

# Nations Rebound: German Politics of Deporting Afghans

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## Abstract

This article traces the development of German politics of deporting Afghans. Since the great influx of refugees in 2015 – which doubled the number of Afghans in Germany – the asylum acceptance rate of Afghan refugees has been reduced while at the same time the government has made efforts to increase the number of deportations, arguing that parts of Afghanistan are “safe” for deportees, in spite of increasing violence in the country. Using a logic of deservingness, politicians maintain that the only persons deported are those who refuse to “integrate”. In fact, however, more “well-integrated” Afghans are deported than persons with a criminal record. Within the context of an increasingly restrictive asylum system, the emphasis on deportations has to be understood as an attempt to counter the rise of right-wing populism in Germany. Yet activists who support individual refugees and rejected asylum seekers, trying to prevent their deportation, increasingly contest this approach. By pointing out that particular persons who are threatened by deportation are “well integrated” and therefore deserve to stay, these activists essentially accept and reinforce the logic of deservingness. The article argues that the deportee epitomises the current reterritorialisation of nation-states and global system of unequal (im)mobility.

**Keywords:** Deportation, refugees, deservingness, asylum, politics, Afghanistan, Germany

## Introduction

At the beginning of the 1990s a new paradigm began to dominate migration studies: transnationalism. Migration could no longer be conceptualised exclusively as a unidirectional movement governed by push and pull factors. The figure of the transmigrant entered academic discourse: someone who moves back and forth between different national spaces and is almost equally integrated in two or more national societies. These were the heady days of neo-liberal globalisation euphoria after the fall of the Berlin Wall, when time and space appeared to become increasingly compressed and the world shrank

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into a global village inhabited by cosmopolitan citizens. Almost without hindrances, goods, capital, ideas and to a lesser extent also people seemed to cross national boundaries, which in any case were soon expected to lose all significance. Linda Basch, Nina Glick Schiller and Cristina Szanton Blanc, who were among the leading protagonists developing the transnationalism paradigm, published, along with many articles, a book with the programmatic title *Nations Unbound*. While the authors certainly did not argue that national borders had lost their significance, they emphasised transmigration and the deterritorialisation of the nation-state.

Thirty years on the world has changed dramatically. Globalisation euphoria is certainly a thing of the past. While capital still flows around the globe with great ease, many people increasingly view these flows as pernicious. And although many people are on the move – perhaps more than ever – all manner of attempts are made to limit and direct their flow. States erect walls and fences at their borders and tighten border controls to prevent immigration. Through increasingly ingenious instruments and techniques of surveillance, bordering is no longer simply a matter of the external margins of states and nations. “Everyday bordering” can occur anywhere within a national space (Yuval-Davis et al. 2017, Strasser / Tibet 2019). An (almost) global wave of populism (Brubaker 2017) redefines societies in essentialist and reterritorialising terms, vowing to stop immigration and to exclude and even to expel people regarded as aliens. Those who are granted the right stay have to earn their “deservingness” by submitting themselves to a regime of “integration”. Concomitantly, border studies have gained substantial prominence in academia.

Nations have been “re-bound”; states are reterritorialised. Accordingly, transnationalism studies also increasingly reemphasise the state and state practices of bordering (Glick Schiller 2007: 456f). Today, somewhat symbolically, the epitomising figure of migration is no longer the “transmigrant” but the “deportee” – the deportee whose removal is required in order to maintain the sovereign order of the territorial nation-state.

Although four years have passed since the “summer of migration” (Hess et al. 2017) the “refugee issue” continues to dominate political debates in Germany to a large extent, also because new right-wing parties and organisations have entered the scene. Discourse about refugees is increasingly dominated by the question of deportation. Compared to the number of new arrivals, the number of actual, “successful” deportations is quite low: in 2018, around 57,000 persons were scheduled for deportation from Germany, but in almost 31,000 cases the deportation could not be carried out, for various reasons (Spiegel 2019). But the government is attempting to increase the number of deportations. At the time of writing in spring 2019, the Ministry of Interior was drafting a “Law of Orderly Return” (*Geordnete Rückkehrgesetz*) that not only intends to further limit the rights of migrants without a secure right of

residency, but also to criminalise activists who support rejected asylum-seekers bound for deportation. According to the first draft of the law, activists and civil society organisations that leak the news of imminent deportation to migrants will be held accountable and may be sentenced to up to three years in prison.<sup>1</sup> This provision reveals a fundamental conflict between government institutions and anti-deportation activists over the issue. In May 2018 Alexander Dobrindt, the leader of the Christian Social Union faction in the German Parliament (CSU, the conservative regional party of Bavaria), coined the contemptuous term “anti-deportation industries” (*Anti-Abschiebe-Industrie*) to refer to lawyers and activists who attempt to prevent deportations (Süddeutsche Zeitung 2018a). From the perspective of the government and its supporters, deportation has become a significant issue where both the territorial sovereignty of the state and the rule of law need to be maintained. Yet in early 2019, a commission of linguists selected the term as the “non-word of the year 2018” (Süddeutsche Zeitung 2019a), again revealing fundamental disagreement over deportation policies. Deportations to Afghanistan, in particular, have become highly controversial. While the government reiterates that parts of Afghanistan are safe enough for deportees – in spite of the fact that two years after the bombing of the German embassy in Kabul, Germany still does not have a fully operating diplomatic representation in the country – refugee support activists emphasise that nowhere in Afghanistan is safe, particularly for deportees from Europe.

In this article, I will first briefly survey current research on deportation in the social sciences before turning to recent shifts in German policies of deportation in general and to the deportation of Afghans in particular, which is also intended to counter anti-refugee right-wing populism. Finally, I will analyse activism for the prevention of the deportation of Afghans in Bavaria, arguing that this activism often affirms the dominant logics of integration and deservingness, thus resorting to what I call strategic integrationism.

## Deportation studies

The study of borders and border regimes has emphasised that globalisation has by no means dissolved national boundaries and enabled general mobility. On the contrary, borders have been tightened to serve the channelling function of granting passage to some while stopping others (De Genova / Peutz

1 In its final version, the law defines dates of deportations as state secrets, the disclosure of which is a criminal offence. While this provision is aimed primarily at officials, also activists that instigate the disclosure of such information are criminalised. Dunja Mijatović, Human Rights Commissioner of the Council of Europe, strongly criticised this provision (Süddeutsche Zeitung 2019b). For a critical assessment of the law see also Hruschka 2019.

2010, Tsianos / Karakayali 2010, Fassin 2011). Further, borders not only mark the margins of states but increasingly structure societies and their practices as a whole (Yuval-Davis et al. 2017). Thus, the “mobility paradigm” (Sheller / Urry 2006, Urry 2007) requires a decisive qualification exemplified by the figure of the refugee: borderless mobility does not apply to everyone; refugees’ crossing of borders is unwelcome and “illegal” and they are subjected to detailed determinations of whether or not they deserve admission (Holmes / Castañeda 2016, Yarris / Castañeda 2015, Chauvin / Garcés-Mascreñas 2014). During these determinations and afterwards, refugees are often immobilised in camps and confined before being physically deported. While the neoliberal regime produces those global inequalities that increasingly compel people to resort to strategies of refugee-migration in order to gain security, including the chance to secure a livelihood, the states of the north increasingly adopt programmes of remigration or deportation to reduce the number of migrants and to serve as a deterrence. Research has shown, however, that this deterrence rarely works: for many migrants, deportation or remigration is merely the beginning of the next cycle of migration (Khosravi 2016, Schuster / Majidi 2013).

Ultimately, deportation and remigration serve the purpose of maintaining north-south inequality (and inequity) through the establishment of a pervasive and strictly selective border regime.<sup>2</sup> Deportation prevents the labour of the global south from taking part in the wealth of the north and maintains a stable pay gap between North and South (Khosravi 2017, Golash-Boza 2015). The exclusion of “economic refugees” is crucial for upholding the distinction between “desired/legal” and “undesired/illegal” migrants, between “good” and “bad” refugees, between those who “deserve” protection and those who are considered undeserving because they have escaped only from unfavourable economic conditions. Deservingness is the central category of this distinction<sup>3</sup> and also plays a central role in the German government’s decisions about deportations to Afghanistan, as I will show below.

Research on deportation and (more or less voluntary) remigration has become an important part of the study of migration and (im)mobility. It shows that deportation and remigration take place within a complex field of practices, structures, expectations and power relations in local, national and transnational contexts. A neat analytical distinction between “refugees” and “migrants” is as impossible as is the distinction between deportation and remigration – unless one uncritically accepts the premises of the asylum system that stipulates that only “genuine refugees” deserve protection and ac-

2 See Collyer 2017, Khosravi 2017a, De Genova 2016, Drotbohm / Hasselberg 2015: 552ff, Golash-Boza 2015, Casas-Cortes et al. 2014, Fassin 2011, De Genova / Peutz 2010, Hess / Kasparek 2010, Shamir 2005.

3 See Holmes / Castañeda 2016, Yarris / Castañeda 2015, Chauvin / Garcés-Mascreñas 2014, Coutin 2000: 11.

commodation.<sup>4</sup> “Voluntary” remigration may just be a desperate strategy to escape deportation, as deportations come with high costs for the deportees. Not only is the deportation often a traumatising experience itself, but deportees are banned from re-entering Germany and the Schengen area for at least five years and they have to pay the expenses of their deportation before being able to apply for a visa to Germany. Migrants who re-enter Germany “illegally” after having been deported may be sentenced to up to three years in prison.

Peutz (2006) calls for an anthropology of removal that examines the deportation regime. The danger of deportation looms over migrants in all stages of migration, during which they run the danger of being detained and ultimately removed. This is often a condition of extended periods of waiting and insecurity (Griffiths 2014, Lakha 2009), not necessarily governed by comprehensible rules, that establishes the migrant’s state of “deportability” (De Genova 2016). This article contributes to the anthropology of removal by taking up the specific case of deportations from Germany to Afghanistan. To provide some context, however, a more general look at asylum and deportation politics and policies in Germany is required first.

## Recent politics of deportation in Germany

Deportations have often been controversial, especially in Germany after the ruthless deportation regime of the Nazi government. While historically deportation was an instrument for the expulsion of foreign criminals and a means to prevent aliens from disturbing the public order (Paoletti 2010: 8), in recent decades it has become an instrument for the control and “management” of migration and is considered necessary and legitimate by governments (Schuster 2005). Paoletti thus speaks of a “deportation turn” in which “deportation has emerged as a form of state practice distinct from other forms of expulsion as a way to deal with failed asylum seekers as well as foreigners convicted of crimes” (Paoletti 2010: 8). “Deportation today is not an exception, but rather a normalised and distinct form of state power,” writes Ines Hasselberg (2016: 1). The ability to allow or deny non-citizens the right to stay in a country is seen as a fundamental aspect of state sovereignty. Yet because only those who refuse to leave a country “voluntarily” are deported, deportation is always an act of force that violates the autonomy of a person. For many migrants who lack the secure right to stay, deportation is a continuous existential threat. In order to cover up this violence to some extent, governments and bureaucrats often use “softer” terms. In Germany, for instance, politicians increasingly

4 For a critical review of the debate about the refugee-migrant dichotomy see Crawley / Skleparis 2018.

use the term *Rückführung* (“repatriation”) instead of *Abschiebung* (“deportation”).

The 1990s were the decade of the deportation turn in Germany. With the cold war ending, the situation of asylum changed fundamentally: what had before mainly been an opportunity for dissidents from the socialist states now became largely an avenue of migration for people from the global south. As the grievances of many refugees coming to Germany did not fit the legal definition of asylum or their experiences of persecution and threats were doubted, few of them were granted asylum. Since the late 1980s, the figure of the *Wirtschaftsflüchtling* (“economic refugee”) and the *Scheinasyllant* (“bogus refugee”) who purportedly misused the asylum system rose to prominence in German political discourse. Governmental policies of asylum became almost exclusively geared at reducing the numbers of claims and grants of asylum. In principle, all those who were not granted asylum had to leave the country and were potential deportees.

The politics of asylum (and of migration in general) has always been highly contentious in Germany. Right wing mobilisation has been a standard result of growing numbers of refugees and immigrants. The early 1990s were notorious for racist attacks on immigrants in Germany, some of them with deadly results, as well as for electoral gains of extreme right parties.<sup>5</sup> The government tried to pre-empt such reactions by introducing limitations to the right of asylum (Ellermann 2009: 54f). Thus, among other things, the *Asylkompromiss* (“asylum compromise”) of 1993 introduced the notion of “safe third countries”: if a refugee entered Germany from such a country, he or she had no right to asylum and had to return to the other country. This was a kind of predecessor to the EU’s Dublin Regulation. As all neighbouring countries were regarded as safe, no refugee coming on a land route to Germany could claim asylum in the country.

For many years, the German government did not centrally publish numbers of deportations. Figures had to be gathered from different sources, most importantly from the government’s responses to enquiries by Members of Parliament (Schuster 2005: 610). According to figures going back to 1990 which were published in 2015 by the Bundesamt für Migration und Flüchtlinge (BAMF, Federal Office for Migration and Refugees), the number of deportations peaked in 1993 (47,070) and 1994 (53,043) but gradually decreased to less than 10,000 per year until 2012 (BAMF 2015: 141). There is a certain parallel between the numbers of deportations and the numbers of new applications for asylum (which, mainly due to the disintegration of Yugoslavia also peaked in 1992 with nearly 440,000 applicants). Yet the curve of deportations lagged behind the curve of arrivals and new applications and never reached

5 For an analysis of the dynamics of right-extreme mobilisation against refugees see Rucht 2018.

the same heights. Beginning in 2015 the deportation curve surged again (Statista 2019). The great majority of deportations since 2015 have involved persons from the Balkan states (Deutscher Bundestag 2016a), while figures of deportations to non-European countries remain low.

Legally and administratively, deportation is a complicated matter in Germany. For various reasons, most persons whose application for asylum is rejected are not deported and many of them get a *Duldung* (literally a “toleration”), a short-term permit that needs to be renewed frequently. Legally, a *Duldung* is just a temporary suspension of deportation. Persons get a *Duldung* if their deportation is impossible, for instance because their identity is unclear, they lack the papers to enter their country of nationality or that country is not willing to allow their entry, but also for humanitarian reasons including the state of health. Persons also cannot be deported to countries where they are expected to suffer any serious harm. Only deportations to those countries that have been legally categorised as “safe states of origin”, i.e. where it is assumed that there is neither personal political persecution nor degrading or inhuman treatment or punishment, are relatively straightforward.

Already before the “summer of migration” of 2015 with its all-time peak of new entries and 476,649 new applications for asylum (BAMF 2016: 10), numbers had risen considerably. In 2014 some 202,834 applications were submitted, almost one third of them by persons from the West Balkan states with hardly any prospect of being granted asylum. The number of persons with a *Duldung* grew, because only a few of those who did not get asylum left the country. In order to reduce the number of persons under *Duldung* and to increase the number of deportations, the Federal Government drafted a law in early summer 2015 on “the right to stay and the termination of residence”. By emphasising the difference between deserving and undeserving refugees, this law set the tone for the subsequent politics of asylum and deportation. The then Federal Minister of the Interior, Thomas de Maizière, justified the law with the following words: “This law has two clear messages: the right to stay for well-integrated and law-abiding foreigners, on the one hand, and the termination of residence of those who are not in need of protection, on the other. Both messages belong together” (Schwarze 2015, translation MS).

Later that year, another reaction to the great influx of refugees from, mainly, Syria, Iraq and Afghanistan in 2015 was the passing of Asylum Package I, which categorised Albania, Kosovo and Montenegro as safe countries. In order to reduce the number of refugees in Germany, the federal government continues to seek to extend the list of “safe countries of origin” and to speed up asylum processes, including possible deportation. Asylum Package I also

prohibits informing deportees of their imminent deportation<sup>6</sup> and introduces the *Abschiebegehwahrsam*: the taking of persons into custody for up to four days in order to ensure their deportation (Deutscher Bundestag 2016b: 8). In extreme cases, detention can be extended up to 18 months.

Yet while the federal government sets the guidelines for the politics of deportation and initiates laws, and a federal agency, the Bundesamt für Migration und Flüchtlinge (Federal Agency for Migration and Refugees, BAMF), decides upon asylum applications and issues “deportation orders” (*Abschiebeandrohungen*), the actual implementation of deportations lies in the hands of the federal states, which have a certain legal leeway to follow their own policies. According to Section 60a of the Residence Act, a government of a federal state may suspend deportations of certain national groups for up to three months (Dejure 2019a). If the government wants to suspend deportations beyond this time frame, it may issue resident permits, according to Section 23.1 of the Residence Act (Dejure 2019b). Thus, not all federal states always comply with the guidelines of the federal government – there is instead a great variety of state policies, ranging from lenient Schleswig-Holstein to hard-line Bavaria.

For more than a decade now, the German politics of migration has been governed by an integration paradigm: immigrants and foreigners in general are called to “integrate themselves” by learning German, adapting to local ways of life, etc. This has been a major paradigmatic shift, because the “guest workers” that came to Germany from the 1960s onward were explicitly expected not to integrate but to return as soon as possible to their countries of origin. Beyond the surface, however, the integration paradigm is not integrative but exclusionary, as the call for integration generally emphasises migrants’ shortcomings and deficiencies. Thus the call for integration implies they are (not yet) sufficiently integrated (Sökefeld 2007).<sup>7</sup> Since 2015, the integration paradigm has been increasingly applied to newly arriving refugees. A few years ago Heide Castañeda (2010: 258) observed a shift in the conceptualisation of ideas of deservingness in the German asylum system, “moving away from a response to political oppression and increasingly toward policies of compassion in the face of suffering. Today, deservingness is defined chiefly by humanitarian considerations (such as illness or pregnancy), and the state is compelled by notions of compassion and justice.” Meanwhile, deservingness in terms of “integration” comes on top of this, as expressed by interior minister De Maizière in the quotation cited above.

6 In the past, deportees were served deportation notices in advance, which enabled activists to organise solidarity campaigns in order to prevent deportation (Hinger et al. 2018). Furthermore, many rejected asylum-seekers went underground after receiving such notices.

7 For a general critique of the integration paradigm see Schinkel 2018.

Those deemed deserving receive support such as “integration courses” and language training. Deservingness is measured here in terms of the *Bleibeperspektive*, i.e. the probability that a person will be granted protection and stay in Germany. The *Bleibeperspektive*, a concept introduced by Asylum Package I, depends on the percentage of asylum seekers from a particular country that are granted protection. If this “protection quota” (*Schutzquote*), which includes not only asylum but also subsidiary protection, lies above the threshold of 50 per cent, people have a gute *Bleibeperspektive* (“good prospects to stay”) and are eligible for language training and other measures of support. While Syrians have good prospects, persons from safe countries of origin do not.<sup>8</sup> The political goal is to prevent them from “integrating” and to return them as soon as possible to their country of origin.

## Deporting Afghans

In this context, the deportation of refugees from Afghanistan is particularly contentious. Although Afghans come from a country that for almost four decades has been torn by internal conflict and war, Afghans are not generally granted protection today, in contrast, for instance, to refugees coming from Syria. German asylum politics towards refugees from Afghanistan have become increasingly restrictive. Migration from Afghanistan to Germany started in the 1950s with students and businesspeople, especially carpet merchants (Stroux 2002). With the beginning of the Soviet occupation in 1979 refugees started to come, mostly members of the Western educated elite. Subsequently, other groups began to arrive; after the Taliban came to power these were especially members of the urban middle class, but also rural ethnic and religious minorities.<sup>9</sup> In Europe, Germany was the most important country of destination for Afghan refugees and by 2004, around 40 per cent of persons of Afghan origin in Germany had acquired German citizenship (Baraulina et al. 2007: 8f, Haque 2012).

With the increasing violence in Afghanistan and the opening of the Balkan route in 2015 many more Afghans came to Germany, now mostly single young men and unaccompanied minors. The number of applications from Afghans surged dramatically and reached 127,012 in 2016 (BAMF 2017: 24).<sup>10</sup> Alto-

8 Like the safe countries of origin, the *Bleibeperspektive* implicates a certain breach in the German logic of asylum: while the right to asylum is strictly conceptualised in terms of individual persecution, which needs to be ascertained individually, the *Bleibeperspektive* depends on a collective frame, irrespective of any individual circumstances.

9 On the emigration and transnational networks of Shia Hazaras from Afghanistan see Monsutti 2012.

10 The figure for 2014 was 9,115, for 2015 it was 31,328. The huge number of applications in 2016 largely results from persons who entered Germany in 2015 but filed their application the following year. In 2017 the figure dropped to 16,423 (BAMF 2018: 21).

gether, around 250,000 Afghans were living in Germany by 2017 and the Government tried to reduce this figure. While in 2015 some 78 per cent of Afghan applicants were accorded protection (either asylum or subsidiary protection) by the BAMF, this rate dropped to 61 per cent in 2016 and 47 per cent in 2017 (Pro Asyl 2019a). This is clearly not the result of an improvement of Afghanistan's security situation, but of increasingly restrictive asylum politics.<sup>11</sup> According to the refugee advocacy organisation Pro Asyl, the Afghans fell prey to the German government's "deterrence strategy" intended to prevent further immigration from Afghanistan (Pro Asyl 2018). At a meeting in Brussels in November 2015, the German Federal Minister of Interior said: "At the moment, our concern is the great number of refugees from Afghanistan. We want to send the signal to Afghanistan: 'Stay there! We will return you directly from Europe to Afghanistan!'" (Bundesministerium des Inneren 2015, translation MS). The Afghans' protection quota therefore fell below the threshold of 50 per cent, leaving them formally without a good *Bleibeperspektive*. This, however, does not take into account the fact that more than 60 per cent of the negative BAMF decisions in Afghan asylum cases that were judicially challenged were corrected by the courts (Pro Asyl 2018, Süddeutsche Zeitung 2018b) – the official *Bleibeperspektive* counts only the BAMF's original decisions.

In December 2002 – that is, one year after NATO troops had started their ISAF engagement in Afghanistan – the conference of the interior ministers of both the federal government and the federal states decided that deportations to Afghanistan would be suspended because of the security situation in the country. Only criminal offenders were exempt from this general suspension of deportation. Many of the Afghans were also accorded an individual *Abschiebeverbot* ("prohibition of deportation"), which often had to be secured in court. Only sporadic deportations of criminal offenders took place: from 2013 to 2015, for instance, less than ten Afghans were deported per year. In 2016, around 3,300 Afghans returned "voluntarily". Given the pressure and electoral success of right-wing mobilisation against refugees in Germany, the federal and several state governments were eager to reduce the number of Afghans by increasing deportations and remigration. The government of Bavaria stood at the forefront, together with the federal government. Arguing that parts of the Afghanistan were safe enough for deportees – also because of the efforts of German troops to enhance security<sup>12</sup> – the federal government signed in October 2016 a "Joint Declaration of Intent on Cooperation in the Field of Migration" with the government of Afghanistan. This declaration was an agree-

11 According to the European Council on Refugees and Exiles, Afghans "faced the largest variation in recognition rates in Europe, with the rate varying from 6% to 98%, depending on the country, with no apparent reason for the divergence lying in the nature of the cases" (ECRE 2019: 1).

12 This was an argument of the Bavarian Minister of Interior Joachim Herrmann; see Spiegel 2016a.

ment for the readmission of rejected asylum-seekers. It referred to the German contributions to “Afghanistan’s development and civilian reconstruction effort including the establishment of a high-quality education system, and water and energy supply” and emphasised Germany’s “significant support for Afghanistan to build up its military and police force.” The declaration reiterated the commitment to the protection of asylum seekers and to refugee rights, stipulating that humanitarian conditions and individual threats to possible returnees would be taken into account, and it also specified that voluntary return should be preferred to deportations. In addition, the practicalities of the re-entry of Afghans were specified, including the documents required and the personnel involved.<sup>13</sup> According to the journal *Der Spiegel*, the German government had threatened to suspend its development aid of several hundred million euros per year if the Afghan government did not sign the agreement (Spiegel 2016b). Similarly, the EU threatened to make its aid to Afghanistan “migration sensitive” by “linking it to the [Afghan] Government’s policy on migration and return and possibly to the implementation of the ‘Joint Way Forward’”, as was revealed through a leaked EU “Non-Paper” on EU-Afghan cooperation (European Commission 2016; see also The Guardian 2016).

Two months later, on 14 December 2016, the first *Sammelabschiebung* (“collective deportation”) took place: 34 Afghans were put on a special flight from Frankfurt to Kabul. Originally, the deportation of 50 persons had been planned, but the deportation of some was prevented by emergency appeals to the courts (Spiegel 2016a). At the time of writing in late March 2019, 22 collective deportations have taken place, which altogether have returned 533 men to Afghanistan (Tagesspiegel 2019, Bayerischer Flüchtlingsrat 2019a).

The fate of potential deportees largely depends on the federal state in which they are registered. The largest number of deportees comes from Bavaria. The hitherto most notorious deportation took off on 3 July 2018 off from Munich Airport. There were 69 Afghans on the aircraft, 51 of them from Bavaria (Spiegel 2018a). This particular deportation gained particular notoriety because it took place on the birthday of federal minister of interior Horst Seehofer, who at a press conference the next day joked about 69 Afghans being deported on his 69th birthday (*Süddeutsche Zeitung* 2018c). A few days later, one of the deportees committed suicide in Kabul (Spiegel 2018b). This was also the first deportation after the ministry of foreign affairs had issued a confidential new assessment of the security situation in Afghanistan. Following the devastating bombing of the German Embassy in Kabul on 31 May 2017, which killed at least 150 people and wounded more than 300 (Spiegel 2017a, *Süddeutsche Zeitung* 2017a), the critical debate about deportations to Afghanistan had gained momentum. A *Sammelabschiebung* that was scheduled

13 The text of the agreement has been made available online by Pro Asyl (2019b).

for take-off on the day of the bomb attack was called off – officially, however, not because of the increasing insecurity in Afghanistan but only because the German embassy was not operative (Tagesspiegel 2017). The federal government refused to issue a general ban on deportations but limited potential deportees to persons with a criminal record, potential terrorists and persons who ostensibly refused to clarify their identity (Spiegel 2017b).<sup>14</sup> Deportations of such persons continued. These restrictions were lifted after a new assessment in summer 2017. On 6 June that year, Chancellor Angela Merkel declared in Parliament that Afghanistan was safe enough for deportees (Spiegel 2018c), in spite of the fact that the country and especially its capital continued to be hit by deadly bomb attacks.

The WHO sees Afghanistan as “one of the most dangerous and crisis-ridden countries in the world” (WHO 2017). The Global Peace Index 2018 ranks Afghanistan at 162 out of 163 countries (Vision of Humanity 2018). According to UNAMA, the UN mission in Afghanistan, the situation in the country continues to worsen: in 2018, the number of civilian casualties reached an unprecedented height (UNAMA 2019). In summer 2018, the UNHCR published new guidelines for the protection of asylum-seekers from Afghanistan. The UN agency concluded that “given the current security, human rights and humanitarian situation in Kabul, an IFA/IRA [Internal flight or relocation alternative] is generally not available in the city” (UNHCR 2018: 114), contradicting the statements of the German government and decisions by German courts that the Afghan capital was safe enough for deportees.<sup>15</sup> In her very elaborate expert report on the security situation in Afghanistan, Friederike Stahlmann points out that deportees are particularly vulnerable because they mostly lack the dense family networks that are a prerequisite for both securing a livelihood and general protection in the country (Stahlmann 2018: 152, see also Stahlmann 2017). IOM reports that many returnees have lost contact with their families and those who have not lost contact are not necessarily accepted by their families when they return (IOM 2014: 24). According to research among returned migrants from Norway and from the UK, most returnees live under constant fear, even if they are not personally threatened, and many do not dare to go out (Oeppen / Majidi 2015: 3). A long-term study by Schuster and Majidi (2013), drawing on a sample of 100 returnees in Afghanistan, shows that under these conditions returnees and deportees feel forced to leave the country again as soon as possible. Because of this situation, in contrast to Bavaria and Saxony, most of those federal states whose govern-

14 The clarification of identity is particularly difficult for Afghans because there is no standard way of transcribing their names from Pashtu or Dari to German or English. Therefore names frequently differ on transcriptions and translations of Afghan identity documents. German authorities often blame the refugees for this.

15 The assessment that Afghanistan is “safe enough” rests on specific juridical constructions of danger. See Tiedemann 2016.

ments were headed by the SPD (Social Democratic Party of Germany) continued to limit deportations to persons with a criminal record, etc. (Spiegel 2018d).

Bavaria in particular, however, vowed to further increase the pace of deportations without any restrictions. According to a press release published by the Bavarian Ministry of the Interior, only 5 of the 51 Bavarian Afghans on the deportation flight of 3 July 2018 had a criminal record. Bavarian Interior Minister Joachim Herrmann emphasised that 21 of the deportees had been deported out of custody, thus applauding the detention policy. He further reported that Bavaria would continue to resort to all instruments of deportation because a strong rule of law was needed to enforce the repatriation of unsuccessful asylum applicants: “If in due process the authorities and courts arrive at the conclusion that a person does not have the right to stay in Germany, then his departure has to follow. Only in this way, with a strong rule of law which is determined to enforce the obligation to leave the country, will we safeguard the required acceptance for our system of asylum and the acceptance of those who have been accorded the right to stay and who shall be integrated well” (Bayerisches Staatsministerium des Inneren 2018, translation MS).<sup>16</sup> On the same occasion, the minister emphasised that deportations to Afghanistan could be carried out without any restriction.

The minister’s statement is a clear example of the twofold strategy to legitimise deportations. First, deserving and undeserving refugees have to be distinguished, assuming that a clear distinction between the two categories is possible, and second, those who are undeserving and therefore have no right to stay in Germany have to leave the country – if necessary, by being deported. According to this reasoning, the unrelenting enforcement of repatriation, deportations included, is the basis for the acceptance of the asylum laws in Germany. In order to mark undeserving asylum seekers, a new vocabulary has been coined that in a way replaced the earlier “bogus asylum seekers” and “economic refugees”. Now the *Straftäter* (“criminals”), *Gefährder* (“potential terrorists”) and the *hartnäckige Identitätsverweigerer* (persons who refuse to clarify their identity by withholding documents, or who are unsuccessful in procuring documents) exemplify those who do not deserve protection, who pose a danger to German society and who therefore have to be deported even if they may suffer serious harm in the country of deportation. According to the current logic of integration, they have refused to integrate by violating the rules of *Zusammenleben* (“living together”) in Germany. They may be deported to Afghanistan even when the situation in the country is obviously unsafe. The question of whether even a criminal has the right to protection from harm

16 “Wenn Behörden und Gerichte in einem rechtsstaatlichen Verfahren zu dem Ergebnis kommen, dass jemand kein Bleiberecht in Deutschland hat, dann muss seine Ausreise folgen. Nur so, mit einem starken Rechtsstaat, der die Pflicht zur Ausreise unbeirrt umsetzt, erhalten wir die notwendige Akzeptanz für unser Asylsystem und für jene, die hier ein Bleiberecht haben und gut integriert werden sollen.”

is never asked. In this argument, safety and security are not fundamental human rights but must be earned and deserved.

According to the president of the Catholic welfare organisation Caritas, Peter Neher, the resumption of collective deportations to Afghanistan had more to do with the atmosphere in Germany and with domestic politics than with the security situation in Afghanistan (Berliner Zeitung 2017). By increasing the pacing of deportations, the government intended to placate and win back those sections of the German electorate that after 2015 turned towards the extreme right and enabled the electoral success of the right-wing party Alternative für Deutschland (AfD). This is particularly true for Bavaria. For decades, Bavaria has been ruled by the conservative CSU and this party in particular feared competition on the right. It attempted to avert the movement of conservative voters to the AfD by executing a determined hard-line policy towards asylum and deportation.

The CSU government's emphasis that rejected asylum-seekers who are considered non-integrated and undeserving have to leave Germany does not imply that those who are integrated are allowed to stay. On the contrary, even persons who by the criteria of the integration paradigm are "well integrated" (i.e. they have a job, go to school or take part in a professional training and have no criminal record) are often selected for deportation. In several cases, for instance, young Afghans have been arrested for deportation in their schools. One may even conclude that these "well integrated" Afghans are especially easy prey for the Bavarian deportation regime because they lead a regular, predictable life. Thus, it is much easier to apprehend them and put them on a plane than a "non-integrated" person who has no regular occupation and can easily abscond.

Antje Ellermann (2005, 2009) has argued convincingly that because deportations are controversial and have the potential to arouse affects and actions of solidarity, governments have increasingly taken efforts to deport people almost invisibly in order to prevent the resistance and suffering of deportees from becoming public. Decisions about deportation are taken by the administration, removed from local politicians who might be held responsible by their electorate. And while earlier deportations were carried out on scheduled flights, often creating public scandal, now special chartered aircraft are invariably used. In Germany in 1999, the campaign "deportation.class" scandalised the public after Aamir Ageeb, a rejected asylum-seeker from Sudan, died of suffocation because of police action on a regular Lufthansa flight.<sup>17</sup> Similarly, deportees are mostly apprehended at night or in the early hours, also in order to prevent public visibility. Yet the great wave of volunteer support for refugees that arose in the summer of 2015 also created a new visibility for deport-

17 See the (not updated) website <http://www.noborder.org/archive/www.deportation-class.com/lh/index.html> (accessed 31 March 2019).

ations, as now many more people in Germany have close relations with refugees than ever before.

The CSU and other like-minded politicians did not take into account that the tightening of asylum and deportation policies has perhaps had less of an effect placating voters leaning towards the extreme right than estranging those on the other side of the political spectrum. This at least can be concluded from the results of the Bavarian elections of October 2018, in which the CSU lost more than ten per cent of votes (resulting in the party's loss of absolute majority in the Bavarian parliament) while the refugee-friendly "Green Party" (Die Grünen) gained almost 9 per cent (Spiegel 2018e). The Green Party in fact won around 170,000 votes from erstwhile CSU-voters (Welt 2018), a development that a few years earlier would have been unimaginable. Commentators concluded that the CSU had lost many of its liberal and Christian supporters due to its uncompromising politics of asylum (Süddeutsche Zeitung 2018d). After the so-called "refugee crisis", many German politicians feared the right-wing groups that capitalised on anti-refugee sentiments, but they failed to see that on the other hand a huge number of people in Germany continued their voluntary commitments in support of refugees and even asylum-seekers who had been rejected. Such support includes not only commitments such as voluntary language teaching or assisting refugees in their interaction with the authorities, but also efforts to avert deportations. Also in Bavaria, volunteers try to save rejected asylum-seekers from being deported not only through legal means but also by staging protests and issuing appeals to authorities and politicians.

## Resisting deportation

On 31 May 2017, police entered a vocational college in Nuremberg in order to arrest Asef N., a 20-year-old Afghan, for deportation. While the young Afghan at first did not resist and entered the police car to be taken away, a group of his fellow students who realised what was going on sat down in front of the car in order to prevent its departure. More and more students joined and over the following hours, more than 300 students were protesting. Violent clashes with the police followed; the police used pepper spray and their batons and detained some of the protestors. After several hours, Asef N. was taken away while the protests continued. Protestors marched to the Nuremberg foreigner registration office. Civil society organisations and the political opposition vehemently criticised the police for detaining a person out of a classroom. A trade union condemned the "inhuman" approach of the Bavarian government (Süddeutsche Zeitung 2017b, Spiegel 2017c). Authorities had planned to put

Asef N. on the deportation flight that was later called off due to the bomb attack in Kabul. The foreigner registration office wanted to detain him pending later deportation but he was released by a court decision on the following day (Süddeutsche Zeitung 2017c).

This was probably the most spectacular case of protest against the deportation of an Afghan in Bavaria but it was by no means the only effort to prevent deportation. Refugee support organisations such as the Bayerischer Flüchtlingsrat (“Bavarian Refugee Council”, BFR), the Münchner Flüchtlingsrat (“Munich Refugee Council”, MFR) or the Karawane München (“Munich Caravan”) circulate dates of deportation flights and sometimes organise protest demonstrations. On 11 September 2018, for instance, several hundred people protested in Munich at the time when a deportation flight was scheduled for take-off to Kabul from Munich Airport. Such organisations also publish legal alerts and information for potential deportees and their supporters to prevent deportation.<sup>18</sup>

Over the recent years, a dense network of volunteers engaged in the support of refugees has grown across Bavaria. They are mostly based in local support organisations, many of them linked to parishes. To exchange information and advice many of them communicate via an email list established in 2015 that includes around one thousand addresses. Many of these emails refer to issues relating to Afghans, like the problem of getting a *tazkira*, an Afghan identity document that is required for many purposes and that is difficult to procure, or of gaining access to the services of the Afghan consulate general in Munich. Also information about imminent deportations, news about Afghans who have been taken into custody for deportation, calls for appeals to the government and politicians and comments on deportation politics are exchanged over the list.

On 27 September 2018, for instance, the news was circulated that another *Sammelabschiebung* was scheduled for 2 October 2018. Later that day it became known that a young Afghan called A. had been arrested for deportation from his school in Passau. Possible protest letters to members of the Bavarian government were disseminated over the email list that in particular pointed out that this arrest contradicted the government’s announcements that considerations of proportionality would always be taken into account in decisions of deportation. Many volunteers sent such appeals and made this known on the list. One volunteer reported that a week earlier a CSU member of the Bavarian parliament had refused to support a petition against the arrest of Afghans from schools, arguing that such a thing would never happen anyway. I joined

18 See, for instance Bayerischer Flüchtlingsrat 2019b. While despite the draft of the new deportation law publishing deportation dates is not yet a criminal offence, the government tries to prevent such alerts. In 2018, the Bavarian government threatened to stop public funding of all organisations involved in such counselling. Not only political organisations such as the BFR were threatened in this way but also church-based organisations such as Caritas or Diakonie (Süddeutsche Zeitung 2017d, Münchner Merkur 2017).

the appeals. The next day I got a message from the government that A. had been released from custody. It was explained that A.'s efforts towards education and integration had not been known to the regional government of Lower Bavaria, which was responsible for his detention. The next day it was reported that another Afghan, Mujtaba A., had been detained earlier at the foreigner registration office, where he had gone for the renewal of his *Duldung*. According to the information circulated, he had finished school and had an offer for a workplace and further training. He too was released after appeals had been sent. It's probably no accident that in these cases, which had become known two weeks before the elections, the government took swift action and released the arrested Afghans.

On 4 October 2018, the BFR published an appeal titled "Human Dignity instead of Deportation Hysteria" directed at the electorate in Bavaria. The appeal was supported by 3,000 initiatives and advocacy organisations across Bavaria as well as individual supporters. It called for not voting for anti-refugee parties in the upcoming elections and asked voters to consider also the interests of those who, like refugees, have no right to vote (Bayerischer Flüchtlingsrat 2018a).

A month later, another case was intensely discussed among volunteers and activists: on 8 November 2018, an Afghan threatened to jump out of the window when police attempted to arrest him for deportation in an accommodation centre in Bayreuth. After two hours, a lawyer intervened and took him to hospital. He was scheduled for the 18th *Sammelabschiebung* to Afghanistan that took place on 13 November 2018. After the elections, the CSU ministers in government were much less ready to reconsider deportations. The plane took off on 13 November 2018 and according to a press release of the BFR it contained persons with mental illness, students and persons who had been offered training positions but been refused permission by the authorities to take them up (Bayerischer Flüchtlingsrat 2018b).<sup>19</sup>

In addition to such actions for the support of individual Afghans threatened by deportation, there are also actions aiming at disseminating the message that Afghanistan is unsafe for anyone. In April 2018, the BFR and Munich Caravan started a "banner action" for this purpose. Initiatives were called to print banners reading "Not Safe – We Demand No Deportations to Afghanistan" and to display them in public spaces. Photographs of these actions were published on a website (Afghanistan Not Safe 2019). This campaign gained particular momentum in summer 2018. Altogether 44 such banners were displayed by diverse initiatives and organisations at different places in Munich and many more in other cities. In July 2018, the campaign organised a conference on deportations to Afghanistan that took place in the Belle-

19 For the example of an Afghan trainee on this flight see also *Süddeutsche Zeitung* 2018e.

vue di Monaco, another cultural centre that supports refugees in Munich (Afghanistan Not Safe 2018).

In recent years, a multifaceted scene of initiatives and activists opposing deportations to Afghanistan has developed in Bavaria. According to studies on voluntary commitments, such engagement for refugees has multiplied and diversified since 2015. Ulrike Haman and Serhat Karakayali (2016) point out that the “summer of migration” dramatically changed the composition of volunteers: on average, volunteers have become older and increasing numbers of people in rural areas and towns have engaged with refugees, while before such commitments had been concentrated in bigger cities. The authors interpret this as a normalisation of the movement of engaging with refugees. While before 2015 the slogan “Refugees Welcome” and campaigns against deportation were largely limited to leftist activists and some more or less spontaneous political initiatives organised by refugees themselves (Danielzik / Bendix 2017) it has now become part of a mainstream “welcome culture”. Most of the new volunteers who started to engage with refugees in 2015 had in fact more a humanitarian than an explicitly political agenda. Their aim was to assist the local “integration” of the newly arrived migrants in their villages, towns and neighbourhoods, also in order to prevent friction and local conflicts. Their commitments did not challenge the political framework of the German asylum and immigration system, unlike, for instance, the activists of anti-racism networks such as *Kein Mensch ist illegal* (“No Human Being is Illegal”) or *No Border*, who demand the abolition of border controls and consider the freedom of movement a universal human right. Such far-reaching political demands were much beyond the aims of the “new” volunteers. Also, the restrictions of the Asylum Packages I and II did not provoke much protest among them. According to Stephan Dünwald of the BFR,<sup>20</sup> a section of the volunteers was, however, politicised in particular by the resumed collective deportations to Afghanistan: they had to watch the young Afghans, for whose “integration” – especially in terms of language learning and professional training – they had invested much time and effort, being arrested and returned to Afghanistan. And while the Bavarian government, too, tried to carry out deportations stealthily, invisibility was subordinated to “efficiency”, if deemed necessary. Thus, Afghans are sometimes apprehended for deportation from schools and classrooms although this creates particular scandal. Further, while the deportations themselves are mostly carried out covertly, their results have to be announced publicly in press conferences with the intention of placating right-wing voters.

The obvious contradiction between the government’s integration rhetoric and the actual practice of deportation triggered protest and action in support

20 Personal interview on 15 March 2019.

of deportees. These protests, too, do not imply any fundamental challenge to the German asylum system, as they take the distinction of deserving and non-deserving refugees for granted. But they signal a serious estrangement from a government that has been perceived as not honouring its own principles – or rather as using such principles as a smokescreen to hide a dirty practice of almost indiscriminate deportation. By protesting and appealing on behalf of Afghans who are arrested from their schools or who are taken out of their professional training and jobs, volunteers affirm the paradigm of deservingness and its concomitant logic of integration. This logic is ratified by the volunteers' emphasis that a particular Afghan who is threatened by deportation is, in fact, "well integrated" and therefore deserves to stay.

Strategically, the emphasis of an Afghan's deservingness and "integration" is the only promising approach to avert his deportation by political means. Nobody is willing to demand the right to stay of a person who is considered a criminal or potential terrorist. Not only volunteers but also employers assert the usefulness of their Afghan employees if the latter are threatened by deportation. The Bavarian Chamber of Industry and Commerce sometimes supports such Afghan employees (or rather their employers), but this happens through political backchannels and is not made public. Lobbying organisations such as the BFR use similar channels with individual politicians to save Afghans from being deported. After the Bavarian elections the CSU, having lost its majority in Parliament, had to form a coalition government with the regional party Freie Wähler ("Free Voters"). In their election manifesto the Freie Wähler had vowed to review the strict deportation programme of the Bavarian government. Being held to their word, they are now regularly approached in the case of "integrated" deportees. "If by such means we get one or two Afghans off each deportation flight, we have to consider this as a success," said Stephan Dünnwald.

## Conclusion

Considering the actual number of deportations to Afghanistan – little more than 500 at the time of writing in spring 2019 since the resumption of *Sammelabschiebungen* in December 2016 – and comparing it with the number of Afghans living in Germany (around 250,000), the issue of deportations seems relatively insignificant. Yet it is not. It is the site where symbolic and actual battles over sovereignty, belonging and rights are fought. The power to determine who is allowed to live in a state's territory is seen as a significant aspect of sovereignty. In Germany, the openness of borders that allowed the influx of large numbers of refugees in 2015 was seen by some as a loss of sovereignty

and a threat to the rule of law. Today, sovereignty and the rule of law have to be restored by deporting people who have no right to stay, the federal government and the government of Bavaria insist time and again. Even if the actual number of deportations is limited, the effort signals to a refugee-critical audience that the government is taking the issue seriously – not only by deporting rejected asylum-seekers but also by creating laws and regulations that are intended to enable more deportations, even at the cost of criminalising volunteers and undermining means of legal redress. Yet, bound by manifold obligations and often contradictory considerations in a highly complex migration regime (Nieswand 2018), the government is by no means a unified sovereign actor. Sovereignty is in part challenged by the logic of integration. Originally a demand directed at labour migrants and their offspring that drew the migrants' belonging into question by insisting that they were not (yet) sufficiently integrated, the integration claim shifted to the refugee issue and is now turned on its head by volunteers who argue that a particular person is well integrated and therefore deserves the right to stay. The logic of integration indeed has become a central aspect of the German asylum regime. A few years ago, Heide Castañeda (2010) argued that in contrast to the United States, considerations of “social citizenship”, i.e. a person's local social integration, did not resonate powerfully in debates about deportations in Germany. Today, as we have seen, this aspect stands at the centre of the politics of the right to stay and has perhaps surpassed humanitarian considerations related to health issues (Ticktin 2011) in this regard. “Integration” has certainly become the most important criterion of “deservingness”. The logic of integration has become so entrenched that lobbying organisations have to resort to what I call a “strategic integrationism” in order to fight some deportations. They have to do so even if they are critical of the underlying notion of deservingness, and thus even at the risk of obscuring the universal human right to “Life, Liberty and Security” as enshrined in Article 3 of the Universal Declaration of Human Rights, which does not distinguish “deserving” from “non-deserving” human beings.

While the issue of deportation thus has highly symbolic significance for political debates in Germany, it is an existential matter for the Afghan refugees themselves. Even if only a few of them are actually deported, the threat of deportation looms large and creates an enduring existential situation of uncertainty and insecurity. The deportation of a few reminds all of their vulnerability. An (unintended?) consequence of this is that many Afghans leave Germany for a neighbouring country that is deemed safer. Recently, volunteers estimated that the majority of Afghans in their district had clandestinely left Bavaria for France. Thus, the relatively symbolic quantity of actual deportations has a multiplying effect. Leaving Germany “illegally”, however, is considered cause for deportation in the event of a return to Bavaria. At the time

of writing, two Afghans are in confinement awaiting their deportation to Afghanistan after having been deported from France to Germany through the Dublin Regulation.

Yet the significance of deporting Afghans from Germany reaches beyond the refugee issue and points to global power relations and inequalities. We may argue that these deportations have the purpose not only of reducing the number of Afghans in Germany, but also of justifying the military intervention in Afghanistan. The government's reiteration that Afghanistan is "safe enough" for deportees is often accompanied by references to the engagement of German military and police sent to the country to bring peace, security, human rights and development. The admission that Afghanistan is not safe at all would be a devastating evaluation of these engagements. At the receiving end of interventions and at the bottom of the global hierarchy of nations, Afghanistan is not in a position to challenge international policies. Threatened by the reduction or even cancellation of international aid, the country cannot afford, for instance, to refuse the readmission of migrants, even if the conditions for their "reintegration" are unfavourable and perhaps further add to the country's difficulties. We should also recall that Afghanistan's current disastrous state of affairs is rooted in previous interventions, those by the Soviet army and by the CIA.

The inequality of lives is underlined by the travel advice issued by the German Foreign Office, which warns against visiting Afghanistan and describes the dangers in the country. Yet these warnings are not meant for deportees. The deportee has replaced the transmigrant as the epitomising figure of the global regime of mobility. In contrast with transmigrants, deportees are not autonomous but forced to move. Their fate is negotiated between the state that wants to deport them and the state that agrees to their readmission. In these negotiations, refugees and migrants have no voice and, as a consequence, no choice. Nations have been "re-bound"; people are put back in the place determined by their nationality. The deportee stands symbolically for the selectivity of borders and the global system of inequality that reserves the right to a good and safe life to a few only – at the expense of many others.

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