situation in the Middle East, a variety of actors including politicians, churches, organizations, and the UNHCR pleaded for accepting more refugees.²⁰³ With regards to pressure from citizens, a congressional representative indicated that her constituents “expected” liberalization of refugee policies.²⁰⁴ She continued that “[one] has to listen to voters. If so many tell you that [what Germany is doing] is not enough, you take that back to the parliament.”²⁰⁵ Pressure from civil society and other organization was described as “intense.”²⁰⁶ Migration experts and civil society representatives actively participated in parliamentary debates and presented their policy recommendations. One civil society representative said “we told [the Congress] ‘you need to change this’. And they understood.” Additionally, the media’s focus on the refugee crisis made it difficult to ignore the call for liberal policies. Headlines of war, conflict, and boat disasters as well as the picture of a young Syrian boy that drowned in the Mediterranean Sea intensified the pressure on the government to become active and respond liberally. A Congressman admitted “nobody could escape the media coverage. And they were right to point out our shortcomings.”²⁰⁷

When it comes to the support, congressional representatives praised the unprecedented voluntarism and community work. In interviews as well as in

²⁰³ Engler, "Sicherer Zugang."

²⁰⁴ Interview with a Die Linke Congresswoman, 5 July, 2016.

²⁰⁵ Ibid.

²⁰⁶ Interview with a SPD Congressman, 04 July, 2016.

²⁰⁷ Interview with a CDU Congressman, 09 June, 2016

parliamentary hearings, politicians acknowledged and thanked activists for their help and support.²⁰⁸ Politicians referred to a “broad engagement,” and a “desire to help” from organizations, churches, police, and citizens. Migration experts and civil society representatives expressed their surprise to so much engagement. The manager of a leading civil society organization said that she has been part of the refugee work since 1984 but she “would have never dreamt” of so much support.²⁰⁹ Others said that they had to turn people away or tell them to come back the next day with their donations, because shelters were running out of space. Furthermore, people started countless initiatives and groups and developed pro-refugee networks to organize volunteer work, meetings, and fundraisers. The media informed citizens how they can assist refugees which further helped to mobilize volunteers.²¹⁰ Overall, Germany’s engagement has been internationally acknowledged by the EU Commission, the UNHCR, the international media, organizations, migration scholars, and state leaders.²¹¹ *The New York Times* praised Germany’s magnanimity, the Spanish *El Pais* supported the country’s determined and consistent response, and the British *Guardian* reported about Germany’s welcoming atmosphere.²¹² The Migration Policy Institute (MPI), the

²⁰⁸ All interview participants were overwhelmed with the civil support. See also Plenarprotokol 18/99, 18/100, 18/109, 18/119, and 18/120.

²⁰⁹ Interview with a civil society representative, 15 June, 2016.

²¹⁰ Milena Hassenkamp, "Wie Sie Flüchtlingen Helfen Können," *Zeit Online*, August 27, 2015, 1-2, <http://www.zeit.de/politik/2015-08/ehrenamtliches-engagement-fluechtlinge>; Stephan Maaß, "Wie Jeder von Uns Flüchtlingen Helfen Kann," *WeltN24*, May 3, 2015, 1, <https://www.welt.de/finanzen/verbraucher/article140439817/Wie-jeder-von-uns-Fluechtlingen-helfen-kann.html>; Katharina Windmaißer, "Immer Mehr Flüchtlinge: So Helfen Sie Flüchtlingen Richtig," *Bild*, September 12, 2015, 1, <http://www.bild.de/news/inland/fluechtlingshilfe/so-helfen-sie-fluechtlingen-richtig-42549620.bild.html>.

²¹¹ Engler, "Sicherer Zugang."

²¹² "So denkt das Ausland Über Berlins Flüchtlingspolitik," *Sat1*, September 8, 2015, 1, accessed January 29, 2017, <http://www.sat1.de/news/politik/so-denkt-das-ausland-ueber-berlins-fluechtlingspolitik-100026>; "Reaktionen zur Flüchtlingsaufnahme "Deutschland Verdient Nachahmung", "*Süddeutsche Zeitung*, September 7, 2015, 1, accessed January 29, 2017,

European Council on Foreign Relations (ECFR), and Carnegie also endorsed Germany's liberal stance while simultaneously calling for more European solidarity.²¹³ Former U.S. president Barack Obama and former UN High Commissioner for Refugees Antonio Guterres expressed their support for Germany's pro-refugee campaign and praised the decision to take the moral lead.²¹⁴ This support did not go unnoticed in the German Congress. In debates and hearings, politicians highlighted these positive national and international attitudes with regards to Germany's liberal response. Two Congressional interviewees mentioned that the government was "well aware" of this "global attention," and that "[it] wanted to live up to the expectations."²¹⁵

While societal pressure in favor of liberalizing refugee policies was pronounced, there was also some skepticism and backlash. Newspapers and civil society reported diverging attitudes and policy preferences even before the refugee influx in summer 2015. Citizens were critical of the idea of "unrestrained welcome culture" and "uncontrolled mass immigration."²¹⁶ Conservative actors and right-leaning groups

<http://www.sueddeutsche.de/politik/reaktionen-zur-fluechtlingsaufnahmehme-deutschland-verdient-nachahmung-1.2637250>.

²¹³ Elizabeth Collett, *The Development of EU Policy on Immigration and Asylum: Rethinking Coordination and Leadership*, (Brussels: Migration Policy Institute, 2015), <http://www.migrationpolicy.org/research/development-eu-policy-immigration-and-asylum-rethinking-coordination-and-leadership>; Josef Janning and Almut Möller, *Leading From the Centre: Germany's New Role in Europe*, (London: The European Council on Foreign Relations, 2016), http://www.ecfr.eu/publications/summary/leading_from_the_centre_germanys_role_in_europe_7073; Judy Dempsey, *Central Europe's Shameful Rejection of Refugees*, (Brussels: Carnegie, 2015), <http://carnegieeurope.eu/strategieurope/?fa=60574>; Marc Pierini and Jonathan Hackenbroich, *A Bolder EU Strategy for Syrian Refugees*, (Brussels: Carnegie, 2015), <http://carnegieeurope.eu/2015/07/15/bolder-eu-strategy-for-syrian-refugees-pub-60712>.

²¹⁴ "Obama Würdigt Deutschlands Rolle in der Flüchtlingskrise," *Zeit Online*, August 27, 2015, 1, accessed January 29, 2017, <http://www.zeit.de/news/2015-08/27/deutschland-obama-wuerdigt-deutschlands-rolle-in-der-fluechtlingskrise-27044004>.

²¹⁵ Two Congressmen from the SPD and CDU addressed the government's awareness of both national and international pressure and stated that policy makers certainly took that into account.

²¹⁶ "„Die Auswüchse der Asylpolitik Überfordern die Gesellschaft“, " *Focus Online*, May 18, 2015, 1, accessed April 1, 2017, http://www.focus.de/politik/deutschland/focus-online-user-ueber-fluechtlinge-in-deutschland-die-auswuechse-der-asylpolitik-ueberfordern-die-gesellschaft_id_4690427.html.

further underpinned and spread anti-immigration discourse. As a counterargument to the liberal policy framework, conservative actors framed citizens' needs as a priority over "redirecting resources to foreigners."²¹⁷ These actors invoked different norms in order to highlight the government's obligation to German citizens. This reflects logic of consequences as actors stress their duty to safeguard the interests of the German society as well as logic of consequences because policy makers identify prioritizing citizens as the most appropriate behavior. One interviewee stated that "of course we had some skeptical citizens," and "some of them who didn't support these [liberal] policies."²¹⁸ Another one added that "the pressure was there from right wing groups and conservative citizens who criticized the increase in funding for refugees and the decrease in services for citizens."²¹⁹ Similarly on the regional level, opinions on how to manage the refugee crisis varied amongst European actors early on. Various media sources reported on the heterogeneous policy preferences and stressed that especially Eastern European members opposed Germany's liberal agenda.²²⁰ Therefore, support for Germany's liberal refugee policies was strong, but not uncontested.

Leadership

The last major theme in the discourse analysis was Germany's leadership role. The country did not only perceive itself as the leader but was also labeled the leader by other actors. Angela Merkel stated that if "we lead the way" it is "more probable to find

²¹⁷ Interview with a local politician, 24 May, 2016

²¹⁸ Interview with a SPD Congressman, 04 July, 2016; Interview with a local politician, 20 July, 2016.

²¹⁹ Interview with a SPD Congressman 07 July, 2016.

²²⁰ Daniel Brössler, "Streit Über Flüchtlinge spaltet die EU," *Süddeutsche Zeitung*, June 24, 2015, 1, accessed April 1, 2017, <http://www.sueddeutsche.de/politik/europa-streit-ueber-fluechtlinge-spaltet-die-eu-1.2536153>; Jörg Münchenberg, "Europäisches Parlament Tief Gespalten," *Deutschlandfunk*, April 29, 2015, 1, accessed April 1, 2017, http://www.deutschlandfunk.de/fluechtlingsdebatte-in-strassburg-europaeisches-parlament.1773.de.html?dram:article_id=318475.

a European solution.”²²¹ A Congressman also pointed out that the country had “a leadership responsibility” within Europe.²²² In an interview, a Congresswoman referred to Germany as “the role model in the crisis,”²²³ and another one indicated the country “needed to lead with positive example.”²²⁴ Migration experts pointed out that Germany has emerged as the “moral leader” – a “new identity besides their role as the economic hegemon.”²²⁵ Because of Germany’s strong economic situation, it has acted as a leader throughout the Euro crisis. As the country has been known for its hard line in the Greek debt crisis, actors have been surprised by Germany’s liberal approach to the refugee crisis.²²⁶ One civil society representative viewed the country’s moral and humanitarian leadership as “revolutionary.”²²⁷ Another one said that she did not expect the German government to act as “such a humanitarian role model.”²²⁸ The media has also been particularly vocal about Germany’s unprecedented moral leadership and has praised Germany for its liberal policies.²²⁹ Organizations have written about the country’s new role.²³⁰ The MPI and the Expert Council of German Foundations on Integration and Migration (SVR) identified Germany as the main actor that has sufficiently responded

²²¹ See Plenarprotokol 18/120.

²²² See Plenarprotokol 18/119.

²²³ Interview with a SPD Congresswoman, 20 June, 2016.

²²⁴ Interview with a CDU Congresswoman, 09 June, 2016.

²²⁵ Interview with a migration expert, 18 July, 2016.

²²⁶ Carrel and Barkin, "Refugee crisis," 1.

²²⁷ Interview with a civil society representative, 28 June, 2016.

²²⁸ Interview with a civil society representative, 15 June, 2016.

²²⁹ Vera Kämper, "Vorbild Deutschland," *Spiegel Online*, September 1, 2015, 1, accessed January 30, 2017, <http://www.spiegel.de/politik/ausland/fluechtlingskrise-auslaendische-medien-loben-deutschland-als-vorbild-a-1050931.html>; Oliver Weber, "Deutschland in der Führungsrolle," *The Huffington Post*, September 3, 2015, 1, accessed January 30, 2017, http://www.huffingtonpost.de/oliver-weber-de/deutschland-in-der-fuehrungsrolle_b_8076460.html; Alison Smale, Steven Erlanger, and Katrin Bennhold, "Germans Welcome Migrants After Long Journey Through Hungary and Austria," *The New York Times*, September 5, 2015, 1, accessed January 30, 2017, https://www.nytimes.com/2015/09/06/world/europe/migrant-crisis-austria-hungary-germany.html?ref=world&_r=1.

²³⁰ Janning and Möller, "Leading From," 1.

to the refugee crisis by not only leading by domestic example but also through its efforts to push for a unified solution.²³¹ When asked whether this identity as a moral leader was really something new, one Congressman responded that “it was definitely a result of a maturing process,” and an “identity check, a reorientation.”²³² He added that “even though we were previously accepted in a European leadership position, we have never been in such an active [moral] role model position.”²³³ A civil society representative said that “if you receive so much praise and support from all corners and you lead by domestic example, it is no wonder that you accept your new position.”²³⁴ This discussion of identity again suggests that actors were genuinely motivated by more than rational calculation of costs and benefits.

Although there was conspicuous support for Germany’s moral role in the refugee crisis, this does not suggest that the country’s leadership was universally accepted and uncontested. On the domestic level, some conservative politicians questioned the country’s leadership role in the refugee crisis. One local politician indicated that he did not think Germany should have taken the lead and added that “we are not the only country in Europe, or the world. Why does it have to be us?”²³⁵ On the regional level, Germany’s attempt to motivate other European members to follow the country’s example and find a common, liberal solution to the refugee crisis was met with resistance. This was also pointed out by interviewees who stated that “some

²³¹ Marcus Engler, *Sicherer Zugang: Die humanitären Aufnahmeprogramme für Syrische Flüchtlinge in Deutschland*, (Berlin: Sachverständigenrat deutscher Stiftungen für Integration und Migration, 2015), accessed January 30, 2017, <http://www.svr-migration.de/publikationen/sicherer-zugang/>; Collett, "The Development."

²³² Interview with a CDU Congressman, 09 June, 2016.

²³³ Ibid.

²³⁴ Interview with a civil society representative, 17 June, 2016.

²³⁵ Interview with a local politician, 24 May, 2016.

European partners did not want to support our approach,”²³⁶ and that Germany was perceived as “patronizing and a know-it-all.”²³⁷

Overall, the data suggests that while there was broad consensus on Germany’s leadership role in the refugee crisis, there was some resistance. However, even opponents of the liberal policy felt compelled to admit the relevance of social norms and expectations based on Germany’s identity, values and norms. While conservative actors might not have changed their positions, they still identified a responsibility to respond. Ultimately, the German government perceived itself in a moral leadership role and was also, for the most part, identified and celebrated as the moral leader of the refugee crisis by domestic and international actors.

Relationship between the Themes

Having discussed the most prominent themes that are connected to Germany’s liberal policy decision, I will now illustrate how they relate to one another. Understanding the relationship between the different themes will help explain why the German government initiated such unprecedented liberal refugee policies.

It appears that Germany recognized its humanitarian and moral responsibility and identified itself as moral leader in the crisis. However, the question of why the country shifted from its longstanding restrictive policies to more liberal policies in this particular situation remains. The data suggests that internal and external pressure and support from a variety of stakeholders was so strong that preexisting pro-refugee norms were activated and became more dominant than restrictive norms. This enabled actors

²³⁶ Interview with a SPD Congresswoman, 27 June, 2016.

²³⁷ Interview with a local politician, 20 July, 2016.

to criticize Germany's past conservative approach as inappropriate and inconsistent with the numerous overlapping liberal norms that had not been sufficiently considered.

The foundation of the pro-refugee policies are undoubtedly rooted in liberal norms and values and can be identified as the starting point for the decision. Pressure and support from actors acted as an intervening variable that most likely intensified Germany's perception of moral responsibility and leadership. However, this does not suggest that the German government did not perceive a sense of moral responsibility and leadership before actors started advocating for a liberal approach. It is more likely that pressure and support from actors as well as the German government's perception of responsibility and leadership affected and reinforced one other simultaneously. Nevertheless, the unprecedented agentic pressure and support influenced and encouraged the German government to introduce more liberal and bolder refugee policies than in the past and to continue this agenda even in the light of national and European opposition and criticism. Overall, the liberal policy initiation by the German government shows the dynamic interaction between preexisting norms and values and agents. It is somewhat surprising that liberal norms have existed for such a long time and were only recently activated by actors.

One explanation for this is that norms do not exist in a vacuum, but they interact vertically and horizontally. This means that there is not only one particular norm guiding refugee policies, but rather a variety of overlapping national, regional, and international norms that influence the decision making process. Even during the 2015/16 refugee crisis, restrictive norms and rules competed with liberal ones and influenced policy makers. These horizontal norm interactions are also recognized by

politicians. Many interviewees pointed out that “opinions have not been homogenous,”²³⁸ or “congruent”²³⁹ with regards to the refugee policy course. Civil society organizations confirmed that there has been opposition to Germany’s liberal approach from the beginning. The MPI stated that with the increase in asylum applications in 2015, restrictive voices were present but largely “overshadowed by an enormous upsurge of practical solidarity.”²⁴⁰ The SVR reported that while there was large support, “sustained controversies” on the “concrete implementation” complicated the initial policy making process.²⁴¹ These clashing norms exist on the national, regional, and international level. As German immigration and asylum rules and norms are directly linked to European procedures, the decision making process is even more complex. While the German government prioritized liberal norms and introduced a number of subsequent policies, these new policies somewhat conflicted with preexisting, restrictive European measures that Germany had previously championed. This illustrates that even the initiation of Germany’s open door policies was not a straight forward, uncontested process, but a complex interaction of various overlapping norms.

However, in the case of the 2015/16 refugee crisis, norm verticality has also played an important role in the decision making process. For liberal policies to succeed over the restrictive alternatives, the interaction between national, regional, and international pro-refugee norms was decisive. Liberal refugee norms are institutionalized in international and regional treaties as well as incorporated in

²³⁸ Interview with a SPD Congresswoman, 20 June, 2016.

²³⁹ Interview with a CDU Congressman, 9 June, 2016.

²⁴⁰ Heckmann, "Understanding the."

²⁴¹ Engler, "Sicherer Zugang."

Germany's domestic legal system. Hence, national, regional, and international refugee norms reinforced and strengthened one another. The existence of a salient pro-refugee norm system has also enabled various actors to appeal to these norms. They highlighted the importance of refugee protection and state responsibility and defined a liberal approach as the most appropriate behavior and simultaneously condemned deviant actions.

This also shows that state identity is driven by values and norms, and explains the connection between liberal refugee norms and Germany's perception of moral leadership.²⁴² The above-mentioned normative dynamics revealed Germany's self-understanding as a "responsible and progressive state."²⁴³ In this regard, states reflect on their values and principles and acknowledge state responsibility and moral obligations beyond their territory as a result of an increasingly interconnected world.²⁴⁴ A state might therefore accept costs in order to maintain a certain kind of identity.²⁴⁵ In the case of Germany, the identification as a moral leader convinced the government to introduce liberal policies regardless of the costs and risks. Therefore, the German open door legislation represents another convincing empirical case study that illustrates the importance of logic of appropriateness in the policy decision making process. Undoubtedly, a consequentialist explanation is also helpful with regards to Germany's moral identity. Other international actors as well as citizens expect states with a

²⁴² Christine M. Korsgaard, *Self-Constitution: Agency, Identity, and Integrity* (Oxford: Oxford University Press, 2009).

²⁴³ Alexander Betts, "The Normative Terrain of the Global Refugee Regime," *Ethics & International Affairs* 29, no. 04 (2015): 367.

²⁴⁴ *Ibid.*, 365.

²⁴⁵ J.C. Sharman, "International Hierarchies and Contemporary Imperial Governance: A Tale of Three Kingdoms," *European Journal of International Relations* 19, no. 2 (2013): 189-207.

progressive identity to act in a particular way. Therefore identity is closely connected to a state's reputation. Failing to behave in accordance with one's expected identity might be costly as it threatens state legitimacy and authority. As illustrated earlier, Germany understood the consequences of failing to fulfil its promises and commitments and acting contrary to its assigned liberal identity. While this surely indicates logic of consequences, it also shows that such is informed and guided by rules and norms.²⁴⁶ Overall, both logic of appropriateness and logic of consequences have played a role in Germany's liberal policy decision and help connect how norms and values shape state identity. The interaction between different norms and the mobilization of various actors partly explains the initiation of liberal refugee policies, however, why was that pressure sufficient in this case, but not in previous cases of mass refugee displacement?

The discussed reasons for Germany's responsibility offer insights into why the support and pressure from a variety of actors could push the German government towards unprecedented liberal policies. Study participants identified the severity of the crisis as one of the most important drivers for the turn to liberal policies. The emotional framing of the Syrian refugee crisis and connected disasters and deaths intensified the reaction by the German society and government to advocate and push for liberal policies. Such a unilateral coverage of and interest in a humanitarian crisis had been unprecedented.²⁴⁷ During previous immigration and refugee inflows, liberal norms and pro-refugee proponents were not as active as in the recent refugee crisis. In the 1990s,

²⁴⁶ Harald Muller, "Arguing, Bargaining and All That: Communicative Action, Rationalist Theory and the Logic of Appropriateness in International Relations," *European Journal of International Relations* 10, no. 3 (2004): 395-495.

²⁴⁷ Gualtiero Zambonini, *The Evolution of German Media Coverage of Migration*, (Washington, DC: Migration Policy Institute, 2009), <http://www.migrationpolicy.org/research/evolution-german-media-coverage-migration>.

the only organized help for refugees came from leftwing activist, religious organizations, and some volunteers. As a response to increased attacks on refugee housing, some citizens participated in candle-lit demonstrations, however, the majority remained “indifferent.”²⁴⁸ There was almost no pronounced pro-refugee media coverage; quite the opposite, as many news sources exaggerated the negative image of the “illegitimate refugee.”²⁴⁹ However, the severity of the 2015/16 crisis was diffused through numerous reports, articles, documentaries, pictures, and speeches. Support from citizens exploded and social media volunteer networks “Berlin hilft” (*Berlin helps*) or “Refugees welcome.” Organizations had to turn away volunteers and donations because of the unparalleled engagement. Popular newspapers such as *Spiegel Online* or *Bild* supported the liberal policy agenda and published fact lists in order to counter prejudice and anti-refugee attitudes.²⁵⁰ Other media sources including *Süddeutsche Zeitung* and *Die Welt* predominantly appealed to emotions by depicting photo series and refugee stories.²⁵¹ In the center of this humanitarian campaign was the urge to help because people were subject to severe bodily harm or even death. In addition, it appears that actors easily identified Germany’s responsibility with regards to the refugee crisis. The disheartening events in the Middle East, pictures of people dying on their journey to Europe, and Germany’s national and international commitment to protect refugees

²⁴⁸ Geir Moulson, "German Welcome for Refugees Contrasts with Frosty Reception in 1990s, Shows Shift in Attitudes," *U.S. News*, September 7, 2015, 1, accessed March 30, 2017, <https://www.usnews.com/news/world/articles/2015/09/07/german-refugee-welcome-contrasts-with-cold-reception-in-90s>. See also Doris Akrap, "Germany's Response to the Refugee Crisis is Admirable. But I fear it Cannot Last," *The Guardian*, September 6, 2015, 1, accessed March 30, 2017, <https://www.theguardian.com/commentisfree/2015/sep/06/germany-refugee-crisis-syrian>.

²⁴⁹ Gualtiero Zambonini, "The Evolution," 3.

²⁵⁰ Carla Bleiker, "German Media: Covering the Refugee Crisis from all Sides," *Deutsche Welle*, September 2, 2015, 1, accessed March 30, 2017, <http://www.dw.com/en/german-media-covering-the-refugee-crisis-from-all-sides/a-18690337>.

²⁵¹ *Ibid.*

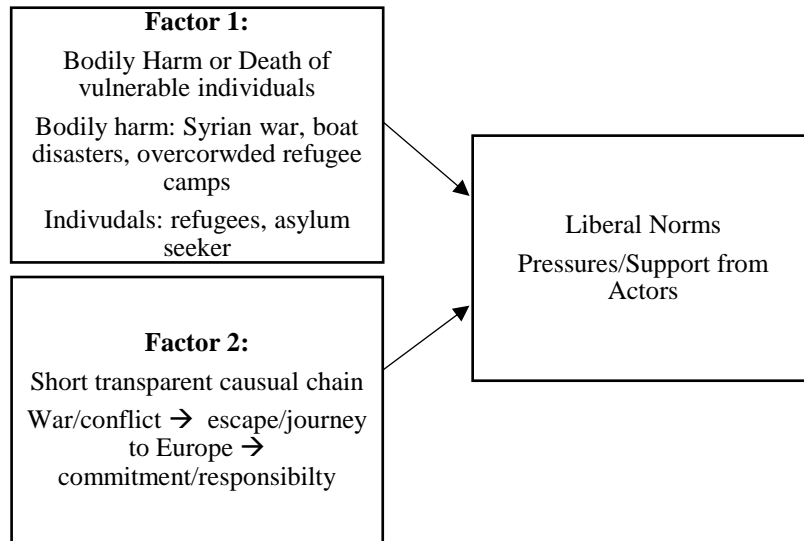
present a short and transparent causal chain. Therefore various actors were able to connect the refugee crisis with Germany's responsibility. Scholars have identified the risk of bodily harm and the death of vulnerable individuals as well as a short and clear causal chain as decisive factors for successfully mobilizing actors and revitalizing norm pressure (see Figure 2.1. for visualization of the two factors).²⁵² In the German case, this explains why and how liberal norms were activated and why pressure for pro-refugee policies succeeded over restrictive ones. Normative systems are unable to cover every situation.²⁵³ This incompleteness generates conflicts amongst stakeholders, especially during times of crises.²⁵⁴ These normative arguments are somewhat inevitable as rules are indeterminate and permit multiple, plausible interpretations, thereby challenging actors with different preferences to collectively choose one. Liberal actors were challenging the status quo in regards to traditional refugee policies by appealing to widely respected refugee and human rights norms, thereby making a moral claim for a policy change. They stressed that the severity of the crisis required a different interpretation of norms. This was further strengthened by the ubiquitous support from a variety of societal actors, who questioned the appropriateness of the restrictive rules and procedures.

²⁵² Margaret E. Keck and Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics* (Ithaca, N.Y.: Cornell University Press, 1998), 27.

²⁵³ Wayne Sandholtz, "Dynamics of International Norm Change: Rules against Wartime Plunder," *European Journal of International Relations* 14, no. 1 (March 2008): 103.

²⁵⁴ Finnemore and Sikkink, "International Norm," 909; Antje Wiener, *A Theory of Contestation* (Berlin, Heidelberg: Springer-Verlag Berlin Heidelberg, 2014), 49.

Figure 2.1. Factors influencing liberal norm and support activation



Overall, the analysis of Germany’s motivations for initiating unprecedented liberal refugee policies in 2015 aligns with constructivist scholarship. The discussed themes illustrate how and why the government decided to deviate from its long-standing, restrictive policy framework and responded so liberally. While a rationalist explanation could stress the country’s need for skilled workers or the concern of its international reputation, the study findings suggest that such reasons played a peripheral role. Instead, the data shows that normative factors such as values, rules, moral and humanitarian responsibility were far more decisive than any cost-benefit analysis.

I have also explained the relationship between the different themes and illustrated the decision making process. It appears that the underlying liberal norms and values were activated by the enormous pressure from actors across the political spectrum. The mass pressure and support also triggered the government’s perception of humanitarian responsibility. The country accepted and embraced its role as moral leader by setting a domestic example and advocating for more solidarity and burden sharing. The reason why liberal norms and pressure were not as successful during previous

immigration and refugee inflows has to do with the dynamic interaction between overlapping norms. Liberal norms have been competing vertically and horizontally with conservative norms. However, restrictive policies remained dominant in the past, because agentic liberal pressure was not as developed as in the case of the 2015/16 refugee crisis. Pro-refugee norms and the subsequent pressure and support from actors was activated in this particular instance because of the severity of the crisis and the short, clear causal chain. The emotional framing of the crisis portrayed individuals subject to severe bodily harm and death and therefore intensified Germany's desire to help. Additionally, German society was able to easily comprehend the severity of the crisis. The pictures of war and conflict and people travelling to Europe to seek asylum increased Germany's perception of responsibility and moral leadership. Overall, the severity of this crisis in combination with Germany's history triggered unprecedented societal pressure and support which resulted in the activation of preexisting liberal norms and Germany's moral leadership.

Chapter 3: Germany's Reversal of its Liberal Refugee Policies

Introduction

In this chapter, I will investigate why Germany reintroduced conservative policies shortly after the initiation of its unprecedented liberal measures in the first half of 2015. While the sexual assault attacks on New Year's Eve of 2015/16 have been frequently cited as the turning point in Germany's liberal refugee approach, a closer investigation of government discourse and interview data suggests that the shift happened much earlier. Shortly after inviting thousands of refugees to come to Germany, the government reinstated temporary border controls on September 13, 2015.²⁵⁵ This was the first of many more restrictive measures on both the national and European level. But what motivated the government to divert from its liberal agenda? As explored in the previous chapter, the severity of the humanitarian crisis and a short, transparent causal chain initially reinforced liberal norms and practices and replaced the long-standing restrictive approach to asylum. Therefore, Germany's abrupt policy change represents a puzzle for constructivists because the factors that produced the initial shift towards liberal policies still remained. Even though rationalists might point towards the increasing economic and security costs and consider the policy reversal merely a result of logic of consequences, the empirical evidence suggests a more nuanced explanation.

²⁵⁵ Luke Harding, "Refugee Crisis: Germany Reinstates Controls at Austrian Border," *The Guardian*, September 13, 2015, 1, accessed March 8, 2017, <https://www.theguardian.com/world/2015/sep/13/germany-to-close-borders-exit-schengen-emergency-measures>.

Throughout this chapter, I will illustrate how horizontal and vertical norm interaction figured centrally in the decision making process during the shift from liberal to conservative refugee policies. The data shows how actors perceived material factors and values differently depending on which norms they had internalized and prioritized. This led to the development of diverging policy preferences. Ultimately, the policy shift was triggered because conservative actors successfully framed conservative norms as both the most appropriate behavior (logic of appropriateness) as well as less costly in the short and long term (logic of consequences). They stressed that conservative policies do not blatantly violate and actually integrate core liberal values as well as reflect appropriate procedural rules and behavior. Besides pointing towards the economic and security risks, conservative actors argued that Germany's unilateral approach and lack of communication during the development of liberal policies irritated European partners and subnational governments and violated procedural rules. This created uncertainty and disrupted ontological security. Simultaneously, actors contended that liberal policies failed to provide a long-term solution and are, regardless of material factors, not the appropriate behavior in the light of increasing criticisms and lack of solidarity. The findings of this empirical study suggest that a multitude of factors, which combine both logic of consequences and logic of appropriateness, account for the policy reversal. While scholars have started to explore how mixed motives operate in social situations, more needs to be done in this regard.

In the first part of this chapter, I will provide a comprehensive overview of the conservative refugees policies, which have been initiated throughout the policy shift (September 2015 – August 2016) as a contrast to the liberal policies discussed in

Chapter 2. This will be followed by a discussion of the empirical study and the most prominent themes. Lastly, I will demonstrate how the themes are connected, and how they explain the reintroduction of conservative refugee policies.

Germany's Reintroduction of Conservative Policies

This section will review the introduction of more restrictive refugee policies beginning in September 2015 until September 2016. German decision makers supported and pushed for measures that focused on preventing refugee arrivals, complicating access to protection and services, and outsourcing responsibility to non-EU countries. While national and regional policies are interconnected, the decision making process is different on the two levels. I will therefore discuss German and European measures separately to better illustrate the policy making dynamics.

Restrictive Refugee Policies on the National Level

One of the first steps in the conservative policy shift was the closing of the border that became effective on the evening of September 13, 2015. The large influx of refugees within only a few weeks had brought the country and its neighbors to the limit. 63,000 people had arrived in Munich since late August, with a peak of 13,000 one day before the border closure.²⁵⁶ Consequently, the German government recalled their announcement of border-free movement for refugees and stated that passage would only be granted to EU citizens and visa holders. Police started patrolling the southern borders, and train traffic to Munich was halted. In the parliamentary debate only a few days prior to the decision, Merkel indicated the policy shift. She announced that “we

²⁵⁶ Harding, "Refugee crisis," 1.

cannot simply continue as we have, rather we have to rethink rules and temporarily suspend rules,” referring to both the future of the liberal refugee policies as well as the anticipated, temporary exit from the Schengen system.²⁵⁷ The in September of 2015 introduced border controls have been upheld throughout 2016 and are expected to continue much of 2017.²⁵⁸

The German Congress passed the so-called “Asylum Packages I and II” (*Asylpakete I und II*) in October 2015 and March 2016 respectively.²⁵⁹ These packages entail stricter right to stay and easier deportation requirements. Individuals with medical and psychological conditions that are not categorized as serious or life-threatening are subject to deportations. Additionally, the reformed right to stay allows deportations of criminal foreigners with a one-year minimum sentence. Albania, Kosovo, and Montenegro were declared “safe countries of origin,” which accelerates the asylum process and simplifies repatriations.²⁶⁰ Furthermore, benefits for asylum-seekers were cut and connected to the asylum process, meaning that people who are unregistered and without a “refugee ID” will not receive full benefits. In order to share the cost for integration and language courses, 10 Euros are deducted from every refugee’s monthly allowance (143 Euro), regardless of their ability or legal qualification to participate in the courses.²⁶¹ Subsequent immigration of dependents is only possible for asylum

²⁵⁷ Deutscher Bundestag, *Plenarprotokoll 18/120 - Stenografischer Bericht*, (Berlin, 2015).

²⁵⁸ "De Maiziere Calls to Extend Border Controls as EU Ministers Meet in Malta," *Deutsche Welle*, January 26, 2017, 1, accessed March 8, 2017, <http://www.dw.com/en/de-maiziere-calls-to-extend-border-controls-as-eu-ministers-meet-in-malta/a-37287108>.

²⁵⁹ Asylgesetz (AsylG) [Asylum Act] §§ 1, 2, 3, 4, 5, 13, 18a, 25, 30a, 31, 44, 47, 59, 60

²⁶⁰ Katharina Schuler, "Viel Härte, Wenig Wirkung," *Die Zeit*, February 25, 2016, n.p., accessed July 25, 2016, <http://www.zeit.de/politik/deutschland/2016-02/asylpaket-ii-abschiebungen-familiennachzug>.

²⁶¹ Ibid.

seekers who are able to prove individual prosecution. Those who fail to provide such evidence only receive subsidiary protection, which suspends their right to family reunification for two years. This rule also applies to unaccompanied minor refugees. Just as with Albania, Slovenia, and Montenegro, the German government declared the Maghreb states as safe countries of origin as of June 2016. Applicants from these countries, although they still enjoy individual asylum rights, face faster procedures and a higher chance of being denied asylum.

The new integration law, with its guiding principle that is best translated as “encourage and expect” (*fördern und fordern*), was introduced in August 2016 and aims at balancing the rights and responsibilities of refugees.²⁶² While the government increased the budget for integration, language, and professional courses and improved access to vocational training and employment, refugees are expected to participate and promote their own integration process more actively or face sanctions. Though the law has been considered as a milestone in the country’s migration and asylum system and appears to be fairly liberal, refugees encounter a variety of disadvantages and restrictions that could hinder rather than foster their integration process. The so called “residence requirement” (*Wohnauflage*) forbids them to move freely through Germany and requires them to live and work in the assigned community. This limits refugees’ access to the labor and housing market and violates their right to move freely. Refugees also face benefits cuts if they do not participate in language courses or in their asylum

²⁶² "Integrationsgesetz Setzt Auf Fördern Und Fordern," Bundesregierung, last modified July 8, 2016, <https://www.bundesregierung.de/Content/DE/Artikel/2016/05/2016-05-25-integrationsgesetz-beschlossen.html>.

process –unintentional misunderstandings or traumatized circumstances that might limit their participation are rarely taken into account.

Within only a few months, Germany passed numerous laws and enforced regulations that compromise the quality of refugee protection. Besides a shift towards more conservative policies on the domestic level, Germany also supported restrictive measures on the European level.

Restrictive Refugee Policies on the European level

European leaders met in September 2015 to discuss the role of the West Balkans in the refugee crisis. The European Commission proposed a common list of safe countries that includes most Balkan nations. This greatly diminishes the chances of asylum for individuals originating from one of these countries. Additionally, the option of closing the Balkan route in order to stem the refugee influx and prevent individuals from reaching central Europe was discussed. In March 2016, several Eastern European countries closed their borders, effectively sealing the route. Donald Tusk, the chief of the European Council, expressed gratitude towards Balkan states “for implementing part of EU’s comprehensive strategy to deal with migration crisis.”²⁶³ While Merkel officially condemned the Balkan route closure, many other conservative party members secretly welcomed the decision and called it a success.²⁶⁴

²⁶³ Stelios Bouras, "Balkan Countries Completely Seal Off Migrant Trail as Part of EU Plan," *The Wall Street Journal*, March 9, 2016, 1, accessed March 8, 2017, <https://www.wsj.com/articles/macedonia-completely-closes-border-with-greece-to-migrants-1457521754>.

²⁶⁴ Philipp Wittrock, "Angela Merkel und die CDU: Das letzte Mal," *Spiegel Online*, December 7, 2016, 1, accessed March 8, 2017, <http://www.spiegel.de/politik/deutschland/angela-merkel-und-die-cdu-hinter-dem-zenit-a-1124772.html>; "Gabriel Will Merkel beim EU-Gipfel Unterstützen," *Bild*, March 6, 2016, 1, accessed March 8, 2017, <http://www.bild.de/politik/inland/sigmar-gabriel/gabriel-will-merkel-unterstuetzen-44827358.bild.html>.

In addition to the Balkan closure, the EU increased its efforts to establish agreements with third countries in order to reduce the number of people leaving in the first place as well as to repatriate failed asylum seekers. Negotiations with Turkey started in September 2015, and the official EU-Turkey deal came into effect on 18 March 2016. The agreement permits asylum seekers residing in Greece to be returned to Turkey. This alleviates the EU's responsibility for processing and accommodating asylum seekers and assumes that Turkey is a safe third country. Human rights groups and the UNHCR have heavily criticized the deal as it decreases access to and the quality of refugee protection. Furthermore, the agreement with Turkey has motivated the EU to negotiate similar deals with other African, Asian, and Middle Eastern countries. In June 2016, the European Commission announced the new partnership framework for countries such as Afghanistan, Sudan, and Libya. The framework aims to "increase the rate of returns to countries of origins and transit, and [to] enable migrants and refugees to stay close to home (...)." ²⁶⁵ Germany has been a strong supporter and a driving force in the negotiation and policy making framework. ²⁶⁶

The EU also expanded the protection of its external borders. In December 2015, the European Commission proposed a new border and coast guard with a stronger mandate and more resources. The European Border and Coast Guard agency was officially launched on 6 October 2016 and includes Frontex as well as national border

²⁶⁵ European Commission, *Communication on Establishing a New Partnership Framework with Third Countries Under the European Agenda on Migration*, (Strasbourg, 2016), https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160607/communication_external_aspects_eam_towards_new_migration_ompact_en.pdf.

²⁶⁶ Stefan Lehne, "Upgrading the EU's Migration Partnerships," *Carnegie Europe*, November 21, 2016, 1, <http://carnegieeurope.eu/2016/11/21/upgrading-eu-s-migration-partnerships-pub-66209>.

authorities.²⁶⁷ The new regulation prioritizes regaining and maintaining control over irregular migration. The potential security risks associated with the increasing numbers of refugees arriving and traveling through Europe are to be minimized, and internal security is to be safeguarded.²⁶⁸ The agency enjoys more autonomy and is able to intervene if a member state fails to effectively control its own borders. Critics have pointed out that this kind of autonomy and lack of oversight decreases accountability and thus might compromise human rights and refugee protection. While the regulation stresses return operations, it falls short of an explicit search and rescue mandate. In addition to the new agency, the EU has also expanded the mandate of its Naval Force Med Operation Sophia to include the training of Libya's coast guard. However, the increased involvement of the Libyan coast guard also means fewer asylum seekers' arrival in Europe. Ships under European flag cannot legally return refugees to Libya as the country is not regarded a safe third country and is known for human rights abuses. However, if individuals are rescued by Libyan authorities, the EU bears no responsibility. Asylum seekers can be returned to Libya, a non-signatory of the Refugee Convention and a country without a functioning asylum system.

Another restrictive measure on the European level is the resumption of the Dublin regulation. The Dublin system requires that the asylum status of migrants must be determined in the first European country of arrival, and that asylum seekers may be

²⁶⁷ "Timeline - Response to Migratory Pressures," Council of the European Union, last modified 2017, <http://www.consilium.europa.eu/en/policies/migratory-pressures/history-migratory-pressures/>.

²⁶⁸ Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC.

sent back to the respective first country of arrival. Germany had reintroduced the Dublin system for Syrian refugees in October 2015 and started returning refugees to the first EU country of arrival, not including Greece.²⁶⁹ In 2011 the ECtHR and the CJEU halted all Dublin transfers to Greece because of the systemic deficiencies in the country's asylum system. However, in February and June 2016, the European Commission discussed the first steps towards gradually resuming Dublin transfers to Greece and thus to reestablish orderly procedure.²⁷⁰ Even though, the European Commission recognized that Greece "has made some improvements"²⁷¹ and that "still further progress [needs] to be achieved, notably on reception facilities, access to asylum procedures and structures for vulnerable applicants,"²⁷² the restoration of Dublin transfers to the country is anticipated for March 2017. This move was also encouraged by the German government, and the process for the reestablishment of Dublin transfers to Greece was set in motion in December 2016. Germany's revived support for the Dublin system on both the national and European level represents a sharp contrast to the liberal policy of suspending the regulation in favor of guaranteeing unrestricted access to protection in 2015.

²⁶⁹ "Germany Reinstates Dublin Rules for Syrian Refugees," *Deutsche Welle*, November 10, 2015, 1, accessed March 8, 2017, <http://www.dw.com/en/germany-reinstates-dublin-rules-for-syrian-refugees/a-18842101>.

²⁷⁰ Commission Recommendation (EU) 2016/1117 of 15 June 2016 addressed to the Hellenic Republic on the specific urgent measures to be taken by Greece in view of the resumption of transfers under Regulation (EU) No 604/2013 of the European Parliament and of the Council; European Commission, "Implementing the European Agenda on Migration: Progress on Priority Actions," last modified February 10, 2016, http://europa.eu/rapid/press-release_IP-16-271_en.htm.

²⁷¹ *Ibid.*

²⁷² European Commission, "Delivering on Migration and Border Management: Commission Reports on Progress Made Under the European Agenda on Migration," last modified September 28, 2016, http://europa.eu/rapid/press-release_IP-16-3183_en.htm.

In summary, Germany introduced a number of restrictive refugee policies on the national level while simultaneously promoting European measures to outsource and diffuse responsibility as well as to limit refugee arrivals and access to protection. The new German laws were all passed hastily. And although European leaders seemed unable to find common ground on liberalizing refugee policies, they were fast when it came to agreeing on the restriction and reduction of irregular migrant flows.²⁷³

Some of the above mentioned policy changes represent almost the exact opposite of what the German government had introduced in the first half of 2015. So why did the German government shift to more restrictive policies only a few months after introducing an unprecedented liberal policy approach? While a rationalist explanation that stresses the rising material costs associated with the refugee influx is certainly promising, a careful analysis of the data suggests a more complex decision making process beyond the consequentialist perspective. Actors evaluated and weighted material factors and values differently depending on which norms they had internalized and prioritized. This led to the development of diverging policy preferences. The data also indicates some variation within the conservative and liberal camp, meaning that actors acknowledged different sets of norms. For example, within the liberal and conservative camps, actors utilized norms to contest other norms which complicated the decision making process. Representatives of the most conservative party stressed the importance of liberal refugee protection norms and rules, however indicated that the country's responsibility to protect its citizens needed to be prioritized. Similarly, supporters of liberal refugee policies recognized that the influx of refugees within the

²⁷³ Lehne, "Upgrading the," 1.

short time period had placed an unanticipated strain on public services, which ought to be addressed in subsequent policies in order to address the concerns of worried citizens. This illustrates that norm internalization by actors with a given identity is not necessarily a homogenous, static process, and that actors might accept a variety of rules, some which might even contradict their preferred policy framework. While actors might admit the validity of certain alternative norms that call for a different policy response, they nevertheless prioritize the norms they find most appropriate and in line with their preferences. This explains why, although conservative actors recognized liberal refugee provisions, they continued to push for the discontinuation of the open door policy.

Additionally, it appears that material factors alone were not the main driver for the policy change, but that a return to conservative policies was perceived as the most appropriate behavior. The empirical study below will illustrate the horizontal and vertical norm interaction and introduce the most prominent themes, which will help to understand the dynamics of change.

Empirical Study: Motivations for the Shift

The interview data collected from May through July 2016 serves as the primary data source for the subsequent empirical study. Overall, 20 participants were interviewed including members of the Bundestag, representatives of civil society organizations, migration and security experts, as well as local politicians. While two interviews were conducted over phone, the majority was conducted in person. This was especially beneficial as I was able to observe both the spoken word as well as body language. Besides the field data, I reviewed media sources and reports from civil society organizations to illustrate the perceptions of and attitudes towards the policy

shift. The data suggests that policy makers evaluated both consequences and appropriateness of the continuation of the liberal policies as well as the reintroduction of conservative refugee policies. The empirical study identifies (1) security and economics, (2) lack of solidarity, and (3) Germany's unilateral approach.

Security and Economics

Actors commonly referenced the increasing numbers of refugees and rising economic and security concerns. Many participants associated these material constraints as a direct result of the continued refugee arrivals over a short time period. Others recognized the strain on public services and a potential security risk, however, they emphasized that failed integration rather than the ongoing refugee influx produces a negative economic and security situation. Therefore, policy makers and civil society representatives tried to advance their policy preferences partly through the different framing of (1) the refugee influx and (2) the economic and security concerns.

Conservative politicians expressed in interviews their preference for a shift back towards more “controlled” refugee policies.²⁷⁴ One Congressional representative mentioned that “while we uphold our obligations under the refugee convention, we still have the right to regulate and limit the number of refugees, as we used to do in the past.”²⁷⁵ Another Congress member echoed the previous statement and added “instead of reinventing the wheel, we should just modify [conservative] policies – more effective deportations, more border control, more resources to fight root causes.”²⁷⁶ A local

²⁷⁴ Interview with a CDU Congresswoman, 09 June, 2016.

²⁷⁵ Interview with a SPD Congressman, 22 June, 2016.

²⁷⁶ Interview with a CDU Congresswoman. 09 June, 2016.

politician indicated that “it is true that we have the duty to grant asylum under article 16 [of the German constitution], but we have already been doing that before the refugee crisis and the new [liberal] policies. Also, we shouldn’t forget about Dublin, we have to follow Dublin.”²⁷⁷ Another Congressman said “we have to keep in mind that the refugee status is a temporary status,” and that this was “universally accepted and implemented.” He went on, “We can’t continue to create more incentives [for refugees] to come, considering the current influx.”²⁷⁸

In particular, study participants from the ruling, predominantly CDU/CSU and some SPD politicians, interpreted the high numbers of refugees in a more negative way and framed them accordingly. When asked about the economic and security costs, one Congressman referred to the refugee situation as “refugee problem”²⁷⁹ (*Flüchtlingsproblematik*), and another one stated that the “refugee wave” (*Flüchtlingswelle*) was “unsustainable” because of the material costs as well as obligations owed to citizens.²⁸⁰ This discourse is also reflected in numerous parliamentary debates when representatives used “refugee avalanche,” (*Flüchtlingslawine*), “refugee flood” (*Flüchtlingsflut*), and “refugee run” (*Flüchtlingsandrang*) to describe the new arrivals. Decision makers aimed to advance their conservative refugee policies and intensify the sense of risk by creating similes that compare the increasing numbers of refugees to waves and floods. Such phrasing

²⁷⁷ Interview with a SPD Congressman, 22 June, 2016.

²⁷⁸ Interview with a CDU Congressman, 09 June, 2016.

²⁷⁹ Interview with a CDU Congressman, 17 June, 2016

²⁸⁰ Interview with a SPD Congressman, 04 July, 2016.

further highlighted the emergency situation and the urgency for a swift, more effective policy response and hinted at a potential policy change.

On the contrary, liberal politicians and civil society representatives used more sensitive wording. They stressed the human factor of migration and refrained from homogenizing refugees by labeling them as masses. In an interview, one female representative of the opposition called out the framing strategies of the CDU/CSU and SPD. She said that “[the government’s] attempt to dehumanize refugees by associating them with swarms or hordes is shameful (...) and feeds into conservative and populist discourse.”²⁸¹ This highly emotionally charged language suggests a violation of a standard of appropriate behavior. Another opposition Congresswoman confirmed “people pick up and reproduce such phrases, and now we are surprised about their anti-immigrant attitude.”²⁸² In parliamentary debates, the opposition has publicly criticized the ruling parties for introducing such “terminology.”²⁸³ One Congress member accused the Minister of Finance, Wolfgang Schäuble, of “fuel[ing] the mood against refugees” through “malicious expressions.”²⁸⁴ Another Congressional representative asked other politicians to reconsider whether “it is appropriate to speak of a flood or wave, as we are talking about humans after all.”²⁸⁵ The opposition has also pointed out that this discourse is used to promote and justify a more restrictive approach to the refugee crisis. One member highlighted that the refugee movement towards Europe is equated

²⁸¹ Interview with a Die Linke Congresswoman, 05 July, 2016.

²⁸² Interview with a Die Grünen Congresswoman, 15 June, 2016.

²⁸³ Plenarprotokoll 18/140

²⁸⁴ Plenarprotokoll 18/138

²⁸⁵ Plenarprotokoll 18/127

with “threat scenarios and tsunamis,”²⁸⁶ while another representative stated that the refugee situation is discussed as “a threat or a situation that is unmanageable.”²⁸⁷

Similarly, the various actors framed the security and economic concerns differently. Many interviewees of the CDU/CSU and SPD emphasized Germany’s limited capacity, an overwhelmed system, and the potentially increased terror risk and crime rates. A Congresswoman indicated that “we saw factual problems such as registration, accommodation - simply that we reached our logistic boundaries. (...) And, it needs to be said that our possibilities to continue accepting and accommodating such large numbers are simply limited.”²⁸⁸ Another Congressman stated, “German citizens have no fun financing refugees in the medium and long term. That’s why we needed to create stricter laws to hold refugees accountable for their economic integration.”²⁸⁹ When it comes to the security aspect, participants pointed towards the increased risk of terror attacks, refugee as well as hate crimes. One Congressman highlighted that “Germany’s priority remains to protect its citizens. That’s our main responsibility.”²⁹⁰ This indicates that conservative actors not only used consequentialist reasoning, but also appealed to different sets of norms in order to promote conservative policies. In parliamentary debates, politicians blamed liberal refugee policies for enabling large numbers of irregular migrants to enter Germany without being controlled or identified.²⁹¹ Additionally, the sexual assaults on New Year’s Eve of 2015/16 were

²⁸⁶ Plenarprotokoll 18/138.

²⁸⁷ Plenarprotokoll 18/140.

²⁸⁸ Interview with a CDU Congresswoman, 09 June, 2016.

²⁸⁹ Interview with a SPD Congressman, 04 July, 2016.

²⁹⁰ Interview with a CDU Congressman, 09 June, 2016.

²⁹¹ Plenarprotokoll 18/127 and 18/130.

mentioned in order to promote the policies for accelerated deportations of criminal refugees.²⁹²

Interestingly however, not all actors who favored a restrictive approach perceived a heightened security or economic situation. Conservative local politicians, who advocated for the reversal of liberal refugee policies, admitted that they could not identify worsened or unmanageable economic or security conditions. One local politician described the initial refugee policies as “a complete failure,” but not because of the imposed economic burden or security risk but “because we have never done [migration] that way, and we weren’t prepared.”²⁹³ Another local politician responded similarly when asked if the community had reached its capacity, or if there were increased security concerns. He said that they had “no complaints, no increase in crimes, and enough housing,” and that overall financial resources were sufficient to cope with the refugee influx. Some Congress members from the CDU/CSU and SPD also reported that while economic and security pressure had increased, it was manageable. A CDU Congressman said that “Germany is surely far from reaching its logistical and material capacities. I would disagree with whoever claims differently.”²⁹⁴ In regards to the argument about the increased security risk he stated that “for me, the right to asylum trumps my fear of potential terror attacks.” Another Congressman identified the risk emanating from refugees as “not a central concern.”²⁹⁵

²⁹² Plenarprotokoll 18/148.

²⁹³ Interview with a local politician, 24 May, 2016.

²⁹⁴ Interview with a CDU Congressman, 09 June, 2016.

²⁹⁵ Interview with a SPD Congressman, 22 June, 2016.

Other actors such as the opposition, civil society representatives as well as migration experts associated different material consequences with the refugee influx and stressed that a stricter approach or the absence of more liberal policies created economic and security issues. Congressional representatives stressed that increasing access to education, the job market, and health services will foster integration and ensure high standards of refugee protection. While they recognized the increasing pressure on the economy and did not dismiss the possibility of terrorist or criminal activity, they focused on the lack of liberal integration measures as a source for potential economic and security problems. They also alluded to the rising threat emanating from right wing and populist activities and the rapid increase in hate crimes. One Congresswoman stated that “Germany is the strongest country in the EU, our economy is doing better than ever before and refugees haven’t changed a thing about that.” She continued that “failed integration would be the real economic nightmare” and that refugee integration “will decrease long term costs and benefit Germany. Refugees are a huge chance economically as well as for our societal development.”²⁹⁶ A civil society representative listed “too little access to the labor market, lack of language teachers and instructors, no free movement, and many more restrictive and integration-hindering policies” as the “most costly economic decision.”²⁹⁷

In a parliamentary debate, one congressional representative warned not to “fight the debate on internal security on the backs of the refugees. Of course we cannot preclude the chance of a terrorist or a criminal mixing with the refugees. All this does,

²⁹⁶ Interview with a die Linke Congresswoman, 05 July, 2016.

²⁹⁷ Interview with a civil society representative, 17 June, 2016.

in no case, justify a general suspicion against refugees.”²⁹⁸ A migration expert in an interview added that while “suspicious activities need[ed] to be monitored” and that a terrorist attack “can never be ruled out,” the greater risk for radicalization rests in the “establishment of parallel societies and marginalization.”²⁹⁹ A civil society representative said that she “could imagine one or the other [terrorist] coming into the country. But those organizations were in Germany long before the refugee influx.” She continued that “from my experience, criminal activity is low. Refugees are no more criminal than Germans.”³⁰⁰ This was also confirmed by a security specialist, a chief police officer, whose commission gathered and evaluated data of refugee crimes. In the interview, he stated that “the majority of refugees are harmless.”³⁰¹ Therefore, the majority of liberal actors perceived the continuation of liberal refugee policies as appropriate and as a means to protect refugees and heavily criticized the return to restrictive measures. A migration expert explained that “European human rights and international law, especially in regards to refugees, has been steadily developing. We call this judicial activism. This ensures that laws evolve and remain appropriate over time.” She continued, “Therefore the liberal refugee policy response was necessary and adequate, while the move back to our old ways is counterproductive.”³⁰² A civil society representative expressed a similar view and indicated that “the proposed [conservative] laws compromise Article 1, 16, and 18 of the German Constitution. As a matter of fact, some parts of the new regulations represent the toughest restrictions on asylum since the

²⁹⁸ Plenarprotokoll 18/139.

²⁹⁹ Interview with a migration expert, 29 June, 2016.

³⁰⁰ Interview with a civil society representative, 24 May, 2016.

³⁰¹ Interview with a migration expert, 11 July, 2016.

³⁰² Interview with a migration expert, 18 July, 2016.

1990s.”³⁰³ Another civil society representative confirmed the trend towards restrictive refugee policies and added that “we have been witnessing the attempt to stop and deter refugees earlier and faster. Quite the opposite of what we have been doing in early 2015.”³⁰⁴ In parliamentary debates, members of the opposition heavily censured the introduction of restrictive laws and policies claiming that they violate universal norms of refugee protection as well as European values of freedom, justice, and peace. One Congress member said that the EU-Turkey deal was the “sad highlight of your refugee deterrent policies,”³⁰⁵ while another representative called the Turkish President Erdoğan a “personified root cause and not part of the solution.”³⁰⁶ In regards to restricting the right to family reunification, one congressional member stated that “this has adverse integration effects and is, considering the German constitution, more than problematic.”³⁰⁷

When asked about the security risks, many participants pointed towards the increase in hate crimes. One civil society representative stated that “the real problem is the dramatic rise in attacks against refugees, and that we continue to underestimate it.”³⁰⁸ A security expert asserted that “if you take the naked numbers, the greatest danger emanates from right wing violence.”³⁰⁹ Another migration expert reaffirmed this by saying “we need to pay much more attention to right wing criminal activity and hate crimes. These developments are scary.”³¹⁰ Many politicians from the CDU/CSU and

³⁰³ Interview with a civil society representative, 15 June, 2016.

³⁰⁴ Interview with a civil society representative, 17 June, 2016.

³⁰⁵ Plenarprotokoll 18/124.

³⁰⁶ Plenarprotokoll 18/129.

³⁰⁷ Plenarprotokoll 18/158.

³⁰⁸ Interview with a civil society representative, 13 July, 2016.

³⁰⁹ Interview with a migration expert, 26 June, 2016.

³¹⁰ Interview with a migration expert, 18 July, 2016.

SPD also reacted very sensitively to the violence against refugees. One Congressman pointed out the “the dangerous trend of crimes committed against refugees,” he continued to compare hate crimes with refugee crimes and stated that “offences directed towards refugees are six to ten times higher than crimes committed by refugees.”³¹¹

While most liberal actors supported the continuation of liberal policies, a number of interviewees also expressed the need for limits. One civil society representative indicated that “in order to ensure high standard protection, we need to somewhat limit the number of refugees.”³¹² Another one said that she did not think that “Germany’s liberal refugee policies means accepting everybody and taking in unlimited numbers of refugees,” and added that “we also have to consider other minority groups and the overall population within Germany.”³¹³ A Congresswoman from the opposition also echoed this view and stated that “we overall have to reorganize our refugee policies in order to satisfy both the needs of vulnerable populations such as refugees as well as our constituencies.”³¹⁴ This illustrates that even liberal actors recognized alternative sets of norms such as the country’s obligations to its citizens and therefore acknowledged the need for policy adjustment.

Overall, actors recognized a variety of security and economic concerns that had arisen as a result of the refugee influx. Conservative actors tended to frame the refugee numbers in a more negative way and discussed the strain on public services as well as the terror risk and increase in crime. Liberal actors on the other hand focused more on a

³¹¹ Interview with a SPD Congressman, 04 July, 2016.

³¹² Interview with a civil society representative, 24 May, 2016

³¹³ Interview with a civil society representative, 13 July, 2016.

³¹⁴ Interview with a die Linke Congresswoman, 05 July, 2016.

positive frame, but stressed that insufficient integration measures as well as increasing negative attitudes and violence against refugees are more likely to harm Germany's economy and security.

Germany's Unilateral Approach

Interviewees frequently mentioned Germany's unilateral approach in regards to initiating liberal policies. Many criticized the country's lack of communication and isolated decision making on the national and European level. Especially conservative Congressional representatives stressed that having made decisions that greatly affected other countries without coordinating them with EU partners was detrimental and a violation of common practices. They also stressed that it disrupted actors' ontological security. One Congressman stated that "suspending Dublin without any communication with most of our neighbors is not fair and not what Europe stands for."³¹⁵ A Congresswoman echoed this view and added that "we should have better anticipated the consequences for what would happen if we open the doors – for us and especially for other countries."³¹⁶ Another Congresswoman expressed that "we had fixed rules. We never had a resettlement mechanism or a quota system."³¹⁷ A local politician implied that the country's unilateral approach and the criticism it earned, threatened Germany's understanding as a central player in the EU and therefore disrupted its ontological security. He stated that "we were heavily criticized. Publicly and behind closed doors. And not only by countries which had opposed our policies from the beginning, but also by countries like France. And you don't want to be criticized by your closest partners.

³¹⁵ Interview with a CDU Congressman, 09 June, 2016.

³¹⁶ Interview with a SPD Congressman, 04 July, 2016.

³¹⁷ Interview with a SPD Congressman, 09 June, 2016.

That's bad."³¹⁸ Another local politician echoed this perspective and added, "Germany is jeopardizing its role in the EU," with its "solo run."³¹⁹

In parliamentary debates, Congress members expressed similar views. As an example, one representative said, "we Germans broke Dublin III. We pressured other countries to open their borders. (...) One can perhaps understand the absence of great enthusiasm to accommodate the refugees that we invited."³²⁰ Furthermore, one local politician said that "Merkel pressed ahead without coordination with European leaders, and now we have the disaster. The European leaders complain and say: [Germany] can't do this, they can't force something upon us they fabricated in a solo effort."³²¹ The suspension of Dublin came as a surprise because Germany had been one of the strongest supporters of the system and had been reluctant to change these rules. One Congressman said that the "dissolution of clear commitments, meaning that Germany, of all countries, did not follow Dublin – that was a shock."³²² Two local politicians viewed the suspension of Dublin and several other liberal policies as "a violation of European standards." One said, "we had European [asylum] policies, but Germany decided to impose another set of policies on Europeans. But these do not reflect European asylum policies. There is a European course, but that is not the German one."³²³ Newspapers also voiced that Germany's isolationist approach and liberal approach violated European rules.³²⁴ While the opposition labeled the country's

³¹⁸ Interview with a local politician, 20 July, 2016.

³¹⁹ Interview with a local politician, 24 May, 2016.

³²⁰ Plenarprotokoll 18/141.

³²¹ Interview with a local politician, 20 July, 2016.

³²² Interview with a CDU Congressman, 09 June, 2016.

³²³ Interview with a local politician, 24 May, 2016.

³²⁴ Stefan Aust et al., "Herbst der Kanzlerin. Geschichte eines Staatsversagens," *WeltN24*, November 9, 2015, 1, accessed March 8, 2017, <https://www.welt.de/politik/deutschland/article148588383/Herbst-der->

unilateral liberal agenda as “brave,”³²⁵ they also acknowledged that “a little more coordination would not have hurt.”³²⁶ *Der Spiegel* wrote that Merkel “is calling into question the very rules that Germany once put in place to deter immigrants. No wonder so many other heads of state are accusing the chancellor of imposing her will on them (...).”³²⁷

Besides the suspension of Dublin, study participants also pointed towards the lack of communication and transparency between the federal government and local communities. A civil society representative indicated that “there was just complete uncertainty of what is going to happen next. It was like, you come in to work in the morning, and you wouldn’t know what to expect.”³²⁸ A local politician expanded by saying that “there was literally no communication with Berlin. They would just send us busses with new refugees – unannounced – spontaneous ambushes so to speak. We would get a call that new busses with 500 refugees just arrived at the district office.”³²⁹ When speaking about the initiation of several liberal policies, another local politician said “we had no clue what they would come up with next. They would pass a law that theoretically created new jobs for refugee administrators or German teachers. We were supposed to implement it, but how? Just because you have the laws does not mean you have the [human] resources.” Another one added that “you need to communicate with

Kanzlerin-Geschichte-eines-Staatsversagens.html; Sven Becker et al., "Juncker Proposes Fixes to EU's Broken Asylum Policies," *Spiegel Online*, September 8, 2015, 1, accessed March 8, 2017, <http://www.spiegel.de/international/europe/refugee-crisis-in-europe-exposes-asylum-policy-shortcomings-a-1051481.html>; Heinrich August Winkler, "Es Gibt Kein Deutsches Moralmonopol," *Zeit Online*, April 24, 2016, 1-3, <http://www.zeit.de/2016/18/fluechtlingspolitik-europa-angela-merkel-moral>.

³²⁵ Interview with a die Grünen Congresswoman, 15 June, 2016.

³²⁶ Interview with a die Linke Congresswoman, 05 July, 2016.

³²⁷ Becker, "Juncker Proposes," 1.

³²⁸ Interview with a civil society representative, 24 May, 2016.

³²⁹ Interview with a local politician, 21 July, 2016.

your districts and communities and see what they need and what they can do. It seemed like they had no understanding of what was going or didn't want to deal with it – like running around with blinkers.” It appears that the lack of transparency and communication created a state of uncertainty and disrupted actors' ontological security. A local politician reaffirmed this by asserting that “we could have and still can handle the situation. With a little more coordination and communication this would have been half as bad. We could have planned better and would have been more prepared.”³³⁰ Besides drawing attention to how the miscommunication affected their material preparedness, local politicians also implied that it violated appropriate “democratic” behavior.³³¹ With respect to how the community and the local government perceived the policies, another answered that “we perceived them badly, because we weren't informed. We heard about them through the media. So the media basically updated us on government policies.”³³² Another one said that “we need points of orientation, you know communication of policies, that's how it's supposed to work [in a democracy].”³³³ And yet another one expressed that he was “still puzzled as to why the government did not involve us” in the policy making process.³³⁴

What also needs to be addressed in this section are the changing attitudes amongst the broader society due to the changed economic and security situation and Germany's lack of communication. Congressional representatives and local politicians reported very different experiences with their constituencies. One Congressman sensed

³³⁰ Interview with a local politician, 24 May, 2016.

³³¹ Interview with a local politician, 20 July, 2016.

³³² Interview with a local politician, 21 July, 2016.

³³³ Interview with a local politician, 20 July, 2016.

³³⁴ Interview with a local politician, 24 May, 2016.

a drastic change within his district and stated that in in the second half of 2015 and throughout 2016, talking about refugees was “more like citizen crisis management than refugee crisis management.”³³⁵ However, another one stated that he “did not perceive any substantial worsening of peoples’ opinions or attitudes in the district.”³³⁶ Local politicians indicated a variety of attitudes and stressed that conservative and liberal opinions were fairly balanced. A conservative local politician said the acceptance of the liberal policy approach “has changed a little bit, but mostly remained the same. The majority of our people want to help,”³³⁷ while another stated that “the welcoming culture has completely changed.”³³⁸ Civil society representatives echoed that there has been an increase in clashing attitudes within the German society. One civil society member identified “two sides,” referring to the liberal and conservative attitudes, and added that “the picture is very heterogeneous.”³³⁹ Another representative confirmed that “attitudes are mixed but pretty balanced,” and added that “however, it is hard to find somebody without an opinion. While before, there were some neutral people, it seems like most of them have chosen a side.”³⁴⁰ Media sources reported about the societal split and pointed towards both the increase in right wing discourse as well as the continued efforts and engagement of volunteers and civil society organizations.³⁴¹

Throughout 2016, many newspaper articles depicted the decrease in popularity for

³³⁵ Interview with a SPD Congressman, 04 July, 2016.

³³⁶ Interview with a SPD Congressman, 07 July, 2016.

³³⁷ Interview with a local politician, 21 July, 2016.

³³⁸ Interview with a local politician, 24 May, 2016.

³³⁹ Interview with a civil society representative, 28 June, 2016.

³⁴⁰ Interview with a civil society representative, 24 May, 2016.

³⁴¹ Thomas Jäger, "Flüchtlingspolitik: Der Kampf um die Öffentliche Meinung," *The Huffington Post*, August 1, 2015, 1, accessed March 8, 2017, http://www.huffingtonpost.de/thomas-jaeger/fluechtlingspolitik-oeffentliche-meinung_b_7916868.html; Verica Spasovska, "Opinion: AfD Up, Merkel Down - Germany Has Changed," *Deutsche Welle*, September 3, 2016, 1, accessed March 8, 2017, <http://www.dw.com/en/opinion-afd-up-merkel-down-germany-has-changed/a-19524951>.

Merkel's and her liberal policies,³⁴² yet other sources report that citizens support the welcoming culture.³⁴³

Lack of solidarity

The lack of solidarity in the EU as well as the theoretical rather than practical support by other international actors was referenced frequently in interviews, media sources, and civil society reports. Study participants not only censured the continued resistance of European partners to find a common solution, but also discussed the reasons for the paucity in European solidarity, and how it contributed to the policy shift. One Congressman stated that “we advocated for a European and international solution from the beginning. The federal government has said that very early on. But the resistance continues.” Another Congressman said that he has “a firm belief that [we] need a European solidarity project. And it cannot be that some countries shy away from this responsibility and move away from solidarity.”³⁴⁴ A Congresswoman said “everybody was calling for leadership. But they didn't want the [liberal] leadership that Germany had to offer.” This was reaffirmed by another Congresswoman when she stated that “it has been very frustrating, to try and try all over again to find consensus on [liberal] and fairer measures such as a quota or a resettlement system. For a year now.” A Congressman expressed similar frustration indicating that “we have been trying to

³⁴² Albert Funk, "Deutsche Zweifeln an Angela Merkel - die CSU Triumphiert," *Der Tagesspiegel*, August 5, 2016, 1, accessed March 8, 2017, <http://www.tagesspiegel.de/politik/umfrage-zu-fluechtlingspolitik-deutsche-zweifeln-an-angela-merkel-die-csu-triumphiert/13973026.html>; "Mehrheit der Deutschen Lehnt Flüchtlingspolitik ab," *WeltN24*, November 10, 2016, 1, <https://www.welt.de/politik/deutschland/article159400789/Mehrheit-der-Deutschen-lehnt-Fluechtlingspolitik-ab.html>.

³⁴³ "Mehrheit der Deutschen Hält Merkel für Richtige Kanzlerin," *WeltN24*, September 8, 2016, 1, accessed March 8, 2017, <https://www.welt.de/politik/deutschland/article158004331/Mehrheit-der-Deutschen-haelt-Merkel-fuer-richtige-Kanzlerin.html>.

³⁴⁴ Interview with a SPD Congressman, 04 July, 2016.

develop a quota system. However, I don't see this working any time soon or at all. If you think that, considering the severity of the crisis and people suffering which clearly calls for an extraordinary [liberal] response, 28 states could not get it together to find a unilateral, humanitarian solution. So no – I don't see it working.”³⁴⁵ A local politician added that “this is the actual scandal. That Europe says: Let the Germans take care of it.”³⁴⁶

When it comes to reasons why there is such a persistent lack of solidarity, interviewees named a variety of factors. While media sources and civil society reports have cited economic, security, and to some extent, cultural factors as the main reasons for the lack of solidarity amongst European countries, it appears that Germany's unilateral approach as discussed above as well as the adherence to ingrained, conservative rules also figured centrally.³⁴⁷ The reluctance to adopt a unified liberal approach goes therefore beyond consequentialist factors. Eastern European leaders appealed to a different set of norms in order to justify not accepting more refugees. They argued that a resettlement and quota system violated the traditional European asylum system and their sovereign right to regulate immigration.³⁴⁸ The Hungarian Prime Minister Victor Orban repeatedly stressed obligations to protect his citizens and

³⁴⁵ Interview with a SPD Congressman, 07 July, 2016.

³⁴⁶ Interview with a local politician, July 21, 2016

³⁴⁷ Bart Bachman, "Diminishing Solidarity: Polish Attitudes toward the European Migration and Refugee Crisis," Migration Policy Institute, last modified June 16, 2016, <http://www.migrationpolicy.org/article/diminishing-solidarity-polish-attitudes-toward-european-migration-and-refugee-crisis>; Pierre Vimont, "Migration in Europe: Bridging the Solidarity Gap," Carnegie Europe, last modified September 12, 2016, <http://carnegieeurope.eu/2016/09/12/migration-in-europe-bridging-solidarity-gap-pub-64546>.

³⁴⁸ Rob Cameron, "Migrant Crisis: Why Central Europe Resists Refugee Quota," *BBC*, September 22, 2015, 1, accessed April 3, 2017, <http://www.bbc.com/news/world-europe-34313478>; "UN Agency Claims Hungarian Government 'Increasingly Vilifies' Refugees," *Deutsche Welle*, May 9, 2015, 1, accessed April 3, 2017, <http://www.dw.com/en/un-agency-claims-hungarian-government-increasingly-vilifies-refugees/a-18440485>.

safeguard the eastern European borders. He stated “This is not the time for solidarity but to enforce the law. Illegal immigration is an offense.”³⁴⁹ Interviewees also connected the lack of solidarity with the dissatisfaction of European partners over Germany’s unilateral approach. One local politician said that “of course, Germany wanted to impose something on Europe that most countries did not want. So why should these other countries help if they were ignored?”³⁵⁰ A Congresswoman reaffirmed this and stated that “we initiated something that we knew our neighbors did not support, so they said: ok Germany, you started this, you will deal with this.”³⁵¹ Other interviewees pointed towards the adherence to longstanding, conservative European asylum system that led to the lack of solidarity. One Congressman said “of course these [eastern] countries are economically not as strong as Germany or France. But that is an easy way out and not the whole explanation. I think that many countries don’t want to let go of our traditional approach,” referring to both national and regional, conservative migration policy frameworks.³⁵² A Congresswoman echoed this explanation for the lack of solidarity and added that “the European history is characterized by isolationist migration and asylum policies, so we are also talking about path dependency here.”³⁵³ Another Congresswoman indicated that “the focus [of our European partners] is basically the continuation of the asylum system as it was in the past.”³⁵⁴ One civil society representative confirmed this and stated that “many reactions on the European level signal a fortress Europe policy – so nothing new.” In addition to

³⁴⁹ "UN agency," 1.

³⁵⁰ Interview with a local politician, 24 May, 2016.

³⁵¹ Interview with a SPD Congresswoman, 27 June, 2016.

³⁵² Interview with a CDU Congressman, 09 June, 2016.

³⁵³ Interview with a die Linke Congresswoman, 05 July, 2016.

³⁵⁴ Interview with a CDU Congresswoman, 09 June, 2016.

the lack of solidarity amongst European states, a few Congressional representatives and local politicians criticized the absence of practical support from international actors. One Congress member said “where are the other big players? America, Russia, or even some of the Arabic nations? Just saying ‘Good job, Germany’ is not enough.”³⁵⁵ A local politician added that “it would have strengthened our [liberal] approach a lot more if other actors, non-European, had come through.”³⁵⁶ In a parliamentary debates, Congressional representatives also pointed out the inaction of international players. One Congress member stated that it would be “a strong signal if Russia and the USA would initiate talks with Europeans and regional powers” to find a solution.³⁵⁷ Another one said it “is a shame that the really rich Muslim countries on the Gulf do not at all take care of these [fleeing] people and thus far have not accepted a single refugee,” while another indicted that “the global community does decidedly too little to approach the root causes.”³⁵⁸

Study participants connected the lack of solidarity to the policy shift. Many expressed that upholding liberal refugee policies was unsustainable as it would have further damaged relations with member states and the overall European project. Germany’s unilateral approach disrupted the ontological security of European partners, and the lack of solidarity threatened the country’s identity as a central player in the EU. Furthermore, policy makers perceived the absence of solidarity as a result of violating longstanding European norms, and recognized that the liberal approach to asylum was not appropriate. One Congresswoman said that “you can’t continue if you have no

³⁵⁵ Interview with a CDU Congressman, 09 June, 2016.

³⁵⁶ Interview with a local politician, 21 July, 2016.

³⁵⁷ Plenarprotokoll 18/124.

³⁵⁸ Plenarprotokoll 18/139.

support and mainly criticism.”³⁵⁹ Another Congressional representative argued similarly indicating that “the lack of solidarity for our [initial] approach made us reconsider our policies. If nobody wants to do what we are doing, are we were really doing the right thing?” She added, “You can’t be a leader, if nobody follows.”³⁶⁰ This was repeated by another Congress member who raised the question “are we upholding and defending European rules, or are we endangering them with our liberal approach?” So decision makers interpreted the lack of solidarity and the continued rise in political tensions as both costly and inappropriate. When Germany started to reintroduce a stricter approach, the willingness of European states to cooperate on managing the refugee crisis increased again. This has also been pointed out in civil society reports and newspaper articles. The Carnegie Institute insinuated that after months of confrontation, the EU was finally able to agree on a common approach: that of bringing down refugee numbers and restricting access to Europe.³⁶¹ Media sources have identified the reluctance to agree on a liberal approach and to follow the German example as decisive factor for the policy change.³⁶² *Der Tagesspiegel* wrote that “leadership without followers does not work. [Merkel] has to modify her isolationist position and find some middle ground in the EU.”³⁶³ As a result, many policy makers pushed the discontinuation of the liberal agenda by highlighting that a return to conservative policies was consistent with other standards of appropriate behavior.”³⁶⁴ In parliamentary debates, congressional members appealed to

³⁵⁹ Interview with a CDU Congresswoman, 09 June, 2016.

³⁶⁰ Interview with a SPD Congresswoman, 20 June, 2016.

³⁶¹ Lehne, "Upgrading the," 1; Vimont, "Migration in."

³⁶² Christoph Von Marschall, "Angela Merkel Muss Ihre Einsame Haltung Ändern," *Der Tagesspiegel*, February 15, 2016, 1, accessed March 8, 2017, <http://www.tagesspiegel.de/politik/europa-und-die-fluechtlinge-angela-merkel-muss-ihre-einsame-haltung-aendern/12962686.html>; Winkler, "Es Gibt," 1-3.

³⁶³ Von Marschall, "Angela Merkel," 1.

³⁶⁴ Interview with a local politician, 20 July, 2016.

existing, conservative norms and practices and pushed for a return to more restrictive measures. One member advocated for “more consequent deportations,”³⁶⁵ and another one stated “we need to make sure to address problems with Dublin II and III.”³⁶⁶

Another Congressional representative noted that

The protection for refugees is basically possible and acceptable in all states of the EU and in all states that are contract to the refugee convention. It is therefore essential in the next weeks and months to restore the rule of law in the whole European Union so that all members follow the European asylum legislation, the Dublin regulation, the Schengen regulation, and the Eurodac regulation.³⁶⁷

Merkel announced changes to her initial refugee approach and indicted more deterrent policies including “strengthening of Frontex (...) improving the repatriation quota (...) and sending clear signals to people in crisis areas that we can’t accept more refugees.”³⁶⁸

Overall, actors appealed to national, regional and international refugee norms in order to promote their preferred policy response while simultaneously undermining the adverse side. However, they also recognized the validity of alternative sets of norms. Besides using national norms and values, actors used European and international laws and rules in order to strengthen domestic policy preferences and express appropriate behavior. They simultaneously aimed to articulate that their policies were less costly. However, the question of why the clash of norms turned out favorably for conservative actors, and why conservative refugee norms and policies succeeded over liberal refugee norms and policies remains and will be addressed in the following section.

³⁶⁵ Plenarprotokoll 18/124.

³⁶⁶ Plenarprotokoll 18/139.

³⁶⁷ Plenarprotokoll 18/127.

³⁶⁸ Plenarprotokoll 18/130.

Analysis of Themes

In this section, I will first discuss how the main themes relate to one another in an effort to establish their relevance in the decision making process. I will then offer an explanation for Germany's shift to more restrictive policies.

As illustrated in the empirical study, actors appealed to conservative or liberal norms depending on their policy preferences. However, it also appears that actors recognized different, alternative sets of norms. For example, conservative actors acknowledged the importance of liberal refugee norms and stressed that such norms are integrated in conservative policies. Liberal actors also admitted the validity of conservative norms and emphasized the country's obligation to its own citizens.

Actors reinforced national norms by mentioning regional and/or international norms. Norm competition occurred horizontally within the domestic arena, but also vertically between the national and European level.³⁶⁹ As an example, conservative politicians promoted more restrictive policies by stressing the importance of the Dublin Regulation and by applying a narrower reading of international refugee law. Supporters of the liberal refugee policies cited European human rights and refugee law as well as a dynamic interpretation of the refugee convention. Liberal actors framed the restoration of conservative policies as both costly and inappropriate using national, regional, and international norms.³⁷⁰ However, conservative actors countered these efforts by

³⁶⁹ Wayne Sandholtz, "Dynamics of International Norm Change: Rules against Wartime Plunder," *European Journal of International Relations* 14, no. 1 (2008): 101-131; Antje Wiener, *A Theory of Contestation* (Berlin: Springer Berlin, 2014).

³⁷⁰ James G. March and Johan P. Olsen, "The Institutional Dynamics of International Political Orders," *International Organization* 52, no. 4 (1998): 949-951; Rodger A. Payne, "Persuasion, Frames and Norm Construction," *European Journal of International Relations* 7, no. 1 (2001): 37-61.

referring to long-standing, multi-level norms claiming that the continuation of liberal policies is even more costly and inappropriate.

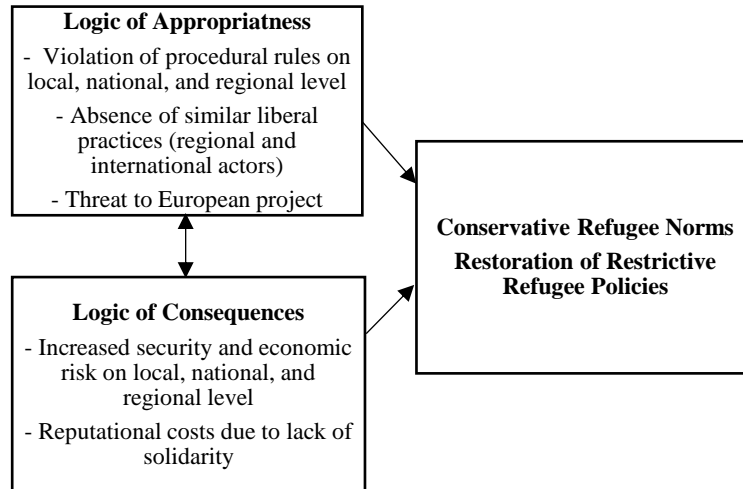
When it comes to the costs, the theme of security and economics becomes relevant. Although all actors recognized and addressed economic and security related costs, they interpreted and stressed different aspects depending on which norms they had internalized and prioritized. Conservative actors frequently quoted the strain on public services as well as the increased terrorist risk, while liberal actors focused on the lack of liberal integration measures and the rise in hate crimes as the most disruptive economic and security consequences. In regards to ascribing appropriateness to the refugee policies, liberal actors continued to argue that taking in refugees and expanding liberal measures is the most appropriate behavior considering European values. On the other hand, conservative actors highlighted that Germany's unilateral approach and the lack of communication and transparency violated both national and regional procedural rules. Within Germany, local communities and civil society organizations heavily criticized the inconsistent flow of information or the absence of communication, which intensified the perception of uncertainty and disrupted ontological security. Similarly on the EU level, Germany's move to suspend the Dublin system without coordination irritated its neighbors and presented an unexpected, inappropriate policy response. In the past, Germany had requested members' strict adherence to regulations such as Dublin and was reluctant to accept any change to the existing, restrictive asylum system. Therefore, the suspension came at a surprise and was seen as inappropriate, disrupting the EU's ontological security. The data also illustrates that the lack of solidarity amongst European states has roots beyond the commonly referenced security

and economic aspects. The above mentioned violation of procedural rules and disruption of ontological security as a result of Germany's unilateral, uncoordinated approach also figured centrally in the decrease in European solidarity and the reluctance to accept a more liberal response to the refugee crisis. Hence, the vertical and horizontal norm interaction shows how actors framed and perceived material factors differently. This in combination with Germany's unilateral approach intensified the solidarity gap amongst European partners. What remains is the question, why the German government eventually shifted away from its liberal policy approach and restored more conservative policies?

In the light of increased material costs, lack of solidarity, and criticisms for the unilateral open door agenda, the German government perceived the continuation of liberal policies as too costly and inappropriate (for a visualization see figure 3.1.).³⁷¹ Conservative actors illustrated that a return to a restrictive policy framework is in line with alternative sets of norms and therefore more appropriate. They also framed conservative policies as less costly in regards to economic and material factors as well as for Germany's reputation and identity.

³⁷¹ Alex Mintz and Steven Redd, "Framing Effects in International Relations," *Synthese* 135, no. 2 (May 2003): 193-197.

Figure 3.1. Logic of appropriateness and logic of consequences used by conservative actors



First, conservative actors argued that Germany had a working asylum legislation and relied and promoted the Dublin system for decades. This structured process created reliability and shared expectations during both non-crisis and crisis times which allowed actors to predict and control material costs and plan accordingly. Conservative actors stressed that the liberal approach, which included an unlimited acceptance of refugees and the allocation of additional resources, presented an unsustainable burden on the federal and local economic system. Additionally, with the increase in refugees who received little to no screening when traveling to Central Europe, Germany and its neighbors were facing a new, heightened security situation. They emphasized that liberal policies were inadequate in addressing the economic and security concerns and that a continuation of the liberal approach would likely exacerbate the current situation.³⁷² Conservative actors also emphasized that more restrictive refugee policies on the national and European level followed the basic provision of refugee protection

³⁷² Jeffrey T. Checkel, "International Norms and Domestic Politics: Bridging the Rationalist-Constructivist Divide," *European Journal of International Relations* 3, no. 4 (December 1997): 476-477; Payne, "Persuasion, Frames," 40-41.

and did not blatantly violate human rights and refugee law in order to address the concerns of pro-refugee actors.³⁷³ They also utilized different sets of norms such as obligations owed to citizens in order to promote conservative policies. Second, conservative actors weaponized Germany's unilateral approach and lack of communication and highlighted that these practices broke with long-standing national and regional refugee norms.³⁷⁴ They stressed that the liberal approach violated procedural rules in a way that the entire European project was threatened. And since almost no other European or international actor applied such liberal refugee measures, they did not reflect the appropriate behavior. Therefore, conservative actors advocated for the restoration of more restrictive refugee policies as they aligned with regional and international norms and practices and reflected the most appropriate behavior.

While liberal actors tried to contest the conservatives' push towards more restrictive measures and provide counter frames, they had a difficult time illustrating how the continuation of the liberal approach would alleviate short term and long-term material costs.³⁷⁵ Instead of offering a solution to the concern of the German society and European member states regarding the uncontrolled, increasing influx of refugees, many liberal actors aimed to further advance and expand liberal policies. Although liberal actors still received ample support from a large portion of the German society, restrictive voices became increasingly louder, creating a much more heterogeneous

³⁷³ Alexander Betts, "Regime Complexity and International Organizations: UNHCR as a Challenged Institution," *Global Governance* 19, no. 1 (2013): 75; Payne, "Persuasion, Frames," 37-38.

³⁷⁴ Mark Raymond, "Renovating the Procedural Architecture of International Law," *Canadian Foreign Policy Journal* 19, no. 3 (2013): 268-287; Christian Reus-Smit, "The Constitutional Structure of International Society and the Nature of Fundamental Institutions," *International Organization* 51, no. 4 (1997): 555-589; John G. Ruggie, "Multilateralism: The Anatomy of an Institution," *International Organization* 46, no. 03 (July 1992): 561-98.

³⁷⁵ Payne, "Persuasion, Frames," 44-46.

policy making environment.³⁷⁶ The failure to adequately respond to the multitude of criticisms and concerns on the local, national, and regional level weakened the argument of the liberal approach as the most appropriate policy reaction and intensified the perception of costliness. In addition, some liberal actors actually acknowledged the changed economic and security situation, and while they censured the lack of European solidarity, they also expressed sympathy for peripheral member states. Hence, liberal actors' continued to frame a liberal approach as appropriate even though increased criticisms and concerns seemed to call for a policy adjustment.

Overall, the analysis of Germany's motivations for restoring more restrictive refugee policies illustrates how norms interact vertically and horizontally. Depending on which sets of norms actors internalized and prioritized, they perceived economic and security risks as well as the appropriateness of their own and other policies differently. However, there is still some variation within different camps, and actors consider alternative sets of norms and give validity to contradicting norms and rules.

It also became apparent how actors utilize framing in order to promote their preferred policies. Conservative actors framed their policy changes in a way that appealed to a broad spectrum of actors including local communities, refugee supporters, and European partners and were therefore able to provide a more sophisticated policy framework and a response to a multitude of concerns and criticisms. Liberal actors on the other side failed to show how the material costs of continuing Germany's open door policy could be controlled and limited, and why liberal policies were appropriate in the

³⁷⁶ Payne, "Persuasion, Frames," 44-46.

light of decreasing solidarity and support. Policy makers also acknowledged alternative sets of norms such as the obligations owed to citizens. Ultimately, the policy shift was triggered because the German government perceived the continuation of the liberal policy agenda was both costly and inappropriate. This case study is an example of how mixed motives play a role in social situations. Only by considering both logic of consequences and logic of appropriateness, I was able to unpack the multi-layered factors that triggered the policy shift. Therefore, future research should explore the role of mixed motives in decision making processes more rigorously.

Conclusion

In the previous chapters, I investigated Germany's refugee policy framework during 2015 and 2016. As illustrated, the decision making process was influenced by a variety of actors, who utilized norms and rules in order to advance their preferred policies. I will briefly review the two puzzles, before discussing the significance and contributions to IR literature. I will then conclude by reviewing implications and proposing avenues of future research.

Review of Puzzles

From a rationalist perspective, it is puzzling why Germany initially introduced such a liberal refugee agenda, thereby reversing its long-standing conservative refugee policy framework. While some might argue that refugees will add economic benefits and stabilize the country's social security system, empirical data shows that material factors only played a peripheral role in the decision making process. Instead, actors across the political spectrum emphasized the country's liberal values and norms, moral responsibility, as well as leadership role in order to push for the liberalization of refugee policies. All major media outlets covered the severity of the humanitarian crisis and depicted the suffering of refugees. Additionally, the crisis in the Middle East, refugees travelling to Europe, and Germany's national and international obligations to grant asylum presented a clear causal chain that enabled actors to identify Germany's responsibility to help refugees. Both the risk of bodily harm and the clear causal chain led to the mobilization of a broad spectrum of actors who appealed to liberal norms and

values and demanded an open door policy.³⁷⁷ However, some actors contested the push towards liberal policies and appealed to different norms that highlighted Germany's responsibility to its own citizens. These actors opposed the liberal policy framework because it clashed with the long-standing, conservative asylum system on the national and regional level. This illustrates how actors used different norms to either support or oppose the introduction of liberal refugee policies.

The interaction of different norms becomes even more apparent during the shift from liberal to more restrictive policies. In mid-September 2015, Germany started reversing its open door policies and reinstated a more conservative approach. This represents a puzzle for constructivists because the factors that contributed to the liberal policy agenda still remained. While rationalists might highlight that the reintroduction of restrictive policies is a straight forward story of the country reversing a costly policy decision, the empirical data suggests an explanation beyond the consequentialist perspective. Actors appealed to different norms in order to promote their preferred policy approach. Liberal actors argued for the continuation of the liberal agenda by utilizing domestic, regional, and international refugee protection norms and rules. Conservative actors on the other hand framed the return to the traditional, restrictive policy framework as less costly and more appropriate. However, there was also some variation within the camps, and some actors recognized alternative sets of norms and attributed validity to contradicting norms and rules. The policy shift was eventually triggered because decision makers recognized severe material and reputational

³⁷⁷ Margaret E. Keck and Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics* (Ithaca, N.Y.: Cornell University Press, 1998), 27.

consequences if the country were to continue its liberal policies. The absence of European solidarity as well as the increasing criticisms of Germany's unilateral approach from national and regional actors made the country reevaluate the appropriateness of its liberal policies. Therefore, both logic of consequences and logic of appropriateness help explain the policy shift.

Significance and Contributions to IR Literature

The empirical findings of this study illustrate how different sets of norms interact vertically and horizontally. While rule systems might be well-established, they are incomplete and unable to cover every situation.³⁷⁸ This leads to arguments amongst actors on how to interpret norms and which policies to implement. Further, the existence of overlapping refugee and asylum norms - the refugee regime complex – leaves room for more than one permissible interpretation and policy prescription.³⁷⁹ Germany's policy response to the refugee crisis, the initiation of liberal policies and the shift back to more restrictive measures, therefore represents a fascinating case-study on the complexity of normative systems. It shows that policy makers not only encounter one single, isolated norm, but rather that they face different overlapping norms and rules on the same issue area.

What is particularly interesting in this case study is the role of the regional asylum and migration system. While research has investigated different normative systems on different levels as well as cross-level norm interaction, regional norms have

³⁷⁸ Wayne Sandholtz, "Dynamics of International Norm Change: Rules against Wartime Plunder," *European Journal of International Relations* 14, no. 1 (March 2008): 105-106.

³⁷⁹ Alexander Betts, "The Refugee Regime Complex," *Refugee Survey Quarterly* 29, no. 1 (2010): 12-37.

not often been an explicit object of study.³⁸⁰ The existing literature tends to treat all norms beyond the state as international, which somewhat homogenizes different sets of norms and rules. However, the European refugee and asylum system is well-established and strongly influences state decisions. It certainly incorporates different sets of international conservative and liberal refugee norms. However, the European system is distinct because it institutionalizes broad international norms into specific, binding policy prescriptions. As a result, regional normative systems may act as an independent barrier or catalyzer for norm diffusion as well as for national policy making.

The development of Germany's refugee agenda also illustrates the importance of both logics of consequences and logics of appropriateness. Much literature has created a clear distinction between these two concepts, and research tends to emphasize one over the other when explaining decision making processes.³⁸¹ In reality, however, it is much more likely that mixed motives drive policy debates and decisions. Particularly when it comes to shifts in policy frameworks due to unexpected events or crises, policy makers

³⁸⁰ Amitav Acharya, "How Ideas Spread: Whose Norms Matter? Norm Localization and Institutional Change in Asian Regionalism," *International Organization* 58, no. 02 (2004): 239-275; Jeffrey T. Checkel, "Norms, Institutions," 84-114; Andrew P. Cortell and James W. Davis, "How Do International Institutions Matter? The Domestic Impact of International Rules and Norms," *International Studies Quarterly* 40, no. 4 (1996): 451-478; Andrew P. Cortell and James W. Davis, "When Norms Clash: International Norms, Domestic Practices, and Japan's Internalisation of The GATT/WTO," *Review of International Studies* 31, no. 01 (2005): 3-25; Amy Gurowitz, "Mobilizing International Norms: Domestic Actors, Immigrants, and the Japanese State," *World Politics* 51, no. 03 (1999): 413-445; Antje Wiener, "Enacting Meaning-in-use: Qualitative Research on Norms and International Relations," *Review of International Studies* 35, no. 01 (2009): 175-193.

³⁸¹ James G. March and Johan P. Olsen, "The Institutional Dynamics of International Political Orders," *International Organization* 52, no. 4 (1998): 949-951; Harald Muller, "Arguing, Bargaining and All That: Communicative Action, Rationalist Theory and the Logic of Appropriateness in International Relations," *European Journal of International Relations* 10, no. 3 (2004): 395-495.

tend to consider a variety of factors in order to anticipate the consequences as well as the appropriateness of their decisions.³⁸²

Implications and Avenues of Future Research

With the intensification of conflict, economic instability, and environmental suffering, the number of people mobilizing and migrating will likely continue. This global displacement crisis poses a challenge to states' immigration systems and to fundamental principles such as state sovereignty and the responsibility to protect citizens. States will have to reevaluate the sustainability of their asylum and refugee policy framework in the light of increasing normative conflict and competing interpretations. The current policies and prospective responses to refugee movements will be decisive for the future of refugee protection norms and rules. Normative conflict and the lack of consensus will trigger future arguments, and their outcomes will result in continuous rule modification.³⁸³ If actors continue to restrict access to asylum and apply a narrow reading of international and regional refugee law, the parameters of refugee protection might be weakened and even altered.³⁸⁴ This greatly compromises the right to asylum and the quality of protection and might escalate current humanitarian crises or potentially create new ones.

³⁸² Martha Finnemore and Kathryn Sikkink, "International Norm Dynamics and Political Change," *International Organization* 52, no. 4 (1998): 909; Antje Wiener, *A Theory of Contestation* (Berlin: Springer Berlin, 2014).

³⁸³ Sandholtz, "Dynamics of," 110.

³⁸⁴ Andrew P. Cortell and James W. Davis, "How Do," 456-457; Jeffrey W. Legro, "Which Norms Matter? Revisiting The "Failure" of Internationalism," *International Organization* 51, no. 1 (1997): 31-63; Diana Panke and Ulrich Petersohn, "Why International Norms Disappear Sometimes," *European Journal of International Relations* 18, no. 4 (2012): 719-742; Vaughn P. Shannon, "Norms Are What States Make of Them: The Political Psychology of Norm Violation," *International Studies Quarterly* 44, no. 2 (2000): 293-316.

In regard to expanding current IR scholarship, future research should continue to investigate case studies that illustrate how actors use different sets of norms in policy debates and thereby influence decision making. Recent scholarship has recognized the gap between simplistic theoretical models of norm emergence and diffusion and their applicability to case studies. Many experts have therefore started to bridge this gap by connecting theory with empirical evidence. However, our understanding of when and why particular norms are activated, why some norms appear to be stronger than others, as well as the overall process of normative conflicts and their outcomes is still embryonic. While some research has identified crises or unexpected situations to be a frequent trigger of norm contestation, this is not enough to account for other instances of normative change.³⁸⁵ Future research should therefore more rigorously explore under which circumstances certain norms are stronger than others, and how and why some normative arguments lead to policy changes while others do not.

Furthermore, there is too little distinction between different sets of norms and rules. The underdevelopment of this distinction creates two specific problems. First, researchers overlook norms and rules that might only be remotely related to an issue area, but which indirectly or at least partly affect the policy making process. The emerging humanitarian regime, which is often not directly associated with the refugee regime, is a good example. One aspect of the humanitarian regime is to address root causes of migration and help internally displaced persons. While this regime might be able to expand refugee protection to people who have been excluded under the current

³⁸⁵ Martha Finnemore and Kathryn Sikkink, "International Norm Dynamics and Political Change," *International Organization* 52, no. 4 (1998): 909; Antje Wiener, *A Theory of Contestation* (Berlin: Springer Berlin, 2014).

legal framework, it could also be utilized by conservative actors to push for protection close to conflict zones rather than in Europe.³⁸⁶ Thus far, empirical studies on norm interactions lack the inclusion of different norms and rules and their effect on other norms, actors and policy making. Second, norms on the same subject area tend to be generalized, although they might be distinct in scope and purpose. The refugee and human rights regimes complement each other, however, they cannot be homogenized. Grouping these two regimes together without distinction undermines their individual strength as well as their increased power when actors utilize them to promote policies on the same subject area. This cross-normative appealing process contributes to the development of the respective regimes and advances their scope and purpose. Therefore, the effect of overlapping norms is important, but distinguishing between them helps explain how they reinforce one another and are strategically combined by actors in their efforts to achieve particular policy outcomes. Future research should further conceptualize the differences as well as commonalities of rule systems in order to illustrate how they are utilized by actors, and to what extent they influence the policy making process.

Overall, investigating Germany's policy response to the 2015/16 refugee crisis contributes to the IR literature as it illustrates the complex interaction of norms and rules on a sensitive subject area such as asylum. It furthermore operationalizes existing theoretical models by connecting them to the dynamic refugee policy making process. The findings of the case study not only confirm and reinforce theoretical arguments, but

³⁸⁶ Betts, "The Refugee," 22-23.

also advance the theoretical debate by identifying gaps in the literature and posing new questions for the way forward.

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