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Who's Afraid of the Eleven-Meter Penalty Kick?

On the Attempt to Realize Another Society

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To speak about the Society for Legalization – to reflect on it and on the affects, visionary contagions and subjectivations that it activated – requires an optic that brings into view, in the context of the brief episode of a legalization offensive in Germany, the troubles in the ranks caused by the formation of a migrant and anti-racist crowd. This optic would need to pick out the impertinent grins of this crowd, but also its worry lines.

Two Minutes of Success?

Berlin, 24 October 2003. Under the slogan "We are among you," the Society for Legalization (Gesellschaft für Legalisierung, or GfL, for short) began an action tour in support of the demand for social

and political rights for migrants, with or without papers. One of the highpoints of the tour was the introduction of the GfL to the national congress of Ver.di, the largest German trade union representing both service workers and public employees. There, the attention of the union members was activated and the migrants given a voice through an installation of props consisting of loudspeakers hidden in cheap cargo bags typically used by migrants. In this way, the histories of wage theft, sexual abuse and other violations of justice suffered by the *Sans-Papiers* (those without documents) were made visible in Germany. Two women – one of them a migrant from Latin America – negotiated the right to speak briefly: they called on the congress participants to "finally take notice that those without papers are already living and working here." And Ver.di should grant them the right to union representation and protection.

"Legalization" as the Promise of Institutionalization

The call for legalization itself has a long history in Germany. Already at the beginning of the 1970s, migrant workers who had become illegal went on the streets of Frankfurt on the Main in a large demonstration under the slogan "We are not slaves!" In the mid-1990s, in the frame of the Kein Mensch Ist Illegal (no person is illegal) network, the newspaper project *off limits* raised the demand for legalization. In radical leftist circles, this was held to be an affront against the call for open borders and the organization of illegality. In fact, the critique of the opponents of legalization produced a deepening of the lines of division within the anti-racist division of labor.

The previously missing perception of a more selective state legalization is no collective cognitive blunder of the left. What is

decisive is to think together the conjuncture between a certain readiness for legalization and existing practices of migration. This cannot succeed, however, so long as the anti-racist left concentrates its energies on the defense of the basic right to asylum. Many migrants in the detention and refugee camps on Europe's borders flee into the informal networks of clandestine work rather than wait for a decision on their application for asylum. Waiting on the north coast of Africa for passage on a floating coffin, migrants burn their papers and thereby enter into a life that de facto is displaced outside any politics of visibility. In the context of migration, visibility belongs to the inventory of police technologies for the control of migration flows. Here, the GfL dared to break the taboo of past *antira* (an abbreviation of "anti-racist") politics and at the same time tried to articulate the emergence of new migrant actors with a new kind of politics.

And that was not so easy. As the anti-racist convergence Kanak Attak, active in Germany, and the Flüchtlingsinitiative Brandenburg (Brandenburg refugee initiative) shaped the loose contours of the GfL, both the breaking of the taboo and the new politics of practiced rights were completely uncontested. However, conditional lines of flight, in which the potential for institutionalizing practices was taken into account, remained. And the political design of GfL as "society," as that is styled in Hamburg in cooperation with the pop-leftist scene, also inscribes itself into this dynamic. In this tedious matrix of assertiveness, the GfL still functions as the absent cause of all the bottlenecks and defeats of anti-racism.

Before the GfL

Since the beginning of the 1990s, the right to asylum has lost its central meaning for migration processes. Processes of illegalization have taken its place. For the GfL, the subjective factor of migration and the organization of (survival and) everyday life by migrants form the starting points for an anti-racist politics. This politics should no longer limit itself to reacting with a division when laws are sharpened. The visions for and of migrants in the anti-racist struggle are based on a multiplicity of contexts of political experience and sites of intervention.

The Caravan for the Rights of Refugees and Migrants was born in Bremen in 1998, out of the crisis of migrant self-organization. With the aim of becoming a new movement, the Caravan brought together many initiatives whose forces of mobilization shouldn't let themselves be defined primarily as resistance to Nazi terror. As a counter-formation to the German, mono-national refugee council Pro Asyl, this model of nationwide organization attempted to generalize the local, multi-nationally composed committees of the refugee camps. However, the establishment of a wide network didn't come together. And the slogan of the first Caravan ("We have no vote, but one voice"), launched during the 1998 federal elections, in which the Kohl government would lose its place to the Red-Green coalition – failed to create an opening to other migrant communities. The Caravan for the Rights of Refugees and Migrants remains a multi-national organization of refugees in Germany that is focused on the political grounds of refugee flight and on the organization of resistance within the refugee camps. And this meant defeat for a possible exchange, beyond demonstrations of solidarity, between migrant communities (*Kanak-Communities*) and the following generations.[1]

With a different focal point than the *Bleiberechtkampagne* (right to stay campaign), the Caravan started the *Residenzpflichtkampagne*

(duty of residence[2] campaign) of *The Voice* and the Brandenburg Refugee Initiative. It was based on an attempt to make scandalous restrictions on freedom of movement unique even under the European migration regime and was driven by the idea of politicizing and organizing the everyday break that asylum applicants were making with this unacceptable chicanery. The campaign peaked in 2002, in an action that for three days transformed the Schlossplatz in Berlin-Mitte into a residence for refugees and supporters. The days of action ended with a nationwide march through the city center by more than 3000 demonstrators. The campaign reached an essential goal: refugees, who otherwise mostly have to live in the isolation of remotely sited refugee facilities, step by step appropriated the city and practically evaded the duty of residence. The majority of refugees came to Berlin without the required travel papers (*Urlaubsschein*). This administrative offense was tolerated by the authorities for the duration of this refugee "Reclaim the Streets"-style action.

Seen from the perspective of the organization and self-representation of the migrants, the action succeeded in the eyes of the activists in establishing a political discourse with wider appeal and more potential for mobilization within the refugee communities. Their own experiences of detention and loss of rights were thematized in connection with a critique of the international division of labor. Admittedly, this discourse became part of an anti-racist division of labor with the prevailing anti-state (*staatsphobischen*) reflexes and demands for the "right to stay" for everyone. And the debate with racism remained defensive in aim, due to the explicit self-restriction to the politics of asylum.

From its beginnings, the Kein Mensch Ist Illegal network, founded in 1997 at Documenta X, grappled with the question of a politics of legalization. Strategically, this was supposed to initiate the turn

from the defense of the right of asylum to the politicization of illegality. However, as already indicated, this legalization debate initiated in the frame of Kein Mensch Ist Illegal led to indecisiveness, given the political heterogeneity of the network and its de facto function as umbrella organization for autonomist anti-racists and refugee activists, and finally to the de-thematization of the call for legalization.

This border also clarified the positioning of Kanak Attak in the initiative "Right to Legalization." The target politics of the network was based on an understanding of racism that cannot exist without the self-transforming struggle against it and sought to think the lowest common denominator [between racism and anti-racism.] And in this way, the first form of a post-national politics of flexible citizenship was prematurely born in Almanya.

The Multitude that isn't one yet…

The Society for Legalization already carried an inherited burden: in the 1990s, a highpoint of possibilities for intervention had already been passed. In the German political context, the GfL's attempt to initiate legalization as a social project of the Left proved to have come too late. Paradoxically, the GfL registered more in society than within the Left. In this sense, it fulfilled its task to become socially effective. Arriving in the midst of society, however, it was dragged apart from groups that either are marginalized or wanted to remain outside. This precarious positioning in the field of an actively political subjectivation of GfL activists capable of influencing civil society actors amounted to a problem of acceptance.

Figuratively expressed, the GfL was an experiment: in soccer, a ball kicked in high from the far left side. In order to be quick enough into the penalty area and make a shot on the goal, you need both the flanker and the center forward. But in this case, the leftist forces within the GfL were not ready to make the shot. It was much more the case that they were waiting for someone else to play center forward. In principle, the ones willing to work with society mobilized a tremendous amount of energy to prepare for the arrival of a center forward who, however, never appeared. The GfL's calculation of power politics was based on discursively immunizing the common against radical leftist doctrines of class struggle, in order to be able to intervene in the discourse of civil society; even so, they failed to unify civil society actors.

The question of legalization was treated in the Commission on Immigration chaired by CDU politician Rita Süssmuth and in 2004 in the Catholic Bishops' letter to the Chancellor. Still, due to its complex historical genesis and internally to its radical leftist consensus, which depended on a certain social milieu allergic to power, the GfL didn't succeed in letting the question of its institutionalization become productive. The "commonplace" – the formation of the legalization offensive as the basic opening for a social and political anti-racism[3] – which the GfL created with its network model based on an open process of singularization of associates (*GesellschaftlerInnen*) in a common, did not suffice to introduce into the mobilization a new spatio-temporal *dispositiv* and to dare "an overcoming of the space of politicization and subjectivation through the space of organization."[4]

Eventually the potential impact of race, gender, space and class relations in the mobilization scene concealed an explosive that blocked the formation of a movement. The actors – predominantly white – in the anti-racist support scene brought

with them their extensive experiences in campaign work. Kanak Attak assigned to itself the power to act in the terrain of discourse politics, despite the internal tensions over the political direction in which the GfL was pushing the movement. Out of the differences in practical contents and forms, the organization found itself in a "Vanity Fair" moment: who gets the limelight? This energized itself out of the divergent forms of social and habitual situatedness of the actors. The Respect network and the Mujeres sin rostro, who had committed considerable resources to organizing illegality in everyday life, pilloried this conflict of speech and translation. The Black refugee community correctly problematized the urban-rural question. Finally, meetings took place not in the remote refugee camps, but for the most part in Berlin or Hamburg. The GfL had reached its border, on which it didn't succeed in shaping a functional communicative platform and division of labor, in order to discover the necessary organization of persistence.

On the local level, the participating actors were called on to step out of the marginal groups in which they were embedded. The GfLers (*GesellschafterInnen*) had changed themselves more than they had wanted to. This attempt at organization showed how crucial respect is on the inner-political stage. It's all the more important to stress this in light of the fact that the experiences of the GfL testified to political strains. It was a smirk the led the activists in the difficult implementation phase of the GfL. In retrospect, one remembers that in the beginning everywhere we introduced the demand for legalization, the people talked about marijuana. Today, however, the word legalization is associated with the situation of the undocumented.

Discarding National Fetters of Representation

The call for a legalization of the *Sans-Papiers* has a different history everywhere in Europe. Here it's part of a successful mobilization, there only an administrative action for the registration of undocumented labor. This unequal and radical dependence on the political form of the legalization offensive already documents not only the local but above all the national – that is, transnational – difficulties of a general practice for a leftist migration project in Europe.

The opening in Germany of a political discourse with explicit reference to the experiences of legalization of other movements in Europe was not only strategic. It was based on a process of trans-nationalization of migration-related network activism connected first to the No Border project and finally to the establishment of the Frassanito network. Frassanito acted explicitly to take up the perspective of migration "because it is a movement that puts into question the actual condition of things (the state, borders, cultures, languages and ways of subjectivation). One should not confuse this with a romanticization of the concrete practices of migrants. Often enough, these practices are corrupt and brutal. But in the wake of this kind of corruption, people are realizing moments of autonomy.... [A view] of migration in which movements decompose the national frame. Thus migration doesn't let itself be subsumed under ordinary political representation or grasped by traditional concepts of social struggle. Here the end of a whole era of politics is prefigured. The end of the national-social state."[5]

Paradoxically, in the precarity of 12 million illegal migrants in Europe, the general field of persistence of the real potential for a post-national, flexible citizenship in Europe is blossoming at the same time.

This transnational opening associated with movement politics attempted to invent a political form for the common. On the one hand, it accommodated in everyday practice the massive questioning of national sovereignty of thousands of transnational migrants. On the other, it genealogically placed this newly emergent subjective face of migration in Europe at the heart of contemporary transformations of post-national sovereignty: in the intimate relation between sovereignty and the control of mobility. This is because the history of the immobilization strategies of sovereignty is also the history of their permanent failure. Still, how successful is the matrix of sovereignty, which always restrains the moment of mobility threatening to slip out of control and makes it productive for sovereignty?

The central principle of modern politics is national sovereignty: the ideal correspondence and congruence of territory and population, which seeks to establish itself through two consecutive movements. First, it classifies and separates the majority into classes and social strata through a process by which representation is signified. Second, it promises to every thereby represented group a potentially egalitarian allocation of rights. This "double R" axiom of rights and representation holds national sovereignty together.[6] The axiom not only organizes the body of the national territory, but also the relation to other nation-states and their populations. While it defines the matrix of positive rights and representation within the national territory, it assigns to nonexistence rights and representation beyond the national borders.[7]

In 1996, Aristide Zolberg had already pointed out that migration is not only to be understood in the context of migration laws and rules; the regulation of movement itself contributes to the state-like character of states.[8] This state character – the result of the

regulation of the relations among people, population and territory – is now in crisis. Neo-liberalism and the bio-political turn have brought modern national sovereignty to the point of collapse.[9] In the "double R" axiom, rights were more important than representation, or the mode by which the state calls upon the social classes. In this, neo-liberalism has brought about a fundamental change: the destruction of the social state and the introduction of a higher level of mobility in post-Fordist labor have led to an increased diversification of the social structure that contributes to the constitution of a politics of difference.

From Transnational to Post-Neo-Liberal Sovereignty

The old, national forms of subjugation have become obsolete. Transnational or imperial sovereignty[10] is a renewed transformation of the body into a flexible and productive actor within the global networks of power. However, it doesn't have to do with a perpetual circulation of recuperation. Instead of merely enforcing a new form of externality between body and politics, it reflects a recognition of the immanence of body, desire and politics. Political sovereignty, now operating in a decentralized and contagious way, generalizes this intimate relation, in which it tries to work on the basis of the immanence of power and body.

Transnational sovereignty is not a matter of regulating the triad of people, nation and territory. It rather abandons the idea that it must provide a dominant and persistent mode of order for these three great notions. Admittedly, this transformation doesn't succeed without cracks. Whereas the national-social compromise of modern sovereignty was based on the concept of social rights, the crisis of modern sovereignty mobilizes the powers of the precariously mobile body that now becomes global. Its

productivity is organized cooperatively, and subjectivities become indispensable.

Imperial sovereignty cannot integrate all the (border) spaces and possibilities of the body into a new transnational system of social rights. The social spaces of transnationalism become unrepresentable. Neither representation nor rights suffices to grasp the life of the majority of people. Only the few who are capable of making themselves into the correct subjects of representation can play the game of the "double R" axiom. The rest, the vast majority, occupy a non-space beyond graduated rights and representation: the spreading of camps, banlieues, the prison-industrial complex, favelas or gecekondus, townships, deportation centers, illegal migrants, undocumented workers, precarious labor. In this scheme, borders do not demarcate sovereignty but are erected everywhere a specific social space is generated and government is needed.

Politics of Legalization: Renewal Underway

"Post-national becoming" is the impetus of migration in Europe today. Migrants don't bind themselves together in order to represent or communicate their individual identities, nor to translate for others what they are or offer. They join together by means of serial "becoming": through the gradual and cautious, sometimes painful transformation of their own bodily constitution. They realize their desire in a strategic "imperceivable becoming" (*Unwahrnehmbar-Werden*)[11] in which their bodies, voices, accents, hair, color, size, lineage, age and biographies change.

As a transformation of multiplicity, "post-national becoming" radicalizes the desire for de-representation and for forms of living without the authorizing names of ancestry, of citizens, of race (*Geschlecht*); it thereby creates new amphibian individualizations, new affects, new differentiations. It tries to articulate a political practice in which social actors escape from their normalized representations, reconstitute themselves in the act of this flight and thereby change the conditions of their material existence.[12]

However, the "imperceivable becoming" of migration does not mean that migration itself is not perceivable. To the contrary, the more strongly the streams of migration materialize their "becoming," the more they become the privileged object of registration, regulation and restriction by sovereign power. "Imperceivable becoming" is the most precise and effective tool that migrants deploy to oppose the pressure of individualization, quantification and representation. This is the spark of the banlieues, which sets on fire the predictability of planning by integrationists of all stripes. This is the end of the politics of representation, a fall that at the same time signals the end of the strategies for making visible. Instead of being perceivable, visible, identifiable, migration puts on the agenda a new form of the political and a new formation of political subjectivity; its aim is not to become a political subject in a different way but to refuse the subject as such. This project sets out a change for the future. At stake in its realization is another society.

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[1] Cf. Manuela Bojadzijev, Serhat Karakayali, Vassilis Tsianos, "Papers and Roses: Die Autonomie der Migration und der Kampf um Rechte," in Buko, ed., *Radikal Global*, Berlin, 2003, pp. 196-208.

[2] ["Duty of residence" (*Residenzpflicht*) refers to the legal obligation of asylum applicants to remain in specified areas. Special permits are required even to travel to neighboring cities. – trans.]

[3] Ljubomir Bratic, "Rassismus und migrantischer Antirassismus in Österreich," in *Landschaften der Tat: Vermessung, Transformationen und Ambivalenzen des Antirassismus in Europa*, Linz, 2002, pp. 119-41.

[4] Sandro Mezzadra and Gigi Roggero, "Singularisierung des Gemeinsamen: Überlegungen zur Krise der 'Bewegungen der Bewegungen," *Fantomas*, no. 10 (2006), pp. 58-62.

[5] Frassanito Network (S. Karakayali, S. Mezzadra, V. Tsianos, M. Bojadzijev and T. Atzert), "By Any Means Necessary," in NGBK, ed., *Mov!ng on: Handlungen und Grenzen-Strategien zum antirassistischen Handeln*, Berlin, 2005, pp. 18-21.

[6] Cf. Dimitris Papadopoulos and Vassilis Tsianos, "How To Do Sovereignty without People?: The Subjectless Condition of Postliberal Power," *Boundary 2* (2007), pp. 135-72

[7] Cf. Nicos Poulantzas, *Staatstheorie*, Hamburg, 2002; Herman van Gunsteren, *A Theory of Citizenship: Organizing Plurality in Contemporary Democracies*, Boulder, 1998

[8] Cf. Aristide R. Zolberg and Robert Smith, *Migration Systems in Comparative Perspective: An Analysis of the Interamerican Migration System, with Comparative Reference to the Mediterranean-European System*, New York, 1996

[9] Cf. Marianne Piper, Thomas Atzert, Serhat Karakayali and Vassilis Tsianos, "Empire und die biopolitische Wende," in *Empire und die biopolitische Wende,* Frankfurt/Main and New York, 2007, pp. 293-310.

[10] Michael Hardt and Antonio Negri, *Empire*, Cambridge, 2000.

[11] Gilles Deleuze and Félix Guattari, *A Thousand Plateaus: Capitalism and Schizophrenia*, trans. Brian Massumi, Minneapolis, 1987

[12] Cf. Papadopoulos and Tsianos, op cit.