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Irregular Migration in Germany

“Assistance to Return” as Expression of New Rationalities of Government

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Irregular Migration in Germany

“Assistance to Return” as Expression of New Rationalities of Government

RUTH STEUERWALD

Die vorliegende Arbeit untersucht, ausgehend von Michel Foucaults Theorie der „Governmentalität“, Praktiken der „Rückkehrförderung irregulärer Migrant_innen“ in Deutschland als Techniken neoliberalen Regierens globaler „Migrationsströme“. „Regierung“ wird im Sinne Foucaults als „die Führung der Führungen“ konzeptualisiert, und umfasst somit weit mehr als den Staatsapparat. Es wird eine Genealogie von Formen der Rückkehrförderung in Deutschland aufgezeichnet, welche sich heute verstärkt auf die Person des_der irregulären Migrant_in beziehen. Diese Genealogie wird dann zu sich verändernden Rationalisierungen von Migration und globalem Raum in Relation gesetzt. Ich komme zu dem Ergebnis, dass die Einflussnahme auf als irregulär subjektivierte Migrant_innen in einer neoliberalen Regierungsrationalität relevant wird, weil diese den freien Fluss der „regulären“ Migrant_innen gefährden. Regulierter freier Fluss reguläre Migrant_innen wiederum ist in einer als globaler Raum konzeptualisierten Welt wichtig, da er einen globalen Markt für Humankapital darstellt. Weiterhin können aktuelle Programme der „Förderung freiwilliger Rückkehr“ als neoliberale Regierungstechniken interpretiert werden, die sich in das diskursive Feld der Migration ausbreiten. Dies bedeutet nicht, dass souveräne Techniken wie Abschiebung durch diese Techniken ersetzt wurden; vielmehr bildet sich ein diskursives Feld des „Regierens von Rückkehr“ heraus, in dem souveräne und neoliberale Techniken logisch verknüpft sind und einander bedingen. Eine Fallstudie, die in einer der in mehreren Bundesländern speziell zur Rückkehrförderung gegründeten Institution durchgeführt wurde, untersucht schliesslich Regierungstechniken im Feld „Rückkehr“ auf institutioneller Ebene, und gibt einen Einblick in Subjektivierungen und Konzeptualisierungen der Arbeit und Zielsetzungen dieser Institution durch ihren Direktor. Auch hier, in einer Einrichtung, in der verschiedene (souveräne und neoliberale) Techniken der Rückkehrförderung zusammenspielen, dominieren neoliberale Rationalisierungen der irregulären Migrant_innen und der angewandten Massnahmen.

Stichworte: Rückkehrförderung, freiwillige Rückkehr, irreguläre Migration, Governmentalität

Starting from Michel Foucault's theory of governmentality, this thesis analyses practices of "fostering return of irregular migrants" in Germany as a neoliberal technique of governing global "flows of migration". "Government" is understood through Foucault as the "conduct of conduct", and thus comprises far more than merely state institutions. The thesis traces a genealogy of fostering return in different forms in Germany, showing that current forms increasingly target irregular migrants. This genealogy is then set in relation to changing rationalizations of migration and world space. I conclude that exercising influence on migrants subjectivized as irregular becomes relevant within a neoliberal rationality of government, because they endanger the free flow of "regular" migrants. A regulated, free flow of regular migrants in turn is important in a world conceptualized as a global space, because it represents a necessary global market of human capital. Furthermore, current programs of fostering "voluntary return" can be interpreted as neoliberal techniques of government, which are spreading into the discursive field of migration. This does not, however, mean that sovereign techniques such as deportation are being replaced. Rather, a discursive field of "governing return" is opened up, in which neoliberal and sovereign techniques are logically connected and depend on each other. A case study, realized in one of the institutions founded specifically in order to foster return in different federal states in Germany, finally investigates upon government techniques in the field of "return" on an institutional level, and offers insights into the subjectivization and conceptualizations of the institution's aims and work practices by its director. I find that within the institution, which is active at the intersection of different (neoliberal and sovereign) techniques of fostering return, neoliberal rationalizations of the irregular migrants and the applied measures dominate as well.

Keywords: Fostering return, voluntary return, irregular migration, governmentality

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1. Introduction

"Consistent return of illegal immigrants is a constitutive part of successful immigration policy."

Wolfgang Schäuble (2006)¹

The aim of this thesis is to analyze the current governmental techniques of governing irregular migration through "assistance to return" ("Rückkehrförderung"). Using Foucault's concept of governmentality, the central research question is: how is the aim of assisting the return of non-deportable foreigners in Germany conceptualized and realized, and how has this conceptualization and employment of return changed in recent decades.

"Assistance to return" describes different measures of support to foreigners to leave Germany after having spent a certain time in the country. This assistance can be given by a wide array of actors. The term can refer to financial, material, bureaucratic or other forms of assistance. Many new programs of "assistance to return" have been established in Germany in recent decades. Assistance to return increasingly targets irregular migrants legally obliged to leave Germany, but whose forceful extraction from the territory can for diverse reasons not be realized.

Governmentality's theoretical starting point is an understanding of collective thinking and the production of truth in terms of "rationalities" as effective in social, cultural and political practices (which are termed "techniques of government") (Dean 1999: 16-18). I chose this theoretical approach because it offers the possibility of challenging essential givens and of attempting an analysis, which sets observed phenomena in a wider context.

In this manner, current government of "voluntary return" can be interpreted as an expression of neoliberal rationalities spreading into the realm of migration and world space. Government of return is set at the intersection of different conceptualizations of the nation state and world space, echoing different rationalities of government: in these different rationalities, movement of persons is conceptualized very differently. "Transnational migratory flows" are a neoliberal rationalization. Accordingly, they have

¹ [K]onsequente Rückführung illegal Eingewanderter [ist] ein wesentlicher Bestandteil einer erfolgreichen Zuwanderungspolitik." (own translation)

to be comprehensively regulated with the aim of creating and enabling a global market of human capital. This is done by employing many different techniques and by acting upon many different groups of migrants; non-deportable irregular migrants are only one of them.

Nicholas DE GENOVA has recently spoken about a “deportation turn” in dealing with “‘unauthorized’ or ‘irregular’ migration”, with deportation having come to “stand in as the apparently singular and presumably natural or proper retribution on the part of state powers to this apparent problem” (De Genova 2010: 1). According to De Genova, deportation is a disciplinary technique, “premised on [and constitutive in] a normative division of the world into territorially defined, ‘sovereign’ nation states, and within these states, the ubiquitous division enacted between more or less ‘rightful’ members (citizens) and relatively rightless nonmembers (aliens)” (De Genova 2010: 7).

It can, however, be observed that the fostering of what is called “voluntary return” in Germany and the European Union is increasingly presented as a “more humane and less costly alternative” to deportation. It is employed to tackle the problem of foreigners set for deportation, but who do not cooperate with authorities to identify themselves and do not produce identification documents. Deportation has, however, in no way been replaced by “voluntary return”, and there are other disciplinary techniques applied in order to make deportations possible; a new field of “governing return”, logically connecting “forced” and “voluntary” return, has opened up. This research will examine this field.

Government in terms of governmentality is not restricted to the state or enforced in a clear top-down manner. Rather, it is something that involves and creates different scales, locales, levels, and actors. To analyze government of return, it is thus not only relevant to take into consideration official state bodies, but other institutions and actors, such as bureaucrats, police officers, the to-be-deportees themselves, etc. Not all perspectives could be included in this thesis – most notably that of the deportable foreigners is excluded. But I include institutions, such as so called “return centers” or welfare organizations in the analysis.

A word on terminology before I outline the structure of the thesis: From the perspective of studies of governmentality, irregular migration and irregular migrants are not understood as empirical givens relevant in themselves, but rather as a reified object of government that has become relevant due to the rationalities and techniques

of government in specific conditions of possibility. It is for this reason that I will abstain from employing terms such as „irregularized“ or „illegalized“ migrants, and neither set the terms illegal or irregular migrants in quotation marks. In other publications (for example Schwenken 2005), these markers are often employed with specific aims: to distance the author from political positions that separate rightful persons as bearers of rights from persons that are constructed as not entitled to bear basic rights in a national space, and only thinkable – and governable – as victims or dangerous culprits. I, personally, also distance myself from such political position and don't attempt to justify them; the reason why I will employ the terms irregular migrants lies in the fact that I will concern myself precisely with the strategic construction and naturalization of the separation mentioned above.

With this in mind, I will define irregular migrants in this thesis as group of people entering or residing in Germany, but (legally) obliged to leave the country. This includes those residing on the territory in a clandestine way, and attempting to escape any official registration, as their stay represents a legal offence. The thesis is however centrally concerned with another group of migrants which I also conceptualize as irregular: the group of people residing under a so called “toleration” (Duldung), a temporary suspension of the deportation order. This group has access to (reduced) social welfare, schooling and medical care, and possibly even work permits, and their stay does not represent a legal offence. But if a person is apprehended without papers in Germany and cannot be extracted, he or she will in many cases be issued with a “toleration”. In fact, both groups are constructed as legally bound to leave the territory of the state, and acted upon accordingly.

The thesis will be structured as follows: Chapter Two will outline the governmentality approach in detail and define specific terminology. Chapter Three focuses on the applied methods, namely document analysis and expert interviews, and also raises some important questions regarding the role of the researcher. In Chapter Four, I will elaborate on what I have called ‘changing rationalizations of world space and human mobility’, and how those concepts relate to current practices of return. Chapter Five and Six will then present the finding of this thesis: After giving an introductory overview on the changing governmental policies on migration and assistance to (voluntary) return in Germany (and the European Union), the current practice of “assistance to voluntary return” will be presented. I will then present a small a case

study on rationalities of government in one institution active in fostering return. Finally, I will draw my conclusions in Chapter Six, attempting to answer the question of how the changes and the connection of the different techniques in the field of "assistance to return" can be conceptualized.

2. Theoretical Background: Governmentality Studies

2.1 Basic Assumptions

"Governmentality", the main theory underlying this thesis, is a term coined by the late French philosopher Michel Foucault in his 1978/1979 lectures given at the Collège de France. Foucault's thesis of the reciprocal constitution of power techniques and forms of knowledge is materialized in this theory (Lemke 2000), with which he attempted to reconstruct a "history of governmentality from antiquity to neoliberalism" (Lemke 2000).

Governmentality studies make political reason intelligible, by uncovering the problematization underlying forms of government. In this process language is seen to constitute reality; from the perspective of governmentality, "political struggles [are] conflicts over meaning" (Walters/Haahr 2005: 6).

The concept is based on an understanding of power not as substance: power is not derived "from any particular source", nor is it "founded on itself or generated by itself". The concept is based rather on mechanisms of power as "an intrinsic part of [all] relations and, in a circular way [as] both their effect and cause" (Foucault 2007: 2).

The term 'government' is defined in this context differently from the common understanding: "the term government is used as a more general term for any calculated direction of human conduct" (Dean 1999: 2). Put differently, government means "any more or less calculated activity, undertaken by a multiplicity of authorities and agencies, employing a variety of techniques and forms of knowledge that seeks to shape our conduct by working through our desires, aspirations, interests and beliefs [...]. Agencies of government can be local, regional, national, international or global"

(Dean 1999: 11). Government then can be directed both towards the self and towards others².

Importantly, governmentality studies “are not confined to the study of mentalities of government, but also include ‘the invention and assemblage of particular apparatuses and devices for exercising power and intervening upon particular problems’” (Rose 1999: 19). In reality, the techniques of power that are central to the analysis of governmental practices cannot exist without the rationalities that ‘problematize’ the world in certain ways, and vice versa. In this sense:

“Government defines a discursive field within which the exercise of power is rationalized. [...] This process in itself represents an intervention, because political rationalities are not a pure or neutral knowledge that merely “re-present” the reality to be governed, but represent an already intellectual processing of the reality, from which political technologies can start”³ (Lemke 2000, own translation). Considering these ‘technologies of power’ causes one to question the ‘how’ of government, to examine “by what means, procedures, instruments, tactics, technologies and vocabularies is authority and rule accomplished” (Dean 1999: 31).

Starting points for such investigations of the “how” of government are often born from “specific situations in which the activity of governing comes to be called into question, the moments and the situations in which government becomes a problem” (Dean 1999: 27). While these moments of ‘problematizations’ are relatively rare, when they do arise, they bring into being an opportunity to actually see individual and specific rationalities and regimes of power.

2.2 Genealogy

By approaching techniques of power as unimaginable without the rationalities enabling them, one is further helped to perceive forms of power as exceptional and non-essential. As Walters and Haahr put it; “words like The State and The Citizen can make governing appear like a timeless activity. Yet our political and social actions are always

² This thesis will not fully cover government of the Self, due to the scope and limited access to the research field. I will outline this point in the next chapter.

³ „Zum einen bezeichnet der Begriff eine spezifische Form der Repräsentation, das heißt Regierung definiert ein diskursives Feld, innerhalb dessen die Ausübung der Macht „rationalisiert“ wird. (...) Eine politische Rationalität ist nämlich kein reines und neutrales Wissen, das die zu regierende Realität lediglich „re-präsentiert“, sondern stellt selbst bereits eine intellektuelle Bearbeitung der Realität dar, an der dann politische Technologien ansetzen können.“

in some sense dependent upon the existence of certain practices – historically specific ways of rewarding and punishing, befriending and alienating, promoting and suppressing, etc.” (Walters/Haahr 2005: 14).

This historical de-familiarization is one central aim of governmentality studies. The focus lies on the changes in the subjectivization of objects and subjects of government, and in the way the world is conceptualized. The term ‘genealogy’ expresses this attempt to de-familiarize history: In a genealogical analysis, the exceptionality of a historical series of events is in focus, which does not follow a linear direction aimed at a certain end-point, but rather unfolds due to certain “conditions of possibility” (Walters/Haahr 2005: 16-17). This does not imply that there is no relation between specific historical moments, but does however deny that this relation is causal and directed.

“Genealogy is [...] not an exhaustive or totalizing history but a very partial one. It does not reconstruct its objects in terms of epochs, or stages of social evolution, but in terms of particular synthetic trajectories. The aim of these trajectories is to shed new light on particular features of the present by finding their antecedents in strange and unexpected places” (Walters 2002: 562). It is thus not possible to simply localize exact counterparts of past events in current ones.

2.3 Governmentality

Besides denoting a general approach to forms of government as based on specific rationalities, there is a second, (historically) specific meaning of governmentality. Governmentality in this sense is used “to distinguish the particular mentalities, arts and regimes of government and administration that have emerged since ‘early modern’ Europe”. Within the history of governmentality, “the emergence of a distinctly new form of thinking about and exercising power in certain societies” is traced back (Dean 1999: 19). This refers to specific mentalities of government and related techniques of power in the contemporary world “...which can in large parts be traced to Western Europe from the sixteenth century” (Dean 1999: 210).

This historically specific governmentality can be contrasted with other technologies of power, which are identified within earlier historical periods, but do not appear exclusively within those periods. Against the background of sovereignty and discipline, historically specific governmentality is defined as “the ensemble formed by institutions,

procedures, analyses and reflections, calculations and tactics that allow the exercise of this very specific, albeit very complex, power, that has population as its target, political economy as its major form of knowledge, and apparatuses of security as its essential technical instrument" (Foucault 2007: 108-109). I will later explain the central terms of this definition, after I have outlined the central features of sovereignty and discipline, as well as some considerations regarding the relation between these rationalities of government.

2.4 Sovereignty

One technique of power to be set in contrast with governmentality is defined by Foucault as sovereignty, or "the legal or juridical mechanism", which he presents as having been the dominant mechanism of government from the Middle Ages up to the seventeenth and eighteenth centuries. Sovereignty is "the system of the legal code with a binary division between the permitted and the prohibited, and a coupling, comprising the code, between a type of prohibited action and a type of punishment" (Foucault 2007: 5). This approach takes law, violence and pageantry as its privileged instruments, and entails a transcendental legitimization of power that is bound to the ruler as the source of power. Sovereignty is predominantly concerned with strengthening the sovereign's rule externally, thus sustaining authority over its territory: "[T]he objective of the exercise of power is, of course, to maintain, strengthen, and protect the principality" (Foucault 2007: 92).

2.5 Discipline

Discipline is, after sovereignty, the second mechanism against which governmentality can be defined. The "disciplinary mechanism" is "the law framed by mechanisms of surveillance and correction" (Foucault), which "we could call the modern system and which was established from the eighteenth century" (Foucault 2007: 6). This form of power targets the body: "It operates upon confined spaces like the school or the prison where it employs surveillance and normalizing techniques to produce useful, calculable subjects" (Walter/Haahr 2005: 9-10) In fact, institutions such as the school or the prison come into existence at the same time as the introduction of disciplinary techniques of power.

By this definition, discipline can be considered an intermediate form in the process of governmentalization. A range of "adjacent, detective, medical and psychological

techniques [...] which fall within the domain of surveillance, diagnosis, and the possible transformation of individuals" appears (Foucault 2007: 5).

At this point 'reason of state', as the legitimization of power, enters the stage: power is no longer derived exclusively from the ruler, and thus from a transcendental source. Rather, it is the state that comes to be considered the basis of power. The protection of the state against forces that could destroy it, as well as the enrichment of the state, stands as the central aim. Discipline is now no longer interested in who rules, but rather in how government is exercised.

2.6 The Governmental Triangle

It is important to underline the fact that the specific modalities of power outlined here – sovereign, disciplinary or governmental forms of power - are all relevant for the aim of this thesis. They have neither replaced each other, nor do they stand in a direct lineage to each other. Rather, they are all still present in current governmentality. As Foucault put it: "In fact, we have a triangle: sovereignty, discipline, and governmental management" (Foucault 2007: 107), and: "of course, the ancient modalities that I spoke about involve those that appear as newer. It is absolutely clear that [for example] in the juridico-legal system [...] the disciplinary side was far from being absent" (Foucault 2007: 7).

One 'technology of power' can entail several rationalities. While discussing the relation between those schematic forms of power, DEAN states: "While governmentality retains and utilizes the techniques, rationalities and institutions characteristic of both sovereignty and discipline, it departs from them and seeks to reinscribe and recode them" (Dean 1999: 18), employing them with a view to govern populations. Still, at this point, the specific aspects of governmental power must first be further clarified.

2.7 Apparatus of Security

An 'apparatus of security' is the main technical means of governmental power. It works by first inserting "the phenomenon [to be governed] within a series of probable events". It then, in turn, considers the reaction to this phenomenon using "a calculation of costs", to finally "establish, instead of a binary division between the permitted and the prohibited, [...] an average considered as optimal on the one hand, and, on the other, a bandwidth of the acceptable that must not be exceeded" (Foucault 2007: 6). In order to reach this status, government does not attempt to directly

“create” or “shape” the object to be governed through the apparatus' of security, but rather relies on characteristics of this object, which it “lets happen”, and only tries to influence indirectly: “Not that everything is left alone, but *laissez-faire* is indispensable at a certain level” (2007: 45).

The engagement with these givens, this “reality”, is a central characteristic of governmentality; the aim is “to use [the reality] as a support and make it function”. Foucault puts it as follows: “the law prohibits and discipline prescribes, and the essential function of security, without prohibiting or prescribing, but possibly making use of some instruments of prescription or prohibition, is to respond to a reality in such a way that this response cancels out the reality to which it responds – nullifies it, or regulates it” (2007: 47); other elements of reality are made to function in relation to it.

In employing those apparatus' of security, governmentality thus seeks not fully to control, but rather to direct behaviour of the population as its primary target and to govern it as a resource. It thus seeks to open up and develop the inside of the state or other governable entities. “[It] exerts its power by constituting interior spaces of social, economic and political forces as knowable domains, and utilizing technologies to manipulate these spaces and their processes” (Walters/Haahrs 2005: 137). In order to do so, what is needed is “freedom in the modern sense the word acquires in the eighteenth century: no longer the exemption and privileges attached to a person, but the possibility of movement, change of place, and processes of circulation of both people and things” (Foucault 2007: 49). This freedom needs to be constantly created, and is at the same time constantly endangered by itself. I will come back to this aspect with regard to liberal governmentality below.

2.8 Population

Foucault understands ‘population’ as a new political personage that in this form did not exist before the emergence of governmental forms of power. Population can be conceptualized as a new functioning of the relation between the individual and the collective, “between the totality of the social body and its elementary fragments” (Foucault 2007: 66), coming into effect along with the initial emergence of governmental power. Population comes to be considered a natural entity, which can be explored and known. The variables of this knowledge, such as climate conditions, the laws to which population is subjected, or its means of subsistence, can be set in

relation; "statistics, which had hitherto functioned within administrative frameworks, and so in terms of the functioning of sovereignty, now discovers and gradually reveals that the population possesses its own regularities: its death rate, its incidence of disease, its regularities of accidents [and that population] involves specific, aggregate effects [...]" (Foucault 2007: 104).

Due to its "naturalness", population escapes "the sovereign's voluntarist and direct action", and comes to be acted upon in terms of apparatus of security. Population is considered to be possessing desires, which lie outside of direct intervention. These desires are considered to produce the general interest of population, under the condition that they are allowed to play freely, and are set in certain relations and connections (Foucault 2007: 71).

A range of factors outside of the actual population must therefore be acted upon in order to govern them. The aim is not to make subjects obey the will of the sovereign, but rather to manipulate factors which are known to effect a population. Population (as the object of government) and the actual techniques of government are thus interdependent: "A constant interplay between techniques of power and their object gradually carves out in reality, as a field of reality, population and its specific phenomena. A whole series of objects were made visible for possible forms of knowledge on the basis of the constitution of the population as the correlate of techniques of power" (Foucault 2007: 79).

The "Birth of Biopolitics" – the "attempt [...] to rationalize the problems posed to governmental practice by phenomena characteristic of a set of living beings forming a population: health, hygiene, birth rate, life expectancy, race..." (Foucault 2008: 317) – can be placed in the context of this development of disciplinary, and then governmental, techniques of power.

In chapter Four, I will attempt to set the arrival of population in the context of national state building, and the ongoing subdivision of humanity in national entities, as relevant in the context of governmental power.

2.9 The Governmentalization of the State

With a view to the aim of this thesis it is important to again underline that, when speaking about government in the sense employed in governmentality studies, the term government is neither restricted to a state's [or a supra-state's] action, nor to the

actors within state institutions. Rather, 'government' should be read as the "conduct of [all] conduct", undertaken by a range of actors (teachers, priests, parents, social worker, detention center employees, activists..., to name some) in a range of fields. Government concerns both the conduct of Others, as well as the conduct of the Self: In fact, "Foucault maintains that [...] there is a certain continuity between the government of oneself, the government of a household [economy] and the government of a state or community. Linked to this continuity, he argues, is the fact that the principles of political action and those of personal conduct can be seen as being intimately related. As for the governed, to the extent that it avoids the extremes of domination, their government must aim to affect their conduct - that is, it must operate through their capacity to regulate their own behaviour. In this respect too, successful government of others is often thought to depend on the ability of those others to govern themselves, and it must therefore aim to secure the conditions under which they are enabled to do so" (Hindess 1996: 105).

Foucault states an "overvaluation of the problem of the state" in its "unity, individuality and rigorous functionality [and even in its] importance" (Foucault 2007: 109). While he acknowledges the "presence and the effect of state mechanisms", he refrains from an analysis that begins "with an analysis of the nature, structure, and functions of the state in and for itself", or that starts "from the state considered a sort of political universal and then, through successive extension, deducing the status of the mad, the sick, children, delinquents, and so on, in our kind of society" (Foucault 2008: 77). The concept of the "state" as it appears in Europe from the 16th Century onwards is thus not a universal given, but a historical manifestation of changing forms of power: "[W]hat is important for our modernity, that is to say, for our present", Foucault states, "is not the state's takeover (étatisation) of society, so much as what I would call the "governmentalization" of the state" (2007): A "movement by which the state of justice and sovereign power of the Middle Ages turns into the state of governmentality, the population state, the social security state of the twentieth century." (Walters/Haahr 2005: 10).

Historically crucial for this development was the notion that administrative technologies of discipline could not compensate for problems arising from population growth and food scarcity during the 18th Century. Economic discourse during this period began to claim that full regulation and planning restricted economic growth, as, according to

economists, economic phenomena followed its own administrative pattern. Therefore, rather than attempting to administrate the state as such, the idea of “liberal government” was developed, aiming at an individual regulation of purely economic processes, while targeting “the conduct of conduct” of the population. Creating and securing the freedom of the market by enabling the population to conduct itself in concurrence to each other within this space, rather than securing the wellbeing of the state through administrative measures, became the goal of government.

2.10 Liberalism

The term liberalism in this analysis is read not as an ideology, but as a specific modality of governmentality; “liberalism is thus to be analyzed as the principle and method of the rationalization of exercising government – a rationalization that, and this is where it is specific, follows the internal rule of maximal economization”⁴ (Foucault 2003: 1021, quoted in Lemke 2004, own translation).

Freedom, in this rationalization, comes to play a central role. The concept of freedom however, is in turn neither to be analyzed as an “anthropological constant nor [as] a historical universal” (Lemke 2004), but as a specific relation between the governor and the governed. Thus, liberalism does not guaranty freedoms that exist independently from the practice of government. Liberalism “organizes the conditions under which individuals can make use of these freedoms; [...] it is not a resource, but an artificial product of the practice of government” (Lemke 2004: 2).

By this definition freedom is “the correlative of the deployment of apparatus of security” (Foucault 2007: 48) – freedom and the apparatus of security symbiotically create each other. Therein lies, however, a fine balance, and freedom as understood within liberalism is thus constantly endangered by itself. For this reason the installation of ever new “securing” or “stabilizing” mechanisms (Lemke 2004) becomes necessary: “If liberalism represents an art of government that basically manipulates interests, it cannot do this [...] without at the same time managing the dangers and installing the mechanisms of security/freedom that guarantee that individuals or collectivity are

4 „Der Liberalismus ist also als Prinzip und Methode der Rationalisierung der Regierungsausübung zu analysieren – einer Rationalisierung, die, und hierin liegt ihre Besonderheit, der internen Regel maximaler Ökonomie gehorcht.“

exposed to dangers as little as possible⁵ (Foucault 2003a: 206, quoted in Lemke 2004, own translation). In other words, the permanent threat is an inherent aspect of liberal freedom which has to be constantly calculated in terms of costs and benefits. The quest for security and the permanent threat of security are, in Lemke's words, complementary aspects of liberal governmentality; "no liberalism without a culture of danger" (Foucault 2003: 209, quoted in Lemke 2004, own translation).

Liberal governmentality thus "consumes" freedom (Lemke 2004). The fact that the "free game of powers" constantly endangers the freedom it creates necessitates the ever new protecting and intervening mechanisms – the "apparatus of security" that are "the downside and condition of existence of liberal government" (Lemke 2004: 3).

2.11 Neoliberalism

Towards the end of the 19th Century, liberal governmentality underwent a certain shift; neoliberal (or advanced liberal) governmentality came to be fruitfully implemented in various environments after World War II (even though its roots can be traced back even further).

Neoliberal rationalities entail a conception (and legitimization) of the role of the state as creator and protector of the market. Due to this conception, formerly non-economical spheres come to be economized. Rather than assuming the "natural" functioning of these spheres, though, the market comes to be perceived as something that has to be created by the state, and that is constantly endangered.

State, in this conception, is legitimated because it ensures the existence of the market, in which responsible and rational subjects can act. This rationality differs from a liberal conception, where the legitimization of the state comes from its ability protect the market, but does not derive exclusively from its existence.

Outside governmental theory, neoliberalism is often understood as the state's retreat from certain policy areas. In terms of governmentality, though, the state, on the contrary, assumes further tasks: "The neoliberal strategy consists of shifting the responsibility for societal risks like illness, unemployment, poverty, etc., and the

5 „Wenn der Liberalismus eine Regierungskunst darstellt, welche die Interessen grundsätzlich manipuliert, so kann er dies nicht – das ist die andere Seite der Medaille – ohne zugleich die Gefahren zu managen und Mechanismen von Sicherheit/Freiheit [...] einzusetzen, die sicherstellen, daß die Individuen oder die Kollektivität so wenig wie möglich Gefahren ausgesetzt werden.“

survival in society from collective to individual subjects [individuals, families, associations, etc.] and in transforming them into problems of self-responsibility⁶ (Lemke 2000: 9, own translation). Freedom, in turn, receives a slightly different meaning as well: "Subjects were obliged to be free and were required to conduct themselves responsibly, to account for their own lives and their vicissitudes in terms of their freedom. Freedom [...], as choice, autonomy, self-responsibility, and the obligation to maximize one's life as a kind of enterprise, was one of the principal strategies of what Rose termed advanced liberal government" (Rose/O'Malley/Valverde 2006: 90-91).

The neoliberal program is read as a technique of government in which "the optimization of one's own security becomes at the same time a sign of individual autonomy and a societal imperative: it is not only irrational but also immoral to 'make it easy for the criminals' and to burden the general public with the (financial) outcomes of crime, that are in fact principally avoidable" (Lemke 2004). This is valid in terms of the government of the self and the government of others, of communities, states, regions.

In the course of this re-definition of security, surveillance of spaces and opportunity structures comes to replace the control of concrete persons and the regulation of streams of movements and information comes to replace moral categories such as responsibility or guilt (Lemke 2004). In addition, one can also find "a re-moralization of social and political discourse [...], that claims new forms of social and political responsibility for 'dangerous' or 'risky' forms of behavior, and which depends on differentiations between good and bad, friend and foe for the explanation of political-military or societal interventions" (Lemke 2000: 11, own translation).

The engagement of governmentality studies with neoliberal practices and rationalities can be explained partly as "a response to a particular challenge—how to make sense of the transformations in the arts of government that were under way in Britain, the United States, and, to a lesser extent, other Western countries. These took the form of a sustained critique of the welfare state, social security mechanisms, state planning,

6 „Die neoliberale Strategie besteht darin, die Verantwortung für gesellschaftliche Risiken wie Krankheit, Arbeitslosigkeit, Armut, etc. und das (Über-)Leben in Gesellschaft in den Zuständigkeitsbereich von kollektiven und individuellen Subjekten (Individuen, Familien, Vereine, etc.) zu übertragen und zu einem Problem der Selbstsorge zu transformieren.“

and state ownership of enterprises, indeed of the whole apparatus of the social state as it had taken shape across the twentieth century" (Lemke 2006: 1991).

2.12 Criticism and Response

By de-familiarizing a wide range of very common concepts and categories of social research, governmentality presents itself as an ambitious project. At this point I take a look at the limits that have been brought forward to this project, and those criticisms which have already been identified.

Rose, O'Malley and Valverde (2006) asserted important criticisms of the approach of governmentality. They criticize the approach for being unable to satisfactorily account for changes in models of government, and for neglecting the role of "agency, experience and resistance in the analysis" (Rose/O'Malley/Valverde 2006: 99). A further criticism concerns the approach's rigid conceptualization of certain programs as essentially neoliberal in nature "and to proceed as if this assumption of the particular under a more general category provides a sufficient account of its nature or explanation of its existence", to the point that change can exclusively derive from "somewhere else" (Rose/O'Malley/Valverde 2006: 98).

The authors first trace this criticism back to a general tendency in studies of governmentality to treat neoliberalism (Rose/O'Malley/Valverde 2006: 97) as a "master category" in the analysis of governmental rationalities and techniques. Against such an understanding, the authors bring forward a conceptualization of "[r]ationalities [as] constantly undergoing modification in the face of some newly identified problem or solution, while retaining certain styles of thought and technological preferences. [...] To describe a family of programs, strategies, or technologies as post-social or advanced liberal should not be taken to imply a necessary or linear transformation of government nor (even more problematic) a change at the level of whole societies" (Rose/O'Malley/Valverde 2006: 98). At this point I would like to underline that in the course of this thesis "neoliberal rationality" and "neoliberal governmentality" should not be read in terms of such a master narrative. Even if not explicit at every point, the above conceptualization of rationalities is taken as basis.

Critiques pointing to the neglect of agency in governmentality studies have further criticized programs of government as mere ideal types lacking explanatory power. In this way government is seen as "a juggernaut that is somehow willing itself into

existence, implementing itself into reality by mysterious means” (Rose/O'Malley/Valverde 2006: 99). Still, the concept of ideal types misses the point of analysis because governmental techniques and programs in governmentality studies are not “heuristic devices against which reality is to be constructed” (Rose/O'Malley/Valverde 2006: 99), and because analysis does not aim at identifying pure types. Rather, “[t]he orientation of governmentality work is not ideal typification, but an empirical mapping of governmental rationalities and techniques. Further, there is no assumption that the mere existence of a diagram of government implies either its generalized acceptance or implementation” (Rose/O'Malley/Valverde 2006: 99). In this regard, Rose et al. furthermore stress that governmentality does not claim to be a sociology, which is concerned with how programs are implemented and with how many subjects adopt or respectively refuse governmental rationalities, but that the study of governmentality could well be combined with such work. When I talk of neoliberal rationalities in the government of migration, this point should be kept in mind.

Before this background, and with a view to the genealogical nature of governmentality work, the invented and thus mutable nature of governmental thought and technique gives a further response to the accusation of a lack of acknowledgment of the role of agency in the analysis: “Government is not assumed to be a by-product or necessary effect of immanent social or economic forces or structures. Rather, it is seen as an attempt by those confronting certain social conditions to make sense of their environment, to imagine ways of improving the state of affairs, and to devise ways of achieving these ends” (Rose/O'Malley/Valverde 2006: 99). This point touches upon the question of how change is explained in terms of governmentality. In this process, human creativity stands at the center rather than at the margins of analysis. Human creativity is however perceived as both embedded in and starting from available resources, techniques and rationalizations. The lack of a framework analyzing agency versus structure has a significant effect on, for instance, the conceptualization of resistance. The idea of a single movement of resistance is replaced in governmentality studies by the idea that a conflict of rival programs and strategies marks the field: “[S]tructure almost always implies [...] some underlying logic or social force that has to be overcome in order that the structures be breached or transformed. Ironically, by focusing instead on how those who seek to govern imagine their world and seek to fashion it as new, governmentality escapes the cage of structure that itself limits and constraints so much of the sociological imagination” (Rose/O'Malley/Valverde 2006:

100). This account of rivaling programs is in this way not restricted to dichotomously constructed opponents, but to a wider field of actors and programs, in which strategies dealing with the specific conditions of possibilities – available ideas and material capabilities – constitute a crucial factor in the spreading of rationalities and the implementation of techniques.

A last critical point to be mentioned here is the relative neglect of the international sphere in Foucault's work, and of the creation of population as subject and object of government to the definition of nationally defined sovereign spaces. This point, as well as its implication for the internal sphere of a state, has however been raised by a range of authors in recent years (for example, Hindess 2004; Walters 2005). Chapter Four will be partly dedicated to related considerations. I will therefore not expand on this point here.

3. Method and Subjectivity

This thesis is to large extent based on secondary literature and document analysis of reports and speeches published by a varied range of actors involved in the field of migration. These actors include expert working groups implemented by the German federal government and European Union bodies employed in illustrating general changes in migration government. In addition, I conducted a range of expert interviews to gain further insights into the field. The case study employed in the last part of my thesis is based on one of these interviews.

Engagement with governmentality brings about certain specific aspects regarding methods of research and work with empirical material.

Generally, regarding the choice and employment of research methods, it is important to consider that programmatic and strategic texts, as well as statistics and other (not exclusively quantitative) data produced by the social sciences, are generally regarded as expressions of specific rationalities and techniques of government in themselves. Such data is considered to be a factor in the creation and structuring of social reality and population with its specific traits both as object and subject of government. The data should then be acted upon accordingly. This explains widespread practice of analyzing programmatic texts of often technical content in governmentality studies (Walters 2005: 7).

I approach the empirical material I employ in this thesis not as something which portrays the world as an essential reality, but as an attempt to portray a world according to a specific rationality; as a means of engaging in and acting upon the world in terms of a specific strategic project. Importantly, in line with this common mode of analysis within governmental studies, I am interested in the formulation of programs and the rationalizations underlying them, rather than examining their implementation or effects in the first place.

It is of course rather bold to talk of material produced by social sciences in such a general matter and then implicitly take one's own work – and oneself in the role of the researcher – out of this equation, insofar as this present thesis claims for itself the capacity to analyze rationalities as if it was standing outside of them. I as a researcher am naturally a person with a political standing which directs my way of making sense of and acting upon the world. And yet I am attempting to analyze ways of making sense of the world and acting upon it as though I am an entirely autonomous agent. In order to conduct research in terms of governmentality, this area of tension has to be both admitted with its inherent restrictions and endured.

As further research I have conducted four semi-structured expert interviews with persons working within different institutions involved in 'assistance to return'. The interview partners were a social worker counseling for voluntary return (in a welfare organization), two officials working in return centers and an expert on the identification of non-deportable irregular migrants. I talked to them to firstly obtain information on the way these institutions function. One interview with the director of a return center is further examined with a view to the rationalities of government inherent in the conceptualization of the interviewees' own work, as I attempted to break a purely state-based perspective on the government of return and include different locales of government. In this way, I wanted to account for the fact that government is not restricted to the level of the state, nor spreading in a linear top-down fashion. Rationalities of government are not dictated from a center to then be simply copied, they are processed according to specific aims, and thus correspond to differing techniques of government.

The expert concept according to which I chose my interview partners and material in general, relates to the theoretical concept as well: Rose has portrayed the "expert" as central to liberal form of government: "Political forces seek to utilize and

instrumentalize forms of authority other than those of 'the State' in order to govern - spatially and constitutionally - 'at a distance'. They act to accord authority to expert authorities whilst simultaneously seeking to secure that autonomy through various forms of licensure, through professionalization and through bureaucratization. From this time forth, the domain of liberal politics will be distinguished from other spheres of authoritative rule, yet inextricably bound to the authority of expertise", (Rose 1993: 293).

The choice of cases and interview partners followed explorative paths; there are many actors working in the field in different institutional contexts (state institutions, ministries, public advisory bodies to authorities, welfare organizations, etc.). Every federal state has its own regulations and institutions on assistance to return; funding derives from diverse sources; and the new regulations and publications concerning the field are varied, especially in the European Union. There were furthermore practical restrictions, as a range of institutions were not willing to give interviews or did not respond in time.

My aim in all my interviews was to understand the following:

- 1) What is the central aim of the interviewees' work and how do they realize this?
- 2) How do the interviewees view their own work, and the people who are to return?

I thus wanted the interviewees to have the opportunity and space to discuss the topic without constraints, and so I designed a relatively open manual, to which I did not stick strictly, but which I adapted during the interviews to the topics raised by the interviewees themselves. The manual included a section focusing on the presentation of their institution and tasks, a section in which they answered questions concerning their work practice, cooperation with other institutions, successes and challenges, and finally a section concerning the self-conception of their institution's importance and role.

Due to the restricted scope of the thesis and the time restrictions for my research, the positions of protest organization or other groups criticizing techniques of government in the field could not be included. The same is valid for interviews with police institutions and the Ministries of Interior of some Federal States or communal foreigner' offices, which are all involved in assistance to voluntary return.

Furthermore, as mentioned in the introduction, I excluded the perspective of those that are governed as irregular migrants. Besides restriction of scope, there is also a theoretical consideration in this latter decision: I don't consider irregular migrants as an essentially existing group, but as reified objects of government that are somewhat "produced" by different actors' and technologies of government. This is not to deny that the agency and relevance of self-government of those subjectified as irregular migrants in the context of the specific conditions of possibility in which they encounter themselves (which would be an interesting field of further research). The decision to exclude their perspective is based on the decision to focus on the production of truth by those that hold an expert status and have access to considerable material capabilities.

4. Governmentalities of International Mobility

4.1 The Domestic/International Divide as Technology of Government

In the second chapter of this thesis, I elaborated on the creation of population as an object and subject of government with its own reality and specificities to be acted upon in governmental terms. I pointed out neoliberal restructuring of governmentality that goes along with the "marketization" of formerly non-economic spheres, thereby affecting population as an object of government and enhancing the role and power of in/security. In the present chapter, I will attempt to outline aspects of changing imaginaries of the supra-national sphere that are in effect in the constitution of population. By doing this, I want to locate human mobility and specifically, the figure of the "non-deportable irregular migrant" in the specific conditions of possibility represented by these contemporary rationalities. When writing about trans-border migration, and especially touching upon return and deportation, the governmental function of the specific account of the international system of boundaries and borders is of special importance.

While it would be wrong to speak of governmentality as a theoretical approach that has been per se bound to the national or domestic sphere, it is not wrong to consider governmentality as a theory concerned with "specific regimes of practices, rationalities and technologies [...] rather than with analyses of the development of national institutions" (Dean 2010: 229). Contemporary analysis of governmentality is often set within the context of national states, within the historicity of these states as entities

within a conceptual outside/inside division underlying the formation of population remaining unmarked. As William Walter and Wendy Larner put it in 2004: “[governmentality] studies have offered an innovative framework to undertake empirical research in the modalities of power and rule in modern societies, [but] they have nevertheless remained largely focused on political, social and economic life 'inside' nation states” (Larner/Walters 2004: 1).

In his studies on governmentality, Foucault himself touched upon the formation of an international system as interwoven with the coming about of a liberal art of government (Dean 2010: 230), and there have since been other scholars that have embarked on work on “international-” or “global- governmentality”. They have in their work de-essentialized the differentiation between domestic and international as an actual technology of government (for example Hindess 2004; Larner/Walters 2004; Kalm 2008; Dean 2010). The national or domestic realm, as opposed to the global or international, is in these cases no longer approached as the “analytical locale” (Larner/Walters 2004: 5). The international system is rather approached as part of an art of governmentality itself (Larner/Walters 2004: 7).

Engin Isin has also engaged with an “outside view” of the organization of the wider human population as governmentality. Isin detailed different forms of citizenship in terms of ever new forms of necessary exclusion of non-citizens: Citizenship in its genealogy is defined in this case as the capacity of “being political”, and is not necessarily bound to the historically specific nation state. Most prominently citizenship is conceptualized as a concept growing ever more inclusive – once restricted to the wealthy male citizen of the Greek polis, it now includes the poor, former slaves, women, and so on. Isin’s rejection of this definition adds to the concept of organizations of world space as governmental regimes, the understanding of an insider-identity as only constructible via the creation of outsiders⁷ (ISIN 2002). Depending on different imaginaries of the geopolitical world space – and it is important to underline that from a perspective of governmentality, “imaginary” means a rationalization which is only conceivable in terms of the techniques and practices which

⁷ This is not to say, of course, that citizenship has not been constructed through techniques that first of all targeted insiders; in the aftermath of the 2nd world war, the spreading of the national passport can for example be regarded as such a technique; “[i]t promised to produce certainty about who was a citizen and therefore entitled to certain rights and benefits” (LIPPERT, 1999:12); but again, the passport was also a technique governing the outsider, the non-citizen, who did not hold a passport.

bring it about – the outsider takes on different identities. The government of the outsider – on a domestic scale as well as on supranational one – is thus dependent on the government of the wider human population in the geopolitical sphere. Contemporary attempts to manage international migration can only be understood as governmental techniques entailing specific (neoliberal) rationalities, rather than as based on universal givens; this accounts for current practices to grasp transnational migratory flows as a statistical reality, to differentiate between “good” and “bad” migratory movements, to facilitate the good ones and to disable the bad ones, etc.

This move enables us to locate the government of migration and, in this case, the populations governed as “irregular migrants”, as inner-outsiders to be rendered extractable, in specific conditions of possibility.

4.2 Genealogies of World Space and Migration

4.2.1 State Sovereignty, Citizenship and Development

Hindess observes the necessary relation between liberal and illiberal practices – or security and sovereign techniques necessary in an apparatus of security for the creation of freedom – in the emergence and transformation of liberalism (Hindess 2004a: 28). Using this perception, liberalism comprises the government of those who are subjectified as ungovernable through freedom. This is echoed in the conceptualization of citizenship as “a regime which operates first by dividing humanity into sub-populations” (Hindess 2004: 130), in which each state is “expected to look after its own citizens and to be correspondingly less concerned about the conditions of those who appear to belong elsewhere” (paralleling Isin’s conception cited above).

Barry Hindess, in seeking to understand how this liberal principal came to be embodied in the state system, and generally, “the manner in which states have come to assume such an important place in the government of population” – leading to the existence of “numerous domestic spheres” treated as a given in liberal governmentality – turned to the 17th century: “[T]he modern state system has its origin in attempts to bring religious conflicts in seventeenth-century Europe under control, and especially in the 1648 Treaty of Westphalia [and] a number of related agreements. These agreements effectively transformed the condition of the Western part of Europe, assigning populations that had been subject to overlapping sources of authority to sovereign rulers which were acknowledged as having primary responsibility for the government of population within their territories” (Hindess 2004a: 27). The emergence of sovereign

states as self-determined subjects, in whose affairs no outside power has the right to intervene, came to be of central importance in Europe.

Within the imperial area, "the greater part of humanity was brought within the remit of the modern system of states either directly through imperial rule or indirectly through the complementary and interdependent deployment of a standard civilization, which required independent states to acknowledge the extra-territorial jurisdiction of Western states, and [...] the 'imperialism of free trade'" (Hindess 2004a: 33). In these specific conditions of possibility, "civilization" served as an imaginary of world space among Western powers, and the "'standard of civilization' determined whether a people would be formally recognized by the Western powers as 'sovereign' and admissible to the world society of states" (Walters/Larner 2004: 4).

During the imperial era the creation of the 'outsider' exclusively rested on the denial of citizenship. This creation was implemented using the division between citizens and non-citizens (imperial subjects). After the spreading of independence and the coming about of citizenship as a "universal human condition" (Hindess 2002: 132), it was increasingly because of citizenship that those groups came to be governed as outsiders (Hindess 2002: 128): "The 'master narrative' of civilization was ultimately displaced by ideas like 'development' and 'modernization'. For much of the twentieth century, these concepts took on the work of depicting world population and social change" (Walters 2004: 4).

With this developmental logic, hierarchical divisions between the 'citizens' and the 'imperial subjects' were replaced by divisions between the citizens of developed and underdeveloped states, in a world divided not only into sovereign states, but also into "stages of development", echoing the former imperial divisions: "[T]he perception that some societies are considerably less advanced than others, and consequently that the individuals who belong to them (and perhaps even their descendants in other parts of the world) may not yet be fit to govern themselves, clearly plays a significant part in the politics of all modern democracies, especially in the treatment accorded to non-Western immigrants and indigenous peoples" – an aspect very relevant to this thesis. "Second, the imperial project of governing and in certain respects improving the character of the subject people may no longer be pursued in its original guise, but it nevertheless informs the practices of Western states, working now through a more remote set of instruments" (Hindess 2004: 197). Larner and Walters (2004) denoted

development as “a kind of international welfarism; it seeks to assist the underemployed, the poor, and the homeless by addressing problems that are now understood as socio-structural”, and not anymore as effect of an essentialized lack of “civilization”.

It is important to underline that “[i]n contrast with imperialism, developmentalism sees nation-states as discrete territorial areas, with (virtually) no unclaimed territories. [...] It is assumed that the nation-state system is essentially stable, and that each nation-state has specific geographical, social, and economic characteristics” (Larner/Walters 2004: 4): Non-deportability could only become problematic before this still valid background.

4.2.2 Global Networks

While the division of the world into states is still in effect, and developmental logic is still very strong in contemporary rationalities of world space, changes in liberal governmentality on the state-level, most prominently in “developed” states, have had impacts on the rationalization of state sovereignty, population and its delimitations.

Developmentalism is in demise, just as the legitimization of the state in its capacity to present the frame and plan the wellbeing of its population is: Larner and Walters compare this to welfare states in many western states, being merely concerned with “crisis management”. In this account, development once concerned with progress, modernization, and universal citizenship is not associated with such optimistic aspects anymore (Walters/Larner 2004).

The emergence of an imaginary of world space rationalized as “global” (Walters/Larner 2004), in terms of transnational economic spaces, flows and networks, is an expression of a new rationality that came about simultaneously with an expression of this “crisis”. This is not to say that the “global” replaced the division of the world into nation states, nor is it simply stating that nation states are losing their importance, or that other rationalities and techniques of government disappear or are replaced. Rather, with the state on a domestic level deriving increasing legitimization from the market, and with neoliberal rationalities becoming ever more effective, the role and substance of the state within world space is redefined: increasingly, strategic projects of (global) neoliberal governmentality, aiming at the creation of a global

entrepreneurial society, are brought forward and perceived as at stake. In these conceptualizations, states come to play the role of business locations.

Within this global rationality of world space, the aim of neoliberal governmentality is to create a global market and a (world) population that is governed through freedom. The supra-state governmental system is marketized in many respects; with actors like the World Bank and the dominance of the free market gaining influence, the latter increasingly serves as the legitimizing factor for a state to exist. Neither the domestic nor the international market is conceptualized as happening naturally, but as having to be actively shaped. In this shaping-process, the clear international demarcations necessary for the coming about of liberal governmental power and “naturally” demarcated national populations and outsiders are re-interpreted and re-constituted before the background of a global economy that is “understood as a space of investment and trade flows that traverse nation-states. It is a domain in which the main actors and dynamic forces are transnational corporations, financial and business networks, and other market forces. Progress is to be sought by governing the conditions that affect these disembodied processes” (Walters/Larner 2004). The subjectivizations of the citizens of those nationally or regionally defined economies change; the connectivity to the state of the entrepreneurial subject, which is perceived as responsible to invest in him- or herself, changes. Subjects moving in a transnational space are re-subjectified in this process; an aspect to which I will turn below.

Neoliberal restructuring of imaginaries of world space is thus undertaken under specific conditions. The division of the world into nation-states, the conceptualization in terms of development stages and naturalized national borders are still in effect. Particularly inside “developed” states, these rationalities of world space clearly inform and reproduce a situation of “complex and hierarchical differentiation[s] of legal status and rights for citizens, foreign residents, migrants, and refugees” (LUI 2004: 120). It is not a “pure” individual self-entrepreneurial success that accounts for this map of statuses. Other rationalities of world space in no way disappear, nor are they replaced. But still, an increasingly dominant rationality guiding the map of statuses and the condition of the population as object and subject of government can be analyzed as apparatuses of security that serve the aim to create, protect and re-create freedom for population to be governed, and thus for the market to function. It is not a disciplinary government aimed at planning the conditions of population anymore, but selective and indirect

intervention by a range of techniques (among them, possibly also sovereign or disciplinary ones), with the aim of governing through freedom standing in the center.

This change in rationalities may not appear in the same way or have the same effects under all different conditions of possibility; within 'underdeveloped' states, neoliberal rationalities may not (yet) provide the dominant rationality of power. These states might derive their legitimization from the mere fact that they do not disturb the game of the market⁸, rather than through their efforts of creating and protecting the market, through which they could be externally legitimated by the 'developed states'.

4.3 Government of Migration as Global Flows

4.3.1 Neoliberal Government of Migration

The above portrayed rationalities, effective in the imaginary of a "global" world, correspond to specific rationalities of governing migration. This concept is to be thought of in the same historicized and de-essentialized way as the State or the International, in order to grasp and embed contemporary government of the return of irregular migrants in Germany and the EU – one timeless concept of "migration" does not exist.

A contemporary neoliberal program, along with corresponding global imaginaries of the world, comprise the discovery of "a volatile world of restless bodies whose human impulses, needs, desires, and capabilities seem to ever increasingly surpass and defy the capacities of nation states to define their subjectivities, command their loyalties, and contain their energies" (De Genova 2010: 2). It is the above mentioned discovery of a new reality of transnational migratory flows, with their own statistical reality, their regularities, which is to be acted upon in terms of apparatus of security, as this new reality is not governable with disciplinary rationalities. This understanding can be distinguished from a rationality of migration as having to be initiated and administered, prevalent for instance in the labor recruitment of the 1960s in Germany.

A moment of threat to the nation state lies in an account of migration as free-floating transnational force, due to the role the state has historically come to take. This threat,

⁸ The fact that I have put a neoliberal global imaginary of world space in a genealogical line with civilization and developmentalism before the background of the creation of the sovereign state does not imply that here could not be other genealogies that would set contemporary rationalities of the „global“ in a line with other, earlier conceptualizations of the global, marked for example by international trade, relations between empires, etc.

expressed in the figure of the “bogus asylum seeker” or in “irregular migration” that has to be fought, can be explained in terms of freedom endangering itself and as having to be acted upon through the apparatus of security.

At the same time, migratory flows have come to be seen as factors in the creation of a free market for human capital in the “global competition for the best heads”, which are necessarily to be gained for a specific economic body. This neoliberal conceptualization accounts for the newly discovered reality of the migratory “flows” – informed by subjectivizations of those transnational entrepreneurial subjects that have managed to successfully invest in themselves – in terms of their benefits and necessity.

On the basis of this rationalization of migration as being necessary for the creation of a global market of human capital, a re-conceptualization of the insider/outsider scheme can be established. The freedom to move is always threatened by itself (irregular migrants are considered as a threat to the functioning of the market), and thus has to be embedded within conditions which canceled out this threat: sovereign and disciplinary techniques thus come to be employed as integral parts of neoliberal governmentality of migration (Lemke 2004).

Those two conceptualizations of migratory flows – the ones threatening the nation state and those governed as free-floating human capital – are increasingly presented as an interlinked expression of the free-floating migratory flows from a perspective of neoliberal governmentality, that have to be comprehensively managed. There is a strategic moment in the way the connection is established; it attempts to defend neoliberal rationalities within a field of competition with other rationalities and programs prevalent in nationally- and internationally-conceptualized regimes of government. These other rationalities comprise a (disciplinary) conceptualization of the nation state as both protector and administrator of its citizens, or a conceptualization of the state as a sovereign’s realm of power. They also relate to other accounts of the international system: The transnational entrepreneurial object of government is clearly constructed as distinct from the irregularly moving, underdeveloped and dangerous object, in order to enhance the role and acceptance of the entrepreneurial one.

The account of “securitization” of (inter alia) migration (evoked for example by Huysman 2000; Huysman 2006) can be set in the above outlined context. In recent years a manifestation of xenophobia against the rising number of immigrants in Germany and the European Union since the late 1980s has been observed: Examples

of raised emotion can be witnessed in the burning of asylum shelters in the early 1990s, the increasingly popular view that asylum seekers are illegitimate economic migrants, the use of the key-term "lack of integration" as a reason for possibly dangerous forms of conduct, the connection evoked between Islam and terrorism, etc. The repeated references to the threats coming about with immigration as a group are informed by strategic attempts of spreading neoliberal governmentality that relate the above outlined conditions of possibility of a world divided into nation states and stages of development – now maybe rationalized as stages of market integration. But they are also informed by attempts to act upon the discovered "flows" in terms of apparatus of security, creating and protecting the conditions for freedom.

Citizenship as a technique of government also changes with neoliberal rationalities of a "global" world. These changes are closely interwoven with the new rationality underlying migration and its strategic implementation. Aihwa Ong (2006) comments on the dismantling of social rights within a shrinking welfare state in the "developed" world. Referring to claims by pro-rights-groups for "postnational, political membership for migrant workers", she has written about changing accounts of citizenship in neoliberal governmentality. Arguing that traditional citizenship has been transformed by market-driven intrusions, she states the following: "[C]omponents formerly tied to citizenship – rights, entitlements, as well as nation and territoriality – are becoming disarticulated from one another and rearticulated with governing strategies that promote economic logic in defining, evaluating, and protecting certain categories of subjects and not others. In some milieus, the neoliberal exception gives value to calculative practices and to self-governing subjects as preferred citizens. Meanwhile, other segments of the population are exempted from neoliberal criteria and thus rendered excludable as citizens and subjects. Variations in individual capacities or in performance of market skills intensify existing social and moral inequalities while blurring political distinctions between national and foreign populations" (ONG 2006: 15-16).

4.3.2 Governing Borders

Another way of setting migration or human mobility in specific conditions of possibility, and of grasping changes in the government of migration with view to neoliberalism and its strategic implementation, is by referring to specific functions of borders as techniques of government.

Borders, in a contemporary neoliberal rationalization, come to take over a “bio political function” and serve as “regulatory instruments” in relation to population. Walters (2002) states that this function has emerged relatively recently, even though “[m]uch of contemporary literature on borders takes the association between borders, immigration, and 'global flows' of population as though this were the essence of the border”. With this shift from a sovereign function of borders – as demarcating and constructing the territory where the sovereign rules – to a biopolitical instrument in the government of population, it becomes clear that migration or human mobility has not always been thought of and governed in the same way.

Asking how the border became biopolitical, Walters refers to techniques such as the passport in the course of the spreading of liberal government; the techniques he evokes are essentially all linked with the above-mentioned genealogy of the government of world space. He further states that “it is only quite recently that [...] interventions [in the form of visa applications or border controls] became in any way systematic. Contrary to our assumptions about the permanence of borders, and their functions, it seems that administrative barriers to migration between nations in 19th century Europe were quite minimal” (ibid., 2002:571) – a situation which changed with the First World War.

When considering even more recent techniques of governing borders, it becomes clear that the “global” rationality of world space and neoliberal techniques of governing migration flows in marketized terms have also left their mark within the governing of borders: While borders are de-militarized in a traditional sense and cross-border movement of ‘developed’ world tourists and businessmen/women facilitated, new means of curbing “irregular migration” are still being implemented. These means include technical devices such as body-heat scanners or heartbeat detectors (compare Sparke 2006). Such means of detection fit with an increasingly hard-line discourse on the risks and insecurity deriving from this group. I will return later to this aspect with a view to the specific case of the European Union's Schengen policy.

4.4 Changing Government of Migration in Germany and the European Union

4.4.1 Rationalities of Governing Migration in Post-World War II Germany

How are the above outlined theoretical considerations on the changing government of migration expressed in the specific case of Germany, and more specifically within the

context of the European Union? I will first answer this question before turning to "return" and other techniques in the creation of effective deportability in the context of governing irregular migration in terms of neoliberal governmentality.

From the mid 1980s onwards, immigration of refugees and asylum seekers took over a central position in the discussion of migration in Germany, leading to the so called "asylum compromise" of 1993, that effectively restricted the grounds upon which a person could receive protection under political asylum in unified Germany. Accordingly, numbers of asylum-applications have since decreased, new objects of government rationalized as illegal or irregular migrants have entered the scene, the "problem" of uncontrolled migration and the threats related to it have been pronounced widely. A wide range of restrictive measures has been implemented to curb what are perceived as loopholes to unlawful abuse of social systems. These restrictions range from reduced welfare benefits, to special shortened asylum procedures at airports, and so on.

Since the early 2000s however, rationalities echoing a contemporary neoliberal rationality of migration have been evoked, and the connection between regular and irregular migration entailed in such rationalities has been increasingly brought to the fore. Demographic arguments of "ageing societies" and global economic competition are employed in favor of legal high skilled migration with reference to these rationalities.

A programmatic attempt to bring forward such a rationalization of migration in Germany was outlined in the final report of the 2001 Independent Commission on Immigration (Unabhängige Kommission Zuwanderung, UKZ). The UKZ was installed by the then federal government due to the problematization of migration-related policy as under-regulated and as having an acute need of restructuring (Angenendt 2003: 485).

The exact proposals which the Commission on Immigration made in its final report were not fully realized in the new immigration law, of which the implementation process started with the publication of the Commission's report. Rather, the report presents a strategic program related to a certain governmentality, which was presented by an expert body at the occasion of a problematization of governmental practices. Within these practices, and alongside the commission's rationality, a range of programs exists.

In the Commission's final report, entitled "shape migration, advance integration" (UKZ 2001), an understanding of migration as necessary in light of an aging, and soon shrinking population in Germany, and due to an "increasingly interwoven world economy", in which competitiveness has to be secured, is dominant. Quotes such as "the demographic aging and the reduction of population should be mitigated both through an active family policy and through immigration" and "regulated immigration of a qualified work force should enhance the offer of the work force and thus contribute to the stabilization of the social security system⁹" (UKZ 2001: 76) hint at this point. These considerations stand exemplary for a paradigm shift after the 1973 "Recruitment Ban", which at the time was, and indeed still is, valid, and the then still widespread understandings and proclamations of Germany as "not an immigration country".

Legal migration in the report, in line with the above theoretical considerations, is, however, not regarded as automatically benefiting, but rather as having to be actively shaped and regulated, with integration being the first condition under which immigration can be fruitful. The conditions are to be set for migrants to act as free subjects and thus contribute to the competitiveness of the national economy, while "expulsion" of "native employees" from the labor market is to be avoided (UKZ 2001: 73) and the "integration capacity" (UKZ 2001: 68) of the society not exceeded. This reasoning, with the underlying conception of a state's legitimization lying within the protection of its "allochthonous" population, echoes other rationalities of government.

The envisaged system of legal migration is presented as necessarily flexible: "[T]he future need for a work force cannot be predicted precisely; it has to account for possibly unexpected developments related to supply and demand within the labor market¹⁰" (UKZ 2001: 41, own translation). The European Commission's rationalization of the world according to specific neoliberal rationalities – rationalities which entail a primacy of market logics and an adherence to flexible measures of intervention – becomes evident.

9 „Die demografische Alterung und der Rückgang der Bevölkerung sollten sowohl mittels einer aktiveren Familienpolitik als auch durch Zuwanderung gemildert werden“, and: „Gesteuerte Zuwanderung von qualifizierten Arbeitskräften sollte das Arbeitskräfteangebot und die Erwerbstätigkeit erhöhen und damit einen Beitrag zur Stabilisierung der sozialen Sicherungssysteme leisten.“

10 „Der künftige Arbeitskräftebedarf kann nicht präzise vorhergesagt werden. Die Kommission empfiehlt daher, ein flexibles Zuwanderungssystem zu entwickeln, das den jeweiligen zahlenmäßigen und qualifikationsbezogenen Entwicklungen auf der Angebots- und Nachfrageseite des Arbeitsmarktes Rechnung tragen kann.“

In terms of the proposed reforms and changed practices, mostly legal changes are proposed. Interestingly though, the aim of the changes in law – a sovereign technique – is to create an efficient tool to enable the actors in the labor market to flexibly meet their needs in terms of work forces; the current system is presented as “inflexible and not doing justice to the realities of the modern labor world” (UKZ 2001: 63). This represents an employment of sovereign techniques in a neoliberal rationality.

4.4.2 Governing Migration in the EU: the Area of Freedom, Security and Justice

Before elaborating on changing governmentality in the European Union, I first need to clarify accounts of ‘Europeanization’ from a perspective of governmentality. Firstly, this process is not considered as a linear, aim-oriented process. ‘Europeanization’ cannot fail or lose pace, as the ‘influence’ of the European Union on national policy making (and on other entities, such as schools, enterprises, families) represents governmental technologies, articulated genealogically in different conditions of possibility. Thus, it becomes necessary to question a perception of Europe as a given entity, having ‘needs’ or ‘frontiers’. In their 2006 book on “Governing Europe”, Walters and Haahr, employing a theoretical perspective of governmentality, attempted to “denaturalize the Europe(s) within, and presumed by European integration [and] trace out the governmentality and rationalities where the ‘how’ of governing Europe is articulated” (Walters/Haahr 2005: 18).

The observation that the European Union has taken over an increasingly strong role in the shaping of the government of migration in Germany (and its other member states), starting especially with the 1992 Treaty of Maastricht, could be read as a growing Europeanization of migration policy in Germany; but from a perspective of governmentality, something else is at stake. In terms of the interactive processes between the self and the local, national and supra-national levels in the shaping of government, the European Union can be rationalized as a relatively recent additional locale of government; partly expressing new rationalities of governing world-space in terms of global spaces and regions.

In order to grasp the government of migration in the EU, it is important to take into consideration the conception of the EU as an area of Freedom, Security and Justice.

This realm today comprises a wide range of issues and fields. It encompasses immigration and asylum; the control of external borders and visa policy; issues like

organized crime; drug smuggling and addiction; and so on. In the Treaty on the European Union, signed in 1991 in Maastricht, Justice and Home Affairs became, for the first time, a focus within the intergovernmental issues of the newly created European Union. By then, the Single European Act (SEA) had launched the creation of a single market. The neoliberal rationality of this single market redefined the relation between state and market, bringing Europe closer to a conception of the market as the legitimization of the state's existence and of its involvement with its population. With this rationality, "physical barriers" between member states were increasingly "represented not as positive or legitimate practices of social governance or state security, but as barriers to the single market, imposing costs on the corporate world and a nuisance for European citizens. The objective of removing physical barriers therefore emerges as a logical conclusion" (Walters/Haahrs 2005: 60). This aim was realized through the emergence and eventual integration into the *acquis* of the Schengen regulations.

Within this process however, the precise conception of barriers as "external" has aided the creation of threats associated with them: "[W]here liberties [are] extended [this mentality of government] finds new vulnerabilities. If the line that runs from the common to the single market and beyond governs Europe as a space of markets the project [of creating an area of Freedom, Security and Justice] will govern Europe as a space impinged upon by threats, something resembling a territory" (Walters/Haahr 2005: 62, my emphasis).

With the 1997 Treaty of Amsterdam and the Lisbon treaty of 2009, the Union's engagement in the realm of migration has grown gradually stronger, and efforts to protect the EU's outer borders from being impinged by dangerous subjects have become ever more decisive. Fields such as asylum and human trafficking are securitized as possibly impinging and endangering the single market in this process. A strong element of creating identity and "mediating belonging" (Huysman 2000) becomes evident here, albeit along new lines: The law-abiding citizens and denizens are created against the criminal Other, mirroring the above accounts of a re-definition of the insider-outsider divide, which is no longer to be governed along presumably "natural" national lines.

These accounts only represent one part of the picture, however; the understanding that migration is something that has to be effectively managed is today widespread in

the European Union. Allowing legal migration to happen in a regulated way is considered one possible answer to contemporary challenges of globalization, as keywords like “circular migration” or “mobility partnerships” imply. Thus the fight against illegal migration is set in relation to the necessity of fostering legal immigration.

While lacking the space to outline the varied developments and numerous decisions concerning both regular and irregular migration regarding this realm of the EU, I would like to illustrate the above points by quoting two documents concerned with issues of the “Global Approach to Migration”.

First, I will turn to a paper published by the European Council following an informal meeting of European Heads of Government in 2005, where the challenges of migration and the actions to be taken in response had been central topics. Before the actual “Global Approach” was issued, the Commission had published a paper in which it reflected on the contemporary importance and role of migration in the following way: “[T]he Commission recognises the need for a coherent, overall and balanced approach on migration issues, and the fact that setting up a clear and consolidated EU immigration policy adds to the credibility of the EU on the international stage and in its relations with third countries. [...] While immigration should be recognised as a source of cultural and social enrichment, in particular by contributing to entrepreneurship, diversity and innovation, its economic impact on employment and growth is also significant as it increases labour supply and helps cope with bottlenecks. In addition, immigration tends to have an overall positive effect on product demand and therefore on labour demand. Migration, if well managed, can be beneficial both to the EU and to the countries of origin. However, with increased migration comes the challenge of combating illegal immigration and human trafficking [...]” (Commission of the European Communities, 2005a: 2). Within the actual “Global approach”, then, reflecting on the increased numbers of migrants coming to the EU, the following is stated: “Action must be taken to reduce illegal migration flows and the loss of lives, ensure safe return of illegal migrants, strengthen durable solutions for refugees, and build capacity to better manage migration, including through maximising the benefits to all partners of legal migration, while fully respecting human rights and the individual's right to seek asylum” (European Council 2005: 3).

The concept of migration management, mirroring such perception, is furthermore widely employed by international organization such as the International Organization for Migration, whose slogan is “managing migration for the benefit of all”.

5. Governing Return

5.1 Governmentalities of Deportation and (Non-) Deportability

5.1.1 Deportation

Building on the foundations of the above considerations, which have set the government of (irregular) migration in the context of contemporary neoliberal governmentality, I will now turn in the present section to considering ways in which techniques of extracting irregular migrants have been and are used in terms of the above presented contemporary rationalities, in response to specific problematizations. These techniques of extracting irregular migrants are a specific cut out of the government of irregular migration. In order to do so, I will first call to mind some theoretical considerations on deportation, return and non-deportability, to then turn to the way in which they take effect through government of return in Germany and the EU.

In the introductory part to this thesis, I shortly referred to deportation as a constitutive technique in the government of citizenship as a universal condition of humanity. Within this perspective, the widely accepted sovereign right of states to deport non-citizens, as well as their duty to admit their own nationals, is treated as a constitutive part of the system of sovereign states (as a specific governmental regime) (Walters 2002). Approaching deportation in this way, we are able to view it as a very specific technique that can be de-historicized when compared to other forms of expulsion.

Expulsion of humans from a state has historically served a range of aims; people have been deported to camps and murdered in masses for belonging to a specific group; exiled as a punishment for homicide; transported in groups to colonies as a punishment for crimes or from colonies to the main land as cheap labor to be exploited; or expelled on religious grounds (Walters 2002). But “while the ends and the functions of expulsion have been historically variable, the modern practice of deportation is central to the allocation of population to states” (Walters 1997: 267). Therefore, an important aspect of deportation is the compulsory concern with the destination of the deported.

It will be the aim of the present section to determine in what way this “constitutive technique of citizenship” is employed currently as technique targeting the government of newly discovered transnational flows. This latter question has to be approached with a view to the above evoked changing imaginaries of world space and human mobility in terms of global flows, in the context of which deportation – in conjunction with other forms of extracting “irregular migrants” – comes to be applied. I argue that, with neoliberal rationalities strategically changing and rendering more central the effective government of migration flows in view of the above described marketized “global” rationality of the world (taking into account a world hierarchically divided in stages of development), the extraction of the “irregular migrant” as a newly subjectified object of government comes to be governed with corresponding new aims: to shape the conditions for governing migration, with the aim of fostering and protecting a global market of human capital. Deportation (and the related techniques, such as assistance of voluntary return) comes to be approached not only as a technique constitutive to the nation state, but also to the subjectivization of free flows of migration.

In this context, I attempt to answer the following questions: Which techniques of extracting irregular migrants are employed in the context of creating and protecting the functioning market of human capital through the comprehensive management of (ir)regular migration (in the specific conditions of possibility presented by the international system of states) in the German (and European Union) case? How is deportation employed as a disciplinary technique concerned with the administered allocation of population to different states?

5.1.2 Non-deportability

This thesis targets non-deportable migrants. This group can be read as a specific subjectivization of ‘inner-outsiders’, who challenge and endanger the comprehensive neoliberal government of migration due to their non-deportability. Concerns about the impossibility of purchasing identity documents are, as will become clear below, most often expressed with a view to the inefficiency of the governmental regime on migration itself (even though other rationalities focusing, for instance, on necessary punishment of persons not because they disturb the market, but also because they have “betrayed” the state, are also still available).

‘Inner-outsiders’ residing within a state without legal entitlement to do so have been, and still are, subjectified in different rationalities and historical periods, posing differing

threats, which are produced and acted upon in terms of differing rationalities. They have included “the stateless, the refugee, the German Jew or Russian denationalized and stripped of citizenship, the refugees who, in desperate circumstances, have destroyed their own citizenship papers, and today the rejected asylum seeker” (Walters 2002: 284).

One important technique in the government of inner-outsiders, applied within different rationalizations, has been the camp in its different manifestations; in contemporary government of irregular migrants “the detention centers, refugee camps, zones d’attente” in airports (Walters 2002) are expressions of this technique.

Considerations on the topic of the camp often recur on Giorgio Agamben’s considerations on the homo sacer (Agamben 2003) as “holding the key to understanding the complex place of ‘bare life’ inside/outside the polity” (Lemke 2007). In writing the history of the West as the history of the production of homines sacri (Lemke 2007), Agamben has set the camp as the place where “the exception becomes the norm”, signaling a surplus of bare life for which there is no space within the nation state system. Still, from a genealogical perspective of governmentality studies, it is important to again look out for the historically specific rationalizations of camps within specific conditions of possibility. This is not the place to write a genealogy of camps. But just as is the case in the government of the non-deportable, return centers and deportation prisons play an important role; these considerations ought to be kept in mind. It should, in this context, also be kept in mind that, even if they are not explicitly referred to in this thesis, there are numerous other forms of camps involved in today’s government’s irregular migrants; for instance those created by the externalization of European migration policy to keep irregular migrants from entering the European Union.

Aside from the camp, there have been and there are today many other techniques in the government of the inner-outsider, rationalized differently and employed with different means: assistance to voluntary return as one of them is central to the present thesis. As I will show, this technique is currently presented as one possible response to the inefficiency of deportation measures.

I will outline below the range of techniques that are currently employed in today’s government of the “non-deportable migrant” in contemporary Germany and the EU. The aim of this outline is thus not to be extensive, to pick the “right” or most effective

ones; it is rather to demonstrate the wide array of techniques applied, as well as the rationalities underlying them, and, to a certain extent, to look at the way that this has changed.

5.2 Governing “Voluntary Return” in Germany

5.2.1 Techniques of Governing Voluntary Return

Turning now to the central techniques in current and past government of “return” in Germany, my presentation will follow a commonly evoked line: The differentiation between “voluntary” and “forced return”. The boundaries between these two concepts are quite blurry in current government of return. This however, has not always been the case (a point to which I will later return). For reasons of structure and clarity, I have still adhered to it.

The current system of governing return in Germany is a heterogeneous one, in which a range of institutions and actors, including forms and locales of counseling, are involved. In line with the above observations of the centrally targeted group of current government of return, it is however possible to say that the majority of offers target rejected asylum seekers.

Voluntary Return is not legally defined in Germany, even though the term appears in the Residence Law with regard to return centers (compare the next section), as well as in the Law for Social Benefits of Asylum Seekers. The definition of “voluntariness” is, as implicated, debated in this context: There is no legal or otherwise officially issued central definition of the term. Its usage suggests that the “voluntary” in “voluntary return” implies that a person is not deported, but for him or herself takes the decision to leave the territory. In a good amount of cases however, the deported leaves because he or she is obliged to leave Germany – refugees without a permanent residence permit are the main target group.

There are also many cases where the prospect of receiving financial support for returning voluntarily is strategically applied to enhance the willingness on non-deportable irregular migrants to return. Termed “Assistance to Voluntary Return” (Förderung der Freiwilligen Rückkehr), such financial support of return is issued by a range of actors, and is often “presented as an instrument of reducing unauthorized stay in Germany” (Kreienbrink 2009: 46). Information on possible financial support as well as on future prospects within the return country are provided as early as possible

and repeatedly alluded to as central to this aim; the to-be-returnee is approached here – despite having committed legal offence and hampered his or her effective extraction from the territory – as an active, entrepreneurial subject, albeit with a set of strictly restricted options. A central rationality underlying the policy of letting ‘even’ those who have committed a legal offence by hampering their return benefit from assistance to voluntary support, is a cost-benefit based policy. Financial support issued as a one-off is a cheaper option for the state than ongoing welfare payments and/or the costs of deportation, for which an indulgent migrant often does not account. Still, it is often underlined that voluntary return cannot be the only option, because the motivation to return would clearly decrease without the obligation to return and the instrument of deportation. I will give examples of this constellation.

Some of the techniques prevalent in governing “voluntary return” and “assistance to voluntary return” in Germany have been and still are applied with rationalities and aims entailing subjectivizations different from the afore explained, and the focal point of the employed measures may lie somewhere else as, say, in the 1960s, as I will later demonstrate. My aim is to present a map of current (and partly former) practices, of which some are more dominant with regard to this rationality than others.

The following section is based on the interviews I have conducted, in combination with secondary literature as well as self-presentations of institutions. Central sources (Kreienbrink/Schneider 2009; Kreienbrink 2006; Schmidt-Fink 2009; Schmidt-Fink 2006) have been studies published by the German National Contact Point of the European Migration Network, a research body established with the aim of providing comparable information for EU bodies and local governments on national migration policy, as a “contribution to the common asylum and immigration policy” (<http://emn.sarenet.es/html/index.html>) as well as accounts of an “expert meeting on voluntary return” related by the Federal Office on Migration and Refugees. These sources will be treated as programmatic texts and part of specific rationalities.

5.2.2 Return Assistance as Development-Political Tool

The first instance of return assistance policy in Germany was implemented in the 1950s, when specific re-integration programs targeted foreign students, professionals or interns from “developing” countries living in Germany, who were willing to return to their countries of origin in order to employ “their know-how for the development of their home countries and successful reintegration” (Schmidt-Fink 2009: 2, own

translation). These programs were implemented with clearly pronounced 'developmental aims', and exist to this day.

From 1981 onwards, development-oriented return assistance came to be centrally carried out in cooperation between the Central Office for Work Placement ('Zentralstelle für Arbeitsvermittlung', ZAV; a bureaucratic body engaged with international job placements linked to the Federal Employment Office) and the Agency for Technical Cooperation (Gesellschaft für Technische Zusammenarbeit, GTZ; a private enterprise engaged in development cooperation and owned by the German Federal Government). This cooperation formed the Centrum for International Migration and Development (CIM), which still operates today.

Current requisites to receive assistance in terms of counseling and/or financial support for persons willing to return include holding the nationality of a development country, a threshold country or a transformation country, having a permanent residence in Germany as well as having obtained a degree, finished an apprenticeship or obtained work experience in the relevant country. Such measures strongly echo developmentalist imaginaries of the world. Financial support includes travel refunding and subsidies to local salary reaching up to €1,600 per month within two years. The extent of subsidies depends on the development-political relevance of the respective work place, on the country of return, the professional qualification and experience of the returnee (CIM, without date).

The programs have notably never targeted people without a residence permit (Schmidt-Fink 2009: 251) – despite the fact that such people might well be otherwise eligible for this group, and might be addressed in counseling situations with a person with a relevant educational or professional background (compare interview 2, lines 965-967).

Nowadays, the CIM presents itself as the "recruiter for German development cooperation" and states as its currently relevant reference points: "[T]he development-political valorization of migration processes", to which it attempts to "make a systematic and impact-oriented contribution" (Bericht 2009). For instance, a further program was implemented, which targets German and European professionals to be sent to "developing" countries for temporary employment in development-relevant sectors (CIM Jahresbericht 2009). This new rationalization of work furthermore prompted some central "institutional, structural and operative" reforms in 2009.

Among others, the list of priority countries was brought together in agreement with the Federal Ministry for Economic Cooperation - "[t]hrough the targeted promotion of measures in the context of the EU mobility partnerships with Moldavia and Georgia, it was possible to enter the innovative subject of 'circular migration'" (CIM Jahresbericht 2009: 7). Looking at the increasingly established connection between 'migration and development', the nation-based account of development is in constant change – this is but one example. Development-related return-assistance comes to be re-rationalized as part of comprehensive and market-oriented management of migratory flows, though not with focus on non-deportable irregular migrants or unwanted or irregular migration in general. When development-oriented return assistance was first established in Germany, other rationalities underlay this technique; the world was at that time commonly imagined differently.

5.2.3 Return of Labor Migrants

From the beginning of the 1980s on, "stronger social and labor policy oriented" measures of assistance to return were implemented. The "enhancement of reintegration capacities through qualification" was increasingly formulated as a central measure, from which migrants would be able to profit whether they were to return again or if they were to remain in Germany (Schmidt-Fink 2009: 260).

In 1983, the "Law for the Enhancement of Readiness to Return of Foreigners" (Rückkehrhilfegesetz, RückHG) was implemented. It targeted recruited foreign laborers who had become unemployed through no fault of their own or who had been hit by short-term labor regulations due to an economic crisis, and it "included the offer [...] to receive financial return assistance in addition to the refunding of pension insurance (employee contribution) and publicly supported building loan agreements ahead of time" (Schmidt-Fink 2009: 260). This offer, however, remained valid for just one year, until 1984, serving as a clear one-time incident for labor migrants to leave, migrants who otherwise might not have done so. Most of those receiving assistance under this law held a "special residence permit" for unrestricted residence, which was issued after 8 years of residence; they were thus far from being considered "non-deportable". Contrary to the above explained development-oriented program, assistance in terms of this law did not focus primarily on the impact the returnee would be able to have in the country he or she returned to, but was rather motivated in terms of fostering an impact on the German labor market. Accordingly, the predecessor of the current

employment office became the main actor of this branch of return assistance (Schmidt-Fink 2006: 260). Contrary to current rationalization of the connection between labor market and migration, which aim at the creation and protection of a free global market, this law was established as a corrective mechanism to a container-like, welfare-oriented national labor market, in relation to which migration played a very different role.

5.2.4 The REAG/GARP Programs of the International Organization for Migration

The International Organization for Migration (IOM) has for the last 30 years assumed a central role in return assistance within Germany by providing assistance for the organization and funding of return, as well as information on the situation in the targeted region of return (Schmidt-Fink 2009: 5) – this is done on behalf of the German state and is publicly funded. The introduction of the programs carried out by the IOM marked the first step towards return assistance, including actual incentives for people to decide to leave Germany, partly even before the introduction of the above mentioned law.

In 1979, the IOM was assigned to carry out the return assistance program “Reintegration and Emigration for Asylum Seekers in Germany” (REAG) by the German Federal Ministry which was then entitled “Ministry for Family, Youth and Health”. Ten years later, in 1989, the “Government Assisted Repatriation Program” (GARP) was founded by the IOM on behalf of the German Federal Ministry of the Interior (Hemingway/Beckers 2003: 137). The programs exist to this day, and are now arguably the most widespread programs of return assistance. All of the institutions which I analyzed had worked with them. The programs are currently partly funded by the federal states.

Through the REAG program, travel costs are refunded, while the GARP program grants initial aid for the reintegration after return.

For three years during the late 1990s, the programs focused exclusively on returnees to the countries of ex-Yugoslavia, who had come to Germany as war refugees under temporary protection and had to return once the situation in ex-Yugoslavia was considered to allow for it (Schmidt-Fink 2006: 269). This restricted focus was lifted again in 2001 to re-open possibilities for travel assistance under the REAG program for persons coming from any country. A list of countries determining who is eligible to

reintegration support (GARP) is currently reconsidered every year, according to the migration-related relevance of the countries. For instance, a group formerly eligible to assistance, but taken out of the program in 2004, are Vietnamese contract workers (Kreienbrink 2006: 106).

Assisted groups were redefined in 2006 in terms of status to include all persons eligible under the "Law for Asylum Seekers' Social Benefits" (Asylbewerberleistungsgesetz, AsylbLG). This applies for asylum seekers, recognized refugees and people not holding a residence status – thus "almost all foreigners excluding persons that have been deported before or that have demonstrably only entered the Federal Republic of Germany in order to receive return assistance. Those two groups are indeed also eligible to receive assistance under REAG, meaning travel assistance, but not GARP initial aid" (IOM 2010). For a short period between 2003 and 2006, there was explicit reference to "illegal residents" who would turn themselves in to the authorities; it was up to the communal foreigners offices to issue papers for a deportation or to have the apprehended foreigners deported. While there no longer exists an explicit reference to this situation, illegal residents are still legally eligible as they can, if caught, receive assistance under the AsylbLG (Kreienbrink 2006: 106-107)¹¹. This predicament echoes repeated accounts of voluntary return as preferable before deportation due to its cost-efficiency and its humanitarian reasons. This is a central account for the fact that the problem of non-deportability is perceived not to be effectively tackled by sovereign measures, such as by custody. It is perceived as necessary to open up a field for new types of interventions, due to restrictions posed by the conditions of possibility – i.e. the international state system, humanitarian discourses and regulations, but also the dictate of cost efficiency. Below, I will repeatedly return to this point with view to the other techniques in the field.

Importantly, though, foreigners held in custody pending or securing deportation are no longer eligible to return voluntarily, and thus cannot receive assistance. This presents one account of the sovereign 'edges' of the aforementioned new attempts to regulate the field.

¹¹ One interviewee recounted the practice that illegal migrants living without registration in Berlin were not criminalized but allowed to voluntarily return and receive assistance under REAG/GARP if they turned themselves in to the authorities (compare interview 4, lines 158-160).

One further general prerequisite for assistance is the indigence of the migrant. The amount of initial help granted under the GARP program currently varies between 300 and 750 Euro per returning family member (plus reduced payments for children); travel costs are subsidized with up to 200 Euro per adult and 100 Euro per child.

It is interesting that the German Government entrusted an inter-governmental organization with the realization of these programs. In terms of procedure, according to one of my interviewees in a return center (interview 2, lines 995.1001), the federal government would legally have to deport persons holding means to pay for their return on their own costs, without giving them the possibility to return voluntarily, let alone subsidize them. This can be avoided if the money is processed via the IOM; in this case the returnees can even receive financial return assistance shortly before they leave Germany – which is also legally critical.

A central debate surrounding these programs concerns the question of whether higher allowances would enhance the willingness to voluntarily return, without serving an incentive for people to migrate to Germany (a fear expressed in the explicit exclusion of foreigners having entered the country with the aim to receive assistance). However, the investments that migrants make in order to come to Europe in the first place are often far higher than any possible financial return-incentives, which is why higher incentives are deemed ineffective. Here, once again, the irregular migrant is governed as a rational actor and entrepreneurial subject.

5.2.5 The Federal Office for Migration and Refugees and Return Management

During the course of the implementation of the Immigration Law reform, the Federal Office for Migration and Refugees, an agency of the German Federal Ministry of Interior, was established in 2004 out of the Federal Office for the Recognition of Foreign Refugees. Compared to its predecessor, it holds additional competencies besides concerning the recognition or rejection of asylum seekers. It also fulfills more tasks, mostly regarding the then newly-formulated aim of integrating foreign residents in Germany.

Since 2003, the Office has been responsible for administering the funds for the REAG/GARP programs and cooperating with the IOM in this regard. A “Centre for Information Transfer and Assistance to Return” (Zentralstelle für Informationsvermittlung zur Rückkehrförderung, ZIRF) was established. This is

responsible for allocating grants to institutions applying with specific projects of return assistance, as well as for providing relevant information on the topic. For this latter objective, a data bank was created including relevant information in terms of access to medical care and housing, or the local job market and so on; both relating to the specific countries of return. A 2006 project termed "ZIRF Counselling" made it possible for institutions to have specific case-related questions processed by the Federal Office on request. It was inspired by an earlier IOM run program termed AVRIC (Assisted Return Through Intensive Counseling) (KREIENBIRNK).

It would most likely be the responsibility of the BAMF to develop the national strategy of integrated return management requested in the Return Directive. This, however, has so far not been undertaken.

5.2.6 Return Assistance at Federal State and Municipality Level

Counseling for return has, since the late 1990s, in no way been centralized in Germany. However, gaining momentum especially in the mid-2000s, federal states and municipalities of bigger cities have started to create funds for return assistance –this is true of, for example, Bavaria, Rhineland Palatinate and Lower Saxony, which all provide special funds (Kreienbrink 2006: 273 on Bavaria). For Lower Saxony and Rhineland Palatinate, the granted amounts are rather flexible, and a specific upper limit has not been specified, although the granted amounts do have to be considered appropriate by the bureaucrats. Institutions, such as the municipalities, but also non-governmental institutions involved in counseling, can apply on behalf of their clients. In Rhineland Palatinate, the yearly budget of State Initiative is five million Euros. It is also possible to apply for grants with the aim to "remove obstacles to deportation". In Bavaria, the money was derived partly from the European Refugee Fund (Kreienbrink 2006: 273). It is processed through three central Return Counseling Centers and targets explicitly rejected asylum seekers, but also other foreigners living on social welfare. Besides financial support, the Center can provide material assistance and there are also accounts of service structures created in the countries of return.

In Berlin, the social welfare offices in the districts support recipients who return voluntarily in many cases through de-centrally distributed allocations, even though there is no especially identified fund (INT).

Munich was one of the first municipalities to open up an office for return assistance in 1996. The project, named "Coming Home" is financed (data from 2006) through the European Refugee Fund, the Federal State of Bavaria and the Munich municipality itself. It focuses on "humanitarian return" and especially vulnerable groups, such as single mothers, unaccompanied minor refugees, and traumatized persons, as well as sick and elderly people (KREIE). The Hamburg municipality makes return allowances as well¹².

An argument repeatedly brought up in favor of voluntary return is that it causes lower costs compared to either deportation or to long-term social welfare dependency. The fact that since the late 1990s so many of those at federal state and municipality level have come to engage in assistance to return for non-deportable and/or welfare-dependent (irregular) migrants, was certainly influenced by changes on the national and EU level, even though this influence was surely a reciprocal one. A new problematic discovered in the government of asylum seekers and (irregular migrants) on municipality level, for instance with a view to advancing neoliberal government of budgets and welfare system, presents one of the central changes in the field.

A related case in terms of sub-national initiatives and changes are return centers, which will as well be presented below.

5.2.7 Counseling for Voluntary Return in Welfare Organizations

Many bigger and smaller welfare organizations have become engaged in counseling for voluntary return and in assisting potential returnees to benefit from the above-presented sources of financial and material support. While some organizations were initially reluctant to engage in this field because this could be considered as supporting the foreign office in reaching their goal of fostering deportability, this reluctance has seemingly eventually diminished. This can be partly explained by the new funding opportunities that have opened up for the welfare organizations. Protest organizations and refugee support groups however continue to criticize the current practice of assistance to voluntary return.

¹² It was not possible to obtain information on all Federal States and municipalities of bigger cities due to the restricted time of research. Thus, the above accounts are not complete but serve merely to present the heterogeneity of the field.

In recent years, a range of bigger welfare organizations could obtain bigger shares of the return-related budgets, as smaller organizations did not have the means to undertake the necessary pre-investments that have to be undertaken when receiving funds from the Federal Office for Migration and Refugees.

The current largest project is called "Home Garden" ("Heimatgarten") and was installed by the Worker's Welfare Association (Arbeiterwohlfahrt, AWO); one of the biggest welfare organizations in Germany.

Home Garden was developed out of an AWO office's local initiative in the Northern German city of Bremerhaven in 1998. The project has spread to include 12 offices in different parts of Germany, which most commonly focus on one specific region or country of return, such as ex-Yugoslavian countries, countries of the former Soviet Union, Northern Iraq, Turkey and some African states. A recently opened branch counsels ethnic German immigrants from the former Soviet Republic, who are willing to return but are not eligible under common programs due to their German citizenship.

Home Garden counsels anonymously. It works both with foreigners legally obliged to depart, and with those holding a secure residence status. An initial and ongoing focus of the work has been on the elderly, traumatized and care-dependent persons (although other groups are also eligible to counseling). Home Garden offers services until up to six months after a person returns, including deferred payments of the granted assistance. The practice of deferring is considered as securing that the returnees really stay in the country of return and are effectively reintegrated. Until two years ago, services were offered for up to two years after a person's return, but this time span was eventually curtailed by the BAMF.

For Home Garden, these post-return services are considered essential aspects of successful reintegration. A network of coordinators has for this reason been installed in a range of countries. The coordinators are in contact with the returned persons – although one cannot speak of fully fledged care in terms of social work or ongoing support. The reintegration work in different countries has furthermore helped the creation of certain institutional structures, such as a home for the elderly in Bosnia.

The engagement of organizations like Home Garden has, according to its founder (Tegelr in BAMF 2006: 33), entailed a shift in the general practice of counseling

migrants in Germany, which had for a long time focused exclusively on possibilities to remain in the country and on local support.

Home Garden counsels individually and aims to offer individual perspectives. If, in view of such a perspective, a person pronounces the wish to return, the organization will attempt to gain specific information on the situation (concerning work opportunities, housing, and so on) in the place of return, as well as engaging with different actors in order to receive financial support. In addition to the widespread REAG/GARP fees, at least 1,150 Euros more are necessary for successful integration. This money is usually obtained out of funds raised by the national states. Home Garden receives a fee of 500 Euros out of the amount granted, in order to cover a part of its expenses.

5.3 Governing Forced Return

5.3.1 Techniques of Governing Forced Return

As suggested above, in contemporary government of migration in Germany, forced return is defined in opposition to voluntary return. The question whether or not a person is obliged to leave the country is not relevant to this distinction. A range of techniques of voluntary return are today implemented as extensions of forced return. At the same time, techniques of forced return are criticized as not adequate anymore to effectively create deportability and to thus regulate migratory movements. This connection indicates a new employment of deportation as a central technique of forcefully returning foreigners from a state- as contributing to an effective 'management of migration'.

As I have already outlined, to foster deportability is not the exclusive aim with which voluntary return is employed. Neither does this rationality exclusively underlay all techniques at work; rationalities employing deportation with the aim of (re-) constituting the nation state, legitimized as the caretaker of its nationally defined population, prevail – and are evoked strategically. In competition with other rationalities, some actors may adhere to such accounts of deportation strategically in order to push forward neoliberal rationalities of managing migration as a global flow of human capital.

I will, in the following section, outline central techniques of Germany's government of forced return, taking into consideration the aims with which these techniques are employed, and the rationalities with which they are justified. Deportation as a central

form of forced return is legally defined in Germany; the law is the main technique used in the government within what is conceptualized as forced return, aiming at using means of direct coercion. There are, however, other disciplinary techniques that are employed in this realm, causing the boundaries between voluntary and forced return to become blurry.

5.3.2 Deportation and Related Forms of Extracting Foreigners

Legal regulations concerning forcible extraction of persons are defined in Chapter 5 of the 2005 Residence Law¹³. A foreigner not or no longer holding a residence permit is accordingly obliged to leave a country. A residence permit can expire, be withdrawn, not prolonged or not be issued in the first place, if its preconditions are not (or are no longer) fulfilled.

According to §45, Section 1 of the Residence Law, specific reasons for a foreigner to be obliged to depart include the following: Having issued wrong identity information or not contributing in implementing the provisions of the residence law (possibly including his or her own extraction); having committed an important legal offences; consumption of hard drugs; endangering public health through his or her behavior or being homeless; and finally, not being able to account for his or her own living expenses and those of his or her family, and thus relying on social welfare. Rejected asylum seekers are then obliged to leave the country.

A deportation ("Abschiebung") is the means of coercion that comes to be applied in the above described cases, where there is doubt that a foreigner who is required to leave will depart on his or her own account. Public security concerns can also be a further reason for a deportation order; since 2005, authorities in the federal states can issue immediately enforceable deportation orders without any prior information in the case of special danger for the security of the Federal Republic of Germany, or in the case of a planned terrorist attack.

While a deportation can be suspended due to humanitarian and other reasons, this is not possible for expulsions. Reasons to suspend a deportation result from a feared persecution in the country of origin based on race, religion, nationality, membership in an ethnic or social group or political conviction, even if a person has not previously

13 For the detailed legal regulations, further compare Hailbronner 2008.

been recognized as a political refugee. Risk of the death penalty or torture also count as obstacles to a deportation order. A third group of reasons refers to the "effective or legal" impossibility to issue the deportation; these can range from nonexistent flight connections to lacking identity papers (§60(2)). Effective non-deportability is founded on these factors. If a deportation is suspended, a so called "toleration" ("Duldung") is issued, which serves as a suspension of the deportation for a time period to be determined by the foreign offices. Usually, certain restrictions concerning place of residence and working permit go along with a toleration; in any case, the freedom of choosing the place of residence, as well as the freedom to move within Germany are restricted (this regulation is called "Residenzpflicht") for anyone holding a "toleration", and he or she will receive reduced social welfare due to the specific law surrounding this measure.

If obstacles to deportation are expected to prevail into the foreseeable future through no fault of the foreigner's own, an actual residence title out of humanitarian concerns may be issued. However, if one has hindered identification or deportation through non-cooperation, this opportunity is withdrawn.

An ongoing asylum procedure generally prevents both a deportation and an expulsion from being issued. If it becomes clear that an asylum applicant has passed through any country defined as a "safe third country" before coming to Germany, though, this country is deemed responsible for his or her application under the EU's Dublin Convention, and the person is expelled to that country.

Deportation (and custody pending/securing deportation) and expulsion are implemented by the federal states; there can therefore be differences in their implementation. Deportations are mostly undertaken by airplane and are often accompanied by the police; if deemed necessary due to the behavior of the deportee, they can also be taken into custody of the state. The federal police have issued a range of contracts with air carriers regulating possible escorting of the deported foreigner by personnel, and regulating medical care, if needed, during deportation flights. Moreover, the EU issues coordinated joint deportation flights involving several member states.

Deportation is a sovereign technique involving direct and violent intervention. With a view to the wide array of current preconditions for the withdrawal or non-issuing of a residence permit, as well as specific problematization concerning its effective

realization, the different aims and rationalities with which it is applied become evident. They range from concerns of public health to the foreigner's dependency on public welfare, the latter clearly evoking an economized account of the field.

5.3.3 "Return Centers"

§60 of the 2005 Immigration Law states that the federal states can create return centers („Ausreiseeinrichtungen“) for foreigners whose deportation cannot be realized. It further states that readiness to voluntary return is to be fostered in these centers, among other means through "care and counseling". Targeting foremost foreigners obliged to depart that have given wrong identity information, actively hampered or not supported the acquisition of identity papers and, the measures implemented in these return centers lie at the intersection of voluntary and forced return, as they target in the first case the identification of the inmates, in order to enable the deportation. The staff of such centers attempts to achieve this aim by finding inconsistencies within the inmates' narratives of their life and flight stories. Another way employed by the identification of the inmates is convincing diplomatic staff at consulates that this is one of their citizens (while this task is mostly realized in cooperation with the Clearing Point, to which I will turn below). These measures are exercised alongside the counseling for voluntary return and the opening up of prospects for the inmates to receive financial and material assistance if they decide to voluntarily leave.

The return centers are the clearest account of voluntary return being set against forced return, and of counseling and assistance being applied as incentive for those non-deportable irregular migrants that the state are otherwise stuck with to consider to return voluntarily. "The restrictions of living conditions [...] are to be transformed through counseling into motivation for voluntary return" (Kreienbrink 2006: 31), a living perspective outside of Germany is to be built up and the lack of further perspectives to stay in Germany is made clear. This is why I put return centers – albeit with certain reservations – in the "forced return" section of this chapter. As stated above, the division itself is blurry; this fact can in itself be considered part of a specific rationality of government.

As the realization of deportations presupposes the existence of valid travel documents of a foreigner, the foreigner has to be identified as a national of one specific state, which in certain cases is in fact not possible. The reason for this impossibility can lie with the foreigner, as well as with the diplomatic representation of the country of

return. There are legal obligations for foreigners to identify themselves to the authorities and to assist the obtainment of identity papers if they do not hold any; still, this can prove partly problematic. To tackle this problem, the return centers work closely together with centralized expert bodies that support the identification process, the so called Clearing Points, to which I will now turn.

All return centers in Germany were created in the late 1990s or early 2000s by some of the federal states (Lower Saxony, North-Rhine-Westphalia, Rhineland Palatinate, Bavaria, Schleswig-Holstein, Sachsen-Anhalt, compare Fleischmann 2003: 35) even before the possibility to create them had been stated within the Law. Except for Bavaria, which closed its center earlier this year, all are still in existence.

If a tolerated person is required to live in a return center, he cannot be issued a work permit (although this restriction can be considered for tolerated persons in certain cases). The already reduced welfare benefits of asylum seekers and holders of tolerations are further restricted to include merely the "irrecusably necessary", to be issued in form of non-cash benefits (usually canteen food, clothing, hygiene articles), and the freedom of movement will be even more restricted, so that the person is only allowed to move freely in one city. These restrictions however do not exclusively apply to those foreigners living in return centers: in theory, a foreign office may also issue such restrictions to a person who lives in a normal accommodation for asylum seekers and tolerated persons. At least in Rhineland-Palatinate, though, this measure is seldom executed, out of cost-related considerations; a tolerated person who is still working while living in a municipality does create lower costs for the state. Such restrictions imposed outside of a center are often only a last, extreme step to send specifically problematic cases to the return center, and thus, restrictions become effective only with the referral (interview 2, lines 365 – 268).

Other restrictions of living conditions in the centers include controlled entry and exit searches, and repeated questioning concerning the country of origin, in order to find information or inconsistencies in the personal accounts, and thus ideally work out the real place of origin. These inconsistencies can concern names of relatives, no or wrong knowledge of a country's school system, but also the inability to find a specific place in a city on a map.

The referral of a person to a return center does not, as is the case for custody pending/securing deportation, have to be ordered by a judge, and there is no

maximum length of stay established for return centers. There have, however, been rulings by administrative courts curtailing the length of stay in specific cases, because a disproportionately long stay can be interpreted as aiming at breaking the will of the inmates. A significant number of those ordered to live in the centers do not appear at all, or disappear after a while (compare interview 1, lines 124 – 126).

5.3.4 “Clearing Points for Acquisition of Identity Documents”

Tackling the problem of missing identity documents and the resulting state of non-deportability by concentrating expertise and country-related knowledge, centralized advising institutions have been established by federal police and the federal states. Those institutions commonly work in administrative assistance to the foreigners’ offices. The “Clearing Points for Acquisition of Identity Documents” (Clearingsstellen für Passbeschaffung, hereafter: Clearing Points) are a central expression of such efforts that will be further elaborated upon. Central Foreign Offices (Zentrale Ausländerbehörden) are other examples, which do not accomplish the same tasks by the same means, but have been created out of similar rationalizations.

Clearing Points work in close cooperation with the consulates of possible states of return in order to identify someone as holding a specific nationality, and then to obtain travel documents for this person. They also target the to-be-deportees with repeated questionings, as those can provide, in the end, the “sole reliable source of information” on their identity (compare interview 3, lines 172 – 173).

The law defines measures to be taken in cases of foreigners not supporting their identification: the foreigner can be registered, his or her photographs and fingerprints taken, as well as measurements conducted and a linguistic analysis undertaken. He or she can be obliged to appear in person in front of the authorities of the state he presumably is a citizen of, in order to be identified by them. Not complying with these provisions presents a statutory offense. Clearing Points attempt to exhaust all these possibilities. Further practices, such as searches of personal belongings in order to find hidden documents, can be ordered by the judiciary.

Presentations of foreigners at consulates or in front of invited delegations from specific states can be conducted forcefully, if necessary. They are often realized for groups of to-be-deportees who are brought to a presentation together. The representatives of a state decide based on linguistic hints, on the consistency of the life story of the to-be-

returnee, or on the basis of any documents which might exist, if a person holds a specific nationality or not (compare interview 3, lines 356/359). Successful identifications can't however outweigh failed ones. Good contact with representatives from the side of the German expert is considered an asset. Again, the specific preconditions of states are crucial, as some demand some kind of material evidence for the recognition of a person as their citizen, or demand the to-be-deportee to sign a declaration of voluntariness, which in fact is something the German authorities cannot force a person to do, according to jurisdiction.

Persons can also be deported or identified without having ever admitted to hold a specific nationality (compare interview 3, lines 354 - 356); in this case they are deported without being identified at all. These practices are highly criticized by advocacy groups. In place of passports or provisional documents substituting passports, so called laissez-passer documents, issued by the EU are used in some cases.

In Rhineland-Palatinate it is the Clearing Point which decides on the possible referral of a person to the return center. The Rhineland-Palatinate Clearing Point additionally attempts to clarify the identity of foreigners as early as possible, even while the asylum procedure is still running.

Clearing Points in different Federal States have created a working group on identity paper acquisition in order to exchange information and experience. There is a working group on return installed by the conference of the federal states' Ministers on Interior (AG Rück), with which the Clearing Points cooperate. In cases where specific states lack willingness to take back their nationals, the Federal Government is furthermore asked to step in and take diplomatic steps, such as calling in ambassadors or issuing demarches. "It was also already considered to allot development aid or reconstruction aid in dependency of the willingness to cooperate in order to hold a fiscal measure of pressure, though until now without result" (Kreienbrink 2006: 135)

5.3.5 Custody Pending/Securing Deportation¹⁴

The legal instrument of custody pending or securing deportation was created in post World War II Germany in 1965, but applied very little before 1990. In that year, the

¹⁴ For detailed underlying practices and laws concerning custody pending deportation, compare Kühn 2009.

possible length of stay was extended to 18 months, and a “grounded suspicion” that a person might attempt to elude his or her deportation was included as a reason for custody. In the early 1990s, the reasons for a person to be taken into custody were extended and the first deportation prisons built.

Anti-terror legislation has in recent years transformed the grounds and conditions under which a foreigner can be taken into custody. Custody has come to be possible under ever weaker evidence of the potential risk posed by a person, and can now be issued on the grounds of the newly created judicial fact of “suspicion of posing a terrorist danger”.

Custody can be issued both securing and pending deportation (§62(1) and (2), AufenthG/Residence Law). A precondition to the first case is the verifiable prediction that an effectively deportable foreigner will attempt to hamper his or her deportation. Custody pending deportation can be issued for up to six weeks. If the custody serves the aim to secure the deportation, it can be issued for up to 18 months in specific cases.

Custody pending or securing deportation can only be ordered judicially, but this does not imply that the asylum process is re-examined. Foreigners that are non-deportable due to real or legal obstacles, such as missing identity documents, can only be taken into custody on very rare occasions; one provision for custody is that the deportation will be realizable in the foreseeable future.

This is not to be confounded, though, with penal custody that in extreme cases can follow the legal offence of not holding identity documents or not supporting their provision. While these legal offences are evident for many cases, it is however rare that criminal courts pass related sentences, as evidence for a conviction is seldom sufficient (compare interview 2, lines 288-299).

The organization of custody pending or securing deportation lies with the federal states, and thus, standards and forms can vary. On some occasions, it is organized within the edifices of actual jails, although the inmates are separated from actual convicted criminal offenders. On other occasions, such as in Rhineland-Palatinate, special deportation prisons were created for this sole purpose.

The circumstances under which foreigners are taken into custody vary widely. Some are seized transiting through Germany without valid documents, while others are taken

into custody while working without permission or while waiting for bureaucratic issuing of identity documents. Around 90% are successfully deported, of inmates directly out of custody – this number is much higher than that quoted by return centers. It is not possible to return voluntarily once a person is taken into custody, even though one interviewee recounted that this possibility had been discussed politically (based on oral information given by the director of the Ingelheim deportation prison).

5.3.6 Readmission Agreements

A final technique of government that I would like to mention, with a view to the government of forced return, is 'Readmission Agreements'. These agreements can be negotiated bilaterally between Germany and another state (there are currently over 30 agreements), or multilaterally on behalf of the EU (more than ten, *ibid.*) (Bundesministerium des Innern 2010)

I have already mentioned that a state's duty to admit its citizens to its territory, even against the citizen's will, is commonly referred to as part of international law. Readmission agreements can thus only serve the regulation of specific modalities of this process, in addition to regulating the admission of third country nationals having passed through the territory of the respective partner state. A related form of international treaty is the transit agreement. They regulate the passage of returning persons through the territory of a third state, in order to reduce obstacles to deportation and return that may lie grounded in the lack of such provisions.

A readmission agreement typically contains a definition of recognized material proof of a person holding the citizenship of one of the contracting states (this can range from copies of expired documents to proof of language proficiency or credible testimonials, as well as deadlines within which requests are to be responded to (Regierung der Bundesrepublik Deutschland; Regierung der Arabischen Republik Syrien 2008). Escort of returnees by members of police forces can also be included in the agreements.

5.4 Case Study: Rationalizing Return on an Institutional Level

5.4.1 A Heterogeneous Field, Selective Insights

After having presented a "map" of techniques in the government of return in Germany, and before concluding, I will now turn to look at current rationalities and techniques of "assistance to return" employed in one of the above presented institutions: the Trier Return Center. Given the heterogeneity of the field which I have outlined above, the

insights gained from a single case of course are merely exemplary and very selective. They can in no way be interpreted as giving generalized accounts. I believe that the further insight into the field outlined below is nevertheless an important one, and that it is indeed possible to extract rationalities out of the account of my interviewee. As an "expert", he does not merely present his own individual ideas, but his reasoning is embedded in the rationalities at hand in his working environment.

To refer to this institution before concluding is also important because, even though it is repeatedly invoked that government in terms of governmentality happens not only at the state level, regulations and formulations of programs from the state or supra-state level nevertheless dominate the picture; they easily come to the fore, as they can be grasped and documented most easily.

This section is based on a semi-structured interview I conducted with the director of the center, who is one of two persons employed there, working directly with the aim of identifying the inmates and increasing their willingness to return voluntarily.

My analysis of the material was guided by the following questions: How does the interviewee subjectify the inmates of the center as well as himself in his work (who is to be acted upon)? How does the interviewee rationalize his work (what is to be acted upon with what aim)? Which techniques of government are accordingly formulated as adequate (How is to be acted)?

In line with the principles of governmental studies, I am interested in the formulation of programs and the rationalizations underlying them; I am not looking at the implementation or the effects at the first place.

I chose practices of "assistance to voluntary return" implemented in a return center for further investigation, because the work of the center lies at the intersection of different techniques of acting upon non-deportable persons. A wide array of techniques are applied as incentives to enable identification and thus to extract the irregular migrants from the territory. In other institutions, voluntary return is not exclusively implemented with a view to non-deportable irregular migrants, but possibly also issued for persons holding a residence permit. In addition, the fact that this interview partner spoke about his own role and most openly was an asset.

I will present the institution in more detail, before then turning to the analysis of the interview.

5.4.2 The Trier Return Center

The Return Center in Trier in the Federal State of Rhineland-Palatinate, (whose official name is "State Accommodation for Persons Obligated to Return", "Landesunterkunft für Ausreisepflichtige", LUFA) has existed since 1999. It was created following the example of similar institutions in other federal states; they all follow the same aim of enabling the voluntary return of persons who were non-deportable because of a lack of identity documents, and because they are considered to have hampered the acquisition of such.

Having been initially located close to a deportation prison in another small town in the same federal state, Ingelheim, the return center was eventually transferred to Trier in order to avoid too close association between the deportation prison and the return center, to present the LUFA as a humanitarian alternative to custody: "the impression should be avoided, that the LUFA is a kind of instantaneous water heater for [custody pending deportation], and thus we said, we want to smoothen the neighborhood" (compare interview 2, lines 32 – 35).

The time the inmates stay in the center varies between a few weeks up to four years; there are 76 places. It is located in the same grounds as a reception facility for asylum seekers, with which the Return Center cooperates in terms of nourishment and other daily supplies for the inmates.

After this short presentation of the LUFA, I will now turn to address the rationalizations of the work as brought forward by the interviewee, its director.

5.4.3 Rationalities

Which rationalities underlie the work in the center? Or, to put it another way, which reality and problems is it perceived as responding to? Why is the work that is conducted in the center considered as important in this specific context?

The interviewee sees "a waste of lifetime" (interview 2, lines 259) as a central problem prevailing in the return center, as the inmates do not tackle their "self-inflicted" situation effectively, but passively wait for something to happen that could change their situation. The aim of his work is thus to activate these people, and to open up life perspectives in their minds. Which perspectives these are – finding a German spouse and thus obtaining a residence permit, or receiving assistance to return and opening a

market in the country of return – is much less important to the interviewee (ibid., lines 283 – 287).

It is thus in his eyes very important that financial and material incentive to voluntarily return exists, as motivation to tackle one's life problems can derive from them (lines 287 – 289). The interviewee wants to stimulate a concrete idea concerning the work or business to be taken up after the return; "This development of perspective is important for me, so that the people will have an idea what they will then do at home" (lines 807 – 809).

The rationality underlying this perception creates a space of action within which the to-be-returnee can and is expected to act; he or she has only to be animated to do so. The implicit aim is not to get rid of the irregular migrant by all means, but to activate him or her and let him or her return (or disappear) on his or her own accounts.

Still, the space of action is confined by the legal provisions: "The waste of life time is what upsets me most here [...], this is something that I tell myself I cannot accept, not for me and also not for these people, we have to help them out. One can, however, not do it, this is the guideline of the legislator, who says, we don't want these people to enter the asylum procedure if they really come for economic reasons, and we have then to put a stop to it" (lines 327 – 334).

On the other hand, again, the rationality presented by the interviewee does not imply that a person who attempted to break legal restrictions has to be punished for this offence; instead of a sovereign binary division between "the permitted and the prohibited", clear preference is given to indirect means of bringing about a specific result. This result is not the punishment of a wrong doer, but the effective regulation of the phenomenon of non-deportability. Thus, voluntary return is considered the right thing to aim at, because it is more effective than deportation.

The LUFA has to defend this specific rationality against other ones prevailing in the realm. In this way, many foreigners' offices are reported as not supporting the fact that long term offenders receive financial support after having tricked them for such a long time: "[The foreigners' offices] want them to be deported soon; the option of voluntary return is often not accepted. If assistance is issued, it is even more problematic to justify this" (lines 215 – 220). In the same way, there have been cases

where foreigners' offices attempted to process the files of long term non-deportable persons who then wanted to get married in a deliberately slow way (lines 625 – 630).

The interviewee furthermore employs the rationality of voluntary return as the preferable option before deportation in order to defend the center against critiques brought forward against it: "For me, this is the central compromise [...] that was made [when the creation of return centers was included in the law], on the one hand, one said, ok, people that conceal their identity, that give wrong information, will be shown that there is now the possibility to create an institution where these cases are taken care of intensively. [...] On the other hand, it had become clear in practice before that the obligation to return can only be enforced if the people are given a chance to [...] return voluntarily. And one has then [...] enabled voluntary return [...] for cases that were to be deported in terms of the law. So, whoever did not leave the country in response to his duty to leave, was to be deported, and now there is suddenly written that it is also possible to return voluntarily. [...] From this point of view, the people that are fighting against this institution and want to get rid of it, as well as of this paragraph, I always tell them, think about it, voluntary return is also written there, so be careful what you do there, it is our concern here in this institution that people return voluntarily if possible" (lines 196 – 215).

Finally, the fact that the reception center for asylum seekers is in close proximity to the LUFA also serves the aim of showing the newly arriving asylum seekers what awaits them, if they give wrong identity information, and thus represents an indirect attempt to act upon them: "it partly plays, of course, a role that the people in the reception center realize, ok, those are people that have to leave due to certain reasons, and then also say, depending on their intention, they lied, it's their own fault, or, I was planning to lie myself and now I see what can happen" (lines 1056/1057).

5.4.4 Subjectivities

The subjectivizations in the interviewee recounts of course relate to the above rationalities: the inmates of the center are subjectified both as insistently obscuring their identity, and as rational people able to govern themselves within certain restrictions.

The interviewee recounts that according to experience, the duty to leave the country can only be enforced if a person was able leave voluntarily and "with their heads high",

instead of forcibly be deported. Again, sovereign techniques of acting upon the problem of non-deportability alone cannot solve the problem; the non-deportability is seen as result of the persons' own choices and behavior, which in turn have to be influenced and corrected. "By insisting repeatedly on the possibilities of receiving assistance to voluntary return, while we know a person does not really want [to return] [...], we can then establish an idea within him, or generally bring movement into the mental engagement with this idea, which chances do I have [...], if someone says he has no possibilities in Africa, because everything where he lived was burnt down in the civil war or something like that" (lines 290 – 296). The existence of possibilities will tackle an engagement with options of behavior, which in turn is seen as helping those people to tackle their problems; here, they are subjectivized as able to do so – to solve their own problems if they only try.

These "rational individuals" in the return center are furthermore subjectified by the interviewee as "mostly young and dynamic" and thus as willing and able to invest in their situation. In the eyes of the interviewee, it is not out of necessity or in term of "push and pull factors" that the behavior of the immigrants can be explained, but rather in terms of active choice and the willingness to improve their situation: "Someone who travels here 4000 kilometers, from Africa or Asia or from wherever, even if it is not due to persecution but out of other reasons, is someone who will at least make an effort, and a big effort, [...] even if he might not have a good education, but it is someone who says, I want to improve my situation economically and I will put a lot into that" (lines 318 -320). Many people in Germany would not be ready to make such efforts according to the interviewee. When these efforts fail, the reason lies not exclusively in the actual circumstance, according to the interviewee, but might be caused in the wrong or lacking information on what awaits the migrants in Europe, which smugglers have given the migrants.

The conceptualization of the "active subject" is however set in constraints; the inmates are also considered as legal offenders, insistently denying cooperation and obscuring their identity, as "people who have betrayed the authorities for years" (lines 1029-1030). Exploiting the inadequate regulations of the authorities' tough specific strategies, it was easy for them to continue to behave in this way; before coming to the LUFA, they were used to only having to appear at the Foreigner's Office once every six weeks, and in the meantime were not confronted with the consequences of their

wrong behavior (lines 469-472). In the opinion of the interviewee, the inmates are conscious about the illegitimacy of their behavior, ("everyone in the LUFA knows it's my own fault, and he also knows of the other that it is his fault", lines 511-512). The options of the rational subject are thus clearly restricted by the legal regulations; it is within these restrictions that the possibility to actively better one's living situation can be taken up, and the techniques and objectives of the work in the LUFA are chosen respectively.

The role of the interviewee himself in the return center is closely connected to the way the inmates are subjectified; he sees himself as a continuous reminder to the inmates that their behavior is unlawful, in the same way a police car continuously driving behind another car on a highway would make the driver think about whether or not he is driving within the speed limit. Furthermore, he sees himself and his coworkers as experts holding specific knowledge on how a foreigner can profit from assistance to voluntary return: "Some say, if you have to go there, they will just want you to leave [the country], and others say, yes, but they also know how to do it and can help you" (lines 940-941).

5.4.5 Techniques

Which techniques of government are formulated as adequate to act upon these specific objects of government from the perspective of these rationalities?

I have listed central techniques employed in return centers in the former section: in the LUFA, social benefits are restricted to irrecusable necessities to be issued in kind; working permits are withdrawn, if they exist; the freedom of movement is restricted to the city of residence; and the center employees can have searches of personal belongings issued by the judiciary, and repeatedly question them.

The techniques of assistance to voluntary return implemented in the LUFA cannot be treated separately from these disciplinary techniques; they are applied in conjunction. This conjunction expresses the subjectivization as wrong doers and rational subject to be activated at the same time.

Ever since the center was established, the Federal Government in Rhineland-Palatinate has allocated funds for assistance to voluntary return especially for the inmates of the return center, from which they can profit in addition to other available assistance (such as the Federal State Government's general fund of Five Million Euro under which all

foreigners can be assisted to return). In counseling situations, the possibility of receiving this financial and material support is repeatedly evoked; on the basis of the inmates education and his or her professional experiences, the aim is to create a work or business plan that can be realized with the assistance.

This assistance issued especially for the inmates is given out preferably in the form of material allocation, such as equipment, computers, or the like. It is thus possible for a returnee to receive three times the amount he or she would receive in cash in the form of material allocation. The interviewee stated that this latter principle is very effective tool to make people engage with possible plans for the future: "It is more fruitful to talk about material allocations and its possible use with a person, then about financial support that would only be sufficient for the first months" (lines 418-423).

Concluding on this exemplary case study, it becomes clear that many of the rationalities at work in other locales – at the Federal government, the European Union – are processed and adapted to this locale. The interviewee combines the two apparently contradictory ideas of the enabling facilitator and the punisher according in his own specific method, developing strategies and techniques – it was very often referring to his long personal experience that he recounted his positions. In this context, it is also especially interesting that the idea of return centers did not come about in a top-down fashion, but was integrated in the law after the concept had already spread.

6. Conclusion

In this thesis, I have analyzed current governmental techniques of "assistance to return" ("Rückkehrförderung") in Germany and asked how the conceptualization and realization of assistance to return has changed in Germany, to increasingly focus on non-deportable irregular migrants. To theoretically embed this research question, I have outlined the theory of governmentality and applied it to analyze changing imaginaries of world space. In a next step, I demonstrated the influence of these changing imaginaries on current conceptualizations of migration. I further outlined that contemporary "return assistance" is one expression of the neoliberal government of transnational migratory flows, employed with the aim to create a market of human capital.

Transnational migration could only become an object of government due to these spreading global and marketized imaginaries of world space; non-deportable irregular migrants are part of this newly discovered reality, under the specific conditions of possibility posed by the ongoing importance and interpretive power attributed to the nation state as the guarantor of the rights of individuals, and not as a legitimizing institution of the market. Thus, I interpreted "assistance to return" as an intrinsic part of the apparatus of security aimed at curtailing irregular migration in order to enable regular migration.

I then mapped techniques of governing return in contemporary Germany (and the European Union), showing that "voluntary return" is increasingly portrayed and "sold" as a humanitarian alternative to forced return. In this way, voluntarily return and incentives for return have been made available for increasing numbers of groups of foreigners and generally given more weight in the government of extracting foreigners from the country.

Other rationalities and respective subjectivizations and techniques of government are (still) existent, as well. Development-oriented and labor migration-related return assistance are techniques employed (mostly) entailing other rationalities; their aim is to govern creating a developed/underdeveloped division of nation states, with reference to a nation-state based local welfare regime that is to be protected.

Contrary to this, the modality of assistance to voluntary return realized in welfare organizations, Foreigner's Offices target the system of governing a specific modality or conceptualization of migration itself, with its respective functioning and efficiency. Non-effective government of return is considered as hampering the capacity of the state to create a transnational space in which migratory flows are effectively regulated.

This aim becomes evident due to the application of a system of techniques, which govern the to-be-returnee as a rational calculating subject and aim at setting merely the conditions and incentives for him or her to act accordingly - and thus to return voluntarily. In specific cases, those techniques are given clear priority over deportation or other sovereign techniques. The number of cases in which this is not an option anymore is being reduced; illegal stay, for instance, even though it is still in the law as a legal offence, does not imply that a person is not eligible for assistance to voluntarily return.

At the same time, though, the apparatus of security established to govern return as part of migratory flows entail sovereign and disciplinary techniques. These techniques complement and enable the apparatus. They involve direct intervention, custody and violence and are expressed in the existence of deportation, custody pending deportation, jointly organized deportation flights, forced questioning or highly restricted freedom to move. These sovereign and disciplinary techniques are not leftovers of other rationalities of government that will soon disappear, but integral parts of the contemporary system. They serve the aim of protecting the freedom created in the transnational global sphere for the entrepreneurial subject from endangering itself.

In the interviews I conducted in return centers, there were repeated complaints about the restricted possibilities to make people reveal their identity through sanctions; from a perspective of governmentality, this standpoint has to be interpreted as informed by certain rationalities of government. In fact, it has to be considered a stand point, and not a description of reality.

It is this point that one can take, in my opinion, from this very preliminary study, which investigated barely one aspect of governing irregular migration: discourses implying a lacking capability of the state to effectively deport irregular-migrants, which are increasingly brought up, are not irrevocable accounts of an essential truth, but rather expressions of specific rationalities of government – and such is the whole system of extracting those who are subjectivized as irregular and, as I said in the Introduction, seen as only governable as victims or dangerous culprits. Bearing this denaturalization in mind and perceiving the system as a historically specific apparatus having come about in specific conditions of possibility, one is enabled to think ahead: it is not the only possible rationality to violently act upon some in order to enable the freedom of others.

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