Emory International Law Review

Volume 35 | Issue 1

2021

Asylum Seekers: The Search for Basic Human Right to Healthcare in Industrial Countries

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ASYLUM SEEKERS: THE SEARCH FOR BASIC HUMAN RIGHT TO HEALTHCARE IN INDUSTRIAL COUNTRIES

INTRODUCTION

Imagine an individual living peacefully, going about their normal life. Suddenly, due to tragic events transpiring in their country that affect or violate their human rights, the individual must flee to safety leaving their life and once-had stability behind them in order to obtain safety. The individual is scared, traumatized, injured, and barely keeping a grip of their will to go on while trying to seek refuge. They then think of nearby countries, or countries with reputations for accepting and helping their kind. Upon arrival, the individual then expects assistance for their kind and access to necessities such as food, a place to rest, and healthcare for their well-being. Is the individual afforded such access? Contrary to international agreements, this depends on the country.

Every day, there are many individuals that venture into other countries for various reasons including to seek employment options or educational opportunities; to flee from violence, war, hunger, or extreme poverty; or to escape consequences and problems due to climate change or natural disasters.[1] An asylum-seeker is an individual who has left their country and is seeking protection from persecution or other serious human rights violations in another country, but has not been legally recognized as a refugee, and must wait for a decision regarding their asylum claim.[2] "By the end of 2017, the number of people seeking asylum worldwide rose to more than three million."[3] When seeking asylum, many asylees believe that going to developed, industrial countries is the best route for achieving safety, educational opportunities, and a higher standard of living.[4] They also likely expect to receive improved healthcare.[5] However, their expectations may not match the reality of what they find in such countries. The way asylees are treated and the steps they must undergo to obtain healthcare can vary widely from country to country.

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[1] *Refugees, Asylum-Seekers and Migrants*, AMNESTY INT'L, https://www.amnesty.org/en/what-we-do/refugees-asylum-seekers-and-migrants/ (last visited Oct. 20, 2019).

[2] *Id.*

[3] Hope Ferdowsian, Katherine McKenzie, & Amy Zeidan, *Asylum Medicine: Standard and Best Practices*, HEALTH & HUM. RTS. J. (May 6, 2019), https://www.hhrjournal.org/2019/05/asylum-medicine-standard-and-best-practices/.

[4] *See generally The World's Refugees in Numbers*, AMNESTY INT'L, www.amnesty.org/en/what-we-do/refugees-asylum-seekers-and-migrants/global-refugee-crisis-statistics-and-facts/ (last visited Oct. 20, 2019) [hereinafter *The World's Refugees in Numbers*].

[5] *See, e.g., id.*

The United States has had an influx of individuals that seek asylum daily; however, the treatment and process that individuals must go through changes with each new Presidential administration.[6] For example, the Trump Administration recently promulgated the "Safe 3rd Country" rule on migrants seeking asylum, stating that the country asylees pass through en route to the United States is the country in which they must first apply for refugee status.[7] The United States is not the only developed country where individuals seek asylum—some also seek asylum in places like Germany or Switzerland.[8] However, other developed countries, such as Japan, tend not to be viewed as welcoming for asylees and receive fewer requests.[9]

With countries having such different approaches to granting asylum, what must an individual go through in order to access healthcare in such developed and wealthy countries? Access to health, or medical care, is a fundamental human right, and every country has ratified at least one international human rights treaty recognizing it as such.[10] Frequently stated, "[t]he right to the highest attainable standard of health is a human right recognized in international human rights law,"[11] however, there are many asylees being sent away or not afforded their rights, even by the wealthiest of countries.[12] In their efforts to follow such laws, many countries have stated before international human right bodies and within national legislation what it means to provide asylum seekers with healthcare.[13] These countries have stated that they would not provide the same

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[6] *See* Mary Beth Sheridan, *As Trump Tightens the U.S. Border, Asylum Applicants Seek Refuge in Mexico, Elsewhere*, WASH. POST (Sept. 8, 2019, 5:52 PM); *see also* Anna Gorman, *Medical Clinics that Treat Refugees Help Determine the Case for Asylum*, NPR (July 10, 2018, 5:02 AM) ("[T]he Trump administration looks to reduce the number of applicants for asylum, citing loopholes and fraudulent claims. . . .").

[7] Bill Chappell, *Trump Administration Implementing "Safe 3rd Country" Rule on Migrants Seeking Asylum*, NPR (July 15, 2019, 9:42 AM); *cf.* Colleen Long, *Trump Signs Proclamation Restricting Visas for Uninsured*, AP NEWS (Oct. 4, 2019); In addition to the "Safe Third Country" rule, the Trump Administration also signed a proclamation denying immigrants entry into the United States unless they can prove that they can afford healthcare. This presents the idea of some of the difficulties immigrants or individuals in the same positions as immigrants may be treated when trying to gain access into the United States. *See generally* 8 U.S.C.S. § 1158(a)(2).

[8] U.S. News Staff, *10 Countries that Take the Most Immigrants*, U.S. NEWS (Dec. 18, 2019), https://www.usnews.com/news/best-countries/slideshows/10-countries-that-take-the-most-immigrants?slide=11; AID, *Swiss to continue to take in vulnerable refugees*, SWISSINFO.CH (Nov. 20, 2018, 10:04 PM), https://www.swissinfo.ch/eng/aid_swiss-to-continue-to-take-in-vulnerable-refugees/44586654.

[9] Chisato Tanaka, *World Refugee Day: How well is Japan fulfilling its obligations in 2019?*, JAPAN TIMES (June 19, 2019), https://www.japantimes.com.jp/news/2019/06/19/national/world-refugee-day-well-japan-fulfilling-obligations-2019/#.XhtZ_xdKhp8.

[10] *The Right to Health: Factsheet No. 31*, OHCHR 1, https://www.ohchr.org/Documents/Publications/Factsheet31.pdf (last visited Oct. 20, 2019) [hereinafter *The Right to Health: Factsheet No. 31*].

[11] *Id.* at 9.

[12] *The World's Refugees in Numbers*, *supra* note 4.

[13] *The Right to Health: Factsheet No. 31*, *supra* note 10, at 19.

level of protection to migrants as they do their own citizens, but rather provide healthcare in terms of essential care or emergency health care only.[14] Countries interpret these concepts differently which then leads to discriminatory acts toward asylees and creates challenges for individuals seeking basic healthcare.[15]

This Comment explores the differences and similarities in developed countries' varying approaches to providing asylees access to domestic healthcare systems, focusing on the policies and procedures of the United States, Japan, Germany, and Switzerland, as high-income countries. This Comment serves to reveal and analyze the problems that arise when asylees seek to invoke the international human right to health, to propose a Global Health Agreement for all countries to adopt, and to suggest a new policy framework for the United States to implement.

Part I of this Comment provides an overview of the asylum process and identifies the health benefits afforded to asylees in the specified countries. Part II identifies and discusses the criticisms and policy-based barriers in regard to asylees access to healthcare in the specified countries. Part III analyzes the similarities and differences between the countries to identify common patterns and challenges, and to then create potential solutions for all countries to adopt. Finally, Part IV proposes policies that the United States could initiate to adhere to international human right laws and proposes a Global Health Agreement for all countries to adopt and incorporate within their governments.

I. THE PROCESS OF SEEKING ASYLUM AND THE CURRENT HEALTH BENEFITS AFFORDED TO ASYLUM SEEKERS

The right to health was recognized as a human right in the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR).[16] Article 12 of the ICESCR states the following:

> 1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
> 2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

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[14] *Id.*
[15] *Id.*
[16] *Id.* at 1.

a. The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
b. The improvement of all aspects of environmental and industrial hygiene;
c. The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
d. The creation of conditions which would assure to all medical service and medical attention in the event of sickness.[17]

Germany, Japan, Switzerland, and 170 other countries signed and ratified the Covenant; the United States signed but never ratified the agreement.[18] By signing the Covenant, these countries agreed, in principle, to "recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health."[19] The United States, however, has never fully committed to this concept for its citizens, nor is it a right enshrined in the U.S. Constitution. Not surprisingly, the United States also has not recognized that right for asylees present within its borders.[20]

Despite nations not strictly conforming to the treaty's principles, the sentiment of recognizing the right to health as an obligation owed to all humans is echoed in the World Health Organization's (WHO) Constitution.[21] The WHO is "responsible for providing leadership on global health matters, shaping the health research agenda, setting norms and standards, articulating evidence-based policy options, providing technical support to countries, and monitoring and assessing health trends."[22] However, as discussed below, in various countries,

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[17] 1966 International Covenant on Economic, Social and Cultural Rights, U.N., art. 12, Jan. 3, 1967 [hereinafter ICESCR].

[18] *International Covenant on Economic, Social and Cultural Rights*, U.N. TREATY COLLECTION, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&clang=_en#top (last visited Feb. 3, 2020). Germany signed the treaty on October 9, 1968 and ratified December 17, 1973; Japan signed the treaty on May 30, 1978 and ratified on June 21, 1979; Switzerland acceded to the treaty on June 18, 1992; and the United States signed the treaty on October 5, 1977. *Id.*

[19] ICESCR, *supra* note 17; *see The Right to Health: Factsheet No. 31*, *supra* note 10, at 9.

[20] Mary Gerisch, *Health Care as a Human Right*, ABA, https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/the-state-of-healthcare-in-the-united-states/health-care-as-a-human-right/ (last visited Feb. 1, 2020). In the U.N.'s Universal Declaration of Human Rights (UDHR), the committee codified our human rights, including the essential right to health in Article 25. *Id.*

[21] *The Right to Health: Factsheet No. 31*, *supra* note 10, at 29. *See generally* Gerisch, *supra* note 20 ("Since the adoption of the UDHR, every other industrialized country in the world—and many non-industrialized countries—have implemented universal health care systems. Such systems ensure that all persons within their borders enjoy their right to health care.").

[22] *The Right to Health: Factsheet No. 31*, *supra* note 10, at 29; World Health Org. [WHO], *Constitution of The World Health Organization*, ch. 2, art. 2 (Oct. 2006).

asylees' enjoyment of the right to health is often limited because they are migrants other factors like discrimination (being non-citizens), language and cultural barriers, and their legal status.[23] Many countries have defined their health obligations toward non-citizens in their country in terms of essential or emergency health services only.[24] Nonetheless, the meaning of essential or emergency health services varies by country, and distribution of health services is often left in the hands of individual health-care staff, leading to practices and laws that may be facially discriminatory or applied in a discriminatory way.[25]

Common difficulties faced by asylees with respect to their right to health include:

- Inadequate or non-existent coverage by State health systems;
- An inability to afford health insurance in the host countries;
- Little access to health and social services;
- Difficulties accessing information about health matters and available health services;
- Poor detention center conditions which are conducive to the spread of diseases; and
- Inadequate information provided by the host country.[26]

This is especially troubling because several other treaties and agreements obligate countries to protect and promote human rights including the right to health.[27] Unfortunately, the United States is one of a handful of high-income countries in which asylees face all of the above difficulties. The reasons

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[23] *The Right to Health: Factsheet No. 31*, *supra* note 10, at 18.

[24] *Id.* at 19.

[25] *Id. See generally* OLIVE C. KOBUSINGYE ET. AL., DISEASE CONTROL PRIORITIES IN DEVELOPING COUNTRIES 1261 (Jamison DT et. al. eds., 2d ed. 2006) (Discussing how emergency care could be defined and the problems associated with the various interpretations of emergency care. "In many countries, few resources are set aside for possible emergencies, and when situations that demand emergency care arise, they precipitate hurried and costly resource deployment. Efforts to improve emergency care, however, do not necessarily increase costs.").

[26] *The Right to Health: Factsheet No. 31*, *supra* note 10, at 19; *see also Unique Health Challenges Faced by Refugees and Asylum Seekers*, BMA (last updated Apr. 15, 2020), https://www.bma.org.uk/advice-and-support/ethics/refugees-overseas-visitors-and-vulnerable-migrants/refugee-and-asylum-seeker-patient-health-toolkit/unique-health-challenges-for-refugees-and-asylum-seekers.

[27] *The Right to Health: Factsheet No. 31*, *supra* note 10, at 22 (some general obligations consist of the "International Covenant on Economic, Social and Cultural Rights, art. 2" which states that "each State Party to the present Covenant undertakes to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative matters."); *see also id.* at 19 ("The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (art. 28) stipulates that all migrant workers and their families have the right to emergency medical care for the preservation of their life or the avoidance of irreparable harm to their health.").

underlying this problem are complex and relate both to U.S. asylum process procedures and structural constraints.

The procedures and policies for obtaining asylum, current government background and right to health, and the current rights to health afforded to asylum seekers in the United States, Japan, Germany, and Switzerland are presented below.

A. The United States

1. Obtaining Asylum in the United States

As written in 8 U.S.C.S. § 1158(a)(1):

> Any alien who is physically present in the United States or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters), irrespective of such alien's status, may apply for asylum in accordance with this section or, where applicable, section 1225(b) of this title [8 USCS § 1225].[28]

An individual is eligible to be granted asylum as long as they have applied for asylum in accordance with the requirements and procedures established by the Secretary of Homeland Security or the Attorney General.[29] The asylum application process normally proceeds in one of two ways: an affirmative process or, if that fails, a defensive process.[30] During the affirmative process, an individual (who is not in removal proceedings) can affirmatively apply for asylum through the United States Citizenship and Immigration Services (USCIS).[31] If the USCIS does not grant the asylum application, the applicant is determined to not have a lawful immigration status, which means they are referred to the immigration court for removal proceedings where the individual may renew their request for asylum through the defensive process.[32] During the defensive process, the individual is in removal proceedings and must apply for

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[28] 8 U.S.C.S. § 1158 (a)(1).

[29] 8 U.S.C.S. § 1158 (b)(1)(A).

[30] *Asylum in the United States*, AM. IMMIGR. COUNCIL (May 2018), at 2, https://www.americanimmigrationcouncil.org/sites/default/files/research/asylum_in_the_united_states.pdf.

[31] *Id. See generally Asylum, Removal and Immigration Courts: Definitions to Know*, CENTER FOR IMMIGR. STUD. 4 (Oct. 2018), https://cis.org/sites/default/files/2018-11/Arthur-Asylum-Removal-Courts.pdf (Removal proceedings are a type of legal process connected with removal or deportation cases. Immigration judges in immigration courts determine removability, set bond where they have jurisdiction, and can adjudicate applications for relief from removal, including asylum.).

[32] *Asylum in the United States*, *supra* note 30, at 4.

asylum by filling out an application with an immigration judge at the Executive Office for Immigration Review (EOIR) in the Department of Justice.[33] For both processes, an asylee must be physically present within the United States and apply for asylum, regardless of how the individual arrived in the United States.[34] The individual must apply for asylum within one year of the date of the individual's latest arrival in the United States.[35] When asylees arrive at a U.S. border, the United States ensures that they are not violating international laws by administering a "credible fear" and "reasonable fear" screening process for asylees.[36]

The asylum process can take many years to conclude due to the large number of applications received and the significant processing backlog.[37] For example, as of March 2018, there were more than 318,000 affirmative asylum applications pending with the USCIS and the U.S. immigration courts backlogs reached an all-time high during this time by having more than 690,000 open deportation cases.[38] With so many delays, many individuals are left in a state of limbo while their case is pending.[39] An asylee must have had their case pending for 150 days and should not have received a decision regarding their application before they are allowed to apply for work authorization.[40] There is still a sense of uncertainty regarding their future employment, education, and health resources.[41]

2. Government Background and the Right to Health

The United States has a federal government divided into three branches (Legislative, Executive, and Judicial) that was created by the United States Constitution.[42] The structure of the U.S. government is based on federalism where there is a national government and state governments.[43] The United States

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[33] *Id.* at 2.

[34] *Id.*

[35] *Obtaining Asylum in the United States*, U.S. CITIZENSHIP & IMMIGR. SERV., https://www.uscis.gov/humanitarian/refugees-asylum/asylum/obtaining-asylum-united-states (last visited Sept. 19, 2019).

[36] *Asylum in the United States*, *supra* note 30, at 3.

[37] *Id.* at 4; *see Fact Sheet: U.S. Asylum Process*, NAT'L IMMIGR. F. (Jan. 10, 2019), https://immigrationforum.org/article/fact-sheet-u-s-asylum-process/ (The asylum process in the United States may take between 6 months and several years. "The length of asylum process may vary depending on whether the asylum seeker filed affirmatively or defensively and on the particular facts of his or her asylum claim.")

[38] *Asylum in the United States*, *supra* note 30, at 4.

[39] *Id.*

[40] *Asylum*, U.S. CITIZENSHIP & IMMIGR. SERV. (last updated Aug. 29, 2019), https://www.uscis.gov/humanitarian/refugees-and-asylum/asylum.

[41] *Asylum in the United States*, *supra* note 30, at 4.

[42] Martin Kelly, *Overview of United States Government and Politics*, THOUGHTCO. (July 7, 2019), https://www.thoughtco.com/overview-united-states-government-politics-104673; *see* U.S. CONST. art. I-III.

[43] Kelly, *supra* note 42.

has had constant debate over whether access to healthcare coverage is a government responsibility—an issue that is politically divisive.[44]

Contrary to the United States, most European nations have had some form of national insurance for more than a century.[45] The European Union and the United Nations recognize health care as a basic human right, and this is reflected in most European social insurance programs that have evolved into successful universal health care systems.[46] The United States does not have a uniform healthcare system nor universal health care coverage.[47] Neither the Constitution of the United States nor the Bill of Rights mention or guarantee access to health; however, through signed international treaties, the United States is expected to treat the idea of access to health care as a human right for all individuals.[48] The Affordable Care Act—the U.S. healthcare initiative—mandated healthcare coverage for almost everyone.[49] The Affordable Care Act was established in 2010 as a "shared responsibility" between the government, employers, and individuals to ensure all Americans had access to affordable and quality health insurance.[50] Nonetheless, access to healthcare that is affordable and comes with quality services is quite limited in the United States for many of its citizens.[51]

The United States was built on the idea of having a competitive system that would then help strengthen society over generations.[52] Using the idea of "Societal Darwinism" allowed the nation to follow the principle that government assistance would be seen as interference with the natural selection of the free

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[44] Jocelyn Kiley, *Most Continue to Say Ensuring Health Care Coverage Is Government's Responsibility*, PEW RES. CENTER (Oct. 3, 2018), https://www.pewresearch.org/fact-tank/2018/10/03/most-continue-to-say-ensuring-health-care-coverage-is-governments-responsibility/.

[45] G.H. Jones & H. Kantarijian, *Health Care in the United States – Basic Human Right or Entitlement?*, 26 ANNALS OF ONCOLOGY, no. 10, 2193, 2193 (Oct. 2015), https://www.annalsofoncology.org/action/showPdf?pii=S0923-7534%2819%2935806-5; *see* Mahiben Maruthappu, Rele Ologunde, & Ayinkeran Gunarajasingam, *Is Health Care a Right? Health Reforms in the USA and their Impact Upon the Concept of Care*, 2 ANNALS OF MEDICINE SURGERY, no. 1, 16 (Feb. 5, 2012), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4326121/pdf/main.pdf.

[46] Jones & Kantarijian, *supra* note 45.

[47] *The U.S. Health Care System: An International Perspective*, DEP'T FOR PROF. EMP. (2016), at 1, https://dpeaflcio.org/wp-content/uploads/US-Health-Care-in-Intl-Perspective-2016.pdf.

[48] Jones & Kantarijian, *supra* note 45, at 2193. *See also* Maruthappu et. al., *supra* note 45, at 16 ("[T]he International Covenant on Economic, Social, and Cultural Rights (signed by the US in 1977) stated that it is 'the right of everyone to the enjoyment of the highest attainable standard of physical and mental health' in addition to: 'the creation of conditions which would assure to all medical service.'").

[49] *The U.S. Health Care System: An International Perspective*, *supra* note 47, at 6.

[50] *The U.S. Health Care System*, THE COMMONWEALTH FUND, https://international.commonwealthfund.org/countries/united_states/ (last visited Oct. 23, 2019).

[51] *The U.S. Health Care System: An International Perspective*, *supra* note 47, at 4.

[52] Jones & Kantarijian, *supra* note 45, at 2193.

market.[53] These beliefs have contributed to the acceptance of unequal health care or thinking of health care as a privilege or entitlement rather than a basic human right.[54] Although the United States is well known to be the land of opportunity, it is puzzling that a nation that has a reputation for equal opportunity has not taken further steps in ensuring that all Americans have a fair access to health care.[55]

Systemic inequality occurs frequently in the United States,[56] and as income inequality increases in America, so does health care inequality for American citizens.[57] If American citizens have difficulty in accessing health care or basic health needs, what occurs to individuals who are seeking asylum from persecution, seeking refuge in a country that promulgates the ideas of fairness, liberty, and equal opportunity?[58] Are individuals like asylum seekers treated disproportionally worse than low-income American citizens regarding access to health care? If so, how is this true considering the fact that nations are to acknowledge and recognize that all individuals, citizens or not, have a right to health care as a basic human right?

The United States has a well-known history of accepting large numbers of refugees and asylees into its country.[59] Since 1980, the United States has taken in 3 million of the more than 4 million refugees resettled worldwide.[60] However, due to changes in administration, the United States has dramatically reduced the number of asylees admitted for refuge.[61] The number of people seeking asylum has increased over the years, while the number of people granted asylum has

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[53] *Id.*

[54] *Id.*

[55] *Id.* at 2193–94.

[56] Angela Hanks, Danyelle Solomon, & Christian E. Weller, *Systematic Inequality: How America's Structural Racism Helped Create the Black-White Wealth Gap*, CENTER FOR AM. PROGRESS (Feb. 21, 2018, 9:03 AM), https://www.americanprogress.org/issues/race/reports/2018/02/21/447051/systematic-inequality/.

[57] Jones & Kantarijian, *supra* note 45, at 2194; *see* Kimberly Amadeo, *Health Care Inequality in America*, THE BALANCE (Jan. 11, 2020), https://www.thebalance.com/health-care-inequality-facts-types-effect-solution-4174842.

[58] *See* Jones & Kantarijian, *supra* note 45, at 2194.

[59] Brittany Blizzard & Jeanne Batalova, *Refugees and Asylees in the United States*, MIGRATION POL'Y INST. (June 13, 2019), https://www.migrationpolicy.org/article/refugees-and-asylees-united-states; *see also An Overview of U.S. Refugee Law and Policy*, AM. IMMIGR. COUNCIL 1–3 (June 18, 2019), https://www.americanimmigrationcouncil.org/sites/default/files/research/an_overview_of_us_refugee_law_and_policy.pdf (2009-2017, over 50,000 refugees were admitted into the US each year).

[60] Phillip Connor & Jens Manuel Krogstad, *For the First Time, U.S. Resettles Fewer Refugees Than the Rest of the World*, PEW RES. (July 5, 2018), https://www.pewresearch.org/fact-tank/2018/07/05/for-the-first-time-u-s-resettles-fewer-refugees-than-the-rest-of-the-world/.

[61] Blizzard & Batalova, *supra* note 59; *see also* Chappell, *supra* note 7.

declined.[62] The U.S. government imposes procedures on asylees and refugees before they may be admitted into the country, and due to these new procedures, for the first time in modern history, in 2017, the United States settled fewer refugees than all other countries combined.[63]

3. Health Benefits for Asylees

Even when asylum seekers are admitted to the United States, healthcare for asylees may be sub-optimal, and they are granted worse treatment than what is provided to U.S. citizens.[64] For example:

> [A] 54-year-old male patient began to have symptoms of a heart attack in the Adelanto Detention Facility in California. At about 9 am on December 19, 2015, another detained person told a correctional officer that he was sick and needed medical care. An officer heard him vomiting but did not check on him. At 9:30 am, a licensed vocational nurse entered the patient's unit and the officer told her that the patient was sick and vomiting. The nurse did not check on the patient, however, because purportedly "she did not want to get sick." This was the beginning of a 2-hour delay in the patient's transfer to a hospital. By then, it was too late—his heart was damaged, and he died 4 days later.[65]

While asylum seekers await the status of their asylum applications, some are allowed to live freely in the United States, while many others, like the individual from the story above, are detained and neglected by the government.[66] There have been many debates about the government's pattern of detaining individuals for the entire duration of their asylum proceedings—which can take years to be resolved.[67] Asylees who are detained are negatively impacted by the detainment, which often leads to physical and mental health problems such as depression, post-traumatic stress disorder, and being prone to infections due to the conditions of the detainment facilities.[68] The conditions of the various

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[62] Ferdowsian et al., *supra* note 3.

[63] *An Overview of U.S. Refugee Law and Policy*, *supra* note 59, at 1.

[64] *See* Clara Long & Grace Meng, *Systematic Indifference: Dangerous & Substandard Medical Care in the US Immigration Detention*, HUM. RTS. WATCH 3 (2017), https://www.hrw.org/report/2017/05/08/systemic-indifference/dangerous-substandard-medical-care-us-immigration-detention#page.

[65] Rie Ohta & Clara Long, *How Should Health Professionals and Policy Makers Respond to Substandard Care of Detained Immigrants*, 21 AMA J. ETHICS 113, 113–14 (Jan. 2019), https://journalofethics.ama-assn.org/sites/journalofethics.ama-assn.org/files/2018-12/vwpt1-1901_0.pdf (internal citation omitted).

[66] *Asylum in the United States*, *supra* note 30, at 5.

[67] *Id.*

[68] *Id. See generally USA: 'You Don't Have Any Rights Here': Illegal Pushbacks, Arbitrary Detention & Ill-Treatment of Asylum-Seekers in the United States*, AMNESTY INT'L 49 (2018), https://www.amnesty.org/en/

government facilities where asylees are detained until they get the results of their asylum claim contribute to the health or medical problems asylees already had.[69] "According to Human Rights First (2007), asylum-seekers in the US are detained in conditions that are inappropriate, often for months and sometimes years."[70] In addition to conditions that contribute to asylee health problems within the United States, the U.S. Commission on International Religious Freedom reported findings from nineteen detention centers throughout the United States and found evidence of widespread use of segregation, isolation or solitary confinement for disciplinary reasons, significant limitation on privacy, use of physical restraints, and lack of staff training focused on the special needs and concerns of asylees such as being victims of torture or trauma from their home countries.[71]

In general, asylees are not eligible for federally funded benefits until they receive asylum.[72] There is a system set in place in the United States where asylees can apply for health insurance through the Health Insurance Marketplace at HealthCare.gov.[73] However, asylees are not allowed to apply for these programs until they have been granted employment authorization or are under the age of fourteen and have had an application pending for at least 180 days.[74] Some Asylees may be eligible for certain benefits such as Medicaid or Refugee Medical Assistance.[75] However, both of these options are only available until **after** the asylee has been granted asylum in the United States.[76]

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latest/research/2018/10/usa-treatment-of-asylum-seekers-southern-border/.

[69] *See Access to Health Care for Migrants and Asylum-seekers*, GHWATCH 69, https://www.ghwatch.org/sites/www.ghwatch.org/files/b3-2.pdf (last visited Oct. 12, 2019).

[70] *Id*.

[71] *Id.* Immigration inspectors at U.S. airports and officers at detention facilities often subject asylees to verbal abuse and other mistreatment. *Id.*

[72] *Frequently Asked Questions for Asylum Seekers*, HUM. RTS. FIRST, https://www.humanrightsfirst.org/asylum/frequently-asked-questions-asylum-seekers (last visited Sept. 19, 2019).

[73] *Refugees and the Affordable Care Act*, ADMIN. FOR CHILD. & FAMILIES (Aug. 2013), https://www.acf.hhs.gov/sites/default/files/orr/fact_sheet_refugees_and_the_affordable_care_act_508_8_27_13b_508.pdf. *See generally Immigration Documentation Types*, HEALTHCARE.GOV, https://www.healthcare.gov/immigrants/documentation/ (last visited Oct. 12, 2019) (listing various pieces of documentation types an asylee must use in order to apply and enroll for Health Insurance Marketplace); *Health Insurance Marketplace*, HEALTHCARE.GOV, https://www.healthcare.gov/glossary/health-insurance-marketplace-glossary/ (last visited Jan. 10, 2020) (The Health Insurance Marketplace "provides health plan shopping and enrollment services through websites, call centers, and in-person help. . . . When you apply for individual and family coverage through the Marketplace, you'll provide income and household information. You'll find out if you qualify for[] premium tax credits and other savings that make insurance affordable[;] and coverage through the Medicaid and Children's Health Insurance (CHIP) in your state.").

[74] *Immigration Status and the Marketplace*, HEALTHCARE.GOV, https://www.healthcare.gov/immigrants/immigration-status/ (last visited Oct. 12, 2019).

[75] *Asylum in the United States*, *supra* note 30, at 1.

[76] *Asylee Eligibility for Assistance and Services*, ADMIN. FOR CHILD. & FAMILIES (July 12, 2012),

Essentially, asylum seekers seeking asylum in the United States are not afforded healthcare during the intermediate period of waiting for the decision of their asylum claim unless they have waited for 180 days and have applied for employment authorization.[77] With this in mind, we look to see what health services they are provided in their places of wait—detention centers. Although facilities that contract with the U.S. Immigration and Customs Enforcement (ICE) to hold asylees in detention are generally required to provide medical care, there are inconsistent terms set forth in the contracts and details of what exactly is required.[78] It has been reported, however, that within U.S. detention centers, ICE lacks the tools to track and understand its own system of medical care, from the actual costs of care to trends in off-site medical care.[79] Medical services provided in U.S. detention centers are reported to be "jail-like, decentralized, and dysfunctional."[80] Medical services in detention centers contracted with ICE are split into on-site and off-site care.[81] In order for asylees to receive off-site care, the services must be approved and is directly paid for by ICE.[82] The contracted facility may also incur its own costs for off-site care since it is often responsible for costs associated with providing travel and security for the individuals going to off-site facilities.[83] For-profit companies and county governments have a financial incentive to reduce costs related to both on-site and off-site care; they face little risk of real penalties for having inadequate medical care, or the lack thereof.[84]

B. Japan

1. Obtaining Asylum in Japan

In order to obtain asylum in Japan, asylees must apply for refugee status at an immigration office of the Ministry of Justice.[85] Submitting an application is

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https://www.acf.hhs.gov/orr/resource/asylee-eligibility-for-assistance-and-services (emphasis added).

[77] *See id.*

[78] *See generally* Long & Meng, *supra* note 64.

[79] *Id. See generally United States Immigration Detention Profile*, GLOBAL DETENTION PROJECT (May 2016), https://www.globaldetentionproject.org/countries/americas/united-states.

[80] Long & Meng, *supra* note 64, at 14; *see also United States Immigration Detention Profile*, *supra* note 79, at 5 ("A 2010 New York Times report on deaths in detention found evidence of 'culture of secrecy' and a failure to address fatal flaws at detention cent[ers]. These issues reportedly continue to persist, with poor medical care in particular contributing to the death of immigrants in detention.").

[81] Long & Meng, *supra* note 64, at 15.

[82] *Id.*

[83] *Id.*

[84] *Id.*

[85] *Information for Asylum-Seekers in Japan*, THE UN REFUGEE AGENCY 1, https://www.refworld.org/pdfid/42b91bb64.pdf (last visited Sept. 19, 2019).

free of charge, irrespective of the individual's nationality and present legal status.[86] Under the amended Immigration Control and Refugee Recognition Act, an asylum seeker may obtain a "Permission for Provisional Stay" without a status of residence while the result of their asylum application is pending.[87] When an asylee receives a Permission for Provisional Stay, they will not be subject to detention.[88] To receive the Permission for Provisional Stay, an asylee must: apply for asylum within six months of their arrival in Japan or since the date they became aware of the fact that their situation would make them a refugee while in Japan; come directly from a territory where their life, physical security, or physical freedom were threatened due to the reasons described in Article 1, A(2) of the 1951 Convention Relating to the Status of Refugees;[89] and not have been convicted of a violation of any law or regulation of Japan, or of any other country.[90]

The asylum claim procedure consists of an individual filling out an application form available at immigrations offices and on the internet, going through an interview with a "refugee inquirer," and waiting to be notified about the decision of their application.[91] The waiting process for determining asylum status can range from several months to several years.[92] If an asylum seeker's claim is rejected by the Ministry of Justice on first instance or following an objection procedure, the asylee can seek judicial review of the decision under the Administrative Case Litigation Law (ACLL) and have their case heard before the civil courts in Japan.[93]

Although asylees may apply for the Permission for Provisional Stay under the amended Immigration Control and Refugee Recognition Act, many of them are still detained on arrival in Japan following the issue of a "detention order" once in Japan.[94] The asylees that make it to Japan must already have some sort of visa (obtaining one of these visas is extremely difficult for asylees), and if they do not, they are to be detained and barred from seeking refugee status.[95]

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[86] *Id.* at 1.

[87] *Id.* at 2; *see* Immigration Control and Refugee Recognition Act, Law No. 319 of 1951, ch. 4, § 3 (Japan).

[88] *Information for Asylum-Seekers in Japan*, *supra* note 85, at 2.

[89] *Id.*

[90] Meryll Dean, Oxford Brookes University, UK, *Japan: Refugees and Asylum Seekers*, WRITNET INDEP. ANALYSIS 25 (Feb. 2006), https://www.refworld.org/pdfid/43f4a4b94.pdf.

[91] *Information for Asylum-Seekers in Japan*, *supra* note 85, at 3.

[92] *Id.*

[93] Dean, *supra* note 90, at 5.

[94] *Id.* at 26.

[95] Tara Francis Chan, *No Entry: How Japan's Shockingly low Refugee intake is Shaped by the Paradox of Isolation, a Demographic Time Bomb, and the Fear of North Korea*, BUS. INSIDER (Apr. 11, 2018, 7:43 PM),

The number of asylees seeking asylum in Japan sharply rose after "a reform in 2010 that granted work permits to applicants awaiting government screenings for longer than six months."[96] After notice of such high numbers, the Ministry of Justice felt that the system was being misused and introduced a stricter process for obtaining a work permit.[97] On November 16, 2018, an internal memo circulated within the Tokyo Regional Immigration Bureau's Narita Airport District Immigration Office to help artificially suppress the number of asylum seekers coming to Japan.[98] The administrative memo provided instructions for making the process difficult for asylum seekers from Sri Lanka.[99] For example, to obtain asylum within Japan the government requires many details to be confirmed in writing from Sri Lankan nationals.[100] Despite it being difficult for Japan to admit asylees and Japan's apparent refusal to accept asylees and refugees, recently, in 2017, Japan was fourth on the list of donor countries to the United Nations High Commissioner for Refugees (UNHCR).[101]

2. Government Background and the Right to Health

Japan is a constitutional monarchy with the imperial family sitting as the honorary figurehead of the country.[102] Government power is distributed between three branches: the National Diet, the Cabinet, and the Judiciary.[103] The individual in charge of driving domestic policy and guiding foreign diplomacy for the nation is the prime minister of Japan—the face of Japan's acting government.[104] Japan's government provides universal healthcare coverage, which means everyone is covered by the public health insurance program.[105]

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https://www.businessinsider.com/why-japan-accepts-so-few-refugees-2018-4.

[96] *Japan Marked first fall in Asylum-Seekers in Eight Years in 2018 amid Tougher Screening*, JAPAN TIMES (Mar. 28, 2019), https://www.japantimes.co.jp/news/2019/03/28/national/japan-marked-first-fall-asylum-seekers-eight-years-2018-amid-tougher-screening/#.XbU_P-dKjfY.

[97] *Id.*

[98] Jun Ida, *Is Japan Giving Asylum Seekers the Cold Shoulder? Policies Suggest Answer is 'Yes*,' MAINICHI (May 16, 2019), https://mainichi.jp/english/articles/20190516/p2a/00m/0fe/002000c.

[99] *See id.*

[100] *See id.*

[101] Hidayet Sıddıkoğlu, *Refugee and Asylum Seeking in Modern Japan: Analysis of Japan's Humanitarian Commitments and Xenophobic Problems*, 3 GÖÇ ARAŞTIRMALARI DERGISI, 40, 55–56 n.2, (2017), http://www.gam.gov.tr/files/6-3.pdf.

[102] Caylon Neely, *The Japanese Political System*, JAPAN INDUS. NEWS (June 8, 2016), https://www.japanindustrynews.com/2016/06/japanese-political-system/.

[103] *Id.*

[104] *Id.*

[105] Tomoko Otake, *Japan's Buckling Health Care System at a Crossroads*, JAPAN TIMES (Feb. 19, 2017), https://www.japantimes.co.jp/news/2017/02/19/national/japans-buckling-health-care-system-crossroads/#.XbUnQudKjfY.

Japan prides itself on providing top health standards, which happens because of four main features of the health care system: (1) "insurance for everyone—regardless of pre-existing conditions or economic status;" (2) "free access, meaning patients are free to choose any hospital nationwide;" (3) "high-level care at low cost; and" (4) "the use of public money to maintain it."[106] Japan has had their universal healthcare system in place since 1961, which contributes to their high life expectancy rates.[107] The Japanese government regulates all aspects of the universal Statutory Health Insurance System (SHIS).[108] Under Japanese law and the SHIS, national and local governments (in Japan's forty-seven prefectures, or regions) are required to ensure a system that provides good-quality medical care throughout Japan.[109] Under the SHIS is Japan's National Health Insurance, which is made up of their Employees' Health Insurance and Community Health Insurance plans.[110] The National Health Insurance is unique to the Japanese health system because the plan has extended coverage to the entire population over time.[111]

Under the Japanese system, in exchange for access to government-approved medical procedures and medications, Japanese citizens must join a public insurance program through their employer or municipal government and pay a monthly premium that is determined by their income.[112] As seen above, the Japanese government, in combination with independent practitioners, has an overwhelming control over detailed policy decisions regarding health care.[113]

3. Health Benefits for Asylees

> "It's not like I committed any crimes. All I did was come to Japan because I feared persecution, and filed for refugee status," said Mehmet Colak, a 38-year-old Kurd from Turkey, at a visitation room at the Tokyo Regional Immigration Bureau in the capital's Minato Ward, where he has been detained since last January. "Why do I have to continue being bullied? . . . In March, Colak, who was in detention

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106 *Id.*

107 Claire Leppold et al., *Defining and Acting on Global Health: The Case of Japan and the Refugee Crisis*, 5 INT'L J HEALTH POL'Y & MGMT 457, 457 (2016).

108 Ryozo Matsuda, *The Japanese Health Care System*, COMMONWEALTH FUND, https://international.commonwealthfund.org/countries/japan/ (last visited Oct. 23, 2019).

109 *Id.*

110 Haruka Sakamoto, *Japan Health System Review*, 8 HEALTH SYS. IN TRANSITION No. 1, 7 (2018), https://apps.who.int/iris/bitstream/handle/10665/259941/9789290226260-eng.pdf;jsessionid=FAF5B299524C48DA4CFD8A20F1984029?sequence=1.

111 *Id.*

112 Otake, *supra* note 105.

113 *Id.*

> at the Tokyo Regional Immigration Bureau, fell extremely ill. Immigration authorities twice turned away an ambulance that his family had called to the detention center on Colak's behalf. The incident was even brought up in the Diet.[114]

As stated in the previous section, Japan's healthcare system is praised for being easily accessible for Japanese patients and being a form of universal health coverage.[115] However, numerous asylees or foreign residents in Japan, like Mehmet Colak from the story above, face many barriers and obstacles to obtain access to healthcare. This has grown to be a major problem within the country.[116] For example, asylum seekers with expired visas are not covered by the universal health coverage in Japan.[117] Some hospitals have started to deny care to asylees who do not have insurance.[118] It has been reported that some hospitals charge higher medical fees or urge early discharges of foreign patients without insurance.[119] In addition, many hospitals are encouraged by the Japanese government to strictly check identity documents and insurance cards before treating a patient because the government wants to increase the number of special coordinators to help foreign patients instead of hospital doctors and personnel.[120] The UNHCR does not provide any financial assistance to asylum seekers in Japan, as the responsibility for doing so belongs to the Japanese government.[121] The government provides financial assistance for asylees in serious need through the Refugee Assistance Headquarters (RHQ).[122] The monthly allocations received by the RHQ may also help with covering an asylee's medical expenses, if necessary.[123]

While asylum seekers wait for their pending asylum applications, they can be granted temporary permission to stay in Japan.[124] However, this permission does not grant legal status, the right to work, or the right to access healthcare or other types of welfare assistance.[125] To obtain some assistance or benefit, asylum

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114 Ida, *supra* note 98.

115 Kosuke Yasukawa et al., *Health-care Disparities for Foreign Residents in Japan*, 393 LANCET 873, 873 (Mar. 2, 2019), https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(19)30215-6/fulltext.

116 *Id.*

117 *Id.*

118 *Id.*

119 *Id.*

120 *Id.*

121 *Information for Asylum-Seekers in Japan*, *supra* note 85, at 5.

122 *Id.*

123 *Id.*

124 Leppold et al., *supra* note 107, at 458.

125 *Id.*

seekers in Japan regularly use the Japanese Association for Refugees (JAR).[126] The JAR has an independent emergency fund for urgent care and assists uninsured migrants with limited healthcare access.[127]

C. Germany

1. Obtaining Asylum in Germany

Obtaining asylum in Germany is regulated by the German Asylum Act.[128] The process includes the following steps: (1) asylum application; (2) Dublin examination (Dublin-Prüfung); and (3) hearing and decision making.[129] In order to get to the step of applying for asylum, an asylum seeker must first register as an asylum seeker.[130] Getting to the first step of filing the asylee application can be quite difficult.[131] For example, if migrants report at the border while trying to enter Germany without the necessary documents, entry has to be denied on the grounds that the migrant has travelled through a safe third country in order to get to Germany.[132] Asylees may also be denied entry if authorities are able to show within forty-eight hours that they have already applied for asylum in another country such as Greece or Spain.[133] If an asylee's attempt to enter is denied at the border or the airport, a regular procedure takes place.[134] For the regular procedure route, the application has to be filed at the Federal Office for Migration and Refugees.[135]

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[126] Neal S. Parikh, *Migrant health in Japan: Safety-Net Policies and Advocates' Policy* Solutions, 8 ASIA-PACIFIC J. 6 n.3 (Mar. 22, 2010). *See generally What We Do*, JAPANESE ASS'N FOR REFUGEES, https://www.refugee.or.jp/en/jar/ (last visited Feb. 8, 2020).

[127] Parikh, *supra* note 126, at 6; *see also id*. at 2 (discussing how the "Japanese immigration policy prioritizes migrant control over migrant rights, and this policy dynamic manifests itself in the nearly nonexistent healthcare safety net and the resulting transfer of responsibility to NGOs and civil groups").

[128] *Asylum Procedure*, HANDBOOK GERMANY, https://handbookgermany.de/en/rights-laws/asylum/asylum-procedure.html (last visited Sept. 19, 2019); *see* Asylum Act, Sept. 2, 2008, https://www.gesetze-im-internet.de/englisch_asylvfg/englisch_asylvfg.pdf (Ger.).

[129] *Asylum Procedure*, *supra* note 128.

[130] *Id.*

[131] *See generally* Informationsverbund Asyl und Migration, *Short Overview of the Asylum Procedure: Germany*, ASYLUM INFO. DATABASE, http://www.asylumineurope.org/reports/country/germany/asylum-procedure/general/short-overview-asylum-procedure (last visited Sept. 19, 2019) [hereinafter *Short Overview of Germany Asylum Procedure*].

[132] *Id.*

[133] *Id.*

[134] *Id.*

[135] Asylum Act, *supra* note 128, ch. 3, § 5; *see Short Overview of Germany Asylusm Procedure*, *supra* note 131.

Asylum seekers in Germany are to be accommodated in an initial reception center for up to six months during the first stage of their asylum claim.[136] Asylees from safe countries are required to stay in initial reception centers for the entire duration of their claim.[137] Asylees are to be interviewed while they are in the initial reception centers, however, this rarely occurs.[138] Currently, asylees that are not from safe countries of origin are sent to local accommodation centers where they are required to stay as they continue to wait for the results of their asylum claim.[139]

After applying to be an asylum seeker and filing their asylum application, the asylum procedure has started and the Bundesamt für Migration und Flüchtlinge (BAMF) must "decide whether an asylum seeker is entitled to: (1) Constitutional asylum, restricted to people persecuted by state actors for political reasons; (2) Refugee status according to the 1951 Refugee Convention and to the Qualification Directive; (3) Subsidiary protection; and/or (4) Other forms of protection, called prohibition of deportation (Abschiebungsverbot)."[140]

Asylees are granted asylum in Germany for reasons including political persecution in their home country as statutorily addressed in §16 of the German Constitution.[141] Asylees are also granted asylum in Germany for persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion according to the Convention Relating to the Status of Refugees ("1951 Refugee Convention").[142]

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136 Federal Office for Migration and Refugees, *The Stages of the German Asylum Procedure: An Overview of the Individual Procedural Steps and the Legal Basis*, BAMF 12, https://www.bamf.de/SharedDocs/Anlagen/EN/AsylFluechtlingsschutz/Asylverfahren/das-deutsche-asylverfahren.pdf?__blob=publicationFile&v=12; *Short Overview of Germany Asylum Procedure*, *supra* note 131.

137 *Short Overview of Germany Asylum Procedure*, *supra* note 131. *See generally* Federal Office for Migration and Refugees, *supra* note 136. Asylees are typically sent to a competent reception facility which is responsible for providing food and board for asylum seekers. Asylees receive benefits during their stay and a monthly amount of money to take care of their everyday personal needs. The benefits are regulated and ensured through the Asylum-Seekers' Benefits Act (Asylbewerberleistungsgesetz).

138 *Short Overview of Germany Asylum Procedure*, *supra* note 131.

139 *Id.*

140 *Id.*

141 Grundgesetz [GG] [Basic Law], translation at https://www.btg-bestellservice.de/pdf/80201000.pdf; Hannah S. Borgschulte et al., *Health Care Provision for Refugees in Germany – One-year Evaluation of an Outpatient Clinic in an Urban Emergency Accommodation*, BMC HEALTH SERV. RES. 2 (June 25, 2018), https://bmchealthservres.biomedcentral.com/track/pdf/10.1186/s12913-018-3174-y.

142 Borgschulte et al., *supra* note 141.

Since early 2015, Germany has received 1.3 million first-time applications for asylum, which makes up about 1.6 percent of the country's population.[143] The number of incoming asylum seekers has doubled since the preceding decade.[144]

2. Government Background and the Right to Health

Germany is a republic with its' head of state being the President.[145] Germany has a federal system made up of sixteen states, in which each state possesses its own parliament and state leader, or minister-President.[146] Each state is provided with its own individual authority, such as its own police force, education system, and health system.[147] Each state has its own immigration issues, and is responsible for instating policies of registering refugees and deporting illegal migrants.[148]

Under the federal level, the Federal Ministry of Health (Bundesministerium für Gesundheit–BMG) is responsible for health policy-making.[149] The Federal Ministry of Health has the tasks of developing laws and drawing up administrative guidelines for the self-governing activities within the healthcare system.[150] The Federal Ministry of Health assigns many institutions and agencies, such as the Federal Institute for Drugs and Medical Devices (Bundesinstitut für Arzneimittel und Medizinprodukte–BfArM) and the Paul Ehrlich Institute (PEI), with the responsibilities of dealing with higher-level issues of public health.[151] The Federal Joint Committee (G-BA) is the highest decision-making body within the self-governing health care system and makes many decisions concerning statutory health insurance, such as medical services covered by the statutory insurers and detailing what form of coverage those insurers will take.[152] A challenge for Germany's healthcare system is that it is

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143 Sebastian Bauhoff & Dirk Gopffarth, *Asylum-seekers in Germany differ from Regularly Insured in their Morbidity, Utilizations and Costs of Care*, 13 PLOS ONE (May 24, 2018), https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0197881.

144 *Id.*

145 Jörg Luyken, *German Politics – 10 Things you need to Know*, LOCAL (Feb. 201, 2017), https://www.thelocal.de/20170220/10-things-you-need-to-know-about-german-politics-democracy.

146 *Id.*

147 *Id.*

148 *Id.*

149 *Health Care in Germany: The German Health Care System*, NAT'L CTR. BIOTECHNOLOGY INFO. (Feb. 8, 2018), https://www.ncbi.nlm.nih.gov/books/NBK298834/.

150 *Id.*

151 *Id.*

152 *Id.*

struggling to integrate the recent influx of migrants—more specifically asylum seekers.[153]

3. Health Benefits for Asylees

Asylum seekers in Germany do not have the same rights as German citizens until they have resided in the country for three years.[154] Since 2005, health administrators are required to report the presence of undocumented migrants to immigration officials.[155] There are three stages of access to health care services for asylum-seekers: (1) centralized reception centers provide shelter, health assessments and basic health services, and process asylum applications; (2) after six to twelve weeks, asylees are then relocated to municipalities that are responsible for providing basic benefits, including access to limited health care services; and (3) asylees whose application has been accepted, who are still waiting their pending decision after fifteen months, or who are waiting expulsion, have access to the same health care benefits as all German citizens.[156]

Throughout these stages, Germany has in place what is known as the Asylum Seekers Benefit Act (AsylbLG).[157] Under the AsylbLG, asylees benefit from the following medical services: "[p]roper medical treatment of acute illnesses; [m]edical care for pregnant women and those who have recently given birth; [b]asic dental care; [p]reventative vaccination; [and] [o]ther essential medical services for a particular illness."[158] Although asylees benefit from the above medical services under the AsylbLG, they are restricted from the use of social services.[159] To receive treatment for chronic diseases, approval by the social security office of the receiving municipality paying for medical services is required.[160] Entitlement to other services outside of limited benefits may be authorized on a case-by-case basis by the municipalities.[161] Public health

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153 Bauhoff & Gopffarth, *supra* note 143.

154 *Access to Health Care for Migrants and Asylum-seekers*, *supra* note 69, at 65.

155 *Id.* at 68.

156 Bauhoff & Gopffarth, *supra* note 143.

157 *Health Care for Refugees and Asylum Seekers in Germany*, GERMANY HEALTH INS. SYS., https://www.germanyhis.com/health-care-refugees-asylum-seekers/ (last visited Sept. 16, 2019).

158 *Id.*; *see also* Parikh, *supra* note 126, at 2. The Asylum Seekers Benefit Law along with the Penal Code and law for Infectious Diseases, entitles asylum seekers at minimum, emergency care and limited infectious disease care.

159 Borgschulte et al., *supra* note 141.

160 *Id.*

161 Bauhoff & Gopffarth, *supra* note 143. The specific provision for women receiving medical services falls under the idea of women being entitled to "medical and nursing help and support," such as midwife assistance. Informationsverbund Asyl und Migration, *Health Care: Germany,* ASYLUM INFO. DATABASE, https://www.asylumineurope.org/reports/country/germany/reception-conditions/health-care (last visited Sept.

services, like immunizations and translation services are available for use by asylees as well.[162] Municipalities may also contract with health plans that can issue a standard health card that grants direct access to primary and specialist outpatient and inpatient services.[163] Asylees seeking mental health, dental prostheses, and rehabilitations services require explicit approval.[164]

Although Germany provides the Asylum Seekers Benefit Act for asylees to receive healthcare benefits, Germany ultimately provides very limited safety-net coverage to asylum seekers.[165] Asylees are disadvantaged by the safety net because of limiting policies that compel public authorities, such as welfare personnel who reimburse providers for undocumented migrant care, to report asylum seekers for "possible deportation and that criminalize routinely assisting" asylum seekers.[166] Conflicting policies "severely limit the utility of the safety net in Germany."[167]

In order to actually receive medical treatment, an asylum seeker must initially provide evidence (shown by means of a medical authorization known as Berechtigungsschein) which measures how medical assistance is critical for their long-term health.[168] Asylees may get documentation for evidence at the refugee reception center or at local social welfare offices.[169] During the third stage of healthcare accessibility, after having been in Germany for more than fifteen months, asylees may enjoy the regular medical care from the statutory health insurance company of the German state in which they are residing.[170] After the fifteen month period, asylees may also be entitled to social benefits as regulated in the Twelfth Book of the Social Code (Sozialgesetzbuch).[171]

In 2014, Germany received the highest number of asylum applications worldwide, which led the nation to place legal restrictions on access to healthcare for asylum seekers and provide mainly emergency care only.[172] These

19, 2019) [hereinafter *Health Care: Germany*].

162 Bauhoff & Gopffarth, *supra* note 143.

163 *Id.*

164 *Id.*

165 Parikh, *supra* note 126, at 2.

166 *Id.*

167 *Id.*

168 GERMANY HEALTH INS. SYS., *supra* note 157.

169 *Id.*

170 *See id.*

171 *Health Care: Germany*, *supra* note 161.

172 Christine Schneider, Stefanie Joos, & Kayvan Bozorgmehr, *Disparities in Health and Access to Healthcare Between Asylum Seekers and Residents in Germany: A Population-based Cross-Sectional Feasibility Study*, 5 BMJ OPEN 2 (Nov. 4, 2015).

legal restrictions were made due to bureaucratic barriers that consisted of: "access to any type of ambulatory or specialist care is conditional on the receipt of a healthcare voucher, which has to be granted by the local welfare agency after personal request by the [asylum seeker]."[173] Although these barriers have been in place for two decades, they are aggravated by the exclusion of asylum seekers from "routine health monitoring systems in Germany."[174]

D. Switzerland

1. Obtaining Asylum in Switzerland

Obtaining asylum in Switzerland is governed by Switzerland's Asylum Act, under article 121 of the Swiss Constitution.[175] More specifically, the Swiss Asylum Act of 26 June 1998 regulates the asylum procedures.[176] Under the act, the State Secretariat for Migration (SEM) authorizes the application of asylum law, such as establishing the criteria and mechanisms for the responsibility for examining an application for international protection.[177] Each canton (state/region) within Switzerland has the authority of deciding whether to examine an asylum claim.[178] For example, asylees that claim asylum at the border or following an illegal entry into Switzerland are first transferred to a federal reception and procedure center.[179] Within the federal reception and procedure centers, asylees are not offered medical assistance by medical professionals.[180]

Switzerland has many legislative documents that take into consideration asylum seekers obtaining asylum in Switzerland. Some Swiss asylum legislation was created based on the principles within the Geneva Convention Relating to the Status of Refugees.[181] Under these principles, asylum seekers are awarded asylum in accordance with the criteria given under international law to

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173 *Id.*

174 *Id.*

175 BUNDESVERFASSUNG [BV] [CONSTITUTION] Apr. 18, 1999, art. 121 (Switz.); Geraldine Marks-Sultan et al., *The Legal and Ethical Aspects of the Right to Health of Migrants in Switzerland*, PUB. HEALTH REV. 5 (2016), https://publichealthreviews.biomedcentral.com/track/pdf/10.1186/s40985-016-0027-2.

176 AsylA (Asylum Act), June 26, 1998, https://www.admin.ch/opc/en/classified-compilation/19995092/index.html (Switz.); Marks-Sultan et al., *supra* note 175.

177 Asylum Act, *supra* note 176, ch. 2, art. 6a; Marks-Sultan et al., *supra* note 175.

178 Marks-Sultan et al., *supra* note 175.

179 *Id.*

180 *See id.*

181 Jenny Gesley, *Switzerland*, LIBR. OF CONGRESS: REFUGEE LAW AND POLICY (June 21, 2016), https://www.loc.gov/law/help/refugee-law/switzerland.php#General.

applicants who are threatened or persecuted.[182] The Asylum Act is responsible for regulating the number of asylees granted asylum, the legal status of refugees in Switzerland, and the temporary protection status of individuals in need of protection in Switzerland before returning back to their home country.[183] Another legislative document, the Foreign Nationals Act, is responsible for regulating the entry and exit, residence, and family reunification of foreign nationals in Switzerland, along with measuring further integration of Swiss citizens and foreign individuals.[184]

The process for obtaining asylum in Switzerland first begins with the asylee submitting an application that can be filed at a border control point at a Swiss airport, upon entry at an open border crossing, or at a reception and processing center inside Switzerland.[185] An asylee may submit an application verbally or in writing at any of the border posts previously stated.[186] If the asylee files their application for asylum at the border or within Switzerland, the asylee is then assigned to a reception and processing center where the asylee's personal details are recorded, fingerprints and photographs are taken, and a summative questioning is performed.[187] An asylee may await the asylum procedure at the airport or in a cantonal processing center.[188] Once the application is completed, the preparatory phase begins where asylum seekers are obligated to disclose any serious health problems of relevance to the asylum and removal procedures.[189] The preparatory phase is split into two steps.[190] In the first step, the asylum seeker benefits from a preliminary advisory meeting about the asylum procedure.[191] Instead of having meetings, providing asylees with leaflets is what is used most.[192] The second step consists of the interview processes which focuses on the identity, the origin and the living conditions of the applicant, and

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[182] *Id.*

[183] BUNDESVERFASSUNG [BV] [CONSTITUTION] Apr. 18, 1999, art. 121 (Switz.); Gesley, *supra* note 181.

[184] Federal Act on Foreign Nationals and Integration, Dec. 16, 2005, ch. 2–3, https://www.admin.ch/opc/en/classified-compilation/20020232/201912010000/142.20.pdf (Switz.); Gesley, *supra* note 181.

[185] Gesley, *supra* note 181.

[186] *Asylum*, SWISSINFO.CH (Feb. 21, 2019, 5:06 PM), https://www.swissinfo.ch/eng/asylum/41961696.

[187] Gesley, *supra* note 181.

[188] *Id.*

[189] Marks-Sultan et al., *supra* note 175, at 6.

[190] *See generally* Swiss Refugee Council, *Short Overview of the Asylum Procedure: Switzerland*, ASYLUM INFORMATION DATABASE (Feb. 22, 2019), https://www.asylumineurope.org/reports/country/switzerland/asylum-procedure/general/short-overview-asylum-procedure [hereinafter *Short Overview of the Asylum Procedure: Switzerland*].

[191] *See id.*

[192] Seraina Nuffer et al., *Asylum Information Database: Country Report – Switzerland*, ASYLUM INFORMATION DATABASE 43 (Apr. 8, 2015), https://www.asylumineurope.org/sites/default/files/report-download/aida_switzerland_april2015.pdf.

essential information about the journey to Switzerland and reasons for seeking asylum.[193]

Once an asylee applies for asylum, they receive a document known as the N-Permit, which simply certifies or confirms that the person has applied for asylum in Switzerland and is waiting for the SEM to issue a decision.[194] While asylees wait for their decision, they are allowed to stay in Switzerland, in reception and processing centers.[195] Asylees stay in these centers for varying ranges of times.[196] Some stay within the center for up to ninety days, while some others stay even longer.[197] Typically, after ninety days, the SEM assigns the asylee to a canton where cantonal authorities are then responsible for providing lodging and a place of residence for the asylee.[198] If the asylee has been in Switzerland for at least five years without a decision, they may apply for recognition as a hardship case under circumstances specified under the Asylum Act.[199]

As of March 2019, Switzerland's asylum procedures have undergone revision, either entirely or partially.[200] The purpose of revision is to speed up the progress of the asylum procedure in Switzerland.[201] The plan aims to bring together all the main actors of the procedure under one area, and allowing asylum procedures to be carried out in federal centers located in six defined regions in Switzerland.[202]

2. Government Background and the Right to Health

Switzerland, or the Swiss Confederation (official name),[203] is a democratic, federal state composed of twenty-six cantons, each with far-reaching autonomy.[204] Switzerland's government, parliament, and courts are organized

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193 *Short Overview of the Asylum Procedure: Switzerland*, *supra* note 190.

194 *Asylum Seekers*, SWISS REFUGEE COUNCIL, https://www.refugeecouncil.ch/asylum-law/legal-status/asylum-seekers.html (last visited Sept. 16, 2019).

195 *Id.*

196 *Id.*

197 *Foreigners and Asylum Seekers in Switzerland*, FED. OFF. FOR MIGRATION 8 (Apr. 2012), https://www.refworld.org/pdfid/4fb0ed392.pdf [hereinafter *Foreigners and Asylum Seekers*]; *Asylum Seekers*, *supra* note 194.

198 *Foreigners and Asylum Seekers*, *supra* note 197; *Asylum Seekers*, *supra* note 194.

199 *Asylum Seekers*, *supra* note 194.

200 *Short Overview of the Asylum Procedure: Switzerland*, *supra* note 190.

201 *Id.*

202 *Id.*

203 *Finding Your Way in Switzerland as a Refugee*, FED. OFF. FOR REFUGEES 8 (2004), https://www.refworld.org/pdfid/4ed89a862.pdf [hereinafter *Finding Your Way*].

204 *Switzerland's Political System and Government*, ALL ABOUT SWITZERLAND, http://swiss-government-

on the following three levels: (1) federal; (2) cantonal; and (3) communal.[205] While the federal level dictates foreign relations, army, customs examinations and tariffs, the cantons are in charge of their own armed police forces and run their own hospitals and universities.[206] The cantons share a large responsibility in the area of health, such as health prevention, promotion, and provision of healthcare to the population.[207] Cantons may also adopt their own health policies, laws, and regulations within the scope of their authority, which occurs mainly in the field of immigration since cantons are responsible for granting residence permits in accordance with federal legislation.[208] However, for the Swiss asylum policy, the authority belongs to the Federal State.[209]

Switzerland is known to be an opened-minded and tolerant nation.[210] "The Swiss attach great importance to basic social values such as democracy, respect of the rule of law, equality for men and women and religious tolerance."[211] The idea of the right to health is extremely important and enshrined in the 1999 Swiss Federal Constitution through numerous articles.[212] In Switzerland, the right to health ensures: the protection and promotion of the populations health, respect for freedoms associated with medical research and ethics, and the right/duty to assist its population in times of distress.[213]

3. Health Benefits for Asylees

In Switzerland, asylum seekers are allowed access to healthcare during the entire asylum procedure.[214] Under the regime of emergency aid, asylees are afforded healthcare during their time spent in reception and processing centers, and then their health care transfers when they are assigned to a canton.[215] While in the federal centers, or the reception and processing centers, asylees have access to all necessary medical and dental care, both basic care and emergency

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politics.all-about-switzerland.info/ (last visited Oct. 23, 2019).

[205] *Id.*

[206] *Id.*

[207] Marks-Sultan et al., *supra* note 175, at 3.

[208] *Id.*

[209] *Id.*

[210] *Finding Your Way*, *supra* note 203.

[211] *Id.*

[212] Marks-Sultan et al., *supra* note 175, at 3.

[213] *Id.*

[214] Swiss Refugee Council, *Health Care: Switzerland*, ASYLUM INFO. DATABASE (Feb. 22, 2019) https://www.asylumineurope.org/reports/country/switzerland/reception-conditions/health-care [hereinafter *Health Care: Switzerland*].

[215] *Id.*

care.[216] When first arriving to a reception and processing center, asylum seekers are tasked with submitting a compulsory medical examination that consists of filling out a medical questionnaire.[217] The medical questionnaire generally screens for a few communicable diseases and vaccinations.[218] Paramedical staff may be available during this screening process in the daytime, however, they are not always present.[219] When staff is present and available to assist asylees with medical issues, the staff (most likely nurses), examine the gravity of the medical issue and determine whether or not to send the asylee to the doctor.[220] First decisions regarding medical needs are made by nurses and administrative staff.[221]

Access to medical staff is rather limited in practice for asylum seekers in the reception and processing centers, and the type of assistance they receive depends on the resources of the center.[222] While an asylee is in the preparatory phase of the asylum process, the medical screening occurs for medical health, but does not touch on mental health screening, which plays a major role in the health problems many asylees have.[223]

Under the Federal Act on Health Insurance of March 18, 1994, all asylum seekers are provided a generalized affiliation to health insurance when assigned to a canton.[224] In Switzerland, every asylum seeker has health insurance.[225] The Asylum Act instructs specific dispositions that allow cantons to limit the choice of insurers, insurance service providers, physicians, and hospitals for asylum seekers, but nevertheless, still provide some sort of health insurance for asylees.[226] Services such as psychological or psychiatric treatment are covered by asylee's health insurance in Switzerland.[227] When asylees are assigned to a canton, their healthcare costs are covered by the social assistance they receive from the moment of the assignment.[228]

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216 *Id.*

217 *Id.*

218 Alexander Bischoff, et. al., *Health and Ill Health of Asylum Seekers in Switzerland: An Epidemiological Study*, 19 EUR. J. PUB. HEALTH 59, 59 (2009).

219 Nuffer et al., *supra* note 192, at 75.

220 *Id.*

221 *Id.*

222 *Health Care: Switzerland*, *supra* note 214.

223 Bischoff, et. al., *supra* note 218.

224 *See*, *e.g., Health Care: Switzerland*, *supra* note 214.

225 *Id.*

226 *Asylum Seekers*, *supra* note 193 (hospitals); *Health Care: Switzerland*, *supra* note 214.

227 *Health Care: Switzerland*, *supra* note 214.

228 *Id.*

Swiss law, under the regime of emergency aid, adheres to the idea that access to healthcare must be guaranteed for asylum seekers during the entire process and even longer after dismissal or rejection of the application.[229]

II. ISSUES AND CRITICISMS OF CURRENT ASYLEE POLICIES AND PROCEDURES

A. The United States

The main issue with modern U.S. policies and procedures is that virtually all asylum seekers apprehended at U.S. borders are subjected to lengthy detentions, regardless of their circumstances, which then leads to a detrimental impact on the mental health of an already traumatized population.[230] Many reports have concluded that ICE has proven unable or unwilling to provide adequate healthcare and safety mechanisms for the asylees held in detention centers.[231] Detention centers are regularly criticized due to their lack of satisfying health guidelines and regulations towards adequately assessing the needs of asylum seekers.[232] This problem of poor medical care in detention centers for immigrants and asylees is growing in scale and potential severity.[233]

In the United States, the Trump administration has made proposals to expand detention and weaken existing standards, which in turn will further endanger lives of immigrants and asylum seekers as the number of those trying to come to the United States increases.[234] There has been much uproar against these ideas and efforts to hold the administration more accountable from groups such as the Human Rights Watch.[235] The Human Rights Watch, as an immediate priority, has called on Congress: to decrease detention instead of expanding it; to demand stronger health safety initiatives and human rights standards for all types of immigration detention facilities; and to uphold better accountability by monitoring and engaging in strong oversight of detention facilities through frequent immigration requests, hearings, and investigations.[236]

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229 *Id.*

230 *Access to Health Care for Migrants and Asylum-seekers*, *supra* note 69.

231 Ohta & Long, *supra* note 65, at 115.

232 *Access to Health Care for Migrants and Asylum-seekers*, *supra* note 69.

233 Ohta & Long, *supra* note 65, at 115.

234 *Id. See generally Asylum Seekers & Refugees*, NAT'L IMMIGRANT JUST. CTR. (last updated Jan. 2020), https://www.immigrantjustice.org/issues/asylum-seekers-refugees (containing a comprehensive timeline of all the actions done by the Trump Administration when dealing with the changes seen in asylum policy and procedures).

235 Ohta & Long, *supra* note 65, at 115–16.

236 *Id.*

The United States continues to struggle with the issue of providing adequate healthcare for asylum seekers and issues with providing adequate access to care.[237] Recurrent procedural problems seen include: "incomplete intake assessments"; "denial of continued treatment"; "language access barriers"; "delays in medical treatment"; "denial of off-site care"; "failure to manage chronic conditions"; "failure to manage mental health problems"; "acute pain ignored"; and "release without discharge planning."[238] Many of these problems arise from ICE and its contractors failure to act on information received during intake about people's medical histories.[239] According to ICE's standards, the detention center should respond to people's medical requests within forty-eight hours, however, the New York Lawyers for Public Interest (NYLPI) interviewed multiple people who reported that they waited for weeks and even months to receive treatment.[240] Many asylees have stated that they have had to wait long periods of time to receive treatment for even very serious symptoms and acute pain.[241]

The United States has policies and procedures to provide adequate healthcare for asylum seekers, but these processes fail at many levels. Sometimes the failure occurs due to internal county jail medical or non-medical personnel causing delays in treating the individual, while other times the failure is due to ICE's delay in determining whether to approve medical care.[242]

For example, when an asylee is in need of emergency room care or inpatient/outpatient services, the detention center's medical provider refers their request to ICE Field Medical Coordinators.[243] The ICE Field Medical Coordinators will then approve or deny offsite services for ICE detainees.[244] Issues arise because many people have reported that ICE often denies their requests without providing alternative care solutions or reasons for the denial.[245] Asylum seekers in need of off-site care reported that detention center doctors told them that ICE refused the requests because the cost is too high.[246] Along

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237 *Detained and Denied: Healthcare Access in Immigration Detention*, NYPLI 6–15 (Feb. 2017).

238 *Id.*

239 *Id.* at 6.

240 *Id.* at 19; *see* Long & Meng, *supra* note 64 at 9.

241 NYPLI, *supra* note 237, at 9.

242 *Id.*

243 *Id.* at 11.

244 *Id.*

245 Jeremy Slack, Daniel E. Martinez, & Josiah Heyman, *Immigration Authorities Systematically Deny Medical Care for Migrants who Speak Indigenous Languages*, CTR. FOR MIGRATION STUD. 1, 1–2 (Dec. 21, 2018), https://cmsny.org/publications/slackmartinezheyman-medical-care-denial/; NYPLI, *supra* note 237, at 11.

246 NYPLI, *supra* note 237, at 11.

with the idea of providing required healthcare services for asylees being too costly, there has been significant evidence reporting that ICE does know about many of the deficiencies in its medical care system, but has willingly and systematically failed to take swift and appropriate action.[247] Investigations into the death of individuals while in detention have shown that ICE lacks the procedures necessary to take appropriate and timely corrective action.[248] Annual reports by the Office for Civil Rights and Civil Liberties (CRCL) at the Department of Homeland Security have reported allegations of abusive conditions in detention centers being reported to ICE, however, ICE does not respond for years or responds in ways that are deemed inadequate to the CRCL.[249]

There are many ways the United States could reduce the number of issues that arise around providing adequate healthcare for asylum seekers. The state could ensure appearance at removal hearings to protect public safety and could effectuate removal by releasing many detainees and supervising them through a community-based program that provides case support.[250] Many studies have shown that similar initiatives would cost considerably less and promote the idea of adhering to international human rights principles.[251] However, the United States continuously pushes forward the idea of creating more detention centers and expanding their use.[252] Expanding the use of detention centers presents many challenges, such as being able to "adequately monitor[] and hold[] accountable a diffuse and disparate system with numerous operators, including those with a strong incentive to reduce costs"—leading to more and more people not being allowed adequate care and access to a human right.[253]

Within the United States, states play a role in improving or contributing to the healthcare and detention center conditions provided for asylum seekers because ICE relies on contracts with many local governments for detention space.[254] For example, California detains more immigrants than any state except Texas.[255] California has recently took initiatives to assist with the detaining

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247 Long & Meng, *supra* note 64, at 4.

248 *Id.*

249 *Id.*

250 *A Community-Based Alternative to Detention*, FREEDOM FOR IMMIGRANTS, https://www.freedomforimmigrants.org/our-solution (last visited Feb. 8, 2020); Long & Meng, *supra* note 64, at 5,7.

251 Long & Meng, *supra* note 64, at 5.

252 Alexia Fernández Campbell, *Reminder: Trump Doesn't Need to Keep Migrants in Detention Camps*, VOX (July 4, 2019, 9:30 AM); Long & Meng, *supra* note 64, at 3, 5.

253 Long & Meng, *supra* note 64, at 5.

254 *Id.* at 6

255 *Id.*

process to adhere to human rights by promoting Senate Bill 29 (Dignity Not Detention Act),[256] which "end[s] localities' contracts with private companies to hold immigrants in detention; requires localities that hold immigrants in detention for the federal government to adhere to the most recent Performance-Based National Detention Standards; and make these standards enforceable by the California Attorney General and local district and city attorneys."[257]

Under the U.S. Constitution and international law, anyone who is detained or incarcerated is entitled to adequate medical care, and although U.S. states like California are trying to make an effort to abide by such rules, the Trump administration has resisted.[258] The administration is obligated to ensure that all people in detention centers are treated humanely, with dignity, and with proper medical care.[259] The United States must work on limiting the scope of detention centers to what is truly necessary and ensure that those who are detained are treated humanely.[260]

B. Japan

There has not been an explicit international agreement established for the global health crisis, however, there has been support from the international community to aid the refugee health and asylum processes.[261] The main issue with Japanese policies and procedures is that when questioned as to why the nation is not providing access to health for asylum seekers and refugees they report limited finances.[262] Statistics support criticisms of Japan's policies. Recently, in 2014, only 11 of 5,000 applicants (0.2%) were accepted for asylum in Japan.[263] In 2015, there was no significant increase with 27 of 7,586 applicants (0.3%) accepted.[264]

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256 Xavier Becerra, California Attorney General, *The California Department of Justice's Review of Immigration Detention in California*, CAL. DEP'T OF JUST. ii n.3 (Feb. 2019) ("Pursuant to Senate Bill 29 (SB 29), codified as Civil Code section 1670.9, effective January 1, 2018, no city, county, or local law enforcement agency in California may 'enter into a contract with the federal government or any federal agency or a private corporation, to house or detain in a locked detention facility noncitizens for purposes of civil immigration custody.'").

257 Long & Meng, *supra* note 64, at 6.

258 Tom K. Wong, *Opinion: Every Aspect of America's Asylum System Now Seems Broken*, L.A. TIMES (Sept. 4, 2019, 3:00 AM), https://www.latimes.com/opinion/story/2019-09-03/asylum-migrants-immigration-detention-border-trump; Long & Meng, *supra* note 64, at 4.

259 Long & Meng, *supra* note 64, at 6.

260 *Id.*

261 Leppold et al., *supra* note 107, at 457.

262 *Id.*

263 *Id.*

264 *Id.*

The Japanese healthcare system has changed little since switching over to universal coverage in 1961.[265] Japan's society is rapidly aging and shrinking ranks of premium-paying workers along with the arrival of pricey new drugs and technologies.[266] These factors have caused great strain on Japan's healthcare system, which makes sustainability for the country uncertain.[267] Because of this, Japan is known to have one of the world's toughest asylum policies—despite being the third-largest economy as of 2018.[268] Strict policies, geography, and history are other factors that have limited asylum seekers access to Japan, while a general preference for its homogenous society means citizens have little motivation to push for change within the country.[269] Japan's asylum procedures and policies work to ensure the number of asylum seekers and refugees coming into the country remain very low.[270] Japan's focus has been to prevent or severely control the number of foreigners entering the country due to their economically based foreign policy considerations and underpinning goals of preserving Japan's unique ethnic, cultural, and linguistic homogeneity.[271]

Japan has rebutted criticisms of their harsh behavior toward asylum seekers with the idea that there has been political insistence that domestic problems affecting Japan's own people must be addressed before accepting refugees—a statement which directly conflicts with the idea of health as a global responsibility.[272] In 1981, Japan ratified the 1951 Refugee Convention, but has yet to adopt its actual principles into law.[273] Criticisms of Japan's refugee-related policies and procedures consist of claiming their use of bureaucracy, lack of transparent procedures, and deporting individuals recognized for their status as refugees by the UNHCR.[274] The other hardship that asylum seekers in Japan must face is the idea of having to wait so long for decisions to be made about their status and if they will be recognized as refugees.[275] The asylees who are granted temporary permission to stay in Japan are not automatically allowed the right to work.[276] Those who are not granted temporary permission are then

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265 Otake, *supra* note 105.

266 *Id.*

267 *Id.*

268 Chan, *supra* note 95. In 2017, Japan only accepted 20 refugees, and during the years of 2013–2018, Japan has granted refugee status to fewer than 100 people. *Id.*

269 *Id.*

270 Dean, *supra* note 90, at 32.

271 *Id.*

272 Leppold et al., *supra* note 107, at 457.

273 *Id.* at 458.

274 *Id. See generally* Ida, *supra* note 98.

275 Leppold et al., *supra* note 107, at 458.

276 *Id.*

known as "overstayers" during the appeal period of the asylum procedure, which can last for up to two years, during which the individuals have no legal status, right to work, or right to access national healthcare or other types of welfare.[277]

The small number of refugees accepted each year by Japan raises the issue of whether Japan has fully understood and tried to practice the ideals characterized in the 1951 Refugee Convention.[278] Reasoning for Japan's policies toward asylum may be because of their own prejudice and discrimination against foreigners, which is based upon a mono-ethnic myth many of the country's inhabitants follow.[279] On the contrary, Japan would claim they have a different interpretation of what "persecution" means, and would refer the terminology to only relating to threats to life and limb.[280]

Possible solutions for Japan to overcome issues of prejudice, discrimination, and "othering" with the refugee crisis may be of relevance to roles played in larger global health agendas as well.[281] Unfortunately, Japan's resistance to accepting more refugees has led to its bad reputation.[282] Japan has been criticized internationally for their "checkbook approach" to assisting and treating asylum seekers that are granted acceptance—the asylum seekers that do happen to be accepted into Japan have had an experience that can be described as "destitute" due to the inaction and negligence of authorities.[283]

C. Germany

Although Germany is well known for accepting asylees into its country, it has a few issues with some of its policies and procedures. Germany's issues consist of the practice of providing health insurance vouchers to asylees and the scope of treatment that can be authorized for asylum seekers.[284]

Germany's health insurance vouchers (Krankenschein) are usually handed out by medical personnel in the initial reception centers, however, once an asylee has been referred to other forms of accommodation, they usually have to apply for the vouchers at the social welfare office of their municipality.[285] The issue

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277 *Id.*

278 Chisato Tanaka, *Japan's Refugee-screening System Sets High Bar*, JAPAN TIMES (May 21, 2018); Leppold et al., *supra* note 106, at 458.

279 Leppold et al., *supra* note 107, at 458.

280 Tanaka, *supra* note 9.

281 Leppold et al., *supra* note 107, at 458.

282 *Id.*

283 *Id.*

284 *Health Care: Germany*, *supra* note 161.

285 *Id.*

that arises from this situation is that there have been reports that necessary treatment has been delayed or even denied by staff of the social welfare offices due to incompetence to decide on these matters.[286]

Germany also struggles to provide asylum seekers with access to essential medical services and the ability to facilitate their longer-term integration.[287] Germany then looks into granting necessary treatment, however, the next issue is what is determined to be "necessary treatment" or the moment when unavoidable medical care is provided.[288] The wording of the German law suggests that healthcare for asylum seekers must not be limited to "emergency care," since the law refers to acute diseases or pain as grounds for necessary treatment.[289] Nonetheless, it has been reported that necessary but expensive diagnostic measures or therapies that are needed for acute diseases and pain are not always granted by local authorities in Germany because they believe that vital medical care is what is covered by the law.[290] Different forms of interpretation within Germany of the law is what causes issue for the smooth process of providing adequate healthcare to asylum seekers.[291]

D. Switzerland

Healthcare for individuals in Switzerland is not reported the same for all of the inhabitants of the country.[292] From 2010 to 2012, eighty-seven percent of those whom are native of the country or of the Swiss resident population, reported having good or very good health.[293] However, when migrants and asylum seekers were assessed on their perception of health treatment, many described their state of health in more negative terms than the Swiss resident population.[294] Many asylum seekers may feel that way about their state of health due to the fact that medical staff for asylees do not have the requested medical knowledge to decide on medical issues as the medical professionals that take care of Swiss residents do.[295] Asylees living in the centers throughout

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286 *Health Care: Germany*, *supra* note 161; *see* Pia Jäger et. al., *Does the Electronic Health Card for Asylum Seekers Lead to an Excessive Use of the Health System? Results of a Survey in Two Municipalities of the German Ruhr Area*, 16 INT'L J. ENV'T RES. & PUB. HEALTH 1 (Apr. 2, 2019).

287 Bauhoff & Gopffarth, *supra* note 143.

288 *Health Care: Germany*, *supra* note 161.

289 *Id.*

290 *Id.*

291 *Id.*

292 Marks-Sultan et al., *supra* note 175, at 2.

293 *Id.*

294 *Id.*

295 *Health Care: Switzerland*, *supra* note 213.

Switzerland have difficulty gaining access to medical staff because access is limited in practice and help depends on the triage of often unqualified staff in the reception centers.[296]

Charitable organizations have reported other issues for providing asylum seekers healthcare due to interpreters not being impartial, having close ties to the regime in the country of origin, or being unprofessional during the personal interview process of Switzerland's asylum procedure.[297] Additionally, a difference in accent or dialect between the interpreter and the applicant can cause many issues such as invalid reports of crucial health information.[298]

III. SIMILARITIES AND DIFFERENCES OF HEALTHCARE POLICIES AND PROCEDURES FOR ASYLUM SEEKERS

All four countries at the focus of this Comment have issues that contribute to not fully adhering to the spirit of international human rights and allowing asylum seekers to have access to a globally recognized right. After reviewing the main issues of each country, patterns arose that some, if not all, countries fall into, while others have their own domestic problems when it comes to the treatment of asylum seekers. A common issue for the nations with universal health coverage consists of awareness; while for all, many problems are rooted in the nation's application of asylum policies and procedures.[299] Identifying the common problems faced by these countries can aid the creation of improving the lives of those already distraught and ensuring that all states truly understand what it means and the importance of allowing all individuals access to a basic human right.

Similarities. In all four countries, asylum seekers are treated differently from the country's citizens when it comes to access to healthcare, which all four countries recognize is a basic human right.[300] A similar problem for the countries with universal healthcare is not informing asylees of their rights when entering into their country.[301] It is known that a common feature across Europe is the lack

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296 *Id.*

297 Swiss Refugee Council, *Regular Procedure*, ASYLUM INFO. DATABASE (Feb. 22, 2019), https://www.asylumineurope.org/reports/country/switzerland/asylum-procedure/procedures/regular-procedure [hereinafter *Regular Procedure*]. Examples of unprofessional behavior by interpreters include imprecise translations, providing summaries instead of literal translation, and lacking linguistic competence. *Id.*

298 *Id.*

299 *Access to Health Care for Migrants and Asylum-seekers*, *supra* note 69, at 67.

300 *See The Right to Health: Factsheet No. 31*, *supra* note 10, at 19; U.N. TREATY COLLECTION, *supra* note 18.

301 *Access to Health Care for Migrants and Asylum-seekers*, *supra* note 69, at 68.

of awareness among asylum seekers about their entitlements and that these entitlements are typically blocked by administrative barriers.[302] Another problem that asylum seekers deal with within these countries is the idea of fear.[303] These individuals are fearful of being reported to immigration authorities as "undocumented migrants" because they are aware of the treatment of those that have sought refuge before them, and will risk their access to their basic human right to not end up in the same position.[304] Asylees are fearful because they are aware of the perceived links between health professionals and immigration officials and if they choose to seek help, they are then put in a center where, depending on the country, they may feel as if they are in prison.[305]

Other commonalities that these countries face is that each country has some sort of detention/holding center where asylum seekers are placed while their cases are pending. Depending on the country, the asylees stay can go for a lengthy duration. Making it to the detention/holding center is the first distinguishable trait that asylees face when compared to that nation's citizens.[306] Nations took the initiative to streamline needs at the detention and holding centers; however, the quality and scope of the help is quite limited, leading to a heightened detrimental effect on asylum seekers.[307] The issues that these four nations deal with is adequate staffing and care. As seen with all criticisms, the medical staff actions are not satisfactory nor do some uphold adequate medical knowledge, which then provides more complications for asylees' health.[308] From the similarities seen within these four countries, it is clear that countries need to shift current policies and procedures and push towards awareness and providing information, providing satisfactory health services, avoiding discriminatory acts, and respecting the basic standards of human decency.

Differences. While there are many factors that can be improved upon for each country, there are some that have extreme differences when the country openly and defiantly disregards the idea of recognizing asylum seekers access

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302 *Id.*

303 Director-General, Promoting the Health of Refugees and Migrants, Draft Global Action Plan, 2019–2023, WHO, Apr. 25, 2019, https://www.who.int/publications/i/item/promoting-the-health-of-refugees-and-migrants-draft-global-action-plan-2019-2023 [hereinafter Draft Global Action Plan]; *Access to Health Care for Migrants and Asylum-seekers*, *supra* note 69, at 67; Miriam Jordan & Jose A. Del Real, *'Every Day I Fear': Asylum Seekers Await Their Fate in a Clogged System*, N.Y. TIMES (May 1, 2019).

304 *Access to Health Care for Migrants and Asylum-seekers*, *supra* note 69, at 68.

305 *See id.*; Campbell, *supra* note 252 ("Requesting asylum is not against the law, so there's no legal requirement to jail them like criminals.").

306 *See generally* Campbell, *supra* note 252 (detailing that asylum seekers are designated to detention centers or holding centers whereas the nation's citizens do not have to go through such formalities).

307 *See, e.g.*, *Access to Health Care for Migrants and Asylum-seekers*, *supra* note 69.

308 *See, e.g.*, *Health Care: Switzerland*, *supra* note 214.

to healthcare as a human right. A huge difference that presents a compelling factor towards the health status of asylees is the quality of the detention centers in which they are placed. The United States portrays an immense disregard for adhering to detention center guidelines, which in turn greatly affects asylees' health.[309] Many asylum seekers complain about the standards of the detention centers because they are not up to code for basic decent living standards.[310] Along with the disdain the United States presents toward satisfactory detention centers, both the United States and Japan show blatant discrimination towards asylum seekers.[311] Switzerland also has discriminatory issues with their interpreters as some may work close to the regime of the country that asylees escape from and may work against assessing their needs.[312] Japan has been criticized constantly for their prejudicial efforts toward preserving the Japanese homogeneity of their country and barring the entrance of non-Japanese citizens in the country.[313]

Other differences include inconsistent protocols with the United States and the way the government is run. Once a new administration enters office, if the administration has an opposite political ideology, a great deal of time is spent trying to reverse the work of the previous administration.[314] A factor that the United States and Japan share is being unresponsive to asylees when they plead for help or when they have been backlogged into the system.[315] It is understandable that all countries have to ensure that they take care of their nation and their citizens by making sure their finances are intact and that there is enough space when it comes to geography, however, most, if not all, countries have a duty to adhere to international human rights and respecting and recognizing those rights.

IV. PROPOSALS

Under Article 25 of the Universal Declaration of Human Rights, "everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including . . . medical care and necessary social services[.]"[316] Under the Convention Against Torture (CAT), the Committee

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309 *See Access to Health Care for Migrants and Asylum-seekers*, *supra* note 69.

310 *See* NYPLI, *supra* note 237, at 9.

311 *See generally Asylum Seekers & Refugees*, *supra* note 234.

312 *Regular Procedure*, *supra* note 297.

313 Dean, *supra* note 90, at 32.

314 *See generally Asylum Seekers & Refugees*, *supra* note 234.

315 *See Asylum in the United States*, *supra* note 30, at 4.

316 G.A. Res. 217 (III) A, Universal Declaration of Human Rights, art. 25 (Dec. 10, 1948); *Access to Health Care for Migrants and Asylum-seekers*, *supra* note 69, at 66.

Against Torture found that failure to provide adequate medical care is a violation of CAT's prohibition of cruel, inhuman, or degrading treatment.[317] In agreements such as the ICESCR, parties of the Covenant specify ways to hold them more accountable by declaring that the parties must "refrain from denying or limiting equal access for all persons' to preventive, curative and palliative health services, including 'asylum seekers and illegal immigrants.'"[318]

The United Nations has made efforts to develop applicable standards to ensure adequate protection for all persons in order to combat torture or degrading treatment when it comes to receiving medical care.[319] Globally, many nations have instituted legislative, administrative, judicial, or other measures to prevent acts of torture.[320] After analyzing policy and procedural commonalities of the United States, Japan, Germany, and Switzerland, a proposed agreement is in order to contest issues these countries face, which may also be faced by other countries. A proposed agreement must be made to encourage nations to shift current policies and procedures to push towards awareness and providing information, satisfactory health services, avoiding discriminatory acts, and respecting the basic standards of human decency. Below are proposed policies for the United States to use to initiate legislative measures to deter the country's current acts of torture towards asylum seekers, and proposed policies for all nations to consider and potentially implement when respecting the spirit of international human rights law.

A. United States Health Policy Update

The International Covenant on Civil and Political Rights (ICCPR) states governments should provide "adequate medical care during detention."[321] The United States is a party to the ICCPR,[322] however, as described above, through the work of ICE, the United States is disregarding their responsibility to the treaty. Not only has the United States disregarded the language of international law, but the United States also disregards the language of its own Constitution with respect to equitable treatment for all persons.[323] Through the procedures

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317 Long & Meng, *supra* note 64.

318 *Access to Health Care for Migrants and Asylum-seekers*, *supra* note 69, at 66.

319 *Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, OFF. OF THE UNHCHR 3 (2004), [hereinafter *Istanbul Protocol*].

320 *Id.* at 4.

321 Long & Meng, *supra* note 64 (internal citations omitted).

322 *Id.*

323 *See id.* The actions that the United States has committed toward asylum seekers goes against the Equal Protection Clause of the United States Constitution and the Eighth Amendment. *Id.*

initiated by ICE, the treatment of asylum seekers can be compared to the treatment of U.S. prisoners in that once asylees enter the United States, they are immediately detained and must rely on prison authority or enforcement to assess their medical needs.[324]

In 2017, ICE put forth an effort to obey the language of the law by initiating an effective program called the "Family Case Management Program."[325] Under this program, social workers helped asylees in five U.S. cities understand and navigate the immigration court system, obtain housing and healthcare, and enrolled their children into school.[326] Ninety-nine percent of the individuals that participated in the program attended their immigration hearing and check-in requirements.[327] The program was effective financially; the cost of these actions was as low as $36 a day per family compared to the typical $124 a day per individual.[328] Unfortunately, ICE abandoned the program despite positive breakthroughs made and the program being less expensive than holding a family in immigration detention.[329]

However, programs like the Family Case Management Program were a step in the right direction for the United States. This program and the following policy recommendations would assist with the United States respecting the spirit of international human rights law and set the standard for other nations to follow. The United States may take the following actions to fight against the criticisms of its policies and procedures regarding asylum seekers' right to the access of healthcare by:

- "Prioritizing Immigration Detention Reform";
- "Implementing effective court review and support individualized assessments";
- "Implementing effective system of alternatives to detention and reduce unnecessary costs";
- "Stopping the use of prisons, jails, and jail-like facilities";
- "Using only facilities with appropriate conditions";
- "Improving access to legal counsel and fair procedures";
- "Taking other steps to address deficiencies in immigration detention conditions[.]"[330]

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324 *See id.*

325 Ohta & Long, *supra* note 65, at 116.

326 *Id.*

327 *Id.*

328 *Id.*

329 *Id.*

330 *How to Repair the U.S. Immigration Detention System*, HUM. RTS. FIRST 3–4 (Dec. 2012) (on file with author).

The United States struggles with providing adequate access to healthcare for asylum seekers due to the dismay of of ICE and the government getting rid of detention centers or accepting requests of building more detention centers through private contracts with various companies.[331] In order to help support asylum seekers access to their international human right to healthcare within the United States, the United States needs to: deny contract requests with private companies;[332] terminate detention centers no longer compliant and transform them into asylee community-based alternatives;[333] provide standard practitioner and nursing care;[334] follow global health professional ethical standards and ensure centers and communities have appropriate medical staff, equipment, and monitoring systems to respond to emergencies;[335] and ban the use of isolation or solitary confinement for asylees which causes a detriment to their health.[336]

If the United States were to compromise and initiate these recommended policies, it would be beneficial financially for the nation[337] and be morally just as asylum seekers would have better access to an international human right.

B. Global Health Agreement

Health professionals across the globe have agreed to endorse ethical obligations articulated in numerous United Nation documents.[338] Health professionals have a fundamental duty to always act within the best interests of the patient, regardless of other constraints, pressures, or contractual obligations.[339] The purpose of setting such a global standard is to avoid violating CAT and satisfy the ideals of allowing all persons to have access to healthcare.[340] Health professionals' duty to provide care is expressed in a variety of ways in national and international codes and declarations.[341] One specific duty that is

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331 *See generally Code Red: The Fatal Consequences of Dangerously Substandard Medical Care in Immigration Detention*, HUM. RTS. WATCH 5 (June 2018) [hereinafter *Code Red*].

332 *Id.*

333 Long & Meng, *supra* note 64.

334 *Code Red*, *supra* note 333, at 46–47 ("The death reviews we analyzed from 2010 to 2017 included evidence of practitioners or nurses failing to act on abnormal vital signs or test results, failing to ensure patients made informed decisions to refuse care, practicing beyond the scope of their licenses, and failing to respond to requests for care.").

335 *Id.* at 48.

336 *Id.* at 5

337 *See* Ohta & Long, *supra* note 65, at 116.

338 *Istanbul Protocol*, *supra* note 319, at 11.

339 *Id.*

340 *Id.*

341 *Id.* at 13.

applicable for asylum seekers is health professionals have the medical duty to respond to those in medical need or to those suffering.[342]

The term "global health" does not have a set definition, as it is often interpreted and acted upon based on the contexts, structures, and politics of each body involved.[343] Each country has established ethically and culturally acceptable health policies that address the current local sanitary needs and plan for measures and resources to promote national health in accordance with its capacities.[344] Access to healthcare benefits that are protective and preventive should be granted to all people without discrimination.[345] The right to health contains freedoms for individuals that states must protect and they must follow the principles of informed consent for all medical treatments, as well as the right to privacy and confidentiality concerning health-related information.[346] Research from Dr. David Ingleby, an expert from the University of Amsterdam, states:

> denying easy and early access to healthcare not only ignores the right to health but actually increases costs: a new study estimated that since their introduction, these restrictive policies have increased the cost of healthcare by 376 euros per year for each asylum seeker.[347]

Restrictive policies benefit neither immigrants nor states across the globe.[348]

When all states do not play their part in the agreement, this affects the world globally. Industrial countries such as the United States, Japan, Germany, and Switzerland have a responsibility to comply with international agreements made to deter putting all the work on low- and middle-income nations.[349] When it comes to asylum seekers and accepting individuals into their country, many countries fall into the idea of global capitalism; this then socially and economically disenfranchises poor countries, making it increasingly difficult for these countries to manage their economies and fulfill their duties and obligations.[350] Multiple nations may come together to establish a new global health agreement that can help promote equality among all nations across the

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342 *Id.*

343 Leppold et al., *supra* note 107, at 457.

344 Marks-Sultan et al., *supra* note 175, at 2.

345 *Id.*; *Human Rights and Health*, WHO (Dec. 29, 2017), https://www.who.int/news-room/fact-sheets/detail/human-rights-and-health.

346 Marks-Sultan et al., *supra* note 175, at 3.

347 Mallika Khanna, *German Health Care: A Broken System for Asylum-Seekers?*, BORGEN PROJECT (Nov. 10, 2016), https://borgenproject.org/german-health-care/ (internal citations omitted).

348 *Id.*

349 *Access to Health Care for Migrants and Asylum-seekers*, *supra* note 69, at 71.

350 *Id.*

world, and aid the main affected party—asylum seekers. Nations may take the following policy recommendations into consideration:

- "Promote the health of refugees and migrants through a mix of short-term and long-term public health interventions";
- "Promote continuity and quality of essential health care, while developing, reinforcing and implementing occupational health and safety measures";
- "Advocate the mainstreaming of refugee and migrant health into global, regional and country agendas . . .";
- "Enhance capacity to tackle the social determinants of health and to accelerate progress towards achieving the Sustainable Development Goals, including universal health coverage";
- "Strengthen health monitoring and health information systems"; and
- "Support measures to improve evidence-based health communication and to counter misperceptions about migrant and refugee health[.]"[351]

Nations across the world also struggle with violations of the human right to health through overt or implicit discrimination in the delivery of health services.[352] These actions contribute to poor quality of care for asylum seekers,[353] and ways to suppress these ideals is with human rights-based agreements.[354] The WHO has stated, "a human rights-based approach to health provides a set of clear principles for setting and evaluating health policy and service delivery, targeting discriminatory practices and unjust power relations that are at the heart of inequitable health outcomes."[355] For countries to participate in this sort of approach towards health policy, strategies, and programs should be designed to improve enjoyment of all people to the right to health.[356] Core components of the right to health include availability, accessibility, acceptability, and quality.[357] States should take heed to these principles when revamping their framework regarding access to healthcare for asylum seekers.[358] Industrial countries, like the United States, Japan, Germany, and Switzerland, need to take the approach of reformatting the structure of providing healthcare for all persons and ensure its applicability to the nation's

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351 Draft Global Action Plan, *supra* note 303, at 7–12.
352 *Human Rights and Health*, *supra* note 345.
353 *Id.*
354 *Id.*
355 *Id.*
356 *Id.*
357 *Id.*
358 *Id.*

economy. This is necessary to avoid participating with global capitalism and ensuring all states are helping one another when it comes to supporting the rights of all persons.[359]

If a Global Health Agreement were to be initiated, signed, and ratified by all countries, the right to health for asylum seekers could move in a positive direction and uphold the spirit of international human rights law. By following these policies, the United States would no longer be criticized for its detention centers; Japan would no longer be criticized for its prejudicial and discriminatory values; Germany would no longer have issues with its voucher system; and Switzerland would no longer have issues with its poor medical staffing and quality of services provided to asylum seekers.

CONCLUSION

An important right afforded to all persons as part of their international human rights includes the right to access healthcare. As discussed throughout this Comment, asylum seekers struggle to enjoy the designated right due to countries having varying interpretations of what it means to provide healthcare services. Asylum seekers are often overlooked or grouped with refugees and undocumented migrants; however, countries have different policies and procedures set in place when it comes to dealing with asylees. The purpose of this Comment was to identify the issues of asylees access to health, highlight the international human rights violations that industrial countries have committed for years regarding access to healthcare for asylum seekers and provide policy recommendations that has the potential to aid this population of displaced persons worldwide.

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[359] *See generally id.*

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