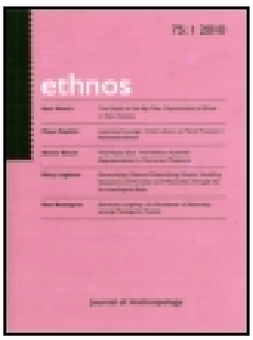

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Advice as a Vocation? Politics, Managerialism and State Funding in the Swiss Refugee Support Community

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ABSTRACT

Refugees often find themselves in precarious situations when trying to claim asylum. This paper examines the changing nature of legal advice in Switzerland, where a new law is drastically altering the asylum regime to a more centralised and tightly managed procedure. This reform directly affects the refugee advice community, which sees an increase in state funding opportunities paired with a higher demand for quality standards and 'managerial' practices. These changes reveal frictions between advice organisations and challenge long-standing agreements and collaborations. (Re-)emerging fault lines concern whether to collaborate with or oppose the Swiss asylum regimes, and whether to assist with asylum appeals with low chances of success. Structurally and individually, pre-existing notions of 'good advice' are being challenged and threaten to divide the advice community into political advocates and pragmatic caseworkers. The changing nature of advice thus brings with it both pitfalls and new opportunities that require careful examination.

KEYWORDS Legal advice; asylum law; Switzerland

Introduction

Martha[1] is one of my key informants and had greatly supported me in attaining access to the asylum advice community in Switzerland. Some ten months into the field, I meet her at a network meeting coordinated by the Swiss Refugee Council (SRC). Every four to six weeks, most organisations that provide legal advice to asylum seekers meet, divided into two groups, one in French, the other in German. Here, they share information about ongoing cases, review legal developments, and discuss the latest court judgements. Much of the input is mediated by the SRC, which acts as an umbrella organisation to the refugee support community in Switzerland. Much like many people in the advice community, Martha values these exchanges highly. As legal advice for asylum seekers is mostly provided by small NGOs that can take on only a limited number of

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cases at any given time, it is crucial that they exchange information to stay abreast of new developments in a notoriously complex and continuously changing legal field. As I arrive for the meeting a few minutes early, but still as one of the last, Martha pulls me aside. After briefly catching up – about her holiday and my teaching duties – she tells me that she is worried.

> It's different now. Everyone is so absorbed with their own stuff right now, nobody has time, wants to share. I think there is a threat that we forget how much we need the network, and that will cause problems with all the changes ahead. This might get us into trouble.

This paper focuses on the community of asylum advice givers in Switzerland at a time of rupture. With the ongoing influx of refugees since 2014, advisors struggle to keep abreast of individual cases as well as the constantly evolving asylum decision-making of administration and courts. Additionally, a new asylum system, approved by popular vote in summer 2016, drastically changes the ways in which legal advice and aid is provided in Switzerland, with immense consequences for the 40 or so active organisations providing advice. Somewhat ironically, despite not being motivated by budget cuts, the new asylum law brings with it a form of managerialism that is typical of welfare state reform across Europe since the 1980s, with a focus on efficiency, acceleration and a 'one-stop' solution to all things 'refugee' (Gilbert 2002). As this paper will show, these changes force advice providers to re-position themselves in relation to the state, which in turn reveals a longstanding division within the asylum support community. What Martha and many others sense and worry about is that the changing nature of the asylum system in turn threatens the sense of community and cooperation that is the very basis of successful advice giving. Indeed, the detrimental impact of greater competition and of a lack of information sharing and common standards has been noted in many similar cases, most explicitly the UK (Cookson 2011; Solicitors Regulatory Authority 2016). However, the new asylum system might also open doors for new forms of advocacy, as contacts with state agencies are improving, and direct interventions with decision-makers seem more viable.

The restructuring of the asylum system and its impact on the advice community in Switzerland bring about similar challenges and chances to those discussed in the other contributions of this special issue. Despite not being primarily motivated by funding cuts, the greater focus on efficiency, competition and review exhibited in the Swiss asylum reform is in its effects comparable to the austerity measures they outline. Indeed, the results of this study stress the continuity of New Public Management-style reforms in times of austerity (Patrick 2017, see also Koch and James, this issue) in what Streeck (2017) has called a tradition of welfare state upheaval from Thatcher to Blair to Merkel. As is the case with other welfare regimes, this study finds major shifts in the provision of advice that challenge existing traditions, creating challenges and potential pitfalls for the advice communities (confirming the findings of James & Killick 2012; see also Borland 2015; Bjerge *et al.* 2018), but also opening up chances for new forms of advocacy. In response to these changes, some agencies seem to move closer to the state, focussing on greater collaboration and more direct lobbying, as in the case of the UK debt advice sector (Davey, this issue). Others however feel

vindicated in their understanding of an inherently unfair and thus immoral asylum system and reject close collaborations with the state, sometimes focussing on radical strategies that echo the 'militant care' employed by the groups in Wilde's discussion of housing activists in London (this issue).

The results of this study further question the novelty of this phenomenon. While the reconfiguration of the welfare state in general, and the asylum system in Switzerland in particular, brings about drastic changes, both the conflicts that arise and the new opportunities seem rehashed rather than revolutionary. Tensions between radical and statist parts of social movements can probably be found in most such cases, from Jacobins and Girondins through Marxists and Social Democrats to SNCC and Black Panthers. Similarly, the 'new' forms of advocacy adopted by parts of the asylum advice community have been successfully tried and tested in other cases. They adopt combined strategies of selecting leading cases to set high court precedents and directly engaging with state bureaucrats to impact decision-making. These are textbook tactics of the 'minority rights revolution' (Skrentny 2002) led by the Civil Rights Movement in the US since the 1950s, with cases like Tarakhel v. Switzerland mimicking Brown v. Board of Education of Topeka. Thus, while the challenges posed by the restructuring of access to rights and welfare are certainly substantial, both the conflict and strategies that result from reform echo earlier conflicts between precariously positioned groups and the state. However, with managerialist reform, a 'third way' of advice provision seems to emerge. This adopts practices steered by efficiency and success rates rather than or in addition to questions of deservingness (Koch and James, this issue). While this appears to be a strategic necessity in some cases (James & Killick 2012), the advice community studied in this case still seems intent on containing managerialism to some degree.

This paper focusses on the network of advice givers, their sense of unity or divisiveness, and the ways in which individual advisors make sense of their jobs in the context of political debate and radical reform. It is based on two years of part-time ethnographic fieldwork within the community, in network meetings, training sessions, local advice groups sessions, evening seminars and after-work events. Following ethnographic convention, data was collected through participant observation, semi-structured interviews as well as archival research of case law, strategy papers and meeting minutes. The paper follows recent ethnographic work that stresses the analytical value of meetings as nodes that link diverging perspectives, bureaucratic processes and external contexts (Brown *et al.* 2017). Access to the field was only granted to me after I had established myself as an 'engaged expert' on asylum issues in Switzerland. This was achieved through writing four short pieces for the Swiss Refugee Council blog '*Fakten statt Mythen*', being invited as 'distinguished speaker' to the annual Centre for Migration Law in Neuchatel in 2015 and 2016, and providing a short analysis of the new asylum law's potential benefits for the integration of refugees for the SRC in 2016. Through these activities, I got to know two members of the legal team well enough to persuade them to grant me access to their daily work, who in turn introduced me to others in the advice community.

This paper consists of three parts. The first part will provide context to the specific case of asylum advice in Switzerland and the institutional setting in which the research took place. The second describes the drastic changes to the Swiss asylum system and the resulting tensions and tangible unease within the advice community. The third shows how the structural changes elicit three very diverse responses from different organisations, which in turn threaten the unity of the advice community. Furthermore, it examines how some organisations seise the new structure as a chance for more direct forms of advocacy work. A short conclusion will summarise the findings and link the results of the study to wider debates around immigration advice and welfare reform.

Migration, Precarity, Advocacy

Since the end of the Second World War and the passing of the 1951 Geneva Convention, the legal category of 'refugee' has been of high esteem and practical worth, as it comes with a range of social rights as well as protection duties for the host state. However, in order to attain this status, individuals must successfully pass the stage of being an asylum seeker, a status which usually only affords very few social rights and is often attainable only by entering a given state through non-legal means. Migration is thus a field in which the causal connection between state and precariousness is strong, and arguably much stronger than in other types of vulnerability. After all, it is state laws and policies that link individuals' origin to their 'legality' and, further, to their access to employment, education, welfare, or health (Boswell & Geddes 2011). Immigrant status precarity thus always includes a high level of 'stateness', in that both access to and restriction of rights are mediated and managed by the state. In recent years, studying this 'management of migration' through policies and practices has become a central focus of the study of migration (Geiger & Pécoud 2012; Eule *et al.* 2018a), with a particular focus on the interlocking and overlapping institutions that together form a 'migration regime' (Sciortino 2004; Eule *et al.* 2018a, 2018b). From this perspective, migration control is not only executed through individual bodies of the state explicitly formed to do so, but also by other institutions that deal with immigrants and in some way share tasks with 'classic' control agencies. Indeed, James and Killick (2012) show that even advice organisations that help migrants inadvertently participate in this regime by subscribing to its categorizations and underlying assumptions. In this, techniques of migration control often mimic or develop similarly to those of the new and neo-liberal welfare state. Control is outsourced and shared (Rose 1996; Zaiotti 2011, 2016), dependency and deservingness are individually assessed (Katz 2013; Fraser & Gordon 1994; Chauvin & Garcés-Mascareñas 2014) and 'undeserving' individuals criminalised, marginalised and, in the case of immigrants, forcibly removed (Wacquant 2009; Fassin 2013; De Genova & Peutz 2010).

Both the aforementioned inherent 'stateness' of migrant precarity and the expansive logic of control impact on the ways in which civil society organisations engage with migrants and the state. Historically, migrant issues often did not quite fit the programme of traditional welfare associations, creating a void that other institutions then stepped in to fill. As a result, in many states a 'migration industry' emerged, in

which non-profit and for-profit associations provided services themselves or, alternatively, gave access to and advice about 'generic' welfare services (Gammeltoft-Hansen & Sorensen 2013; Garapich 2008; Hernández-León 2012). While studies into the migration industry point to the prevalence of (financial) self-interest, exploitation and misleading practices (Andersson 2014), refugee support organisations are often seen as distinct and primarily driven by logics of care and advocacy (Cambridge & Williams 2004; Siapera 2004). Indeed, while becoming a (legally recognised) refugee is a key strategy of self-legalisation and thus autonomy, it usually requires narratives of victimisation and the navigation of a moral economy of deservingness (Chauvin *et al.* 2013; Chauvin & Garcés-Mascareñas 2014; Kubal 2013; Ambrosini 2016) that both state bureaucracy and support organisations espouse. In contrast to legalisation strategies that focus on 'citizen frames' of social and economic integration (Patler 2018), refugees must prove their deservingness through narratives of credible and plausible suffering (Holmes & Castañeda 2016, see also Fassin & Rechtman 2009). Because they focus on a group defined by their vulnerability rather than ethnic or religious commonalities, these organisations might perhaps be considered more like development organisations than other parts of the migration industry (Fassin 2011, 2015).

Switzerland is a classic case of a country 'reluctant' to accept immigration: only after a hundred years of continuous immigration did discourses on integration and multiculturalism take hold. The case of refugees, however, is different. There, Switzerland prides itself on its 'humanitarian tradition'. This is said to be proven by a relatively high per-capita arrival of asylum seekers and a slightly above average acceptance of asylum claims compared to other European states. As a member of the European Convention of Human Rights which is tied to European Union legislation through bilateral agreements, much of Swiss asylum law and procedure is set through international standards. Despite its self-ascribed refugee-friendliness, in recent years the acceptance of numerous anti-immigrant public initiatives and twenty years of hard-line right-wing populist agenda-setting through the Swiss Peoples Party have shaped the outside perception of Switzerland as being hard on immigration. However, many organisations and individuals pride themselves on the Swiss 'humanitarian tradition', or seek to uphold it through politics and activism.

Many of the organisations that provide advice to refugees in Switzerland were founded in the context of a previous 'refugee crisis', in which millions fled conflict and the collapse of the Soviet Union in the late 1980s and early 1990s, often in response to tightening restrictions on the access of individuals to the protection offered by the refugee status (cf. Pärli 2016). The work of most groups is confined to the city or canton, with the notable exception of groups affiliated to big welfare associations and the Swiss Refugee Council (SRC). The latter was co-founded as the 'umbrella organization' by almost all big established NGOs in Switzerland: the catholic Caritas, protestant HEKS, the Salvation Army, the union-based Swiss Labour Assistance and Amnesty International Switzerland. One of the oldest pro-refugee organisations in the world, the Swiss Refugee Council understands itself to be a politically non-partisan and denominationally independent institution of advocacy for asylum seekers and recognised refugees. While it does not take on its own cases, the SRC provides a platform

for the advice organisations to exchange information and address issues in a unified voice.

The 'united front' offered by the SRC however does not reflect the diverse nature of the groups that actively seek to support refugees. Indeed, civil society organisations have been fundamentally divided almost since their foundation. Marc, who has been working with refugees since the 1980s, and whose opinion is widely respected by other activists, explains that the early activists were torn between two approaches to the previous 'refugee crisis'. These were a fundamental and radical rejection of any asylum system that tested the 'worth' of an individual's refugeehood, and a will to assist those navigating the asylum system and thus improving their chances at attaining refugeehood. According to him, a decision was formed to pursue two strategies simultaneously, in two separate groups: first, an 'asylum movement' for the radical demands for open borders and, second, 'refugee assistance', under the umbrella of the SRC. Indeed, in its mission statement, the SRC describes itself as being focused on awareness-raising, public education and assisting asylum seekers in navigating the '"jungle", that is, the Swiss legal system' (SRC Mission statement).

Divisions, Unease, the State

In practice, however, the distinction between movement and assistance is often not that clear cut. Firstly, many younger organisations do not fit neatly into either category. Second, many 'movement' groups, particularly in the bigger cities, refocussed their activities on advice in the 1990s and early 2000s, often while maintaining their radical rejection of the 'asylum system'. Third, many individuals are members of multiple groups, or share both the radical political rejection of migration control and the pragmatic wish to assist asylum seekers. According to many advisors, these differences are longstanding and relatively stable and openly talked about in the French-speaking part of Switzerland, but subdued in the German-speaking part. However, more recently, these differences have become more and more relevant.

In accordance with the EU Qualification Directives 2011/95/EU, asylum seekers in Switzerland have a right to access affordable legal aid and advice. As a result, the federal state has become more involved with the financing of asylum advice. Partly in response to the Qualification Directive, the Swiss government initiated a reform of its asylum system, using processes that had been implemented in the Netherlands and Denmark and that promised to be 'more efficient', less cost-intensive and quicker in both recognising refugeehood and rejecting and deporting unsuccessful individuals. In 2014, a test centre was established in which real cases were processed under the new system, and in June 2016, the Swiss voting public chose to reform its asylum law in accordance with the new system. Part and parcel of the accelerated procedure is the provision of free legal advice and aid 'in house', thus within the confines of the asylum centres where claimants both sleep and have their interviews. In the test centre, this free legal advice is provided by four agencies, one of which is the SRC.

The SRC was heavily criticised for its cooperation with the test centres by some more direct action-oriented groups as well as, somewhat ironically, the Swiss Red Cross, a

founding organisation that withdrew its support for the SRC, allegedly after losing its own bid to provide legal aid in the *Testzentrum*. This new 'statist' turn was further strengthened by the SRCs open support for the 2016 asylum bill that proposed reforming the asylum law to the model developed in the *Testzentrum*. As I started fieldwork in the midst of the campaign surrounding the public vote on the law, the SRC headquarters in Bern was attacked by several individuals who seemed to be linked to the autonomous movement's 'Black Bloc' with its anarchist overtones and styles of organisation. They blackened all of the SRCs signs, attempted to burn their post box and added a tag to the outer wall of the office building that read 'ASYLREGIME BEKÄMPFEN, NICHT KOLLABORIEREN' (fight the asylum regime, do not collaborate with it), garnished with the anarchist enclosed Ⓐ. Miriam, one of the two gatekeepers who arranged my access to the SRC, had heard from friends in the autonomous scene that the SRC had been placed on a list of 'traitor organizations' by the Bernese Black Bloc. However, she was relatively nonplussed about the attack. 'It's important that we are under public scrutiny', she said,

> because we need to critically evaluate how close we want to be to the state. I don't think we are traitors, naturally, but we do find ourselves in a position where we are more part of the system than a critical counterweight.

This sentiment was echoed by Yvonne, a veteran of many decades of refugee advice. She admitted that it was uncomfortable to be 'called out' this way, but also understood why these attacks were happening.

The graffiti 'attack' on the SRC headquarters was the most drastic sign that the refugee support community might be not fully unified. The message – 'do not collaborate' – seemed to clearly state that taking part in the test centre was a step too far for the SRC if it still wanted to be 'credible' to the radical side of the pro-asylum movement. However, exactly how much constituted too far was more difficult to ascertain – especially because there was no open discussion about this within the community. While some organisations had openly rejected participating in the test centre a few years earlier, now a sense of unease about the relationship between advice givers and the state prevailed. There was also an unspoken awareness that certain kinds of interaction might be seen, or judged to be going 'too far'.

This was made tangible in the widespread silence in the room when Marc boasted about the new asylum law, and claimed that it had achieved everything the asylum movement had wanted 30 years ago. While no one confronted him about his statement, and few mentioned their discord to me personally, the eerie silence and stolen glances were telling. As he went on, Marc did qualify his statement to exclude the 'loss' of the 'embassy asylum' in 2013, which allowed individuals to apply for a refugee status prior to coming to Europe, thus avoiding the strenuous and often deadly trip across the Mediterranean. But he still stood by his opinion that something marvellous had been achieved – a claim few seemed to agree with.

The unease was markedly present in an exchange between Mario, an SRC legal employee, and Beat and Karl, two lawyers who were preparing a training session on unaccompanied minors that was organised by the SRC. Apparently, twenty employees

of the Federal Migration Agency (SEM) had registered for the event – something that Mario found noteworthy and that startled Beat and Karl. They in turn reassured themselves that this was probably a good thing, because it meant that the employees were actually interested in learning about asylum cases. The unease was further tangible when, in a meeting of the SRC's legal team, Julia raised the possibility of talking to SEM directly about a number of cases, as the SRC and SEM agreed to try and improve direct communication. She also immediately admitted that she felt uncomfortable 'showing SEM their hand', and that any change in practice would in any case be decided 'high up' the chain of command. The others agreed, and decided not to interact with SEM on this particular occasion.

Beat's opinion became clearer after I interviewed him about hardship cases and his relationship to migration agencies. Having praised the good relationship he had with the case workers for over an hour, and having explained how they managed to resolve a good number of cases positively by giving individuals residence permits, Beat suddenly looked panicked. He asked me not to use any verbatim quotes of the interview and insisted I made sure no one would find out in which canton this interview had taken place.

Basing an argument on largely unarticulated sentiments and on silences is risky, and of course inherently limited. However, there was a striking and palpable unease about dealing with the asylum system that pervaded almost every situation in which people interacted with the state. Here, the everyday of meetings and exchanges over advice laid bare not only ordinary practices, but also the inherent disruptions (cf. Das 2014) that the advice community struggles with. The changing asylum system in Switzerland thus promises free legal advice for all asylum seekers, but also seems to reanimate tensions within the refugee support community over questions of collaboration with the state. From the perspective of other welfare domains, this might seem surprising – however, it is worth restating that, in the case of migration, states both produce and potentially resolve extreme precariousness through regulating access to residence rights. From this perspective, almost any kind of contact with the asylum system can seem treacherous to the cause, even if it offers potentially new ways of advocacy. The sense of unease that pervaded many of the interactions I witnessed shows how unresolved this issue is and, perhaps more so, that it might never be resolved. After all, from a radical perspective, entertaining any kind of relationship with the state might be seen to be going *too far*, because it risks reproducing the state's (il)legalisation regime.

Competition, Tension, Opportunities

In addition to raising important questions about collaborating with the state as producer of precariousness and misery, the asylum law reform also presented another, equally large dilemma for the advice community: the question of who would be tasked to provide legal advice in the asylum centres and under what circumstances. Replacing 26 cantonal subdivisions, only eight centres are planned under the new law. As a result, advice organisations – as part of the switch to

commissioning models that are ubiquitous under New Public Management (Sturgess 2018) – are likely going to have to compete for government contracts, rather than being able to establish themselves in their own local niche (see Forbess & James 2017).

A first glimpse of the possible future came with the fallout over the advice contract in the test centre. Even though four advice organisations collaborate to provide a government contract, this experience seems to have been overall detrimental to the advice community. First, this was due to the experience of having to compete with other advice groups over the contract, a situation which produced tensions and, allegedly, caused one of the founding organisations to withdraw from the SRC. Second, the shared provision of advice caused tensions within the four groups, with the effect that some advisers effectively withdrew from the advice network, and some former colleagues are no longer on speaking terms. While many of these issues are connected to the aforementioned uneasy relationship to the state, they can also be linked to the new ways in which advice is provided. Rather than giving advice in their own offices, advice groups now operate within the asylum centres, and are tasked to offer advice systematically, but also efficiently, cost-effective, and within a short span of time (for comparable situations in the UK, see James & Killick 2012). The experiences from the test phase show that the number of appeals to asylum claims, both in terms of absolutes and as a proportion of total asylum decisions, has declined (and there are no statistics on the success rate of appeals). Some SRC staff members voiced their concerns about this trend, as there appeared to be a focus on appeals with high success chances (akin to many market-based welfare policies, cf. Heavenstone 2016).

Many individuals expressed their fear that free advice for all might mean worse support for the many. This was particularly true with regards to a certain set of advice providers linked to the large, 'corporate' NGOs that work on all welfare sectors and that also provide migration advice. The concern raised is that these organisations (often those funded by churches) utilise their experience of working in a managerialist welfare state to win some of the government contracts by drastically undercutting the competition in price (see Forbess & James 2017). At the same time, they are seen to be 'cherry-picking' and only focussing on easily winnable cases. 'Gaming' a market-based welfare system like this is a strategy that seems to mirror managerialist reforms (Heavenstone 2016), and was also identified in Britain, where the 'race to the bottom' was even further accelerated by cuts to the worth of legal aid contracts (Cookson 2011, Solicitors Regulatory Authority 2016), and made it difficult for advice organisations to provide the type of service they saw necessary (Borland 2015, James & Killick 2012).

The concerns that Martha raised above, concerning the need to keep collaborating, refer to the fact that many NGOs are under suspicion of withdrawing from the advice community, or at least of withholding information and not sharing as much as they used to. Here, too, a rupture seems to threaten the advice community, affecting the willingness to collaborate on cases as well as to develop a common strategy to deal with current political developments. Indeed, collaboration seems vital to the success of both individual cases and lobbying for legal change in general. For example, advice

providers often share pre-written blocks of text that can be copied and pasted into appeals (something the state bureaucracy apparently also uses for their decisions) on similar cases. These argumentation packages effectively establish precedent even if in theory cases are adjudicated individually. Thus, if a certain appeal strategy has proven successful in a number of similar cases, the Swiss Refugee Council can provide a template to all advice providers. This enhances the chances of successful appeal for similar cases. An example of this would be a successful challenge to the practice of returning families to a specific 'Dublin' state,[2] based on a mixture of available information about housing conditions in the receiving state, European Court of Human Rights case law, and indicators of merit.

In yet other cases, the Swiss Refugee Council and the advice networks decide to test specific arguments in appeals. While appeals tribunals' decisions do not automatically set a precedent (due to the nature of appeals and the civil law system in Switzerland), a successful leading case can provide a blueprint for similar situations. For this, the SRC usually coordinates with different advice organisations until an 'ideal case' arises. This usually includes an appeal that can be purely based on an unprecedented argument (and would have no chances of success was it not for such an argument), a 'presentable' claimant without criminal record, or even just a sympathetic judge. In some cases, this strategy goes as far as Strasbourg, where cases are brought in front of the European Court of Human Rights. Here, a case can also be accompanied by intense media advocacy work promoted by the advice community.

Failing to share information or collaborate in these strategies of leading cases and 'public interest lawyering' (Chen & Cummings 2014) would thus remove a key strength of the advice community. Individually, many of the advice providers are too small to stay abreast of all legal developments, and even many of the larger advice associations admitted that they relied heavily on the argumentation packages circulated in the community. At the same time, attendance and active participation at advice meetings was rather mixed, and many employees of the Swiss Refugee Council echoed Martha's worries about keeping the cooperation alive. This led to increased attempts to establish smaller, case-focussed working groups (e.g. on unaccompanied minors) to facilitate immediate exchanges, and to a review and relaunch of the SRC's knowledge database, Asylwiki.

The looming danger of a potential fallout within the advice community was ever-present, but many had not yet given up on the cooperative spirit of the community altogether.

While many worried about the sustainability of old strategies, new opportunities for advocacy also emerged as a result of the asylum reform. Strikingly, most of the interactions between state agents and advice network representatives were rather positive – in fact, the bureaucrats encouraged exchange, sought to educate themselves, and provided pragmatic solutions to difficult cases. This echoes studies that show how questions of deservingness and pragmatic case approaches also pervade migration management (Vandevoordt 2016; Leerkes *et al.* 2012; Eule 2017).

Indeed, many employees of the SRC highlighted the advantages of having more immediate interactions with the Federal Ministry, because it promised to offer access

to the decision makers themselves, without the 'detour' of politicians, media, or heads of office. Clearly, these new relationships also offered new chances for advocacy work. The SRC started monitoring problematic cases of vulnerable individuals – often involving children or sickly people – and lobbied, with some success, directly within the state ministry. While there was still a substantial level of mistrust and fear over false information and hidden agendas, some cases could be resolved, or at least reframed to more tailored appeals. One example for this were so-called 'Dublin cases', where Switzerland sought to deport individuals to other European states that were legally responsible for the handling of cases. Recent judgements by the European Court of Human Rights had set relatively high bars for reception standards in the receiving countries, particularly for families of otherwise vulnerable individuals. Beyond the template strategy discussed above, the advice community monitored these cases and in turn tried to influence decision-making within the state ministry, thus seeking to avoid controversial deportations altogether.

However, these new strategies were not universally supported. When this practice was raised at a meeting of more 'radical' activists that also monitored similar Dublin cases and assisted individuals in resisting deportation, few showed interest beyond a few snide comments. Instead, their discussions centred on the possibilities of deportation resistance and the provision of citizens' refuges, suggesting radical actions that echo the 'militant care' tactics described by Wilde in this issue or the New Sanctuary Movements in the United States (Yukich 2013). The unease and awkward silences that pervaded this fieldwork are thus linked to the fact that even strategies that could help individuals' chances of staying in Switzerland were rejected by the more radical parts of the advice community.

Conclusion

Nobody Agrees, but Everybody's Kinda Right. That's a Rubbish Situation.

Max, an informant, over a beer.

The reform of the asylum system in Switzerland includes the expanded provision of legal aid and assistance for asylum seekers, but under conditions that, for some, question the future of the advice community. The centralised 'one stop' approach means that advice organisations now work as contractors of the state within state institutions (Tuckett, this volume), and an efficiency-focused competition over government contracts might cause a toxic race to the bottom that undermines the overall quality of advice. Many fear that advice for all can lead to higher selectiveness of 'deserving cases' based on success chances, and that the number of appeals might actually decrease.

These drastic changes have invigorated old tensions within the advice community that, since its beginnings in the late 1980s, has been torn between a more radical 'asylum movement' and a more pragmatic asylum advice wing. Unwilling to cast themselves as collaborators in the migration regime, many advisers fear that they will be perceived as 'too close' to the state apparatus. This leads to a tangible unease over the 'right' relationship between advice and the state. In this situation, three responses to the new

asylum system seem to emerge. First, there is a radical rejection of the state as the institution that creates the precarity of 'illegal' or irregular migrants in the first place. Second, there is professional advocacy that uses the new proximity of advisers to the state to influence decision making, and third, there is managerialist advice-giving that adopts the language and techniques of New Public Management in order to win lucrative government contracts. As a result, the cohesion and cooperation within the advice community that is so fundamental to successful advice is challenged on both fronts, by radicals who reject 'collaborationist' practices and by more moderate organisation that threaten to withdraw from collaboration because they see competitive advantages.

As indicated in the introduction, the history of social movements is littered with examples in which communities struggle between radical and reformist/collaborative approaches to social issues and the state. Indeed, the radical rejection of the new asylum system – including the call to fight it, not become a part of it – is very similar to Marx's 1865 (1898) critique of social democratic wage improvement initiatives, which he describes as misguided and focussing on the effects rather than the causes of inequality. Similarly, the 'professional advocacy' position has historic precedents. Both historical studies of the 'minority rights revolution' and the passage of the civil rights acts under the Johnson Administration (Skrentny 2002), and current ethnographic studies on rights expansion (Epp 2010), emphasise the importance of engagement with bureaucracy for achieving effective change. Indeed, Skrentny goes as far as to claim that much of the success of the civil right movements in the United States was due to 'Euro-American males and minority advocates, wearing suits, sitting at desks, firing off memos, and meeting in government buildings to discuss new policy directions. While these are not romantic images, they are the images of power' (2002:5). From this perspective, it seems that both the risks and opportunities of engaging with bureaucracy are equally distributed. A positive example can be found in Germany where, despite longstanding animosities between local NGOs and migration control organisations, over the past fifteen years dynamics have so drastically changed that, during the 'refugee crisis', NGOs voluntarily assisted migration offices in registering asylum seekers, and even went so far as to lobby on their behalf to local government and the federal asylum system (Eule 2017). However, this too has not come without tensions, and caused a few more radical organisations (most notably 'pro asyl') to distance themselves from the 'mainstream' advice and aid providers (Eule 2014).

The repeated and drastic changes to the provision of welfare and advice thus reveal these longstanding tensions. At the time of writing, they have not yet culminated in open conflict, but have introduced a widely felt unease about the 'right' kind of relationship between advisers and the state. Furthermore, the managerialist shroud of efficiency and competition that has encompassed these changes since the 1980s has opened a 'third way' for advice organisations. This is the more-or-less wholehearted adoption of a managerialist discourse, which possibly includes a much more selective and success-oriented provision of advice. While this does not need to be all negative, experiences in the UK and elsewhere (particularly Belgium and Austria), give strong warning signs. Here, managerialism and spending cuts have caused a race to the bottom among

asylum advice providers and replaced collaboration with competition, with detrimental results for the quality of advice provided. In the UK, both NGO reports and studies conducted by regulatory authorities (Cookson 2011, Solicitors Regulatory Authority 2016) have been overtly critical of the provision of legal aid to asylum seekers since the 2004 asylum advice reform in conjunction with the cuts after the 2010 spending review. Ethnographic accounts of advice provision further highlight the struggles to provide adequate advice under these circumstances (James & Killick 2012, Cauvin & Garces-Mascarenas 2014). These dangers are tangible in the Swiss advice community. However, given the comparably few advice providers and the longstanding experience of cooperation in the face of political differences, there might be opportunities for avoiding the pitfalls of managerialism. Both efforts to establish quality standards that hinder a race to the bottom, and attempts to rescue the tradition of sharing knowledge and successful strategies, could play a key role here.

Notes

1. Complying with the agreement made between the advice community and the researcher, the names and identities of the respondents have been anonymised to the greatest extent possible.
2. The Dublin Convention is an instrument of European law aimed to establish a common framework for determining which member state in the European Union decides an asylum seeker's application and to ensure that only one member state should process each asylum application. Although Switzerland is not a 'member state' it has agreed to apply the provisions. https://www.refugeecouncil.org.uk/assets/0001/5851/dublin_aug2002.pdf

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