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The provision of protection to asylum-seekers in destination countries

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ABSTRACT

The percentage of asylum-seekers awarded refugee or humanitarian status varies considerably across destination countries. It is improbable that the variance can be explained simply by the merit of each asylum-seeker's claim. A broad range of factors that have the potential to influence recognition rates are investigated in this study. These include: the conditions in the countries of origin; the destination countries' asylum-burden, political ideology, openness to outsiders, diplomatic relationships, economic conditions, need for population replacement, the ten year average refugee recognition rate, domestic refugee legislation and administrative considerations. The findings suggest that conditions in the origin countries known to produce refugee outflows influence the way in which destination countries *allocate* protection to asylum-seekers. However, the *amount* of protection provided by destination countries is found to be impervious to refugee-generating conditions in origin countries. It will be suggested that the supply of protection is pegged at a level deemed acceptable to the destination country, with fluctuations occurring as a result of a change in domestic factors such as increasing asylum applications and growing numbers of foreigners.

1. Introduction - the research question¹

During 2002, half a million people sought asylum in destination countries² (UNHCR:2004b:12). Three possible scenarios awaited these asylum-seekers. Those establishing a “well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion” and [were] unable or, owing to such fear, [were] unwilling to avail [themselves] of the protection of that country” (UNHCR:1979:8), could have been recognised as refugees under the 1951 Convention relating to the Status of Refugees (hereafter referred to as the 1951 Geneva Convention³). Those with claims falling outside the narrow scope of the refugee definition, but deemed worthy of protection for more general humanitarian reasons, may have been awarded humanitarian status. Finally, those unable to establish refugee or humanitarian grounds in their asylum claim could have been denied the right to remain in the country.

The basis for extending protection to persons seeking asylum is enshrined in international law and protocol. The 1951 Geneva Convention requires that protection is provided to any person found to be a refugee, and the UNHCR encourage States to provide asylum to persons in need of international protection, but whose claims fall outside the narrow scope of the refugee definition (Türk:1999). Despite this, the percentage of asylum-seekers awarded refugee or humanitarian status varies considerably across destination countries .

In 2002, the average refugee recognition rate across destination countries was 13%. However, Table A⁴ reveals an astounding disparity in

Table A. Recognition rates

| | refugee | humanitarian | combined |
|-------------|---------|--------------|----------|
| Greece | 0.4 | 0.7 | 1.1 |
| Finland | 0.8 | 34.6 | 35.4 |
| Netherlands | 1.3 | 12.9 | 14.2 |
| Sweden | 1.3 | 19.4 | 20.7 |
| Norway | 2.7 | 23.9 | 26.6 |
| Japan | 3.1 | 8.7 | 11.8 |
| Luxembourg | 4.6 | 3.6 | 8.2 |
| Germany | 7.5 | 1.8 | 9.3 |
| Italy | 7.6 | 4.8 | 12.4 |
| Switzerland | 8.7 | 37.3 | 46.0 |
| Portugal | 8.8 | 10.1 | 18.9 |
| Spain | 10.1 | 4.4 | 14.5 |
| Denmark | 10.4 | 13.8 | 24.2 |
| NZ | 11.4 | 0 | 11.4 |
| Australia | 13.7 | 0 | 13.7 |
| France | 14.1 | 0 | 14.1 |
| UK | 16.6 | 15.1 | 31.7 |
| Ireland | 16.8 | 0.9 | 17.7 |
| Austria | 20.0 | 0 | 20.0 |
| Belgium | 20.6 | 0 | 20.6 |
| USA | 34.9 | 0 | 34.9 |
| Canada | 57.8 | 0 | 57.8 |

1 This paper is a revised version of the author’s dissertation entitled ‘On what basis do destination countries provide refugee and humanitarian protection to asylum-seekers?’ submitted to the University of Edinburgh for the award of an MSc. European and Comparative Public Policy with distinction in January 2005.

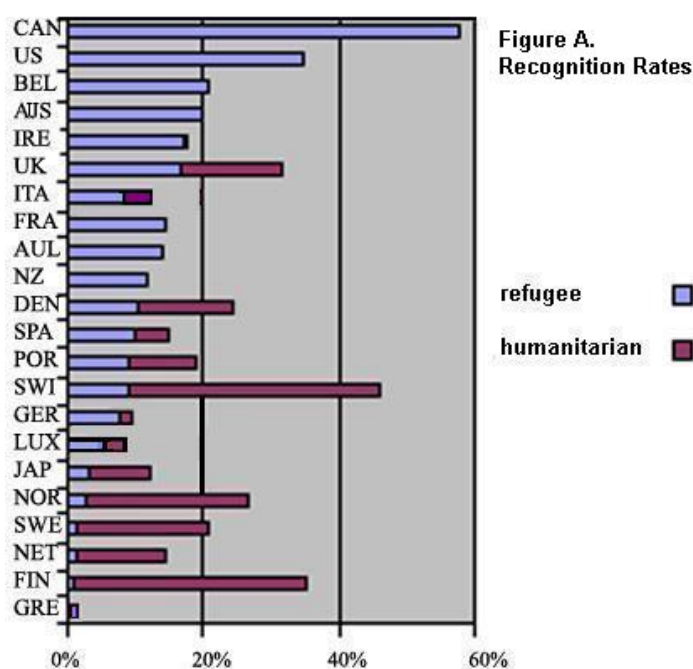
2 In this context, ‘destination countries’ refers to highly industrialised countries which attract asylum-seekers. Destination countries included in this analysis are: Austria, Australia, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, United Kingdom and the United States.

3 Destination countries included in this survey, except the United States, are signatories to the 1951 Geneva Convention, and all have signed the 1967 Protocol relating to the Status of Refugees (UN:2002).

4 Graph constructed by the author from data contained in Table 5 UNHCR (2003a). The humanitarian recognition rate is calculated by subtracting refugee rate from the ‘total’. Data for Italy sourced from UNHCR (2004a) Table C12 and C13. Data for Luxembourg sourced from ECRE (2004).

refugee recognition rates – from Greece, where 0.4% of asylum-seekers were awarded refugee status, to Canada, where 58% were awarded refugee status. The standard deviation is 13%.

What is the reason for this variation? As destination countries are bound by international obligation to the 1951 Geneva Convention, theoretically they “do not have the freedom to decide on criteria for the granting of asylum. In principle, each case must be determined according to its merits as defined by the relevant conventions: the moral claim of the applicant is overriding” (Joly:1996:33). The asylum-seeker’s moral claim, to which Joly (1996) refers, is to be protected from persecution or a violation of his/her human rights. If destination countries accept this moral claim, variation in refugee recognition rates can only be explained by differences in the overall merit of a destination country’s asylum-seekers. While it would be reasonable to assume that the asylum-seekers resident in each destination country have differing levels of overall merit, it would seem absurd to suggest that the asylum-seekers in Canada were 145 times more likely to have experienced persecution than those in Greece. As merit cannot account for the disparity in recognition rates, which is clearly visible in Figure A, this indicates that destination countries are incapable of adequately fulfilling their international obligations, and/or are disinclined to do so as they are “jealous of their sovereignty and especially control over their borders, and are overwhelmingly guided by their national interest, expressed through their foreign and domestic policies rather than by moral imperatives”(Joly:1996:33).



There is no legal obligation for destination countries to provide humanitarian protection. Thus it is less surprising that variation is apparent in the amount of humanitarian protection provided to asylum seekers. The average humanitarian recognition rate is 9%. The standard deviation of 11% indicates substantial variation. Rates range from zero for Austria, Belgium, France and the New World (these destination countries do not provide the option of humanitarian protection⁵) to Finland and Switzerland

with rates of 34.6% and 37.3% respectively. Clearly a significant part of the variance in humanitarian recognition rates is explained simply by whether or not a destination country provides humanitarian protection. Still, there is substantial variance amongst the destination countries which offer humanitarian protection, and the discretionary nature of humanitarian protection that leaves recognition rates vulnerable to the

⁵ There is an isolated instance of Belgium providing humanitarian protection to 750 persons in 2000 (UNHCR:2002a:125).

influence of the destination country's national interests (the socio-political and economic interests that inform domestic and foreign policy).

The aim of this paper is to develop a better understanding of the basis on which destination countries provide refugee and humanitarian protection to asylum-seekers. This paper builds upon the existing empirical research in three ways. Firstly, it draws on the qualitative literature to develop a clearer picture of each of the factors identified as influential in existing empirical studies, which include: the conditions in the origin countries, the destination countries' asylum-burden, political ideology, openness to outsiders, and economic conditions. New variables are created to measure untested aspects of each factor. Secondly, it includes factors identified in the literature but not yet considered in empirical studies, including: diplomatic relationships, the destination country's need for population replacement, the ten year average refugee recognition rate, domestic refugee legislation and administrative considerations. Each of these factors will be discussed in detail and tested empirically. Finally, it is structured to account for the differing dimensions of recognition rates. Previous empirical research is based on the refugee recognition rates and the combined (refugee and humanitarian) recognition rate. This is the first empirical study to isolate the humanitarian recognition rate from the combined recognition rate. Furthermore, this research distinguishes between origin-specific and global recognition rates. Hence, this investigation offers the broadest study of recognition rates to date.

The findings will reveal that the global recognition rate does not respond positively to conditions in origin countries which are likely to produce refugee outflows. Differences in global recognition rates will be shown to be related to: the destination country's number of asylum applications, neighbours' refugee recognition rates, political ideology, openness to outsiders, diplomatic relationships, economic conditions, administrative capacity; the consequences arising from an incorrect ruling on an asylum claim; and most importantly, the destination country's ten year track record in providing refugee protection. This study will demonstrate that the relationship between the independent variables and the refugee recognition rate is distinct from, and at times inverse to, the relationship between the independent variables and the humanitarian recognition rate. The discretionary nature of humanitarian status makes it particularly susceptible to factors unrelated to merit. The origin-specific recognition rate, particularly the humanitarian recognition rate, will be shown to be more attuned to refugee-generating conditions in origin countries. The inherent difficulty in accurately adjudicating an asylum claim, which can further be hampered by administrative concerns, will be highlighted. In conclusion, the research findings indicate that destination countries are both unwilling and incapable of adequately fulfilling their international obligations, and that this leads to inequitable protection outcomes for asylum-seekers.

2. Methodology and research strategy

The purpose of this section is to: outline the scope of existing empirical studies; advise on the research strategy, including the structure of the literature review and bivariate analysis; present two datasets – the first to analyse the global recognition rate, the second to analyse the origin-specific recognition rate - and explain their construction; address concerns of pooled time-series studies; and finally, to introduce

the dependent variables and discuss their strengths and limitations. However, before proceeding, the terminology used throughout this paper is explained.

Terminology

The proportion of asylum-seekers allowed to remain in destination countries is described in the literature as the ‘recognition rate’. The term ‘recognition rate’ should be used with caution as its meaning and scope can vary. The ‘refugee recognition rate’ is a standard term used by the UNHCR to refer to the percentage of persons granted refugee status within the provisions of the 1951 Geneva Convention. However, in studies by Neumayer (2004a), Vink and Meijerink (2003), Holzer, Schneider, Widmer (2000a) the scope of the recognition rate includes persons recognised as refugees and those allowed to remain on humanitarian grounds. The recognition rate can refer to the measurement of two different outcomes. The first is the ‘global recognition rate’, which is the destination country’s overall recognition rate for asylum-seekers. The global recognition rate compares the amount of protection destination countries provide and is a valuable measure in comparing recognition rates across destination countries. The second is the ‘origin-specific recognition rate’ which measures the destination country’s recognition rate for different nationalities, and is effective in demonstrating how protection is allocated by destination countries as a whole⁶. To avoid confusion, in this paper the term ‘recognition rate’ is used when the reference is generic, and is prefixed with ‘refugee’, ‘humanitarian’ or ‘combined’ when the reference is specific. Likewise, the recognition rate is prefixed with ‘global’ or ‘origin-specific’ where the context is not immediately apparent.

Existing empirical research

Six empirical studies that investigate recognition rates have been identified. In two of these studies, the origin-specific recognition rate is the dependent variable. Holzer, Schneider and Widmer (2000b) analyse the variance in refugee recognition rates across Swiss cantons (provinces) using variables measuring the demographic composition of the asylum-seekers and the attributes of the cantons. Neumayer (2004b) analyses the determinants of both refugee and combined recognition rates in Western Europe using variables which measure the prevailing conditions in the destination country and the origin country. Vink and Meijerink (2002) explore the relationship between asylum applications and the global combined recognition rates in 15 European states during 1982-2001. Two studies attempting to explain variance in the number of asylum applications consider recognition rates as an independent variable. In research by Holzer, Schneider and Widmer (2000a), the effect of the origin-specific recognition rate and the global recognition rate on the demand for asylum in Switzerland is examined, and similarly Neumayer (2004b) investigates the influence of origin-specific recognition rates and global recognition rates on asylum applications in Western Europe throughout 1980-1999. Lastly, Holzer and Schneider (1997) examine the effects of deterrence measures, including lowering recognition

⁶ The origin-specific recognition rate can also be used to compare destination countries’ recognition rates for particular nationals. However, as the composition of asylum-seekers varies widely across destination countries, any such analysis will be limited to the few nationals that are well-represented in most destination countries.

rates, in OECD countries between 1980-1995. The outcome of these studies, discussed in detail in the following sections, demonstrates that a range of factors influence recognition rates *inter alia*: the composition of asylum-seekers; the asylum burden; politics, socio-economic factors; and administration. However, the empirical studies provide only a rudimentary discussion of these different factors.

Research strategy

This analysis of recognition rates will integrate the range of factors identified in the broader literature, namely: the composition of asylum-seekers; the asylum burden; politics, economics and society, long standing differences in refugee recognition rates; domestic law, and administration. Each range of factors is analysed in a separate section. The analysis of each range of factors will be conducted in three distinct stages: firstly, the literature will be discussed; secondly, indicators representing these factors will be operationalised into variables; thirdly, the findings will be presented and discussed.

Research design

This research will explore the differing dimensions of recognition rates: the refugee recognition rate, humanitarian recognition rate and combined recognition rate. Two separate datasets have been constructed: one for the global recognition rate and one for the origin-specific recognition rate. The origin-specific recognition rate is calculated for the top-ten⁷ origin countries of asylum-seekers in 17 destination countries. Data on origin-specific recognition rates is not available for Italy, Japan, Luxembourg or Portugal. As origin-specific recognition rates for Austria do not include initial decisions, these are not considered comparable and have been omitted. The rationale for limiting the origin-specific analysis to the top-ten is that this captures the overwhelming majority of asylum-seekers, and recognition rates become meaningless when there are only a few applicants – for instance, it would be misleading to report a nil recognition rate for Congo if there were only three applicants. Research by Neumayer (2004b, 2004b) and Holzer, Schneider and Widmer (2000b), is weakened by the inclusion of similar data.

Determining cross-national variance and developments over time is problematic where there is a small sample size, as it is difficult to test a wide range of theories, and results are unlikely to reach statistically-significant levels. To overcome this problem, political scientists tend to use pooled time-series data analysis. This technique is used in all of the empirical studies of recognition rates. (Kittel:1999) For instance, in research by Neumayer (2004b) each destination country is counted approximately 643 times (over a twenty year period and for each asylum-seeker's origin country), when technically 642 of these cases cannot be considered to be independent. This technique may either average out differences, or artificially inflate the level of statistical significance (Kittel:1999). Furthermore, although the yearly data does change, Neumayer (2004b) is comparing origin-specific recognition rates against static

⁷ Denmark and Sweden's data is based on the top-nine as *Palestinians (8th-Denmark) and Stateless (6th-Sweden) have been omitted as the origin countries are not known.

*A high proportion of Palestinians have lived in countries neighbouring Israel for generations.

destination country data. As a preliminary scoping exercise, this study is limited to a bivariate cross-section analysis of 2002 data. While the global recognition rate dataset is not plagued by any of the problems arising in pooled time-series studies, the origin country dataset does pool data for the destination country's top-ten origin countries. However, no correlations are presented between origin-specific recognition rates and independent variables that do not vary for each of a destination country's top-ten origin countries. The weakness in this research is that, as a bivariate analysis, other factors known or surmised to influence recognition rates are not isolated.

The relationship between origin-specific variables and the global recognition rate is measured by weighted averages, for example, the average level of political terror present in German asylum-seekers' origin countries. A further benefit of using weighted averages is that these are available for all 22 of the destination countries as they do not require knowledge of origin-specific recognition rates.

It is clear from the global recognition rates presented in figure 1 that North American refugee recognition rates are significantly higher than other destination countries. Europe can also be viewed as a separate case due to attempts to harmonise asylum policies across the European Union. These regional effects have the potential to distort findings. Therefore, all correlations will be calculated for 1) all countries, 2) all countries excluding North America, and 3) Europe only.

The dependent variable: the recognition rate – refugee, humanitarian and combined

The key dependent variable in this research is the refugee recognition rate. As the definition of 'refugee' is set out in international law, the refugee recognition rate is measuring much the same phenomenon in each destination country. As well as providing a relatively reliable measure, the 1951 Geneva Convention is the single most important instrument in providing protection internationally. The humanitarian and combined recognition rate will be included as secondary dependent variables as each are important in their own right, but have considerable limitations.

It is questionable whether humanitarian recognition rates should be analysed in cross-national studies. The requirements for awarding humanitarian status are outlined in domestic law and policy and destination countries may offer temporary or permanent protection (or both). Humanitarian status may be provided *in addition to* refugee status, but the extent of this generosity will vary. For example, in Switzerland's liberal interpretation, humanitarian status may be awarded in the case of serious hardship, which includes asylum-seekers' social and economic well-being (Kalin:1994), whereas Sweden's humanitarian status protects 'de-facto' refugees, conscientious objectors to inter-state war, and persons who have escaped war or war-like conditions (Abiri:2000). Humanitarian status may be accorded *instead of* refugee status. For example the Dutch developed a temporary protection status (F status) to circumvent the asylum process during mass influxes of asylum-seekers from particular countries, such as Somalia, Iraq, Afghanistan and Rwanda (van Selm:2000:77), with a view to providing access to permanent protection. Other destination countries, including Sweden and the United Kingdom, have "chosen to use it [humanitarian status] as a means of further hollowing out the 1951 Convention" (Schuster:2000:125), while in Germany *Duldung* has been seen as a political instrument to reduce the number of refugees (van Selm 2000:77). Humanitarian

status may be preferred by destination countries as it confers less rights than refugee status, and may reduce financial, political and social costs (Noll:1999). While acknowledging that humanitarian recognition rates are not readily comparable, yet due to the important role of humanitarian status in the provision of protection to those in need, the humanitarian recognition rate is considered to be an important aspect of this analysis.

Vink and Meijerink (2003:304) view the combined recognition rate as “an indicator for the generosity of domestic asylum policies”. However, if the concerns raised above about Germany are legitimate, humanitarian status may actually indicate a *lack* of generosity in domestic asylum policies indeed there is a strong, statistically-significant negative relationship between refugee and humanitarian recognition rates, which makes it entirely possible that their relationships with independent variables will be different. This has clear implications for the validity of the combined recognition rate as a dependent variable. Any study wishing to include the combined recognition rate as a dependent variable must also consider the humanitarian recognition rate separately. In this analysis, the combined recognition rate is only deemed to be important in instances where considering both statuses together provides a stronger correlation than considering each individually.

Calculating the recognition rate

The recognition rate that is used in comparative research is the proportion of successful decisions, not the number of successful applications, in a given time period. Calculating the true recognition rate is problematic as a significant number of asylum applications are not decided in the same year in which they are lodged. (UNHCR:2002a:58) The recognition rate does have limitations. In a number of destination countries ‘manifestly-unfounded claims’ are dismissed without a full hearing. The UNHCR recommends that decisions made without a full hearing should be excluded from recognition rate calculations. While there is no clear information about national practices, Canada and Belgium are cited as examples of destination countries with an expedited process for manifestly-unfounded claims, and the United Kingdom is provided as an example of a destination country that provides full hearings. (Hovy:2001:3) It appears evident that destination countries with expedited procedures for manifestly-unfounded claims will have higher recognition rates than those destination countries which provide a full hearing for all cases. The fact that Canada and Belgium have high recognition rates provides an immediate answer to the disparity in recognition rates. However, “many” European states have adopted expedited procedures for manifestly-unfounded claims (Commission of European Communities:2001:25), but European rates are significantly lower than Canada’s. In addition, although global recognition rates are available for both initial and review decisions, origin-specific recognition rates include review decisions in some destination countries, while others detail the initial or review decisions only⁸. It is likely that recognition rates for initial decisions will differ from those at review. Despite these limitations the UNHCR (2002a:58) considers that the recognition rate “offers the best opportunity for comparing national practice”. Refugee, humanitarian

⁸ As demonstrated in the presentation of data in UNHCR (2003a)

and combined recognition rates for 2002 have been taken from UNHCR (2003a)⁹ data.

Correlations

The strength of the relationships between the three dependent variables and the independent variables is measured by Pearson's r. Correlations for the global recognition rate dataset are presented in Appendix A and the origin-specific dataset is presented in Appendix B. The relationships will be discussed in detail in the following sections.

3. Composition of the asylum population

This section seeks to determine whether recognition rates are related to the prevailing conditions in origin countries, and the demographic composition of a destination country's asylum-seekers.

LITERATURE REVIEW

It appears self-evident that asylum-seekers presenting claims with greater merit should have higher recognition rates than those with less compelling claims. Unfortunately, there is no comparative statistical data that captures the background and claims of each applicant, thus the effect of individual merit on recognition rates cannot be measured.

Conditions in the origin country

It is possible to gauge the overall merit of particular nationals relative to other nationals by taking into consideration the conditions in their origin countries. It is reasonable to expect that countries where human rights abuses are rife, political and civil freedoms are few, and where civil or interstate war is ongoing, are likely to produce asylum-seekers with greater merit than countries with a greater respect for human rights and which are free from conflict. For example, one would expect asylum-seekers from Sudan to have higher recognition rates than those from Costa Rica. Furthermore, asylum-seekers "from certain countries are treated as genuine refugees because the situation in their origin country does not allow for return" (Crawley:1999:3.69). Given the importance of the conditions in the origin country, it is not surprising that it is found to be significant in Neumayer's (2004b) research. Neumayer (2004b) analyses a number of variables representing the human rights and economic situation in origin countries and finds the refugee and combined recognition rates are positively associated with poor political and civil rights, human rights violations, inter-state war, and genocide and 'politicide' (where the target group is defined by their political affiliation). Surprisingly, the issue of threats to personal security as a result of state failure is not found to be significant in Neumayer's

⁹ Global recognition rates are taken from Table 5; Origin specific recognition rates are taken from Table 7. The humanitarian recognition rate is calculated by subtracting refugee rate from the 'total' (combined recognition rate). Data on New Zealand's origin-specific recognition rate is from New Zealand Immigration Service (2004) 'Refugee status claims by nationality and financial year'.

(2004b) research. The level of economic discrimination is not significant either, although this may simply reflect the fact that the benchmark for refugee recognition is persecution, which is more severe than discrimination. It is perhaps less surprising that GDP and unemployment are not significant as the economic circumstances do not cause 'refugee' flight per-se, although they may be a contributing factor in the decision to flee. While Neumayer's human rights variables are a strong indicator of the conditions that are likely to generate refugee flows, they may not provide a comprehensive explanation, for example, Apodaca's (1998:88) review of the Political Terror Scale concludes that "increases of human rights violations prove to be an important but not sufficient cause of refugee flight". As human rights violations alone cannot explain refugee flight, indicators of the general conditions, such as economics, should not be disregarded, even though they have not been found to be significant in Neumayer's (2004b) work. Moreover, this highlights the need for an indicator which encompasses the multifaceted rationale behind refugee flight.

Demographic factors

Holzer, Schneider and Widmer (2000b) explore the effect of demographic factors on recognition rates using four variables - origin country, age, sex, and marital status - and conclude that asylum-seekers from the former Yugoslavia and Turkey were more likely to be recognised than those from Sri Lanka, Lebanon, Pakistan, Somalia, or Romania. This concurs with Neumayer's (2004b) findings that the origin country has a significant impact. However, as the study does not consider the prevailing conditions in the origin country at the time of decision, it is not known whether a preference towards Yugoslav and Turkish asylum-seekers is merited. Holzer, Schneider and Widmer (2000b:260) propose that although "the typical refugee is a young single male", this profile matches the perception of an economic migrant and therefore they will have a lesser likelihood of recognition than asylum-seekers who are married and/or female. Age is not found to be a significant factor. It is concluded that the females are five times more likely to be recognised than males, and married asylum-seekers are twice as likely to be recognised as single asylum-seekers. Holzer, Schneider and Widmer's (2000b:260) rationale behind this bias is that, for women, "the gender discrimination should theoretically increase the threshold to leave the country of origin" and because "married people have to coordinate flight with one other person". However, even if women have strong reasons for fleeing, they are also less able to do so due to economic and social constraints. If women are able to leave, they are generally not considered to have a 'political identity', thus may find it harder to have their claims accepted (Crawley:1999:3.74). Moreover, men are more likely to have the social and economic resources to leave, and this holds true for those departing for economic reasons and those fleeing from human rights abuses. Holzer, Schneider and Widmer (2000b:266) describe the disparity in recognition rates as "discriminatory", without giving any consideration to whether the disparity may be justified. Given "there can be little doubt that a significant number of economic migrants take the 'asylum route'" (Thielemann:2002:2), and that economic migrants are more likely to be men, the prejudice in recognition rates between men and women may simply arise from the number of single young men seeking asylum to secure a better life in the West with claims that have little humanitarian merit or are falsified. In summary, while the impact of demographics is interesting, it should not be employed as a valid measure of the merit of the destination country's asylum-seekers.

OPERATIONALISATION OF VARIABLES

Human rights measures have been taken from the same sources as Neumayer's (2004b) research. Political rights and civil liberties are rated on an ordinal scale between 1: most free and 7: least free (Freedom House:2002). Neumayer (2004b:13) aggregates both scores to construct a variable 'autocracy', but by combining both indexes, it is not known whether political rights (the extent of democracy) or civil rights (civic and religious freedoms, legal and State protection) are more influential. The absence of political rights is likely to limit persecution or discrimination to persons involved, or suspected of being involved, in influencing the political process, whereas a lack of civil rights has the capacity to affect the entire population. Therefore, it could be assumed that civil rights would have a greater impact on recognition rates than political rights. In this analysis, political rights and civil liberties will be separate variables. To gauge the level of political terror, the ranking on the Purdue Political Terror Scales awarded by Amnesty International and the US Department of State is averaged. This dataset is compiled by Gibney (2004). Neumayer's (2004) measure 'domestic war/state failure' is a composite measure of threats to personal security as a result of civil and ethnic war. The three dimensions will be considered separately in this research - revolutionary wars: violent conflict between political challengers and the government; ethnic wars: violent conflict between minorities (national, ethnic, religious or other) in an attempt to improve their status; and adverse regime changes: unfavourable changes in the style of governance. Ratings reflect magnitude (0: low, 4: high). Revolutionary and ethnic war scores reflect the magnitude of the number of combatants or activists, fatalities, and the portion of country affected by fighting. Adverse regime change reflects the magnitude of government failure, the collapse of democratic rule and level of violence. Data on the three variables is taken from the State Failure Task Force. In genocide and politicide the authorities (including the contending authorities in civil war) exterminate members of a target group in response to a perceived threat to their rule or interests. The magnitude is determined by the number of fatalities (0: 300 deaths, 4: more than 256,000 deaths). This data is also from the State Failure Taskforce. (Marshall, Gurr and Harff:2004) The extent of interstate armed conflict in 2002 is from Gleditsch et al (2004). Conflicts are graded as minor (1), intermediate (2) and war (3) depending on the number of deaths in the given year, and the duration of the conflict (Strand, Wilhelmsen, Gleditsch:2004).

The indicators above encapsulate human rights abuses, but may not adequately account for the reasons refugees flee. Life expectancy and GDP have been included to measure more general conditions in the country. Data is taken from Freedom House (2002). Life expectancy may capture aspects of poverty, war and inequitable resource distribution and poor government services such as health care and education, while GDP may reflect economic opportunities, employment and the general level of wealth. To account for other conditions in origin countries that generate outflows of refugees, the author has created the variable 'refugee-generating country'. This variable measures the number of refugees each origin country produced during 2002 (the majority of these refugees would be resident in neighbouring countries in the developing world). For example, in 2002 Iraq generated 580,000 refugees worldwide, whereas Mali only generated 370. It can then be concluded that 'persecution' is far more common in Iraq than in Mali. Hence, asylum-seekers from Iraq are more likely to have claims with merit than asylum-seekers from Mali. There are three caveats. Firstly, the numbers of refugees may be distorted as figures for refugees based in

camps and settlements are generally inflated (see Crisp:1999; and Kibreab:2004 for elaboration). Still, the number of refugees origin countries generate varies extensively, and this indicator will reveal these differences. Secondly, this measure does not take into account people facing persecution who have fled to areas within their own country. And finally, this measure does not account for the economic differences amongst origin-countries. In origin countries with a higher GDP, more persons facing persecution will have the resources to flee than in poorer origin countries.

FINDINGS

Human rights and economic conditions in origin countries appear to have very little impact on destination countries' global recognition rates. The relationships that are present are contrary to expectation. The level of political terror is the only statistically-significant relationship across all three datasets (all, excluding North America, and Europe). High average levels of political terror in origin countries correspond with low humanitarian recognition rates. Interstate war is also negatively related to humanitarian recognition rates in all three datasets, although the results do not quite reach statistically-significant levels. The presence of interstate war is positively related to refugee recognition rates in the 'all' dataset, but this relationship disappears once North America is removed from the analysis. The only incidence of interstate war during 2002 was between India and Pakistan. It may, therefore, simply be coincidental that Canada has the highest refugee recognition rate and its top-ten origin countries include Pakistan (1st) and India (7th), and that the United States has the second highest refugee recognition rate and its 5th ranking origin country is India.

The relationships between human rights-related indicators and the origin-specific recognition rate are considerably different to their relationships with the global recognition rate. There is a statistically-significant positive correlation with:

- political terror and refugee, humanitarian and combined refugee recognition rates;
- ethnic war and humanitarian, combined and European refugee recognition rates;
- adverse regime change and humanitarian and combined recognition rates (the European humanitarian rate is not quite statistically-significant: .059);
- revolutionary war and humanitarian recognition rates (except in Europe where there is only a weak correlation);
- political rights and humanitarian and combined recognition rates (a weak correlation between refugee recognition rates for 'Europe' and 'excluding North America');
- civil rights and refugee (except in the 'all' dataset), humanitarian, and combined recognition rates; and
- the number of refugees generated and humanitarian and combined recognition rates.

No relationship is found between inter-state war and recognition rates. A statistically-significant, negative relationship is found between life expectancy and humanitarian, combined, and European refugee recognition rates. A statistically-significant, negative relationship is also found between GPD and humanitarian and combined recognition rates.

Destination countries' global humanitarian recognition rates do not respond favourably to the conditions in origin countries. In fact, recognition rates are lower where the destination country's asylum-seekers emanate from origin countries experiencing high levels of political terror. As origin country indicators have been averaged, this does not signify that asylum-seekers fleeing from these particular conditions had a lesser chance of being awarded humanitarian status, but that their presence drove down the overall amount of humanitarian protection provided by destination countries, possibly in an attempt to contain asylum numbers and associated costs. In fact, asylum-seekers from origin countries with poor human rights were more likely to be allocated the available protection.

As the origin-specific recognition rate explains how destination countries allocate protection as a whole, a strong and positive relationship would be expected with indicators associated with human rights. By and large, the findings verify this expectation. Notably, it is the humanitarian recognition rate, not the refugee recognition rate, which shares the strongest relationship with human rights-related indicators. The findings are generally consistent with Neumayer (2004b). Genocide/politicide and interstate war are not found to be significant in this study, however this is likely to have arisen because of the limited incidence of inter-state war (India-Pakistan) and genocide/politicide (Angola) during the period of the study. While Neumayer (2004) does not find the extent of state failure to be important, this study finds state failure to be significant, both as a composite score, and when ethnic war, revolutionary war or adverse regime change are considered separately. As predicted, civil rights have a stronger impact than political rights on all recognition rates. Contrary to Neumayer's findings, asylum-seekers from poorer origin countries are likely to have higher humanitarian and combined recognition rates. The two new variables 'number of refugees generated' and 'life expectancy' are both significant. Refugee generating origin countries are more likely to produce asylum-seekers that are awarded with humanitarian status (and combined status). Asylum-seekers from origin countries with a low life expectancy are more likely to be given refugee or humanitarian status.

The fact that conditions in origin countries have a greater bearing on origin-specific humanitarian recognition rates, when compared with origin-specific refugee recognition rates, may appear disconcerting. However, as humanitarian status is often awarded because of the more general conditions in the origin country, and 'persecution', as required by the refugee definition, must be demonstrated individually, the merit of the individual claim (which cannot be measured empirically) is less important in the decision to award humanitarian status.

Returning to the initial research questions posed at the beginning of this section: the demographic composition of the asylum population has been reviewed and considered not to be an important factor; the prevailing conditions in origin countries have been shown to be closely related to the origin-specific recognition rate, yet share a weak and inverse relationship with global recognition rates. This indicates that the origin-

specific recognition rate is broadly based on merit, whereas the global recognition rate is unreceptive to conditions in origin countries that are likely to generate refugee outflows.

4 The asylum burden

This section seeks to determine whether recognition rates are related to short and long-term changes in the number of asylum applications, and the refugee recognition rate of neighbouring countries.

LITERATURE REVIEW

The rise in asylum applications over the past two and a half decades has been linked to globalisation, increased communication and transport links, and the north-south divide (Jordan and Duvell:1993; Rasmussen:1996). Reducing the number of asylum-seekers is one strategy to “manage the costs of protection systems - be they fiscal, social or political” (Noll:1999:101). Since the eighties, when applications began to rise, destination countries have adopted a range of policies to restrict access to asylum systems. Asylum-seekers that have travelled through a ‘safe country’ are ineligible, and destination countries have restricted access to asylum procedures for persons from a ‘safe country of origin’, and by expanding and retracting their borders (Gibney and Hansen:2002:8). Destination countries police outside their sovereign borders by: delegating immigration checks to agencies transporting people, such as airlines, and fining them if they carry inappropriately documented people; imposing visa requirements; and stationing immigration officials at major transit hubs en-route to the West to carry out pre-boarding inspections. Destination countries may also shrink their borders to prevent asylum-seekers accessing their legal systems. For example, Switzerland, France, Germany and Spain have all declared parts of their airports ‘international zones’, and Australia has designated three of its external territories exempt for migration (including asylum) purposes. The United States and Australia have intercepted vessels carrying asylum-seekers and have arranged for their claims to be processed outside of their sovereign territory (Gibney and Hansen:2002:16); similarly the United Kingdom, and subsequently Germany and Italy, proposed to the European Commission that Regional Processing Centres be established outside of the European Union (Commission of the European Communities:2003:4; EU chiefs to discuss asylum camps:2004).

In a global environment, deterrence strategies can only be effective in reducing a destination country’s asylum applications while asylum-seekers have the alternative of seeking asylum in a country with less stringent deterrent measures. Once the range of available deterrence measures is implemented across destination countries, which is increasingly the case, they will be ineffective. (Thielemann:2002:21) The convergence in deterrence measures is likely to be the reason these measures have “produced only limited effects or failed to have any effect at all” (Böcker and Havinga:1998:264).

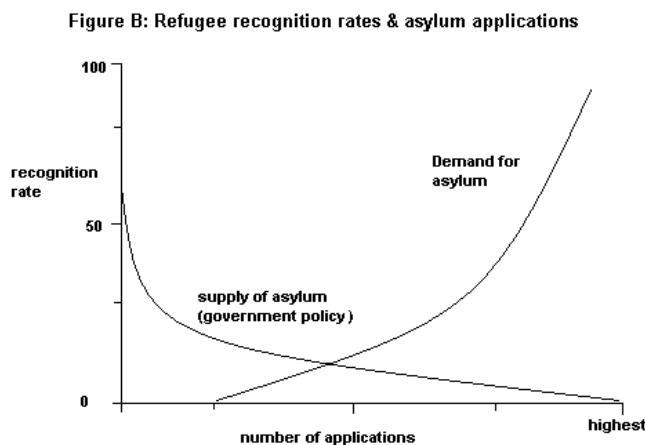
Hassan (2000:184) asserts that the purpose of deterrence strategies is to: “reduce the number of asylum claims overall, regardless of their validity; to save the government money; to criminalize migrants and discourage their permanent settlement; and finally (and perhaps most importantly), to convince the electorate that the government is

dealing ‘effectively’ with the refugee problem”. If ethics and morality have been swept aside in the attempt to deal with the asylum burden, is it possible that lowering the recognition rate has been implemented as a deterrence strategy? This is certainly the view of the British High Court Judge, Justice Taylor: “While I am conscious of the administrative problem of numbers seeking asylum, it cannot be right to adopt artificial and inhuman criteria in an attempt to solve it” (as quoted in *Asylum Aid*:1999:8).

Asylum applications

The causal relationship between recognition rates and the number of asylum applications is complex. The number of applications may be dependent on the recognition rate as the increased likelihood of recognition is a pull factor for asylum-seekers, and low recognition rates act as a deterrent (Robinson and Segrott:2002; Böcker and Havinga:1997). Conversely, it has been suggested that recognition rates are dependent on the number of applications – as applications increase, the destination country introduces asylum policies as a deterrence strategy to lower the recognition rate (Holzer and Schneider:1997:5). If this is correct, the relationship between the two variables could be seen as one of supply and demand.

If destination countries are freed from international obligations, and asylum-seekers are able to gain access to territory, then recognition rates would be a function of the units of asylum the government is willing to supply, and the number of people wishing to secure asylum. The author has expressed this diagrammatically in a simple supply and demand curve in figure B¹⁰.



Whether the relationship between the variables is negative or positive will depend on whether the influence of government policy is stronger or weaker than the demand for asylum. Empirical research confirms the demand sided relationship. Neumayer (2004a:164) finds that higher origin-specific recognition rates and global recognition rates in the previous year lead to a higher share of

origin-specific asylum-seekers the following year. This is confirmed by Holzer and Schneider (1997:20), who calculated that a one percent decrease (increase) in the recognition rate causes a decrease (increase) of 70 applications. Vink and Meijerink conclude that there is a statistically-significant positive relationship between the variables, with each accounting for 55 percent of the variance in the other, although the relationship was neither significant in Belgium or Germany, which experienced

¹⁰ As recognition is not the only benefit an asylum-seeker gains from their time in the destination country, there is demand for asylum when the recognition rate is zero.

high applications and low recognition rates, nor in Greece, Italy and Finland, which had low application rates and high recognition rates (2003:308). Holzer, Schneider and Widmer (1997:21) find a negative relationship between the variables, but this is not statistically-significant. It may be that the supply-side relationship is more influential in Greece, Italy, Finland, Belgium and Germany.

It is clear that destination countries have used various deterrence measures to reduce applications, and empirical evidence demonstrates that applications do decrease as a result of lowering recognition rates, but is there any empirical evidence to link domestic asylum policy to lower recognition rates? Vink and Meijerink (2003:310) find a negative correlation between recognition rates and applications over time, indicating that when the asylum burden increases, destination countries “redefin[e] their laws, which have the potential to bring about a decrease in recognition rates”. Neumayer (2004b:12) also attempts to isolate whether “high numbers of asylum applications prompt destination countries to resort to lower recognition rates” by examining average application rates (per-capita) over the past two to five years for both global and origin-specific recognition rates, but does not find any significant effect.

Neumayer (2004b:19) finds that where there have been a significant number of asylum-seekers from an origin country, the origin-specific recognition rate is lower. While this may also be a result of government intervention to stem the flow of asylum-seekers by artificially lowering the recognition rate, there is an alternative explanation. It seems reasonable to assume that the first wave of asylum-seekers fleeing a country with increasing human rights violations are those facing the gravest danger. Over time, asylum-seekers from a country are less likely to present claims with merit than their predecessors, particularly as asylum-seekers in the destination country form part of the ‘migrant network’ that feeds “knowledge about routes and means of travel, about means of entry about ways of funding accommodation, welfare and work, and about how to adapt to new environments” (Van Hear:1998:59-60). As the migrant network reduces the risks involved in accessing the destination country and offers levels of support on arrival, family and close friends may pose as refugees as a way to gain residence in the West. This is particularly true of asylum-seekers arriving a number of years after the major crisis within the origin country¹¹.

Recognition rates of neighbouring destination countries

As deterrence strategies increasingly lose effectiveness and high recognition rates act as a pull factor to asylum-seekers, lowering the recognition rates may be the only tool left for governments wishing to contain asylum numbers. The desire to deflect asylum-seekers provides the destination country with an incentive to reduce its recognition rate to a level lower than, or similar to, that of its neighbours, particularly as destination countries fear being regarded by ‘asylum-shoppers’ as a ‘soft touch’ (Thielemann:2002:4). Destination countries are likely to react to changes in the recognition rates of their direct neighbours amid fears that the lowering of recognition rates could result in an influx of asylum-seekers across territorial borders.

¹¹ Refugee Status Determination and Special Humanitarian Program interviews conducted by the author at the Australian Embassy, Cairo and UNHCR Office, Khartoum between August 2001- August 2003

Furthermore, the introduction of harsher interpretations of refugee and humanitarian criteria may be more palatable to a destination country if these have been adopted by neighbouring countries, as these then become easier to justify to the public and the international community. Support for this theory can be drawn from Holzer and Schneider's (1997:11) research, which provides evidence of a downward convergence in recognition rates across OECD countries.

OPERATIONALISATION OF VARIABLES

The current asylum burden is represented by the change in the number of asylum applications (total and origin-specific) received in 2001 and 2002, both net and per-capita. Data is sourced from the UNHCR (2002b, 2003a)¹². The long-term change in the asylum burden is illustrated by comparing the number of applications lodged in 2002, to the total number of asylum applications lodged in the preceding ten year period. Calculations based on UNHCR (2002a:138) data. To gauge the effect of recognition rates in neighbouring countries, the recognition rate of the destination country's neighbours has been averaged by the author (data from UNHCR:2003a). Neighbouring countries that are not 'destination countries' have been excluded from this calculation as asylum-seekers display a preference towards highly-industrialised countries.

FINDINGS

Destination countries that received increasing numbers of applications between 2001 and 2002 have a statistically-significantly higher humanitarian recognition rates, and a weak negative relationship with refugee recognition rates. This relationship also holds over a longer period of time - destination countries receiving a high number of applications in 2002 in comparison to the number of applications received in the previous ten years have higher humanitarian recognition rates and lower, although not statistically-significant, refugee recognition rates. The recognition rates of neighbouring countries are positively associated with refugee recognition rates (although only statistically-significant in the 'all' dataset) and negatively associated with humanitarian recognition rates. Unlike Neumayer's (2004b) findings, the change in the number of origin-specific applications between 2001 and 2002 is not found to have any impact on origin-specific recognition rates.

Although not reaching statistically-significant levels, the relationship between global refugee recognition rates and asylum applications should not be underestimated. The existence of the negative relationship in all three datasets indicates that the positive relationship (demand-side) that exists between application rates and recognition rates has been nullified by government policy interventions to reduce refugee recognition rates as a means of controlling application rates. It is likely that the supply-side relationship is more influential as deterrence strategies have become increasingly ineffective in recent years. The statistically-significant positive relationship between humanitarian recognition rates and asylum applications suggests that government control over the supply of asylum is achieved by extending humanitarian status, often only affording a temporary right of abode, as the preferred means of protection. Control over the supply of asylum may also explain why there appears to be a

¹² (2003) Global applications taken from Table 5; Origin-specific applications taken from Table 7. (2002) Global applications taken from Table 15; Origin-specific applications taken from Table 17.

