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An Organizational Field Analysis about Granting Children Residing in Sweden without Permits their Statutory Right to Schooling

The Region of Skåne Analysed

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Abstract

The centre of analysis in this research has been the new welfare legislation in Sweden 2013 granting children residing in the country without a permit tuition free and legal access to the Swedish educational system.

Methodological triangulation has been used where a quantitative analysis has been made involving efforts taken to identify the number of children in the municipalities of Sweden having a high proportion of the country's asylum seekers. The quantitative data is triangulated with the qualitative informant interview data as a way to understand their condition on organizational level and enhance theoretical understandings.

As a part of the research problem of welfare policy implementation and realization of it entails the organizational field level analysis has been used selecting three organizational actors in the Region of Skåne: the Swedish Migration Board, the Border Police and Malmö City. The theory used is dynamic process model of new institutional theory. In the research two organizational fields has been conceptualized: the Regulated Immigration Field and the Human Rights Field.

531-703 children in Sweden were identified and partook in schooling autumn term 2013 and the source of the information was to a large extent headmasters and pre-school heads. In the middle of 2013, 450 children were identified by the Swedish National Schools Inspectorate which indicates the reform has had an effect as a larger number of children realizing their statutory rights. Estimates however indicate there is still a large group of these children not partaking in education.

Two organizational fields were conceptualized. The human rights field is highly decentralised involving a number of micro-level decision-making and the regulation is weak in its coercive functions. The field involved these children in the schooling operations and a voluntary institution had been established a number of years ago. Micro-strategies were pursued to protect these children from disclosure and the logic was normative and cultural-cognitive and organizational legitimacy came from the same origin. Children were seen as subjects of protection and actions taken based on actual needs.

The Regulated Immigration field is highly regulated, strong governance with cooperation and coordination with its organizations in Sweden and EU level in order to enact national and supra-national migration and asylum policies. The logic was instrumentality and compliance to rules and laws were source of organisational legitimacy and the field is the source of the children's socio-legal status.

The two fields had established a mutual awareness not to interact or provide intelligence about these children, nor entering near or in the schools as professional actors.

Key words: Children residing in the country without a permit, undocumented immigrant children, papperslös, sans-papier, irregular immigrant, “illegal”, organizational field, right to schooling, public authorities.

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1 Introduction

In the Scandinavian countries very little scientific research has been carried out about the relatively unknown and often complex phenomenon of irregular migration (Meret et. al: 2010: 9). The phenomenon this gives rise to are people often termed undocumented, irregular, the french term sans-papier and the Swedish term papperslös. All refer to a condition for immigrants without a permit for legal residence in the country of arrival.

In the Nordic countries the scientific area is under-research because of mainly three factors: 1) there has been a broader political and scientific discourse on refugees and asylum 2) a rather small population of ‘irregular migrants’ in the Nordic countries and; 3) the phenomenon has emerged rather close in time and is limited in scope (Sigvardsdotter 2012: 16). Düvell (2010) adds the ethical dimension as a problem for conducting this kind of research (Düvell 2010: 3).

In a Swedish welfare policy context this child population has recently been covered by Swedish School legislation when the Swedish parliament in 2013 passed a bill granting children residing in the country without a permit the legal right to schooling after changes in the School Act (2010:800) (Skolverket 2013a; Prop. 2012/13:58).

These children are interesting from a Swedish Welfare Policy and Management context since the socio-legal status living without a permit for legal residence represents the boundaries of the welfare state but also the conflictual notion of human rights and enactment of regulated immigration policy.

Schooling rights have been targeted in the researched in relation to these children with certain features covering the entire country.

The main approach is advanced analysing the case of the Region of Skåne by selecting a limited number of schools and headmasters in Malmö City, but also the organizational actors the Migration Board and the Border

Police. The Organisational field level is under investigation and I am using new institutional theory as a dynamic process model.

The first research question under investigation is how these organizational actors practically work within and between their organizations in response to these children, in relation to the new reform and why. The second question is to assess if there are more than one organizational field that result in conflicts, in relation to welfare entitlement and provision.

The background sections below provide essential conceptualizations and contextualizations before the research contributions are given.

2 Background

2.1 The Socio-legal Construct of Immigrant “Illegality”

There is no scientific consensus on the concept of irregular migration but has tended to be defined highlighting the immigrant’s legal status in the host country such as “illegal”, “undocumented”, “clandestine”, “sans-papier” or the Swedish term “papperslös” (Thomsen 2010: 28; Sigvardsdotter 2012: 13).

The phenomenon is associated with globalization and inter-country movements as more people are crossing nation-state borders. This increase of migrants has states and supranational bodies managed by imposing less generous immigration policies (Thomsen 2010: 27-28). Zolberg (1999) argues this has been done in order to maintain “the privileged position of the core states and their population amid highly unequal conditions” (Zolberg 1999 in Kalm 2010: 76).

What this heterogeneous population have in common is that they are staying “illegally” in the host country in violation with national laws and regulations (Khosawi 2010: 98). Irregular immigration can be seen as a socio-legal construct with rules restricting employment, asylum and immigration where nation-states or supra-national bodies use these laws and regulations to keep unwanted foreigners out (Düvell 2010: 5; Thomsen 2010: 27).

Kalm (2010) argues this category of border crossers signal a failure of state control and is in its essence constituents of the modern state system with nation-states and rules and laws classifying human beings as border crossers into different categories such as refugees, foreign workers and irregular migrants etc. (Kalm 2010: 75-76).

Khosaravi (2010) tells that “illegal” migrants usually can be classified into three different categories 1) overstayers who are people staying even though their visa has ceased; 2) rejected asylum seekers who stay after their legally binding decision on repatriation should have been enforced; and 3) people who entered the country clandestinely and remain hidden from public authorities (Khosaravi 2010: 98). Thomsen adds to these categories those who enter the country with false documents and those who violate certain conditions and terms of their immigrant status such as taking up employment (Thomsen 2010: 34). Thomsen (2010) tells the difficulties “[...] in defining and measuring irregular immigration arise because of the complex intersection between the three elements entry, residence and activity” (Thomsen 2010: 33). He further tells that the immigrant’s status is a dynamic concept because a person’s status can change, and further terms what he calls ‘the grey zone areas’ meaning that it is possible for an immigrant to be in compliance with most legal aspect in a host country but not all of them. He divides the migrant status into three different types 1) Compliance with laws and regulations: the migrant has a legal residence and follow all conditions tied to his/her status 2) Non-Compliance: the migrant has no permit to reside in the country and; 3) Semi-Compliance: the migrant has the right to reside in the country but violate some terms and conditions of his/her status (Thomsen 2010: 34-35).

However Thomsen’s conceptualization over legal status of migrants overlook the possibility of having no right to reside in the country but having some legal rights attached to his or her status, which in the context of schooling rights will be eminent (see Section 2.4 and 2.5).

What all these people have in common is their “deportability” condition which is attached to their “illegal” status as having no legal right to reside in the country as irregular immigrants (DeGenova 2002). Hence the semi-compliance is Thomsen’s view is not a relevant category highlighted here since it does not involve the immigrant status being “deportable”.

Noll (2007) explains that often the only ability for “irregular” immigrants to claim their human rights such as access to health care or schooling are to be within Swedish jurisdiction but the problem this entails claiming these

rights are the risk of being deported by public authorities in line with national legislation's coercive jurisdiction (Alexander et. al. 2010: 3).

In this thesis the situation for irregular child immigrants in Sweden will be analysed. The term used for these children will henceforth be termed "children residing in the country without a permit" a term used in the Government Official Report by 2010 (SOU 2010:5). Using the term "illegal" has been criticized because it tends to discursively reproduce the immigration law and sustain the alienation of "illegal aliens" (DeGenova 2002: 423). Further it has been decided since they are not defined as "illegal" in Swedish legislation or other European Member States because the regulations generally only define the conditions for legal residence (Jørgensen 2010: 95; Sigvardsdotter 2012: 13). The term "undocumented" sometimes used, is here thought to be too vague because of the possibility these immigrants have the correct identification documents upon appearing before government officials or have been documented by public authorities despite their "illegal" status.

2.2 Swedish Immigration Context

Unemployment and economic stagnation made Sweden establish a so-called immigration stop in the beginning of the 1970s which strongly reduced labour immigration from all countries outside the Nordic countries in 1972. In 1969 the Swedish Board of Immigration¹ was established and the immigration policy of regulated immigration became applicable, a policy still valid today (Jørgensen & Meret 2010: 123-125). Apart from domestic developments, as a member of the European Union in 1995 Sweden has been part of the European integration. When the Schengen agreement on borderless travel and the establishment of the Amsterdam Treaty in 1997 came into force by EU law in 1999 the EU decision-making and policy-

¹ Swedish: Statens invandrarverk, the predecessor of the Swedish Migration Board.

making in the area of asylum and immigration has strongly increased. (Jørgensen 2010; 95-113).

In a Swedish context The Schengen Agreement on Borderless travel has resulted that all EU citizens who wish to visit, study, work or can support themselves in Sweden automatically have a legal permission for residence, but all other EU citizens need to apply for a residence permit and will be granted to people who have family member which are registered partner, common-law spouse, spouse, future spouse and children under the age of 18 (Migrationsverket 2014a). Further a specific Nordic agreement has been applicable for many years and includes all Nordic countries were Norway and Iceland are the non-EU member. These specific rules states citizens of these countries unconditionally have a permit to reside and do only have to register with the Swedish Tax Agency (Migrationsverket 2014b). Other citizens, children and adults alike, do generally have to apply for a residence permit, asylum, a work permit or a visa in order to get a permit.

On EU level, since the Amsterdam Treaty three programmes have followed in the effort to create a common policy that provide “guidelines” for regulations which immigrants are to be constructed as “illegal” and “irregular”; the Tampere Programme ran between 1999-2004, the Hague Programme ran 2004-2009 and the Stockholm Programme are up and running 2010-2014. (Jørgensen 2010: 95-112)

The Programmes has resulted in the implementation of the Eurodac system which is a common European database for registering people’s asylum applications and other relevant applications and their finger print scans, as decision-making in border control and security has been transferred from member-states to EU level. Jørgensen (2010) terms these developments as “technologisation of border control” (Jørgensen 2010: 101, 107). According to Jørgensen (2010) the EU Commission has “[...] gradually worked towards a common immigration policy comprising two often conflictual aims: to prevent “illegal” immigration and to encourage legal migration” (Jørgensen 2010: 108). Three central EU Directives has been established since 2008 to support these aims:

1. Return Directive
2. The Blue Card Directive

3. The Sanctions Directive

The Return Directive involves “illegal” migrants return as an EU supranational policy of European immigration law and specify a short period for voluntary repatriation which can be extended for up to 18 month if the migrant does not follow the legally binding decision. The decision of deportation is joined with a re-entry ban for a maximum of 5 years, a policy Sweden has adopted after changes in the Swedish Aliens Act in 2005; non-compliance to the decision shall be joined with measure of forced deportation (Jørgensen 2010: 109).

In The Blue Card Directive there are regulations for promoting highly skilled immigrant’s access to the EU member states labour markets to promote economic growth and competitiveness, adopted by Sweden and possible to apply for (Jørgensen 2010: 110; Migrationsverket 2014c).

Finally the Sanctions Directive has been established and implemented in Sweden which is aimed at the EU Members States labour markets by trying to discourage irregular migrant labour-movements by imposing coercive measures of fines and penalties for employers hiring this labour (Jørgensen 2010: 111).

2.3 Swedish Welfare State Context

In a comparative Welfare State context there have been several attempts to classify Sweden using different typifications and finding shared characteristics with especially the Nordic countries (Esping-Andersen 1990; Ferrera 1996; Korpi & Palme 1998). All typifications highlight the idea of citizenship rights as entitlement to welfare provision (hence excluding people without a permit) (Arts & Gelissen, 2002: 144-145). Universal social rights for citizens, refugees and immigrants living *with* permits have been realized through the provision of welfare in the Nordic Countries (Ruth et. al. 2007: 86).

The ability for nation-state to define the immigrant’s socio-legal status has been characterized as the decisive power for either granting or rejecting

welfare provision (Dwyer 2006: 67). Both citizenship and “illegality” have been argued to be coupled to the state because they are both juridical statuses tied to particular political identities (DeGenova 2002: 422). Illegality can therefore be seen as is an exodus from the norm of national sedentariness and citizenship and “the classification of border crossers can [...] be approached as a system for managing otherness within the political and symbolic realm of the state system” (Kalm 2010: 75).

Düvell (2010) argues that the phenomenon of irregular immigrants in the Nordic Countries signal a failure of law enforcement as well as the enactment of immigration policy since the countries has neither prevented their stay nor employment. In these countries the political reaction has been stricter than other EU countries by preventing access to public services and instead prioritized the public order.

The highly regulated Nordic Welfare States with strong labour unions have limited access to irregular immigrant labour and the highly regulated welfare state prevents irregular immigration due to the Civic Registration Number (i.e. the Swedish term *personnummer*) which almost always are crucial for access to education, health care and housing (Düvell 2010: 7). Sigvardsson (2012) also identifies the Civic Registration Number’s importance when she researched the situation for this population in a Swedish health care context. She identified the exclusionary practices the absence of a Civic Registration Number caused by the far-reaching Swedish digitalized society and how it unable access to almost everything in public life for these people. Further the absence of administrative routines among health care staff were found to be the second biggest obstacle to health care provision after the fear of being deported (Sigvardsson 2012: 98, 101, 125-126).

There are severe limitations of scientific research regarding children residing in Sweden without a permit, especially in a schooling context. Quennerstedt (2010) has analysed the political construction on the Child’s rights in Education in a Swedish context as it is expressed in international conventions when national political documents were analysed (Quennerstedt 2010: 119). No scientific study has though been found highlighting children

residing in the country without a permit and how their schooling rights are realized from an organizational field perspective.

However there has been a number of Government Official Reports, one Report from the Swedish National Schools Inspectorate and one Report from the Commission for a Sustainable Malmö about these children; these will be brought up for discussion.

2.4 Swedish Education Policy Developments

Government Official Report called *Schooling for children who are to be refused entry or expelled* were published in 2007 after the former Social Democratic government appointed a commissioner to examine the prerequisites for statutory access to schooling for failed asylum seeking children and overstayers, but not children of clandestinely entries which the Ombudsman for Children criticised (Dir. 2006:28; SOU 2007:34; Barnombudsmannen 2009: 40). The centre-right government responded to this critique and the Government Official Report [*Schooling for all children*; my translation] were published in 2009 (Dir. 2009:71; SOU 2010:5; SOU 2010:5). The government bill was based on these reports. In the bill a trade-off was discussed and made between the Swedish and EU asylum policy and Swedish enforcements of regulated immigration at its part and Sweden's international commitment to *and* the ratification of the UN Convention on the Right of the Child at the other.

After the public inquiries the Government Bill was established (Prop. 2012/13:58). It was stated all children residing in Sweden unlawfully, as well as children unknown to the governmental agencies has a statutory right and tuition free access to the Swedish education system (Prop. 2012/13:58). The Government gave a number of arguments for the bill among that Sweden has ratified the UN Convention on the Right of the Child, hence bound by international law. Further they argued children have limited prospects affecting the actions taken by their parents, among a number of humane considerations (Prop. 2012/13:58: 12-13).

They expressed however that Sweden upholds regulated immigration and it is important that enforcement of decisions of refusal of entry and deportation are respected. Though, argued, it is in the same time important that a child receive education and the number of favours this entails cannot limit their educational rights (Prop. 2013/13:58: 12-13). As a plausible balance this motivated the central government to guarantee the realization of all children's right to receive education and to breach isolation so that they can prepare for adult life (Riksdag & Departement 2012). All parliamentary parties except the Sweden Democrats² voted in favour of the government bill, the bill that came into effect by first of July 2013 (Skolverket 2013a; Sveriges Riksdag 2013; Betänkande 2012/13: UbU12).

2.5 New Swedish Legislation and Regulation

The new legislation changed the former option for the schools, both private and public, to take the target group into their operation, making it obligatory funded by state grants and no individual fees for children and pupils. The Swedish School Act (2010:800) was changes and these children were included from pre-school class, compulsory school and a number of other school forms but are not covered by compulsory school attendance. (Betänkande 2012/13:UbU12: 4).

The right to education in upper secondary school became applicable if the studies began before the child turned 18 years of age (Prop. 2012:13:58: 21). It is currently the home municipality, i.e. the municipality where the child is permanently residing that is obligated to provide them with schooling (Prop. 2012/13:58: 16). No changes were made in the Public Access and Secrecy Act (SFS 2009:400) for these children, but the former obligation the Social Welfare Committee and the Educational Board had

² A party with racist and Nazi roots who entered parliament in 2006 and has managed to be re-elected for the second time-period of 2010-2014. The party has 18 seats of a total of 349 in the Swedish parliament.

according to the Alien's Ordinance (SFS 2006:97) to disclose information to the Police authority about an alien did cease.

The obligation the Social Welfare Committee has according to the Alien's Ordinance (SFS 2006:97) after a request to dispense the type of information about a foreigners personal circumstances that is needed to enforce a decision on refusal of entry or deportation to the Police authority, The Migration Board and a number of other public authorities remained untouched. Nothing in the Police works on enforcement of decisions of refusal of entry or deportation was changed, and a system of state grant was established. (Prop. 2012/13:58: 19, 23, 27, 29, 66). The Swedish National Agency for Education is currently responsible for allocating state grants regulated in the Ordinance on State Grant for Education for Children Residing in the Country without a Permit, were the municipality make an application and the amount is based on a mean value of the number of asylum seeking children 6-17 years in the municipality (SFS 2013:361: 1-2; Skolverket 2013b). 25 million SEK were paid out to 94 municipalities autumn term 2013 and the Swedish National Agency for Education follow up how it is used and can demand repayment (Skolverket 2013c; Ekonomistyrningsverket 2013; SFS 2013:361: 2).

2.6 Swedish Schools Inspectorate Report

The central governmental supervision agency the National Schools Inspectorate made a rapid inspection including the situation for these children in the middle of 2013 were all the 290 municipalities were included³ (Skolinspektionen 2013). The results showed that only 450 "undocumented" immigrant children of the "guestimates" of 2000-4000 were known to the municipalities and many municipalities had not reflected on what the new legislation would practically imply even though positive

³ All municipality representatives provided answers to the web survey but 286 municipalities partook in the phone interviews as 4 municipalities for different reasons could not participate. The municipalities were free to choose who should answer the questions. (see Skolinspektionen 2013: 7-8)

taking them in. 36 per cent of the municipalities knew they offered the target group education, 40 per cent did not know if they had any, 18 per cent did not find it relevant or they did not need to take a stand, 4 per cent did not have any and 2 per cent of the municipalities did not know. Only 12 per cent had prepared for the new legislation, 44 per cent had not, 40 per cent had not done it since they already provided them with education and 5 per cent did not know (Skolinspektionen 2013: 4-5, 19).

2.7 Malmö Commission Report

In the Malmö City Report by 2012 to the Commission for a Sustainable Malmö they summoned demography and organization for arrivals including children residing in the country without a permit. During term of office 2010-2014 in the municipality the Social Democrats, the Left Party and the Green Party have a political agreement expressing “Malmö shall offer undocumented immigrant children school, pre-school and school childcare” (Ander 2012: 18, my translation). In the report they expressed it as a problem it is only a praxis these children can receive education since the formal decision by 2012 were up to the headmaster to decide. They also brought up problems with the school economy since the economy is tied to their school voucher because these children never receive any (Ander 2012: 18).

2.8 Estimates of Population Size and Characteristics

In the Government Official Report (2007:34) they narrates statistical figures of children in violation of their deportation order and estimated the number the year 2006/07 to around 1000-1500. 40 per cent were estimated to be in pre-school age, around 7 per cent in pre-school class age and 40 per cent in

elementary school age and around 8 per cent in upper secondary school age (SOU 2007:34: 117-22).

In the Swedish National Schools inspectorate report they estimate 1500 to be failed asylum seekers and 2000-3000 children entered clandestinely. The total number of children was estimated to 2000-4000 people (Skolinspektionen 2013: 5, 19). In the Government Official Report (2010:5) they argue it is not unreasonable the number of children are 2000-3000 children by explicitly expressed limitation to the statistical data (SOU 2010:5). In the context of Malmö City the number in Malmö 2012 to be around 380 children whereas 60 per cent were expected to be failed asylum seekers and 40 per cent entered clandestinely, a third of all children in Sweden. (Ander 2012: 14).

3 Theory

The new Institutional theorists' DiMaggio & Powell (1983) proposed a macro-perspective to organizational studies also known as an opens system approach. New Institutional Theory is used to study the effect of the broader environment on organizations. DiMaggio & Powell argued that the social systems perspective is needed because external mechanisms to enactment of established institutions such as imitation, conventions, societal norms, traditions and the state have strong impact on organizational practices (Handel 2003: 227). Institutionalists tend to view institutions as rather constant as they are hard to change, maintained and reproduced and are transferred through generations (Scott 2001: 49). DiMaggio & Powell argue that organizations are becoming more alike due to the mechanisms of isomorphic pressure, not as a result of efficiency considerations; they must do so in order to be regarded as legitimate and survive (Handel 2003: 227).

3.1 Organizational field

Different levels of analysis are used in empirical research within the theoretical perspective (Scott 2001: 85). The one DiMaggio & Powell (1983) propose is the organizational field level. An organizational field is defined as:

“[...] organizations that, in the aggregate, constitutes a recognized area of institutional life: key suppliers, resource and product consumer, regulatory agencies, and other organizations that produce similar services or products”
(DiMaggio & Powell [1983] 2001: 244).

They believe that the state and the profession are the great rationalizers of today, social actors making organizations more alike; the process of homogenisation comes into effect by what they call structuration of organizational fields, a concept influenced by Gidden's structuration theory.

(DiMaggio & Powell 2001: 244). Three determinants for institutional isomorphic pressure are in effect: coercive isomorphism; mimetic isomorphism and normative isomorphism. Coercive isomorphism is a mechanism that originates from political power and the problem of legitimacy; mimetic isomorphism is a reaction to unclarity, and normative isomorphism is a linked to professionalism (DiMaggio and Powell 2001: 245). By their theory formation they aim to make predictions on what organizational fields that will be most similar in behaviour, process and structure (DiMaggio and Powell 2001; 249).

They argue that:

“Fields only exist to the extent that they are institutionally defined. The process of institutional definition or ‘structuration’ consists of four parts: an increase in the extent of interaction among organizations in the field; the emergence of sharply defined inter-organizational structures of dominations and patters of coalition; an increase in the information load with which organizations must contend, and the development of a mutual awareness among participants in a set of organizations that are involved in a common enterprise” (DiMaggio and Powell 1983 in Barley & Tolbert 1997: 95).

This definition of an organizational field involves social actors which are the configuration of organizations in the field that have self-awareness and self-interest which brings the social structure or in other words the field to life (Barley & Tolbert 1997: 95). According to Barley & Tolbert (1997) they though argue institutional theorists such as DiMaggio and Powell (1983 [2001]) have tended to ignore how institutions are created, maintained, changed or relinquished since they have inclined to focus on how institutions constrain; they instead propose a dynamic model of institutions to study the relationship between action and institution as a process (Barley & Tolbert 1997: 93, 95). This process oriented model is used in this thesis where they have advanced Gidden’s structuration theory for empirical usage. Two relational realms exist in Gidden’s theory: the realm of action and the institutional realm and can be exemplified akin to speech (the realm of action) and grammar (the institutional realm). The institutional realm both enables and restrains the realm of action in on-going institutionalization processes. These two realms are therefore correlational

where the institution is brought to life in the realm of action (Barley and Tolbert 1997: 97-98).

An institution can be defined as “Shared rules and typifications that identify categories of social actors and their appropriate activities or relationships” (Barley & Tolbert 1997: 96). Barley & Tolbert (1997) further brings up the concept of a ‘Script’ which is an empirical re-development of what Giddens’s terms ‘modalities’ defined as: ‘Observable, recurrent activities and patterns of interaction characteristics to particular setting’ (Barley & Tolbert 1997: 98). They argue that the notion of script can be seen as the representation of an institution in day-to-day interaction (Barley & Tolbert 1997: 98).

3.2 Analytic framework

W. Richard Scott (2001) identifies three different pillars of institutions within the contemporary theoretical perspective of institutional theory; the regulative; the normative and the cultural-cognitive (Scott 2001: 47-52).

	Regulative	Normative	Cultural-Cognitive
Basis of compliance	Experience	Social obligation	Taken-for-grantedness, Shared understanding
Basis of order	Regulative rules	Binding expectations	Constitutive schema
Mechanisms	Coercive	Normative	Mimetic
Logic	Instrumentality	Appropriateness	Orthodoxy
Indicators	Rules, laws, sanctions	Certification, accreditation	Shared logics of action
Basis of legitimacy	Legally sanctioned	Morally governed	Comprehensible, recognizable, culturally supported

Source: (Scott 2001: 52)

Legitimacy is essential for surviving and prospering in an organizational field and the three different pillars of institutions have different premises for how organizations are legitimate. They can attain legitimacy which for Suchman (1995) is defined as:

“[...] a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs and definition” (Suchman 1995 in Scott 2001: 59).

The focus of attention to gain credibility and social acceptability within the regulatory pillar is obedience to rules, laws, and legal requirements. Highlighting these aspects provide answers for organizations on which organisational actions are legitimate or illegitimate. The coercive mechanism of control is force or fear under this strand of scholars, it can be either informal such as rewards via funds or punishment such as shunning or shaming activities e.g. black lists. But they can also be highly formalized and entrenched such as Police enforcement or court enforcement. The regulatory rules stabilise institutions and organizational legitimate social actions are legally sanctioned (Scott 2011: 51-54).

Suchman and Edelman (1996) criticise Scott's and DiMaggio & Powell's theoretical contributions because of the tendencies to treat the law as exogenous, authoritative and coercive only having constraining effects on organizations or what they call “naive Legal Formalism” (Suchman & Edelman 1996: 928-929). Instead they argue that in reality many laws are ambiguous, unclear and fragmented. Laws are not always coercive for its effect but organizations instead interpret the law giving normative and cultural-cognitive meaning to what it means to be in compliance with it. Further as the coercive power and threat of legal sanctions from regulatory agencies is not always apparent this leaves the administrative agencies with a considerable amount of freedom of choice for interpretation (Suchman & Edelman 1996: 929-941).

This brings us to the normative and cultural-cognitive pillars. The normative pillar of institutions focuses on values and norms about what are proper and just, dimensions important for social life and legitimacy that has a moral base. Norms and values guide human behaviour since they specify legitimate means and ends for human action in organizations as shared standard. Institutions by these types are normative systems and can for instance be fair business practice. When norms and values are stratified they give rise to roles and employees can by their specific positions in an organization have specific rights and responsibilities and different access to

material resources. Normative systems both enable and constrain human action and provide answers to privileges and duties, licenses and mandates and define common beliefs and values. Sometimes the normative base for legitimacy and the regulatory can be conflictual and lead to professional actors depart from legal requirements claiming they act based on higher moral standards (Scott 2001: 54-55, 60).

The last pillar, the cultural-cognitive focuses on cultures, symbolic systems that are seen as objective and external. These scholars focus on inner cognitive processes for sense making and how they are shaped by the broader culture. The indicator is shared logic and other behaviour viewed as unthinkable and specific tasks and routines are “taken for granted” hence referring to more resilient aspects of social life. The source of organizational legitimacy derives from cultural support and “definition of the situation” (Scott 2001; 57-58, 61).

3.3 The Nation State

Institutionalists have highlighted the importance of the nation state since the state can be empowered to confer legitimacy within its geographic territory (Scott 2001: 59-60). Similarly Lindblom (1977) argues that the special character of government as an organization is simply “[...] that government exercise authority over other organizations” (Lindblom 1977 in Scott 2001: 127). The state can either be seen as a strong state with its powers concentrated in central governmental agencies or weak states with a strong polity (Scott 2001; 127).

Jessop (1999) adds several dimensions the nation states have undergone as a result of increased migration and the failure to provide social and economic policy to national citizens within a static national territory as he terms “Hollowing out” of the nation state’s power. He tells the hollowing out of the nation state’s power can be characterized as:

“[...] its powers are delegated upwards to supra-regional or international bodies, downwards to regional or local states, or outwards to relatively autonomous

cross-national alliances among local metropolitan or regional states with complementary interests” (Jessop 1999: 354).

In the context of asylum seekers Dwyer (2004) argues that member states of the European union has not only pursued efforts to keep unwanted foreigners out via restrictive migration policies but also to reduce and limit the state’s welfare obligations to basic needs for arrivals (Dwyer 2004: 63-64). Dwyer (2004) highlights the downward hollowing out of state power by using Clarke’s (2004) concept of “dispersed state”:

“‘Dispersal’ has fragmented service provision, multiplying the number of agents and agencies involved, increasing the number of (micro) decision-making settings and generating new problems of coordination, regulation and scrutiny” (Clarke 2004 in Dwyer 2006: 67)

3.4 The Profession

Barley and Tolbert (1997) argue that even though institutional pressure to conform can come from centralized regulatory agencies of the state, the act of complying has often been overlooked (Barley and Tolbert 1997: 95). Professions have though been argued to be important for understanding organizational actions in this regard.

Professions call for formal knowledge and exert control via normative and cultural-cognitive processes. They control belief systems, define reality, demand jurisdiction and clarify and monitor human actions. The governance structures created by the nation state often distribute these powers and rights (Scott 2001: 129). Professions can influence and affect field logic which is a belief system and related practices that is primary in an organizational field. The importance of field logic for an organizational field definition has been brought up and content is an important dimension referring to specific belief systems i.e. how they are understood and interpreted by participants in a field (Scott 2001: 139). Friedland and Alford (1991) argue:

“Without content – that is, the distinctive categories, beliefs, and motives created by a specific institutional logic – it will be impossible to explain what

kinds of social relations have what kind of effect on the behaviour of organizations and individuals” (Friedland and Alfort 1991 in Scott 2001: 139). Professional actors have the ability to define reality by creating typifications, proposing principles and distinctions guiding social action (Scott 2001: 129). In a Foucauldian sense successful governance practices not only establish and uphold the welfare services necessary for governance in order to be successful but also need to create and re-establish the subjects for governance (Jessop 1999: 351). In the Foucauldian disciplinary society three techniques of control are in effect, the hierarchical observation, normalizing judgement and the examination where the power is control over people by the observation. The normalizing judgement is directed towards reforming individuals being in compliance with societies standards of norms and this creates the binaries abnormal-normal; the examination is a source of power as documentation practices give information about individuals but also enables control by establishing categories and norms that create knowledge. In the modern disciplinary society the subject is becoming a “case” (Gutting 2013). However, the examination is not only a method of control but also “[...] the deployment of force and establishment of truth” (Foucault 1979: 184). In this sense the power and knowledge becomes inseparable (Gutting 2013).

3.5 Operational Definition

With references to the theoretical premises discussed above I define an organizational field as:

“Organizations that on the aggregate constitute a recognized area of institutional life where it has been established a mutual awareness the social actors are taking part of a common enterprise. These social actors have created and established patterns of interaction providing organizational linkages and similar institutional logics in the form of shared belief system for legitimate social actions.”

The original definition of an organizational field involved organizations within the private business sector that produced similar services and products. Since the focus in this thesis is not business practices but public

sector involvement in the welfare policy area, the operational definition has been adapted to fit the public sector and the specific empirical use. The operational definition will be used to identify organizational actors within the public sector, its interactions and linkages, institutional logics and sources of organizational legitimacy.

4 Methodology

4.1 Research Problem

The research problem in this thesis is both an empirical and a theoretical one surrounding the welfare policy implementation granting the target group access to the Swedish school system and education.

The first problem relates to the New School Legislation with no compulsory school attendance. From the Swedish National Schools Inspectorate Report problems were identified relating to knowledge about the number of children residing in the country without a permit, hence (presumably) not partaking in education. A knowledge gap was further identified in the report because they had not assessed how or if the municipalities are able to identify these children, which is crucial for an understanding of how many children who are not realizing their educational rights. This is the first part of the research problem.

Due to the fact that no scientific research has been conducted on how schools are realizing the schooling rights given the new laws and regulations and how they are implementing the regulations, the research problem also involves organizational practices.

Finally, the theoretical problem and the working hypothesis left to be answered in this thesis is that there are two organizational fields with different field logics that demarcate the two fields from one another and result in conflicts. As the background section showed these children have no legal right to reside in Sweden and is characterised as their “deportability” condition, in the form of Swedish public authorities obligation to enact EU Directives and Sweden’s immigration policy and policing. Since previous research has showed that their fear of being deported was the main obstacle for health care delivery, how the Border Police and the Migration Board are operating regarding this population in relation to schooling operations, is

essential. Further the issue of a Swedish Civic Registration number and lack of stable administrative routines from the context of Health Care delivery may be equivalent in the schooling context. The attempt is to explain what the organizations do in the field(s) and analyse if there is a ground for a conceptualization of two different organizational fields.

4.2 Research Questions

1. How do the selected organizational actors in the Skåne County practically work within their organizations and between the organizations in response to children residing in the country without a permit in relation to the new reform, and why?
2. Are there more than one organizational field that result in conflicts in relation to welfare entitlements and provision?

4.3 Comparative Case Study

The research design is an explorative case study of the Region of Skåne comparing three organizations. One municipality in the region is selected: the Malmö City which comprises responsibility for schooling, social and health services. The Border Police and the Migration Board is selected comprising responsibilities for implementation of Sweden's regulated immigration policy. The reason for selecting the region is because the state grants given to the municipalities are high, both autumn term 2013 and spring term 2014. Further as will be shown the number of Open decisions of enforcement and wanted children are high which indicated the phenomenon is represented in the region (see Section 5.2).

The main reason for performing a comparative case study of different organizations in the Region of Skåne is what Grant McCracken shows in *The Long Interview* (1988) when he explains the differences between

statistical and qualitative approaches to research problems. Transparency is crucial because in order to use statistical methods it is important to isolate and define categories before collecting the data. This becomes impossible if one does not know what the relevant categories are. He believes that one of the favours using qualitative interviews is when the research area is rather undeveloped (Essaiasson et. al 2011: 285). Similarly Yin (2009) believes that a case study is an empirical inquiry that:

“[...] investigates a contemporary phenomenon in depth and within its real life context especially when the boundaries between the phenomenon and the context are not clearly evident” (Yin 2009: 18)

4.4 Methodological Triangulation

I am using what is called methodological triangulation by mixing qualitative interviews and quantitative data based on the statements from the municipalities to the National Agency for Education. Thurmond (2001) argues it is used:

“[...] increasing confidence in research data, creating innovative ways of understanding a phenomenon, revealing unique findings, challenging or integrating theories, and providing a clearer understanding of a problem” (Thurmond 2001 in Guion et. al. 2002: 2).

4.5 Informant Interviews

Informant interviews, is selected based on the principle of centrality were they are “centrally placed” sources; it is motivated by their knowledge derived from their unique positions in the organizations and makes it possible to ask questions and enhance knowledge about their practical operations (Essaiasson 2010: 283-292). The informant interview is a type of interview based on the premises of the interviewee as a “witness” and their accumulated knowledge recognized by their position in the organizations (Essaiasson et. al 2011: 257, 291). The counter strategy termed Snowball

sampling has been used after contacts with officials in the organizations respectively, were the contacted person has directed me as a researcher to a new interviewee able to answer the questions under investigation (see Esaiasson et. al 2010: 291).

The informants selected for qualitative interviews are three Headmasters from public elementary schools in the municipality Malmö City and two government officials, one from the Border Police in Skåne and one from the Migration Board in Malmö. Malmö City were one of the biggest receivers of State grants and hence proper for my investigation.

The Border Police representative was a high government official in Skåne, one of 21 Border Police units organized geographically and placed under the 21 Police authorities. They are covering and have responsibility over the entire Skåne County. The Migration Board representative was a process officer working in Malmö, one of 40 offices in Sweden. The interviews were performed at their work places between April and May 2014. The five interviews took 50-70 minutes and were recorded, transcribed and analysed based on three different semi-structured interview guides (see Appendix).

During the analytic stage the empirical data was analysed based on central themes which were the Perception of the Target Population, Organizational Field Logics, Documentation Practices and Secrecy, Cooperation and Co-ordination and Inspection. This was done for all interview persons as representatives for their organization respectively. The material was further compared among the organizations, and based on the operational definition; conceptualizations of organizational fields were later made.

My pre-understanding of the phenomenon was written down based on the background information in the reports and previous scientific research in order to get a clear reference point for assessing the values of the research findings, which Esaiasson et. al (2011) and Kvale (1997) argue are crucial in research (see Appendix).

Worth mentioning were that the prior selection proposal were to include two municipalities to compare them together with the two other organizations; however there has been rather hard to find participants in

more than one municipality, either since they have had too little time or as a result of them not being involved in the issue. There were also hard to find more government officials in the other organizations as the prior ambitions were higher than the end results of five interviewees.

The data in this thesis has exclusively been translated by me from Swedish to English. In the qualitative interview section brackets has been added with information into some quotes for clarification purposes.

4.6 A Statistical Description from the Statements

The quantitative method is used by making a statistical description of the reported statements for the number of children in the receiving municipalities of state grants, and how they have verified the number of children in their schooling operations. John Scott (1990) divide documents into four categories: open-published, open-archival, restricted and closed (May 2011: 197). Open-archival public documents are used and were sent from the municipality to the public authority and were standardized and named “Statement of State Grants for Education for Children that Reside in the Country without a Permit Autumn Term 2013”. The statements provided information of the municipality’s number of children possible to choice either Less or More than 5 Children were the later should be reported giving the exact number. Further “How has the municipality controlled for how many children that reside in the country without a permit?” were to by expressed and what costs they had for these children. The quantitative analysis is limited to the number of children and how they are verifying the number of children.

4.7 Generalizability and Validity

The selection used in this research as a circumscribed number of organizations and informants is a strategic selection. Yin (1990) beliefs:

“[...] case studies are generalizable to theoretical propositions, not to populations or to universes [...] your goal will be to expand and generalize theories generalizability” (Yin 2009: 15).

The argument in line with Yin (2009) is that the research will achieve analytical generalizability to the theoretical propositions to explain the phenomenon or situation in the organizational field(s). Hence universal and common aspects of the phenomenon will be revealed. Concept validity has been targeted by the operational definition and the concepts from the theoretical section in line with the formulation of the semi-structured interview guides. High internal validity is achieved by triangulating the results of the quantitative data with the qualitative data. High reliability in the form of absence of systematic and unsystematic measurements errors has been achieved by systematic and detailed transcription of the interviews and careful examination and presentation of the reported statements. I argue that the concept validity and reliability will provide high result validity to the research findings (see Esaiasson et. al. 2011: 63-66).

4.8 Ethical Considerations

In The Swedish Research Council’s *Good Research practice* (2011) the crucial aspects of the researches conscious considerations vis á vis the informants participating in the study is brought up: how to protect the individual from harm or indignity (Vetenskapsrådet 2011: 16). In the context of irregular immigration Brunovski (2010) argues “[...] ethics and methodological choices are inextricably bound together” (Brunovski 2010: 50). The researcher must also be aware of the moral obligation he/she has in this specific research area (Brunovski 2010: 49-50).

Children residing in the country without a permit are especially vulnerable caused by their ‘deportability condition’ one reason for interviewing public authority representatives and headmasters instead. In the Swedish Act (2003:460) on Ethical review on Research concerning Humans in 18 § there are also specific regulations on how to conduct research concerning children under the age of 15. Children have also limited abilities

to give informed consent, caregivers often need to give consent and the collected material is at risk being too sensitive for publishing (Codex 2014).

Ethical considerations has been taken as I have promised confidentiality and been given informed consent, crucial performing this type of research (Vetenskapsrådet 2011: 66-67; Esaiasson et. al 2010: 290). Confidentiality has been promised to the extent that neither the schools and headmasters, nor the children and the government officials are to be identified in the material as a way to:

“[...] protect the privacy of the research subjects and their personal information and the confidentiality of their personal information and to minimize the impact of the study on their physical, mental and social integrity” (the Helsinki Declaration in Vetenskapsrådet 2011: 69).

Further four statements for how the municipality had verified the number of children were secrecy marked but as an ethical consideration they are excluded, even though a decision of appeal could have been made.

5 Empirical Investigation

5.1 Statistics from the Statements

This section is based on the statements from the municipalities to the National Agency for Education and will show the number of children in the operations in the counties and municipalities of Sweden. The section also includes how the municipality representatives have verified the number of children in their operations.

Table 1: The selection

Categorization	Number of municipalities
By numbers	36
Less than 5	43
Unidentified or do not know	4
No provided statement	11
Total	94

The figures are based on 83 municipalities since 11 municipalities did not provide any statements. 36 municipalities provided information of the exact number of children whereas 43 municipalities declared them as “Less than five”. Four municipalities did not know or were unidentified and therefore classified as zero. The figures should be interpreted with caution since in many of the statements they have identified the number of children they know about from various sources but some of the municipalities clearly expressed it has been hard to get the exact numbers.

Table 2: Number of Children by Counties Authumn term 2013

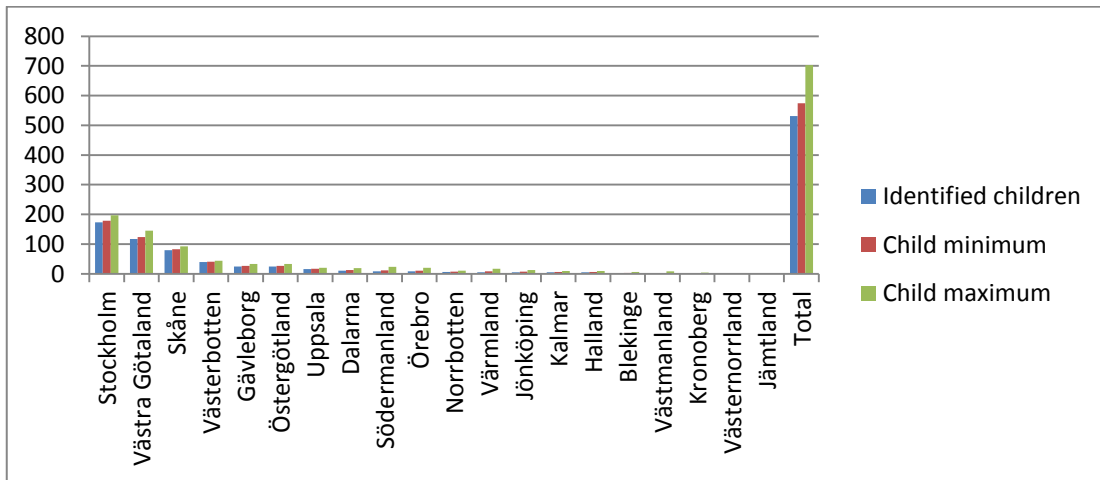
Counties	Identified children	Child minimum	Child maximum
Stockholm	173	179	197
Västra Götaland	117	124	145
Skåne	80	83	92
Västerbotten	40	41	44
Gävleborg	25	27	33
Östergötland	25	27	33
Uppsala	16	17	20
Dalarna	11	13	19
Södermanland	8	12	24
Örebro	8	11	20
Norrbottn	6	7	10
Värmland	5	8	17
Jönköping	5	7	13
Kalmar	5	6	9
Halland	5	6	9
Blekinge	2	3	6
Västmanland	0	2	8
Kronoberg	0	1	4
Västernorrland	0	0	0
Jämtland	0	0	0
Total	531	574	703

Source: Own Figures based on data from Skolverket

In table 2 above 531 children were identified by the exact number. 43 municipalities choose to declare their children as “Less than 5”. The child minimum and maximum is therefore used and calculated as a sum of the identified children plus the minimum and maximum amount which are either one or four children. This gave a distribution of 574-703 children in municipal schooling operations autumn 2013. As the table above show Stockholm County is the top one followed by Västra Götaland County and Skåne County. In relation to the entire population the school year 2013/14 there were 109 943 children in pre-school class, 920 997 pupils in compulsory school and 330 196 pupils in upper-secondary school (Skolverket 2014). Hence in relation to the entire population in the country these children are less than 0.06 per cent.

Since 11 municipalities have not provided information it is plausible the total number of children is higher. It is reasonable the remaining 206 municipalities in Sweden have had some children into their operations but how many in exact number are not possible to examine in this thesis. Down below is a graphical illustration based on the same data.

Figure 1: Number of Children by Counties Autumn Term 2013



Source: Own Figures based on data from Skolverket

Table 3: The top 15 Municipalities Autumn Term 2013

County	Municipality	Number of children
Skåne	Malmö city	78*
Stockholm	Stockholm city	58
Västra Götaland	Göteborg city	48
Västerbotten	Skellefteå municipality	40
Västra Götaland	Möln dal municipality	32
Stockholm	Södertälje municipality	29
Stockholm	Haninge municipality	26
Gävleborg	Gävle municipality	25
Stockholm	Botkyrka municipality	22
Västra Götaland	Trollhättans city	17
Östergötland	Norrköping municipality	10
Östergötland	Linköping municipality	10
Stockholm	Huddinge municipality	10
Uppsala	Uppsala municipality	10
Stockholm	Sigtuna municipality	9

Source: Own Figures based on data from Skolverket

Compared to the situation by counties the top municipality is Malmö city (in the county placed top three) with 78 children⁴. After Malmö city, Stockholm city is placed at number 2 (the top County according to previous figures) followed by Göteborg city second and Skellefteå municipality (top 4) henceforth.

⁴ In the statement from Malmö City they expect the number of children to be 50 per cent more than the actual number presented.*

Table 4: The Municipalities in Skåne County Autumn Term 2013

Skåne County	Number of children
Malmö city	78
Hässleholm municipality	2
Helsingborg city	Less than 5
Båstad municipality	Less than 5
Hörby municipality	Less than 5
Lund municipality	No statement submitted

Source: Own Figures based on data from Skolverket

In Skåne, Malmö City is placed in top, Hässleholm municipality had 2 children and the additional municipalities had 1-4 children. Lund municipality (granted 18 586 SEK) has not submitted any statement. In total Skåne County is placed top three with 83-92 children. With the additional 39 children expected by Malmö city there can be 131 children in the county's schooling operations. Malmö City is by far the biggest municipality receiving these children.

5.2 Verifying the Number of Children

The statements provided information about how the municipality representatives had verified and reported the number of children in the municipalities' pre-schools and schools, while some have provided more detailed information about the process identifying the number of children.

The headmaster and pre-school head are the ones to usually report the number of children to the central administration, and the contact person is clearly expressed in the material (contact information relevant for the National Agency for Education). In addition to headmasters and pre-school heads, sometimes the administration, pupil's controllers, assistants, managers of various units, the pupil health care representatives, refugee and school attendance guardians and school welfare officer have been

mentioned. In one case they also refer to NGOs but it is unclear how the contact looks like, whether there are involved in identifying the target population or if they are somehow involved in reporting to the contact person. Furthermore, in one municipality an educationalist is responsible for reporting all new arrivals, municipality located, quota refugees and children residing in the country without a permit to the municipal administration. One municipality has compiled information by a meeting with heads.

Table 5: Statistics of the Number of Decisions of Enforcements in balance

The number of decisions of enforcements in balance by		Outgoing balance	Whereas wanted
December 13	Children in Sweden	4398	1471
December 13	Children in Skåne	344	188
Mars 14	Children in Sweden	4416	1755
Mars 14	Children in Skåne	340	189

Source: the Swedish National Bureau of Investigation (NBI). Including the Migration Board's decisions, Court decisions and the Police authority's own decisions.

After contacting the Swedish National Bureau of Investigation which is a unit within the Police authority they provided me with statistics about the number of 'Open Decisions of Enforcements in Balance'⁵ and Wanted December 2013 and Mars 2014. The term 'Open decisions of enforcements in balance' is the decisions of enforcements that has not yet become legally binding because of the possibility to appeal or the enforcement cannot for other reasons be executed. The statistics involve the number of children in total in the country and the ones in Region of Skåne.

The ones the authorities have assessed are withholding their legally binding decisions have been classified and reported as Wanted. A rather large group has been classified as wanted in Skåne compared to the entire country. 1431 children in total were wanted in December 2013 and 188 in Skåne county. Compared to previous figures of 531-703 children the number of wanted

⁵ The Swedish term: Öppna verkställighetsärenden.

children is larger, but it only involves the ones that have been identified by public authorities. This indicates that there are many children residing in the country but not realizing their schooling rights.

5.3 The Region of Skåne Analysed

5.3.1 Results and Analysis from the Quantitative Data

The results from the quantitative analysis gave information that Malmö City is the top municipality taking the target population into their schooling operations, between 78-117 children from pre-school class to upper-secondary school. In relation to all children in pre-school class, compulsory school and upper-secondary school in the municipality, they are few.

Table 6: Children in Malmö City in total by School operations

School operation	Number of children school year 2013/14	Number of children without a permit school year autumn term 2013
Pre-school class	3351	.
Compulsory School	25353	.
Upper-secondary school	11337	.
Total	40041	78-117

Source: Skolverket SIRIS and own figures.

The table show the number of children in total including private and public accountable authorities. In total there were 40041 children in Malmö City partaking in the operations whereas 78-117 children residing in the country without a permit. This is less than 0.3 per cent of all children.

NBI informed that 188 children were wanted in December 2013 and 189 in March 2014. Hence there are less children taking part in the operations in Malmö City than have been identified and classified as wanted, based on

figures from NBI; there may also be a population of children unknown to the public authorities.

5.3.2 Analysis from the Remit Answers

The remit answers will be the base line for analysing what changes institutions and if the reform has had an effect on organizational actions. The information comes from the Government bill and the consultation bodies that are analysed are the Migration Board, The Swedish National Police Agency, the Swedish National Agency for Education and the Swedish National Schools Inspectorate.

In the Government bill they asked a number of consultation bodies and they gave their remit answers to the government officials. Two of the consultation bodies, the Swedish Migration Board and the Swedish National Police Agency adduced reasons of principle concerning the issue of granting the children legal access to the Swedish education system. Even though The Swedish Migration board did not take a stand whether the actual child should be granted the right to education they argued:

“[...] one has hard to see that the reform proposals suggested in the reports is consistent with the asylum- and migration policy as it is expressed in the present ordinance” (Prop. 2012/13: 12, my translation).

The Swedish National Police for its part believes there is a contradiction in granting people without legal reasons access to schooling. The child’s best interest is for them of course at hand, but according to the Aliens Act (2005:716) it is illegal to reside in the country deliberately or by negligence. They further argued only people with legal reasons should be granted access to our educational system and it is questionable if these children will attend school because of the fear to be exposed (Prop. 2012/13: 12).

These agencies further rejected the proposals when the government proposed that the Social Welfare Committee and the Educational Board’s legal responsibility to notify the Police authorities about an alien according to Swedish Aliens Act (2005:716) should cease.

The Swedish National Police argued that it is important for the Swedish society to have information about alien’s residency. It enables the agencies

to enforce decisions of refusal of entry or deportation or making sure that the immigrant gets the necessary permit. The Migration Board believed on its part that the proposal aggravates the internal border control; it is important to find these children so that they can be helped to return back to their countries of origin (Prop. 2012/13: 27-28).

These agencies further rejected the proposals when the government proposed that the Social Welfare Committee and the Educational Board's legal responsibility to notify the Police authorities about an alien according to Swedish Aliens Act (2005:716) should cease.

The government argued that the obligation for the Social Service Committee to disclose information to the Police authority after a direct enquiry about a specific individual should remain untouched. The Swedish National Police authority argued that the current legislation is not enough since it is not proportionate to the Police authorities need for information (Prop. 2012/13: 30). Further they meant that there is no need for special regulations in act or ordinance that sets limitation for the Police authority regarding these children. Other consultation agencies meant that there is a need for legislations to limit the Police authority's authorization, especially in the schools (Prop. 2012/13: 32).

The Swedish National Schools Inspectorate and the Swedish National Agency for Education were positive to the Government bill and provided detailed comments on the different reform proposals regulating the target population's legal access to the Swedish School system (see Prop. 2012/13: 11-12, 14-15, 17-18, 19, 22-23, 27-29, 30-34, 38). These two agencies wanted the new legislation to come into effect as soon as possible i.e. earlier than June 2013 (Prop. 2012/13: 38).

5.3.3 Results and Analysis of the Qualitative Interviews

The new regulations can be regarded as an institution found in the institutional realm and an institution innovated by the state which is allocating legal duties and obligations to the different central and local organizations in the governance structure. In order for an institution to be created, established and maintained it must however be brought to life in the

realm of action, by organizational field participants. The concept of script is therefore intrinsically linked to the institutional realm but operate on a day-to-day basis in the structuration as an institutionalization process of enabling and constraining.

5.3.3.1. Analysis of the Headmasters from Malmö City

The headmasters are professional actors which according to DiMaggio and Powell (1983) are great rationalizers in current times. They are also able to control belief systems, the ability define reality and clarify and guide human actions as they possess the power to control and effect organizational processes. The Headmasters informed their work tasks were to follow the steering documents such as the normal curriculum in the different subject and have holistic overview over their operations. In this it involved creating preconditions for the co-workers so as their can perform their working tasks together with economic and pedagogical management and guidance tasks. Headmaster 2 informs his tasks involve:

“[...] to lead the development work, look at the school’s management so we aim in the direction the policy document informs they should, to have a responsibility for quality over what is happening and working with routines for quality controls and follow-ups. [...] in this it involves working with the systematic quality work, management over the teams on the intermediate level and the pedagogical development in the pedagogical operation.”

The target population in the schools

Essential for implementing and guaranteeing the target population’s legal right to schooling is to be able to identify the target population in the school. All headmasters have and have had children residing in the country without a permit in their schools. They consider to be informed about children from this population being in their schooling operation. Headmaster 1 tells that:

“Yes, I know which ones are undocumented immigrants, absolutely [...]. We have hidden or undocumented migrants or what we shall call them, but they are not hidden when they take part here, but if they take part here they can be undocumented.”

Headmaster 3 tells that he currently has some children and it is almost the same amount as before. The headmasters implicitly refer to these pupils as being of a dynamic target population since children during their time in the schools can receive a negative decision. All the school headmasters express that they receive information about their condition, but that children or caregivers often must tell them. Headmaster 1:

“Yes, I mean yes we get [information]. Also we have our information channels but often we get it from the pupil himself/herself that he/she tells us they have been rejected and then they may need to be in hiding for a while and then they appear again.”

He however says that they have “[...] less than five here on the school that are hidden, so they are not pouring in here. We have a couple”.

Further Headmaster 2 says that it has occurred children tell they have received a decision of deportation but says:

“If it should be the case some pupils [reside in the country without a permit] so to speak, nobody has to tell it to me. If their status changes so as they suddenly are undocumented there is nothing that says they need to report this.”

This headmaster, previously a headmaster for a school with a large proportion of the target population, brings up that children and families that entered clandestinely is a population they never reach. Headmaster 2 expressed:

“Those already in the school system are aware of it [their schooling rights] and can be covered more easily and use the legislation in a much better way. Those coming here as undocumented and have children that never attended school in Sweden, we do not reach them.”

All the headmasters bring up the issue of a civic registration number and receiving a temporal registration number in the schools and that they can report their socio-legal status the day they are to be registered in the school. Headmaster 3 expressed they have never had any children entering the country clandestinely since in order to be in a system they need to apply for asylum and get a temporal registration number. Headmaster 3 similarly express as Headmaster 2 he only has control over these children if his school receive information but tells they are so few so one knows who they are. He tells that:

“I do not know if I receive it in another way, but if they have a civic registration number they attend here, if they do not have it I receive information in the process and in the meeting we have with the parents they have been rejected. Even if I do not personally attend all meetings it can be the case a parent says to the child’s mentor that yes, now we have been rejected and received a decision of deportation.”

Organizational Field Logics

The field logic is highlighted and expressed by the headmasters as a form of belief systems drawing attention to all children being equal and the UN Convention on the Rights of Child. One headmaster also brings up the values as it is expressed in the School Act and Curriculum. All three headmasters explicitly express all children are to be considered as children regardless of their socio-legal status. This logic refers to motives, beliefs and categories of children in relation to the professions establishing social relations to all children. The organization establish scripts on micro-level by defining and explaining social reality, distributing different social relations with responsibilities and duties of constrains and abilities having effects on organizational practices. Headmaster 1 tells:

“We treat these children the same way as we treat all other children [...]. It has been the case in the country some schools have rejected undocumented migrant children. [...] It is important these children attend school, it is important, one can turn it around and say the UN Convention on the Right of the Child is extremely clear: all children have rights to schooling, they have rights to parents also, and accommodation. But we cannot do much about this here with parents and accommodation, but we can draw attention to the school and from that we work.”

Headmaster 1 further express they do not result in any problems at all and says that it must be proper that all children growing up on this planet shall be able to attend school and says that:

“I see too many children being adults and it is not pleasurable to see [...] somewhere one has taken their childhood away from them.”

Headmaster 3 similarly tells that:

“The role is not different from other children. The role is to give the children a so sound schooling as possible and we follow the basis of values as it is expressed in School Act and curriculum.”

He further told that his superior saw this as common sense. As clearly seen throughout analysing the interview data these headmasters legitimate their actions on a day-to-day basis from the normative and cultural-cognitive pillar as the logic refer to appropriateness, taken-for-granted and common sense. Reference to all children being equal, values brought up in the curricula and arguments in favour of children’s right to a childhood is a normative belief system giving guidelines for appropriate social action by the headmaster’s and other professions in response to all children in the schools. The headmasters were also inclusive in framing or defining the situation regarding their obligations, duties and opportunities covering all children regardless of socio-legal statuses. This indicates cultural-cognitive consistency and hence more resilient aspects of the social life unfolding.

The norms and values that are brought to life in the school realm of action are means for valued ends which are to provide welfare for children. The headmasters’ as a rather self-reliant profession in the Swedish school system exercise profession power to define reality and use these norms and values to legitimate the professional actor’s actions in the school ground’s realm of action that is brought to life and realized. By doing so they maintain the institutional realm by a common-belief system in the schools treating all children being equal. This is also a ways to legitimate what is preferred and desirable giving schooling to all children. It is also a way of categorizing children by inclusively equating all children as proper and just. Further no headmaster argued that these children were creating any problems but instead motivated their social actions based on the headmasters’ compassionate believe of having certain obligations and abilities helping children based on actual needs.

Even though the field logic brought up refers to international convention, national law and ordinances, and other steering documents they are not instrumentally motivated. The main reason for claiming this was since they did not refer to the law having a direct impact on micro-level even though the new legislation is legally binding.

The Perception and Interpretation of the New Legislation

From the interviews with the three headmasters it appears the changes in the School Act and other relevant legislation has not altered much of the scripts on school level. All headmasters are aware of the new legislation but say it does not change much on school grounds nor should they act differently if the former voluntary situation were still in effect. Headmaster 1 describes:

“Yes, it is this that they have the right to attend school and some other things, but it is nothing I feel changes our way of work.”

He express that it is common-sense to offer children schooling. Headmaster 3 describes:

“I think it is important from an ethical point of view, but it does not change anything in principle for the schools here, it does not affect significantly.”

This was recurrent were the headmasters expressed views of the new legislation having little effect and impact in their operations; they did neither perceive the state grants as having a strong impact on school economy. As Suchman and Edelman (1996) argue laws are not always exogenous and authoritative but endogenous and interpreted cultural-cognitively and normatively giving administrative agencies a high degree of freedom for interpretation. The new legislation can therefore better be seen as a sense-making process providing little information on detailed scripts for social actions. The headmasters did not however reject the new legislation as unwelcomed but rather perceived the legislation as good. Headmaster 2 describes one can see the legislation differently:

“[...] if a legislation does not become reality, if it does not manage the reality level it is rather toothless one can say, now it has not been in place very long this legislation so it important there is a legislative support for it, so the legislation is at large good [...].”

He describes that it is good that they today are financed in the system but since the target population is so small they have not been a large economic load for the schools. Further he argues the legislation is highly “academic” since it does not change anything on the school’s micro-level. These views indicate that the institutional processes by the state intervention and innovation have not had the state as the source for an institution brought to

life and maintained via scripts in the schools for these children; the source maintaining the institution must come elsewhere.

The Situation Before

Evidence for the source of institutional creation is time as all institutions have a history and can be either created, reproduced, transformed or abandoned by organizations. Recurring in the interviews the situation before is brought to attention by the headmasters. They inform that the situation were more predominant some years ago. Headmaster 1:

“The question was more up-to-date when I worked in [my former school] [...]. We had a large quantity of pupils that decided to stay in the school. This in turn made us start a good cooperation with organizations that met undocumented immigrant and could inform one could get a school place in [my former school]. We had a large quantity of undocumented migrants among us, because it was clear for us that met undocumented immigrants here is a school were one gets a school place.”

Headmaster 2 describes:

“[...] Some years ago, then I could feel it was more predominant with these issues than it is now, I mean now I think I do not hear anything about it [...]. I know one winter I got phone-called from these networks [...]. They said we had no obligation to accept, we could say no to it.”

This valuable information by all headmasters indicates that the creation and establishment of the institution has its roots several years back in time since realizing the children's rights have a longer history. The baseline for creating an institution via the enactment of scripts as recurring activities and patterns in the schools has not institutionally been innovated by legislation but may have been pushed for on municipal level or realized by headmasters alone. One of the headmasters informs during the interview a politician from the Social Democrats working with educational policy in municipal level were pushing these issues hard and were clear towards media about these children. And as previously expressed in the Malmö City Report to the Commission from a Sustainable Malmö, they brought up that offering these children pre-schooling, school childcare and schooling is part of the political agreement during the term of office 2010-2014. At least there is a norm and an established consensus regarding taking them in on the Accountable

authority level established 2010 even though the formal decision was the goodwill of the headmaster's 2012.

Documentations in Systems, Secrecy and Notification to the Social Welfare Committee

How the headmasters and other professions document in their internal systems, work with secrecy and professional secrecy and how or if they report to the Social Welfare Committee are scripts linked to the institutional realm as it both enable and constrain the professions in schools; praxis and routines and recurring activities are central for an understanding of the institution. Documentation in internal systems is made by the headmasters either in paper journals or in electronic systems. Headmaster 2 tells that a caregiver, a child or a friend to the family comes to the school. He explains that:

“[...] They apply for a place and do we have places available then they can inform if one is undocumented and then we regard it as a child having protected personal data and report to our administration that sign in the child with protected personal data [...].”

He also tells that these children's socio-legal status can change during their time in the school. Headmaster 1 express that the children do not have any protected personal data in their operations: “they attend here with their regular names”. The only problem is if they have reported the wrong name and have no passport available. He also informs that they try to write down their home address but says that they do not always register the same data as people with a civic registration number; this involves the issue with record keeping for the School Health Care:

“No, one cannot do it, because those systems are built on the existence of a civic registration number, those are available if logged in [...] but they are not.” Instead they have a paper journal besides and they receive a temporal registration number since the four last digits are missing. They receive TF-00 or TF-99. TF stand for temporal and 00 is the code for girls and 99 for boys. Further he tells they have high secrecy when it comes to these children generally since all children are traumatised and they do not talk about them openly in their operations, but they have no special routines in this regard.

He further tells that even though no public authority has asked for this information:

“We have an obligation to disclose this information also. But of course we do not ourselves report that now we have a pupil in hiding here.”

Headmaster 2 similarly express that:

“I mean [...] we have a professional secrecy that says and is applicable for us when we can assume it can be of harm or hurt for the individual if this data comes out. It is clear in this case, if the pupils’ [home] addresses or so should be circulating here this should be of harm or hurt for pupils, therefore we treat these children as they have protected personal data.”

In the same manner as Headmaster 1, he says that if the Police or the Migration Board should ask for this data:

“[...] then we have the problem we have a notifying obligation [...] and yes, if they should say how many children do we have here and what are their names we are obligated to send out these lists. And it is important undocumented migrants are included in our registers so as we can be sure they take part in the School health care’s vaccination programme and the operation the School health care operates.”

One headmaster brings up he would call the municipal lawyer if he has questions regarding the legislation and how to act and the two other exemplified they would contact a lawyer if a child is suffering in the home or if someone want them to disclose public documents though all three headmasters said that no public authority or any other has every asked for this information. This view of obligation is a legal constrain in the institutional realm but is not enacted since no-one has asked for it. Headmaster 3 shows dissimilar understanding as the headmaster says that:

“We make a secrecy examination on this information if someone should want access to [it], then one must also inform about the individuals names [...]. Other public authorities have no right to ask but should they ask we make a secrecy examination if we should disclose information, we have no other secrecy for these children but we do this especially for them⁶.”

⁶ After a phone-call to a lawyer the 12th of May 2014 from Statskontoret in Malmö City the representative informs the schools should weigh the interest of the public authorities need for information and the personal interest of the child, and this examination are to be considered regardless of children being in the country without a permit or not. If they

They should refuse to disclose this information and also draws parallels to people with protected personal data and says that it is not optimal to dispense information on websites; they publish nothing without the caregivers consent; it involves the actual threat and the secrecy. However, information about their home address may be required because it is important to provide information to their care givers. He also tells that they can have open memo notes “Not completed” as they are not regarded as public documents.

Regarding the Social Welfare Committee and the school reporting if they suspect that a child is suffering they express dissimilar understandings. One Headmaster describes that they had a situation when they could have made a report to the Social Welfare Committee because a child had a drug problem but they instead made an agreement with the Maria-mottagning⁷ regarding medical sampling⁸. The headmaster argues that:

“But I cannot say we have made a report to the Social Welfare Committee, one cannot do it, they do not exist, officially they do not exist in the country and then it becomes hard to breach this to be hidden. [...]. If I should report to the Social Welfare Committee that a pupil use drugs I must disclose his identity.”

A report was never made but this would have been a problem and this social action taken in the realm of action can either be a result of being unaware of the institutional realm’s legal restraints or as a result of informed non-compliance to it because the ability to ignore legal requirements and the risk of not being regarded as legitimate in an organizational field. The other headmasters are aware of their reporting obligation and one headmaster says:

would come to the decision the public information is secret, this needs to be informed to the public authority and can be appealed to in court, but no praxis has been established in this specific juridical area.

⁷ Maria Mottagningen is a health centre in Malmö City for people under the age of 26 having problem with alcohol and/or drugs.

⁸ After a phone-call to a lawyer the 12th of May from Statskontoret in Malmö City the representative informed that according to current legislation the legislation do not demarcate unlawful residents from others, the same legislation cover all children. If they suspect or if a child is at risk of suffering a report shall be made to the Social Welfare Committee since the operation involve children and young people. To consider disclosing information or not based on the grounds of them having no permit is not expressed in current legislation. Normally this is not regularly what they should consider, though the representative is clear to express they are not giving comments on individual cases.

“No and how they handle personal information I do not know [...]. In practice it is solved were quickly if you get a bad well-being of a decision of deportation. [...] There are already social public authorities involved.”

In a Foucauldian sense the examination as documentation in internal system, in paper-journals giving temporal registration numbers and establishing reports is a form of examination and observation of the individual “cases” producing effective power and knowledge as the records categorize these individuals as subjects of protection which is a form of control and normalized judgement. In order to establish effective governance of welfare entitlement and delivery the “creation” of these individuals in this sense becomes essential. The treatment of these individuals as having protected personal data, the strategies of non-documentation and open-memo notes can also be seen is a way to escape the presumed gaze and observation of the “cases” by other organizational actors after requests of disclosure.

Cooperation and Co-ordination

Cooperation and co-ordination by the headmasters and other professions in the school and/or between other organizations vis á vis the children provide insights to established patterns of interaction and organizational linkages between organizational actors within an organizational field. The informed actions taken in the specific settings also enable one to descry institutional logics and shared belief systems they take part of a common enterprise. There may be competitors within the same organizational field categorized as low levels of or non-cooperation and non-co-ordination but if the belief systems, demands and responsibilities and sources of legitimate social actions differ this indicate they are within different organizational fields. As previously expressed the headmasters equated all children in their schooling operation as a way to act realizing the target population’s entitlement to welfare provision. The headmasters expressed there are not much cooperation or co-ordination involving this issue regarding these children based on their socio-legal status, neither within the school, their accountable authority nor other organizations. Headmaster 2 says that:

“No, information about this it is rather limited, but I think it is because one takes it for granted, one knows what to do, our accountable authority also takes it for granted that one knows what to do.”

Headmaster 3 similarly tells that:

“No we have no contacts [with our accountable authority] based on them being within this category but should it be the case one of these children have an eating disorder [...] a contact [with relevant persons] will be taken.”

This was reoccurring in the interviews there was no central cooperation or co-ordination, instead cooperation and co-ordination is established based on the awakened need for an actual child. The headmaster's bring up a number of entities in their schooling operations and other organizations in Malmö City such as the School Health Service for their vaccination programme, Child- and Adolescent Psychiatry if a child has mental health problems, Skåne University Hospital if a speech therapist is needed, the School doctor, the School nurse, the Municipal public authority unit if a an additional resource is needed etc. The cooperation and co-ordination hence involve all children and cooperation and coordination is established when an actual child has a specific need. In line with the belief system the co-operation and coordination is established regardless of their socio-legal status being citizen or not when their rights to provision of welfare and social services are realized.

However as one of the headmasters exclusively expressed the School Welfare Officer has contact with accommodation for people residing in the country without a permit which is a Non-Governmental Organization (NGO). Dwyer (2006) did argue in the context of EU member states and asylum seekers the state's power had been delegated downwards to local sites which in this context is the municipality and the micro-level setting of the schools, providing basic welfare entitlements. Similarly to Dwyer (1999) the cooperation and coordination patterns follow a number of micro level-decision making with a considerable number of agents and agencies involved in what Clarke (2004) terms the “Dispersed state”. The co-operation with the NGO is yet another organization in the voluntary sector providing of welfare for these people and may be characterized as a public-voluntary sector “partnership”.

Headmaster 2 brings up that when he was a headmaster for another school some years ago they cooperated with the municipal educational department when they were to be transferred to upper-secondary school. How this cooperation looks like today has not been assessed since I have not interviewed any headmaster in upper-secondary.

The Police Authority and the Migration Board's Role in their School Operations

All three headmasters inform that they have no contact with the Border Police regarding children residing in the country without a permit and that there is no active search on school ground from their side. Headmaster 2 describes that they have no praxis for protection against the Police authority:

“They have been clear and said they should not search [...]. It is an agreement with them they should not come to us and ask for “undocumented immigrant children” but this they should do off the school if they are to search for them. Therefore it has not been relevant either.”

He said that he discussed with them 2011 and the Police meant they are happy they get the ability to attend school because they therefore feel better. It can also restrict them from ending up in criminal networks and it could be contra-productive based on their Police task to prevent crime. All headmasters tell that they have no praxis against the police because they do not search for these children in or near the school grounds and that this is an agreement and a mutual trust they communicate to the pupils and caregivers. However one headmaster tells that some years ago they received information via rumours a family got deported but that this happened off school grounds and that people in the schools of course were emotionally affected by it.

The information indicates that it is an active and explicit mutual agreement between the schools and the Border Police not to cooperate regarding decisions of deportation. The Migration board on the contrary is a public authority they have contact with but based on children being asylum seekers. Headmaster 1 terms them as a “natural cooperation partner”. The Migration Board remit newly arrival asylum seeking children to the schools and that the registration is central in the municipality.

Inspection

No headmaster knows if there has been any inspection regarding this issue on municipal level or if other public authorities such as the National School Inspectorate or the National Agency for Education published any reports. This indicates that the regulations regulative mechanisms of control are rather silent. And they told that not being in compliance with the regulation is not a big concern: they are already realizing it. However the Accountable Authority has legal obligations to inspect their own educational units, but since documentation, routines and practices are brought down to the professions on a day-to-day basis it is hard to enforce and inspect this issue as one headmaster expresses: he is a natural source of this information. Headmaster 3 says the Accountable authority can inspect the school and exemplifies:

“I have a superior but he does not inspect this to a large extent, what should he inspect? The documentation is rather limited and it is fully implicit there is X-amount [of children]. I have never received a follow up question. I could say when they allocate the budget we have seven when we in fact have two and I would receive budget for seven, but I should never do it.”

5.3.3.2. Analysis of the Representative from the Border Police

The target population

The Border Police representative says that children residing in the country without a permit are either a child arriving to the country and never apply for asylum or they are children with legally binding decisions of deportation or refusal of entry that are to be enforced, but do not follow the decision and choose to go into “hiding”. Apart from the Migration Board these decisions can be decided by the Police or the courts even though the representative has no memory they have ever decided to deport a child. In their practical work represented as scripts the representative wants to separate those with a legally binding decisions and those who have not:

“[...] Because they are to entirely different categories. When it comes to the first group choosing to apply for asylum, it does not require the Police to get in

contact with them, it can be the Customs which is rather common; [When we get in contact with them] we contact the Migration Board and the Migration Board are responsible for the asylum investigation and it is the Social Welfare Service responsible for accommodation during the time they are placed in an accommodation. Then it is rather common these minors depart within 24 hours from the accommodation and they do not register any application of asylum in Malmö for all I know.”

The representative further tells that the accommodation facility representatives report them as missing and that the information arrives to the Police communication central as for all missing people. They then make an assessment based on the report: is a crime the reason and should they start a full-scale search for a victim? If no, they look at the next and assess the risk of this person are trying to commit suicide. Is the answer yes, they start a full-scale search; and if no, they deliver the report of a missing people to the Border Police. When they abscond often the Border Police only have a description of the person and the intelligence does not provide any clues to where they are. The representative says that they cannot search for a child based on this inadequate information but if they would “the REVA-debate would have been just mild”.

The representative says that there are less than 10 per cent of this entire group being children, around 125 persons⁹. They do not know how many children being in the country in total:

“No, we have not. How should we know this? We know how many that have been missing before every application for asylum and we know how many that has absconded after a negative decision but there can be a number of unrecorded [children] we have no idea about.”

The representative also tells that when they find a child with this status and new information is brought up they deliver the new information to the Migration Board in accordance with § 12 and § 17 in the Alien’s Act and they assess if the new information affect their decision of a permit but if no they start again were they finished.

⁹ Based on figures from the NBI the number of children wanted in Skåne were 188 December 2013 and 189 in Mars 2014.

Organizational Field Logic

The representative tells that the public authority's role regarding these children is: "[...] if we find them they shall be enforced in line with the decision they have received". The representative tells that their responsibility regarding the legislation:

"[...] All legally binding decisions shall be enforced with respect to the child's best interest and shall be as humane as possible, but it is of course a coercive measure but the Police role is to enforce."

The representative further argues that they shall be impartial and that it is extremely important the organization do not take a stand as an organization on the new legislation in the School Act:

"We have no comments on the policy [...] because we shall be impartial, it is crucial the Police are impartial in this. It is not our decision to take a stand as an organization."

The representative says that they have no comments whatsoever and that the changes in the Act have not affected their work:

"No we have not searched for children in schools either and this law has not affected us because we have not done it either. Not as far as I know [...] because often children living in hiding has not chosen it themselves. Are they unaccompanied minors they can have done it. But I mean shall one enter a school in this regard it is really agonising for all others also. So we have not done it."

The representative says that they do not contact the schools or the municipalities in this mission and that they have no wish to bring a child from the school. The representative told that this has been praxis for many years, something the headmasters also brought up. This gives evidence for an established mutual agreement it is not the Border Police role to enforce these decisions in or near the schools, even though this is represented as a non-cooperation procedure or praxis. Further the representative told that they did not have any comments on the current legislation and the certain limitations the new regulations had on their quality of intelligence.

From the remit answers as base line the National Police Agency expressed concerns about the new legislation and the effect on intelligence. However the representative expressed clearly that they did not take a stand

as an organization and that they follow their legally established duties hence indicates the new legislation as an institution is instrumentally linked to their duties as an organization to be in compliance with current rules and laws and to be impartial; these are sources for organizational legitimacy.

The organizational belief system of the Border Police can be seen as instrumentality where the organization finds its legitimacy in their operational functions to enforce decisions on deportation and refusal of entry classifying children into different socio-legal categories in the institutional realm brought to life in the realm of action. These are enacted by scripts in compliance with the Alien's Act, Alien's Ordinance and other legal documents. These compliances are both constraining and enabling the legitimate pursuit of scripts within the organization and by their cooperation with other participants in the organizational field. Further the coercive mechanisms seemed to be more active, the representative expressed they can report and be reported on suspicion of malpractice covering all Police employees to the National Police Agency's internal investigative panel; the institutional realm represent constrains and enabling features.

The beliefs respond (to a large extent) to coercive mechanisms of control of force and fear and follows coercive logics of being instrumentally in compliance with laws to receive organizational support and legitimacy. However it seems not that the entire functioning of the organizational actions involve laws and regulations in the institutional realm, since the representative expressed limitations of appropriate action referring to the REVA-debate and an agreement with the schools regarding not bringing children from or near school grounds. It seems not unreasonable to believe that the public and/or interest groups and the different organizational logics from various social actors have an impact on this established and maintained non-legally binding routine and practice¹⁰. This could indicate certain

¹⁰ Even though not being legally prohibited for a Police officer to search for children in or in connection to the schools the measures shall legally be taken considering the best interest of the child as it is expressed in the UN Convention on the Rights of the Child and be based on proportionality, consideration and need as principles (a discussion is found in the SOU 2007:34: 198-200). Further the National Police authority reported to media in august 2013

features of organizational practices originate normatively by appropriateness and binding expectations that are followed.

Documentation in Systems

The representative tells that it is not the Border Police who document the children but the Migration Board receiving the asylum application and if they have a pass port the Police will take it but generally they do not find any identification documents. These children are often registered the following work-day, but if they abscond during this time the Police cannot register them because they are not locked in and are free to move wherever they want during this time. The representative however expresses that children are not a large group for the Border Police and says that they search for people based on intelligence via internal border controls from private individuals, businessmen and public authorities. If they already have been registered into the system they are try to find an address, a phone number or an accommodation facility to contact.

Non-Cooperation and Coordination with Schools and Secrecy

The representative tells that there is no cooperation with the municipalities, pre-schools and schools regarding this target group, neither with the National Agency for Education or the National Schools Inspectorate. The representative argues that:

“The Police cannot take part of this type of cooperation given the new legislation [...] They have secrecy against us and are not allowed to disclose information to us when it comes to these children, so I cannot say it is possible to have cooperation either.”

The Border Police also have secrecy in the Alien’s Act and Ordinance to protect the alien against the homeland state. Further the representative brings up the Public Access and Secrecy Act’s secrecy areas differ for Schools and the Police authority. The Representative tells that:

they shall suggest that it is written in the Police own ordinance’s one ought not to enter schools or be in connection to schools to enforce decisions of deportation.

“The school and the pre-school and the Social Welfare Committee are not allowed to disclose information to us about these people if they are in their care so we shall be able to enforce them, then I cannot see it is possible to have this kind of cooperation.”

Cooperation and Co-ordination

The representative says that there is a central co-ordination unit within their organization called the Central Border Control Unit, a unit for routines. They further cooperate with the Migration Board and the Prison and Probation Service in project REVA¹¹ the Swedish acronym for Legal Certainty and Effective Enforcement. It has caused them to process enforcement decisions more uniform and they have national meeting discussing policies and praxis; there is also an external monitoring on different court cases and statements from the Office of the Chancellor of Justice (JK) and The Parliamentary Ombudsmen (JO) spread in the organization. In Project REVA they cooperate with these two agencies and children are included. All decisions of enforcements are included and tasks such as documentation, process routines and inquiries are incorporated but not the internal border controls.

5.3.3.3. Analysis of the Representative from the Migration Board

The Target Population

Similar to the representative for the Border Police in Malmö the representative for the Migration Board also express a will to classify these children in socio-legal statuses. There is a difference between those with legally binding decisions and the ones that have not, the latter represent the Open Decisions of Enforcements; not all enforcement of decisions of repatriation can be executed because in order to enforce these decisions they

¹¹ A project established after the Swedish government in 2009 gave the Migration Board, the Police agency and the Prison and Probation Service the mission to be more effective making sure more people with no legal rights to reside in the country leave Sweden.

need to have recipients in the country of repatriation concerning unaccompanied minors. The recipients in the country of repatriation can be family, relatives or social authority representatives but they must be found in order to enforce. Regarding children residing the country without a permit the representative says:

“No, we do not have any contacts with these groups. I meet all our registered children [...]. If a child absconds from the accommodation facility¹² after the legally binding decision [...] we leave the decision to the Police authority, [...] then it is not our responsibility.”

The representative says that most of the children that abscond are “Dublin Decisions” formally being registered as asylum seekers with legally binding decisions they have been refused or have had a previous time-framed residence permit e.g. a visa to visit relatives in another country. According to the Dublin Declaration the equivalent public authority in this country is responsible for their asylum application; they must deport the child to this country. The Representative tells the registered asylum seekers often come from Afghanistan, Somalia, Iraq, and Eritrea, and tells that EU-citizens are not a relevant population to talk about regarding these children since it is impossible to prove that a person did not leave the country during the three month they have free movement without a visa.

He says that a child from this group “is not so common today, not as before” referring to the decision by the European Court of Justice in May 2013 changed so as they now have the right to have their case tested if the public authority in the first European Country has never taken a decision on asylum.¹³ Before, everybody was sent back if they were found in Eurodac and were therefore larger a couple of years ago. After 18 month they can appear again because children in the “Dublin Decisions”-category then have the legal right to have a new application for asylum tested. If the asylum

¹² A temporary accommodation offered by the Migration Board for asylum-seekers during the time they are waiting for a decision on their application.

¹³ However as I have been told if they have received a time-framed residence permit that has ceased or have had a visa from an EU country they are to be sent over to this country according the Dublin Declaration. They shall process an application of asylum if no other equivalent authorities in the cooperation have notified a legally binding decision as the Migration Board’s interpretation of the court case.

seekers are rejected they have 2-4 weeks to leave. The decision is generally valid for 4 years but can be expanded to up to 5 years under certain circumstances before a new application is processed. Regarding children never been inside the asylum process he says:

“I do not have contact with them, nothing. I meet these children being register to us in the system. I meet with these children being known to us.”

Organizational Field Logic

In the same manner as the Border Police this represents instrumental logic as a belief system being in compliance with rules and laws and the mechanism is coercive. The representative tells:

“If it is important? All decisions are taken according to the Alien’s Act, all decisions and this is the basis. One cannot take a decision not based on the Alien’s Act.”

The basis of legitimacy as it is expressed is legally sanctioned and the survival of the organization in the organizational field is to follow the current regulations and also explains their renewed instrumental logic and praxis after the European Court case. In contrast to the Border Police they cooperate with they only work with voluntary repatriation. The representative told:

“But if they just refuse, we hand the decision over to the Police authority. We cannot take him or her into custody; we cannot force him [or her].”

Documentation in Internal Systems and Secrecy

The intelligence used by the Border Police has either its source from other equivalent organizations within the Schengen area in Eurodac or information created by the Migration Board representatives. The representative tells they register children as asylum seekers when the application arrives and they add it together with the finger print scan into Eurodac. Further if a child absconds from the accommodation facility this information is reported in the system as “Absconded” and the application is dismissed, but the latter only done when the decision has become legally binding after an appeal to the Migration Court and the Migration Court of Appeal has been ascertained not submitted; during this time they are not

active in the internal system but on “Stand by”. They also receive information from the Police authority regarding children that has left the country based on the passport control’s exit verification. He tells they have secrecy in relation to the people in the accommodation concerning the application; the Migration Board are not allowed to disclose information about it but the legal guardian can get all information he/she wants since the guardian represent the child as asylum seeker in relation to the public authorities involved. They are neither requesting any information from the municipality or pre-schools or schools regarding children residing in the country without a permit.

The Migration Board’s role registering asylum seekers in their internal system and pursue strategies in the asylum process is both governance and management to issue or reject claims of permits, but is also a way to create and recreate the specific socio-legal statuses as classification of individual immigrants in a Foucauldian sense. This establishes knowledge and truth as a form of disciplinary power passing normalizing judgement to correct the “abnormal” behaviours of these individuals by creating the subjects by classification of the socio-legal status. As long as the status is non-legally binding they are not classified as deportable but the Migration Board prolong in their effort on the Open Decisions of Enforcements to find recipients in the country of repatriation.

In the context of asylum seekers the normalizing judgement can be individuals not being subject for protection and hosted by the Swedish nation state. The strategies pursued in the context of Dublin Decisions is a method of control and normalizing judgement imposed by the institution of common EU policy to prolong the deadline and their deportability to 1,5 year if the migrant does not comply as their application. The application is then “Dismissed” and sent over to the Police authority. However in the form of hierarchical observation from the organizational actor’s perspective the children of clandestine entry and stay are not observable in the Migration Board’s internal systems, but based on the Border Police intelligence inflow or intelligence already registered by other equivalents in the EU cooperation; the effect of the already registered “cases” will only be realized

if these children are identified by responsible public authorities in their organizational gazes.

Cooperation and Co-ordination

They have no contact whatsoever regarding children residing in the country without a permit. Instead the matter is handed over to the Police authority if they cannot enforce a decision of deportation since they only work with voluntary repatriation. They have no contact or searching functioning as an organization regarding children without a permit or any contacts with the National Schools Inspectorate or the National Agency for Education.

The information provided by the representative also highlights the supranational EU policies in the areas of immigration and asylum. This was shown regarding the Dublin Decisions were the organization assess if the other EU-country equivalent should examine the application within 6 month. If found in Eurodac they ask these representatives about their legal status and if this country shall receive the person in accordance with the Dublin Declaration or not, but if a child abscond within this time-period they plan for the journey back and send the decision to the Police authority and renew to deadline for 1 year referring to the Return Directive implemented. Specific rules were also in effect if one absconds from the accommodation facility and if the application should be closed or not based on different stages since it differs if the decision is legally binding or not.

The ones that are not are Open Decisions of Enforcements never sent to the Police. In Jessop's (1999) conceptualization this represents an upward hollowing out of state power to the EU level as the representative refer to the Return Directive implemented in Sweden as an effort to create a common European immigration policy and the use of Eurodac and Dublin Declaration which is a part of the cooperation between EU member countries on Border and Security, as Jørgensen's (2010) research showed.

Apart from this cooperation they have Embassy coordination in Stockholm providing help to find a recipient in the country of repatriation and interactions with the courts regarding appeals. They have no contact with the Schools or pre-schools but he tells that during the time they have a

status as asylum seekers the legal guardian is handling this together with the Social Service.

5.3.4 Conceptualization of Organisational Fields

A child residing in the country without a permit is a socio-legal construct creating their deportability condition as having not legal rights for residence. This has been shown as a result of the regulated immigration policies pursued by Sweden's, the Member States and the regulated immigration policies on EU level. It is though a dynamic construct since there are specific strategies to pursue in order to change the status powers endorsed by the Migration Board or the Migration Courts (for certain categories). It works in a two-fold direction 1) the individual child can apply for asylum and change his/her former deportability condition and 2) his/her socio-legal status can change in the other direction if their application is rejected and becomes legally binding.

As the interview data provided there were no consensus or mutual awareness of the analysed organization on the aggregated level they were taking part of a common initiative nor interaction or linkages, nor cooperation or coordination patterns between the headmasters in the schools and the Migration Board's and the Border Police professionals. The belief system as institutional logics differed between the organizational actors which provide insights to logics used to legitimize their actions and survive as legitimate organizational actors; hence there is ground for a conceptualization of two organizational fields.

5.3.4.1. The Human Rights Field

The Human Rights field is conceptualized as a field of a configuration of organizations involved in realizing children's human rights, especially schooling. From a schooling context the central governmental agencies the National Agency for Education in the organizational field is responsible for administering state grants and how they are used after allocated to the accountable authority on municipal level. The Accountable authority by its

part is responsible for inspection and allocating the budget. The National Schools Inspectorate is by its part the central supervision agency responsible for inspection so as current national regulations are followed.

However as the headmaster told even though the current Swedish government and the parliament has changed the regulation by the institutional creation, the new institution did not have a strong impact as a structuration process in the micro-level school setting as the municipality had already established and maintained an existing institution several years back in time. The legislation's coercive functions from the National Schools Inspectorate and the Accountable authority are rather silent and documentation rather limited. The institution was instead maintained and brought down to the schools multiple micro-level setting and decision making framing all children's needs and regarding these children as subject of protection.

The legislation therefore has normative and cultural-cognitive qualities and leaves a sufficient amount of freedom for interpretation. Bringing the institution to life highlighting their educational rights in the realm of action by headmasters however both enable and constraining them in the institutional realm but can be seen as highly decentralized and loosely coupled with the accountable authority and central governmental agencies regarding these children. The micro-level welfare provision was enacted by the headmasters and the other professions in the schools targeted on awakened needs for an actual child. Apart from the above mentioned organizations the field involved the inner working in the micro-level setting such the School Health Service for their vaccination programmes, the school Doctor and School Nurse and the School Welfare Officer. Further the other organizations they contacted based on the needs were the Child Adolescent Psychiatry, Skåne University Hospital and the municipal public authority, organizational actors the schools were contacting based on the needs for a specific child regardless of their socio-legal status.

In Jessop's (1999) terms this can be seen as a downward hollowing out of state power in the organizations in the field since the Swedish school system in this specific context is highly decentralized with a strong polity and the state's top-down interventions characterized by government is abandoned in

favour of micro-level governance and management in the school setting. Clarke (2004) term the Dispersal state is relevant here since multiple agencies are involves in the field with sufficient numbers of micro-decision making and cooperation between public-voluntary sectors.

The institutional logic or belief system was expressed by the headmasters as all children being equal and unwillingness to categorize or classify children according to their socio-legal status as deportable. The conceptualization of Human Rights shall be interpreted normatively and cultural-cognitively since the juridical compliance and instrumental logic were not a source of organizational legitimacy. Rather the headmasters were inclusive in their beliefs highlighting norms and values of equality and equating all children alike and they had established a consensus, mutual awareness and common-sense understanding what the headmasters' specific obligations and abilities were as professional actors. These are the constraining and enabling features as legitimate social actors partaking in the organizational field. The organizational legitimacy therefore originates cultural-cognitively and normatively.

In a Foucauldian sense the classification of these children as having protected personal data can be seen as a method of control, but also as a way of creating the subjects that is needed for governance but also the welfare provisions as an object of the same. The normalizing judgement in the context of the examination of their individual "case" is subjects of protection as they classify these individuals in line with other child citizens in need of protection. Further they expressed that they would have contacted a lawyer if the situation would have been eminent even though two of the headmasters argued that they must disclose personal information if public authorities requested the information, representing constrains of the institutional realm. However there was dissimilar understanding by the headmasters regarding this legal obligation to other public authorities which can indicate that the awareness of legal duties and obligations as abilities derived from the institutional realm has not been internalized by all headmasters. One headmaster further explained a situation and a context which is not a normal procedure and approach when one shall assess to whether a report shall be sent to the Social Welfare Committee or not. They

used a number of micro-level strategies in order to protect these children from the gaze of other field participants in the Regulated Immigration field such as non-documentation, classifying the information as protected personal data etc. Further no-cooperation and co-ordination were in place with the Border Police and the Migration Board regarding these children. There had rather been established a mutual non-legally binding agreement that the Border Police and the schools should not cooperate on decisions of deportation.

5.3.4.2. The Regulated Immigration Field

The Migration Board and the Border Police are two organizations that are clustered together into the organizational field of regulated immigration which apart from them can be seen as constituted by the Prison and Probation Service, the Migration Courts, supranational organizations and EU equivalents in other European countries and the organizational field supervision agencies.

The belief system was explicitly concretized when the representatives highlighted a will to classify different categories of immigrants which is content of the institutional logic. The socio-legal construct of children residing in the country without a permit is instrumentally linked to both the Migration Board and the Border Police work as organizations, as they expressed their roles to be impartial, not taking a stand as an organization, and instrumentally being in compliance with rules and laws as sources for organizational legitimacy. From the remit answers when the Swedish National Police Authority and the Migration Board were given the right to take a stand as organizations they were negative towards the reform proposals but as the institution had been established from their perspective they instrumentally followed the innovated institution which refers to instrumental logic: an essential source for their organizational legitimacy.

The Migration Board's function in the regulated immigration field was to either reject or grant children permits for residence or in other words sort the wanted from the unwanted as the nation-state has the ultimate power to define socio-legal categories and which ones are deportable. This however

only involved those known to the organization and especially the Dublin Decision-category of children but also asylum seekers as they are of risk losing their legal status as their asylum claims can be rejected. As the legally binding decisions come into effect this creates these individuals 'deportability' condition and the Migration Board is a source of this condition.

The representatives further provided valuable insights to established patterns of interactions with other organizations in the field such as the European Court of Justice, the Swedish Migration Courts and the equivalent Migration Board organizations in other countries as Sweden cooperates on EU level in the field of Border Control and Security; they have implemented the Return Directive, are following the Dublin Declaration and use the electronic Eurodac database registering applications and finger print scans, as targets for governance. In this sense they can be seen as not only upholding the highly regulated immigration field by laws and regulation by enactment of scripts in the organizations, but also create and re-establish the subjects of non-legal residents. In a Foucauldian sense in the regulated immigration field they have the power to deploy force and establish truth as they have the power to define socio-legal categories of immigrants and pass normative judgements of voluntary repatriation or coercive measure of refusal of entry or deportation. This can be seen as normalisation judgements and a way to correct the "abnormal" behaviours of the individuals in the gaze of digital observation processing.

In contrast to the Human Rights Field the hollowing out of state power is represented by the Swedish State's power being delegated *not* downwards but upwards to supranational EU level since Sweden no longer has the same independence in formulating immigration policies which research from Jørgensen (2011) showed.

The Border Police is an organization in the organizational field that is co-ordinating and cooperating with the Migration Board, the organization with the ability to rely on legitimate coercion as they deport children refusing to comply with the short period of voluntary departure when their legally binding decisions come into effect. The REVA-project has been created with cooperation and co-ordination by also the Prison and Probation Service

enacting the policies and policing even though the later organization has not been brought into this investigation. The representatives however express they have no ability to provide intelligence of the number of children residing in the country without a permit or being effective in their search for it, given the specific limitations; in a Foucauldian sense these children escape the observational gaze of these organizations and according to Düvell (2010) represent a failure to uphold regulated immigration policy and law enforcement.

There has though been established a mutual awareness and non-legally praxis with the organizations targeted in this research in the Human Rights field and the organizations in the Regulated Immigration Field not to search for deportable children in or near school ground, nor requesting personal information of actual children from these actors despite the fact that there are no explicit prohibition in the regulations, but certain institutional realm limitations. Neither there was any cooperation or coordination found whatsoever with any organizational actor between these two fields regarding these children. The part of the hypothesis of two established fields has been realized, but the part of conflicts in the sense of them being at risk of being identified and deported realizing their schooling rights has not. A mutual awareness of not entering the schools or requesting public information, as non-cooperation, non-coordination or interaction procedures between the fields' organizational actors are in effect.

6 Conclusion

The un-reached area of the dynamic and heterogeneous population of children residing in the country without a permit and the new welfare policy implementation of granting this population tuition free access to the Swedish School system has been targeted in this research. As there were severe limitations on empirical data of these children's realization of their human rights unique empirical material in the form of official statistics were summoned. The knowledge of the number of children in the municipalities was to a large extent provided by the headmasters and pre-school heads in the 83 municipalities that applied for and received state grants. However there were some municipalities that had other professions as source of this information and some municipalities could not provide any information if they had any and a number of municipalities were clear to express limitations of the figures.

From the material 531 children were identified partaking in their operations autumn term 2013 in Sweden; the maximum amount based on these figures were 703. The figures are higher than the 450 children identified in the report of the rapid inspection from the National Schools Inspectorate by 2013 where all of the country's 290 municipalities were included. It is not unreasonable to believe the 83 municipalities as they all applied and received state grants have had most of these children. This indicates that the reform has had an effect on the target populations' realization of their schooling rights. If the "guestimates" of 2000-4000 children is valid there is a large number of children living in the countries domains without partaking in education. From the NBI figures 1471 children were classified as wanted which is a subgroup of the entire population. The summoned statistics indicates that there were a large number of these children living in the country that did not partake in education autumn term 2013.

The comparative case study of the region of Skåne and the organizations were analysed and the two organizational fields were conceptualized. Malmö city was selected in this research and 78 children identified and 117 children were expected partaking in education. Based on previous figures from Ander (2012) they expected 380 of these children living in Malmö City 2012, a third of all children in the entire country. This later can be considered falsified based on previous figures. The NBI provided figures of 188 children Wanted which is higher than the total amount in the county and if the figures of around 380 children are valid 2013 there are a large group of children not realizing their educational rights and especially for children entering and living clandestinely as the Border Police informed were a phenomenon; the headmasters also raised concerns regarding this specific group and that they did not reach out to them so as they can partake in their operations. The Migration Board by its part classified the Dublin Decision-category of failed asylum seekers as the biggest child population.

In the context of the schooling operation enhanced knowledge of practical inner workings regarding these children in the schools were found. Based on previous Swedish research the Swedish Civic Registration Number (i.e. personnummer) was a big obstacle for this population in the highly regulated digital welfare state together with the lack of stable administrative routines in the context of health care delivery. The situation was not valid in the schooling operations as micro-level strategies (or in another word scripts) were pursued giving temporal registration numbers or documentation in non-digital documentation systems which enabled them being listed as pupils to the schools. Micro-level strategies were pursued of non-documentation and regarding these children as having protected personal data constructing these children as subject of protection which is an ability of control.

The Human Rights field were conceptualized and an institution had been established many years back in time establishing and re-creating the institution in on-going institutionalization processes of structuration in the realm of action and the institutional realm. The cooperation and coordination were based of the actual need not based of any socio-legal

category with other professions in the schools and other organizational actors in other organizational field.

The belief system was found to regard all children as children regardless of socio-legal categories, inclusionary identifying citizens and “legal” residents and “deportable” children alike. A normative conception was highlighted constructing these children as subjects of protection and emphasizing normative and cultural-cognitive belief system as sources for organizational legitimacy. The governance and management were highly decentralized with coercive functions by laws and regulations rather silent both from central supervision agency level and central management in the municipality. This represents a downward hollowing out of state power and a “weak state” as the coercive functions of the laws and regulations were not eminent. There was not much co-operation and coordination with other organizational actors based on this specific socio-legal category since the belief system was inclusive defining reality of all children being equal and a maintained institution with a longer history.

In contrast to the Human Rights field the Regulated Immigration field was highly regulated and strongly institutionalized, a solid governance structure both in an between the organizational actors such as the established patterns of interaction in the project REVA, cooperation and coordination based on children’s socio-legal status. The coercive functions of laws and regulations were prominent and highly institutionalized by the organizational actors of the Migration Board and the Border Police as they defined the socio-legal categories creating the children’s deportable condition and sorted the wanted from the unwanted and pursued measures of either coercive or voluntary repatriation. The legally binding decisions of deportation that were not possible to enact by the Migration Board were sent to the Police authority.

Their sources of legitimacy were to a high degree to be in compliance with national laws and regulation and to be impartial and cooperate and coordinate with organizations in the organizational field actors in Sweden and EU equivalents. The hollowing out of state power had been delegated upwards as the Sweden has become an EU member state and the supra-national level has gained increased power in the field of immigration and

asylum but also labour market policies. Sweden takes part in the cooperation where the enactment of the Return Directive were identified as an organizational duty by these actors, the Dublin Declaration were also one of the sources of these children's deportability condition and the Eurodac database established knowledge and truth as a belief system of logic in the gaze in digital observation processing affecting the situation of these children. In relation to the Human Rights Field however, there had been established a mutual awareness not to enter school ground or be near school ground, nor trying to get access to intelligence about actual children from these organizational actor. Hence the threat and risk of being identified and deported realizing the legal schooling rights in or in connection to schooling grounds in the Skåne County can be regarded as low.

In future research as this master thesis only provided valuable knowledge and insights based on the organizational field perspective it is essential for future scientific research to get in contact with the target group directly. It is crucial to understand why they are not taking part in education as a way to understand their life-worlds given their socio-legal condition so as to understand how more children can be able to realize their human rights.

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8 Appendix

Pre-understanding (Förförståelse)

Statliga offentliga utredningar

I min litteraturgenomgång gällande frågan om de papperslösa och gömda barnen har det samlats in en samlad bild över en rad olika aspekter av fenomenet. Forskning om de papperslösa och gömdas situation i forskning i en svensk kontext är bristfällig. Detta eftersom gruppen papperslösa barn (de som aldrig gett sig till känna hos myndigheter genom att ansöka om uppehållstillstånd) samt de barn som undanhåller sig verkställighet och avvísning (gömda barn), är svår fångad. Själva anledningen till att vara papperslös är att undanhålla sig undan från myndigheterna, varför det inte finns några tillförlitliga uppgifter om det exakta antalet papperslösa och gömda barn i Sverige. Dessutom innebär den svenska lagstiftningen att asylsökande och andra grupper som ansöker om uppehållstillstånd under tiden för prövningen inte blir en del av gruppen, men i händelse av att myndigheter meddelar ett avvísnings- eller utvisningsbeslut så kan det bli ett ”nyttillskott” av antalet gömda barn. Antalet papperslösa och gömda barn är dynamiskt. Detta kan även vara en av orsakerna till varför vissa vuxna och barn inte ger sig tillkänna för myndigheten, av risken att tvingas lämna landet och risken att bli eftersökt av landets myndigheter.

I Sverige har frågan om asylsökande barns rätt till utbildning samt barn som undanhåller sig verkställighet av avvísnings och utvisningsbeslut varit föremål för flertalet statliga offentliga utredningar. I SOU 2007:34 *Skolgång för barn som ska avvisas eller utvisas utreds de gömda barnens situation* men, de papperslösa barnen omfattas inte av utredningen. Detta eftersom den dåvarande Socialdemokratiska regeringen inte omfattade gruppen i deras direktiv till utredningen. En diskussion om detta förs i rapporten nämnd enligt ovan.

Detta var en av orsakerna till att den nyttillträdde borgerliga regeringen valde att tillsätta en ny utredning som komplement till den tidigare, för att även inkludera denna målgrupp: de papperslösa barnen. I SOU 2010:5 *Skolgång för alla barn* inkluderas även dessa barn och de lämnar förslag till hur samtliga barn, med reservation för de barn som befinner sig endast mycket begränsad tid i landet ska omfattas av rätten till utbildning i det svenska skolväsendet. Utredningen valde även att inkludera enskilda huvudmän, dvs sk. friskolor i denna rätt och lämnar förslag till hur finansieringen praktiskt ska kunna genomföras. I de utredningar som ligger till grund för det senare lagförslaget nämner alla att Sverige har en reglerad invandring och det är viktigt att landets invånare har tillstånd att vistas i landet. En avvägning görs mellan asylpolitiken och Sveriges upprätthållande av reglerad invandring å sin sida och de mänskliga rättigheterna och Sveriges internationella åtaganden om att följa barnkonventionen. I Sverige har det tillsatts en

barnrättskommitté som har lämnat sina synpunkter och en upptrappning i ansvaret för att se till så att barnkonventionen följs. FN:s barnrättskommitté har även lämnat rekommendationer efter de rapporter som regeringen lämnat om hur barns rättigheter garanteras inom landets domäner. Vissa lagändringar har genomförts, en barnombudsman inrättats samt på senare tid även statliga offentliga utredningar som föreslagit en utvidgad grupp av barn som har rätt till det svenska skolväsendet.

I Regeringens proposition 2012/13:58 *Utbildning för barn som vistas i landet utan tillstånd* föreslås att papperslösa och gömda barn ska ha rätt att gå i skolan, från förskoleklass, de obligatoriska skolformerna samt gymnasieskolan fram till dess att barnet fyllt 18 år. Barnen bör även få gå kvar i skolan efter detta datum, även om det inte finns någon särskild lagreglering av denna rätt. Vidare föreslås i linje med de tidigare utredningarna att ingen skolplikt ska utgå för dessa barn eftersom det skulle vara praktiskt ogenomförbart för landets kommuner. De hade i sådana fall tvingats eftersöka familjer och barn som inte har laglig rätt att vistas i landet och deras skolpliktsbevakning hade medfört många praktiska problem. I Utbildningsutskottets och socialförsäkringsutskottets betänkanden om propositionen ställer sig båda utskotten positiva till lagförslaget, men det lämnas in två motioner, en från Sverigedemokraterna och ett urval av dess ledamöter, samt från Vänsterpartiet. Endast Sverigedemokraterna ställer sig kategoriskt emot lagförslaget som de anser står i strid med principen om reglerad invandring. I riksdagen röstar en bred majoritet för lagförslaget, endast 18 är däremot, samtliga ledamöter från Sverigedemokraterna.

Statlig styrning av de olika centrala myndigheterna

Inför det praktiska genomförandet av studien har styrningen från regeringen, via departementen och landets myndigheter undersökts. Av vad jag har fått fram är att två av de undersökta myndigheterna, närmare bestämt Migrationsverket och Polismyndigheterna sorteras inom justitiedepartementens domäner i vilken justitiefrågor och migrationsfrågor återfinns. Dessa myndigheter har genom de olika styrdokumenterna som finns skyldighet att upprätthålla reglerad invandring, bevilja uppehållstillstånd och följa migrationspolitiken samt verkställa beslut om avvisning och utvisning. De har fått uppdraget att bli mer effektiva gällande detta, varför REVA-projektet, ett samarbete mellan Migrationsverket, Polisen och Kriminalvården upprättats.

De andra myndigheterna, närmare bestämt Skolinspektionen och Skolverket är andra myndigheter som ska granska och bistå kommuner, samt implementera regeringens reformer inom utbildningsområdet. De sorteras inom utbildningsdepartementet och återfinns därför inom en annan domän med skiftande uppdrag. I uppdraget ska rätten till utbildning för barn som vistas i landet olovligen garanteras, vilket rent praktiskt faller på kommunala skolhuvudmän och enskilda skolhuvudmän. Skolinspektionen är tillsynsmyndighet för skolväsendet som ska se till att skolhuvudmännen och dess verksamheter följer sitt uppdrag inom området. Samma område faller även på kommunerna som ska ha en god kunskap om hur verksamheten bedrivs och hur rättigheterna och skyldigheterna garanteras. Det är kommunfullmäktige och kommunala nämnder och kommunens

förvaltningar som granskar deras egen verksamhet och får hjälp av bland annat Skolverket för detta företag.

Rapporter

En relativt aktuell rapport kommer från Skolinspektionen, en statlig tillsynsmyndighet för den svenska skolan. I Skolinspektionens rapport Asylsökande barns rätt till utbildning, publicerad den 25 juni 2013 har en flygande inspektion genomförts för att få en överblick över det specifika granskningsområdet. Samtliga av landets så 290 kommuner valdes ut, och deltog i inspektionen med reservation för fyra kommuner som av en eller annan anledning inte medverkade. I rapporten har inte enbart asylsökande barn varit föremål för granskning utan även de papperslösa och gömda barnen. Resultaten visade på att utbildningssituationen sammantaget var sämre för asylsökande barn än andra barn och att endast 450 av de uppskattningsvis 2000-4000 papperslösa och gömda barn var kända av kommunerna och deltog i utbildning. Många kommuner hade inte reflekterat över innebörden i vad lagstiftningen medför rent praktiskt, även om flertalet kommuner var positivt inställda till att ta emot dem. I rapporten uppskattas antalet papperslösa till 2000-3000 eftersom de inte ansökt om uppehållstillstånd och registrerats hos Migrationsverket enligt Socialstyrelsens siffror; därutöver uppskattades antalet gömda barn som fått avvisnings- och utvisningsbeslut till 1 500 enligt uppskattningar från Bremer & Brendler-Lindquist från 2004.

De menar i likhet med tidigare utredningar och rapporter att på grund av att de inte har skolplikt kan detta medföra att alla som har rätt i utbildning kanske inte deltar i utbildning av olika skäl. Antalet asylsökande barn och antalet barn som de facto deltar i utbildning behöver inte vara överlappande. Enligt siffror från Skolverket var det ca 3800 asylsökande barn som inte deltog i utbildning medan Migrationsverket uppgav att 5 200 barn i grundskoleåldern var klassade som asylsökande. Detta innebär alltså vid en jämförelse att ca 1400 barn inte deltog i utbildning trots att de har rätt till det. Tidigare rapporter från Skolverket synliggör detta faktum.

En rad olika problem gällande de papperslösa och gömda barn rapporteras och diskuteras i Skolinspektionens rapport, bland annat att Migrationsverket inte har någon rapporteringsskyldighet till kommuner om att asylsökande barn vistas i kommunen. Vidare uppger de att uppgifterna omfattas av sekretess vilket endast kan brytas om personen ger sitt medgivande till det, även om migrationsverket erbjuder möjlighet att förmedla dessa uppgifter till de kommuner som har en laglig skyldighet att erbjuda barnen utbildning. Skolinspektionen menar att ”följden är att det kan finnas barn som förblir okända, särskilt om det inte finns en central samordning kring barnen i en kommun.”.

Resultatet från kommunerna visar att det är endast 9 procent som inte har några asylsökande barn och 63 procent av landets kommuner eller 182 stycken har asylsökande barn i grund- och gymnasieskolan. 84 procent av kommunerna kunde inte uppge hur många asylsökande barn som vistades i kommunen vid en given tidpunkt, 36 procent av kommunerna erbjöd papperslösa och gömda barn utbildning, 40 procent visste inte om de hade några, 18 procent ansåg det inte vara relevant eller inte behövde ta ställning, 4 procent hade inga och 2 procent av kommunerna visste inte. Vidare hade

endast 12 procent förberett sig för lagändringen, 44 procent hade inte det, 40 procent hade inte det eftersom de redan idag erbjöd gruppen utbildning varav 5 procent inte visste. En del av kommunerna har efterfrågat nationella riktlinjer hur de ska hantera barnens livssituation och vad detta innebär för deras skolgång. Vissa kommuner hade börjat informera om de nya bestämmelserna, vissa kommuner ändrade styrdokument för att inkludera målgruppen och ett fåtal kommuner bestämt hur gruppen ska registreras i registren samt infört rutiner för betygssättning.

Skolinspektionen menar att det finns indikatorer på att det i många av landets kommuner saknas en samlad och central kunskap om de asylsökande barnen. Flera av landets kommuner har vidare en låg grad av samverkan mellan förvaltningar för olika skolformer, vilket gör att det är svårt på kommunnivå att uppge den information som efterfrågas. Vissa kommuner gör inte någon åtskillnad mellan barnen vilket innebär att de var tvungna att ta fram informationen inför granskningen. Problemet enligt Skolinspektionen är att de samtidigt måste säkerställa erbjudandet om utbildning för alla barn, och en risk uppstår att de inte fullgör sin skolpliktsbevakning för de elever som fått uppehållstillstånd (alltså tidigare asylsökande som meddelats uppehållstillstånd).

Rapport från Malmö stad

Utöver de centrala myndigheternas rapporter har Malmö stad på eget initiativ skrivit en rapport 23 juni 2012, *Nyanlända barn i Malmö – En kartläggning av demografi och organisation av mottagande*. Det är en vetenskaplig underlagsrapport med syfte att ”få till stånd en bred diskussion och medverkan kring kommissionens olika frågeställningar om hur skillnader i hälsa ska kunna minska i Malmö”. Rapporten lämnades till kommunstyrelsen i december 2012 för vad som kallas

Malmökommissionen. I rapporten berörs fenomenet om papperslösa barn ur en rad olika aspekter, därvid förskola och skola. Enligt rapporten finns det inga tillförlitliga siffror på antalet papperslösa i kommunen, men en siffra som uppgetts är att det finns ca 380 papperslösa (och gömda barn eftersom de använder begreppet slarvigt). 60 procent av denna grupp har fått avslag på sin asylansökan medan 40 procent inte ansökt om uppehållstillstånd hos Migrationsverket. Det uppskattas att ca en tredjedel av det totala antalet papperslösa finns i Malmö. Enligt denna beräkning innebär det att det finns 1152 stycken i hela Sverige. I andra beräkningar antas siffran vara mellan 3000-4000 papperslösa och gömda barn. De menar att utomeuropeiska barn inom gruppen inte är så stor i Malmö, utan att de flesta kommer från östeuropa, särskilt romer från Serbien. För den utomeuropeiska andelen antas de flesta komma från Somalia och Afghanistan. De beskriver hur mottagandet ser ut för asylsökande barn, där de beskriver Migrationsverket motagningsenhet i Malmö. Nu har arbetsuppgifterna lagts ut på alla asylhandläggare, efter att tidigare ha haft en speciell barnhandläggare. Situationen för ensamkommande asylsökande barn skiljer sig från andra, då de anvisas lediga platser i anvisningskommunerna. Handläggningstiderna har förkortats och ska i genomsnitt vara 3 månader. Det finns tre transitboende för ensamkommande flyktingbarn, socialtjänsten bestämmer var barnet ska bo för de som kommer utan föräldrar. Om barnet har släktingar i Sverige och vill bo där måste socialtjänsten godkänna detta. Det

finns anläggningsboenden (ABO) och eget boende (EBO) för barn i familj. Specifikt gällande situationen för papperslösa och gömda barn innebär det att barn i familj och ensamkommande barn ofta tvingas flytta runt. De har endast tillgång till svarta kontrakt och kan vara ganska avskärmade eftersom de inte alltid har rätt att ha kompisar i hemmet, saknar leksaker och är rädda för att vistas utomhus på grund av hög polisnärvaro i områdena när de bor.

Förskola och skola

Det finns en samordnad registrering för utländska barn i grundskolan (1-9), både kommunplacerade asylsökande barn, barn med tidsbegränsat uppehållstillstånd samt barn med permanent uppehållstillstånd. Papperslösa och gömda barn ingår inte i registreringen år 2012. Registreringen sker på Modersmålsenheten/Inskrivningen vid Malmö stad. Inskrivningen av asylsökande barn sker genom att de får kontaktuppgifter från Migrationsverket och skickar då kallelse till familjen. Barnet kommer till Modersmålsenheten tillsammans med vårdnadshavare och träffar biträdande rektor. Uppgifter tas om var familjen bor, hur länge barnet gått i skolan, språk m.m och kontaktar sedan skola med förberedelseklass i det närområde barnet bor. De träffar även en skolsköterska för hälsosamtal.

Det kan dröja upp till fyra veckor innan de får börja. Barnet börjar i förberedelseklass men får även gå i ”vanlig” klass. 9 av 10 av de asylsökande barnen som Modersmålsenheten kallar börjar skolan. För ensamkommande asylsökande barn i grundskolan finns det en särskild skola; Västra kanalskolan. Eleven går i snitt fyra månader på Västra kanalskolan, och läser under denna tid svenska, matematik, vissa NO-ämnen samt i mån av tid även hälsokunskap. Skolan har 48 platser och det var år 2012 15 barn inskrivna. Det finns även språkintröduktion (SPR) där eleven studerar SVA, matematik samhällskunskap och idrott och bild. SPR samordnas på Frans Suell och Jören Kocks gymnasium. SPR har intag en dag per vecka för asylsökande, övriga elever tas emot under veckans alla fem arbetsdagar.

Administration av papperslösa och gömda barn

Det finns ingen nedskrivnen policy för papperslösa barns rätt till skolgång men det finns en praxis att ta emot papperslösa och gömda barn som ger sig till känna, för rektorer. Rektorn har ansvaret för att ta emot de papperslösa och gömda barnen på respektive skola. Det finns en överenskommelse mellan Socialdemokraterna, Vänsterpartiet och Miljöpartiet om att ”Malmö ska erbjuda papperslösa barn skola, förskola och skolbarnomsorg”.

Överenskommelsen är en del i det politiska samarbetet under mandatperioden 2010-2014. På Västra kanalskolan den skola som tar emot ensamkommande asylsökande barn har uppfattningen att rektorer är generellt positiva till att ta emot gruppen. Asylgruppen delar den bilden. Det är enklare att fortsätta gå i skolan för de som får avslag på sin asylansökan för barnen, än att börja skolan för de som inte redan får utbildning i kommunen, exempelvis de som kommer från närliggande kommuner. Det är problematiskt att det endast är en praxis att papperslösa och gömda barn ska gå i skolan. Det är upp till varje enskild rektors goda vilja att erbjuda dem skolgång 2012. Det finns även en risk om osäkerhet och brist på erfarenhet

hos rektorer om frågan om barns rätt till skolgång, det kan leda till att rektorer säger nej till barnen.

Ett problem som handlade om ekonomi, om att skolpengen endast gäller för de som lagligen har rätt att vistas i landet lyfts fram. Det finns kostnader som inte täcks i budgeten för dessa barn, inklusive busskort. För gymnasieskolan betalar utbildningsförvaltningen ut skolpeng för papperslösa barn. Det finns ett behov att göra skolan till en skyddad zon. Det är en risk för både faktisk osäkerhet och upplevd osäkerhet för denna grupp barn.

Problem om registrering för förskolan då papperslösa och gömda barn saknar de fyra sista siffrorna i ett personnummer. Öppen förskola kan vara ett alternativ. I reflektionsavsnittet i rapporten menar det att det är ett problem att beslutet att ge papperslösa tillgång till förskola och skola ligger på rektorn, eftersom hen kanske inte alltid har tillräcklig erfarenhet och risken att hen säger nej.

De föreslår att konkret information om hur inskrivning går till upprättas, handlingsplan för inskrivningsrutiner, individuell utvecklingsplan, skolhälsa och vaccinering osv, samt att det inte är olagligt att papperslösa och gömda barn går i skola.

Allmän handling från Skolverket

Jag har varit i kontakt med Hasanko Sato som arbetar på Utvecklingsavdelningen, Statsbidragenheten i Stockholm som har hand om inrapporteringen av statsbidrag för barn som vistas i landet utan tillstånd. Efter begäran om att få ta del av allmän handlingar har jag fått ta del av Malmö stads redovisning av hur statsbidraget har använts. Malmö stad beviljades 4 629 033 kronor i statsbidrag höstterminen 2013 och har uppgett att de har haft kostnader för 78 barn. I redovisningen framgår som en lämnad kommentar att det egentliga antalet papperslösa och gömda barn är betydligt fler än de uppgifter som rapporterats in. De beskriver att hälften av barnen har rapporterats in via rektorer och administratörer till ekonomiavdelningen i respektive förvaltning. De gör bedömningen att det faktiska antalet papperslösa är 50 procent fler (alltså 117 stycken) och uppger att ett skäl kan vara att de är oroliga för att rapportera in uppgifter om dessa barn, men även andra orsaker utesluts inte. Den allmänna handlingen har Dnr 2013.423, Kommunkod 1280, Malmö stad.

Vetenskaplig forskning

Av de eftersökningar jag har gjort gällande de papperslösa och gömda barnens rätt till utbildning i det svenska skolväsendet har jag inte hittat någon direkt forskning som berör en svensk kontext rent praktiskt. I ett examensarbete från Göteborgs universitet berörs papperslösa barn i den svenska skolan, barnkonventionen och den svenska skolans förhållningssätt till dessa barn. Vad som inte har hittats är vetenskapliga studier om hur landets kommuner och andra skolhuvudmän ger barnen tillträde till den svenska skolan. En rad olika studier berör gruppen asylsökande barns rätt till utbildning i det svenska skolväsendet, och en sammanställning från Sieps, Svenska institutet för europeiska studier har gjort en sammanställning forskning för irreguljära migranter utifrån olika vetenskapliga perspektiv för denna specifika målgrupp. Vad som saknats är empiriska studier över hur

organisatoriska aktörer ger målgruppen tillträde till utbildningssystemet samt hur de praktiskt tillämpar den.

Interview guides (English versions: translated)

Interview guide – Headmasters with headmaster responsibilities

Some opening words about the purpose with the interview and how it is structured. Touch upon the question of anonymity/confidentiality and get informed consent (Is it okay if I record?)

Theme 1: Practical work on the school and the role as head master

- Can you tell me about your job tasks as head master?
- What type of school is this?
- Which children are children residing in the country without a permit (hidden and undocumented children)
- Do you as a head master have information on the school if children are children residing in the country without a permit?
- Have you formerly received children residing in the country without a permit (undocumented and hidden children)?
- Do you have undocumented and hidden children in the school at the moment?
- Can you tell me what education you offer the children?
 - o Mother tongue tuition, tutoring assistance in mother tongue?

Theme 2: Information about the issue

- What legal responsibilities do you have in relation to children residing in the country without a permit? (undocumented migrant children and hidden children)?
- What has changed with the new legislation?
- Do you find the new legislation is important, and in that case why?
- Do you think you have enough information as Head master when it comes to responsibilities for these children?
- Have you participated in any education or received information about the issue?
- Are the teachers in their profession aware of their responsibilities in principle giving these children the right to education the same way as other children?
- Does the new legislation result in any problems?
 - o Is it a problem that these children are not having compulsory school attendance?

Theme 3: Documentation and internal control

- Can you tell me practically, how does it work when the children arrive (the first time) to the School?
- How do you, as headmaster, gain knowledge if the children have legal rights to reside in the country or reside in the country without a permit?
 - o How do you get this information?

- Are there routines, action plans or praxis in the School when it comes to these children?
 - o How do/does it/they look like?
 - o When it comes to applications, do you make exceptions from common routines for these children?
 - o How does it look like when it comes to documentation?
- What problems are there when it comes to documentation for these children?
- Do you have any praxis when it comes to protection against the Police authority?
 - o For example if the Police authority contact you?
 - o If they are refused entry or expelled in and in connection to the School?
- What professional secrecy and secrecy do you have when you practically work with these children?
- You have sometimes an obligation to notify the Social Welfare Committee, has it occurred sometimes you have reported to the Social Welfare Committee after you have been notified about or if you are suspecting a child residing in the country without a permit to be suffering?
 - Do you as Head Master and the teachers have knowledge that the Social Welfare Committee has an obligation to, under certain circumstances, notify a public authority about these children, if a public authority on a direct request want information about a specific child?
 - o Is there a worry on the school about this?
 - If yes, what?

Theme 4: Cooperation and co-ordination

- When it comes to cooperation within the municipality, are there any central co-ordination in the issue you know about?
- Which ones in the municipality have you contact with in this issue?
 - o Contact between Headmasters in the issue?
 - o Educational director?
- How does the contact and cooperation look like?
- Is it clear who is responsible for what?
- Except municipal cooperation, what other organizations or public authorities are you cooperating with?
 - Is there any contact with the Swedish National Agency for Education and the National School Inspectorate in the issue?
 - o Can you tell me how it looks like concretely?
 - Do you have any contact with the Swedish Migration Board?
 - o Can you tell me concretely how it looks like?
 - o Do you receive information about asylum seeking children residing in the municipality from them?

- If they get a decision on refused entry or expulsion from Sweden?
- Do you have any contact with the Police authority when it comes to children residing in the country without a permit?
- Are they contacting you sometimes, or do you get any information from them?

Theme 5: External control and sanctions

- Which ones are responsible to follow-up so you follow the law?
- Are you being inspected by the municipality so you follow the legislation?
- From other public authorities?
- Do you view the inspectors as "present"?
- What happens if you do not follow the law or other regulation?
- When should you contact a lawyer when it involves these children?
- Why should you contact?
- Does it happen sometimes the Police authority or the Migration board contact you involving these children?
- Has it ever happened?
- Have you been involved in a situation where a child residing in the country without a permit has been taken in by the Police authority in or in connection to the school?
- Are there any worries for you a Head master or among the teachers concerning this?

Theme 6: Compensation

- Have things changed now when you get (economic) compensation for children residing in the country without a permit, via the state grants?
- In what way?
- The municipality did get over 4 million, did it involve any difficulties when you shall state the number of children to the accountable authority representative within the municipality?

Theme 7: Last question

- Do you have anything else to add?

Sum up: Thank for the head masters time. Ask the question if I am allowed to return if I have any follow-up questions. Ask if he/she will take part of the results of my thesis when it is finished. Ask for his e-mail address if he will take part of the results.

Interview guide for the Border Police in Malmö

Some opening words about the purpose with the interview and how it is structured. Touch upon the question of confidentiality and get informed consent (Is it okay if I record?)

Theme 1: Practical work on the Border Police and organizational roles

- Can you tell me about your job tasks as employee at the Border Police?
- What type of organization is this?

- Can you describe which children are children residing in the country without a permit?
- How do you practically work with the question concerning children residing in the country without a permit at the Border Police?
 - o Are there any differences in your work when it comes to adults and children residing in the country without a permit?
 - o Are there any problem in your work concerning undocumented children, thus children never applied for a residence permit and children with a negative decision on residence permit that are to be enforced?
- Has the work been change the last time?

Theme 2: Information about the issue

- What is your role as a public authority in relation to this target group?
- What obligations do you have as an organization according to the legislation in relation to children residing in the country without a permit?
- Do you find the legislation important?
 - o You shall uphold the internal border control and protect asylum rights?
 - o Sweden has regulated immigration and you shall enforce decisions of refusal of entry with immediate effect and deportation?

Theme 3: Legislation school context

- What do you think about that children that reside in the country without permission get access to education even though they have no legal right to reside in the country?
- Do you in the Border Police think it is important children residing in the country without permission get access to education on the same way as other children?
 - o Why/why not?
- Do you on the Border Police side any organizational interest of these children getting access to education in Sweden?
 - o For example, preventing crime and to make sure they do not end among criminals?
- Is your work affected by these children having legal right to education since the middle of 2013?
- What possibilities do you have according to legislation to search for and take children from or in connection to the school?
 - o Are you contacting the schools or municipalities sometimes to search for or getting information about these children?
 - o Are you following the Swedish National Police Boards recommendation not searching for children in or in connection to the school?
- Does the new school legislation result in any problem?

- The former obligation for the Social Welfare Committee and the Educational Board according to the Aliens Ordinance (2006:97) to notify for instance the Police authority about these children has ceased, is this a problem?

Theme 4: Documentation and internal control

- Can you tell me practically how you work when it comes to children residing in the country without a permit in the Border Police, having no legal right to reside in the country?
 - How do you document these children, for instance in your system, can you tell me how it looks like?
- Are there any routines, action plans or praxis within the public authority on how one should work when it comes to these children?
 - Are there any Ordinances, public suggestions or circular messages when it comes to this target group?
- Do you in the Border Police have information about how many children residing in the country without a permit?
 - In Skåne/the country?
 - Why is that?
- How do you get information about children having no legal rights to reside in the country?
 - Do you gain knowledge on the group of children never notified the countries public authorities, for instance if they have never applied for residence permit at the Migration Board?
 - Why or which ones give you this information?
- How do you make sure people without legal rights to reside in the country actually are leaving the country?

Theme 5: Cooperation and coordination

- Is there any central cooperation within the Police in the issue of children residing in the country without a permit you know about?
 - Can you tell me how it looks like?
- Are there any cooperation between you and other public authorities when it comes to enforcing decisions of refusal of entry and deportation?
 - Can you tell me how it looks like?
 - Can you tell me how the contact and cooperation looks like?
- When it comes to Project REVA, are these children covered by the project between the public authorities?
 - In what you?
 - How does it look like?
- In some municipalities there are cooperation between pre-schools, schools and the Social Service and the Police when it comes to the issue of families and children living in hiding, do you have this type of cooperation in Skåne?

- Why/why not?
- Are you cooperating with the municipalities in Skåne in the question somehow?
- Are there any cooperation between you, the National Agency for Education and The National Schools Inspectorate in this issue?
- Do you consider you having enough authority when it comes to upholding the internal Border Control or does the current legislation result in any problems?

Theme 6: External control and sanctions

- Whom or which ones have the responsibility for follow-ups so you follow the legislation concerning these children?
- Are you inspected by other public authorities in this issue?
- Can you develop?
- Are there any inspections within the Police authority so as you follow laws and other regulations?
- The National Police Board have as one of their tasks an inspecting role over the Police authority, are they inspecting you?
- Can you develop?
- What would happen if you do not follow the law or regulation concerning children residing in the country without a permit?
- When should you contact a lawyer in an issue concerning children residing in the country without a permit?

Theme 7: Compensation

- Can you tell me how the Border Police allocation to enforcements of decisions of refusal of entry or deportation looks like?
- Do you get compensation to search for and to enforce decisions of refusal of entry and deportation for especially children?
- Do you get compensation generally?

Theme 8: Last question

- Do you have anything to add?

Sum up: Thank him/her for him/her time. Ask the question if I am allowed to return if I have any follow-up questions.

Interview guide – representative from the Migration Board in Malmö

Some opening words about the purpose with the interview and how it is structured. Touch upon the question of anonymity/confidentiality and get informed consent (Is it okay if I record?)

Theme 1: Practical work in the Migration Board and organizational roles

- Can you tell me about your job tasks as employee at the Migration Board?
- What type of organization is this?
- Can you describe which children are children residing in the country without a permit?
- How do you practically work with the question concerning children residing in the country without a permit at the Migration Board?
 - o Are there any differences in your work when it comes to children that never have applied for a permit and children that has received a negative decision on their application that are to be enforced?
 - o Is there any difference in your work when it comes to adults and children residing in the country without a permit?
- Has the work been changed recently?

Theme 2: Information about the issue

- What is your role as a public authority in relation to this target group?
- What obligations do you have as an organization according to the legislation in relation to children residing in the country without a permit?
- Do you find the new legislation important?
 - o You shall decide if children has legal rights to reside in the country and defend the asylum rights?
 - o Sweden has regulated immigration and you shall decide if children has legal rights to reside in the country or send over the decisions of enforcements to the Police authority?

Theme 3: Legislation school context

- What do you think about that children that reside in the country without permission get access to education even though they have no legal right to reside in the country?
 - Do you in the Migration Board think it is important children residing in the country without permission get access to education on the same way as other children?
 - o Why/why not?
- Do you on the Migration Board side have any organizational interest of these children getting access to education in Sweden?
 - o For example, preventing crime and to make sure they do not end among criminals?

- Is your work affected by these children having legal right to education since the middle of 2013?
 - o Are you contacting the schools or municipalities sometimes to search for or getting information about these children?
- Does the new school legislation result in any problem?
 - o The former obligation for the Social Welfare Committee and the Educational Board according to the Aliens Ordinance (2006:97) to notify for instance the Police authority and the Migration Board regarding these children has ceased, is this a problem?

Theme 4: Documentation and internal control

- Can you tell me practically how you work when it comes to children residing in the country without a permit in the Migration Board, having no legal right to reside in the country?
 - o How do you document these children, for instance in your system, can you tell me how it looks like?
- Are there any written routines, action plans or praxis within the public authority on how one should work when it comes to these children?
 - o Are there any Laws, Ordinances, public suggestions or circular messages when it comes to this target group?
- Do you in the Migration Board have information about how many children residing in the country without a permit?
 - o In Skåne/the country?
 - o Why is that?
- How do you get information about children having no legal right to reside in the country?
- Do you gain knowledge on the group of children never notified the countries public authorities, for instance if they have never applied for residence permit at the Migration Board?
 - o Who or which ones give you this information?
- How do you make sure people residing in the country without a permit actually leave the country?

Theme 5: Cooperation and coordination

- Is there any central coordination within the Migration Board in the issue of children residing in the country without a permit you know about?
 - o Can you tell me how it looks like?
- Are there any cooperation between you and other public authorities when it comes to enforcing decisions of refusal of entry and deportation?
 - o Can you tell me how it looks like?
 - o Can you tell me how the contact and cooperation looks like?
- When it comes to Project REVA, are these children covered by the project between the public authorities?
 - o In what way?

- How does it look like?
- Do you cooperate with the municipalities in Skåne in any way?
- Are you cooperating with you, the National Agency for Education and the National Schools Inspectorate in this issue?
- Do you think you have enough authority when it comes to this work with these children or does to current legislation result in any problems?

Theme 6: External control and sanctions

- Whom or which ones have the responsibility for follow-ups so as you follow the legislation concerning these children?
- Are you inspected by other public authorities in this issue?
- Can you develop?
- Are there any inspections within the Migration Board so as you follow laws and other regulations?
- Can you develop?
- What would happen if you do not follow the law or regulation concerning children residing in the country without a permit?
- When should you contact a lawyer in an issue concerning children residing in the country without a permit?

Theme 8: Last question

- Do you have anything to add?

Sum up: Thank for the representatives time. Ask the question if I am allowed to return if I have any follow-up questions.

10.1.1. Interview Guides (Swedish versions: original)

Intervjuguide - rektorer med rektorsansvar

Några inledande ord om syftet med intervjun och hur den kommer vara upplagd. Berör frågan om anonymitet och få informerat samtycke. (Är det okej om jag spelar in?)

Tema 1: Praktiskt arbete om skolan och rollen som rektor

- Kan du berätta för mig om dina arbetsuppgifter som rektor?
- Vad är det här för en skola?
- Vilka barn är barn som vistas i landet olovligen (gömda och papperslösa barn)?
- Har du som rektor information på skolan om barnen som går här vistas i landet olovligen?
- Har ni tidigare tagit emot barn som vistas i landet olovligen (papperslösa och gömda barn)?
- Går det papperslösa och gömda barn på skolan nu?
- Kan du berätta för mig utbildning erbjuder ni barnen?
- o (Modersmålsundervisning, studiehandledning på modersmålet)?

Tema 2: Information om sakfrågan

- Vilka skyldigheter har ni enligt lagstiftningen i förhållande till de barn som vistas i landet olovligen (de papperslösa och gömda barnen)?
- Vad har förändrats med den nya lagstiftningen?
- Anser du att den nya lagstiftningen är viktig och varför i sådana fall?
- Anser du att du har tillräcklig information som rektor när det gäller skyldigheter för de här barnen?
- Har du deltagit i någon utbildning eller fått information om sakfrågan?
- Är lärarna införstådda med sina skyldigheter att i sitt yrke ge de här barnen rätt till utbildning på i princip samma sätt som andra barn?
- Medför lagstiftningen några problem?
- o Medför det några problem att barnen inte har skolplikt?

Tema 3: Dokumentation och intern kontroll

- Kan du berätta för mig rent praktiskt hur det går till när barnen kommer till skolan?
- Hur får du som rektor vetskap om barnen har laglig rätt att vistas i landet eller vistas här olovligen?
- o Hur får ni den informationen?
- Finns det rutiner, handlingsplaner eller praxis på skolan när det gäller de här barnen?
- o Hur ser den/de ut?
- o När det gäller ansökan, gör ni avsteg från sedvanliga rutiner för de här barnen?
- o Hur ser det ut med dokumentation?

- Vilka problem finns det när det gäller dokumentation för de här barnen?
- Har ni någon praxis när det gäller skydd mot polisen?
 - o tex om polisen skulle kontakta er
 - o om de skulle bli avvisade eller utvisade i eller i anslutning till skolan?
- Vad har ni för tystnadsplikt och sekretess när ni rent praktiskt jobbar med de här barnen?
- Ni har ibland underrättelseskyldighet till Socialnämnden, har det hänt någon gång att ni anmält till socialnämnden efter att ni fått vetskap om eller misstänker att ett barn som vistas i landet olovligen far illa?
 - o Har du som rektor och lärarna kunskap om att Socialnämnden ibland kan tvingas lämna ut uppgifter om dessa barn om en myndighet på en direkt begär vill få uppgifter om ett specifikt barn?
 - o Finns det en oro på skolan om detta?
 - Om ja, vilka?

Tema 4: Samarbete och samordning

- När det gäller samarbete inom kommunen, finns det någon central samordning i frågan som du känner till?
- Vilka i kommunen har ni kontakt med i frågan?
 - o Kontakt rektorer emellan, utbildningschefer?
- Hur ser kontakten och samarbetet ut?
- Är det tydligt vem som är ansvarig för vad?
- Utöver kommunalt samarbete i frågan, vilka andra organisationer eller myndigheter samarbetar ni med?
- Finns det någon kontakt med Skolverket och Skolinspektionen i frågan?
 - o Kan du berätta rent konkret hur den ser ut?
- Har ni någon kontakt med Migrationsverket?
 - o Kan du berätta rent konkret hur den ser ut?
 - o Får ni uppgifter om asylsökande barn som vistas i kommunen vistas i kommunen av dem? ...
 - o Om de får beslut om avvisning eller utvisning från Sverige?
- Har ni någon kontakt med Polisen gällande de papperslösa och gömda barnen?
 - o Kontaktar de er ibland, eller får ni någon information från dem?

Tema 5: Extern kontroll och sanktioner

- Vilka ansvar för att följa upp så ni följer lagen?
- Granskas ni inom kommunen så ni följer lagstiftningen?
- Av andra myndigheter?
- Anser du granskarna vara ”närvarande”?
- Vad händer om ni inte följer lagen eller annat regelverk?

- När skulle du kontakta en jurist när det gäller dessa barn?
- Vem skulle du kontakta?
- Händer det ibland att Polisen eller Migrationsverket kontaktar er gällande de här barnen?
- Har det hänt någon gång?
- Har ni befunnit er i en situation där ett barn som vistas i landet olovligt blivit hämtad av Polis i eller i anslutning till skolan?
- Finns det en oro hos dig som rektor eller bland lärarna gällande det här?

Tema 6: Ersättning

- Har det skett någon förändring nu när ni får ersättning för barn som vistas i landet olovligt genom statsbidragen?
- På vilket sätt?
- Kommunen fick över 4 miljoner, har det medfört några svårigheter när ni ska uppge antalet barn till huvudmannens representant inom kommunen?

Tema 7: Avslutande fråga.

- Har du något mer att tillägga?

Avslut: Tacka för rektorns tid. Ställ frågan om jag får lov att återkomma om jag har några följdfrågor.

10.1.2. Intervjuguide Gränspolisen i Malmö

Några inledande ord om syftet med intervjun och hur den kommer vara upplagd. Berör frågan om anonymitet och få informerat samtycke. Går det bra att jag spelar in?

Tema 1: Praktiskt arbete på gränspolisen och organisatoriska roller

- Kan du berätta för mig om dina arbetsuppgifter som anställd på Gränspolisen?
- Vad är det här för organisation?
- Skulle du kunna beskriva vilka barn som är barn som vistas i landet olovligen?
- Hur arbetar ni praktiskt med frågan gällande barn som vistas i landet olovligen på Gränspolisen?
 - Är det någon skillnad i ert arbete när det gäller vuxna och barn som vistas i landet olovligen?
 - Är det någon skillnad i ert arbetet gällande papperslösa barn, alltså barn som aldrig ansökt om uppehållstillstånd och barn som fått avslag på ansökan om uppehållstillstånd som ska verkställas?
- Har arbetet förändrats på senare tid?

Tema 2: Information om sakfrågan

- Vad är er roll som myndighet i förhållande till den här målgruppen?
- Vilka skyldigheter har ni som organisation enligt lagstiftningen i förhållande till de barn som vistas i landet olovligen?
- Anser du att lagstiftningen är viktig?
 - Ni ska upprätthålla den inre utlänningskontrollen och värna asylrätten?
 - Sverige har reglerad invandring och ni ska verkställa beslut om avvísning och utvisning?

Lagstiftning skolkontext

- Vad anser ni om att papperslösa och gömda barn har rätt till utbildning trots att de inte har laglig rätt att vistas i landet?
- Anser ni på Gränspolisen att det är viktigt att papperslösa och gömda barn har rätt till utbildning på samma sätt som andra barn?
 - Varför/varför inte?
- Har ni från Gränspolisens sida något organisatoriskt intresse av att barnen har rätt till utbildning i Sverige?
 - Ex. förebygga brott och se till så att de inte hamnar i nätverk bland kriminella?
- Påverkas ert arbete av att barnen sedan mitten av 2013 har laglig rätt till utbildning?
- Vilka möjligheter har ni enligt lagstiftningen att eftersöka och hämta målgruppen i eller i anslutning till skolan?
 - Kontaktar ni skolorna eller kommunerna ibland för att eftersöka eller få information om dessa barn?

- Följer ni Rikspolisstyrelsens rekommendation om att inte eftersöka barnen i eller i anslutning till skolan?
- Ställer den nya skollagstiftningen till några problem?
- Den tidigare underrättelseskyldigheten för socialnämnden och styrelsen för utbildning enligt utlänningslagen att underätta bland annat Polismyndigheten gällande de här barnen är borttagen, är det ett problem?

Tema 4: Dokumentation och intern kontroll

- Kan du berätta för mig rent praktiskt hur ni arbetar när det gäller papperslösa och gömda barn inom Polisen som saknar laglig rätt att vistas i landet?
- Hur dokumenterar ni de här barnen, tex i era system, kan du berätta hur det ser ut?
- Finns det rutiner, handlingsplaner eller praxis inom myndigheten om hur man ska arbeta när det gäller de här barnen?
- Finns det föreskrifter, allmänna råd eller cirkulärmeddelande gällande målgruppen?
- Har ni på Gränspolisen koll på hur många barn som vistas i landet utan tillstånd?
- I Skåne/landet?
- Varför är det så?
- Hur får ni uppgifter om att barn saknar laglig rätt att vistas i landet?
- Hur får ni vetskap om gruppen barn som aldrig gett sig tillkänna för landets myndigheter, tex genom att de aldrig ansökt om uppehållstillstånd hos Migrationsverket?
- Vem eller vilka ger er den informationen?
- Hur ser ni till så att personer som vistas i landet olovligen faktiskt lämnar landet?

Tema 5: Samarbete och samordning

- Finns det någon central samordning inom Polisen i frågan om de papperslösa och gömda barnen som du känner till?
- Kan du berätta för mig hur den ser ut?
- Finns det något samarbete mellan er och andra myndigheter när det gäller verkställighet av avvisnings och utvisningsbeslut?
- Kan du berätta för mig hur det ser ut?
- Kan du berätta för mig hur kontakten och samarbetet ser ut?
- När det gäller Projekt REVA omfattas de här barnen av projektet mellan myndigheterna?
- På vilket sätt?
- Hur ser det ut?
- I vissa kommuner finns det ett samarbete mellan förskolor, skolor, socialtjänst och polis när det gäller frågan om familjer och barn som lever gömda, finns det något sådant samarbete i Skåne? (prop. 32).
- Varför finns det inte?

- Samarbetar ni med kommunerna i Skåne i frågan på något sätt?
- Finns det något samarbete mellan er, Skolverket och Skolinspektionen i den här frågan?
- Anser ni att ni har tillräckliga befogenheter när det gäller att upprätthålla den interna gränskontrollen eller ställer den nuvarande lagstiftningen till några problem?

Tema 5: Extern kontroll och sanktioner

- Vem eller vilka ansvarar för att följa upp så ni följer lagstiftningen gällande de här barnen?
- Granskas ni av andra myndigheter i den här frågan?
 - Kan du utveckla?
- Finns det någon granskning inom Polisen så att ni följer lagar och andra regelverk?
 - Rikspolisstyrelsen har som uppgift att utöva tillsyn över Polisen, gör de det över er?
 - Kan du utveckla?
- Vad skulle hända om ni inte följer lagen eller regelverket gällande de barn som vistas i landet utan tillstånd?
- När skulle du kontakta en jurist i en fråga som rör papperslösa och gömda barn?

Tema 6: Ersättning

- Kan du berätta för mig hur Gränspolisens anslag för att verkställa beslut om avvisning och utvisning ser ut?
- Får ni ersättning för att eftersöka och verkställa beslut om avvisning och utvisning för just barn?
 - Får ni ersättning rent allmänt?

Tema 7: Avslutande fråga

- Har du något mer att tillägga? Avslut. Tacka för representantens tid. Ställ frågan om jag får lov att återkomma om jag har några följdfrågor.

10.1.1. Intervjuguide – representant from Migrationsverket i Malmö

Några inledande ord om syftet med intervjun och hur den kommer vara upplagd. Berör frågan om anonymitet och få informerat samtycke. (Är det okej om jag spelar in?)

Tema 1: Praktiskt arbete på Migrationsverket och organisatoriska roller

- Kan du berätta för mig om dina arbetsuppgifter som anställd på Migrationsverket?
- Vad är det här för organisation?
- Skulle du kunna beskriva vilka barn som är barn som vistas i landet olovligen?

- Hur arbetar ni praktiskt med frågan gällande barn som vistas i landet olovligen på Migrationsverket?
 - Är det någon skillnad i ert arbete gällande barn som aldrig ansökt om uppehållstillstånd och barn som fått avslag på ansökan om uppehållstillstånd som ska verkställas?
 - Är det någon skillnad i ert arbete när det gäller vuxna och barn som vistas i landet olovligen?
- Har arbetet förändrats på senare tid?

Tema 2: Information om sakfrågan

- Vad är er roll som myndighet i förhållande till den här målgruppen?
- Vilka skyldigheter har ni som organisation enligt lagstiftningen i förhållande till de barn som vistas i landet olovligen?
 - Anser du att lagstiftningen är viktig?
 - Ni ska besluta om barnen har laglig rätt att vistas i landet och värna asylrätten?
 - Sverige har reglerad invandring och ni ska pröva om barnen har laglig rätt att vistas i landet, eller skicka över beslut om verkställighet till Polismyndigheten?

Lagstiftning skolkontext

- Vad anser ni om att barn som vistas i landet olovligen har rätt till utbildning trots att de inte har laglig rätt att vistas i landet?
 - Anser ni på Migrationsverket att det är viktigt att barn som vistas i landet olovligen har rätt till utbildning på samma sätt som andra barn?
 - Varför/varför inte?
 - Har ni från Migrationsverkets sida något organisatoriskt intresse av att barnen har rätt till utbildning i Sverige?
 - Ex. se till så att de inte hamnar i nätverk bland kriminella?
 - Påverkas ert arbete av att barnen sedan mitten av 2013 har laglig rätt till utbildning?
 - Kontaktar ni skolorna eller kommunerna ibland för att eftersöka eller få information om dessa barn?
 - Ställer den nya skollagstiftningen till några problem?
 - Den tidigare underrättelseskyldigheten för socialnämnden och styrelsen för utbildning enligt utlänningslagen att underätta bland annat Polismyndigheten och Migrationsverket gällande de här barnen är borttagen, är det ett problem?

Tema 4: Dokumentation och intern kontroll

- Kan du berätta berätta för mig rent praktiskt hur ni arbetar när det gäller barn som vistas i landet olovligen inom Migrationsverket som saknar laglig rätt att vistas i landet?
 - Hur dokumenterar ni de här barnen, tex i era system, kan du berätta hur det ser ut?

- Finns det skriftliga rutiner, handlingsplaner eller praxis inom myndigheten om hur man ska arbeta när det gäller de här barnen?
 - Finns det lagar, föreskrifter, allmänna råd eller liknande när det gäller den här målgruppen?
- Har ni på Migrationsverket koll på hur många barn som vistas i landet utan tillstånd?
 - I Skåne/landet?
 - Varför är det så?
- Hur får ni uppgifter om att barn saknar laglig rätt att vistas i landet?
- Hur får ni vetskap om gruppen barn som aldrig gett sig tillkänna för landets myndigheter, tex genom att de aldrig ansökt om uppehållstillstånd hos Migrationsverket?
 - Vem eller vilka ger er den informationen?
- Hur ser ni till så att personer som vistas i landet olovligen faktiskt lämnar landet?

Tema 5: Samarbete och samordning

- Finns det någon central samordning inom Migrationsverket i frågan om barn som vistas i landet olovligen som du känner till?
 - Kan du berätta för mig hur den ser ut?
- Finns det något samarbete mellan er och andra myndigheter när det gäller verkställighet av avvisnings och utvisningsbeslut?
 - Kan du berätta för mig hur det ser ut?
 - Kan du berätta för mig hur kontakten och samarbetet ser ut?
- När det gäller Projekt REVA omfattas de här barnen av projektet mellan myndigheterna?
 - På vilket sätt?
 - Hur ser det ut?
- Samarbetar ni med kommunerna i Skåne i frågan på något sätt?
- Finns det något samarbete mellan er, Skolverket och Skolinspektionen i den här frågan?
- Anser ni att ni har tillräckliga befogenheter när det gäller arbetet med de här barnen eller ställer den nuvarande lagstiftningen till några problem?

Tema 5: Extern kontroll och sanktioner

- Vem eller vilka ansvarar för att följa upp så ni följer lagstiftningen gällande de här barnen?
- Granskas ni av andra myndigheter i den här frågan?
 - Kan du utveckla?
- Finns det någon granskning inom Migrationsverket så att ni följer lagar och andra regelverk?
 - Kan du utveckla?
- Vad skulle hända om ni inte följer lagen eller regelverket gällande de barn som vistas i landet utan tillstånd?

- När skulle du kontakta en jurist i en fråga som rör papperslösa och gömda barn?

Tema 7: Avslutande fråga

- Har du något mer att tillägga?

Avslut. Tacka för representantens tid. Ställ frågan om jag får lov att återkomma om jag har några följdfrågor.