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They are not Swedes, they do not fit into Sweden: *An examination of 'valid' grounds for migration in the Swedish Aliens Act.*

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1. Introduction and research question

Previous research such as, (Abiri, 2000; Eastmond, 2011; Hellström et al., 2012; Pred, 2000; Scarpa, 2018; and Schierup et al., 2018), has clearly demonstrated that there has been a change in migration law and the political discourse preceding, accompanying, and following it in Sweden over the past 30 to 40 years. These changes have further demonstrated the different ways in which the law has been used as a biopolitical tool, affecting the outcomes of refugee's and migrants, both socially and materially. This paper seeks to deepen this line of inquiry with focused dive into the law itself making explicit the discursive reasoning behind the deployment of the law in its different incarnations throughout time.

The law is of particular interest as it represents a form of “negotiated text, the outcome of a process of negotiation about which voices should be included in the text and in what relation” (Fariclough, 2003, pg.43). More explicitly the law represents a calcification of a particular, negotiated, political discourse which after its translation into law, with the considerations and limitations that represents, becomes the defacto hegemonic discourse with regard to the possibilities of migrants and asylum seekers. Through examination of the law we can begin to see what political discourses are, and have been, controlling how the law is used as biopolitical implement of population control in the different periods under consideration. Allowing for further illumination of any particular trends in the consideration of valid grounds for residency which have remained constant, changed, or appeared over time.

Given my interest in discourse, found within the prescriptive deployment of the law in the text of the SAA, the question that we will seek to answer with this research is: How have different categories of migrant, changed over time within the Swedish Aliens Act?

1.1 Delimitations

This study will only be analyzing the texts of the 1980, 1989, 2005 SAA in addition to the 2016:752 “on temporary restrictions on the possibility of obtaining a residency permit in Sweden.” This choice leaves out state ordered research (SOU's) on the different legal proposals, interviews with the legislators that created different versions of the SAA, and media reporting during and leading up to different SAA's which would help us go into greater depth regarding how the government sees different issues. This would help reveal why certain decisions were made over others and help us trace the lineage of different political discourses, but is beyond the

scope of this project. Further, this is only study of ‘law on the books’ and is therefore insufficient in and of itself to describe how the law actually works in society. However, our primary interest, i.e. which political discourses made it through the process of negotiation and into the law, is important to understanding how the law works. These operant discourses serve to justify the deployment of the law and its development, thus becoming the lens by which migration is controlled.

1.2 Aim and relevance

Tracing the discourse around migration, through which grounds for residency are considered valid within the SAA, should illuminate how the discourse around valid or desired migrant is rationalized. Further, patterns of repeated rationalization, will help us understand how different forms of valid or desired migrant came to exist within the law. These repeated rationalizations are particularly interesting as they reveal who the state considers its’ people, threats or enemies of its’ people, and even who it considers as potential future additions to its’ people.

This study aims to explore the continuity of the law over time and how the discourse around migration is reinterpreted in the light of universalist doctrines of ‘multicultural citizenship’, while maintaining nationalist concerns over the homogeneity of the population, control of a distinct cultural mythology, anxieties around labor competition and the failure of the welfare state. These concerns are most clearly articulated in the concepts of the now transformed, ‘*Asset assessment*,’ and the more current ‘threat’ based discourses I found in my initial readings of the Swedish Aliens Act (Utlänningslagen).

The concept of threat as applied to non-native persons is of particular interest as it signals a change from a policy based on integration, to a policy based on risk management, which both constrains and broadens the range of possible solutions for controlling or correcting issues within the population a state is responsible for. ‘Threat’ also essentializes certain portions of the population as quantities that require constant governmental scrutiny and intervention to control and to prevent ‘threat’ from becoming ‘harm.’

Further the law and its implementation, which is not discursively neutral, are largely responsible for the material conditions which contribute to the social understandings used to justify or challenge further development of the discourses already in play.

1.3 Outline

This section will give a brief outline of the rest of the thesis. Section 2, *Literature review*, will give context for the historical, political, and legal background of the SAA through previous research. Section 3, *Theoretical Framework*, will introduce the theories that will inform the frame work for my analysis, helping us to gain a better understanding of the research question. Section 4, *Methods*, will explain the choice of data and sampling, discuss limitations, and describe the use of methodology in analysis of the data. Section 5, *Analysis*, will break the 3 variations of the law into distinct pieces motivated by my theoretical framework and chosen methodology. Section 6, *Conclusions*, will discuss the findings of section 5 in greater depth, attempt to answer the research question and suggest further avenues of research.

2. Description and literature review regarding the Swedish Aliens Act 1980, 1989, 2005

This section will briefly describe the social and legal context, regarding major social events during different versions of the SAA's tenure, while highlighting previous research done regarding changes to the legal, social and political context. Here we will follow a basic outline for the each iteration of the law, beginning with the a snapshot of the concerns that were current when the law was being made, which groups had control of parliament when it was passed, and the biggest legal changes from its previous iteration, that is to say what was created or done away with as a consequence of the law's implementation for that year.

2.1 Historical timeline SAA 1980

Leading up to the Swedish Aliens Act of 1980 there were two major concerns the legislation was attempting to address. The first concern was the change in type of migration that Sweden was receiving, from labor migrants to refugees, and the second concern was what role the state should play in the handling of migrants that had become the subjects of the state.

During the sixties there was massive labor migration to fill growing Swedish industrial power with labor; as many 40,000 people immigrating each year primarily from southern Europe and other Nordic countries (Abiri 2000). This coupled with the fact that during the same time period asylum applications were quite small, should be, as Abiri argues, seen as asylum by employment rather than asylum by application as the simplicity of finding employment was much greater,

especially for those fleeing the Mediterranean dictatorships, than going through the rigors of the asylum process (Abiri 2000). However, “labor recruitment programmes officially ended in the mid-(19)70’s,” and “until 1985 almost all applicants were granted asylum” (Abiri, 2000, p.13) leading up to the new SAA in 1980 asylum applications were rising. The committee responsible for the 1980 version of the law, with the end of labor recruitment and a rise in refugees, “emphasized that Sweden would probably not in the foreseeable future accept any significant increase in the non-Nordic labor immigration...” but should “expect continued and perhaps increased refugee immigration as well as continued extensive immigration of foreigners with family ties to immigrants in Sweden.” (Wikén & Sandesjö, 2017, p.31)

During the fifties and sixties the state was not actively involved in the integration of immigrants as the prevailing belief was that the European migrants, which had primarily dominated Swedish migration until the early seventies, would return to their countries of origin (Eastmond, 2011). After the labor recruitment programs were ended the characteristics of a ‘typical’ migrant began to change from a European labor migrant to a Latin American asylum seeker (Eastmond, 2011). It was at this point that Swedish integration policy began to be “reformulated on the premise of a principled liberal multicultural citizenship in 1975” which “guaranteed, in terms of ‘denizenship’, access to almost all established rights of civil, political and social citizenship, even for immigrant non-citizens” (Schierup and Ålund, 2011, p.48) this made the stakes for immigration higher than they had previously been. This, in both perception and practice, positioned migration as source of greater material demands on the state than had been previously associated with migration.

2.1a Parliamentary composition

The government in control of parliament when the 1980 SAA was written was the second Fällidin cabinet, a coalition majority government comprised of the Center party (Centerpartiet), the Liberal party (Folkpartiet – Liberalerna) and the Moderate party (Moderaterna). Though at this particular point in time the differences between Sweden’s largest parties, the Moderates and the Social Democrats, were not particularly large or relevant as “up until the changes to Swedish refugee policy in 1989, there were no noticeable political differences at all concerning the broader issues.” (Abiri, 2000, p.15)

2.1b SAA Changes

In regard to the text of the new 1980 SAA “materially, to a large degree, it was consistent with the older version of the law” (Wikén & Sandesjö, 2017, p.31). There were however some relatively important changes most notably that the definition of refugee was reformulated, no longer using the terminology of ‘political refugee’, coming into full compliance with the broader UN definition based on the UN’s refugee convention (Wikén & Sandesjö, 2017). Further certain measures were taken to limit the ability of the state to deport a refugee or immigrant based on previous crimes, or on the basis of antisocial behavior, if they had established themselves in Sweden (Wikén & Sandesjö, 2017). Additionally, the committee also decided that they would require the possession of a residency permit prior to entry into the country with regard to foreigners who intended to settle here or else stay here for a longer time (ibid.).

2.2 Historical timeline SAA 1989

During the tenure of the 1989 Swedish Aliens Act a number of massive changes both globally and nationally were taking place. As a consequence there were many different changes to the 1989 legislation during its lifetime both due to political and material concerns of that particular time period. As such, talking just about the concerns preceding the original incarnation of the law will not give us a full understanding of what the law ended up actually attempting to grapple with as it continued to develop. Between 1989 and 2005 Sweden witnessed both massive geopolitical developments and domestic upheaval. The former are characterized by the end of the cold war, ethnic conflicts in Eastern Europe, entrance into the EU, the beginning of the war on terror, and the latter by the profound crash of the nation’s economy in the 1990s, with its attendant welfare restructuring, and the rise (and fall) of the anti-immigration New Democracy party in 1991. Given the scale of change that occurred during the 1989 law’s 16 year life span this paper will briefly touch on the major events that gave cause for change in the law.

Right from the outset of the 1989 law two massive changes were being played out. The same year that SAA 1989 passed “the total number of asylum applicants rose by 50 per cent” and “in December 1989 an emergency decision was taken that made the use of the possibility in the Aliens Act (Chap 3 §4) to limit the granting of asylum to individuals who could be defined to ‘convention refugees’” (Abiri, 2000, p.15). This originally ‘temporary’ measure was later made permanent, though only the Moderate party openly showed support for making the temporary

law a permanent one. To contextualize the regulation of these otherwise nebulous asylum seekers, the major groups immigrating via asylum during 1989 were Somalians, Bulgarian Turks, Ethiopians, Eritreans, Iranians and Iraqis due to war or ethnic conflict in the case of the first four and previous war and repression in the latter two (*Swedish refugee policy in a global perspective*, 1995). The second massive change was the opening, and eventual destruction, of the Berlin wall in November of 1989. After the initial euphoria the thawing of the cold war provoked a largely media driven hysteria around the idea of ‘migration pressure’ began to develop. Media outlets “referred to ‘experts’ in the West that estimated that crowds of 20-50 million people could be impelled to flee from civil unrest, starvation and unemployment” (Abiri, 2000, p.16) created by the deterioration of the soviet union. The concern over this imagined migration reached such a fevered pitch that as Abiri (2000, p.16) explains:

Director of the Swedish Board of Immigration arranged a meeting with the directors of the regional branches of the Board, the Rescue Service, the Coast Guards, the National police Corps, and the National Board for Health and Welfare in order to prepare a nation-wide emergency plan to deal with the potential masse emigration of Russians.

Another peak in asylum applications came in 1992 at the start of the conflicts erupting in the former Yugoslavia, “in 1992, over 70,000 asylum-seekers arrived from former Yugoslavia alone” (Eastmond, 2011, p.278). The groups seeking asylum which were most represented in the early 1990s were Bosnians and Kosovo-Albanians, these groups came in such numbers during 1992 that in 1993, and the fall of 1992 respectively, the Swedish authorities began to require visa applications for travel to Sweden from citizens of the aforementioned countries (*Swedish refugee policy in a global perspective*, 1995). In both cases the visa requirement for travel to Sweden had the desired effect of vastly reducing, and in some cases nearly ending, refugee flows (*Swedish refugee policy in a global perspective*, 1995).

Though Sweden had voted to join the EU in 1994 it took until March 25th of 2001 to actively implement Schengen area visa-free mobility. After 2001 roughly 19% of all immigration to Sweden now comes from other non-Nordic EU countries and that number rises to nearly 29% adding immigration from the Nordic EU and non-EU neighbors (*Från Finland till Afghanistan*, 2016). A further, recent trend since 2001 has been the return of Swedish emigres accounting for roughly 15% of migration since that time. 9/11 ‘The war on terror’ and the attendant war in

Afghanistan and Iraq also caused asylum claims from both countries to rise, though it would not be until 2007 when Iraqi asylum claims would be at their highest, and even later for Afghani asylum claims (*Från Finland till Afghanistan* 2016).

During the beginning years of the 1990s a deep economic recession rocked the Swedish welfare state fundamentally changing the political discourse and understandings of migration and welfare. In 1990 the Swedish economy was growing and “unemployment was well under 2 percent, the number of vacant jobs exceeded the jobless population” but only “one year later, in the midst of an extended global recession, unemployment was instead suddenly soaring toward levels unknown since the Depression” (Pred, 2000, p.144). Sweden committed to sever economic measures to restore faith in their economy, reversing “for the first time a trend towards ever-expanding health and social welfare arrangements” (Abiri, 2000, p.93). This did, to a certain degree, ameliorate some of the damage done to the Swedish economy but even with these measures the “jobless rate [had] persistently hovered between 12 and 14 percent since 1993 (until 2000)” (Pred, 2000, p.144) with current unemployment still 3 times higher than in 1990 at a rate 6.3% in 2018 (SCB). Further, it is important to point out that unemployment was, and is, not evenly distributed across the population. ‘Ethnic Swedes’, during the recession of the early 1990s, had unemployment figures “in the vicinity of 7 percent, those holding Danish, Norwegian, or Finnish citizenship have around 12 percent; those for all inhabitants of non-Nordic origin have been in the range of 25 to 28 percent; and those for the population of non-European nationality have fluctuated between 33 and 45 percent” (Pred, 2000, p.145). This is important to point out in the context of migration law given that Eastern European’s and non-Europeans had at this point begun to be the largest migrating groups to Sweden during this time period. And “in public debate, there was concern that the welfare system could no longer sustain more asylum-seekers and unemployed immigrants” (Eastmond, 2011, p.278).

This anxiety around the welfare system’s inability to sustain further immigration stemmed from the ‘native’ population’s fear regarding the restructuring of their social democratic welfare state, which was largely due to “a neo-liberal turn in government policy [which] had entailed de-industrialisation, cutbacks in public spending, privatisation and rising unemployment” (Eastmond, 2011, p.279). The same immigrants who were disproportionately suffering from the Swedish economic recession with unemployment rates up 6 times higher than ethnic Swedes

would, if they still had not found employment “remain the responsibility of social services, as the introductory grant converts into a welfare cheque” (Eastmond, 2011, p.281). This trend did not go unnoticed by parliament and “in 1995 a government committee for refugees and immigrants related the unemployment among immigrants to their dependence on welfare” (Eastmond, 2011, p.282). This understanding leaves something to be desired given that the labor market itself was far harsher to said refugees and immigrants than any lack of skill could account for on their individual parts.

The anti-immigration party, New Democracy, was established in December of 1990 and by the end of May 1991 was polling at 11.7% of the electorate only four months before the election (Abiri, 2000). Though ultimately New Democracy would be a flash in the pan gaining 6.7% of the vote in 1991 and disappearing entirely by the 1994 election its support in 1991 complicated the national debate for both the Moderates and Social Democrats, the two strongest political parties of the day. Both parties had already resolved to tighten migration law and their actual policy proposals differed little from those being brought to the table by New Democracy thus making the problem clear: how could they pursue a tightening of immigration policy without being associated with the anti-immigration rhetoric of New Democracy or alienating their own supporters (Abiri, 2000). In the end, though the emergency measures introduced in 1991 became permanent, more sweeping immigration change would have to wait until the late to mid 1990s when the political importance of migration issues were less salient and New Democracy was thoroughly inconsequential.

2.2a Parliamentary composition

As the 1989 SAA constituted Swedish migration law for 16 years there were a number of governments that had control of parliament throughout its tenure. However, the government in charge of parliament during its initial creation was the second Carlson cabinet which was a Social Democrat single party minority government that lasted, crucially, from 1988 to 1991, which took us through the bumpy year of 1989 during the laws creation, and its temporary amendment, which later became permanent. After the second Carlson cabinet came the Bildt cabinet which was a coalition government between the Moderate Party, the Center Party, the Liberal Party and the Christian Democrats which lasted from 1991 to 1994, allowing them to make the temporary provision created during 1989 permanent and also giving them control

during the worst of Sweden's economic downturn setting the tone for welfare reform during the recession. From 1994 to 1998 spanning Carlson's third cabinet and Persson's first the government was a single party minority government under Social Democrat control, which led into Persson's second 1998-2002 and third 2002-2006 single party minority governments both under Social Democrat control. In total, for 3 of its 16 year tenure as Swedish migration law a Moderate Party run coalition had control of the parliament, and for the other 13 years a single party minority Social Democrat party had control of parliament.

2.2b SAA Changes

As discussed the original version of the 1989 SAA was created before the majority of the concerns it would attempt to respond to, with that being said "the changes that happened during the 1989 SAA were intended to give the possibility of a faster more rational decision-making, without the principles of refugee and immigration policy changing (Wikén & Sandesjö, 2017, p.35)." As such most of "the material rules regarding passports, visas, permanent residence permits and work permits remained largely unchanged (ibid., p.36)." However, joining the EU had legal ramifications and there were other further refinements to the law such as a rather central redefinition of the conditions for asylum, which has since been changed in subsequent lawmaking (Wikén & Sandesjö, 2017). Another notable change in the early state of the law were the changes to entry denial - 'rejection' and deportation. A foreign national that came to Sweden without the proper permissions or who stayed beyond the expiration of their visa could be 'rejected,' rather than deported, as was previously the case, regardless of how long they had been in the country (Wikén & Sandesjö, 2017). The new law reserved deportation for the removal of people whose residency permit had become invalid, run out, or for those who were to be deported for committing crimes; deportation due to antisocial behavior was removed in this version of the law (Wikén & Sandesjö, 2017).

Throughout the mid to late 1990s the law went through numerous changes but, both due to space and interest, only those most relevant to this examination of the SAA could be included. In 1994 decisions regarding temporary residence permits issued on the basis of crisis or conflict were implemented in the law. As were the beginnings of alignment with EU law, removing impediments to the free movement of labor from EU countries to Sweden (Wikén & Sandesjö, 2017). In 1995 the importance of a foreign national's 'bristande vandel' (disturbing/lacking way

of life/acting) was further clarified as it applied to applications for residence permits (Wikén & Sandesjö, 2017). In 1997 the law restricted the possibilities that relatives of people with Swedish residence had in relation residence via ‘connections’ to Sweden. Further the maximum sentence for those organizing illegal immigration with profit motive was raised to four years. (Wikén & Sandesjö, 2017). In 1998 there were changes to the way that the recall of residency permits were to be handled; recalls should not occur in cases where the foreign national had legally resided in Sweden for four years or more and in the case of a recall special consideration should be given to the foreigner’s connection to Sweden or humanitarian concerns (Wikén & Sandesjö, 2017).

In the early 2000s there were many changes in SAA mostly related to the implementation of EU legal frames, and to criminality related to human trafficking, but once again a narrower selection of the changes will be discussed in the interest of specificity and brevity. In 2001 the Schengen convention went into effect removing visa requirements for EU citizens to move around, into or through Sweden. Further in 2001 changes were made to ‘connection’ as a grounds Swedish residency (Wikén & Sandesjö, 2017).

2.3 Historical timeline SAA 2005

The events of the preceding 16 years of the 1989 SAA weighed heavily on the concerns that were to be addressed by 2005 Swedish Aliens Act. Immigration continued to rise, both from refugee’s and EU labor migration. Further, the conflict in Syria would bring immigration numbers to new all-time highs, triggering the so called ‘migration crisis.’ The beginning of the 21st century would also witness its own global financial recession in 2007-08 and welfare programs continued to be reduced or reformulated with unemployment remaining in an elevated state since the 1990s. Finally, Europe would begin to see, for the first time in its post war history, the rise of far right anti-immigrant parties making major inroads in a number of national parliaments. So as the 2005 SAA enters its 14th year of use taking a retrospective look at these events will help us understand the changes that have been made to it during this time.

Since the early 2000s immigration continued to rise both from participation in the shared EU labor market, especially with inclusion of a number of eastern European countries, and from those fleeing war and oppression primarily encompassing immigration from Iraq, Afghanistan, Somalia and Syria (*SCB Sveriges folkmängd från 1749 och fram till idag*, 2017). In 2017 people

born in Syria replaced people born in Finland as the most common foreign born persons in Sweden; additionally from 2011-2017 some of the most common migrant group are people born in Poland, Somalia and Iraq. (*SCB Sveriges folkmängd från 1749 och fram till idag*, 2017). The massive influx of Syrian born people can be explained by the civil war in Syria and Sweden's 2013 decision to give permanent residency to all Syrians seeking asylum in Sweden (Scarpa & Schierup, 2017). This decision, and the concomitant rise in Syrian asylum seekers reaching Sweden in 2015, would lead to the argument, made by the social democratic Foreign Minister Margret Wallström "that refugee migration had reached an unsustainable level that was threatening to cause the "breakdown" of the "system" Thereafter, "system breakdown""(Scarpa & Schierup, 2017, p.200). Within the same month that the minister had made her claim of 'system breakdown' a sharp legal U-turn was implemented, the maximum rate of refugee acceptance was reduced to the EU-imposed minimum quota, passport controls were implemented at the border with Denmark for the first time since the 1950s, and harder criminal sanctions were pursued against people who smuggled in refugees (Scarpa & Schierup 2017). Shortly thereafter, in 2016, refugees who were not relocated to Sweden within the EU's refugee quota system had their permanent residency permits replaced with temporary residence permits, and access to family reunification for recognized refugees was drastically limited; further the only way for non-relocated refugees to improve the status of their temporary residency permits to permanent ones was to become completely self-sufficient through employment related income (Scarpa & Schierup 2017). This legal U-turn had its intended effect reducing asylum applications from 156460 in 2015 to only 22416 in 2016 (Scarpa & Schierup 2017).

Sweden recovered more quickly and more fully from the economic downturn of 2007-08 than other EU countries, as a result Sweden was seen, and indeed saw itself, as more able to handle the European "refugee crisis" than other European nations. However, Sweden had continued since the 1990s with its policy of austerity Scarpa & Schierup (2017, p.203):

the Swedish government [had] been forced to run a budget surplus of one percent of GDP annually, and to hold public expenditure below a three-year rolling ceiling" which in practice had led to a decline of 20% in public expenditure between 1993-2012 resulting in across the board cuts to all areas of the welfare state

While this austerity already included different aspects of migration policy more explicit changes to asylum policy were taken under this neo-liberal auspice. Since 1994 the refugee reception program allowed municipalities to offer recently arrived refugees the possibility of participating in a non-mandatory introduction program whose aim was to assist in socioeconomic integration with individually tailored plans. However in December 2010 the refugee reception system was reformed from its earlier incarnation with the so called “Establishment Reform.” Which while this reform did not change the voluntary nature of the introduction programs it did offer a carrot, in the form of the ‘Establishment Allowance’ which was more generous than social assistance benefits received in the case of non-participation, and also the stick where claims for social assistance could be rejected by the municipalities if participation in the programs was refused. Further, the ‘Establishment Allowance’ could be reduced or withdrawn in cases of non-compliance to the individually tailored plan (Scarpa & Schierup 2017).

The far-right, anti-immigration party, the Swedish Democrats, first entered the mainstream of Swedish political life in 2006 gaining 2.93% of the vote. While this was under the minimum threshold to take seats in the parliament, which is 4% of the national vote, it was enough for the party to gain representation in half of the countries municipalities (Hellström, Nillson and Stoltz, 2012). Four years later in 2010 however the Swedish Democrats were able to nearly double their electoral achievements coming away with 5.7% of the vote and catapulting them into parliament at the same time similar fortunes had favored far right parties around Europe. The Swedish Democrats were in the opposition during their time in parliament 2010-2014 and were able to more than double their support again, in 2014 election, coming away with 12.9% of the vote (Hellström, Nillson and Stoltz, 2012). Once again the Swedish Democrats were kept out of the ruling coalitions and acted as opposition through the entirety of this electoral cycle. As before, in 2018 the Swedish Democrats increased their support gaining 17.53% of the votes. It is worth noting that while this increase in votes is quite large it did not represent the magnitude of support much of the polling, done prior to the election, estimated. Said polling put the Swedish Democrats anywhere between 20-22% of the vote which, if correct, would have positioned the Swedish Democrats as the second largest political party in Sweden dethroning the Moderate Party from its traditional post. So far the Swedish Democrats have been forced into the opposition again though their fortunes have been changing with both the Moderates and the Christian Democrats signaling a willingness to work together, going perhaps as far as being

willing to form a government with the Swedish Democrats, something that for the preceding 12 years would have been unthinkable.

2.3a Parliamentary composition

Similar to the life course of the 1989 SAA the 2005 SAA has been the valid legal instrument of migration regulation for the past 14 years and as such as seen its fair share of different governments. It began at the end of the third Person cabinet 2002-2006, a single party minority government under Social Democrat control, which oversaw the creation of the 2005 SAA. This was followed by the first and second of the Reinfeldt cabinets from 2006-2010, and again from 2010-2014. Both cabinets were a collation cabinets comprised of the Moderate Party, the Center Party, the Liberal Party, and the Christian Democrats but the first period 2006-2010, was a majority government, and the second period 2010-2014 was a minority government. Importantly for the latter Reinfeldt government the 2013 decision to grant all Syrian asylum seekers asylum in Sweden was taken during government's control of parliament. After the Reinfeldt period Sweden entered into the first Löfven cabinet 2014-2018 which was a coalition minority government comprised of the Social Democrats, and the Green Party. Of note during this government's control of parliament was the 2015 decision to implement temporary limitations on asylum and the closing of the border with Denmark. Currently Sweden finds itself in the fragile second Löfven cabinet that began in 2018-19 and is projected to last to 2022. Once again it is a coalition minority government but with even less support than it had previously commanded being reliant on the Liberal and Center parties to continue their legislative aims.

2.3b SAA Changes

In the 2005 Swedish Aliens Act changed significantly from its 1989 SAA predecessor. 'Utlänningsnämnden' (the Swedish Immigration Board), which once dealt with the appeals of decisions made by 'Migrationsverket' (the Swedish Migration agency), was dissolved and in its place migration courts, and in certain cases even high migration courts, took over responsibility for appealed decisions. Further this change majorly restructured how regulations were interpreted and how decisions in migration cases were made (Wikén & Sandesjö, 2017). The legal terminology referencing asylum was broadened in 2005 to include persecution based on gender or sexual orientation and the lines between grounds for residency based on subsidiary protection and humanitarian concern were made clearer and more distinct (Wikén & Sandesjö, 2017).

Finally, EU compliance regarding the directive on family reunification changed wording in chapter 5 regarding different forms of ‘connection’ (anknytning) as a justification for residency (Wikén & Sandesjö, 2017).

In 2006, as part of EU compliance, the SAA changed regarding the responsibility of transporters that carried ‘third country nationals’ in the reporting of said nationals details to the responsible authorities upon arrival in a new EU country, additionally as part of EU compliance regulations were reformulated with regard to victims of human trafficking (Wikén & Sandesjö, 2017).

In 2008 new EU regulations relating to labor migration replaced previous regulations, partially but not only due the inclusion of Switzerland into the Schengen convention (Wikén & Sandesjö, 2017).

In 2010, as part of EU compliance, both the directive for subsidiary protection and Asylum procedures was implemented into the Swedish legal framework. This created two new categories of subsidiary protection, both ‘alternative’ subsidiary protection and ‘other’ subsidiary protection. Further, the conditions under which an asylum seeker, or person in need of subsidiary protection, could be denied their status was clarified. If either an asylum seeker or person in need of subsidiary protection were convicted or suspected with good reason of having committed ‘war crimes,’ ‘serious crimes,’ or, in the case of those seeking subsidiary protection could be considered a threat to national security before they came to Sweden their status could be revoked or negated. Finally, the conditions under which a refugee could be denied residency were specified. If a refugee, through a particularly ‘serious crime’ had shown themselves to be a ‘serious danger’ to societal order and safety by their presence in Sweden, or the refugee undertook projects that were a threat to national security and there is reason to believe they will continue to do so in Sweden, they can be denied residency (Wikén & Sandesjö, 2017).

In 2010 the SAA added a requirement to applications for residency based on the grounds of close connection with a Swedish resident or citizen, which most commonly includes applications from people who are married to, cohabitation with, or have family ties to (children most commonly) a Swedish resident or citizen. This new requirement was called a ‘Försöjningskrav’ which meant that the Swedish resident or citizen had to be capable of financially providing for the foreign national that is seeking residency in Sweden, as well as having a ‘adequately large’ living accommodation for them to share at the time of the application (Wikén & Sandesjö, 2017).

In 2013, as part of EU compliance, the so called 'blue card' directive was implemented in SAA, adding yet another layer of EU labor law to the SAA. Under the 'blue card' law third country nationals who were hired for at least one year in certain 'highly qualified' jobs could use the job itself as justification for residency or work permits, as long as certain criteria were met. The criteria would be met if the salary for said job was at least 1.5 times as large as the average gross earnings and the other labor conditions were no worse than the lowest level that Swedish collective bargaining would allow or that was the praxis within the profession (Wikén & Sandesjö, 2017).

In 2014 the EU free movement directive was expanded, making residency for EU citizens simpler and changing some of the language around rejection and deportation of EU citizens (Wikén & Sandesjö, 2017).

In July of 2016, the temporary law, that was created to deal with what had been called the 'migration crisis' of 2015, had been implemented. The amendment was called the "temporary restriction on the possibility of obtaining a residence permit in Sweden" it was slated to last until 2019, and in principle it did most of what its name implied. In practice this change to the 2005 SAA meant that Sweden reduced its acceptance of refugees to the minimum quotas allowed under EU law. Quota refugees were still able to obtain residency permits but the all of the remaining refugees, and beneficiaries of subsidiary protection, were given short-term temporary residency. Additionally the amendment to the law made it harder for, those beneficiaries of subsidiary protection who had temporary residency, to connect with family not already in the country through family reunification and the conditions related to what was considered a reasonable financial provision were made tougher. Finally, the only way for 'other' beneficiaries of subsidiary protection, or people in need of protection for humanitarian (usually health) reasons, to possibly obtain residency was if rejection or deportation would put Sweden in conflict with international conventions (Wikén & Sandesjö, 2017).

In 2017 a reworked EU asylum procedure directive changed some grounds on which an asylum claim could be denied. If the records or documents provided by the asylum seeker lack adequate reason, or are meaningless in the determination of the case for asylum the asylum seeker in question can have their claim thrown out as unfounded. Further, if there is sufficient reason to

suspect that the documents or records under consideration are fraudulent the case for asylum can also be rejected on those grounds.

3. Theoretical framework

Overview

To explore how different categories of migrant have changed over time, this theoretical framework will marry the concepts of biopolitical governmentality and societal security. In subsection 3.1, the term biopolitical governance is defined and its interest in the regulation of populations described. In subsection 3.2, the concept of societal security is defined, as is the how this concept describes threats to the society. This leads to subsection 3.3 which will explain how the layering of these two theories gives us a comprehensive lens to explore how categories of migrant are changed or constructed in the SAA.

However, the controlling political discourses, which define upon whom the law should be applied are unavailable to us without an analysis which can lift the discourses present in, and created by, the text of the law. In section 3.4, Fairclough's critical discourse analysis is presented, giving us a theoretical basis for our interrogation of the text.

3.1 Biopolitics and Governance

Bio-power/biopolitics, which Foucault largely uses interchangeably, is one of three major technologies of power that Foucault describes through his writings. The choice to use technologies of power as a lens to investigate law is useful as law is one of the tools of the aforementioned technologies and a method by which power is used and justified.

A brief explanation of what differentiates bio-power from disciplinary or sovereign power will help both explain the term bio-power but will also illuminate my use of bio-power with regard to migration law. These technologies are a genealogy of the technologies of power throughout western history, replacing each other while integrating the portions of the previous technology most valuable to the new.

This genealogy begins with sovereign power, most simply expressed as "the right to kill" (Foucault, 2003, p.240) or conversely the right to let live. This technology of power comes, according to Foucault, as a consequence of people coming together in a social contract to

constitute some form of sovereign in times which force them to seek protection from some threat or need (Foucault, 2003).

Our second technology, disciplinary power, and its corollary disciplinary societies, are exemplified by the notion that power moved from the overt domination of sovereigns to domination of institutions, such as the schools, prisons, military etc. which “made it possible to superimpose on the mechanism of discipline a system of right that concealed its mechanisms and erased the element of domination and the techniques of domination involved in discipline” (Foucault, 2003, p.37). Disciplinary power, from its many nodes of legitimacy, seeks to create ideal individuals based upon each institutions’ unique criteria. This is further obfuscated as disciplinary power is represented as norms, best practices, or even proper knowledge which gains the subjects’ compliance by being presented as the only valid way to be or act.

Our final technology of power is biopower/biopolitics, a technology developed to exercise “power over ‘the’ population as such, over men insofar as they are living beings. It is continuous, scientific, and it is the power to make live” (Foucault, 2003, p.247). Bio-power/biopolitics, unlike disciplinary power, is directed “not to man-as-body but to the living man, to man-as-living-being; ultimately, if you like, to man-as-species” (Foucault, 2003, p.242). And the goal of this technology is “to establish a sort of homeostasis, not by training individuals, but by achieving an overall equilibrium that protects the security of the whole from internal dangers” (Foucault, 2003, p.249).

Biopower/biopolitics integrated the previous technologies in different ways. In the case of sovereign power Foucault says that sovereignty’s older right to take life or let live was not replaced “but it came to be complemented by a new right (bio-power) which does not erase the old right but which does penetrate it, permeate it” bio-power “is the power to ‘make’ live and ‘let’ die” (Foucault, 2003, p.241). In the case of disciplinary power, Foucault explains that bio-power does not exclude disciplinary power rather it “dovetail[s] into it, integrate[s] it, modify[ies] it to some extent, and above all, use it by sort of infiltrating it, embedding itself in existing disciplinary techniques” (Foucault, 2003, p.242). Bio-power does not do away with disciplinary power because they “exists at a different level, on a different scale, and because it has a different bearing area, and makes use of very different instruments” (Foucault, 2003, p.242)

Biopolitical governance is therefore governance concerned with technologies that effect, and normalize, the population and its social, biological, and political health. Biopolitical governance is thus very interested in regulating migration, either to grow the population or to restrict, 'protect,' or normalize it, dealing with "the population as political problem, as a problem that is at once scientific and political, as a biological problem and as power's problem" (Foucault, 2003, p.245).

3.2 Societal Security

Societal security is a type of security concern that nation states, specifically European ones, began discussing during the 1990's with a focus on situations where societies "perceive a threat [to themselves] in identity terms" (Wæver et al., 1993, p.36). However, "since societal identities are dynamic rather than static in character, not all sources of change will be seen as threats" (Wæver et al., 1993, p.42) and this really only comes to a head on "the societal level when the incoming population is of a different cultural or ethnic stock from those already resident" (Wæver et al., 1993, p.45). The determination of which cultural or ethnic stock belong to a given geographic area, and indeed which 'others' are compatible with this already resident population, is predicated upon the nationalist self-understandings of given national identities. These national identities are generally comprised of "a package of linguistic, ethnic and cultural similarity which for more than two centuries has been seen as decisive for the construction of large-scale communities" (Wæver et al., 1993, p.40), that is to say nation states, which help define how exclusive or open any given national identity is understood to be.

The situations under which these security concerns most obviously presents themselves are during continued or mass migrations. Migration can only be understood as a threat to a nation states' nationalist rhetoric when the characteristics of the migrating population are understood to clash with nationalist self-identity enough, that even biopolitical governance of the population is not able to manage the threat to the nation's identity. "Exactly when and why such threats become a political issue will vary according to the conditions of individual societies" (Wæver et al., 1993, p.43) and as such the nationalist self-understanding of the society under consideration must be illuminated.

3.3 Coupling biopolitics and societal security

While biopolitical power is naturally interested in controlling the population's composition, normalization, and contact with the 'other' or the 'abnormal,' it remains unclear how those categories are constructed. 'Societal security' acts as a lens for biopolitical power, identifying which 'others' are valid or desirable additions to the population, and which are threats, based upon nationalist self-understandings. Given that nationalist self-understandings are the basis for exercising biopolitical power related to migration it is important to clarify how we define nationalist self-understanding in the case of Sweden. There are two discourses which seem particularly pervasive both in the literature and in public media regarding national self-understanding in Sweden.

The first of these, articulated by the majority of main-stream political parties, is what I will be calling the 'Swedish exceptionalism' national discourse. 'Swedish exceptionalism' is premised on "a liberal multiculturalism that offered[s] an extended and substantial body of citizenship rights – civil, political, cultural, social and labour rights" (Schierup & Ålund, 2011, pg.56).

The second of these national self-understandings, primarily championed by the Swedish Democrats, is what I will be calling the 'Nationalist People's Home' national discourse. 'Nationalist People's Home' is premised on "an idealized (ethnically or racially "pure") Swedish "People's Home"; a national welfare state that once was" (Schierup, Ålund, and Neergaard, 2018, pg.1842)

3.4 Critical discourse analysis

The elements within the text of the law, which will show us the operant discourse coloring the deployment of biopolitical instruments to achieve ends identified by societal security, are comprised of Social Structures, instructions on Social Practice, and the Discourse created at the nexus of repeated examples in the aforementioned concepts. "One can think of a social structure as defining a set of possibilities" (Fairclough, 2003, pg.23), and this is the bulk of what the text of the law is doing. Social Practices are often enumerated alongside Social Structures as a way guiding and "controlling the selection of certain structural possibilities and the exclusion of others, and the retention of these selections over time, in particular areas of social life" (Fairclough, 2003, pg.23). Through the study of those Social Structures and Practices which are repeated, the discourses "which 'govern' bodies of texts and utterances" (Fairclough, 2003,

pg.123) can be revealed, in this case those regarding the construction of valid grounds for residency.

Once these discursive governing principles have been made explicit, the ‘how’ of their change, or continuity, can be analyzed. Both with regard to what is, or has become, a threat to the ascendant version of nationalist self-understanding, and the techniques being used by biopolitical governance to regulate said threat.

4. Methods

To get at the question of how different categories of migrant changed over time in the SAA, the entire text of each variation of the SAA, 1980, 1989, and 2005, was reviewed and the portions that deal with the incorporation of aliens into the population were lifted for further examination within the analysis. This was done because the categories themselves are constructed based upon what the law considers valid grounds for residency, and so, given this focus, the portions of the law dealing with denials of entry, deportation, agency responsibilities etc. were left out. After this analysis was completed it was reorganized by type of migrant: Nordic citizen, EEG citizen, Third country national, and Asylum seekers with each different category being broken down by year of SAA.

In the rest of this section the study’s data, said data’s sampling, the methodology of the data’s analysis and the limitations of this study will be discussed.

4.1 Data and Sampling

In this study, the legal texts of the 1980, 1989, and 2005 Swedish Aliens Act will be the primary sources of data.

On a more specific level, the material from the 1980, 1989, and 2005 Swedish Aliens Act which will be given the most attention, are sections related to applications for asylum or residency. The reasons for this particular focus are that these criteria are the parts of the law that most directly influence who, and under what conditions, one can become a part of the population. These sections will be tracked through every iteration of the law as a point of comparison and to come to a better understanding of how the law has changed. Though importantly, a larger emphasis will be placed on the laws’ most recent incarnation, namely the 2005 SAA. Partly this is due to

the fact that the 2005 SAA is the current legislation in play, and therefore the most salient to the current situation, but also because the 2005 SAA is much larger than either of the proceeding legal texts in regards to the sections of focus.

4.2 Methodology of analysis

In the sections of each SAA regarding residency, passport and visa requirements, exemptions and temporary residency, as well as asylum and subsidiary protection, the criteria for valid residency has been analyzed.

In each section analyzed, the social structures of the law have been made explicit by breaking down the text into bullet points of the possibilities it allows and denies. As well as breaking the text into bullet points of any prescriptive social practices which would help a practitioner choose between different possibilities in the law's implementation. Once both social structure and social practice have been made explicit, the possibilities assigned to different grounds for residency and the social practices regulating the appropriate choices of these possibilities, reveal portions of the operant discourses within each section, allowing for their further scrutiny through the lens of biopolitical strategies of societal security.

These glimpses of operant discourse are then traced through different variations of the SAA to explore what forms of categorization and regulation have been expanded, and in what ways. At the conclusion of this analysis generalizable patterns in the valid grounds for residency, or their absence, across the different variations of the SAA will be revealed. This allows for a discussion of how these generalizable patterns in what the law considers valid residency claims have changed over time and what that has meant for the categorization of migration.

The full discourse analytical breakdown, of each portion of the law under scrutiny, will be included strategically through the text. This will happen most often when the piece of law in question gives the state the ability to deny an otherwise valid claim for residency, as this most clearly demonstrates what the state deems beyond incorporation into the population. This strategy will also be used to highlight particularly interesting portions of the law outside of the above mentioned example. However, all portions of the law that have gotten this treatment will be included in the appendix for reference.

4.3 Limitations

As a non-native speaker, though I am both fluent and literate in Swedish, I may have missed certain nuances of language that either do not translate or were translated incorrectly by me. However, this should be somewhat ameliorated by careful citing of the referenced paragraphs allowing for quick and efficient control of my interpretations. Further, I have included all of my translations, and their attendant discourse analytic break downs, guiding my analysis in the appendices.

4.4. Ethics

There is relatively little consideration that needs to be given to the ethics of this project as its methods do not employ any direct contact with human subjects. There is an argument that could be made that the topic of this research may make certain sectors of Swedish society uncomfortable, especially dependent upon the findings, however in my analysis of actual harm there seems to be very little concrete that could be expected.

5. Analysis

The analysis of the three versions of the SAA present many similarities and differences which are the substance of this analysis. Based on trends in the relevant sections of the law certain subsections have presented themselves. The construction, or modification, of the different categories of migrant, and the changing meaning of the term ‘Vandel’ throughout the next sections will be the topic which is divided into the different categories of migrant: Asylum seekers, Third country nationals, EEA citizens, and Nordic citizens, as well as a supplemental section describing the legal concept of ‘Vandel.’ While the relevant sections of the law, in regard to the categorization of migrants, tend to be under the section residency, ‘uppehållstillstånd,’ this varies somewhat dependent on the year in question, and as such the analysis will have some reach.

5.1 ‘Vandel’

Though there is no direct English translation for the word ‘Vandel’ it can be most closely translated as ‘conduct, behavior, or lifestyle’ (*Swedish Academy dictionary 2018*). And when speaking legally this is what the use of ‘Vandel’ is seeking to regulate. The category of migrant most thoroughly affected by ‘Vandel,’ in explicit terms at least, are Third country nationals.

Throughout the different versions of SAA ‘Vandel’ has gone through periods of more and less restrained use, appearing more, or less, explicitly depending how broad or restrained its interpretation. This is further complicated by the fact that the relationship to how explicitly ‘Vandel’ is discussed is inversely correlated to how broadly it can be interpreted, with the most restrictive interpretations being the most explicit and the least restrictive interpretations being the most implicit.

Below is a full discourse analytic breakdown of the use of ‘Vandel’ in its most explicit and restricted variation, in the text of the 1980 SAA, which will serve as a starting point for a more detailed investigation of what ‘Vandel’ means and how it is used.

(Section 12, pg.3, 1980:376) *“Residence permits may be refused a foreigner due to his / her conduct only if the conditions are as stated in section 29, first paragraph 2--4 or 43 §. Law (1984: 595).”*

The law defines the following set of possibilities (Social structure):

1. Residence permits may be refused based on ‘vandel’
2. ‘Vandel’ is defined as an alien who
 - a. could not support themselves in a legal way,
 - b. would work without a work permit,
 - c. had been convicted of crimes or in other ‘special circumstances’ was assumed to commit crimes in Sweden or another Nordic country,
 - d. or had conducted, or was suspected of conducting, espionage in Sweden or another Nordic country **(Section 29, pg. 6, 2-4, 1980:376)**
3. Further, ‘Vandel’ could be taken into consideration if the foreigner was
 - a. a professional prostitute,
 - b. or an alcoholic or drug addict that through their addiction could be seen as a danger to the personal safety of others,
 - c. or if the foreigner lives in a ‘grossly disturbing way’ **(Section 43, pg.9, 1-2, 1980:376)**.

The law also prescribes certain controlling principles in the selection of the aforementioned structural possibilities (Social practices):

1. Residence permits may only be refused if their conduct falls into the enumerated instances of ‘vandel’

From the following set of possibilities and controlling implementation principles, migrants, as a category, are at risk of possessing a problematic ‘vandel.’ Which when viewed through the lens of biopolitical societal security allows us to understand what things the state considers traits that mark one as unsuitable to become a part of the population, demarcating the line between the population and the ‘other.’ Thus in the 1980 SAA, migrants (and later third country nationals), relative to refugees or the Nordic Citizens of Denmark, Finland, Iceland, and Norway, were more associated with the risk of being unable to provide for themselves economically, being a part of criminality or the reasonable presumption thereof, prostitution, or addiction to drugs and alcohol. However, a migrant without these specific traits, which constitute a problematic ‘vandel,’ should be viewed as desirable additions to the population.

This is the most explicit and limited version of the ‘Vandel’ as a controlling principle of migration only allowing denial based on the above mentioned and clearly illuminated traits. In further variations of the law ‘Vandel,’ or its proxies, are found throughout the text, often in different and varied sections, with broad, or no guidelines, about what constitutes a less than “honorable conduct” (Section 4 pg.3 1989:529) or an unfit “expected way of life” (Chapter 5, pg.20, 2005:716). As such in the following sections, discussing the different categories of migrant, ‘Vandel’ or principles that are similar in function will be highlighted.

‘Vandel’ is one of the best examples of societal security using migration law as a biopolitical governance strategy, enumerating in the more explicit cases, or relying on the interpretations of its implementers in more implicit cases, to screen out those third country nationals whom either represent a threat to societal cohesion or the reproduction of national identity if they are allowed into the population. Additionally, as will be further explored in the individual sections where they are found, portions of ‘Vandel’ like criteria are evident for EAA citizens.

5.2 Asylum seekers

The process by which one gains residency on asylum grounds has changed more than almost any other category of migrant throughout the different variations of the SAA. The current process can be broken down into four distinct phases not all of which existed previous to the 2005 SAA.

The first phase is *Definition*, or upon what grounds one can claim asylum as a refugee or person seeking subsidiary protection. These possible grounds for the granting of asylum have changed and broadened over time with further valid persecutors being added, in the form of non-state actors in 1989, and further grounds for persecution being acknowledged in 2005 such as sexual orientation or gender.

The second phase is *Status confirmation*, this is a newer phase which outlines circumstances where an otherwise valid claim of asylum can be denied.

The third phase is *Residency*, this is where, assuming both previous phases have been passed, one is granted residency. Yet once again in this phase circumstances are outlined where an otherwise valid claim of asylum, that has had its *status confirmation*, can be denied residency.

The final phase is *Control* (“when a refugee ceases to be a refugee”), where after an asylum seeker has gone through the previous three phases and is now residing in Sweden, the asylum seekers movements, and the status of their home country must be monitored to make sure that their status as refugee remains valid.

This makes asylum seekers, as a category of migrant, a very special category. They have relatively strong grounds for valid residency, yet those same grounds are simultaneously challenged and controlled, both in the initial invocation of asylum and throughout the duration of the refugee/subsidiary protection seeker’s residency. This temporary status is somewhat ameliorated by the right to seek citizenship, though this imposes a further step to becoming fully incorporated into the population. No other category of migrant is subject to the same level of continuing regulation and control of their initial, or continued, grounds for residency once they have been granted permanent residency. So, while refugees’ have stronger grounds for valid residency than some of the other categories discussed by this paper their situation remains one of the most tenuous especially in light of 2016:752. The changes made by 2016:752 will be discussed in greater detail in 5.2c.

5.2a Refugees and those seeking subsidiary protection 1980

In the 1980 SAA the concept of subsidiary protection was not yet a part of the law. Further, asylum seekers were not yet associated with criminality or threats to national security, and the sections regarding asylum seekers, were separate from the general residency section.

Though the 1980 SAA was not the broadest variation of the SAA's in regards to the grounds for persecution or the legitimate persecutors, we know through the work of (Abiri, 2000) that the majority of those seeking asylum were granted it up until 1985, representing a relatively liberal interpretation of a presumptive refugee's "well-founded fear of persecution" (§ 3, pg.1, 1980:376) up to this point.

Additionally, there were only three of the above mentioned phases, *Definition* in which certain types of persecution had yet to be recognized and the only legitimate persecutors, which gave valid claims to asylum, were state actors. *Residency* which at this point was called sanctuary and had lax yet broad grounds for denying an otherwise valid claim of asylum stating that only "special reasons" should keep a refugee from receiving sanctuary (§ 3, pg.1, 1980:376). And finally *Control* which will be presented in a full discourse analytic breakdown as this represents the model for this phase in each variation of the law, changing little between different variations.

(§ 4, pg.1-2, 1980:376) "A refugee ceases to be a refugee if he

1. by free will again uses the country's protection where he is a citizen,
2. after losing his citizenship of free will, acquires it again,
3. acquires citizenship in one new country and receive the protection of the country;
4. return freely to settle in the country referred to in section 3, second paragraph; or
5. Can not continue to refuse to use the protection of the country where he is a national or where he, as a stateless person, previously had his place of residence, because the circumstances which led to him being considered refugee in accordance with § 3 no longer exist."

The law defines the following set of possibilities (Social structure):

1. Refugee status is not permanent.

2. The refugee, through their own conduct, ceases to be a refugee if: they reacquiring protection or citizenship, or acquire citizenship in a new country and or settling in a new country.
3. The refugee ceases to be a refugee if the state deems the grounds for persecution no longer valid

The law also prescribes certain controlling principles in the selection of the aforementioned structural possibilities (Social practices):

1. The state must control that its current population of refugee's has not accepted citizenship or protection anywhere else.
2. The state must control that its current population of refugee's are still in danger of persecution.

This example of the restrictions and limitations put on refugees illuminates the temporary nature of their situation, most especially point 5 which both indicate that regardless of the refugee's actions, short of seeking citizenship, they are not considered to be a part of the population, and that the situation in their country of origin must be monitored by the state to determine its responsibility to the refugee. However, it is important to note that, even though this version did not cover as many grounds or types of persecution/persecutors, this is still the least restrictive variation of the SAA, and its implementation was generally liberal.

5.2b Refugees and those seeking subsidiary protection 1989

The changes made between the 1980 and 1989 version of the SAA worked at cross purposes, both broadening and restricting asylum seekers rights to residency. The 1989 SAA still kept the sections for asylum and residence apart while it added the concept of persons seeking subsidiary protection as a grounds for residency based on asylum.

The 1989 SAA added the concept of *Status confirmation* but it had yet to become a distinct phase, retaining the 1980s' *Definition, Residency, Control* phases.

The *Control* phase in this version of the law remains largely the same, with the only the addition of people seeking subsidiary protection being added to the criteria, which otherwise kept refugees in a precarious temporary status with the exact same wording being carried over from the 1980 SAA (§ 4, pg.1-2, 1980:376) into the same section in the 1989 SAA (§ 5, pg.10, 1989:529).

The *Definition* phase added grounds to the sources of persecution which can create a valid refugee adding individuals to the list of possible persecutors.

In the *Residency* phase an entire section on the right to deny an otherwise valid claim of asylum (Section 4, pg.10, 1989:529) was added and the category of asylum seekers became associated with criminality and threats to national security. Further, the state revealed its reluctance to take in refugees if, regardless of the refugee's wishes, they had traveled from a state that could or perhaps would give them asylum. Given these new grounds, and as they serve as a basis for further analysis of similar provisions in 2005:716, a full discourse analytic breakdown will be included below.

(Section 4, pg.10, 1989:529) *“Foreign nationals referred to in sections 2 and 3 are entitled to a residence permit.*

However, residence permits may be refused if

- 1. in respect of refugees pursuant to section 2 and the need for protection pursuant to section 3, first paragraph 2 and 3, in view of what is known about the alien's previous activities or with regard to the national security, there are special reasons for not granting a residence permit, or*
- 2 There is special reason not to grant a residence permit in respect of a person in need of protection who is covered by Section 3, first paragraph 2, due to crime or any other circumstance relating to the person in need of protection.*
- 3. The alien has traveled from Denmark, Finland, Iceland or Norway and can be sent back to one of these countries in accordance with an agreement between Sweden and that country, unless it is obvious that he will not be granted a residence permit there,*
- 4. the alien, otherwise before arrival in Sweden, has resided in a country other than the home country and, if he is returned there, is protected against persecution or against being sent to the*

home country and also against being forwarded to another country where he has no corresponding protection ,

5. the alien has a special connection with another country and is protected in the manner specified in 4, or

6. The alien may be sent to a country which acceded to the Convention determining the State responsible for examining an application for asylum made in one of the Member States of the European Communities and the alien is protected in that country in the manner laid down in 4. Law (1997: 433).”

The law defines the following set of possibilities (Social structure):

1. A refugee, or person seeking subsidiary protection, can be denied residency if, with what is known about their previous activities there are special reasons to deny them, or they are deemed a threat to national security.
2. A person seeking subsidiary protection can be denied residency based on criminality, or other special circumstances.
3. A refugee, or person seeking subsidiary protection, can be denied residency if they have traveled from Denmark, Finland, Iceland, or Norway unless it is obvious they will not be granted residency there.
4. A refugee, or person seeking subsidiary protection, can be denied residency if, before arriving in Sweden, they had resided in a country other than their home country and would be protected against persecution if they were returned.
5. A refugee, or person seeking subsidiary protection, can be denied residency if they are already protected by another country, with which they have a special connection.
6. A refugee, or person seeking subsidiary protection, can be denied residency and deported to a country which is party to the EU conventions regarding state of first arrival.

The law also prescribes certain controlling principles in the selection of the aforementioned structural possibilities (Social practices):

1. When granting residency to a refugee, or person seeking subsidiary protection, their previous activities must be evaluated

2. When granting residency to a person seeking subsidiary protection, their criminality and any special circumstance must be evaluated.
3. When denying residency to a refugee, or person seeking subsidiary protection, based on them traveling from Denmark, Finland, Iceland, or Norway their grounds for gaining residency in those countries must be evaluated.
4. When granting residency to a refugee, or person seeking subsidiary protection, their country of previous residency must be controlled.
5. When granting residency to a refugee, or person seeking subsidiary protection, their protection status in other countries must be controlled.
6. When granting residency to a refugee, or person seeking subsidiary protection, it must be determined if they passed through a convention country.

Deploying this section as a modifier to the *Residency* phase serves not only as a tool of biopolitical governance, but also makes claims about who the state considers asylum seekers to possibly be, while illustrating who the state's ideal population is not. Association with criminality, and threats to national security, as well as any 'special circumstances' give the state a clear, yet flexible, demarcation of the boundary of 'otherness' which justify the denial of otherwise valid claims to asylum in this section.

This portion of the law also reveals that the state sees asylum seekers as a burden, which is to ideally be shared between states. This further shows the states' reluctance to extend its responsibilities and thereby its recognition to asylum seekers as members of its population.

5.2c Refugees and those seeking subsidiary protection 2005

Every phase referenced at the beginning of section 5.2 is fully realized in the 2005 SAA, with *Status confirmation* becoming a full phase unto itself, in addition to *Definition*, *Residency* and *Control*. In a very similar fashion to the 1989 SAA the 2005 SAA represents both an increase in the valid grounds for claiming asylum, while also increasing the ability of the state to deny asylum culminating in the extraordinarily restrictive "law on temporary restrictions on the possibility of obtaining a residence permit in Sweden" (2016:752). In the 2005 SAA asylum

seekers are now also included under the section regarding residency, as well as having the sections from earlier SAA's explaining their special rights and restrictions.

The *Definition* phase of the 2005 SAA is characterized by more inclusive grounds for residency, based on asylum, than any of the SAA's previously explored. This SAA moves two grounds, gender and sexual orientation, from the criteria of persons seeking subsidiary protection to the criteria for refugee status, viewing persecution based on race, nationality, religious or political affiliation, gender, sexual orientation, and or belonging to particular social group as grounds for refugee status (Chapter 4, § 1, pg.11, 2005:716). The 2005 SAA adds rules for assessing the ability of a possible refugee to gain protection in their home country specifying that, if the home state, or parties and or organizations that control a significant portion of the state's territory cannot provide protection of more than a temporary nature the application of refugee status should be granted (Chapter 4, § 1, pg.11, 2005:716). And finally, the 2005 SAA breaks up the categories of persons seeking subsidiary protection into two groups, "persons seeking subsidiary protection" (persons not defined as a refugee but subjected to conditions similar to those a refugee would suffer but for reasons not specified in the definition of refugee, and in situations of external, or internal armed conflict) and "other persons seeking subsidiary protection" (persons in need of protection due to internal or external armed conflicts and environmental catastrophes) (Chapter 4, § 1, pg.11-12, 2005:716). Overall this represents a relatively massive increase in grounds, persecutors, and situation under which a person can claim asylum.

Yet in the same *Definitions* phase, unlike any of its predecessors, an entire section has been added allowing the state to deny otherwise valid asylum claims. This will be given a full discourse analytic breakdown to reveal the additional criteria now associated with asylum seekers while illuminating this further step in the process.

(Chapter 4, § 2 b-c, pg. 12, 2005:716) § 2 b *A foreigner is excluded from being regarded as a refugee if there is a particular reason to suppose that he or she has committed a*

- 1. offense against peace, war crime or crimes against humanity, as these are defined in the international instruments that have been established to prosecute such crimes;*
- 2. a gross non-political offense outside Sweden before he or she came here; or*

3. acts contrary to the purposes and principles of the United Nations under the preamble and Articles 1 and 2 of the United Nations Charter.

The provisions of the first paragraph also apply to an alien who has instituted or otherwise participated in the practice of the offenses or acts mentioned there. Law (2009: 1542) .

§ 2c A foreigner is excluded from being considered as an alternative person in need of protection and other protection need if there is a particular reason to suppose that he or she

- 1. has been guilty of such crimes or acts referred to in section 2 b § 1, paragraph 1 or 3,*
- 2. has been guilty of a serious crime, or*
- 3. constitutes a danger to the security of the kingdom.*

What is stated in the first paragraph also applies to an alien who has instituted or otherwise participated in the practice of the offenses or acts referred to in the first paragraph 1 and 2.

The law defines the following set of possibilities (Social structure):

1. An otherwise valid refugee may have committed, instituted or participated in; crimes against humanity, war crimes, an offence against peace, a gross non-political offence outside of Sweden, or acts contrary to the principles of the United Nations; and in such cases can be denied refugee status.
2. An otherwise valid refugee may not have committed, instituted or participated in; crimes against humanity, war crimes, an offence against peace, a gross non-political offence outside of Sweden, or acts contrary to the principles of the United Nations; and in such cases cannot be denied refugee status under these conditions.
3. An otherwise valid subsidiary protection seeker may have committed, instituted or participated in; crimes against humanity, war crimes, an offence against peace, acts contrary to the principles of the United Nations, serious crimes, or be a danger to the security of the kingdom; and in such cases can be denied subsidiary protection status.
4. An otherwise valid subsidiary protection seeker may not have committed, instituted or participated in; crimes against humanity, war crimes, an offence against peace, acts contrary to the principles of the United Nations, serious crimes, or be a danger to the

security of the kingdom; and in such cases cannot be denied subsidiary protection status under these conditions.

The law also prescribes certain controlling principles in the selection of the aforementioned structural possibilities (Social practices):

1. An otherwise valid refugee's activities, before arriving in Sweden, must be controlled for possible: crimes against humanity, war crimes, an offence against peace, a gross non-political offence outside of Sweden, or acts contrary to the principles of the United Nations.
2. An otherwise valid subsidiary protection seeker's activities, before arriving in Sweden, must be controlled for possible: crimes against humanity, war crimes, an offence against peace, acts contrary to the principles of the United Nations, serious crimes, or being a danger to the security of the kingdom

In practice this means that the state must rely on reports or court cases from legal or civil systems outside of itself which may, or may not, be legally equivalent to the Swedish legal system. Further, this adds another control step, which had not previously existed, in the Asylum process. First requiring a check of valid grounds based on earlier portions of the *Definition* phase and then followed up with this control before moving onto the *Status confirmation* phase.

The *Status confirmation* phase, now for the first time a full phase unto itself, serves only as another round of control before outlining an asylum seekers' right to residency. Subjecting otherwise valid asylum seekers, who have made it through the controls and criteria present in the *Definition* phase, to control-criteria somewhat similar to points 1 and 2 of the 1989 SAA's *Residency* phase (Section 4, pg.10, 1989:529). Specifically, otherwise valid refugees, who through "serious crimes" have shown themselves to be a "serious danger to public order and safety" or through activities that represent a "danger to the security of the kingdom" can be denied *Status confirmation* and thereby be denied residency.

The *Residency* phase, now a part of the greater residency chapter previously reserved for other types of migrant, also outlines control-criteria. These control-criteria are enumerated directly after outlining the rights of asylum seekers who have made it through the *Definition* and *Status*

confirmation phases. Here, a set of two circumstances can be used to deny otherwise valid asylum seekers, either through “serious crime” that shows the asylum seeker is a “threat to public order and safety” or activities that represent a “danger to the kingdom’s security” (Chapter 5, § 1, pg.15, 2005:716). A careful reader will notice that the “danger to national security” condition was previously used in 1989 SAA, in a separate subsection (Section 4, pg.10, 1989:529), however this condition has now taken center stage, being outlined in the first couple sentences after the enumeration of the right to residency. Further, one might remember that both of these criteria were present in the previous *Status confirmation* phase leading one to wonder why these criteria have been restated as applicants at this point in the process have already been judged not to be a threat previously in the application process. The fact that both of these concepts are so close in proximity to the right to residency itself, not to mention the fact they are both restated from the *Status confirmation* phase, connect refugees and persons seeking subsidiary protection to threat based discourses, implying that they are a possible, perhaps even probable, “threat to the public order and safety” or even a “danger to national security.” The positioning of these concepts, in addition to the relative rarity of their use throughout the different categories of migrant paints a bleak picture of how the state understands the characteristics of these groups. The formulation of this law makes clear that incorporating these migrants into the population may represent a danger to population itself.

The *Residency* phase is also where the changes to the 2005 SAA, made by “temporary restrictions on the possibility of obtaining a residence permit in Sweden” (2016:752), can most clearly be seen. Just after the control-criteria previously mentioned, the law makes clear that ‘other persons’ seeking subsidiary protection, i.e. non-refugees fleeing internal or external armed conflicts and environmental catastrophes, no longer have the right to a residency permit while the law is in effect. Further, as will be explained in the *Control* phase portion, 2016:752 also changes the duration of residency for refugees as well.

The *Control* phase of the 2005 SAA is the first to change the temporary status of asylum seekers via an addition, to the otherwise identical reasoning carried over from (§ 5, pg.10, 1989:529) and (§ 4, pg.1-2, 1980:376), which modifies point 5. This exception gives a refugee the right to contest their status change, to invalid refugee, if “due to previous persecution, [the refugee] has weighty reasons for not wishing to avail himself of the country's protection” (Chapter 4, § 5,

pg.14, 2005:716). While this change does allow for a refugee to stay in Sweden even if the situation in their home nation is no longer such that they can claim asylum, the decision over valid “weighty reasons” is still within the state’s purview, and the law does not specify how these contestation is to be assed, thus making an asylum seekers temporary status still somewhat precarious. Further, 2016:752 removes the stipulation that residency permits given to refugees and persons seeking subsidiary protection be made permanent “If the alien is a refugee, the residence permit shall be valid for three years” (Section 5, pg.1, 2016:752) instead reclassifying all previously permanent residency permits to temporary ones, regardless of the situation in their home country, while the law remains in effect. This thus negates the otherwise, somewhat, ameliorated precariousness of an asylum seekers temporary status, representing a hardening while the temporary law modifies 2005:716.

5.2d Summary

Asylum seekers’ valid grounds for residency have changed quite drastically over the different versions of the Swedish Aliens Act. On the whole asylum seekers’ valid grounds for residency have throughout the SAA’s become more open in the initial claiming of asylum typified by a much broader *Definition* phase. However, they have also seen a steady increase in control-criteria with the addition of control-criteria to every step of their application process as well as the addition of the *Status confirmation* phase. Further, these control-criteria, such as criminality, or threats to national order and security, are very negative associations for asylum seekers as a category.

The temporary status of asylum seekers had become somewhat ameliorated, though not completely resolved, in 2005:716 but with the addition of 2016:752 the law seems to be going in the opposite direction. 2016:752 has severely limited the time one can stay in Sweden as an asylum seeker, regardless of the situation in an asylum seeker’s home country, while also making the chances of gaining asylum in Sweden remote.

Though there are veins of the Swedish exceptionalism discourse, especially in the steadily increasing grounds related to the *Definition* phase, the enormous growth of control-criteria along with the extraordinarily restrictive nature of 2016:752 show that the ‘Nationalist Peoples Home’ discourse is currently ascendant with regard to asylum seekers.

5.3 Third country nationals

Third country nationals are the only category of migrant in which the process for valid residency has changed in similarly fundamental ways to that of asylum seekers. The current process can be broken down into three, more or less, distinct phases. Nearly none of said phases existed in the 1980 SAA, with pretty much all of said phases being created in the 1989 SAA and later being expanded upon in the 2005 SAA.

The first phase encompasses *Primary grounds* which come in a variety of different forms but are most clearly typified in unification with a Swedish resident, due to family/marriage connections, or different forms of labor related residency claims. In the *Primary grounds* phase a third country national invokes one of the valid grounds for that particular SAA and their claim is then controlled.

The next phase, usually detailed alongside the *Primary grounds* as an extra control-criteria that allows for the denial of an otherwise valid claim on *Primary grounds*, is the *Vandel assessment*. The *Vandel assessment* is used to measure valid third country nationals' applications based on their "expected way of life." Reasons used to deny an otherwise valid third country nationals' application based on their expected way of life are detailed in the previous 'Vandel' section (5.1), but shortly can be thought of as a less than "honorable" way of life, criminality, or drug abuse.

Auxiliary to the *Vandel assessment* is temporary residency status, it is used primarily when certain *Primary grounds* are invoked or when the *Vandel assessment* is unable to come to a certain conclusion regarding a third country national's Vandel.

The final phase is *Asset assessment*. In the case that a third country national's *Primary grounds* are valid, and their *Vandel assessment* is also valid, then an *Asset assessment* will be done either on the third country national themselves, in some cases, or on the Swedish resident they are invoking in their primary grounds. It is worth noting that certain *Primary grounds*, such as work or studies, allow a third country national to skip this step in the process.

5.3a Residency and Permanent residency 1980

The 1980 version of the SAA has the shortest sections in reference to residency of any of the three variations of the law with only two sentences explaining valid grounds for residency;

“Residence permit may be granted for a certain period. If the alien intends to settle here in the realm, a residence permit may be granted without a time limit (permanent residence permit)” (Section 12 A pg.3 1980:376). In principle there are only two of the three phases, *Primary grounds* and *Vandel assessment*, with the *Primary grounds* phase being unrecognizable to later SAAs, and the *Vandel assessment* being extraordinarily limited. Additionally, the auxiliary use of temporary residency is not an explicit part of the *Vandel assessment* at this point, and *Asset assessment* is completely absent.

Primary grounds in the 1980 SAA are so open that in principle anyone who wishes to migrate to Sweden may have their case heard. Further, if they intend to settle in Sweden they were to be given permanent residency.

The 1980 SAA’s *Vandel assessment* was extraordinarily limited (fully explored in 5.1) only being used in cases of crime, prostitution, economic insolvency or drug abuse as a control-criteria by which the state could deny otherwise valid migrants.

This version of the SAA allows for the greatest amount of interpretation regarding the right of a migrant to settle in Sweden, thus being the most open-ended about which migrants are ‘appropriate’ as possible new members of the population and being truly unique among the documents being analyzed.

5.3b Residency and Permanent residency 1989

The 1989 SAA represents a fundamental change from the 1980 SAA with regard to residency. The underpinning of the *Primary grounds* for residency in the 1980 SAA was that any alien could apply for residency in Sweden if they were so inclined, in 1989 residency becomes a right that certain migrants have based on a specific set of *Primary grounds*, which were to be judged during the application process for their validity. Additionally, Sweden’s entrance into the EU in 1994 turns generic migrants into ‘third country nationals’ as the rights and responsibilities of EU citizens differ from non-EU citizens, and Nordic citizens. Further, the *Asset assessment* phase is still not part of the law at this point leaving only *Primary grounds* and *Vandel assessment*.

The *Primary grounds* which could be invoked as a third country national in the 1989 SAA are; unification with residency holding aliens, marriage or cohabitation with a Swedish resident, and work or studies.

Unification with a residency holding alien (UrhA) and marriage or cohabitation with a Swedish resident (McSr) are similar *Primary grounds*. The biggest difference between the two is that UrhA covers the *Primary grounds* for minors, dependents, closely affiliated family, and long term married couples/cohabitating partners whereas McSr is only the *Primary grounds* for shorter termed married couples/cohabitating partners and those intending on getting married/cohabitating. Where these grounds become most similar is that in both cases the relationships in question, with the notable exception of dependent children in the case of UrhA, must be controlled beyond simply proving that one is a married couple or are cohabitating partners. UrhA requires that couples have “continually cohabitated abroad” (Section 4 pg.2-3 1989:529), and McSr requires that the relationship “appears to be serious and special reasons do not speak against the granting of permission” (Section 4 pg.3 1989:529). This represents a skepticism on the part of the state regarding the authenticity of these relationships. Further, even in valid shorter term marriages, or cohabitation, this social structure represents a braking effect. Migrants attempting to claim grounds for residency based on this part of the law must wait until the relationship qualifies, either through cohabitating outside of Sweden for a sufficiently long time, or the decision regarding the ‘appearance of seriousness’ is made in the affirmative, thus slowing the migration into Sweden from younger less established families.

Work or studies as *Primary grounds* are relatively straight forward if one has a work permit, or are pursuing academic training, they have the right to apply for a residency permit. But there is also a third criteria somewhat mystically referred to as having her/his “livelihood arranged in some other way” (Section 4, pg.3, 1989:529) being presumably based on an evaluation of a foreigners independent wealth. The criteria for this form of residency seem to be an admirable ‘Vandel’ premised on work, academic achievement or wealth.

In the 1989 SAA *Vandel assessment* takes on the characteristics that will define its form moving into the 2005 SAA. With broader interpretive latitude in the determination of a third country nationals’ “honorable conduct” (Section 4 pg.3 1989:529) and the full use of auxiliary tools such as temporary residency, the process regarding *Vandel assessment* becomes almost entirely opaque allowing the state a great deal of latitude. For a more comprehensive, though still somewhat murky definition, the governmental inquiry “Residency and rejection” gives this as its

explanation of what one should look for when judging honorable 'vandel' "Here it is not just that crime should not occur. Other asociality and general normlessness should also be considered (SOU 1993:120 pg 18)." The previously mentioned specific examples of lacking 'vandel' from the 1980 SAA are covered through generalizing terms of crime, asociality, and general normlessness, but are also expanded by the universality of these terms, thus allowing for a greater degree of control over migration. This has the further effect of associating migrants with crime, asociality, and a general normlessness when compared to refugees, Nordic citizens, and EEA nationals.

Temporary residency becomes clearly defined as lesser form residency, and as an auxiliary tool of *Vandel assessment*, with its short entry that applies to all previously mentioned *Primary grounds* "If, with regard to the alien's expected way of life, there is doubt as to whether a residence permit should be granted, a temporary residence permit may be granted" (§ 4 b, pg.3, 1989:529). Further, those invoking UrhA or McSr as their *Primary grounds*, even in the case that their application is accepted are to be given temporary residency in the first instance of their approval. In the 1980 SAA temporary residents had less rights than those with permanent residency but it was not explicitly a lesser, or trial, version of residency. This broadens the already robust reach of 'vandel,' being used as a grey zone for migrants whose 'vandel' may not be up to state standards for incorporation to the population.

5.3c Residency and Permanent residency 2005

Rather than making fundamental change from what came before, as was the case in the change from 1980 SAA to the 1989 SAA, the 2005 SAA deepened and expanded upon the principles introduced in 1989. Different *Primary grounds* were added and previous grounds are better integrated and clearer. Strangely, the term 'Vandel' is completely absent from this version of the SAA. However, similar formulations are rife and the *Vandel assessment* phase is still clearly in use. In the 2005 SAA the *Asset assessment* phase comes into being introducing another control-criteria by which the state can deny otherwise valid third country nationals. Finally, third country nationals come to be associated with "threats to the safety of the kingdom."

The *Primary grounds* phase is principally broken up into Persons with connection to Sweden, Persons with long-term residency status, Work Post-graduate studies and other means of livelihood.

Persons with connections to Sweden encompasses a stronger, and weaker form of *Primary grounds*. In the stronger group are spouses/cohabitating partners of a Swedish resident, adopted and biological children of a parent with Swedish residency, and parents of an unmarried child that has been granted asylum. In each of those cases the law specifies that they “shall” be given a residency permit (Chapter 5, § 3, pg.17, 2005:716), assuming conditions in 17-17b do not apply. The weaker form of *Primary grounds* applies to those seeking to enter into a marriage or cohabitation with a resident of Sweden, non-child family dependents, those invoking this right based on a child who is a Swedish resident, an alien who has “Swedish origin,” or who has been a long-term legal resident of Sweden, in each of these cases the law specifies that they “may” be given residency (Chapter 5, § 3a, pg.18, 2005:716), assuming conditions in the second paragraph 17 do not apply. Further, it is interesting and important to note that, all residency based on these grounds is conditional on the rights of the person who is a resident of Sweden and therefore not grounded in the rights of those seeking to invoke these grounds.

2016:752 removes these *Primary grounds* for those seeking residency based on the grounds of connection, points 1 and 2, i.e. spouses/cohabitating partners of a Swedish resident and adopted children of Swedish residents, if the person who is the basis for the connection that they are invoking is a refugee who is not deemed to have a good chance of obtaining permanent residency. 2016:752 also, entirely removes the rights of those seeking residency based on the grounds of connection, in (Chapter 5, § 3, pg.17, 2005:716) and (Chapter 5, § 3a, pg.18, 2005:716), if the basis for connection that they are invoking are persons seeking subsidiary protection.

Persons with long term residency status are fairly straightforward, these *Primary grounds* encompass those who have resided legally within Sweden, without asylum grounds on some form of temporary residency, for the past five years without interruption. Or those who, due to having moved out of Sweden lost their previous permanent residency and wish to return. These grounds are also relatively strong, in that they represent “shall” (Chapter 5, § 2b, pg.17, 2005:716) ground rather than a “may” ground.

Work, Post-graduate studies and other means of livelihood are similar to the previous Work or studies *Primary ground* in the 1989 SAA (Section 4, pg.3, 1989:529). However, in this version the requirements have been increased and made more explicit. Now a third country national that invokes these *Primary grounds* must, for a total of four years during the past seven had residence permit related to work, a Swedish issued EU blue card, ICT permit, ICT permit for long-stay mobility, permit for seasonal work or a residence permit for studies related to postgraduate education. If instead the third country national has their 'livelihood otherwise arranged' outside of traditional employment, permanent residence "may" be given. More generally invoking Work, Post-graduate studies and other means of livelihood as *Primary grounds* for residency is relatively weak, given that of the above mentioned criteria only provide "may" (Chapter 5, section 5, pg.20, 2005:716), rather than "shall," be granted permanent residency.

Vandel assessment in the 2005 SAA happens as an overarching framework similar to how it functioned in the 1989 SAA. First as a general control over otherwise valid claims from third country nationals, and in cases that are less clear through the auxiliary of temporary residency. As the section related to this broader control no longer uses the term 'Vandel' explicitly and because it adds new control-criteria we will look at it in a full discourse analytic breakdown.

Chapter 5, section 17, pg.23-24, 2005:716) *"When examining an application for a residence permit pursuant to this chapter, except in cases referred to in sections 1, 2, 2 a, 2 d, 3 or 4, special consideration shall be given to whether the applicant is guilty of crime or crime in association with other delinquency.*

17 a § residence permit may be refused in cases referred to in § 3, if the
first false information knowingly provided or circumstances deliberately been concealed that is of importance for obtaining the residence permit,
2. a foreigner adopted or marriage or cohabitation commenced exclusively in purpose of giving the alien the right to a residence permit, or
3. the alien constitutes a threat to public order and safety.

Residence permits may also be refused in cases as referred to in section 3, first paragraph, 1 or 2 b, if the
spouses or cohabiting partners do not live together or do not have such intentions,

2. the person to whom the affiliation is invoked or the alien who applied for a residence permit is married or cohabiting with someone else, or

3. any of the spouses or cohabitants are under 18 years of age.

When assessing whether a residence permit should be refused, account must be taken of the alien's other living conditions and family relationships.

§ 17 b a residence permit shall be refused in the cases referred to in section 3, first paragraph 1 or 2 b, if the person to whom the affiliation is relied on is married to another person and lives with that person in Sweden. Law (2006: 220).”

The law defines the following set of possibilities (Social structure):

1. When examining applications for residency permits on the grounds of asylum, family of persons with long-term residency status, or Persons with connection to Sweden, the applicants may be guilty of crime or other delinquency.
2. Residency permits based on the grounds within section § 3 (connection to Sweden) may be refused if, fraudulent information was given which was important to obtaining the permit, or if the adoption, marriage or cohabitation invoked was used for the express purpose of grounds for a residency permit, or if the alien represents a threat to public order and safety.
3. Residency permits based on the grounds within section § 3, first paragraph, 1 or 2b, may be refused if spouses or cohabiting partners do not live together, or do not have such intentions, or the person to whom the affiliation is invoked or the alien who applied for a residence permit is married or cohabiting with someone else, or any of the spouses or cohabitants are under 18 years of age.
4. When assessing if residency permit should be refused an aliens living conditions and family relationships may provide support for or against refusal.
5. A residency permit shall be refused if, in cases pertaining to section 3, first paragraph 1 or 2 b, the person is married to another person which they live with in Sweden.
6. Residency permits up for refusal based on points (1-3) may be approved.

The law also prescribes certain controlling principles in the selection of the aforementioned structural possibilities (Social practices):

1. When examining applications for residency permits on the grounds of asylum, family of persons with long-term residency status, or Persons with connection to Sweden control that the applicants are not guilty of crime or other delinquency before granting residency.
2. Residency permits based on the grounds within section § 3 should be controlled to be sure that, fraudulent information was not given which was important to obtaining the permit, or if the adoption, marriage or cohabitation invoked was used for the express purpose of grounds for a residency permit, or if the alien represents a threat to public order and safety.
3. Residency permits based on the grounds within section § 3, first paragraph, 1 or 2b, should be controlled to be certain whether spouses or cohabiting partners do not live together, or do not have such intentions, or the person to whom the affiliation is invoked or the alien who applied for a residence permit is married or cohabiting with someone else, or any of the spouses or cohabitants are under 18 years of age.
4. A residency permit must be controlled, in cases pertaining to section 3, first paragraph 1 or 2 b, to be certain the person which the affiliation is relied on is not married to another person with which they live with in Sweden.

Section 17, 17a, and 17b serves to associate asylum seekers, family of persons with long-term residency status, or Persons with connection to Sweden with crime, delinquency, fraud and the threats to public order and safety. Further, in their own sections third country nationals with otherwise valid claims as Persons with long-term residency status, or, Work (EU Blue card and ICT) are associated with threats to national security and public order, as well as fraud, and threats to public health, (Chapter 5a, § 3, pg.28, 2005:716), (Chapter 6a, § 6, pg.33, 2005:716) and (Chapter 6b, § 1, pg.36, 2005:716) respectively. So while the term “Vandel” is never explicitly used, activities described in the various versions of *Vandel assessment* throughout the different SAA’s (1980 and 1989) are still in use here.

The auxiliary tool of temporary residency in the 2005 SAA retains both the form and function of its earlier incarnation in 1989 (§ 4 b, pg.3, 1989:529). Temporary residency can be used in

reference to any *Primary grounds* when there is skepticism regarding “the alien’s expected way of life” (Chapter 5, section 7, pg.20, 2005:716). However, those third country nationals who invoke a Connection to Sweden as their *Primary grounds* are still to be given temporary residency in their first instance of acceptance, preserving the greater scrutiny of these *Primary grounds* pioneered in 1989. Once again we see that though the term “Vandel” is not explicitly being used, its meaning is still a control-criteria.

On top of all of the previous control-criteria related to the reconceptualization of *Vandel assessments*, an otherwise valid third country national can still be denied residency by the new *Asset assessment* phase added in 2005. This phase was changed yet again by the 2016:716 temporary amendment to the 2005 SAA. The *Asset assessment* had previously required the resident, which the migrant is invoking connection to, to be able to financially support themselves and have a residence of appropriate size for both them and the migrant in question (Chapter 5, 3 b, pg.19, 2005:716). As this is an entirely new means to deny otherwise valid residency it will be included in a full discourse analytic breakdown.

(9 §, pg.2, 2016:716) *“Instead of what is stated in chapter 5. Section 3 b of the Aliens Act (2005:716) applies to residence permits in accordance with Chapter 5 of the Aliens Act. § 3 or 3 a of the same law may only be granted if the person to whom the alien invokes ties can support himself and the alien, and has a residence of sufficient size and standard for himself and the alien. However, this does not apply to the examination of an application for a continued residence permit.”*

The law defines the following set of possibilities (Social structure):

1. Residence permits based on connection (§3 and §3a) may only be granted if the person whom the alien invokes ties to can support both themselves, and the alien, and has a home of sufficient size for both themselves and the alien, unless the residency permit is being renewed.

The law also prescribes certain controlling principles in the selection of the aforementioned structural possibilities (Social practices):

1. When granting residence permits based on (§3 and §3a) see (Act 2016:716) for rules governing asset assessments during 20 July 2016-2019.

With the current 2016:716 law in effect the Swedish resident now needs to financially support both themselves and the migrant invoking connection in addition to the requirement of a residence of appropriate size. Further, the exceptions to this rule in 2005 SAA have also changed, now only children, people extending their residency permit, or family members of refugees, or persons in need of subsidiary protection, who cannot reunite outside an EU country and who applied on the grounds of connection to the person whose status was confirmed within 3 months of said confirmation are exempted from this requirement (9 §, pg.2, 2016:716).

This once again serves as a limiting factor on the grounds for residency based on connection to Sweden, but interestingly this social structure serves to reduce the rights of Swedish residents. Given that the right of residency based on connection is inherently a right the resident bestows upon the invoking migrant. With the 2016:716 stipulation that said the Swedish resident must have sufficient income and accommodation to care for both themselves and the migrant in question, those Swedish resident who are of lower socioeconomic status, especially those in cities where rents are highest, have less ability to exercise these rights. For those seeking to invoke Connection to Sweden as *Primary grounds* this changes makes it much more difficult, creating a de facto barrier for miscegenation between economically weaker Swedish resident's and third country nationals.

It is important to note that though this portion of the *Asset assessment* only applies to those third country nationals invoking a Connection to Sweden, Persons with long term residency status and third country nationals invoking Work, Post-graduate studies and other means of livelihood as their *Primary grounds* are also subject to this control. This takes the form of either an explicit requirement in the case of long term residency status (Chapter 5a, § 2, pg.28, 2005:716), or as an implicit requirement of the type of *Primary ground* for people invoking Work, Post-graduate studies and other means of livelihood (Chapter 6a, § 6, pg.31-35, 2005:716) and (Chapter 6b, § 1, pg.35-40, 2005:716) respectively.

5.3d Summary

Similar to asylum seekers, third country nationals' valid grounds for residency have changed enormously over the different versions of the Swedish Aliens Act. 'Vandel,' the primary control-criteria for third country nationals, and its equivalents have become broader and more opaque in their possible interpretations. Both asylum seekers and third country nationals are the only categories associated with criminality, or threats to national order and security, and both categories have seen the phases required in their applications grow. However, unlike asylum seekers there has been no real broadening of rights for third country nationals. In fact the *Primary grounds* phase has gotten more specific, and less broad, as time has gone on unlike the *Definition* phase for asylum seekers. In addition to this the *Asset assessment* phase is relatively unique to third country nationals, severely limiting the possibility of residency for those Swedish resident's and third country nationals who are weaker economically. 2016:716 makes the *Asset assessment* phase even more difficult through tougher economic requirements while also making certain *Primary grounds*, specifically connection to Sweden (if the person used to invoke this right was a refugee or person with subsidiary protection), invalid.

Subjected to the massive growth of control-criteria throughout different versions of the SAA, along with the extraordinarily restrictive nature of 2016:752's *Asset assessment* third country nationals are associated with criminality, fraud, and threats to national order and security. The growth of these associations and control-criteria show that the 'Nationalist Peoples Home' discourse is currently ascendant in the control of third country nationals.

5.4 EEA Nationals

Sweden joined the EU in 1994 and as such EEA nationals were not always a category of migrant that the SAA dealt with specifically. Moreover, the conditions for both their incorporation into the Swedish population or the denial of otherwise valid claims by EEA nationals took some time to form and refine, with the clearest set of criteria enumerated in the 2005 SAA. Residency for EEA nationals is largely dealt with in one phase, determining an individual's *Right of residency* assuming the criteria for the *Right of residency* are met residency is conferred and the EEA national becomes a part of the population.

5.4a EEA nationals 1980

EEA nationals were not a concern for Sweden at this point as the EU had yet to come into being, first coming into being in 1992 with the Maastricht treaty. As such, the citizens of the soon to be EU states were covered under what this paper calls the ‘third country national’ system with its *Primary grounds* and *Vandel assessment phases*. Fortunately for those wishing to migrate to Sweden at this time *Primary grounds* were the most open they would ever be and the *Vandel assessment* was the most limited of any version of the SAA that came after.

5.4b EEA nationals 1989

In the 1989 SAA at the end of the section regarding residency we find the incorporation of the Schengen area visa-free mobility into the 1989 SAA. As described in 5.2, though Sweden had joined the EU in 1994 entrance into the Schengen agreement was delayed until the March of 2001, and its appearance into the SAA was drawn out until 2002. The section that deals with this (Section 14, pg.7, 1989:529) briefly outlines that being an EEA citizen gives a migrant the right to seek residency in Sweden. Yet it falls short of promising residency saying that the state “may” grant residency and that it can be revoked. This form of residency is interesting in that it flows, in the case of this text, from the agreement between states thus not being based on any criteria of the migrant themselves except from their national origin, i.e. belonging to the state which is party to the agreement with Sweden. Further, it is outside the consideration of ‘vandel,’ though still conditionally open to revocation.

5.4c EEA nationals 2005

As previously referenced in 2.2 and 2.3, the incorporation of EEA nationals into the 2005 SAA was part of the process that began with Sweden’s entry into the EU in 1994. Though 1989 SAA was in effect when the Schengen area visa-free mobility was implemented in 2001 it is first here, in the 2005 SAA, where a specific section is devoted to the rights and responsibilities of EEA nationals with regard to residency in Sweden. This is where the phase *Right of residence* is born, and as such it will be broken down with a full discourse analysis of the text enumerating this control-criteria.

(Chapter 3a, § 3, pg.6, 2005:716) “An EEA citizen has the right of residence if he or she is

1. an employee or self-employed in Sweden,
2. has come to Sweden to apply for work and has a real opportunity to get an employment,

3. is enrolled as a student at a recognized educational establishment in Sweden and according to a declaration that this has sufficient assets for their and their family members' livelihood and have a comprehensive health insurance for themselves and the family members that apply in Sweden, or

4. have sufficient assets for themselves and their family members' livelihood and have a comprehensive health insurance for themselves and the family members that apply in Sweden. Law (2006: 219).”

The law defines the following set of possibilities (Social structure):

1. An EEA citizen has the ‘right of residence’ if they are employed or self-employed in Sweden.
2. An EEA citizen has the ‘right of residence’ if they have come to Sweden, and are employable.
3. An EEA citizen has the ‘right of residence’ if they are a student that is enrolled in a recognized Swedish academic institution, with sufficient assets for themselves and their family members’ livelihoods, and have a comprehensive health care plan that is valid in Sweden.
4. An EEA citizen has the ‘right of residence’ if they have sufficient assets for themselves and their family members’ livelihoods, and have a comprehensive health care plan that is valid in Sweden.
5. An EEA citizen does not have the ‘right of residence’ if they are not employed, and are unemployable, in Sweden.
6. An EEA citizen does not have the ‘right of residence’ if they are a student who is not enrolled in a recognized Swedish academic institution.
7. An EEA citizen does not have the ‘right of residence’ whether they are a student or not if they do not have sufficient health care or assets to provide for themselves and their family in Sweden.

The law also prescribes certain controlling principles in the selection of the aforementioned structural possibilities (Social practices):

1. When assessing an EEA national's right of residency based on (1-2) their Swedish employment, and or their employability must be evaluated.
2. When assessing an EEA national's right of residency based on (3-4) their assets and healthcare must be evaluated
3. When assessing an EEA national's right of residency based on (3) their academic enrollment must be evaluated, then proceed then to the previous practice.

While an EEA national's right regarding residency are powerful the *Right of residency* phase is also a possible source of constant regulation. Further, the maintenance of a EEA national's 'right of residence' is essentially the economic portions 'vandel' or the later *Asset assessment* with the primary duties of EEA nationals being to have employment, be employable, study, be independently wealthy or able to provide for themselves and their family, including healthcare needs without the benefit of the Swedish welfare state. The primary difference between these conditions and that of 'vandel' in 80 and 89 is that there is no concern with normlessness and an EEA national's movement is far less controlled than that of a third country national. Given this free movement it is hard to conceptualize when or how the right of residence would be challenged or tested given that EEA nationals do not even need a passport to cross into Sweden making the possibilities of testing their right of residency nearly non-existent as long as said EEA national had no need to avail themselves of state services. Further, the right of residence can be made permanent if the EEA national lives legally in Sweden for 5 consecutive years (Chapter 3a, Section 6, pg.6, 2005:716).

5.4d Summary

Though a principally privileged group the valid grounds for residency regarding EEA nationals have developed in a similar, albeit more limited, fashion to asylum seekers and third country nationals; namely what constitutes valid grounds has become more controlled over time. It is important to point out that EEA nationals are not a part of the general residency phase and are therefore exempted from the associations related to the control-criteria of 'Vandel.' Further, the mere fact that one is an EEA national is the only requirement necessary for the attempt at valid residency in Sweden, unlike the necessary *Definition* phase for asylum, or the *Primary grounds* required of 'third country nationals.

However even though they are principally privileged and they only have one phase, the *Right of residency* phase, the development of this phase in 2005:752 represents a hardening of restrictions on the right of EEA nationals to reside in Sweden. As previously mentioned the *Right of residency* is essentially the economic portions ‘vandel’ or the later *Asset assessment*, being primarily concerned with keeping EEA nationals from accessing the benefits of the Swedish welfare state. In other words EEA nationals have the *Right of residency* until they require services from the Swedish welfare system.

Once again we see the paradigm of ‘Nationalist Peoples Home’ discourse in ascendance, but from a different angle when considering EEA nationals. The law seems to consider EEA nationals no threat to nationalist interpretations of cultural reproduction, with the absence of threat discourse and concerns over ‘Vandel,’ however the question of who has the right to access to the Swedish welfare state still falls along the ‘Nationalist Peoples Home’ lines with the *Right of residency* being premised on a EEA national providing all of those services for themselves.

5.5 Nordic Citizens

Unlike any other category of migrant Nordic citizens have no phases through which they must pass to be considered a part of the population. In fact, when Nordic citizens are mentioned at all by the SAAs it is to clarify that they do not require work or residency permits to work or reside in Sweden.

5.5a Nordic citizens 1980

Though the Nordic citizens of Denmark, Finland, Iceland, and Norway had been given the right to reside and work in Sweden without applying for residency or work permits in 1954 there was no mention of this anywhere in the text of the 1980 SAA. This is particularly strange as in each of the next two SAA’s the privileged status of Nordic citizens was clearly laid out within the law. The reasoning behind backgrounding these rights in the 1980 SAA is not entirely clear. From the lens biopolitical societal security Nordic Citizens are ideal additions to the population given that by virtue of being Nordic citizens they have no need to apply for residency or work permits and are thus exempted from the suspicion of a problematic ‘vandel.’

5.5b Nordic citizens 1989

In the 1989 SAA the privileged status of the Nordic citizens of Denmark, Finland, Iceland, and Norway is made explicit by their exemption from the requirements, at the beginning of the

document, which are required for every other type of national to later be discussed by the law. These sections are short but their content is worth paying special attention to and as such will receive a full discursive analytic breakdown here.

(Section 4 pg.2 1989:529) *“Residence permit requirements*

An alien resident in Sweden for more than three months shall have a residence permit, unless the alien is a citizen of Denmark, Finland, Iceland or Norway.

The Government may prescribe other exemptions from the requirement for a residence permit. The Government may also prescribe residence permit requirements after a shorter period of residence in Sweden than three months.”

(Section 5 pg.2 1989:529) *“Requirements for work permits*

An alien shall be authorized to work in Sweden because of employment here or abroad (work permit), unless the alien has a permanent residence permit or is a citizen of Denmark, Finland, Iceland or Norway.

The Government may prescribe other exemptions from the requirement for a work permit.”

The law defines the following set of possibilities (Social structure):

1. An alien must have a residency permit if they are in Sweden longer than 3 months, unless the alien is a citizen of Denmark, Finland, Iceland, or Norway.
2. The state may prescribe exemptions to the residency permit requirement.
3. The state may prescribe residency permit requirements after a shorter period than three months
4. An alien must have a work permit, unless the alien is a permanent resident or a citizen of Denmark, Finland, Iceland, or Norway.
5. The state may prescribe exemptions from the requirement for a work permit.

The enumeration of the requirements that an alien resident must have a residency or work permit, before going into the sections regarding residency and work permit serves a discursive function. By requiring residency and work permits from all aliens, yet notably excusing other Nordic citizens, the Swedish state reveals who it unconditionally considers a valid addition to the population. The primacy of position given to these declarations, before a formal discussion of residency or work permits, also serves to demarcate ideal additions to the population.

5.5c Nordic Citizen 2005

The 2005 SAA still acknowledges, as the 1989 SAA did, the special privileges afforded the Nordic citizens of Denmark, Finland, Iceland, and Norway, exempting them from the need to acquire residency or work permits when settling or working within Sweden. Similar to the 1989 SAA this acknowledgement of their special status comes before the formal residency section but also before the sections detailing the rights and responsibilities of EEA nationals. The section dealing with these exemptions is sufficiently different from the section in the 1989 SAA that it also merits a full discourse analytic breakdown in this section.

(Chapter 2, § 8 b, pg.6, 2005:716) *“The requirement for a residence permit pursuant to section 5 does not apply to a foreigner who is*

- 1. a citizen of Denmark, Finland, Iceland or Norway,*
- 2. has a right of residence, or*
- 3. has a visa for longer than three months.*

Law (2014: 198).”

(Chapter 2, § 8 c, pg.6, 2005:716) *“The requirement for a work permit according to section 7 does not apply to a foreigner who is*

- 1. a citizen of Denmark, Finland, Iceland or Norway,*
- 2. has a right of residence, or*
- 3. has a permanent residence permit.*

Law (2014: 198).”

The law defines the following set of possibilities (Social structure):

1. Citizens of Denmark, Finland, Iceland, or Norway are exempt from residency permit requirements.
2. An EEA national who has the ‘right of residence’ is exempt from residency permit requirements.
3. A foreign national that has a visa for longer than three months is exempt from residency permit requirements.
4. Citizens of Denmark, Finland, Iceland, or Norway are exempt from work permit requirements.
5. An EEA national who has the ‘right of residence’ is exempt from work permit requirements.
6. A foreign national that is a permanent resident is exempt from work permit requirements.
7. All other foreign nationals are not exempt from residency permit requirements.
8. All other foreign nationals are not exempt from work permit requirements.

This placement of the Nordic exemption serves as a discursive function, showing that Nordic citizens retain their place as the Swedish state’s ideal additions to the population. This is because, as the above quotes show, the law exempts Nordic citizens unconditionally, yet in the case of EEA nationals it refers to “the right of residence” which, as has been discussed fully in 5.4a-c, encompasses an array of different criteria which an EEA national must continually fulfill if they are to retain the right of residence. This unconditionality existed in 1989, but as the control-criteria for EAA nationals were extraordinarily ill defined it was less clear that Nordic citizens received all that much more preferential treatment given that in principle the only difference was that EAA nationals need to apply for residence.

5.5d Summary

The valid grounds for residency regarding Nordic citizens are the only grounds for valid residency that have remained unchanged. This is somewhat unsurprising as Nordic citizens are the most privileged category of migrants and when they were included in the various SAA’s it was only to specify that they were exempted from having to apply for work or residency permits in the first place. This unconditional access to Sweden makes Nordic citizens on nearly equal

access with the population itself and from the perspective of the law the only way in which they are categorized as ‘other’ is due to the fact that they are mentioned at all.

When considered alongside the other categories of migrant this reveals that Nordic nationals are not considered burden to the Swedish welfare state or at risk of a problematic ‘Vandel.’ This fits into the discourse of the ‘Nationalist Peoples Home’ identifying other Nordic peoples as worthy of Swedish welfare, and not culturally threatening, i.e. the ideal migrant.

6. Conclusions

To fully answer the question ‘how have the categories of migrant changed within the SAA over time’, we have to consider both, under what conditions do biopolitical governance techniques identify aliens for incorporation into the population, (i.e. what are valid claims to residency) and under which conditions do societal security concerns justify the denial of otherwise valid claims. Further, repeated patterns of denial, based on societal security control allow us to illuminate the ascendant nationalist discourse. This has implications for future migration legislation and the broader conception of Swedishness. Given these considerations the following subsections will be used; 6.1 *Incorporation*, 6.2 *Denial*, 6.3 *Controlling discourse*, 6.4 *Implications*, 6.5 *Further research*.

6.1 Incorporation

In the 1980 SAA the broad grounds under which biopolitical governance identified which aliens should be incorporated (valid residency claims), were based on two primary criteria, *National origin*, in the case of Nordic citizens and the *Plan or will to reside in Sweden* for third country nationals and EEA nationals, which were one and the same (as there was no EU at the time). Asylum seekers were, and still are, not fully incorporated into the society; instead occupying a strange adjacent status based on the grounds of *State charity*. Refugee’s however, were and continue to be, valid additions to the population assuming they take the extra steps involved in pursuing citizenship based on their previously granted grounds of *State charity*.

Since 1989 these two broad grounds of incorporation have become dramatically restricted, and in some cases even the fundamentals of their validity have changed signaling a shift in the biopolitical governance techniques used to identify valid additions to the population. *National*

origin, is now the fundamental ground for both EEA nationals and Nordic citizens, but third country nationals, who originally were granted this right based on their own intent to live, and or work, in Sweden have almost completely changed. Their current valid grounds being based on *the rights of Swedish residents or businesses* and having nothing to do with their own will beyond seeking residency in the first place.

These changes in the fundamental grounds by which one can invoke a valid claim to residency show that biopolitical governance no longer recognizes third country nationals as assets to the population. Instead third country nationals, who have no previous connection to the population, are now understood to introduce a random element which “security mechanisms have to be installed around” otherwise biopolitical governance cannot complete the task of creating an “[optimized] a state of life” (Foucault 2013, p.246) for the population.

6.2 Denial

The general conditions under which societal security justified the denial of an otherwise valid claim to residency in the 1980 SAA were relatively murky. Nordic citizens had no societal security grounds under which they could be denied residency as they did not have to seek it in the first place, asylum seekers could be denied if there were ‘special reasons’ which do little to illuminate what concerns were to be acted upon, and third country/EEA nationals could only be denied under specific and limited terms related to *Vandel*.

Since the 1989 SAA however, the conditions under which societal security could justify the denial of an otherwise valid claim to residency have exploded. Further, these grounds have been repeated and expanded in the 2005 SAA. The most common justifications used by societal security can be broken down into three reasons. An alien’s *Vandel*, or way of life concerns, which can be said to interfere with the societal identity’s ability to reproduce (Weaver et al., 1993). Aliens who are considered a *Threat to the state or society*, generally premised on previous criminality or terrorist activity, which ‘threaten’ the security of the society within the state making “the whole package of the state (here seen as government apparatus + society + territory) ... unstable” (Wæver et al., 1993, p.57). Or aliens that are construed as a *Burden to the welfare system* who “are seen as additional and unacceptable sources of competition for jobs, housing and welfare benefits” (Wæver et al., 1993, p.165) to the resident population, thus hindering their economic and even biological reproduction.

Further, it is important to note that different categories of migrant are singled out for different forms of societal security concerns. There is no justification of denial for Nordic citizens, whereas asylum seekers and EEA nationals are only denied with particular justifications (*Threat to the state or society* and *Burden to the welfare system* respectively). Third country nationals however can be denied based on any of the three justifications explained above, while being the sole concern of *Vandel* as a grounds for denial.

6.3 Controlling Discourse

Both the changes in how biopolitical governance techniques identify which aliens should be incorporated into the population, and the repeated justifications of denial used by societal security to modify the aforementioned biopolitical governance techniques of incorporation, reveal that “the destruction of the nation through immigration and the import of foreign cultures” (Schierup et al., 2018, p.1842) is the primary concern of the discourse guiding the development of the SAA since 1980. This imagined ‘destruction’ is both physical in the threats to welfare, state, and society as well as psychological in threats defined by the dissolution of identity.

The discourse most closely related to these concerns is ‘Nationalist Peoples Home’ discourse defined in section 3.3. As a governing discursive principle for societal security, and thus the lens by which biopolitical governance is deployed and justified, the ‘Nationalist Peoples Home’ is primarily concerned with “excluding non-deserving ‘others’ from its welfare system or its territory altogether (Schierup et. al., 2018, p.1843). The fact that this discourse is ascendant is particularly strange as the political party most openly and ardently championing this discursive position, the Swedish Democrats, were not in parliament to legislate either version of the SAA where this discourse became the operant one.

It is also interesting to note that the different categories of migrant represent more or less deserving others. Nordic citizens, with no need to apply for incorporation and therefore having no means of denial, are of no concern to this discursive principle. Thus, through the negation of grounds for their exclusion, they become the epitome of the ‘deserving other,’ the most desirable addition to the population. EEA nationals on the other hand are ‘deserving,’ so long as they do not burden the welfare state, seemingly no threat to the reproduction of national identity and welcome so long as they are not competing for welfare services. Asylum seekers are ‘deserving,’ insofar as their temporary, population adjacent, status goes as long as they are not a threat to the

state or society. So while asylum seekers may represent a threat to welfare services, jobs, or the reproduction of national identity their temporary status ameliorates all but the worst of these concerns as they are not truly incorporated. Third country nationals are only deserving if an economically strong Swedish resident, or a Swedish business, fights for their incorporation and even then only if they cannot be denied based on one of the aforementioned grounds. Third country nationals as a class of migrant are underserving unless they can prove otherwise, through the interests of Swedish business, or economical powerful residents.

With regard to asylum seekers and third country nationals, it seems that the operant discourse within the 2005 SAA would agree with Jimmy Åkesson “they are not Swedes, they do not fit into Sweden.” (Sveriges Radio, 2018)

6.4 Implications

The most immediate implications of the ‘Nationalist Peoples Home’ discourse being ascendant would be the extending, or permanent addition, of certain provisions from 2016:752. Examples of this would be the retention of the higher income requirements Swedish residents, used as grounds for a third country nationals’ invoking connection to Sweden, or the broadened exclusion of different categories of asylum seekers. In the near future, if this discourse was still ascendant when a new SAA was created it could further change the fundamental grounds for valid residency. Thereby narrowing the window of what, or more specifically who, biopolitical governance considers valid for incorporation into the population.

In the much farther future, and only if the law is successful in its exclusions, it could change the demographic make-up of Sweden, and contact with other cultures, enough to begin shaping a new national identity. Though this scenario does seem particularly unlikely at this point.

6.5 Further research

While we have confidently answered the question of ‘how’ these changes were made over time, the question of ‘why’ is still yet to be answered. The ‘Nationalist Peoples Home’ discourse is a new controlling discourse, only becoming ascendant after the 1980 SAA which is an example of the ‘Swedish Exceptionalism’ discourse. Why did this change occur especially when the ‘Swedish Exceptionalism’ discourse has not disappeared as part of the national identity? Or better yet why is the ‘Nationalist Peoples Home’ discourse the controlling discourse; it is not, explicitly at least, the most powerful or widely accepted national identity?

Here, outside of looking into media or interviewing legislators, I would point further researchers towards SOU's or the state's public inquiries, which are excellent pieces of research in their own right and both inform legislation while also having a certain legal value for interpretation of later laws.

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Appendix i

Refugees and those seeking subsidiary protection 1980

(§ 3 pg.1 1980:376) *“A refugee shall not be refused asylum in Sweden without special reasons, if he is in need such protection.*

Refugee refers to a foreigner who is outside the country in which he is a citizen, because he feels a well-founded fear of persecution due to his race, nationality, belonging to a particular social group or because of his religious or political opinion; and who cannot, or because of their fear, will not, avail themselves of the protection of the aforementioned country. A person who is stateless and who for the same reason is outside the country where he has previously had his habitual residence and who cannot or because of his fear does not want to return there shall also be considered a refugee.

Persecution refers to such persecution as stated in the second paragraph, which is aimed at the alien's life or freedom or which is otherwise of a serious nature (political persecution).”

Section 5 *“Anyone who has abandoned a war scene or who has fled his home country to avoid imminent war duty (war warden) shall not, without special reasons, be denied the right to reside in Sweden, if he needs protection here.”*

Section 6 *“ An alien who is not a refugee but who, because of the political conditions in his home country, does not want to return there and who can rely on heavily weighting circumstances in support of this, shall not, without special reasons, be denied the right to reside in Sweden, if He needs protection here.”*

The law defines the following set of possibilities (Social structure):

1. A refugee has the right of residency through the criteria of asylum if they are currently in need of protection.
2. This right, even when otherwise valid, can be denied with ‘special reasons.’
3. The primary criteria of asylum is state persecution on the basis of race, nationality, social group belonging, religious or political opinion.

4. This persecution must threaten an alien's life or freedom or otherwise be of a serious nature, such as political persecution.
5. A refugee can be a citizen or stateless
6. The alternative criteria of asylum is draft evasion, or fleeing a war in the refugee's home country.

The law also prescribes certain controlling principles in the selection of the aforementioned structural possibilities (Social practices):

1. A valid refugee, one who is currently possessed of 'well-grounded' fears of persecution by a state, and should not be refused without adequate reason.
2. A refugee's claim of persecution must be controlled

(§ 4 pg.1-2 1980:376) *"A refugee ceases to be a refugee if he*

- 1. by free will again uses the country's protection where he is a citizen,*
- 2. after losing his citizenship of free will, acquires it again,*
- 3. acquires citizenship in one new country and receive the protection of the country;*
- 4. return freely to settle in the country referred to in section 3, second paragraph; or*
- 5. Can not continue to refuse to use the protection of the country where he is a national or where he, as a stateless person, previously had his place of residence, because the circumstances which led to him being considered refugee in accordance with § 3 no longer exist."*

The law defines the following set of possibilities (Social structure):

4. Refugee status is not permanent.
5. The refugee, through their own conduct, ceases to be a refugee if: they reacquiring protection or citizenship, or acquire citizenship in a new country and or settling in a new country.
6. The refugee ceases to be a refugee if the state deems the grounds for persecution no longer valid

The law also prescribes certain controlling principles in the selection of the aforementioned structural possibilities (Social practices):

3. The state must control that its current population of refugee's has not accepted citizenship or protection anywhere else.
4. The state must control that its current population of refugee's are still in danger of persecution.

Discourse fragment analysis:

Seen through the lens of biopolitical societal security, refugees are not desirable additions to the population given that all refugees are temporary members of the Swedish population unless the situation in their home country prohibits their return until their death, or they seek citizenship in the Swedish state, changing their designation from refugee to citizen. Further, their initial claim as well as their continuing status, require constant regulation and control. Finally, all refugees valid or otherwise can be denied residency if there are 'special reasons' to deny them.

Residency and Permanent residency 1980

(Section 12 A pg.3 1980:376) *“Residence permit may be granted for a certain period. If the alien intends to settle here in the realm, a residence permit may be granted without a time limit (permanent residence permit).”*

The law defines the following set of possibilities (Social structure):

1. Residency permits may be granted for a certain defined period
2. Residency permits may be granted for an indefinite period if the alien intends to settle in Sweden.
3. Residency permits may be denied.

The law also prescribes certain controlling principles in the selection of the aforementioned structural possibilities (Social practices):

1. If an alien intends to settle in Sweden, and a residency permit will be granted, a permanent residency permit should be granted

Discourse fragment analysis:

As there are not specific grounds or even guidelines for when, how, or who should be denied residency until the subsection following this part of the law. For a further discussion see 'Vandel.'

'Vandel' 1980

(Section 12 pg.3 1980:376) *"Residence permits may be refused a foreigner due to his / her conduct only if the conditions are as stated in section 29, first paragraph 2--4 or 43 §. Law (1984: 595)."*

The law defines the following set of possibilities (Social structure):

4. Residence permits may be refused based on 'vandel'
5. 'Vandel' is defined as an alien who
 - a. could not support themselves in a legal way,
 - b. would work without a work permit,
 - c. had been convicted of crimes or in other 'special circumstances' was assumed to commit crimes in Sweden or another Nordic country,
 - d. or had conducted, or was suspected of conducting, espionage in Sweden or another Nordic country (**Section 29, pg. 6, 2-4, 1980:376**)
6. Further, 'Vandel' could be taken into consideration if the foreigner was
 - a. a professional prostitute,
 - b. or an alcoholic or drug addict that through their addiction could be seen as a danger to the personal safety of others,
 - c. or if the foreigner lives in a 'grossly disturbing way' (**Section 43, pg.9, 1-2, 1980:376**).

The law also prescribes certain controlling principles in the selection of the aforementioned structural possibilities (Social practices):

2. Residence permits may only be refused if their conduct falls into the enumerated instances of 'vandel'

Discourse fragment analysis:

From the lens biopolitical societal security migrants, as a category, were at risk of possessing a problematic 'vandel.' Thus migrants, relative to refugees or the Nordic Citizens of Demark, Finland, Iceland, and Norway, were more at risk of being unable to provide for themselves economically, being a part of criminality or the reasonable presumption thereof, prostitution, or addiction to drugs and alcohol. So, while the grounds for residency were quite lax, migrants as an overall category are treated with some suspicion by the law. However, a migrant without a problematic 'vandel' could viewed as a desirable addition to the population.

Addendum on temporary residency - There are a number of significant differences between temporary and permanent forms of residency. Temporary residency does not give its holder the right to enter Sweden without a passport, further where a temporary resident is allowed to reside can also be limited, and finally a temporary resident must still apply for work and employment permits.

Nordic citizens 1980

Strangely, though the Nordic citizens of Demark, Finland, Iceland, and Norway had been given the right to reside and work in Sweden without applying for residency or work permits in 1954 there was no mention of this anywhere in the text of the 1980 SAA. In each of the next two SAA's the privileged status of Nordic citizens was clearly laid out within the law. The reasoning behind backgrounding these rights in the 1980 SAA is not entirely clear.

Discourse fragment analysis:

From the lens biopolitical societal security Nordic Citizens are ideal additions to the population given that by virtue of being Nordic citizens they have no need to apply for residency or work permits and are thus exempted from the suspicion of a problematic 'vandel.'

Appendix ii

Nordic citizens 1989

(Section 4 pg.2 1989:529) *“Residence permit requirements*

An alien resident in Sweden for more than three months shall have a residence permit, unless the alien is a citizen of Denmark, Finland, Iceland or Norway.

The Government may prescribe other exemptions from the requirement for a residence permit. The Government may also prescribe residence permit requirements after a shorter period of residence in Sweden than three months.”

(Section 5 pg.2 1989:529) *“Requirements for work permits*

An alien shall be authorized to work in Sweden because of employment here or abroad (work permit), unless the alien has a permanent residence permit or is a citizen of Denmark, Finland, Iceland or Norway.

The Government may prescribe other exemptions from the requirement for a work permit.”

The law defines the following set of possibilities (Social structure):

6. An alien must have a residency permit if they are in Sweden longer than 3 months, unless the alien is a citizen of Denmark, Finland, Iceland, or Norway.
7. The state may prescribe exemptions to the residency permit requirement.
8. The state may prescribe residency permit requirements after a shorter period than three months
9. An alien must have a work permit, unless the alien is a permanent resident or a citizen of Denmark, Finland, Iceland, or Norway.
10. The state may prescribe exemptions from the requirement for a work permit.

Discourse fragment analysis:

From the lens of biopolitical societal security the enumeration of the requirements that an alien resident must have a residency or work permit, before going into the sections regarding residency and work permit serves a discursive function. By requiring residency and work permits from all aliens, yet notably excusing other Nordic citizens, the Swedish state reveals who it unconditionally considers a valid addition to the population. The primacy of position given to these declarations, before a formal discussion of residency or work permits, also serves to demarcate ideal additions to the population.

Unification with residency holding alien 1989

(Section 4 pg.2-3 1989:529) *“Residence permits may be granted to*

- 1. a foreign national who is married to or cohabiting with someone who is resident in Sweden or who has been granted a residence permit for residence here, if the spouses or cohabiting partners have continually cohabitated abroad,*
- 2. an alien who is under 18 and unmarried and who is or has been a home-living child to someone who is resident in Sweden or who has been granted a residence permit for residence here,*
 - 2 a. an alien who is under 18 and unmarried and who has been adopted or who is intended to be adopted by someone who at the time of the adoption decision was and still resides in Sweden or has been granted a residence permit for residence here, if the alien is not covered by 2 and about the adoption decision*
- 3. a foreigner who in any other way than referred to in 1-2a is closely related to someone who is resident in Sweden or who has been granted a residence permit for residence here and who is part of the same household as the person,”*

The law defines the following set of possibilities (Social structure):

1. A residency permit may be granted to a foreign national spouse, or cohabitating partner, of a Swedish resident or persons granted Swedish residency if they have been married and lived together for some time abroad.
2. A residency permit may be granted to an unmarried alien under 18, who is, or has been, a dependent to a Swedish resident or person granted Swedish residency.

3. A residency permit may be granted to an unmarried alien under 18, who is, or intends to be adopted by a Swedish resident or person granted Swedish residency at the time of the adoption decision and is not covered under the previous grounds (2).
4. A residency permit may be granted to a foreign national who is closely related to, and a part of the household of, a Swedish resident or person granted Swedish residency so long as the relationship is not covered in (1 or 3)
5. A residency permit based on these grounds (1-4) may be denied.

The law also prescribes certain controlling principles in the selection of the aforementioned structural possibilities (Social practices):

1. If a residency permit is to be granted in the case of (1) the nature of the foreign national's relationship with the Swedish resident or person granted Swedish residency must be evaluated.
2. If a residency permit is to be granted in the case of (3) the residency of the Swedish resident or person granted Swedish residency, at the time of the adoption decision must be evaluated.
3. If a residency permit is to be granted in the case of (4) the foreign national's belonging to the household of the Swedish resident or person granted Swedish residency must be established .

Discourse fragment analysis:

In all of the above cases, with the notable exception of dependent children, there is some scrutiny of the relationships being invoked for residency. As a biopolitical strategy for societal security this represents a skepticism regarding the authenticity of these relationships. Further, even in valid shorter term marriages, or cohabitation, this social structure represents a braking effect. Migrants attempting to claim grounds for residency based on this part of the law must wait until the relationship qualifies, thus slowing the migration into Sweden from younger less established families.

Work and studies 1989

(Section 4 pg.3 1989:529) *“6. a foreigner who has been granted a work permit or who has his / her livelihood arranged in some other way, and
7. an alien who wishes to stay here in the country for studies or visits.”*

The law defines the following set of possibilities (Social structure):

1. A residency permit may be granted to a foreign national who has been granted a work permit, or who has their livelihood arranged in some other way.
2. A residency permit may be granted to a foreign national who wishes to study here, or visit for a longer duration.
3. A residency permit based on (1-2) may be denied.

Discourse fragment analysis:

The criteria for residency here are quite straight forward, if one has a work permit they have the right to apply for a residency permit. But the second criteria is stranger, if one wishes to stay for an extended visit in Sweden or one is pursuing residency for academic means they also have the right to apply for a residency permit. When considered through biopolitical societal security lens this right seems to be premised on the presumed value of the migrant as a part of the Swedish academic or labor markets, or even more strangely on foreigner's their independent wealth. The criteria for this form of residency seem to be an admirable 'Vandel' premised work, academic achievement or wealth. In the cases of lengthy visitors the presumption is that they will not stay.

Marriage or cohabitation with a Swedish resident 1989

(Section 4 pg.3 1989:529) *“Residence permits may also be granted to a foreigner who*

1. is married to or cohabiting with someone who is resident in Sweden or who has been granted a residence permit for residence here, without the spouses or cohabiting partners having continually cohabited abroad,, or

2. intending to enter into marriage or commence a cohabitation relationship with a person who is resident in Sweden or who has been granted a residence permit for residence here,

if the relationship appears to be serious and special reasons do not speak against the granting of permission.”

The law defines the following set of possibilities (Social structure):

1. A residency permit may be granted a foreign national spouse, or cohabitating partner to a Swedish resident or person granted Swedish residency, without having lived together for some time abroad.
2. A residency permit may be granted to a foreign national who intends to marry or cohabitate with a Swedish resident or person granted Swedish residency.
3. A residency permit based on (1-2) may be denied

The law also prescribes certain controlling principles in the selection of the aforementioned structural possibilities (Social practices):

1. If a residency permit based on (1-2) is to be granted no reason should speak against it, and the relationship in question must be evaluated for seriousness

Discourse fragment analysis:

Like 10.2b, as biopolitical strategy for societal security this represents a skepticism regarding the authenticity of these relationships. The state must make a determination as to whether or not to allow this with more limited information than the relationships in 10.2b.

‘Vandel’ 1989

(Section 4 pg.3 1989:529) *“When examining an application for a residence permit in accordance with this section, consideration shall be given to whether the alien can be expected to conduct themselves honorably. Law (2001: 201).”*

The law defines the following set of possibilities (Social structure):

1. All previous grounds for residency (10.2b-10.f) may be denied if a foreign national is expected to have problematic way of life ‘vandel.’

The law also prescribes certain controlling principles in the selection of the aforementioned structural possibilities (Social practices):

1. In the instance that a residency permit should be granted in sections (10.2b-10.2f) the prospective migrant’s ‘vandel’ should be controlled before granting the residency permit.

Discourse fragment analysis:

Unlike the 1980 SAA the term was not nearly so well defined in the body of the text in 1989. 'vandel' was not directly linked to economic insolvency, prostitution, addiction and crime or the suspicion thereof. For a more comprehensive, though still somewhat murky definition, the governmental inquiry "Residency and rejection" gives this as its explanation of what one should look for when judging honorable 'vandel' "Here it is not just that crime should not occur. Other asociality and general normlessness should also be considered (SOU 1993:120 pg 18)." From the lens of biopolitical societal security the concept of 'vandel' has been broadened. The previously mentioned specific examples of lacking 'vandel' are covered through generalizing terms of crime, asociality, and general normlessness, allowing for a greater degree of control over migration. This has the further effect of associating migrants with crime, asociality, and a general normlessness when compared to refugees, Nordic citizens, and EEA nationals. With the tightening of what constitutes a valid grounds for residency third country national migrants are a much less attractive addition to the population.

Temporary residency 1989

(§ 4 b pg.3 1989:529) *"If, with regard to the alien's expected way of life, there is doubt as to whether a residence permit should be granted, a temporary residence permit may be granted. Law (1995: 773)."*

The law defines the following set of possibilities (Social structure):

1. When there is doubt surrounding the 'vandel' of a foreign national a temporary residency permit may be granted.

The law also prescribes certain controlling principles in the selection of the aforementioned structural possibilities (Social practices):

2. In cases where the control of foreign nationals 'vandel' is inconclusive, and the other criteria for residency are fulfilled a temporary residency should be granted.

Discourse fragment analysis:

Temporary residency, in the 1989 SAA implies a fundamentally different form of residency from permanent residency. In the 1980 SAA temporary residents had less rights than those with permanent residency but it was not explicitly a lesser, or trial, version of residency. As a biopolitical tool of societal security temporary residency broadens the already robust reach of 'vandel,' being used as a grey zone for migrants whose 'vandel' may not be up to state standards for incorporation to the population.

EEA nationals 1989

(Section 14, pg.7, 1989:529) *“The Government may also provide that an application for a residence permit may be granted if it follows from an agreement with a foreign State, and that a residence permit may be revoked for the aliens covered by the agreement on a European Economic Area (EEA) or the Agreement between the European Community and its Member States, on the one hand, and Switzerland, on the other, on the free movement of persons even in cases other than those referred to in Paragraph 11 (1). Law (2002: 1111).”*

The law defines the following set of possibilities (Social structure):

1. An agreements with a foreign states may grant residency permits.
2. Residency permits may be revoked for EEA nationals and Swiss nationals.
3. An agreement with foreign states may not grant residency permits.

Discourse fragment analysis:

At the end of the section regarding residency we find the incorporation of the Schengen area visa-free mobility into the 1989 SAA. As described in 5.2, though Sweden had joined the EU in 1994 entrance into the Schengen agreement was delayed until the March of 2001, and its appearance into the SAA was drawn out until 2002. The criteria of the grounds for residency is not well enumerated in the body of the 1989 SAA's legal text. However, speaking from a biopolitical societal security perspective this form of residency is interesting in that it flows, in the case of this text, from the agreement between states thus not being based on any criteria of the migrant themselves except from their national origin, i.e. belonging to the state which is party to the agreement with Sweden. Further, it is outside the consideration of 'vandel,' though still conditionally open to revocation.

Refugees and those seeking subsidiary protection 1989

(§ 2 pg.9 1989:529) *“In this Act, refugee refers to a foreigner who is outside the country in which he is a citizen, because he feels well-founded fear of persecution because of his race, nationality, belonging to a certain social group or because of his religious or political opinion, and who cannot, or because of their fear, not want to avail themselves of the protection of this country. What has now been said applies irrespective of whether the persecution is based on the country's authorities or these cannot be assumed to provide security against persecution from individuals.*

As a refugee, the person who is stateless and who for the same reason is outside the country where he has previously had his habitual residence and who cannot or because of his fear does not want to return there shall also be considered. Law (1996: 1379).”

(Section 3 pg.9 1989:529) *“ In other respects, this Act means a foreigner who, in cases other than those referred to in section 2, has left the country in which he is a citizen, because he*

- 1. feels well-founded fear of being punished with death or with body punishment or being subjected to torture or other inhuman or degrading treatment or punishment,*
- 2. due to an external or internal armed conflict, protection or due to an environmental disaster may not be able to return to their homeland, or*
- 3. because of their gender or homosexuality feel well-founded fear of persecution.*

As a person in need of protection, the person who is stateless and who for the same reasons is outside the country where he previously had his habitual residence and who on the grounds referred to in the first paragraph cannot or does not want to return there, shall also be considered.

Law (1996: 1379).”

The law defines the following set of possibilities (Social structure):

1. A refugee has the right of residency through the criteria of asylum.
2. The primary criteria of asylum is persecution by the state. or individuals, on the basis of race, nationality, social group belonging, religious or political opinion.

3. A person in need of subsidiary protection has the right of residency through the criteria of asylum.
4. The alternative criteria of asylum is, being in need of protection from a death sentence, corporal punishment, torture, inhumane or degrading treatment and punishment, natural disasters, internal or external armed conflicts, or persecution based on gender or homosexuality.
5. A refugee or person seeking subsidiary protection can be a citizen or stateless.

The law also prescribes certain controlling principles in the selection of the aforementioned structural possibilities (Social practices):

3. A valid refugee, is possessed of 'well-grounded' fears of persecution by a state, or individual.
4. A refugee's claim of persecution must be controlled
5. A valid person seeking subsidiary protection, is possessed of 'well-grounded' fears of persecution, punishment or danger.

(Section 4 pg.10 1989:529) *“Foreign nationals referred to in sections 2 and 3 are entitled to a residence permit.*

However, residence permits may be refused if

1. *in respect of refugees pursuant to section 2 and the need for protection pursuant to section 3, first paragraph 2 and 3, in view of what is known about the alien's previous activities or with regard to the national security, there are special reasons for not granting a residence permit, or*
- 2 *There is special reason not to grant a residence permit in respect of a person in need of protection who is covered by Section 3, first paragraph 2, due to crime or any other circumstance relating to the person in need of protection.*
3. *The alien has traveled from Denmark, Finland, Iceland or Norway and can be sent back to one of these countries in accordance with an agreement between Sweden and that country, unless it is obvious that he will not be granted a residence permit there,*
4. *the alien, otherwise before arrival in Sweden, has resided in a country other than the home country and, if he is returned there, is protected against persecution or against being sent to the*

home country and also against being forwarded to another country where he has no corresponding protection ,

5. the alien has a special connection with another country and is protected in the manner specified in 4, or

6. The alien may be sent to a country which acceded to the Convention determining the State responsible for examining an application for asylum made in one of the Member States of the European Communities and the alien is protected in that country in the manner laid down in 4. Law (1997: 433).”

The law defines the following set of possibilities (Social structure):

7. A refugee, or person seeking subsidiary protection, can be denied residency if, with what is known about their previous activities there are special reasons to deny them, or they are deemed a threat to national security.
8. A person seeking subsidiary protection can be denied residency based on criminality, or other special circumstances.
9. A refugee, or person seeking subsidiary protection, can be denied residency if they have traveled from Denmark, Finland, Iceland, or Norway unless it is obvious they will not be granted residency there.
10. A refugee, or person seeking subsidiary protection, can be denied residency if, before arriving in Sweden, they had resided in a country other than their home country and would be protected against persecution if they were returned.
11. A refugee, or person seeking subsidiary protection, can be denied residency if they are already protected by another country, with which they have a special connection.
12. A refugee, or person seeking subsidiary protection, can be denied residency and deported to a country which is party to the EU conventions regarding state of first arrival.

The law also prescribes certain controlling principles in the selection of the aforementioned structural possibilities (Social practices):

7. When granting residency to a refugee, or person seeking subsidiary protection, their previous activities must be evaluated

8. When granting residency to a person seeking subsidiary protection, their criminality and any special circumstance must be evaluated.
9. When denying residency to a refugee, or person seeking subsidiary protection, based on them coming from Denmark, Finland, Iceland, or Norway their grounds for gaining residency in those countries must be evaluated.
10. When granting residency to a refugee, or person seeking subsidiary protection, their country of previous residency must be controlled.
11. When granting residency to a refugee, or person seeking subsidiary protection, their protection status in other countries must be controlled.
12. When granting residency to a refugee, or person seeking subsidiary protection, it must be determined if they passed through a convention country.

Discourse fragment analysis:

From the perspective of biopolitical societal security, the discursive moves made in the 1989 SAA worked at cross purposes. The concept of persons seeking subsidiary protection was added to the grounds of residency based on asylum; and the sources of persecution which can create a valid refugee were broadened by the addition of individuals to the list of possible persecutors. However, an entire section was added on the grounds by which the state could refuse to give residency to valid asylum seekers. The category of asylum seekers also became associated with criminality and threats to national security. While the state revealed its reluctance to take in refugees if, regardless of the refugee's wishes, they had traveled from a state that could or perhaps would give them asylum. This is further exacerbated by the continued temporary nature of the asylum status.

Appendix iii

Nordic Citizen 2005

(Chapter 2, § 8 b, pg.6, 2005:716) *“The requirement for a residence permit pursuant to section 5 does not apply to a foreigner who is*

- 1. a citizen of Denmark, Finland, Iceland or Norway,*
- 2. has a right of residence, or*
- 3. has a visa for longer than three months.*

Law (2014: 198).”

(Chapter 2, § 8 c, pg.6, 2005:716) *“The requirement for a work permit according to section 7 does not apply to a foreigner who is*

- 1. a citizen of Denmark, Finland, Iceland or Norway,*
- 2. has a right of residence, or*
- 3. has a permanent residence permit.*

Law (2014: 198).”

The law defines the following set of possibilities (Social structure):

9. Citizens of Denmark, Finland, Iceland, or Norway are exempt from residency permit requirements.
10. An EEA national who has the ‘right of residence’ is exempt from residency permit requirements.
11. A foreign national that has a visa for longer than three months is exempt from residency permit requirements.
12. Citizens of Denmark, Finland, Iceland, or Norway are exempt from work permit requirements.
13. An EEA national who has the ‘right of residence’ is exempt from work permit requirements.
14. A foreign national that is a permanent resident is exempt from work permit requirements.
15. All other foreign nationals are not exempt from residency permit requirements.

16. All other foreign nationals are not exempt from work permit requirements

Discourse fragment analysis:

The 2005 SAA still acknowledges, as the 1989 SAA did, the special privileges afforded the Nordic citizens of Denmark, Finland, Iceland, and Norway, exempting them from the need to acquire residency or work permits when settling or working within Sweden. Similar to the 1989 SAA this acknowledgement of their special status comes before the formal residency section but also before the sections detailing the rights and responsibilities of EEA nationals. This placement of the Nordic exemption serves as a tool of bipolar political societal security, discursively showing that Nordic citizens retain their place as the Swedish state's ideal additions to the population. This is because, as the above quotes show, the law exempts Nordic citizens unconditionally, yet in the case of EEA nationals it refers to "the right of residence" which, as will be discussed fully in 10.4b, encompasses an array of different criteria which an EEA national must continually fulfill if they are to retain the right of residence.

EEA nationals 2005

(Chapter 3a, § 3, pg.6, 2005:716) *"An EEA citizen has the right of residence if he or she is*

- 1. an employee or self-employed in Sweden,*
- 2. has come to Sweden to apply for work and has a real opportunity to get an employment,*
- 3. is enrolled as a student at a recognized educational establishment in Sweden and according to a declaration that this has sufficient assets for their and their family members' livelihood and have a comprehensive health insurance for themselves and the family members that apply in Sweden, or*
- 4. have sufficient assets for themselves and their family members' livelihood and have a comprehensive health insurance for themselves and the family members that apply in Sweden. Law (2006: 219)."*

The law defines the following set of possibilities (Social structure):

8. An EEA citizen has the 'right of residence' if they are employed or self-employed in Sweden.

9. An EEA citizen has the 'right of residence' if they have come to Sweden, and are employable.
10. An EEA citizen has the 'right of residence' if they are a student that is enrolled in a recognized Swedish academic institution, with sufficient assets for themselves and their family members' livelihoods, and have a comprehensive health care plan that is valid in Sweden.
11. An EEA citizen has the 'right of residence' if they have sufficient assets for themselves and their family members' livelihoods, and have a comprehensive health care plan that is valid in Sweden.
12. An EEA citizen does not have the 'right of residence' if they are not employed, or are unemployable, in Sweden.
13. An EEA citizen does not have the 'right of residence' if they are a student who is not enrolled in a recognized Swedish academic institution.
14. An EEA citizen does not have the 'right of residence' whether they are a student or not if they do not have sufficient health care or assets to provide for themselves and their family in Sweden.

The law also prescribes certain controlling principles in the selection of the aforementioned structural possibilities (Social practices):

4. When assessing an EEA national's right of residency based on (1-2) their Swedish employment, and or their employability must be evaluated.
5. When assessing an EEA national's right of residency based on (3-4) their assets and healthcare must be evaluated
6. When assessing an EEA national's right of residency based on (3) their academic enrollment must be evaluated, then proceed then to the previous practice.

Discourse fragment analysis:

As previously referenced in 5.2, the incorporation of EEA nationals into the 2005 SAA was part of the process that began with Sweden's entry into the EU in 1994. Though 1989 SAA was in effect when the Schengen area visa-free mobility was implemented in 2001 it is first here, in the 2005 SAA, where a specific section is devoted to the rights and responsibilities of EEA nationals

with regard to residency in Sweden. When considering the valid grounds for residency from a biopolitical societal security point of view the 'right of residence' while powerful is also a possible source of constant regulation.

The maintenance of a EEA nationals' 'right of residence' is essentially the economic portions 'vandel,' with the primary duties of EEA nationals being to have employment, be employable, study, be independently wealthy or able to provide for themselves and their family without the benefit of the Swedish welfare state and take care of their own healthcare needs. The primary difference between these conditions and that of 'vandel' in 80 and 89 is that there is no concern with normlessness and an EEA nationals' movement is far less controlled than that of a third country national. Given this free movement it is hard to conceptualize when or how the right of residence would be challenged or tested given that EEA nationals do not even need a passport to cross into Sweden making the possibilities of testing their right of residency nearly non-existent as long as said EEA national had no need to avail themselves of state services. Further, the right of residence can be made permanent if the EEA national lives legally in Sweden for 5 consecutive years (**Chapter 3a, Section 6, pg.6, 2005:716**).

Refugee and Subsidiary protection seeker 2005

Before entering into analysis of the criteria under which a residency permit is granted or withheld from a refugee, or person in search of subsidiary protection, I would like to briefly discuss the 2005 SAA's definition of refugees and persons in need of protection. The 2005 SAA moves two grounds, gender and sexual orientation, from the criteria of persons seeking subsidiary protection to the criteria for refugee status, viewing persecution based on race, nationality, religious or political affiliation, gender, sexual orientation, and belonging to particular social group as grounds for refugee status (**Chapter 4, § 1, pg.11, 2005:716**). The 2005 SAA adds rules for assessing the ability of a possible refugee to gain protection in their home country specifying that, if the home state, or parties and or organizations that control a significant portion of the state's territory cannot provide protection of more than a temporary nature the application of refugee status should be granted (**Chapter 4, § 1, pg.11, 2005:716**). And finally, the 2005 SAA breaks up the categories of persons seeking subsidiary protection into two groups, "persons seeking subsidiary protection" (persons not defined as a refugee but subjected to conditions similar to those a refugee would suffer but for reasons not specified in the

definition of refugee, and in situations of external, or internal armed conflict) and “other persons seeking subsidiary protection” (persons in need of protection due to internal or external armed conflicts and environmental catastrophes) (Chapter 4, § 1, pg.11-12, 2005:716).

(Chapter 5, § 1, pg.15, 2005:716) “Refugees, or persons in need of protection and other persons in need of protection who are in Sweden are entitled to a residence permit.

A residence permit may, however, be refused a refugee if he or she

- 1. through a particularly serious crime has shown that it would be a serious threat to public order and security to allow him or her to stay in Sweden, or*
- 2. have conducted activities which have endangered national security and there is reason to assume that he or she would continue the business here.*

A residence permit granted under the first paragraph shall be permanent or valid for at least three years. If a new temporary residence permit is granted to a foreigner who has been granted a temporary residence permit in accordance with the first paragraph, the new permit shall apply for at least two years. However, the first and second sentences do not apply if mandatory considerations of national security or public order require a shorter period of validity. However, the period of validity may not be shorter than one year.

Section 4 of the Act (2016: 752) on temporary restrictions on the possibility of obtaining a residence permit in Sweden states that the first paragraph does not apply to other persons in need of protection during the period 20 July 2016-19 July 2019. Section 5 of that Act states that during the same period third paragraph for refugees and alternative persons in need of protection. Law (2016: 753).”

The law defines the following set of possibilities (Social structure):

1. Refugees, people seeking subsidiary protection, and ‘other’ people seeking subsidiary protection, who are in Sweden are entitled to residence on the basis of asylum.
2. Refugees, people seeking subsidiary protection, and ‘other’ people seeking subsidiary protection, may be denied residency if they have, through a particularly serious crime shown themselves to be a threat to public order and safety if they were to stay in Sweden,

or they have conducted activities that are a threat to national security and there is reason to believe they would continue those activities in Sweden.

3. If a residency permit is granted it must be valid for at least three years, or permanent, so long as considerations of national security or public order require shorter periods of validity. Even with special considerations the duration of validity may not be shorter than one year.
4. Act 2016:752 makes the grounds in (1) invalid for ‘other’ people seeking subsidiary protection during 20 July 2016-19.
5. Act 2016:753 makes (3) invalid for refugees and people seeking subsidiary protection for the same time period as stated in (4)

The law also prescribes certain controlling principles in the selection of the aforementioned structural possibilities (Social practices):

1. Valid refugees, people seeking subsidiary protection, and ‘other’ people seeking subsidiary protection, who are in Sweden must have their conduct controlled for criminality or actions which could constitute a threat to national security
2. When dealing with valid refugees or people seeking subsidiary protection, during 20 July 2016-19, reference act 2016:753 for duration of residency granted.

Discourse fragment analysis:

The 2005 SAA also makes two clearly biopolitical societal security based discursive moves. Directly after the clear declaration of the asylum seekers right to residency, a defining a set of circumstances, which are grounds for the refusal of valid refugees, or persons seeking subsidiary protection, are made. These two grounds are also somewhat novel to the SAA the concepts of “threat to public order and security” which has roots in previous EU law but not in previous SAA’s and a “danger to national security” which has been used in the SAA’s extensively since 1989. The fact that both of these concepts are so close in proximity to the right to residency itself, not to mention the residency section head, connect refugees and persons seeking subsidiary protection to threat based discourses, implying that they are a possible, perhaps even probable, “threat to the public order and safety” or even a “danger to national security.” The positioning of these concepts, in addition to the relative rarity of their use throughout the

different categories of migrant paints a bleak picture of how the state understands the characteristics of these groups. The formulation of this law makes clear that incorporating these migrants into the population may represent a danger to population itself.

Finally, in the last paragraph of this section of the 2005 SAA the first evidence of the “temporary restrictions on the possibility of obtaining a residence permit in Sweden” (2016:752), which makes clear that ‘other persons’ seeking subsidiary protection, i.e. non-refugees fleeing internal or external armed conflicts and environmental catastrophes, no longer have the right to a residency permit while the law is in effect. 2016:752 also removes the stipulation that residency permits given to refugees and persons seeking subsidiary protection be made permanent instead reclassifying all permanent residency permits to temporary ones while the law remains in effect.

Persons with long-term residence status 2005

(Chapter 5a, § 1, pg.28, 2005:716) *“An application from a foreigner for a position as a permanent resident of Sweden shall be granted if the applicant has been resident in Sweden with a residence permit for the past five years without interruption.*

Section 2 In order to be granted a permanent residence in Sweden, the applicant must be able to fully support himself and his family with own resources so that basic needs for living and housing are met.

Section 3 A person who poses a threat to public order and security may not be granted a permanent residence in Sweden.

Law (2006: 219).”

The law defines the following set of possibilities (Social structure):

1. Permanent residency shall be granted if, a foreign national has been a legal resident of Sweden for the past five years consecutively, and said national can fully support themselves and their family, and the aforementioned foreign national does not pose a threat to public order and safety.
2. Permanent residency shall be denied if, a foreign national has been a non-legal resident of Sweden, or if they have not resided in Sweden at any point in past five years, or if said

national cannot fully support themselves and their family, or if the aforementioned foreign national does pose a threat to public order and safety.

The law also prescribes certain controlling principles in the selection of the aforementioned structural possibilities (Social practices):

1. Upon a valid application for permanent residency based on long-term residence, the foreign national's finances, and conduct must be evaluated.

Discourse fragment analysis:

The grounds for this form of residency are roughly the same as the 'vandel' of earlier sections. Positioning third country nationals in the same grounds for valid residency that the past SAA did.

Persons with connection to Sweden (personal/family) 2005

(Chapter 5, § 3, pg.17, 2005:716) *“a residence permit shall, unless otherwise stipulated in section 17-17 b, be granted to*

- 1. a foreigner who is the spouse or cohabitee of someone who is a resident or who has been granted a residence permit for residence in Sweden,*
- 2. a foreign child who is unmarried and*
 - a) have a parent who is resident in or has been granted a residence permit for residence in Sweden, or*
 - b) has a parent who is married or cohabiting with someone who is resident in or has been granted a residence permit for residence in Sweden,*
- 3. a foreign child who is unmarried and who has been adopted or who is intended to be adopted by someone who at the time of the adoption decision was and still resides in or has been granted a residence permit for residence in Sweden, if the child is not covered by 2 and about the adoption decision*
- 4. a foreigner who is a parent of an unmarried foreign child who is a refugee or other person in need of protection, if the child on arrival in Sweden was separated from both his parents or from any other adult who may be deemed to have entered the parents' place, or if the child has been left alone after arrival, and*
- 5. a foreigner who is the parent of an unmarried foreign child who is a refugee or other person*

in need of protection, or another adult who may be deemed to have entered the parents' place, if the alien is in Sweden and the decision on his or her the asylum application is made in connection with the decision on the child's asylum application.

During the period from 20 July 2016 to 19 July 2019, the limitations in the first and third paragraphs that appear from § 6, first paragraph and section 7 and 8, of the Act (2016: 752) apply to temporary restrictions on the possibility of obtaining a residence permit in Sweden. Law (2018: 1294).”

The law defines the following set of possibilities (Social structure):

1. A residency permit shall be granted to a foreign national spouse, or cohabitating partner, of a Swedish resident or persons granted Swedish residency.
2. A residency permit shall be granted to an unmarried child who, has a parent that is a Swedish resident or persons granted Swedish residency, or who has a parent who married to a Swedish resident or person granted Swedish residency.
3. A residency permit shall be granted to an unmarried child who is, or intends to be adopted by a Swedish resident or person granted Swedish residency at the time of the adoption decision and is not covered under the previous grounds (2).
4. A residency permit shall be granted to a foreign national who is the parent of an unmarried child, who is a refugee or person in need of subsidiary protection, if the child arrived in Sweden alone, or if the child has been left alone after arrival.
5. A residency permit shall be granted to a foreign national who is the parent, or another adult who may be deemed to have entered the parents' place, of an unmarried child, who is a refugee or person in need of subsidiary protection if the alien is in Sweden and the decision on his or her the asylum application is made in connection with the decision on the child's asylum application
6. Points (1-5) may be invalidated by provisions in 17-17b
7. Points (1-3) do not apply from 20 July 2016-2019, Act 2016:752

The law also prescribes certain controlling principles in the selection of the aforementioned structural possibilities (Social practices):

1. When granting residency permits based on points (1-5) control that provisions 17-17b do not invalidate application.
2. During 20 July 2016-2019 consult Act 2016:752 for point (1-3)

Brief description of further provisions regarding connection -

2016:752 limits the rights of those seeking residency based on the grounds of connection, points 1 and 2, if basis for connection that they are invoking is a refugee by denying them the right to residency if the refugee in question is not deemed to have a good chance of obtaining permanent residency. 2016:752 entirely removes the rights of those seeking residency based on the grounds of connection, in § 3 points 1-4 and all of in § 3a, if basis for connection that they are invoking are persons seeking subsidiary protection.

(Chapter 5, section 17, pg.23-24, 2005:716) *“When examining an application for a residence permit pursuant to this chapter, except in cases referred to in sections 1, 2, 2 a, 2 d, 3 or 4, special consideration shall be given to whether the applicant is guilty of crime or crime in association with other delinquency.*

17 a § residence permit may be refused in cases referred to in § 3, if the
first false information knowingly provided or circumstances deliberately been concealed that is of importance for obtaining the residence permit,
2. a foreigner adopted or marriage or cohabitation commenced exclusively in purpose of giving the alien the right to a residence permit, or
3. the alien constitutes a threat to public order and safety.

Residence permits may also be refused in cases as referred to in section 3, first paragraph, 1 or 2 b, if the
spouses or cohabiting partners do not live together or do not have such intentions,
2. the person to whom the affiliation is invoked or the alien who applied for a residence permit is married or cohabiting with someone else, or
3. any of the spouses or cohabitants are under 18 years of age.

When assessing whether a residence permit should be refused, account must be taken of the alien's other living conditions and family relationships.

§ 17 b a residence permit shall be refused in the cases referred to in section 3, first paragraph 1 or 2 b, if the person to whom the affiliation is relied on is married to another person and lives with that person in Sweden. Law (2006: 220).”

The law defines the following set of possibilities (Social structure):

7. When examining applications for residency permits on the grounds of, persons with long-term residency status, third country nationals who based on work, postgraduate education, or other means of livelihood, or temporary residency the applicants may be guilty of crime or other delinquency.
8. Residency permits based on the grounds within section § 3 may be refused if, fraudulent information was given which was important to obtaining the permit, or if the adoption, marriage or cohabitation invoked was used for the express purpose of grounds for a residency permit, or if the alien represents a threat to public order and safety.
9. Residency permits based on the grounds within section § 3, first paragraph, 1 or 2b, may be refused if spouses or cohabiting partners do not live together, or do not have such intentions, or the person to whom the affiliation is invoked or the alien who applied for a residence permit is married or cohabiting with someone else, or any of the spouses or cohabitants are under 18 years of age.
10. When assessing if residency permit should be refused an aliens living conditions and family relationships may provide support for or against refusal.
11. A residency permit shall be refused if, in cases pertaining to section 3, first paragraph 1 or 2 b, the person is married to another person which they live with in Sweden.
12. Residency permits up for refusal based on points (1-3) may be approved.

The law also prescribes certain controlling principles in the selection of the aforementioned structural possibilities (Social practices):

5. When examining applications for residency permits on the grounds of, persons with long-term residency status, third country nationals who based on work, postgraduate

education, or other means of livelihood, or temporary residency control that the applicants are not guilty of crime or other delinquency before granting residency.

6. Residency permits based on the grounds within section § 3 should be controlled to be sure that, fraudulent information was not given which was important to obtaining the permit, or if the adoption, marriage or cohabitation invoked was used for the express purpose of grounds for a residency permit, or if the alien represents a threat to public order and safety.
7. Residency permits based on the grounds within section § 3, first paragraph, 1 or 2b, should be controlled to be certain whether spouses or cohabiting partners do not live together, or do not have such intentions, or the person to whom the affiliation is invoked or the alien who applied for a residence permit is married or cohabiting with someone else, or any of the spouses or cohabitants are under 18 years of age.
8. A residency permit must be controlled, in cases pertaining to section 3, first paragraph 1 or 2 b, to be certain the person which the affiliation is relied on is not married to another person with which they live with in Sweden.

Discourse fragment analysis:

As a biopolitical tool of societal security the text in § 3, § 3a, Section 17, 17a, and 17b serves to associate third country nationals with the, by now tired markers of crime, delinquency, fraud and the new threat to public order and safety.

Third country national, that based on work, postgraduate education, or with other means of livelihood is granted residency 2005

(Chapter 5, section 5, pg.20, 2005:716) *“A permanent residence permit may be granted to a foreigner who for a total of four years during the past seven years has had a*

- 1. residence permit for work or an EU blue card issued by Sweden, an ICT permit, an ICT permit for mobility for a longer stay or permit for seasonal work, or*
- 2. residence permit for studies relating to postgraduate education.*

A residence permit may be granted to an alien who has his / her livelihood arranged in other ways than through employment. If the alien is to carry on business activities, he or she must be

able to conduct the business in question.

Law (2018: 319).”

The law defines the following set of possibilities (Social structure):

1. A foreign national who has had residency permit for work or studies, or an EU blue card issued by Sweden, or an ICT permit, for a total of four out of the past seven years may be granted permanent residency.
2. A residency permit may be granted to an alien who has their livelihood arranged in other ways than through employment, in the alien is to carry out business activities they must be able to conduct the business in question.
3. A residency permit based on (1-2) may be denied.

The law also prescribes certain controlling principles in the selection of the aforementioned structural possibilities (Social practices):

1. The relevant work, academic, or residency, permits must be controlled at the time of application.

Discourse fragment analysis:

Persons who satisfy this criteria for residence by default fulfill the economic requirements that nearly every category of migrant is in some way required to achieve before they qualify for permanent residence, the notable exception being refugees. Yet in the all cases named here section 17 still applies, indicating that even highly educated and well paid third country nationals are acknowledged by the social structure to be a greater risk of delinquency or criminality. Further, in the cases of the EU blue card and ICT each has the explicit grounds for refusal either of extension, as is the case for the EU blue card, or acceptance as is the case for the ICT, based on the discourse of threat regarding public order and safety.

Temporary residency 2005

(Chapter 5, section 7, pg.20, 2005:716) *“A residence permit shall be limited in time if, with regard to the alien's expected way of life, there is doubt as to whether a residence permit should be granted.*

Section 8 *A residence permit granted to a foreigner pursuant to section 3, first paragraph 1 or 3 a § first paragraph 1, shall be limited in time at the first decision, unless*

1. the foreigner cohabitates abroad with his or her spouse or cohabiting partner for a long time, or

2. It is Otherwise clear that the relationship is well established.

The law defines the following set of possibilities (Social structure):

1. When there is doubt surrounding the ‘vandel’ of a foreign national a temporary residency permit may be granted.
2. Residency permits granted on the grounds of spousal, or cohabitant, connection shall be temporary at first decision, unless the foreign national cohabitates with their spouse or cohabiting partner, abroad for a long time, or it is otherwise clear that the relationship is well established.

The law also prescribes certain controlling principles in the selection of the aforementioned structural possibilities (Social practices):

1. In cases where the control of foreign nationals ‘vandel’ is inconclusive, and the other criteria for residency are fulfilled a temporary residency should be granted.
2. Residency permits granted on the grounds of spousal, or cohabitant, connection should be temporary at first decision, unless an evaluation of the relationship deems it well established.

Discourse fragment analysis:

Temporary residency, in the 2005 SAA retains the character of temporary residence in the 1989 SAA being a different and fundamentally lesser form of residency than permanent residency. Temporary residence is used as a tool to test a migrant’s ‘vandel’ or (expected way of life) especially in the case of those migrants who invoke connection to Sweden as grounds for

residency, communicating enormous state skepticism about authenticity of those grounds for residency.

Further requirements for residency, on the grounds of connection to Sweden

(9 §, pg.2, 2016:716) *“Instead of what is stated in chapter 5. Section 3 b of the Aliens Act (2005:716) applies to residence permits in accordance with Chapter 5 of the Aliens Act. § 3 or 3 a of the same law may only be granted if the person to whom the alien invokes ties can support himself and the alien, and has a residence of sufficient size and standard for himself and the alien. However, this does not apply to the examination of an application for a continued residence permit.”*

The law defines the following set of possibilities (Social structure):

2. Residence permits based on connection (§3 and §3a) may only be granted if the person whom the alien invokes ties to can support both themselves, and the alien, and has a home of sufficient size for both themselves and the alien, unless the residency permit is being renewed.

The law also prescribes certain controlling principles in the selection of the aforementioned structural possibilities (Social practices):

2. When granting residence permits based on (§3 and §3a) see (Act 2016:716) for rules governing försörjningskraven during 20 July 2016-2019.

Discourse fragment analysis:

The 2016:716 temporary amendment the 2005 SAA has changed the so called “försörjningskrav” or residence and assets requirement. Said “försörjningskrav” had previously required the resident, which the migrant is invoking connection to, to be able to financially support themselves and have a residence of appropriate size for both them and the migrant in question, before residence based on connection could be granted (**Chapter 5, 3 b, pg.19, 2005:716**). With the current 2016:716 law in effect the Swedish resident now needs to financially support both

themselves and the migrant invoking connection in addition to the requirement of a residence of appropriate size. Further, the exceptions to this rule in 2005 SAA have also changed, now only children, people extending their residency permit, or family members of refugees, or persons in need of subsidiary protection, who cannot reunite outside an EU country and who applied on the grounds of connection to the person whose status was confirmed within 3 months of said confirmation are exempted from this requirement (9 §, pg.2, 2016:716).

Discursively, this once again serves as a limiting factor on the grounds for residency based on connection to Sweden, but interestingly this social structure serves to reduce the rights of Swedish residents. Given that the right of residency based on connection is inherently a right the resident bestows upon the invoking migrant, and with the 2016:716 stipulation that said resident must have sufficient income and accommodation to care for both themselves and the migrant in question, those Swedish resident who are of lower socioeconomic status, especially those in cities where rents are highest, have less ability to exercise their rights.

Further, the right of residency based on connection, and especially with these changes, makes it more difficult for miscegenation between Swedish resident's third country nationals, at least in the cases where the Swedish resident's financial situation is not strong enough.