

Living Liminality. Ethnological insights into the life situation of non-deportable refugees in Malta¹

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The article presents interim results of ethnographic fieldwork carried out in Malta in 2015 and 2016. From a micro-analytical perspective, new parameters of refugee refusal, developing at the European Union's external borders, are shown and discussed. The majority of rejected asylum seekers in Malta are non-deportable due to a number of legal and practical factors. Non-deportable refugees are in legal limbo since they are neither considered as official members of the host country, nor are they deportable or able to leave the country independently. In Malta, non-deportable refugees have no formal legal status. This may lead to a permanent situation with limited access to the job market, basic services and health care. Dominant orders are suspended without prospect of inclusion. This results in a permanent state of emergency. Based on ethnographic research the article illuminates the agency and vulnerability of non-deportable rejected asylum seekers in Malta. The article argues that non-deportability and a 'rejected' status limit the possibilities in terms of enforceability of their rights. It further illustrates forms of solidarity and action that non-deportable refugees apply to handle constraints and enhance their well-being in the liminal space. To conclude, the article calls for an epistemological shift in the way the non-citizen within the nation state is theorised.

Introduction

In July 2015, about 200 refugees², mainly from Sub-Sahara-Africa, were staging a protest against the racism and discrimination they face in Malta.

- 1 This article is based on the paper presented at the International Conference on Migration, Irregularisation and Activism: Challenging Contemporary Border Regimes, Racism and Subordination at the University of Malmö June 15th–16th, 2016 within the workshop „Contestations: Activism and everyday resistance“ and as part of my grant (DOC-Stipendium) at the Austrian Academy of Sciences. Moreover, this article is written in English to show my appreciation for all the interviewees and supporters of my research by returning my findings to the field.
- 2 I am not using 'refugee' as a legal term but to highlight their forced migration.

Abu³, who has been living in Malta for more than ten years without any papers, asked: “Who will I be if I’m still here when I’m old? How will I live without pension and medical care if I cannot work anymore?”⁴ He protested against the lack of access to education and healthcare and against employers who are exploiting migrants instead of submitting a work permit for them. Most of the protesters do not have any protection status but are non-deportable at the same time. Thus, rejected asylum seekers live in “betwixt-and-between” over a number of years due to a lack of readmission agreements between Malta and the states of origin or transit.

My dissertation thesis examines the life situation of non-deportable rejected asylum seekers using the example of Malta. The aim of my research is to give an insight into the life circumstances of rejected asylum seekers, who are neither deportable nor considered as official members of the host country. My study analyses the everyday strategies applied by non-deportable persons in this area of tension between autonomy and external determination. Following an approach with a praxeological understanding and ethnographic methods, my research links different levels of analysis and examines the interactions of various migration actors. Both subjective experiences and practices of non-deportable refugees as well as perspectives of regulatory institutions of migration are considered.

My article gives an insight into the agency and vulnerability of non-deportable rejected asylum seekers in Malta. I will highlight how the lacking legal status and the intersection of, inter alia, *gender*, *race* and *legal status* lead to social marginalisation, poverty and limited agency. In order not to reproduce refugees as passive victims, the examination of vulnerability is linked to the recognition of their agency. So I consider the question, which forms of solidarity and action are applied by refugees to deal with constraints and enhance their well-being in the liminal space? This article is based on the findings of my ethnographic fieldwork, which was conducted over four visits in Malta between February 2015 and April

3 Real name has been changed due to identity protection of the interviewee.

This will also apply for the following research partners and interviewees.

4 Documented conversation with Abu in July 2015 during the demonstration.

2016.⁵ My research follows a multi-method approach, comprising a combination of discourse analytic and ethnographic approaches. Throughout my research, I was ‘hanging out’⁶ with more than 22 refugees whose asylum application has been rejected. I conducted informal talks with rejected asylum seekers who ranged in age from 20 to 53 years and were mainly from Sub-Sahara-Africa (SSA). Nearly half of them were female. All of the participants of the research received their notice of rejection due to “irregular entry” or “irregular residence”. The research partners lived in Malta up to fourteen years in this “betwixt and between” when we met, which brings me to the title of my paper. Victor Turner’s transitory concept of liminality⁷ became permanent.

In the beginning, the exclusion of the sample group was leading to barriers in my empirical research. Getting in contact with rejected asylum seekers, and especially females, was difficult. I volunteered with the Refugee Support Services⁸ section of an International non-governmental organisation (NGO) in between continuing with my research whilst in Malta. This allowed me to get in contact with other NGOs and

- 5 As some of the interviewed refugees left Malta after a certain time, I extended my fieldwork in this summer to (Southern-)Italy to ‘follow the people’ – in accordance with the Ethnographic Border Regime Analysis referring to Sabine Hess, Vassilis Tsianos: *Ethnographische Grenzregimeanalyse. Eine Methodologie der Autonomie der Migration*. In: Sabine Hess, Bernd Kasperek (Ed.): *Grenzregime. Diskurse, Praktiken, Institutionen in Europa*. Berlin 2010, pp. 243–264. Besides visiting former research partners from Malta, I also conducted interviews with institutional actors who are in contact with refugees who live mainly undetected in Italy.
- 6 The approach described here as ‘hanging out’ comprises interpersonal and informal encounters with refugees. The emphasis is on listening without “claiming definitely to represent them” (p. 49). Graeme Rodgers: ‘Hanging out’ with forced migrants: methodological and ethical challenges. In: *Forced Migration Review*, 21, pp. 48–49.
- 7 The concept of liminality was first developed by Arnold Van Gennep and later expanded by Victor Turner. Van Gennep describes rites of passage as having a three-part-structure – separation, transition and incorporation. Turner entirely focuses on the middle stage of rites of passage, the transitional or liminal stage. “(...) *liminality* represents the midpoint of transition in a status-sequence between two positions” and as such it is a temporary state that ends when the individual is reincorporated into the social structure. Cf. Victor Turner: *Passages, Margins and Poverty: Religious Symbols of Communitas*. In: *Dramas, Fields and Metaphors: Symbolic Action in Human Society*, Ithaca, Cornell 1974, p. 237; emphasis in original.
- 8 The Refugee Support Service provides assistance to migrants both in the community and residential settings.

organisations. I was able to gain insight into the current political agendas of Maltese migration policies by attending some events and talking to various people working in the field of migration. Through my research in the community I was brought into contact with David, who lived in Malta since 2013 with a “double reject”.⁹ The ‘snowball’ technique was used thereafter to obtain further contacts as well as by joining migration-related events, e.g. a demonstration of refugees demanding long-term residence. Initial contacts with refugee women were made with the support of members of a migrant organisation. Encounters with female asylum seekers, who are accommodated in so-called open centres, were very difficult because the management of these centres refused my access. Finally, during my third research visit, I was able to negotiate access to an open centre run by a church with the permission of the head of the organisation that managed this centre.

To further contextualize the research, I conducted qualitative interviews with 23 institutional actors, comprising representatives of national and international NGOs, government agencies, church-related organisations as well as migrant organisations. Further information was gained by informal conversations with various persons e.g. other locals, staff, volunteers, students, researchers and so on. The media discourse during my visits was symptomatically considered. Press articles and reports but also political and human-rights-based publications were subject to a secondary analysis, which adopts a procedure that confront the text corpus with questions and assumptions rather than dissecting itself. The selection was made ‘along the way’ and in dealing with the tensions and irritations in the field.¹⁰

In the following, I draft the development of the above-mentioned limbo within the Maltese context. I then illuminate the life situation of rejected asylum seekers relating to their access to housing and employment.

9 An asylum seeker whose claim has been rejected may lodge an appeal to the Civil Court. In case the appeal is also rejected, this is commonly known as holding a “double reject”.

10 According to the criteria of the Ethnographic Border Regime Analysis referring to Hess, Tsianos 2010 (see fnnt. 5).

Deportation Gap

Europe is characterised by its inconsistent development of opening and expanding the borders. In the process hybrid spheres are shaping up and are leading to phenomena of liminality. Especially in terms of irregularised migration this phenomenon is immanent. Over the past decade the concept of “migration management”¹¹ has established itself in the field of international migration policies to enhance the “benefits” of migration and reduce its “disadvantages”.¹² Deportations have been a fixed means of migration management within several Western democracies since the 1990s.¹³ Scholars describe this development as the “deportation turn”.¹⁴ In the past years, however, it has been stated that there is a clear gap between the numbers of notice of returns and effective removals.¹⁵ This disparity is called the “deportation gap”¹⁶ and is caused by various legal and practical factors, e.g. refusal of certain certificates of the country of

- 11 According to Fabian Georgi the key concept of “migration management” has been characterised mainly by the International Organisation for Migration (IOM), c.f. Fabian Georgi: *Kritik des Migrationsmanagements. Historische Einordnung eines politischen Projekts*. In: *Netzwerk MiRa: Kritische Migrationsforschung? Da kann ja jedeR kommen*, 2012, <http://edoc.hu-berlin.de/miscellanies/netzwerk-mira-38541/all/PDF/mira.pdf>, pp. 153–163, p. 147 (accessed 23.11.2016).
- 12 Johannes Krause: *Das Sterben an den EU-Außengrenzen – Die Normalität in der Abnormalität*. In: *Netzwerk MiRa: Kritische Migrationsforschung? Da kann ja jedeR kommen*, 2012, <http://edoc.hu-berlin.de/miscellanies/netzwerk-mira-38541/all/PDF/mira.pdf>, pp. 189–200 (accessed 23.11.2016).
- 13 Cf. Alice Bloch, Liza Schuster: *At the extremes of exclusion deportation, detention and dispersal*. *Ethnic and Racial Studies*, 28, 3, 2005, pp. 491–512; Liz Fekete: *The deportation machine: Europe, asylum and human rights*. *Race and Class*, 2005, 47: pp. 64–78; Matthew J. Gibney, Randall Hansen: *Deportation and the liberal state: the forcible return of asylum seekers and unlawful migrants in Canada, Germany and the United Kingdom*. UNHCR Working Paper, 77, 2003, <http://www.unhcr.org/3e59de764.html> (accessed 23.11.2016).
- 14 Cf. Matthew J. Gibney: *Asylum and the Expansion of Deportation in the United Kingdom*. In: *Government & Opposition*, 43, 2, 2008, pp. 146–167, here: p. 146; Emanuela Paoletti: *Deportation, non-deportability and ideas of membership*. University of Oxford, Refugee Studies Centre: Working Paper Series No. 65, 2010, pp. 1–28.
- 15 Cf. Paoletti 2010 (see note 14); Antje Ellermann: *The Limits of Unilateral Migration Control: Deportation and Inter-State Cooperation*. *Government and Opposition*, 43, 2, 2008, pp. 168–189.
- 16 Gibney 2008 (see *ftnt.* 14), p. 149.

origin or transit as well as human rights based decisions and forms of protest and resistance.¹⁷

The deportation gap can be observed in many European countries. In 2013, more than 230.000 persons were non-deportable.¹⁸ In Malta, 12.360 persons were issued a notice of rejection between 2008 and 2014. In the same time, 2.470 persons were returned to their country of origin or transit.¹⁹ Organised forcible returns are costly and difficult to implement due to a lack of readmission agreements with certain African states.²⁰ Because of security reasons, voluntary return is not a real option for most of the rejected asylum seekers and is thus a contentious issue. For example, this applies to the case of refugees claiming to come from Eritrea, Somalia or the Democratic Republic of Congo.²¹ Non-deportable refugees are in a legal limbo because they neither fit into the 'trias' of citizens, state and territory, nor are they able to leave Malta regulated and travel to mainland Europe, leaving no real opportunity of return^{22, 23} They are relegated to a legal deregulated space between national states. This may lead to a permanent situation with limited access to the job market, basic services and health care.²⁴ The possibility of rendering certain persons more vulnerable to deportations at any time – conceptualised as a condition of “deportability”²⁵, affects like a sword of Damocles on

17 Cf. Brigitte Kukovetz: Nationalstaatliche Legitimation von Zwangsmaßnahmen oder ein Menschenrecht auf Migration? Argumente zur Rechtfertigung oder Ablehnung von Abschiebungen. In: Österreichische Zeitschrift für Politikwissenschaft, 2, 2014, pp. 187–204.

18 Eurostat: Statistics on enforcement of immigration legislation, 2015, http://ec.europa.eu/eurostat/statistics-explained/index.php/Statistics_on_enforcement_of_immigration_legislation (accessed 9.6.2016).

19 *ibid.*

20 Cf. Maria Pisani, Anna Giustiani: Programmes and Strategies in Malta fostering Assisted Return to and Reintegration in Third Countries. Valletta 2009.

21 Cf. Mark-Anthony Falzon: Return Policy in the Mediterranean Region. Report of Survey Among Irregular Migrants in Malta. Rome: IOM 2007.

22 Both voluntary return and deportation.

23 Cf. Mario Cardona: You will always have the poor among you: A report about poverty in Malta. Centru Fidi u Gustizzja, Valletta 2010.

24 Cf. EU Agency for Fundamental Rights (FRA): Die Grundrechte von Migranten in einer irregulären Situation. Luxembourg, 2011.

25 Nicholas De Genova: Migrant “Illegality“ and Deportability in Everyday Life. In: Annual Review of Anthropology, 31, 2002, pp. 419–447.

refugees living with an irregularised status. Following Turner's concept of liminality, non-deportable rejected asylum seekers are "betwixt and between".²⁶ They are neither part of their past society nor yet fully of the new society. The rehabilitation into a stable state is prevented: the emergency state is not only transitory, but becomes permanent which leads to social exclusion. This is also sanctioned by the EU-Return Directive: "there is no mechanism intended to determine a legal limbo caused by prolonged non-deportability."²⁷ A legalisation is not provided even after certain years of irregularised residence in Malta. Only in very few cases, rejected asylum seekers subsequently obtain protection status. Yasmine received refugee status in April 2015 after 14 years living with a double reject in Malta. Due to the present political situation in Syria, she first obtained a three-years limited refugee status. While she was showing me her refugee recognition certificate she said: "This piece of paper does not mean anything to me. After living fourteen years with a double reject, I'm still feeling rejected. There is always the fear of deportation. Only citizenship would give me security. [Yasmine was pointing her finger at her daughter] You see, she is going to college now (...) The past few years we were working quite hard to make life as normal as possible."²⁸ This example illustrates that the nation state may not only have the power to grant human rights but also the power to regulate and curb them²⁹ by limiting the refugee status initially to three years. Only the full participation of rights in terms of citizenship³⁰ would dispel her fear of deportation. Yasmine is not a formal citizen of the state, nor is she a formal citizen of the EU. As Maria Pisani writes, "Citizenship formally assigns the equality of rights of all citizens [and] thus represents a state-sanctioned form of

26 Turner 1967 (see ftnt. 7)

27 FRA 2011 (see ftnt. 24), p. 7; own translation from German

28 Interview with Yasmine in July 2015

29 In practice, human rights are subordinated to citizenship. Only members of a certain enclosed community benefit from access to human rights. Cf. Julia Schulze Wessel: Staatsbürger/innen ohne Staatsbürgerschaft. In: Heinrich Böll Stiftung. Ideologien der Ungleichheit. Berlin 2016, pp. 231–234, p. 232 f.

30 Following Engin Isin I understand citizenship not only as a political and legal institution but also as "the right, to claim rights". Cf. Engin Isin: Citizens without frontiers. New York 2012, p. 109.

discrimination.”³¹ Here, citizenship is defined as both an object of closure and an instrument. Communities are bounded and thus exclusive.³² A manifestation of this closure can be found in the practice of deportations defined as a “normalized and standardized technique of state power”³³ to deal with ‘failed asylum seekers’³⁴ and to justify the state’s authority within national borders.³⁵ According to Emanuela Paoletti “(...) there are reasons to believe that the current system leaves a number of people in an ambiguous legal status that defies clear-cut categorizations between citizens and non-citizens.”³⁶ Therefore, it is important to refer to the notion of *legal status* to understand the lives of rejected asylum seekers.

Border Regime Malta

Malta is a Southern European island state in the Mediterranean located between Libya and Italy. The Maltese archipelago consists of the inhabited islands Malta, Gozo and Comino and several uninhabited islands. Malta is the smallest EU-member state with 423.000 residents on 316 square kilometres and the fifth largest population density of the world. Although the first refugee boats arrived on Maltese coasts in the late 1990s, records of arrivals state the year 2002 as the onset of boat arrivals. From the beginning, the Sub-Sahara-African (SSA) “klandestini”, as they are colloquially called, have come to embody the “other”. Malta’s response to immigration is marked by a restrictive political discourse

- 31 Maria Pisani: Addressing the ‘Citizenship Assumption’ in Critical Pedagogy: exploring the case of rejected female sub-Saharan African asylum seekers in Malta. In: *Power and Education*, 4, 2, 2012, pp. 185–195, p. 189.
- 32 See also Paulina Tambakaki: *Human rights, or citizenship?* Abingdon 2010.
- 33 Nicholas De Genova, Nathalie Peutz: *The deportation regime: sovereignty, space, and the freedom of movement*. Durham 2010, p. 6.
- 34 As well as foreigners convicted of crimes, c.f. Matthew Gibney, *Asylum and the expansion of deportation in the United Kingdom*. In: *Government and Opposition*, 43, 2, 2008, pp. 139–143, p. 146)
- 35 Cf. Paoletti 2010 (see ftnt. 14), p. 6.
- 36 *Ibid.* p. 15.

and a displacement of immigrants to the margins of society.³⁷ The rise of far right-wing parties and the reappearance of nationalist discourses have led to increasing islamophobia and xenophobia as well as racism against immigrants.³⁸ Although Malta can look back on a long and manifold historical sequence of migrations, it refutes its Muslim past. Despite its geographical and linguistic proximity, “the Maltese choose to define themselves as Latin European rather than ‘Arab’.”³⁹ The centuries-old Eurocentric-Christian hegemony was embedded within the Maltese national consciousness over time. This cultural context shapes Malta’s response to transnational refugees.⁴⁰

It seems that Malta, being a micro-state, feels threatened by the arrival of mainly SSA immigrants as grounded in three forms: first, the threat of being overwhelmed by the high number of immigrants in a small space; second, demographic instability as a presumed result of it and third, possible economic losses marked by limited export markets and less influence in the global market. Each of these threats, which are negotiated by politics and the media, may have serious implications for policy development.⁴¹ The political discourse of Malta has constantly emphasised securitisation and the need to protect against dangerous and

- 37 Among others Silja Klepp: *A Double Bind: Malta and the Rescue of Unwanted Migrants at Sea, a Legal Anthropological Perspective on the Humanitarian Law of the Sea*. In: *International Journal of Refugee Law*, 23, 3, pp. 538–557; *Human Rights Watch: Boat Ride to Detention. Adult and child migrants in Malta*, 2012, <https://www.hrw.org/report/2012/07/18/boat-ride-detention/adult-and-child-migrants-malta> (accessed 18.7.2016).
- 38 Cf. Maria Pisani: “We are going to fix your vagina, just the way we like it.” Some reflections on the construction of (sub-saharan) african female asylum seekers in Malta and their efforts to speak back. In: *Postcolonial Directions in Education*, 2, 1, 2013, pp. 68–99, p. 78.
- 39 Maria Pisani: There is an elephant in the room and she’s ‘rejected’ and black: observations on rejected female asylum seekers from sub-Saharan Africa in Malta. In: *Open Citizenship*, 2, 2011, pp. 24–51, p. 31
- 40 Among others cf. Russell King: *Geography, Islands and Migration in an Era of Global Mobility*. In: *Island Studies Journal*, 4, 1, pp. 53–84, p. 68 ff.; Alison Gerard: *The Securitization of Migration and Refugee Women*. London, New York 2014, p. 19.
- 41 Cf. Edward Warrington: A capacity for policy management: Reappraising the context in micro-states. In: *Asian Journal of Public Administration*, 16, 1, 1994, pp. 109–133.

unwanted invaders⁴²: “Given Malta’s size you cannot expect the government to release illegal immigrants into the streets, especially in light of increasing numbers. This would send the wrong message and spell disaster for the country... As a Minister I am responsible, first and foremost, for the protection of Maltese citizens.”⁴³ The issue of limited space and the recurring argument of Maltese politicians that “Malta is too small” were used as a legitimisation for an unexceptional policy of detention of every asylum seeker entering Malta not under legal regulations. According to the Ministry of Justice and Home Affairs, detention is necessary “in the interests of national security or public safety”⁴⁴, although “irregular entry” to Malta is not punishable.⁴⁵ As the only country within the EU, Malta automatically issued unregulated⁴⁶ entered asylum seekers with a deportation order⁴⁷ and detained them up to 18 months directly after their arrival.⁴⁸ In 2016, Malta’s reception and detention policy has been reviewed in accordance with “the safeguarding of national security and public health, as well as human rights and humanitarian considerations.”⁴⁹

42 Cf. Pisani 2013 (see *fn*nt. 38), p. 78.

43 Minister for Justice and Home Affairs (Now: Ministry of Home Affairs and National Security) quoted in Claudia Calleja: Doing away with detention would spell disaster. In: Times of Malta, 18.4.2009, <http://www.timesofmalta.com/articles/view/20090418/local/doing-away-with-detention-would-spell-disaster.253274> (accessed 23.12.2015).

44 MJHA 2005 quoted in Silja Klepp: Europa zwischen Grenzkontrolle und Flüchtlingsschutz: Eine Ethnographie der Seegrenze auf dem Mittelmeer. Bielefeld 2011, p. 169.

45 Amendment: according to the Geneva Convention (1951) compulsory migration does not require a “regular entry”.

46 When necessary I use the term ‘unregulated’ instead of ‘irregular’, ‘illegal’ or ‘undocumented’, in order to first, avoid criminalisation of forced migration (see footnote above). The term ‘undocumented’ is also problematic, as it can mean either refugees who have been documented or refugees without documents. In Malta, an individual is documented upon applying for asylum. Also in case of an infeasible deportation rejected asylum seekers are registered with the Immigration Police. Noting, that there may also be cases where they are undocumented.

47 Deportation order was suspended during the asylum process.

48 Cf. Cetta Mainwaring: Constructing a Crisis: the Role of Immigration Detention in Malta. *Population, Space and Place*, 18, 2012, pp. 687–700; Stephen Calleja, Derek Lutterbeck: Managing the challenges of irregular migrants in Malta. Valletta, 2008, <http://www.tppi.org.mt/~user2/reports/Irregular-Migration/Report.pdf> (accessed 9.7.2016).

Newly arrived unregulated entered individuals are accommodated at an Initial Reception Centre for eight to ten days. After medical clearance and determination of their vulnerability, vulnerable persons are accommodated in an open centre. All those who are declared as non-vulnerable, will be detained up to a maximum of nine months.⁵⁰ ⁵¹ All asylum seekers, including those who are rejected, will be released from detention and will be offered accommodation in the open centre with the allowance to reside for up to twelve months. Afterwards asylum seekers have to find their own accommodation in the community.⁵² Since a deportation is unlikely, any duration of detention seems to be disproportional and hard to justify.⁵³ Nevertheless, the political discourse remains restrictive. After joining the EU in 2004, Malta constantly called other Member States for ‘burden sharing’ and reviewing the Dublin Regulation, as Malta does not have the resources or space to deal with the number of arrivals.⁵⁴ In contrast to other “frontier” islands of the EU⁵⁵, which are also confronted with boat arrivals, Malta has no “mainland” into which it could distribute the refugees arriving on its territory. Thus, Malta primarily serves as a “de facto destination (...) [rather than a] final destination.”⁵⁶ Most of the refugees arriving in Malta by boat had planned to arrive in Italy and the open European space of the Schengen area.⁵⁷ Their arrival in Malta is by

- 49 Ministry for Home Affairs and National Security (MHAS): Strategy for the reception of asylum seekers and irregular migrants. Valletta 2016, p. 7.
- 50 *ibid.* p. 10; Detention in terms of the return procedure shall be of six months, which may be extended by a further twelve months (cf. Common Standards and Procedures for Returning Illegally Staying Third Country Nationals Regulations, SL 217.12)
- 51 The majority of the refugees I met have spent at least 10–12 months in detention.
- 52 Cf. Giacomo Orsini: *Becoming Border. Dynamics and Effects of the Building of the European External Border in a Recently Accessed EU Member State: the Malta Case Study.* East Bord Net. Working Paper, 2013, p. 14 et seq.; MHAS 2016 (see *fn* 49), p. 9 et seq.
- 53 During my last stay in Malta in April 2016 only two persons have been detained in a facility which can hold up to 840 persons.
- 54 Cf. Kurt Sansone: *Malta will try to persuade EU of migrant emergency.* In: *Times of Malta*, 3.11.2011, <http://www.timesofmalta.com/articles/view/20110403/local/malta-will-try-to-persuade-eu-of-migrant-emergency.357977> (accessed 23.11.2016).
- 55 Sicily, Lampedusa, Canary Islands
- 56 Derek Lutterbeck: *Small Frontier Island: Malta and the Challenge of Irregular Immigration.* In: *Mediterranean Quarterly*, 20, 1, 2009, pp. 119–144, p. 123.

chance. Due to bad weather conditions or other unpredictable incidents, many do not arrive at their destination. Throughout the travel from North Africa to Italy, they almost automatically cross the huge Maltese Search-and-Rescue (SAR)-region. “We never planned to come here. I heard about Malta the first time when we were rescued”⁵⁸, Blaze told me. Since 2014 the numbers of boat arrivals decreased whereby air arrivals are rising.⁵⁹ According to a staff officer of the Armed Force of Malta (AFM), the decreasing boat arrivals in Malta are caused by changing “modus operandi of the smugglers”⁶⁰ and as a result “The nature of the [rescue] operations have shifted southwards (...) The rescue and distress starts [now] inside the Libyan territories (...) Before they [refugees] used to reach Lampedusa or Malta almost by themselves.”⁶¹ In contrast, representatives of national NGOs trace the lower boat arrivals to a “secret migrant deal”⁶²: “In Malta, it is calm because of the secret agreement between Italy and our government (...) On the one hand, we know that Italy is taking in most rescued migrants on the Central Mediterranean route, on the other hand, we don’t know yet what Malta must compromise in return.”⁶³ Regardless of whether or not such agreements or calls of burden sharing are answered, the rejected asylum seekers will remain in Malta in a permanent state of uncertainty. This also has effects beyond labour participation and access to social services. All spheres of life and

57 Cf. Mark-Anthony Falzon: Immigration, Rituals and Transitoriness in the Mediterranean Island of Malta. In: *Journal of Ethnic and Migration Studies*, 2012, pp. 1661–1680.

58 Documented conversation with Blaze in October 2015.

59 UNHCR: Malta Asylum Trends. Real Time. Boat Arrivals/Rescued, 2016, <http://www.unhcr.org/mt/charts/category/12> (accessed 9.6.2016).

60 Interview with a staff officer of the AFM in April 2016.

61 *ibid.*

62 “While the Maltese government has denied the existence of such a deal, Home Affairs Minister Carmelo Abela originally said that there was an informal agreement between the two countries, later changing tune and corrected himself, saying there was ‘close collaboration’.” Cf. Kevin Schembri Orland: Malta-Italy migration ‘secret deal’ resurfaces in the international media. In: *The Malta Independent*, 9.4.2016, <http://www.independent.com.mt/articles/2016-04-09/local-news/Malta-Italy-migration-secret-deal-resurfaces-in-the-international-media-6736156026> (accessed 28.11.2016).

63 Interview with the Vice Executive Director of a local NGO in April 2016; own translation from German

social interaction of asylum seekers are influenced by this non-status respective limbo. This results in a permanent state of exception without prospect of inclusion. Social participation into Maltese society does not appear to be on the agenda as this would go against the postulated deportation policy: “(...) the rejected asylum seeker is the elephant in the room, and ignoring [this] reality simply serves to increase marginalisation and obstruct social cohesion.”⁶⁴

Life in Limbo

The following section focuses on the narratives of the 22 refugees I met during my ethnographic research in Malta. More than half of them have been living in Malta for more than ten years. During my research two participants obtained refugee status. As already mentioned in the beginning of this paper, one refugee obtained refugee status after fourteen years of being rejected twice, and another one after two years in the appealing process during which I wrote this paper. A third person received Temporary Humanitarian Protection New (THPN) after ten years. THPN is a national form of protection “granted to applicants who do not satisfy the conditions for Refugee status or Subsidiary Protection (...) but who nonetheless should not be returned in view of humanitarian considerations.”⁶⁵ It is given after at least five years of stay and is limited up to one year. THPN may be granted for minors, for medical reasons or on other humanitarian grounds.⁶⁶ More than half of the refugees I met have a double reject. A few refugees are in the appealing process and hoping for THPN even if the probability is quite low to obtain a protection status after being rejected. THPN is not contained in any law, so it

64 Pisani 2011 (see *ftnt.* 39), p. 38.

65 European Migration Network: The practice in Malta concerning the granting of non-EU harmonised protection, 2009, p. 10, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/non-eu-harmonised-protection-status/18.-malta-national-report-non-eu-harmonised-forms-of-protection-version-9sept09-en.pdf (accessed 19.7.2016).

66 Interview with the Refugee Commissioner of Malta in April 2016.

is quite dependent on the Refugee Commissioner's discretion.⁶⁷ Due to their frequent exclusion from parts of society, whether through racism or state-sanctioned policies of exclusions, they remain in a liminal space. I apply Turner's concept of liminality to describe the refugees' transitional phase, that is, being "neither here nor there, betwixt and between all fixed points of classifications."⁶⁸ I term this phase: being in a limbo.⁶⁹

Based on access to housing and employment, I consider in the following section how life in limbo challenges the agency of rejected asylum seekers and can push them to the margins of society. Further, I outline various forms of solidarity and action of the refugees in order to increase their well-being.

Access to housing

The access to adequate housing is a fundamental right, which is denied to irregularised migrants within the Stockholm Programme⁷⁰. Immanent

67 On 1st of October 2016 a new Refugee Commissioner has been appointed and launched a review of the THPN. According to the media and statements of representatives NGOs were wholly excluded from this review and do not know any details of it yet. The MHAS has decided that all THPN holders whose certificates expire during the review will not have their THPN renewed. Cf. among others Aditus – accessing rights: Non-renewal of Temporary Humanitarian Protection N status... what's going on? Website of the NGO aditus, 15.11.2016, <http://aditus.org.mt/non-renewal-temporary-humanitarian-protection-n-status-whats-going/> (accessed 28.11.2016); Times of Malta: No more Temporary Humanitarian Protection-N for failed asylum seekers. Ministry failing to appreciate human, social, economic repercussions of decision – NGOs. 19.11.2016, <http://www.timesof-malta.com/articles/view/20161119/local/no-more-temporary-protection-certificates-for-failed-asylum-seekers.631449> (accessed 28.11.2016).

68 Turner 1974 (see fnnt 7), p. 232.

69 Some scholars have already taken up Turner's phrase "betwixt and between" to illuminate the in-between period, location and experience of transition of immigrant groups. Cf. Thomas H. Eriksen: *Ethnicity and Nationalism: Anthropological Perspectives*, London 1993/2002, p. 62; Bjørn Thomassen: *The Uses and Meanings of Liminality*. In: *International Political Anthropology*, 2, 1, 2009, pp. 5–27, p. 19.

70 The Stockholm Programme was passed in 2009 and highlights the objective of more efficient policies to combat "irregular migration" as a key element of EU immigration policy. Among others EU-Member States commit to strengthened return procedures of "irregular migrants".

differences in policy and practices referring to eligibility to housing can be seen among the EU-Member States.⁷¹ Member States can be divided into two groups: first, those which provide non-deportable refugees a form of housing and second, those that do not offer any form of housing. According to the EU-Agency of Fundamental Rights, Malta is assigned to the first group because upon release from the detention centre, rejected asylum seekers are accommodated in one of the open centres.⁷² Most of the refugees I met lived in shared private apartments in small towns across the Maltese island. Mainly single women with children lived in a church-based open centre. Others were accommodated in a refugee house, which is also run by a church. Gabriel told me, that he tried to leave the open centres as soon as possible: “After detention, I spent only a few weeks in the open centre. You have to share your room with people you don’t know, you’re not even allowed to set up a radio without asking one of the social workers. There are cameras everywhere, so no privacy at all. And you are not allowed to get visits from friends, no foreigners are allowed to come inside. So why is it called an open centre then? As soon as I found a job, I moved into my own apartment. I don’t want to be dependent on them.”⁷³

But especially SSA migrants have trouble finding affordable rented accommodations due to racism. In November 2011, an advert was posted on a Real Estate Website with the sentence “No Arabs, blacks or young boys”. Although the advert caused considerable offence to the general public, the Real Estate only had to delete the advert and did not have to fear any further consequences.⁷⁴ According to a study of the National Commission for the Promotion of Equality (NCPE), discrimination caused by origin in the housing market is quite common in Malta: “The majority of respondents who experience discrimination on the basis

71 Cf. FRA 2011 (see fn. 24), p. 74 et seq.; Cf. Gioia Scapucci: Access to housing for undocumented migrants. Decision of the European Committee of Social Rights in Defence for Children International v. the Netherlands. In: Sergio Carrera, Massimo Merlino: Assessing EU Policy on Irregular Immigration under the Stockholm Programme. CEPS 2010, p. 29.

72 Cf. FRA 2011 (see note 24), p. 76.

73 Documented conversation with Gabriel in July 2015.

74 Cf. Christian Peregin: Police probe ‘racist’ advert. In Times of Malta, 1.1.2012, <http://www.timesofmalta.com/articles/view/20120101/local/Police-probe-racist-advert.400514> (accessed 5.1.2016).

of race/ethnic origin claimed to have been discriminated against in the sphere of accommodation. In all cases, the perpetrator of the discrimination was the potential landlord.”⁷⁵ When I met David for the first time, he shared a house with international students. He told me that it was not easy to find accommodation, but their Maltese landlord would be a “good guy”. One day when I sat with David in the kitchen, somebody rang at the door and asked for a place to sleep. The person heard that there could be a free bed in David’s home. “Sometimes we have enough space to host somebody for a few nights or there is a room available for rent. That’s the way it works. One good turn deserves another”⁷⁶, David told me. This form of solidarity enables refugees to enhance their well-being at least for a short period to thwart the discriminating exclusions of the housing market.

Once the service agreement with an open centre is terminated, and rejected asylum seekers live in the community, they do not have a financial or social safety net to fall back on. There is no right to re-enter an open centre, although some open centres offer further short term stays due to capacity and goodwill. As mentioned above, six of the accompanied refugees lived in an open centre with short-term contracts. Most of the times I met the female refugees in their rooms or in common areas of the open centre. “A resident of the open centre guides me through the house to bring me to Sacdiya. The corridors and the common areas are big. Everything looks quite old, run down and very filthy. Sadicya is preparing supper in the common kitchen for her son. She is very welcoming, offers me a cup of coffee and brings me to her room. The room is small and narrow. The wall facing the corridor is only three-quarter-high and a cloth is separating her room from the hall. So kitchen smells and noises from the corridor from the other four residents of this wing unavoidable enter the room (...) The paint is peeling of the walls and the stone floor looks filthy. ‘It’s no good here’ she is saying.”⁷⁷ But even if the house is in a poor condition, Sacdiya is thankful for having the opportunity to

75 NCPE quoted in Christian Peregin: Qawra flat for rent... but no Arabs or Blacks please. In: Times of Malta, 14.11.2011, <http://www.timesofmalta.com/articles/view/20111114/local/Qawra-flat-for-rent-but-no-Arabs-or-blacks-please.393641> (accessed 8.1.2016).

76 Documented conversation with David in July 2015.

77 Record of my fieldnotes in October 2015.

stay there with her son. She could not afford to rent an apartment. By means of community structures in the centre, information is passed on and the women help each other out. However, sometimes conflicts arise which open up potential abuse of confidence and patronage. “We are sharing food and cooking together, but we are no friends. It’s hard to find real friends here”⁷⁸, Sacdiya said. The situation is particularly desperate for (single) women with small children who have no access to childcare facilities and therefore find it difficult to find employment. Simultaneous interactions of social inequalities and the interdependences of *gender*, *race*, *class* and *legal status* get immanent at this point.⁷⁹ It is even more precarious for them since no child allowance or financial contribution is available to them. In comparison to refugees with protection status, they have an even greater risk of destitution or poverty because their rights are not specifically regulated by law. As soon as a female refugee leaves an open centre, she is essentially alone. This concerns especially West African refugees because of repatriation agreements between Malta and certain African states. To give an example, rejected Nigerian asylum seekers take offers of social institutions only rarely, because the ‘invisibility’ provides a certain sense of security. At the same time, they have moved away from key services that may offer some kind of support in times of need. “I only go there if I have to. I don’t want them to be in the driving seat, you know?”⁸⁰, Grace stated. The situation is different for Somali refugees. Due to present circumstances, deportations are difficult to enforce, which is why rejected Somali asylum seekers do not have to fear deportations: “With some people like the Nigerian community, the sense of insecurity is very pronounced and it’s linked very much to the risk of being returned because it is a very real risk (...) The Somalis (...) their insecurity is not linked to the fear that tomorrow I will be returned (...) Their insecurity is linked precisely to the fact that they don’t have a clear legal status. Tomorrow I can go to the hospital and they can tell me I have no legal rights”⁸¹, the Director of an International Catholic

78 Documented conversation with Sacdiya in October 2015.

79 Cf. Nina Degele, Gabriele Winkler: Intersektionalität als Mehrebenenanalyse, 2007, <http://portal-intersektionalitaet.de/theoriebildung/schluesselfexte/degele-winkler/> (accessed 9.6.2016).

80 Documented conversation with Grace in October 2015.

81 Interview with the Director of an International Catholic Organisation in July 2015.

Organisation told me. The permanence of limbo becomes very obvious at this moment. Certain rejected asylum seekers have to fear a potential deportation also after years of living in Malta. It does not matter if they have built on their lives, worked regularly and established social contacts. Blaze, who temporarily lives with his family in an open centre, told me about one of his friends: "Since last week my friend is in detention waiting for deportation. He was living in Malta for eight years and had a good life. He was always working with a work permit and was sending money back home to his family every month. His wife and kids are back home. They cannot survive without this money. He is so desperate about this situation. (...) It could be me next time even if I've been in Malta for five years now. I'm registered here, they know where I live."⁸² Again, the interdependences of *race* and *legal status* are set off clearly.

Access to Employment

Generally, Malta passes a restrictive policy with severe conditions for the issuance of employment licences to third country nationals. For rejected asylum seekers, the government was adopting a policy of providing permits for 'regular work', which are valid for three months and can be renewed on their own costs. The difficulty is that only the employer can apply for this permit in the name of the employee in order to employ a rejected asylum seeker. The work permit is a licence pending deportation and does not regularise the legal status. Furthermore, it does not allow rejected asylum seekers to register for work which makes it difficult to make contact with potential employers.⁸³ In summer 2016, the voluntary migrant organisation African Media Association Malta therefore created an online skills register which "interviews and identifies migrants, and records their skills with the intention of creating useful resource for potential employers needing those skills, and to give the migrants an opportunity to work."⁸⁴ Besides the register, part of this project entails

82 Documented conversation with Blaze in April 2016.

83 Cf. Pisani 2011 (see fnnt. 39), p. 44.

84 The Skilled Migrant, a project by the African Media Association Malta funded by the Small Initiatives Support Scheme (SIS) and managed by the Malta Council for the Voluntary Sector (MCVS), <http://theskilledmigrant.com> (accessed 21.12.2016).

offering free training in cooperation with various institutions. In December 2016, the first workshop took place with its emphasis on personal skills and work ethics as well as the importance of education as improvement and critical thinking.⁸⁵

But even if formal employed refugees contribute to national insurance, they do not qualify for unemployment benefits, sickness benefits, child allowance or any pension as Tayeb told me: “Malta is a big problem. I’ve paid my taxes for nearly ten years but still no benefit. Ten years in Malta and no passport. But they always keep me working and I pay national insurance since 2005 but I get nothing. After ten years I should have the right by law. I have work permit and pay taxes like everybody else. But no benefits, no pension, no child allowance, nothing.”⁸⁶ It seems that this policy was implemented primarily to benefit from their labour supply and “as a means of monitoring the rejected asylum seeker population in the event of forced return.”⁸⁷

According to a study, most migrants living in Malta are particularly vulnerable to being ‘working poor’. Refugees in particular are at an increased risk of becoming poor although they are working.⁸⁸ They are confronted with racism, exploitation in low-skilled jobs with poor working conditions because “the policies allow a broad scope of exploitations for potential employers. Particularly for rejected cases ... because they need an approval of the future employer to obtain their employment licence (...) But there are also a lot of exploitations in the informal sector, many people are waiting as day labourers at the roadside. I’ve heard of people who were working a whole day for a bottle of coke and a ftira [maltese bread]. People are looking for jobs so desperately because this is the first possibility to get out of the open centres and live independently”⁸⁹, the Vice Executive Director of a local NGO was stating.

85 Cf. African Media Association: “Roots of Education are bitter, but the fruit is sweet”. Website of the organisation, 16.12.2016, <http://africanmediamalta.com/wordpress/?p=897> (accessed 21.12.2016).

86 Interview with Tayeb in July 2015.

87 Pisani 2011 (see fnnt. 39), p. 44.

88 Cf. Anna Borg: Working Poor in Europe – Malta. EurWork, 2010, <http://www.eurofound.europa.eu/observatories/eurwork/comparative-information/national-contributions/malta/working-poor-in-europe-malta> (accessed 4.1.2016).

89 Interview with the Vice Executive Director of a local NGO in July 2015; own translation from German.

While male rejected asylum seekers mainly find work in the construction industry and manual labour, it is more difficult for female refugees to find a job. Four of the refugee women I met are employed. In all cases they do not have any professional training and only finished compulsory schooling, which is why they are paid as temporary workers. Some of them are only working informally because the employer was refusing to make a contract. This can be due to the fact that employees with protection status are preferred because they are issued a prolonged work permit, an NGO member told me. Senait works as a chambermaid in a five-star-hotel. Each eight-hour day she has to clean seventeen rooms and is getting a daily wage of 45 Euro. Sacdiya cleans a supermarket at night for 3,50 Euro per hour. While she is working her two-years-old son sleeps alone in the open centre. "I'm happy to have a job. I bought some new curtains and this blanket to make my room more comfortable"⁹⁰, Sacdiya told me, having in mind that she felt ashamed about the state of her room when I visited her the first time a few months ago. Most of the women I met were unemployed. Illiteracy and lack of language knowledge as well as discrimination of Muslim women for wearing the veil prevent them from obtaining employment. Complimentary language courses are only offered by NGOs or volunteers and mainly only to refugees with protection status because the invested EU grant funds are bonded to the status. Refugees are mutually offering translation services, and receive in exchange payment or equivalent benefits.

The lack of possibilities of childcare services constitutes another challenge for families and especially single female refugees. There is no legal obligation for the provision of childcare services because pre-school education is not mandatory.⁹¹ Besides private childcare centres, which are subject to a fee, there are free government-funded institutions since mid-2014. However, this childcare service is only available to families where both parents or single parents can show an employment contract. Moreover, the opening hours of the centres are not compatible with an eight-hour workday and are not evenly spread across the island. Parents, who have to rely on public transport, may find it difficult to take their children

90 Documented conversation with Sacdiya in April 2016.

91 Cf. Ministry for Education and Employment: Early childhood education & care in Malta: The way forward. n.d., p. 18.

to childcare centres if these are far from their workplace or locality.⁹² Travel expenses pose a problem especially for rejected asylum seekers with a low or zero income. An African Christian revival parish offers hourly care facilities for children under three-years-old, although they are not supplying the demand. The oratory is not only used for worship, but also for a meeting place to exchange experiences and to find practical support among the refugees. Some of my interviewees are mutually taking care of their children and charge about five to ten Euros per day of care per child. But for many also this arrangement is too expensive. I met Hana, a single mother of a four-year-old son. Her only income was the voluntary, monthly maintenance of the father of the child in the amount of 120 Euros. Due to a missing employment contract she was not eligible for free childcare. Private care – either by friends or private facilities – was not affordable. She found herself constrained to put her son into a foster family program to find employment: “I can go without much food but not my son. Even if the doctor always says his weight is fine. Working in the hotel without having childcare is not possible. So I asked the welfare office to find a family for my son while I’m working. But I’m afraid that he doesn’t want to come back to me after spending a great life with another family⁹³”, Hana told me. Intersections of *race*, *gender* and *legal status* relate to poverty not only in terms of income, but also in terms of prospects and decision-making opportunities.

“It’s all about the paper”

Due to increasingly restricted rights and only little hope to step out of the margins, the participants in the research find themselves ‘betwixt and between’. The life situation always remains precarious, even if some interviewees whom I met worked in a regulated manner and lived in rental houses. Concrete future plans are impossible and therefore support the argument “always in transit and never settled”.⁹⁴ Being networked is one

92 Cf. Kim Dalli: Free childcare scheme failing to target poorest. In: Times of Malta, 19.5.2015, <http://www.timesofmalta.com/articles/view/20150519/local/free-child-care-scheme-failing-to-target-poorest.568760> (accessed 4.1.2016).

93 Documented conversation with Hana in July 2015.

94 Falzon 2012 (see *ftnt.* 57), p. 1673.

of the most important pillars in the Maltese everyday life of refugees: they take care of their children, they share money, they help each other out by translating or by allowing others to reside at their home. They benefit from community structures by sharing knowledge and creating solidarity. Though community support, the negative effects of their precarious situation can be tared for a certain time. Nevertheless, their lives are substantially confronted by a sense of uncertainty and a feeling of foreign control including a lack of planning abilities for the future. This is also evident in their determination: it comes to a standstill between 'old' life in the country of origin and 'new' life in Malta. Not only mentally, but also physically. In comparison to refugees with a protection status, rejected asylum seekers do not have any travel documents and are therefore limited in their right to move⁹⁵. "It's all about the paper. [...] living in Malta without documents is like walking in a roundabout all the time"⁹⁶, Ebrima was summarising. As Peter Nyers and Kim Rygiel indicate, "Individuals and populations are constituted (...) through the regulation of their movement and through their access to mobility as a resource, as well as their abilities to make claims to rights to movements."⁹⁷ Thus, the governing and regulating of mobility are directly connected to constructions of legal status.⁹⁸ As shown in this article living in a limbo is also a life on demand. Several refugees have to fear deportation every day. "The uncertainty on whether you will be deported or not is very difficult to bear"⁹⁹, said the leader of the Malta Migrants Association, Busra Fouad who is politically involved in paving the way for the rights of rejected asylum seekers. But only a few of the refugees I met were politically active,

95 Which includes also "the right to escape" (Mezzadra 2004) as well as the right to return and also to stay. Cf. Peter Nyers, Kim Rygiel: *Citizenship, migrantischer Aktivismus und Politiken der Bewegung*. In: Lisa-Marie Heimeshoff, Sabine Hess et al.: *Grenzregime II. Migration, Kontrolle, Wissen. Transnationale Perspektiven*. Berlin, Hamburg 2014, pp. 197–216, p. 200.

96 Documented conversation with Ebrima in July 2015.

97 Peter Nyers, Kim Rygiel (Ed.): *Introduction. Citizenship, migrant activism and the politics of movement*, 2012, pp. 1–19, p. 3.

98 Cf. Nyers, Rygiel 2014 (see note 95), p. 200.

99 Quoted in Tim Diacono: 'Protect the lives you've saved' – migrants in racism protest. In *Malta Today*, 19.7.2015, http://www.maltatoday.com.mt/news/national/55263/protect_the_lives_youve_saved__migrants_in_racism_protest#.VsCtkcfVX4w (accessed 26.5.2016).

which were some that took part in the previous mentioned demonstration. The high level of surveillance that is part of living on a small island also limits the possibility of exercising political agency. Most try to keep their head down fearing to bear the consequences of the appropriation of power. Relating to Dimitris Papadopolous and Vassilis Tsianos they prefer strategies of “de-identification”¹⁰⁰ compared to the attainment of a formal status.¹⁰¹ In spite of the circumstances, they try to settle down and live a life at the margins. Legal certainty in terms of enforceability of their rights is lacking to actively defend exclusion mechanisms. This is also due to the fact that on an island, it feels as though everyone knows everyone else, and the constant feeling of being the ‘other’ and unwanted looms. “In the end I’m only the black animal nobody cares about”¹⁰², explained Dereje. Although there have been positive reactions on the demonstration, there were also reactions of discomfort: “They should thank their lucky stars that we are tolerating them. Now they protest as well? What next?”¹⁰³ This reaction of an observer exemplifies that political subjectivity, which develops by certain forms of migrant activism, is not intended in the Maltese and European existing order, which is why it is often stigmatised as social disobedience.¹⁰⁴ The protesters claimed the right as if they would already have it. Following Nyers and Rygiel, they presented themselves as “de facto citizens, despite lacking legal status, political membership or documents of belonging.”¹⁰⁵

100 “But the strategy of de-identification is not primarily a question of shifting identitarian ascriptions (...) [it] is a voluntary “dehumanization”, in the sense that it breaks the relation between one’s name and one’s body”, that means, certain refugees without status decide to remain “underground”. Cf. Dimitris Papadopoulos, Vassilis Tsianos: How do to sovereignty without people? The subjectless condition of post-liberal power. In: *Boundary 2: International Journal of Literature and Culture*, 34, 1, pp. 135–172, p. 166

101 *ibid.*

102 Documented conversation with Dereje in October 2015.

103 Quoted in Mark Micallef: „We are part of economy but not of society“ In: *Migrant Report*, 19.7.2015, <http://migrantreport.org/we-are-part-of-economy-but-not-of-society/> (accessed 26.5.2016).

104 See also the analysis of the protest march of refugees from Würzburg to Berlin in 2012, cf. Anna Köster-Eiserfunke, Clemens Reichhold, Helge Schwiertz: *Citizenship zwischen nationalem Status und aktivistischer Praxis*. In: Heimeshoff, Hess et al. 2014 (wie Anm. 95), pp. 177–196, p. 188.

105 Nyers, Rygiel 2012 (see fnnt. 97), p. 9

Quite often the question being raised is how and when Malta can be left, even if it means in an unregulated manner. There is a great desire to end this limbo. If non-deportable refugees leave Malta, they have to live undetected in the country of destination. Thus, they remain in a limbo also beyond Malta. In case authorities pick them up, there is a risk that they will be sent back to Malta due to the Dublin regulation. Back in Malta they would face imprisonment because of “irregular departure” and they would be marked as “illegal” – yet again.

Conclusion

As I pointed out, all spheres of life and sociocultural spaces of action of refugees in Malta are affected by the lack of a clear legal status or transitional status. Structural challenges are complemented by marginalisation dynamics, which seem to be beyond the control of rejected asylum seekers. Often these challenges relate not only to vulnerability, but also to limited agency. Finding one’s life and making long-term plans needs time and resources. If structural and social barriers prevent this process, precarious life situations are created. Ongoing obstacles, in particular brought on by the prevention to secure financial stability, erode the sense of self worth and determination of many refugees. More than half of the refugees I met lived in Malta for more than ten years. They are relegated to the status of “bare life”, lacking the “right to have rights”.¹⁰⁶ According to Giorgio Agamben, they can be described as “homo sacer”¹⁰⁷. The liminal space is the “*space that is opened when the state of exception begins to become the rule*”¹⁰⁸, where “fact and law are intertwined in a zone of indistinction.”¹⁰⁹ By placing certain persons in conditions of ‘deportability’, where they “depend on and are under control of the very authority

106 Hannah Arendt: *Elemente und Ursprünge totaler Herrschaft. Antisemitismus, Imperialismus, totale Herrschaft.* München 2009, p. 614. Own translation from German to English.

107 Giorgio Agamben: *Homo sacer: Sovereign Power and Bare Life.* Redwood 1998.

108 *ibid.* p. 96; emphasis in original.

109 Giorgio Agamben quoted from Kim Ryzgiel: *Globalizing Citizenship.* Vancouver, Toronto 2010, p. 109.

that tries to deport them”¹¹⁰, they turn into “official outlaws”¹¹¹. But limiting non-deportable refugees solely to a role as victims would deny their resilience and strength which they demonstrate when coping with the above-mentioned circumstances. Despite hostilities, tendencies of arriving and ambitions to live a ‘normal’ life in Malta can certainly be observed. This clearly shows that refugees are not outside but part of the border regime and intervene into it. Mutual solidarity, sharing of information and development of collective organized networks are shaping the structures of support to counteract the effects of their precarious situation, also from a psychological point of view. Some of the appeals turned out successful and as Gabriel stated: “The refugee status makes my life so different.”¹¹² This captures the situation that rejected refugees remain reduced on the status of their physical existence due to the system. The agency of non-deportable refugees can be understood in response to power structures produced by government and society. A simple extension of their rights would fall short. Michel Foucault proposes the modification of existing laws and the invention of “new rights”¹¹³, which “entirely repeals the distinction between human being and (national) citizen and overcomes a legal concept that permanently assumes and codifies the separation of political and physical existence.”¹¹⁴ The laws that apply for non-deportable refugees deprive them of their rights in relation to Maltese citizens but also in relation to refugees granted protection. Citizenship not only has real material consequences, but also assures a minimum level of social security. Non-deportable refugees are excluded from this privilege. While these exclusions are generating further inequalities, new forms of political activism, membership identities and different concepts of citizenship are emerging. Following Engin Isins perspective

- 110 Margarita Sanchez-Mazas: The construction of “official outlaws”. Social-psychological and educational implications of a deterrent asylum policy. In: *Frontiers in Psychology*, 8.4.2015, <http://journal.frontiersin.org/article/10.3389/fpsyg.2015.00382/full> (accessed 23.11.2016).
- 111 Christin Achermann: Offiziell illegal? In: *Terra Cognita*, 14, 2009, pp. 94–97.
- 112 Documented conversation with Gabriel in May 2016.
- 113 Michel Foucault: Two Lectures. In C. Gordon (ed.) *Michel Foucault: Power/Knowledge*. New York 1980, pp. 78–108, p. 108.
- 114 Thomas Lemke: *Gouvernementalität und Biopolitik*. Wiesbaden: 2007, p. 109 et seq.; own translation from German.

of “activist citizenship”¹¹⁵, a reconceptualization of citizenship through various practices and experiences of (political) mobilisation – even when restricted – can be observed. “(...) claims must be made by those without the authority to speak; rights must be taken by those who have no right to have rights”¹¹⁶, Nyers emphasises the need of migrant struggles. In the last years more and more refugees founded volunteer migrant organisations, for example the Migrant Women Association Malta, The Migrants Association and the African Media Association Malta. The latter planned and implemented the previously mentioned demonstration. Together they raise awareness about the situation in Malta by networking and organising joint campaigns.¹¹⁷ This can open up discussions of new forms of political subjectivity that challenge the dominance of the nation state as a site of citizenship. Simultaneously, this perspective illustrates that non-citizens are not external to the political community and cannot be situated in the binary citizen/non-citizen and status/non-status: “this reading instead shows a co-constitutive relationship between non-citizen migrants and formal citizens.”¹¹⁸ But even if there are a number of ways where individuals and groups can challenge and influence politics, the rejection remains a source of discrimination and therefore a barrier to political mobilisation. According to Zygmunt Bauman, the responsibility to ensure justice and to guarantee human rights – and thereby bring living in liminality to an end – rests with the privileged, who just make excluded persons to be excluded.¹¹⁹ Following this, the leader of the Malta Migrants Association demands: “protect the lives you have saved by respecting our rights [...] so that we can truly become a part of Maltese society.”¹²⁰

115 “(...) that citizenship is more than a legal and political institution, because it includes moments of political engagement such that those lacking formal citizenship status, by acting and claiming rights to citizenship, in effect practise citizenship” cf. Nyers, Rygiel 2012, p. 2 (see ftnt. 97).

116 Peter Nyers: No one is illegal between city and nation. In: *Studies in Social Justice*, 4, 2, 2010, pp. 127–143, p. 142.

117 Cf. Sarah Nimführ, Laura Otto, Gabriel Samateh: Gerettet, aber nicht angekommen. Von Geflüchteten in Malta. In: Sabine Hess et al (ed.): *Der lange Sommer der Migration: Grenzregime III*. Berlin, Hamburg 2016, pp. 137–150.

118 Nyers, Rygiel 2012 (see ftnt. 97); p. 10

119 Cf. Zygmunt Bauman: *Verworfenes Leben. Die Ausgegrenzten der Moderne*. Hamburg 2005, p. 11 et seq.

120 Quoted in Diacono 2015 (see ftnt. 99).

Living Liminality. Ethnologische Einblicke in die Lebenssituation nicht abschiebbarer Geflüchteter in Malta

Der Artikel stellt Zwischenergebnisse der ethnografischen Feldforschung dar, die zwischen 2015 und 2016 in Malta durchgeführt wurde. Aus einer mikroanalytischen Perspektive werden neue Parameter der Abweisung von Geflüchteten an der Außengrenze der EU aufgezeigt und diskutiert. Die Mehrheit abgelehnter Asylsuchender in Malta ist aufgrund einer Reihe rechtlicher und praktischer Faktoren nicht abschiebbar. Nicht abschiebbare Geflüchtete befinden sich in einer rechtlichen Grauzone, da sie weder als offizielle Mitglieder des Aufnahmestaates gelten, noch abgeschoben werden oder das Land selbst auf reguliertem Weg verlassen können. In Malta erhalten nicht abschiebbare Geflüchtete zudem keinen formalen Aufenthaltsstatus. Dies kann zu einer Situation führen, in der sie über mehrere Jahre hinweg nur begrenzten Zugang zu Beschäftigung, grundlegenden Dienstleistungen und medizinischer Versorgung erhalten. Ohne Aussicht auf Inklusion werden dominante Ordnungen ausgesetzt und führen zu einem permanenten Ausnahmezustand.

Auf Grundlage ethnografischer Forschung beleuchtet der Artikel sowohl die *agency* als auch die Schutzbedürftigkeit nicht abschiebbarer Geflüchteter in Malta. Der Artikel erörtert, dass die Nichtabschiebbarkeit und der Ablehnungsbescheid die Möglichkeiten der Geflüchteten beschränken, ihr Recht auf Rechte durchzusetzen. Des Weiteren werden Solidaritäten und Handlungsformen illustriert, mit denen nicht abschiebbare Geflüchtete die Restriktionen bewältigen und ihr Wohlbefinden innerhalb dieses liminalen Raums verbessern. Abschließend wird für eine epistemologische Wende hinsichtlich der Theoretisierung des *non-citizen* innerhalb des Nationalstaates plädiert.

Abhandlungen

Birgit Johler und Magdalena Puchberger, Wer nutzt Volkskunde? Perspektiven auf Volkskunde, Museum und Stadt am Beispiel des Österreichischen Museums für Volkskunde in Wien

Alessandro Testa, From folklore to intangible cultural heritage. Observations about a problematic filiation

Sarah Nimführ, Living Liminality. Ethnological insights into the life situation of non-deportable refugees in Malta

Manuela Bojadžijev, Doing commons: Gentrifizierung oder das Ringen um das Gemeinsame im städtischen Raum in Berlin

Mitteilung

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Heft 3+4 2016

ÖZV LXX/119, 2016, Heft 3+4



Inhalt

Abhandlungen

- 183 *Birgit Johler und Magdalena Puchberger*, Wer nutzt Volkskunde?
Perspektiven auf Volkskunde, Museum und Stadt am Beispiel
des Österreichischen Museums für Volkskunde in Wien
- 221 *Alessandro Testa*, From folklore to intangible cultural heritage.
Observations about a problematic filiation
- 245 *Sarah Nimführ*, Living Liminality. Ethnological insights into
the life situation of non-deportable refugees in Malta
- 273 *Manuela Bojadžijev*, *Doing commons*: Gentrifizierung oder
das Ringen um das Gemeinsame im städtischen Raum

Mitteilung

- 295 *Jens Wietschorke*, Die restaurierte Ruine. Ein paradoxales
Denkbild zur Pluralität des Historischen

Chronik der Volkskunde

- 305 Tagungsbericht »Narrationsanalyse in der Europäischen
Ethnologie« (*Laura Wehr*)
- 310 Volkskunde im Museum – ein Auslaufmodell?
Die 25. BBOS-Tagung in Augsburg (*Christine Schmid-Egger*)
- 317 Bericht über die 24. Generalversammlung von ICOM
mit dem Titel »Cultural Landscapes and Museums«
(*Kathrin Pallestrang*)
- 323 Bericht über die Tagung »Das vergessene 20. Jahrhundert.
Zeitgeschichte sammeln« (*Kathrin Pallestrang*)
- 329 Tagungsbericht »Forschungswerkstatt Nahrungsregime«.
Ein Workshop des Forschungsschwerpunktes »Wirtschaft
und Gesellschaft aus historisch-kulturwissenschaftlicher
Perspektive« der Universität Wien und des Instituts für
Geschichte des ländlichen Raumes (*Lukasz Nieradzik*)
- 336 Gareth Kennedy. Die unbequeme Wissenschaft.
Volkskunstmuseum (*Magdalena Puchberger*)
- 344 Dr. Gertrud Heß-Haberlandt (1923–2016) (*Olaf Bockhorn*)

Literatur der Volkskunde

- 349 Katharina Eisch-Angus (Hg.): Unheimlich heimisch.
Kulturwissenschaftliche BeTRACHTungen zur volkskundlich-
musealen Inszenierung (*Reinhard Bodner*)
- 353 Felicia Sparacio: Pendeln im Alter. Eine Fallstudie zu
transnationaler Migration zwischen Deutschland und
der Türkei (*Claudius Ströhle*)

- 356 Johann Traxler, Anton-Joseph Ilk: Liedgut und Bräuche aus dem Wassertal. Weltliche und geistliche Lieder der Oberwischauer Zipser, eingebettet in deren Traditionen (*Olaf Bockhorn*)
- 359 Heinz Kröll, Carmen Brugger (Hg.): Deferegggen in Osttirol. Josef Schett. Fotograf, Ansichtskartenverleger und Zeitzeuge. Chronist des Lebens in einem Gebirgstal. Aufnahmen von 1920 bis 1970 (*Olaf Bockhorn*)
- 362 Eingelangte Literatur (*Hermann Hummer*)
- 371 Internationale Zeitschriftenschau (*Hermann Hummer*)
- 374 Verzeichnis der Autorinnen und Autoren
- 375 Impressum

Inhalt

Abhandlungen

- 183 *Birgit Johler und Magdalena Puchberger, Wer nutzt Volkskunde?*
Perspektiven auf Volkskunde, Museum und Stadt am Beispiel
des Österreichischen Museums für Volkskunde in Wien
- 221 *Alessandro Testa, From folklore to intangible cultural heritage.*
Observations about a problematic filiation
- 245 *Sarah Nimführ, Living Liminality. Ethnological insights into*
the life situation of non-deportable refugees in Malta
- 273 *Manuela Bojadžijev, Doing commons: Gentrifizierung oder*
das Ringen um das Gemeinsame im städtischen Raum

Mitteilung

- 295 *Jens Wietschorke, Die restaurierte Ruine. Ein paradoxales*
Denkbild zur Pluralität des Historischen

Chronik der Volkskunde

- 305 Tagungsbericht »Narrationsanalyse in der Europäischen
Ethnologie« (*Laura Wehr*)
- 310 Volkskunde im Museum – ein Auslaufmodell?
Die 25. BBOS-Tagung in Augsburg (*Christine Schmid-Egger*)
- 317 Bericht über die 24. Generalversammlung von ICOM
mit dem Titel »Cultural Landscapes and Museums«
(*Kathrin Pallestrang*)
- 323 Bericht über die Tagung »Das vergessene 20. Jahrhundert.
Zeitgeschichte sammeln« (*Kathrin Pallestrang*)
- 329 Tagungsbericht »Forschungswerkstatt Nahrungsregime«.
Ein Workshop des Forschungsschwerpunktes »Wirtschaft
und Gesellschaft aus historisch-kulturwissenschaftlicher
Perspektive« der Universität Wien und des Instituts für
Geschichte des ländlichen Raumes (*Lukasz Nieradzik*)
- 336 Gareth Kennedy. Die unbequeme Wissenschaft.
Volkskunstmuseum (*Magdalena Puchberger*)
- 344 Dr. Gertrud Heß-Haberlandt (1923–2016) (*Olaf Bockhorn*)

Literatur der Volkskunde

- 349 Katharina Eisch-Angus (Hg.): Unheimlich heimisch.
Kulturwissenschaftliche BeTRACHTungen zur volkskundlich-
musealen Inszenierung (*Reinhard Bodner*)
- 353 Felicia Sparacio: Pendeln im Alter. Eine Fallstudie zu
transnationaler Migration zwischen Deutschland und
der Türkei (*Claudius Ströhle*)

- 356 Johann Traxler, Anton-Joseph Ilk: Liedgut und Bräuche aus dem Wassertal. Weltliche und geistliche Lieder der Oberwischauer Zipser, eingebettet in deren Traditionen (*Olaf Bockhorn*)
- 359 Heinz Kröll, Carmen Brugger (Hg.): Deferegggen in Osttirol. Josef Schett. Fotograf, Ansichtskartenverleger und Zeitzeuge. Chronist des Lebens in einem Gebirgstal. Aufnahmen von 1920 bis 1970 (*Olaf Bockhorn*)
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- 371 Internationale Zeitschriftenschau (*Hermann Hummer*)
- 374 Verzeichnis der Autorinnen und Autoren
- 375 Impressum