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Sieglinde Rosenberger / Carla Küffner (University of Vienna)

After the Deportation Gap: Non-Removed Persons and their Pathways to Social Rights

Introduction

In the 2000s, the term *deportation gap* attracted the attention of migration scholars and politicians alike. The notion describes the numerical difference "between the number of people eligible for removal (…) and the number of people a state actually removes" (Gibney 2008, 149). Liberal democracies in fact often issue removal orders for very different reasons, but ultimately face constraints from executing them. As a result of this gap, a new legal and social category of non-citizens has emerged – the non-removed persons.

The *EC-Return Directive 2008/115* states that member states bear responsibility for the situation of third-country nationals who are the subject of return proceedings but whose removal is postponed. Although the *EC-Return Directive* does not mention the name "non-removed persons" directly, de facto it also applies to this group. In addition, the term "non-removed persons" is cited by the *European Union Agency for Fundamental Rights (FRA 2011)*. In terms of scale, non-removed individuals form a migrant category that can no longer be ignored. According to statistics provided by the *European Union Agency for Fundamental Rights* only in the year 2010 two hundred eighty thousand persons belonged to this category living within the territory of the European Union (FRA 2011, 28). The EU Commission has eventually developed more comprehensive policy to address these migrants in limbo; however, from political and scholarly perspectives, the legal and social conditions of non-removed persons are still a largely under-addressed and under-researched issue (COM 2014).

In contrast to other irregular migrants, such temporarily non-removed persons are not hiding from state authorities; their presence is known, but only some have an authorized status. It is important to note that these individuals are still "deportable subjects" in most countries, which means that even if they cannot be deported at the present, they could be removed at future date (Anderson et al. 2011). From an individual perspective, the non-removed status is characterized by an exceptional degree of insecurity and harsh everyday living

conditions. Non-removed persons experience difficulties securing residency, as well as social and economic livelihood (Nyers 2010).

From the state's perspective, the presence of non-removed migrants is unintended and it demonstrates conflicting exigencies of national sovereignty and obligations imposed by international frameworks. On the one hand, when states fail to repatriate deportable subjects, they reveal financial, legal, and political obstacles resulting from human rights obligations, international law, and a lack of bi-lateral agreements (Ellermann 2008). Non-deportation also reflects statutory deficiencies as well as weaknesses in political platforms that stress a tough stance on immigration. The presence of non-removed persons within a state's territory is a permanent reminder of the limits of sovereignty, and a failure of migration control management (Castles 2004).

On the other hand, when states are impelled to tolerate the residence of non-removed migrants they are bound to allow these people access to basic rights and services. In particular, the European Social Charter, the EU Charter of Fundamental Rights, and more recently the *EC-Return Directive 2008/115* oblige states to protect socially vulnerable groups. Hence, access to social services is to be provided by national governments in order to safeguard tenets of universal personhood and international and European human rights frameworks (Soysal 1994).

This essay deals with the ways governments approach membership rights for non-removed persons. While introducing the analytical category *non-removed persons*, we address the questions of which rights and entitlements are granted to non-removed persons, and which strategies do governments use to comply with international agreements while defending their national sovereignty. The paper highlights that decisions on rights and services for non-removed persons are primarily delegated to local administrative authorities, social gate-keepers, frontline workers, and private actors (Fischer et al. 2006). To a certain extent, these street-level bureaucrats are required to use their discretion and to act on the basis of a "don't ask/don't tell" policy (Lipsky 2010; F. Villegas 2013). The paper reinforces the argument that such a practice to delegate authority effectively ensures that non-removed people remain a non-issue in public discourse, thereby avoiding fueling anti-migrant campaigns.

To deepen our understanding of the political consequences of the *deportation gap*, the paper draws on interviews with experts from the key policy fields (education, healthcare, and social welfare). We illuminate the bureaucratic process by analyzing legislative and administrative decrees and guidelines. The paper focuses on data from the case of Austria, which is an established, conservative welfare state, with a restrictive migration regime that deployed guestworker-schemes and citizenship based on jus sanguine status. In addition,

migration and asylum are major issues in electoral politics (Kraler 2011; Meyer/Rosenberger forthcoming 2015).

The Deportation Gap

Forcible return of irregular migrants became a prominent issue in the 1990s and early 2000s.[1] Several studies report the increasing use of this instrument in different countries including Germany, Austria, Canada, Australia, and the Netherlands. By the end of the decade scholars were focusing on what were seen as massive rates of deportation in Europe and the US and referred to as the *deportation turn* (Gibney 2008). Some argued that the increasing numbers of removals were a response to the political turmoil after 1989, when it was argued that deportations were a necessary tool to stem unwanted migration flows. Furthermore scholars argued that particularly in the US, September 11, 2001 led to spikes in the rate of forcible deportation when it became an instrument to deal with security issues (Phoung 2005).

Scholars stress that deportation has been wielded to symbolize state sovereignty and electoral platforms (Kaanstrom 2007; Peutz/De Genova 2010). Throughout Western democracies, examples abound of the politicization of deportation. In the US each presidential administration controls how the Immigration and Naturalization Service set targets for deportations, and which elements of immigration law will be prioritized for enforcement (Davies 2001). In the UK, the office of the Prime Minister has celebrated the government's increase in rates of deportation (Gibney 2009). In Canada, the Minister of Citizenship and Immigration advertised the number of completed deportations (Nyers 2010). In Austria, the Minister of the Interior announced during an election year that rejected asylum seekers could no longer remain in the country and had to be deported as soon as possible (as soon as readmission certificates were issued by the country of origin, notably especially from Pakistan; cf. ORF 2013). In each of these cases and throughout the west, forcible removals remain a primary feature of political as well as statutory platforms: deportations are a routinized mechanism of post-entry migration control and a tool for rejecting unwanted migrants.

However, using this tool is limited by political and humanitarian norms, in some cases by protest and resistance, and also by a lack of cooperation among

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1 Liza Schuster and Nadja Majidi define deportation as "the physical removal of someone against their will from the territory of one state to that of another" (Schuster/Majidi 2013, 221). Political authorities use the term "removal" while scholars tend to use both "removal" and "deportation".

states (Ellermann 2008; Rosenberger/Winkler 2014). In our study we reveal that states do not possess full capacity to control and to exclude unwanted migrants from their space. As a consequence, a gap has emerged between the number of foreigners whose status should lead to deportation and those who are actually removed.

According to Eurostat figures, in 2010 in the EU territory more than five hundred thousand third-country irregular nationals – migrants who remain in a country without legal authorization – received a deportation order. Approximately two hundred twenty-four thousand persons were deported or returned (FRA 2011: 28). The fate of the others is not recorded in the statistics. According to the *Fundamental Rights Agency*, "it is plausible to assume that a substantial portion continued to stay in the EU" (ibid). A report by the European Commission, published in March 2014, underlines a continued existence of the deportation gap (COM 2014: 39). Figure 1 shows for the year 2011 the mismatch between return decisions and effective removals for selected European countries.
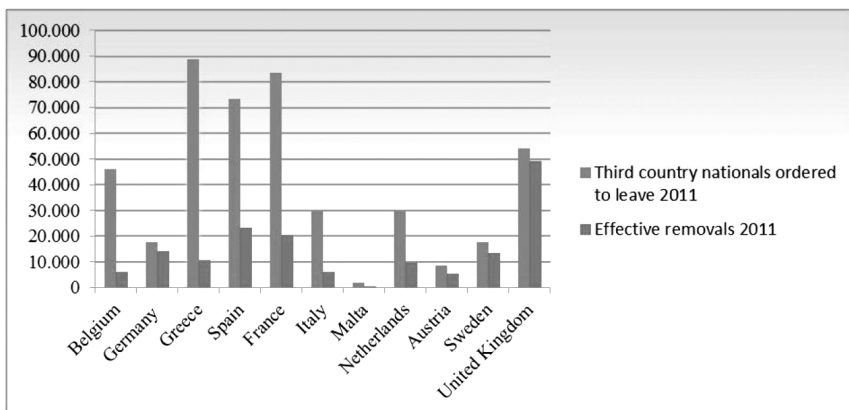
Figure 1: Deportation gap – return decisions and effective removals in selected European countries in 2011. Source: Authors' calculation based on Eurostat data [http://appsso.eurostat. ec.europa.eu/nui/.do?wai=true&dataset=migr_eirtn Across countries different methods and varying definitions of forcible removal become evident. For United Kingdom individuals who have been refused entry at ports and borders and who are subsequently removed, as well as "voluntary returns," are included in the category of enforced removals (Blinder 2012, 3). Other countries exclude those who have been denied entry from total removal numbers. Therefore, the deportation gap of a country indicates an estimate of the total number].

Turning to the case of Austria, the mismatch beween the rate of decisions to remove and effected returns can be assessed based on data from the Ministry of the Interior and IOM.[2] Among the total number of non-removed persons, individuals may have returned to their countries of origin, while others may have travelled to third countries. Most however likely still reside in Austria. All who remain in Austria constitute the categroy of non-removed persons. Table 1 provides an overview of trends over the last decade.

Table 1: Deportation gap in Austria (2000–2013)

Year	Removal orders (total)	Removals (total)	"Voluntary" returns	Removals plus "voluntary" returns	Deportation gap (in %)
2000	21,495	9,638	194	9,832	54
2001	22,591	8,324	355	8,679	62
2002	23,705	6,842	878	7,720	67
2003	22,588	6,842	1,063	7,905	65
2004	20,646	5,811	1,158	6,969	66
2005	16,491	4,277	1,406	5,683	66
2006	12,813	4,090	2,189	6,279	51
2007	13,461	2,838	2,164	5,002	63
2008	14,162	2,026	2,736	4,762	66
2009	20,219	2,481	4,088	6,569	68
2010	20,165	2,577	4,517	7,094	65
2011	16,285	2,020	3,400	5,420	67
2012	14,439	1,853	3,211	5,064	65
2013	14,604	1,903	3,512	5,415	63

Source: Welz (2014).

It is important to note that when we interrogate the data, we use the notion of the *deportation gap* not to indicate what causes the condition of non-removal, but rather to reveal a political phenomenon. Therefore we will highlight political components including: (1) humanitarian and legal constraints to deport third-country citizens (e. g. a lack of readmission certificates); (2) political constraints caused by protest activities against the effective removal of failed asylum seekers; (3) the actual size of the group depends on whether mechanisms to regularize undocumented and/or not regularly staying migrants exist.

Most important is the politics of deportability. Nicholas de Genova (2002) coined the terminology of deportability to denote the possibility of rendering a certain part of the population deportable at any time. Considering the growing

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2 The number of non-removed persons is calculated by subtracting enforced removals, assisted voluntary returns and removals based on the Dublin II Convention from the return decisions.

scale of the deportation gap, the question arises whether the politics of deportability has been changed or adapted to respond to the large number of non-effected removals. Overall we find that the politics of creating deportable subjects has not been adapted to changing conditions. There is ample evidence that nation states still produce deportable subjects – even if government stakeholders are well aware of the limitations to enforce removal orders (Anderson et al. 2011, 552). With regard to Austria, table 1 shows that the number of return decisions and the number of enforced deportations are decreasing, while the deportation gap hardly changes.

The Category "Non-Removed Persons"

Recalling the FRA-report (2011), the group of non-removed is defined as third-country nationals who received a deportation order which could not be implemented by state authorities. The group might be easily defined, but difficult to quantify. Non-removed persons have a precarious status with some conditions that mirror those of irregular migrants but other elements that are shared with regularized migrants. The category of non-removed thus combines a potentially contradictory legal and practical status (Gibney 2009; Goldring at al. 2009; Heegard Bausager et al. 2010; Bommes/Sciortino 2011). In terms of their legal status and their relationship to the host state:

– The group of non-removed persons includes diverse legal categories, comprising mostly failed asylum seekers as well as visa-overstayers and individuals who lost their residency status due to financial or legal reasons.

– To a certain extent, non-removed persons legally remain in the territory. Having (temporarily) a regular residence, they are recognized or tolerated but their residence status is not legally authorized.

– Non-removed persons remain deportable, and thus face residential insecurity.

Legal right to residence constitutes membership in liberal polities (Paoletti 2010, 19f.). Based on international frameworks, basic rights and social services are accorded to non-removed persons; however, the presence of these non-citizens is unintended and unwanted, and they remain in the host country because the nation states do not have the power and the sovereignty to remove them. This situation makes the group vulnerable political targets.

The Rights of Non-Removed Persons

The *EU Return Directive 2008/115/EC* on common standards and procedures in Member States explicitly refers to this group of migrants, when stressing that Member States ought to address their situation, ensuring healthcare and basic education for minors and providing basic conditions of subsistence according to national law. The already mentioned report by the *European Union Fundamental Rights Agency* (FRA 2011) provides an overview of entitlements and rights of non-removed persons living in European Union Member States. The report emphasizes that the level of access to social and fundamental rights in the EU Member States varies "not only between, but also within, Member States" (FRA 2011, 27).[3] Moreover, the report underlines that the group is far from benefiting from full social membership, and possesses only marginalized and precarious rights.

A report on the legal situation of non-removed persons written by Heegard Bausager, Köpfli Møller and Ardittis (2010) gives also some insight into the existing legal situation. However, for Europe no systematic comparative or single empirical study has been carried out on the ways of how non-removed persons gain factual access to basic social rights. Again, there is growing scholarship dealing with the legal situation of irregular migrants and precarious non-citizens. Empirical studies on the (legal) residential and social situation of irregular migrants in general paint a picture of confusion and gradations. For Germany, Heide Castañeda notes that the *Duldung* (temporary suspension of deportation) causes a lot of confusion on the part of state authorities, society and persons concerned (Castañeda 2010, 246). For Canada, Luin Goldring et al. identify "a confusing array of gradations of uncertain or 'less than full' migration status" (2009, 240). With regard to the making of precarious migratory status, Luin Goldring and Patricia Landolt (2013) stress the multi-level and multi-actor character. Moreover, the investigation of social membership can be supported by empirical research that focuses on discretionary power and deservingness. For the latter, several scholars have concluded that precarious status migrants are obliged to demonstrate the capacity of being a "good citizen" in order to become eligible for social membership (Chauvin/Garcés-Mascareñas 2012; Anderson et al. 2011).

This literature contributes to perspectives on vague and "hidden" modes of decision-making over the rights and entitlements of non-removed persons. It suggests that governments do not follow a straightforward and publicly trace-

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3 Gibney (2009) highlights that deportability leads to the situation that even though precarious residents are formally entitled to universal human rights, they are often unable to exercise their right to education or workers' rights.

able and accountable way to deal with irregular migrants and their residential and social rights. In fact, governments do not formulate certain policies (laws) but shift decision-making authority to administrative levels. Based on research cited above we assume that state authorities aim to constitute invisibility of what we call "deportable but not removable" migrants and their social membership rights (see also Cağlar/Mehling 2013).

We reiterate that Austria is one of the countries where "holders of a toleration status remain under the obligation to leave the country" (FRA 2010, 36; referring to the Settlement and Residence Act, Section 69), that is to say they are still deportable. Moreover, Austria has not deployed any regularization schemes in the past, which would correct restrictive immigration policies (Kraler 2009).

Pathways to Social Rights: The Case of Austria

In order to understand how non-removed persons gain access to social membership, we cover three policy areas – basic education, health care, and welfare benefits – and present findings based on the policy process approach. We focus on the actors, institutions, and realms of the policy-making process (Fischer et al. 2006).

For education, the *Compulsory Education Act* (Schulpflichtgesetz) states that for all those children living permanently in Austria, school attendance is mandatory.[4] The term "permanently" as used in the Act is vague, and the place of residence might be difficult to prove without official documents. Interestingly, at the administrative level some regional school councils have clarified what *permanently* exactly means, others have not and leave the clarification to gate-keepers and frontline workers. For instance, the *Viennese City School Council* spells out a more precise guideline. Besides defining what can be classified as permanent residency, namely 4 to 5 months, it also suggests ideas of how to overcome the problem of missing documentation through replacing a birth certificate by asking parents for the date of birth or accepting identification papers of refugee organizations to verify the address instead of insisting on official documents (Interview 3; 4). As a result, the *Viennese City School Council* interprets vague terms in the Act in favor of the people concerned. These specific guidelines reduce the need of street-level bureaucrats to use their discretionary power on a case-by-case basis.

For their education, non-removed pupils are treated the same as un-documented migrants and asylum seekers. However, in other provinces (*Bun-*

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4 Schulpflichtgesetz §1 (1) states: "Für alle Kinder, die sich in Österreich dauernd aufhalten, besteht allgemeine Schulpflicht nach Maßgabe dieses Abschnittes."

desländer) the situation seems to be different, as no specific guidelines have been issued. Access may depend on local school boards or headmasters, but we were unable to gather more information on this specific issue. In the course of our research we found that both political authorities and gate-keepers were reluctant to say anything. Nevertheless, we noted a tendency to use the "don't ask, don't tell" strategy: school boards may protect the right of children to attend class by not requesting, reporting, or sharing information about a student's or a student's family's immigration status (F. Villegas 2013, 258).

For health care, in Austria there is no specific law stipulating the right to public health benefits of non-removed persons or migrants who are staying irregularly in the country (Karl-Trummer et al. 2009). Their basic health needs are addressed by general welfare regulations, in this case laws pertaining to uninsured citizens.[5] Access to healthcare for uninsured persons is limited to emergency care. The result is that medical treatment is only reimbursed for individuals in severe or life-threatening situations, and for women in the last stage of their pregnancy.[6] In case of dispute, the decision is left to the discretion of health care providers. Consequently, varying perceptions of universal human rights and entitlement influence whether or not access to medical treatment is granted (Interview 6; Chauvin/Garcés-Mascareñas 2012).

In most cases, including emergencies, uninsured patients are billed directly for their treatment. Unfortunately, the way payment collection services pursue delinquent accounts indirectly determines access to emergency treatment, as well as legal residency. Although payment is due in advance, those without resources may formally appeal, and through legal aid and petition of insolvency it can be possible to clear a financial record of default (Interview 1; 2; 6). However such petitions and processes are likely beyond reach for non-removed migrants.

Most non-removed persons do not have a right to participate in the labor market and thus cannot earn their living. This fact has immense consequences for their membership in communities and well-being. Therefore, subsistence allowances are of great importance. In the following we turn to the largest subgroup of the category of non-removed migrants, namely rejected asylum seekers, to exemplify access to subsistence allowances.[7]

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5 According to estimations roughly one to two percent of the residing population in Austria is without any health insurance (about 100,000 people; cf. Pant 2011). A considerable number of non-removed migrants are thought to be uninsured. Yet in Vienna, rejected asylum seekers usually continue to receive a basic subsistence allowance including health insurance.

6 Krankenanstalten- und Kuranstalten-Gesetz (KAKuK; Medical Institutions and Sanatoria Act).

7 The case of rejected asylum seekers should not obscure the fact that there are persons who are ineligible for subsistence.

In the case of failed asylum seekers with a removal order the eligibility for social welfare is regulated by the legal framework pertaining to asylum seekers. In fact, every Austrian province has different requirements for entitlement. To illustrate the legal differences, we will outline the province of Vienna in contrast to Lower Austria. In Vienna, a person is eligible for subsistence allowances even after a legally binding denial of asylum, if the removal cannot be executed due to various reasons.[8] When determining such reasons for non-removal, the *Basic Subsistence Office (Grundversorgungsstelle)* can use discretionary authority to decide whether or not to grant access to basic subsistence allowances (Interview 7). Yet, according to representatives of the *Basic Subsistence Office*, every person receives subsistence allowances until the actual removal has been effected (Interview 5). This presents a stark contrast to Lower Austria, where an additional clause in the law results in a drastic constraint of the eligibility for subsistence. It stresses that eligibility expires when non-deportability has been caused by the individual concerned. Here social subsistence is only granted under certain circumstances. Used as a punitive instrument, it is very much up to the administrative authorities to decide whether social welfare is provided.

Comparing these three policy areas regarding the granting rights, the findings indicate a distinct stratification of rights and practices characterized by contingency and subjective rulings (Morris 2002). In Austria various entitlements for services are caused by different factors, in particular by status, provincial regulations, and the use of discretionary authority. Overall, there is no specific regulation concerning access to basic education, public health, and material support.

Asylum seekers whose application is denied but who have not yet been deported face a more favorable situation compared to migrants who are ordered removed for other statutory infractions including criminal conviction. And while they may have the right to education as provided by local public authorities, welfare benefits depend on the administration of the federal authority (*Bundesland*). Healthcare, including access to emergency services for this group, is guaranteed by statute, but again subject to the local discretion regarding definition of what constitutes an emergency and (non-)compliance in billing procedures.

Discretion for the Sake of Non-Politicization

The relevant literature on irregular migrants in general, and non-removed persons in particular, indicates that a prevailing strategy for dealing with rights is to render such persons "invisible" (Peutz 2010, 372; Bommes/Sciortino 2011;

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8 Grundversorgungsvereinbarung Wien, Art. 2 (1).

Gibney 2009). Our empirical findings corroborate the literature and reveal finer detail. We have emphasized that non-removed persons possess rights, and here note that overlooking such individuals enables public officials to thereby remove them from the subject of public debate. Our empirical results show that this strategy actively depoliticizes such people. According to De Wilde (2007) politicization is defined as a threefold process, whereby a topic is put on the public agenda, becomes polarized, and forms the basis for policies that are formulated through public debate. These patterns produce what Michael Bommes and Guiseppe Scortino (2011) call foggy legal structures.

In terms of public policy, we have determined that there are no laws governing the public welfare for non-removed persons beyond general welfare laws that pertain as well to irregular migrants and asylum seekers. We find that administrations seek to avoid dealing with the issue, and especially in side-step public parliamentary debate. Thus, migration politics are delegated to local service providers and welfare administrators. Virginie Guiraudon und Gallya Lahav (2000, 177) describe this process as a shifting of competences to multiple actors (see also Bhuyan 2013; P. Villegas 2013/F. Villegas 2013).

Conclusions

This paper deals with non-removed persons and their pathways to social membership. It began with the observation that deportation is seen as an important instrument of state sovereignty and, hence, non-deportation of deportable subjects indicates a failure of state power to govern borders and immigration. Moreover, the presence of non-removed persons symbolizes blurred national boundaries: the category of removed persons spurs a transformation of boundaries far from the public eye. Against this background, the essay revealed the strained relations between national politics and international frameworks with regard to the decision of who remains in a country, and who is entitled to have access to social membership. We identified in the case of Austria a state strategy to occlude and obscure the issue, and to delegate decision-making to local public service providers. Such local providers embody an under-studied role in the process and practice of migration politics.

Finally, we note that this issue needs to be studied with sensitivity. Research must be undertaken responsibly to strike a balance between exposing this practice of local discretion and allowing the deportation gap to remain out of range of politicized debate. We anticipate a need for continued research on the informal practice of delegating authority, and the social integration of this vulnerable and marginalized group. The crucial challenge remains to create an

informed political discourse on ways for non-citizens to receive greater public support to foster their interests rather than to fight them.

References

Anderson, Bridget/Gibney, Matthew J./Paoletti, Emanuela 2011: "Citizenship, deportation and the boundaries of belonging", *Citizenship Studies*, vol. 15, no. 5, 547–63.

Blinder, Scott 2012: "Deportations, Removals and voluntary departures from the UK", *The Migratiom Observatory at the University of Oxford.* Retrieved Mai 8, 2013.

Bommes, Michaels/Sciortino, Guiseppe 2011: *Foggy Social Structures. Irregular Migration, European Labour Markets and the Welfare State,* IMISCOE, Amsterdam.

Bhuyan, Rupaleem 2013: "People's Priorities Change when their Status Changes: Negotiating the Conditionality of Social Rights in Service Delivery to Migrant Women", in Luin Goldring, and Patricia Landolt (eds.): *Producing and Negotiating Non-Citizenship: Precarious Legal Status in Canada*, Toronto, 238–257.

Cağlar, Ayse/Mehling, Sebastian 2013: "Sites and the scales of the law: third-country nationals and EU Roma citizens", in Engin F. Isin, and Michale Saward (eds.): *Enacting European Citizenship,* Cambridge, 155–177.

Castañeda, Heide 2010: "Deportation Deferred: "Illegality", Visibility, and Recognition in Contemporary Germany", in Nicholas De Genova, and Nathalie Mae Peutz (eds.): *The deportation regime. Sovereignty, space, and the freedom of movement,* Durham, NC, 245–261.

Castels, Stephen 2004: "The factors that make and unmake migration policies", *International Migration Review,* vol. 38, no. 3, 852–884.

Chauvin, Sébastien/Garcés-Mascareñas, Blanca 2012: "Beyond Informal Citizenship: The New Moral Economy of Migrant Illegality", *International Political Sociology*, vol. 6, 241–259.

Com 2014: Communication from the Commission to the Council and the European Parliament on EU Return Policy, Brussels, March 3, 2014.

Coutin, Susan B. 2003: "Suspension of Deportation Hearings: Racialization, Immigration, and 'Americanness'", *Journal of Latin American Anthropology,* vol. 8, no. 2, 58–95.

Davies, Caroloe Boyce 2001: "Deportable Subjects: U.S. Immigration Laws and the Criminalizing of Communism", *South Atlantic Quarterly*, vol. 100, no. 4, 949–966.

De Genova, Nicholas 2002: "Migrant 'Illegality' and Deportability in Everyday Life", *Annual Review of Anthropology*, vol. 31, 419–447.

De Genova, Nicholas 2007: "The Production of Culprits: From Deportability to Detainability in the Aftermath of 'Homeland Security'", *Citizenship Studies*, vol. 11, no. 5, 421–48.

De Wilde, Peter 2007: *Politicisation of European Integration: Bringing the Process into Focus*, ARENA Working Paper, Oslo.

Directive 2008/115/EC of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third-country nationals.

Ellermann, Antje 2008: *"The Limits of Unilateral Migration Control: Deportation and Inter-state Cooperation", Government and Opposition,* vol. 43, no. 2, 168–189.

Fischer, Frank/Miller, Gerald J./Sidney, Mara S. 2006: *Handbook of Public Policy Analysis: Theory, Methods, and Politics*, New York.

Fundamental Rights Agency (FRA) 2011: *Migrants in an irregular situation.* Retrieved December 12, 2013 from http://fra.europa.eu/sites/default/files/fra-11-002-05_migrants_de_webres_1.pdf.

Gibney, Matthew J. 2008: "Asylum and the Expansion of Deportation in the United Kingdom", *Government and Opposition,* vol. 43, no. 2, 146–167.

Gibney, Matthew J. 2009: "Precarious Residents: Migration Control, Membership and the Rights of Non-Citizens", *UNDP Human Development Reports Research Paper*, no. 10.

Goldring, Luin/Landolt, Patricia 2013: "Precarious Legal Status in Canada: Theorizing Non-citizenship and Conditionality", in Luin Goldring, and Patricia Landolt (eds.): *Producing and Negotiating Non-Citizenship: Precarious Legal Status in Canada*, Toronto, 3–30.

Goldring, Luin/Berinstein, Carolina/Bernhard, Judith 2009: "Institutionalizing Precarious Immigration Status in Canada", *Citizenship Studies,* vol. 13, no. 3, 239–265.

Guiraudon, Virginie/Gallya Lahav 2006: "Actors and venues in immigration control: Closing the gap between political demands and policy outcomes", *West European Politics,* vol. 29, no. 2, 201–223.

Guiraudon, Virginie/Lahav, Gallya 2000: "A Reappraisal of the State Sovereignty Debate: The Case of Migration Control", *Comparative Political Studies*, vol. 33, no. 2, 163–195.

Heegaard Bausager, Mathilde/Johanne Köpfli Møller/Solon Ardittis. 2010: *Study on the situation of third-country nationals pending return/removal in the EU Member States and the Schengen Associated Countries.*

Kanstroom, Daniel 2007: *Deportation Nation. Outsiders in American History,* Harvard.

Karl-Trummer, Ursula/Novak-Zezula, Sonja/Metzler, Birgit 2009: *Gesundheitsservices im Niemandsland: Funktionale Ignoranz und informelle Solidarität*, Wien.

Kraler, Albert 2009: "Regularisation: A Misguided Option or Part and Parcel of a Comprehensive Policy Response to Irregular Migration?" *IMISCOE Working Paper,* no. 24.

Kraler, Albert 2011: "The case of Austria", in Giovanna Zincone, Rinus Penninx, and Maren Borkert (eds.): *Migration Policymaking in Europe. The Dynamics of Actors and Contexts in Past and Present,* Amsterdam, 21–60.

Lipsky, Michael 2010: *Street-Level Bureaucracy: Dilemmas of the Individual in Public Service*, New York.

Meyer, Sarah/Rosenberger, Sieglinde (forthcoming 2015): "Politicisation of immigration in Austria", in Wouter Van der Brug et al. (eds.): *Understanding the politicisation of immigration. A comparative study of seven countries (1995–2009)*, London.

Morris, Lydia 2002: *Managing Migration. Civic Stratification and Migrants' Rights*, London.

Nyers, Peter 2010: "Abject Cosmopolitanism: The Politics of Protection in the Anti-Deportation Movement", in Nicholas De Genova, and Nathalie Mae Peutz (eds.): *The deportation regime. Sovereignty, Space, and the Freedom of Movement*, Durham, NC, 413–441.

ORF, Österreichischer Rundfunk 2013: "Mikl-Leitner verteidigt Abschiebungen", August 1. Retrieved from http://wien.orf.at/news/stories/2595818/.

Pant, Paul 2011: "Die Lücken im System", FM4, November 28. Retrieved April 10, 2014 from http://fm4.orf.at/stories/1691053/.

Paoletti, Emanuela 2010: "Deportation, non-deportability and ideas of membership", *Refugee Studies Center Working paper series*, no. 65.

Peutz, Nathalie/De Genova, Nicholas 2010: "Introduction", in Nicholas De Genova, and Nathalie Peutz (eds.): *The Deportation Regime. Sovereignty, Space, and the Freedom of Movement*, Durham, 1–32.

Peutz, Nathalie 2010: "Criminal Alien Deportees in Somaliland: An Ethnography of Removal", in Nicholas De Genova, and Nathalie Peutz (eds.): *The Deportation Regime. Sovereignty, Space, and the Freedom of Movement*, Durham, 371–411.

Phuong, Catherine 2005: "The removal of failed asylum seekers", *Legal Studies*, vol. 25, no. 1, 117–41.

Rosenberger, Sieglinde/Winkler, Jakob 2014: "Com/passionate Protests – Fighting the Deportation of Asylum Seekers", *Mobilization. An International Journal,* vol. 19, no. 2, 489–509.

Schuster, Liza/Majidi, Nassim 2013: "What happens post-deportation? The experience of deported Afghans", *Migration Studies,* vol. 1, no. 2, 221–240.

Soysal, Yasemin Nuhoğlu 1994: *Limits of Citizenship. Migrants and Postnational Membership in Europe,* Chicago.

Villegas, Francisco 2013: "Getting to 'Don't Ask Don't Tell' at the Toronto District School Board: Mapping the Competing Discourses of Rights and Membership of Institutional Stakeholders", in Luin Goldring, and Patricia Landolt (eds.): *Producing and Negotiating Non-Citizenship: Precarious Legal Status in Canada*, Toronto, 258–273.

Villegas, Paloma 2013: "Negotiating the Boundaries of Membership: Healthcare Providers, Access to Social Goods and Immigration Status", in Luin Goldring, and Patricia Landolt (eds.): *Producing and Negotiating Non-Citizenship: Precarious Legal Status in Canada*, Toronto, 221–237.

Welz, Judith 2014: "Abschiebepolitik in Zahlen. 1995–2013", *Inex-Working paper,* no. 1.

List of Interviews

Interview 1: Physican, Hospital Merciful Brothers in Vienna, August 21, 2013.

Interview 2: Director, Hospital Merciful Brothers in Vienna, September 5, 2013.

Interview 3: Lawyer, Vienna School Board, telephone interview, August 21, 2013.

Interview 4: Member of the Vienna School Board (Bezirksschulinspektor Integration und Mehrsprachigkeit), telephone interview, September 18, 2013.

Interview 5: Project coordinator *Grundversorgung Caritas* Vienna, telephone interview, September 24, 2013.

Interview 6: Patient's ombudsperson, Vienna, September 27, 2013.

Interview 7: Lawyer, Vienna, August 20, 2013.