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Fleeing War, Fighting Xenophobia

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Honors Project

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Fleeing War, Fighting Xenophobia

Abstract

The purpose of this research is to identify the key differences between German and American refugee policies as they relate to the ability of each country's native population to successfully integrate refugees into their society. This body of work looks specifically at the German and American Refugee Resettlement Programs submitted to the United Nations. As shown in this research, new legal policy that can fight systematic distrust and discrimination becomes achievable by identifying the practices that contribute to in- and out-group dynamics between host country and refugees. Such policies will allow for the building of stronger, more integrated societies in the future. While Germany and the United States display both strengths and weakness in varying aspects of their respective refugee policies, neither has a significantly superior Refugee Resettlement Program.

Introduction

When the French refer to Normandy, they use a certain phrase: complètement détruit—“completely destroyed.” The Syrians may soon have a similar phrase to describe their whole country. Over half of the Syrian population, 13.5 million people, needs humanitarian assistance. Approximately 6.6 million Syrians are internally displaced. Half of those displaced are children. Over 20 percent of the Syrian population holds legal refugee status and resides outside of Syria; over 3 million have fled to Europe.

Arguably one of the largest humanitarian crises since World War Two, the Syrian Refugee Crisis is a growing calamity. It is easy to overlook this crisis as another disaster happening far away from home, but this tragedy has raised a burden of questions. With Western and Eastern world

powers engaged in a global stalemate, the Syrian War has quickly become one of the fiercest global debates; the question plaguing the rest of the world is, “How can we accommodate all these people?”

Within the United States, there has been a vast social and political Islamophobic backlash against the small number of refugees who have been granted asylum on our side of the Atlantic. Meanwhile, Germany, a country largely affected by the Syrian Refugee Crisis, has experienced significantly fewer backlashes and has opened its arms to the oncoming masses of people. Does German policy related to the crisis differ drastically from our policy or uphold a different set of ideals? How can two global powers both claiming to espouse Western ideologies regarding human rights seemingly react so differently to the same crisis? Why are so many Americans opposed to granting refuge to those in need? And what is it about the German culture that has enabled them to open their arms to another population?

In the countries reacting to the crisis, in- and out-group dynamics within social interactions are common. We are often suspicious of the outsider or other. With regard to the Syrian Refugee Crisis, the refugee population is categorized as the out-group. When such fears of outsiders exist, government agencies can create policies and programs that either re-enforce or lessen intrinsic suspicion.

The following paper seeks to evaluate the legal and procedural differences on refugee and asylum related policies between the United States of America and Germany. In both cases, some aspects of German and American policies exacerbate negative attitudes towards refugees while other aspects mitigate these negative attitudes.

Who is a Refugee?

Before comparing the German and American legal asylum and refugee procedures, it is important to understand the terms “asylum seeker” and “refugee.”

An asylum seeker is someone who is seeking international protection but whose claim for refugee status has not yet been determined. In contrast, a refugee is someone who has been recognized under the United Nations *1951 Convention Relating to the Status of Refugees* (Phillips, Elibritt & Buckmaster).

The Convention defines a ‘refugee’ as any person who:

“...owing to a well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it” (Convention and Protocol Relating to the Status of Refugees).

The definition of refugee does not include those who leave their country because of conflict, famine, natural disasters, or in order to seek a better life. As the United Nations High Commissioner for Refugees (UNHCR) explains: “Refugees flee because of the threat of persecution and cannot return safely to their homes in the prevailing circumstances. An economic migrant normally leaves a country voluntarily to seek a better life. Should they elect to

return home, they would continue to receive the protection of their government” (in Phillips, Elibritt & Buckmaster).

States have the primary responsibility for determining the status of asylum-seekers, but UNHCR may do so where states are unable or unwilling. An asylum seeker can enter a country and only be granted asylum, or, therein, be granted refugee status in addition to their asylum appeal. A refugee can be granted international refugee status by the UNHCR and then must be accepted as such by any UN Member State. “In recent years, due to changes in volumes and patterns of forced displacement, the refugee agency has been required to conduct Refugee Status Determination in more countries than before and for a greater number of people” (UNHCR). This has led to an increasing number of refugee resettlements.

What is a Refugee Resettlement Program?

In the simplest terms, a refugee resettlement program is the plan of action a country has for processing and settling refugees. The UNHCR has a detailed handbook discussing the goals and evaluative procedures countries should strive for when creating a resettlement program (The United Nations).

For both Germany and the United States, as well as many other western countries, the refugee resettlement program can be broken down into five major components: application, interview, approval process, pre-departure programs, and physical resettlement. These components are evaluated by the UNHCR with a fifteen-criteria catalogue that assesses how well a country’s program matches UNHCR recommended standards.

Similarities in the German & American Procedures

Although the differences between German and American policy are where social effects are likely to be most noticeable, it is important to acknowledge that many aspects of the German and American refugee procedures are similar. Both Germany and the United States have all five of the major program components discussed above. While there are substantive differences in the application/approval process, interview, and resettlement aspects discussed below, the underlying goals of these aspects are the same for both countries.

For both Germany and the United States, there is an overarching office that deals solely with asylum and refugee affairs. In Germany, The Federal Office for Migration and Refugees (BAMF) spearheads this process, while in the United States; the United States Refugee Admissions Program (USRAP) is the overarching organization that coordinates the efforts of many other U.S. bureaus, offices, and nongovernmental organizations (Federal Office for Migration and Refugees; U.S. Department of State).

With regard to the application processes, both countries are simply attempting to document and record the applications of potential refugees and asylum seekers. There is a substantive technical difference in how Germany classifies refugees and asylum seekers discussed below, but the overarching procedure is similar.

In Germany, in the pre-application process, there is a distribution of applicants across the States of the Federal Republic. Once processed and assigned to a particular German State, applicants must generally make their applications in person at a branch of the Federal Office. During these appointments, an interpreter is provided and the applicant is informed of his or her rights and

obligations during the asylum procedure. The Federal Office keeps electronic data on applicants recording fingerprints and photographs. The data collection allows for wider regional collaboration and assures the applicant has not previously been processed by Germany or another European state. The application process produces an identity card (ID), which grants temporary permission to stay.

In the United States, there is a highly developed and complex immigration court system that is separate and insulated from other judicial courts (Chomsky). This means that the American asylum application process is influenced by the courts. This legal influence has created two different asylum application processes: affirmative and defensive asylum. Almost all refugee applicants apply through the affirmative process and are physically present in the U.S. when they do so. Via the U.S. Citizenship and Immigration Services (USCIS), an applicant completes the “Form I-589, Application for Asylum and for Withholding of Removal” (Department of Homeland Security). Once a complete application is received by USCIS, the applicant will be notified and asked to report to a field office or application support center for fingerprinting and security check process (Department of Homeland Security). During this process, the applicants are also granted temporary permission to stay.

With regard to the interview aspects of the refugee resettlement programs, there are significant differences between Germany and the United States. These differences are found in the provisions of the interviews and are discussed in detail below. Although there are differences, the basic idea of the interview as an in depth security feature is identical for both countries.

Similar to the application process, there are also significant differences between Germany and the United States in the application approval aspect. These differences stem from the

classification distinction Germany makes between asylum seekers and refugees discussed below. Overall, although German processes legally separate asylum seekers and refugees, the application approval process in both countries is used as a method to communicate the application decision to the asylum applicant.

Once an applicant is approved, Germany and the United States have exceedingly similar pre-departure programs. In both countries, these programs exist for refugees already on the ground as well as refugees arriving to be resettled under the purview of the UNHCR. In both countries, the pre-departure program includes a cultural orientation, medical exam, and travel arrangements.

Both countries provide up to 5-day courses that focus on preparation for life in the new country. The orientations cover topics such as general information about daily life, government structure, refugee-legal status, housing, and some basic language instruction (ICMC Europe; The United States of America). Both countries also have similar medical examinations that are regulated by the relevant government agencies.

The only minor difference found in the pre-departure programs is in the funding of travel arrangements. In Germany, the government funds this travel whereas, in the United States, the government offers refugees interest-free loans to cover travel costs. This is classified as a minor difference because the dissimilarity runs parallel with the purview of how each government would regularly act. On a regular basis, the German government engages in much more direct financing than the United States so differences in the processing of travel costs are unsurprising and reflective of long standing practice.

Once refugees complete their cultural orientation, in both Germany and the United States, they are then resettled. Although the intent of successful settlement exists in both countries, the physical resettlement process between countries differs greatly and is detailed below.

Substantive Difference: The Distinction Between Asylum Seekers and Refugees

The first substantive difference between Germany and the U.S. is the distinction between an asylum seeker and a refugee, which the former makes while the latter does not. This difference is relevant to both the application and approval process components of the German and American refugee programs. Ultimately, the distinction Germany makes creates more opportunities for applicants to legally reside in Germany. If there are more ways for asylum seekers and refugees to live legally in Germany, this increases the native German population's exposure to individuals who differ from the standard population. This increased exposure, backed by legal policy, is likely a long-term mitigating factor against negative attitudes towards refugees.

In the United States, if an asylum-seeking applicant does not qualify as a refugee, it is very unlikely the applicant can stay on United States territory. This policy has the opposite social effect from the German program. This U.S. policy limits the number of refugees (outsiders) to whom native U.S. citizens are exposed and thus can propagate anti-refugee sentiment. Not knowing or being exposed to the "other" opens up the door to all kinds of prejudices, which are not based on facts.

In technical terms, as the German Federal Office processes applications, four key permissions are requested for each proposed refugee. The first three components come from the German Asylum Procedure Act, which is an eleven chapter legal document, updated in 2015, that

analyzes all aspects of asylum and refugee status procedure (AsylVfG). The Federal office determines if the applicant meets an international refugee requirement, domestic refugee protection requirements and if they will qualify for subsidiary protection & protection from deportation. In addition to these three requirements, the applicant must meet the entitlement to political asylum standards under German Basic Law (Federal Office for Migration and Refugees).

If an application is approved, the decision will detail which if any, of the four key permissions above, have been granted to the applicant. Receiving any one of the four permissions qualifies an approved applicant for a residence title and path to a settlement permit under the German Residence Act, but if an applicant receives refugee status and additional entitlement to political asylum, the path to a settlement permit is greatly expedited (Federal Office for Migration and Refugees). The residence title and settlement permit also authorize the permit holder to pursue paid employment (The Government of Germany).

As of 2013, there was no explicit legal basis for Germany's refugee resettlement program as there is for Germany's asylum application procedure. As explained above, approved asylum seekers and refugees are granted a residence title and path to a settlement permit under the German Residence Act (ICMC Europe). The Residence Act enables the Federal Government in cooperation with the German States to "instruct the Refugee office to admit certain groups of foreigners who are granted temporary or permanent residence permits upon arrival... however, their residence permit is not based on their [UNHCR] refugee status (The Government of Germany)." Technically this means that resettled refugees are not admitted to Germany as

refugees and are not under UNHCR refugee status while on German territory. This translates to precious little difference between criteria for asylum seekers and resettled refugees.

This lack of distinction, for obvious reasons, is significant to the ongoing Syrian Refugee Crisis. Essentially, an asylum seeker need not meet all the qualifications of a refugee to be granted a residence permit under German law. An individual with refugee status may receive more initial aid from the German government, but the lack of significant distinction between a resettled refugee and an asylum seeker has likely contributed to Germany's popularity as an ultimate destination for those fleeing conflict. As mentioned initially, this ease of access to a residence permit increases the native German's population exposure to outsiders; and thus is arguably a long-term mitigating factor against negative attitudes towards refugees.

Substantive Difference: The Interview Process and High Barriers to Entry

The second substantive difference between German and American refugee procedures is in the interview components of the refugee processes. At the core, the interview process in the United States is much more difficult for the applicant to successfully complete than the interview process in Germany. This difficulty is significant because it creates high barriers to entry for refugees seeking asylum in the United States. This means fewer refugees in the United States, which in turn insulates the American population from interacting with refugees, and ultimately re-enforces negative attitudes towards refugees. If the native population of a country only receives limited or minimal exposure to an "out-group" population it can be extremely difficult to combat negative social attitudes.

In the United States, the interview aspect of the refugee application process must take place at either one of the eight asylum offices or at a USCIS field office. In addition to requesting legal identification documents, USCIS provides interviewees the following information prior to his or her interview:

“You may bring an attorney or accredited representative to the interview. You must also bring your spouse and any children seeking derivative asylum benefits to the interview. If you cannot proceed with the interview in English you must bring an interpreter. The interview will generally last about an hour, although the time may vary depending on the case. You may also bring witnesses to testify on your behalf” (Department of Homeland Security).

In Germany, the interview processes are largely standardized across regions and during these appointments an interpreter is provided and the applicant is informed of his or her rights and obligations during the asylum procedure. The general interview seeks to establish why an applicant is seeking asylum and/or international protection. The applicant is provided the following information:

“At the interview, the applicant is required to present his reasons for need of protection personally, which prove his fear of persecution or the risk of a serious harm. He is also required to relate all other facts or circumstances, which preclude returning to his home country. The interview starts with the caseworker asking questions about the applicant’s personal situation, too. The applicant is obliged to provide a credible account and to provide any evidence he has or is able to obtain. The duration of the interview depends on the details and complexity of the

individual claim. A report is made of the interview containing the essential statements made by the applicant. The applicant receives a copy.” (Federal Office for Migration and Refugees)

Although the United States has a long tradition of granting refuge to those fleeing persecution and has admitted more refugees than any other country since World War II, it is a very tedious and difficult process to be granted refugee status in the United States. For the interview stage alone, an applicant who does not yet have license to work must provide his or her own legal counsel, interpreter, and transportation to the interview. These are many difficulties in the American system that cannot be easily overcome by an impoverished asylum seeker. The lack of accessible translators and legal guidance is certainly a barrier to entry that likely cuts back on the number of successful asylum applications. This, in turn, shelters the American population from refugees and therefore can perpetuate existing negative social attitudes.

In Germany, the state-funded provision of legal advisors and interpreters not only increases the likelihood of a successful interview but also creates a large, employed sector of the native German economy that is dedicated to working with refugees. This kind of routine exposure can help the German population overcome negative social attitudes and stigmas that may naturally exist.

While the United States is not impacted by Syrian Refugee crisis in the same manner and to the same extent as Germany, it is quite arguable that the high barriers to entry combined with highly secure border controls would prevent the United States from ever being flooded with asylum seekers in the same manner that can be seen abroad today. While a tide of refugees is never a happy circumstance, it is unfortunate that the United States has such high barriers to entry in

place. From a social standpoint, such barriers only perpetuate negative biases and fear of outsiders amidst our own population.

Substantive Difference: The Settlement Process & Payment Structure

The third substantive difference between the German and American refugee procedures are the differences in the physical refugee resettlement processes. In Germany, refugees are dispersed throughout the Federal States and overseen by local municipalities. In contrast, the United States has largely adopted a sponsorship model where non-governmental organizations partner with the Department of State to carry out the placement of refugees. The difference between these two programs is significant because, in the United States, average working citizens have regular contact with refugees through the non-profits they work or volunteer for. In Germany, the state governments largely oversee the resettling process and this can limit the amount of societal integration refugees can achieve. Integration into a new society is one of the quickest ways to lose the “outsider” designation, so programs or policies that promote this are to be desired.

In technical terms, once refugees are approved through the application process in Germany, they are ultimately dispersed throughout the German States. Once assigned and relocated to a particular State, the state government determines the internal distribution of refugees. Generally, resettled refugees receive social welfare payments to meet housing and subsistence needs but must remain in their assigned city or municipality for their support to continue. To move districts a refugee needs to have guarantee of employment elsewhere prior to departure. There is no requirement for localities to aid refugees assigned to their district but NGO’s and volunteers usually provide some sort of aid (ICMC Europe).

Contrarily, in terms of direct resettlement and integration aid, the United States utilizes a sponsorship model. The U.S. resettlement program acknowledges that it is desirable for “public and private non-profit organizations to provide sponsorship, reception, and placement services appropriate to refugees” (The United States of America). The resettlement program wants refugees to achieve economic self-sufficiency as quickly as possible and thus says:

“Sponsoring agencies are required to ensure that refugees’ basic needs are met: initial housing, essential furnishings and supplies, food or a food allowance, and necessary clothing for a minimum of 30 days after arrival in the United States. Further, sponsoring agencies also provide assistance access benefits and services, assistance with enrollment in English language training, transportation to job interviews and job training, and orientation about services available in the community and life in the U.S. (employment opportunities, vocational training, education, language classes, personal budgeting, safety, legal requirements, and health care) for a period of no less than 30 days that may be extended up to 90 days after arrival (The United States of America).”

Overall, the American Refugee resettlement process is very detailed and in addition to the sponsorship model, in its report to the UNHCR, the United States outlined specific expense allowances and procedures for eleven different aid-related categories refugees become eligible for once settled.

On this issue, the American resettlement procedure seems significantly superior to the German system in terms of fighting negative social attitudes. The sponsorship system helps American business become responsible for the well-being of refugees and thus promotes positive social

attitudes. In contrast, the German system allows for a wide array of experiences among refugees depending on the economic prosperity of the region or town in which they are settled. This could lead to a re-enforcement of negative social attitudes if the chosen municipality is not welcoming to refugees.

Evaluation of Programs

While both the German and American programs provide effective aid and asylum to refugees, it is interesting to draw comparisons between the two programs and to analyze their individual strength and weaknesses. It is worth acknowledging that any and all aid provided to refugees around the world is worth applauding. Although this paper seeks to compare and contrast the asylum policies of two major global state actors in today's world, the intent is not to diminish or devalue the work of either country.

The greatest strengths of the German program are arguably the ease of access and aid provided during the application process. The application process is straightforward and designed to help an applicant succeed. The provision of translators and legal officials to help with the process is a perk that unfortunately is not provided in the American system. The time frame of the German application process is also estimated to be 3-4 months while the American system is estimated to be 18-24 months (ICMC Europe, U.S. Department of State). While this shorter time frame may hamper the extent to which security measures can be determined, it is certainly in the interest of the asylum applicant to be quickly processed.

The greatest strength of the United States program is arguably the extent to which aid and integration measures are mapped out and readily available to refugees. As mentioned earlier in

this document, the eleven aid areas outlined in the Refugee Plan submitted the UNHCR detail availability of aid set-aside specifically for refugees (The United States of America).

The American government's sponsorship model also very effectively partners refugees with NGO's in their region of settlement. This is a weakness of the German system because, in Germany, once resettled to a particular State and local municipality, there is a lack of coordination between the state government and NGO's. This can result in unequal distribution of aid across the country depending on where NGO's and potential volunteers are located. This also means that across Germany, average citizens can have dramatically different experiences with refugees based on the economic prosperity of the region. This could be a contributing factor to the ever-emerging political divide in Germany today.

Although both programs have their strengths and weakness, there is always potential for improvement in both countries. Overall, average German citizens seem to have a higher chance of being exposed to refugees than the average American citizens and it seems that this could help eliminate the outsider stigma. In a world where in- and out-group dynamics are common, and crisis like the Syrian War exist, we have the option call upon our government agencies to create policies and programs that help us confront our fears.

The Theory In Praxis

Both the United States and Germany have Refugee Resettlement Programs that appear to function on paper. While it would be fascinating to continue the comparison of both countries' refugee programs into the application phase, Germany's system is taking the most pressure.

There are several implementation challenges the German system has faced that may impact how refugees are perceived.

Unsurprisingly, the Germans have faced the most challenges in the physical resettlement stage of their Refugee Resettlement Program. As previously mentioned, in Germany, once the Federal Government processes refugees they are distributed to one of sixteen German States. Each State has a quota for the number of refugees they are obliged to take determined by the Königstein Formula. This formula “is calculated each year, based on tax receipts and population numbers” (The UN Migration Agency). While numerically fair, in 2016, three of Germany’s sixteen German States were responsible for over fifty percent of asylum seekers. When following the Königstein Formula’s economic distribution, this refugee clustering effect is unavoidable and although the highly impacted States are coping admirably, this distribution of refugees combined with rising populist sentiments in Germany has the potential to reinforce a political divide.

It’s no secret that Germany and much of Europe are fighting the rise of populism. Anti-refugee sentiments are usually included in today’s populist campaigns but interestingly, it seems that populist strongholds may have less day to day involvement with refugees than non-populist or left-leaning municipalities. For example in 2016 in Berlin, the “largest votes for [extreme-right parties] were actually in the areas least affected by refugee provisions” (O’Sullivan). This supports the idea that governments should seek policies that combat negative in- and out-group dynamics. Cross-cultural understanding between a host population and refugees is incredibly important. If cases like Berlin hold true on a wider and larger scale, Germany’s Königstein Formula could lead to a strengthening of populism on a national scale that would be hugely detrimental to refugee integration and acceptance initiatives.

Conclusion and Outlook

Looking forward, to encourage people to confront their seemingly innate fears of outsiders, we should shed light on our refugee, asylum, and immigration policies. While I have argued that the legal policies of both Germany and the United States play a role in guiding social reactions in the context of the Syrian refugee crisis, the legal policies are certainly only one aspect of many. There are other factors playing into this social phenomenon that require further investigation.

For example, in addition to researching the systematic legal differences as seen above, I personally have had the opportunity to work and volunteer with refugees in several locations around the world. While my experiences are anecdotal and should not be extrapolated as the norm for refugee interactions, my time volunteering has opened my eyes to some factors of refugee integration not mentioned in the legal discussion above.

One of the most important factors that immediately became apparent is that while the host nation may be seeking any and all avenues to integrate refugees and migrants to create a harmonious society, refugees are straddling two cultures and asking them to choose one or the other is not a viable option. Anil Al-Rebholz (2014) presents the idea of transnationalism, or the struggle of bridging two cultures in a study of second-generation migrants in Germany, but his principles of transnationalism extend easily to some of the difficulties also faced by refugees.

In addition to fighting the outsider effect, countries hosting refugees face the much bigger challenge of choosing whether or not to learn from and accept another culture. Integration is so often viewed as a one-way street where the refugee leaves behind everything from home and learns how to join a new culture and society, be it German, American, or anywhere else in the

world. What is often forgotten is that refugees didn't willingly leave home and they cannot not be treated the same as an economic migrant looking to accept a new culture in return for a better life. The dream of a refugee is most often to return home. And while it's true that in the meantime refugees are likely the long-term guests of another culture, for the host country, the question of where to compromise on cultural standards is just as, if not more important as how to integrate. This will be a battle to be faced in the Syrian Refugee Crisis and all other refugee crises to come.

We should further investigate the societal and cultural factors that can produce the "Mutti Merkel" phenomenon while, half way around the world, simultaneously, cause over twenty American governors to publically announce that Syrian Refugees are not welcome in the United States (Aljazeera, Fantz). While it is an over-simplification to reduce both Germany and the United States to these two effects, it is important to realize that in the political, economic, or social differences between the United States and Germany, there are factors producing social attitudes towards refugees. We should try to learn from the positive and create better societies moving forward.

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