SUBJECT: Social work, Bachelor Degree

TUTOR: Jorge Calbucura

ABSTRACT: This is a qualitative research study utilising a theoretical framework of democracy theory, human rights and theories on migration and irregular migrants. The purpose of this research is to explore how the new Swedish Regulation on Labour Immigration, in relation to the harmonization of migration policy within the European Union, represents and effects the perception of asylum seekers and irregular migrants on a socio-political level in Sweden. Through four semi-structured interviews this study seeks to explore the following areas: the reasons behind the compromise concerning asylum seekers in the Regulation; the exclusion of irregular migrants in the Regulation; and the correlation between the Regulation and the harmonising of migration policy within the EU. The theoretical framework, together with the statements by informants and the grounding information concerning human rights and the migration policy within the EU, constitutes the analysis. The analysis shows that the perceptions of asylum seekers and irregular immigrants as an undesirable solution to demographical challenges represent a relativistic approach to human rights. By legitimating this perception those concerned become even more vulnerable and at a higher risk of exploitation. The correlation between the contemporary democratic welfare state, international human rights law and the Regulation, together with increasing and irreversible migration flows, visualises an incompatible and diffuse organisation, which have to transform into cosmopolitan democracy and global solidarity if to survive.

KEYWORDS: Immigration, Labour Migration, Asylum Seekers, Irregular Migrants, EU, Human Rights, Democracy Theory


AUTHORS: Anna Ahlberg & Charlotta Runell

DATE: January 2009
Acknowledgement

The authors would like to express their deepest gratitude toward those making this research study possible. First of all the authors would like to thank the informants participating and sharing their valuable time for purpose realization of this research; Michael Cederbratt, Emma Harrysson, Michael Williams and Majid Hamidian. Further, the authors would like to express their gratitude towards the tutor, Jorge Calbucura, which with his guidance has contributed with valuable points of view, perspectives and support throughout the entire research process. For assisting with translation the authors are sincerely thankful to Anneli Eriksson.

The authors commonly share the responsibility of all written aspects in this research report and have during the entire process equally contributed to the compliance of research material, analysis and result.
# Table of Contents

1. **Introduction** .............................................................................................................. 1  
   1.1 Background .............................................................................................................. 1  
   1.2 Problem formulation .............................................................................................. 2  
   1.3 Purpose ................................................................................................................. 2  
   1.4 Purpose ................................................................................................................. 2  
   1.5 Questions at issue ................................................................................................. 2  
   1.6 Limitations ............................................................................................................ 3  
   1.7 Previous Research ............................................................................................... 3  

2. **Research Methods** .................................................................................................... 5  
   2.1 Postmodern Perspective ....................................................................................... 5  
   2.2 Choice of Method ............................................................................................... 5  
   2.3 Sampling Method ............................................................................................... 5  
   2.4 Interview Procedures ......................................................................................... 6  
   2.5 Methods of Analysis ......................................................................................... 7  
   2.6 Reliability and Validity ....................................................................................... 8  
   2.7 Methodological Limitations ............................................................................... 8  
   2.8 Ethical Considerations ...................................................................................... 9  
   2.9 Summary ........................................................................................................... 9  

3. **Grounding Information** ........................................................................................... 10  
   3.1 Definitions ......................................................................................................... 10  
   3.1.1 Migration ....................................................................................................... 10  
   3.1.2 Asylum Seekers ............................................................................................. 10  
   3.1.3 Irregular Migrants ......................................................................................... 10  
   3.2 International Human Rights Law ...................................................................... 11  
   3.2.1 Program on International Migration .............................................................. 11  
   3.2.2 Protection of Refugees .................................................................................. 12  
   3.2.3 Concerns regarding implementation of Human Rights in Sweden ................ 12  
   3.3 European Instruments ..................................................................................... 13  
   3.3.1 Migration policy ............................................................................................ 13  
   3.3.2 The Return Directive and the Blue European Labour Card ......................... 14  
   3.3.3 Concerns regarding the European Pact on Asylum and Immigration .......... 15  
   3.4 The new Regulation on Labour Immigration in Sweden .................................. 15  
   3.4.1 The Swedish Migration Board ................................................................. 15  
   3.4.2 The application process ............................................................................. 16  
   3.4.3 Asylum seeker ............................................................................................ 16  
   3.4.4 Concerns regarding the new Regulation on Labour Immigration ............ 17  

4. **Theoretical Framework** .......................................................................................... 18  
   4.1 Democracy ......................................................................................................... 18  
   4.1.1 Principle of Symmetry .................................................................................. 18  
   4.1.2 Citizenship .................................................................................................... 19  
   4.1.3 Cosmopolitan democracy ........................................................................... 19
4.2 Human Rights ................................................................................................................................. 20
  4.2.1 United Nations ............................................................................................................................. 20
  4.2.2 European Union .......................................................................................................................... 21
4.3 Migration and Irregular Migrants ........................................................................................................ 21
  4.3.1 Lower circuit of globalisation and migration ............................................................................... 22
  4.3.2 Irregular migrants and criminalisation ......................................................................................... 22

5. Findings & Analysis ............................................................................................................................... 25
  5.1 Empirical Presentation ..................................................................................................................... 25
  5.2 Theme 1 – the political compromise regarding asylum seekers .................................................... 26
  5.3 Theme 2 – the exclusion of irregular migrants .............................................................................. 28
  5.4 Theme 3 – the harmonization of migration policy within the European Union ................................ 30

6. Discussion ........................................................................................................................................... 34
  6.1 Contradictions ................................................................................................................................. 34
  6.2 Criminalisation and Discourse ....................................................................................................... 34
  6.3 Harmonization within the EU ........................................................................................................ 35
  6.4 Summary ......................................................................................................................................... 36

7. Conclusion .......................................................................................................................................... 37
  7.1 Revisiting Questions at Issue ........................................................................................................ 37
  7.2 Suggestions for Future Research ................................................................................................... 38

8. References ........................................................................................................................................... 40
  8.1 Literature ......................................................................................................................................... 40
  8.2 Electronic Sources ........................................................................................................................ 40
  8.3 Oral sources .................................................................................................................................... 42
1. Introduction

1.1 Background

In October 2008 the European Union heads of state agreed upon the European Pact on Immigration and Asylum proposed by French President Nicolas Sarkozy. The Pacts consists of a number of existing EU regulations and aspires to shape a common European migration policy by integrating and complementing these regulations, e.g. the Blue European Labour Card Initiative, aiming to attract high-skilled labour to the EU, and the Returns Directive, intending to increase the efficiency of the process of returning irregular migrants (*The European Pact on Immigration and Asylum*, 2008). In Sweden the new Regulation on Labour Immigration (from now on referred to RLI) was initiated on the 15th of December 2008. RLI aims to create an efficient system of labour immigration by facilitating the recruitment from third countries (countries outside the EU). Within RLI lies a possibility for asylum seekers to ‘switch queues’ and apply for work permits if their asylum applications are rejected (Migration board, 2008). The RLI has received criticism for excluding irregular migrants currently working in Sweden (Social Security Committee hearing, 2008), and Amnesty International is drawing attention to the neglect of irregular migrants human rights within the EU (*Appeal by Amnesty International’s Secretary General, Irene Khan, on return directive vote*, 2008). Critics are furthermore concerned about the risk of the EU asylum process being undermined, based on the declining focus on the right of asylum and gradually increasing emphasis on the individuals capacity for labour (Social Security Committee hearing, 2008). Currently the most fundamental contradiction within the issue of migration to the EU is its growing dependency on migrants: Regular and irregular migrants have become indispensable in the deregulated economy and flexible labour market of the EU, and are imperative for the EU’s demography, but are simultaneously developing into essential scapegoats for political and social problems within the union (Hansen, 2008). Like the creation of the national state, an imagined European unity is founded on imagined processes of inclusion, exclusion and creation of a common European identity which legitimises the construction of fortress Europe (Dahlstedt & Lindberg, 2004). Institutions, governments and politicians are to a greater extent likely to use a rhetoric criminalising migrants, particularly irregular migrants. These ‘illegal migrants’ are perceived as a threat to the EU and a threat to democracy, as the national state is constituted on the rights and obligations of its citizens (Hansen, 2008). In the age of globalisation and migration the national state is including people who are not recognised as legal citizens; hence they do not share the same democratic rights while being affected by the same laws and regulations (Agné, 2006).
1.2 Problem formulation

Sweden, as well as the majority of member states within the European Union, are facing a demographic challenge as large groups of the population are retiring, which creates a greater need for labour immigration. There is a contradiction within the migration policy of the European Union, which simultaneously seeks labour immigration and practises stricter border controls and asylum policies. In Sweden the New Regulation on Labour Immigration is an initiative praised for being innovative and for having a positive view on migration, taking labour immigration one step further and opening up the labour market to all kinds of employment from third countries. The relevance of these issues to social work, is out of a Human Rights perspective, considering the groups of asylum seekers and irregular migrants currently residing in Sweden, without political recognition, hoping to obtain residency. These groups consist of numerous nationalities, professions and age groups, of which some have resided in Sweden for decades. Children who may have been born in Sweden and have developed social networks may not be familiar with their parents’ country of origin. These persons might already be fluent in Swedish and connected to the labour market, however they may not fulfil the necessary requirements to be part of the new legal labour workforce in Sweden.

1.4 Purpose

Through a theoretical framework, consisting of democracy theory, the UN declaration of human rights and theories on migration and irregular migrants, the purpose of this research is to explore how the new Swedish Regulation on Labour Immigration, in relation to the harmonization of migration policy within the European Union, represents and affects the perception of asylum seekers and irregular migrants on a socio-political level in Sweden.

1.5 Questions at issue

1) What is the purpose behind the political compromise concerning asylum seekers in the new Regulation on Labour Immigration? What are the basic values behind it?

2) What are the motives behind the exclusion of irregular migrants from the new Regulation on Labour Immigration? What are the views on irregular migration that is represents?

3) In what way may the new Regulation on Labour Immigration correlate with the harmonization on migration policy within the European Union?
1.6 Limitations

The new Regulation on Labour Immigration is primarily directed at persons residing in third countries, but it also contains a possibility for those asylum seekers in Sweden whose asylum applications have been rejected, to obtain a work permit. The authors chose to address how the RLI may affect asylum seekers since they constitute a particularly vulnerable group of migrants who have originally arrived in Sweden to obtain refugee status. The authors chose to include irregular migrants who, in addition to constituting a vulnerable group, are relevant as numerous persons of this group are employed in Sweden without political recognition. The conditions for and perceptions of migrant workers from third countries, referred to in the RLI, will be left out of this research. The authors chose to focus mainly on two of the regulations within the European Pact on Asylum and Immigration. The authors have chosen a theoretical framework consisting of democracy theory, human rights and perspectives on migration and irregular migrants. Related perspectives that were also considered for inclusion were structural discrimination, racism and/or integration. These limitations are based on the limited time and size of this research project.

1.7 Previous Research

Leo Hansen specialises in European migration policy and integration and focuses on issues of identity politics, migration and citizenship in a European welfare state. Hansen relates migration policy to political economy within the EU, and concentrates on the effects of a changing political economy on migration policies within the EU during the last 50 years (2008). Saskia Sassen concentrates her research on migration in a globalised world with focus on economic globalisation in relation to extraction of services from the third world to fulfil the needs of the first world. Sassen highlights immigrants emerging as crucial economic actors in ‘global cities’ and complex ‘survival circuits’ (Ehrenreich & Hochschild, 2004). Philippe Legrain examines the interaction between free migration and Sweden as a representative of a European-style welfare state. Legrain examines the impact of immigrants on public finances; he states that, by increasing economic growth, free migration might make the welfare state more affordable (2008). Dahlstedt and Tesfahuney discuss migration focusing on the correlation of global markets with the creation of fortress Europe and its polarisation and creation of ‘us’ and ‘the others’ within Europe (Dahlstedt & Lindberg, 2004). Shahram Khosravi has pursued unique research on irregular migrants in Sweden from Stockholm University and CEIFO (Centre for Research in International Migration and Ethnic Relations). Khosravi explains how irregular migrants are shaped to be ‘non-citizens’, considered ‘illegal’, endangering the purity of ‘real’ citizens. According to Khosravi the contemporary irregular
immigration reveals the dilemma and the national state, with human rights being reduced to citizens’ rights (2006:36). The freelance journalist Karin Mattsson becomes involved with irregular migrants residing and working in Sweden in her book De papperslösa och de aningslösa. Mattsson highlights the demand for cheap labour in the Swedish society as stimulant of a growing informal sector that gives little protection to its employees. Thus, Mattsson considers irregular migrants being highly vulnerable, but indispensable, within the Swedish society and its labour market (2008).

To summarize, previous research has focused on migration globally and within the EU. Researchers highlight the need for people from the third world to access the first world in order to survive and in order to work. Some researches focus on the unequal world order created by the global market, which is tightly connected to the creation of fortress Europe and racism. In Sweden as well as within the EU there is an increasing emphasis on irregular migrants – a relatively new phenomenon in Europe. There is a focus on citizenship and the creation of ‘illegal’ immigrants. The purpose and questions of issue for the authors have been developed from their own questions on migration and from previous research in this field, and focuses on the perception of asylum seekers and irregular migrants represented in the Swedish Regulation on Labour Immigration.
2. Research Methods

This chapter contains an introduction to the research methodology employed in this research study. According to de Vos, the research method used should be described comprehensively, to facilitate for the reader to develop confidence in the chosen method and decide on research reliability (2005). The following aspects will be presented in brief; the authors’ perspective, choice of method, sampling method, interview procedures, methods of analysis, reliability and validity, methodological limitations and ethical considerations.

2.1 Postmodern Perspective

According to Peace and Fook, a postmodern approach to social science is essential in order to address globalisation outcomes, for which it constitutes the base on which this research is conducted. A postmodern approach rejects the dualism that permeates modernistic reasoning, which values objective knowledge higher than subjective knowledge, and values theory higher than practice. Using a postmodern perspective thus gives the authors the “glasses” needed to address the questions at issue for realisation of research purpose. It further constitutes a contradiction to the idea of one universal monopolised truth and theory (1999), as language within a postmodern perspective is seen as socially constructed and therefore may not entirely capture complex realities (de Vos, 2005). Hence, the authors estimate that the complexity of the questions at issue requires a postmodern approach, since not one universal truth, but several truths lie embedded in the macro-to-micro discourse on asylum seekers and irregular migrants in relation to the RLI.

2.2 Choice of Method

The qualitative research approach is a method suitable when studying relatively unknown terrains (de Vos, 2005). Since the data of this research was collected before the RLI was presented, there is no contemporary quantitative data or statistics on the RLI outcome. The choice of a qualitative method is thus utilized by the authors since the research should, by capturing potential outcomes of the RLI, be viewed as a qualified guess on its effects on perceptions of asylum seekers and irregular migrants. According to de Vos, the purpose of a research project is the dream and “the objectives are the steps one has to take… in order to obtain that dream” (Ibid., s.104). The purpose or ‘the dream’ for this research to obtain is to explore how the new RLI reflects and may come to affect the perceptions of asylum seekers and irregular migrants in the Swedish society. The purpose may be of ‘basic’ or ‘applied’ nature, where the first intends to seek empirical data that may be used to formulate or reformulate theory, and the latter aims at solving immediate problems. Since the purpose of
this research is to seek empirical data and provide a foundation for knowledge and understanding of the reflection of the RLI and its effects on the perception of asylum seekers and irregular migrants, its nature should, according to the authors, be vied as basic. In order to realize the purpose, exploratory objectives have been employed, as the goal has been to search for provision of basic knowledge and understanding. In order to realise the purpose and its objectives, a deductive reasoning will be utilized, since it moves from the general to the particular (de Vos, 2005); it moves from the RLI in correlation with human rights and the harmonising of migration policy within the EU, and moves towards the representation of and effects on the perception of asylum seekers and irregular migrants in Sweden.

2.3 Sampling Method

There are no regulations on how big a sample in a qualitative research needs to be, and instead the data collection continues until the researcher is satisfied. In order to achieve realisation of the research purpose, the sample should consist of informants with different relations to the questions at issue. Due to the qualitative nature of this research, a non-probability purposive sampling technique has been utilized (Kvale, 1997). Achieving a purposive sampling the researchers must critically analyse the parameters of the population, and each specific informant is chosen because it illustrates a certain feature of the study (de Vos, 2005). Due to limitations in time and means availability, the final sample consists of informants as representatives or members of institutions from a macro-to-micro level – decision-makers (Moderaterna), implementers (the Swedish Migration Board) and members of grassroots organisations (Farr - Swedish Network of Asylum and Refugee Support Groups and IFRS - National Iranian Refugees Organisation). In some cases the authors experienced difficulties finding informants who were familiar with the RLI. Their expertise illustrates relevant features from macro to micro level on how the RLI represents the perception of asylum seekers and irregular migrants on a socio-political level and what its effects may be.

2.4 Interview Procedures

Qualitative interviewing aims at understanding the world from the point of view of the informant, and this are where new knowledge is created (Kvale, 1997). The semi-structured one-to-one interview was used in this research as it is suitable for addressing the complexity of different processes and generating detailed descriptions of specific topics (de Vos, 2005). As preparation, the authors interviewed one former asylum seeker and irregular migrant, which, together with previous research and grounding information, has influenced the interview schedules. Four different interview schedules with open-ended questions were created for the
four informants who participated contributing with their expertise. Each interview schedule was adjusted throughout the process as new relevant knowledge and data was gained. Since the informants were spread over a wide geographical area, two interviews where conducted over the Internet using the program Skype, and interviews were conducted face-to-face. The interviews were conducted in Swedish and lasted between thirty minutes and one hour. The two authors participated in all of them; one as active and the other one as observer and note taker. All informants gave permission to record the interviews, which facilitates the transcription of interviews and allows for a fuller and more correct record (de Vos, 2005).

2.5 Methods of Analysis

Since our research project is qualitative in nature, its design is flexible and evolves throughout the whole research process. The hermeneutic interpretation of qualitative research facilitates the analysis, as it permeates both the creation and the interpretation of data (de Vos, 2005). There is an inseparable connection between data collection and data analysis, a process which in this research is facilitated by transcription (Kvale, 1997). According to de Vos, “the critical ingredients of qualitative analysis are that it must be systematic, sequential, verifiable and continuous… and is a process of comparison” (2005, s.311). The interviews were therefore transcribed to facilitate this systematic comparison, for which the authors carefully went through the material, choosing relevant quotations for analysis, translating quotations and integrating these with the theoretical framework in the analysis chapter.

Generating themes is a critical feature of qualitative approach, and essential for method analysis. The analysis must occur throughout the entire research process, and themes facilitate the transformation of data into findings; from the planning of data collection to the writing of the final report (Ibid). In this research project, collected data have been transformed into findings within three different themes generated from the three questions at issue regarding the socio-political level; 1) asylum seekers, 2) irregular migrants and 3) harmonization of migration policy within the European Union. These themes permeate the purpose and its questions, even though the authors affirm that the themes are interconnected – the process of separating them has been complicated.

Interpretation of meaning goes beyond what is actually spoken, and aims at visualising hidden structures and relations, through which a re-contextualising of the data occurs within a specific perspective. The interpretation is thus based on mistrust towards what the informants directly express, and the theoretical understanding goes beyond common sense in order to incorporate social theory (Kvale, 1997) and thus, this research study seeks the meaning behind what is spoken within a theoretical framework. According to Payne each person must create
his or her own theory (2002), and the theoretical framework employed in this research study contains features of theory of democracy, human rights and perspectives on migration and irregular migrants. Together with previous research and basic information, these features constitute an eclectic approach to theory, relevant from a micro-to-macro level that enhances the research questions at issue towards realization of the purpose.

2.6 Reliability and Validity

Within a postmodern perspective the search for a universal truth is replaced by the search for heterogeneity, unique individuals and contextualization of knowledge (Kvale, 1997). The verification of knowledge is usually discussed through concepts such as reliability and validity. This process is in this postmodern and qualitative study complex due to its relation to subject relativism on one hand and a search for one objective truth on the other. Validity from a postmodern perspective is socially constructed, and it functions as a relevancy control and it questions if the study investigates that which it is supposed to investigate (de Vos, 2005). The validity in this research may be ensured thorough a clear starting point when it comes to research perspective and purpose. The choice of respondents also covers a macro-to-micro level, which ensures a broad representation of opinions and experiences. Reliability refers to reliable data and requires accurate tools of measurement (Engqvist, 2008). Previous research, grounding information and the theoretical framework have been clearly defined and explained by the authors, which will help readers to decide on reliability. The interviews were further conducted without bias questions, in order to achieve research reliability.

2.7 Methodological Limitations

When a qualitative research process is being used, the data should be viewed as to identify elements of a phenomenon, while quantitative data seeks to quantify those elements. Purposive sampling is a suitable method, as the authors need access to informants with knowledge about the new RLI. The judgement of the authors is thus a crucial factor on choice of sample, their relation to the questions at issue and hence the outcomes of the research study (de Vos, 2005). Since two of the interviews were conducted on the phone without face-to-face interaction, the authors did not focus on facial expressions, body language or any other communication but verbal. Hence, one of the qualitative research foundations is excluded in this research.
2.8 Ethical Considerations

Researchers have a responsibility towards the participants as well as to the discipline of social science. The ethical obligation to protect participants of the study requires their informed consent, accurate information, and their being aware that they are free to ask questions and also completely withdraw from the study at any time. Deception of subject and violation of privacy, anonymity and confidentiality have been avoided through dialogue with informants about how they wish to be introduced in the research. Position and objectivity of the researcher is another ethical concern. No qualitative report can exclude the researcher’s perspective or view of the world. The paradigm selected therefore refers not only to the reality as the researcher sees it, but also to the way the researcher views and re-contextualises the material. Objectivity is thus essential to avoid bias, and has been avoided here. All informants were also offered to take part of the publications of the findings. Even though not all possible situations can be predicted and unpleasant situations can arise, the nature of this study has consequently transformed in order to protect the subject from potential harm (de Vos, 2005).

2.9 Summary

In this study a postmodern perspective with a qualitative approach has been utilized. The purpose is basic in nature and seeks to explore rather than to describe. A non-probability purposive sampling technique has been employed by the authors, who conducted four semi-structured interviews with members or representatives of; a political party and decision maker (Moderaterna), an institution and implementer (the Swedish Migration Board) and grassroots organisations working with asylum seekers and irregular migrants (FARR and IFRS). The interview schedules, containing open-ended questions, were developed throughout the process and two of the interviews were conducted over the phone, whereas the other two were carried out face-to-face. A hermeneutic interpretation of meaning was utilized in the creation of three themes responding to the three questions at issue. The themes are 1) asylum seekers, 2) irregular migrants and 3) the harmonization of migration policies within the European Union. A theoretical framework of features of democracy theory, human rights, and an approach to migration and irregular migrants, facilitates the interpretation of meaning as well as the validity and reliability of this study. Ethical concerns to avoid bias and protect subjects from potential harm have been taken into account.
3. Grounding Information

In this chapter the authors will briefly define migration, asylum seekers and irregular migrants. Further, relevant aspects of International Human Rights Law and European Instruments of the Harmonization of migration policy within the Union will be presented. The authors also give an introduction to the new Regulation on Labour Immigration in Sweden. Parts of the Grounding Information constitute, together with democracy theory, the theoretical framework and will thus be referred to in the analysis.

3.1 Definitions

3.1.1 Migration
Migration is a multidimensional, global and growing phenomenon and one of the defining features of contemporary globalisation. The definition of migration employed in this study refers to; forced or voluntary resettlement of people within or between countries. It encompasses both movements from a country (emigration) and to a country (immigration) (Migration Board, 2006). Nearly 200 million people, representing three percent of the world's population, are living outside their country of birth, of which 60 percent live in developed countries. There are 63 million migrants living in Europe and 16 million migrants have a refugee status (Mattsson, 2008). According to International Organisation of Migration, there is a 2.9 per cent annual growing rate - the number of international migrants increases by 45 million each year (IOM, 2008).

3.1.2 Asylum Seekers
Until a person has been granted refugee status, he is considered an asylum seeker. Refugees and asylum seekers are terms of two separate legal definitions and should not be confused. Asylum seekers are in this study referred to as individuals who has left their country of origin, have applied for recognition as a refugee in another country, and are awaiting a decision on their application (UNHCR, 2008). In the year of 2007, the number of asylum applications in Sweden reached 36 207, of which the majority came from Iraq. In 2007 the Swedish Migration Board granted residence permit to 83 536 persons, of which 67 681 persons due to family ties, work etc., and 18 414 as refugees or by humanitarian reasons (Migration Board, 2008-11).

3.1.3 Irregular Migrants
There are many different terms and definitions on irregular migrants, but in this study they are defined as; persons who, owing to undocumented entry or the expiry of his or her visa, lacks
legal status in a transit or host country (GMG, 2008). Other terms used at all levels in society are undocumented migrants and illegal migrants. The latter is by many viewed as highly unethical, since no human being can be considered illegal. Most irregular migrants are not criminals, and by using such a term their asylum claims are jeopardized and their humanity denied (PICUM, 2005). There is no global number of irregular migrants, but it is estimated that between five and seven million irregular migrants reside in Europe. In Sweden the official number is 10 000, even though 30 000 is a more correct estimation of quantity (Mattsson, 2008).

3.2 International Human Rights Law

Human Rights became a topic on political agendas during the 1800s and the abolishment of slavery (Spång, 2005). The Universal Declaration of Human Rights – UDHR, was assumed by the general assembly of the United Nations in 1948, and constitutes the basis on which other United Nations treaties are based upon; the International Convention on the Elimination of All Forms of Racial Discrimination (1965), the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, the Social and Cultural Rights (1966), the Convention on the Elimination of All Forms of Discrimination Against Woman (1979), the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), the Convention on the Rights of the Child (1989) and the International Convention on the Protection of the Rights of All Migrants Workers and Member of Their Families (1990) (Malekian 2007, Spång 2005).

3.2.1 Program on International Migration

The United Nations Educational, Scientific and Cultural Organisation – UNESCO, is promoting human rights for all migrants in its program on International Migration, which advocates for the protection of human rights of migrants regardless of immigration status, the improvement of national policies, the promotion of respect for cultural diversity and strengthening of the capacity of diasporas networks (UNESCO, 2008). As part of the program UNESCO advocates for the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families – ICRMW (1990) that came into force 2003 (United Nation, 1990), and constitutes a response to migrants as a highly vulnerable group. This convention provides guidelines for the promotion of human rights in each country, sets a moral standard by its mere existence, sets a minimum degree of protection for all migrant workers and also seeks to fight misleading information (UNESCO, 2003). While other treaties have been ratified by the majority of the member states, the ICRMW has not been ratified by any western country (PICUM, 2005). National states claim that
the reason behind this is that the protection that it advocates for migrants has already been embedded in national legislation. However, according to the United Nations, many western countries are concerned that granting more rights to migrants would attract irregular migration, and not ratifying the ICRMW, is considered a strategy to discourage potential migrants (UNESCO, 2003).

3.2.2 Protection of Refugees

The Geneva Declaration on the 1951 United Nations Convention relating to the Status of Refugees and the 1967 protocol relating to the Status of Refugees are the global and fundamental tools for regulating legal status of refugees, and sets minimum standards for treatment of refugees. The term applies to an individual 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" (the Convention Relating to the Status of Refugees, 1951, Malekian, 2007, s. 255).

While protection of refugees is handled by this convention, the protection of migrant workers is to be handled by the ICRMW. However, due to the complexity of contemporary migratory flows and push factors (unemployment, violence, exclusion, poverty, lack of services and opportunities) as well as pull factors (wage levels, labour demand, human dignity), UNESCO recognizes that the distinction between migrant workers and refugees is not always clear, and that it may depend on in what way individuals cross national borders (UNESCO, 2003).

3.2.3 Concerns regarding implementation of Human Rights in Sweden

Sweden has a humanitarian image, but has nevertheless been criticised on numerous occasions by the UN Committee against Torture, Article 3; the ban on repatriating a person to a country where he is at risk of being subjected to torture (Kritiken från FN:s kommitté mot tortyr klingar ohörd, 2005). The UN committee has in 12 cases judged that a return of the complainant after a decision on the expulsion have constituted a violation of Article 3. The number of notifications to the UN Committee against Torture has increased over a period of years (Regeringens skrivelse 2006/2007:/58 Migration och asylpolitik, 2007). Sweden has also been criticised by the UN committee on Economic, Social and Cultural rights. The criticism has been in regards to maltreatment of irregular immigrants residing in Sweden - these are only entitled to
emergency healthcare and are forced to pay full price for the care, sums which are impossible
to disburse when depending on others for survival. According to the convention, irregular
migrants have equal rights to health care as other residents in Sweden (Stark kritik mot Sveriges
behandling av gömda i ny FN-rapport, 2007). Criticism regarding the same convention concerns the
situation of apathetic asylum children, which arose in 2003. These children and their families
were to be expelled from Sweden, but during the asylum process and after being rejected
asylum status, some children of these families developed a form of acute depression. The
migration minister at the time expressed that granting asylum to the families of the apathetic
children could create a situation with an increase in number of apathetic asylum children, a
statement that was heavily criticised by society in general (Apathetic refugee children could stay in
Sweden, 2005). These concerns contradict the view of Sweden as a pioneer country regarding
human rights (Kritiken från FN: s kommitté mot tortyr Klingar ohörd, 2005).

3.3 European Instruments

3.3.1 Migration policy
The Amsterdam Treaty (1997) sets common minimum norms for the right to asylum and the
asylum process, and sets directions for national authorities to reach these set responsibilities.
The Dublin Convention (1997) sets the standard for the principle of first country of asylum,
which restricts the process of asylum to the first country of arrival (Hansen, 2008). The
Tampere Conclusions (1999) laid the foundation for the Common European Asylum System
(CEAS), based on the Geneva Convention, which is to ensure that nobody is sent back to
persecution, i.e. maintaining the principle of non-refoulement (Tampere European Council 15 and
16 October 1999 Presidency conclusions, 1999), which prohibits any form of forcible removal which
is a threat to life, risk of torture and inhuman treatment (GMG, 2008). The Hague program
(2004) is a 5 year strategy which aims to create a universal EU asylum and immigration
policy for the year 2010 (Yousri, 2008). The most recent movement in this process is the
European Pact on Immigration and Asylum (2008) which aims to further incorporate and
complement the harmonization of a comprehensive EU policy on migration and asylum,
since, according to the Pacts preamble; previous attempts are insufficient (The European Pact on
Immigration and Asylum, 2008). The pact consists of five pillars: (1) to organise legal immigration
to take account of the priorities, needs and reception capacities determined by each Member
State, and to encourage integration; (2) to control illegal immigration by ensuring that illegal
immigrants return to their countries of origin or to a country of transit; (3) to make border
controls more effective; (4) to construct a Europe of asylum; and (5) to create a
comprehensive partnership with the countries of origin and of transit in order to encourage synergy between migration and development (Ibid.).

3.3.2 The Return Directive and the Blue European Labour Card

In June 2008 the EU member states reached an agreement on the Return Directive. The general instruction for all member states is to either expel all ‘illegal resident migrants’ or grant them legal status. The Directive defines common standards which are to guarantee that the irregular migrants are returned safely and according to Human Rights conventions. When an asylum seeker has been rejected and has received a decision of deportation, there is a voluntary departure period which is set between seven and thirty days. If the deportee remains within the country, the national authorities will issue a removal order, with a possible entry ban of up to five years. If the judicial authority suspects that the deportee will be hiding, they have the right to put him into custody. The maximum period of custody is six months, with a possible twelve-month extension. Families and children can be held in custody when it is considered to be the only remaining option. The repatriation of unaccompanied minors should only be executed if they can return to their families or to ‘adequate reception facilities’ (Fighting illegal immigration: The Return Directive, 2008). In November 2008 the EU member states agreed upon the introduction of the Blue European Labour Card. The Blue Card is intended to attract high-skilled migrants from third countries by giving them access to the EU Member States. The purpose is to compete with the USA, Canada and Australia, currently preferred by most high-skilled migrants. Requirements for the Blue Card are; an established employment in the EU, at least five years experience in the sector concerned, or a university qualification accepted by the member state as well as a contract guaranteeing a salary 1,7 times the average salary in the host country (Sweden 42 000 SEK/month), and not below the salary of an equivalent employee within the same field of work within the host country (Högavlönade immigranter kan få blått arbetskort i EU, 2008). The Blue Card will not replace existing national systems and it is up to the member states to decide on the amount of Blue Cards they wish to grant each year, hence the Blue Card is not a right for migrants and can be refused also if an applicant meets the criteria. After three years of residency in the first EU country, the holder can access other member states, although this could be rejected in favour of a national solution (A European "Blue Card" for highly-skilled immigrants, 2008). The Blue Card can only be granted to citizens originating from countries which have reached cooperation agreements as to receive ‘illegal immigrants’ from their country being sent back from the EU (Högavlönade immigranter kan få blått arbetskort i EU, 2008).
3.3.3 Concerns regarding the European Pact on Asylum and Immigration

Giusto Catania of Italy, member of the European parliament (MEP), expressed criticism towards the Blue Card which he believes exemplify “Europe’s schizophrenic approach to migration” (EU’s tough Blue Card only for the best and brightest, 2008) in proposing a legislation which is in contradiction with its current needs; “… the EU needs migrants to contribute to its economic growth because of the demographic crisis but at the same time comes up with legislation on how to return migrants, how to select only the most highly qualified workers and links their regularisation to labour market demands” (Ibid.). Amnesty International is opposed to the Return Directive since it allows the member states to detain people, including minors, who have not committed any crime, for up to 18 months. According to Amnesty, detention in general should only be applied in exceptional cases, for the shortest possible time without being extended and prohibiting detention of unaccompanied minors. Amnesty highlights that the human rights of the irregular migrants risk being neglected as an effect of the Migration Policy practised by the EU. Amnesty recognizes the rights of the member states to control their borders, as long as human rights of migrants, refugees and asylum seekers are respected (Appeal by Amnesty International’s Secretary General, Irene Khan, on return directive vote, 2008).

3.4 The new Regulation on Labour Immigration in Sweden

The ambition of the Swedish Government is to create a more open and flexible system for labour immigration, for which the parliament received a government bill on the 8th of May 2008. These new rules for labour immigration to Sweden aim at facilitating the recruitment of labour from outside Europe. This implicates that the agency-based labour market test will come to an end, and be replaced with the assessment of needs made by individual employers as the constituted base for decision making regarding residence and work permits. The Regulation on labour immigration was initiated as of cooperation and compromise between the Alliance (Moderaterna, the Swedish Chritstian Democrats, the Liberals and The Swedish Centre Party) and the Green party, and entered into force on 15th of December 2008 (Government Offices of Sweden, 2008-10).

3.4.1 The Swedish Migration Board

It is the responsibility of the Migration Board to ensure that the terms of employment are coherent to conditions of the Swedish collective agreements. The aim of these agreements is to ensure sound competition on the labour market and to avoid “social dumping”. This task was previously the responsibility of the Swedish Public Employment Service, but the new
regulations imply that cases relating to both residence and work permits will be handled by one single agency, the Migration Board (Governent Office of Sweden, 2008-11).

3.4.2 The application process

Temporary work permits can be granted for a period of two years, with the possibility of extension another two years. The work permit is tied to a specific employer during the first two years, whereas the final two years are tied to one specific area of work. The employer is responsible for showing the Migration Board that conditions of employment are respected. After a maximum period of four years, the employee may apply for a permanent residency permit. If an employment is ended during the period of a temporary work permit, the employee will be granted a transition period of three months to find another job. If the employee fails, and remains unemployed when the transition period ends, the permit will be withdrawn and the person be obliged to return to the country where legal status is held. The decision on a work permit can not be contested. The first application fee is 2 000 SEK, whereas the second one is 1 000 SEK if the applicant remains with his former employer and 2 000 SEK if there is a switch of employer. The main rule is that work permits should be applied for and approved while the applicant remains in the country where legal status is held. Thus, the permit must have been granted before entering Sweden. There are some exceptions, as some persons may apply for work permit from inside the country. Among those are students who have completed 30 higher educations credits or one term of postgraduate education in Sweden, and asylum seekers whose application has been rejected and the decision has taken legal force (Migration Board, 2008-10).

3.4.3 Asylum seeker

An asylum seeker whose decision of removal has come into force may in some cases be granted a work permit. The requirements are: that the person has been employed for a period of six month during the last year and that the position is permanent for a minimum of one year ahead; that the condition of the position corresponds to the Swedish collective agreement; that the person is in possession of a valid passport; and that the work permit application is due no longer than two weeks after the decision of removal comes into force (Government Offices of Sweden, 2008-11). There are further requirements for asylum seekers’ right to work during the asylum process; the Migration Board assesses if their decision is estimated to be more than four month away, and that the asylum seeker is in possession of a valid passport or contributes to establish his or her identity. The rejection from the asylum process further continues to be valid, until permanent residence is held (Migration Board, 2008-10).
3.4.4 Concerns regarding the new Regulation on Labour Immigration

The Social Democrats and the Left Party have criticized the possibility for an asylum seeker to "switch queues" and convert into a migrant worker. They fear it risks creating a system in which people, who in fact are in need of the protection granted them as refugees, will only obtain residency permits if they obtain work permits, which would mean an undesirable cyclical adjustment of the asylum policy. The Left party finds it unreasonable that irregular migrants are excluded from the possibility of seeking work permits, and they have proposed transitional arrangements giving asylum seekers and irregular migrants currently residing and working in Sweden this opportunity. The response of the labour committee was that although these people are in a vulnerable position, to introduce transitional arrangements would require reconsideration of the case and lead to a delayed entry into force. The committee thus found no reason to propose any transitional arrangements for these groups. The concern of the Swedish Bar Association is that the RLI akin to the European Blue Card focuses on the capacity of labour. The RLI may create a confusion between the right of asylum and the rights of migration workers, which threatens to undermine the institution of asylum and protection reasons under existing conventions. The Association fears that the possibility to “switch queues” may result in inequality before the law. It is also concerned in regards to the assumption that applicants know that they are eligible, when in reality they might be unaware of their opportunities to apply for work permits. The RLI’s policy on valid passports strikes hard against asylum seekers, based on figures from 2007, when over 90 per cent of all asylum seekers in the age group 16-64 lacked passports. The greatest risk according to the Association is that there will only be a scarcity of former asylum seekers who can in reality benefit from the opportunity to obtain a work permit, based on the restrictions for this group (Social Security Committee hearing, 2008).
4. Theoretical Framework

The theoretical framework consists of features of democracy theory, human rights and perspectives of approach to migration and irregular migrants. The theoretical framework contains relevant features which in the method of analysis will bring clarity to the questions at issue. Finally there will be a figure summarising our theoretical framework.

4.1 Democracy

Democracy theory is a vulnerable system of government originating from antique Greece, which is hard both to establish and sustain. In coherence with modern liberal and Marxists traditions democracy was redrafted during late 1700\textsuperscript{th} and has been exercised in western countries for no more than a hundred years. Democracy comes from ‘demos’ (people) and ‘krati’a’ (empire, rule), means ‘rule of the people’ and assumes political equality between people, although there have always been people within a society that have been excluded from these rights. The tendency of restricting the notion of people into those people or ‘demos’ included in defined groups is old. Ideals like equality between citizens, freedom, and respect have been inherited from classical democracy, while contemporary political theory of liberal and representative democracy in addition recognise that people are human beings with individual rights (Held, 1995). Modern democracy has historically been attached to western national states, and in times of de-nationalization, social science discourse highlights the complex issue of balance between globalization and democracy (Thörn, 2004).

4.1.1 Principle of Symmetry

Theories of democracy assume that everyone affected by a decision should be able to participate in the decision making. This democratic inclusiveness is referred to as the symmetry principle, and constitutes a keystone in the concept of democracy. It requires political autonomy, which is argued to be defected by internationalization, globalization and European integration, since the echo of regional decisions travel to other regions affecting those outside its ‘demos’ (Agné, 2006). Even though democracy as a form of government has survived, one of its fundamental features is complicated by the process of globalization, and according to Habermas the democratic legitimacy fails whenever democratic decision affects those outside its demos or electuary (Held, 1995). Violations of the principle of symmetry usually occur during increased interaction between national states, and contemporary globalization and migration flows have a great impact on democracy and the principle of symmetry. Internationalisation increasingly affects people and when democratic restrictions
are bound to state borders, the one way for states to maintain its form of government is to increase barriers between those who are insiders and those considered outsiders (Agné, 2006).

4.1.2 Citizenship

Citizenship contains civilian, political and social rights and is based on membership to a national state (Spång, 2005) and a ‘created community’, which within a world society territorialises people into units that grant citizenship as a natural sign of humanity (Khosravi, 2006:36). The people without citizenship are regarded as aliens amidst the democratic people and incorporation of these aliens into the democratic processes are restricted by the logic of a democratic paradox. This democratic paradox refers to the complex relation between international human right laws amidst national sovereignty claims, and is a process that undermines democratic legitimacy. Social rights is regionally and theoretically replacing democratic citizenship, which ironically increases the view on immigrants as social burdens due to the fear of that they will not contribute as much as they will demand in order for exercising these social rights (Benhabib, 2002).

4.1.3 Cosmopolitan democracy

Democracy has, according to Thörn, been challenged by the power of the global market and the capitalistic system (2004). Advocators for international and universal human rights put moral pressure on national states within the world society. National states are not only challenged in their claim of control over geographical borders, but of definitions of boundaries of the national community. Contemporary normative territorially bounded state-centric model of democracy as a form of government are not yet realising, nor do they take into account in national policy, the human rights of all migrants (Benhabib, 2002). When the line between human rights and the rights of citizens is being deteriorated, new forms of citizenship and collective identities emerges. These citizenships, with Beck’s theory of a growing world society, have led to a devaluation of citizenship as institution and practice (2000). It may no longer be based upon inclusion in specific nations nor exclusion from it, but must have its roots in de-territorialised or disaggregated citizenship with universal values, which according to Benhabib, is one inescapable aspect of globalisation (2002). National states have lost their ability to decide their own destiny and political, economical and social connections are in a process of transformation from national solidarity into global solidarity and affinity (Held, 1995).
4.2 Human Rights

“All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.”
(Universal Declaration of Human Rights, Article 1, Malekian, 2007., s. 8)

Universalism has its roots in a reasoning of the natural rights of human beings. Human rights values exist in all societies and universalism thus signify common values and norms. Critics claim that if human rights are universal, power will be exercised through the shape of universal values and might lead to human rights activism as a disguise for other interests. Culture relativism implicates on the other hand that all aspects of human life completely depend on which cultural and social society one belongs to. Culture relativism can, according to Spång, also be viewed as a weaker kind of universalism, which involves unification of concrete rights, which then will be adjusted to the social system of each specific society and its cultural consistency (Spång, 2005). The choice of a universalistic or culture relativistic approach to human rights, thus affects the outcome of the first article in the Universal Declaration of Human Rights. The democratic state has a relativistic approach to human rights since it reduces universal human rights to the rights of the citizens (Agné, 2006).

4.2.1 United Nations

The responsibility to ensure human rights for all migrants lie on governments. The political position that free migration is incompatible with the welfare state is common. This is a very simplistic view according to researchers, who believe that free migration might bring economic benefits to the economy of the welfare state, which in turn would generate money, which could be help maintain the welfare state. Therefore migration could be seen as an opportunity instead of a threat, and free migration as a way to respect human rights (Legrain, 2008). Violations of human rights usually occur when destination countries deprive migrants the possibility to contribute and being part of development. Thus, the protection of migrants is not considered to be a priority of national states (UNESCO, 2003). The right to seek asylum is protected by international and national law, where Non-Refoulement is a central principle. According to the Global Migration Group, the right to seek asylum is jeopardised due to difficulties to access a fair and effective asylum procedures. The relation between the sovereign state and human rights has become a controversial question. The development of International human rights laws has made the issue of how national states treat people a global concern in recognising that all persons should be subjects of rights outside of the national juridical system, as members of a world society. The system relies on implementations, at
national state level, of obligations, since there is no world state regulating authority (GMG, 2008).

4.2.2 European Union

The European Union is an economic and political partnership between 27 democratic European countries principally based on facilitating the free movement of goods, persons, services and capital within the EU. The EU is founded on the respect for human rights, democratic institutions and the rule of law aiming for “peace, prosperity and freedom for its 495 million citizens” (What is the European Union?, 2008). In “Justice, freedom and security – supporting our rights and defending our interests” (Europa, 2008) the Union addresses migration with a focus on coordinating asylum policies and enhancing the controls at the EU’s external frontiers. Reasons for migrating to enter the Union can be to escape war, persecution and natural disasters or to create a better future (Ibid.). Migration is believed to be one of the EU’s main challenges, and migration policy is currently permeating everything from economic growth and social cohesion to external relations and the fight against terrorism. Free movement within the EU for its citizens has been part of the supranational administrated migration policy since the founding, while free movement concerning third countries has been an area where the member states have been unwilling to give up their sovereignty (Hansen, 2008). According to Hansen (Ibid.) the explanation behind this is the sensitivity of the subject, since migration policies are closely connected to questions concerning borders, citizenship and national identity, issues closely associated with the definition of the sovereign national state. The impact of immigration becomes evident within the institutions and practices of the EU, where according to Benhabib, a disaggregated citizenship is emerging with different rights for different groups (2002) Within the EU it is now more common that one has access to basic social rights, while the privileges of political membership are limited, and thus the possibilities to engage in the democratic processes are limited. Benhabib expresses a fear that this situation will lead to “permanent alienage” (2002, s. 455), meaning that some groups will have access to civilian and social rights, but never be able to exercise political rights (Ibid.)

4.3 Migration and Irregular Migrants

International Organisation of Migration (IOM) highlights how important it is that national states properly manage migration, since this is a growing and inevitable component of any state’s economic and social life. IOM further identifies global trends which will impact migration and management of it as; demographic trends, economic disparities between
developing and developed countries, and global communication networks. Due to high demand for labour in developed countries, and availability of minimum cost labour from developing countries, liberalization of world economy and trade is further described to have set international labour migration in motion (IOM, 2008).

4.3.1 Lower circuit of globalisation and migration

Sassen refers to two elements of migration, the upper and the lower circuit of globalisation: the upper one being the one normally referred to; global information economy, hyper mobility of capital and its highly educated professionals. Regarding the lower circuit of globalisation Sassen highlights ‘global cities and ‘survival circuits’. The key functions and resources of the global economy are concentrated in ‘global cities’. The development within these cities demands high-skilled and high-paid workers. In contrast to this, their workplaces and lifestyles create a demand for low-paid workers, and this sets in motion the migration to the ‘global cities’ from the third world, and the incorporation in the economic sectors of these countries. Earlier in history, employment in growth sectors could be a source of empowerment of the workers; in contrast this process undermines empowerment and instead produces workers who are invisible and isolated. The migrants’ country of origin comes to rely on them and the allowances they send back to relatives (Ehrenreich & Hochschild, 2004). These allowances are three times the size of the combined aid from developed states to developing countries (Mattsson, 2008), which find themselves in the periphery of the global system, struggling against debt and poverty. The ‘survival circuits’ have emerged in response to their deepening misery. The migrants are often perceived as valueless economic actors while in reality they are crucial to new economies and the expansion of existing ones. This migration creates a link between the sending countries and the receiving countries, and allows for local and regional practises to assume a global scale. Two dynamics are interacting; the strong demand for low wage labour congregated in the ‘global city’ and the mobilisation of people into ‘survival circuits’ producing an escalating supply of migrants (Ehrenreich & Hochschild, 2004).

4.3.2 Irregular migrants and criminalisation

Khosravi highlights how participation in political life is shaped by and limited to citizenship, and that policy of sovereign states maintain borders between those with citizenships and those living ‘the naked life’ without political recognition (2006:36). Inclusion or exclusion from political recognition thus depends on if the person is a citizen or not, a regular or irregular migrant, or to take it one step further: a ‘legal’ or ‘illegal’ person. Khosravi highlights that the
Irregular migrants are a heterogenic group of individuals who are denied access to their human rights, who lack basic health services and who face both abuse and exploitation (Khosravi, 2006:36). According to the Global Migration Group, there is a widespread fear within the group of would-be migrants of applying for asylum, because of the risk of being rejected and not receiving refugee status. Both within this group, and within the group of people who have been denied asylum, it is common to remain within the country and live irregularly (GMG, 2008). National state systems thus reduce human rights to the rights of citizens (Khosravi, 2006:36), a process which is legitimized by policy making in the name of democracy (Agné, 2006). Khosravi refers to Bartonek and highlights the phenomenon of ‘inclusive exclusion’ - exclusion from socio-political rights on one hand and inclusion and acceptance of ‘anti-citizens’ as a compliant workforce and contributors to national and global economy on the other (2006:36). The line between citizens and non-citizens is sometimes vague, and when citizen rights are questioned, limited or denied for recognised citizens due to attributes as ‘race’, colour, religion etc, Khosravi refers to this as ‘quasi-citizenship’ (2006:36, s., 287). In a system of national states, says Khosravi, irregular migrants and asylum seekers are vulnerable groups whose human rights need to be respected, since they otherwise tend to be seen as a threat to citizens and security of the nation (Ibid.).

**Figure 2**

<table>
<thead>
<tr>
<th>Entrance</th>
<th>Stay</th>
<th>Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) &quot;illegal&quot;</td>
<td>&quot;illegal&quot;</td>
<td>funded and organized personally (smuggling)</td>
</tr>
<tr>
<td>b) &quot;illegal&quot;</td>
<td>&quot;illegal&quot;</td>
<td>In dept to smuggler or employer</td>
</tr>
</tbody>
</table>
| c) "legal" | "illegal" | a) overstayers  
                      b) asylum seekers that has been rejected |
| d) "illegal" | "legal" | collective/individual legislation; status of refugee |

(Khosravi, SOU 2006:36)
Irregular migration in Sweden is strongly connected to the system of seeking asylum, and is an issue not only of criminalisation, but of national identity in a democratic nation with a solid welfare system. Speaking of ‘we – the people’ refers to a particular human community; the citizens who are the ‘insiders’ (Benhabib, 2002). The term ‘the others’ refers to the rest; the non-citizens, the ‘outsiders’, the dehumanised who constitute a threat to citizen purity, and after the terrorist attacks in the USA on September 11th 2001: also a national security (Khosravi, 2006:36).

Figure 3 will be presented below summarising the theoretical framework which will be utilised by the authors in the findings and analysis chapter.

(Developed from Calbucura, 2008)
5. Findings & Analysis

In the beginning of this chapter there will be an empirical presentation of the four Informants and the political party/institution/organisation they represent or are members of. The findings and the analysis will thereafter be divided into three themes; 1) the political compromise regarding asylum seekers; 2) the exclusion of irregular migrants; 3) the harmonization of migration policy within the European Union.

5.1 Empirical Presentation

Michael Cederbratt is connected with Moderaterna, a Swedish conservative political party, and is representing the Alliance for Sweden, and is a government spokesperson for the New Regulation. Moderaterna and the Alliance for Sweden won the mandate of the Swedish electorate in 2006 as a coalition, and are in power until the election in 2010. The Regulation on Labour immigration has been approved by the parliament through support from the Alliance of Sweden and the Green party.

Emma Harrysson is a subproject manager of the so called Work Permit Group of the Swedish Migration Board, and focuses on how former asylum status applicants will be looked after under the new Regulation. The Swedish Migration Board is generally responsible for the process of asylum, visas, residency permits and citizenships. The Board is also involved in international work within the EU and the UNHCR.

Michael Williams is a member of the Swedish Network of Asylum and Refugee Support Groups (FARR). FARR was founded in 1988 by private persons who felt that people seeking asylum status in Sweden not always have access to a humane and fair asylum process. FARR is a politically and religiously independent umbrella grassroots level organisation which aids refugee groups, asylum committees and private persons, and safeguards international conventions.

Majid Hamidian is a member of the National Iranian Refugees Organisation in Sweden (IFRS). IFRS commits itself to support and organisation of Iranian refugees and asylum seekers through political and social campaigns defending the rights of refugees and human rights. IFRS also cooperates with organisations supporting the rights of refugees from, among others, Afghanistan and Iraq.
5.2 Theme 1 – the political compromise regarding asylum seekers

The theory of representative democracy as form of government in Sweden and in Europe recognises that all people or demos are human beings with human rights (Held, 1995). Universal human rights and treaties by the United Nations are depending on sovereign states implementing these rights and incorporating them in national law, which in times of globalisation have transformed into a controversial and complex issue and which puts a moral pressure on national states within the world society (Benhabib, 2002). The RLI falls well within this view of what is needed by national states: “One has to pay tribute to the theoretical approach behind the regulation” (Informant Williams).

All informants agree that the RLI is a positive initiative, and that Sweden depends on labour immigration for the maintenance of the welfare state. Informant Cederbratt highlights that the RLI includes a few different dimensions: the dream of the individual, equalisation of world economy and the possibility for companies to hire competent personnel originating in third countries. The four informants have different views on which the expected effects on the asylum process and which the structural changes of the immigration process will be. Informant Harrysson highlights two different scenarios, of which the first one is in accordance with the expectations of the ruling party. This scenario calculates with the common assumption that there will be a high number of unfounded asylum applications, and that a large proportion of these applicants may now apply for work permits instead, which will reduce the number of asylum applications. The second scenario is that there will be more asylum applications as the RLI may generate a way for individuals to enter Sweden as asylum seekers, then establish themselves on the Swedish labour market, after which after they return to their country of origin to apply for a work permit with support of their current employment. Within both scenarios decision makers and implementers assume that that there may be many asylum applications based on false premises. Informant Harrysson comments;

“I believe that the whole paragraph around this (asylum seekers) is a political compromise. And it permeates the entire… it is not very good. And it is very tight for the asylum seeker, but it is there so one can say… yes, one has created a possibility for those who work to remain …”

The democratic paradox between human rights laws and national sovereignty claim (Benhabib, 2002), may be visualised through the contradiction within the RLI which sees the immigrants as both a possibility and a threat: On one hand the immigrants are needed in order to maintain the welfare state, and on the other hand there are strict tools set in place for monitoring those
asylum seekers who are already employed in Sweden. The sometimes vague line between ‘demos’ and ‘non-demos’ forces state authorities to increase the barriers set between those considered insiders and outsiders, and democracy as a form of government is restricted by national borders (Agné, 2006, Held, 1995). This democratic paradox may further be viewed as a contribution to a criminalisation of some groups of migrants which, according to Khosravi (2006:36), may lead to quasi-citizenship even for those who are granted residency and work permit. The following quote by Informant Cederbratt illustrates how asylum seekers may be criminalised due to the assumption that they work on an informal market;

“…it probably occurs some ‘black work’ among those who are asylum seekers today, and then this type of law will contribute to that one won’t be so interested in having a ‘black job’, instead you want a ‘white job’. We want to have a smaller ‘black market’…”

Informants Williams and Hamidian have witnessed how asylum seekers and irregular migrants who work in Sweden see the RLI as their chance to obtain a residency permit, which would not otherwise be possible, and this may cause false hopes, which is expressed in the UN Convention on Migrant Workers (ICRMW), as a possible but strictly unwanted effect of the RLI. The ICRMW has not been ratified by Sweden, since state authorities opinions are that these paragraphs are already imbedded in national law (UNESCO, 2003). Many of the asylum seekers and irregular migrants have not been working legally, not due to lack of interest as suggested by Informant Cederbratt, but due to lack of opportunity, according to Informants Williams and Hamidian. Informant Harrysson is aware of the difficulties that in practice make it all but impossible for asylum seekers to ‘switch queues’, but emphasizes that;

“… you can’t underestimate hope. It is the last that abandons people… and then maybe 2000 cronas do not have such deterrent effects”. The choice of words implies that within the discussion among decision makers and implementers regarding the application fee, terms as “deterrent effects” have most likely been used. The moral pressure on the national states (Benhabib, 2002), implies that there is no genuine intention of decision makers to include asylum seekers other than at a theoretical stage. Since few are granted refugee status and might not agree with the decision of the Migration Board, obtaining a work permit is by Informant Hamidian viewed as the last possibility to stay on in the chosen country. This appears problematic since supranational and national protection is more developed for refugees than for migrant workers, which makes the latter even less included and affected by cosmopolitan citizenship and solidarity (Held, 1995). Informant Cederbratt describe it as uncomplicated for those working here to return to their country of origin in order to get a
valid passport or to apply for work permits. This shows another contradiction between theory and practice, which further is developed by Informant Williams, who states that returning to countries of origin, for many of the applicants is not an option;

“Sweden is saying that we have made an assessment that they are not in need of protection and therefore there should not be a threat when returning, but in reality we are refusing people, not because they aren’t threatened, but because the threat against them is not severe enough. So the threat remains…”

Those asylum seekers that after rejection of their asylum application would be granted work permits, will face four years of dependency on a certain employer. Hamidian says that there is no guarantee that a single person will obtain a permanent residence/citizenship under the RLI; “…they (the politicians) have their economic interests completely”. In that sense, immigration will be modified by current cyclical adjustments (Ehrenreich & Hochschild, 2004) which according to critics undermine the asylum process. This cyclical adjustment may be seen as natural for national state of democracy within the capitalist world system (Benhabib, 2002). This may come to benefit the upper circuit and place the lower circuit in an even more vulnerable position (Ehrenreich & Hochschild, 2004).

5.3 Theme 2 – the exclusion of irregular migrants

In theory, the principle of symmetry presumes that all people affected by a decision should be able to participate in the decision making (Agné, 2006). Since citizenship and its democratic rights are related to membership of the state (Spång, 2005), irregular migrants in Sweden have no democratic rights. They are the aliens among the democratic people (Benhabib, 2002), and albeit there is a need of labour immigrants, there are various qualifications to be met in order to be a part of the new legal labour force. Informant Cederbratt on irregular migrants;

”... we have this other group and we call them undocumented or hidden, we call them undocumented, and these are not the ones who come here without identity papers, no the undocumented are the people who come to Sweden without any desire what so ever to make themselves known to the government, they come here illegally, they work illegally and they don’t want to let us know that they are here, at least they do not in any way officially want to be a part of the Swedish society.”
Informant Cederbratt points out that if irregular migrants were included in transitional agreements it would risk undermining legal migration, and the government granting rights to people with no intention to respect and abide by Swedish laws would send out the wrong message and open up for other groups to come and stay illegally in Sweden. Cederbratt believes that the RLI could reduce irregular migration since there is a greater chance to arrive “legally” and since “…there are a lot of disadvantages to be illegal…” A contradiction is revealed between Cederbratt’s assumption that ‘undocumented’ migrants do not in any way want to be part of the Swedish society and his thoughts on the disadvantages of being ‘illegal’ and a non-citizen. The RLI opens up for certain former asylum seekers to apply for a work permit, and though it is not aimed at solving the situation regarding irregular migrants, it demonstrates which acts and who is considered ‘legal’ versus ‘illegal’ (Khosravi, 2006:36). As Informant Cederbratt puts it;

“… there is a fairness, you have come here... even if the basic reason, that you claimed at least, was that I am a refugee, then at least you have shown that I don’t want to be here illegally…”

Irregular migrants are spelled out to be ‘the others’ (Agné, 2006) and referred to as ‘illegal’ (Khosravi, 2006:36). The term ‘illegal’ is not politically accepted but yet it is used by some Swedish politicians, as well as in the European Pact on Asylum and Immigration, something that UNESCO and Amnesty are questioning, stating that no human being can be illegal (UNESCO, 2003). The rhetoric used regarding the irregular migrants at a political level criminalises them as a group and permanents their condition (Benhabib, 2002). According to Khosravi (figure 1), this condition may be transformable and should therefore not be seen as constant (2006:36). The criminalisation of the migrants is created by an imagined notion of a Swedish and European community and identity. In this process ‘illegal’ migrants are seen as a threat to democracy, which may transform irregular migrants into scapegoats for problems relating to the decay of the welfare state (Hansen, 2008). This contradicts Legrains research, in which free migration is compatible with the welfare state (2008). Informant Hamidian further comments on the life of irregular migrants; “You can never believe these people are living in Sweden, or Europe.” Informant Hamidian states that the irregular migrants are the most excluded in society and that they endure terrible living conditions as well as being extra vulnerable in the current times of recession. Hamidian further points out that there would be no acceptance on a political level if a Swedish citizen earned 20 Swedish cronas an hour, but when irregular migrants are concerned “…the politicians chose to look the other way”, and
Sweden develops a dependency on cheap labour. From Sassens point of view this is created as ‘global cities’ continue to develop, with an increase of high-paid workers, followed by a greater demand for a low-paid and invisible work force (Ehreinreich & Hochschild, 2004). Inclusive exclusion occurs when people are being excluded from their socio-political rights, but are included and accepted as non-citizens used as a cheap labour, and thus contribute to the national economy (Khosravi, 2006:36). Informant Hamidian does not share the view that the RLI will reduce irregular migration, since he believes that as long as there are injustices in the world; “refugees” will flee to other countries, which may be viewed in coherence with ‘survival circuits’ that emerges in response to deepening misery in countries affected by poverty and dept (Ehreinreich & Hochschild, 2004). This features one aspect of the democratic paradox between human rights and national sovereignty (Held, 1996). Through its regulations, the national state system reduces human rights to the rights of citizens, a process which is legitimised in the name of democracy (Khosravi, 2006:36). Informant Hamidian highlights a contradiction with regards to this; “… people have fought here in Sweden for their rights, shall we go a thousand years back in time? We are living in the same society… then why shall they not have the same rights…?” The democratic paradox may be viewed due to a relativistic approach to human rights within the Swedish society (Benhabib, 2002). Democratic rights as relativistic rights for citizens only on one hand, and human rights as universal rights on the other, creates a tension between the theory of international law and state sovereignty, for which the irregular migrants in reality become invisible and exploited (Ibid.). Khosravi, highlights how irregular migrants are seen as a threat to democracy, and that the inclusiveness of cosmopolitan democracy would benefit a welfare state within the world society for a global community (2006:36).

5.4 Theme 3 – the harmonization of migration policy within the European Union

Cosmopolitan democracy is based on a de-territorialised citizenship (Beck, 2002) with universal values, rather than relativistic inclusion or exclusion from a national state (Spång, 2005). The democracies within the EU do not respect the universal human rights of all transnational migrants, the conflict between international Human Rights law and the sovereignty of the national state remains. Migration is said to be one of the EU’s major challenges. Previously the member states have been unwilling to give up their sovereignty concerning migration policy, which has been explained as a natural reaction to immigration from a democratic national state perspective (Hansen, 2008). There is currently a willingness to accept labour migration on a national as well as a supranational level within the EU (A European Blue Card for highly skilled immigrants, 2008). Informant Cederbratt as well as Informant Williams express that
Sweden is at the forefront of the EU countries concerning labour migration since the RLI opens up the Swedish labour market to everyone from third countries. The basic value within the EU ‘Justice, freedom and security – supporting our rights and defending our interests’ (Justice, freedom and security – supporting our rights and defending our interests, 2008) may be put in relation to Informants Cederbratt’s view on the RLI in comparison to the Pact; “It won’t take long until the rest of the EU’s countries realise what they should have realised already, that we will need an incredible amount of people to come here so that we can build and keep our welfare system”

Migration is here not seen as a threat to the welfare state but as a way to maintain it. To maintain the welfare state may be viewed as a way to ‘defend our interest’, i.e. the European Union citizens, for which the sudden willingness to accept labour immigration from third countries is conditional and based on the needs within the EU. In the Blue Card Initiative, the national states within the EU have the right to decide on which immigrants as well as how many labour immigrants they require. The Blue Card is not intended to be a right of the migrant (EU’s tough Blue Card only for the best and brightest, 2008), but ‘supporting our rights’ to chose. Informants Cederbratt and Williams point out the openness of the Swedish Regulation in contrast to the Blue Card and stress the equal opportunities for all. In contrast, Informant Harrysson explains that it might be easier for high-skilled persons to obtain a work permit;

“… because it is not easy for a person in Nigeria to get a job in Sweden… and then you can imagine that he really wants to come here and work, but he doesn’t get a job, and then he might come here and seek asylum to get a job to later ‘switch queues’… and then we get another situation, then we’ll get a lot of people that are in the asylum process temporarily and then when they are established here they will take back their application, go home, sort everything out and apply the way they are supposed to.”

When asked by the authors concerning the possibility that the affiliation of class, like with the Blue Card, will determine who obtains work permits, Informant Harrysson answers that there may be an increase on low-skilled labour immigration, based on that ethnic groups already established within the Swedish labour market will hire friends or family from their countries of origin. There are various and contradictive speculations on possible outcomes of the RLI by the Informants. If the labour immigrants need to apply in the manner suggested by
Informant Harrysson, Informant Hamidian questions if the RLI is equal and open for all in contrast to the Blue Card.

One of the aims of the EU is portrayed as ‘peace, prosperity and freedom’ for its 495 million citizens. There are also approximately 7 million irregular migrants within the EU who are not considered citizens. The EU is founded on the ‘respect for human rights, democratic institutions and the rule of law’ (What it the European Union?, 2008) which in itself is a contradiction; hence, it is the democratic institutions which create the non-citizens and the quasi-citizens (Khosravi, 2006:36). The Swedish Regulation is by Informants Cederbratt, Harrysson and Williams considered to be at the forefront of migration policies, but is nevertheless a regulation within a democratic national state in which non-citizens are without rights.

The Pact seeks to create an Asylum of Europe while implementing the Return Directive. The Blue Card can only be obtained by people from countries which have agreed to accept their nationals who the EU are repatriating (The European Pact on Immigration and Asylum, 2008), since they are considered to be ‘illegal’ migrants (Benhabib, 2002). Informant Cederbratt expresses that it is up to these countries to take care of their own citizens. The EU’s policies may thus be viewed as a way in which the supranational institution is acting like a regional democracy, and that ‘illegal’ migrants may constitute the ‘outsiders within the EU’, citizens of other countries, hence a problem for other people to solve (Khosravi 2006:36). Informant Hamidian emphasises that numerous countries from which people flee today are countries affected by the politics and actions of ‘western countries’, which undermines the principle of symmetry (Agné, 2006). Informant Hamidian further questions how women are considered to have human rights in Sweden and within the EU, but still authorities within this region do not take the human rights of these women in consideration when expulsing them to countries not respecting their rights and where their lives may be threatened. The violations of principle of Non-Refoulement (UNESCO, 2003) have led to numerous occasions where Sweden has been criticised by committees of the UN. Informant Cederbratt points out what his party finds most important in EU’s migration policy;

“And what we have been very clear with and have taken very far is exactly this with the importance of receiving people who are in need of protection, and then you should know that these people who are in the most need of protection, they never come, because they are stuck.”
The assumption that the people with the greatest need of protection do not get here by their own means, implies the existence of a value system behind the reasons of asylum where certain people are considered ‘more refugees’ than others. This implies a natural disbelief in the ‘well-founded fear of being persecuted’ experienced by the asylum seekers (Dahlstedt & Lindberg, 2004). Informants Cederbratt and Harrysson express no concern regarding the former asylum seeker becoming a migrant worker, since they presume that a fair asylum process has been used. Like Informant Cederbratt puts it; “If they are refugees they will get to stay on their own merits”. This unproblematic view of people who flee their countries is expressed on a national level as well as within the EU, while according to the Global Migration Group (GMG, 2008), the right to seek asylum is at risk in regards to access to fair and effective asylum procedures. The RLI may thus be seen as a means to get asylum seekers to bring forward valid passports, which would make the process of repatriation easier. The RLI as well as the Return Directive could therefore make the process of returning irregular immigrants to their countries of origin more effective. The RLI may be seen as correlating with the European Pact on Immigration and Asylum, in that it emphasises on capacity for labour instead of the right of asylum.
6. Discussion

In this chapter the analysis findings will be discussed as contradictions; criminalisation and discourse; and harmonization within the EU, as these are the main findings in the analysis.

6.1 Contradictions

Through the analysis the authors explored views and opinions as well as possible scenarios and outcomes of the RLI. The RLI brings to attention various contradictions. The major one is the need of labour immigrants to maintain the welfare state while applying strict tools regulating the asylum seekers in Sweden and the assumption that their asylum reasons are not genuine, hence they are a threat to the welfare state. Another contradiction is expressed by Informant Cederbratt about ‘illegal migrants’ with no intention or wish to take part of the Swedish society while expressing the opinion that there are disadvantages with being ‘illegal’. The authors are questioning if anyone would voluntarily give up their human rights. These restrictions and this view contribute to a criminalisation of some groups of immigrants. The RLI in itself demonstrates a sceptical and prejudiced view on asylum seekers and irregular migrants according to the authors. Words such as ‘deterrent effects’ expressed by Informant Harrysson concerning the cost of applying for the work permit further strengthens this view and the authors notice that there might be little intention to include asylum seekers in the RLI. Former asylum seekers can apply for work permits (if they manage to live up to the qualifications) but the irregular migrants cannot. This preference of certain labour migrants over others is a contradiction, and in reality it might be the same people. A former asylum seeker, who stays in the country after expulsion, becomes an irregular migrant. An irregular migrant who lives and works in Sweden can after four years after his final decision of rejection, when the errand is barred, reapply for asylum invoking new reasons and then “switch queues” and apply for a work permit if he receives another rejection.

6.2 Criminalisation and Discourse

There is a presumption of decision-makers and implementers that there is a large number of unfounded asylum applications and that numerous asylum seekers contribute to the ‘black market’. This rhetoric criminalises and also permanents the irregular migrants position and it demonstrates that the RLI clearly states what is ‘legal’ vs. ‘illegal’ behaviour, hence people. The ‘illegal immigrants’ can be seen as a threat to democracy and the welfare state, but they are still a part of it, since the upper circuits are depending on the invisible work force made up by the lower circuits. Informant Cederbratt believes that the RLI could decrease irregular migration, while Informant Hamidian believes that this phenomenon is irreversible and that
the RLI is in no way a solution. Hence the regulation can be seen as a way to benefit the upper circuits of globalisation, based on their need to remain their welfare system, based on economic interests while the lower circuits remain invisible. The irregular immigrants are considered a threat to democracy but democracy may also be viewed as a threat to the irregular immigrants since democracy fails in including and protecting them, and the tension between international law and sovereign states leaves the irregular migrants invisible and exploited. In contrast to this, previous research illustrate how the welfare state could be improved and benefit from free migration if only the human rights of these groups where taken into consideration. In the analysis the authors have discovered that the RLI has created false hope among the community of asylum seekers as well as irregular migrants. There may have been misleading information, which is regulated in the ICRMW, which Sweden has not ratified, considering it to be embedded in national law. In theory asylum seekers are included, while in reality the chance for an asylum seeker to obtain a work permit is scarce. The fact that it is a pronounced compromise and the rhetoric used to describe this compromise may illustrate how the implementers and decision makers value this group of people. The authors also react to their standpoint that it is uncomplicated to return to the country of origin and apply for a work permit for the groups of former asylum seekers and irregular migrants currently living and working in Sweden, when in reality Informant Williams and Informant Hamidian describe the fear in being forced to return, that there may still be a threat to that person. Informant Cederbratts standpoint that the people who most need status of asylum do not make it here could risk undermining the process of asylum, if it is to be the view of the implementers and decision makers deciding on migration policy within Sweden.

6.3 Harmonization within the EU

Migration is, in the analysis, mentioned as a way to maintain the welfare state even at the political level, though it is restricted and based on the needs of the welfare state. The Blue Card and the RLI are similar from this aspect. Though the RLI is praised for being at the forefront of migration policies within the EU the analysis shows that the RLI may come to benefit high-skilled professions and certain ethnic groups already established within Sweden, hence not asylum seekers, irregular migrants nor the majority of people residing in third countries. The RLI has in the analysis appeared to the authors as sharing the same view on irregular migrants as the European Pact on Asylum and Immigration, which clearly states that the irregular immigrants are not desirable as a legal work force. According to the authors the analysis shows that illegal immigrants are ‘the outsiders’ within Sweden as well as the EU. In problematising and criminalising the phenomena of irregular migrants who are residing and
working within the EU, irregular migrants become the problems of their country of origin. This creates a view where irregular migrants are dehumanised instead of being considered a social resource in society. The EU and its politics are affecting third countries and its citizens which go against the principle of symmetry, and in addition people are being expelled against the principle of Non-Refoulement. The RLI as well as the Returns Directive might make it easier to repatriate people as of the requirement to show a valid passport, or to be sent to the first country of entry in accordance with the Dublin convention, which could fragment families. The Pact and the RLI correlates in the focus on capacity for labour rather than the right for asylum, hence the policies can be seen as correlating in risking to undermine the asylum process.

6.4 Summary

The analysis shows that there are certain aspects concerning the RLI that seems appraisable in theory, such as the willingness to open up the labour market to all citizens of third countries and the chance given to certain former asylum seekers. The RLI correlates with the migration policy of the EU with its purpose to create an asylum of Europe and the granting of Blue Cards. As a Regulation proposed in a democratic country, the RLI may be conjuring with the dilemma of the democratic theory itself. It can be seen as having the same flaws, in theory it seems appraisable but when practised it is more problematic since it does not include everyone affected by it.
7. Conclusion

Conclusively, this chapter will revisit questions at issue and pose suggestions for future research.

7.1 Revisiting Questions at Issue

The first question at issue seeks the purpose and values behind the political compromise concerning asylum seekers in the RLI. Even though the RLI as an initiative is praised for its openness, the inclusion of asylum seekers as a pronounced compromise illustrates a sceptical view and disbeliefs of asylum seekers. The RLI’s stimulation of the production of valid passports by asylum seekers as magic is a reflexion of a simplistic view on repatriation by decision makers that situates some migrants in delicate positions. A confusion of concepts as migrant workers, irregular migrants, asylum seekers, illegal immigrants i.e., facilitates states authorities diffuse definition of who owes the responsibility towards asylum seekers transforming into owing work permits or becoming irregular migrants. In theory, the RLI bring new ways for asylum seekers to remain in the country, but in practice the intention of including asylum seekers appears to be of narrow nature. The compromise visualises the democratic paradox and is thus based on moral pressure on the national state to respect universal human rights, and that asylum seekers in practice are not desirable as transforming into the legal work force Sweden’s welfare state demographically is depending on.

Regarding the motives behind the exclusion of irregular migrants from the RLI and which views on irregular migrants it represents as question at issue number two, the analysis shows that they represent and are put forward as a threat to the democratic welfare state. While demonstrating what is right and what is wrong within this state as rule of law, exclusion and criminalisation of irregular migrants aim at protecting the contemporary state, its citizens and form of government. The assumption that irregular migrants have no wish to take part of society and constitute a growing informal sector and market illegalises them as a group. Tens of thousands irregular migrants currently work in Sweden and contribute to national and global economy, but they are nevertheless undesirable as converting into the legal work force. Exclusion of irregular migrants in the RLI appears legitimate since it protects the welfare state from the threat ‘illegal’ migrants constitutes, and hence, their resources and skills are not wanted within the formal sector.

Question at issue number three seeks to visualise in what ways the RLI may correlate with the harmonization on migration policy within the European Union. The RLI is in many respects a positive and daring initiative since it opens up for both low-skilled and high-skilled
immigrants, in contrast to the Blue Card. As the analysis shows, there are nevertheless similarities that might appear more in practice than in theory. One similarity is that immigration is regulated by the needs of the European labour market, and not of the individuals right to chose. The increasing European focus on labour immigration jeopardises the right to asylum and fair asylum processes, and the non-ratification of the ICRMW by all European countries imply that certain kinds of immigrants are not desirable to solve the future demographical challenges, and a fear of being invaded by ‘illegal’ and irregular non-citizens results in a harmonised fortress Europe. Thus, democratic rule of law may in itself be viewed as a threat to some immigrants in the EU as well as in Sweden, as they place these immigrants in vulnerable and exploitable positions.

To summarize, the questions at issues have been answered for purpose realization. The perception of asylum seekers and irregular immigrants as an undesirable solution to demographical challenges, represent a relativistic approach to human rights. By legitimating this perception those concerned becomes even more vulnerable and at a higher risk of exploitation. The correlation between the contemporary democratic welfare state, international human rights law and the RLI, together with increasing and irreversible migration flows, visualises an incompatible and diffuse organisation, which have to transform into cosmopolitan democracy and global solidarity if to survive.

7.2 Suggestions for Future Research

Even though the RLI is viewed by the informants and researchers as an open and daring initiative which may come to affect both individuals, society and the nation state in a positive way, it is clear to the authors that future research on the RLI outcomes and effects on asylum seekers, irregular migrants and work immigrants needs to be enhanced and investigated. Different possible scenarios are outlined in this research study and for respecting human rights and maintaining the welfare state it is fundamental to observe how a major political migration intervention as the RLI will turn out. Which type of work will constitute the base for granting work permits; low-skilled work, high-skilled work or a combination of the two? The harmonisation of migration policy within the EU implies that high-skilled citizens of third countries that accept the Returns Directives arrangements may be granted permit in accordance to the Blue Card Initiative. This implies to the authors a trade of high-skilled persons for low-skilled persons as might be referred to as brain drain with a twist. Future research of the RLI’s and the harmonisation of European migration policies impact on third countries in regard to brain drain are essential if the democratic welfare state in any form is to remain. Brain drain of third countries and increasing inequalities between and within
countries will, according to the authors together with precious researchers, lead to increased migration flows which not even fortress Europe will have ability to control.

Future research should also enhance how the resources of all migrants, including irregular migrants, are used by society for the beneficiation of citizens of the world. To the authors it is clear that the implementation of human rights must be reinforced and strengthened. Universal rights are in practice monopolised by supranational organisations and the transformation or vanishing of the right of veto may according to the authors be essential if a cosmopolitan democracy is to emerge in theory as well as in practice. Democracy in its present liberal and representative form of government is thus a threat to not only irregular migrants, but to the majority of migrants finding themselves in the lower and survival circuits of globalisation. The consequences of this development should by future research be enhanced since it according to the authors and previous researchers constitute a major and decisive socio-political challenge. The authors have during the research discovered several paradoxes that reveal a democratic paradox and a gap between theory and practice, which is reflected by the concept and contradiction of liberal democracy itself, since liberalism requires open borders and democracy depending on closed ones.

Integration is another critical and urgent concern future research is in need to enhance for developing appropriate integration ideologies and models that in contemporary Swedish policy are scarce. These models need to be in harmony with actual needs and view migration flows as irreversible. For the persons from third countries who do get granted with the RLI permit, the future will tell how the lives of these people will develop. The different protection offered by the Geneva Convention and the ICRMW needs to be addressed and how the possibility of ‘switching queues’ in theory and in practice will come to affect human rights within the democratic state.

The new harmonised Europe and its focus on labour immigration benefiting the Union and the consequences on women, children and disabled persons are the authors final suggestion for future research. Democracy is in contemporary society equalised with justice, but then again one should ask; justice for whom?
8. References

8.1 Literature


8.2 Electronic Sources


8.3 Oral sources


The Social Security Committee hearing on labour migration., 2008-09-23, Stockholm, Sweden

Calbucara, J. Counselling, Mid – Sweden University, Östersund, Sweden (2008-12)
Appendix 1 – Interview with the Swedish Network of Asylum and Refugee Support (FARR) – Michael Williams

Presentation:
- Berätta kort om vilka författarna är.
- Berätta kort om syftet med intervjun, informantens roll samt om syftet med C-uppsatsen.
- Berätta att författarna gärna spelar in intervjun för att underlätta analysetiden, samt fråga informanten om han/hon känner sig bekväm med detta?
- Berätta om informantens möjlighet att påverka presentationen av denne, samt det politiska partiet/institutionen/organisationen han/hon är medlem i och/eller representerar.
- Berätta att informanten får ta del av resultatet om han/hon skulle önska detta.

Inledning

2. Vad har ni för förhoppningar och tankar kring den nya arbetskraftsinvandringslagen?

3. Kommer ditt arbete att påverkas av den nya lagen, i så fall hur?

Irreguljära
4. Den nya lagen ses som ett positivt initiativ som innebär öppnare gränser. Man valde att inte anta propositionen om övergångsregler för de migranter som redan lever här och arbetar fast saknar papper, eftersom att det bland annat skulle innebära en försening av verkställandet av lagen. År människorna som du möter i ditt arbete medvetna om den nya lagen? Hur ställer de sig till den? År de medvetna om att de kanske inte har möjligheten att få arbetstillstånd i Sverige?


Asylsökande
6. Den nya lagen ses som ett positivt initiativ som innebär öppnare gränser. Flyktingar och migrantarbetare skyddas idag av två olika konventioner, två olika typer av skydd. De kommer i och med den nya lagen hanteras av en och samma myndighet samtidigt som det går att 'byta kö' från den ena till den andra. Många uttrycker en oro över detta och att begreppen kan komma att blandar ihop. Är oron befogad?

7. Det finns stränga krav på asylsökande som vill ansöka om arbetstillstånd. Till skillnad från de andra migrationsarbetarna måste asylsökande ha arbetat sex månader under det senaste året. Är det vanligt enligt er erfarenhet?

8. Det krävs även giltiga ID handlingar för att kunna få arbetstillstånd under asylprocessen. Över 90 % saknar det. Det reducerar antalet potentiella ansökningar kraftigt. Finns det en problematik i detta? Vad kan effekterna vara av att en person frambringar sitt pass?

10. Då lagen enbart inkluderar asylsökande som en kompromiss samt exkluderar irreguljära migranter, kommer lagen att innebära några reella skillnader för asylsökande och irreguljära migranter?

EU

13. I den europeiska pakten för immigration och asylpolitik finns bland annat ett direktiv om återsändande vilket standardiserar och effektiviserar processen att sända hem så kallade illegala immigranter, vilket har kritiserats för att bryta mot de mänskliga rättigheterna. Ser ni en motsägelse i att Sverige öppnar upp för vissa samtidigt som det stramas åt för andra? Hur ställer ni er till pakten och dess påverkan på svensk migrationspolitik?

Avslutning
Författarna undrar om informanten har några frågor?
Författarna frågar informanten om de kan återkomma med eventuella uppföljningsfrågor. Författarna tackar för sig, berättar att informanten när som helst kan återvända med frågor, samt att uppsatsen kommer skickas till dem i slutet av januari 2009.
Appendix 2 – Interview with National Iranian Refugees Organisation (IFRS) – Majid Hamidian

Presentation:
- Berätta kort om vilka författarna är.
- Berätta kort om syftet med intervjun, informantens roll samt om syftet med C-uppsatsen.
- Berätta att författarna gärna spelar in intervjun för att underlätta analysmetoden, samt fråga informanten om han/hon känner sig bekväm med detta?
- Berätta om informantens möjlighet att påverka presentationen av denne, samt det politiska partiet/institutionen/organisationen han/hon är medlem i och/eller representerar.
- Berätta att informanten får ta del av resultatet om han/hon skulle önska detta.

Inledning

2. Vad har ni för förhoppningar och tankar kring den nya arbetskraftsinvandringslagen?

3. Kommer ditt arbete att påverkas av den nya lagen, i så fall hur?

Irreguljära
4. Den nya lagen ses som ett positivt initiativ som innebär öppnare gränser. Man valde att inte anta propositionen om övergångsregler för de migranter som redan lever här och arbetar fast saknar papper, eftersom att det bland annat skulle innebära en försening av verkställandet av lagen. Är människorna som du möter i dit arbete medvetna om den nya lagen? Hur ställer de sig till den? Är de medvetna om att de kanske inte har möjligheten att få arbetstillstånd i Sverige?


Asylsökande
6. Den nya lagen ses som ett positivt initiativ som innebär öppnare gränser. Flyktingar och migrantarbetare skyddas idag av två olika konventioner, två olika typer av skydd. De kommer i och med den nya lagen hanteras av en och samma myndighet samtidigt som det går att 'byta kö' från den ena till den andra. Många uttrycker en oro över detta och att begreppen kan komma att blandar ihop. Är oron befogad?

7. Det finns stränga krav på asylsökande som vill ansöka om arbetstillstånd. Till skillnad från de andra migrationsarbetarna måste asylsökande ha arbetat sex månader under det senaste året. Är det vanligt enligt er erfarenhet?

8. Det krävs även giltiga ID handlingar för att kunna få arbetstillstånd under asylprocessen. Över 90 % saknar det. Det reducerar antalet potentiella ansökningar kraftigt. Finns det en problematik i detta? Vad kan effekterna vara av att en person frambringar sitt pass?

10. Då lagen enbart inkluderar asylsökande som en kompromiss samt exkluderar irreguljära migranter, kommer lagen att innebära några reella skillnader för asylsökande och irreguljära migranter?

EU

13. I den europeiska pakten för immigration och asylpolitik finns bland annat ett direktiv om återsändande vilket standardiserar och effektiviserar processen att sända hem så kallade illegala immigranter, vilket har kritiserats för att bryta mot de mänskliga rättigheterna. Ser ni en motsägelse i att Sverige öppnar upp för vissa samtidigt som det stramas åt för andra? Hur ställer ni er till pakten och dess påverkan på svensk migrationspolitik?

Avslutning
Författarna undrar om informanten har några frågor?
Författarna frågar informanten om de kan återkomma med eventuella uppföljningsfrågor. Författarna tackar för sig, berättar att informanten när som helst kan återvända med frågor, samt att uppsatsen kommer skickas till dem i slutet av januari 2009.
Appendix 3 – Interview with Moderaterna – Michael Cederbratt

Presentation:
- Berätta kort om vilka författarna är.
- Berätta kort om syftet med intervjun, informantens roll samt om syftet med C-uppsatsen.
- Berätta att författarna gärna spelar in intervjun för att underlätta analysmetoden, samt fråga informanten om han/hon känner sig bekväm med detta?
- Berätta om informantens möjlighet att påverka presentationen av denne, samt det politiska partiet/institutionen/organisationen han/hon är medlem i och/eller representerar.
- Berätta att informanten får ta del av resultatet om han/hon skulle önska detta.

Inledning

2. Vad har ni för förhoppningar med den nya arbetskraftsinvandringslagen?
   *Det yttersta syftet? Andra önskade effekter?*

Irreguljära migranter
3. Den nya lagen ses som ett väldigt positivt initiativ som innebär öppnare gränser. Att man inte antog propositionen om övergångsregler för alla de som redan lever här och arbetar fast saknar papper, beror bland annat på att det skulle försena verkställandet av lagen. Kan du ge exempel på fler av skålen som gjorde att övergångsreglerna inte godtogs?
   *Fanns det en diskussion inom alliansen om de irreguljära migranterna? Varför/Varför inte?*

4. Statssekreteraren Minna Ljungberg liksom statsminister Fredrik Reinfeldt har uttryckt att man med den nya lagen kan bygga bort papperslösheten. Kommer lagen innebära en minskning av irreguljära migranter i Sverige?
   *Varför/Varför inte? På vilka sätt?*
   *Kommer ni i framtiden att arbeta för att inkludera dessa människor? Hur?*

Asylsökande
5. Fanns det redan från starten en diskussion inom alliansen när det gäller innefattandet av de asylsökande, eller var det Miljöpartiets initiativ?
   *Hur gick diskussionerna?*

6. Det finns stränga krav på asylsökande som vill ansöka om arbetstillstånd. Till skillnad från de andra migrationsarbetarna måste asylsökande ha arbetat sex månader under det senaste året. Hur motiverar ni detta?
   *Det är inte särskilt vanligt att asylsökande arbetar vitt, sex månader på ett och samma ställe?*

7. Det krävs även giltiga ID handlingar för att kunna få arbetstillstånd under asylprocessen. Över 90 % saknar det. Det antyder att det inte finns en reel önskan om att asylsökande ska ha möjlighet till att arbeta vitt. Hur stämmer den antydan in på motiveringen bakom beslutet?
   *Vad är motiveringen bakom kravet på godkänd ID för att asylsökande ska få arbeta?*

8. För att sedan få arbetstillstånd efter en avslagen asylsökan krävs det att personen bidrar till att fastställa sin identitet. Vilka riktlinjer ska migrationsverket följa för att bedöma detta?

Ett felaktigt beslut kanske har tagits gällande skyddsbehov.
Förrutsätter en rättsäker asylprocess.

10. En asylsökande som inte delar migrationsverkets beslut om avvisning, men som får arbetstillstånd kommer vara beroende av den enskilde arbetsgivaren. Asylsökande och irreguljära är redan idag utsatta grupper på arbetsmarkanden. Har man tagit hänsyn till det i lagen?

EU


Har alla samma möjlighet att söka tillstånd i praktiken?

Ett scenario är att det är lättare för högutbildade personer, att det är dem som arbetsgivare väljer att ta hit. Ett annat att det endast kommer att gynna människor vilka redan har en kontakttyta i Sverige.

12. I den europeiska pakten för immigration och asylpolitik finns bland annat ett direktiv om återsändande vilket standardiserar och effektiviserar processen att sända hem så kallade illegala immigranter, vilket har kritiserats för att bryta mot de mänskliga rättigheterna. Kommer vi att märka av den nya pakten i den svenska migrationspolitiken framöver?

13. Sista frågan handlar om EU’s harmonisering av migrationspolitik och hur kommer denna kommer att påverka svensk migrationspolitik framöver, framför allt då gällande irreguljära och asylsökande?

Avslutning

Författarna undrar om informanten har några frågor?

Författarna frågar informanten om de kan återkomma med evuuentuella uppföljningsfrågor.

Författarna tackar för sig, berättar att informanten när som helst kan återvända med frågor, samt att den uppsatsen kommer skickas till dem i slutet av januari 2009.
Appendix 4 - Interview with the Swedish Migration Board – Emma Harrysson

Presentation:
-Berätta kort om vilka författarna är.
-Berätta kort om syftet med intervjun, informantens roll samt om syftet med C-uppsatsen.
-Berätta att författarna gärna spelar in intervjun för att underlätta analysmetoden, samt fråga informanten om han/hon känner sig bekväm med detta?
-Berätta om informantens möjlighet att påverka presentationen av denne, samt det politiska partiet/institutionen/organisationen han/hon är medlem i och/eller representerar.
-Berätta att informanten får ta del av resultatet om han/hon skulle önska detta.

Inledning

2. Vad har ni för förhoppningar med den nya arbetskraftsinvandringslagen?  
   Det yttersta syftet? Andra önskade effekter?

3. Hur kommer ditt arbete att påverkas av den nya lagen?

Irreguljära
4. Den nya lagen ses som ett väldigt positivt initiativ som innebär öppnare gränser. Man valde att inte anta propositionen om övergångsregler för alla de som redan lever här och arbetar fast saknar papper, eftersom att det bland annat skulle innebära en försening av verkställandet av lagen. Organisationer som arbetar med irreguljära och asylsökande vittnar om att många hoppsfulla hör av sig för att nya vägar öppnats för dem att stanna i Sverige. Hur märker ni av detta?
   Hör många av sig? Asylsökande? Irreguljära migranter?

5. Statssekreteraren Minna Ljungberg liksom statsminister Fredrik Reinfeldt har uttryckt att man med den nya lagen kan bygga bort papperslösheten. Hur ser ni på lagen som en bidragande faktor till en minskning av irreguljära migranter i Sverige?
   Varför/Varför inte? På vilka sätt?

Asylsökande
6. Den nya lagen ses som ett väldigt positivt initiativ som innebär öppnare gränser. Flyktingar och migrantarbetare skyddas idag av två olika konventioner, två olika typer av skydd. De kommer i och med den nya lagen hanteras av en och samma myndighet samtidigt som det går att 'byta kö' från den ena till den andra. Många uttrycker en oro över detta och att begreppen kan komma att blandar ihop. Är oron befogad?

7. Det finns stränga krav på asylsökande som vill ansöka om arbetstillstånd. Till skillnad från de andra migrationsarbetarna måste asylsökande ha arbetat sex månader under det senaste året. Är det vanligt?

8. Det krävs även giltiga ID handlingar för att kunna få arbetstillstånd under asylprocessen. Över 90 % saknar det. Det reducerar antalet potentiella ansökningar kraftigt. Kan du utveckla det?
   Hur många procent av asylsökande förväntas kunna 'byta kö'?
9. För att sedan få arbetstillstånd efter en avslagen asylsökning krävs det att personen bidrar till att fastställa sin identitet. Vilka riktlinjer har ni för att bedöma detta?

10. I och med den nya lagen läggs mycket ansvar på den enskilde arbetsgivaren. Det är ingen hemlighet att sårbara grupper med lite skydd ofta utnyttjas. Kommer asylsökande vara en särskilt utsatt grupp?

**Arbetsgivare som äger uppehållstillståndet.**

11. Ni har ansvaret för att godkänna arbetsgivare som bedöms vara seriösa och följer kollektivavtal. Vilka verktyg har ni för att bedöma detta och hur ska det övervakas?

**EU**


13. I den europeiska pakten för immigration och asylpolitik finns bland annat ett direktiv om återsändande vilket standardiserar och effektiviserar processen att sända hem så kallade illegala immigranter, vilket har kritiserats för att bryta mot de mänskliga rättigheterna. Kommer vi att märka av effekterna av den nya pakten i det svenska immigrationsarbetet framöver?

**Ser ni en motsägelse i att Sverige öppnar upp för vissa samtidigt som det stramas åt för andra?**

14. Sista frågan handlar om EU: s harmonisering av migrationspolitik och hur ni tror och hoppas att denna kommer att påverka svensk migrationspolitik framöver, framför allt då gällande irreguljära och asylsökande?

**Avslutning**

Författarna undrar om informanten har några frågor?

Författarna frågar informanten om de kan återkomma med eventuella uppföljningsfrågor. Författarna tackar för sig, berättar att informanten när som helst kan återvända med frågor, samt att uppsatsen kommer skickas till dem i slutet av januari 2009.