LIVING ON THE MARGINS: “ILLEGALITY,” STATELESSNESS, AND THE POLITICS OF REMOVAL IN TWENTIETH-CENTURY EUROPE AND THE UNITED STATES

Conference at the GHI, February 9-11, 2012. Conveners: Kathleen Canning (University of Michigan, Ann Arbor), Jana Häberlein (University of Basel), Barbara Lüthi (University of Basel), Miriam Rürup (GHI). Participants: Mae Ngai (Columbia University), Mira Siegelberg (Harvard), Annemarie Sammartino (Oberlin), Tobias Brinkmann (Penn State), Atina Grossmann (Cooper Union), Kathrin Kollmeier (ZZF Potsdam), Linda Kerber (University of Iowa), Daniela L. Caglioti (University of Naples), Ilse Reiter-Zatloukal (University of Vienna), Marianne Pieper (University of Hamburg), Aysen Ustubici (University of Istanbul), Christoph Rass (University of Osnabrück), Friederike Kind-Kovacs (University of Regensburg), Serhat Karakayali (University of Halle), Insa Breyer (Humboldt University, Berlin), Jens Röschlein (University of Münster).

In contemporary history, both stateless people and “illegal aliens” have been referred to as the “citizen’s others” (Linda Kerber), whose lack of citizenship rights prevents them from participating in social and political life. Throughout the twentieth century, illegality, statelessness, and forced removals have represented political processes with roots in historical forms of inclusion and exclusion, definitions of citizenship and belonging, and different forms of deportation and expulsion. These phenomena are linked in several ways. First, the affected people are often presented as lacking subjectivity. Second, these people are physically removed from the social landscapes they inhabit and thus rendered nearly invisible. Third, these states of being are frequently “coerced” phenomena that involve violence, while they also generate resistance in non-state actors such as migrants or illegals, human rights organizations, and others.

In her keynote lecture, Mae Ngai traced the origins of the US-specific topos of the “Nation of Immigrants.” She pointed out the range of actors who influenced this concept of immigration, which moved from being normatively open to normatively closed, including scholars, politicians, and migrants themselves, shifting their self-definition over time from “emigrants” to “immigrants.” Another important shift occurred in the classification of immigrants — in the early 1900s, it was racial but eventually moved to legal vs. illegal — so that “illegality today does the work of race” in defining inclusion and exclusion.
The first panel concentrated on the emergence of statelessness. Mira Siegelberg discussed the first mass of stateless people whom the international community helped by issuing an internationally accepted travel document called the “Nansen Passport.” She contextualized the debate concerning stateless refugees in the interwar years with reference to the International Declaration of the Rights of Man in 1929, which conceived of statelessness as mankind’s most salient problem. By linking these two discourses, Siegelberg highlighted the view of statelessness not as a humanitarianism but as a rights issue, which Russian émigré lawyers especially advocated. Annemarie Sammartino then discussed three primary groups of vulnerable legal status in Weimar Germany whom the Nansen Passport helped: the Russians, Jews from Eastern Europe, and groups like the Baltendeutsche, whose citizen status was uncertain despite their ethnic Germanness. She noted the aspect of an imaginary element of citizenship: The Nansen-Passport, she argued, could only succeed because it implied a promise to nation-states that its holders did not want to become citizens. Tobias Brinkmann discussed the stateless territory of the port city of Danzig in the 1920s. Danzig admitted people without asking for passports or visas, thus developing into both a seemingly safe haven for (Jewish) refugees and a territory into which Poland could “dump” unwanted people. For Jews, Danzig proved to be a battleground of differing approaches to helping each other: Again, the dichotomy of the humanitarian approach (Western Jewish relief organizations) vs. the fight for Jewish rights (Eastern and Zionist support groups) came into play here.

The second panel addressed efforts to solve the problem of statelessness. Atina Grossmann remapped the landscape of survival and rescue of Jews during and after World War II by tracing refugee routes from Poland to Siberia and, after war’s end back, to Poland and into the Displaced Persons (DP) camps. She analyzed how aid groups such as the Jewish Joint Distribution Committee (JDC), transnationally active in such seemingly remote theaters as Iran and India, suggested different solutions for Jewish refugees. Palestine proved to be more imaginary than real as a place of rescue. This was a controversial issue with the Jewish Agency, which promoted immigration to Palestine only. Here again, a fundamental difference emerged between humanitarian rescue and political solutions. Kathrin Kollmeier looked at France as a place of rescue, examining how France turned from an international to a national protection regime in the 1950s. The OFPRA (French Office for the Protection of Refugees and Stateless
Persons) was established after a long debate that led France to insist on the right of national sovereignty concerning statelessness in French territory. OFPRA then helped shape a new bureaucracy ("Knowledge Agency") and also gave new agency to the stateless people who registered with it.

The decade after World War II saw new supranational attempts to overcome statelessness. The 1954 UN Convention on the Status of Stateless Refugees was a first major achievement in the postwar world of newly shaped international politics. Linda Kerber showed how one of the major players at this convention, Louis Henkin, represented a nation that never ratified any of the postwar UN conventions on refugees: the United States. As Henkin was present at all the debates, the US left its “fingerprints” all over the convention. While statelessness was generated by nation-states, it clearly could only be solved supranationally. Yet national sovereignty proved to be key in preventing the international community from really solving the problem of statelessness.

The third panel dealt with the ongoing struggle over defining inclusion in citizenship. Statelessness first emerged primarily because of denaturalization and denationalization policies, which many nation-states considered their national sovereign right. Daniela L. Caglioti showed how denaturalizing citizens in World War I was a radical yet ubiquitous means that states used to push unwanted people to the margins and remove them more easily. Consequently, World War I generated a new system of population management that reshaped the notion of citizenship by differentiating between aliens and citizens. Ilse Reiter-Zatloukal retraced how denationalization in the twentieth century became an instrument authoritarian and totalitarian regimes mainly used to punish “illoyal” citizens. Prime privileges of nation-states, the granting and revocation of citizenship, were finally reluctantly banned by the Convention on the Reduction of Statelessness in 1961 – in cases where denationalization would lead to statelessness. Miriam Rürup then looked back at the first apparent course of action the UN took to solve the problem of statelessness: paving the way for the new state of Israel in 1948. Exploring the specific framing of Israeli citizenship as a possible reaction to the Jewish experience of statelessness, she argued that the Israeli Law of Return changed the concept of Jewish belonging. While having been defined in non-territorial terms in the Diaspora, after 1948 the previously utopian notion of “Zion” transformed into a transterritorial
idea of Israeli citizenship. Although based on an idea of supranational identity, this notion of citizenship was territorially grounded in the ethnically defined nation-state in the Land of Israel.

For the last three panels, the conference’s focus shifted to people who are actively and decisively left out of citizenship: illegalized migrants and state actions of removal. Marianne Pieper spoke about migrants’ ability and strategies to actually “do borders” by permanently questioning them, for example by violating border restrictions and being transnationally mobile. Her analysis of a variety of interviews with transnational migrants showed how border spaces were “contested terrains” with the migrants as active agents in this process and not merely victims of the ever changing means of controls in the European border regime. Aysen Ustubici then focused on two case studies of border migration in Turkey and Morocco. Her paper supported the idea of migrant agency, that is, their claim to being agents in the migration process. She highlighted how they change the character of the “receiving” countries, for example, by affecting legal discourse on defining the status and rights of citizens.

The fifth panel turned to expulsion and removals, beginning with Christoph Rass’s paper on the removal of unwanted foreigners from Germany. He compared various policies of removal in Imperial Germany and in postwar West Germany, demonstrating that social arguments and policy have persistently been entangled in German citizenship policy. In Imperial Germany, the people who were removed were those who might fall into the social safety net as dependents. From the 1950s onwards, the pattern of deportations in West Germany remained strikingly detached from shifts in migration policies, yet it seems likely that removals followed a sort of symbolic policy to appease public anger about changes in the social welfare state. Friederike Kind-Kovacs analyzed another case of refugees of uncertain status becoming pawns in the game of national politics. She focused on ethnic Hungarians who had fled from Transylvania to Budapest and become a symbol for the social decline of the middle class. They were regarded as the embodiment of the national disaster and loss of territory that had befallen the Hungarian Empire. The Hungarian refugees were in a state of legal limbo until the Treaty of Trianon provided them with a legal framework that included opting for the nationality of their state of residence. In Hungary, however, they were not instantly integrated but continued to live in broken-down railway coaches at railway stations. Thus, while unable to
integrate these displaced families called “Vagonlakok,” the Hungarian regime nonetheless instrumentalized them in an effort to revise its territorial loss.

The final panel turned to “Illegalizing Migrants.” Serhat Karakayali began by stressing the problematic nature of categorizations such as legal/illegal. He argued that different shades of legalization are important, just as differentiations between the interests of state, municipal, and individual actors are. In the guestworker recruitment regime in postwar Germany, he argued, the term “illegal” served as an argument in labor recruitment and policies of migration — sometimes even causing conflicts between companies that were becoming non-governmental transit stations for immigration and government agencies that were trying to control migration. The question of who the sovereign is in defining legal and illegal and determining citizenship again proved to be in flux if not contingent. Insa Breyer compared different attitudes towards undocumented migrants in Germany and France, including the terminology. While the term “Sans Papiers” is not necessarily judgmental in France, it implies a criminalization in Germany. This corresponds to different legal approaches: in Germany illegalized migrants are perpetually in danger of being expelled, while in France they are constantly on the verge of becoming legalized. This sheds light on the nations’ different understandings of society and belonging, as well as pathways to joining it. Focusing on “gypsies” in postwar West Germany, Jens Röschlein turned to a group that could not be physically removed from German territory, since they had settled in Germany long ago and had obtained citizenship, but nevertheless remained “unwanted.” German authorities in the 1950s and 1960s sometimes ignored Sintis’ legal citizenship and refused to extend their German passports, provided them with alien passports, or even forced them into lengthy naturalization processes.

The final discussion pointed to contingency as a recurrent theme of the conference. The changing standards of passport control as well as of passports themselves, for example, were, of course, unwelcome to state authorities, but highly welcome to migrants because they gave them agency to travel, say, with forged passports. The ambiguity of terms was another key issue. While terminological ambiguity contributes to the ambiguity of a person’s status, it also offers options for migrants who might choose to be categorized as “stateless” or of “uncertain nationality” (and thus protected from deportation) rather than as a “refugee” (and thus often subject to involuntary
“repatriation”). It seems that non-state actors embraced contingency and liminality, especially in the early instances of statelessness and illegality, as these qualities invited them to actively create their stories and have a say in the overall power of the system of border regimes of the sovereign nation-state.

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