

From Open Hearts to Closed

Legitimizing Weaker Asylum Rights through Human Rights Justification*

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Human rights have long held a prominent position in Swedish political and legal discourse. Yet, in 2021, the Swedish legislator invoked the human right to asylum to justify reforms that weakened asylum protection. This article explores the function of this argument in the legislative process. Applying a discourse-historical approach, it examines how the historical discourse surrounding human rights in Sweden was invoked to legitimise a new discourse concerning the right to asylum, notwithstanding that the latter stood in direct opposition to the historical one. The article argues that, because rights had long formed a central part of Swedish political and legal discourse, the right to asylum could be invoked to justify legislative changes that only a few years earlier had required the existence of a “crisis” in order to be regarded as legitimate.

1. Introduction

According to the Refugee Convention and its Protocol, the right to asylum cannot be governed by external circumstances but constitutes a universal entitlement, irrespective of numerical considerations.¹ However, since the 2015 ‘migration

* This text has been subject to scientific peer review. The phenomenon Human Rights Justifications constitutes the theoretical as well as the empirical focus of the EU funded Horizon project Human Rights Justifications with project ID: 101094346.

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¹ Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees. The protocol removed the geographical and temporal limitation from the 1951 Convention. All Member States of the Council of Europe are party to the Convention. The right to asylum is also guaranteed through article 18 of the EU Charter of Fundamental Rights. The principle of non-refoulement is considered customary international law, meaning that all states, regardless of them having ratified the 1951 Convention, are prohibited to expel or return refu-

crisis' in Europe, the right to asylum has increasingly been discussed in numerical terms, even though the imposition of numerical objectives or restrictions on the human right to asylum is inherently incompatible with the nature of that right.²

In 2021, the Swedish Government asserted that the right to asylum under Swedish migration legislation needed to be weakened, arguing that such measures were necessary in order to “*safeguard the right to asylum*” and to enable Sweden to assume its “*responsibility for persons in need of protection in a troubled world*”. This weakening of the right to asylum was implemented through a number of legislative measures, one of which involved replacing permanent residence permits for asylum seekers with temporary permits.³ This framing of the need for legislative action in terms of human rights constitutes a clear example of a Human Rights Justification, defined as the use of human rights by States to explain and defend their decisions and actions.

The Swedish legislator’s justification conveys two contradictory messages: that the right to asylum should be protected, while at the same time being weakened. The argument itself serves a specific purpose, namely legitimisation. But why – and how – can an expressed will to protect a human right serve to legitimise the weakening of the same human right, in this case the right to asylum? One way to investigate this conundrum is to study the argument’s function as bearing reference to the historical and institutional discourse surrounding rights within the Swedish political and legal context prior to 2021.

The aim of this article is to explore the function of the argument employed in the legislative process to justify weakening the right to asylum in Sweden in 2021. By applying a discourse-historical approach developed by Ruth Wodak and Theodor J. van Leeuwen, the article describes the historical discourse surrounding human rights in Sweden and examines how this discourse was invoked to legitimise a new discourse concerning the right to asylum, notwithstanding that the latter stood in direct opposition to the historical one. The following part of the article sets out the methodological foundations of the discourse-historical

ges to territories where their life or freedom would be threatened. This obligation also follows from customary international law.

² Such limitations risk increasing the number of individuals exposed to return to threats to life or freedom, thereby violating the principle of non-refoulement, which is incompatible with states’ international obligations.

³ Prop. 2020/21:191, p. 51 and 56. The right to asylum is here understood as an effective form of international protection from persecution, armed conflict, violence or serious public disorder for someone who has been compelled to leave their country and who cannot return because of a serious threat to their life, physical integrity or freedom. As the right is understood as an effective, rather than merely formal, form of protection, durability is a central component. Making the protection temporary weakens its substantive content as the right becomes more conditional and more dependent on future (re)assessments. The difference between permanent and temporary protection is therefore here understood as a matter of degree in the strength of the right, where temporariness entails a reduced level of protection.

approach employed in this study. It is followed by an account of the Swedish discourse on human rights, presenting the empirical findings relating to the political and legal context in which Human Rights Justifications were invoked by Sweden in 2021.

2. Studying Legitimation using an Historical Discursive Approach

The discourse-historical approach developed by Ruth Wodak and Theodoor J. van Leeuwen is a methodological framework commonly used to analyse political issues. It seeks to integrate and examine the various discourses that exist around, or are hegemonic in its framing of, a particular issue, as well as their specific historical development and institutional context. Three dimensions are typically central to the discourse-historical method: the content of the data, the discursive strategies employed, and the linguistic realisation of these contents and strategies.⁴ Within the framework of this study, the focus lies on the historical dimension of the discursive action – namely, the legislative process through which temporary residence permits were institutionalised – and on the historical discursive ‘events’ that subsequently serve to legitimise that discursive action.⁵

This article applies the discourse-historical approach to the Swedish legislative preparatory works concerning the weakening of the right to asylum. In an international comparison, the Swedish legislative process stands out for its particular emphasis on the preparatory phase of legislative drafting, as well as for its openness.⁶ This preparatory phase, materialised through committees and inquiries, is regarded as a central component of the Swedish administrative tradition and has played a key role in the development of the Swedish welfare state. Moreover, the requirements governing legislative preparation constitute a fundamental aspect of the Swedish constitutional framework. Through the preparatory procedures embedded in the Swedish system of official inquiries – such as commissions, committee work, the Council on Legislation (Swe. *Lagrådet*), and the consultation procedure (Swe. *remissinstitutet*) – the Swedish public and con-

⁴ Ruth Wodak, Theodoor van Leeuwen, *Legitimizing Immigration Control: A Discourse-Historical Analysis*, *Discourse Studies* 83, 1999, p. 93.

⁵ Ruth Wodak, Theodoor van Leeuwen, *Legitimizing Immigration Control: A Discourse-Historical Analysis*, *Discourse Studies* 83, 1999, p. 93.

⁶ For an overview of the Swedish model of legislative drafting, see Mauro Zamboni, *The Legislative Drafting in Sweden: Its Informal and Non-Linear Nature*, *Förvaltningsrättslig tidskrift*, 2023, no. 1, pp. 81–104.

stitutional system has established mechanisms aimed at ensuring that legislation is of high quality, legally certain and effective.⁷

These preparatory requirements are also codified in various parts of the Swedish legal order, most notably in Chapter 7, Section 2 of the Instrument of Government (Swe. *Regeringsformen* (1974:152)), which provides in its first sentence that, in preparing government matters, the Government shall obtain the necessary information and opinions from relevant public authorities. This provision is generally regarded as the ultimate expression of a historically grounded general principle of legislative preparation, which is reflected across several areas of Swedish public law.⁸

It is within the preparatory framework that the legislature typically assesses whether proposed legislation is compatible with Sweden's international obligations, including compliance with the European Convention on Human Rights. Finally, these legislative preparatory works are used by the courts when interpreting and applying legislation. In practice, this means that a multitude of actors and discourses are relevant in the Swedish law-making process. As a rule, this includes representatives from the political sphere, civil society through various experts and through the referral system, national authorities, ministries, and universities through the referral system, as well as legal-technical expertise provided by judges, investigation secretaries, and the Council on Legislation.⁹ The open nature of the Swedish law-making process – where different discourses interact and are more or less prominent across different areas of society – renders the discourse-historical approach particularly well suited to the study of the discourses that characterise a particular piece of legislation.

The method requests researchers to identify the discourses that dominate a particular issue in a given context, based on the premise that researchers must engage with these discourses in order to fully understand the discursive strategies employed. Another central aspect of the discourse-historical approach is intertextuality, meaning that legal, political, and policy discourses are intertwined. This is particularly evident in the Swedish legislative drafting process.¹⁰ With regard to the subject of this article – namely the legitimisation processes

⁷ Henrik Wenander, *Universiteten och de juridiska fakulteterna som remissinstanser*, *Förvaltningsrättslig tidskrift*, 2020, no. 2, p. 39 f.

⁸ Håkan Strömberg and Bengt Lundell, *Allmän förvaltningsrätt*, 26th edn, Stockholm 2014, p. 95; Joakim Nergelius, *Constitutional Law in Sweden*, 2011, p. 15; Henrik Wenander, *Universiteten och de juridiska fakulteterna som remissinstanser*, *Förvaltningsrättslig tidskrift* 2020, no. 2, p. 40 f.

⁹ Mauro Zamboni, *Methods of Ex-Ante Evaluation in Legislation: The Swedish Model*, *Proceedings of the 2019 KLRI International Conference of Legislative Evaluation in Seoul*, 2019, p. 18 ff.

¹⁰ Peter Goodrich, *Legal Discourse: Studies in Linguistics, Rhetoric and Legal Analysis*, Macmillan, 1987, p. 205; Mauro Zamboni, *Methods of Ex-Ante Evaluation in Legislation: The Swedish Model*, *Proceedings of the 2019 KLRI International Conference of Legislative Evaluation in Seoul*, 2019, p. 18 ff.

involved in the weakening of the right to asylum in its specific historical context, and the Swedish approach to human rights in a corresponding historical context – it is not sufficient to undertake a purely genealogical reading of historical preparatory works concerning the right to asylum. Instead, this article identifies a broader domestic and foreign-policy context as necessary for understanding the legitimising function of the argument that the right to asylum need to be protected when weakening the right.

The material on which the historical study is based consists of both literature and primary sources, including speeches and official statements by political representatives. Critical discourse theory generally encompasses all such material – both spoken and written discourse – since these constitute social practices.¹¹ In the traditional discourse-historical method as described above, the focus lies on the linguistic realisation of these contents and strategies, meaning that linguistic expressions ultimately become the primary objects of study.¹² However, as this article is situated within a legal analytical context, the focus is not on linguistic expressions as such but rather on the legitimisation of the legal institutionalisation of temporary residence permits. This investigation primarily focuses on one macro-strategy of discourse as social practice. In applying the discourse-historical approach to Austrian rejection decisions in cases concerning family reunification applications by migrant workers, Wodak and van Leeuwen identify, *inter alia*, what they term “*strategies of transformation*”, which they define as strategies that seek “*to transform a relatively well-established situation into another, of which the speaker or writer may already have formed an image*”.¹³

By employing the concept of strategies of transformation as a heuristic device, it becomes possible to examine the production of new meanings that serve to integrate with, and communicate alongside, the meanings already attached to the use of rights when legitimising restrictions on the very same rights. As this study is situated within the Swedish legislative drafting process and within the broader context of Swedish politics, it applies the principle of triangulation when establishing the methodological framework. Triangulation – through interdisciplinary, methodological, and source-based approaches – is employed when examining a particular discursive phenomenon within a specific institutional context, in this case Swedish legislative drafting as well as Swedish foreign policy and politics.¹⁴ Accordingly, several analytical perspectives are employed. For example, when examining the historical discourse surrounding

¹¹ Anna W. Gustafsson, *Skriftpraktiker, diskursiva praktiker och analytisk konsekvens*, Språk och stil, vol. 23, 2013, p. 87 ff.

¹² Martin Reisigl, Ruth Wodak, *The Discourse-Historical Approach (DHA)*, in Ruth Wodak and Michael Meyer (eds.), *Methods of Critical Discourse Analysis*, 2nd edn, London 2009, p. 94 f.

¹³ Ruth Wodak, Theodoor van Leeuwen, *Legitimizing Immigration Control: A Discourse-Historical Analysis*, *Discourse Studies* 83, 1999, p. 93.

¹⁴ Aaron V. Cicourel, *Theory and Method in a Study of Argentine Fertility*, New York 1974, p. 124.

rights and Sweden's self-image as a humanitarian superpower, historical and socio-political perspectives are applied. By contrast, in analysing the Human Rights Justification and the arguments advanced therein, the study primarily relies on legal methods.¹⁵ The interdisciplinary approach and the deployment of a range of analytical perspectives are necessary in order fully to examine justifications as central to the process of legitimisation.

Drawing on Wodak's and van Leeuwen's theory of strategies of transformation, this article seeks to determine the function of the use of the justification employed by the Swedish government in 2021, namely that the right to asylum must be safeguarded and that, consequently, residence permits should be temporary rather than permanent, thereby fundamentally undermining the right to asylum through the institutionalisation of the temporary "crisis" law. This is achieved by examining the specific justification in its historical discursive context surrounding the notion of rights and what function this serves.

3. The Historical Discourse – Sweden as a Humanitarian Superpower and Human Rights Law Advocate

3.1 The Origins of Swedish Neutrality and Non-Alliance Doctrines

Sweden has enjoyed more than 200 years of peace, a circumstance that is nearly unique among European states. This is often attributed to the long-standing tradition of neutrality and non-alignment in Swedish external relations.¹⁶ Sweden's reliance on neutrality and non-alignment can be traced back to the period during which Sweden was a great power in Europe. In 1632, Sweden concluded a treaty of neutrality with the small Catholic states of Trier and Cologne, under which those states recognised Sweden's claims as legitimate and undertook not to assist the Habsburg imperial power. In 1834, after Sweden's era as a European great power had come to an end, the country again declared itself neutral. On this occasion, however, the declaration of neutrality represented an attempt to secure the nation's survival in the event of a conflict between England and Russia.¹⁷ These examples illustrate the strategic use of neutrality both as an instru-

¹⁵ Ruth Wodak, Theodoor van Leeuwen, *Legitimizing Immigration Control: A Discourse-Historical Analysis*, *Discourse Studies* 83, 1999, p. 92.

¹⁶ Ulf Bjereld, Ulrika Möller, *Swedish Foreign Policy: The Policy of Neutrality and Beyond*, in Jon Pierre (ed.), *The Oxford Handbook of Swedish Politics*, 2016, p. 435 and Ulf Bjereld, 'Svensk utrikespolitik i ett historiskt perspektiv' in Douglas Brommesson and Ann-Marie Ekengren (eds.), *Sverige i världen*, 4th edn, 2022, p. 35.

¹⁷ Ulf Bjereld, Ulrika Möller, *Swedish Foreign Policy: The Policy of Neutrality and Beyond*, in Jon Pierre (ed.), *The Oxford Handbook of Swedish Politics*, 2016, p. 435.

ment of great power politics and as a means of ensuring security from a position of relative weakness.¹⁸

Sweden declared itself neutral during both the First and the Second World Wars.¹⁹ After the end of the Second World War, the doctrines of neutrality and non-alignment became established as the consistent foundation of Swedish foreign policy for the following three decades, commonly expressed through the formulation “non-alignment in peacetime in order to remain neutral in wartime”.²⁰ During the first half of the Cold War, Sweden maintained a relatively low profile in international affairs, pursuing what has been described as “small-state realism,” without broader normative ambitions.²¹ While active within the United Nations, Sweden’s neutral position enabled it to promote a degree of balance between the emerging Cold War antagonists, the USSR and the United States, between which the Nordic countries found themselves both geopolitically and ideologically situated.²² In this context, the Swedish Foreign Minister Östen Undén articulated a foreign policy that sought to chart a “third way” or “middle way” between East and West.²³

In order to preserve its neutrality, Sweden refrained from entering political or military alliances or undertaking comparable commitments. At the same time, Swedish non-alignment was not absolute and rested upon a strong national defence.²⁴ Unofficially, Sweden nevertheless expected military assistance from the Western bloc should the country be drawn into a conflict. The Swedish armed forces were in fact secretly authorised to prepare for such cooperation, and extensive intelligence exchanges took place between Sweden and other West-

¹⁸ Ulf Bjereld, Ulrika Möller, *Swedish Foreign Policy: The Policy of Neutrality and Beyond*, in Jon Pierre (ed.), *The Oxford Handbook of Swedish Politics*, 2016, p. 435.

¹⁹ The declaration of neutrality under the World Wars has been much contested for its lack of consistency, as Sweden during the beginnings of both World War I and II let Germany know that it was to interpret the law of neutrality in favourable terms with regards to Germany. Only when the tide of war turned in favor of the Western Allies did Sweden abandon its accommodating stance toward Germany in favor of a more generous approach toward the Western powers. Ulf Bjereld, Ulrika Möller, *Swedish Foreign Policy: The Policy of Neutrality and Beyond*, in Jon Pierre (ed.), *The Oxford Handbook of Swedish Politics*, 2016, p. 435; Ulf Bjereld, *Svensk utrikespolitik i ett historiskt perspektiv*, in Douglas Brommesson and Ann-Marie Ekengren (eds.), *Sverige i världen*, 4th edn, 2022.

²⁰ Ulf Bjereld, *Svensk utrikespolitik i ett historiskt perspektiv*, in Douglas Brommesson and Ann-Marie Ekengren (eds.), *Sverige i världen*, 4th edn, 2022, p. 38.

²¹ Ulf Bjereld, Ulrika Möller, *Swedish Foreign Policy: The Policy of Neutrality and Beyond*, in Jon Pierre (ed.), *The Oxford Handbook of Swedish Politics*, 2016, p. 438; Christine Agius, *The Social Construction of Swedish Neutrality*, Manchester 2006, p. 108.

²² Ulf Bjereld, Ulrika Möller, *Swedish Foreign Policy: The Policy of Neutrality and Beyond*, in Jon Pierre (ed.), *The Oxford Handbook of Swedish Politics*, 2016, p. 438.

²³ Christine Agius, *The Social Construction of Swedish Neutrality*, Manchester 2006, p. 105.

²⁴ Ulf Bjereld, Ulrika Möller, *Swedish Foreign Policy: The Policy of Neutrality and Beyond*, in Jon Pierre (ed.), *The Oxford Handbook of Swedish Politics*, 2016, p. 438; Christine Agius, *The Social Construction of Swedish Neutrality*, Manchester 2006, p. 107 ff.

ern states even during peacetime.²⁵ Although formally neutral and non-aligned, Sweden did not significantly distinguish itself from other Western states until the beginning of the 1960's, generally voting alongside other Western countries within the United Nations.²⁶

3.2 A New Neutral – The Active Foreign Policy – Solidarity, Human Rights and Internationalism – Sweden as a Humanitarian Superpower

At the beginning of the 1960's, Sweden's foreign policy underwent a significant shift and developed a more distinct and active international profile.²⁷ Sweden moved from a cautious and restrained approach – careful to maintain good relations with both the United States and the Soviet Union – to what has generally been described as an active foreign policy doctrine.²⁸ While continuing formally to adhere to the principles of neutrality and non-alignment, Sweden departed from prevailing understandings of neutrality as an isolationist or narrowly self-interested policy. Instead, neutrality came to be understood as something that states themselves could shape and define.²⁹ The element of political agency in this “new neutrality” was expressed by Olof Palme in 1968:

We determine Sweden's policy of neutrality ourselves. It means non-alignment in peacetime with the aim of neutrality in wartime. Therefore, we do not join military alliances or align ourselves with any superpower bloc. Therefore, through steadfastness and consistency, we must build confidence in our ability to adhere to our chosen course of action, confidence in our willingness not to bow to pressure from foreign powers. The policy of neutrality does not imply a desire for isolation. Our ability to influence world events is limited. But that does not diminish the small nation's obligation to work for peace and reconciliation between peoples, for democracy and social justice. The policy of neutrality does not condemn us to silence.³⁰

Sweden's active role on the international stage helped to enhance the credibility of its policy of neutrality, as the international arena – and particularly the United Nations – provided a forum through which Sweden could project its particular

²⁵ Ulf Bjereld, Ulrika Möller, *Swedish Foreign Policy: The Policy of Neutrality and Beyond*, in Jon Pierre (ed.), *The Oxford Handbook of Swedish Politics*, 2016, p. 437.

²⁶ Ulf Bjereld, *Svensk utrikespolitik i ett historiskt perspektiv*, in Douglas Brommesson and Ann-Marie Ekengren (eds.), *Sverige i världen*, 4th edn, 2022, p. 40.

²⁷ Christine Agius, *The Social Construction of Swedish Neutrality*, Manchester 2006, p. 90.

²⁸ This is sometimes also referred to as the Palme policy, see Ulf Bjereld, *Svensk utrikespolitik i ett historiskt perspektiv*, in Douglas Brommesson and Ann-Marie Ekengren (eds.), *Sverige i världen*, 4th edn, 2022, p. 40 f.

²⁹ Christine Agius, *The Social Construction of Swedish Neutrality*, Manchester 2006, p. 90.

³⁰ Olof Palme, speech, *Arbetarrörelsens arkiv och bibliotek – Olof Palmes arkiv*, 1 May 1968, <https://olofpalme.arbark.se/amne/neutralitetspolitik/> accessed 30 October 2025 (authors' translation).

brand of internationalism.³¹ The policy of neutrality came to be regarded as a virtue in its own right, rather than merely a means to an end, and Sweden's role in international affairs consequently gained increasing recognition.³² Sweden's combination of neutrality and social democracy came to define the country as a particular type of "active neutral".³³ However, the development of the Swedish neutrality doctrine was not solely the work of the Social Democratic Party. Rather, it emerged through a broad domestic political and legal consensus: all major political parties supported the fundamental orientation of the policy, and it enjoyed strong backing from Swedish public opinion, thereby becoming part of Sweden's collective national identity.³⁴

This "new neutrality" was closely connected to the then emerging narrative of "Nordic exceptionalism", which sought to manage the security dilemmas of the Cold War by presenting the Nordic countries as a region of peace and prosperity.³⁵ This was achieved by differentiating the "peace-loving and rational" Nordics from the rest of Europe, which was portrayed as more "warlike" or "conflict-prone".³⁶ The Swedish doctrine of "new neutrality", however, was not merely a geopolitical position. It also formed an integral part of Sweden's projection of the "Swedish model" as a "third way", or "middle way", presented as a viable alternative within the starkly polarised political landscape of the Cold War.³⁷

The Swedish doctrine of active foreign policy manifested itself primarily in two ways in the international arena. First, Sweden began to criticise other states – both Eastern and Western – more openly and more forcefully. The most well-known example of this new rhetoric was Prime Minister Olof Palme's statement on Swedish national radio during Christmas 1972, which attracted worldwide attention:

³¹ Christine Agius, *The Social Construction of Swedish Neutrality*, Manchester 2006, p. 108.

³² Ulf Bjereld, Ulrika Möller, *Swedish Foreign Policy: The Policy of Neutrality and Beyond*, in Jon Pierre (ed.), *The Oxford Handbook of Swedish Politics*, 2016, p. 438.

³³ Christine Agius, *The Social Construction of Swedish Neutrality*, Manchester 2006, p. 90.

³⁴ Ulf Bjereld, Ulrika Möller, *Swedish Foreign Policy: The Policy of Neutrality and Beyond*, in Jon Pierre (ed.), *The Oxford Handbook of Swedish Politics*, 2016, p. 439; Christine Agius, *The Social Construction of Swedish Neutrality*, Manchester 2006, p. 105.

³⁵ Paul Lawler, *Scandinavian Exceptionalism and European Union*, *Journal of Common Market Studies*, 1997, p. 567; Chris S Browning, *Branding Nordicity: Models, Identity and the Decline of Exceptionalism*, *Cooperation and Conflict*, 2007, p. 32; Mark Emmerson, Jessica Carniel, Richard Gehrman, *The makings of a moral superpower: Swedish good international citizenship as middle-power nation brand*, *European Politics and Society*, 26(3), 2024, pp. 778–796.

³⁶ Carl Marklund, *The Nordic Model on the Global Market of Ideas: The Welfare State as Scandinavia's Best Brand*, *Geopolitics*, 22(3), 2017, p. 627.

³⁷ Carl Marklund, Klaus Petersen, *Return to sender – American Images of the Nordic Welfare States and Nordic Welfare State Branding*, *European Journal of Scandinavian Studies*, vol. 43, no. 2, 2013, pp. 245–257.

One should call things by their proper names. And what is happening today in Vietnam is a form of torture. [...] What is happening now is the tormenting of people. The tormenting of a nation in order to humiliate it, to force it into submission through language of power. And therefore, the bombings are an atrocity, one of many we have witnessed in modern history. And they are generally associated with a name – Guernica, Oradour, Babyn Yar, Katyn, Lidice, Sharpeville, Treblinka. There, violence triumphed. But history’s judgment has been severe upon those responsible. Now, a new name is added to the list – Hanoi, Christmas 1972.³⁸

Secondly, commitment to solidarity with the developing world, pursuit of disarmament, peacekeeping and mediation became more prominent in Swedish foreign policy.³⁹ Sweden’s internationalism formed an integral part of the Nordic internationalism, which exhibits a distinct social-democratic profile, rooted in nationally embedded traditions of advancing solidarity, justice, equality, and security also on the international stage.⁴⁰ Swedish internationalism was developed on a conception of the universality of solidarity⁴¹, intertwining the narrative of the national principles of the welfare state with its international⁴² commitment to solidarity on the grounds that internationalism and the Swedish labour movement and social democracy have “always been inseparably linked”.⁴³ Sweden established working relationships with Third World countries as a way of doing its reform internationalism, tackling the unfair conditions of international trade that produces poverty and exploitation.⁴⁴

The active foreign policy also entailed a significant expansion of Sweden’s engagement with human rights. From 1967 to 1969, Sweden – together with Denmark and Norway (and later joined by the Netherlands) – brought cases con-

³⁸ Olof Palme, speech, 23 December 1972. Statement retrieved from audio file: olofpalme.arbark.se/wp-content/dokument/721223_hanoi.mp3, accessed 30 October 2025 (authors’ translation). Palme’s statement upset the U.S. Government to the point that the diplomatic relations were severely affected. The U.S. froze diplomatic relations with Sweden during almost two years, see Ulf Bjereld, *Svensk utrikespolitik i ett historiskt perspektiv*, in Douglas Brommesson, Ann-Marie Ekengren (eds.), *Sverige i världen*, 4th edn, 2022, p. 42.

³⁹ Christine Agius, *The Social Construction of Swedish Neutrality*, Manchester 2006, p. 90, Ulf Bjereld, *Svensk utrikespolitik i ett historiskt perspektiv*, in Douglas Brommesson, Ann-Marie Ekengren (eds.), *Sverige i världen*, 4th edn, 2022, p. 41.

⁴⁰ Annika Bergman, *Adjacent Internationalism: The Concept of Solidarity and Post-Cold War Nordic-Baltic Relations, Cooperation and Conflict*, Vol. 41(1), 2006.

⁴¹ Olof Palme, *Första maj i Kramfors 1964*, 1 May 1964, <https://www.youtube.com/watch?v=7SMRIfVUTdg> accessed 31 October 2025, quoted in translation: “[...] solidarity knows no borders. It becomes intimate and urgent in a world where people live in oppression and persecution, in hunger and misery. It concerns us all.”

⁴² Annika Bergman Rosamond, *The Co-Constitution of Domestic and International Welfare Obligations: The Case of Sweden’s Social Democratically Inspired Internationalism, Cooperation and Conflict*, Vol. 42(1), 2007, p. 74.

⁴³ Olof Palme, speech delivered at the 90th anniversary of the Gothenburg Workers’ Council on 29 November 1980, https://olofpalme.arbark.se/wp-content/dokument/801129b_internationalism.pdf accessed 31 October 2025 (authors’ translation).

⁴⁴ Christine Agius, *The Social Construction of Swedish Neutrality*, Manchester 2006, p. 108 and p. 114.

cerning human rights abuses committed by the military junta in Greece before the European Commission on Human Rights.⁴⁵ According to Kristine Kjærsgaard, Sweden's decision to bring the cases against Greece was motivated by a desire to demonstrate that Sweden's principle of neutrality in matters of security did not entail neutrality on issues of human rights.⁴⁶ By the late 1970's, human rights had become a fundamental element of Swedish foreign policy.⁴⁷

Sweden's "active" policy of neutrality – centred on human rights, disarmament, mediation, and development assistance – combined with its active participation in international forums, particularly within the United Nations system, subsequently earned Sweden the epithet "humanitarian superpower". From a Swedish perspective, however, the term was not used ironically; rather, it was regarded as evidence of the success of Swedish foreign policy. Being able to be described – and not least to describe oneself – as a humanitarian superpower may therefore be understood as an expression of the perceived fulfilment of the policy of "active neutrality" and its various thematic priorities.

3.3 The National Scene – Human Rights from Contested to Prominent

The idea of Sweden as an international humanitarian superpower also became an established discourse within Sweden. However, the central themes of Sweden's policy of active neutrality were not particularly prominent in domestic politics during the 1960's and 1970's. Instead, the Swedish welfare state, the Swedish model based on agreements between labour and capital, and deeply rooted popular traditions – including ideals of public education and community life – continued to dominate domestic discourse. This was particularly evident in the Swedish approach to human rights.⁴⁸

During the 1960's and 1970's, Swedish policy on rights issues was therefore twofold: externally, Sweden was a prominent advocate for human rights on the international stage, while internally, Sweden relied heavily on welfare policy and the Swedish model as a means of achieving equality and had a rather reluc-

⁴⁵ Rasmus Sylvester Søndergaard, *Scandinavia and the 1968 International Year for Human Rights*, *Scandinavian Journal of History*, 2024.

⁴⁶ According to Kristine Kjærsgaard, Sweden was the driving force in pushing the cases forward and Denmark and Norway were more cautious. See Kristine Kjærsgaard, *Confronting the Greek Military Junta: Scandinavian Joint Action under the European Commission on Human Rights, 1967–70*, in Poul Villaume, Rasmus Mariager, Helle Porsdam (eds.), *The 'Long 1970's': Human Rights, East-West Détente and Transnational Relations*, 2016, pp. 51–69.

⁴⁷ Kristine Kjærsgaard, *International Arenas and Domestic Institution Formation: The Impact of the UN Women's Conferences in Denmark, 1975–1985*, *Nordic Journal of Human Rights* 36(3), 2023, p. 271; Rasmus Sinding Søndergaard, *Scandinavian Diplomacy on Human Rights and Economic Inequality at the United Nations in the 1970's*, *Diplomatica* 5, p. 321.

⁴⁸ Joakim Nergelius, *Constitutional Law in Sweden*, 2011, pp. 27–31.

tant attitude towards rights. This dual attitude is reflected in the Swedish legislative work on the ratification of the Women's Convention. It states that Swedish ratification should have fairly limited practical significance domestically, but that from an international perspective it was important that the convention be ratified. No review of the Swedish legislation in light of the Convention takes place; rather, ratification is seen as a foreign policy matter with no particular internal implications in Sweden.⁴⁹

By way of example, the scepticism towards using rights as a tool for achieving equality was evident. Discrimination legislation, which typically regulates the labour market, was considered to risk undermining the Swedish labour law model, which is characterised by extensive self-regulation and semi-dispositive legislation allowing for agreements between labour and capital. An illustration of how this issue was negotiated within the Swedish legislative process is provided by the introduction of the first Swedish anti-discrimination legislation in the workplace, the Equality Act.⁵⁰ At the end of the 1970's, the Social Democratic government strongly opposed the introduction of statutory regulation in the field of gender discrimination. Instead, questions of gender equality were expected to be addressed through agreements between labour and capital. The fundamental principle of the Swedish model – that legislation regulating the relationship between the parties in the labour market should only be introduced when issues cannot be resolved through collective agreements, or when special reasons justify legislative intervention – was therefore considered essential to uphold. The government's view of women's inferior position and poorer conditions in the labour market was that this should not be understood as an isolated political issue; rather, it should be viewed within the broader context of an economic system that stratifies individuals and produces groups with very low wages and less favourable working conditions.⁵¹ It was only when a new right wing government was elected in 1979 that the first anti-discrimination law covering the labour market was passed.⁵²

The skepticism towards using rights domestically would come to change, as Sweden was not unaffected by the processes of Europeanisation, globalisation and neo-liberal economic policies during the 1980's and 1990's, which challenged the Nordic welfare models.⁵³ The Swedish attitude to human rights

⁴⁹ Prop. 1979/80, p. 15; Maria Nääv, (o)likabehandling: Likabehandling och jämlikhetsförbättrande åtgärder i den svenska diskrimineringslagstiftningens genealogi, Stockholm 2023, p. 121.

⁵⁰ Karin Widerberg, Kvinnor, klasser och lagar 1750–1980, Stockholm 1980; Maria Nääv, (o)likabehandling: Likabehandling och jämlikhetsförbättrande åtgärder i den svenska diskrimineringslagstiftningens genealogi, Stockholm 2023, p. 105 ff.

⁵¹ SOU 1978:38, pp. 54–57; Maria Nääv, (o)likabehandling: Likabehandling och jämlikhetsförbättrande åtgärder i den svenska diskrimineringslagstiftningens genealogi, Stockholm 2023, p. 106.

⁵² Prop. 1979/80:56, p. 2.

⁵³ Annika Bergman, *Adjacent Internationalism: The Concept of Solidarity and Post-Cold War Nordic-Baltic Relations, Cooperation and Conflict*, vol. 41(1), 2006.

in national legislation changed radically after Sweden joined the EU in 1995. Around the turn of the millennium, a new discourse was also established in domestic politics, meaning that commitment to human rights should no longer be separated as belonging to Swedish foreign policy. Human rights, and not least protection against discrimination (legislation that falls within the EU's sphere of competence), have now also gained a prominent position in domestic politics, and this is reflected in domestic legislative work.⁵⁴ These changes in the Swedish domestic discourse mean that the Swedish external and internal discourses on human rights are merging and, to some extent, converging. In other words, the discourse on human rights in Sweden is becoming further consolidated as it now applies both internally and externally.

3.4 2010's Post-Neutrality – Reinvigoration of the Discourse in the Context of Migration, Safeguarding the Right to Asylum

During his summer speech in 2014, the then Prime Minister Fredrik Reinfeldt stated that:

We do not claim to be a military superpower in our time, but Sweden, my friends, is something of a humanitarian superpower! [...] We now have people fleeing in numbers similar to those we had during the Balkan crisis in the early 1990's. I now appeal to the Swedish people for patience, to open your hearts to see people under severe stress, with their lives threatened, who are fleeing, fleeing to Europe, fleeing to freedom, fleeing to better conditions. Show that openness, show that tolerance when it is said that there will be so many, it will be so complicated, it will be so difficult. Show tolerance and also show that you remember that we have done this before. We have seen people come from stressful situations, fleeing oppression, who then entered our society, learned the Swedish language, got jobs and are now helping to build a better and freer Sweden.⁵⁵

The Prime Minister's statement highlights three key aspects of how the Swedish discourse has both consolidated and, to some extent, evolved over time. The reference to Sweden's role as a humanitarian superpower constitutes a direct reference to the historical discourse and to the policy of active neutrality. The second aspect concerns Sweden's explicit acknowledgement that it is not a military superpower. Notably, the policy of neutrality is not mentioned in this context. This omission reflects another important shift in Swedish foreign policy doctrine that took place in the 1990's. The end of the Cold War fundamentally redrew the security policy landscape. In the early 1990's, Sweden's image as a country committed to international peace and security could no longer be sustained solely through a policy of neutrality. Instead, it required

⁵⁴ Maria Nääv, (o)likabehandling: Likabehandling och jämlikhetsförbättrande åtgärder i den svenska diskrimineringslagstiftningens genealogi, Stockholm 2023, pp. 281–285.

⁵⁵ Fredrik Reinfeldt, speech, 21 August 2014, <https://www.youtube.com/watch?v=8IH2GEvYt7Y> accessed 31 October 2025 (authors' translation).

a transition towards stronger European engagement and a closer relationship with the “new” NATO.⁵⁶ A gradual transformation towards a “post-neutral” foreign policy therefore took place as Sweden moved towards membership of the European Union. Although Sweden entered the EU with the expectation that it would provide an opportunity to export its own norms to the European level, the gradual “Europeanisation” of Swedish foreign policy increasingly rendered neutrality an obstacle to deeper European integration, as cooperation in the fields of security, defence, and economic policy intensified. Consequently, as neutrality was gradually abandoned, greater emphasis came to be placed on the notion of “European solidarity”.⁵⁷

The third aspect of Fredrik Reinfeldt’s speech concerns the issue of migration. The idea of Sweden as a humanitarian superpower – and the appeal to accept refugees as an expression of Swedish international solidarity – is now situated within a migration context. As noted above, Sweden is no longer “actively neutral”; it is now a member of the European Union, with all that this entails for its autonomy in areas such as international trade policy, and the end of the Cold War has also meant that disarmament issues have receded significantly on the political agenda. In the autumn of 2014, parliamentary elections were held in Sweden, resulting in the defeat of the centre-right government and the return of the Social Democrats to power in a coalition with the Green Party. The new government maintained the former governments position that Sweden needed to be a prominent and generous receiving state for migrants, relying on the historically established discourse. A number of statements made by members of the new government – each containing clear references to the historical discourse of Swedish foreign policy – illustrate how the Swedish self-image as a humanitarian superpower had become intertwined with issues of migration, showing that migration was one of the new areas through which this historically established discourse operated:

We in Sweden have a long and proud history to draw upon. Standing up for others in situations of acute crisis is a central part of Swedishness and of Sweden’s history.⁵⁸

Sweden is a humanitarian superpower, the fifth largest donor in the world. We must also help people who are fleeing from a country that is no longer possible to live in. Twelve million people are on the move, either as internally displaced persons or in other countries.⁵⁹

⁵⁶ Ulf Bjereld, Ulrika Möller, *Swedish Foreign Policy: The Policy of Neutrality and Beyond*, in Jon Pierre (ed.), *The Oxford Handbook of Swedish Politics*, 2016, p. 445.

⁵⁷ Christine Agius, *The Social Construction of Swedish Neutrality*, Manchester 2006, p. 207.

⁵⁸ Magdalena Andersson, debate on the budget bill, 21 September 2015, https://www.riksdagen.se/sv/webb-tv/video/budgetdebatt/debatt-med-anledning-av-budgetpropositionens_h3c120150921butt/ accessed 7 May 2026 (authors’ translation).

⁵⁹ Margot Wallström, interpellation, riksdagens protokoll 2015/16:3, 17 September 2015 (authors’ translation).

When people come to Sweden seeking protection, we provide them with the protection and assessment of their claims to which they are entitled. This is our duty and our responsibility in solidarity. There are no economic grounds for failing to fulfil this responsibility when people come to Sweden to seek protection from war, conflict, and oppression.⁶⁰

Sweden's contribution has been welcomed by the whole world, both in terms of receiving refugees and helping with humanitarian and political solutions.⁶¹

This attitude was not only expressed by the ruling Social Democrats and the Green Party. The losing right-wing alliance expressed the same views at the time; creating a party political consensus on human rights, Sweden's self-view as a humanitarian superpower and as a State upholding the right to asylum and a generous reception of migrants.⁶² The right-wing shadow budget echoes the arguments of the Social Democrats and the Green Party:

Sweden is and should be an open country that takes great humanitarian responsibility. Many people seek refuge with us from war and persecution. This enriches our country both culturally and economically. We oppose the forces that advocate protectionism and reduced openness.⁶³

The Alliance believes that Sweden should continue to be a country that takes responsibility for the world's most vulnerable people, and also be a country that is open to those who have found jobs and want to come here to work. Sweden and other European countries have the opportunity to do this, despite economic downturns and other domestic challenges. The Alliance sees Sweden's reception of refugees as a moral obligation, but also as an investment in the future.

[...]

What we see in the world around us requires a major commitment and concerted effort on our part as well. Sweden can be a humanitarian superpower by offering people refuge from violence and persecution. This is nothing new. Sweden has been a refuge for people who have fled, for example during the war in the Balkans, and today they are part of society, working and contributing to our common welfare. Similarly, those who come to Sweden today have knowledge and experience that is valuable to us. We are prepared to give the people who come today the same opportunity to contribute through work and entrepreneurship. In the long term, this strengthens Sweden.⁶⁴

Within the field of migration and asylum, Sweden would continue to present itself as a humanitarian superpower, and the values that had long permeated Swedish foreign policy discourse were to be realised in this context. The commitment to uphold a generous reception of asylum seekers is also reflected in Sweden's national budgets. Budget bills between 2000 and 2016 demonstrate that governments, regardless of political orientation, maintained the policy objective of safeguarding the right to asylum, through the formulation that the

⁶⁰ Isabella Lövin, interpellation debate, riksdagens protokoll 2014/15:29, 11 November 2014 (authors' translation).

⁶¹ Margot Wallström, foreign policy debate, riksdagens protokoll 2014/15:20, 12 November 2014 (authors' translation).

⁶² There was consensus except for the anti-immigration party the Sweden Democrats, which at the time was ostracised by all parties in the Parliament (riksdag).

⁶³ Motion 2014/15:3002, p. 10.

⁶⁴ Motion 2014/15:3002, p. 63.

right to asylum must be safeguarded.⁶⁵ The 2001 budget bill emphasises that Swedish migration policy was based on a holistic perspective in which respect for human rights, “which form the very foundation of the right to asylum”, was central.⁶⁶ The 2002 budget bill again emphasised that one of the central objectives of migration policy was to safeguard the right to asylum, both in Sweden and from an international perspective, and that the fulfilment of this objective should be characterised by legal certainty, humanity, and respect for the human rights of the individual.⁶⁷ This objective was reiterated in the budget bills for 2003 and 2004. It was emphasised that the right to asylum could be safeguarded through the early, legally certain, and predictable assessment of asylum seekers’ need for protection.⁶⁸ The budget bills for 2005 and 2006 emphasise that the government sought not only to safeguard but also to strengthen the right to asylum.⁶⁹

A new government had taken office prior to the 2007 budget bill. The bill emphasised that Sweden should serve as a refuge for individuals fleeing persecution and oppression, and that “the right to asylum must be safeguarded and the trend towards increasingly closed borders in Europe must be counteracted.”⁷⁰ This is repeated in the 2008 budget bill, in which the government also emphasises that there is strong support in society for safeguarding the right to asylum.⁷¹ The 2009 budget bill proposes a new overall objective for migration policy. The objective is now to ensure a long-term sustainable migration policy that safeguards the right to asylum. This objective is repeated in all budget bills between 2010 and 2016.⁷² As a reaction to the many asylum seekers who had died in the Mediterranean trying to seek refuge within the EU, the 2016 budget bill, submitted on 15 September 2015, emphasises that the EU should act and develop alternatives for more legal ways to seek asylum. The government emphasises that “the right to asylum must be safeguarded in all situations and in all countries”.⁷³

⁶⁵ See for example prop. 1999/2000:1 utgiftsområde 8, p. 10, prop. 2000/01:1 utgiftsområde 8, p. 34, prop. 2001/02:1 utgiftsområde 8, p. 38, prop. 2014/15:1 utgiftsområde 8, p. 10, prop. 2015/16:1 utgiftsområde 8, p. 10.

⁶⁶ Prop. 2000/01:1 utgiftsområde 8, p. 34.

⁶⁷ Prop. 2001/02:1 utgiftsområde 8, p. 38.

⁶⁸ Prop. 2002/03:1 utgiftsområde 8, p. 48, prop. 2003/04:1 utgiftsområde 8, p. 45.

⁶⁹ Prop. 2004/05:1 utgiftsområde 8, p. 42, prop. 2005/06:1 utgiftsområde 8, p. 66.

⁷⁰ Prop. 2006/07:1 utgiftsområde 8, p. 13 and 27.

⁷¹ Prop. 2007/08:1 utgiftsområde 8, p. 27.

⁷² Prop. 2009/10:1 utgiftsområde 8, p. 11 and 29, prop. 2010/11:1 utgiftsområde 8, p. 11 and 33, prop. 2011/12:1 utgiftsområde 8, p. 11 and 40, prop. 2012/13:1 utgiftsområde 8, p. 11 and 38, prop. 2013/14:1 utgiftsområde 8, p. 10 and 26, prop. 2014/15:1 utgiftsområde 8, p. 10 and prop. 2015/16:1 utgiftsområde 8, p. 10.

⁷³ Prop. 2015/16:1 utgiftsområde 8, p. 33.

4. Change of Hearts: Legitimizing a Weaker Right to Asylum through Human Rights Justification

In early autumn 2015, the lifeless body of a small child washed ashore on a beach in Turkey. The child was Alan Kurdi, three years old, who died together with his five-year-old brother Galip and their mother Rehan while fleeing Kobane in Syria.⁷⁴ The images of Alan Kurdi spread around the world and became symbols of the frequent refugee disasters in the Mediterranean, sparking outrage and a massive outpouring of support for refugee reception in Sweden.⁷⁵ A grassroots movement organised itself in a remarkably short period of time, consisting of both established organisations and more loosely organised new networks under the slogan “Refugees Welcome”. Thousands of volunteers gathered at central railway stations across the country to welcome people fleeing their homes. Temporary shelters were established, individuals opened their homes to refugees, companies donated food and other essential supplies, and legal as well as medical assistance was provided. Religious communities also mobilised, offering food, shelter, and spiritual support to refugees.⁷⁶

The alliance between political actors and civil society was particularly strong during this period, as illustrated by a demonstration held in Stockholm in September 2015. The demonstration was organised by the youth wings of all parties represented in the Riksdag, with the exception of the anti-immigration party, the Sweden Democrats, which has roots in neo-Nazi movements, and attracted a record turnout of approximately 15,000 participants. Speakers included representatives from human rights organisations, poets, opposition leaders, the Minister for Democracy, and the then Prime Minister of Sweden, Stefan Löfven.⁷⁷ In his speech, the Prime Minister called on other EU Member States to accept a greater share of refugees, arguing that the reception of refugees in Sweden and Germany was disproportionately large in comparison with that of other EU countries. This statement may be understood as a reproduction of the historically established position in which Sweden presents itself as an international advocate for human rights, stating that:

⁷⁴ Turkish photojournalist Nilüfer Demir took the photographs on 2 September 2015. By the next day, the images were on the front pages of newspapers around the world. Migrant crisis: Photo of drowned boy sparks outcry, BBC, 3 September 2015, <https://www.bbc.com/news/world-europe-34133210> accessed 18 November 2025.

⁷⁵ Jacob Sohlberg, Peter Esaiasson, Johan Martinsson, The changing political impact of compassion-evoking pictures: the case of the drowned toddler Alan Kurdi, *Journal of Ethnic and Migration Studies*, vol. 45(13), 2019.

⁷⁶ SOU 2017:12 p. 99 and p. 20.

⁷⁷ Olof Svensson, Oskar Forsberg and Sebastian Hagberg, “Mitt Europa bygger inte murar, vi hjälps åt”, *Aftonbladet*, 6 September 2015, <https://www.aftonbladet.se/nyheter/a/3jxQ5d/mitt-europa-bygger-inte-murar-vi-hjalps-at> accessed 31 October 2025.

My Europe does not build walls.⁷⁸

The Prime Minister also referred to historical discourses on international solidarity when he acknowledged initiatives from individuals, stating that:

But friends, receiving refugees can never be a task for individuals, or individual organisations. It is a national task. And as a nation, we must take it on. Sweden's reception of refugees is the responsibility of the whole of Sweden.

[...]

What is now an effort will, in the long term, be an asset for Sweden. And we will continue to be a country that carries solidarity as our greatest pride.⁷⁹

In September 2015, there was extensive support from both civil society and political actors, and Sweden's historical discourses and self-image had moved to the forefront of the new political reality. Less than three months later, however, this situation was to change.

At the end of November 2015, the government convened a press conference. In order to create what the government described as “breathing space” for Sweden's refugee reception system, it proposed a number of measures aimed at significantly reducing the number of asylum seekers while simultaneously improving capacity within reception and integration.⁸⁰ One of these measures was the introduction of a temporary law.

Through this legislation, the Swedish regulatory framework was temporarily adjusted to the minimum standards required under EU law and international conventions. According to the government, such an adjustment was necessary in order to encourage a greater proportion of asylum seekers to seek protection in other EU Member States. The Act restricted both the possibility of being granted a residence permit for protection purposes in Sweden and the right to family reunification. Refugees and persons eligible for subsidiary protection would no longer be granted permanent residence permits. Instead, all residence permits were to be temporary, with the exception of resettled persons (so-called quota refugees), who would continue to be granted permanent residence permits. In addition, residence permits on humanitarian grounds were to be granted only where required in order to comply with Sweden's obligations under international conventions.⁸¹

⁷⁸ Stefan Löfven, speech, Stockholm, 6 September 2015, <https://www.socialdemokraterna.se/vart-parti/vara-politiker/stefan-lofvens-tal/tal-pa-manifestation-for-asylmottagande-2015> accessed 31 October 2025.

⁷⁹ Stefan Löfven, speech Stockholm, 6 September 2015, <https://www.socialdemokraterna.se/vart-parti/vara-politiker/stefan-lofvens-tal/tal-pa-manifestation-for-asylmottagande-2015> accessed 31 October 2025.

⁸⁰ These measures were presented in prop. 2015/16:174, p. 21.

⁸¹ Prop. 2015/16:174, pp. 22–65.

The Temporary Act faced substantial criticism during the legislative process from numerous referral bodies, which argued that the proposed measures risked violating Sweden's human rights obligations under both international and regional human rights law. The Government responded by maintaining that the measures were necessary in order to temporarily limit the number of asylum seekers arriving in Sweden and to encourage more individuals to seek asylum in other EU Member States. In response to the criticism raised specifically concerning the rights of children, the Government stated that safeguarding children's rights does not always involve simple or self-evident solutions. Rather, it ultimately requires weighing competing interests and making choices as well as setting priorities. According to the Government, a more equal distribution of asylum seekers within the EU – achieved through restricting the rights granted in Sweden – would create better conditions for providing an adequate reception for the children who did arrive in Sweden.⁸²

The Act on Temporary Restrictions on the Possibility of Being Granted a Residence Permit in Sweden entered into force on 20 July 2016. Following 2016, Sweden – as well as the rest of Europe – experienced a sharp decline in the number of asylum seekers applying for protection. In 2021, the Government assessed that the more restrictive rules on residence permits introduced by the Temporary Act constituted one of the factors contributing to this decline, while noting that it was “not possible to determine exactly to what degree”.⁸³ The Government's assessment was that the temporary rules on residence permits should be maintained and ultimately replace the system of permanent residence permits for refugees. In the legislative preparatory works, the Government argued that neither EU law nor international conventions require that permanent residence permits be granted to persons in need of protection. According to the Government, neither the human right to asylum nor any other positive obligation deriving from relevant human rights instruments requires that protection be granted on a permanent basis. On this basis, the Government maintained that weakening the right – by replacing permanent residence permits with temporary ones in Swedish law – was not contrary to Sweden's international obligations.⁸⁴

The ‘migration crisis’ in Europe in 2015 gave rise to a powerful political narrative centred on the notion of crisis. In Sweden, this crisis was portrayed in political discourse as threatening to overwhelm key societal functions and to undermine safety, stability, and security. The situation was described as requiring “breathing space” for the Swedish system of refugee reception. These arguments were used to justify the legislative changes and restrictions that followed, the stated purpose of which was to reduce the number of asylum seekers arriving in Sweden and to create the necessary breathing space to manage the crisis. In

⁸² Prop. 2015/16:174, p. 29.

⁸³ Prop. 2020/21:191, p. 56.

⁸⁴ Prop. 2020/21:191, p. 56.

2015, the weakening of the right to asylum was thus legitimised through a crisis narrative, supported by claims that the Swedish refugee reception system faced an acute threat. By 2021, however, the situation was markedly different. The sense of urgency had subsided, yet the temporary and provisional arrangements that had originally been justified as responses to an acute crisis were now to be institutionalised. When legitimising the institutionalisation of the new weakened order, the government instead relied on human rights as part of its justification. In the bill, the Government stated:

Sweden shall assume its responsibility for people in need of protection in a troubled world, be able to maintain this responsibility in the long term, and encourage more countries to assume greater responsibility. Swedish regulations should be sustainable in the long term and not deviate significantly from those of other EU countries. Sweden shall contribute to a more even distribution of asylum seekers within the EU. *The right to asylum must be safeguarded.* Against this background, the Government considers that there is a need for amended rules in order to ensure a system that is sustainable in the long term, humane, legally secure, and effective.⁸⁵

According to Wodak and van Leeuwen, strategies of transformation seek to transform a relatively well-established situation into another, of which the speaker or writer may already have formed an image.⁸⁶ The statement that “the right to asylum must be safeguarded” constitutes, as described above, such a well-established situation. Historically, the phrase has been used to legitimise a generous reception of refugees both nationally (not the least through the repeated use of the phrase in the national budget bills) and internationally. In 2021, however, it was instead employed in order to fundamentally transform and reform Swedish asylum legislation by institutionalising temporary residence permits for refugees and other persons in need of international protection. Strategies of transformation further aim to produce new meanings that integrate with, and communicate alongside, the meanings already associated with a particular concept.⁸⁷ In this case, the strategy operates by engaging with the historically acquired positive connotations of the notion of rights. This is precisely what occurs when rights are invoked to legitimise restrictions on rights as a means of producing new meaning. In this way, the use of human rights in the legislative bill operates by drawing upon the historically acquired positive connotations of the notion of rights, when weakening of the right to asylum in Sweden. The statements that “Sweden shall take responsibility for people in need of protection in a troubled world, be able to maintain this responsibility in the long term, and encourage more countries to assume greater responsibility” and that “Sweden shall contribute to a more even distribution of asylum seekers within the

⁸⁵ Prop. 2020/21:191, p. 51 (authors’ translation and italics added by authors).

⁸⁶ Ruth Wodak, Theodoor van Leeuwen, *Legitimizing Immigration Control: A Discourse-Historical Analysis*, *Discourse Studies* 83, 1999, p. 93.

⁸⁷ Ruth Wodak, Theodoor van Leeuwen, *Legitimizing Immigration Control: A Discourse-Historical Analysis*, *Discourse Studies* 83, 1999, p. 93.

EU” may be interpreted as references to the historically established discourse. This applies both nationally – in the form of Sweden’s historically generous refugee reception – and internationally, in the form of Sweden’s long-standing policy and self-image as a human rights advocate and humanitarian superpower.

Following the discursive transformation that occurred in 2021, the phrase “the right to asylum must be safeguarded” acquired a new function. Its meaning is no longer primarily rights-based but instead associated with measures aimed at reducing the number of asylum seekers arriving in Sweden and the European Union. Since 2021, the argument has continued to be used in political and legal discourse, but with a different meaning: namely that the right to asylum entails only the minimum level of protection required under Sweden’s international obligations.⁸⁸ In this sense, the phrase has lost its connection to the historical discourses of human rights and solidarity and has instead acquired a meaning that is opposite of its historical one. The transformation can therefore be regarded as complete.

5. Conclusion

In this article, we have argued that, because rights were an integral part of the values that were prominent in Sweden’s self-image, the human right to asylum could successfully be invoked by the Swedish legislator to justify a change in asylum legislation that only a few years earlier had required the existence of a “crisis” in order to be regarded as legitimate. The article has shown that migration had become one of the areas through which the historically established discourse on rights operated, and that this enabled the right to asylum – and the importance attributed to the human right itself – to frame and legitimise restrictions on that very right. Throughout this article, the right to asylum has been understood as an effective form of international protection against serious threat to life, physical integrity or freedom as a result of persecution, armed conflict, violence or serious public order. Transforming the protection granted to asylum seekers from permanent to temporary, weakens the right’s substantive content as the protection becomes more conditional and more dependent on future reassessments. The temporariness therefore entails a reduced level of protection, thereby weakening the right to asylum.

The institutionalisation of temporary residence permits in 2021 paved the way for further restrictive legislative measures in Swedish asylum and migration law.⁸⁹ In 2023, the Government appointed a special investigator to review

⁸⁸ Prop. 2023/24:1, utgiftsområde 8; prop. 2024/25:1, utgiftsområde 8.

⁸⁹ Among other restrictive measures, it has since become more difficult to obtain, retain and extend work permits, as well as to obtain residence permits on the basis of family reunification.

the Swedish regulations governing the granting of asylum and the procedures for examining asylum applications. The investigator was tasked with proposing constitutional amendments and other measures aimed at limiting, to the greatest extent legally possible, the rights of asylum seekers by adapting the regulatory framework to the minimum standards required under EU law.⁹⁰ The inquiry proposes the introduction of a special law governing the revocation of permanent residence permits. The proposed law would apply to all foreign nationals holding permanent residence permits as refugees, persons in need of protection, resettled persons (quota refugees), persons permanently resident in Sweden, or persons granted permanent residence permits on the grounds of particularly compassionate circumstances or certain obstacles to enforcement. Under the proposed framework, the general rule would be that permanent residence permits falling within the scope of the law shall be revoked and replaced with temporary residence permits, provided that the relevant conditions are met. The law is proposed to enter into force on 1 January 2027.⁹¹

The historical discourse on human rights was used to legitimise a new discourse concerning the right to asylum in 2021. Since then, the rights-based understanding of the right to asylum has been abandoned in the legislative context. Although the formulation “the right to asylum must be safeguarded” continues to be used in legislative discourse, it has lost its connection to the historical discourses relating to human rights and has instead acquired a meaning that is the opposite of its historical one. Today, the Swedish Government no longer needs to justify restrictions on asylum legislation through a crisis narrative, nor through references to human rights. The purpose of the highly restrictive measures currently proposed by the Government is no longer framed in terms of safeguarding human rights. Instead, the Government states explicitly, when proposing restrictive legislative measures, that these “aim to limit the rights of asylum seekers as far as legally possible”.⁹² In the field of migration, both the political and legal discourse, as well as Sweden’s self-image as a prominent human rights advocate, have been transformed, if not altogether abandoned.

⁹⁰ Dir. 2023:137.

⁹¹ SOU 2025:99, pp. 15–19.

⁹² Dir. 2023:137.