

## **Criminalisation of Solidarity**

*Workshop on 'Refugees' and Migrants' Rights are Human Rights'*

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Paper presented by

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Many thanks for inviting me as a representative of the FFM to this important meeting. It's a pleasure to be here, and I greatly enjoy meeting you and discussing our work with you.

Let me start by briefly introducing the Research Centre on Refugees and Migration (the FFM).

I started to work full time with the FFM only a few weeks ago. However, as a member of the Antiracist Initiative of Berlin, I have worked closely with the FFM since its foundation.

We are a small group of people, and we all work on a voluntary basis.

Our work concentrates on two main issues.

- On the one hand on the situation of undocumented migrants at the East-German border,
- and on the other on the situation for migrants and refugees in Central- and Eastern Europe.

We carry out research, and collect information from a wide variety of sources. Our findings are both made available to and used by numerous refugee- and other political groups.

The principle aims of FFM are to support those

- who are denied entry into the EU;
- who are deprived of civil rights in Germany and
- who are forced into an illegal status

### **CAMPAIGN TO RELEASE SUSPECTED 'TERRORISTS'**

At the same time, I am also a member of the Campaign to Release People who were Arrested as Suspected members of a so called Terrorist Organisation.

The link between the FFM and this campaign may not be immediately obvious to you. I will seek to establish this link within the context of criminalisation of refugee solidarity.

Back to the campaign: The campaign started in December 1999, shortly after the arrest of three people for suspected membership, and involvement in planning and carrying out bomb attacks. Our aim is to release the prisoners; to support them during their imprisonment, to inform widely about the case and – obviously, in order to do all this - we try to raise funds, and to get some donations.

Our information campaign focuses on the following:

- the current situation of the prisoners, but at the same time
- on basic questions of German law (more precisely article 129a, and debates on the question of using a witness who turns states' evidence – "Kronzeuge");
- and the political background of their arrest.

The reasons for their arrest are almost exclusively linked to activities of the Revolutionary Cells at the end of the 1980s/early 1990s. At that time, these activities were largely directed against the politics of asylum of the German state. The obvious question is, why did these arrests happen at the end of the year 1999 and not five or ten years earlier. What was the interest of the state to carry out such a high profile and intense search? And why are they so keen to arrest and to imprison people for nearly one year - on extremely vague grounds - as members of a so called terrorist organisation that is no longer active? (the arrest was based on accusations made by one witness who turned states' evidence – "crown witness")

From my point of view – and clearly, this is hypothetical - German state authorities wanted on the one hand to set an example, and to send out a clear and firm message to leftwing political activists. To give some background:

During the 80s, the German state carried out 5,000 to 6,000 deportations on an annual basis. We all know about the activities and inhuman asylum policies of the previous conservative government. When the new government – a coalition between the Social Democratic Party and the Green Party – came into power in September 1998, many people who are involved in refugee work expected significant improvements. As was to be expected, this was not going to happen. Indeed, the situation has become even worse in some respects. For example, looking at deportation figures, we can see that in 1999, about 55,000 people were send back to their countries of origin or in so called save countries. In the light of current policies, there are a lot of reasons for turning to more radical means in order to express protest. From my point of view, one could argue that the aggressive steps taken by the state against the prisoners are both a) a warning of the state to groups unhappy with its current asylum policies and b) at the same time an effective means to gather crucial information about ongoing activities and persons involved. Let me explain this last point: Article 129a, which was used in order to arrest the prisoners - provides the state with extreme authority and power. Accordingly, suspicion of being a member, or a supporter of a terrorist organisation is sufficient enough for the state – for example – to bug individuals' or organisations' telephones, or to search private premises without providing reasons, or evidence.

Most cases on the basis of article 129a do not lead to court procedures, they do however lead to a situation where

- the police can freely collect intelligence on protest movements;

- and, moreover, that these movements are paralysed in carrying out their original work because they have to deal with this form of state repression.

United has declared its support for the prisoners. This support is crucial to our work, and it is tremendous help for the campaign and the FFM, where one of the suspects – Harald Glöde – worked.

If Harald wasn't in prison, he would be here today and he would be talking about criminalisation of solidarity with refugees. Instead, I will present some of the points that are close to his, and to FFM's work in this context.

### *Examples of Criminalisation*

I would like to concentrate on three forms of criminalisation:

- The German Aliens' Act
- The Rechtsberatungsgesetz (this law regulates who is allowed to give legal advice)
- The Residenzpflicht (the law that prohibits asylum seekers to travel outside their local district)

#### 1. THE GERMAN ALIENS' ACT

According to the infamous German Aliens' Act, it is possible to criminalise people who cross borders undocumented, and those who help them to enter, and to live in Germany. Here, it is important to mention the criminalisation of taxi drivers who picked up refugees at the Eastern borders. These drivers were accused of knowing that the refugees in their car were 'illegals' and, moreover, of helping them actively to enter Germany. Furthermore, the German border police distributed leaflets to all taxi drivers warning them to 'transport persons who had obviously entered Germany illegally' or, who looked suspiciously like 'illegals'.

FFM brought these cases into the public arena. Together with a filmmaker we produced a documentary that shows the results of this police campaign.

One of our colleagues tried to catch a cab in a German border town. However, he was not successful in getting it. But he was successful in attracting the attention of the German police. The police woman who decided to control him, explains her reasons in front of the camera.

'I work on instinct. He looks a little foreign. In principle, he is not really white. And that's why we controlled him.'

Well, our colleague is a German citizen of Indian origin, and the police woman's suspicions are obviously based on rather common racist stereotypes.

I have mentioned this example because I wanted to stress that such extensive controls do not only harm so called illegal immigrants. Beyond that, they reproduce and reconfirm already existent racist stereotypes of who is considered to be a welcomed member of the German state and who is not.

A further example for criminalisation by the German Aliens' Act is the case of a woman who let a Latin-American family stay in her flat. She wanted to show as much hospitality as she herself had received during her travels in South America and – of course – she did not ask about any residence status. She was criminalised and the case came to court. We expect her to be found not guilty at the end of long-winded and expensive court proceedings.

## 2. THE RECHTSBERATUNGSGESETZ

The so called Rechtsberatungsgesetz is in its origins an anti-Semitic law from 1935. As I mentioned before, it basically regulates the question of who can give legal advice and who can't. During the Nazi period, the law was used to discriminate against Jewish lawyers, and to stop them from working. Today, there are some examples that this law is applied when some advisors become too troublesome for the state authorities:

In one documented case, a social worker gave legal support to refugees and migrants. She, or rather her organisation, was even funded by EU money to provide this service. Her work troubled a German judge who was constantly confronted with her letters, questions and demands, that he decided to take action. He informed the responsible authorities that - according to the law from 1935 - the woman was not entitled to carry out 'quasi legal' work. As a result, an investigation against her was started, the case is still pending.

## 3. THE RESIDENZPFLICHT AND ARBITRARY CONTROL (SCHLEIERFAHNDUNG)

Today, Europe's borders are not only around, but also within European states. 'Border controls' can happen everywhere, you do not have to be at border crossing points. In particular, the internal movement of refugees and migrants is increasingly controlled, observed and checked.

For example, in Germany asylum-seekers are not allowed to move outside the local region where they are forced to live. At the same time, the German law - as I have already mentioned several times - provides numerous ways to control everyone, particularly those people who do not 'look like a German native', almost everytime, and nearly everywhere. Extremely tight control measures in connection with the obligation 'to stay where you are' criminalise refugees regularly. For example, those who are politically active are not able to speak at conferences, are not able to meet with each other and, are therefore not able to organise effectively in order to improve their situation.

Clearly, the obligation to live and to stay locally would not matter, if there were no such extensive controls. The controls however are crucial and do matter. For example, they make it even more difficult for undocumented migrants to move around. To pick up so called illegal migrants was one of the reasons for creating these controls.

### *Summary*

Against the background of all these examples, I would like to highlight the following:

People who are active in solidarity campaigns are often criminalised by creating law that grants extensive and arbitrary powers to the state, or by interpreting, or reinforcing existent law purely on a politically inspired basis.

I guess it has become evident, how important it is to fight against the intensification of police controls, and to protest powerfully against the emergence of a state that can act outside the principles of civil and human rights.

Thank you!

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