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Wir schaffen das! Angela Merkel and the European Refugee Crisis

JOYCE MARIE MUSHABEN

Unification triggered profound changes in the geographical, generational and global context that had shaped restrictive German policies regarding citizenship, immigration, asylum and refugees for 40 years. Since 2015 Chancellor Angela Merkel has been praised as well as denounced for her bold decision to open her country to an extraordinary influx of refugees from Northern Africa and the Middle East. Efforts to transform Germany into a ‘welcoming culture’ are rooted in internally motivated demographic changes stemming from the 1990s, but the process has been accelerated due to external pressures from the European Union. This essay argues that Merkel’s attempt to turn the nation united into a land of immigration and integration derives from her experiences as a former GDR citizen, amounting to a major policy break with her erstwhile patron, Helmut Kohl. In order to make the case for the female leader’s direct impact on such policies, one needs to review FRG asylum policies prior to unification, as well as post-unity SPD-Green reforms preceding her first term in office. Addressing the impact of external versus internal forces for change requires a treatment of key EU developments, and domestic reforms adopted after unification but prior to the 2015 refugee crisis. While a degree of back-tracking has occurred since 2016, Germany’s first woman chancellor has managed to stay the course by leveraging top-down, bottom-up, supranational and domestic reform currents, even in the face of ostensible opposition within her own party. This case confirms that studying unification’s impact on policy changes cannot be confined to a single decade.

World War II displaced an estimated 40.5 million people across Europe over a six-year period.¹ Included in the ‘uncontrollable flow of refugees’ were roughly 12 million Germans hoping to escape the vengeance of an advancing Soviet army, as well as those forcibly expelled from Nazi-annexed territories during the ‘the wild driving-out’ of 1945.² A smaller wave followed during the early cold war years until the Berlin Wall brought closure, literally and figuratively, to the World War II refugee era in 1961. Despite the urban devastation, forced quartering, food shortages and even religious strife witnessed during the immediate post-war period, the first western chancellor, Konrad Adenauer, strategically orchestrated the peaceful socio-political integration of millions of desperate strangers.³ Indeed, physical reconstruction and economic recovery proceeded at such a miraculous pace that the Federal Republic (FRG) soon had to find space for 2.3 million guest-workers between 1960 and 1972.

Consisting of Italians, Croatians, Greeks and Turks, their ranks would nearly double by way of family unification policies through the early 1980s. Although the guest-worker total fell to 786,000 by 1982, the foreign population reached a new high of 4,667,000 the year Helmut Kohl became chancellor.⁴

Between 1949 and 1990, the Federal Republic relied on *jus sanguinis* to imagine itself as an organic, ethno-national community. As my earlier work attested, clinging to parental lineage as a basis for citizenship allowed the fledgling republic to draw on old and new sources of legitimacy throughout the cold war era.⁵ The FRG's founding fathers (and very few mothers) embraced this construct to sustain pre-existing ties between east and west Germans, as well as to challenge the existence of its socialist counterpart, long after citizens on both sides had given up on the prospect of unification. It likewise allowed Bonn to supply financial aid to 'co-ethnics' in former eastern territories, while keeping open the question of final borders. Like most policy choices, German alien and asylum laws came with their own set of unanticipated consequences. For nearly four decades the Federal Republic held millions of human faces captive behind an exclusionary mask of 'foreignness' within its own boundaries. By 1989, Germany was home to 7.3 million aliens, accounting for 9 per cent of the population. Nearly 2 million under the age of 18 were aliens (*Ausländer*) in name only, having been born and educated in Germany.⁶

Through it all, elected officials continued to insist that Germany was 'not a land of immigration'. Between 1991 and 2006, nearly 15.1 million people entered the country, while 10.9 million departed, for a net increase of 4.2 million.⁷ Excluding foreign students, seasonal workers and EU nationals, Germany took in another 1.1 million co-ethnic 'repatriates' (*SpätaussiedlerInnen*), 40,000 Jewish 'quota refugees' and 872,049 asylum-seekers between 1991 and 1995 alone.⁸ Clearly all of these human beings 'wandered in' from somewhere, despite Bonn's efforts to keep them out by refusing to adopt a genuine immigration law. The 1999 Citizenship Law and the 2004 Migration Law advanced by the Schröder government offered a partial remedy, but it was Angela Merkel's introduction of a proactive National Integration Plan in 2007 that set crucial parameters for a new German 'welcoming culture'.

Offering a historical corrective to the abuses of National Socialism, Article 16 of the Basic Law had proclaimed without qualification in 1949: *Persons persecuted on political grounds enjoy the right to asylum*. Germany's unqualified promise to harbour victims of persecution stood as one of the world's most generous asylum laws for four decades, but the practice fell far short of the theory. Subject to cold war influences, the number of asylum applications rose from 4792 to 41,953 between 1973 and 1979. A new wave, peaking at 92,918 in 1980, saw a shift in the applicant pool from Soviet-bloc dissidents to victims of armed conflict and economic deprivation in the Third World, precipitating a radical change in public discourse.⁹ Terms like *pseudo-applicants*, *asylum parasites*, *economic refugees* and *asylum cheaters* moved from the neighbourhood bars and *Bild Zeitung* into mainstream rhetoric and media.¹⁰ Over the next two decades, Germany would move from the theory of unqualified political protection to practices gutting Article 16 under the 1993 'Asylum Compromise'. The formal asylum-recognition rate declined from a 'high' of 29 per cent in 1985 to 1.8 per cent in 2003.¹¹

Given these figures, it is astounding that Germany has now become the preferred country of resettlement for over 1.2 million refugees fleeing war, persecution and economic desperation across Northern Africa and the Middle East. This dramatic paradigm shift owes both directly and indirectly to the fall of the Wall, as well as to the interplay of external and internal forces invoking policy change. Unification not only reconfigured Germany geographically through recognition of the Oder-Neisse border; it also brought globalisation and a changing of the generational guard at the national level. By 1998, the ‘three Gs’ would begin to alter Germany’s understanding of itself as an ethno-national community. I argue that this extraordinary policy *Wende* (turnaround) further derives from the special role played by easterner Angela Merkel, who has reversed many draconian asylum policies imposed by Helmut Kohl during the 1980s.

While researchers have long espoused the ‘great man of history theory’, few have pursued its theoretical counterpart centring on women, if only for lack of an adequate sample. Exceptions to the rule include an array of long-lasting queens and empresses, hardly relevant to modern democracies. Contemporary scholars, including Hans Peter Schwarz, Barbara Marshall and Henning Köhler, have ascribed significant ‘transformative’ powers to western chancellors like Konrad Adenauer, Willy Brandt and Helmut Kohl.¹² Others like Karl-Rudolf Korte and Katje Glaessner have analysed the mechanisms FRG leaders used to expand fuzzy powers falling under the chancellor’s *Richtlinienkompetenzen* (guideline competencies).¹³ To state the obvious, had unification not occurred, Angela Merkel would never have become Germany’s first female, eastern chancellor. Routinely underestimated between 1990 (as a rookie in the Kohl cabinet) and 2009 (marking the end of her first grand coalition), Merkel not only symbolises many fundamental changes that have taken hold since unification – she has actually become a crucial driving force behind them.

To assess unification’s impact on German migration and asylum policies since 1990, one needs to disaggregate direct and indirect as well as external and internal forces for change. In this particular case, one must also look to medium- versus long-term effects, given Kohl’s rejection of such reforms during his eight years as the ‘unity chancellor’. Evaluating Merkel’s *personal* role in reconfiguring the migration paradigm moreover requires an examination of policy shifts occurring before and after her 2005 installation as chancellor. The study thus begins with a review of FRG asylum laws prior to unification, followed by a treatment of complex migration patterns evolving from those policies between 1990 and 2004. It then assesses core EU developments linked to the dire conditions facing hundreds of thousands of refugees currently trapped in Greece, Italy and the Balkans. Next I analyse Merkel’s efforts to create a ‘welcoming culture’ after 2005, complicated by backtracking implicit in subsequent ‘Asylum Packages’ through 2016 – rooted in electoral concerns at home and intergovernmental conflicts at the EU level. I conclude with reflections on the factors that have moved the chancellor to open Germany to an unprecedented number of asylum-seekers in recent years, ascribed to her personal, albeit exceptional, socialisation experiences as a former citizen of the German Democratic Republic.

ASYLUM IN THEORY AND PRACTICE, 1949–89

While ‘asylum-seeker’ refers to an individual who must prove that s/he faces an imminent, personal threat of persecution, bodily harm or death, ‘refugees’ consist of groups granted collective protection in the event of violent conflict, natural disasters or other humanitarian crises certified by the United Nations or falling under the 1951 Geneva Convention. A recognised asylum claim warrants permanent residency status; many refugees only enjoy ‘temporary protection’, however, a fate experienced by Bosnians and Kosovars in Bavaria in the 1990s.¹⁴ Politicians and journalists erroneously use these terms interchangeably, although these designations entail different guarantees of assistance. As of this writing, roughly 98 per cent of all Syrians entering Germany have been officially recognised as ‘asylum-seekers’, followed by 83 per cent among Iraqis.¹⁵ This requires the submission of individual applications, which explains the extraordinary processing bottlenecks witnessed in Malta, Spain, Italy, Greece and other points of entry since 2014.

Despite the ‘unqualified’ nature of the asylum guarantee found in the Basic Law after 1949, Article 16 quickly fell victim to rigid, bureaucratic implementation and cold war ideological prerequisites. As a result, not all victims of violent or repressive regimes were treated equally. For starters, only persons who could prove they had been persecuted by *state actors* were eligible to apply. The forms of oppression considered ‘real persecution’ were heavily biased towards males engaging in activities associated with a Western understanding of civil liberties, freedom of assembly, expression, participation and protest. First-time applicant totals rose from 1906 in 1953 to 16,284 in 1956 (invasion of Hungary), averaging 4000 per year in the 1960s. It peaked again at 11,664 in 1969 (after the Prague Spring), skyrocketing to 107,818 persons in 1980, owing largely to martial law in Poland and a further military coup in Turkey.¹⁶

The number of cases decided each year bore little relation to the number of applications filed or officially recognised. After the 1979 Polish crackdown on *Solidarność*, first-time submissions dropped from 49,391 in 1981 to 19,737 in 1983, rising again to 121,318 in 1989; the number of claims approved for those years stood at 8531 (7.7 per cent), 5032 (13.7 per cent) and 5991 (4.97 per cent), respectively. After unification, the recognition rate based on Article 16 criteria ranged from 4.3 per cent (1990) to 9 per cent (1995), falling to 1.6 per cent in 2004.¹⁷

Nor did the approval totals reflect the real number of beneficiaries. The 4792 applications filed in 1973, for instance, involved 5595 persons, while 41,953 submissions in 1979 covered 51,493; the number peaked at 92,918 in 1980, entailing 107,818 persons.¹⁸ The residency rights of family members depended entirely on the status of the presumptive male breadwinner; prior to recognition, wives and children could be subject to deportation, e.g. in cases of divorce. It took a 2002 Constitutional Court ruling to grant asylum rights to women facing gender-specific forms of persecution. Earlier judicial rulings had declared female Afghanis ineligible for individual protection because the Taleban regime, recognised by only two rogue polities, did not comprise a real state.¹⁹ The new criteria hold that ‘war parties’ exercising stable domination and a monopoly of force over core territories do exercise ‘state power’.²⁰

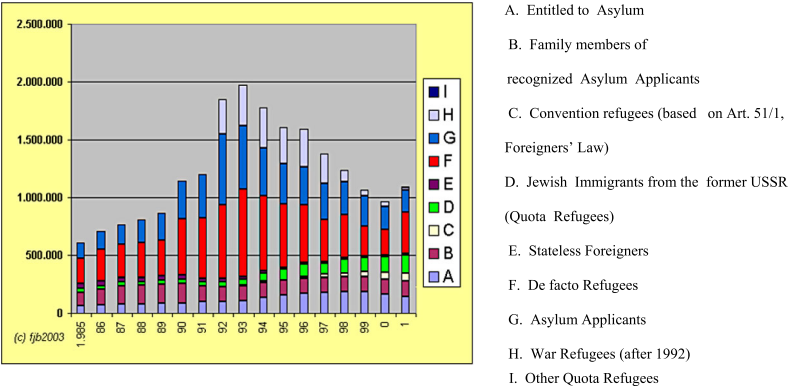
Secondly, real asylum rights, ensuring unlimited residency permits and legal job access, were granted to very few. Throughout the 1970s, courts regularly challenged

applicants’ motives. One crucial verdict held that ‘torture as a punishment for the non-violent attempt to claim forbidden democratic basic rights in a persecuting state in which torture was a usual instrument for punishment or interrogations’ did not constitute political persecution, rendering it ‘no longer adequate grounds for asylum’.²¹ However, national lawmakers remained bound by international *non-refoulment* agreements like the 1951 Geneva Refugee Convention, codified as §51 of the Aliens Act. Any person whose ‘life or freedom [was] threatened because of his [sic] race, religion, nationality, his [sic] belonging to a specific social group or because of his [sic] political convictions’ in the home state was protected against deportation (known as ‘little asylum’), once certified by the Federal Office for Foreign Refugees. So-called *Convention refugees* received a ‘passport’ and residency permit good for two years, renewable at six-month intervals if home-land conditions had not improved (Figure 1).

A third category encompassed persons who faced torture, the death sentence, degrading treatment or other concrete dangers; these individuals could be ‘tolerated’ (*Duldung*) as temporary refugees under §53 or §30 of the Aliens Act. Granted short-term residency rights, subject to renewal every six months, these victims were generally denied access to social assistance. ‘Tolerated’ for years on end, most were forced to resort to undocumented labour, giving rise to public resentment. A fourth category consists of *quota refugees*, deriving from Germany’s historical responsibility towards specific groups, e.g. Soviet-bloc Jews, a category that swelled dramatically after the collapse of the Iron Curtain.

The recession induced by the 1973 OPEC oil embargo triggered a freeze on guest-worker importation, coupled with efforts to return redundant labourers to their countries of origin. Elected in 1982, Helmut Kohl introduced a repatriation programme, offering a lump sum of DM 10,500 and DM 1500 per child to foreigners willing to depart by September 1984. Only 171,000 left, many of whom were already planning to go; their social benefit ‘contributions’ remained in the national

FIGURE 1
CLASSIFICATION OF ALL PROTECTED GROUPS IN GERMANY, 1985–2001.



Source: Bundesamt für Migration und Flüchtlinge, available from http://www.auslaender-statistik.de/bund/fluech_1.htm (accessed 4 June 2015)

insurance fund, subsidising indigenous workers.²² Asylum-seekers and refugees proved harder to target, due to obligations under international law. Kohl's hard-line approach did little to block a new surge of applicants, precipitated by martial law in Poland, a military coup in Turkey, the Soviet invasion of Afghanistan and the Khomeini revolution in Iran, inter alia.

It is impossible to assess Merkel's post-2005 policy contributions without a clear picture of policies pursued by her predecessors. Prior to 1980, breadwinners with pending applications had been entitled to temporary work permits. Imposing new visa restrictions on persons entering from nine Asian and African states in 1987, the Bundestag also approved a five-year work ban on all would-be applicants, except East Europeans. They had to live at designated sites, even if family or friends were willing to sponsor them elsewhere; their inability to support themselves fuelled public beliefs that most were 'coming to exploit the welfare system'. Newcomers lived in hostels, school gymnasiums and even shipping containers, denying them contact with locals.²³ Nearly two-thirds were of prime working age (18–50). In the mid-1980s, the Kohl government nonetheless pushed the GDR to tighten entry restrictions at the Schönefeld Airport (East Berlin) to stem the flow from Third World states – a rather curious position for a CDU chancellor vigorously supporting Ronald Reagan's exhortation to Mikhail Gorbachev to tear down the Wall.²⁴

Conditions worsened over time: buildings already inadequate for families had their kitchens removed to prevent them from cooking. Reduced cash allocations were replaced with in-kind benefits, health care access was declined, and applicants permitted to work under exceptional circumstances could not earn more than the equivalent of €1.05 per hour.²⁵ Efforts to stem the asylum flow by creating conditions so terrible that no one would come backfired, due to the lack of a real 'immigration' system. Commissioned by interior minister Wolfgang Schäuble, a 1985 classified report concluded that instead of reducing applicant numbers, the labour ban had lengthened the processing period, increased illegal employment, welfare costs and crime rates.²⁶ In early 1989, the FRG established 'quotas' for Southeast Asians, Chileans, Cubans, Argentines and Kurds, limiting applicants from those countries. Negative state policies engendered rising hostility towards foreigners of all types, unleashing an unprecedented wave of xenophobic violence shortly after unification, between 1991 and 1993.

UNIFICATION AND THE 1993 ASYLUM COMPROMISE: CLOSING THE GATE

The fall of the Wall opened Germany to another surge of four types of refugees. Adding over 15 million eastern Germans, the initial influx evoked public panic as well as 6000+ xenophobic attacks in three years, leading politicians to erect a legal *cordon sanitaire* under the Asylum Procedure Laws of July 1993.²⁷ 'Adapting' German law to new Schengen rules (see below), lawmakers established a maximum annual quota for *jus sanguinis* resettlers (*Spätaussiedler*), initially set at 225,000, then reduced to 100,000.

The so-called Asylum Compromise also codified temporary asylum for war victims, then adopted carrots-and-sticks for other groups.²⁸ Families separated by one member's need to flee immediately lost an automatic right to reunification. During a personal conversation in Stuttgart, I asked Bundestag member Peter

Conradi (SPD) shortly after the vote, 'what remained?' of the unqualified constitutional right to political asylum. He replied: 'Actually, nothing'. Municipal authorities extended temporary residency permits, restricted applicants' physical mobility and cut their benefits: they reduced financial aid 20–30 per cent relative to Social Assistance, and shifted to direct provision of food, clothing and shelter. Similar constraints were introduced for war-refugee provision in 1997. Initially upholding the 1996 asylum amendments, the Constitutional Court overturned other reductions in 2012. It criticised lawmakers for having failed to raise minimal cash benefits over a 20-year period, violating their human dignity and precluding their ability to participate actively in normal social and cultural life.²⁹

Only 124,000 of 370,000 de facto refugees were granted the residency rights needed to secure work permits. New employment bans raised the numbers forced to draw Social Assistance from 81,000 in 1980 to 524,000 in 1995. The government's need to cover DM 5 billion in SA costs for applicants-in-waiting and rejected-but-undeportable groups coincided with extraordinary transfers to eastern Germans rendered jobless by *Treuhand* policies.³⁰ Migrant families were offered up to DM 9000 to return home; local authorities received DM 8000 if they stayed away at least four months, purportedly saving Germany DM 5000 per month in benefit costs.³¹

The break-up of Yugoslavia brought three distinctive waves (1991–93, 1995–96, 1999) fleeing 'ethnic cleansing' as the collective victims of war (Table 1). Corresponding asylum applications rose from 193,063 (1990), to 256,112 (1991), to 438,191 submissions in 1992.³² Arrivals from Bosnia-Herzegovina peaked at 345,000 in 1996, dropping to 28,000 in late 2000; by April 1999 about 100,000 Kosovars had landed in Germany; nearly 85,500 were repatriated by March 2001, including 7400 against their will. Bavaria quickly declared that order had been restored and conditions were 'safe' in the homeland. Only 20,000 remained as of 2002. Between 1995 and 2004, the rate of positive decisions based on Article 16 criteria declined from 9 per cent to a new low of 1.63 per cent.³³ Restrictions on new admissions did not alleviate the complex legal-processing backlog. The number of convention refugees rose from 16,000 in 1996 to 75,000 in 2002, while the number of quota refugees declined from 12,000 in 1996 to 6800 in 2002, owing to new rules for Jewish migrants from the former Soviet Union: Israel ironically urged Germany to 'redirect' the latter to populate its own territory.

By the time a new SPD-Green coalition introduced new German citizenship and migration laws, asylum provisions were increasingly subject to external regulation under the 'Dublin' system. Created by Gerhard Schröder, the Independent Commission on Migration (ICM) criticised the human distress and economic dependency generated by existing laws. As reported in 2000, only 17 per cent of asylum cases were decided in six months or less; 40 per cent took six months to two years; 32 per cent remained in limbo for two to five years, while 11 per cent waited six years or longer for a verdict.³⁴ ICM members abjured the lack of effective integration policies and called for a real 'immigration' law in response to a looming demographic deficit.

While Green foreign minister Joschka Fischer took the extraordinary step of approving German participation in the NATO bombing of Serbia, SPD interior minister Otto Schily sided with hard-line conservatives against dual nationality, permanent immigration and proactive integration policies that – based on the successes of the

TABLE 1
ASYLUM DECISIONS ACCORDING TO LEGAL STATUS, 1986–2003

Year	Total Applications	Recognised under §116GG ^a		Guaranteed Non-Deportation		Barriers to Deportation ^b		Rejected Cases		Formal Decisions	
		%		%		%		%		%	
1986	55,555	8,853	15.9					31,955	57.5	14,747	26.5
1987	87,539	8,231	9.4					62,000	70.8	17,308	19.8
1988	88,530	7,621	8.6					62,983	71.1	17,926	20.3
1989	120,610	5,991	4.97					89,866	74.5	24,753	20.5
1990	148,842	6,518	4.38					16,268	78.1	26,056	17.5
1991	168,023	11,597	6.9					128,820	76.7	27,606	16.4
1992	216,356	9,189	4.25					163,637	75.6	43,530	20.1
1993	513,561	16,369	3.19					347,991	67.8	149,174	29.1
1994	352,572	25,578	7.25					238,386	67.6	78,622	22.3
1995	200,188	18,100	9.04	5,368	2.68	3,631	1.81	117,939	58.9	58,781	29.4
1996	194,451	14,389	7.4	9,611	4.94	2,082	1.07	126,652	65.1	43,799	22.5
1997	170,801	8,443	4.94	9,779	5.73	2,768	1.62	101,886	59.7	50,693	29.7
1998	147,391	5,883	3.99	5,437	3.69	2,573	1.72	91,700	62.2	44,371	30.1
1999	135,504	4,114	3.04	6,147	4.54	2,100	1.55	80,231	59.2	42,912	31.7
2000	105,502	3,128	2.96	8,138	7.88	1,597	1.52	61,840	58.6	30,619	29.0
2001	107,193	5,716	5.33	17,003	15.86	3,383	3.16	55,402	51.7	25,689	24.0
2002	130,128	2,379	1.83	4,130	3.17	1,598	1.23	78,845	60.6	43,176	33.2
2003	93,885	1,534	1.63	1,602	1.71	1,567	1.67	63,002	67.1	26,180	27.9

^aOnly persons formally recognised under the Basic Law, and their family members, enjoy unlimited residency and employment rights, as well as the right to eventual naturalisation.

^bThese individuals must renew residency permits every six months and are generally excluded from (legal forms of) paid labour.

Source: MARIS, for the Federal Office for the Recognition of Foreign Refugees, available from <http://www.bamf.de>, 2004.

1950s – probably would have won the approval of CDU Chancellor Adenauer. The Red-Green citizenship law (*Staatsangehörigkeitsgesetz*) adopted in 1999 was eventually complemented by a 2004 migration law (*Zuwanderungs-*, not an *Einwanderungsgesetz*), which largely set conditions for *temporary* labour and resettlement groups.³⁵ Its more liberal provisions were rolled back in 2007. ICM recommendations for the creation of a regular, proactive immigration system were largely ignored.

THE SCHENGEN EFFECT: THE EUROPEANISATION OF ASYLUM RULES

One cannot determine the impact of external versus internal forces for change without first recognising the role of intensified European integration following unification. Expecting to ‘complete’ the Single European Market by 1991, France, Germany, Belgium, Luxembourg and the Netherlands agreed in June 1985 to eliminate controls along their internal Community borders, never imagining that the Iron Curtain would collapse four years later. The first Schengen Agreement, ratified by only five member states before the Wall fell, expanded to include three more countries by 1991; this allowed for unprecedented freedom of movement among the signatory states and established a single external border relying on common rules and procedures. The Maastricht Treaty began Europeanising migration and asylum policy via its intergovernmental ‘third pillar’ at a time when Germany no longer stood as the biggest, most rigorous gatekeeper along the eastern front.³⁶ By 1996, another three countries entered the EU, and eight more joined Schengenland, harmonising conditions for entry, short-term visas, enhancing police and judicial cooperation, expediting extradition processes and computerising a Schengen Information System. Thirteen further states (covering Central Eastern Europe, Iceland, Norway, Finland and Switzerland) joined the recast ‘Dublin’ system, following its incorporation into the 1997 Amsterdam Treaty.³⁷

Whereas the 1985 Schengen accord primarily sought to foster free movement inside the Community, the Dublin system strives to keep people out. It denies refugee status to persons from safe countries of origin or arriving by way of safe third states, initially defined as any country surrounding Germany or ones that have also ratified the Geneva Convention.³⁸ One innovation foresaw abbreviated decision-making at airports: Individuals arriving from safe states or lacking identification papers are confined to a special transit area for processing. Allied with the Federal Office for Recognizing Foreign Refugees (FORFR), German border guards can deny entry to those whose immediate asylum claims *seem* unfounded. If FORFR fails to make a determination within two days, or if an administrative court cannot render a judgment in 14 days, the applicant is to be admitted. The Frankfurt/Main airport, an international hub, often made the headlines due to poor reception conditions, extended detentions (almost two years in one case) and suicides.³⁹ In some countries, airlines were made financially responsible for repatriation. According to Nazare Abell, EU member states managed to ‘shift duties away and have increased the number of refugees in orbit’.⁴⁰

Introducing a Common European Asylum System (CEAS), the EU established a European Refugee Fund, a Temporary Protection Directive (2001/55/EC) and a Family Reunification Directive (2003/86/EC) between 1999 and 2005. It revised the Reception Conditions Directive (2003/9/EC), the Asylum Procedures Directive

(2005/85/EC) and the Qualification Directive (2004/83/EC) to protect unaccompanied minors, torture victims and persons with special needs, then amended the Dublin (II) system and European Dactyloscopy System (EURODAC) regulations.⁴¹ Purportedly offering 'higher standards for protection', Dublin III (2013) improves some rules for unaccompanied minors and family members applying for protection.⁴²

The Dublin I and II parameters were already in place by the time Germany assumed the rotating presidency of the EU Council of Ministers (January–July) in 2007. Overlapping with the FRG's term as G-8 chair, the Council presidency granted Merkel a unique chance to display her international mediation skills. Under the German 'Conclusions' issued at the end of the six-month rotation, national leaders deemed integration 'a pivotal element of the comprehensive European migration policy ... in a pluralistic Europe'.⁴³ Sections 14–35 ('Freedom, Security and Justice') called for: enlarging the Schengen area; eliminating internal borders; developing a 'comprehensive' EU migration framework; fostering cooperation with its own 'Global Approach' to migration vis-à-vis Africa, Mediterranean, Eastern and South-Eastern regions; endorsing mobility partnerships, circular migration, and pilot mobility partnerships. Germany further linked migration to the Lisbon Strategy for Growth and Jobs, recognised migration's role in addressing skill shortages, and pledged to advance efforts to admit third country nationals to fill high-skill positions, based on a single application procedure and a shared set of residency rights.

Serving again as federal interior minister, Wolfgang Schäuble led the charge against the darker side of 'free movement', supporting measures to eliminate undeclared work through employer sanctions while strengthening the European Border Surveillance System. He called for visa and 'readmission' agreements with Bosnia-Herzegovina, Macedonia, Montenegro, Serbia, Ukraine, Moldova and Albania; he also urged using biometric means to enhance document security, and invited future councils to resolve jurisdictional questions over matrimonial and maintenance obligations. In May 2007, Merkel presided over an informal meeting of integration ministers from all EU member states in Potsdam, inspiring her Land-level integration ministers to form a federal body to coordinate their diverging approaches to the National Integration Plan (see below). This is a clear example of Merkel wearing her 'EU hat' to foster parallel initiatives she later supported wearing her 'national hat', blurring the line between internal and external forces for change.

THE 2006 TURNAROUND: INTEGRATION AND THE 'WELCOMING CULTURE'

By the time Merkel became chancellor in 2005, CDU politicians were pushing to revise the 2004 migration law, purportedly in response to EU mandates. Amendments adopted in 2007 improved the right to remain for refugees and 'tolerated' asylum-seekers. It lowered the income requirement for high-skilled labourers from €1 million to €500,000 but simultaneously imposed welfare sanctions against individuals not enrolling in mandatory integration courses, limited spousal entry to persons over 18 with basic knowledge of German (not applied to visa-free states), instituted a formal language test and a naturalisation oath built on constitutional-democratic norms.⁴⁴ A few Länder developed their own citizenship tests, subsequently challenged as anti-Islamic in nature.⁴⁵ While some states did more than others to remove integration

barriers, Merkel's initiatives did compel all 16 states to introduce proactive integration processes.

The chancellor's decision to turn Germany into a land of immigration and integration derived from her realisation that it could only avoid a looming demographic crisis by becoming a 'welcoming culture'. Referring to herself as 'a person of migration background', the first eastern leader built on SPD-Green citizenship and migration reforms, inspired by her exposure to countless integration measures introduced by Berlin's veteran foreigners' commissioner, Barbara John (also CDU). In June 2006, reigning mayor Klaus Wowereit convened the capital city's first Integration Summit, inviting academic experts, ethnic association representatives and youth agency personnel. On 14 July, Merkel convened her first National Integration Summit, attracting 86 participants.

The second federal summit took place in July 2007, where the chancellor presented her National Integration Plan (NIP), declaring its implementation a 'central task for all society'. The NIP built on 10 core themes: integration courses; language acquisition; education and vocational training, labour market mobility; living conditions, opportunities for women and girls; local responsibility; intercultural competence in public and private sectors; integration through sports; media diversity; civic participation; and internationalising German research facilities.⁴⁶ Conceptualising integration as a complex, multidimensional societal issue, Merkel's promotion of local, state and national dialogues at home mirrors a search for 'best practices' instituted at the EU level.

The NIP's 'welcoming culture' approach gradually took root, reinforced by reforms adopted during Merkel's second and third terms. In April 2012, the Bundestag approved a process for recognising occupational qualifications attained abroad (EU Directive 2004/83/EC). Of the 13,344 cases decided in 2013, 9969 (74.7 per cent) were fully accredited, and only 4 per cent were completely rejected. A second change foresaw the right-to-remain, coupled with a right-to-work for persons whose decisions are pending and 'rejected' but non-deportable applicants. Previously, 'tolerated' individuals had to re-apply to extend their stays every six months, a policy dating back to the 1980s.

As of 2011, youths who have attended German schools are entitled to their own work permits. Since 2013, individuals in residence for 15 months can receive educational stipends (*BaFög*) and work permits after training. In 2014, lawmakers granted applicants some freedom of movement after four months, although benefits were still tied to designated dwelling sites; children can now accompany their peers on class trips, for instance. Applicants and 'tolerated' persons were allowed to seek jobs after three months (raised to six months in 2015). In December 2014, the grand coalition approved permanent residency for persons denied asylum who have lived in Germany at least eight years (six for children, four years for youths).

The Federal Office for Migration and Refugees (BAMF) established a Round Table on the Receiving Society in 2012, convening representatives from 19 federal agencies to promote 'intercultural opening through political education'.⁴⁷ The project *Welcoming Bureaucracies* uses courses and workshops to teach civil servants formerly intent on keeping foreigners out how to become more 'customer friendly'. In 2012 Germany initiated a humanitarian resettlement programme, pledging to admit an annual

contingent of 300 ‘especially needy’ persons trapped in first-arrival countries. Primary beneficiaries the first year included Tunisians and Iraqis; in 2013 the majority came by way of Turkey from Iraq, Iran and Syria. The 2014 list included people from Iraq, Somalia, Sri Lanka, China, Afghanistan, ‘stateless’ Syrians and Indonesians. Germany raised the number to 500 in 2015, and added 100 places for trafficking victims from the Horn of Africa. It committed itself to accepting 800 extra persons per year in 2016 and 2017, respectively. According to interior minister Thomas de Maizière, ‘As a rich country we are not at all overwhelmed [by these resettlements]’.⁴⁸ Europe’s inability to manage the refugee flow of the last two years nonetheless poses a substantial risk to Germany’s fledgling ‘welcoming culture’.

‘WE CAN DO IT’: ASYLUM AS *CHEF-SACHE*, 2013–16

Angela Merkel was among the first to call for more solidarity and regular distribution quotas among EU member states, despite mounting resistance from the UK and CEE governments.⁴⁹ By mid-2015, migration to Germany had reached its highest level in 20 years; over 1,226,000 had entered since 2013, although others left. The number of first-time asylum applications across the EU hit 435,450 in 2013, then 625,000 in 2014, encompassing citizens from 144 countries; Kosovars, Syrians and Afghanis headed the list.⁵⁰ In spring 2015 the EU revised its asylum-related directives, as well as Dublin and EURODAC regulations, to ensure that new arrivals would be ‘treated equally in an open and fair system – wherever they apply’. As of this writing, only five EU countries offer small resettlement programmes.

Only 5115 of the 68,000 who made it to Greece, and 28,500 of the 67,500 who landed in Italy by mid-2015 filed for asylum in those countries; another 43 per cent moved on to Germany or Sweden, despite Schengen rules pertaining to ‘first arrival’. During the first six months of 2015 the FRG registered 171,797 new applications, compared to a 2014 total of 202,834.⁵¹ During her 16 July encounter with sixth-grader Reem Sahwil in Rostock, Merkel was criticised for being ‘too cold-hearted’ for telling the Palestinian refugee that not everyone who wanted to come to Germany could stay. On 25 August Merkel suspended the Dublin requirement, allowing those who had not filed applications in their first EU state to submit them in Germany. Six days later she declared at her summer press conference, ‘We can do this’ – citing Germany’s ‘orderly conditions’, economic strength, developed civil society, demographic needs, its capacity for ‘flexibility’ in tough times and constitutional imperatives affirming that ‘asylum knows no upper limits’.⁵² In September she stressed, ‘We were quick to save the banks, we can act immediately to help communities save human beings’.⁵³

As the flow continued, the Bundestag approved Asylum Package (I), enacted in November. Although state and communal governments are legally responsible for accommodation, meals and medical costs, the Bund doubled its contribution to €2 billion. In 2016, it began paying a monthly sum of €670 per person from the time of registration until a decision is rendered, normally a local responsibility. The Länder received a €2.68 billion advance, to cover an estimated 800,000 arrivals facing five months of ‘processing’. Merkel’s government allocated €500 million for new social housing and 150,000 more reception places, temporarily suspending

certain construction and renewable energy requirements. Federal authorities became responsible for distributing refugees across the states. Asylum I replaced cash with in-kind benefits at the receiving centres, but to expedite integration among those likely to be approved, skilled labourers could seek temporary jobs after three months. State insurance funds issued 'health cards' for immediate treatment, to be reimbursed later. Albania, Kosovo and Montenegro joined Serbia, Macedonia and Bosnia–Herzegovina on the list of 'safe states', however, subjecting their citizens to a 99 per cent rejection rate.⁵⁴

By late 2015 there were more than 14,000 volunteer centres across the country. Merkel spoke out against hate speech and anti-immigration protests, even after being called a traitor and a whore when she visited a refugee facility in Heidenau (Saxony): 'If we now have to start excusing ourselves for showing a friendly face in emergency situations, then this is no longer my country', she declared.⁵⁵ By December 2015, the application backlog had reached 350,000.⁵⁶ The mood shifted dramatically in the wake of over 500 reported sexual assaults by 'North African-looking men' in Cologne, Hamburg and other cities on New Year's Eve 2016.⁵⁷ Anticipating three state elections in March 2016, Bavarian minister-president Horst Seehofer (CSU) began issuing ultimatums and playing the populist card, despite widespread citizen engagement with the refugees.

After three months of coalition-internal wrangling, the Bundestag adopted Asylum Package (II) in January, rolling back more 'welcoming measures'. Lawmakers tried, unsuccessfully, to declare Morocco, Algeria and Tunisia 'safe states' in summer 2016; persons likely to be rejected are now placed in special reception centres for fast-track processing (three weeks). Individuals not submitting to 'voluntary' deportation deadlines receive reduced maintenance benefits. Other applicants are obliged to stay in their respective 'first admission' accommodation for six instead of three months, where they receive more benefits-in-kind; cash supplements are paid out monthly.

Residency and free movement rules have been tightened as well: Refugees cannot leave the districts in which their respective Foreigners' Registration Offices (*Ausländerbehörde*) are situated, even to visit relatives in neighbouring counties; those caught outside their districts lose benefits, and their proceedings will be terminated. Persons granted 'subsidiary protection' (distinct from Basic Law or Convention status) only become eligible for family unification after two years. Exceptions involve dependants held in refugee camps in Turkey, Jordan and Lebanon, to be admitted under EU-regulated 'quotas'. It is unclear how Erdoğan's crackdown following an (alleged) coup attempt will affect this agreement in the longer term. Refugees with special medical conditions enjoy less protection: only very serious illnesses warrant a right to stay, even if treatment is not generally available in the home country.⁵⁸

The second Asylum Package deliberately excluded new protections for women and unaccompanied minors. It reduced 'pocket money' benefits (€143) by charging applicants €10 per month to cover language instruction, for which some groups (e.g. Afghans) are not even eligible.⁵⁹ It is not yet clear whether these changes conform to EU requirements, much less to the 2012 Constitutional Court ruling which obliged lawmakers to provide enough cash to ensure refugees 'sufficient means enabling them to participate in social, cultural and political life'.⁶⁰

Merkel's inclusive response to the 2014–16 refugee crisis has not only inspired an unprecedented citizen-volunteer movement but also ugly backlash channelled through Pegida protests and Alternative for Germany (AfD) gains.⁶¹ The AfD's double-digit 'victories' in March 2016 in Rhineland Palatinate, Baden-Württemberg and Saxony-Anhalt, respectively, were offset by the 68.8 per cent who favoured grand coalition policies in the first, and a new high of 30.5 per cent for the Greens in the second state. Although the AfD secured 25 seats in Saxony-Anhalt, that Land is now governed by a CDU-SPD-Bündnis '90/Green coalition; its Baden-Württemberg delegation split into two factions in July 2016. Seehofer's ongoing 'attacks on Merkel' (Schäuble's term) have 'turned the sister parties [CDU/CSU] into distant relatives', but all other parties (with some Linke exceptions) support a German opening.⁶²

Representing a case of 'three steps forward, one step back', a new Integration Law adopted in April 2016 contained a mix of symbolic and real sanctions. Like its AP predecessors, the bill mandates reduced benefits for persons who refuse to participate in language and integration courses, raising the number of required hours from 60 to 100; the real problem is that the demand for such courses already exceeds the supply of available classes and teachers: 200,000 were waiting for places in 2016. Another problem is that its three-year residency requirement blocks already recognised applicants from moving to where the jobs are, hindering self-sufficiency and integration. Compared to the restrictions, rejection rates and hostile attitudes witnessed before unification and prior to 2005, however, Germany has become a welcoming culture 'in word and deed' under Merkel's leadership. In 2016, national politicians even began discussing a bona fide *Einwanderungsgesetz*.

CONCLUSION: GREAT LEADER OR PERFECT STORM? MERKEL 'MATTERS'

Returning to the four themes outlined in the introduction, one can easily argue that unification has played a key role in reconfiguring attitudes and policies linked to migration and asylum, at least in the longer run. The direct, physical impact of unification triggered a need to accommodate the culturally diverging *habitus* of GDR citizens, as well as those of 'co-ethnic repatriates' who fled post-Soviet territories. One can also point to a generational sea change and a looming demographic deficit as indirect, domestic 'causes' for reform after 1990. Together these factors undermined the logic of *jus sanguinis* from within, while new EU directives pertaining to migration, asylum and the recognition of foreign qualifications provided both direct and indirect reform leverage, from outside and above. This case also confirms that we cannot limit efforts to identify unification as a force for policy change to the decade immediately following GDR accession. As demonstrated here, restrictive migration policies introduced by Kohl in the 1980s became even more exclusionary *after* unification, also under his direction. Despite the data and recommendations compiled by his Independent Commission, and pressures from most of his cabinet, SPD Chancellor Schröder refused to champion dual citizenship, re-liberalise asylum rules or create a real immigration system between 1998 and 2004. It therefore cannot be argued that initiating a paradigm shift was a merely a question of finding the 'right' coalition partner. The legislative push for an inclusive, data-driven approach fell between 2007 and 2013 under another CDU chancellor who often draws parallels between 2015 and 1989.

One can conclude that it took an east German woman, describing herself as ‘a person with migration background’, to introduce a proactive National Integration Plan in 2007 that laid the foundation for a real ‘welcoming culture’. Without the fall of the Wall, the former pastor’s daughter from Templin would have never entered politics, much less become the first female chancellor. Merkel’s personal exposure to GDR policies violating international human rights accords uniquely positioned her to secure cross-party acceptance of her principled stance on refugee admissions. Having followed her political career since 1990, I contend that this chancellor has displayed her strongest leadership skills in the very arena that triggered decades of vociferous opposition and resistance to change within her own party: immigration and asylum.⁶³ Merkel secured policy consensus on migration issues by pulling together new stakeholders at multiple levels. ‘Blessed’ with two grand coalitions, she effectively combined normative human rights concerns with practical needs tied to an imminent demographic deficit. Although few member states have lived up to their obligations under the *acquis communautaire*, Merkel began leveraging EU processes as early as 2007; her national integration summits were matched by state-level ‘integration minister’ summits, well before countless new refugees set out on perilous trips across the Mediterranean. The chancellor circumvented Länder resistance, even in Bavaria, by drawing on proactive integration models already tested in cities with large migrant concentrations, e.g. Berlin, Frankfurt/Main and Stuttgart.

These factors render ‘gender’ and ‘GDR influences’ part of the larger cause-and-effect picture regarding policy change. Merkel’s socialisation experiences as a woman, an easterner, a natural scientist and a practising Lutheran led her to view integration problems as the product of complex social relations, rather than as a static single issue best resolved through exclusionary or single-issue regulation.⁶⁴ As a GDR citizen she acquired a sense of political responsibility towards oppressed peoples and human rights. As a pastor’s daughter in a godless state, she developed a personal sensitivity to freedom of belief and religious pluralism. Her training as a data-conscious, quantum-chemistry expert helped her to identify long-term demographic waves, as well as ‘positive’ and ‘negative’ partisan charges comprising the integration field. She grew up under a non-traditional gender regime that educated and employed females to replace a ‘missing generation’ of men, another reason why her NIP includes special initiatives for women and girls of migrant descent. She exhibits a preference for policy synergies shared with her female cabinet ministers and advisors, often derided as ‘Girls’ Camp’.

I do not argue that Angela Merkel deserves all the credit for the post-unity shift in German citizenship and migration policies, or that she has eliminated all pockets of anti-foreigner sentiment. In contrast to the former ‘unity chancellor’, however, she openly denounces hate speech and xenophobic demonstrations; she often meets with affected families, in contrast to Kohl who refused to attend the funerals of arson victims in Mölln and Solingen. She has likewise redefined German identity, giving millions too young to have known World War II atrocities ‘the right’ to feel good about themselves for opening their hearts, homes, pockets and country to others fleeing war and oppression. As she stressed in her 31 August 2015 press conference:

In spite of everything, our country is still a good country. It is in good shape. The oft-praised civil society is a reality for us, and it makes me proud and thankful to

see how countless people in Germany have reacted to the refugees' arrival. The numbers who are there for the refugees today, the number of helpers, the numbers who accompany strangers through cities and offices or even take them into their homes surpass the harassers and xenophobes many times over.

Merkel even praises the media, for providing 'our many good citizens the chance to see themselves, offering role models and examples which gives courage'.⁶⁵

Unification has taught Germans of all sorts that it takes more than *jus sanguinis* to build a democratic community. One exchange with a former GDR dissident sheds particular light on what drives Merkel's devotion to this project. Attending a benefit concert for refugees at the Gendarmenmarkt with her spouse in January 2016, the chancellor sighted pastor-turned-lawmaker Rainer Eppelmann, who praised her for her bold, proactive stance. He shared a favourite quote from Vaclav Havel, a former Czech dissident and president, which she asked him to repeat during the intermission: 'Hope is not the conviction that something will turn out well, but the certainty that something makes sense, regardless of how it turns out'.⁶⁶ The same can be said about unification itself.

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