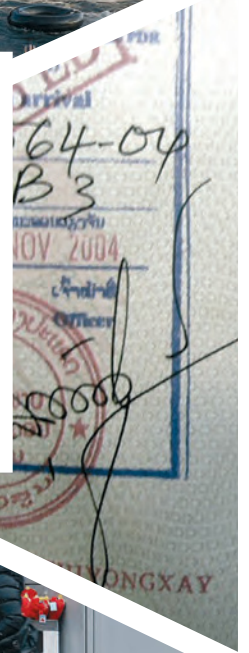Proceedings of the 2018 ZiF Workshop

Studying Migration Policies at the Interface between Empirical Research and Normative Analysis

Matthias Hoesch & Lena Laube (eds.)

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The Production of Intersubjective Certainty in the Early West German Refugee Movement

The Production of Intersubjective Certainty in the Early West German Refugee Movement

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Abstract

The following text analyses the emerging West German refugee movement of the early 1980s. The thesis is that the movement of that time successfully responded to an only recently established narrative – that refugees were a threat to the German social security system – with a strong counter-narrative. The text emphasises the role that events organised by civil society in Hamburg, Hanover, Berlin and southern Germany play in the production of certainty for this counter-narrative. Society's approach to forced migration is understood in this text as one that is constantly being renegotiated and re-created. This paper therefore takes a cultural sociological perspective and gives specific consideration to social movements and local migration regimes. The main finding of the paper is that the establishment of the counter-narrative was successful because of the local nature of the protests. The paper is based on an empirical study of grey literature of social movements and relevant specialist literature.

There are two popular interpretations of recent German refugee policy, both of which work on the basis of unquestioned self-evidence. The first interpretation assumes that the German chancellor, as head of the government, initiated the acceptance of a large number of Syrian refugees in the late summer of 2015 in accordance with a position of 'ultimate end' ethics widely held in Germany. Ethics of ultimate end means that the actor does not consider possible consequences of his or her action, but rather sees

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that action as unquestionably right in itself.[2] Interpretation two assumes that the Federal Republic of Germany advocated the suspension of Dublin III deportations of Syrian refugees because of a German folk narrative born of an effort to make amends for the past (this is, for example, implied by Betts and Collier 2017, p. 83 ff.). Both interpretations assume a high level of consensus in Germany on normative questions of migration and asylum; that the need to help is self-evident to the majority – and has been since 1945. This hypothesis may seem plausible considering that the German constitution since 1949, the Basic Law, contains a fundamental right to political asylum that was formulated by the Law's authors precisely with reference to the experience of Second World War/ Holocaust/ etc. An examination of the entitlement to this fundamental right enables many refugees to stay in Germany at least temporarily and represents an additional protection alongside that of international refugee law, albeit one that is now rarely granted.

One could counter these interpretations empirically by addressing the heterogeneous German "scene" of supporters for asylum seekers (for example Schiffauer et al. 2017) that is composed of very different groups. The sociologist Albert Scherr cites for example a) assistance provided in specific cases, b) legal positivist positions and c) advocates of a right to freedom of movement (cf. Scherr 2016, p. 396). We can also take this hypothesis as the starting point to ask whether liberal migration policies have always been part of the folk narrative, how the migration movement in the Federal Republic of Germany actually came into being, and what its core demands were and possibly still are today. These are the broad lines of the following paper. It takes a fairly narrow approach to fleeing exploring only the perception of or discourse about forced migration to Germany. This focus is justified in the light of the current national, European and international debate on German refugee policy. The scope is also restricted in time: as an analysis of the German refugee movement overall would have to cover a considerable period, I focus on the late 1970s and early 1980s. I consider this phase to be constitutive for current debates and organisational contexts, as I will explain below. I ask what normativity the activists in the refugee (protection) movement have articulated and how this position appeared self-evident to them.[3]

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[2] The term *ethics of ultimate end* is the opposite of *ethics of responsibility* and comes from Max Weber's essay "Politics as a Vocation".

[3] To be clear: Compared to the present situation in Germany, the refugee movement at that time was dominated by white, middle class Germans with leftist political positions. Up to date, a lot of activists are, or have been, refugees to Germany themselves. Therefore, I differentiate between the terms 'refugee movement' and 'refugee (protection) movement' to draw the line cleanly. To me, it seems obvious that a refugee movement as we witness it today would not be the same without the refugee

The thesis of the paper is that organised support for refugees in the Federal Republic of Germany originated in the German civil liberties movement of the late 1970s and early 1980s against changes in West German law on aliens.[4] It would appear useful to reconstruct precisely this dispute over better migration policy, its actors, and their (protest) mobilisation and institutionalisation. I develop the thesis over the course of the following pages: 1. A change in refugee numbers is rapidly noticeable following the first intake of refugees in the Federal Republic of Germany in the 1970s. This becomes a controversial political issue, resulting in the increasing decentralisation of accommodation provision/asylum procedures. 2. As the number of asylum seekers increases, a right-wing populist discourse on bogus asylum seekers, economic migrants and asylum tourism also develops.[5] This discourse goes hand-in-hand with restrictions on the right to asylum; some voices speak openly of a policy of deterrence (Ausländerkomitee Berlin (West) e. V. 1981; Zepf 1986). The reconstruction of both types of political framing is necessary if we are to show the context in which the action of the movement is articulated, for despite the policy of deterrence, a social movement in support of refugees also developed, as I explain in more detail in 3. Using contemporary material, I seek to demonstrate, that the basis of this movement is the creation of intersubjective certainty on state wrongdoing towards refugees and migrants.

It is important to make this idea of a self-evident injustice clear, not because I wish to develop my own argument against state migration control, but because I wish to demonstrate how (inter-) subjective certainty has become important in the establishment of moral judgements. The forms of action taken by the refugee movements of the time focused very specifically on local issues and problems. Politicisation was thus not on the basis of abstract demands or philosophical justifications, but of clearly identifiable personal stories. I therefore seek to show empirically how sections of the refugee protection movement in the Federal Republic

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(protection) movement of the 1970s and 1980s. It was this movement that institutionalised resources (money, organisational structures, …) that are still in use by the organisations that ensued afterwards.

[4] For reasons of limitations, we cannot explore here how the change in the fundamental right to asylum in the German Basic Law was prepared and implemented in 1993. Although this change in asylum law represents a black day for the refugee (protection) movement and fundamentally changed German asylum law, my theory, which I will not elaborate further at this point, is, that it neither represents a major change in the relevant group of actors, nor is, or was, the cause of contemporary asylum law in Germany a subject of dispute.

[5] These terms were already being used in the late 1970s, not only "down the pub", but also in the German Bundestag. cf. Simone Klausmeier's discourse theory and political science study (Klausmeier 1984, p. 41 ff.).

of Germany resulted from a criticism of state provision for migrants, but not from abstract reference to the Nazi dictatorship.

Theory, data and method

The following text is an attempt to understand a long-standing dynamic in German asylum policy on the basis of the conflict between the political establishment and an emerging social movement. To the extent that the following pages describe not only the actions of actors in the movement, but also those of other civil society actors, and also consider the challenging and challenged legislator, I follow a contentious politics approach (McAdam et al. 2001). This theoretical approach does not simply consider structural conditions for the emergence of protest, but also makes us aware of mechanisms and processes in the development of certain policy fields, and is currently being adopted both in social movement (e.g. in Ataç et al. 2017) and in migration research (Cinalli 2016). The contentious politics approach takes account of the agency of both civil society and state actors. More specifically, I apply the idea of transgressive contention (McAdam et al. 2001, p. 7 ff.): I am interested in how new actors take to the political stage, making innovative demands or using unconventional forms of mobilisation. This theoretical setting is useful, as it does not limit the perspective to the microsocial perception of opportunities and strategic use of frames, but also takes into account the establishment and effect of interpretation patterns and frames at the macro level.

With regard to the questions of morality and normativity, I pursue to draw on reflections by the German social philosopher Hans Joas[6] in his 'Genealogy of Human Rights' (Joas 2013) and by his student Andreas Pettenkofer in a study on the emergence of the environmental movement in Germany (Pettenkofer 2014). Following the tradition of American pragmatism, they argue that political action is based on subjective certainty: certain values or convictions subjectively appear to actors to be obvious, even in the face of supposed opportunity structures, and are therefore of immense importance to their actions. In the view of Joas and Pettenkofer, what can guide and drive action is not the rational argumentation for the better argument such as Joas against Jürgen Habermas, which ultimately remains unspecific in terms of practical action, but rather an orientation that is highly affective and therefore appears self-evident even in the face of contradictions. This orientation can be re-articulated in certain situations; otherwise, its effect is that of an established

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[6] I should note here that Hans Joas has been a critic of German refugee policy since 2015. cf. https://www.zeit.de/2016/24/fluechtlinge-willkommenskultur-susan-neiman-hans-joas/komplettansicht (last accessed: 26 August 2018).

routine. Thus, if we want to build on such an action theory in social theory terms, we need to examine the collective, shared, subjective certainties and, if necessary, the context in which they have been proclaimed as apparently self-evident. Like proponents of the theory of social movements mentioned above, Joas and Pettenkofer do not assume that social changes are simply the result of structural tensions. Instead, both theoretical approaches advocate to take seriously even non-rational mechanisms of framing and interpretation during a protest, and to look at the situation from the perspective of the action itself. With these two theories in mind, we can also ask how this movement emerged, a movement that was, and still is, in apparent conflict with state institutions.

The data presented in this paper are taken from a review of contemporary asylum law and research literature. Fritz Franz, a lawyer specialising in law relating to non-residents, reported a flood of asylum law literature in the early 1980s in Germany as well as a series of major international conferences with leading speakers. Most of these conferences were organised in cooperation with the Otto Benecke foundation (Franz 1981), and the papers as well as the findings were subsequently published. Whilst I have not carried out a complete review of this literature here, I have evaluated the relevant key literature that was widely accepted within the social movement. As this paper seeks to reconstruct certainties in the social movement, a slight imbalance in the literature used towards literature closely related to the movement has been deemed acceptable. The published sources have been supplemented in my paper by archive material, for example publications by actors in the movement, items from private collections and publicly accessible grey literature.

For the evaluation of the material, I draw on discourse analysis from the field of the sociology of knowledge (Keller 2011): The aim of this analysis is

> […] to reconstruct processes of social construction, objectification, communication and legitimation of structures of meaning i.e. of interpretation and action at the level of institutions, organisations or social (collective) actors, and to analyse the social implications of those processes. (Keller 2011, p. 59)

A discourse analysis drawing on Keller (and indirectly also on Michel Foucault) reconstructs a specific set of knowledge that shapes contribution as a discourse. In this paper, however, this reconstruction necessarily needs to be rough. Nonetheless, I believe the discourse reconstruction provided here together with the *contentious politics* and *subjective certainty* approaches provides relevant insights.

The Question of Housing

A subject that is now discussed relatively rarely is the changing German practice of housing for refugees in the 1970s. This is remarkable inasmuch as the decentralisation of accommodation provision brought about lasting changes in the power structure and actors involved in German refugee policy, and a closer look at the question brings into sharp focus relations between sections of host society in the country of refuge and the refugees.

A former *gendarmerie* barrack in Zirndorf, Franconia, was for a long time the nationwide holding centre for refugees and also the site of the *Bundesamt für die Anerkennung ausländischer Flüchtlinge* [Federal Office for the Recognition of Foreign Refugees], the predecessor of today's *Bundesamt für Migration und Flüchtlinge* [Federal Office for Migration and Refugees]. Refugees were housed in this centre upon reaching the Federal Republic of Germany, ideally until the end of their asylum procedure. This meant that the Ansbach Administrative Court was originally the only competent court for appeals against asylum decisions.

Looking back today at the way the question of housing was discussed at the time, what is particularly striking is how dramatic a picture was painted: the centre was apparently already overcrowded in the early 1970s and no further refugees were being admitted (Spaich 1982, p. 43 f.).[7] Local newspaper reports seemingly denounced untenable conditions on the ground, and there was talk of fear on the part of the local population and of civil defence organisations (ibid.). Current reconstructions focus on the instrumental nature of these pictures, suggesting that the out-of-control accommodation situation in Zirndorf gave the impression that forced migration was an insurmountable social challenge that brought unrest and danger (Poutrus 2016, p. 885). Politicians, it is argued, wanted such an impression inasmuch as there had already been discussions in the 1960s about expanding the centre or opening an additional site (ibid.).

In 1974, it was decided to send some asylum seekers to other federal states before their applications had been processed; dispersal of successful asylum seekers among the federal states had already been implemented in previous years on the basis of a set allocation ratio (Theis 1981). Two issues seen as problematic at the time were those of finding sites for such holding centres and of how the centres were to be financed – by the Federal Government or by the federal states (ibid.) or by local

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[7] The number of asylum seekers had fallen in the early 1970s from 11,664 (1969) to 5289 (1972). It then rose, first moderately and then more steeply to peak at 107,818 (1980). The numbers subsequently fell to 19,737 (1983) before rising again (Zepf 1986, p. 57).

authorities (Klausmeier 1984, p. 97 ff.). In this context, there was also a discussion of whether the federal states should restrict the employment of asylum seekers, or whether refugees could in fact finance their own accommodation from the free housing market by working (Zepf 1986, p. 73).

One consequence of this policy was that, suddenly, most districts in the Federal Republic – the local social security providers – were now confronted with the need to cater for asylum seekers. As a result, calls for a change in the asylum procedure were now coming not just from Bavaria but from all parts of West Germany (Münch 1992, p. 73). The Free State of Bavaria had thus to some extent lost its "special institutional role" in refugee and asylum policy, which was organised on a federal basis (Poutrus 2016, p. 888).

If we now try to reconstruct the images and certainties on this subject that were being discussed by the German public, we notice one aspect that deviates significantly from the thesis of a German folk narrative or the ethics of ultimate end cited above, namely clear connotations in connection with the housing question: refugees are reviled as "pollution" and politicians want to keep their constituencies "clean" (Spaich 1982, p. 52).

It would therefore appear that an image of the refugee was created at this time that had multiple negative connotations, and that this image seemed self-evident to sections of society. Refugees were held responsible for unrest and disruption; they were seen as a source of problems and therefore to be avoided. The example of accommodation illustrates how societal knowledge, a certainty, develops and spreads in sections of the population.

The Policy of Deterrence

In addition to the decentralisation of accommodation provision, asylum law was also tightened in a number of ways in the late 1970s and 1980s. The new measures targeted specifically the application procedure itself. One aim was to speed up asylum procedures. Asylum procedures were genuinely lengthy, taking more than six years when all legal remedies were used (Münch 1992, p. 72), and this created legal uncertainty on the right of the asylum seekers to remain. However, this was not the only reason for speeding up the process. Pressure was also coming from the federal states and local authorities, which by now had to take in refugees, but wanted to avoid integration into German life (ibid., p. 73). The initial legal consequences of this pressure were the first and second acts accelerating the asylum procedure, the *Erstes Beschleunigungsgesetz* of 1978 and the *Zweites Beschleunigungsgesetz* of 1980. The first act

abolished the right of appeal against administrative decisions in the appeal committees of the Federal Office, but still allowed cases to be brought before the administrative court. Appeals against administrative court decisions before higher administrative courts were abolished for those cases in which the asylum application had been rejected as "manifestly unfounded". In accordance with the nationwide dispersal of asylum seekers, the administrative court procedure was decentralised and it became possible to launch proceedings before administrative courts other than the one in Ansbach. As the new legislation did not shorten asylum procedures, but in fact placed a greater strain on the administrative courts, the second *Beschleunigungsgesetz* came into force on 23 August 1980. This act provided for the replacement of the three-person asylum committees at the Federal Office by individual decision-makers who were not answerable to the Federal Office.[8]

As an immediate measure to accompany the second *Beschleunigungsgesetz* (Münch 1992, p. 83), a visa requirement was introduced for the main countries of origin in Asia and Africa in June 1980. This applied to Afghanistan, Ethiopia, Sri Lanka, India, Bangladesh and Turkey. People from those countries had to apply for an entry visa for the Federal Republic of Germany from their local West German embassy in their home country, and could not enter Germany without that visa. The Federal Government was quite aware that it was making entry into Germany impossible for those suffering political persecution, but justified the move by stating that political refugees could not be granted unlimited access (Klausmeier 1984, p. 58). The only way to circumvent this visa requirement was to enter the country via East Berlin, as there was no visa requirement between East and West Berlin. The measure initially led to a drop in the number of asylum seekers, but by making access to German territory more difficult, it also led to illegal entry (ibid.).

As early as 1977, an administrative regulation (*Verwaltungsvorschrift*) authorised border officials to carry out a preliminary evaluation of asylum applications. They were to assess an applicant's chances of success and, if applicable, to deny entry on that basis (Spaich 1982). Churches, Amnesty International, immigrant associations, youth associations and judges protested against this provision, which they saw as

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[8] For an assessment of the regulations at that time, which included asylum decisions being taken at the border and decentralised administrative jurisdiction, see the critical response of Franz (1981, p. 797 f.), who criticised the fact that the preliminary examination of asylum applications by the border and aliens departments had simply unnecessarily prolonged the procedure. Dispersing refugees and allowing them to enter the labour market before processing their applications was in his view also problematic, as such a system could be abused by job-seekers. Such a view is still taken by Münch (2014, p. 79). From today's perspective, Poutrus (2016, p. 890) notes that the procedural changes did not prevent the exercise of asylum rights in general, but merely shifted the problems.

potentially undermining the right to asylum. The regulation was not declared unconstitutional by the Federal Constitutional Court and was repealed only in 1981 (Poutrus 2016, p. 889). When the Asylum Procedure Act (*Asylverfahrensgesetz*, AsylVfG) came into force in 1982, the idea was taken up once again. This time, different categories of asylum application were now to be identified, and these had different legal implications (Münch 1992, p. 92). As all applications had to be submitted to the aliens department in charge, it could, for example, classify repeat applications as irrelevant or manifestly unfounded. Furthermore, the AsylVfG regulated forced placement in asylum centres, the further curtailment of the right of appeal, and the use of single judges instead of a panel (ibid., p. 93 f.). Restrictions such as the two-year ban on working were also introduced by the AsylVfG (a one-year ban had been in place since 1980), as was the obligation to stay in the district of the aliens department in charge.

Using the example of the tightening of asylum law, we can reconstruct three types of societal knowledge or constructions of reality on the basis of discourse theory. The first is the construct of the refugee as a potential fraudster and lawbreaker, whose asylum application is so obviously unfounded that this can be proven at the border or in any given office. By seeking to create an image of refugees as migrant workers in search of economic advancement rather than victims of political persecution, the Federal Government of that time and the opposition led by the Christian Democratic Party undermined from the outset any support for those individuals as potential holders of legal rights.

At the same time, by indicating that there was too great a strain on the Federal Office and administrative courts, the two *Beschleunigungsgesetz* acts broadened the picture that had already been painted in relation to accommodation: that of refugees as a strain on state order. This has remained an established topos right up to the present day.

A third construction of reality concerns the supposed motives for refugees' migration. Working on the basis of the image of asylum seekers as merely economic migrants in search of a way out of their economic misery, restricting all economic incentives and any financial support such as social security appears logical.[9] This was the approach chosen by the Federal Government of that time, which for example banned asylum seekers from working and stipulated that social security was to be

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[9] The fact that a very simple approach in social sciences terms was used to explain migration, namely that of a push and pull model, will not be discussed further here. cf. Castles and Miller (2009, p. 21 ff.) for a discussion of the limits of such an approach.

awarded primarily in the form of benefits in kind. As a result of these restrictions, the UNHCR (Münch 1992, p. 99 f.), non-governmental organisations (Hennig and Wießner 1982, p. 56 f.) and academics (Wipfler 1986, p. 68 ff.) took up the question of economic marginalisation as advocates for the refugees. In the process, these actors developed a conflicting set of images and topoi: in publications and at public events, pro-immigration groups and individuals also shaped a narrative about refugees in which the latter appeared as poor, needy and impoverished (for an example cf. Ausländerkomitee Berlin (West) e.V. 1981). Broken sanitary facilities and overcrowded rooms are just two of many widely reproduced images that must have fuelled the impression that refugees were the Others of the West German affluent society.

Civil Society Perspectives

So far, we have seen what kind of a negative response came from almost all parties in the Federal Republic of that time to the rising numbers of refugees. The images dominating the public opinion were critical of further refugee movement to Germany. The image of the refugee as a burden and potential fraudster seemed to appear self-evident to large sections of the population and the political elite. Yet the era of stricter asylum laws and debates on abuse of the system is not shaped solely by illiberal migration policies. This period also saw the emergence of refugee policy and refugee social work structures that still exist in Germany today. Worth mentioning here are publication forums such as the *Informationsdienst zur Ausländerarbeit* (now the journal *Migration und Soziale Arbeit*), the journal *Zeitschrift für Ausländerrecht und Ausländerpolitik* and later also *Informationsdienst Asyl* (*ID Asyl*) and the journal *Die Brücke.* On 22 January 1980, the documentation centre *Zentrale Dokumentationsstelle der freien Wohlfahrtspflege für Flüchtlinge e.V.* was founded: in response to a decision by the Federal Government on the provision of advice and support, the welfare associations set up a service providing information on relevant legislative procedures and judgments and situations in countries of origin (Bueren 1990).[10] This example shows how welfare associations were involved in the Federal Government's policy of deterrence, for the *Dokumentationsstelle* not only works/worked to provide legal support for refugees, but also helped and still helps today to legitimise a potentially exclusionary policy by providing advice and information to refugees (Münch 1992, p. 193). Numerous local initiatives were also set up. Alongside the Amnesty International asylum teams, which saw support to those threatened by deportation and the fight for their right to remain

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[10] The service has been provided by the *Informationsverbund Asyl und Migration* since 1999; the information is published at www.asyl.net and in *Asylmagazin.*

in Germany as preventive human rights work, there were initially also countless local initiatives. Grey literature from the state of North Rhine-Westphalia from 1986 lists 25 asylum support groups (*Asylarbeitskreise*) in that state alone, many run by churches (Asboe et al. 1986). 1986 saw the establishment of *Pro Asyl* at a national level, which is still the main non-governmental organisation in this field in Germany today. The launch of *Pro Asyl* as a platform for exchange between different representatives of churches, trade unions, welfare associations and human rights organisations happened largely on a top-down basis. However, *Pro Asyl* is now also an indispensable resource for many local initiatives.

We can therefore see that new actors and new identities emerged in the late 1970s and early 1980s. Following the thesis in the introduction, we can assume that a failure to handle migration properly in West Germany on both the part of the state (and in particular the local aliens departments) and – even if to a lesser degree – welfare associations was self-evident to these new actors. Such a development can also be understood on the basis of the *contentious politics* approach and the heuristics of *subjective certainty*. I would like to reconstruct a typical pattern that I call *organised indictment*. This pattern was followed in civil society contexts between 1982 and 1984 at various places in the Federal Republic of Germany. There are similarities in the manner of its application in terms of orchestrated seriousness and references to local experiences in each case.

In November 1982, a delegation from the *European Committee for the Defence of Refugees and Immigrants* (C.E.D.R.I.) – an international non-governmental organisation founded shortly before in Switzerland – travelled round the Federal Republic to assess the situation in asylum centres. Its concluding report (C.E.D.R.I. 1982) documents its observations at three accommodation centres in southern Germany and seeks to interpret those observations in political terms. It links them to contemporary political debates in West Germany, such as the tightening of asylum laws and a widely read publication by conservative intellectuals in a major German daily newspaper (the "Heidelberg Manifesto"). The C.E.D.R.I. interprets both – the right of asylum and the proffered interpretation by the intellectuals – as an expression of a far-reaching hostility to immigration in West German society. To support this picture, the NGO quotes politicians from the CDU and CSU in words that document negative attitudes to refugees (centres should simply be fenced-in barracks with guards, ibid., p. 23). The report also features statements from refugees about paternalism in social welfare services (restrictions on provision of cash, cramped living quarters, inedible food, ibid., p. 25 ff.), and presents staff at asylum centres who complain about refugees rather than being in any way committed to supporting them (ibid., p. 29 ff.). In its

conclusion, the C.E.D.R.I. finds that there is a policy of intimidation (ibid., p. 51). It reports that refugees are interned, with all the psychosomatic problems that this causes (ibid., p. 52). The organisation also accuses the Federal Government of violating Article 16 of the Basic Law and failing to respect the Geneva Refugee Convention in its asylum practice.[11]

It is not only the tone of the indictment that makes this document so remarkable, it is also the situation itself: an international group visits the Federal Republic of Germany as if it were an unjust state and then proclaims its verdict – as if it were from a neutral outside perspective. Two otherwise separate and unrelated tribunals against local immigration policy in Hamburg (cf. Deutsch-Ausländisches Aktionsbündnis 1983b) and Hanover (cf. Koordinierungsausschuss für das Tribunal 1984) are comparable in terms of the creation of the role of a spokesperson and the speech act of the indictment. Here, too, we see the creation of a certainty about asylum policy in the Federal Republic of Germany, intended to mobilise actors in the movement. Both tribunals arose out of civil society networks; they were not part of the judiciary, but rather attempts at a trial "from below" to implement alternative interpretations and judgements. The two tribunals indicted the federal states in question for their immigration practices – asylum law was only one point; others included work permits, residence rights and the political participation of migrants. Through the tribunals, both networks revived a form of mobilisation of the new social movements that had already been used in the 1970s against the Federal Republic (cf. März 2012). In 1977-1979 a Russell Tribunal had taken a critical look at the human rights situation in the Federal Republic of Germany.

Tribunals on immigration policy in the 1980s called witnesses – sometimes accompanied or represented by lawyers – who described their problems with current immigration policy. At each of these events, which were publicly advertised and therefore well attended, a jury then pronounced a form of guilty verdict. The main argument was that the state was not acting in accordance with the law and was withholding fundamental rights from foreigners (such as the protection of the family, the right to work, the right to asylum and the right to political participation). In Hamburg, for example, the tribunal outlined the case of *Hüseyin Inci*, who had first been granted refugee status, and was then threatened with deportation to Turkey because of alleged involvement in a criminal offence there. The Turkish state had filed an extradition request that was being examined by the German authorities. *Inci*

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[11] The UNHCR also reached similar findings, and this led to a crisis in relations between the Federal Republic of Germany and the UNHCR in the early 1980s, cf. Milzow (2008).

accused the Turkish state, at that point a military dictatorship, of criminalising him in order to get him back. The German state and, in particular, German public prosecution services were accused of cooperating with the military. This case is important in the light of the fact that the increase in asylum applications up until 1980 was in large part due to people fleeing the military dictatorship in Turkey.[12] In Hanover, detention on the grounds of alleged illegal entry into the country, social security benefits for refugees and the housing situation were also explored. This tribunal was also directed at the Lower Saxony district authorities, which had apparently instructed asylum centre managers to report any asylum seekers who "scorned, through their inappropriate behaviour, the right to hospitality granted to them" to the Federal Office in Zirndorf; this was to allow steps to be taken to terminate the asylum procedure in question. From the tribunal report, it is clear that those in charge of the tribunal considered these instructions constitutionally questionable on the grounds that they opened the door to arbitrary action: refugees had to correspond to the moral beliefs or preconceptions of individual case workers or asylum centre managers (cf. Koordinierungsausschuss für das Tribunal 1984, p. 35).

The civil society narrative thus emphasised an illiberal, aggressive state that took action against refugees and also cooperated with unjust systems. Criticisms of restrictions on residence, bans on work and threats of deportation were presented as substantive, personalised through the witnesses and more or less confirmed by the authorities.[13] These processes were therefore designed to create and consolidate intersubjective certainty. The main subject of the indictment was not the situation of those who were outside the country's borders, but the way in which state agencies were dealing with migrants within those borders.[14]

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[12] The best-known case is that of Turkish refugee *Cemal Altun. Altun* killed himself on 30 August 1983 by jumping from the sixth floor of a courtroom in Berlin Moabit, where his extradition to Turkey was being debated before the administrative court. The case subsequently received enormous attention. cf. Arendt-Rojahn (1983).

[13] McAdam et al. cite certification as a key mechanism in endorsing or supporting actors and their actions (2001, p. 121 ff.). Certification means that an external authority is needed that, for example, vindicates protesters and their concerns. Trade unionists, teachers, pastors and academics, most of whom have no immigration experience, provide this certification in the above mentioned tribunals in Hamburg and Hanover. In other words, certification apparently came from people who were supposedly not affected by immigration policy, who were respected, and who were considered to have good judgement because of their social position.

[14] In addition to subjective certainty, Joas also attaches great importance to affective intensity in his theory. Tribunals could therefore also be understood as moments of collective indignation, as well as moments of collective joy about the community in the movement and mutual reassurance in one's own political position. Joas argues that intersubjective certainty is created by the narrative transmission of values. Formats such as tribunals, hearings and documented official visits with

A hearing on the social and legal position of refugees in West Berlin was the third major civil society initiative alongside the human rights report and tribunals (cf. Hofmann 1984). The event was initiated by the NGOs *Gesellschaft für bedrohte Völker* and *Flüchtlingsrat Berlin*, which are still active today, and its name is reminiscent of a parliamentary procedure. It was held in January 1984 by a Protestant church and had no relation to other parliamentary activities. The event and its report were designed to provide a summary of individual measures and restrictions that, it was claimed, were creating an atmosphere in Berlin that left refugees in despair (ibid., p. 10). The hearing criticised deportations and custody pending deportation; the implementation of the law on aliens by the local aliens departments and the Federal Office; social security provision for refugees, including the accommodation situation, benefits in kind and the ban on work. Like the tribunals, this hearing was also followed by an international jury, which picked up on these points in its concluding statement and demanded improvements on the part of the Berlin authorities. The jury statement also included the socio-political observation that German society in general, and the population of Berlin in particular, would benefit from "new blood". Moreover, the jury reasoned, a key duty of all state agencies – and in particular the Berlin Senate – should be clearly and unequivocally to speak out against prejudices against foreigners (ibid., p. 190). The jury's verdict thus went beyond the asylum question to touch on other discourses, for example that on population and workforce development.

If we look at the civil society formats described, we can see that these were largely events run by members of the educated, white middle classes and that there were no major events organised by migrants themselves. The formats therefore reflect the knowledge of this group of people, their images, slogans and forms of protest. We see no in-depth discussions of racism or capitalism as in current immigration debates (e.g. Yufanyi Movuh 2009). In terms of discourse analysis, these protests are significant because, on the one hand, they collect and articulate a body of knowledge that suggests that fundamental rights are under threat in Germany.[15] Instead of presenting asylum seekers as a danger or a burden, they present state action – especially the action of the federal states and the local aliens department – as a threat:

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extensive verbal reflection therefore also seem to me ideally suited to produce intersubjective certainty on certain normative convictions.

[15] Also worth noting are the titles of the publications at that time, which similarly construct a threat scenario and therefore certainly pursue a pattern of interpretation used within left-wing movements of the 1970s and 1980s: *No asylum from the Germans: a fundamental freedom under attack* (Kauffmann 1986), *Right of asylum without asylum seekers* (Zepf 1986) and *Are mass deportations imminent?* (Deutsch-Ausländisches Aktionsbündnis 1983a).

regulations such as accommodation provision, social security benefits and a ban on work are having an extremely negative impact on the life of the individual.

On the basis of the historical material, we can identify the following conviction of the activists: a state that no longer respects its own constitution or international treaties appears in this reality to be the real problem; a problem in the face of which both subjective and fundamental humanitarian rights must be protected.

On the other hand, this legitimises a practice of reaction, of obligatory objection to state immigration policy, which is the first step to taking a completely different approach to migration processes than that of local, state or federal governments up until that point. However, often the result was not a radical rejection of the state, but an attempt to exert greater influence – whether through targeted lobbying; meetings with the authorities at a state level, in other words the creation of forums for exchange between the social movement, refugee social work organisations and immigration authority representatives; or close networking at a municipal level.

Conclusions

As we have seen, asylum policy in the Federal Republic of Germany has long been controversial and remains so today. Scepticism towards practical state migration control and support, embodied in the work of local and regional authorities, has been identified here as a central, shared assumption within the refugee (protection) movement in the Federal Republic of Germany. That scepticism manifested itself primarily in the aforementioned forums and subsequently also in associations and through actors in refugee social work organisations, that focused on providing legal advice and practical assistance for refugees and on working to combat racism.

Recently, the early German refugee movement and its most visible actor, the association *Pro Asyl*, have been criticised by younger activists in this field for taking a positivist approach, in other words for calling for a correct implementation of existing law instead of raising the political question of open borders (cf. Oulios 2013, p. 323ff.). The recent immigration policy groups campaign in a more radical manner. The movement thus continues to develop, and is becoming more diverse in its demands and goals and in the images of flight and migration that it disseminates.

In terms of discourse theory, we can conclude that antagonistic systems of knowledge and certainties have developed since the 1970s in particular, with a perspective on flight that links refugees to danger, disorder, abuse of the law and inadequate control on the one hand, and on the other a perspective that criticises marginalisation and unjust treatment, and commits to far-reaching solidarity with

refugees. These two systems of knowledge constitute a fundamental dispute, which is why the theoretical approach of *contentious politics* appears useful here. For both systems of knowledge, however, moments of production of certainty are also central. This is precisely what the analysis of the civil society forums of the 1980s has shown.

Consequently, at least two empirical questions remain. The first question to look at would be the extent of continuity and discontinuity in the refugee (protection) movement in Germany since the 1990s. Certain types of events have remained: tribunals were once again held in 1994 and 1996 against European (1994; cf. Basso-Sekretariat Berlin 1995) and Hamburg (1996) refugee policy. However, new initiatives organised by refugees themselves such as *The Voice*, the *Karawane für die Rechte von Flüchtlingen und MigrantInnen* and *Jugendliche ohne Grenzen* (cf. Kewes 2016) are rooted much more firmly in the idea of an autonomy of migration (cf. Mezzadra 2010). The most recent cultural initiatives in Germany though are rather hard to place within these traditional lines. Nonetheless – as should have become clear in the course of this paper – they are not merely an expression of a German folk narrative, as Betts and Collier suggest, but first and foremost of a subjectively experienced obligation to help.

The second question concerns the scope of the thesis in this paper: Is the development of the early refugee movement in Germany maybe an exception? How was the situation in other European countries at that time? The answer to such questions will also enlarge our understanding of the historical and social contexts, the political struggles, and the constellations of stakeholders in which normative claims for more liberal migration policies gain acceptance and support.

References

Arendt-Rojahn, Veronika (1983): Ausgeliefert. Cemal Altun und andere. Reinbek bei Hamburg: Rowohlt Taschenbuch Verlag.

Asboe, Karin; Just, Ingrid; Milk, Hans-Martin (1986): Flüchtlingshilfe. Asylarbeitskreise stellen sich vor. 2nd edition. Diakonisches Werk der evangelischen Kirche im Rheinland. Mönchengladbach.

Ataç, Ilker; Rygiel, Kim; Stierl, Maurice (eds.) (2017): The contentious politics of refugee and migrant protest and solidarity movements. Remaking citizenship from the margins. London, New York: Routledge.

Ausländerkomitee Berlin (West) e.V. (1981): Gast oder Last? Berichte zur Lage der Asylbewerber. Berlin: EXpress Edition.

Basso-Sekretariat Berlin (ed.) (1995): Festung Europa auf der Anklagebank. Dokumentation des Basso-Tribunals zum Asylrecht in Europa. Münster: Westfälisches Dampfboot.

Betts, Alexander; Collier, Paul (2017): Refuge. Rethinking Refugee Policy in a Changing World. Oxford: Oxford University Press.

Bueren, Ilse (1990): Information und Dokumentation zu Flüchtlingsfragen: Die Zentrale Dokumentationsstelle der freien Wohlfahrtspflege für Flüchtlinge e.V. (ZDWF). In: Wolfgang G. Beitz (ed.): Vierzig Jahre Asylgrundrecht - Verhältnis zur Genfer Flüchtlingskonvention. Viertes Expertengespräch für Asylrichter, 25.-27. September 1989 in Bonn. Baden-Baden: Nomos, p. 95–100.

C.E.D.R.I. (1982): Asylrecht und Asylpraxis in der Bundesrepublik Deutschland. Bericht einer internationalen Delegation des Europäischen Komitees zur Verteidigung der Flüchtlinge und Gastarbeiter. Basel.

Castles, Stephen; Miller, Mark J. (2009): The age of migration. International population movements in the modern world. 4th edition. Basingstoke: Palgrave Macmillan.

Cinalli, Manlio (2016): Fields of Contentious Politics. Migration and Ethnic Relations. In: Olivier Fillieule and Guya Accornero (eds.): Social movement studies in Europe. The state of the art. New York, Oxford: Berghahn, p. 86–99.

Deutsch-Ausländisches Aktionsbündnis (1983a): Stehen Massenausweisungen bevor? Die geplanten Verschärfungen des Ausländergesetzes. Auswertung der Berichte der Bund-Länder-Kommission Ausländerpolitik. Hamburg.

Deutsch-Ausländisches Aktionsbündnis (1983b): Wir klagen an: Tribunal zur Hamburger Ausländerpolitik. Archiv der Sozialen Bewegungen Hamburg, BRD - 04.143. Dokumentation.

Franz, Fritz (1981): Die Krise des Asylrechts - Wege zu ihrer Überwindung. In: Wolfgang G. Beitz and Michael Wollenschläger (eds.): Handbuch des Asylrechts. Unter Einschluß des Rechts der Kontingentflüchtlinge. Band 2 Verfahren, Rechtstellung und Reformen. Baden-Baden: Nomos, p. 775–810.

Hennig, Claudius; Wießner, Siegfried (eds.) (1982): Lager und menschliche Würde. Die psychische und rechtliche Situation der Asylsuchenden im Sammellager Tübingen. Tübingen: AS-Verl.

Hofmann, Tessa (ed.) (1984): Abgelehnt, ausgewiesen, ausgeliefert. Dokumentation zum Hearing über die soziale und rechtliche Lage der Asylbewerber in West-Berlin (20. - 22.1.1984). Göttingen [u.a.]: Gesellschaft für bedrohte Völker.

Joas, Hans (2013): The Sacredness of the Person. A new Genealogy of Human
        Rights. Washington, D.C: Georgetown University Press.

Kauffmann, Heiko (ed.) (1986): Kein Asyl bei den Deutschen. Anschlag auf ein
        Grundrecht. Reinbek bei Hamburg: Rowohlt.

Keller, Reiner (2011): Diskursforschung. Eine Einführung für
        SozialwissenschaftlerInnen. 4th edition. Wiesbaden: VS Verlag für
        Sozialwissenschaften.

Kewes, Andreas (2016): Soziale Bewegungen von Geflüchteten in Deutschland.
        Entwicklungen und Erfolge. In: Migration und Soziale Arbeit 38 (3), p. 261–
        267.

Klausmeier, Simone (1984): Vom Asylbewerber zum "Scheinasylanten". Asylrecht
        und Asylpolitik in der Bundesrepublik seit 1973. Berlin: EXpress Edition.

Koordinierungsausschuss für das Tribunal (1984): Tribunal zur Ausländerpolitik in
        Niedersachsen. Archiv der Sozialen Bewegungen Hamburg, BRD-04.143.
        Dokumentation, Berichte, Analysen.

März, Michael (2012): Linker Protest nach dem Deutschen Herbst. Eine Geschichte
        des linken Spektrums im Schatten des 'starken Staates', 1977-1979. Bielefeld:
        Transcript.

McAdam, Doug; Tarrow, Sidney; Tilly, Charles (2001): Dynamics of contention.
        Cambridge [u.a.]: Cambridge Univ. Press.

Mezzadra, Sandro (2010): Autonomie der Migration – Kritik und Ausblick. Eine
        Zwischenbilanz.
        http://www.grundrisse.net/grundrisse34/Autonomie_der_Migration.htm.

Milzow, Katrin (2008): Anatomy of a crisis. Relations between the Unitetd Nations
        High Commissioner for Refugees and the Federal Republic of Germany
        from the 1970s to the 1980s. In: Refugee Survey Quaterly 27 (1), p. 74–88.

Münch, Ursula (1992): Asylpolitik in der Bundesrepublik Deutschland. Entwicklung
        und Alternativen. Opladen: Leske & Budrich.

Münch, Ursula (2014): Asylpolitik in Deutschland. Akteure, Interessen, Strategien.
        In: Stefan Luft and Peter Schimany (eds.): 20 Jahre Asylkompromiss. Bilanz
        und Perspektiven. Bielefeld: Transcript, p. 69–86.

Oulios, Miltiadis (2013): Blackbox Abschiebung. Geschichten und Bilder von
        Leuten, die gerne geblieben wären. Berlin: Suhrkamp.

Pettenkofer, Andreas (2014): Die Entstehung der grünen Politik. Kultursoziologie
        der westdeutschen Umweltbewegung. Frankfurt am Main: Campus.

Poutrus, Patrice G. (2016): Zuflucht im Nachkriegsdeutschland. Politik und Praxis
        der Flüchtlingsaufnahme in Bundesrepublik und DDR von den späten
        1940er Jahren bis zur Grundgesetzänderung im vereinten Deutschland von

1993. In: Jochen Oltmer (ed.): Handbuch Staat und Migration in Deutschland seit dem 17. Jahrhundert. Berlin, Bosten: De Gruyter Oldenbourg, p. 853–893.

Scherr, Albert (2016): Across Borders? Flüchtlinge, soziale Bewegungen und Soziale Arbeit. In: Soziale Passagen 8 (2), p. 395–403. DOI: 10.1007/s12592-016-0240-3.

Schiffauer, Werner; Eilert, Anne; Rudloff, Marlene (2017): So schaffen wir das - eine Zivilgesellschaft im Aufbruch. 90 wegweisende Projekte mit Geflüchteten. Bielefeld: Transcript.

Spaich, Herbert (1982): Demontage eines Grundrechts. Eine Dokumentation. In: Herbert Spaich (ed.): Asyl bei den Deutschen. Beiträge zu einem gefährdeten Grundrecht. Reinbek bei Hamburg: Rowohlt, p. 40–75.

Theis, Horst (1981): Probleme bei der Verteilung ausländischer Flüchtlinge. In: Zeitschrift für Ausländerrecht 1 (1), p. 29–32.

Wipfler, Richard (1986): Asyl Konkret. Lageralltag als kritisches Lebensereignis. Berlin: EXpress Edition.

Yufanyi Movuh, Mbolo (2009): "Die Stimme" der Toten und derjenigen, die noch sterben werden. In: Komitee für Grundrechte und Demokratie (ed.): Jahrbuch 2009. Jenseits der Menschenrechte. Die europäische Flüchtlings- und Migrationspolitik. Münster: Westfälisches Dampfboot, p. 133–146.

Zepf, Bernhard (1986): Asylrecht ohne „Asylanten"? Flüchtlingshilfe im Spannungsfeld von Weltflüchtlingsproblem und Abschreckungspolitik. Frankfurt am Main: Verlag für interkulturelle Kommunikation.