

T.C.
MARMARA ÜNİVERSİTESİ
SOSYAL BİLİMLER ENSTİTÜSÜ
SİYASET BİLİMİ VE ULUSLAR ARASI İLİŞKİLER ANA BİLİM
DALI
ULUSLAR ARASI İLİŞKİLER BİLİM DALI

**SOCIAL RIGHTS AND IMMIGRANTS:
A COMPARATIVE RESEARCH ON SOCIAL RIGHTS OF
IMMIGRANTS IN EUROPEAN WELFARE STATES DURING THE
LAST TWO DECADES
BRITAIN, ITALY AND GERMANY**

Yüksek Lisans Tezi

İREM ÇARIKÇIOĞLU

İstanbul, 2008

T.C.
MARMARA ÜNİVERSİTESİ
SOSYAL BİLİMLER ENSTİTÜSÜ
SİYASET BİLİMİ VE ULUSLAR ARASI İLİŞKİLER ANA BİLİM
DALI
ULUSLAR ARASI İLİŞKİLER BİLİM DALI

**SOCIAL RIGHTS AND IMMIGRANTS:
A COMPARATIVE RESEARCH ON SOCIAL RIGHTS OF
IMMIGRANTS IN EUROPEAN WELFARE STATES DURING THE
LAST TWO DECADES
BRITAIN, ITALY AND GERMANY**

Yüksek Lisans Tezi

İREM ÇARIKÇIOĞLU

Thesis Advisor: PROF. DR. FATMA BELKIS KÜMBETOĞLU

İstanbul, 2008

Marmara Üniversitesi
Sosyal Bilimler Enstitüsü Müdürlüğü

Tez Onay Belgesi

SİYASET BİLİMİ VE ULUSLAR ARASI İLİŞ. Anabilim Dalı ULUSLARARASI İLİŞKİLER(ING) Bilim Dalı Yüksek Lisans öğrencisi İREM ÇARIKÇIOĞLU'nun SOCIAL RIGHTS AND IMMIGRANTS: A COMPARATIVE RESEARCH ON SOCIAL RIGHTS OF IMMIGRANTS IN EUROPEAN WELFARE STATES DURING THE LAST TWO DECADES: BRITAIN, ITALY AND GERMANY adlı tez çalışması, Enstitümüz Yönetim Kurulunun 17.07.2008 tarih ve 2008-12/16 sayılı kararıyla ile oluşturulan jüri tarafından oy birliği / oy çokluğu ile Yüksek Lisans Tezi olarak kabul edilmiştir.

Öğretim Üyesi Adı Soyadı

İmzası

Tez Savunma Tarihi

: 28.11.2008

1) Tez Danışmanı : PROF. DR. FATMA BELKIS KÜMBETOĞLU

2) Jüri Üyesi : YRD. DOÇ.DR. İNCİ USER

3) Jüri Üyesi : DOÇ. DR. AYHAN KAYA



PREFACE

The issue of international migration is usually regarded as a security problem that should be contained by the developed countries of Europe. Immigrants are usually seen as intruders, criminals and illegitimate welfare receives. The human dimension of migration, issue of rights and the diversification of the needs of different immigrant groups with respect to the new risks added to the modern economic and social risks, remain secondary. The changing economic and political dynamics after the end of the Cold War influenced the characteristics of the migratory flows. In this study, the various categories of immigrants' social rights were tried to be analyzed in three different European countries, namely Britain, Italy and Germany during the last two decades. The reason to make such a study stems from the need to highlight social dimension of immigration processes that can be said to be a contested area in immigration studies and to analyse the relationship between immigration, the concept of welfare in contemporary world and the notion of rights. I thank to my advisor Prof. Fatma Belkıs Kumbetođlu for her support and valuable opinions and I wish that this study be helpful for those concerned.

İstanbul, 2008

İrem arıkiođlu

CONTENTS

| | Page No. |
|---|-----------------|
| ABBREVIATIONS..... | vi |
| 1. INTRODUCTION..... | 1 |
| 1.1. The Aim and Significance..... | 7 |
| 1.2. Method of This Study..... | 17 |
| 2. WELFARE, IMMIGRATION AND SOCIAL POLICY..... | 22 |
| 2.1. Welfare and Immigration..... | 22 |
| 2.2. The Development of Social Policy..... | 26 |
| 2.2.1. Social Policy in Modern Sense..... | 27 |
| 2.2.2. Keynesian Welfare State..... | 32 |
| 2.2.3. The Social Policy in the Contemporary World and Welfare State Change..... | 38 |
| 3. CITIZENSHIP, IMMIGRATION AND EUROPEAN UNION.... | 45 |
| 3.1. Citizenship, Immigration and Social Rights..... | 45 |
| 3.2. The Politics of Immigration and Integration in the European Union..... | 52 |
| 3.3. Migration and European Social Policy..... | 61 |
| 4. SOCIAL AND ECONOMIC RIGHTS OF IMMIGRANTS..... | 67 |
| 4.1. Right to Work..... | 68 |
| 4.1.1. Prevention of All Forms of Discrimination..... | 68 |
| 4.1.2. Equal Treatment and Equal Opportunities in the Work Place | 68 |
| 4.2. Right to Form and to Be Members of Organizations..... | 71 |
| 4.3. Right to Have Social Protection..... | 72 |
| 4.4. Right to Family Unification..... | 72 |
| 4.5. Right to Education..... | 73 |

| | |
|--|------------|
| 4.6. Right to Health Care..... | 74 |
| 5. SOCIAL RIGHTS OF IMMIGRANTS IN THREE EUROPEAN COUNTRIES..... | 77 |
| 5.1. British Immigration Policy and Social Rights of Immigrants... | 77 |
| 5.1.1. Downsizing Commonwealth Immigration and Contraction of Rights..... | 78 |
| 5.1.2. Welfare Regime and Immigrants' Rights..... | 79 |
| 5.1.3. Deterring Asylum Seekers..... | 82 |
| 5.1.4. Access to Employment, Family Unification and Welfare Provisions..... | 86 |
| 5.2. Italy's Immigration Regime and Social Rights of Immigrants...92 | |
| 5.2.1. Informality, Regularisations and Immigration Policy... 94 | |
| 5.2.2. Welfare Regime: the Conditions for Foreigners' Access to Welfare Entitlements..... | 101 |
| 5.2.2.1. Immigrants' Position in the Labour Market: Wages and Working Conditions..... | 104 |
| 5.2.2.2. Health and Education..... | 108 |
| 5.2.2.3. Housing..... | 109 |
| 5.2.2.4. Family Unification..... | 111 |
| 5.2.2.5. Asylum-Seekers and Social Rights..... | 111 |
| 5.3. Germany's Immigration Regime and Social Rights of Immigrants..... | 113 |
| 5.3.1. Immigration Policy and Citizenship of Germany..... | 114 |
| 5.3.1.1. Immigration Policy of Germany..... | 115 |
| 5.3.1.2. Citizenship and Naturalization in Germany..... | 121 |
| 5.3.2. The Role of Welfare State and Social Rights of Immigrants..... | 125 |
| 5.3.2.1. The Foundation of the German Welfare State.... | 125 |
| 5.3.2.2. Social Rights of Immigrants..... | 129 |
| 5.3.2.2.1. Foreign Workers and Ethnic Germans..... | 130 |
| 5.3.2.2.2. Asylum-Seekers..... | 134 |
| 6. CONCLUSION..... | 138 |

BIBLIOGRAPHY..... 146

ABBREVIATIONS

| | |
|----------------------|--|
| <i>AHWGI</i> | Ad Hoc Working Group on Immigration |
| <i>CRE</i> | Commission for Racial Equality |
| <i>EC</i> | European Community |
| <i>ECHR</i> | European Convention on Human Rights |
| <i>ECJ</i> | European Court of Justice |
| <i>EEA</i> | European Economic Area |
| <i>ELR</i> | Exceptional Leave to Remain |
| <i>EP</i> | European Parliament |
| <i>ESC</i> | European Social Charter |
| <i>EU</i> | European Union |
| <i>HRA</i> | Human Rights Act |
| <i>ICESCR</i> | International Covenant on Economic, Social and Cultural Rights |
| <i>ILO</i> | International Labour Organization |
| <i>JHA</i> | Justice and Home Affairs |
| <i>KWS</i> | Keynesian Welfare State |
| <i>NASS</i> | National Asylum Support Service |
| <i>SEA</i> | Single European Act |
| <i>TCN</i> | Third Country National |
| <i>UDHR</i> | Universal Declaration of Human Rights |
| <i>UK</i> | United Kingdom |
| <i>UN</i> | United Nations |

1. INTRODUCTION

The phenomenon of international migration is one of the most compelling issues in the contemporary era which brings many modern concepts into question such as national identity, citizenship and the rights derived from this status, national welfare state, national economy, shortly the key elements of the modern national state, and it helps to formulate the new discussions about peaceful co-existence of culturally and ethnically diverse groups in one society. International migration is not the product of the contemporary era. The mobility of people across the continents to improve the quality of the lives has long been dominant in the globe however it was probably very hard to imagine that even the very poor people could move by using the facilities of transportation and communication technologies with the advantage of the low costs of long distance moves (Hatton and Williamson, 2005: 1). In the contemporary world, the phenomenon of international migration carries different characteristics with its changing scope and the movements carry different motives and patterns with the impact of the global dynamics.*

Castles and Miller (1998: 5) evaluate international migration in the contemporary world as a 'transnational revolution' that is affecting all societies in the world. According to Castles and Miller (1998: 8) mainly five tendencies can be identified to explain the distinct character of today's international movements. These are globalization of migration, acceleration of migration, differentiation of migration, feminization of migration and the politicization of migration.

More and more countries are being affected by migratory movements at the same time. Moreover, the diversity of the areas of origin is also increasing, so that most immigration countries have entrants from a broad spectrum of economic, social and cultural backgrounds... Most countries do not simply have one type of immigration, such as labour migration, refugee or permanent settlement, but a whole range of types at once (Castles and Miller, 1998: 8-9).

* These dynamics can be summarized as; long term foreign investment, abolishment of the obstacle on trade, global mutual engagement with the impacts of changes in production and service technology and new communication and transportation technologies.

Feminization of international migration contributes to the differentiation process. Today, women are no longer passive dependants of male immigrant workers. They have started to play important role in the labour migration especially in the last two decades.

Today it is obvious that the issue of international migration is regarded crucial for every developed country as one of the major security concerns. Movements of people directed to the developed countries bring the question of how different categories of immigrants can be socially integrated into the host societies. By the political governments of the developed Western countries, international migration can said to be considered as the root cause of the erosion of the national identity, as a threat to the social order and the quality of the life of the native population. Furthermore, international movements of the people are associated with crime and invasion.

It should be emphasized that the widening gap between rich and poor countries increased across the 20th century and the demographic factors- the ageing population of Europe- are furthering the flows of immigrants. Furthermore, the legacy of the guest worker programmes experienced by many European countries to cure their war-damaged economies brought the consequence of important amount of foreign born children in the host societies.*

Globalization by most the commentators is regarded as the major power that shapes the economic activity and human behaviour. Internationalization of economies and increasing competition create high mobility of finance, services, capital and people. However, the mobility of people today is not mostly welcomed by the developed countries of Europe especially if the workers are not highly-skilled and are not suitable for the new employment structure.† It can be observed that paradoxically, strict immigration policies of the developed countries are incompatible with other mobilities.

* 'Most of the OECD rise in the foreign-born shares took place in the 1990s: Two thirds of the increase in the Northern American foreign-born share and four-fifths of the increase took place in that decade. In short, OECD immigration has accelerated since 1965 and especially in recent decades' (T. J. Hatton and J. G. Williamson (2008). *Global Migration and The World Economy: Two Centuries of Policy and Performance*. London: MIT Press).

† 'New employment structure' is used here to define the shift from old industrial regulated employment to service based and branched new structure of employment.

Today, visas, quotas, green cards and the security mechanisms to stop illegal immigration and to deter asylum seeking are the major features of immigration policies.

The changing scope of the phenomenon of international migration is not just about the economic factors and inequalities in terms of income distribution, the dynamics of the world political structure that was reshaped by the end of the Cold War are crucial. Especially during the late 1980s, international migration began to be accorded high level of attention. The abolishment of the existing world political structure that was dominant since the end of the Second World War continued with violent struggles between different ethnic and religious groups and the different claims. New nation-states had emerged and new minorities and unwanted groups were created. So, 1990s witnessed both important amount of asylum claims of miserable people who seek protection under the discriminative tendencies of the safe countries and the celebration of market economy by neo-liberals. Free market ideology, individualism and consumerism replaced state-led control mechanisms on economy and welfarism.

Since the early 1980s, the rates of illegal movements and smuggling of people became widespread because of both the political instability prevailing aftermath of the Cold War period and of the restriction of the legal entry with the impact of the Oil Crisis. Therefore, it can be said that the security dimension of international movements of the people such as strict border controls and the discourse on the curtailment of the illegal immigration came to constitute one of the major goals of the developed countries while the human dimension and the issue of social and economic rights are usually neglected or treated as secondary when it is compared with the protection of the 'national security' and 'national interest'. Furthermore, it is obvious that immigrants play an important role in the contemporary world especially with the impact of global trends that prevail nearly in all forms of relations between traditional and newly emerged or prioritized actors whose responsibility is claimed to provide social cohesion and to prevent economic and social conflicts among the society. These '*unwanted*' newcomers are usually seen as a significant challenge to the national identity –as the cause of insecurity- with their presence who aim to give damage to the social cohesion

and social order. The dynamics that shape those kinds of securitization attempts are also crucial to scrutinize the diverse motivations that direct people to the new destinations.

False labelling, governing the minds of the native population with false prejudices, reducing human beings into manageable economic creatures who are calculating just the economic costs and benefits of the immigration processes are just increasing the social problems that people came face to face and creating an hostile environment, do not deter future immigration of low-skill people. Here, it is crucial to remember 'governmentality' literature that was introduced by Michel Foucault. Xavier Inda (2006:3-4) by taking reference from Foucault's and other governmentality scholars' several works defines the concept as follows:

The term designates not just the activities of the government and its institutions but, more generally, the practices of all those bodies whose aim is to shape the human conduct...They (governmentality scholars) have thus drawn attention to the intrinsic links between strategies for knowing and directing large-scale entities and schemes for managing the action of particular individuals- how to conduct and the circumstances of individuals are connected to the security and well-being of the population as a whole.

As it is understood, 'governmentality' not only shapes the human behaviour but also aims to manage the conduct of individuals by introducing several programmes in the fields of social insurance, poverty and insecurity, crime control, globalization, regulation of unemployment and etc (Inda, 2006: 4). This concept constitutes an important place in this study because this notion of government is linked to the innovation or redefinition of crucial issues such as health, illness and security and it shapes the knowledge and govern the attitudes towards unwanted population.

It is obvious that while the number of immigrants is growing in the contemporary world, the characteristics of immigrants are also changing. In this sense, the social integration of various types of immigrants to the immigration countries becomes one of the major issues in post-industrial countries. There are various processes for the adaptation of immigrants, and state policies play a major role in realization of them. However, governments have a solid basis for the formulation and implementation of policies that are often lacking. Moreover, it is difficult to compare them in terms of overcoming the negative perceptions and employing effective

mechanisms for granting social rights. The issue of enhancing social and economic rights to the various categories of immigrants can also be reviewed with respect to the eroding supremacy of the nation-states or in other words with respect to the emergence of trans-national human rights regime that is located outside the national belonging* (Morris, 2002: 5). The fall of social rights of immigrants into the agenda of European developed welfare states as a crucial social issue, the expansion of the scope of those rights and the acquisition of them national and international binding within the laws can be said to emerge very recently. Before discussing on immigrants' social rights in the developed European countries, the emphasis will be given to the main concepts that shape the relationship between immigrants' rights and the welfare state understanding. In this part of the research, it is necessary to analyze the concepts such as social policy, social citizenship, social justice that are effective in understanding the notion of social rights and their changing scope in the contemporary world better. These set of rights can be said to play an important role in the social inclusion of migrants into the European societies. However, it is important to keep in mind that the social inclusion of migrants into the host societies and being migrant communities a natural part of those societies is not solely linked to the entitlement of welfare services. The issue to what extent the migrant communities are socially included in their new life and environment becomes meaningful when it is considered with the concept of social equality and the notion of human rights. Today, the social rights which stand mostly beyond from the authority of the national states and seem to be mostly linked to the guarantees of supranational

* The term 'human rights' is mostly associated with the establishment of the United Nations (1945). The Universal Declaration of Human Rights (1948) put forward the fundamental rights universally applicable to all people regardless of gender, age, class and race. A 'regime' is 'the set of principles, procedures, norms, or rules that govern particular issue areas within international relations. They facilitate some form of global governance in an anarchical realm' (M. Griffiths and T. O'Callaghan. *International Relations: the Key Concepts* (2006). "Regime", Routledge Key Guides). Basically, Human Rights Regime is founded with the aim of protecting individuals against the discretionary power and oppression and of promoting the fundamental rights by bringing pressure on the national governments to comply with the rulings of the international bodies. Transnational Human Rights Regime is linked to supra-national structures of power and the diversity of actors such as intergovernmental organizations (IGOs), transnational corporations (TNCs), non-governmental organization (NGOs) and social movements (M. Goodhart, (2006). A Transnational Human Rights Regime as a Mechanism for Democratizing Power. *APSA Annual Meeting*. Philadelphia, 1-29). Therefore, the role of supra-national institutions has been expanded with respect to the governance of human rights that is usually assumed to transcend the power of the nation-states. Although there exists an important amount of literature about the nation- states and impact of the global governance on the national decision making it can be asserted that the interaction between the supra-national actors with respect to the human rights regime has an important impact and influence on domestic law of the states.

institutions and conventions shows us these set of rights display a much differentiated position from the political and civil rights.

Especially in the last two decades important changes in the content and in the meaning of social rights has been observed such as in the other elements that are effective in the composition of these rights. In this sense, the chapter aims to analyze the impact of the dynamics of the welfare state transformation on the process of social inclusion of migrants and the concept of social citizenship. Shortly, the migrant policies are going to be discussed with respect to the changing dynamics of the European welfare state. Here, beside the welfare state dynamics that is peculiar to the European continent and the general tendencies in the politics of migration, the migrant policies and the degree of social inclusion of migrants in the particular European societies is going to be analyzed with respect to the social and economic rights. In this sense, it can be said that the changing scope of social policy, welfare state and social citizenship are important concepts that affects the politics of migration in the European continent like in all parts of the world.

The development of social rights had come into being afterwards when it is compared to the acquisition of civil and political rights. Social and economic rights that came to the agenda during the late 19th century* expanded its scope in the 20th century onwards and got shut of its narrow definition by gaining the ability to address all sections of the society and their varied demands (Koray, 2005: 85-86).

Without any doubt, the development of social rights in Europe is closely related to the enlargement of the scope and the domain of the concept of social policy as a result of the economic, social and political changes in European continent. In other words the social solutions that were tried to be developed to overcome the social troubles emerged directly linked to those changes brought a necessity to establish a domain for social policy. In this sense, we can easily observe that the development of social policy concept has been usually viewed as connected to the social problems which came to emerge after the industrialization period in Europe. Among the social

* The adoption of social rights for the first time in a constitution has been realized with the constitution of the German Reich that is usually known as Weimar Constitution of 1919 which was technically remained until 1945.

solutions that were developed against the negative social consequences of industrialization period, the concept of social policy took its part such as the concepts of human rights, democracy and citizenship (Koray, 2005: 24).

Furthermore, it is obvious that there exists a European model in terms of social policy practice although there are important particularities among European countries. Although we may observe some splits within the so-called “European model of society” and although it is obvious that this model had been weakened under the unbalanced market conditions with the impact of globalization and neo-liberal policies, the gains of West in terms of social policy should be regarded as crucial. Under these conditions the necessity of protective social policies should not be neglected and should be implemented in global scale.

1.1. THE AIM AND SIGNIFICANCE OF THE STUDY

In this study, the various categories of immigrants’ social rights have been tried to be analyzed in three different European countries, namely Britain, Italy and Germany during the last two decades. The reason to make such a study stems from the need to highlight the social dimension of immigration process that can be said to be a contested area in immigration studies and to analyse the relationship between immigration, the concept of welfare in the contemporary world and the notion of rights. In other words, the questions of how the notion of social rights has been affected by newly emerging actors and how the increasing categories of immigrants are affected from the processes of globalization are tried to be analysed in the study.

It has been already emphasized that globalization is regarded as an important process that shapes the motivation for the movements of people. It is regarded as the major force that shapes the human activity especially after the 1980s. The economic relations, identities, legal norms and principles are all affected from the global processes. One of the most important impacts of globalization that is crucial for this study is the augmentation of the types of immigration and immigrants, such as the augmentation in the number of women immigrants, and diversification of the needs for

each category. Moreover, there emerges a hierarchical structure with respect to the statuses of immigrants to reach the certain set of rights.*

The global processes added new social and economic risks and immigrant communities are the most vulnerable group that is open to the risks of social life. Moreover, each category of immigrants comes face to face with different risks and all the categories are not entitled to the same social rights. Beside the augmentation of the categories and the impact of the phenomenon of globalization on modern constructs, states pursue different approaches about immigrants with respect to their immigration histories and welfare traditions. There are common policies that are constructed on regional basis about new forms of immigration and how to cope with them strategically, however, the tendencies of different countries to adopt themselves to international competition and the needs of underground economy for secondary labour force helps the emergence of different practices. Tackling illegal immigration and enhancing the integration of immigrants who have already entered the country of destination, for example, are claimed to be the most important common policy goals of the European Union. However, each European country is being affected by the different forms of flows and they are following different strategies to cope with them. This situation brought the need to make such a comparative research. Globalization affects the modern conceptions and brings the need to re-conceptualize them, for example, social justice, social citizenship and individual freedoms; however, although there is a common tendency towards immigration that rests upon security and control mechanisms, each country put different practices into play.

This study aims to analyze certain set of social rights- the right to work and to protection against unemployment, right to social security, the right to a standard of living adequate for the health and well-being of the self and the family and the right to

* Among one category of immigrant group, there can also be exist some sub-categories. For example, asylum seekers can be classified as those who are accepted with respect to the principles of Geneva Convention of Refugees (1951) and those who gain to remain in the territories of the country of destination with humanitarian reasons despite they cannot fulfil the requirements of Geneva Convention. Moreover, these categories show differences from one country to another and each sub-category embrace different set of rights. Economic immigrants can be shown as another example. There is an important diversification with respect to the social rights between EU and non-European foreign workers.

education- of particular immigrant groups in three European country- Britain, Italy and Germany- with a comparative approach. The immigrant groups are selected with respect to the main immigration trends in the country of destination and with respect to the vulnerability of the immigrant population.

The need to make a comparison stems from the distinct social policies and guiding mentalities of the national governments towards social dimensions of the international migration. Thus the main discussion will be focused on how and to what extent the varied immigrant communities in these three selected European countries acquire these social and economic rights. While investigating the particularities within the immigrant communities for the attainment of the rights and while observing the different processes of implementation in Britain, Italy and Germany with respect to these social rights of varied forms of immigrants, the arguments about the impact of the dynamics of the global economic system on the international movements of the people and about the national responses of the states will be helpful to grasp the international context in which the flows take place.

Furthermore, it is necessary to underscore the different social welfare practices and relationships that usually affect the acquisition of the social rights of migrants. With respect to the attainment of certain social rights for immigrants several factors such as the immigration regime of the country of destination, the historical particularities of immigration trends, the welfare regimes* and the implementation of the social policies can be said to be effective. Beside those factors, the emergence of the tendency on the European Union (EU) level to establish common policy goals for the member states of the Union should be regarded crucial for establishing a common language and common set of principles with respect to international movements of the people. The impact of the EU on the immigration policies of the member states and the conditions for the Third Country Nationals will be deeply discussed in the following chapters.

* The term 'welfare regime' is employed in the works of Gosta Epsing- Andersen (1990), mainly in *The Three Worlds of Welfare Capitalism*, and many scholars of comparative research who work on the models of the welfare state. It refers to the norms, principles and rules of the welfare state system. The term also reflects the scope and the extent of social policy goals and the ideological perceptions of welfare provisions.

In this study, the scope of the social rights of different groups of immigrants- that is determined according to the main trends of the flows directed to the immigration country and according to the vulnerability of specific immigrant groups in that country- will be analyzed for Germany, Britain and Italy by giving reference to welfare policies and the evolution of the immigration regimes of those countries by taking into account the processes of globalization that shape the human conditions. This issue will be discussed within the framework of several dimensions:

1. The immigration regimes and the immigrant policies
2. The welfare policies, social policy concept in European context and the implementation of the formal rights in the three EU member states with respect to the migrants' acquisition of social rights
3. The role of international agreements, conventions and transnational actors as 'guarantors' of immigrants' rights and democracy.

The first dimension is designed to illustrate the international context that shapes the features of the current flows of international migration. These features include the diversification of the flows and types of immigrants, and diversification of the state strategies to cope with the increasing immigration and the question of incorporation of different categories of immigrants into the mainstream society. The second dimension will be focused on the development of social policy in Europe and the welfare regimes. Finally the third one will summarize the major set of social rights that are guaranteed by international agreements and conventions and will argue the impact of transnational actors to protect social rights of the varied form of immigrants.

In the contemporary era, important changes have been observed with respect to the traditional conceptions of citizenship, rights and membership. On the one hand, 'post-national membership' (Soysal, 1994) that goes beyond the traditional membership which is usually defined with the congruency between the state territory and the national community, is claimed to create new foundations for the citizenship concept in which the immigrants play the major role. On the other hand, many scholars put emphasis on the national closure and the weaknesses of the EU as a symbol of what

Soysal (1994) refers '*post-national membership*' to create union citizenship. On the one side, the notion of human rights is flourishing. However, on the other side, the discourse of 'tolerance' towards the othered communities is increasing. The word 'tolerance' is coming to constitute the agendas. It can be viewed that this discourse is also employed with respect to the social rights issue. Although the equal treatment for all people in every sphere of social life is a universal right, the discourse of tolerance helps to illustrate the othered communities as creatures whose existence should have to be tolerated. Today, the global, regional and societal inequalities are augmenting and the role of national states to control power within its territory and over their citizens has being seriously questioned. In spite of the universal character of the human rights, the reference is still the national governments with respect to the realization or in other words the implementation of them. It should be emphasized that global economic dynamics are affecting all countries and the populations living in these countries. However, the reactions of each national state to cope with the changing dynamics show crucial differences.

Britain is one of the selected countries. According to Epsing-Andersen (1999: Buğra and Keyder, 2006: 45) welfare regime typology, Britain is categorized as Anglo-Saxon/ residual welfare regime that is based on means-tested welfare entitlements. One of the reasons of choosing Britain is that it reflects a different welfare tradition when it is compared with other countries in the continent. The welfare system of Britain is more similar to US welfare regime (Schierup, et. al. 2006: 111). State's responsibility rests upon monitoring rather than regulating preventive mechanisms against the certain social risks during the life cycle. Its welfare system is market-oriented. Rather than public welfare benefits, private companies are popular and people are mostly treated as consumers rather than legitimate receivers of the public welfare benefits. Another reason to choose Britain is that especially during the last decades, Britain has been started to receive large amount of asylum application beside those coming from the Commonwealth countries. Moreover, Britain has an important colonial history. For a long period of time, Britain received Commonwealth people and granted special status for them although especially after the late 1970s has been limited by the government. It can be said that country became an important arrival point for many immigrants of

different origin and category. So Britain can be said to be an important case for the social rights of varied categories of immigrants.

Germany is chosen because it has a strong welfare tradition and an important immigration experience. It has been one of the most powerful member states of the European Union. Although Germany has a strong social security system, the naturalization process which is important for immigrant communities to achieve similar social rights and social protection in line with German citizens, is very strict for non-European citizens. Immigrants have to be naturalized first to become eligible for German citizenship. The citizenship law that embraces the principle of *jus sanguinis* principle is furthering the difficult position of immigrants in the country of destination. Germany refuses the citizenship right by birth. Although guest workers and their descendants are residing in the country since the 1960s; till the end of 1990s, ethnic Germans were privileged and they easily acquired the citizenship right. In the study the differences between non-EU citizens and the Ethnic Germans are analysed with respect to citizenship status and the social rights attached to it. The perception in terms of competition for jobs and welfare provisions to the foreigners can be defined as exclusionary. Germany with its strong market regulation mostly chooses to exclude outsiders who might compete for the social advantages (Bommes, 2000: 104). This can be also viewed as linked to the exclusionary notion of German citizenship based on blood. Labour market participation is the basic principle for reaching social benefits in this country (Koray, 2002: 181). There exists strong differentiation between immigrant groups in terms of welfare entitlements. Especially it is observed that there exist important distinctions in terms of welfare provisions between ethnic Germans and foreign immigrant workers (Bommes, 2000: 96).

Although it can be observed an important development on the expansion of migrants' rights by the virtue of the universalistic claims of human rights, the contradicting values and characteristics of post-industrial societies include an important process of filtering rights in terms of international migration (Morris, 2002: 15). On the other hand Germany's distinct attitude towards ethnic German immigrants in terms of social rights as naturalized citizens (Bommes, 2000: 90) and towards "temporary" guest

workers is worth to pay attention while analyzing the evolution of rights in different settings and the history of immigration. In this sense rather than to start with accepting a general progress for full inclusion that applies in all countries, the comparative analysis will be employed in the research emphasizing the distinct mentality of governments.

Italy is a very interesting case for this study. First of all as a southern European country, it has been a transit route for many illegal entrants for many years because of its geographical conditions and relatively lax control mechanisms. Dublin Convention to tackle illegal immigration flows through southern European countries established a security mechanism with the 'first arrival country rule'^{*}. Italy constitutes an important space for the research because of especially being an area of irregular migration and because of the place of informal sector in the national economy. Although Italy was not traditionally an immigration country, especially from the late 1970s to date has become an important receiving country that includes a variety of origins of immigrants (Baldwin-Edwards, 1999: 2-4). The emergence of new categories of immigrants and the new tendencies of the Northern Western European countries towards the migrants paved the way for Italy like other Southern European countries to be an important receiving country (Zincone, 1999: 47). In this sense it can be said that the establishment of the legal regime of rights is relatively new. The state responds to immigration and immigrants, the national welfare system, the regime of rights, the importance of informal economy in Italy will be discussed by making comparison between Northwest European countries.

One of the reasons to choose Italy for the investigation of social rights of immigrants is that like Britain, Italy receives varied categories of immigrants. The strong history of informal economy and the ascendance of it during the last decades with the impact of new employment structure and the need of low cost labour of small and medium size firms to resist the increasing international competition and to survive themselves can be defined as motivation for legal and illegal flows. Italy reflects many forms of illegality. Furthermore, the social rights of illegal immigrants usually do not

^{*} According to this principle that was introduced by Dublin Convention, immigrants who enter one European country through illegal ways have to stay in the first arrival country and cannot apply for asylum in other European countries.

attract attention; they are usually defined undeserving welfare receivers and job takers and they are usually associated with crime. In the countries of destination their presence is usually neglected. Italy constitutes an important ground for the social position of illegal immigrants in the society.

The aim of investigating the social rights of particular immigrant groups mostly stems from the need to analyze the human consequences of international immigration and to analyze to what extent these immigrant groups are accepted into the mainstream society beyond the formal regulations of regional and international agreements and conventions. For instance, the naturalized immigrants or the economic migrants holding a legal residence permit or the recognized refugees usually have formally the same social rights with the native population. However, the active participation to the social and economic life regardless of discriminative tendencies usually fell short with the formal equality. As it is emphasized the processes of globalization affected the traditional pull and push factors that cause immigrant population. Today, immigrants behave according to several motivations and in accordance with directives of new networks formed by both immigrant organizations and other non-state voluntary organizations. Furthermore, where the immigrant lacks guaranteed protection, informal networks start to develop. The most vulnerable groups among the immigrant communities like illegal immigrants and asylum seekers in all countries have only very limited social rights that usually comprise just emergency health care and education. Without any human protection, these categories of immigrants become more vulnerable to abuses with respect to working conditions, working hours, adequate and unhealthy conditions of housing. They become alienated, segregated and excluded from the dominant society. The aim of the research is to analyze how the certain set of social rights are being distributed among the various types of immigrants by taking account the distinct welfare structures, immigration regimes and immigrant policies.

As Castles puts forward international migration in this global age carries distinctive features from the former movements of people across the borders and brings important social and economic consequences with its centrality both in the domestic and

international politics (Castles and Miller, 1998: 1). One of the features of contemporary movements of people is that migrants are divided into categories. Migrants with permanent residence, temporary foreign workers, illegal migrants, refugees and asylum seekers are the major groups among the contemporary flows. On the other hand, women immigration started to take an important part in the migration schemes. In this study certain social rights- the right to work and to protection against unemployment, right to social security, the right to a standard of living adequate for the health and well-being of the self and the family and the right to education- is aimed to be investigated. This study carries importance because varied categories of immigrants have different social rights and responsibilities in the country of destination. Beside the augmentation in the categories of immigrants, each country has different understanding to govern the issues relating to immigrants, for example the governance of illegality or asylum seeking practically differs from each other.

The social rights are crucial both for immigrant communities to survive and for the native population to enhance the peaceful co-existence. With this respect, this study views social rights as fundamental human rights rather than approaching the issue with the assumption of economic costs and benefits. It is obvious that both immigration and welfare regimes are influenced by the regional politics with the impact of global dynamics. However, the immigrant policies and the enhancement of the social rights to various types of immigrant groups still rest on the national level. That's why different national contexts are chosen to illustrate the distinctive governmental policies. Today, the European continent has to face increasing number of immigrants of different nationalities. The enhancement of social rights is gaining further importance to get rid of the stigmatization and discrimination of those communities in the mainstream society. The developed welfare states should face this reality and take serious steps for monitoring the discrimination and preventing the use of discretionary power in the spheres of daily life. In this study, beside the formal rights that are guaranteed on the international level, the different national contexts will be analyzed for the implementation and monitoring of the mentioned social rights of immigrant groups.

In this study, three European countries, Britain, Italy and Germany have been chosen to establish the universe of the study. These countries are chosen to reflect the different social policy practices, different immigration histories and welfare regimes of the states. In this study, descriptive and comparative method is employed to give a detailed picture of immigrants' social rights with respect to their diverse legal status in three countries of destination and to compare different practices and implementation processes in these countries. These three countries are selected because each country illustrates different histories and trends of immigration in the last two decades- 1980s up to today. Although they are receiving important amount of immigrants, each country attracts diverse groups of immigrants. For instance, while Britain is usually selected as a route by asylum seekers, Italy attracts economic migrants who struggle for both legal and illegal ways of entry and residence. When it is concentrated on the German case, it is observed that since 1980s family unification and asylum seeking were the most dominant forms of immigration. Thus, the categories of immigrants that are going to be investigated show some differences in each country. In Britain, the position of the asylum seekers in the British society and the social rights that are given to those communities during the last the twenty years are investigated because especially after the end of the Cold War, Britain like Germany became an important arrival point for asylum seekers. It is also important to keep in mind that, the status of asylum seekers has some sub-categories. For Example, in Britain, those who are not recognized under Geneva Convention (1951) and its Additional Protocol (1967) can hold Exceptional Leave to Remain (ELR status) for humanitarian purposes.

In Italian case, economic immigrants with diverse statuses are concentrated. The reason to choose the economic immigrants for Italy is that, especially after 1980s, after Italy became an important immigration country, the country is mostly affected by illegal flows because of its geographical position and its lax control mechanisms that are in favour of informal economy. While the numbers of illegal categories is augmenting in spite of amnesties that aim to regularize the irregular status of immigrants, there emerges a need to evaluate the social and economic position of illegal migrants. Moreover, in Italian case, it will be seen that there is not one form of illegality. The illegal position of immigrants in the country of destination can be sub-divided into

several categories according to their entry, residence and work. Therefore, it is obvious that each sub-categories embraces different set of social rights.

In Germany, the legacy of the guest-worker programmes can be summarized with the permanent settlement of the guest workers and their families. Beside these communities, ethnic Germans who are immigrated from the former East Germany, former Yugoslavia and other Soviet Block countries came to constitute important share in Federal Republic of Germany after the end of the Cold War. As it will be seen in the following chapters, there exist important differences with respect to the social position of those communities in the German society. Each of these groups came to be entitled different social rights and responsibilities. In German case, another immigrant group that took part in the study is asylum seekers. Especially after 1990s, Germany is influenced from immigration of asylum seekers. As in British case, Germany accepted high amounts of asylum seekers with different statuses. As it can be observed, in each three country, the unit of analysis is determined by the immigration history, the immigration policy and the vulnerability of the immigrant groups in that country. The reason to choose these groups is to put forward their vulnerability. However, the new trends that shape other categories of immigrants, especially seasonal workers and short-term contract labours, took place to explain the new forms of employment and new strategies of governments to slow down the economic immigration.

1.2. METHOD OF THE STUDY

The study is based on documentary research in which a number of successive stages have been carried out. First of all identification of the relevant documents has been realized. In this first step, relevant documents have been collected with respect to their availability and reliability. Literature review has been made according to the key concepts of the study. In the study, secondary sources are mostly employed. The types of documents that are utilized are administrative documents such as proposal reports, national and international documents on the protection of social and human rights of immigrants. The set of social rights are discussed by giving reference to international and regional agreements to conceive the formal ground that is established. Beside these documents, the fact sheets of the UN and the papers prepared by International Labour

Organization (ILO) about the social dimension of immigration processes and the rights of different types of immigrants are used to analyse the common set of practices and tendencies prevailing in the international arena. The realization of the formal standards about immigrants' legal and social statuses and the formal rights within different national contexts is tried to be analyzed with respect to the statements of the local authorities and the state and non-state organizations devoted to the enhancement of the social and economic well-being of immigrants.

The second step of this study is the organization and the analysis of the data. As it was emphasized before, in each country, different groups of immigrants are selected according to the main immigration trends of the selected countries and to the vulnerability of immigrant groups in these countries. In collecting data secondary sources are used to gather data about the immigrant population residing in immigration country and their presence in the labour market of the country of destination.

The final step is the evaluation of the information and the interpretation of the data. The studies conducted about welfare regime typologies, immigration policies of three European states and about the features of globalization are used to understand the concepts and to form a meaningful relationship between them. The most addressed agreements in this study are, the Universal Declaration of Human Rights (UDHR) (1948), International Convention on the Protection of All Migrant Workers and Their Families, European Social Charter (ESC) (1961) and its revised version (1996) and International Covenant on Economic, Social and Cultural Rights (ICESCR) (1996). Those international conventions provide an important basis for understanding the formal basis which the social and economic rights stand. Beside these types of documents, secondary material will be used to describe, analyze and compare concept clusters that will be helpful for the collection of the associated concepts and the classifications to put forward multi- dimensional concepts.

Reports about the integration of immigrants in the immigration countries, international agreements and regional conventions also took place. For example, in British case, the House of Lords Reports about the economic impacts of immigration and daily newspapers' are used. In Italian case, European Commission funded project

about the access to health of immigrant women is employed. News from the agencies such as Deutsche Welle and newspapers such as Personal Today are used to take information about new rules and regulations about immigrants and related issues.

In this study, rather than following a longitudinal perspective, time limitation is put. The issue of social rights of varied categories of immigrants were analysed in the last twenty years. The reason to investigate the mentioned categories of immigrants' social rights with this time limitation is related to the developments of the last twenty years. After the end of the Cold War, crucial developments have been witnessed in both economic and political terms. This is the period when the modern concepts such as national citizenship, Keynesian welfare state, national membership and identity came to be questioned. Since 1980s, the notion of social rights that are guaranteed by the social states of Europe gradually gave way to individual based responsibilities in which consumerism and privatization play the central role. During the last twenty years modern citizenship whose core element is national belonging came to be questioned with its constituencies.

The end of the Cold War increased the fears about international movements of the people. Beside, de-industrialization, neo-liberal policies in which the market principles are prioritized and unemployment; the movements of people through the former Soviet Block countries to western European countries because of the political instability and ethnic conflicts marked this period. Kaya and Kentel (2007: 13) emphasizes that:

1989 signalled the beginning of a new epoch that resulted in massive migration flows of ethnic Germans, ethnic Hungarians, ethnic Russians and Russian Jews from one place to another. Political instability and ethnic conflicts in the former Eastern Block encouraged some ethnic groups to migrate to western European countries where they could find ethnic affinities. The mobility of millions of people has stimulated nation-states to ethnicise their migration policies in a way that approved the arrival of co-ethnic immigrants, but disapproved the status of existing immigrants.

Kaya and Kentel with this statement puts emphasis on the special character of the period. The main point is that ethnic ties came to constitute a priority and the groups that found ethnic affinities were privileged in destination countries. As in German case, this tendency created an important difference between those ethnic people and the

already existing immigrant communities although especially during the late 1990s, the special position of ethnic immigrant communities have been downsized as the other immigrant communities were seen important contributors to GNP.

This period is also important to reflect the changing meaning or in other words, the redefinition efforts of the concept of security. Kaya and Kentel (2007: 13) by giving reference from Doty (2000: 73) emphasizes that security, today, is being defined beyond the military terms. International movements of the people, identity claims, ethnic and religious revival are made security issues, thus, the discourse of security has been '*shifted from protection of state to the protection of society*' (Kaya and Kentel, 2007: 13-14).

Another time limitation will be employed with respect to the legally residence period of the economic immigrants in the three countries. Thus, for the legally resident economic migrants, the period till the naturalization (the period differs in each country) constitute this limitation. It can be said that this period is crucial to see the importance of these set of practices in the adaptation process.

Finally, it should be summarized that international mobility of people is not welcomed by developed countries although the other mobilities are encouraged. Today, the common tendency of the immigration policies of the developed countries is restriction. If it is considered that the global processes increased immigration of even very poor people for the distinct parts of the world, it can be said that the diverse ethnic composition of immigrants is a factor in the politics of restriction. The golden era of the legal immigration of foreign workers was ended up in 1970s and replaced by the restrictive immigration policies. Beside the economic crisis of 1970s, the collapse of the Soviet Bloc countries and the disintegration of them caused large numbers of asylum seekers. These developments helped to illustrate the immigrant communities as potential enemies to the national interest and national welfare. The asylum seekers were preferred to be evaluated as bogus and the low-skilled immigrants were tried to be deterred.

In the following chapter, the relation between the concepts of social policy, welfare, citizenship and immigration will take place. Then, the European Union's policy of immigration and the legal arrangements about immigrants' rights will be argued. Beside this, it is going to be argued that if it is possible to talk about a single European social policy and common immigration and immigrant policy that are driven by the European Union. Then, the international legal norms will be put forward about the social rights and finally the categorization of immigrants and the social rights issue will be analysed in three different national contexts.

2. WELFARE, IMMIGRATION AND SOCIAL POLICY

In this chapter, the relationship between the concepts of welfare, globalization and social policy will be analysed with respect to the international migration and social rights issue. The issue of social rights of immigrants became an important welfare matter especially during the last decades. The most visible argument is that which immigrant groups 'deserve' welfare benefits and that which immigrant groups should be excluded from the main social rights that are necessary to have a decent life in their new social environments. Differentiation of migration as one of the features of contemporary international flows (Castles and Miller, 1998:9) should be paid attention while examining the relationship between welfare and immigration.

2.1. WELFARE AND IMMIGRATION

Today, the relationship between welfare and immigration should be evaluated within the light of the phenomenon of globalization. The changes of the post-war welfare state understanding and structures can be viewed as linked to the profound change that all states and societies have come face to face. Although there has been a great deal of argument about the concept of globalization and how and to what degree it affects the traditional institutional structures, it should be emphasized that this relationship brought new consequences for immigrants.

International migration with its global scope has been one of the most important phenomena that challenge '*the conceptual and organizational borders of the national welfare state*' (Geddes and Bommes, 2000: 1). The movements of the people in the contemporary era carry significant differences when they are compared with former immigration flows. Rather than the movements directed to a particular target, the movements of people become graded, the distinction between voluntary and forced immigration have been blurred and legal and social positions of immigrants have become more ambiguous (Kümbetoğlu, 2003: 273). Another difference of the contemporary flows is that they affect almost every country in the world at the same

time and create urgency for the states to overcome the growing number of immigrants and all types at once (Castles and Miller, 1998: 4). The strategy of governments to deal with immigration flows is usually to build the political rationalities to halt those flows or to create moral justifications, usually developed on the discourse of 'national defence', 'national interest' and 'the welfare dependency of immigrants'. Therefore, it can be said that the actors of the immigration process with their diverse legal status are shown as the cause of the erosion of the national solidarity, national identity and national economy. These kinds of approaches fuel the resentments of the natives to the immigrant population in the country of destination (Smith, 1996: 15). Exclusion and the securitization of immigration have become widespread towards immigrant communities. Immigration has been viewed as a social process that makes the social control difficult and weakens the social cohesion (Kümbetoğlu, 2003: 278).

The process of globalization has contradictory patterns. While it is generally assumed that, the traditional, absolute, indivisible and exclusive conceptions of statehood have been displaced; national closure is prevailing in the developed countries with strict immigration policies. The nation-state is still the major political unit in the contemporary world. However, it is now obvious that its authority has been seriously questioned with the growing recognition of new actors in the world politics such as the multi-national corporations and global networks of non-governmental organizations. This view about the impacts on globalization can be found in the transformationalist thesis* which is advocated by Rosenau. Furthermore, the universal values came to be recognized by the nation-state especially with respect to the enforcement of rights on the trans-national basis.

* There are mainly three approaches of globalization. These are hyper-globalist, sceptical and transformationalist thesis. While hyper-globalists celebrate the supremacy of the global market and global competition over the nation-state authority and sovereignty and define the process of globalization as the major source of human progress, sceptics emphasize that the state authority has been central for the regulation of international economic activity. Transformationalist thesis on the other hand, sees globalization as a long historical process. Globalization is central force but nation-states do not come to end with the processes of globalization. According to the transformationalist thesis, states, non-governmental organizations (NGOs) and non-territorial organizations such as multinational corporations shape this global order (Held, D. et al. (2003). *The Great Globalization Debate: An Introduction* in D. Held et al. (eds.) *The Global Transformations Reader* (Oxford: Polity), 4, 7.

Reinforced by the collapse of time and distance, the weaknesses of states, the vast movements of people and the ever greater complexities of modern life, the question of how to infuse a modicum of order, a measure of effective authority and a potential for improving human condition into the course of events looms as increasingly urgent. It's being asked at every level of community as frangible tensions intensify and as citizens and officials alike ponder how to conduct their affairs in the face of transformative dynamics that are often bewildering and seemingly out of control (Rousenau, 2007: 223).

The post-war immigration has come to have different features with the impact of several forces that operate within the global era. The development of the communication and transportation technologies has declined the cost of the search for opportunity for both low-skilled and high-skilled workers. Furthermore, it strengthened the information network about the strategies to migrate and to cope with the restrictive policies of the states. The growth of informal economy, increase in the number of low wage, insecure jobs and increase of the people's level of expectation about moving and the growing disparities with the post-industrial countries constitute some important features of the post-war immigration (Carmon, 1996: 11). The internationalization of the labour-markets played a crucial role in the mobilization of movements. As Carmon emphasizes there is a tough competition in the international markets that brings demand for both high-skilled and low-skilled workers (Carmon, 1996: 14). Thus, with those global dynamics the status of newcomers in the immigration country came to be highly differentiated. Technological developments enhance the facilitation of the ways that migrants have to follow both before and during the journey creating new networks between the current and potential immigrant communities. However, the adaptation of immigrants into the host society still stands as a compelling question with respect to the different immigration histories and processes of acquisition of full membership.

Gender also has come to be an important issue in the adaptation process into the economic life of the country of destination. As Castles (1998, 9) puts forward very clearly, the place of the women in immigration schemes has become dominant although they are usually viewed as dependents as wives and associated with the family reunification. Although immigrant women are no longer passive movers in the contemporary age, social services and rights to naturalization are mostly limited with the status of their spouse (Carmon, 1996: 20).

The augmentation of different forms of immigration and the failure of successful integration processes create important tensions and hostility against the immigrant groups. The occupational position of those communities come to bring the social exclusion of them from the dominant economic and social life and helps the emergence of group isolation both physically; concentration of the immigrant communities in the peripheral regions of big cities, and socially; usually xenophobic tendencies. On the other side, the integration processes take various forms in different countries with respect to the type of immigrants, their share in the national economy, the enforcement of rights, acquisition of citizenship and welfare policy that are directly linked to each other.

International migration constitutes an important topic in terms of deepening inequalities and differential social needs. Gaining of the migration concept an international character has been mostly realized during the post-war period with the impact of the economic expansion observed in the European economies or in other words with the period of economic restructuring. In this period the tendency to obtain the labour need as one of the most important consequences of the economic expansion from the undeveloped and developing countries has become mostly dominant. The desired character of the guest worker groups who are invited to the western European countries to fulfil the labour need of the European economies has been based on temporality and voluntarism. Nevertheless, gaining permanent position of these culturally diverse groups brought important social cohesion problems for the countries of residence and brought the problem of social exclusion of those groups from the mainstream society both socially and economically. Beside all these facts, it is obvious that these immigrant groups comprise a hierarchical structure within themselves in terms of their status. For example, while those who have permanent status are enjoying the same economic and social rights with the national citizens of the country, those who are not holding permanent residence cannot enjoy those rights. According to their position, their places can said to show differences in terms of different citizenship policies and welfare tradition of the European societies. Furthermore, while the tension between immigrant and non-immigrant groups in the national labour market is growing,

it is important to accord attention to the new socio-spatial differences in terms of immigrant's skills, positions, income and ethnicity as a form of social exclusion.

The augmentation of inequalities in terms of income distribution, the emergence of the flexible work system, broadly the changes in the labour market structure directly affect the place of the social groups such as minorities, immigrants and women make their position more vulnerable in the market. The social rights of immigrants in developed countries show differences with respect to the countries' welfare tradition and the accommodation of their welfare structures to the global order. As it was emphasized, globalization has transformed the features of classical immigration forms and has contributed to the augmentation of the types of immigrants in the countries of destination. Today, illegal, undocumented immigrants, temporary contract workers, asylum seekers, refugees all have different social and legal status and social rights in different national settings. In this study, the types of immigrants are chosen with respect to the immigration history of the country of immigration and the new trends that are directed to different routes.

2.2. THE DEVELOPMENT OF SOCIAL POLICY

In this part of the chapter, the social policy concept and how it is perceived in the developed countries of Europe in the contemporary era will be analysed. The concept of social policy must be paid more attention in a world where the unemployment and insecurity become important troubles in both the developed European societies and the developing world. As it has been argued in the previous chapter, globalization has an important impact on the modern institutions like citizenship, democracy and welfare state. Although, it is hard to talk about the total transformation of these modern institutions, the global processes made these modern conceptions more open to discussion.

During the last two decades, the social welfare systems of the developed European countries came face to face with the problems of high degree of unemployment, demographic problems such as augmentation of aged population and low fertility rates; and with the impacts of the global economic system on the national

economies. The full employment, prosperity and equality goals of the post-war welfare state can be said to be damaged especially since the mid 1970s. Many scholars argue about the necessity of functional social policies that are capable to analyse the new risks of the post-modern societies and that are able to perform the management of those risks with new actors. One of the examples for this tendency is the EU level efforts to establish common social policy goals to cope with the increasing demographic and societal problems.

In the following part of the chapter, brief information about the meaning of modern social policy is planned to be given to understand the change in the structure of the modern welfare state. Then, the dynamics of the post-war welfare state in Europe is going to take place and finally, the welfare state change and the impacts of global dynamics on the European welfare state understanding will be discussed. Social policy concept constitutes an important tool for the development of social set of rights. In the contemporary world, change in the social policy understanding also shows the changing scope of social rights for different communities especially for international migrants.

Before analysing the concepts of social policy and welfare, to think about Gilles Deleuze's definition about the meaning of 'social' can be fruitful. According to Deleuze 'social' refers;

To a particular sector in which quite diverse problems and special cases can be grouped together, a sector comprising specific institutions and an entire body of qualified personnel ('social' assistants, 'social' workers). We speak of social scourges, from alcoholism to drugs; of social programs, from repopulation to birth control; of social maladjustments and adjustments, from predelinquency, character disorders, or the problems of the handicapped to the various types of social advancement (Deleuze, 1979: quoted by Inda, 2006:9)

2.2.1. Social Policy in Modern Sense

The term social policy is usually associated with industrialization. The process of industrialization brought not only progress, economic growth and prosperity, but also brought important social and economic risks for the working classes in industrial

countries. T.H. Marshall (1992) in his article called '*Citizenship and Social Class*'* talks about Alfred Marshall's approach to citizenship concept. According to A. Marshall, the institution of citizenship is designed to compensate the inequalities that derived from the social class system. According to this approach, social policy had a buffer role between labour and capital: to decrease the negative impacts of industrialization process by offering social opportunities and to guarantee capital accumulation. Thus, according to this approach, one of the goals of the modern social policy can be defined to bring different groups together under a new form of belonging: modern citizenship.

The working class movement in the continent that was accelerated during 1870s had been effective in pursuing a range of social security policies focused on the working class. The social insurance system that has been adopted in Bismarck Germany during 1880s and the expansion of the system to the other European countries can be counted as the first steps for development of the social welfare policies that have been put into practice in the following decades and it can be stated that the increasing economic problems multiplied after the two world wars have been effective in shaping the scope and the characteristics of the modern social policy (Koray, 2005: 76).

It can be said that according to the liberal ideology, social policy and welfare concepts had been associated with the idea that society has an ethical responsibility for the 'poor'. Therefore, many liberals may think that the concepts can be traced back to 16th century Poverty Law[†] (Marshall, 1992: 24). For example, the liberal approach accepts some interventions in providing equality of opportunity to enter the market and in diminishing poverty for the sake of the society. However, the services should only be available for the poorest individuals and families rather than for all people living in that

* Referred article takes place in A. Buğra and Ç. Keyder (eds.) *Sosyal Politika Yazıları*. (2006) İstanbul: İletişim Publications, 19-33. It is the shorter version of T.H. Marshall's speech that was made in 1949 in Cambridge.

† Poor Law, as Marshall has put forward, for a short period of time play an important role in the development of social set of rights and their place in the citizenship concept. However, in the following period, rather than being on the basis of social rights, Poor Law has been transformed into a discriminative help project that is directed to miserable people with health and age problems. In other words, it has become an obstacle in the development of social rights and social security with the discriminative measures that have been taken between social rights and citizenship rights. Shortly, Poor Law represents major example of the separation of social rights from the citizenship status (T.H. Marshall (1992) *Citizenship and Social Class* in A. Buğra and Ç. Keyder (eds.) *Sosyal Politika Yazıları*. İstanbul: İletişim Publications, 2006, 24).

society. In other words, according to this ideology, interventions should be made according to means-testing approach. Furthermore, the interventions become favourable if they are carried by voluntary entrepreneurs rather than the state (Heywood, 1997: 169). According to this understanding, citizenship concept should embrace just civil and political rights excluding the social rights because this approach claims that the social needs cannot be measured objectively and they are considered to be just illusions that are determined by the state (Heywood, 1997: 45). The issue of social needs is individual based and should be left to the market (Koray, 2002: 176-177).

Keynesian political economy which has been effective in the development of the modern liberal understanding has favoured state intervention especially in terms of social welfare. It became widespread in the European continent after the Second World War. It can be said that the idea of market's 'natural' regulative role that is adopted by the 19th century classical liberalism and by the laissez-faire capitalism has been started to be mostly questioned after the 1929 World Economic Crisis (Hobsbawm, 1994: 123)*.

According to modern liberal understanding high productivity and employment flexibility are the most dominant terms and any form of state intervention was forbidden. Free-market mechanisms had the regulative role. In such a structure the unions whose role is to fight to protect the social and economic rights of the working class that constitute an important risk for the maximization of profit were remained weak and the enterprises of the private institutions started to be effective in terms of social insurance system. In other words, according to this view, state should only remain as an institution that provides security and order being away from economy[†]. The classical liberal ideology has been abandoned in the late 19th century and replaced

* Hobsbawm states that the absence of the social security system including unemployment benefits or the insufficiency of this system for the long-term unemployment made the economic depression more dramatic. The uncertainties in employment and wages, the risks of being unprotected during the periods of old-age, illness and accidents made people desperate (Hobsbawm, E. (1994). *Kısa Yirminci Yüzyıl*. (Çev. Y. Alogan). İstanbul: Sarmal Yayınları, 120).

† That's why state is shown as necessary evil according to the classical liberal understanding. Economic individualism that is the core element of liberalism favours the rights and freedoms of individuals to enter into contractual relations through the market economy and of private property, free from state controls (Mocridis, R. C. and Hulliung, M. L. (1996). *Contemporary Political Ideologies: Movements and Regimes*. New York: Harper Collins Publications, 26).

by the social liberal thought that favours welfare reforms and state intervention. In this sense, the individual freedom that is assumed to be one of the most important elements of the liberal capitalism has transferred its priority to the elements of democracy and equality. Moreover, this period is crucial for the development of an understanding that defends the supremacy of the social needs beyond the needs of the market and is significant for the questioning of the scope and the meaning of individual freedoms. In other words, this period witnessed the fall of liberal approach that stresses the importance of individual freedoms abstractly and the rights that came by birth; and saw the rise of the practices that give priority to the recruitment of individual's social and economic conditions (Koray, 2005: 55). With this respect, especially in the post-war period in Europe, rather than the minimal state, the role of state in challenging inequalities which are created by the industrial capitalism and in providing social welfare by taking the social responsibility came to the fore. According to John Maynard Keynes, progress and prosperity can only be reached in a regulated capitalist system only if the state takes the economic responsibility (Heywood, 1997: 44).

Therefore, it is important to distinguish the pre-modern help projects that were inclined towards the poor disadvantaged groups of the society from the modern social policy concept that was controlled and supported by state. Rather than the basis of willingness, modern social policy which gained a broader meaning in the beginning of the 20th century has been based on the concepts such as right and justice (Koray, 2005: 24). It can be said that societal problems which were created by the economic and political conditions of 19th and 20th century were key to the development of the concept. The social risks brought by the processes of urbanization and industrialization in the 19th century necessitated the social insurance system for working classes that would lead to a system of social policy in Europe (Koray, 2005: 25).

Social policy concept became more powerful during post-war period with the increasing importance of the social welfare state understanding. Guarantees such as education, work, health, and housing became widespread for the citizens in the European countries. According to Epsing-Andersen (1999: 36) although there has been a tendency to equate welfare state and post-war capitalism, welfare states brought a new

social contract written between state and people. It can be stated that in the 19th century 'social' emerged as a collective and integrative domain and during the 20th century welfarism in which the collective security is guaranteed by the programmes of social government was grounded (Inda, 2006:10).

Social policy concept that had strengthened during the post-war period had been gradually transformed from the policy that was inclined towards the working class and began to embrace other groups in the society. Therefore, it can be said that this period is crucial for the development of inclusive social and economic rights and freedoms. Furthermore, the concept of social policy found a more legal basis under the framework of social and economic rights with the concepts social justice, social equality and social cohesion in Western Europe. Koray (2005: 28) identifies five peculiarities with respect to the modern social policy:

- 1. In a large scale belongs to the state and is closely linked to the development of human rights and democracy.*
- 2. is related to the need of the state to reach a compromise between the social classes and benefits.*
- 3. The development of social policy in gaining a function as to provide social equality and social justice is mostly linked those policies to have a legal binding like economic and social rights and the social dimension that is added to the citizenship concept.*
- 4. for this reason, the social policy in modern sense became a policy that is integrating with social citizenship, social equality and social justice that deal with various social problems of different sections of the society.*
- 5. the content and the scope of social policy is unfortunately stay weak in the societies in which the social dynamics are limited. Furthermore, in these societies, social policy could not go further beyond social services and help that could not integrate with social rights and social citizenship.*

Shortly, modern social policy aims to deal with how welfare and wealth can be redistributed among social classes and how this can be systemized thorough the state authority (Kleinmann, 2002: 161). In other words, it tries to compensate the social and economic disadvantages created by the unregulated market. However, all the European societies do not pursue the same social policy goals or priorities. It is important to analyze how and to what extend the elements of the social policy concept are prioritized in different countries of Europe. Kleinmann (2002: 162) emphasize that what is defined with the social policy concept can be different in different countries and in different periods. These are:

1. *Social protection: retirement, unemployment, disability supports*
2. *Family and child policies*
3. *Social care*
4. *Policies towards social inclusion and against poverty*
5. *The providence of health, education, housing and personal social services.*
6. *The regulation of labour market, working conditions and industrial relations*
7. *Public health*
8. *Policies that are in favour of equality of opportunity against discrimination.*

It should be focused on the post-war development of Keynesian welfare state in Europe to understand the goal of these social policy elements. By taking reference of ‘*how social risks are distributed*’, there are certain variations between the welfare regimes of the European countries. It’s important to emphasize that the Keynesian Welfare state system was an internationally recognized system after the Second World War in which the national states had the autonomy to shape the social policy, industrial relations and to make economic intervention and it is the Bretton Woods system constructed after the war under the American leadership which was the constitutive element of the KWS to reach the goal of economic growth with its multilateral framework- coexistence of multilateral free trade and state intervention in economy (Ryner, 2000: 58). With this respect while the autonomy of the nation- states were determinant in certain policy areas, Bretton Woods, with ‘*reduced tariffs in trade, currency convertibility, and a multilateral agreement on fixed exchange rates*’ (Ryner, 2000: 58) also brought adequate requirements for Fordist capital accumulation. In the following chapter, the foundations of the Keynesian State and the different welfare regime types will be analysed to understand the institutionalization of economic and social rights in the post-war period and how this system had been transformed during 1980s and 1990s.

2.2.2. Keynesian Welfare State

The concept of welfare state had been firstly used in Germany in the late 19th century with the measures taken in terms of social security and became a widely used concept after the end of the Second World War in Europe (Epsing-Andersen, 1999: 36). As it was emphasized in the previous part of the chapter, the impacts of the economic crisis of 1929 and the economic devastation that came with the two world wars were

effective in introducing more regulative measures by the European states over the unregulated economy. Although the elements of the Keynesian welfare system have been pursued with different degrees by different European states after the Second World War, protective measures have been employed by all of them against the risks of the free-market economy. The years of 1950s and 1960s in which intense labour employment is based on industrialization that depends on intense production have witnessed the emergence of the strong working class and of the unions as strong pressure group (Koray, 2005:77).

The reliance on the market came under attack by the English economist John Maynard Keynes. According to him, state should intervene to economy with direct controls and it should play a regulative role to overcome the social risks such as health, education, unemployment and poverty by ensuring the social and economic rights (Mocridis and Hulliung, 1996: 62). Welfarism whose main two features are collective solidarity and social responsibility was seen as a solution for alleviating negative impacts of the unrestrained economy.

There are different approaches about the function and the consequences of the Keynesian welfare state development on the European societies. It can be said that much of the Marxist writings talk about the conflicts within the capitalist society by emphasizing that the social welfare system serves as the security belt between social classes for the continuation of capitalism. Marxist approach evaluates the welfare state as the product of the capitalist development. According to this approach, the emergence of the concept is linked to the problems of capitalism, class fight and the economic crisis. Therefore, welfare policies' aim is the integration of the working class to the capitalist system without making any changes in the private property structure (Wallerstein, 1998: 46). It has been also argued that the welfare state development has ensured the realization of social rights and made the capitalist system more compatible with democracy through the notion of '*social citizenship*' (Ryner, 2000: 51). Ryner (2000: 55) puts emphasis on the phases of under consumption, overproduction and uneven development that had contributed to social conflict. By giving reference from Habermass (1975), he stresses the importance of the breakdown of the traditional family

structure and the breakdown of the traditional methods of social belonging that had previously protected individuals from certain material risks of the life.*

One of the main features of the Keynesian welfare state system is linked to some form of negotiation between labour and capital to relieve the societal tension that could threaten the social order and therefore diminish the future of the supremacy of the capitalist system. Rigid conditions of the Taylorist mechanisation which is associated with the first phases of capitalist system have been refined through forming some of negotiation between classes. This constitutes one aspect of the development of Keynesian welfare system that intersects with the aim of national economic growth relieving the risks of under consumption and overproduction.

The goals of the Keynesian economy have been linked to problems of the modern industrial societies. Full employment, economic growth and equality goals of the post-war welfare state have been complemented by strong social security networks for nearly 50 years in modern industrial societies of Europe. *‘A developed industrial sector, intense capital accumulation, intense paid working group and a class-based social structure’* are the features of these modern industrial societies (Koray, 2005: 69). Ryner (2000: 54) defines the policy elements of the Keynesian welfare state in three realms: in the social policy realm, in the industrial realm and in the economic realm:

1. *In the social policy realm the KWS was characterised by publicly provided or guaranteed social insurance and transfer payments and service programmes. These programmes include pension plans, unemployment insurance, health insurance, child benefits, health care, housing and education. The premise behind this system was that it was the responsibility of the state to provide its citizens with basic security against certain life risks. Moreover, the premise was that it was the role of the state to guarantee aid in certain vulnerable phases of the life cycle.*

* He states that; *“one important achievement of the KWS was that it resolved the problems of systems integration of the capitalist economy. Keynesian demand management, collective bargaining and public sector expansion proved to be effective means of counteracting towards under consumption/overproduction and overly extreme booms and busts. Particularly important in this respect was that productive potentials of mass production and the refinement of Taylorist mechanisation could be better realised through regulatory mechanism that ensured mass consumption (Fordism)... Profit rates could be sustained, despite real wages increases. This provided the material basis for a positive sum game in the negotiations between labour and capital from which both sides could extract benefits”* (M. Ryner (2000). *European Welfare State Transformation and Migration*. M. Bommers and A. Geddes (Ed.). in *Challenging the Borders of the Welfare State*. London: Routledge, 2000, 55).

2. *In the industrial realm the KWS was associated with the formation of the collective bargaining regimes. These were constituted through compromise accords between organized labour and capital. Trade unions accepted the right of management to manage and codified restrictions on the usage of the 'strike weapon', in exchange for the recognition of trade unions as workers' representative in wage bargaining. The significance of this was that, what previously had been in private sphere of absolute discretion of the owners of the means of production was now partially subject to public procedure. Moreover, labour markets were regulated and labour as a production factor was partially protected from market discipline (decommodification).*
3. *In the economic policy the KWS implied a commitment by the state to intervene in the market economy in order to minimize unemployment, and to ensure economic stability. A premise, rooted in the experience of the 'Great Depression' and the Keynesian paradigm shift, was that laissez faire could not automatically achieve these results.*

Therefore, the Keynesian welfare system state becomes responsible for protecting its citizen's life risks by introducing inclusive measures in certain phases of life. In the industrial realm, collective bargaining becomes an important tool to allay the tension between capital and labour. The commodification of labour under the conditions of free-market and the authority of capitalists becomes lower. After the Second World War, to ensure the economic stability and to solve high rates of unemployment, Keynesian welfare system authorized state to intervene economic forces.

According to Ryner (2000: 54), although these policy elements can be observed individually in varied political forms, the post-war period can be defined as a turning point, as the crystallization of them in an institutional framework.

Epsing-Andersen (1999: 36) emphasizes the necessity to define the term '*welfare regime*' to make a comparative study on welfare state. According to Epsing-Andersen, as it's emphasized before social risks are controlled by the three elements, namely; state, family and the welfare state. Therefore, he defines the welfare regime types linked to the question of '*how social risks are shared*'. He defines the concept as '*the method of distribution of welfare in terms of interdependence between state, family and the market*' (Epsing-Andersen, 1999:38-39). Epsing-Andersen (1990) identifies three main welfare regime types in Europe with respect to the expansion of the social state approach and welfare capitalism after the Second World War. These are Scandinavian model, liberal Anglo-Saxon model and the corporatist model.

According to Epsing-Andersen's typology, Scandinavian model aims to equalize the social resources and aims the regulation of social resources in a multidimensional effort (Ryner, 2000: 33). Scandinavian model in which the state plays an active role in terms of constructing employment policy depends on the principle of universality, corporatism in industrial relations and the cohesive relationship between state and the unions. This social democratic model is the one in which the social rights are the most institutionalized and in which the social needs are mostly enhanced outside the market. In this model rather than to accept a dual structure between the state and the market, the working class and the middle class, social democrats aim to establish a high standard of equality. In this sense, not only the social services are highly developed but also equality is widely provided in terms of the use of rights. Therefore, there is no difference between white collar workers, blue collar workers and the state personnel in terms of the use of rights and services. Welfare state has the responsibility to construct the system of universal solidarity that embraces all people. Moreover, in this model the working relations and the welfare policies are nested and the welfare regime is established according to the working relations (Koray, 2002: 181).

Liberal model is based on means-tested benefits, the selectivity by taking only disadvantaged groups under protection and the low social security allowances. Generally the emergence of a dual structure in the society is observed in this model. USA, Canada, Australia and Britain after 1980s are the examples of the model. Shortly, according to this typology this model aims economic growth with low paid employment. Rather than the state, market is viewed as the main social institution in which private insurance system is dominant.

In Epsing-Andersen's famous typology (1990), Germany, France, Austria and Italy are the best examples of the corporatist model. In this model, state can be said to replace the place of market in providing welfare services. However, social rights are in large scale are linked to the class and status. In other words, entitlements are provided according to the status. Furthermore, in the corporatist regimes the role of family has been mostly preserved as the welfare provider; the traditional family structure is desired to preserve its traditional role in the society. That's why the services linked to family

such as child care remain limited. Only for the extreme situations; if the family has no opportunity to provide self-help, the services by the state are available. Therefore, this model can be said to preserve an organic and hierarchical structure and it favours a welfare understanding that is based on church, family and occupation. In this sense, as Kleinman emphasizes in this kind of welfare understanding welfare state favours a complementary role if these institutions remain weak (Kleinman, 2002: 37). The main feature is the agreement between employers and unions in terms of social risks such as health, unemployment and old-age. Moreover, in the corporatist welfare regimes, those who are outside the marketplace are discriminated from the protective measures. Koray (2002: 167) emphasizes that in the constitutional monarchies like Austria and Germany in which the paternalistic state understanding is favoured easier than in the countries of parliamentary democracies like Britain, the system of compulsory insurance is adopted earlier. The difference is important if we think that the expansion period of social insurance system (1950s) as the major indicator of the beginning of the modern social policy practices in the European countries.

Leibfried (1993) also identifies four types of welfare model within the EU that is mostly similar to Epsing-Andersen's typology (Koray, 2002: 183- 184). Beside Scandinavian, Bismarckian model, residual Anglo-Saxon model, Leibfried talks about the Latin model as a rudimental model. According to Leibfried, these countries are very close to the residual model, however unlike Britain, the place of the traditional help services such as church and the family solidarity is crucial. In these countries the employment market is mostly concentrated on agriculture and the social security practices are weak. Shortly, both the institutional structure of the welfare state and the social conditions can be said to be insufficient. In Southern European welfare regimes, provisions are generally provided by the civil society organizations and private institutions because of the weak welfare tradition and there are important problems in financing pension provisions, fiscal deficits and high unemployment rates (Hudson and Williams, 2001: 42).

Both Epsing-Andersen (1990) and Leibfried (1993) as many scholars who study on the welfare regime types tend to categorize European countries in terms of the

degree of the living standards of individuals and the families independently from the market and investigate to what extent the main needs can remain outside the market, the degree of decommodification and the institutionalization of social rights. With this respect, it is obvious that all these models practice different degrees of policies that depend on solidarity and competition, pursue positive and negative approach to social rights and favours state or market intervention in determining social policy practices (Koray, 2002: 185).

Furthermore, one of the most important features of the Keynesian welfare state is its nationally oriented structure although 'foreigners' like immigrant groups cannot be excluded because of the generality principle of the system.

It was not possible to exclude legally resident 'guest workers' and their offspring from benefits. This was because the KWS institutionalises general social rights like health care, unemployment insurance, and pension schemes designed in such a way that they did not allow for exemptions. The inclusion of migrants into these welfare measures was unavoidable, but politically accepted on the basis of the assumption that migration was a process that was politically controllable and could be reversible by the state. It was not foreseen that inclusion into welfare provisions was producing rights for immigrants that restricted and finally eroded the potential to politically control and reverse immigration processes (Ryner, 2000: 52).

However, this system came under attack and the state intervention in economy has been accused of creating a clumsy order and idleness for people. Increasing immigration and the permanent character gained by the temporary residents after 1970s has affected the arguments on the Keynesian welfare system. These tendencies will be discussed in the following part.

2.2.3. The Social Policy Concept in the Contemporary World and the Welfare State Change

During 1950s and 1960s Keynesian Welfare state system with the emphasis of strong state regulation for the providence of social security and welfare services and with its full employment goal contributed to great economic growth in the Western societies (Epsing-Andersen, 1996: 56). According to Hewitt (2002, 13), the welfare state was a pragmatic response to the large scale unemployment problem and it was seen a necessary mechanism for capitalism to meet the labour need by giving priority to individual benefits without coming face to face with the risks of social upheaval.

However, the role of the welfare state to ensure the social unity and social equality has been seriously questioned in the post-industrial societies.

Neo-liberal policies which were found expression in ‘Thatcherism’ and ‘Reaganism’, brought the welfare state into question ideologically especially during 1980s. Since the mid 1970s, neo-liberals asserted the necessity to move to the market mechanisms from ‘large bureaucracies, extravagant welfare programmes, interventionist social engineering’ of the welfare state system (Inda, 2006: 12). According to neo-liberal look:

It (social state) not only hindered the market, created costly inept bureaucracies, generated exorbitant taxes, but also worst of all, instead of fostering social responsibilities and citizenship, actually created dependency and a client mentality, thus heightening the very problems of delinquency, immorality and ill health that it meant to remedy (Rose, 2000: 157; quoted by Inda, 2006: 12)

The debate on the welfare state transformation has been mostly concentrated on the impact of the global dynamics on the post-war welfare state understanding which was embedded in the institutional forms of national sovereignty. Some of the global dynamics that became widespread during the last two decades can be summarized as follows:

- long term direct foreign investment
- world trade accompanied by the policies that aim to diminish the obstacles on trade
- global mutual engagement with the impacts of the changes in production and service technology
- the movements of people for the purpose of work or trade
- global attainment to the new communication technologies like television and internet (Deacon, 2000: 101-102).

According to Deacon, these processes have caused the globalization of the economic activities and emergence of a global civil society that share the same political and cultural extent. However, several unwanted social outcomes have also emerged such as increasing inequalities within and between countries, the augmentation of the defencelessness of the people against social risks such as unemployment and crime and

the augmentation of the possibility of exclusion of individuals, communities, countries and regions from the advantages of globalization (Deacon, 2000: 102).

The supremacy of the global economy, neo-liberal policies, the increasing impact of those called supra-national bodies and institutions on the national decision making, the augmentation of the mobility of capital, finance, people and information and the acquisition of those movements a global dimension with the impact of the technological developments, the escalation of the social inequalities both in global and regional sense on the contrary, the tendency of state to leave its role as the sole guarantor and the unique social security umbrella over individuals indicate the different dimension of the social policies gained in the contemporary world.

Koray (2005: 31-2) identifies two important features of the contemporary social policy; centralization of individual and the priority of market needs over the individual needs. It can be said that the important shift from the Keynesian social policies brought mostly individual based, differentiative and selective dimension by giving priority to duties and responsibilities rather than rights. Furthermore, it should be stressed that state's role have been mostly transferred to market mechanism. Today, rather than the employment based policies, competition based policies are on the agenda. Ina (2006: 12-13) puts forward that;

Political government is no longer obligated to tackle all the ills of social and economic life. The responsibility for dealing with these problems is therefore, largely displaced from the state to a multitude of specific actors: individuals, schools, communities, localities, hospitals, charities and so forth. Market rationalities- contracts, consumers, competition-play a crucial role.

Ina (2006: 16-17) also talks about 'new prudentism' as one of the characteristics of post-social modes of government. This new prudentism refers to the transformation of collective and responsible individual agents, the way that the government responsabilize individuals to manage their own risks. In other words it defines individuals as 'ethical beings who comport themselves rationally and responsibly' (Ina, 2006: 17).

Welfare state had to face important pressures and cut-backs linked to globalization during the last decades and its traditional role to ensure full employment with high public expenditure and high-level of taxation has left its place to secure the

conditions of labour-market flexibility and competitive economic activities (Surrender, 2004: 6). Epsing Andersen (1996: 56) determines some points about the crisis of the post-war welfare state understanding. According to him, one of the main points of the discussions is that the welfare state causes market distortion. Second point as Epsing-Andersen points out is about the social and economic burdens of the aging population in European countries. Another point is that globalization punishes the extravagant governments and non-competitive economies. As the world market has been globalized and as the competition has been increased, antagonism of business has become more visible towards the protective measures of the Keynesian welfare state. For neo-liberals, flexibility was needed for the economic growth.

One of the most important features of the post-industrial societies is the post-fordist production whose logic depends mainly on flexible production and specialization, just-in time production, increased capital intensity and space-time compression (Ryner, 2000: 62-63). These features of post-Fordism are crucial in terms of the decreasing authority of the nation-states vis-à-vis to capital as Ryner puts forward. Linked to these changes, re-commodification in which the costs of the labour force are again determined by the market forces become observable while the welfare entitlements of the Keynesian welfare state are viewed as burdens.

The developed European welfare states were emerged to feed an economy in which the mass industrial production was dominant. However, since 1970s the economic growth slowed down and the industrial production fell. Especially after 1980s, there emerged important changes in the employment structure. Technological developments affected the patterns of work and employment and deepened the gap between low-skilled and high-skilled workers (Surrender, 2004: 9). New risks mostly affected low-skilled workers with the abandonment of regulations that protect them in the market place. The development of the service sector and the women employment contributed to the differentiation of the groups among themselves.

Epsing-Andersen (1996: 58) states that in many countries the structure of the social protection is not able to answer the new risks and needs. The decrease in industrial production and full employment, the replacement of the traditional family

type based on male breadwinner and low fertility rates show the necessity of new policies to deal with new risks. He states that the old socio-economic order has been replaced but the numbers of the welfare dependants have been increased. The changes in the family and employment structure show that the existing social protection programmes are weak. Professionalization, specialization and differentiation became the dominant features of employment. The low-skilled workers tend to compensate their low wages with part-time jobs. Atypical and uncertain jobs came to be dominant among low-skilled worker and this creates a polarization between formal and the marginal labour force. All the European countries try to cope with the changes with different policies (Epsing-Andersen, 1996: 64-65).

Societies in the contemporary world do not just possess one form of inequality within themselves but all range at once with the impact of the dominant economic and political tendencies prevailing in the world that is mostly associated with the concept of globalization. With this respect, social divisions within the developed European societies can said to display a much differentiated structure during the last two decades. Governments of industrialized societies came face to face with difficulties for meeting the welfare needs of their population and found it difficult to deal with the new welfare risks. The differentiated structure of today's social needs comprise different education and work needs rather than the '*similar needs of similar masses*' (Koray, 2005: 30). It is important to perceive that the social divisions do not solely contain capital/labour division anymore. However, the criterions such as gender, international migration and ethnicity have become very effective within the welfare societies. The supremacy of the global economy and differentiated needs create some weaknesses in carrying out the main defined principles such as social equality and social justice of the European developed countries. The developed European countries are both coming face to face with the problem of young population deficit and parallely with the necessity to deal with the health problems of the elder population and the different needs of newly emerging social classes within the society. It can be said that; the economic and the political development that had been realized during the 20th century in Europe, the expansion that had been ensured with the Keynesian policies in approximately 30 year period and the perception of strong social state had left their places to the neo-liberal

policies and the understanding which depends on market economy that had been also reinforced by the right-wing national political parties. With this respect, the concept of 'right' had left its place to duties and responsibilities and 'free' individuals were left insecure towards the new social risks under the unbalanced market conditions. On the one side, the emergence of different identities such as women, children and their different needs are observed and on the other side, ethnic and religious identities and their varied demands come to fore. In this sense, rather than the social citizenship and the relations of welfare state, a multicultural understanding of citizenship and the necessity of the organization of state and democracy is crucial.

Globalization had an impact on national governments in terms of their administrative function. The perception of the loss of sovereignty of the national states brought the question to what degree the trans-national agencies like EU have the regulatory role.

Analysis of European social policy increasingly points to the growing impact of European integration on convergence towards one (broad) model. One compelling account comes from Leibfried and Pierson (2001) who argue that the process of European integration has eroded both the legal authority and the regulatory capacity of member states to determine national policy. The EU intervenes both actively- by enacting social policy initiatives of its own through the European Commission, the Council of Ministers and the European Court of Justice- and more indirectly by the imposition of market compatibility requirements that restrict and redefine the social policies of the member states. Regulations and 'benchmarking' governing health and safety in the workplace, retirement and pension schemes, education and labour mobility, and freedom to provide services and benefits all impinge on the design and reform of national policy (Surrender, 2004: 9).

On the other hand, Hudson and Williams (2001: 36) states that although the nation-states' economic sovereignty has been restrained by trade barriers and the mobility of capital and labour, the role of EU in terms of social welfare remain mostly limited. Furthermore, although the Commission organized important social programmes, it is emphasized that both because of limited budget and the intergovernmental character of the Union in the decision making mechanisms EU has important limitations in terms of determining employment strategy. Another important point Hudson and Williams pointed out is the increasing socio-spatial differences with the impact of the changes in the political economy in Europe.

The pattern of social exclusion has been modified by the differential engagement social classes, men and women, migrants and ethnic groups, and those at different stages of the life course, in the distribution of income, wealth and power which has accompanied changes in European capitalism... the paradox that the persistence and deepening of many axes of social inequality have coincided with a period of increasing homogenization of the political-economic space of Europe (Hudson and Williams, 2001: 36).

Despite the efforts of homogenization of policies within the union, the augmentation of the social divisions, multiple identities and new forms of social exclusion and their varied needs paradoxically challenges the idea to construct a broad social policy for the union. To think the relationship between Europe and social policy is mostly linked to the definition of belonging and the formation of social solidarities beyond some set of institutional practices and regulations (Lewis, et.al. 2001: 5). In this sense, it is important to understand in what ways a national formation provide a sense of belonging and a collective identity with the social practices. It is the inclusive welfare rights and services that constitute the main determinant of social solidarity in Marshall's theory. However, today this network of relationships became more complicated and while the social dimension of state had to face the systematic attack of global economy, its social responsibility can be said to be severely rasped. In this sense, the providence of social protection became the responsibility of individuals unless they acquire particular criterions and opportunities despite there are some variations between the welfare regimes according to the Epsing-Andersen's typology.

Citizenship is a crucial concept for the attainment of civil, political and social rights. Strict citizenship and nationality laws of countries affect immigrants' by preventing them to acquire this status in the country of destination. Global processes challenge the modern conceptions of citizenship and high mobility of people across continents becomes one of the forces that necessitate questioning of national citizenship. In the following chapter, this relationship is going to be analysed.

3. CITIZENSHIP, IMMIGRATION AND EUROPEAN UNION

3.1. CITIZENSHIP, IMMIGRATION AND SOCIAL RIGHTS

Globalization shall be defined one of the major forces that shapes the human condition in today's world. Various processes of globalization have undermined the function and the effectiveness of modern institutions by altering the meaning of modern concepts such as citizenship, democracy and the notion of rights. Most importantly, global forces helped to transform industrial societies into post-industrial ones especially in the west in which the citizens became more open to wide range of influences. Recent trends of globalization is usually said to manifest the decreasing central control of national governments. Although nation-state is still the major political unit throughout the world, as many commentators emphasize, it is losing some degree of authority. Since the modern concept of citizenship and its development is related to the existence of nation-state system, the current crisis that the concept came face to face is emphasized to be linked to the challenges directed to the political systems of industrialized nation-states which were before capable of resolving the problem of the integration of different groups into the society and of providing conditions for the capitalist development (Castles and Davidson, 2000: 2).

The emergence of the global economy, increasing transnational activities, new technologies of production and communication meant that geography is less constraining for many people. Increased migration, processes of decolonization entailed the encounter of distinct national cultures with the others (Delanty, 2000: 2). Beside these trends, there observed important changes in post-war welfare state structure in which the state was viewed as the provider of the social benefits to the citizens. According to Delanty, the global age is '*highly differentiated, even fragmented*'.

Democracy of course has been the principle challenge to capitalism in the formation of modernity, but democracy in the modern age has mostly based on citizenship. The danger today is that democracy is providing a legitimation of triumphalist kinds of nationalism, with demands of self-determination being the other face to the determination of the other by the self (de Vries and Weber, 1997; quoted by Delanty, 2000: 3).

Delanty (2000) stresses the importance of the ‘plurality of selves’ in the post-modern period that challenges the modern construction for the identification of the self. According to this assertion the ideologies that help to construct the modern nation-state, now with its different forms try to be an answer of the question of ‘others’. Most of the conceptions that we are used to see as inherent part of each other become highly disconnected in the global age. This tendency is also obvious in terms of modern citizenship. The concept of citizenship that is defined as membership to a particular political community can no longer be associated with nationality criteria as before. National citizenship and the rights attached to it have being seriously questioned with the emergence of the new identities and new forms of belonging. The studies that are held about citizenship are mostly concentrated with the ambiguities of the notion in the global world. The issues of extending citizenship to certain groups and changing aspects of the notion became compelling issues in which the traditional relationship between citizenship and nationality are no longer viewed as indispensable. The effects of current migrations and the demands of immigrant communities can be defined as one of the major global forces that come to reshape modern conceptions of citizenship.

Basically, it is possible to talk about two modern theories of citizenship, namely liberal theory and communitarian theories of citizenship. These theories’ main difference from each other is their departure point. While the latter’s emphasis is on community and individuals’ duties and responsibilities- although there exist some differences among the communitarian theories, they converge on the importance of community- modern liberal theory of citizenship focuses on individual freedom and market-based citizenship (Dwyer, 2004 :22-23). As the concept of citizenship is related to the group membership and entails the membership to a particular political community, the most important issue is about the structure of this membership (Delanty, 2000: 10). In other words, while modern liberal theory of citizenship is concentrated on rights and the formal equality, communitarian theories emphasize the

importance of participation and identity (Delanty, 2000: 21). Although the communitarian theories are based on more active conception of citizenship rather than the formalistic and passive ones, both of the theories remain at national level.

Marshall's theory of citizenship had shifted the emphasis of modern liberal thought on market to the state in which the citizenship concept was defined as a group membership based on formal equality (Marshall, 1992: 27). T. H. Marshall in his article called *Citizenship and Social Class* (1950) defines citizenship as the composition of three elements. These are civil, political and social rights which became mature by following a developmental path. According to Marshall, social element embraced wide range of rights and social services for the attainment of economic welfare. In his conception, the integration of social rights to citizenship that happened in the 20th century played a crucial role to keep the socio-economic inequalities created by the market at minimum level. Marshall's social citizenship was claimed to be a buffer for the capitalist development. Therefore, the formal equality in terms of citizenship status could transform capitalism into a system of reconciliation by compensating the socio-economic inequalities. However, these efforts do not create conflict with capitalism, on the contrary make these inequalities permanent (Delanty, 2000: 16). Social rights such as housing, health, education and unemployment benefits desired to be a solution of integration of the working class into the society within a structure that state became the major provider. Although there are important deficits in Marshall's conception of citizenship and it is insufficient to understand new forms of belonging rather than social class, Marshall's study represents us a fruitful ground for citizenship and social rights. He defines social rights as a complementary part of the notion that allows people to make demands in relation to welfare services although social rights are not considered to be an inherent part when they are compared with political and civil rights that was seen closely linked to the continuation of market economy by many liberal commentators (Dwyer, 2004: 43).

Opposing to Marshall's conception, Delanty (2000: 4) emphasizes that citizenship is not solely a state-led project. Civil society is effective in terms of acquisition of the rights. Furthermore, it is the nation-state that provided the

continuation of the tension within the concept of citizenship. Delanty (2000: 2) argues that citizenship embraces a tension between democracy and capitalism. A society can be neither transformed into a self-governing entity nor composed of self-interests. In this sense, nation-state shall be evaluated an important ground for this dichotomy (Delanty, 2000: 4). However, today it is very difficult to talk about citizenship that converge the two of them. On the other hand the congruency between nationality and citizenship that also came to fore in Marshall's theory no longer fits the global conditions.

Today in this global age this linkage cannot be taken for granted. The state is no longer entirely in command of all forces that shape it and sovereignty has been eroded both down-wards to sub-national units such as cities and regions and upwards to transnational agencies such as the European Union. With respect to citizenship, what this means is that the marriage between citizenship and nationality is broken. At least there is no perfect equivalence between nationality, as membership of the political community of state and citizenship as members of the political community of civil society. This is clear evident in the case of immigrants who can possess formal citizenship in the sense of nationality... No theory of citizenship can ignore the growing number of non-citizens, immigrants and dual citizens (Delanty, 2000: 19-20).

It's obvious that globalization challenges the nation-state autonomy which was seen as the major unit in which '*the economy, politics, social relations and culture were congruent*' (Castles and Davidson, 2000: 7). The above statement also shows the limits of Marshall's theory. Today there emerged other forms of exclusions beside social class and the politicization of new groups and emergence of multiple identities have been witnessed. So, nobody can ignore the continuing power of the national states and the citizenship status derived from it. However, global social movements show that the scope of traditional citizenship and its principles should not stay on simply traditional, exclusive lines and should embrace inclusive practices. Another point about the debate on national states' authority is emphasized by Morris (2002: 3): *If the nation-state is no longer a sovereign power, is there some new institutional basis on which to build the relations of civic-society?*

Soysal (1994: 21) focuses on the key aspects of global transformations and the dynamics prevailing within the post-industrial societies of the West in defining citizenship. Briefly, she asserts that after Cold War, rights came to be defined at transnational level rather than association of those with national belonging. Furthermore, the values that are constructed to create some distinctiveness and therefore

principle of rights within the context of national belonging are said to be giving way to what Soysal (1994: 22) refers as post-national membership. According to her assertion, while modern citizenship based on exclusion on the basis of nationality or territory was the main determinant for the attainment of rights, the dynamics of the global system created new features for membership to a community and altered '*national belonging as the legitimate basis of membership in modern states*' (Soysal, 1994: 18). In other words, in the contemporary era, it is obvious that the 'universal personhood' will outdate the national belonging in a '*system of constitutionally interconnected states with a multiplicity of membership*' (Soysal, 1994).

As Soysal (1994) emphasizes, global scale migratory movements can be evaluated as one of the post-war global dynamics that had contributed to the emergence of membership developed beyond the national citizenship. The appearance of transnational agencies and the global human rights regime that also came to include social and economic rights had brought universalistic approach in terms of citizenship according to Soysal. In other words, she puts forward that the post-national model of citizenship have created a universalistic approach in acquisition of rights.

What makes post-national membership fluid is the fact that individuals can afford claims and demands independent of national boundaries and that rights are granted even when individuals do not belong to formal national collectivity. Thus, while states reinforce more and more strict boundaries, at the same time, transnational pressures toward a more expansive membership and individual rights penetrate the same national boundaries and profoundly transform the nature of citizenship (Soysal, 1994: 22).

According to Soysal, EU citizenship is the most obvious example of post-national citizenship in the global era. However, Castles and Davidson find Soysal's conception of 'universal personhood' very optimistic when it is considered that many social and political rights of immigrants are denied despite the global pressures about immigrants' rights. EU citizenship that is mostly viewed as one of the indicators of what Soysal refers is criticized because of its exclusionary tendency toward non-EU citizens (Castles and Davidson, 2000: 18-19).

Many scholars of citizenship stress that there no longer exists a congruency between nation and state as before in the modern national states and argue the

diminishing sovereignty of nation-states through transnational activities and globalization of markets. Anthony Smith criticizes the claims about the separation of nationalism from the political community and depoliticization of nation (Smith, 1996: 13-14). He argues the efforts to separate 'cultural level of nation' from the 'political level of the state' and states that nationalism still operates as an important force for self-identification and as a politicizing force in a world where the immigrant communities and minorities grow in number with the development of transportation and communication technologies. Furthermore, he criticizes proposed global community and the global culture mainly found expression in the theories of post-industrialism. He argues 'new imperialism' and the assumption of the displacement of the 'great nation' with 'continental and regional association and community'. According to Delanty, despite the nation and the state are still strong enough, nation-state is in a fundamental crisis (Delanty, 2000: 94). He stresses that the decoupling of nation and state can be understood if it is considered that state-led nationalism is replaced by the influence of nationalism from below. While he makes a distinction between old nationalism and new nationalism, he argues that;

National identity is only one particular form of collective identity takes. There are many collective identities, and national identity is only one such identity. In other words, nationalism today lives in a world of many identities (Delanty, 2000: 96).

Citizenship is for the greater part still very much defined by the state which, despite globalization is the more or less sole upholder of the rights of citizenship. An additional problem is the absence of a common cultural foundation for cosmopolitan citizenship, for instance the existence of a common language. Moreover, there is no effective constitutional state in the international arena that can be compared to nation-state, to democracy in the international arena which is still dominated by the states, and, to give a final example of the limits of cosmopolitanism, there is no transnational welfare state, for social rights are more or less exclusively arbitrated by the national state (Delanty, 2000: 5).

Delanty (2000: 96) argues the problems of post-national or cosmopolitan citizenship and emphasizes the absence of the institutional and social context in the global world. He puts forward 'civic cosmopolitanism' in which 'citizenship is defined multi-levelled' by emphasizing the importance of cosmopolitan public sphere that emerge 'when transnational, national or local public spheres come into contact with each other'. Moreover, by taking reference from Touraine (2000), Delanty (2000: 100) argues 'fragmentation of social' with respect to the economic, political, cultural and

social change. Economic production that mostly came to be less governed by the national governments and the increasing role of the local institutions constitute one of the major factors in this fragmentation. T.H. Marshall's social citizenship that operates to hold the social classes together in cohesion can be said to be shrink both because of the market-based reduction of the notion by neo-liberal policies in which the individual is the sole responsible for managing to provide its welfare needs and of the emergence of multiple identities that cannot no longer just embrace the division between working classes and the capital.

It can be argued that rights are becoming deterritorialized by the impact of the growing discourse on human rights and the '*incorporation of international law into national laws*' of the states. It is mostly argued that migrants' rights gained importance with the expansion of international agreements and conventions and human rights regime which relieves some degree of national authority. Many transnational organizations about the expansion of rights have taken the role on the protection of immigrants' rights. International Labour Organization (ILO), several UN Conventions on the protection of immigrants and of refugees constitute crucial apparatuses for the well-being of the members of those communities. Although it is still the nation-state that determines the implementation of global norms, transnational structures brought an important framework for redefinition of the status of 'othered' communities. However, it is important to keep in mind that International Conventions such as 1990 UN Convention on the Rights of Migrant Workers and Members of their families has been signed by mostly emigration countries. This means that the realization of the formal rights, putting them into practice should be accorded more attention.

Indeed, it is necessary to detach the categories of immigrants in terms of the attainment of rights. It can be said that there exists a kind of hierarchy between immigrants according to their legal status. The categories of immigrants are various; high-skilled professionals, the families of the post-war labour reserve, undocumented immigrants constitute a hierarchy of status with varying rights, in other words, '*stratified rights*' as Morris puts forward (Morris, 2002: 5). When these categorizations

are considered, there emerge different statuses of citizenship. Bauböck (1991: 29-30) emphasizes an important point about lines between these statuses:

Excluding parts of society from (full) citizenship were that some populations were either dependent or undeserving. Dependent members of society had to be represented by those on whom they depended, or else equality would have been only a fiction and representation seriously distorted. Equality could only exist between economically and politically independent individuals. Such way the basic argument for excluding women and propertyless class.

According to this statement, differentiation among the society that is made with respect to the discourse of ‘deserving’ and ‘undeserving’, helps to determine who should ‘deserve’ to be treated equally. Linked to this, Bauböck (1991: 31-32) reminds Tomas Hammar’s concept of *denizenship*. This term refers to the status linked to non-residence. Bauböck (1991: 32) puts forward that:

The boundaries between alien rights and denizenship are quite fluid in most countries of immigration and vary broadly between different states. In many cases, it is not only length of residence which entitles to rights of denizenship, but also other criteria like continuous employment or nominal citizenship of member-states of the EC and the Nordic Free Labour Market.

It can be said that the categorization among immigrant groups increase when the EU membership is considered with respect to the attainment of rights. In the following part of the chapter, immigration and immigrant policies of the EU will be discussed by taking account the increasing categorization among immigrants.

3.2. THE POLITICS OF IMMIGRATION AND INTEGRATION IN THE EUROPEAN UNION

International migration is regarded one of the most compelling questions by both the European nation-states and by the organizations of the European Union. Especially after the Second World War, the continent had come face to face with several forms of flows with the impact of the changing political structure, economic restructuring and demographic changes. In other words, the changes in the policies on international migration have reflected the changes in economic, political and social situation and the occurrence of them in an unprecedented magnitude (Appleyard, 2001: 8).

After the war, the recruitment of labour policy had been promoted by most of the developed countries of Europe, mainly Germany, to meet the labour demand of their national economies which were seriously damaged. Initial arrivals were mainly enhanced from the Southern European countries in this economic restructuring process which the foreign labour force was designed to compensate the native labour deficit. However, in the early 1970s, the decline in the economic growth and the unexpected consequences of the guest-worker policy brought tight immigration policies. Although the tendency to recruit immigrant workers on the basis of temporality had lasted with the impact of the economic depression of 1973 Oil Crisis and despite the generous immigration policies have been fallen down, the movements of people never ended for the European continent. In contrast they took several forms such as family unification- the immigration of the family members of guest-workers who were once designed on the basis of temporality- and asylum seeking. Since the governments behaved restrictive about legal labour immigration, especially about the movements of the low-skilled workers, after 1970s, illegal channels came to be developed for potential immigration to the European societies. Beside the guest-worker programmes, countries that had historical colonial ties such as France and the UK were influenced from the post-colonial immigration. The nation-building process of formerly colonized countries created political instability and the processes of exclusion, expulsion and insecurity for many people.

Tight immigration policies of the developed European countries did not solve the entry of thousands of people and couldn't be effective for states' security concerns. Illegal migration came to have an important share in the immigration schemes of Europe and it developed parallelly with expansion of informal sector's capacity to absorb those illegals. Moreover, different entry channels came to be developed to cross the borders of the European countries and to find work opportunities despite the worst living and working conditions.

It can be said that today it is very difficult for the states to cope with both the causes and the consequences of international migration with a single strategy. The integration of different immigrant groups into the economic, social and political life of

the European societies brings important complications. Beside the diverse characteristics of the flows, different integration policies of the European countries, different citizenship notions, nationality laws and the historical particularities on immigration are crucial in the governance of the processes of immigration. As, we discussed in the previous chapters, the role of nation-states in decision making process is today influenced by the processes of globalization. The global dynamics can be said to be the major forces that shape the human condition. However, the governance of international migration still operates within the framework of security-centred logic on both national and regional level. The EU in which the member states relinquish some degree of sovereignty to designed supranational bodies has a strong tendency to harmonize the immigration policies of the EU member states. Therefore, we should focus if it is possible to identify a particular European politics of immigration influenced by supra-national law and politics (Geddes, 2003: 6). In this chapter, we are going to deal with the EU level co-operation in immigration and integration issues.

Although the member states ceded migration policy responsibilities in some degree to the EU institutions with the establishment of several conventions and agreements, it is not very easy to form competencies on immigrant policies and to manage the integration of them into the new societies successfully. The providence of social, political and economic rights can be said to operate at national level. As Morris (2002: 16) emphasizes while certain rights can be established on supra-national level, the delivery mechanism of these rights mostly operate at national level. Although the European Parliament (EP), European Commission and European Court Justice (ECJ) have important degree of autonomy, most of the decisions are taken with the unanimous consent of the member states which tend to pursue their own preferences about immigration issues. But despite the states' interests, the EU institutions and the agreements came to have an impact on the domestic law of the member states that entailed common attitude and position about illegal migration, labour migration and the entry of the asylum-seekers.

The competencies on the EU immigration policies embrace free-movement, asylum policies and halting the flow of illegal immigration. However, it can be said that

most of the competencies were designed with the security purposes, for the protection of the borders from ‘outsiders’. With the right of free movement EU aimed to create an area in which citizens of the member states can freely move and migrate. Moreover, especially after 1980s the Union encouraged immigration of ‘outsiders’ only if they are highly skilled. So, common policies were provided about EU nationals’ immigration within the EU borders and about those who are highly skilled. However, on the other side of the coin, there stand low-skilled workers, asylum seekers and illegals. In this sense, it can be said that establishing common policies is not easy and they are generally realized with the politics of fear as in the case of illegals. It is very hard to talk about an effective immigrant policy that could go beyond nation-states’ defensive attitudes. After the mid-1970s, the European countries tended to regulate their policies on the basis of ad-hoc and reactive attitude. Moreover, there emerges a paradox about nation-states’ attitude in determining common policies on immigration.

Geddes (2003, 127) explains this paradox “*by escape to Europe*” hypothesis which give European nation states the opportunity to carry their domestic policy objectives with the EU co-operation and integration rather than “*loosing control*” hypothesis which asserts that the member states are driven to make co-operation because of the eroding foundations of the nation state as a consequence of economic interdependence and globalization. It is true that internationalization of markets and the desire of the EU to establish economic integration were prioritized in co-operation among the member states. However, economic co-operation could not be sustained without establishing security mechanisms that member states should cede sovereignty to the EU institutions. Since the international migration was accorded high degree of attention by the member states especially since the mid of 1970s, it can be argued that the EU members states with respect to the welfare issues have favoured to enhance their control capacity by the EU level co-operation on immigration, especially against the flows coming from outside Europe. Furthermore, international immigration does not create the same effects in all Europe countries.

Since 1980s, the EU co-operation has increased. This co-operation was not only concentrated on the EU citizenship and the freedom of movement of the nationals

of the member states but also embraced anti-discrimination laws and the status of the third country nationals. However, the issue of freedom of movement was prioritized when it is compared with asylum and nationality issues (Vink, 2005: 67). The right of free-movement which was designed to regulate intra-EU migration policy allowed the nationals of the member states to move freely across the EU states and brought an important framework with respect to the EU co-operation. Therefore, the possession of citizenship of a member state is needed to exercise the freedom of movement (the free movement of capital, finance, persons and information). The roots of this supranational right can be traced back to 1957 Treaty of Rome. The creation of the Common Market (1968) realized free-movement for workers across the EU member states by removing the internal borders within the Union. However, during this stage the co-operation was mostly linked to economic function with the aim of removal of barriers to trade.

The establishment of mini-Schengen (1985) involving France, Germany, the Netherlands, Luxembourg and Belgium brought important security measures that were designed to bring control and burden sharing mechanisms. Single European Act of 1986 deepened the common market with the creation of single market and assured the free movement of workers, services, goods and capital. The crucial difference of the creation of single market is that it embraced the issues of immigration. However, on the other hand it put more emphasis on “*economic citizenship*” and civil rights rather than the development of social and political rights. The diverse levels of provisions that would likely to occur in terms of the social entitlements and the diverse patterns of the national welfare states had been mostly emphasized (Geddes, 2003: 130). Moreover, SEA brought some considerations about the eligibility of persons for the exercise of this right and also question about the ultimate authority over the entry in the absence of internal frontiers (Morris, 2002: 12). With the completion of the internal market, the external border control became an urgent issue and with the Trevi meeting (1986) and the Ad Hoc Group on Immigration this purpose had come to fore whose major tasks were the co-ordination of visa policies and the co-ordination asylum and refugee status (Vink, 2005: 73).

Schengen and SEA formed a basis for the intensification of the EU-level co-operation and integration. 1980s and 1990s are the decades which the states more or less cede some degree of sovereignty for managing intra-EU migration and asylum policies. However both with Trevi Meeting and the Schengen Agreement the co-operation had been developed on the basis of national security concerns and of halting the “unwanted” migration coming from the “external” borders that had caused important “threats” for the continent. Therefore, in those years the attention had been mostly devoted to frontier-free Europe in the face of national constraints. It’s worth to emphasize although there have been a consensus for the states to establish an effective economic integration and creating a functioning single-market, immigration and asylum policies have become sensitive responsibility areas. However, although the Schengen agreements can be viewed under the supremacy of the state interests, they pushed forward closer integration among member states with respect to international migration (Geddes, 2003: 132).

With the SEA co-operation on the entry, movement and the residence of TCNs had been put emphasis. However, states insisted to pursue their own domestic immigration policies. In 1986 the Ad Hoc Working Group on Immigration (AHWGI) dealt with asylum, external frontiers, admissions and deportations (Geddes, 2003: 131-132). The creation of European Refugee Fund in 2000 and the Eurodac which is an important system about information pooling can be counted as crucial developments towards the attainment of a common policy within the union. A common definition of refugee, measures about temporary protection, fair treatment for third country nationals in economic, social and cultural life, TCNs rights and obligations and combating with xenophobia and human trafficking constituted major issues that go beyond the regulations based on national security and national interest. Dublin Convention of 1990 that was ratified in 1997 by all member states represents the restrictions and reluctance of the member states to develop effective mechanisms for the issue of asylum seekers. The convention brought the recognition of safe third countries with the aim of creating buffer zone.

A harmonized European immigration policy goal had come to be defined under the three pillar structure- Justice and Home Affairs, Common Foreign and Security Policy and the Community pillar- of the Maastricht Treaty. However, we can not talk about full incorporation on immigration and asylum since the policies were dealt within JHA which was set as an intergovernmental pillar. The commission, European Court of Justice and European Parliament were largely excluded. The Maastricht Treaty recognized the following immigration and asylum issues as being of ‘common interest’;

1. *asylum policy*
2. *external frontiers-particularly crossing of these frontiers and the exercise of controls*
3. *immigration policy and policy regarding TCNs*
4. *conditions of entry and movement by the national of the third countries on the territory of member states*
5. *conditions of residence by nationals of third countries on the territory of member states, including family reunion and access to employment*
6. *combating unauthorized immigration, residence and work by TCNs (Geddes, 2003: 135).*

The Treaty brought those issues, however taking decisions remained on the basis of unanimity. Maastricht Treaty like Dublin Convention symbolized member states’ restrictive policy objectives where the role of supranational institutions had been undermined on asylum and immigration issues and the security centred logic had remained. With the Amsterdam Treaty (1997) immigration and asylum were moved from the third pillar under JHA to the first pillar of community competence. The communitarianization of immigration and asylum had been confirmed by the Tampere Summit of 1999 that called for a common the EU migration policy (Geddes, 2001: 26). During this process the cross-pillarization became obvious and the distinctions btw internal and external security issues became mostly disappeared (Geddes, 2003: 138).

Immigrant policies that deal with the economic, social, cultural and political integration of the new comers into their new societies should be distinguished from the immigration policies. As it was stated before the EU tends to focus on immigration policies rather than the immigrant policies and the migrants’ rights that are mostly issued by the national governments. EU level co-operation lacks in terms of establishing common policy area concerning the rights of immigrants residing in different European countries. Therefore, it can be stated that this issue has been remained at national level

and that the forms of inclusion showed different implications in each country. As we emphasized, the legacy of the guest-workers programme that had been adopted by most of the Western European countries before 1970s, is the permanent residence of these communities. These non-national resident populations found it difficult to acquire the nationality of the host countries and with this respect they were mostly excluded from rights attained by the nationals. In the 1990s, the issue of the rights of immigrants largely prevailed on the basis of the entry rather than the approximation of living and working standards of these communities in the country of destination.

Since the rights are claimed to be derived from the citizenship status, the immigrants' rights are mostly regarded as problematic. National states have a tight grip in the issue of attainment of rights to immigrant communities. It is also worth to emphasize that different national contexts in which different citizenship notions prevail are effective for the realisation of rights. Geddes emphasizes that;

The developments confound both a narrow state-centrism by showing the establishment of rights at EU level, but also question post-national universalism in the sense that these rights drew from Europeanised rather than universalised ideas about membership and belonging. Moreover, the forms of inclusion generated at EU level tend to be closely related to core EU-market-making functions and the development of a form of 'economic citizenship' that is designed to complement rather than replace national citizenship (Geddes, 2003: 142).

When we look at to the EU immigrant inclusion agenda, briefly it can be stated that while the immigration policies depend on strict border controls, immigrant policies' common point is the social marginalization. The prioritized choice of the member states is to prevent the movements and not to deal with the integration problem of ethnically, culturally and religiously diverse groups. Therefore, the regulations and the implementation of the provisions remain limited with the impact of the state-centred focus. EU, while establishing frontier-free zone for the nationals of the member states, puts restrictions on the entry of unwanted foreigners. Geddes identifies this tendency as the Europeanized forms of membership in which the economic citizenship is the basis rather than post-national membership or universal personhood.

Immigrant groups are mostly socially excluded on the basis of discriminative tendencies of the member states. They were seen as a drain for the national welfare

resources. Although legally resident immigrants are included to the welfare arrangements, most of them can find themselves outside the welfare schemes and come face to face with restrictions such as dispersal systems and the use of vouchers rather than the cash paid welfare state benefits. Since it was understood that the designed features of the temporary migration of 1950s and 1960s brought unexpected consequences and since its contributions to the economic growth and to the national welfare state understanding of the Western countries turned to be a disadvantaged situation by gaining of the movements the permanent character, the racial discrimination and the social exclusion for the immigrant communities have been increased. Moreover, the EU population still regards these communities as security threats and the EU legislation is still lack of effective policy making capacity although there observed important proposals for the attainment of social and economic rights for the TCNs.

The agenda of EU relating to the immigrants' rights in the country of destination broadly embraces three topics (Geddes, 2001: 35). These are the rights of EU citizenship for TCNs mostly centred on the issue of free movement of legally resident TCNs, anti-discrimination and the rights of the asylum-seekers. These development came to fore after 1990s, especially with the contribution of the Article 13 of the Amsterdam Treaty. With this article, two directives, one for the extension of anti-discrimination provisions to embrace ethnicity, race, religion and gender and the other for the equal treatment in employment and occupation, were issued in June 2000. The second directive is crucial because employment is the major area in which the discrimination prevails in its highest level. With this directive, vocational training, working hours, social security, health, education and housing issues are mentioned for the well-being and the equal treatment of immigrant communities. The efforts to diminish both formal and informal discrimination were aimed at EU legislation (Geddes, 2003: 143). The European Union Monitoring Centre on Racism and Xenophobia that was established in 1998, in Vienna can be shown as an example for the development of consciousness on the immigrants' disadvantaged position and the status in the European countries. The foundation of the European Union Migrants' Forum with

the efforts of the Commission is also important for the expansion of the EU competencies on immigrant policies.

Non-citizenship rights for the TCNs can be said to be mostly regulated with respect to the nationality laws of the member-states. The efforts for the extension of rights such as the free-movement to the legally resident TCNs with the efforts of the Commission were prevented by the member-states. Moreover, the articles covering this right both in the Maastricht and Amsterdam Treaties have been undermined. The Commission's action plans, in which the focus was the extension of the rights on the basis of legal residence rather than the nationality, were not adopted. Important steps have been taken with Tampere Summit in terms of approximation of the status of the TCNs (Geddes, 2003: 145).

3.3. MIGRATION AND EUROPEAN SOCIAL POLICY

International migration has been usually assumed to challenge the borders of the national welfare states by bringing into question the classical conceptions of citizenship and community in the contemporary era. Within this framework, it is important to pay attention to the impact of international immigration on the social policy since the history of the social programmes has been mostly shaped by the boundaries of exclusion and inclusion which determine who are full members and who are strangers in a particular community. It can be said that there is a negative assumption on the relationship between immigration and welfare. It can be argued that there exist great tension and fear among the developed western societies related to the growing international immigration which might diminish the constituencies of the welfare state and erode the sense of common community (Banting, 2000: 13). This tension can be said to be increased when the western European countries realize that international migration is politically uncontrollable.

Bommes and Geddes emphasize that 'sovereignty of the nation-states over a given territory and population was and still based on the exchange of political provisions of welfare in exchange for their internal loyalty of their citizens (Bommes and Geddes, 2000: 1). This reflection puts forward the tendency of the welfare states to

distinguish potential 'disloyal' strangers or non-citizens from the community of citizens who deserve the full social support. Furthermore, the national welfare states can be said to act as 'political filters' that exclude unwanted migration providing differentiated welfare entitlements. According to this assumption, the national citizenship becomes the major determinant for the welfare state provisions. However, it is crucial to understand that there are diverse citizenship and welfare conceptions and it is obvious that the nation states are being affected by immigration in different ways. Beside these diversities we should take into account the supranational developments that affect the welfare constructions of the states. Therefore, it is important to keep in mind that there are diverse responses of the welfare states to immigration in terms of historical particularities, changing conceptions of welfare ideologies, territoriality which at the same time determines the degrees of inclusion or exclusion.

Most of the theorists emphasize that the conception of social citizenship is the core idea of the post-war welfare state structure. According to Marshall (1992: 20), the modern citizenship brought the institutionalisation of the state responsibility in terms of social expectations of the citizens and provided the inclusion of the citizens into the national community. In the contemporary era, the impact of supranational pressures, the emergence of new communities among the boundaries of the countries brought important challenges to the social citizenship which was described as the core constituent of modern welfare states. Thus, it is important to examine the expansion of the welfare state after the Second World War. Although we can talk about a common tendency of the western countries to accord attention to the social programmes, public expenditures-welfare programmes- in the post-war era, the social role of the states differed from one country to another, mostly in terms of the welfare programmes' impact on the social structure (Banting, 2000: 17). With regard to the social role of the state and its organizational structure, Epsing-Andersen's typology had been mostly cited. According to this reflection there are three welfare regime types: social-democratic welfare regime type such as Scandinavian Countries, corporatist welfare regimes like France, Germany, Italy and liberal or residualist welfare states as Australia, Canada, United Kingdom and the United States. This categorization is based on redistributive capacity of the social programmes, social spending and the attainment of

the social rights. According to Epsing-Andersen the national welfare states acquire different equality concepts. Some welfare states can emphasize the individual equality while mostly in the European continent the corporatist mentality of the welfare had been widespread (Epsing-Andersen, 1999: 35). Since the end of 1980s, Scandinavian countries represent the principle of universal social citizenship with the expansive, high re-distributive logic and decommodification of labour (Ryner, 2000: 57). In conservatist-corporatist regimes, social programmes have a tendency to protect the differentials among economic classes with limited redistribution. Work performance was core to the insurance schemes. In this sense the entitlement of social benefits for immigrants has been the labour market participation. The residual welfare regimes depend on lower public spending, means-tested benefits and privatization of the insurance system. The 'deserving poor' might only have opportunity to get public assistance. Again the labour market participation is needed for immigrants for the access to social security but with limited benefits (Banting, 2000: 17). Ryner emphasizes that despite all these variations, Keynesian Welfare state was embedded in the 'institutional forms of national sovereignty' and national belonging and he adds that it is the Bretton Woods system that enables free trade to co-exist with the discretionary power of the states (Ryner, 2004: 57-58).

What is the difference between welfare regime, welfare state and social policy? And when is the welfare state system started to emerge in the European continent? It is important to grasp that the social policy programmes stood at the heart of the welfare state and of social citizenship. After the Second World War, Keynesian welfare state has been institutionalised in Western European nations in which state took the major responsibility to provide security against the risks of life. Thus, state stood as the guarantor to regulate the pension plans, unemployment, health, education and housing. In this sense, as Epsing- Andersen underlines, welfare states could not exist without appropriate social policies whereas social programmes could exist without it. Therefore, we are talking about the modern social policies that are completely different from the social assistance for poor people. In this sense one of the motivations for the institutionalisation of the welfare state is to deal with the economic instability that are ongoing since the late 1800s, the social question (Ryner, 2000: 54). Furthermore, it is

obvious that Keynesian welfare aimed to resolve the integration problem into the capitalist economy with the adoption of a range of social rights or with the notion of social citizenship to eliminate the negative effects of the class system and to provide some form of negotiation between labour and the capital. Increasing insecurity linked to the life risks that stems from the rapid modernisation and proletarianisation had to be solved for the development of the capitalist society and for the preservation of the social order that operates to keep tension among all these risk cycle. As Ryner (2004, 55) emphasizes, Keynesian welfare state achieved to counteract tendencies toward consumption and overproduction by the means of collective bargaining and public sector expansion. Despite Keynesian welfare state's relative stability during the 1950s and 1960s in the western societies, in the 1970s there started emerge important pressures and tensions to the existing institutional framework. Ryner puts emphasis to the contradiction between the 'formal commitment in liberal democracy to universalism and particularism associated with positive welfare state intervention' as one of the major them of the crisis of Keynesian regimes and adds that;

This contradiction was immediately relevant to social policy and immigration in Europe in 1970s. Particularism characterised the explicit policy towards guest workers in the KWS. They were assumed, by state regulation and the constituent social groups of the post-war settlement, to be 'outside' the boundaries of social citizenship...the role ascribed to guest workers was to be a variable in counter-cyclical positive economic state intervention, to be excluded from the benefits of nationally specific transfer payment and insurance systems, even when they contributed to their financing (Ryner, 2004: 60).

The extension of the social rights for immigrants had been reduced during the 1970s, especially because of the economic stagnation that came with the oil crisis contributing to the crackle of the Keynesian Welfare State system at the same time. In this period of high inflation, diverse responses came from different welfare regimes. As Ryner stresses, the conservative regimes of old continental Europe, according to the categorization of Epsing- Andersen, came to be more successful in terms of mediating the expansion of the welfare state and the capital accumulation problem than the liberal welfare regimes (Ryner, 2000: 61). During the 1980s, the monetarist approach adopted by the business provided an important tool for the shift from the Keynesian Welfare State toward more market-driven neo-liberal approach and as a consequence led the social benefits to be sharply reduced introducing the pillars of the post-Fordist system.

The restructuring of the economy together with the developing information technology constituted the main characteristics of the production and reorganized the relationship between the labour and capital. Beside the rapid development of the information technology, the internationalization of the production had reduced the power of the nation state and the Keynesian and Fordist economic regulation by contributing to high unemployment, re-commodification and the new constitutional forms. Wages become to be determined by the market forces rather than the economic policies and the structure of the KWS welfare entitlements. In this sense it can be argued that both the social democratic and corporatist welfare regimes with respect to the Epsing-Andersen categorization, become very closer to the liberal-residual type of welfare regime with further market deepening and privatization of the public sectors. With respect to this assumption, we need to ask whether the constituents of social citizenship still endure or in the contemporary world with the abandonment of many rights as citizenship rights it is necessary to talk about the economic citizenship.

In order to answer this question we should first observe the erosion of the dominant constituencies of the Keynesian Welfare State system. In other words as Ryner puts emphasis by giving reference to Soysal;

... the male nationalist blue-collar working class is no longer the dominant welfare state constituency in this context. It has fragmented from within, and shares 'the space' with among others unemployed, elderly, women and, indeed, immigrants and their descendants (Soysal 1994) as conscious subjects...The international differentiation of migration types means that the relation of immigrants to the welfare state is internally highly differentiated dependent on their legal/ residential status, labour market position and etc...In other words they were constituted as different 'client groups', which compete with one another (Ryner, 2004: 67).

According to Soysal, migrants' incorporation into the national welfare states is closely linked to the same access of foreigners to the welfare schemes as the nationals and she stresses that this tendency reflects the post-national membership. Beside the emergence of the trans-national collectivities, the above statement clearly shows that the distinction between skilled and non-skilled workers becomes more concrete in the neo-liberal transformation although it seems that social rights which should be granted to the immigrant population in the country of residence less problematic when compared to the entitlement other set of rights such as the political rights.

Although there can be observed well performing economies of especially North-Atlantic countries in this global era where the economic growth is no longer linked to the development of the welfare state unlike during three decades after the Second World War, there stood serious problems in terms of social inclusion , poverty and the social citizenship. The economic growth in the contemporary era is therefore much more linked to the restructuring of the Keynesian Welfare State that came to appear in the mid 1970s and intensified during the 1980s and 1990s which brought the exclusion of the several population groups from the social rights of citizenship (Schierup, et.al. 2006).

4. SOCIAL AND ECONOMIC RIGHTS OF IMMIGRANTS

It is important to perceive that increasing migratory movements imply a global mobility especially in the last two decades. This global pattern of the movements brings important variation on the status of migrants by creating different channels. The social and economic rights that are granted to immigrants with different status- migrant workers, asylum seekers, refugees, undocumented immigrants- in the host countries are naturally not identical with each other. In this sense, the research aims not only to cover the migrant workers, but also the refugees who flee from their home country because of the causes of war, civil unrest, political pressure etc. Moreover, beside documented immigrants, it is important to analyze the situation of the immigrants with no legal status whose position usually stem from both the absence of satisfactory mechanisms of the country of origin to halt the flow, the restrictive behaviour of the host countries about migration and the emergence of the illegal channels of information and departure. In other words, there appears an inequality concerning the rights between the statuses of immigrants related to legality of their entry to the country of destination. In this sense while we are going through immigrants' rights, conceptualization and the classification of rights are going to be made according to this statement.

“Migrant worker” refers to

a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a state of which he or she is not a national (Information Kit on the UN Convention on Migrant Rights).

Documented/Regular Migrant worker is the migrant whose status is recognized legal in the processes of entrance, settlement and employment under the national laws of the country of settlement and under the regulations of international institutions.

One of the international agreements that establish a legal framework for the scope of the migrant workers' rights and the recruitment and implementation of those rights is International Convention for the Rights of all Migrant Workers and Their

Families (1990)^{*} as a United Nations Convention. European Social Charter (1961)[†] also sets group of rights for migrant workers with the control mechanism about the implementation process of state parties. International institutions like International Organization of Migration and International Labour Organization prepares fact sheets about the ongoing practices about supervision.

4.1. RIGHT TO WORK

4.1.1. Prevention of All Forms of Discrimination

Country of employment should grant equal opportunities to migrant workers and their families on the issues of housing, vocational training, social protection, social services, education without any form of discrimination. In other words, access for immigrants to institutions and services on equal basis with national citizen in a non-discriminatory way should be provided by states.

State parties should avoid wrong information to eliminate negative public perception like ignorance, scapegoat and prejudice towards migrants. Fear politics that bring securitization of the migrant issue is contributing to reinforce prejudice. The prevention of negative actions towards migrants is guaranteed by the agreement of European Social Charter (1961), the International Convention on the Protection of the Rights of Migrant Workers and Their Families (1990). The country of destination should prevent discrimination including in hiring, in access to housing, health care and basic services.

4.1.2. Equal Treatment and Equal Opportunities in the Work Place

Right of everyone to be entitled to equal opportunities and equal treatment in the labour market of the employment country without any discrimination is closely linked to the two fundamental human rights of migrants. International agreements and

^{*} The UN Convention on the Protection of the Rights of All Migrant Workers and Their Families was adopted by the General Assembly Resolution 45/158 of 18 December 1990 and entered into force on 1 July 2003. The Committee on Migrant Workers (CMW) monitors the implementation of the Convention.

[†] European Social Charter was signed by the members of the Council of Europe on 18 October 1961 and revised in Strasbourg on 3 May 1996.

national law of countries guarantee the right to work, right to earn his/her living in the host country and protection from discrimination as the most crucial principles.

Economic rights that are guaranteed for the nationals of the host country should be equally granted to migrant workers without any form of discrimination. The vulnerable position of migrants is more visible in the labour market. The migrant workers are usually alienated in host countries because they generally become the targets of suspicion and hostility in their new communities and in most case they are financially poor workers. They are usually abused in the work place in terms of working hours, inhuman working conditions, unhealthy working environment and overtime work. Although this is mostly related to the legal position of migrants, documented migrants can also easily become the subject of bad treatment in the work place. In this sense the implementation of the guaranteed social and economic rights and informing the migrant workers about their rights have crucial significance.

In this sense, the regulations about the recruitment of working conditions for migrant workers have to be accelerated and the implementation of the granted rights should be monitored in addition to the prevention of discrimination. International Covenant on the Economic, Social and Cultural Rights (1996) emphasizes that every person has the right to work in a job that is chosen freely by him or herself and the right to earn his or her living. The covenant defines the right to work as follows;

- the right of everyone to the enjoyment of just and favourable conditions of work*
- a. *remuneration which provides all workers as a minimum with*
 - i. *fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal job*
 - ii. *a decent living for themselves and their families in accordance with the provisions of the present covenant*
 - b. *safe and healthy working conditions*
 - c. *equal opportunities for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence*
 - d. *rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays (International Covenant on Economic, Social and Economic Rights, 1976: Article 7).*

The Article 23 of the Universal Declaration of Human Rights (1948) determines the right to work as a fundamental human right and emphasizes the

importance to select freely his or her job, to have equal and convenient working conditions and to have protection against unemployment.

The Article 54, paragraph 1 of the International Convention on the Protection of All Migrant Workers and Their Families (1990), had recognized the importance of equal treatment in the work place. The article emphasizes the right to protection in cases of termination of employment, unemployment fees, and right of participation of migrant workers to the public programs that formed to challenge unemployment. UN Convention puts emphasis on both right to work and the prevention of inhuman conditions in the work place. Article 11 talks about the prevention of coerced labour and states that nobody should be forced to work. Article 25 of this international convention shows the importance of equal treatment in terms of working hours, overtime work, social security, health and minimum employment age:

Migrant workers shall enjoy treatment not less favourable than that which applies to nationals of the state of employment in respect of remuneration and other conditions of work and terms of employment:

- i. *Overtime work, working hours, weekend holiday, annual holiday with pay, security, health...*
- ii. *Employment issues such as the minimum working age, the limitation of work at home and other employment issues that exist in the national laws and implementations... (International Convention on Economic, Social and Cultural Rights, 1976: Article 25, paragraph 1; a-b)*

The vulnerable position of migrants especially in labour market causes exploitation of those people in an unhealthy working environment with inhuman working conditions. International agreements in this sense try to halt the illegal migration and the abuse to migrant women in the country of destination. International Convention on the Protection of all Migrant Workers and Their Families (Article 10, 11, 25, 54) emphasizes the importance of prevention of physical and sexual abuse and degrading treatments. European Social Charter within its Article 19, paragraph 5 recognizes;

To secure for such (migrant) workers lawfully within their territories treatment not less favorable than that of their own nationals with regard to employment taxes, dues or contributions payable in respect of employed persons (European Social Charter, revised, 1996: Article 19, paragraph 5).

European Social Charter puts emphasis on the freedom to choose one's job without any coercion, restriction and discrimination; and states that regulations about the equal opportunities in the work place and the implementations about the social rights and responsibilities should be guarded by the state policies.

A decent work and a sufficient income is one of the main principles for migrants to improve their well-being. Rather than the specific demand of host countries for high-skilled workers, the large majority of migrants are located in the lower part of the occupational hierarchy. Those migrant are usually low paid, subjected to harsh working conditions. The marginalization of the migrants in the country of destination rises because of the policies that are not permitting the migrants to integrate with the mainstream.

4.2 RIGHT TO FORM AND TO BE MEMBERS OF ORGANIZATIONS

Right to form association or to be a member of for migrants is restricted with their social interests. Most of the developed countries migrant labour enjoys being members of labour unions and being supported to ensure the reality in the realm of work. International Covenant on Economic, Social and Cultural Rights (1996) recognizes;

the right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and the protection of his economic and social interests (Article 8, paragraph 1,a) .

UN Convention on Migrant Workers and Their Families recognizes the right to form and to be a member of a trade union with the purpose of protecting their social and economic rights:

The state parties recognize the rights of migrant workers and their families in the following issues;

- i. To participate the activities and interviews of trade unions and the other institutions those are legally founded to protect their economic, social, cultural and other interests.*
- ii. To participate freely any trade union and organization by being entitled to the rules of that organization as mentioned above (Article 26, paragraph 1).*

European Social Charter –revised- (1996) also includes an article about trade unions and collective bargaining as follows;

membership of trade unions and employment benefits of collective bargaining (Article 19, paragraph 4).

4.3. RIGHT TO HAVE SOCIAL PROTECTION

Migrants have to acquire both physical and social security. Living conditions of migrants are not usually satisfactory with the impact of the accommodation problems in the host countries. Access to social services with the nationals of the communities of the host countries is crucial for the social integration of migrants. Acquiring a place in the new societies includes housing, employment, access to the educational and health facilities in physical sense. Articles 27 and 28 of UN Convention on the Protection of All Migrant Workers and Their Families emphasizes that;

Migrant workers and members of their families shall enjoy the same treatment granted to nationals in so far as they fulfill the requirements provided by the law.

The right to receive any medical care that is urgently required for the preservation of their life or avoidance of irreparable harm to their health.

As branch European Parliament Convention, European Social Charter, in the Article 31 emphasizes the right of everyone to enjoy housing facilities.

4.4. RIGHT TO FAMILY UNIFICATION

International and regional conventions guarantee the right of migrant workers to unite with their families. Family reunification is one of the most important human rights of migrant workers. However, not all the governments guarantee the admission of the family members of migrants. This is mostly related to the temporary status of migrant workers in the host countries. The long-term residence is the necessary condition for family reunification.

In terms of family reunification, national laws of the countries that are determining the admission of the family members are more effective. The admission of

family members in this sense linked to the definitions of family and the age limitation for the children. Admissions are usually restricted to the spouses and children under the age of 18.

The European Social Charter (1996) defines the term family of a migrant worker as composed of worker's spouse and the dependent children under 21 before the 1990 revision. This family term had been narrowed in the revised version of the charter and the limit of age had been reduced from 21 to 18.

ESC in the article 19, paragraph 6 emphasizes;

To facilitate as far as possible the reunion of family of a foreign worker permitted to establish in respect of employed persons.

UN Convention on the Protection of All Migrant Workers and Their Families (1990) in the Article 44, paragraph 1 emphasizes that state parties accept the role of family as main basic unit of society and recognize the right of family to be protected by the society and the states that are responsible from taking steps for the protection of the families of the migrant workers.

State parties shall facilitate the reunification of migrant workers who are documented with their spouses or person who have with the migrant workers a relationship that produces effects equivalent to marriage.

4.5. RIGHT TO EDUCATION

Education of the children of migrant workers constitutes a crucial element in the integration process. UN Convention on the Protection of All Migrant Workers and Their Families (1990) (Article 45, paragraph 2) states that the state parties shall make collaboration for the learning of national language by the migrant workers and the family members and for facilitation of the accommodation to the educational system.

Beside learning the national language of the host countries for an easier accommodation of the children of migrant workers, the learning of mother tongue and their cultures in terms of the preservation and the aspiration of transfer of cultures are guaranteed by international conventions.

Article 30 of UN Convention on the Protection of All Migrant Workers and Their Families (1990) emphasizes the fundamental right of education of migrant worker's children and treatment not less favourable than nationals of the host country. Article 19, paragraph 11 and 12 emphasize;

promoting and facilitating the teaching of national language of receiving state or if there are several, one of these languages, to migrant workers and members of their families...

promoting and facilitating, as far as practicable, the teaching of migrant worker's mother tongue to the children of migrant workers...

Common agenda for integration about the framework for the integration of third- country nationals in EU emphasizes that *efforts in education are critical to preparing immigrants and particularly their descendants to be more successful and more active participants in society.*

4.6. RIGHT TO HEALTH CARE

European Social Charter of 1996 (Article 11), the revised version of the document, defines one of the basic human rights: right to protection of health. Every person needs to attain health and social services.

With a view to ensuring the effective exercise of the right to protection of health, the Parties undertake, either directly or in cooperation with public or private organisations, to take appropriate measures designed inter alia:

- 1. to remove as far as possible the causes of ill-health;*
- 2. to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health;*
- 3. to prevent as far as possible epidemic, endemic and other diseases, as well as accidents.*

Ensuring the protection of this fundamental right is one of the basic responsibilities of every state for their citizens and the foreign persons residing in the territories of the states such as migrants, refugees or the persons who are not entitled to the protection of any state. In other words, it is a fundamental human right that must be guaranteed for every person regardless of his or her legal status. To meet the economic and social needs of immigrants and guaranteeing human, equal and healthy conditions starting from the very beginning of the process of migration are crucial in order to

lessen the negative consequences that will arise during migration. The right to protection of health should be guaranteed for every person, including the persons who are in the status of stranger within the borders of nation-states. In this sense, the principle of non-discrimination should not be neglected.

The health risks faced by immigrants especially during the use of illegal channels to move other countries need serious precautions. Beside the health risks of immigrants during their journey, discrimination, restricted access to the health services and health insurance constitute impediments about the physical well-being of immigrants.

Immigrants are usually perceived as threat in other words as the potential carrier of infectious and communicable diseases by the country of destination. This assumption is usually issued in terms of illegal migration. Media attention puts emphasis on the wrong relationship between migrants and the infectious diseases and dismisses the human dimension. Illegal migration is usually viewed from the security dimension of crossing borders but it is important to conceive that the vulnerability of migrants is more than nationals because they are usually exposed to the unwanted jobs with unhealthy working conditions. In terms of infectious diseases, especially female migrants involved in prostitution become the subject of deportation.

The problems of health not only include the physical health but also the psychological well-being of the immigrants in the new societies. In this sense both economic migrants and the persons who have to flee from the country of origin because of the political reasons have psychological problems due to the uprooting, separation of family members, unwanted position of themselves by the native population. Access to mental care is one of the biggest problems of migrants according to the reports of World Health Organization.

UN Convention on the Protection of All Migrant Workers and Their Families (1990) emphasizes non-discrimination principle, equity and put forward the protection of health of the immigrants as a human right. In this sense, the definition of the convention embraces all migrants irrespective of their legal status.

Migrant workers and members of their families shall have the right to receive any medical care that is urgently required for the preservation of their life or the avoidance of irreparable harm to their health on the basis of equality of treatment with nationals of the State concerned. Such emergency medical care shall not be refused them by reason of any irregularity with regard to stay or employment (Part III, Article 28).

Equal treatment and the avoidance of harmful working conditions for the migrant workers are on the responsibility of the employers. The protection of mental health is closely related to the responses from the host society. The feedback from the host society in the social and economic life is the main determinant of the mental health of migrants. In this sense, it is important to provide mental care with informative programmes and workshops in the work place. It is significant to provide equal access to services and to give information about the human rights of the migrant and the members of their families.

5. SOCIAL RIGHTS OF IMMIGRANTS IN THREE DIFFERENT EUROPEAN COUNTRIES

5.1. BRITISH IMMIGRATION POLICY AND SOCIAL RIGHTS

Britain differs from the other European countries both with its history of immigration policy and its welfare regime. One of the most crucial features of British response to international migration is its reluctance to involve the EU asylum and immigration regime and to cede power to supra-national EU institutions. Britain, with its restrictive policy orientations has opposed common European policies that would strengthen the role of supra-national institutions such as the Commission and the European Court of Justice (Geddes, 2003: 31). Since the early 1960s, the dominance of strong executive branch of government had helped the emergence of stringent immigration policy with tight regulations and external frontier controls. Another point that makes Britain different from other European countries is its trajectory inclined towards North America with respect to both immigration and welfare policy. Especially after 1980s, with the impact of Thatcherism and neo-liberal policies, the features of social citizenship have been damaged and welfare rights have been contracted. The residual character of the British welfare regime (Andersen, 1990: 34) brought means-tested benefits and accelerated the processes of social exclusion of minorities and immigrants from the mainstream society. Also, the communitarian values of New Labour in which the group rights were centralized, have been replaced by the individual responsibilities (Geddes, 2003: 29). Although, external controls were hold tight, immigration to the island was continued by labour migrants, family members and later asylum seekers. However, the immigration of high-skilled workers in the sectors like health care and information and communication technology is favoured today like in the many other European countries.

Moreover, 'race relations' policy stands at the centre of immigrant policies in Britain. Race and racial differences have an important coverage in British society. 'Race-relations' policy which prevailed on the basis of restrictive immigration

regime was aimed to be improved by the anti-discrimination laws introduced to tackle direct and indirect discrimination. ‘*Good race-relations*’ therefore could be managed by limiting the numbers of immigrants (Geddes, 2000: 135).

5.1.1. Downsizing Common Wealth Immigration and Contraction of Rights

The colonial history of Britain came to dominate the early post-war immigration and created an alternative to recruit labour from its colonies in Asia and Caribbean and the Commonwealth although the migrant labour was sought from Europe (Platt, 2006; 138). The immigrants coming from the Commonwealth countries have been granted full membership status. According to 1948 British Nationality Act, people coming from the Commonwealth countries have acquired the same social and political rights as all subjects of the Crown. However, with 1962 legislation the unconditional rights of Commonwealth citizens came under attack and 1971 Immigration Act brought restrictions on the entry rights. The contraction of rights had coincided with free-movement regulation for EC nationals. Morris emphasizes that a very complex system of rights was born. The unconditional entry of Commonwealth citizens were withdrawn but the presence of non-citizens and later increasing number of asylum-seekers brought important complications with respect to immigrants’ rights (Morris, 2003: 80).

During the period between 1962 and 1971, restrictive measures on the family unification rights had been taken. This period also witnessed the strong opposition to Asian and black immigration to the island (Geddes, 2003: 35). With this respect as Geddes emphasizes, the inclusive and imperial notion of citizenship was replaced by a more ethnic understanding. This is obvious in 1981 British Nationality Act which the idea of partiality came to govern the downsizing process. The British Nationality Act that was introduced during the conservative government of Margaret Thatcher defined three categories of British citizenship;

- *full British citizens for those with close ties*
- *British Dependant Territories Citizenship for people living in dependant territories*
- *British Overseas Citizenship, a residual category to which almost no rights were attached (Geddes, 2003: 37).*

Thus, while the formal link remained with the Commonwealth countries, the individuals deterred from entry to the British territory. Spencer puts emphasis the continuity of policy of the UK with respect to ‘*coloured immigration*’.

during the first post-war decade, British subjects from all parts of the Empire Commonwealth remained free to enter the United Kingdom as and when they pleased. However, in practice rather than in theory, British immigration policy operated in a way that was intended to make it difficult for Asian and black British subjects to settle in the United Kingdom. The British government throughout this period adhered to a racially discriminatory immigration policy. It is clear that restrictions on the movement into Britain of people from the Indian sub-continent, Africa and Caribbean were a reflection of widespread underlying assumptions about the general undesirability of the settlement of physically and culturally distinct groups. In this respect, there is a clear continuity of policy between the inter-war and post-war periods (Spencer, 1997: 21).

The stringent British attitude towards international migration showed itself once again in the 1990s. A strong security discourse prevailed during this period with respect to the national security and national welfare state.

5.1.2. Welfare Regime and Immigrants’ Rights

The restrictive policy of immigration and contraction of social and economic rights of immigrants can be viewed as linked to the implications of the British welfare state. In the continent, Britain can be said to be the “forerunner of Americanization of European welfare regimes” as Leibfried puts forward (Schierup, et.al. 2006: 111). The neo-liberal policies during the 1980s with Thatcherism brought important trends that effect the economic and social situation of immigrants. During this period, government pursued the policy of deregulation of labour market, limitation of the state intervention in economy and of the welfare system. The welfare regime consolidated after the Second World War with the emphasis of universalism and collective responsibility has been mostly damaged (Sales, 2002: 45). Marketization and privatization of the public services were idealized. According to Conservatives’ critics, welfare state ‘took a disproportionate share of resources’, ‘caused demoralization’ and ‘created welfare dependency’ (Fraser, 2003: 281). So that minimalist welfare principles were injected into the system and neo-liberal principles increased unemployment and sharpened the social and economic inequality. Disqualified public provisions stimulated private service in health, education, childcare and etc. Market based reduction of the system

brought social stratification not only among British citizens but also for the immigrant communities. When New Labour took office in 1997 under Tony Blair little has changed. Third Way couldn't achieve to tackle social inequality (Schierup, et.al. 2006: 114). Fraser defines New Labour's policy with the statements from the Report of the Commission on Social Justice (1994):

Instead of a welfare state designed for old risks, old industries and old family structures, there is a need for an intelligent welfare state...instead of a safety net to relieve poverty we need a social security system that can help prevent poverty... the welfare state must not only look after people when they cannot look after themselves, it must enable them to achieve self-improvement and self-support (Fraser, 2003: 288-289).

The aim has been to force the new poor into participation in badly paid and insecure jobs by means of the institutionalization of disciplinary welfare measures based on US 'workfare' models (Schierup, et.al, 2006: 114).

According to Clarke (2005), New Labour's politics of citizenship relies on four dynamics; namely activation, empowerment, responsabilization and abandonment which were central to the neo-liberal understanding of citizenship of Thatcher government (Clarke, 2006: 447). Waged- work and flexibility are central to activation of citizens who were previously passive recipients of the welfare state.

Active citizens were a means of reducing cost and activity pressures on the National Health Service- becoming an 'expert patient', taking on their managing their own life styles and well-being, and requiring less direct attention from hospitals and general practitioners (Clarke,2005: 448).

According to Lister (2004), social investment state of the Third Way was a pragmatic response to the welfare state that was challenged by the economic globalization (Lister, 2004: 157). Empowered and responsabilized individuals as consumers of the public services without state interference have been idealized in New Labour's notion of citizenship. Third Way pursued an individualist conception of citizenship. Its social policy defined social inclusion with civil and political rights rather than access to social rights (Dean, 2004: 182). The evolution of immigration can be said to be linked to the welfare state change.

Beside the immigrants coming from Commonwealth, Britain received Irish immigrants, those coming from EU countries and high-skilled personnel. The acquisition of citizenship was not difficult for the immigrants whose existence in the British society was desired. After five years, they could acquire the citizenship status unlike the other European countries (Schierup, et.al. 2006: 117). This group of immigrants mostly included the high-skilled workers. After 1990s, together with the increasing flows of asylum seekers, undocumented workers constituted important share in the British immigration schemes. In the late 1990s, rapid economic growth and the growth of the informal sector attracted both high-skilled and low-skilled workers.

Non-white immigration has still been the major problem for the acquisition social and economic rights. 'Coloured immigrants' were placed at the lowest level with the worst living and working conditions. They came to occupy the worst housing. The houses were mostly overcrowded; they lived in ghettos and are mostly socially excluded (Sivanandan, 1976: 349). 'Coloured immigrants' came face to face with discrimination with respect to employment, housing and the provisions of the services (Castles and Kosack, 1972: 74). The British tendency on peacefully co-existence of racially diverse groups was to deter immigrants as it was emphasized before in the name of good race relations. During 1960s and 1970s race relations were tried to be enhanced by several anti-discrimination legislations and an integration model developed through state intervention. However, the distinct groups have been recognized on the basis of 'race' (Schierup, et.al. 2006: 118). The first Race Relations Act which was introduced in 1965 outlawed discrimination on the basis of race, ethnicity, colour and national origin in the public places. With the 1968 Act prohibition of discrimination came to cover education, housing and employment (Geddes, 2003: 45). However, the responsibility was left to local governments. The 1976 Act also helped the emergence of the Commission for Racial Equality (CRE).

Since the late 1990s, it is widely accepted that Britain has a multicultural society. The Race Relations Acts were continued. Social cohesion became highly discussed during 2000s. However, the social policy of UK, similar to USA, which has a

strong tendency to prioritize obligations rather than rights, and the devaluation of social citizenship increased social exclusion of othered communities.

...neo-liberal or 'neo-American' trajectory of the UK's post- Fordist policies of restructuring is unique among European welfare states... the liberal resurrection triggered a schism between 'rights of citizenship' and 'primacy of the market'(Scierup, et.al. 2006: 134-135).

Changing political economy and welfare system should be taken into account to understand the difficulties in immigration, asylum issues and 'racism'.

5.1.3. Deterring Asylum Seekers

Britain has a long history of immigration that depends on control and deterrence. The current attitude towards international movements of the people represents the same security-centred logic. It can be said that one of the major indicators of the continuity of restrictive policies is the reluctance to participate to the common immigration and asylum regime of the EU. Britain favours to regulate its own national policy on immigration with its extra controls over its external frontiers. The resurgence of asylum seekers during the 1990s mostly affected Britain. When we look at to the asylum policy, it is obvious that rather than the settlement, entry controls remain as the primary focus for the British governments. Britain introduced restrictive measures to halt the entry of asylum seekers at its external borders such as carrier sanctions, rules on 'manifestly unfounded applications', 'safe third-country' approach and visa requirements for the source countries (Geddes, 2000: 136). Moreover, asylum is viewed, as Geddes puts forward by giving reference from Joppke as 'political discretion' (Geddes, 2000: 139). For the British governments most of the applications carried the purpose labour immigration so they are bogus for the British governments in which the search of economic activity is the main intention. With this discourse during the 1990s, the increasing asylum seeking has been demonstrated as linked to the economic migration and more stringent policies were introduced and restrictive measures were introduced with respect to the applications and the rights of applicants. We cannot talk about a specific asylum legislation until 1990s.

In Britain, there is no constitutional right to asylum and state obligations to refugees derive from the 1951 Geneva Convention and its 1967 Protocol, which define the status and set out contracting states' obligations not to return a refugee to persecution (Morris, 2003: 89).

The UK offers an "exceptional leave to remain" (ELR) status. This option is available to those asylum seekers who do not conform to the 1951 Convention's definition of a refugee yet have compelling reasons for not being returned to their country (USCR, 1994:154, quoted by Papademetriou and Hamilton, 1996: 67).

The Asylum and Immigration Appeals Act of July 1993 represented tightening measures which provided 28-day procedure for 'unfounded claims' that later became one of the features of the Dublin Convention of 1997. Morris emphasizes that;

The result has been a system of stratified rights of access support, which raises questions about what is owed to asylum seekers and other non-settled immigrants in terms of social and economic rights (Morris, 2003: 90).

Welfare state pressures also became an effective tool for reducing the number of asylum seekers with the discourse claiming that they are not the legitimate receivers of the welfare benefits (Geddes, 2003: 40). The Conservative governments' attitude towards ethnic minorities and immigrants shaped the public discourse negatively and established the idea that the immigrants, especially black people living in poorest created an important drain on the welfare resources.

Most of the perceptions in British asylum policy are based on the assumption that the rise of the number of asylum seekers is linked to the access to benefits. Social Security Advisory Committee (1996) reflects this assumption by emphasizing the attraction of the British system for asylum seekers to utilize from the benefits (Morris, 2002: 90). The first New Labour White Paper, *Fairer, Faster and Firmer* of 1998, argued the abuse of the system by people who are enjoying the advantages of employment or access to welfare benefits although they have no entitlement to protection. Reforms were made on the basis of reduction of liberties (Flynn, 2003: 4). With the 1999 Immigration and Asylum Act the vouchers in place of cash- paid welfare benefits and dispersal system have been introduced. Vouchers system was criticised for its implementation difficulties and because of the stigmatization of refugees that

vouchers brought (Geddes, 2000: 143-44). The dispersal system aimed to distribute asylum-seekers across the country and tried to share the burdens of the big cities such as London. However, both the vouchers and dispersal system brought the isolation of those people from the society by contributing to racial discrimination. Low standards of housing also made them more vulnerable.

The UK government to stop the bogus asylum seeking brought measures to limit in-country applicants by denying the opportunity for social participation. With the Conservative Government's 1996 Asylum and Immigration Act, welfare benefits for this group of applicants were withdrawn. The Conservative government put the asylum seekers into two categories: the port-applicants who deserve support and in-country applicants, bogus asylum seekers, who come to exploit the welfare resources of the country of destination. With the 1996 Act, the responsibility to support asylum-seekers has been left to local authorities. In 2001 the National Asylum Support System (NASS) has been established with the aim to give support for all asylum seekers. However, the support for the asylum seekers and refugees has been mostly provided by the refugee community organizations (Sales, 2002: 470). Moreover, the voucher system and the dispersal of asylum seekers alone brought human rights question because both of them made those communities more vulnerable to discrimination and stigmatization in the society. Morris states that;

Thus, we have a form of provision whose function was to give effect to the right to seek asylum, but whose very nature has raised a set of other human rights concerns, even causing some to opt out of the scheme, leaving them legitimately present but without support (Morris, 2003: 93).

In 2002 cash allowances were added to the vouchers system. However, the reception centres that were planned to complement the support system couldn't be successful.

'Token Gestures', a report jointly produced by the Refugee Council, Oxfam and the Transport and General Workers Union when vouchers were used in 2000 and 2001, provided compelling evidence that the vouchers had a damaging impact on asylum seekers and the organisations working with them. The report showed that 98% of the organisations in the survey stated that the voucher scheme caused asylum seekers serious difficulties and 82% said asylum seekers were not able to buy enough food

(Parliamentary Briefing: Immigration, Asylum and Nationality Bill Clause 43-Asylum Support (Vouchers), Commons Consideration of Lords Amendments, March 2006).

The providence of cash support was viewed as a pull factor for the asylum seekers to enter the UK. In the House of Lords, the Minister, Baroness Ashton of Upholland, argued:

Section 4 provides a limited form of support for those about to leave the United Kingdom. While meeting essential needs, the support should not act as an incentive for people to remain in the UK once they have exhausted their appeal rights... we do not want to invite people to draw on the public purse if they do not need to; more importantly, nor do we want to reduce the incentive for people to take steps to leave the UK voluntarily. We are trying to meet people's needs in a way which does not increase the incentive for those people who have exhausted all of their appeal rights. We want to ensure that they are able to leave the UK once the barrier to leaving has been resolved (House of Lords Official Report, 2006: Column 582).

Although the cash allowances are not favoured by the governments, there is no clear evidence that the cash-paid allowance is directing asylum-seekers to the UK. This is also asserted in the United Nations High Commissioner on Refugees report on asylum applications made in Europe in 2000.

When deciding where to lodge their application, are more swayed by the presence of their own community than by the reception standards and benefits.

Platt emphasizes that;

Initially, lack of networks and familiarity with the 'host' community can be expected to depress the occupational achievement of the migrants, relative to skills and education. This may be exacerbated if the migration was forced rather than voluntary (Platt, 2006: 142).

We see that Britain is reluctant to co-operate on immigration and asylum. It rejected to join Schengen and opted-out the free-movement, immigration and asylum provisions in the Amsterdam Treaty. Co-operation with the EU member states to deal with asylum issues served UK's interest on the basis intergovernmental pillars. However, pursuing a common immigration and asylum policy would be harmful for the implementation of restrictive measures of entry and of immigrant policy. However, UK

government participated to the EU directives such as temporary protection for refugees, the European Refugee Fund and the Eurodac (Geddes, 2003: 123).

5.1.4. Access to Employment, Family Unification and Welfare Provisions

Immigrants' social exclusion is most obvious in their access to labour market. Platt emphasizes that the disadvantage of immigrants in the labour market is linked to many factors such as 'the impact of the local labour market concentration in certain sectors of employment and educational achievement' (Platt, 2006: 140). Since the temporary trends of immigration demonstrate several statuses of immigrants, it can be said that different categories of immigrants have been given different opportunities to reach the labour market and access to employment. According to Morris, access to employment represents 'a stratified system of inclusion and exclusion' (Morris, 2002: 81). For example, while the nationals of the European Economic Area (EEA) were in advantage to practice right to work and reside, TCNs cannot enjoy from such rights. The UK cannot regulate the number and the selection of nationals of EEA. '*Most EEA nationals have an automatic right to work in the UK and to bring families with them*' (House of Lords, 2008). The expansion of the work-permit brought free access to labour market to the nationals of A8 countries.* The most important criteria for immigrants' rights- rights in the labour market, access to welfare benefits, right to family unification is their status in the country of immigration.

Unless they are highly skilled, immigrants holding work permits may only for work for the employer specified on the permit. In contrast, EEA nationals and non-EEA nationals with permanent residence status in the UK have complete freedom of employment in the UK. Immigrants employed on low-skilled work permits do not have rights to family reunion, but those on skilled and highly skilled workers do. Access to welfare benefits, such as jobseekers' allowances varies across different types of status (House of Lords, 2008).

There are important particularities between different types of immigrants according to their skills and sex with respect to employment rates and earnings. Since there is a need for highly-skilled workers for the international competition, the work

* A8 Countries include Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, and Slovenia which joined the EU in May 2004.

permits are mostly accommodated to the high-skilled personnel. The permits given to low-skilled workers mostly stand on the basis of temporality (Morris, 2002: 82). Asylum-seekers' situation differs from the other categories of immigrants. They were forbidden to work for the first six months of their stay so they live dependent on benefits or work illegally (Sales, 2002: 464). Although the UK is more generous when it is compared to Germany and Italy, there is no law regulating right to work of asylum-seekers. Also taking National Insurance number can be problematic without having a job offer if the permission has been granted by the asylum-seekers (Morris, 2002: 83). In 2008, 'points-based' identified four-tier that is very similar to Australian and Canadian model for non-EEA nationals.

Tier 1: Highly-skilled migrants (launched in the first quarter of 2008)

Tier 2: Skilled migrant workers (to be launched in the third quarter of 2008)

Tier 3 Low-skilled workers (currently no programmes planned)

Tier 4: Students (early 2008)

Tier 5: Youth mobility and temporary workers (third quarter of 2008) (House of Lords, 2008).

The UK's low-skilled immigration programmes for non-EEA nationals over the past few years did not grant immigrants the right to family reunion or the right to permanent settlement in the UK (House of Lords, 2008).

According to this system, those in the first two tiers such as doctors, teachers and IT workers are allowed to stay permanently in the UK if they pass the English language test. However, more requirements are needed for low-skilled workers.

Low-skilled workers will be expected to leave after five years and although they will be entitled to free-education and health-care, they will be banned from claiming benefits. Those claiming refugee status will no longer get permanent citizenship; if the situation in their native country improves, they may be sent home (Personnel Today, 15 February 2005).

Discrimination and exclusion is mostly visible in employment. Racial and ethnic communities are mostly concentrated in low-waged sectors. The unemployment is a serious problem especially among Afro-Caribbeans, Pakistanis and Bangladeshis (Dobrowolsky and Lister, 2005: 14).

Right to family unification is a fundamental human right which aims the well-being and the social adaptation of immigrants in the receiving country. The International Convention on the Protection of the rights of Immigrants and Members of their Families tended to facilitate the reunification of workers with their spouses or civil partners (Article 44, 2). However, it is not very easy to day that the right to family unification has been put into practice without hardships. It is important to bear in mind that the ratification of the UN Convention on the rights of immigrant workers and their families took 13 years. It can be said that the phases of migration are the basic determinants to seek family unification.

In Britain because of not having a written constitution, there was no constitutional right to protect rights of family. 'Family migration was provided by statute' (Geddes, 2003: 36). European Convention on Human Rights (ECHR) with the Article 8 emphasized the fundamental right to respect private and family life. With the Human Rights Act (HRA), Britain incorporated this article into its domestic law. The type or the status of immigrants in the country of destination is crucial for the scope of family reunification. For example, the 1971 Immigration Act had a strong tendency to restrict unification with spouses and dependents who had a British-born or naturalized parent or grandparent (Ceserani, 1997: 66). With this regulation with the non-white population of the Commonwealth was forbidden to enter the UK and family unification was prevented. The 1981 Act replaced the jus-soli principle as the basis of citizenship replaced by jus-saingunis principle based on descent which required the proof of kinship with those previously settled. The 1988 Immigration Act restricted 'right of certain British citizens to be joined in the UK by their spouse' (Ceserani, 1997: 97). The Act also emphasized that if the '*spouses or dependants have recourse to public funds within the first year of marriage of after entry*'*. Therefore, the existence of marriage and living without recourse to public benefits were the major determinants for the exercise of this right. This Act mostly targeted the Indian men who intend to unify with their spouses.

* *Women's Movement: Citizenship, Migration and Processes of European Integration*, <http://www.helsinki.fi/science/xantippa/wee/weetext/wee244.html>

The requirements to be met by a person seeking leave to enter the United Kingdom with a view to settlement as the spouse or civil partner of a person present and settled in the United Kingdom or is in the same occasion being admitted settlement are that:

- (i) (a) the applicant is married to or the civil partner of a person present and settled in the United Kingdom or who is on the same occasion being admitted for settlement; or
(b) (i) the applicant is married to or the civil partner of a person who has a right to abode in the United Kingdom or indefinite leave to enter or remain in the United Kingdom and is on the same occasion seeking admission to the United Kingdom for the purposes of settlement and the parties were married or formed a civil partnership at least 4 years ago, since which time they have been living together outside the United Kingdom, and
(b) (ii) the applicant has sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom, unless he is under the age of 18 or aged 65 or over at the time he makes his application; and*
- (ii) The parties to the marriage or civil partnership have met; and*
- (iii) Each of the parties intends to live permanently with the other as his or her spouse or civil partner and the marriage or civil partnership is subsisting; and*
- (iv) there will be adequate accommodation for the parties and any dependants without recourse to public funds in accommodation which they own or occupy exclusively; and*
- (v) the parties will be able to maintain themselves and any dependants without recourse to public funds; and*
- (vi) the applicant holds a valid United Kingdom entry clearance for entry in this capacity (Home Office, 2008).*

ELR carriers have no rights to family unification unless they reside in the territory for five years. They can this right if they can support the members of their families without recourse to public funds (Sales, 2002: 468).

With respect to granting the right of family unification, Britain adopted a discriminative tendency on the basis of gender. It has been a problematic issue for women to enjoy from the same family unification rights as men because of the restrictive attitude of the British governments that view women as dependents rather than breadwinners (Geddes, 2003: 35). However, as Kofman emphasizes, women's movement is not limited with the family reunification (Kofman, 1999: 249). Women waited till 1989 to bring their husbands to the UK (Kofman, 1999: 276). The racialized and gendered nature of social citizenship that is mostly obvious in the Beveridge Report of 1947 continues to operate. However, the feminization of immigration as an important feature of the current international flows of people should be taken into account seriously. Thus, social rights of women cannot be only channelled through men (Sales, 2002: 460).

As it is emphasized before social provisions and entitlement are recognized on the basis of waged-work in the UK. All the immigrants residing in the UK are entitled to basic health care and the children are entitled to compulsory education. However, they have low degree of entitlement to benefits because of the less time spent in the formal labour market (Sales, 2002: 460). Refugees and asylum seekers- except the highly-skilled ones- whose employment is mostly enhanced by illegal sectors are the most disadvantaged groups among the immigrant communities. Also the spouses coming with the family reunion are prevented to gain access to income. In 1996 and 1999 there emerged important reductions with respect to the non-work related benefits such as childcare. With the 1999 Asylum and Immigration Act, the social rights of asylum seekers have been downgraded and this act sharpened the inequalities and differences among the immigrant groups with respect to the entitlement of social rights.

Immigrants face the social exclusion process with its strongest magnitude. Although they have the right to access services, discriminatory institutional practices constitute restrictions (Sales, 2002: 61). With this respect, as Sales emphasize, migrants mostly tend to provide their own welfare through community networks.

The immigration and Asylum Act of 1999 took away various means-tested benefits for those who are 'subject to immigration control', including benefits from the Jobseeker's Allowances and Income Support to Child Benefit and Disability Allowance (Dobrowolsky and Lister, 2005: 18).

The most vulnerable position is women asylum seekers'. Their maternity payment is very low when it is compared to other women and also milk tokens are given for children up to three rather than five.

The role of private sector in the provision of public services has been deepened, together with an extension of performance targets. These processes reduce incentive of service providers to cater for those deemed expansive or unlikely to meet the targets. General Practitioners (GPs), for example, many remove patients from their lists without explanation, a practice used to exclude 'expansive' patients such as asylum seekers and the elderly. School examination targets discourage schools from enrolling those with special language needs who are unlikely to boost a school's performance (Sales, 2002:459)

With respect to entitlement to the welfare provisions and entitlements, asylum seekers are the most disadvantaged group. Legally resident non-citizens in theory have the right the right to access social benefits. EEA nationals acquire the same social and

economic rights with the British citizens. However, the black and Asian migration and asylum seekers with distinct racial characteristics come face to face with important degree of discrimination and isolation. Low-skilled workers can be also included to this group which practices the worst housing and settlement. Community networks mostly compensate the welfare needs. Thus, we can say that the well-being of the immigrants in the immigration country is directly linked to the governance of the current flows under the supremacy of the global economy and under welfare state transformation.

5.2. ITALY'S IMMIGRATION REGIME AND SOCIAL RIGHTS OF IMMIGRANTS

Italy constitutes a crucial place in the research because it certainly reflects the changing direction of the migratory movements that were previously inclined towards the Northern European industrial countries. The direction of the migratory flows in the contemporary era can be said to be shaped by the developed European countries' restrictive attitude after the mid of the 1970s. With the closure of the borders to the legal labour migration, the migration schemes started to be changed in the continent and the new forms of entry began to prevail. Italy as the other southern European countries was far from being an immigration country until 1980s. However, the Oil Crisis of 1973 that illustrates a turning point for the industrial European countries, for ending up their labour recruitment policy on the basis of temporality, also affected the southern European countries' migration schemes (Zincone, 1999: 47). When mainly Germany, France and Britain closed their borders to economic migration, Southern European countries such as Italy, Spain, Portugal and Greece have started to become important receivers despite the citizens of those countries were the major surplus labour for the Northern European countries during the Fordist industrial development (Veikou and Triandafylliou, 2000-2004).

Italy should be distinguished from Britain and Germany with respect to its newly emerging immigration regime and integration policies, underground economy and its welfare regime. The patterns of immigration to Italy can be defined with the clandestine entry and the growing underground economy that is willing to accommodate immigrants with irregular employment opportunities. As Baldwin-Edwards identifies, there are important differences between Northern and Southern European (1999: 2) countries with respect to the experience of immigration, the characteristics and the composition of immigrant communities, labour-market structure and the institutional practices. The most visible features that differs Southern European countries from Northern European ones are that the flows directed to the Southern Europe embrace a range of diverse nationalities of immigrants and their existence in the informal market often with no social rights. Unlike the Northern European countries which adopted

guest-worker policy, in which workers were controlled and sponsored by the state on the basis of regular employment and state-led welfare rights (Baldwin-Edwards, 1999: 2), Southern European countries came face to face with spontaneous movements whose outcome is usually the concentration of foreign immigrants in the informal sectors in which the rights are mostly enhanced on the basis of discretion (Morris, 2003: 53). Informality is further strengthened by the non-state voluntary organizations that provide support for immigrants, with informal provisions which we will later deeply discuss.

Since the 1980s, non-Italian immigration from the Third World countries started to pull attention in the national and European political agenda. The immigration issue has been mostly taken account on the basis of halting the illegal flows, combating with the clandestine entry and tightening the border controls. The year 1989 is an important turning point for immigration policy. Immigrants became highly visible in the big cities and in agricultural south. This brought the lack of accommodation and reactions from Italian youth. The situation of immigrants came to dominate Italian political agenda. During this period, the attitude towards immigrants started to converge with other European countries (Zincone, 1999: 50). Although Italy started to adopt restrictive policies of immigration via the EU and Schengen membership, the laxity of the labour market regulation brought generous conditions for the undocumented immigrants (Schierup, et. al. 2006: 164). The existence of a strong informal economy and its labour needs have made the country attractive for both legal and illegal entrants. Although Italy pursued the goal of abolishing illegal position of immigrants through various amnesties, the number of the undocumented immigrants continued to grow. The acquisition of social rights varies according to the legal status of immigrants in the country of destination. However, it should be paid attention to the familistic structure of the Italian welfare regime and the discretion on the implementation of the legislations that could be effective in the social integration of the immigrants into the Italian society (Schierup, et.al. 2006: 164-165).

To grasp Italy's experience of migration, welfare, and citizenship, it is necessary first to understand the particularity convoluted relationship between formal legislation and central directives on the one hand, and their interpretation and implementation in a decentralized and clientilistic political-administrative setting on the other (Schierup, et.al. 2006: 165).

With respect to the social rights of immigrants, the responsibility to provide welfare entitlements and social services has been devolved to the local authorities. In the case of illegal immigrants and asylum seekers, non-state voluntary organizations and charities were organizing support services for the survival of those communities. The control mechanisms can be said be lax (Geddes, 2003: 150) and the implementation processes of the central directives are mostly left to these local initiatives (Zincone, 1999: 44-5). Zincone's analysis about the features of the decision-making in Italian case reflects the role of pressure groups and civil servants on many immigrants' rights. Zincone emphasizes the ability of experts and civil servants to shape the public-opinion that was mostly hostile towards immigration. According to Zincone, local civil servants, voluntary associations, union representatives' practices about rights of immigrants show the role of periphery.

Italy experienced high-level of non-Italian immigration during 1980s. These immigrants largely came from Africa, Asia, Latin America and Eastern Europe (Schierup, et.al. 2006: 164). After the northern destination had been curtailed, Italy like other Southern European countries became an option for many potential immigrants to enter the European continent. Those countries became transit areas for the passage. The weak border controls and the opportunity to find employment in the informal economy can be defined as pull factors that helped the change of the direction of the flows. Therefore, the geographical factors, the underground economy and 'open-door' policy were the major motivations for the new route.

5.2.1. Informality, Regularizations and Immigration Policy

Until 1980s, Italy did not have a proper immigration regime. As it's emphasized before Italy became a country of immigration very recently and had little experience about the regulation of migratory flows like other southern European countries. It is usually asserted that the establishment of the laws regulating the presence of foreigners came into emergence with Italy's affords of participation to the Schengen Treaty (Geddes, 2003: 156). The geographical vulnerability of the country, weak border controls, tolerance towards illegal immigration created a security concern

for the other the EU member states. The main focuses of the Schengen accord were restricting illegal immigration and supporting the integration of the foreigners already existing in the boundaries. Italy, with the adoption of the European immigration policies began to turn its attention to the external frontier controls. Although the common EU immigration policy mostly concerned with the enhancement of border controls, the achievement of the goals remained at national level with the impact of the reluctance of several actors to manage illegality.

Immigration to Italy can be best characterised with informality and regularisation acts (*sanatoria*) whose aim is to abolish the illegal presence and work. Since the early 1980s (after ratification of the ILO Convention on Migrant Workers and Their Families in 1981), several regularisation acts and immigration laws have been put into practice (Morris, 2002: 54). However, there exist several forms of informality and it can be said that there is a growing opinion that these regularisation programmes attracted more illegal immigrants with the hope of being regularised after the entry. The Italian economy also made demand for those illegal immigrants in the underground economy. The employers found the presence of those communities more beneficial to avoid taxes and social costs and migrants found the opportunity to obtain employment and to earn more than in their country of origin. Moreover, state showed tolerance because of the high costs of establishing strict controls and social regulations (Geddes, 2003: 152). Watts (1999: 137) states that illegal economic activities are difficult to be prevented by the state controls and that ‘they are highly decentralized into small firms and households and large firms can obscure illegal economic activities through subcontracting’. Jahn and Straubhaar (1997) argue the beneficiaries of illegal immigration and informality as follows;

Some people (e.g. house owners needing some help in cleaning and maintenance) and economic groups (such as restaurant owners and farmers) benefit from illegal immigrants. Then they try to avoid direct labour costs, indirect social payments and costly regulations. The supply of, and demand for, illegal foreign workers create an economic market for illegal migration and a political market for the supply and demand of border controls and labour market regulations (Jahn and Starubhaar, 1997: 16-17).

It is difficult to say that immigrants are creating this informality. As Geddes (2003: 152) emphasizes by giving reference from Reyneri, that there is a strong heritage of informality linked to 'labour market rigidities, strict working regulations, low productivity growth, lax enforcement by public bodies and low levels of social control that lead tolerance of free rides'.

It is very difficult to talk about one form of informality. When we look at to Italian case, at least three forms of informality of 'foreign' people are visible.

1. foreigners can enter illegally to the territorial borders of the country by escaping from border controls;

2. they can enter legally but stay illegally (mostly with a tourist visa and remain after it expires and as asylum seekers);

3. they might enter legally, having a regular status but they might work illegally mostly because of losing their legal status and of difficulties to enter the formal labour market (Baldwin-Edwards, 1999: 4)

In all these conditions they remain in the underground economy and they don't declare it to avoid income taxes (Jahn and Straubhaar, 1997: 19). Moreover the regularisation programmes which embrace those who live and work illegally cannot usually guarantee the continuation of their formal statuses. Although illegal immigrants or foreigners who live legally but work in the informal sector are regularised through amnesties, they usually turn to informal sectors to earn more without paying taxes. Moreover, they become more open to be abused with respect to pay and working conditions (Geddes, 2003: 154). The outcome of these regularisation programmes and the different statuses of immigrants brought a 'hybrid system' with respect to the delivery of rights (Morris, 2002: 55). Economic migrants are admitted to Italy when it is decided that there is a need for immigrant workers. There are two legal channels for economic immigration: work permit system and long-term residence card. With respect to work permit system, there exists a quota system that aims to limit the number of entries. Permits are issued '*for seasonal work, for nine months, for short-term contract work one year, for unlimited contract work or self-employment two years*' (Charloff

2003, quoted by Levinson, 2005:1). Long-term residence card is available for foreigners who have resided in the territory of the country with any type of permit for six years. These people were exempted from visa requirements for entry and exit (Levinson, 2005: 1).

1986 Legislation was the first comprehensive action that is concerned with immigration and immigrants' rights. Act 943 (1986) was the first regularisation programme which aimed to regulate the position of illegal foreigners who reside and work in the boundaries of Italy. However, with the amnesty, a small number of people had regularised their statuses because of difficult requirements (approximately 119.000 immigrants) (Zincone, 1999: 53). Those regularised their statuses were mostly unemployed or showed themselves unemployed because most of them work in the informal economy or were self-employed. Moreover, most of them failed to renew their two- year permit of stay because they turned to informal jobs or lost their regular employment.

One pressing question must be the probable stability of any of these regular statuses. The ostensible shift in policy away from sanatoria and in favour of enhanced legal entry will not necessarily escape this issue. We must therefore consider the conditions and prospects for renewal of a residence permit after its two-year (or less commonly one-year) duration (Morris, 2003: 59).

Martelli Law (1990- Law No. 39) gave priority to the control of entry but also enlarged the margins and gave importance to the rights and the obligations of the immigrants (Al-Azar, 2008). It covered the issues of amnesty of unauthorized immigrants and increased the possibility of asylum to all nationalities (Papametriou and Hamilton, 1996: 48).^{*} It also brought visa requirements, introduced minimum income level for residence and the annual quota system (Zincone, 1999: 50).

As regards the problem of regulating inflows, Law no. 39 of 28 February 1990 indicated not only economic reasons (lack of national workers in some trades) or cultural preferences (people of national origin) as criteria for establishing priority in entering and legally residing in Italy, but it asked a Flow Committee to decide how many workers from non-European countries could enter Italy every year. Priority in the right to work permit was given to national and EU citizens, then non-

^{*} Although Geneva Convention was signed, Italy put geographical constraints before 1990.

EU unemployed residents, then non-EU immigrants already resident but with a different residence permit, and lastly non-EU citizens still resident in their own countries (Zincone, 1999: 51).

Martelli Law is important also for creating multi-lateral attention to the growing number of immigrants in Italy and to burden-sharing in the management of the flows. From 1990s, as the other European countries, Italy behaved restrictive about the economic immigration. However, this contributed to more contradictions in the Italian immigration policy. The closed borders and granting limited rights to regular foreigners fuelled informality and illegality once more (Pugliese, 1997: 119). In the preparation process of the Martelli Law, there appeared a contrast between high level administrators who are in favour of Western European measures and pro-migrant pressure groups such as trade unions and Catholic associations (Zincone, 1999: 54). Since 1991 Italy tried to address Third-World immigration through the EU channel and it continued to commit the EU to sustain development assistance to high emigration regions. Moreover, the immigration issue continued to be on the agenda during the crisis of the political institutions, during the reform process of the Italian political party system during 1992-1994 (Zincone, 1999: 56). Dini Decree that was passed by the centre-right coalition in 1995 increased the deportation of illegals, however came face to face with several protests and restrictive measures have been dropped. 1996 Regularisation entailed the demonstration of the past presence of immigrants in Italy and of employment in the last six months or of a job offer from an Italian employer. However large amount of money three months of social security had to be paid (usually paid by immigrants) (Reyneri, 1999: 90).

The regulations of Turco-Napolitano Law (Law No. 40 of March 6, 1998) came into emergence with the pressures of the EU. Italy pursued more restrictive policy to participate Schengenland. The law came into being with two focus; the containment of illegal immigration and expansion of integration to the legal foreigners. Italy should manage the problem of illegal entry before being a member of Schengenland. According to the Article 3 of the Law, annual quotas should be determined according to the labour market needs. Another important development was the sponsorship programme. With this innovation, immigrants could enter the territory with a temporary

permit which would be in accordance with the annual quota with the guarantee of Italian citizens or Italian legal residents to accommodate and support the new comers during the search of employment and those people could apply to long-term residence card after five years (Zincone, 1999: 58). Although the Turco-Napolitano Law mainly dealt with the with entry controls as Martelli Law of 1990, it recognized the social rights of immigrants such as health services and family unification with Article 27 and introduced five years period to get permanent residence permit. 1998 Immigration Act was composed of three pillars: integration of migrants, determination of quotas and the restriction of undocumented immigration (Levinson, 2005: 3). Shortly, it expanded rights for legal residents and accelerated the deportation process of illegal migration- but approximately no immigrants could be deported. With this law, long-term policies were desired to take place temporary and ad-hoc regulations. Geddes (2003: 150) argues the centrality of informality in the Southern European countries as follows;

There is informality and irregular immigration in older immigration countries too, but not in the same scale. Tackling informality through tough labour market regulation raises issues that go wider than immigration and touch upon state-society relations and social control more generally. Put bluntly, external controls impact on foreigners who can't vote; internal controls affect citizen who can.

Thus, with tackling illegal immigration, the informality in the labour market could not come to an end. However, illegal flows should be halted for humanitarian reasons, against the worst conditions that immigrants come face to face both during the journey and during the residence period in the country of destination. Effective mechanisms should be employed for the long-term goal of tackling informality.

The control mechanisms were strengthened when Silvio Berlusconi came to power in 2001. In 2002 the Legislation was followed by a decree for regularisation of the undocumented immigrants. The most important changes were about migrant quotas, contracts and increased deportations. Requirements to apply the regularization programme are three month of pension contributions and a proof of a continued employment (Levinson, 2005: 3) With Bossi-Fini Law (Law No. 189, August 2002), the fundamental social rights of immigrants were reduced. With the Law, deportation

procedures had been tightened and it brought mandatory employer-immigrant contracts and amnesty for illegal immigrants who have worked and lived in the country for over three months (Al-Azar, 2008). With the residence-employment contact work, work and residence became linked to each other.

the residence permit was valid only for the same duration as the employment contract and could be no more than nine months for seasonal workers; no more than one year for temporary workers; and no more than two years for non-temporary workers. Finally it modified the 1998 Law by requiring immigrants to have job contracts before entering Italy (Al-Azar, 2008).

The immigration policy of Italy has mainly focused on the external measures. Italy has collaborated with the other EU member countries to enhance the border controls and utilized from the EU funds to halt the flow of illegal migration. Italy's front-line status created sensitivity for the European countries. However, the presence of illegality and informality has been mostly tolerated. As Geddes (2003: 159) evaluates, the enhancement of the internal controls has been usually viewed as risky and politically could be costly because they also would also affect the lives of the Italian citizens and therefore, could damage the state-society relations.

The amnesties that aimed to abolish illegality managed to legalize the illegal position of immigrants but could not succeed the continuation of their legal statuses. Illegal immigrants mostly preferred not to declare themselves with several reasons. Jahn and Straubhaar explain some of the reasons as follows;

- 1. Illegals might not trust government's announcements and prefer to stay hidden. If they declare themselves, they are subject to government controls and fear deportation.*
- 2. Illegals might not be certain that their request will receive a positive answer. Usually amnesties are tied to certain conditions. The illegal immigrant cannot be sure if he meets those conditions or if his documents are sufficient proof.*
- 3. Immigrants engaged in illegal activities might prefer to stay in the underground making it harder for crime enforcement officers (Jahn and Straubhaar, 1997: 16-17).*

Once the illegal immigrants legalized through amnesties, employers in the formal economic sector become obliged to pay their social security. They usually found the presence of the legal foreign workers costly and they turned to illegal labour again.

In this sense, good labour market policy should be pursued that could be also the solution of the illegal immigrants' entry and their informal position in the labour market.

According to Reyneri (2003: 1), it should be focused on the Italian social and economic fabric in order to explain labour immigration and the trends and the characteristics of immigrants. He states that the labour and immigration to Italy has been mostly shaped by demographic decline rather than strong economic growth. He states that;

A large emphasis shall be put on the pivotal role of underground economy both in attracting immigrant workers and in providing with them the most unqualified vacancies from the regular labour demand. In a job market strongly segmented by gender, age, educational qualification and region satisfying labour and population shortages with immigrants raising problems, which are even more worsened by a political system and a public opinion where xenophobic tendencies are quite widespread. Thus, the analysis of immigration policy must face not only the traditional dilemma between demographic and economic rationales versus political criteria, but also that inside the economic approach between short term need for filling unqualified jobs and the long term risk of reproducing a low tech production system and a familistic welfare regime (Reyneri, 2003: 1).

The demographic decline and low fertility rates increased the need of the country for foreign labour. The growth in some economic sectors, although the jobs are mostly informal attracted the workers (Levinson, 2005). Shortly, it can be said that regularization acts could not be helpful for immigrants to sustain their regular status. The strength of informal economy in Italy and difficulty in obtaining an employment contract helped a large number of migrants to remain irregular. Although immigrants were regularised through the amnesties, they turned to the underground economy.

5.2.2. Welfare Regime: the Conditions for Foreigners' Access to Welfare Entitlements

In many comparative researches about welfare regimes, Italy is defined as a Mediterranean version of a conservative/corporatist welfare regime. The most prominent elements of the welfare regime type of the Southern European countries are their weaker and less institutionalized economies and their familistic structure (Schierup, et.al. 2006: 168). According the Schierup et. al., Italy shares the particularistic and familistic structure with the conservatist/corporatist welfare regimes

of Northern European countries. According to Koray (2002: 184), Italy as a Southern European country shows some similarities with residual welfare states in which the waged-work is the main determinant for entitlement to welfare benefits. However, unlike the Anglo-Saxon model, Italian welfare structure embraces the traditional support services such as churches and the family solidarity networks. It can be said that 'both the institutional structure and the social conditions of the welfare state are insufficient' (Koray, 2002: 184).

In this sense, it can be argued that Italian welfare regime embraces elements both from the residual-liberal and conservative/corporatist welfare regimes if the famous welfare regime typology is taken account. Ferrara (1996: 196) states that it can be a mistake to take just the familistic structure and the impact of Catholicism on the welfare programmes into account to define Southern European countries as undeveloped. Because some of the welfare programmes of the South present the most generous support especially with respect to the pension system. Moreover, strong socialist/ communist subcultures have had strong impact on the emergence of Latin social policy as Ferrara emphasizes. Sciortino (2002: 5) summarizes the features of Italian welfare system as follows;

- provisions arranged mainly through compulsory social insurance programs (with a widespread presence of status segmentation and corporatist traits);*
- the centrality of families as key care-givers with ultimate responsibility for the welfare of its members (including legal responsibilities for their adult off springs and for their aged members);*
- rather passive approach to employment management matched by strong labour market regulation targeted to protect the already employed (and usually adults males) householders and to guarantee a somewhat 'family' pay;*
- a prevalence of monetary transfers to households over service providing.*

According to Epsing-Andersen (1999: 38-39), risk management in the welfare states is shared among the market, state and the family. These are the buffer institutions. Family has been defined as an important factor both influenced and influencing the welfare state. It also affects the labour market with its decisions and behaviour. According to Epsing-Andersen household is the major stage of the welfare consumption and family has been the major redistributive unit (Epsing-Andersen, 1999: 38). In Italy, family's role is crucial in welfare matters. Male breadwinner model has a central role.

The role of traditional family in which women's status could not go beyond house keeping and caregivers was an important indicator that shows the position of women in labour market. Women's participation to the labour market was relatively low despite the rate of women activity in the labour market shows augmentation (Reyneri, 2003: 2). During the last decades, low fertility rates and women's increasing access to employment shows that Italian women are getting rid of their traditional status. These trends brought an important demand for women immigrants especially as domestic workers. This confirms the thesis that asserts that immigrant workers came to dominate the jobs that the native population was unwilling to do. Sciortino (2002: 6) emphasizes that;

It is within the families that the resources available to labour market insiders are shared with the outsiders and the semi-insiders: the pension of the aged may finance unemployed sons or sustain in the study of non-working nephews, the tenure of the husband may shelter from many risks the fragmented or shadow carrier of the wife, the level of protections guaranteed to survivors makes less frightening the lack of retirements benefits associated to employment in the shadow economy.

In Italy, the most generous support is given to the pensioners as work-related retirement benefits whereas the young and unemployed receive no income support. Sciortino (2002: 4) shows us the family's redistributive and compensating role in the Italian welfare system. While the Italian youth prefer to wait until they find a proper high qualified job or prefer to spend their years in education, the deficits in low-qualified jobs with low productivity are filled by the immigrant population (Reyneri, 2003: 2). Reyneri emphasizes that women and the educated youth mostly remain unemployed whereas the middle aged and less educated men were privileged (Reyneri, 1999). Ferrara (1996: 198) states that income support is based on employment status in Southern Europe like in other 'Bismarckian' and 'corporatist' countries of Europe. There are regulative differences with respect pension support for private sector employees, public employees and for self-employed persons. Reyneri (2003: 3) states that the employment in Italy is based on low tech sectors and low skill jobs that are not open to international competition. Small size firms constitute an obstacle for the development of high tech sectors especially as far as manufacturing sector is concerned.

Regional differences are also important. There are considerable differences in the local labour market structure. The northern regions have more advantages and opportunities for the women employees (Schierup, et. al. 2006: 170). The regional differences are high also with respect to the public services. Schierup, et. al. emphasize the residual character of the public services in the Italian welfare system. However, they added also the universalistic character on health and education matters (Ferrara, 1996: 206). Ferrara states that another characteristic that is peculiar to Southern welfare countries is the National Health Service that is open to all Italian citizens with the reforms realized during the last two decades. The prominent character of the Southern health system is that it is based on both public and private services.

During 1960s, national categorical programmes were guaranteed to low income pensioners and disable people. However, rest of the population were benefited from local support programmes, churches and the voluntary associations. For this kind of support, authority had been transferred to regions in 1972, to municipalities in 1977. In 1990 the power of local administration had been increased (Gough, 1996: 237). It can be observed that in Italy the welfare system is mostly based on local administrators, voluntary associations and family rather than a formal security network. Ferrara (1996: 209-210) defines southern Europe welfare regimes as clientalist. He states that scandals show that unlawful privileges are given and discretion is dominant in the use of social services.

5.2.2.1. Immigrants' Position in the Labour Market: Wages and Working Conditions

The features of immigration have changed with respect to the position of immigrant communities in the labour market. The change is mostly related to the crisis of industrial development during the 1970s and the ascendance of the secondary labour market (Pugliese, 1997: 114). Rather than the regular employment in industry, immigrants came to dominate the service sector and the sectors in the informal economy with low productivity and low wages under instability. Watts (1999: 129-130) defines the relationship between globalization and labour immigration as follows:

- labour migration is facilitated by improvements in transportation and communication technologies,
- demand for immigrant labour has shifted from industries that enjoy stable employment to once that offer more precarious forms of employment, such as domestic service, seasonal agriculture, construction and the underground economy and,
- the growth of underground economy and expansion of legal and illegal immigration networks have weakened the ability of the state to control immigration flows.

Watts emphasizes the impact of economic interdependence on the mobility of labour migrants with the increasing power of transportation and communication technologies. International competition in trade and increasing capital flows increased the demands of developed countries for cheap labour. However, underground economy came as an alternative to highly regulated formal economy. Watts (1999: 130) emphasizes that Italian firms have moved production to unregulated economies which means low wages, poor working conditions and weak labour unions. Schierup et. al. (2006: 182-3) states that throughout 1980s and 1990s migrant labour play a different role in southern European countries like Italy, unlike in the Northern European countries. He emphasizes that while northern European countries give up their labour migration policy during post-Fordist economic restructuring, Italy has started extensive recruitment. He states that;

Submerged in the large informal sector, migrants were kept from interfering directly with restructuring in the regulated industrial labour market and the often bitter class struggles surrounding it. But a range of actual forms and shades of irregularity concerning permits and work continued to keep them in a state of geographical influx and social and political insecurity. It made them particularly exploitable and disposable as a flexible source of labour in a wide variety of sectors and occupations, instrumentalized for boosting the international competitiveness of a restructuring industry and economy... migrants provided cheap source of 'primitive accumulation', for the initial phase of small business revolution in the 1980s and 1990s (Schierup, et. al. 2006: 183).*

They stress the impact of underground economy as a feature of post-Fordist economic restructuring on the welfare system. Schierup et. al. (2006: 185-6) state that

* Schierup et.al. (2006: 183) notes that the notion of 'primitive accumulation' that is derived from Karl Marx's definition of early capitalism in England is reconceptualised by Claude Meillassoux and used to define employers' attitude towards immigrant workers. Schierup et. al. Notes that: ' 'free-rent' results from unpaid costs of reproduction in terms of feeding, socialization and education of immigrant workers outside the political-economic orbit of immigrant countries' (C. U. Schierup, P. Hansen and S. Castles (2006). *Migration, Citizenship and the European Welfare State: A European Dilemma*. Oxford: Oxford University Press).

the underground economy as a feature of post-Fordist economic restructuring has affected the welfare system. The amnesty of 2002-2003, however, decreased the employment in the irregular sectors. But atypical jobs such as temporary and part-time jobs have been increased in which migrants came to be dominant. These new employment patterns are important to evaluate social rights of immigrants. They have crucial role in working conditions and wages different immigrant communities.

Immigrants' position in the labour market is closely related to the immigration regime of the country and the changing features of employment structure with the impact of increasing international competition. The large majority of immigrants in Italy are economic migrants. However, Italy also received immigrants who were fleeing because of persecution or ethnic strife. The impact of the underground sectors in Italian economy is usually assumed as a motivation for potential labour immigration.

The labour market segmentation in terms of ethnic background and gender makes migrant groups concentrated in particular occupations (Schierup. et. al. 2006: 180). These occupations are mostly associated with underground economy and they are changing from region to region as well as wages. In Italy as in the other Southern European countries employment in seasonal agricultural work came to be dominated by low-skilled immigrant workers (Pugliese, 1997: 114). Large underground economy and strong segmentation of labour-market increased the association of immigrant workers with low-waged, temporary and usually irregular employment (Veikou and Triandafylliou, 2000-2004). As Pugliese emphasizes, declining opportunities to find work in the industrial sector and thus, 'decreasing role of integration institutions such as trade unions' are the most important features of the post-industrial immigration. Moreover, different migrations that have been practiced by several different nationalities make different affects on the immigration countries' social and economic structure (Pugliese, 1997: 114-15).

Ethnic specialization is asserted to be strong in the labour market by some analysts (Veikou and Triandafylliou, 2002-2004: 13). Construction, agricultural sector, domestic work, tourism, catering, street hawking are the basic sectors that are dominated by the immigrant workers. Only a small amount of immigrants concentrated

in the factory work in Northern Italy (Baldwin-Edwards, 1999: 7). With respect to participation of migrants into the labour force, variations are different from Italians'. Immigrant groups are generally working in low tech sector and they are usually filling low-skilled jobs in bad conditions. Moroccans, Tunisians, Senegalese, Chinese, Yugoslavians, Albanians, Poles and Philippines are the major immigrant groups in the labour market. All these branches are concentrated by various nationalities. The informal employment opportunities can be said to serve almost all immigrant groups.

Albanian men and women, Moroccan men, Indian men and Romanian women are mostly concentrated in agriculture. Male migrants from Morocco, Albania and Romania are usually employed in construction sector. In manufacturing Albanian women and men and Moroccan men were highly represented (First Report on the Integration of Immigrants in Italy). Domestic is mostly dominated by female immigrants coming from Romania, Philippines, South America and Ukraine. Senegalese, Bangladeshi and Chinese are mostly self-employed, making commercial activities (Baldwin-Edwards, 1999: 8). Since 1990s quota system have been established for labour immigration which was to be determined according to the market needs. However, illegal or undocumented immigrants' presence is still very high. With the help of local authorities discretion and the informal bodies (Veikou and Triandafylliou, 2000-2004: 21). Those who have an official residence permit are unregistered workers. The regularization acts are not sufficient to solve the underground labour market (First Report on the Integration of Immigrants in Italy). Italian unions are effective in providing legal services for regularization, family unification and renewal of work and residence permit. Trade unions are effective in advocating migrants' rights in Italy (Watts, 1999: 131). The working conditions especially for undocumented workers are poor. They face with low wages, unhealthy conditions and long working hours. They are working in jobs without a formal contract or social security contributions.

Sponsorship that was introduced with Turco-Napolitano Law in 1998 had a strong tendency to encourage legal entries for job seeking for one year period. The civil society organizations came to be effective as intermediaries (First Report on the

Integration of Immigrants in Italy). The Bill of April 2007 requested the reintroduction of sponsored entry for job- seeking.

5.2.2.2. Health and Education

The immigrants coming to Italy can said to be mostly motivated by economic reasons. The age interval of immigrants is between 19-40 and they do not have health problems (First Report on the Integration of Immigrants in Italy). Foreigners with legal and stable residence have right to access welfare services. Moreover, registration in the Health Service is obligatory. Employed migrants have the opportunity to enjoy same public health services with Italian workers. In 1995, the medical treatment procedure that was applied to undocumented migrants in emergency situations has been extended and it started to cover serious illnesses and accidents. Turco-Napolitano Law gave free public health care to undocumented children (Zincone, 1999: 67). Voluntary associations played an effective role on the issue of same treatment to undocumented immigrants in the public hospitals. However, third sector organizations are popular among immigrants rather than public health services.

CIPE (Comitato Interministeriale per la Programmazione Economica) dealt with health assistance to illegal foreigners. However, lack of information about these funds caused complexities. Some regional health authorities and public health units are not totally informed about these funds (First Report on the Integration of Immigrants in Italy). Turin and Bologna are the major cities that act as cultural mediators between Italians and migrants. Some projects have been employed to decrease the exclusion and difficulty of immigrants to access health services. IWHM Project (Access to the health services for immigrant women) that is funded by the European Commission in the framework of the Community Action programme to combat social exclusion 2002-2006 dealt with the problem directly linked to the absence of an effective general policy law that could guarantee the real access of immigrants to the services. The National Health Plan in the 2001-2003 emphasized its purpose as to 'give immigrants with their documents in order access to health care and assistance like Italian citizens and to assert the right to assistance also for persons present in the country without documents in order guaranteeing these people, as well as emergency and urgent medical care and

services, also essential, continuative services and preventive medicine programmes' (IWAH Project, 2002-2006:8).

The most vulnerable groups in health care among immigrant communities is women immigrant population. Child-birth and the maternity came to constitute important problem for immigrant women. IWAH Project states that:

Foreign women turn to the services with needs that service is unable to satisfy. One of the reasons for this according to some of the people interviewed, is that migrant users are often sent to the services which, regardless of the specific purpose for which they are intended. The risks of compartmentalizing, or even segregating the migrants becomes a concrete risk when the 'Primary reception' services come into play with the aim of sending the migrant to services with a territorial or thematic competence...(IWAH Project, 2002-2006: 36).

With respect to the right of education, Turco-Napolitano Law of 1998 put forward this right for all children in the Italian territory. They have not only right to education but only they are required by law to go to school (First Report on the Integration of Immigrants in Italy). In contrast with other countries, special classes for immigrant children were rejected to prevent the isolation of these children from Italian (First Report on the Integration of Immigrants in Italy). In Bologna CDLEI and Turin CIDISS are organized to enhance the collaboration between schools and local authorities. They put forward the need of multicultural schools that can diversify the integration policies by taking the origins of immigrants into account and introduce multicultural textbooks.

These innovation are important because although foreign children have the right to education, when they are compared with Italian counterparts, most of them are unsuccessful because of the lack of Italian language. Being in different social environment constitutes the main difficulty for those children.

5.2.2.3. Housing

Housing is an important problem among immigrant communities in Italy. There is a scarce source of housing and immigrants come face to face with difficulties because of high rents and crowded accommodation (First Report on the Integration of Immigrants in Italy). Landlords are usually reluctant because of insecure income of

immigrants. With this respect, informalization is high in the case of accommodation. Illegal migrants are the most vulnerable group because they are financed with local authorities and they cannot benefit from the public lodgings that are given to legal immigrants for initial accommodation and also hostels are only open to documented immigrants (Zincone, 1999: 65). 1998 Law also brought restrictions illegals to benefit from public housing. However, as Zincone (1999: 66) states that voluntary associations are effective in providing accommodation to illegal or undocumented immigrants. Of course, the degree of support changes from region to region. Zincone states that although illegal immigrants cannot be entitled to the housing benefits of local authorities, local authorities turn to blind eye to the use of public money by voluntary association for the accommodation of immigrants.

Morris (2002: 66) emphasizes the insufficient conditions of the reception centres and illegals' situation which furthers the stratified rights among immigrant groups. Morris' interviews with Head of Foreigners' Office in Rome illustrate the situation of undocumented immigrants:

From the point of view of the reception centres, migrants without a permission simply don't exist. The police should remove them but they don't have the organization or resources to do it...

Voluntary organizations are very important especially in Rome because of the church. In the past they substituted for the failure of public intervention, but now they have become a part of the third sector; they deliver services and the public administration pays. There is a part of the activity, however, which is poorly voluntary. In the first case, the public administration sets the rules and decided who gets access, and in the second case, they are autonomous (Head of Foreigners' Office, Commune, Rome; quoted by Morris, 2002: 67).

Poor housing conditions were tried to be cured by the efforts of voluntary associations, municipal authorities and trade unions. First Report on the Integration of Immigrants in Italy explains the new formulas as the providence of intermediate accommodation and increasing the supply of low-cost housing. Illegal immigrants' position in the housing market is very difficult because their presence by the laws is not taken account. Because of their position they are undeserving to benefit from public housing and any kind of accommodation.

5.2.2.4. Family Unification

In Italy there has been a growth with respect to the permits for family members. 1998 Turco-Napolitano Law brought the possibility of family unification for legal immigrants. Although measures have been put forward in Contri Bill and Dini Decree, 1998 Law increased the category of family members. It included third degree relatives (Zincone, 1999: 59). However, the regulations about family come face to face (Morris, 2002: 61). When it is observed that there is an important scarcity in public housing, family members usually cannot qualify the admission conditions. Although public housing is a recognized social right in order with Italians, there is gap between principle and reality. A statement of Housing Expert in Milan was quoted by Morris (2002: 62).

Formally there is discrimination in the system, but immigrants have problems because they cannot prove some things so easily-to prove you have been in shared accommodation for a year for example, if you have been with clandestines who will admit this. Or you have been moving around so much, or you have been homeless which doesn't get you any points at all. The criteria are not logical; they don't think about reality.

Migrants have to pass some stages to reach the benefit of public housing. In Italy undocumented immigrants or those who have regular residence permit but work in the underground sector have no right to family unification.

The beginning of 1990s is also important with respect to some changes emerged in citizenship conception of Italy. The nationality law of 1992 added elements of *jus soli* and *jus domicile* although *jus sanguinis* principle was still dominant. With the Nationality Law of 1992 the period of naturalization has been shortened for EU citizens. However, for non-EU citizens this period increased from 5 to 10 years residence. On the contrary, the law injected *jus soli* principle by introducing citizenship who born and reside in Italy and double citizenship right.

5.2.2.5. Asylum Seekers and Social Rights

Italy left the geographical clause with Martelli Law of 1990. Before it was just given to the people coming from communist countries. The number of asylum-seekers is relatively low when it is compared with other European countries. The most

important reason behind this lies in illegality of the flows and informality of immigration processes. When Italy is compared with Germany and Northern European countries, poor benefits for asylum-seekers can be viewed as another reason. The most important flows came during the early 1990s with crisis in Albania and ex-Yugoslavia. The status of 'Asylum for humanitarian reasons' has been adopted afterwards.

Another wave came in 1997 with the impact of political crisis in Albania. Most of them were given temporary permit, the authorities could not deport them and they became illegals (Zincone, 1999: 51). 1998 Law gave the asylum-seekers permits of work even if their request is refused. If they apply to appeal and waiting for the decision of the court they can have these work permits (Zincone, 1999: 53). Zincone states that Dublin Convention requirements such as first country arrival had an impact on the augmentation of asylum-seekers. Those granted temporary protection in Italy have been initially housed in reception centers. They are also allowed to work (Morris, 2002: 75). Asylum-seekers are not allowed to work and they do not have the right to family unification.

As it can be observed, Italy differs from other countries because of being a Southern European country in which illegality, informality, discretion and the powerful lower strata pressure groups prevail. Although in theory legal immigrants should share similar social rights with respect to housing and working conditions, in practice it is viewed that discretionary practices, scarcity of sources and the attractive informal economy prevent to reach proper welfare rights. Although those coming with illegal channels or those who fall to irregular status with the impact of the new employment structure are forming large communities in Italy, with respect to social rights, their presence is ignored by the authorities. However by ignoring their presence in the country, illegal movements cannot come to an end. On the contrary, informal work and informalization of social rights will continue.

5.3. GERMANY, IMMIGRATION POLICY AND THE SOCIAL RIGHTS OF IMMIGRANTS

Germany is a country which has a long history of immigration despite the officials' statement of not being a country of immigration for decades. It experienced the effects of various types of flows. Although the country is usually remembered with the guest-workers program of 1950s and its legacy, especially during the last decades Germany is experiencing new forms of migratory flows with the impact of the global economic competition.

Germany has experienced great wars, divisions, destructions, economic devastations and conflicts. The impacts of the World Economic Crisis of 1929, the economic devastation after the Second World War, the partition of the country brought both economic deadlock and uncertainty and depression for the political situation of the country. The role of temporary immigration of foreign workers, regulated and protected by the German government between 1955 and 1973, can said to be key to the industrial advancement of the country. These low-cost young male workers, initially recruited from Italy and subsequently from Turkey and the former Yugoslavia, were favoured by German employers because of the poor demographic conditions of the country after the war years and young native labour deficit to manage the low-skilled and low-cost works for the realization of what is usually called the 'economic miracle'.

Immigration to Germany still constitutes one of the top major issues in German agenda like most societies in the world. However, the issue of immigration and the immigrants' position in the German society have brought many other concepts into discussion such as citizenship conception that is based on *jus sanguinis* principle in which blood and descent are claimed to be the major determinants of the cultural community, nationality and the formal state membership (Brubaker, 1994: 50). On the other hand, especially during the last decades, with the impact of the shift from continental that is called as corporatist-conservative by Epsing-Andersen to Anglo-American welfare regime, as most of the commentators emphasize, the ethno-cultural ties that were claimed to be the major signifiers of German society have been replaced by the individualistic perceptions in which the net contributors to the GNP were

favoured by the German welfare state (Bommes, 2000: 106). We will deeply discuss the foundations of the German welfare state and the arguments about its transformation with respect to immigrants' social rights. However, before the analysis on the German welfare state and the immigrants' social rights in the German society; in the work place, in pension schemes, in health care, housing and family measures, an historical background about the immigration flows will be given. Furthermore, how the concepts like citizenship, nationality and state have been shaped and perceived in Germany will be overviewed. Finally an analysis will be made by taking account the official and non-official records about certain types of immigrants' social position in the German society.

In this part of the study, the types of immigrants who will take place with respect to their acquisition of social rights are the guest workers, - economic immigrants of non-German origin- their descendants who came with the family unification especially after 1970s and the refugees and asylum seekers after the end of the Cold War. Because there are various types of immigrants and each category is entitled to different social rights, such a limitation is needed. This limitation is made with respect to immigration history of the country.

5.3.1. Immigration and Citizenship Policy of Germany

As it was emphasized in the previous chapters of the study, the concept of citizenship is closely related to the development of the modern states. However, there have been different conceptions of citizenship whose evaluation and practice have been reflected into the laws of the countries very differently. In other words, citizenship policies, the policies of exclusion and inclusion are contextual.

Modern citizenship in which the state membership is claimed to be linked to the membership of a national community living within the boundaries of a specific political entity came face to face with important critics with the influence of the global movements as a result of the global economic structure. Today there has been a great deal of argument about the post-national belonging that is assumed to transcend the borders of the nation-states. Thus, immigrants, with their cultural and social networks,

can said to contribute to this new form of membership that is defined beyond the national membership. In German case, the history of guest workers system that has an important role in the development of immigration law, can be given as an example to the post-national belonging and the expansion of the rights of immigrants. The temporary recruitment policy gave way to the establishment of migrants' rights regime after the recognition of those communities as permanent settlers (Morris, 2002: 28).

In this part of the chapter, first, the post-war immigration sources and the establishment of an immigration policy in Germany will be discussed. Then, the German citizenship laws in which the *jus sanguinis* is the core principle to the treatment of non-German immigrants in the Federal Republic of Germany both before and after the unification of the country and the naturalization laws will be analysed.

5.3.1.1. Immigration Policy of Germany

Germany as a defeated power after the Second World War sought ways to repair its economic and political situation under the dynamics of the new world order. The partition of the country created two different German states in 1949- the Federal Republic of Germany (FRG) in the west and the German Democratic Republic (GDR) in the east under the Soviet influence. Subsequently, the construction of the Berlin Wall in 1961 that was built to halt the escape of people, made the border line 'secure' for the illegal entries. This partition can be evaluated a crucial fact that shaped the patterns of post-war migration of Germany. The years following the end of the Second World War, between 1945 and 1955, 12 million people possessing German nationality fled from Eastern Germany (Geddes, 2003: 80). And just before the construction of the Berlin Wall in 1961, nearly 3 million people fled from GDR to FRG. During the 1980s, another flow of ethnic Germans was realized. These were coming from Russia, Romania and other eastern European countries (Schierup, et.al. 2006: 145). With Article 116 of the Basic Law of 1949 the availability of German citizenship was expressed as the following:

1. a German within the meaning of this Basic Law is a person who possesses German citizenship who has been admitted to the territory of the German Reich, as it existed on December 31, 1937, as a refugee or expellee of German stock or as the spouse or descendant of such person.

2. *Former German citizens who between January 30, 1933 and May 8 1945, were deprived of their citizenship for political, racial or religious reasons, and their descendants, shall be re- granted German citizenship on application. They are considered as not having been deprived of their German citizenship if they have established their domicile in Germany after May 8, 1945 and have not expressed a contrary intention.*

The people of ethnic German origin acquired the same citizenship rights even if they resided geographically distant from the German Republic for a long period of time. *Aussiedler* policy- inclusion of the ethnic Germans living outside the territory of the German state- has also showed its effects during the reunification process of the Republic.

While Germany was trying to get rid of the effects of the war years' depression, another migratory source came with the voluntary action of the FRG to repair the damaged German economy. Because of the destructive effects of the war, there observed important deficits in the labour market. Germany needed young male workers for the reconstruction of its economy and the advancement of its industrial growth. The native labour deficit was planned to be compensated by the recruitment programs. Although the labour deficit in some degree was met by the entry of German origin people with the *Aussiedler* policy, they could not fill the labour marker gap.

These labour recruitment programs were firstly designed by the German government to fulfil the deficits in construction and agriculture (Geddes, 2003: 81). The initial arrivals came from Italy in 1955. However, with the construction of Berlin Wall in 1961, it needed further intergovernmental contracts (Fulbrook, 1997: 93). In 1960, agreements were signed with Spain and Greece and in 1961 and 1964 with Turkey. Portugal (1964), Tunisia (1965), Morocco (1963) and Yugoslavia (1968) were the other countries that sent immigrant workers to Germany during 1960s.

With the entrance of large numbers of foreign workers, a new foreigners' law was introduced in 1965. The law was basically focused on the residence permit of these foreign workers who was dependant to the residence of work. These workers were recruited on temporary basis to serve the economic interests. After a period of time that was spent on Germany as guest workers to meet the demand, they would be sent back to their home. The unification of family members would increase the economic and social

cost of the recruitment programs. However, the guest workers stayed and the numbers of the foreigners were increased although the German government stopped to recruit workers during 1970s with the impact of the economic depression of Oil Crisis of 1973.

The right of family unification is an internationally recognized norm. States could not neglect the individual right of family unification. Furthermore, foreign workers and their family member should have the same social rights and should have equal protection with German citizens. However, until 1981 there was no attempt to regulate the immigration guest-workers' families (Geddes, 2003: 81). This is mostly because of the strict attitude of Germany towards permanent residence. The economic immigrants were never seen as an integral part of the community as the ethnic Germans.

Between 1973 and the late 1980s, the number of immigrants was stabilized. Immigrant population emerged a permanent community leaving its temporary image. The children of these communities and their education became a matter for the integration issue of the family members of guest workers. Although Germany tried to prevent the family unification, it was inevitable to stop it because of the social dynamics of the processes of migration.

Family unification should be regarded as one of the turning points for the German society because temporary workers were turned to be permanent settlers with their different cultural and ethnic origin. As Geddes puts forward, the ethnic composition of the guest workers were also transformed. Turks replaced the Italian and Yugoslav workers during 1970s (Geddes, 2003: 81). The incorporation of these culturally diverse communities into the German society still constitutes an important matter of fact because of the strict citizenship and naturalization policies of the German government.

During this period, GDR also recruited foreign workers from other socialist states (Geddes, 2003: 83). However, integration of those foreign workers was not needed because of the Marxist and Leninist ideology' emphasis on international solidarity of the working classes and the artificiality of nationalism to make divisions among the working class (Fulbrook, 1997: 95).

Another source of post-war immigration emerged following the collapse of the Soviet Bloc. The main actors of the flows were the ethnic Germans of GDR and those coming from the other eastern European countries and the war refugees of the former Yugoslavia. However, asylum seekers coming from Middle East, Africa and Asia, the contract workers and the high-skilled workers of East European countries also constituted an important share in the immigration schemes during 1990s (Schierup, et.al. 2006: 137). During this period, German government with *Auslanderpolitik* provided German citizenship to the ethnic Germans coming from Eastern European countries. Several social programmes were established to make their integration easier. It pursued an open door policy to ethnic German immigrants with right to return. However, the quota system on the entry of ethnic Germans was introduced when the numbers increased. As Brubaker (1994: 82) emphasizes the partition of the Germany after the Second World War created for the FDR the desire to unite an incomplete nation. Under the dynamics of the Cold War, this desire came into practice with the inclusion of the ethnic Germans by granting them full membership rights and expensive social programmes. However, after a short period of time from the end of the Cold War, they became undesirable for the German government. Quotas have been established in 1993 to limit the entrance of ethnic Germans and limitations were placed to claim *Aussiedler* status to people born before September 1 1993 (Geddes, 2003: 84-85). The German government tended to start the application process in the country of origin to slow down the movements and also put some restrictions on the welfare measures that was applied to the ethnic German immigrant communities before the end of the Cold War (Bommes, 2000: 104). The numbers were reduced to 220.000 with the quota system of 1993 and in the late 1990s, the annual entries were decreased to 100.000 (Schierup, et.al. 2006: 145).

After the end of the Cold War the movement of the asylum- seekers from Europe has been increased. During this period, Germany became one of the major routes of asylum- seekers. They were ethnic Germans mostly coming from Eastern European countries, war refugees from former Yugoslavia, Jews from Russia and asylum-seekers from southern countries. The Abolishment of the Soviet Bloc countries brought uncertainty and new oppressions for many people. In Germany, the right to

asylum has been enshrined with the Article 16 of the Basic Law. In the article, rather than state responsibility to consider a claim, the individual application is favoured. This was claimed to limit the capacity of the state to regulate entries to its territory (Geddes, 2003: 85). However, the years following the end of the Cold War, the Article 16 that was regulating the right of asylum-seeker to make applications was amended in 1993. As Geddes (2003: 85) evaluates EU cooperation on immigration and asylum with the measures of 'safe third countries' and 'manifestly unfounded applications', strengthened Germany's power for the regulation of access. He puts forward the importance of the strength of the EU cooperation to slow down the asylum applicants. Dublin Convention of 1990 and 1993 Legislation were crucial for Germany's asylum policy.

- *fast track applications deemed to be 'manifestly unfounded';*
- *'safe third countries' including Poland and the Czech Republic to which asylum seekers could be returned;*
- *'safe third countries of origin' to which applicants could be returned;*
- *fast track adjudication procedures in extra-territorial space inside airports'* (Geddes, 2003: 88).

Although Germany gave a constitutional guarantee to asylum seekers (Morris, 2002: 31) with the Article 16 of the Basic Law, the adoption of 1993 Legislation brought the asylum policy of Germany in line with the other European Union countries (Geddes, 2003: 97). Thus, the asylum measures have become stricter.

It is important to emphasize that Germany has long been the target of various types of immigrants. Although the guest-workers program and the family unification of the immigrant communities brought important implications in the German society, the immigration to Germany is not limited with the recruitment of foreign labour force. The immigration of ethnic Germans into their homeland with the Cold War discourse of the 'incomplete nation' has been welcomed for many years although it has been unfavoured after the years following the collapse of the Soviet Bloc. Several restrictions have been put to the entry conditions and welfare provisions of those communities. On the other side, Germany became the target of many asylum seekers coming from different parts of the world. Although the country still continues to attract important amount of

immigrants, its official policy on immigration is based on the statement of *kein Einwanderungsland*- not an immigration country. As Brubaker quoted (1994: 77) ‘*The federal republic is not a country of immigration and does not strive to increase the number of its citizens through naturalization*’. Immigrants were claimed to be an important threat to the national identity and social cohesion of the country. The official statement of not being an immigration country for many years led to the continuation of foreigners’ policy that was established to regulate the entries and to facilitate the temporary integration of foreign residents and their children rather than establishing an immigration policy (Schierup, et. al. 2006: 144). Immigration was seen as a temporary event so the integration of the immigrants into the German society was only a temporary policy for the German government. However, after the end of 1970s, it was understood the permanent character of the foreign workers and the members of their families. As Schierup, Hansen and Castles (2006: 145) put forward establishing a proper immigration law was not just about the integration and immigration issues but meant an important shift in the German politics with respect to national identity and social cohesion issues. Until 2004, we cannot talk about an immigration law under the Social Democrats (SPD) and Green coalition.

The first immigration law in Germany came into force in 2004 under the ruling of Social Democrats. A negotiation took place between SPD and the Christian Democrats (CDU-CSU) to compromise on the new regulations. However, the immigration law mostly concerned with the security dimension of international migration with the impact of the September 11, 2001 attacks. Moreover, in the immigration law, it was the immigration of the high-skilled workers that was favoured by the German government. This tendency became also obvious with the Green Card regulation that was introduced in February 2000. It has been claimed by the Interior Minister Otto Schilly that there was a need for IT experts, for high technology jobs. The Commission that was established in 2000 to make reforms on the German immigration policy stated that Germany needs more foreign immigrants because of the economic and demographic reasons. This report was crucial because for the first time it was admitted that Germany has long been an immigration country. It also put forward the need for a programmed immigration system for high-skilled workers and a general integration

programme. Education and welfare reforms were suggested. However, most of these reforms couldn't be realized and the immigration law of 2004 came into force with restrictions. The law brought some improvements for refugees by the recognition of non-state and gender related persecution (Deutsche Welle, 01.01.2005).

As it will be seen in the previous section of this part of the study, there has been a good deal of argument and opposition from the Social Democrats on the strict naturalization rules for immigrants. However, the changes could not have been applied easily. It can be stated that it is very hard to manage immigration because important relaxation on the German citizenship law that is based on strict naturalization procedures could not be realized.

5.3.1.2. Citizenship and Naturalization in Germany

The development of national citizenship in Germany followed a different path from many other countries of Europe. The late unification of Germany as a nation-state in 1871 can be viewed as one of the determinants of this difference. As Brubaker (1994: 50) notes, the emergence of citizenship in Germany did not happen similar to France. Until 1871, there was no German nation-state and no German citizenship.

As it was argued by Brubaker (1994: 50) in contrast to France, the national feelings were developed prior to the creation of the nation state. According to Brubaker, '*German nation was conceived as not as the bearer of universal political values, but as an organic cultural, linguistic or racial community- volksgemeinschaft... and nationhood is an ethno-cultural, not a political fact*' (Brubaker, 1994: 1). German understanding of nationhood has been mostly defined as exclusive and particularistic. It is based on the romantic culture idea. Unlike the universalistic and inclusive character of French nationhood, it emphasizes the equality of cultures by taking reference from Herder. Migrants can acquire French citizenship with respect to the principles of *jus soli* for example by acculturation through language. In contrast the particularistic and exclusive nature of German understanding of nationhood does not see a necessity to transform immigrants into citizens (Kaya and Kentel, 2005: 44-45)

German citizenship is based on the principle of *jus sanguinis* or the principle of descent. Today's provisions of nationality are also based on this principle which was defined in the 1913 Nationality and Citizenship Law. The Basic Law of 1949 that is usually defined as temporary constitution of the FRG retained this exclusive principle (Fulbrook, 1997: 88). As it is discussed above the Article 116 is an important indicator of the descent based notion of citizenship. The Basic Law of 1949 refused the division after the Second World War and used the rhetoric of 'incomplete nation' especially during the Cold War years.

The exclusiveness of the German citizenship became obvious in the restrictive attitude towards non-German immigrants. As it was argued above, the immigration of the ethnic Germans has been welcomed and they have easily acquired German citizenship. They have given equal economic, social and political rights with the German society. However, the foreign workers, even the second and third generation of those immigrants, came face to face with very hard measures to acquire German citizenship. Those recruited foreign labour until the end of 1960s and 1970s viewed themselves temporary as the German government, however after 1970s and during 1980s, they became settlers. As they became permanent communities, the social aspect of immigration was started to appear. However, naturalization rules were extremely difficult. For a non-German immigrant, even the second and third generation immigrants, naturalization is compulsory to become a citizen. However, the naturalized immigrants could also not become citizens automatically. Unlike the principle of *jus soli* that gives the right of citizenship for those born in the territories of the country, Germany favoured the ethnic Germans to give automatic citizenship (*jure sanguinis*) rather than the foreign workers who were at least living in the territory of state for many years (Brubaker, 1994: 173).

During the 1980s and 1990s, important tensions have been caused between Social Democrats and the Christian Democrats about the naturalization of non-German immigrants. The discourse of "not an immigration" country was wanted to be preserved by the Conservative political parties. However, social Democrats were willing to pursue

some *jus soli* principles to liberalize the naturalization process of the non-German immigrants.

It is recognized that more than 70 percent of the foreign population had been lived in Germany for more than 10 years and also important amount of foreigners had been born in Germany (Geddes, 2003: 95). 1990 Legislation was concentrated on the liberalization on the naturalization rules for non-German immigrants. There was an important desire both from the Social Democrats and the immigrant communities to adopt *jus soli* principles into German citizenship law. During 1990s, discussions about German citizenship conception became widespread. The permanent character that the guest workers gained and the appearance of the cultural and social difference of those communities brought questioning about the *jus sanguinis* principle of the German citizenship. As Schierup, Hansen and Castles (2006: 148) emphasize, the enlargement of the Turkish community in Germany and its power and the ascendance of Islam brought the calls for more liberalized naturalization rules and *jus soli* principle for the second generation. Geddes (2003: 95) summarizes the provisions of the legislation as:

- ‘ 1. Naturalization for foreigners with at least 15 years residence and for those of the second and third generation aged between 16 and 25 with at least 8 years residence.
2. Family reunification for children under 16 no longer at Lander discretion.
3. Foreigners given statutory residence and family rights
4. The one year waiting period for spouses to be abolished.
5. Spouses and children to be given residence rights independently of the head of the family.
6. Second and third generation foreigners who had temporarily returned to their home to be allowed to return Germany.

The 1990 Foreigners’ Law’s significance is that it brought some degree of uniformity across the *Lander* by reforming the framework of 1965 and it was more concentrated on the rights of TCNs (Morris, 2002: 32). The Law is concerned about the different statuses of migrants and their integration. Guest workers, their families and the asylum seekers are some of those groups. However, one of the most important issues is the limitations on dual citizenship. For a non-German immigrant, renunciation of the original citizenship is needed for the eligibility of naturalization (Brubaker, 1994: 173).

The Social Democrat and Green coalition that came into power in 1988 increased the expectations of reform in liberalization of naturalization rules and of

managing the dual citizenship problem. Although reforms constitute an important step through *jus soli* with the adoption 1999 Citizenship Law, the dual citizenship issue was opposed by the conservative groups (Schierup, et.al. 2006: 149). However, children born of legally settled foreign parents at least for 8 years can acquire citizenship by birth. A transitional period to choose one of the two nationalities is given to those children up to the age of 23 (Morris, 2002: 31). The Tampere Summit of 1999 has also argued naturalization as a way for the incomplete membership of immigrants.

To sum up, during 1990s, Germany became one of the major immigration countries although, the denial of not being an immigration country continued by the German government. This paradoxical situation as Sainsbury (2006: 234) argues mainly stems from the exclusive nature of the citizenship conception of Germany based on blood and descent and the augmentation of immigration to German territories. As it was emphasized before, Germany has followed distinct immigration policy for non-German foreign workers and their family members and the ethnic Germans (*Aussiedlers*). While strict naturalization rules were being applied to non-German immigrant workers and their descents, ethnic German acquired citizenship automatically until 1990s retrenchment. Renunciation of the original citizenship for being eligible for naturalization constituted another important problem for the non-German immigrants. In this sense, the different treatment towards immigrant communities becomes observable in both immigrant and immigration policy of Germany.

To understand the social position and rights of different categories of immigrants, the welfare structure of German state has to be taken into account. The place of these culturally and socially diverse communities in German society, constitute an important issue for this study. With this respect the following part will be on the historical analysis of German welfare state and immigrants' social rights. In German case, the type of immigrants who are going to be discussed with respect to their social position are old guest workers and their descendants who came with the flow of family unification after 1970s, asylum- seekers and refugees. However, the new-guest workers' position will also be summarized in the end of the chapter.

5.3.2. The Role of Welfare State and Immigrants' Social Rights

The national character of the welfare state is crucial in categorization of immigrants (Liedtke, 2002: 480). In 1990s Germany witnessed an important transformation with respect to both immigration policy and welfare structure. Ethnic Germans' privileged position given by the German government since the end of the Second World War couldn't be preserved. This is mostly related to the so called transformation of the German welfare regime. During 1990s, there have been observed serious welfare cut-backs for these communities. On the other hand, Germany took steps toward a more liberal and democratic understanding with respect to the naturalization of non-German immigrants and their descendants. However, there still exists an important political blockade with respect to the enhancement of immigrants' rights.

5.3.2.1. The Foundations of the German Welfare State

Germany has a long social policy history. The first social insurance system had been introduced during the Wilhelmine period, in 1881. According to Bleses and Kaiser (2004: 16), *'with the institutionalisation of the social insurance system at the end of the nineteenth century, the German Empire had become an international pioneer in social policy innovation'*.

According to Epsing-Andersen's typology of welfare regimes, Germany is characterised as 'conservative- corporatist welfare state' whose central elements are social insurance and the reliance on family to provide social services that were dominated with the principle of subsidiarity (Bleses and Kaiser, 2004: 2). The first element, the strong social insurance system has been viewed as a way of protection of workers from the certain risks of social life. In this welfare regime model, state is powerful in providing social services. In contrast to the liberal and social democratic welfare regimes, state intervention is central in this regime type rather than means-tested benefits. However, the social insurance system and social rights are mostly based on the status and class (Koray, 2002; 181). The second factor, family, is an important provider of the social services in continental welfare regime. Women's place in the family was limited with the homemaking and childcare and men were assumed to be the

only breadwinner in the labour market. Therefore, male workers were protected against the social risks and were provided social services with their reliance of the unpaid work of women (Bleses and Kaiser, 2004: 3). The male breadwinner model, thus, guaranteed the waged male worker. For the continuation of this system, the institutional stability of family and its welfare providing functions such as child-care and care for elder people was needed because personal public services were very limited outside the family (Schierup, et.al. 2006: 140). This welfare regime model preserves an organic and hierarchical structure; favours a welfare understanding based on family and church but never tends take their role (Koray, 2002: 181). However, this existence of this relationship is questionable. The new social risks coverage of today also has to be taken into account. Schierup, Hansen and Castles (2006: 139) summarize the features of the German welfare regime by taking reference from Sciortino's (2002: 5) evaluation:

1. *provisions arranged mainly two compulsory social insurance programmes with a widespread presence of status segmentation and differential corporatist arrangements,*
2. *the centrality of families as key care-givers with ultimate responsibility for the welfare of their members, including legal responsibilities for their adult offspring and for their aged members,*
3. *a comparatively passive approach to employment management matched by strong labour market regulations targeted to protect the already employed, in most cases adult male breadwinners, and to guarantee a 'family pay' that allows the family and the household to take responsibility for most welfare functions,*
4. *a prevalence of monetary transfers to households over service provision (whether via a publicly organized service system like Scandinavia, or the market-like system in the liberal Anglo-Saxon model).*

Important point that has to be emphasized with respect to German social policy is the wage-centred approach. According to wage-earner approach;

- *individual must first work before he is entitled to receive social benefits;*
- *these social benefits are based on the level of his earnings;*
- *while the individual is receiving social benefits, he is required to constantly demonstrate his willingness to work" (Vobruba, 1990, 31-2, quoted by Bleses and Kaiser, 2004: 18).*

With this respect, it can be viewed that work-related benefits were central to this approach and that benefits were related to status. Although the strong emphasis on the social insurance system had prevailed during the golden era of the post-war period, in 1970s and especially in 1990s, the generous social insurances contributions were

decreased. On the one hand, German identity was claimed to be in crisis, and on the other hand, the social state model that was established with the goals of full employment, high wages and inclusive social insurance system was claimed to be under attack.

Germany is always known as the most institutionalized welfare state in the continent. Therefore, it is important to review the levels of the German welfare state. Schierup, et.al. (2006: 141) define those levels from the writings of Offe (2000). According to Offe, the first level of the German welfare state is composed of the protective measures to workers and the guarantee of employment. The second level includes the regulations that were designed to protect workers outside work. Some of these are illness, disability and old-age.* Unemployment and health care are the other guarantees that also gained coverage. Collective wage bargaining constituted the third and the 'macro-economic policies designed to achieve full employment constituted fourth level. In the fourth level, the full employment goal and the social market economy become central. It is emphasized that the historical conditions such as the post-war boom, the Marshall Plan of USA and the labour market reserves that were enhanced from ethnic Germans who came after the Second World War were in pursuing full employment goal. Bleses and Kaiser (2004: 29) emphasized that;

Economic growth, full employment, the predominance of standard employment relationships for male workers and the overwhelming acceptance by married women of their roles as wives and mothers rather than as paid workers constituted the foundation of the German welfare state.

The continuation of full employment goal entailed further labour reserves. After the labour reserves have been absorbed, new labours have been recruited. However, since 1973 Oil Crisis and especially after the second Oil Crisis in 1980s, the foundations of the German welfare state came face to face with erosion and it is understood that 'full employment economy' was not the only norm (Bleses and Kaiser, 2004: 29).

During 1990s Germany has come face to face with the low growth and high unemployment risk. During the following decade, there continued to be observed the impacts of those factors on German welfare state. Schierup, Hansen and Castles (2006:

* The Old Age and Disability Insurance Law was introduced in 1891 (Bleses and Kaiser, 2004: 14).

143) state that the unemployment rates since the mid 1990s have proceeded at 10 percent and above and this means that 4 million people stayed unemployed and supported by the social insurance system. It's emphasized that;

The German welfare state continues to cushion individuals from the consequences of the economic malaise, but at the macroeconomic level it actually exacerbates and perpetuates the crisis by keeping wages and social benefits at the levels that cannot be financed (Schierup, et.al. 2006: 143).

Schröder made an important effort to make reforms to enhance greater labour market flexibility and at the same time to preserve the core elements of the German welfare state. German welfare state has found itself in an economic deadlock. The reasons of this deadlock can be evaluated as the impacts of the features of the global economic system, the reunification process of the German Republic and the demographic factors- decline in the native working population (Schierup, et.al. 2006: 144). With the reunification of the German republic, it started to feel the economic transformations more powerfully with high unemployment rates (Bleses and Kaiser, 2004: 32).

The unemployment rates in the two parts of Germany differ significantly. The unemployment rate of nearly zero percent (during socialist rule) to almost twenty percent in less than ten years which currently makes it twice as high as in the western part of the country (Bleses and Kaiser, 2004: 32).

Bleses and Kaiser (2004:1) argue that the linkage of the economic malaise with the conservative /corporatist welfare regime of the country:

Despite the presence of potential models, a cure for the German 'disease' seems at best elusive. This is because Germany is allegedly caught up in a political blockade and is unable to change. The presence of veto players (Tsebelis, 2002) within the German political system is often given as the major reason for Germany's political gridlock. These veto players strengthen policy stability and prevent the government from pursuing a policy of 'necessary' reform.

With respect to the erosion of the core elements of German welfare state, the decline of the standard employment relationship should be argued as Bleses and Kaiser (2004) emphasize. The increase in the atypical work is important with respect to the increasing unemployment rates. Therefore, it can be observed that the strong male breadwinner model which was the key element of the German welfare state has also

weakened. The participation of women into the labour market showed this tendency, especially during 1990s (Bleses and Kaiser, 2004: 36).

There have been some theories explaining the welfare state change in Germany. The most popular ones are the ‘veto players’ /party politics approach to fight with unemployment and the socio-economic approaches that explain the change with the dynamics of globalization such as the ‘liberalization of capital markets’.

Shortly it can be said that the family oriented social services and the full employment were damaged under the economic and political conditions of the late twentieth century. They became under attack, however the welfare tradition of the country has not been totally left. The period witnessed important cut-backs in the welfare entitlements. Globalization affected the German economy and welfare state. In the following part of the chapter, the position of different categories of immigrant communities during the welfare state change will be argued.

5.3.2.2. Social Rights of Immigrants

The social entitlements of foreigners are mainly identified with their labour market participation. In the conservative/corporatist welfare regime of Germany, the social rights of foreign workers were strong when they are compared to Britain and the Scandinavian countries. Health insurance, old-age pensions and disability benefits, unemployment insurance and child allowances are some of those entitlements.

With respect to social rights of immigrants, highly stratified status of non-EA nationals (Morris, 2002: 32) attract attention. The social rights of EEA nationals were protected under the European Law. However, the non-EEA nationals, especially the low-skilled foreign workers have been less advantageous than the German workers and EEA nationals working in Germany. Morris (2002: 33) put emphasis on the policies of different groups of immigrants in Germany:

There is the need to integrate established guest- workers and their families; the need to balance labour supply and demand; and a continuing (though somewhat diminished) commitment to asylum seekers. Each of these objectives must be accommodated, but in the context of a generally restrictive migratory regime, strictly limited welfare and high differentiated employment rates.

The developments since 1990s affect both the immigration and welfare regime of the country and brought a new perspective for the social rights of foreign workers, ethnic Germans and asylum-seekers.

5.3.3.2.1. Foreign Workers and Ethnic Germans

The economic crisis has showed its effect mostly in the immigrant policies toward ethnic Germans and asylum-seekers. *Aussiedler*, asylum seekers and those not granted refugee status became the targets of the retrenchment during 1990s (Sainsbury, 2006: 236). The federal Law for the Regulation of State Membership Questions 1955 included ethnic German, even if they were living in the Soviet Union, Yugoslavia and Romania to the category of *Volkszugehörige*- members of the people. The official policy of the Federal Republic of Germany about ethnic Germans has been shaped by the reunification of the German nation during the Cold War period. The tendency of ethnic Germans to immigrate to FRG mostly stemmed from the sovereignty claims of the Western Germany on the German origin people living outside the territory of FRG. However since 1990s, the position of *Aussiedler* has dramatically changed and they became the target of the retrenchment by losing their previous generous social entitlements (Bommes, 2000: 96).

The immigration of *Aussiedler* is composed of two stages. The first stage includes the immigration of ethnic Germans between 1945 and 1955. The second wave of this form of flow came after the collapse of the Soviet bloc. During the Cold War, the immigration of these communities was relatively low. According to the studies, the integration of those communities was successful with respect to the provisions in education and employment (Bommes, 2000: 99).

Bommes (2000: 100) put forward the central structural provisions for ethnic Germans:

1. *An unemployment insurance system that included the EGs immediately after their immigration as though they had spent their whole former working life in Germany. An EG claiming to be a skilled worker was, for example, entitled to receive the amount of financial support equivalent to an unemployed indigenous skilled worker.*

2. *The inclusion of EGs in the pension schemes as if they had contributed to these funds during their working life.*
3. *Direct access for EGs to health insurance system.*
4. *Extended language training programmes, general educational programmes, specific compensatory programmes for pupils, increased grants for children in school and university, reduced taxes, preferential consideration of self-employed EGs for public contracts, public housing programmes for EGs, provision of the means for purchase of household equipment, compensation for lost property, cheap credits with low or zero interest rates.*

As it was emphasized, the recruited guest workers' rights stayed limited because their presence until 1970s was viewed as temporary. The rotation principle of guest workers, the replacement of them with others after a few years, brought insecurity for most of them and instability in the labour market. After 1973 the permanence of the guest-workers, the free-movement of EC nationals and the reunification process of Germany brought important pressures for the labour market regulation (Schierup, et.al. 2006: 142). These developments also brought the need for a proper immigration policy and reforms into the agenda.

During 1990s, the entry of *Aussiedler* was reduced. One of the reasons of this limitation is that the ethnic and national discourse had lost importance. In other words, they had lost their mobilizing potential (Bommes, 2000: 99). The regulations about *Aussiedler* status were tightened. Beside the proof of German identity, language tests became mandatory. Moreover, 2010 is determined as deadline to claim this status for ethnic Germans born after 1992 (Sainsbury, 2006: 236). These late resettlers were named as *Spataussiedler*. Their position in the German society was different from the *Aussiedler* both in terms of welfare entitlements and of the privileged status among other immigrant communities. Foreign workers were distinguished from ethnic German who came before 1990s because the welfare activities of the foreign immigrant workers were defined according to their position in the labour market. The vocational and educational assistance were mostly denied of the children of foreign workers (Bommes, 2000: 104). Language courses were reduced to six months duration. The welfare programmes for ethnic Germans before 1990s targeted all age groups and enhanced a life- long relationship between ethnic Germans and the state. However, the children of guest workers had difficulties to reach the same educational level with ethnic Germans

(Bommes, 2000: 94). The children of migrant workers have a right to attend schools even they don't have a residence permit (Bommes, 2000: 95). However, the exclusion of the dual vocational training was one of the examples of the difference between ethnic these two communities.

Foreign workers and their families were given the similar social rights. For example, it is claimed that they have the same working conditions. However, the housing conditions were poor. In 1964, new measures were introduced to improve accommodation and social provisions for guest workers (Geddes, 2003: 90). Moreover, Federal Government Programme for the Employment of Immigrant Labour in 1973 was first to deal with social dimensions of the long-term settlement (Geddes, 2003: 91). Bommes (2000: 95) stated that migrants reached welfare entitlements although they couldn't acquire citizenship. However the aged migrants had low retirement benefit because they were not included to retirement insurance funds to accumulate necessary entitlement.

During 1990s, the difference between ethnic Germans and foreign workers were not as visible as in the Cold War period. The Nationality Law of 1999 created new opportunities for the non-German immigrants in acquisition of German citizenship. As it was emphasized in the previous section of the chapter, the residency period decreased to 8 years for immigrants willing to be naturalized. Bommes (2000) exemplified the change in the welfare understanding with the position of ethnic Germans. He states that in the 1990s, German welfare state was no longer willing to handle with the social responsibilities of the ethnic Germans because since 1980s, nation has been defined as a community of GNP contributors rather than with the ethnic ties. However, although the national rhetoric put aside, closure became the main basis (Bommes, 2000: 106). The community of contributors to the GNP included guest workers and their descendants but excluded *Spataussiedler* and asylum seekers as 'undeserving' (Geddes, 2003: 93). Sales (2006: 237) states that 'ethnic Germans are scheduled for exclusion on the same basis as all immigrants'.

Foreign workers residence permit has been linked to the employment. It has been the main condition for the right of abode. Sainsbury (2006: 235) emphasized that;

Although foreigners have been formally eligible for social assistance, its utilization has endangered renewal of a residence permit. Long-term utilization can lead to expulsion also disqualify immigrants from acquiring citizenship (Diehl and Blohm, 2003: 142-3).

The foreigner with a restricted work permit has been especially vulnerable. Such a permit is limited to a specific type of job or employer, and on the condition that no other workers are available to do this job.

For the foreign workers of non-European origin, the full right of work is linked with residence. It has been a major factor for the social rights of foreign workers. Therefore, the non-renewal of residence may endanger to have them (Morris, 2002: 38). There emerges different status with respect to the type of employment among the foreign workers. The workers came with the contract of employment made between the country of origin and the country of employment for a specific job in specified company as a result of the increasing labour need during 1990s can be an example. Those contract workers- usually recruited for the construction sector in Germany and came from middle and central European countries- 'has no right to social support and, technically, no reason or right to remain once the job is over' (Morris, 2002: 40). Non-community sub-contracted workers, posted workers from low-wage EU states, illegal workers all were entitled to different degrees of social protection. The diversification of the types of immigrants within the new welfare structure is defined Schierup, Hansen and Castles (2006: 153);

Closely linked to such legal forms of temporary employment are increasing trends to undocumented immigration and employment. The regulated German labour market has long been seen as the antithesis of the large-scale informal and 'black' economies of southern Europe. Yet trends towards the growth of small enterprises, deregulation, casualization, and contracting-out have opened up the space for informal employment. Undocumented workers in Germany include illegal immigrants, but the majority of undocumented workers are probably people who entered legally but who do not have (or have lost) permission to work. This includes many asylum seekers awaiting a decision.

The spouses of the foreign workers were barred from employment for four years. In 2000 it was reduced to two years. The type of residence and the origin of the foreign workers are important. While 'the foreign spouse of a German citizen and an EEA worker has immediate access to a full work permit, the spouses of other foreign residents must wait' (Morris, 2002: 35). The rights of family members were derived from the settled immigrants' rights. 1990 Foreigners Act is important for the individualization of rights of residency. This right was not granted to family members

but only foreign worker until 1990 (Sainsbury, 2006: 235). In 2002, the maximum age for family unification for children is reduced from 16 to 12 but the maximum age for children accompanying their parents were increased from 16 to 18 (Morris, 2002: 36).

As it can be viewed, there were differences among the immigrant communities with respect to their social rights. The different statuses bring different degrees of inclusion. However, one common tendency that is effective almost in all types of immigrants was the reduction of welfare rights.

5.3.2.2.2. Asylum-Seekers

It has been argued that employment is effective factor in the enhancement of social rights. Self-maintenance is an important factor especially in the reunion of families for foreign workers. Beside the insurance schemes that produce differentiated benefits, entry categories are also crucial for the stratification of social rights (Sainsbury, 2006: 235). Liedtke (2002: 480) emphasizes that:

Foreign employees and their families belong to the welfare state without being citizens. As denizens (Hammar, 1990), they have all the social, but very few political, rights. This also applies to recognized refugees, while asylum seekers have only very limited or restricted possibilities of access of labour market and to social rights.

The German welfare state grants asylum seekers only very limited access to its usual material, social and legal provisions when compared to other welfare recipients including not only citizens but also denizens and so-called privileged foreigners... the German state uses its legal instruments to keep asylum-seekers at a minimum level of welfare outside the usual framework of welfare regulations valid for other groups and corresponding with their insecure living conditions as long as their final political status is not determined (Liedtke, 2002: 480).

Asylum seekers constitute one of the major categories of immigrants in Germany. The 1993 Asylum Seekers Benefit Act was important for the regulation of social rights of asylum seekers. According the paragraph 55 of this law, after making a claim for asylum, a temporary status has been granted. With this temporary status, one year waiting period has been imposed in 1997. During this one year period, work permits were restricted (Morris, 2002: 41). Because of restrictions on right to work, they have had limited access to insurance benefits.

Asylum seekers are in the weakest position and legal residence in Germany (Liedtke, 2002: 480). Asylum-seekers recognized under the German Constitution have had limited residence permit and rights of family unification. They have full social and employment rights including regular assistance benefits, housing allowances, child allowances and financial assistance for education (Sainsbury, 2006: 236). They were nearly at the same status with German and EU citizens

As Morris (2002: 41) emphasizes, the asylum seekers are placed in the reception centres which are located in marginal locations, in poor conditions. She states that controlling these communities in the reception centres, far from cities reflects the efforts to exclude them from the social life, ‘a symbolic message about the place of asylum-seekers in society’.

There are two other categories of asylum seekers whose applications were regarded unsuccessful. These are those of tolerated presence (*duldung*) and those granted humanitarian status (*befugnis*). *Befugnis* were those recognized under the Geneva Convention, but they were unsuccessful applicants because of passing through a safe third country (Morris, 2002: 41). This category of asylum seekers has more rights with respect to accommodation and assistance. However, they acquire the full employment rights after six years of residence and have discretionary right to social housing (Sainsbury, 2006: 235). They haven’t had the right to family unification.

Another category of unsuccessful applicants is *duldung*. Those are the unsuccessful applicants whose presence is tolerated. However, rather than humanitarian reasons, practical reasons bring this toleration. These practical reasons can be summarized as the absence of passport and of ways of transport (Morris, 2002: 47). This category of people has the same degree of social support and assistance with other asylum-seekers. In 1997, the period of support was extended from one to three year (Migration News Sheet, July 1997, quoted by Morris, 2002: 47).

When the accommodation of asylum seekers is considered, it can be said that those who are not subjected to sending back procedure with the principle of safe country of origin, reception centres are the only accommodation for them. After three

months, they are allocated to Lands according to the quotas (Liedtke, 2002: 483). Liedtke (2002: 483) emphasize that even if their relatives are already living in Germany, the initial stay should have been in reception centres.

Until 2000, asylum seekers were not entitled to unlimited access to health services. Liedtke (2002: 489) emphasizes that:

Only their medical and dental bills are covered by the welfare system, but psychological treatment is, except in the cases of 'traumatized' civil war refugees, usually excluded.

With respect to education of asylum seekers, it should be emphasized that compulsory education (10 years) does not apply with the same encouragement to children of people granted 'tolerated' status. Liedtke (2002: 490) puts forward that:

The practical enforcement of this right depends on the 'goodwill', interest, capacity and concrete financial and human resources available at local schools in the respective Land.

It is important to keep in mind that learning language is the basic need for all 'foreigners'' adaptation in their new environment. However, in German case, this applies only recognized refugees.

In this chapter, the social rights of categories of immigrants are discussed by giving a historical background of the German immigration and welfare policy. When it is compared with the Anglo-Saxon and social democratic regimes, social rights of immigrants are highly developed in conservative/ corporatist welfare regime of Germany. However, rights are mostly stratified with respect to the status of immigrants. Until 1970s, social rights of foreign workers were regulated on the temporary basis. With 1990s, rather than temporary welfare regulations, the focus shifted on the integration of guest-workers. This period also witnessed important cut-backs for the ethnic German communities. National discourse has been replaced with the community of contributors to GNP. Bommes (2000:93) emphasize that collectivity of people is no longer depends on the old ethnic notion but is defined by individuals and their success and competition. The reason of this shift is mostly related to the global economic competition. One of the core elements of welfare state, to enhance social equality has no

longer been targeted. This shift is mostly obvious in Anglo-Saxon model of welfare regime. Schierup, Hansen and Castles (2006: 158) states that:

Foreigners' high rates of unemployment and withdrawal on the labour force reflect the major structural changes in the German economy, as industrial jobs had been shifted off shore and employment has moved high technology production and services. In 1989, over half the foreign workers were employed in manufacturing; by 2000 that figure had fallen to just over one-third. For many German workers, restructuring meant not only a change in the occupation but also a shift from manual to manual worker status, often as a result of retraining or the gaining of new qualifications. The majority of German workers are now in the non-manual category while less than thirty percent of economically foreign residents have managed to join the white-collar labour force.

This shift reflects the changes of the welfare state and citizenship understanding. Most of the foreign population lacked the necessary education and vocational training to cope with the dynamics of the global economy. This lack of human capital is directly linked to the temporary guest workers policy. Most of those foreign workers stayed in this manual category. The foreign children show very low participation to pre- school and secondary school and they were mostly over-presented low qualified jobs (Schierup, et.al. 2006: 159-60).

6. CONCLUSION

In the contemporary world, the phenomenon of international migration is perceived as a '*threat to the security and well-being of the industrialized states of the West*' (Global Security Beyond 2000, 1995:2-3, quoted by Doty, 2000: 71). The perception of both national states and regional entities like EU on the international mobility of people has been mostly concentrated on the security dimension of the phenomenon. The mobility of culturally and ethnically diverse groups is viewed as a threat to the national and ethical values, as an attack towards cultural and social unity of the country of destination. The issues of international migration, undocumented immigration and refugee movements are the forms of immigration that are highly securitized (Doty, 2000: 72).^{*} However, as long as the income inequality within and between the states and the labour demand of the popular sectors of the economies that are assumed to be interdependent continues and as long as the international competition is strong, the variation in the mobility of people will continue to effect the developed countries.

The changes in the employment structure- the shift from industrial production based employment to the service sector dominated structure-, increasing labour deficit that stems from the augmentation of the aged population, the difficulty of the generous welfare schemes of the post-war period to meet the needs of the aged population, the inability of post-war welfare understanding to answer the new societal risks of different groups in the society come face to face, the replacement of the concepts of equality and collectivism by entrepreneurism and individuality are crucial factors to define the augmentation of the mobility of people to European countries in the contemporary era.

^{*} Doty (2000: 74) emphasizes the constructed nature of security by giving reference from Myron Weaver's conceptualization of security. Doty states that; '*issues become security issues by virtue of a process of social construction, that is, securitization. Weaver suggests that securitization is an instrument that power holders can use to gain control over an issue. While this may be accurate in some cases, it is misleading to limit our understanding of securitization to an instrumental process that is controlled by elites and power holders*' (Doty, R.T. (2000). Immigration and Policies of Security, *Security Issues*, 8 No. 2-3: 71-92).

The changes in the employment structure cause some form of differentiation among immigrant groups. The immigration policies of the developed European countries that were built during 1950s and 60s to meet the labour deficit of the industrial production are left behind. Today, developed European countries are encouraging the immigration of high-skilled workers such as IT professionals that suit this new employment structure. The Green Card system that was introduced since the end of 1990s reflects these developments. Furthermore, short-term workers recruited with the agreements of the transnational firms can be showed as an example of the increasing variations in international movements.

The developed European economies still need low-skilled workers for certain sectors. However, European countries within the light of their past experiences aim to prevent the possibility of permanent residence by employing low-skilled workers in seasonal and temporary jobs. Employment flexibility means a shift to atypical and marginal jobs (Epsing-Andersen, 1996: 67) such as part-time employment for low-skilled workers. Also this feature of the new employment structure affects the low-skilled immigrant workers. Although a low-skilled worker shows important efforts to remain in regular jobs to attain a legal residence permit in the country of destination, low costs become an important factor that can irregularize their status. The restrictions on the immigration of low-skilled workers encourage the illegality. As developed European countries behave restrictive about legal immigration, illegal or irregular statuses have been increased and immigrants continue their existence in the country of destination with informal networks. Another group that is affected from the impacts of globalization on employment structure consists of women immigrants. Immigrant women can said to be the main labour force for the service sector. As the European women get rid of their traditional role of house making and child care, migrant women came to dominate their position.

Another differentiation among immigrant groups can be defined with EU citizenship. While EU citizens can fully enjoy the same social rights with citizens in the immigration country, the social rights of low-skilled third country nationals with respect to their temporary status remained limited. This is directly linked to the restrictive

immigration policies of the developed European countries. In this sense, it can be said that in the contemporary era, it is very difficult to categorize immigrants as economic/political or voluntary/forced.

In this study, the scope of social rights of immigrants has been analyzed with respect to those differences among immigrant categories. These differences of statuses are based on the social and legal position of immigrants. However, because of the difficulty to study the social rights of immigrants in each European country, they have been analyzed in three European states, Britain, Italy and Germany to make a comparative research. The immigrant groups in three European countries are selected with respect to countries' immigration trends. In other words, the immigrants are chosen among the communities that the country of destination has densely experienced with their mobility. In the study, the social rights that are analysed are the right to work, housing, health care, education and family unification. These three countries are selected because they reflect the varied categories of immigrants and because they have different welfare regimes which are determinative of the scope of social rights for immigrants.

Furthermore, the citizenship concept and the efforts to redefine the modern conception of citizenship carry significance for this study. Immigrants are one of the major actors that affect the redefinition efforts of citizenship. Modern citizenship that has been defined with a common territory, language, history and culture has been questioned in the contemporary era more and more. Immigrants with their diverse cultures are effective in the definitions of 'post-national membership' (Soysal, 1994: 18).

Although the global processes affect all national states, each of them tries to construct different methods to cope with the new migratory trends. However, it is important to emphasize that human rights that are guaranteed by international and regional agreements and the global civil society make pressures on the national states while constructing policies on immigrants in the immigration country. In this study, the differences about the social dimension of immigrant policies are discussed in three European countries with descriptive and comparative method.

The immigrant groups that are selected for British case are asylum-seekers, refugees and economic immigrants. In Italian case, the social rights of illegals, undocumented migrants and asylum seekers were analysed. In Germany, by giving an historical background about guest-worker programmes, the second and third generation of guest workers, asylum seekers, ethnic German immigrants were chosen with respect to their social rights. In the study, the immigration regimes of the countries are first tried to be analysed with their different historical experiences on immigration. Welfare regimes are also investigated to represent the immigrants' social status in the country of destination and finally the social rights of the selected immigrant communities are put forward.

In the study, these three European countries are analysed with respect to their immigration and welfare regimes. The impact of citizenship and naturalization laws on the social rights of immigrants is also investigated. Within the light of these concepts and legal regulations, there observed some important similarities and differences. In the study it is viewed that all the three countries construct similar strategies that depends on security discourse with the impact of the increasing mobility and variations of the immigrant categories. These strategies are constructed with the help of external frontier controls, deterrent punishment methods such as carries sanctions and of the creation of a public opinion against immigrant groups in the society with misinformation that's given especially by extreme right-wing political parties.

After the end of 1970s, it is observed that all the three countries have showed important efforts to limit the immigration of foreign workers (especially low-skilled ones). Beside this tendency, rigid regulations and limited rights have been put into practice during the last two decades. The entry of unwanted immigrants (especially the immigration of illegals and low-skilled foreign workers) is tried to be halted or limited. And the limitation efforts are intensified with EU laws and regulations. Although Germany and Britain adopt themselves to restrictive immigration policy of the union, it is viewed that Italy because of its lax controls and the power of informal economy to absorb illegals turns a blind eye to the entry of illegal immigrants. The official statement

of not being an immigration country that has been prevailed for a long time in Germany can be showed as an example to the countries' rigid immigration policy.

After the entry process, the most important question becomes linked to integration issues of varied categories of immigrants in the country of destination. Italy has showed important efforts to regularize the status of illegal immigrants and of those who enter the territory of the country legally but fall into illegal status. However, as it was state before, as the atypical, marginal jobs become widespread among immigrants because of low costs, these regularization efforts become ineffective and insufficient. Although with the regularization acts (*sanatoria*) immigrants' status become regular, they can easily loose this regular status. Informal economic networks are also dominant among immigrant groups in Britain. Immigrants in Germany, when they are compared to those in other two countries stay in regular positions. In these European countries, social rights of illegal immigrants are limited with the education of children and health.

Another immigrant groups that has to be taken into account is asylum-seekers. Recognized refugees under the Geneva Convention of 1951 benefit from all social rights that are given to original citizens. However, asylum-seekers are also differentiated among themselves and these sub-categories of asylum-seekers have to pass some stages to attain social rights. For example in Germany, asylum-seekers are divided into certain categories such as *duldung* and *befugnis*. Those who don't acquire a recognised status under Geneva Convention of 1951 and those who are waiting to acquire this status have very limited social rights especially with respect to family unification. Britain is one of the countries in Europe that establishes strict mechanisms to strengthen the controls with the help of the EU regulations. Exceptional leave to remain (ELR) is another status for immigrants whose existence is tolerated in Britain although they cannot enter to the scope of Geneva Convention. However, those who have ELR status are not viewed as the legitimate receivers of welfare benefits (Geddes, 2003: 40). Those who hold this status gain the right to family unification after five years residence. Another important point is that the applications of asylum are evaluated as bogus especially in Germany and Britain. When it is looked to housing, very poor

conditions in the reception centres are observed. The vouchers and dispersal systems bring the isolation of those people from the society (Geddes, 2000: 143-4).

Although there have been observed similarities with respect to strict immigration policy and to limited social rights granted to the asylum-seekers, there are important differences among the countries regarding their citizenship and naturalization laws. For example, in Germany and Italy, citizenship is claimed to be based on the principle of *jus sanguinis*, principle of blood, Britain pursues the principle of *jus soli*, right by birth. In Germany, unlike ethnic Germans, non-German immigrants had to face difficult processes to acquire citizenship status. Naturalization is the pre-condition for the acquisition of citizenship. Eight year residence is required for second and third generation. Knowing German language, to guarantee self-sufficiency in economic terms and lately passing German citizenship test which is put into practice in 1st September 2008 are among other requirements.

Citizenship that is based on blood principle has presented full social rights to the ethnic Germans (since 1990s the entry and the welfare benefits came to be limited) for years. However, for non-German origin immigrant, strict and deterrent measures have been taken such as prohibition of dual citizenship.

In British case, it can be viewed the legacy of the colonial history came to be effective. Britain with respect to this legacy gave full membership for Common Wealth people. It had met its labour demand from Common Wealth community for a long time. However, restricting labour immigration has realized in Britain earlier than other European countries. From the late 1960s, restrictions had been put for citizenship status. People coming from Common Wealth countries came face to face with important cut-backs with respect to welfare entitlements. The restriction on welfare rights during 1980s, in Margaret Thatcher's period, mostly affected the immigrant communities. The racial conflicts show themselves once more. The exclusion of the undesired communities has been increased and those except high-skilled immigrant workers were deprived of family unification right (House of Lords, 2008). Furthermore, the absence of Bill of Rights in Britain has long been effective in nationality, citizenship, national identity and immigration issues (Ceserani, 1997: 57).

According to Epsing-Andersen typology of welfare regime, while Italy and Germany are in the category of conservative/corporatist welfare regime, Britain reflects Anglo-Saxon welfare regime type. In this study, the scope of social rights is interpreted as they are linked to these welfare traditions. The welfare regime in Britain that depends on means-tested benefits is different from the German welfare tradition. Despite the Anglo-Saxon welfare tradition is becoming widespread in the continent (Schierup, et.al. 2006: 111) deeply rooted social insurance system in Germany should be evaluated important for the social rights. In Italy, large underground economy constitutes an important obstacle for immigrants to benefit from welfare services. The existence of informal economy attracts foreigners in which they work with poor social protection.

Kleinmann (2002: 169) argues that during the 1980s and 90s, the convergence theory that assumed the convergence of all welfare states appeared differently. Rather than a convergence toward upwards within the framework of expanded welfare states, a convergence had been realized downwards in which the national states found a common point to reduce expenditure in order to adapt to the demands of the market. The power that are forcing states to a downward convergence is no longer industrialization but globalization (Kleinmann , 2002: 169).

When the social rights are considered, the most disadvantaged groups are seen as asylum-seekers and undocumented illegal immigrants. Especially the right to work and right to family unification have remained limited for those categories. EU citizens and recognized refugees have in contrast many social rights. However, although the recognized refugees have advantages, they may come face to face with discrimination in the work place or they can come face to face with problems in housing. These discriminative tendencies can affect the psychological health of these people.

The aim of this study is to reflect the social dimension of the immigration processes that is usually neglected or treated secondary. In a continent where the unemployment rates are augmenting more and more, the providence of welfare of immigrants are seen as a burden or an undeserved want by the European countries. Furthermore, poverty, conflicts, income inequalities are forcing people to immigrate to other countries, usually in illegal ways. It is obvious that the forces of globalization that

run opposite directions brought lots of paradoxes. Today, although civil rights are taken under guarantee by international agreements and conventions, social rights with the impact of weakening social policy concept are being transformed into the consumer rights. The significance of making such a study is to reflect the social processes of the phenomenon of international migration in the contemporary era.

BIBLIOGRAPHY:

Books

- Aleninikoff, T. A. and Klusmeyer, D. (Ed.). (2002). *Citizenship Policies for an Age of Migration*. Washington D.C.: Carnegie Endowment for International Peace.
- Baldwin-Edwards, M. (1999). Where Free Market Reign: Aliens in Twilight Zone. M. Baldwin and J. Arango (Ed.). in *Immigrants and the Informal Economy in Southern Europe*. London: Frank Cass Publishers, 1999, 1-15.
- Baldwin-Edwards, M. and Arango, J. (Ed.). (1999). *Immigrants and the Informal Economy in Southern Europe*. London: Frank Cass Publishers.
- Banting, K.G. (2000). Looking in Three Directions: Migration and the European Welfare State in Comparative Perspective. M. Bommers and A. Geddes (Ed.). in *Immigration and Welfare: Challenging the Borders of the Welfare State*. London: Routledge, 2000, 13-33.
- Bauböck, R. (1991). Migration and Citizenship. R. Cohen and Z. Layton-Henry (Ed.). in *The Politics of Migration*. Cheltenham: Edward Elgar Publishing, 1997, 220- 241.
- Bleses, P. and Seeleib-Kaiser, M. (2004). *The Dual Transformation of the German Welfare State*. London: Macmillan Press.
- Boeri, T., Hanson, G. and McCormick, B. (Ed.). (2002). *Immigration Policy and the Welfare System*. Oxford: Oxford University Press.
- Bommers, M. (2000). National Welfare State, Biography and Migration: Labour Migrants, Ethnic Germans and the Re-ascription of Welfare State Membership. M. Bommers and A. Geddes (Ed.). in *Immigration and Welfare: Challenging the Borders of the Welfare State*. London: Routledge. 2000, 90- 108.
- Bommers, M. and Geddes, A. (Ed.). (2000). *Immigration and Welfare: Challenging the Borders of the Welfare State*. London: Routledge.
- Brubaker, R. (1994). *Citizenship and Nationhood in France and Germany*. Cambridge: Harvard University Press.
- Carmon, N. (1996). *Immigration and Integration in Post-Industrial Societies*. London: Macmillan Press.
- Castles, S. and Davidson, A. (2000). *Citizenship and Migration: Globalization and the Politics of Belonging*. London: Palgrave.

- Castles, S. and Kosack, G. (1972). The Function of Labour Immigration in Western European Capitalism. R. Cohen and Z. Layton-Henry (Ed.). in *The Politics of Migration*. Cheltenham: Edward Elgar Publishing, 1997, 62-80.
- Castles, S. and Miller, M. J. (1998). *The Age of Migration: International Population Movements in the Modern World*. Second Edition. London: Macmillan Press.
- Ceserani, D. (1997). The Changing Character of Citizenship and Nationality in Britain. D. Ceserani and M. Fulbrook (Ed.). in *Citizenship, Nationality and Migration in Europe*. London: Routledge, 1997, 57- 73.
- Cohen, R. and Layton-Henry, Z. (Ed.). (1997). *The Politics of Migration*. Cheltenham: Edward Elgar Publishing.
- Deacon, B. (2000). Küreselleşme ve Sosyal Politika: Hakkaniyetli Bir Refaha Tehdit. B. Yakut-Çakar ve U.B. Balaban (çev.). A. Buğra ve Ç. Keyder (drl.). *Sosyal Politika Yazıları* içinde. İstanbul: İletişim Yayınları, 2006, 101- 158.
- Dean, H. (2004). The Implications of Third Way Social Policy for Inequality, Social Cohesion and Citizenship. J. Lewis and R. Surrender (Ed.). in *Welfare State Change: Towards a Third Way?*. Oxford: Oxford University Press, 2004, 182-206.
- Delanty, G. (2000). *Citizenship in a Global Age: Society, Culture, Politics*. Buckingham: Open University Press.
- Dwyer, P. (2004). *Understanding Social Citizenship: Themes and Perspectives For Policy and Practice*. Bristol: The Policy Press.
- Epsing-Andersen, G. (1996). Altın Çağ Sonrası? Küresel Bir Ekonomide Refah Devleti İkilimleri. B. Yakut-Çakar ve U.B. Balaban (çev.). A. Buğra ve Ç. Keyder (drl.). *Sosyal Politika Yazıları* içinde. İstanbul: İletişim Yayınları, 2006, 53-100.
- Epsing-Andersen, G. (1999). Toplumsal Riskler ve Refah Devletleri. B. Yakut-Çakar ve U.B. Balaban (çev.). A. Buğra ve Ç. Keyder (drl.). *Sosyal Politika Yazıları* içinde. İstanbul: İletişim Yayınları, 2006, 33-52.
- Ferrara, M. (1996). Sosyal Avrupa'da "Güney Avrupa Refah Modeli" B. Yakut-Çakar ve U.B. Balaban (çev.). A. Buğra ve Ç. Keyder (drl.) *Sosyal Politika Yazıları* içinde. İstanbul: İletişim Yayınları, 2006, 195- 230.
- Fraser, D. (2003). *The Evolution of the British Welfare State: A History of Social Policy Since the Industrial Revolution*. Third Edition. Hampshire: Palgrave Macmillan.
- Fulbrook, M. (1997). Germany For the German? Citizenship and Nationality in a Divided Nation. D. Ceserani and M. Fulbrook (Ed). in *Citizenship, Nationality and Migration in Europe*. London: Routledge, 2000, 88-105.

- Geddes, A. (2000). Denying Access- Asylum Seekers and Welfare Benefits in the UK. M. Bommers and A. Geddes (Ed.). in *Immigration and Welfare: Challenging the Borders of the Welfare State*. London: Routledge, 2000, 134-147.
- Geddes, A. (2003). *The Politics of Migration and Immigration in Europe*. London: Sage Publications.
- Gough, I. (1996). Güney Avrupa'da Sosyal Yardım. B. Yakut-Çakar ve U. B. Balaban (çev.). A. Buğra ve Ç. Keyder (drl.). *Sosyal Politika Yazıları* içinde. İstanbul: İletişim Yayınları, 2006, 231-260.
- Guild, E. (1994). The Legal Framework of Citizenship of the European Union. D. Cesarani and M. Fulbrook (Ed.). in *Citizenship, Nationality and Migration In Europe*. London: Routledge, 1997, 30-56.
- Hatton, T. H. and Williamson, J. G. (2005). *Global Migration and the World Economy: Two Centuries of Policy and Performance*. Cambridge, Mass: MIT Press.
- Held, D. and McGrew, A. (2003). The Great Globalization Debate: An Introduction. D. Held and A. McGrew (Ed.) in *The Global Transformations Reader*. Oxford: Polity Press, 2003, 1- 50.
- Heywood, A. (1997). *Politics*. London: Macmillan Foundations.
- Hobsbawm, E. (1994). *Kısa Yirminci Yüzyıl*. Y. Alogan (çev.). İstanbul: Sarmal Yayınları.
- Hudson, R. and Williams, A. M. (2001). Re-shaping Europe: the Challenge of New Divisions Within a Homogenized Political- Economic Space. J. Fink, G. Lewis and J. Clarke (Ed.). in *Rethinking European Welfare: Transformations of Europe and Social Policy*. London: Sage Publications, 2001, 33-64.
- Inda, J. X. (2006). *Targeting Immigrants: Government, Technology and Ethics*, Oxford: Blackwell Publishing.
- Jahn, A. and Straubhaar, T. (1997). A Survey of the Economics of Illegal Migration. M. Baldwin- Edwards and J. Arango (Ed.). in *Immigrants and the Informal Economy in Southern Europe*. London: Frank Cass Publishers, 1999, 16-42.
- Kaya, A. and Kentel, F. (2005). *Euro-Turks: A Bridge or a Breach between Turkey and Europe?* Brussels: Centre for European Policy Studies.
- Kaya, A. and Kentel, F. (2007). *Belgian-Turks: A Bridge or a Breach between Turkey and the European Union?* Brussels: King Baudouin Foundation.
- Kleinman, M. (2002). Kriz mi? Ne Krizi? Avrupa Refah Devletlerinde Süreklilik ve Değişim. B. Yakut-Çakar ve U.B. Balaban (çev.). A. Buğra ve Ç. Keyder (drl.). *Sosyal Politika Yazıları* içinde. İstanbul: İletişim Yayınları, 2006, 159-194.

- Koray, M. (2002). *Avrupa Toplum Modeli*. İstanbul: Tüses Yayınları.
- Koray, M. (2005). *Sosyal Politika*. Ankara: İmge Kitabevi.
- Kümbetoğlu, B. (2003). Küresel Gidişat, Değişen Göçmenler ve Göçmenlik. A. Kaya ve G. G. Özdoğan (Ed). *Uluslararası İlişkilerde Sınır Tanımayan Sorunlar* içinde. İstanbul: Bağlam Yayınları.
- Leibfried, S. (1993). Towards a European Welfare State. C. Jones. in *New Perspectives on the Welfare State in Europe*. London: Routledge.
- Levinson, A. (2005). *The Regulation of Unauthorized Migrants: Literature Survey and Country Case Studies: Regularisation Programmes in Italy*. Oxford: Oxford University Press.
- Lewis, G., Fink, J. and Clarke, J. (2001). Introduction: Transitions and Trajectories in European Welfare. G. Lewis, J. Fink and J. Clarke (Ed.). in *Rethinking European Welfare*. London: Sage Publications, 2001, 1-30.
- Lewis, J. and Surrender, R. (2004). *Welfare State Change: Towards a Third Way?* Oxford: Oxford University Press.
- Lister, R. (2004). The Third Way's Social Investment State. J. Lewis and R. Surrender (Ed.). in *Welfare State Change: Towards a Third Way?* Oxford: Oxford University Press, 2004, 157- 181.
- Marshall, T.H. (1992). Yurttaşlık ve Sosyal Sınıf. B. Yakut-Çakar ve U. B. Balaban (çev.). A. Buğra ve Ç. Keyder (drl.). *Sosyal Politika Yazuları* içinde. İstanbul: İletişim Yayınları, 2006, 19-32.
- Mocridis, R. C. and Hulling, M. L. (1996). *Contemporary Political Ideologies: Movements and Regimes*. New York: Harper Collins Publications.
- Morris, L. (2002). *Managing Migration: Civic Stratification and Migrants' Rights*. London: Routledge.
- Papametriou, D. G. and Hamilton K. A. (1996). *Converging Paths to Restriction: French, Italian and British Responses to Immigration*. Washington D. C.: Carnegie Endowment for International Peace.
- Platt, L. (2006). New Destinations? Assessing the Post-migration Social Mobility of Minority Ethnic Groups in England and Wales. J. Finan (Ed.). in *Migration, Immigration and Social Policy*. Oxford: Blackwell, 2006, 134- 160.
- Rousenau, J. N. (2007). Governance in a New Global Order. D. Held and A. McGrew (Ed.) in *The Global Transformations Reader*. Cambridge: Polity Press, 2007, 223-233.

- Pugliese, E. (1997). Italy between Emigration and Immigration and the Problems of Citizenship. D. Ceserani and M. Fulbrook (Ed.). in *Citizenship, Nationality and Migration in Europe*. London: Routledge, 1997, 106-123.
- Reyneri, E. (1999). The Mass Legalization of Migrants in Italy: Permanent and Temporary Emergence from the Underground Economy, M. Baldwin-Edwards and J. Arango (Ed.). in *Immigrants and The Informal Economy in Southern Europe*. London: Frank Cass Publishers, 1999, 83-104.
- Ryner, M. (2000). European Welfare State Transformation and Migration. M. Bommers and A. Geddes (Ed.). in *Challenging the Borders of the Welfare State*. London: Routledge, 2000, 51-71.
- Schierup, C. U., Hansen, P. and Castles, S. (2006). *Migration, Citizenship and the European Welfare State: A European Dilemma*. Oxford: Oxford University Press.
- Sivanandan, A. (1976). Race, Class and the State: The Black Experience in Britain. R. Cohen and Z. Layton-Henry (Ed.). in *The Politics of Migration*. Cheltenham: Edward Elgar Publishing, 1997, 97-118.
- Smith, A. (1996). *Nations and Nationalism in a Global Era*. Cambridge: Polity Press.
- Soysal, Y. (1994). Changing Citizenship in Europe: Remarks on Post-national Membership and the National State. D. Cesarani and M. Fulbrook (Ed.). in *Citizenship, Nationality and Migration in Europe*. London: Routledge, 1997, 17-29.
- Spencer, Ian R. G. (1997). *British Immigration Policy: the Making of Multi-racial Europe*. London: Routledge.
- Surrender, R. (2004). Modern Challenges to the Welfare State and the Antecedents of the Third Way. J. Lewis and R. Surrender (Ed.). in *Welfare State Change: Towards a Third Way*. Oxford, Oxford University Press, 2004, 3-24.
- Zincone, G. (1999). Illegality, Enlightenment and Ambiguity: A Hot Italian Recipe. M. Baldwin Edwards and J. Arango (Ed.). in *Immigrants and the Informal Economy in Southern Europe*. London: Frank Cass Publishers, 1999, 43-82.
- Vink, M. (2005). *Limits of European Citizenship: European Integration and Domestic Immigration Policies*. London: Palgrave.
- Watts, J. R. (1999). Italian and Spanish Labour Leaders' Unconventional Immigration Policy Preferences. M. Baldwin-Edwards and J. Arango (Ed.). in *Immigrants and The Informal Economy in Southern Europe*. London: Frank Cass Publishers, 1999, 129-148.

Periodicals

- Appleyard, R. (2001). International Migration Policies: 1950-2000. *International Migration*. Vol.39 (6). International Organization for Migration (IOM), 7-20.
- Clarke, J. (2005). New Labour's Citizens: Activated, Empowered, Responsibilized, Abandoned? *Critical Social Policy*. Vol. 25 (4), 447-463.
- Doty, R. L. (2000). Immigration and the Politics of Security. *Security Studies*. 8, No.2-3: 71-93.
- Geddes, A. (2001). International Migration and State Sovereignty in an Integrating Europe. *International Migration*. Vol. 39 (6), International Organization for Migration (IOM), 21-37.
- Hewitt, P. S. (2002). The End of the Postwar Welfare State. *The Washington Quarterly*. Spring Vol: 25 (2). 7-16.
- Levy, J. and Payne, M. (2005). Welfare Rights Advocacy in a Specialist Health and Social Care Setting: A Service Audit. *British Journal of Social Work*. Vol. 36, 323-331.
- Liedtke, M. (2002). National Welfare and Asylum in Germany. *Critical Social Policy*. Vol. 22(3): 479-497.
- Lorenz, W. (2001). Social Work Responses to "New Labour" in Continental European Countries. *British Journal of Social Work*. Vol. 31, 595-609.
- Reyneri, E. (2003). Illegal Immigration and The Underground Economy. *National Europe Centre Paper*. No. 68, 1-31.

Papers Presented in Seminars

- Dobrowolsky, A. and Lister, R. (2005). Social Exclusion and Changes to Citizenship: Women and Children, Minorities and Migrants in Britain. *Canadian Political Science Association Annual Meetings*. London: University of Western, 1-26.
- Sciortino, G. (2002). Immigration in a Mediterranean Welfare State: the Italian Case. *Conference in Honor of Tomas Hammar*.

Papers and Reports

- Flynn, D. (2003). Tough As Old Boots: Asylum, Immigration and the Paradox of New Labour Policy. *Joint Council for the Welfare of Immigrants (JCWI)*, London: Immigration Rights Project (IRP), 1-23.

- Goodhart, M. (2006). A Transnational Human Rights Regime as a Mechanism for Democratizing Power. *APSA Annual Meeting*. Philadelphia, 1-29.
- IWHA Project (Access to the Health Services for Immigrant Women)* (2002-2006), Funded by European Commission, 3-107.
- House of Lords, Select Committee on Economic Affairs*. (2008). *The Economic Impact of Immigration*. London.
- Reyneri, E. (2003). Illegal Immigration and The Underground Economy. *National Europe Centre Paper*. No. 68
- Veikou, M. and Triandafyllidou, A. (2000-2004). Immigration Policy and Its Implementation in Italy: A Report on the State of the Art. *Does Implementation Matte? Informal Administration Practices and Shifting Immigrant Strategies in Four Member States*. Report Funded by European Commission. European University Institute.

Internet Sources

- Al- Azar, R. (2008). Italian Immigration Policies: The Metaphor of Water, *BC Journal on International Affairs*. Vol.11 /Spring, <http://bcjournal.org/2006/italian-immigration-policies/> (09/09/2007).
- First German Immigration Law Takes Effect*. Deutsche Welle, 01 January 2005. <http://www.dw-world.org/dw/article/0,2144,1442681,00.html>. (20/08/2008).
- First Report on The Integration of Immigrants in Italy* (2000). <http://www.fieri.it/ktml2/files/uploads/attivita/papers%20e%20tesi/primo%20rapporto%20integrazione%20engl.pdf>. (20/08/2008).
- Immigration Rules Toughen Up*. Personnel Today 15 February 2005. <http://www.personneltoday.com/article.aspx?liarticle> (11/06/2008).
- Information Kit on the UN Convention on Migrant Rights*. <http://www.unesco.org/most/migration/convention> (05/02/2007).
- Kofman, E. (1999). Birds of Passage a Decade Later: Gender and Immigration in the European Union. *International Migration Review*. Vol. 33 (2), 269-299. <http://www.jstor.org/stable/2547698> (12/06/2008).
- Sales, R. (2002). The Deserving and The Undeserving? Refugees, Asylum Seekers and Welfare in Britain. *Critical Social Policy*. Vol.22 (3): 456- 478. <http://www.csp.sagepub.com/cgi/content/abstract/22/3/456> (12/06/2008).
- Sainsbury, D. (2006). Immigrants' Social Rights in Comparative Perspective: Welfare Regimes, Forms of Immigration and Immigration Policy Regimes. *Journal of*

European Social Policy. Vol. 16 (3), 229-44.
<http://www.esp.sagepub.com/cgi/content/abstract/16/3/229> (12/06/2008).

UK Home Office, UK Border Agency, (February 2008), 'Immigration Rules: Part 8- Family Members',
<http://www.ukba.homeoffice.gov.uk/policyandlaw/immigrationlaw/immigrationrules> (11/06/2008).

International Agreements and Conventions

European Social Charter. (1961).
<http://www.conventions.coe.int/treaty/en/treaties/html/035.htm> (05/02/2007).

European Social Charter- revised. (1996).
<http://www.conventions.coe.int/treaty/en/Treaties/Html/163.htm> (05/02/2007).

Geneva Convention on the Status of Refugees. (1952).
http://www.unhchr.ch/html/menu3/b/o_c_ref.htm (05/02/2007).

International Covenant on Economic, Social and Cultural Rights. (1996).
http://www.unhchr.ch/html/menu3/b/a_cescr.htm (05/02/2007).

UN Convention on the Protection of all Migrant Workers and Their Families. (1990).
http://www.unhchr.ch/html/menu3/b/m_mwctoc.htm (05/02/2007).

Universal Declaration of Human Rights. (1948).
<http://www.un.org/Overview/rights.html> (05/02/2007).

The Additional Protocol of Geneva Convention on the Status of Refugees. (1967).
<http://www.unhcr.org/protect/PROTECTION/3b66c2aa10.pdf> (05/02/2007).

Dictionaries

International Relations: the Key Concepts. (2006). "Regime", Routledge Key Guides.

