Quarterly on Refugee Problems, 2022, Vol. 61, Issue 2, 130-154
ISSN 2750-7882, Section: Research Articles
Open Access Publication, https://doi.org/10.57947/qrp.v61i2.23

QRP

Exclusionary Intent and Effects in the Migration Area: Interdisciplinary Reflections[1]

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Abstract

The increasing relevance of 'forced' migration, e.g., the movements of refugees, calls for a more refined operationalisation of legal residence status and its effects on exclusion and integration. This article describes an interdisciplinary collaboration project by lawyers and sociologists to tackle this research gap. Within an inclusion-exclusion framework, different disciplinary viewpoints are developed and brought in dialogue with each other to eventually arrive at joint research questions. Starting from the observation that the continued hyperactivity of the legislator increasingly fragments residence statuses, the research project investigated the effects of legal status on the expectations and integration experiences of Afghan migrants. We reflect on the preconditions and challenges of interdisciplinary research as well as on the experiences made during the project to carve out the specifics and potentials of collaborative projects between jurisprudence and the social sciences.

Key Words:

Interdisciplinarity, research, exclusion, law, sociology

1. Introduction

Science, taken objectively, forms an internally closed unit. Its separation into different subjects is not rooted in the nature of the matter, but arises only from the limitations of human comprehension, which inevitably leads to a division of labour (Max Planck, 1933, p. 260).

Over the previous decades, international migration has become an increasingly diverse and widespread phenomenon (e.g., De Vroome & Van Tubergen, 2010), even though the share of the world population that actually migrates stays relatively low at 3.6% (IOM, 2021). Recently, push factors, e.g., wars, conflicts, hunger crises, have grown in importance compared to pull factors, e.g., labour shortages in receiving countries. This change has prompted an increase in other forms of migration, especially in the movement of asylum seekers and refugees, to gain more relevance in the political discourse compared to the previously dominating labour and family migration (see also Massey & International Union for the Scientific Study of Population, 1998: 13). Whereas previous

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ISSN 2750-7882, Section: Research Articles
Open Access Publication, https://doi.org/10.57947/qrp.v61i2.23

research typically used citizenship status (see Euwals et al., 2010, for a discussion), i.e., naturalised vs. not naturalised, or naturalised since birth vs. naturalised later vs. not naturalised, this development calls for a more refined operationalisation of legal status and its effects on integration (see also Söhn, 2014). Even though there is a vast body of literature on migration and integration (e.g., Esser, 2004; Kalter, 2008a; Eichenhofer, 2013; Heckmann, 2015; Gammeltoft-Hansen, 2011) we know remarkably little about those migrants who entered a country illegally, who have exhausted legal possibilities to stay in the country or who 'fall between the cracks' otherwise.

In a project jointly conducted by the two departments of the Max Planck Institute for Social Law and Social Policy, two disciplines – law and economic sociology[5] – were brought together to fill the existing research gap and provide a description of this desideratum that expands the limits and possibilities of the respective individual disciplines. The research project was embedded in the Max Planck Society's research initiative "Challenges of Migration, Integration and Exclusion", which, with the involvement of a total of six Max Planck Institutes, set itself the goal of investigating the consequences of the "long summer of migration 2015" using an inter- and multidisciplinary approach (Hruschka & Schader, 2020: 3).

Based on the legal finding that residence statuses are increasingly fragmented due to the ongoing hyperactivity of the legislator (Hruschka & Rohmann, 2021), one of the questions to be answered was the extent to which legal status actually has an impact on Afghan migrants. To this end, the "Survey on Migrants' Expectations in Germany" collected both the expectations of migrants in Germany and their legal status and integration results and activities (topics were employment, access to education and social services, vulnerability, participation in integration courses and health). In Berlin, Hamburg and Munich, 1,023 adult Afghan nationals who had arrived in Germany after 2014 were interviewed.

This article will, however, not focus on the data gathered and analysed, but on the process that started with the collaboration. It reflects on interdisciplinary collaboration in the migration area and uses the experiences gathered from the project to reflect on the possibilities and realities of such cooperation. We start with general reflections on interdisciplinary migration research and by way of the example of the concept of "exclusion" and delve into one showcase of interdisciplinary cooperation in our project in section 2. Section 3 outlines the theoretical framework used, with a focus on the analysis how legal status may influence the exclusion or integration of Afghan migrants. The subsequent sections demonstrate and analyse the chances and challenges of cooperation between social scientists and lawyers in migration research. Section 4 focusses on residence statuses and their legal and (presumably) practical implications from a legal point of view, and section 5 shows how we operationalised interdisciplinary perspectives in a quantitative survey design. We conclude in section 6 with some reflections on the interdisciplinary collaboration in this project and by discussing a number of results that we would not have obtained without the collaboration.

[5] By training of the scholars involved actually three disciplines were involved: law, (behavioural) economics and (analytical) sociology. The approaches and methods used in behavioural economics and analytical sociology do overlap considerably and we therefore refer to these two disciplines as "economic sociology", which adequately describes the paradigms and methodological approaches in this part of the project team.

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2 Interdisciplinary migration research

The theme of "migration" is currently – nearly inevitably in times of a high number of irregularly arriving migrants (Becker, 2017) – one of the core topics of public debate. The political trench warfare seems to deepen over time and there is little chance that the opposing lines of conflict between the political parties and other relevant actors will be bridged any time soon. The underlying reason for this divide is that discussing migration will often not only be an issue as such because it is rooted in moral and ethical convictions of the discourse participants: Is migration good or bad? Open door or controlled borders? Is our way of life sustainable? Is our culture at risk? In Germany, the current migration debate often focusses on asylum and return and much less about regular migration. Scientific research has also focused on the asylum area and is increasingly doing so (Kleist et al., 2019). However, research results find little resonance in a political arena that is mainly driven by events (Hruschka and Rohmann, 2021) and an internal logic of political processes and decision making that may be paraphrased in the antithesis between the right to exclusion and the right to immigration (Angeli, 2018). In this politically charged suspense-packed field, the role of law appears ambivalent and is heavily disputed within migration research (see, e.g., Kneebone et al., 2014). Any given restrictive policy choice will inevitably be attacked as violating the constitutional right to asylum (Article 16a Basic Law), human rights and international law, whereas norms opening the access to the labour market or increasing social welfare benefits are likely to be portrayed as "pull factors" and allude to the loss of control and the dangers of "mass immigration". Studies showing an overall positive economic effect of irregular immigration (e.g., Bödefeld, 2016, citing the German Institute for Economic Research – DIW and the International Monetary Fund – IMF) or the minimal significance of perceived pull factors for individual migration decisions (e.g., Segrott & Robinson 2002; Scholz, 2013) have little to no effect on the policy choices (see Banulescu-Bogdan, 2018 and, e.g., for the UK: Mayblin, 2019). On the contrary, policymakers seem to believe in the direct and immediate effect of legislative changes in the asylum area, which eventually led to a wave of (incoherent) legal acts amending the existing rules (Hruschka & Rohmann, 2021; Davy, 2019). For all those reasons, migration research is essentially never apolitical and has to take into account different factors in the research design in order to produce scientifically sound and reliable results.

2.1 Disciplinary or interdisciplinary research

Research on forced migration has a long-standing tradition starting with historical and legal dissertations being published already after World War I (Kleist et al., 2019: 6). In contrast to the developments in the UK and the USA, where in the 1980s a whole research field was established under the name "Refugee Studies" (Kleist, 2018: 6), in Germany, the topic remained more of a cross-cutting issue that was researched by several isolated disciplines such as law, social and political sciences. With the rising number of asylum applications from 2008 onward (Konar et al.: 123; Bundesamt für Migration und Flüchtlinge, 2019: 9) and the number of asylum applications reaching 100,000 in 2013 (after more than a decade of relatively low numbers of newly arriving asylum seekers – Bundesamt für Migration und Flüchtlinge, 2019: 13) the increasing availability of funds for scientific research on migration phenomena resulted in a tenfold increase in the number of research projects between 2011 and 2016 and a tripling from 2014 to 2016 (Kleist et al., 2019: 7). Although the overall amount of research projects concerning (forced) migration in Germany has increased over the last years, an analysis of the

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research designs shows that despite bringing together several disciplines every so often "there is more multidisciplinarity than interdisciplinarity" (Foblets et al., 2018: 4) with regard to the methodological approaches. Before the concrete research design for our project was tackled, the basic layout and scope of cooperation between the disciplines involved had to be clarified.

While disciplinary research is the starting point of any reflection on the question of interdisciplinarity and the respective research design, different forms of cross-disciplinary knowledge generation can be distinguished: (mono-)disciplinarity, multidisciplinarity, interdisciplinarity and transdisciplinarity (Parthey, 2010: 15). These levels represent the degree of interaction with methods and concepts from other disciplines, whereby the boundaries are fluid and cannot always be clearly defined in individual research projects.

In contrast to disciplinary research, multidisciplinary research is characterised by the fact that the disciplinary perspectives complement each other additively, but without adapting either their own method or their interest in knowledge. Interdisciplinary research, on the other hand, is characterised by a higher degree of integration of methods or concepts from two or more disciplines, so that they significantly influence the research output of the other disciplines involved (cf., e.g., Parthey, 2010: 15 f.). Nevertheless, interdisciplinary research is also carried out in disciplinary terms (Stark, 2020: 193).

For transdisciplinary research projects, however, the situation is different. In such projects, disciplinary boundaries are dissolved in favour of a problem-oriented perspective and the scientific approach is reorganised methodologically, institutionally and conceptually with a view to the research interest (see e.g. Montuori, 2013; Nicolescu, 2014). Since migration is an issue that concerns society as a whole and is therefore highly complex, it is particularly well-suited to become an independent transdisciplinary field of research. The detachment from disciplinary boundaries, however, often encounters resistance within the science system(s). Researchers who engage in transdisciplinary research projects are exposed to the risk of failing to meet classical and thus discipline-bound formal and reputation-based requirement profiles (Fischer, 2010: 39). The fundamental prerequisite for transdisciplinary research is therefore the creation of institutionalised framework conditions for dealing with corresponding problems. The establishment of such structures for refugee research has so far only led to migration or refugee research being accepted as an independent discipline in a few places in Germany (Kleist et al., 2019). Although our project brought the work of the involved lawyers and sociologist closer together and constituted an informal but distinguishable sub-organisation (internally only referred to as "the migration project"), all researchers remained within their respective organisational units, i.e. law and social sciences respectively, and aimed at enriching their own research with knowledge gained from the other discipline. Therefore, we positioned ourselves in an interdisciplinary rather than a transdisciplinary setting.

However, there are also considerable disciplinary limits to interdisciplinary research. Since the input of other disciplines is often missing while formulating the basic research aims, projects are often tailored in such a way that enrichment with external methodological as well as knowledge resources is simply either not necessary or not possible. Thus, legal studies in the field of migration remain predominantly disciplinary and essentially pursue legal positivist questions (on the advantages and disadvantages of this approach, see Leiter, 2005, on the Hart/Dworkin debate). According to the formal understanding thus

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taken as a basis, legal norms have an unambiguous meaning that decision makers merely have to find and apply (see, e.g., Hart, 1994 and Raz, 1979). In these areas, interdisciplinary research is neither necessary nor helpful to expand knowledge.

However, even when approaches from other disciplines are considered due to the research question and projects are labelled "interdisciplinary", they are often merely formal collaborations without substantive exchange and little epistemological added value if looking at the outcomes from a multidisciplinary research perspective (see, e.g., Parthey, 2010: 13 ff.; Kleist et al., 2019; Foblets et al., 2018: 4). According to Fischer, the reason for such projects is often not the increase in relevant knowledge, but the facilitated access to research funding ("economic imperative" and "Zeitgeist", Fischer, 2010: 37) as well as the higher recognition for disciplinary results in the "currency" of science (such as peer-reviewed journals, funding for larger projects and references necessary to obtain permanent positions) rendering such pseudo-interdisciplinary projects a particular feature embedded in the inherent logic of scientific research (Fischer, 2020: 38 ff.).

From a theoretical point of view, the advantage of (multi-)disciplinary research is that it enables a deeper disciplinary understanding due to a differentiated and therefore targeted canon of methods that is indifferent to irritations caused by the complexity of issues outside of the research scope. Interdisciplinary approaches, due to their “openness”, can only operate with fewer redundancies which leads to a twofold challenge. On the one hand, it has to introduce its own redundancies to do justice to the broader section of reality and therefore sometimes appears superficial from a disciplinary perspective (Parthey, 2010, p. 15; Welzer, 2006). On the other hand, the interdisciplinary approach makes it difficult to connect the results in disciplinarily organised scientific discourses. Overcoming these challenges and expanding knowledge beyond the mere realisation that other disciplines are also dealing with the topic is an inherent task of any interdisciplinary work. Or in other words: a lot of preparatory work is needed before a substantial gain in knowledge can be achieved through interdisciplinary research.

2.2 By way of example: Exclusion research within the “Survey on Migrants’ Expectations in Germany”

As outlined above, one of the major challenges in interdisciplinary research is to agree on the use of common concepts or even the development of new concepts resulting in a framework that enables all disciplines involved to conduct their research and communicate their findings, and it ideally facilitates answers to the common research questions. To set a scientific counterpoint to the multitude of research projects in the field of migration that deal with questions of integration and inclusion (Kleist, 2018), the research initiative in which our project was embedded decided to focus on exclusion phenomena, which necessarily go hand in hand with inclusion, but which can differ gradually on the continuum spanned between the two extremes of full inclusion/exclusion.

By the example of the exclusion concept used by the research initiative we will demonstrate in the following that even though the understanding of this term diverges in law and the social sciences, it indeed can be used to lay the ground for an interdisciplinary research project if coupled with a more specific research question that disengages the concept from its moral notions, the latter of which is one of the major impediments to successful interdisciplinary work (Welzer, 2006).

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2.2.1 Law

A desk research drawing from standard textbooks on legal theory in general and migration law in particular as well as utilising established legal databases such as "beck-online" and "juris" revealed that there is no theoretical approach in law that explicitly refers to the framework of exclusion. Other than conceptions like "integration" that can even be found in the legal text of the German Residence Act (Aufenthaltsgesetz – AufenthG) and that has been covered by several authors ("Begriff und Konzept der Integration im Aufenthaltsgesetz", Eichenhofer, 2013; "Integrationsrecht", Fontana, 2022), exclusion does not have a fixed meaning within the law or legal research (see also Schotel, 2011). One of the rare references in the legal text to exclusion can be found in a comparatively prominent place in European primary law, i.e. Art. 9 Treaty on the Functioning of the European Union, which states that in defining and implementing its policies and activities, the Union shall take into account "the fight against social exclusion".

However, to fulfill its societal function, the legal system puts itself as Luhmann described it "under the pressure to decide" ("Entscheidungszwang", Luhmann, 1995: 307). It does so by creating programs inscribed in legal norms that follow the dichotomy of facts and legal effect which in turn determines the binary modus operandi of legal decision making. If the facts do not meet the legal threshold or prerequisites, it triggers or withholds legal effect.

Given that the inclusion/exclusion distinction is engrained in legal decision-making, it transcends all areas of the law so that respective mechanisms can be found in civil, criminal as well as public law. For instance, under German law, property entitles the owner to "deal with [the property] at [his] discretion and exclude others from every influence" (§ 903 German Civil Code – BGB). Thus, while some get excluded from rights, others at the same time may have the right to exercise exclusion. Exclusion mechanisms also shape liability (cf. §§ 444, 639, 827 BGB), attribution of actions and defences and thus regulate the legal relations of private legal entities.

In criminal law, the exclusion of certain persons from culpability (cf. §. 19 ff. German Criminal Code - StGB) is essential to arrive at just results. Moreover, exclusionary rules can even restrict actors of the State to safeguard basic human and constitutional rights. For example, procedural rules can bar a judge from exercising judicial office in case of the fear of bias (§ 24 German Code of Criminal Procedure – StPO). The exclusion of evidence that has been obtained in violation of the constitution or illegal search from the criminal proceedings (e.g., § 136a SPO: prohibited measures of examination) limits the investigation methods of the prosecution as well as the criminal courts.

In social law as a special branch of public law, exclusion clauses are often used by the legislator to define the applicable social benefits subsystem. For example, foreigners who are covered by the Asylum Seekers Benefits Act (AsylbLG) are excluded from benefits under Book II of the German Social Code (SGB). In some cases, undesirable behaviour such as the violation of obligations to cooperate may also lead to full or the partial exclusion of the entitlement to benefits.

In the context of international asylum law, the term exclusion is used within the meaning of Article 1 Sections D, E and F of the 1951 Refugee Convention, which contains provisions whereby persons otherwise having the characteristics of refugees, as defined in Article 1 Section A, are excluded from refugee status (UNHCR Handbook, 2019: para. 140). In its

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"Background Note on the Application of the Exclusion Clauses: Article 1 F of the 1951 Convention relating to the Status of Refugees" UNHCR states:

> "The rationale behind the exclusion clauses is twofold. Firstly, certain acts are so grave that they render their perpetrators undeserving of international protection as refugees. Secondly, the refugee framework should not stand in the way of serious criminals facing justice. While these underlying purposes must be borne in mind in interpreting the exclusion clauses, they must be viewed in the context of the overriding humanitarian objective of the 1951 Convention."

Besides such clear exclusion from specific rights, which are mainly either related to a legal status or based on the person's behaviour, exclusionary effects are also an outcome of the non-promotion of rights. Persons might be excluded from accessing rights because of a lack of information or because no specific measures were taken to include them. There are also other mechanisms of exclusion incorporated into the legal framework. Particularly persons with special needs and/or special rights like, e.g., children, families and elderly persons, persons with disabilities or victims of torture and victims of trafficking – often labelled as "vulnerable persons" – might require additional supporting services in order not to be excluded from accessing their rights. In the Common European Asylum System (CEAS), these persons are entitled to special support inter alia under the Reception Conditions Directive as well as under the Asylum Procedures Directive. Both Directives are not yet fully implemented in German law. Non-implementation of specific guarantees for specific groups can therefore also be considered as exclusion.

On a more general note, the Dublin system allocating responsibility for examining asylum applications among the Member States is a system that leads to exclusion by its design and implementation. On a theoretical level, the system was designed to guarantee access to a substantive examination of the application for international protection and to avoid exclusion by limiting "in orbit" situations. However, in practice, the implementation of the Dublin rules has multiple exclusionary effects and affects the access to rights for the persons concerned.

Exclusion in law can also have a spatial dimension. For instance, the Dublin system significantly limits the choice of asylum seekers regarding the country of refuge. Moreover, since 2015 several quasi-legal instruments, for example, the EU-Turkey Statement of March 2016, the EU Partnership Framework of June 2016, the Cooperation with African States of June 2016 or the Italy-Libya cooperation since the Agreement of February 2017, were implemented to curb irregular migration to Europe. This externalisation of procedures and border control to third countries inevitably excludes asylum seekers from EU territory. In addition to the exacerbation of spatial exclusion, these instruments may also restrict access to full protection as guaranteed under international and European law.

Such spatial exclusion tendencies can be observed not only in the form of externalisation but also within the EU. For instance, gathering asylum seekers in hotspots on the Greek islands excludes them from the mainland as well as from the host society. The same applies to the lately introduced "Ankerzentren" in Germany, in which especially people from "safe countries of origin" have to stay until the Federal Office for Migration and Refugees ("Bundesamt für Migration und Flüchtlinge" - BAMF) decides on their asylum application (Rohmann, 2019). The spatial dimension of exclusion also raises fundamental legal issues, in particular about the right to equal treatment, the right to private life and individual liberty (Hruschka, 2019). These questions are posed, for example, if, in contrast

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to other asylum seekers, persons from safe countries of origin are not entitled to participate in integration courses. This exclusionary effect, which is merely based on the persons' origin, during the early stages of the stay in the country of refuge, will in many cases multiply throughout the subsequent residence, because swift access to a permanent residence permit (§ 26 and § 9 of the German Residence Act – AufenthG) is conditional on proven integration (see below; in particular on language skills, basic knowledge about the German legal and social system as well as economic self-reliance) and on a clear criminal record. This also holds true for naturalisation under the German Nationality Act.

Beyond the abovementioned exclusion mechanisms in law, which have been extensively studied by legal scholars, some other overarching jurisprudential concepts mainly aim to identify exclusive effects and shall eventually provide the legal means to prevent them.

One is the concept of integration, which could be viewed as a mirror image of exclusion. The term can be found in the German Residence Act (AufenthG). § 1 para. 1 sentence 4 AufenthG states: "[The Residence Act] shall regulate the entry, stay and economic activity of foreigners and the integration of foreigners." According to § 43 para. 1 AufenthG:

> "Foreigners living lawfully in the federal territory on a permanent basis shall be provided with support in integrating into the economic, cultural and social life of the Federal Republic of Germany and are expected to undertake commensurate integration efforts in return."

Nevertheless, there is no concise legal definition of integration to be found within the AufenthG or in related legislative acts (Eichenhofer, 2013: 111), which opens the definition up for input from other disciplines (Thym, 2010: 259). The integration concept of the AufenthG is based on four pillars (this systematisation follows Huber et al., 2017: 267): integration requirements for the granting of residence permits, e.g., language skills, actions to promote integration (e.g., integration courses), instruments to reward integration progress, i.e. special residence titles that acknowledge the efforts of a foreigner to integrate (see §§ 18a, 25a or 25b AufenthG), consideration of integration achievements in case of imminent expulsion, § 55 AufenthG.

Another jurisprudential approach that navigates the area of exclusion is the prohibition of discrimination. Discrimination is defined as "treating some people differently from others for reasons that are extraneous to the matter at hand, especially because of some group membership or characteristic such as race, religion, or national origin" (Random House Webster´s House Dictionary of the Law, 2000). Prohibitions of such behaviour can be found on nearly every legislative level, be it international law (Art. 14 ECHR), European law (Art. 18 TFEU), constitutional law (Art. 3 German Basic Law) or national law (General Act on Equal Treatment).

To sum up, although there is no closed legal theory on exclusion, exclusionary measures and effects can be found in all areas of the law and have therefore to be taken into account while analysing and assessing societal developments from a legal point of view.

2.2.2 Social science

The social sciences and especially sociology, for the most part, do not share a commonly accepted canon of terms, concepts and theories. Similar or the same terms are used by different scholars often with minor or sometimes major differences regarding their meaning or (implied) embedding in theoretical frameworks (see, e.g., Foblets et al., 2018:

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26 ff., on the various approaches regarding exclusion). To inform our understanding of exclusion we consulted standard textbooks and reviewed the literature starting from influential contributions in the subfield of integration research in economic sociology and conducted backwards and forward searches, i.e., explored literature that was cited in the initially identified contributions as well as literature that quoted these contributions.

For our project, we started with German "textbook" definitions of exclusion in sociology, i.e. the entries "Ausschließung" and "Exklusion", both commonly translated as "exclusion" (Fuchs-Heinritz et. al., 2011). Exclusion ("Exklusion") is defined as depriving affected individuals of life chances and putting them in poverty or neutralising their fitness to communicate without inhibition. Exclusion hence leads to societal cleavages. According to the textbook, the hardly distinguishable concept of "Ausschließung" (commonly translated as "exclusion" as well) can be traced to Weber's concept of social closure and refers to clear boundaries towards socially undesirable persons, groups or populations. The excluded are denied full citizenship status and are hence limited in their participation. Examples of excluded persons are deviant, poor, mentally ill or convicted individuals or groups like foreigners of a specific nationality. Both definitions discuss the correspondence of exclusion or "Ausschließung" to inclusion. The observation, ascribed to Luhmann, is that exclusion implies inclusion.

The concept of inclusion does not simplify matters, as other scholars (sometimes) mean very related phenomena when referring to (social) integration. Exclusion and integration are prime examples of "essentially contested concepts" (Gallie, 1956). Kalter (2019) notes that the term integration – like many other terms in the social sciences – is often being used vaguely, ambiguously and inconsistently. According to his analysis, for integration – and by logical extension exclusion – to be used fruitfully, one has to make several declarations and distinguish dimensions. First, with regard to the level, Kalter (2019) notes that the term integration is used to refer to the macro-level integration of societies. Second, other scholars use it to refer to individual integration (whereas some use "inclusion" or "participation" of individuals synonymously). Esser (2006) and Kalter (2019) propose using the term social integration for the latter. Kalter (2019) distinguishes a third meso-level referring to groups as corporate actors, e.g., associations or clubs that can be integrated into a confederation (corporate integration).

A common aspect of individual social integration is the inclusive or participative aspect, e.g., being part of something, being included or integrated. With regard to what participation refers to, several dimensions can be distinguished. One prominent scheme distinguishes the structural, cognitive-cultural, social, and emotional-cultural dimensions (e.g., Kalter, 2019; Kalter, 2008). Structural integration refers to the positions in the functional spheres of the receiving country, most notably in the labour market, or the educational system. The cognitive-cultural dimension refers to receiving-country-specific knowledge and skills, most importantly speaking the host country's language, or knowledge of the institutional setup. Social integration indicates the disappearance of different patterns with regard to social relations, or for example interethnic relationships or marriages. Finally, emotional-cultural integration refers, e.g., to the identification of migrants with the host society.

Moreover, integration can occur in different forms (Kalter, 2019). Immigrants integrate with regard to a sub-part of a typically not homogeneous "mainstream" society, see, e.g., the Segmented Assimilation Theory by Portes & Zhou (1993). Furthermore, immigrants

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can integrate with (parts of) the receiving country's society as well as with origin country communities. Berry (1997) distinguishes (1) multiple integration, i.e., integration with regard to origin country community and receiving society, (2) assimilation, i.e., integration into the receiving country but not the origin country community, (3) segmentation, i.e., integration only with regard to the origin country community and finally (4) marginalisation, i.e., no integration with regard to the receiving society or the origin country community. These forms are theoretical ideal types, to be thought of as continua. Moreover, to make matters even more complex, consider a migrant in Germany, who earns his or her income solely as a mechanic at one of the large car manufacturers, but whose social network predominantly consists of people coming from the same origin country. Such an integration pattern might result from different speeds at which integration processes take place on the different dimensions. It can, however, also be a stable State by choice, opportunity, or for other reasons. This person is structurally well integrated into the middle class of what can be referred to as mainstream German society. Regarding the social integration, this person would be classified as multiply integrated.

Given this complexity about the terms commonly used, and the complexity of the phenomenon, it is crucial to define what a research project on integration or exclusion seeks to investigate. For the social science part of the workgroup, the aim is to better understand the structural integration of immigrants and refugees with precarious residential status, e.g., those with subsidiary protection or other short-term residence permits, or those without residence status, i.e. undocumented migrants. With regard to integration, following Kalter (2019), we relate to Alba et al (2015: 5), who defined integration as

> "the processes that increase the opportunities of immigrants and their descendants to obtain the valued 'stuff' of a society, as well as social acceptance, through participation in major institutions such as the educational and political system and the labour and housing markets".

Given the above discussion, we are thus interested in social integration, i.e. individual participation, and the systematic variations with regard to residence status and other conditions affecting it.

In sum, the social science part of the project deals with exclusion on two levels: First, the above-described interest in the outcomes of the integration process results in social integration/inclusion or exclusion. Second, given the growing relevance of push factors in international migration, and the accompanying new forms of migration, the question arises as to what extent legal status becomes a relevant condition for the process of social integration.

2.3 Focus of the collaboration

In both disciplines, one can find references to exclusion or its (perceived) counterpart inclusion, but no closed or coherent theory is readily applicable to the phenomena of interest here. In fact, this does not affect its function, because neither in the research initiative nor in our project does the exclusion concept serve the purpose of comprehensively explaining the findings, but rather of providing a framework in which the interdisciplinary exchange may be facilitated and enhanced. Indeed, both disciplines share the view that exclusion can be observed in the form of denying access or membership to societal institutions in a gradual way, with absolute exclusion and

Hruschka, C., et al. (2022). Exclusionary Intent and Effects in the Migration Area
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complete inclusion marking the two extreme positions individuals may be confronted with. It is exactly the lens of exclusion positioning within the functional spheres of society that helped shape our common research interest and our project. To answer the question of how exclusionary processes and instances play out and what determinants are in place, we decided to base our research project on the common denominator that according to the literature presented above plays a decisive role in structural integration or the access to social rights: legal status.

3 Legal status for non-citizens

The ambivalence of exclusion and in particular its gradual character can be prominently observed in the construct of legal status. Legal status describes the equivocal position of individuals within the State which results, on the one hand, from being a constitutive element of the State as such and actively influencing the common will (citoyen) and, on the other hand, from being the very subject of it (sujet) (Rousseau, 1923: 44). The respective rights and obligations of each individual therefore arise from a certain position of the person in relation to the State, which can be described as a status according to the model of ancient law (Jellinek, 1921: 418). While it remains controversial if this status-oriented description is accurate or whether it should rather be seen as a legal relationship (Rechtsverhältnis) (for an in-depth analysis see Becker, 2018: 2 ff.), it is clear that the strongest legal bond between a State and an individual is that of nationality which “having as its basis a social fact of attachment, a genuine connection of existence, interests and sentiments, together with the existence of reciprocal rights and duties” (International Court of Justice, Nottebohm Case, 6 April 1955, p. 23). Nationality in this sense expresses the membership connection and legal affiliation to the State community and the rights arising directly therefrom (BVerfGE 37, p. 217, para. 88). This personal bond is one of the two constituent elements, namely a personal and a territorial component that create the responsibility of modern nation States to implement social rights by providing the necessary institutions (Becker, 2017: 102). The historical starting point of social security was the “law of the poor” (“Armenrecht”), which served the maintenance of public safety and order in a spatially limited area, e.g., the community (Janda, 2012:. 1). Membership was in each case based on special legal relationships such as municipal citizenship (“Stadtbürgerschaft”) and was independent of any relocation because power was exercised over a certain set of people, not territory (Kingreen, 2018: 41). With the development of modern States in the 18th century and the emergence of national welfare States in the 19th century, the responsibility for social security shifted from municipal or regional entities to State institutions and led to a concentration of the membership relation in the respective nationality (Kingreen, 2010, p. 13). Especially concerning the social element of citizenship, which according to Marshall ranges “from the right to a modicum of economic welfare and security to the right to share to the full in the social heritage and to live the life of a civilised being” (1950: 11), the welfare State and its institutions promote inclusion and alleviate inequalities (1950: 47).

3.1 Legal status as a prerequisite regarding formal access to rights

For non-citizens, this can create certain obstacles or irritations (Becker, 2017: 102) in the national social protection systems, because in those cases the provision of social benefits can not be based on nationality or citizenship. In fact, there are several social protection systems in place which do not require nationality but rather employment for the purpose of benefit receipt, e.g., the German social insurance system (see § 3 No. 1 Social Code

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Book IV – SGB IV). The reason why – besides the personal element – a territorial aspect seems to play a decisive role can be found in the comprehensive responsibility of nation States for all people who reside on their territory, which is the flip side of its corresponding territorial sovereignty (Becker, 2011: 481). In addition, the territorial link also follows from the function of social protection systems, namely to protect persons from certain risks and to enable their social participation within the respective State (Becker, 2004: 11). This is not to say that citizenship does not play any role whatsoever, quite the contrary. In the aggregate view of the personal and the territorial allocation elements, it becomes clear that the common denominator between the two of them is residency, meaning the key to social rights is the right to residence (Kingreen, 2018: 9 ff.). A legal residence and a related residence permit are, at least in the German model (and in most other European States), the 'Uber-right' and precondition to fully and formally access social rights in general and it therefore deserves special attention in the context of migration studies (Costello, 2016: 2, 20 ff., 38 ff.). Since nationality guarantees an unlimited, unconditioned right to residence for nationals of the State (Becker, 2018: 14), it is the strongest possible bond and therefore leads to the highest degree of social protection. Due to its territorial responsibility and international as well as constitutional human rights obligations, this protection has to be extended to foreigners present on the State's territory (Becker, 2011: 482). In this sense, the permission to enter the territory also implies the (reversible and sometimes inferior) inclusion into the national labour and social system, which is basically a status determination that in the abovementioned meaning defines the legal position of migrants in relation to the State (Bast, 2012: 27 ff.).

However, opening up social protection schemes at the same time leads – for some – to the exclusion of others. This does not necessarily result in rendering the latter set of people unprotected as long as they can be assigned to at least one State that is obliged to take care of them. In this regard, the regulations on social law and the criteria to access rights could be interpreted as rules to determine the responsible welfare State (Janda, 2012: 375). In concert with the rules that determine the residence status, States must ensure that, on the one hand, migration processes do not lead to "overcompensation" due to double or triple protection and that, on the other hand, they bridge protection gaps resulting from States failing to live up to their obligations as is the case for refugees. Given the interrelation of social rights and residence status, the immigration rules create a diverse stratification of social protection (Janda, 2012: 378).

While it is common to conduct legal research along the lines of different residence statuses, in recent migration law research the conceptualisation has shifted from this rather static perception to an approach that describes status as a continuum, with the different legal categories only marking doctrinal junctions (Thym, 2010: 11). In line with this, another meta-category has been introduced to overcome the classical, theoretical dichotomy of citizens vs. aliens, namely the category of denizens (in waiting) (Bast, 2012: 222 ff.), which comprises non-citizens who may be approximated to the status of a national to varying degrees depending on which end of the legal continuum they are at (Bast, 2013: 354). Although those alternative perspectives might be suited to highlight some of the horizontal aims, which present themselves as commonalities shared by – at first glance – highly fragmented regulations, that therefore create an overarching continuum in migration law (Thym, 2010: 15), the conventional focus on different status groups is a better fit for legal doctrinal reasons as well as in view of the design of our research project. As for doctrinal reasons, status groups carved out by immigration laws

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play an important role in determining subsequent decisions by administrative bodies and courts, because they stabilise the translation of factual cases into the law (Thym, 2010: 14) by way of subsumption of predefined criteria. In this way, the status concept is far better operationalised for practical implementation than the "continuum-approach" that might be suited for a cross-cutting analysis on a more fundamental level but lacks the necessary precision to be modelled in a quantitative study. Regarding our research project on the influence of legal status on the lives of Afghan migrants, the focus on residence status in this sense provides for a variable that we can check our hypotheses against. Thus, we use the legal categories that can be found in German residence and asylum law not as a limitation of our research, but as a point of departure to add quantitative data to the abovementioned existing literature of legal scholars, who pointed out that residence status is not the only determinant in the legal continuum migrants have to navigate.

3.2 Legal status between "integration" and exclusion

Legal status, especially with regard to refugees, is a central factor influencing social integration (Euwals et al., 2010; Söhn, 2014). The process of integration can be conceptualised as an investment decision in line with human capital theory (e.g., Chiswick & Miller, 2001; Esser, 2006: 39 ff.; Kalter et al., 2002). Migrants can invest their time and resources into receiving country-specific capitals and therein integrate, e.g., get a "good" job. Alternatively, a migrant could decide to invest in the ethnic or origin country spheres, e.g., into ethnic economies, or not invest and stick with the status quo. Typically, the decision problem is simplified into a binary choice to invest in the receiving countries' spheres, or not to invest.

The investment decision generally depends on three theoretical constructs: opportunity, motivation and costs. (Perceived) opportunities are a necessary condition to invest, while the combination of motivation and (perceived) costs determine individual decisions (for details see Esser, 2006: 41 f.). The application of this theoretical framework for labour market integration (cf. Section 2.2.2) and activities leading to integration, like integration courses (cf. Section 2.2.1), is straightforward. Both require time and effort and the application of a human capital investment model is obvious. Moreover, even though the language used suggests deliberate and rational decision processes, this theoretical framework also allows the modelling of unconscious processes. Concerning health outcomes and access to health care, the opportunities and costs obviously play a significant role, while we assume no differences in the motivation to stay healthy. The next sections detail the connections between the common conditions with these theoretical constructs (for a more detailed and extensive discussion see Chiswick & Miller, 2001; Esser, 2006; or Hunkler & Khourshed, 2020, concerning the specific conditions of refugee integration processes). We also elaborate on the specific expectations regarding refugees with precarious residence status. Note that specific conditions can be connected to more than one theoretical construct.

The opportunities for structural integration, i.e., hard restrictions and the perceived likelihood that an investment succeeds, are typically connected to age at arrival in the new country and education (see, e.g., Esser, 2006: 46). This is most obvious when considering language acquisition. Young children show very high efficiency at learning a new language, which decreases with age (e.g., Esser, 2006: 93). In addition, individuals with more education are typically more efficient in language learning. Refugees with precarious residence status often face additional restrictions. For refugees in Germany, access to the

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labour market depends on the state of their asylum application, i.e., their current status (cf. Section 3.1). Anticipating employers' awareness of unstable residence statuses, we expect that the opportunities for more costly long-term investments, e.g., investing in receiving country-specific labour market skills, are typically lower when the residence status is undecided or very short-term as in subsidiary protection. Obviously, undocumented migrants face severe restrictions with regard to access to legal employment, i.e., there are no opportunities for undocumented migrants to legally access the labour market. Similarly, the opportunity to attend a State-funded integration course depends on the legal status and the prospect to remain ("Bleibeperspektive"). Concerning health care as well, the access to the standard option of using the public health care system depends on the legal status (cf. Section 3.1).

The motivation for structural integration, i.e., the perceived utility of an investment compared to sticking with the status quo, is typically connected to the intent to stay and to education. With regard to refugees, especially those with a more precarious residence status, the mechanics of residence law in Germany reinforce and create additional incentives for refugees who are interested in a long-term stay (see e.g. Euwals et al., 2010). If they want to achieve a residence status that is not conditioned on the reasons of fleeing from the origin country, they need to show economic independence, e.g., have a secure job, as well as a certain degree of German language competence.

The costs of investment in structural integration are typically connected to education in the country of origin. It is assumed that a person with a higher level of education would generally find it easier to adapt to a new context. Moreover, co-ethnic networks may help with orientation and with finding work, hence decreasing the search costs. With regard to refugees, especially those with a more precarious residence status, additional costs may result from the added bureaucratic steps to be taken by them or by a potential employer, who typically needs to be convinced to do that. With regard to integration courses, when not admitted into the State-funded options, for instance, the cost of investing in learning the receiving country's language can be substantial (except for younger children who are very efficient in language learning and for whom the opportunities in kindergartens or schools are often sufficient).

The primary focus of the social sciences part of the interdisciplinary project is on explaining variation in integration or exclusion outcomes. The theoretical model suggests that having a precarious residence status or not having a residence permit at all, is a crucial factor influencing the outcomes of interest. It can decrease opportunities and increase the costs of structural integration, but in contrast, it may have a positive influence on the motivation to integrate. There is an obvious overlap with the legal perspective on exclusion and status (see above); specifically, it needs to be understood what rules and regulations result in restrictions to accessing employment, i.e., opportunities, and the residence status groups to which these apply must be identified.

4 Establishing the legal and factual foundation

4.1 German residence statuses and social protection system

Although residence status is not the only criterion that determines access to social rights (see above and Janda, 2012: 381 ff.), it is the most decisive one. While this contribution is not the place to give a comprehensive account of German residence and asylum law, the following section will provide a broad overview of the main categories that can be

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found in the law. Since the respective statuses mark not only the starting but the focal point of our research project in which the two disciplines intersect and translational challenges might occur, it is crucial to have at least a general understanding of the legal framework and how it stratifies access to social rights. Given the comparatively high fragmentation and complexity of German migration law (see e.g. Hruschka & Rohmann, 2021) and practice (see e.g. Eule, 2014), the current legal status and the status history will often be difficult to determine and complex. However, this complexity is an important component when conducting research on the effects of legal status on migrants. It is therefore vital for researchers with a quantitative method to have a clear understanding of the respective regulations to be able to model and design the questionnaire in a way that takes into account these potential effects. During the field part of the research, it is of utmost importance that the involved social scientists understand the implications of legal status and instruct the interviewers regarding its application as often interviewees will not be able to exactly determine and understand the consequences of their current status. Even less will they be in a position to reconstruct their previous situations during the interviews.

In order not to overextend the time frame of the interviews, the status-related questions in the survey were limited to the reconstruction of the residence status history. Procedural issues and waiting periods, which have been extensively studied in recent years, were only marginally considered. Therefore, the following section focuses on residence statuses and their legal and (presumably) practical implications.

4.1.1 Residence statuses

According to § 4 AufenthG

> "foreigners shall require a residence permit, in the absence of any provisions to the contrary in the law of the European Union or a statutory instrument and except where a right of residence exists as a result of the agreement of 12 September 1963 establishing an association between the European Economic Community and Turkey" (FLG 1964 II, p. 509) (EEC/Turkey Association Agreement).

Foreigners are legally defined in § 2 para. 1 AufenthG as "anyone who is not German within the meaning of Art. 116 para. 1 of the Basic Law", which provides the following as a definition: "Unless otherwise provided by a law, a German within the meaning of this Basic Law is a person who possesses German citizenship or who has been admitted to the territory of the German Reich within the boundaries of 31 December 1937 as a refugee or expellee of German ethnic origin or as the spouse or descendant of such person." The entrance of foreigners, except inter alia for EU and Turkish citizens, is therefore restricted by means of a general prohibition subject to permission ("Verbot mit Erlaubnisvorbehalt").

The residence permit shall be granted inter alia in the form of a visa ("Visum"), a temporary residence permit ("Aufenthaltserlaubnis") or a permanent settlement permit ("Niederlassungserlaubnis"). According to § 4a para. 1 AufenthG foreigners "holding a residence title may pursue an economic activity unless there is a law prohibiting such activity. The economic activity may be restricted by law."

Residence permits are being issued for the purposes of residence stated in the Residence Act, see § 7 para. 1 AufenthG. Despite the fact that the research was conducted before the takeover by the Taliban, the circumstances in Afghanistan (for a report on the situation

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before August 2021, see Stahlmann, June 2021) already allowed us to expect that the majority of persons in our sample group of Afghan migrants would base their right to residence, besides economic activities (§§ 18 ff. AufenthG) and family reunification (§§ 27 ff. AufenthG), on humanitarian grounds (§§ 25 f. AufenthG). The presumption would also be valid at the time of publication looking at the current situation in Afghanistan. This sets the scene to clarify a widespread obscurity regarding the institutional responsibilities. The institutional divide between the immigration authorities ("Ausländerbehörde"), which are under the supervision of the States ("Länder") (§ 71 AufenthG) and are responsible for implementing the AufenthG by inter alia issuing residence permits, and the Federal Office for Migration and Refugees ("Bundesamt für Migration und Flüchtlinge" - BAMF), that is in charge of the asylum procedure and subsequent determination of the protection needs (§ 5 para. 1 Asylum Act - AsylG) in the asylum area leads to a two-step process: No matter what the outcome of the asylum procedure eventually is, the decision of the BAMF has to be translated into the regime of the AufenthG by the immigration authority. The discretionary power of the immigration authorities is very much shaped by the BAMF decision, be it by the general obligation to issue a respective residence permit to the person for international protection (see § 25 AufenthG) or – in case of a negative decision on the merits of the case – by the legal obligation to focus on the facilitation of the persons' obligation to leave the Schengen area including potential enforcement by means of deportation (see Art. 6 of the so-called Return Directive 115/2008/EC). Obviously, this institutional divide regularly leads to confusion amongst migrants (see, e.g., SVR, 2018), which needs to be considered in the subsequent data analysis and – to the extent possible – cleared up already during the interviews.

As set out before, as a rule, foreigners need to hold a residence permit to legally reside in Germany. For the period of the asylum procedure, asylum seekers therefore receive permission to remain on the federal territory while the asylum procedure is pending ("Aufenthaltsgestattung", §§ 55, 63 AsylG) up to the point when either return is enforceable or a positive decision has been issued. This permission to remain is, from a legal point of view, not a residence permit. It has, however, a set of rights attached to it because it provides for a legal stay.

Based on the individual case at hand, the BAMF can positively decide on an asylum application by either granting a right to asylum (Art. 16a Basic Law), refugee status (§§ 3 ff. AsylG), subsidiary protection (§ 4 AsylG) or determine that deportation is prohibited under the terms of the Convention of 4 November 1950 for the Protection of Human Rights and Fundamental Freedoms (§ 60 para. 5 AufenthG) or due to the risk of substantial concrete danger to life, limb or liberty (§ 60 para. 7 AufenthG). Every outcome results in a different residence permit, which is being issued by the immigration authority and comes with diverging rights depending on the prior status determination, for instance with respect to duration (§ 26 AufenthG) or the right to family reunification (§§ 27 ff., 36a AufenthG). If none of the aforementioned categories applies, the BAMF has to reject the asylum application and the person concerned is obliged to leave Germany subject to legal remedies. If a foreigner can assert that his or her deportation is impossible for legal or factual reasons, he or she can apply for a decision on the suspension of his or her deportation and receives a so-called toleration ("Duldung", § 60a AufenthG). Although this status is already quite precarious, in August 2019 the German legislator introduced an even more inferior category, namely the possibility to add to the toleration document a notion that the person holding the document is of unclear identity ("Duldung für Personen

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mit ungeklärter Identität", § 60b AufenthG). This notion has severe consequences regarding the access to social rights.

4.1.2 Fragmented social protection of migrants

Against the background of the aforementioned intricate interrelation of social protection and residence status, social law adds to the diversified picture we see in the immigration law rules – especially since the social protection system does not in all parts strictly follow the same exact stratification that is prescribed by the immigration law regime (Janda, 2012: 382) due to their specific systemic and/or economic rationalities (Becker, 2004: 12). Thus, a comprehensive description of the complex entanglements of those two fields would again exceed the scope of this contribution. Nonetheless, the basic functions and main distinctions that apply to our sample group have been mirrored in the quantitative survey.

With respect to social assistance ("Grundsicherung") (for a detailed overview of German, European and international systematisation as well as terminology of social law and its institutions see Becker (2018a: 52 ff.), which ought to provide for the social-economic subsistence minimum (German Federal Constitutional Court, BVerfGE 132, 134-179, 18 July 2012) there are – depending on the residence status – basically two protection strands in place. On the one hand, unemployed third-country nationals who hold a residence permit are treated like German nationals and European Union citizens and are entitled to benefits according to either Social Code Book II ("Sozialgesetzbuch II" – SGB II) if they are able to work (§ 7 SGB II), or according to Social Code Book XII ("Sozialgesetzbuch XII" – SGB XII) if they are unfit to take up unemployment (§ 23 SGB XII). Both systems cover reasonable costs of accommodation and heating as well as benefits for basic needs, e.g., food, clothing, hygiene, household goods etc. On the other hand, persons who do not hold a residence permit, inter alia asylum seekers or persons on a toleration status, fall within the scope of the Asylum Seekers Benefits Act ("Asylbewerberleistungsgesetz" – AsylbLG, see § 1 AsylbLG). In comparison to the other strand, there are several restrictions. For instance, benefits shall mainly be provided in kind for people who live in community shelters (§ 3 para. 2 AsylbLG) and the level of cash benefits is substantially lower (§ 3a AsylbLG). In addition, other than beneficiaries of the SGB II/SGB XII scheme, foreigners under the scope of the AsylbLG do not have access to the statutory health insurance system. If medical treatment is necessary, the local social assistance office can approve cost coverage upon prior application, §§ 4 and 6 AsylbLG. Under specific circumstances, these minimal benefits may be subject to further cuts under § 1a AsylbLG. According to § 2 AsylbLG, after a waiting period of 18 months of uninterrupted residence in Germany, the SGB XII shall apply mutatis mutandis, meaning that from this moment on foreigners enjoy health insurance.

Apart from this rather fundamental divide in social assistance schemes, we can observe way more status-related differentiations, some of which refer directly to legal status, others only indirectly result in it or even further fragment the status landscape. For our survey, the areas of particular interest are the legal rules regulating access to the labour market, the access to integration courses and access to health care. In all these areas, the legal status results in immense diversifications regarding the entitlements and benefits that are accessible (see, e.g., Davy, 2019; Hruschka & Rohmann, 2021).

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Open Access Publication, https://doi.org/10.57947/qrp.v61i2.23

4.2 Limitations of the legal method

The reflections in this contribution brought to light that research on the legal status and its interrelation with the access to social rights for migrants is after all often rooted, if not even bound by and in its disciplinary rationales. However, it would be an undue omission to claim that legal scholars solely focused on the current positive law, since many of the legal findings are put in the respective historical and political contexts and developments. To a certain extent, one could even claim that court decisions and their analysis present themselves as qualitative empirical case studies. Nonetheless, the legal analysis leads, in some cases, to an over-problematisation of some specific issues that were brought before the courts while others are unduly disregarded. Whether the outlined status fragmentation, which from a legal point of view is detrimental to the overall systemic coherence (Hruschka and Rohmann, 2021), indeed has negative effects on Afghan migrants is a question that may not be answered by research that solely focuses on legislation and court cases. Empirical data is needed to effectively analyse the perceived "implementation gap" and may enable us to challenge some of the underlying assumptions regarding the inclusive effects of access to social rights that are vastly shared not only by legal scholars but also policymakers.

5 Operationalising interdisciplinary perspectives in quantitative research?

The overall aim of our research is to better understand the structural integration of migrants and refugees and the systematic variations with regard to residence status, or more precisely precarious statuses, including undocumented persons. In section 3 we have outlined the theoretical framework used, with a focus on how legal status can be expected to influence the integration process. The survey was developed to test the theoretical model and at the same time to provide an empirical foundation for the legal research questions.

The survey's target population were persons with Afghan citizenship, aged 18 or over, who arrived in Germany in 2014 or after, and lived in one of three urban areas in which we collected data. The sampling consisted of two strategies: (1) a random population sample drawn from the official population registries, and (2) Respondent-Driven-Sampling, which is a strategy to include a "hard-to-reach population", like Afghan migrants without legal documentation and who therefore are not included in the registries, to our study. The recruitment was successful in Berlin (534 interviews from an estimated population of 6,485) and Munich (264 interviews from an estimated population of 3,006), whereas in Hamburg only 226 interviews (est. population 7.337) could be realised in the area with the largest estimated population of Afghan migrants fitting the criteria.

This section describes the challenges in collecting information on integration outcomes and activities (i.e., employment in the labour market, participation in integration courses, and health) in a closed-form survey that can serve both purposes. With regard to legal status, the main challenge is to overcome the struggle between soliciting information from respondents in a way that most of them can accurately answer the questions, while at the same time collecting data that allows for constructing the most important legal status categories. Moreover, respondents, especially undocumented or other groups with precarious status may be more prone to not answering or to give socially desirable responses, i.e., to brighten answers to direct questions, e.g., about "irregular" border

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crossing or irregular employment etc. Finally, the survey collects information on several aspects of respondents' biography, migration and aspects of their current lives, as well as information on other conditions of integration (e.g., expectations, social networks, etc.). Therefore, the number of questions and time devoted to assessing concepts is limited.

5.1 Example 1: Soliciting information on irregular entry into the EU and registrations or asylum applications in other EU countries

The specific aims of the legal status questions are, first, to reconstruct when and how individuals made their way to Germany. The struggles and potentially traumatic experiences of a prolonged journey (e.g., Hunkler & Khourshed, 2019), the potentially extended periods spent at intermediate stations (and the depreciation of human capital that goes along) can influence integration in the destination country. Moreover, having registered as an asylum seeker or having applied for asylum in another European Union State has implications for the legal status assigned in Germany. The second aim is to reconstruct the legal status history in Germany, including the periods in each status.

The survey uses two strategies to solicit this information. First, the legal questions are embedded into the migration module, which starts with the "when and why" of leaving the country of origin and then traces the respondents' journey to Europe and Germany. As shown below, this also allows collecting information on the undocumented entry into the European Union and registrations or applications for asylum in other EU countries without having to ask direct questions about irregular border crossing and the like. Second, given experiences in a previous project (see Khourshed et al., 2019), in which almost 25% of Syrian respondents were not able to report their current residence status in Germany, the survey uses image representations to solicit information on the residence status history of respondents in Germany.

Embedding the information on the legal entry into the EU and registrations or asylum applications in other EU countries into the migration history (see Figure 1) allows reconstructing the information needed, without having to directly ask about irregular border crossing. The questions are formulated in a simple format and ask for information that most interviewees can easily answer. Whether or not the entry was irregular or not can be classified using this information. Also, note that the "status" used to enter the first EU country explicitly includes the option "none of these" conveying to the respondents that this is common and therefore an expected answer.

Figure 1: Extract of the survey questionnaire on legal status

What was the first EU+4 country you entered to get to Germany? Interviewer: Please show EU+4 map

When entering <first EU+4 country from the previous question entered here>, did you present yourself to any authorities, e.g., at the border, with customs, the police, or any other official office?

Which status did you use to enter <first EU+4 country>?

1. *Visa or another residence permit*
2. *Apply for asylum/refugee status*
3. *None of these*

Which type of visa or residence permit was that?

(Detailed list of possible visa types, entry programs, e.g. resettlement, and other options omitted.)

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Did you apply for asylum or refugee status in any EU+4 country on your way to Germany?
[If yes:] What was the outcome of the application?
(Detailed list omitted)

Were you registered in any EU+4 country on your way to Germany?

Note: The questionnaire module started with questions on the migration motive, year and month of leaving the country of origin, and whether the respondent arrived directly in Germany or another EU country first. Note that the questions on the timing of events, parts of the instructions to the interviewer and parts of the answer options were omitted in Figure 1.

5.2 Example 2: Soliciting information on labour market participation, integration course participation and health care

Relating to the examples laid out in Section 3, Figure 2 shows some examples on how questions on labour market and integration course participation, as well as health and health care, were asked. Note that we only asked whether a person works, and made a subtle distinction on whether it had a contract or not. When connecting this information, e.g., employment without a contract with the current residence status information, i.e., a residence status that would not allow employment, we derived a sufficiently accurate estimate of engagement in irregular employment. While there were constellations conceivable where these assumptions were wrong, directly asking a person whether he or she engages in irregular activities would have most likely resulted in a larger measurement error. The survey also collected details on the job, which helped in checking the reliability of the approach, i.e., specific professions (home care, household help, construction) were known to be more prone to irregular employment. Furthermore, while laws and regulations may be precise to some extent, we also solicited the perceptions of the respondents on how they perceived their access to the labour market.

The questions on language course participation are straightforward, and Figure 2 only shows a few examples. The survey also asks for language level acquired and for plans to attend language and integration courses. Asking who was giving a course serves two purposes. First, it allows for describing course participation in more detail. Furthermore, it can also serve as a cross-check on the legal status information described above, given the access restrictions laid out above.

Understanding the health care system in a different country might generally be a challenge, especially when considering the different procedures applied to the health care needs of asylum seekers at different times. The survey first asks for a general self-evaluation of health and whether the person experienced the need to go to a doctor. In questions not shown in Figure 2, it was also assessed whether these needs were actually met. To get an accurate answer on whether a person was already included in the statutory health insurance system, the survey simply asked whether the respondent had a health insurance card. The pre-test interviews revealed that most respondents had AOK as a health insurance provider and used “AOK” to refer to the card. Therefore, we complemented the question using this example and also added pictures of three insurance cards including a typical AOK card.

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Figure 2: Extracts of the survey questionnaire on labour market and integration course participation, and health

[Labour market participation:]

Now we will talk about your current or future work plans. Are you currently working?

1. *Yes, in full time employment, with a contract*
2. *Yes, in full time employment, without a contract*
3. *Yes, in part time employment, with a contract*
4. *Yes, in part time employment, without a contract*
5. *Yes, receiving in-company training / doing an apprenticeship or undergoing occupational retraining*
6. *Yes, doing an internship*
7. *No, I am not working*

What best describes the job that you are currently employed in?

(Interviewer enters description that can be coded into the international standard classification of occupations)

At this time, how do you perceive your access to work in Germany? Do you have…

1. *Full access*
2. *Somewhat limited access*
3. *Very limited access*
4. *No access at all*

[Integration and language course participation:]

Did you ever try to get into a German language course or an integration course in Germany?

Who gave this course?

1. *Officially provided to refugees and paid by the state (Volkshochschule, vocational schools, organized in refugee housing facility etc.)*
2. *Officially provided to all migrants and self-financed (e.g. Volkshochschule, private companies)*
3. *Unofficially provided to refugees, typically no cost to attend (e.g. students for refugee programs, NGOs, community organizations)*

[Health]

How *would you rate your health today …*

1. *Excellent*
2. *Very good*
3. *Good*
4. *Fair*
5. *Poor*

During the last 12 months, did you experience the need to go to the doctor?

1. *Yes, several times*
2. *Yes, once*
3. *No*

Do you have a health insurance card, for example, an AOK card like this?

(visual aid of insurance cards by different providers)

Notes: Note that the questions were embedded with introduction texts in the original questionnaire, and that parts of the instructions to the interviewer and parts of the answer options were omitted in Figure 2.

Quarterly on Refugee Problems, 2022, Vol. 61, Issue 2, 130-154
ISSN 2750-7882, Section: Research Articles
Open Access Publication, https://doi.org/10.57947/qrp.v61i2.23

6 Conclusions

Interdisciplinary research that lives up to its label requires additional efforts to develop a common framework and to agree on collaborative research questions. It will need to understand and reflect methodological and conceptual divergence, but also relevant overlaps, to identify the scope of joint research on the one hand and strictly disciplinary research on the other hand. The common denominator, as well as divergences, need to be identified and discussed to find common ground and a joint starting point for the intended research. This process requires time and resources, but the potential knowledge gain is promising. "Potential" also implies the risk of failure or at least the return to purely or predominantly disciplinary research designs. This question is separate from the question of the use of the data that is collected. What has been achieved by the collaboration on the survey, the research questions and the mutual information and explanation of disciplinary ground rules is a conceptual, interdisciplinary contention of the applied concepts. In particular, the role of legal status was addressed, which shaped the methodology, implementation and design of the research project and in particular the questionnaire. Throughout the drafting, we experienced that the attempt to combine two disciplines at least doubles the number of potential questions that could be included. Finding a working balance between sophisticated legal nuances and complex econometric models every so often brought us to the limits of our respective disciplinary boundaries and resulted inter alia in a way too long questionnaire. In this regard, the extensive pre-testing phase was essential. Not only did we learn where interviewees still had difficulties in reconstructing their histories of legal status, but we also encountered – as previously expected – obstacles to reaching undocumented migrants. The subsequent reduction of the number of questions, the re-focus of the sample group and refinement of the methodology again sparked fruitful and inspiring discussions amongst the involved researchers across disciplines, culminated during the analysis of the data.

The first analyses of the data (Méango et al., 2020) already revealed how interdisciplinary cooperation enriched the research from the viewpoint of all disciplines involved. The social scientists in the team profited from a much more fine-grained and more reliable assessment of the previous and current residence status of the respondents. For example, when analysing migrants' intentions to stay in Germany without them currently having the right to stay, it is pivotal to correctly assess the respondents' status. Méango et al. (2020) found that Afghan migrants' intentions to overstay are, on average, relatively high, whereas the possibility to be regularised in the future explained about 20% of these intentions. For the lawyers in the team, the differential effects of the same laws applied in the different regions the survey covered, gave insights into how important information from peers and from the community is compared to the knowledge on actual regulations (Hruschka et al., 2020).

From the perspective of legal research, it became obvious that there is a lack of studies that take a look at the impact of legislation on the ground. In turn, legislative reform proposals every so often are based on empirically shaky assumptions. Social science research, on the other hand, often does not properly reflect the legal situation, and descriptions of the legal framework are either not given at all or merely mirror administrative practice without reflecting the legal norms.

This makes it all the more important to cover the whole spectrum from the European to the national, local and individual levels in research. It requires interdisciplinary and multi-

methodical research that can bring together and synthesise different dimensions of migration research. To think together on the micro, meso and macro levels in the field of the reception, integration or exclusion of refugees and asylum seekers is a challenge that promises not only to provide new insights but above all to facilitate dialogue between different strands of research that all too often merely co-exist instead of mutually enriching each other. However, interdisciplinary research is also limited in various ways and has to be complemented by disciplinary and multidisciplinary approaches. Ideally, the resulting studies influence each other and contribute to an in-depth analysis of the migration phenomena on different levels.

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