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Sweden's Temporary Asylum Laws: The Impending Problems for Stateless Refugees

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Sweden's Temporary Asylum Laws: The Impending Problems for Stateless Refugees

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In response to the large number of refugees entering Sweden in 2015, the government implemented a temporary asylum policy. Sweden's Prime Minister, Stefan Löfven, **explained** that "It pains me that Sweden is no longer capable of receiving asylum seekers at the high level we do today... We simply cannot do any more." The then Deputy Prime Minister, Åsa Romson, was brought to tears as she endorsed the decision on behalf of her party.

Sweden's new **temporary asylum law** saw the withdrawal of permanent residence and family reunification for refugees, supplementing a policy of stricter **border 'management'**. It came under fire at home and abroad and is still being debated. However, this new policy and law have created an impending problem, that has yet to be considered in the public or political discourse. This is the potential impact of the temporary asylum law on stateless refugees. It has undercut the only means by which stateless refugees could resolve their statelessness, through naturalisation and will lead to new challenges which Sweden does not have the law and policy to handle.

Stateless Refugees in Sweden

The UN Refugee Agency recently released the report **Mapping Statelessness in Sweden**. It highlighted the Swedish Migration Agency's (SMA) lack of law and policy for determining statelessness. The findings were very troubling, as SMA caseworkers are, by and large, left without guidance and expected to be able to undertake an assessment of refugees' and migrants' possible statelessness based on their own initiative.

According to the SMA in 2015, 8,940 asylum applications were made by people who were stateless or of unknown citizenship - about 6% of the total applications. In 2016 the number of refugees fell as a result of the new border 'management' policies. However, 1795 asylum applications by people who were stateless or of unknown nationality were still submitted last year – making up 7% of the total applications. Countless others could have been incorrectly recoded as having a nationality which they actually do not have. Such errors are likely given the lack of law, policy, transparency or due process within the SMA on determining statelessness.

Refugee Law and Policy as a Means to Reduce Statelessness

Previously, stateless refugees, as with all other refugees, were granted a permanent residence permit in Sweden, and could apply for citizenship after four years. The **minimal criteria** they had to meet, along with the administrative nature of naturalisation in the country, meant that many stateless refugees - even those who had been incorrectly recorded as citizens of a state - could get citizenship and see an end to their statelessness. While not all refugees who were stateless could benefit, most notably those who **could not prove their identity**, it was nevertheless a relatively effective way of resolving the statelessness of many refugees.

However, the temporary asylum law, introduced in July 2016, has blocked this pathway for new stateless refugees. The law related to all asylum applications as of the 25th of November 2015, with a few vulnerable groups being exempted. Refugees, stateless or otherwise, are only granted a three-year temporary residence permit, rather than a permanent one. With regard to the extension of these temporary residence permits, the **law** states:

"When a temporary residence permit expires, a permanent residence permit may be granted if the person can support themselves. Persons under the age of 25 will only be granted a permanent residence permit if they have completed upper secondary education or the equivalent."

What is the Impact of the Temporary Law for Stateless Refugees who Arrived After the 25th of November 2015?

Given that one of the few requirements for naturalisation is a permanent residence permit, the new law means that stateless refugees can only find a solution to their statelessness if they are self-sufficient, or, if they are under 25 years old, have completed secondary education. If they fail to meet these criteria, they will be indefinitely stateless, with naturalisation being constantly out of reach. **Unemployment rates** for those born abroad are high in Sweden, with refugees facing more obstacles than most in entering the labour market. Similarly, completing secondary education is by no means easy for new refugees. Self-sufficiency, or educational attainment, have, essentially, been introduced as new naturalisation criteria for these refugees, and are considerable barriers to overcome. If some find them insurmountable, they will be indefinitely stateless.

But the problems do not end there. Sweden does not have full safeguards to prevent childhood statelessness. The permanent residence of the stateless child is one of the **criteria** for acquisition of nationality. As children receive the same residence permit as their parents', there is a possibility that some children, born in Sweden, to stateless refugees with temporary residence permits, may be unable to acquire a nationality. This issue was recently **highlighted** by the UN Refugee Agency, as in contravention of Sweden's obligations under the Convention on the Rights of the Child and the 1961 Convention on the Reduction of Statelessness.

The issuance of temporary residence permits to refugees may also mean that there is a possibility that their right to reside could be withdrawn in the future. Sweden does not grant residence based solely on a person's statelessness. Therefore, if a stateless refugee's status ceases, they will have to return to... somewhere. Some stateless refugees also likely have their nationality incorrectly recoded. Therefore, assessments as to whether these refugees can return to 'their' country, when in fact they are not citizens, could be fraught with complications and potentially very serious protection concerns for the refugees and their children.

As of late 2018, when the first refugees to be given temporary residence see their three years residency coming to an end, if they are not renewed, the Swedish deportation regime is going to face some serious challenges. Essentially, a new group of 'unreturnable' people will have been created. The human and financial costs of this limbo will be considerable.

Looking to the future

For a long time Sweden has been a safe haven for refugees and an example to the world. The country kept its borders open, at time when most European states dragged their feet, built fences or turned a blind eye to the suffering of so many. Indeed, when the new asylum policy was introduced, a UN official in Stockholm, reportedly commented that: **"The last bastion of humanitarianism has fallen."**

It is too early to say if it has fallen. The temporary laws are just that, temporary, for now at least. Yet, while they are temporary, their impacts could be indefinite for some stateless refugees and their children born in Sweden. The new barriers they face in securing permanent residence, may prolong their statelessness. Their children may not be able to acquire any citizenship. The country's already large population of **30,000 stateless people**, which includes migrants, refugees *and* those born in Sweden, is set to increase if no action is taken to address their situation.

The temporary asylum law was part of a wider package of measures to respond to the number of refugees entering Sweden at the time. These have worked, as the number of asylum claims in Sweden in 2016 was lower than it has been for six years. I would hazard a guess however, that this is largely a result of the border 'management' across Europe and at the Swedish border. While the temporary laws are a useful, though highly unethical, means for the government to stem the follow up flow of refugees arriving through family reunification, its success to act as a disincentive for refugees to seek asylum in Sweden is unclear. What is clear however, are the problems that will arise for some stateless refugees who are being granted temporary protection. The already patchy legal and policy framework to resolve the statelessness of some refugee has been further weakened by this law. This will become very apparent to the Swedish authorities in the next few years. To counter this in the short term, permanent residence for refugees must be reintroduced. In the long term Sweden will have to develop law and policy to identify all stateless people, protect them and resolve their situation.

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