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Policing Bodies in Transit: Borders, Detention and Migrant Narratives Along the Balkan Route

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Abstract

In summer 2016, I travelled along the Balkan route conducting semi-structured interviews with local organizations (n=24) and refugees (n=16) in an effort to explore the consequences of stasis within mobility. Through hearing about the personal impacts of closed borders, marginalization and deportations I realized that the policies in place to aid refugees instead contributed to a larger system of confinement and detention. In this thesis I explore the expansion of the carceral state through the criminalization of asylum seekers and the consequent detention and deportation they face. I look at the role of surveillance technology and physical barriers (i.e. fences) as potential inhibitors to accessing asylum. I theorize how EU asylum policy facilitates this process and incorporate narratives from asylum seekers along the Balkan route to humanize this analysis.

Introduction

To the families and lovers at the bottom of the sea, trying to reach Europe.

I.

How do we overcome war and poverty only to drown in your sea?

II.

Misrata, Libya

Habeebi just take the boat.

In front of you: Bahr.

Behind you: Harb.

And the border, closed.

Your Sea, Mare, Bahr. Our war, our Harb.

III.

Augusta, Italy

Where is the interpreter?

This is my family.

Baba, mama, baby all washed up on the shore. This is 28 shoeless survivors and thousands of bodies.

Bodies Syrian, Bodies Somali, Bodies Afghan, Bodies Ethiopian, Bodies Eritrean.

Bodies Palestinian.

Your Sea, Mare, Bahr. Our war, our Harb.

IV.

Alexandria, Egypt

Habeebi, just take the boat.

Behind you Aleppo and Asmara, barrel bombs and Kalashnikovs.

In front of you a little bit of hope.

Your Sea, Mare, Bahr. Our war, our Harb.

V.

Maps on our backs.

Long way from home.

Background

On September 2, 2015 a photo of Alan Kurdi, a Syrian toddler, lying facedown, dead on a beach in Turkey shocked the world. The image went viral making its way into major news sources and dinner table conversations. Suddenly the ‘refugee crisis’ had a name—the name of a young child. In the span of 12 hours, 20 million viewers responded to this image on social media. Organizations reported a surge in volunteers, especially in Europe along the Balkan route.² While instrumental in emitting a degree of empathy and action from those unaffected by this mobility, this picture is just a snapshot of those who are uprooted. The United Nations High Commissioner on Refugees (UNHCR) declared 2015 to be a record year for refugees. They estimate that in 2015 approximately 65.3 million people or 1 in every 113 people were displaced worldwide. This means that 24 people were forced to leave their homes every minute of 2015.³ 12.4 million of these people were newly displaced in 2015 with 1.8 million new refugees, while the others make up new asylum applications. By December 2015, 3.2 million asylum seekers awaited pending decisions on their applications. Two million of these applications were made in 2015 alone.⁴ The top sending countries for refugees are Syria, Afghanistan, Somalia, South Sudan, Sudan, Democratic Republic of the Congo (DRC) and Central African Republic (CAR).⁵ The main cause for those leaving is protracted conflicts although many are fleeing state persecution.

¹ Jehan Bseiso, “No Search, No Rescue,” *The Electronic Intifada*, April 24, 2015, accessed November 10, 2016, <https://electronicintifada.net/content/poem-no-search-no-rescue/14461>.

² Mukul Devichand, “Did Alan Kurdi’s Death Change Anything?” *BBC*, September 2, 2016, accessed April 18, 2017, <http://www.bbc.com/news/blogs-trending-37257869>.

³ Global Trends Forced Displacement in 2015,” *UNHCR*, accessed April 10, 2017, <http://www.unhcr.org/576408cd7.pdf>.

⁴ “Global Trends Forced Displacement in 2015.”

⁵ *Ibid*, 16.

The top host countries for refugees are Turkey, Pakistan, Lebanon and Iran, with Lebanon and Jordan having the highest percentage of refugees compared to the national population. While arrival numbers in Europe are higher than past years (1 million in 2015 compared to 216,000 in 2014), they are negligible compared to the aforementioned countries. Nevertheless, the influx of refugees into Europe has sparked mass media attention with the visuals of the perilous journeys asylum seekers are taking across the Mediterranean. UN High Commissioner of Refugees, Filippo Grandi, remarks on this trend, “At sea, a frightening number of refugees and migrants are dying each year. On land, people, fleeing war are finding their way blocked by closed borders.”⁶ Indeed, it was this media attention paired with the effects of closed borders that sparked my own interest in this influx and life in the borderlands.

Since 2015, over a million refugees have crossed into Europe. While small in comparison to other countries, this number has had a tremendous impact on the policies governing Europe’s borders. This attention is in part owing to the growing nationalistic sentiments in Europe and anti-immigrant rhetoric. This piece is a critical look at the consequences of a shared asylum policy for refugees in Europe. In terms of policies I am specifically looking at the Dublin Regulation (III) (2008) which breaks down responsibility for countries of asylum in Europe, and the EU-Turkey deal (2016), which is one of the many mechanisms that the European Union (EU) uses to outsource its border management. Although asylum policy is widely reported to be rooted in humanitarian ideals, I argue that EU asylum policies expand systems of incarceration through heightened surveillance, detention and physical barriers to accessing asylum. The EU’s multi-

⁶ Adrian Edwards, “Global Forced Displacement Hits Record High,” *UNHCR*, June 20, 2016, accessed March 10, 2017, <http://www.unhcr.org/en-us/news/latest/2016/6/5763b65a4/global-forced-displacement-hits-record-high.html>.

state “shared” asylum policy, which depends on shared data management, exacerbates this situation through increased categorization and shifting border policies.⁷

In the spring of 2016 I studied abroad in Morocco. During that time I took several trips to Nador, a city outside of Melilla, one of two Spanish enclaves in Morocco. These border cities act as externalizations of the EU border. Deals are conducted between Moroccan and Spanish police over whom may enter and how. In *Violent Borders*, geographer Reece Jones explains how the Spanish border is seen as a “humanitarian border” as there is no official fence, yet the Moroccan side (funded by the EU) is covered in barbed wire with sentries on the lookout for movement. In 2016, the police raided Mount Gurugu, the forest where many migrants awaited to cross the border. Those inhabiting the area were sent to detention facilities throughout Morocco.⁸ It was while I was in Nador that the phrase *la forêt est finie* (the forest is finished) circulated to describe this situation. It was through these visits that I saw how EU law and influence is extraterritorial and this includes its asylum policies. It was also this experience that sparked my interest in borders and in particular, the borderlands.

In *Borderlands* Gloria Anzaldúa writes “the prohibited and the forbidden” are the inhabitants of the borderlands.⁹ I have seen how borders keep ‘those who do not belong’ outside. Often, these are brown and black poor people, especially in the predominately white space of the EU. Borders are spaces and places at once. One could study the place, rooted in a locality of the border, or the mental construct that keeps marginalized persons within marginalized spaces. Borders can be obscure to the casual viewer but hyper real to those living on the margins. A policed, militarized space is just as real for the migrant crossing the border to an indigenous

⁷ By categorization I am referring to labels of criminality defined by notions of who is deserving of asylum.

⁸ Reece Jones, *Violent Borders: Refugees and the Right to Move*, (London: Verso, 2016): 15.

⁹ Gloria Anzaldúa, *Borderlands La Frontera: The New Mestiza*, (San Francisco: Spinsters/ Aunt Lute Book Company, 1987): 3.

woman protesting the Dakota Access Pipeline (DAPL) in North Dakota to a Palestinian boy in the West Bank. This is the complication of the border—it is not only a physical boundary but also a mental boundary of othering. Though I explicitly explore the space of the EU here in this thesis, the criminalization of ‘deviants’ whether they are migrants, black or poor is a rampant global phenomenon. I have seen the same privatized security companies (G4S) that man private prisons in the US working at the border between Austria and Slovenia. Our struggles do not remain fixed within the arbitrary lines that demarcate our territory. This is especially clear in the case of incarceration.

Framework

Incarceration

Over nine million people are incarcerated worldwide. Of those, people in the United States, China and Russia make up almost half of this population.¹⁰ In addition to those prosecuted for criminal offenses, those prosecuted for immigration related actions make up a sizable portion of the global prison population. For instance, the US has the largest prison population and immigrant detainee population in the world. In 2013, 440, 557 immigrants were detained at a yearly cost of \$19 billion. This does not include the support the US provides to other countries (predominately in Central America) to detain immigrants.¹¹ In 2013, it was estimated that 4,812 immigrants were detained in Germany while Hungary detained 8,562 immigrants.¹² While numbers in Europe are lower, immigrant related detention is a growing trend. In the past ten years immigration detention has become an industry separate from criminal

¹⁰ “World Prison Populations,” *BBC*, accessed March 10, 2017, <http://news.bbc.co.uk/2/shared/spl/hi/uk/06/prisons/html/nn2page1.stm>.

¹¹ “United States Immigration Detention,” *Global Detention Project*, accessed April 15, 2017, <https://www.globaldetentionproject.org/countries/americas/united-states>.

¹² “Europe,” *Global Detention Project*, accessed April 15, 2017, <https://www.globaldetentionproject.org/regions-subregions/europe>.

facilities, which has expanded the practice of detaining migrants.¹³ While immigration detention is not always publicly recorded, in 2016 the US detained 310,000 non-citizens and estimates that 33,000 people are incarcerated on a given day.¹⁴

The Global Detention Project defines immigration detention as “the deprivation of liberty of non-citizens for reasons related to their immigration status.”¹⁵ For asylum seekers this is often

an administrative (or “civil”) procedure that is undertaken to verify the identity of individuals, process asylum claims, and/or ensure that a deportation order is carried out. Officials in some countries have argued that migrant detention also functions as a deterrent for would-be migrants and asylum seekers.¹⁶

Asylum seekers may be detained upon entry to a country, while waiting for an asylum decision and while awaiting deportation if their claims are denied.¹⁷ Michael Flynn from the Global Detention Project coined the term *sovereign discomfort* to describe the embarrassment that nation states express toward criminalizing migrants. He explains that oftentimes detention facilities are called ‘guesthouses’ or ‘welcome centers’ to assuage their penal functions.¹⁸ This leads to a lack of data, as this information is often not disclosed to the public or categorized homogeneously by states. Immigration detention is distinct from incarceration in that it is an administrative tool rather than a punishment for a criminal act.¹⁹ However, I am categorizing it as a form of incarceration as it is an act of confinement and control that often has similar consequences to being incarcerated.

¹³ Michael Flynn, “Sovereign Discomfort: Can Liberal Norms Lead to Increasing Immigration,” in *Immigration Detention, Risk and Human Rights*, ed. Maria Joao Guia et al. (London: Springer International Publishing, 2016), 18.

¹⁴ “What is Immigration Related Detention? And other Frequently Asked Questions,” *International Detention Coalition*, accessed March 5, 2017, <http://idcoalition.org/aboutus/what-is-detention/>.

¹⁵ “FAQ,” *Global Detention Project*, accessed January 27, 2017, <https://www.globaldetentionproject.org/faq>.

¹⁶ Global Detention Project

¹⁷ “What is Immigration Related Detention? And other Frequently Asked Questions.”

¹⁸ Michael Flynn, “Sovereign Discomfort,” 18.

¹⁹ Rich Furman et al. ed., *Detaining the Immigrant Other*, (New York: Oxford University Press, 2016), 4.

Carceral State

The Carceral State is widely defined as the phenomenon when surveillance technology is used to control public space and police those within it. This policing expands the prominence of prisons within society. In an interview on her book, *From the War on Poverty to the War on Crime*,²⁰ Elizabeth Hinton explains that Foucault's idea of the carceral network, which incorporates surveillance and supervision, is crucial to her definition of the carceral state. She posits that social programs in low-income communities police populations and funnel them into the criminal justice system.²¹ Similarly, Katherine Beckett and Naomi Murakawa argue that the carceral state is not limited to the criminal justice system but penal power is enhanced through institutional policies and civil discourse. This is expressly seen in administrative responses to immigration.²² They call these less apparent structures the 'shadow carceral state.' They write,

In institutional terms, the shadow carceral state includes *institutional annexation* of sites and actors beyond what is legally recognized as part of the criminal justice system: immigration and family courts, civil detention facilities, and even county clerks' offices. Although these institutions are not officially recognized as 'penal', they have nonetheless acquired the capacity to impose punitive sanctions—including detention—even in the absence of criminal conviction.²³

While these mechanisms are not criminal in name, they mirror penal systems. I am operating under this expanded definition of the carceral state as it is inclusive of the administrative way in which migrants enter the criminal justice system and the larger police state.

Asylum Seeker

According to the UNHCR, a refugee is anyone,

²⁰ Elizabeth Hinton, *From the War on Poverty to the War on Crime*, (Cambridge: Harvard University Press, 2016).

²¹ Timothy Shenk, "Booked: The Origins of the Carceral State," *Dissent Magazine*, August 30, 2016, accessed March 20, 2017, <https://www.dissentmagazine.org/blog/booked-origins-carceral-state-elizabeth-hinton>.

²² Katherine Beckett and Naomi Murakawa, "Mapping the Shadow Carceral State: Toward an Institutionally Capacious Approach to Punishment," *Theoretical Criminology*, (2012): 222.

²³ Beckett and Murakawa, "Mapping the Shadow Carceral State," 222.

Owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.²⁴

While the term ‘refugee’ has been in usage since the 1680s, global policies concerning the protection of refugees are a more recent phenomenon. The current definition of refugee that is recognized in international law was constructed as a reaction to the mass displacement of Jews within Europe post WWII.²⁵ The 1951 Convention defining who a refugee is was written with specific people in mind, namely Jews in Europe fleeing religious and political persecution. Today, there is a discrepancy between the terms migrant and refugee and the connotations that arise from using one over the other. These definitions have become politicized in the discourse concerning who is ‘deserving’ of protection or refugee status. I am using the term asylum seeker to reconcile this divide between migrants and refugees. While, incarceration affects migrants, perhaps more so than those afforded protection, my research is focused on those seeking asylum. However, the majority of those I spoke to had not yet been given protection and so were not categorized as refugees.²⁶ Hence, I am using asylum seeker to refer to those travelling along the Balkan Route in search of protection.

Balkan Route

²⁴ “1951 Convention and Protocol Relating to the Status of Refugees.” *UNHCR*. Accessed April 12, 2017. <http://www.unhcr.org/en-us/3b66c2aa10>.

²⁵ Kristin Walker, “Defending the 1951 Convention Definition of Refugee,” *Georgetown Immigration Law Journal*, (2003): 589.

²⁶ With the exception of Syrians who are given prima facie status



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The Balkan route is a popular migration pathway from Greece through the Western Balkans to Germany. The countries along this route include Greece, Macedonia (FYROM), Serbia, Hungary, Austria and Germany. A common deviation is bypassing Hungary through Croatia and Slovenia. The EU border patrol agency, Frontex, estimates 764,038 people travelled illegally along this route in 2015 and 122,779 in 2016.²⁸ Typically, people coming this way travel via boat from Turkey to one of the Greek islands in the Aegean. From there they travel by plane or boat to the Greek mainland and then continue along this route through some combination of foot, bikes, trains, buses and cars.

²⁷ “Balkan Border Problems Map,” image accessed March 10, 2017, http://static.euronews.com/articles/309472/606x730_0707-balkans-border-problems-map.jpg.

²⁸ “Western Balkan Route,” *Frontex*, accessed March 10, 2017, <http://frontex.europa.eu/trends-and-routes/western-balkan-route/>.

Methodology

From July-August 2016 my research partner and I conducted fieldwork along the Balkan route in Europe. We travelled from Lesbos, Greece to Berlin, Germany via the Balkans to hear firsthand stories of refugees travelling along this route. Our research question going in was: How do state border policies impact refugees' mobility and wellbeing while travelling through the Western Balkans to Germany? How do these governmental policies and organizational responses to the 'refugee crisis' impact the individual agency and humanity of refugees travelling this route? Our study focused on individual lived experiences, and through this lens we hoped to expose the lesser-told narrative of the so called 'refugee crisis' in Europe.

We met with organizations (n=24) — a mix of local NGOs, international organizations (IOM, UNHCR, Red Cross), and local individuals assisting refugees to gauge the current situation and the work being done to aid refugees. We also conducted semi-structured interviews with refugees (n=16) travelling along this route to hear their personal migration journeys. Our research questions focused on the migration journey, perceptions of safety, networks, the police, border patrols and expectations versus reality in terms of life in Europe. The interviews were conducted outside of camps, in public spaces, in people's homes and in organizational offices. We met our subjects through organizational and volunteer contacts as well as through casual encounters on the street and outside of camps. In addition to the interviews, we observed camps, reception centers and points of arrival to augment our findings.

There were some limitations and ethical implications to this research. Almost all of those we spoke to were men, which is not representative of the approximately 180,000 women travelling along the Balkan route. Additionally, though this thesis is focused on detention I did

not have access to detention facilities and could only speak to people outside of these spaces. Therefore the voices I heard are a small sample of the diverse experiences individuals have travelling this route to Germany. I can by no means speak for the group as a whole although I tried to present the voices of those I did speak to as authentically as possible.

My own positionality must be taken into consideration as well. This is not an objective piece. It is written through my voice and influenced by the specific experiences I heard and the sights I saw from July-August 2016. It is framed in this specific time and place and this must be considered while reading this work. There were also power dynamics concerning my position as an American researcher, albeit young, interviewing vulnerable populations. Though this research was IRB approved and I asked permission before interviewing those I spoke with, this does not eliminate these systems of power. Not least of this was the use of English for most of the interviews, which is my native language but not a native language for any person I spoke to. I am sure this played into the interview process and the answers I received. This is not to take away from the stories I share or the critiques I make but rather for the reader to acknowledge my position in writing this piece and the biases that may exist. This project would not be possible without my ability to move freely within the EU as an American citizen. I am well aware of my position in travelling along the route that so many have spent months–years waiting to access. I ask the reader to keep their own mobility in mind when reading this thesis. It is written in an effort to advocate for the free movement of all under the premise that no human is illegal.

Chapter 1

Deconstructing Fortress Europe

And just imagine the situation [in Syria]. In the sky there is an arrow fight and on the earth there are a lot of soldiers. And they don't care about you. A person without weapons—you can't defend yourself. So you can pray. That's all you can do. And if they do not kill you with the weapons you will be angry...you will feel a lot of things...it will kill you from inside I think. And there is no food, there is nothing...And I think that this is clear that you cannot live; you cannot stay in this situation. You have to go out. And then when we want to go out. First—it is the sea. A lot of children, they lose their lives because of this. And there's another thing. Maybe you lose your family and they're a lot of people who lose their families and they are looking for them. There's another thing. It's the raiders on the way. They take your money. They take everything. And I am a person who they took everything from. It's good they took it close to here. But if they took it in Greece it would be a big problem because you need this money for the way...There is also the danger from the animals in the way. They're in the wild and we sleep in the wild. And these animals are not like "oh you are a refugee we will not hurt you." No. They don't know.... Yes there's a lot of stress in Europe. I know this. But this is a new culture for us. Everything is new. And also we are not completely clear that we can take everything easy...and this is also stress. And here for now there are 2 sides. There are the nice people and they are the majority and there are those who are afraid of us. We are afraid of the terrorist like you. We are not the terrorists. We are afraid from the same side.

—Interview excerpt from Nabil from Syria²⁹

In the excerpt above Nabil is explaining his journey from Damascus, Syria to Salzburg, Austria. Throughout the interview he would pause and explain how he thought Europeans perceived him. Above, he says that there are two groups of people: those who are welcoming and those that are afraid of refugees. In my interviews this 'fear of the other' was a common thread. Interviewees would recall how the police or army were afraid of them when in fact the asylum seekers themselves were much more frightened by those in uniform. It is this fear that provoked the closing of borders along the Balkan route and inspired negative propaganda concerning those seeking asylum. This fear of difference leads states to control their boundaries by creating divides of 'us' and 'them.' It is also embedded in humanitarian laws.

²⁹ All names have been changed for privacy

Professor James Hathaway argues that the purpose of refugee law is “not specifically to meet the needs of the refugees themselves (as both the humanitarian and human rights paradigm would suggest), but rather to govern the disruptions of regulated international movement in accordance to the interests of states.”³⁰ In this chapter I look explicitly at refugee law in the lens of state control and borders. It is this attempt to regulate the flows of mobility and stasis that have such real impacts on the lives of asylum seekers in the EU. In this chapter I look at where Europe is and the space and power it occupies globally. I expand this to explore how the creation of the EU facilitated open borders within Europe through heightening the securitization of the external borders. I examine the outsourcing of EU migration policies and the role of asylum policy in policing Europe’s borders. I argue that asylum laws enforce border controls through increased securitization measures to determine who is worthy of asylum and who must be kept outside the state space. These policies disproportionately impact those who are black/brown, poor and Muslim.

I am conceptualizing borders under the framework of the No Borders Movement. The No Borders movement is a network of activists who come together (predominately in Europe) to advocate for freedom of movement for all regardless of race, ethnicity, economic status or sexuality. The movement began in 1999 and held its first international conference that year in Amsterdam.³¹ It is closely connected to the sister movements of No One is Illegal (NOII) and Stop Deportations. No Borders is a movement rooted in anti-capitalist, anti-racist principles with a heavy focus on migrant rights. Activist and lawyer Harsha Walia writes of NOII, of which she is a member, “Grounded in anticolonial, anticapitalist, ecological justice, Indigenous self-determination, anti-imperialist, and antioppression politics, NOII groups organize and fight back

³⁰ Walker, “Defending the 1951 Convention Definition of Refugee,” 585.

³¹ “About No Borders,” *No Borders UK*, accessed October 22, 2016, <http://noborders.org.uk/aboutnoborders>.

against systems of injustice through popular education and direct action.”³² There are many chapters, goals and locations of No Borders but the fundamental goal is freedom of movement for all. On the United Kingdom (UK) chapter website it states:

No Borders is a network, not an organisation. There is no “general assembly”, “central committee” or other centralised structure. No one can claim to speak for “No Borders” as a whole. Really, No Borders is an idea, a political position, and a name which anyone can use if you share our basic principles. That is, if you want to help create a world without borders, where no one is prevented from moving because of where you were born, or because of race, class or economic resources, or because of any other barrier imposed on us by capitalist elites and their governments and police.³³

Feminist scholar Pam Alldred argues that No Borders discusses the interconnected society we live in when oftentimes wealthier states are involved in the conflicts causing mass displacement and thus mass migration in the first place.³⁴ I am using this political mindset as a theoretical framework for my paper as it de-stigmatizes migrants and forces the conversation away from state sovereignty and state security toward the more basic principle of movement. Community organizer for NOII Toronto, Syed Khalid Hussan, proclaims, “What we seek is freedom. Freedom to move, to return, and stay.”³⁵ This notion, of freedom: to move, to return or to stay is the crux of the No Borders movement and an important theme in this body of work.

Locating Europe

This project is geographically located along the Balkan route in Europe, where I conducted my research and where a large percentage of refugees travelling to Europe pass

³² Walia, *Undoing Border Imperialism*, (Edinburgh: AK Press UK, 2013), 13.

³³ “About No Borders.”

³⁴ Pam Alldred, “No Borders, No Nations, No Deportations,” *Feminist Review*, (2003): 153.

³⁵ Walia, 280.

through. In 2015, more than a million asylum seekers travelled to Europe and hundreds of thousands continued to come well into the spring of 2016.³⁶



In locating this space, it is important to look at the larger question: where is Europe? Or more fundamentally, what is Europe? In order to define Europe, it is important to define what Europe is not. This is especially true in the 21st century notion of Europe, post breakup of Yugoslavia (1990-1992). Since the 1990s, Europe has been defined by its North/South and East/ West divides. To the South and East lay the periphery of European space. These countries are generally poorer and have had histories with communism. They also have larger Muslim populations and lie closer to Asia and Africa. These geographies of core and periphery alter our perceptions concerning the *interior* versus the *exterior* of Europe. After the dissolution of Yugoslavia in 1992, Balkan countries were seen at once by Europe as European but also as other.

³⁶ “Migrant crisis: Migration to Europe explained in seven charts,” *BBC*, March 4, 2016, accessed October 15, 2016, <http://www.bbc.com/news/world-europe-34131911>.

³⁷ “Greece deports migrants to Turkey, thousands stranded on Balkan route,” *Deutsche Welle*, March 10, 2016, accessed October 23, 2016, <http://www.dw.com/en/greece-deports-migrants-to-turkey-thousands-stranded-on-balkan-route/a-19109936>.

Of the seven Balkan states,³⁸ only Croatia is a EU member state. Serbia and Montenegro are undergoing accession negotiations.³⁹ To this day, the Balkans teeter between being a part of Europe and being outside of Europe. This is true of Russia, the Caucasus and regions of Turkey as well.⁴⁰ Indeed, at a camp in Macedonia, I asked a Syrian refugee if Europe was what he thought it would be. Looking around, he waved his hand and proclaimed, “This is not Europe.”⁴¹ Europe takes up a place in the imagination and this is crucial to the identity of Europe. French philosopher Étienne Balibar argues that this imaginative identity of Europe reinforces its borders. “Thus, Europe can be taken as a case of how border discourses on imaginary boundaries (i.e. soft facts) can play a causal role in the making of institutional (hard) Europe which we call the European Union.”⁴² Balibar discusses how borders and border zones should not be viewed as marginal spaces but rather at the center of the European imagination. For it is in Greece that the notion of ‘Europe’ becomes most prominent as meters away is where Europe is not.

It is this constant restructuring of *who* is European that makes it difficult to locate Europe. Like all artificial borders, there are no absolute cultural or historical barriers dividing Europe from the rest of the world. German political sociologist, Klaus Eder states,

There exist no absolute border lines because Europe as such is a “border line” (or a “border land”)...more precisely it is a superposition of border lines, hence a superposition of heterogeneous relations to other histories and cultures of the world (at least many of them), which are reproduced within its own history and culture.⁴³

³⁸ Serbia, Kosovo*, Albania, Montenegro, Bosnia and Herzegovina, Croatia and Yugoslav Republic of Macedonia (FYROM)

³⁹ “Fact Sheets on the European Union,” *European Parliament*, accessed February 18, 2017, http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuId=FTU_6.5.2.html.

⁴⁰ Étienne Balibar, *We the People of Europe? Reflections on Transnationalism and Citizenship*, (Princeton: Princeton University Press, 2004), 4.

⁴¹ Interview notes, Gevgelija, July 26, 2016.

⁴² Klaus Eder, “Europe’s Borders: The Narrative Construction of the Boundaries of Europe,” *European Journal of Social Theory* 2, (2006): 256.

⁴³ Eder, “Europe’s Borders,” 219.

Due to this, the main divide between Europe and the East and South is the physical barrier of the border. This external border was solidified during the formation of the EU and Schengen Accords (1985).

I am looking at Europe after the formation of the European Union (EU). The EU was founded in 1992 with The Treaty of Maastricht (ratified in 1993), following the fall of the Iron Curtain and Berlin wall in Germany.⁴⁴ It established a common market, common institutions, common security measures and a common community. This treaty also guaranteed all member states of the EU access to movement within the EU.⁴⁵ This right to movement was solidified under the addition of the Schengen Accords. The Schengen Accords were agreed upon in June 1985 although they were not put into practice until about five years later with the Convention Implementing the Schengen Agreement (CISA). It took five more years for internal border checks to disappear from those countries that were signatories to the agreement. In 1995 seven countries in Europe were members of the Schengen area. With the passing of the Amsterdam Treaty in 1999, the Schengen Zone of Europe was incorporated into the EU. The idea of Schengen was to have a single EU territory with freedom of movement within the region and exterior borders surrounding the zone.⁴⁶ There are currently 26 members of the Schengen zone.⁴⁷ Although Schengen was intended for European citizens, it has been extended to all who travel to Europe with adequate visas and documents for up to three months.⁴⁸ Schengen increased the joint surveillance of the EU but also reduced interior border checks. An important

⁴⁴ “Treaty of Maastricht on European Union,” *Eur-Lex*, accessed October 22, 2016, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3Axy0026>.

⁴⁵ Andrew Convey and Marek Kupiszewski, “Keeping up with Schengen: Migration and Policy in the European Union,” *The International Migration Review*, (1995): 939.

⁴⁶ K. Kirisci, “A Friendlier Schengen Visa System as a Tool of “ Soft Power”: The Experience of Turkey,” *European Journal of Migration and Law*, (2005): 343.

⁴⁷ Anais Faure Atger, *The Abolition of Internal Border Checks in an Enlarged Schengen Area: Freedom of Movement or a Scattered Web of Security Checks?* (CEPS, 2008), 13.

⁴⁸ Atger, *The Abolition of Internal Border Checks in an Enlarged Schengen Area*, 14.

caveat of CISA was it allowed for member states to install temporary borders in the case of national emergency.⁴⁹

International Relations scholars Bigo and Guild discuss the technologies behind Schengen border controls that allow migrants to encounter the physical borders of the EU rarely. Instead migrants encounter the border controls within their home countries at the customs desk or the envelope with their visa.⁵⁰ With Schengen came databases that managed immigration and the identities of people coming in as well as the documentation of those people.⁵¹ Since 1993, the EU has required specific nationalities to have visas before entering Schengen territory. Bigo explains that this casts suspicion on people coming from predominantly Southern, Eastern, poor or war-torn countries as they are often the ones required to have visas to enter. Due to the shared external borders, Schengen also influences common asylum procedures and the right for the police to pursue alleged criminals across borders (hot pursuit).⁵²

With talk of a unified EU came more restrictive migration agreements. In 1987 the Ad Hoc Group for Migration was created with the task of limiting unauthorized migration into Schengen space.⁵³ When the Schengen agreements were ratified, common immigration laws were agreed upon. Among these were unified visa and identification checks on the external borders of Schengen.⁵⁴ While there was consensus to respect overarching asylum laws like the Geneva Convention, EU asylum law is heavily framed under the goal of border patrol.⁵⁵ Law Professor Helen O’Nions argues that often EU asylum policies are tied up with policies

⁴⁹ Atger, 15.

⁵⁰ Didier Bigo and Elspeth Guild, *Controlling Frontiers: Free Movement Into and Within Europe*, (Aldershot: Ashgate Publishing Limited, 2005), 234.

⁵¹ Bigo and Guild, *Controlling Frontiers*, 235.

⁵² “Schengen: Controversial EU Free Movement Deal Explained,” *BBC*, April 24, 2016, accessed October 21, 2016, <http://www.bbc.com/news/world-europe-13194723>.

⁵³ Helen O’Nions, *Asylum-A right Denied: A Critical Analysis of European Asylum Policy*, (Surrey: Ashgate Publishing Limited, 2014), 73.

⁵⁴ O’Nions, *Asylum-A right Denied*, 74.

⁵⁵ O’Nions, 76.

preventing illegal migration and this has led to securitization measures. Some of these measures include EURODAC, the fingerprinting mechanism for identifying asylum seekers under the Dublin Accords and Frontex (2004), the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the EU. The role of Frontex is to control the borders of the EU for illegal trespassing and criminal activity.⁵⁶ EUROSUR (2008) is another database used to control for migration, mainly from North Africa. It utilizes satellite drones and other ‘smart’ technology to increase surveillance of the external borders. These high cost tools used to control the border conflate border control with migration and “further endors[e] the self-reinforcing securitization approach which emphasizes the criminality of irregular migration.”⁵⁷

This framework of securitization has been amplified by the common perception that those outside the European space are dangerous (i.e. terrorists).⁵⁸ Fear of terrorism and the repeat of attacks such as September 11, 2001 in the US, March 11, 2004 in Madrid and July 7 and 21st, 2005 in London have heightened the fear of outsiders and notions of exterior threats. This has in turn, strengthened security measures within the EU, specifically toward migrants appearing to be Muslim.⁵⁹ The recent attacks in Paris and Germany in 2015 and 2016 and the blame directed toward ISIL (second/third generation immigrant cell members) has moved the rhetoric of Muslim migrants directly to security. The information that one of the Paris attackers travelled through the Balkans with a fake Syrian passport has been particularly incriminating for all other migrants bearing similar characteristics.⁶⁰ However, the effects of the recent wave of refugees on

⁵⁶ Ibid, 78-79.

⁵⁷ Ibid, 84.

⁵⁸ Robert Koulisch, “Sovereign Bias, Crimmigration, and Risk,” in *Immigration Detention, Risk and Human Rights*, ed. Maria Joao Guia et al, (London: Springer International Publishing, 2016), 3.

⁵⁹ Kirisci, “A Friendlier Schengen Visa System as a Tool of “Soft Power,”” 344.

⁶⁰ “Paris Attack: Who Were the Attackers,” *BBC*, April 27, 2016, Accessed April 12, 2017, <http://www.bbc.com/news/world-europe-34832512>.

EU borders have had the most tangible impacts. Many countries have installed their own border checks and there is a proposed amendment to Schengen to have EU citizens have their identities checked with police databases at the external borders. This is typically only reserved for non-citizens.⁶¹ Although border checks are only supposed to last for ten days if there is a threat to national security, these checks can be renewable for up to two months under Schengen. And in ‘exceptional cases’ there is a special provision in article 26 that allows for internal border checks for up to two years.⁶²

As of spring 2016, six members of Schengen have installed border checks including Austria, Denmark, France, Germany, Norway and Sweden. Hungary has also installed borders with its non-Schengen neighbors (Croatia and Serbia) as well as Schengen member Slovenia.⁶³ The director of the Migration Policy Institute of Europe, Elizabeth Collett, criticized these border closures warning, “The political message to neighbours is, ‘It’s your turn, you deal with it.’ But that just passes the problem along...None of the drivers that have led people to migrate have changed, given the conflict in Syria and instability elsewhere.”⁶⁴ Yet internal border checks have returned to the EU. I recall waiting for hours at the Hungarian-Austrian border, to the extent that people were walking, pushing their cars. In fact, every border I crossed in Europe the summer of 2016 (Greek, Macedonian, Serbian, Hungarian, Austrian, Slovenian, German) had checkpoints. Of these countries, five are Schengen members.

2016’s political climate in Europe is reflective of the influx of refugees into Europe. Some believe that Brexit was motivated in large part by the anti-immigrant sentiment pervasive

⁶¹ “Schengen: Controversial EU Free Movement Deal Explained.”

⁶² Ibid.

⁶³ Ibid.

⁶⁴ Leo Cendrowicz, “The End of Schengen? Restrictions by Denmark and Sweden are Threatening Europe’s Passport-Free Zone,” *Independent*, January 4, 2016, accessed October 19, 2016, <http://www.independent.co.uk/news/world/europe/the-end-of-schengen-restrictions-by-denmark-and-sweden-are-threatening-europes-passport-free-zone-a6796696.html>.

in the UK, particularly outside of London, Scotland and Northern Ireland. In areas of the UK that voted Leave, hate crimes toward foreigners have been doubling and tripling at alarming rates.⁶⁵ These crimes target people from the peripheries of Europe such as Poland, to non-white English people, to African migrants and refugees. Germany's political system reflects the shift in sentiment toward refugees as well. Chancellor Merkel's popularity dropped to 45%, the lowest it has been in five years, in an opinion poll conducted in late August of 2016. Many credit this to her 'open door policy' toward Syrian refugees. Although she has stood by her decisions, she has regretted that she was not adequately prepared and vowed that in the coming year the focus would be on sorting out who is deserving of asylum and who should be repatriated.⁶⁶ In Austria, too, migration has split the country. The July 2016 elections were firmly split between the green party candidate, Alexander Van der Bellen, and the far right freedom party candidate, Norbert Hofer. Although Hofer narrowly lost by less than 1% of the vote, the courts called for a re-election after a voter count error.⁶⁷ This election is significant not only because it does not include Austria's main political parties but also because the far right candidate is acutely anti-immigrant. A sound bite from his campaign is, "To those in Austria who go to war for the Islamic State or rape women—I say to those people: 'This is not your home.'"⁶⁸ Although Hofer lost the re-count, anti-refugee sentiments are still pervasive in Austria.

⁶⁵ Jon Stone, "Brexit: surge in anti-immigrant hate crime in areas that voted to leave the EU," *Independent*, July 31, 2016, accessed October 21, 2016, <http://www.independent.co.uk/news/uk/crime/brexit-hate-crime-racism-immigration-eu-referendum-result-what-it-means-eurospectic-areas-a7165056.html>.

⁶⁶ Cynthia Kroet, "Angela Merkel: Refugee Surge Won't Happen Again," *Politico*, September 2, 2016, accessed October 21, 2016, <http://www.politico.eu/article/chancellor-angela-merkel-refugee-migration-surge-wont-happen-again-germany/>.

⁶⁷ Philip Oltermann, "Austrian Presidential Election Result Overturned and Must be Held Again," *The Guardian*, July 1, 2016, accessed October 20, 2016, <https://www.theguardian.com/world/2016/jul/01/austrian-presidential-election-result-overturned-and-must-be-held-again-hofer-van-der-bellen>.

⁶⁸ "Austria Presidential Poll Result Overturned," *BBC*, July 27, 2016, accessed October 20, 2016, <http://www.bbc.com/news/world-europe-36681475>.

Hence the question of where is Europe and who belongs there is one that is constantly changing in the discourse about the EU. Borders play a crucial role in this readjustment of identity as they provide physical manifestations of imagined spaces. The 2015-2016 wave of refugees into Europe exacerbated border issues within Europe but also made visible the lack of freedom of movement afforded despite promises of open borders within Europe.

EU border policies

you have to understand,
that no one puts their children in a boat
unless the water is safer than the land
no one burns their palms
under trains
beneath carriages
no one spends days and nights in the stomach of a truck
feeding on newspaper unless the miles travelled
means something more than journey.
no one crawls under fences
no one wants to be beaten
Pitied⁶⁹

Political scientist Myron Weiner asks the question, “In a world of global inequalities, persecution, and violence, are states ethically obligated to open their borders as wide as it is economically feasible and politically acceptable to their citizens?”⁷⁰ This is perhaps elucidated more clearly by migration scholars and activists, Anderson, et al in their editorial on a borderless society in which they write, “That the greater freedom of mobility granted to capital and commodities through neoliberal reform has taken place alongside this lessening of freedom of mobility for people has been analyzed by many as constituting one of the great contradictions of

⁶⁹ Warsan Shire, “Home.” *Seekers Hub*, September 2, 2015, accessed February 10, 2017. <http://seekershub.org/blog/2015/09/home-warsan-shire/>.

⁷⁰ Myron Weiner, “Ethics, National Sovereignty, and the Control of Immigration,” *The International Migration Review* (1996): 171.

the present era.”⁷¹ Indeed the great paradox of this reality is that the romanticized liberal subject is only attainable for some, while others struggle to cross borders even in the name of asylum. Weiner explores the dichotomy of emigration (leaving) being seen as a universal human right while immigration (arriving) is up to nation-states to control. Although one may not desire to ever leave, having the one freedom is meaningless without mobility, as the freedom to leave without the freedom to arrive is not true freedom. This is why the mantra of the No Borders movement is freedom to leave, freedom to return, freedom to stay. Essential to all this is the freedom of mobility between these actions.

With the increased freedom of movement within the EU came the stifling of movement into the EU from beyond. In 2015, the denial rate for EU visas was 6.5% for those who applied via their consulates. While this number seems fairly low, acceptance varies from where one is applying. For example, there was 1.3% denial rate for Russians compared to a 33.8% denial rate for Pakistanis compared to a 37.8% denial rate for Nigerians.⁷² The wait time for visas is typically two weeks to two months, granted that one has all the documents and funds needed to apply for a visa in the first place.⁷³ The difficult application process paired with the high denial rate of Schengen visas makes it almost inevitable for asylum seekers to access the EU clandestinely as no *timely* legal route is available. No one would choose to travel this way, risking everything, if they could just take a plane and enter legally. Yet if people are forced to leave home and legal, regular modes of travel are barred to them they will find a way to make it somewhere safe, whatever the cost. I remember speaking to a volunteer at Border Crossing Spielfeld in Austria who spoke about finding safer ways (rather than trips across the

⁷¹ Anderson, Sharma, and Wright, “Editorial: Why No Borders?,” 5.

⁷² “Schengen Visa statistics for consulates, 2015,” *Schengen Visa Info*, accessed October 20, 2016, <http://www.schengenvisainfo.com/visa-statistics-2015/>.

⁷³ “Tourist Schengen Visa,” *Schengen Visa Info*, accessed October 20, 2016, <http://www.schengenvisainfo.com/tourist-schengen-visa/>.

Mediterranean and Aegean in rubber dinghies) for people to travel to Europe. And while this is important, access to borders will always impede on these safer methods. In Vienna, I interviewed a young man from Afghanistan who explained, “I never imagined travelling this way. I always thought I would come to Europe on a plane like normal people. But then I had to leave and I couldn’t wait.”⁷⁴ Here lies the crux of the problem. Oftentimes, asylum seekers have to leave suddenly and discreetly. The EU visa process allows for neither of these conditions.

Labeling migrants as deviant

Important to the discussion of sovereignty and borders are the notions of immobility. Anthropologist Liisa Malkki problematizes the label of ‘refugee’ and the norm of being rooted to a particular place within the rhetoric surrounding migration. She explains that uprootedness is centered in the discourse of territoriality and the normalization of rootedness (hence, to be uprooted is to be irregular or deviant to the status quo). This can lead to a dangerous rhetoric of labeling refugees as ‘deviant’ since their behavior of movement is seen as abnormal.⁷⁵ Furthermore this normalizing of sedentary life reinforces the normalizing of nationalism and strong state borders. If nationalism and non-movement is normal then it is natural to seal borders to outsiders. This also means that is natural to monitor the movement of people and “thus acts to naturalize technologies of power like the refugee camp, the transit camp, the screening or reception center, etc.”⁷⁶ Malkki lays out the danger of normalizing and homogenizing fixed borders and the lack of movement. Gupta and Ferguson expand on this idea of ‘fixed’ localities and argue that we live in an interconnected global society where states are connected along

⁷⁴ Interview notes, Vienna, August 13, 2016.

⁷⁵ Liisa Malkki, “National Geographic: The Rooting of Peoples and the Territorialization of National Identity among Scholars and Refugees,” *Cultural Anthropology* 7, (1992): 34.

⁷⁶ Liisa Malkki, “Refugees and Exile: From “Refugee Studies” to the National Order of Things,” *Annual Review of Anthropology* 24, (1995): 511-512.

asymmetric power structures.⁷⁷ They emphasize a deconstruction of notions of ‘us’ and ‘them’ that create a binary of difference. These notions are relevant to the rhetoric surrounding EU border policy; as these policies see the world outside of the EU or Schengen, as disjoint bodies instead of interconnected spaces with people, as in the EU. It also discerns who exactly is the ‘them’ being kept out and pushes back against the idea that there is such a group of people to ban.

The criminalization of migrants is a common pattern in the practice of migration policy and in fact is known in legal spheres as ‘cimmigration’ or the merging of criminal justice and immigration. Policing these human beings as well as the infrastructure in place to divide migrants from the rest of society are global issues. Focusing on the US prison system and the extension of this system abroad, Rodriguez, a professor of Ethnic Studies at UC Riverside, discusses the implications of imprisoning black and brown bodies and the manifestations of white supremacy within this practice. He investigates the prison industrial complex within the US and how this pattern of mass incarceration has expanded abroad along with US influence. He writes,

It is within this domain of dynamic, fluctuating articulations of power and domination that the prison is inscribed as both the localization and the institutionalized logic of the state’s production of juridical, spatial, and militarized (racial) dominion. Essential to the political drama of this regime’s formation is the structuring tension of the regime itself.⁷⁸

Hence, this practice of incarceration is essential to the identity of the state. This is especially true in the case of criminalizing migrants. If the state or region sees its identity as opposed to an identity beyond the barriers of their identity then they must incarcerate and police those bodies that impede upon this identity in order to maintain their own identity. Or rather in order to

⁷⁷ Akhil Gupta and James Ferguson, “Beyond “Culture”: Space, Identity, and the Politics of Difference,” *Cultural Anthropology* 7, (1992): 8.

⁷⁸ Dylan Rodriguez, “(Non) Scenes of Captivity: The Common Sense of Punishment and Death,” *Radical History Review* 96 (2006): 12.

maintain a notion of a European Union, there must be a space beyond the union that is needed to justify the cause of a border for that union in the first place.

The criminalization of asylum seekers is especially prevalent in terms of those who do not qualify for refugee status on the basis of not being viewed as vulnerable or originating from a ‘refugee producing country.’ Along the Balkan route many countries screened people for admittance based on their nationality prior to hearing their individual asylum claims. In order to stem the flow of people and rid the route of ‘economic migrants,’ Macedonia, Serbia, Croatia and Slovenia enacted a border policy where only Syrians, Iraqis and Afghans were allowed to enter the country to seek asylum.⁷⁹ All others, even with legitimate asylum claims, were pushed back to Greece. Some people were able to change their documents but for Africans this was impossible. A representative from Legis, an organization in Macedonia described this process.

One moment at the Greek border the police were rejecting people. Rejecting black men because they are African and cannot be from Syria, they weren’t even checking documents.⁸⁰

The policing of black, African bodies is a major issue throughout the Mediterranean route to Europe. Unable to ‘pass’ as one of these groups, black people have to be hyper-vigilant to remain unseen in a space where the police are hyper-aware of their presence.

These discriminatory policies have real implications in determining access to asylum procedures, which are a right protected under the 1951 Convention, article 14 of the Universal Declaration of Human Rights and article 63 of the Treaty Establishing a European Community.⁸¹ Indeed, article 18 of the Charter of Fundamental Rights of the European Union cements these agreements stating,

⁷⁹ Sian Jones, “Refugees Suffer Under Macedonia’s New Border Rules,” *Balkan Insight*, December 17, 2015, accessed October 10, 2016, <http://www.balkaninsight.com/en/article/refugees-suffer-under-macedonia-s-new-border-rules-12-16-2015>.

⁸⁰ Interview with Legis, July 20, 2016.

⁸¹ Nicolas Wisard, “The Protection of Refugees and Their Right to Seek Asylum in the European Union,” *Collection Euryopa Vol. 70*, (2011): 5-6.

The right to asylum shall be granted with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and in accordance with the Treaty on European Union and the Treaty on the Functioning of the European Union.⁸²

Therefore, while access to asylum procedures is posited as a right, it is inequitably granted.

Weiner explores refugee status as a scarce resource.⁸³ Since refugee status supposedly allows one access to movement, it creates a position of privilege compared to those who do not qualify for asylum. Labels such as ‘illegal’ and ‘irregular’ are categories that cast deviant behavior onto the character of the asylum seeker, in the structure of Malkki’s argument. Whether or not someone entered legally should not determine their status as legal. These labels also lend themselves to the criminalization of migrants. It categorizes people into groups of worthy and not worthy for asylum. According to the 1951 Convention Relating to the Status of Refugees, the UNHCR outlines that a refugee is anyone:

Owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.⁸⁴

Although there are issues with this definition, specifically by categorizing those forced to leave based on persecution from those forced to leave because of economic necessity/wellbeing it is clear that refugee status is determined on an individual basis. Therefore, an individual from the United States should have equal access to the asylum process, due to persecution based on (race, religion, political affiliation, etc.) as any individual from Afghanistan. Yet this is not the case. Instead, states are picking and choosing who to let in and who is deserving of asylum. The

⁸² “Charter of Fundamental Rights of the European Union,” *Office Journal of the European Communities*, (2000): 12.

⁸³ Weiner, “Ethics, National Sovereignty, and the Control of Immigration,” 186.

⁸⁴ “1951 Convention and Protocol Relating to the Status of Refugees.”

‘crisis’ in Europe is framed as a Syrian crisis. This is in large part due to the media and the *Prima Facie* (group status) right that Syrians have to asylum. While Syrians make up a sizable portion of those applying for asylum, they are far from alone. This rhetoric of a ‘Syrian Crisis’ plays into the politics of who is deserving of asylum and who is not.

Asylum policies

The two main legal documents concerning asylum I am examining are the Dublin Regulation (III) and the EU-Turkey deal. These documents are highly relevant as they delegate responsibility for the so-called refugee crisis and stifle freedom of movement for asylum seekers. The Dublin Regulation, adopted in 2003 and amended in 2008, establishes responsibility in the EU for which country should handle an individual’s asylum application. According to the European Commission,

This Regulation establishes the principle that only one Member State is responsible for examining an asylum application. The objective is to avoid asylum seekers from being sent from one country to another, and also to prevent abuse of the system by the submission of several applications for asylum by one person.⁸⁵

The Dublin Regulation determines who is responsible for registering a request for asylum and fingerprinting applicants so they are inputted into the larger EU database. While plausible on paper, there is a great deal of critique about how southern countries (i.e. Greece and Italy) carry the brunt of reception of refugees as they lie on the EU’s external borders. This was especially problematic during the 2015-2016 influx of refugees where Europe was unprepared for a crisis situation. Greece has rejected the proposal to reinstate Dublin, which would mean that other European countries could send asylum seekers back to Greece. In September 2016, the Greek spokesman for migration, Giorgos Kyritsis, declared, “A country such as Greece which receives

⁸⁵ “Dublin II Regulation,” *Eur-Lex*, accessed 26 September 2016, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV:l33153>.

a large number of refugees from Turkey, and also hosts a large number of refugees — practically without any outside help — cannot be asked to receive refugees from other European countries...That would be outrageous.”⁸⁶ Indeed, Greece has carried the brunt of the influx of refugees since 2015. The International Organization of Migration (IOM) estimates from Jan 1, 2015–October 19, 2016, over 1,028,548 asylum seekers have arrived in Greece.⁸⁷ Of those, UNHCR estimates 60,717 are still in Greece, although UNHCR estimates tend to be low and only reflect those registered.⁸⁸ These numbers present a burden to Greece because it is still suffering from an economic downturn and debt crisis. In 2016 Greece had an employment rate of 24% and the largest amount of debt in the EU (double the EU average).⁸⁹

Due to this situation, many asylum seekers do not wish to stay in a country that cannot support them financially and is already overburdened by a slow bureaucratic system. The Dublin Regulation creates an issue when asylum seekers are supposed to claim asylum in the first country of arrival in Europe. If one were flying, this would be less of an issue but in this wave of displacement the primary mode of transportation is boats, trains, buses, bikes and by foot. Hence, under this regulation, asylum seekers are forced to travel covertly throughout Europe to avoid being sent back to Greece. Oftentimes, asylum seekers avoid being fingerprinted or registered in countries they do not plan on staying in as they can be sent back to those countries if there is evidence of their presence.⁹⁰ Currently, Greece is not viewed as a ‘safe’ country but asylum

⁸⁶ “Greece Rejects Taking in More Refugees from EU States,” *Aljazeera*, September 9, 2016, accessed October 16, 2016, <http://www.aljazeera.com/news/2016/09/greece-rejects-refugees-eu-states-160909133206979.html>.

⁸⁷ “Migration Flows--Europe,” *International Organization of Migration*, accessed October 23, 2016, <http://migration.iom.int/europe/>.

⁸⁸ “Refugees/Migrants Emergency Response-Mediterranean,” *UNHCR*, accessed October 23, 2016, <http://data.unhcr.org/mediterranean/country.php?id=83>.

⁸⁹ Larry Elliot, “Greece’s latest financial emergency is both tragic and absurd,” *The Guardian*, May 9, 2016, accessed October 22, 2016, <https://www.theguardian.com/business/2016/may/09/greece-financial-emergency-tragic-absurd-imf-debt-relief>.

⁹⁰ “Explaining the Rules for Migrants: Borders and Asylum,” *New York Times*, September 16, 2015, accessed October 16, 2016, http://www.nytimes.com/2015/09/17/world/europe/europe-refugees-migrants-rules.html?_r=0.

seekers can still be sent back to other European countries such as Slovenia, Serbia, Croatia and Hungary.⁹¹ Hence, while this policy was designed to create a burden sharing mechanism, it actually creates a burden for peripheral countries in the EU and for asylum seekers who are now forced to take riskier trips in order to reach their countries of destinations, which one could argue have a greater capacity for hosting them.

The EU-Turkey deal is an agreement established on March 18th of 2016 between the EU and Turkey. It was made in an effort to stem the large flows of ‘illegal’ asylum seekers travelling to the Greek islands via Turkey. The deal allows the EU to return all ‘illegal’ asylum seekers who arrive after March 20, 2016 and in return the EU will make a larger effort to resettle Syrian refugees who are in Turkey, in addition to increased funding for refugee programs in Turkey and an accelerated visa program for Turkish citizens.⁹² There are two ways in which an asylum seeker can be returned 1) they do not qualify for or do not apply for asylum or 2) they are coming from a country deemed as safe. Safe, being a fairly arbitrary word as there are currently conversations in both the German and Austrian parliaments if Afghanistan (a country still at war) is a safe country. In October 2016 the EU tentatively signed a deal with Afghanistan that would allow an unlimited number of Afghan asylum seekers to be deported back to Afghanistan in exchange for financial aid from the EU.⁹³ While this is highly controversial given that Afghanistan is still in a state of war, many fear that this will restrict migration into Europe as the EU Turkey did earlier in the year. Human rights groups and refugee organizations have spoken out against the EU Turkey deal including *Médecins Sans Frontières (MSF)*, which released a statement shortly after the deal claiming,

⁹¹ “Explaining the Rules for Migrants: Borders and Asylum.”

⁹² “The Paradox of the EU-Turkey Refugee Deal,” *Migration Policy Institute*, accessed 26 September 2016, <http://www.migrationpolicy.org/news/paradox-eu-turkey-refugee-deal>.

⁹³ “EU deal clears deportation of unlimited Afghan refugees,” *Al Jazeera*, October 5, 2016, accessed October 22, 2016, <http://www.aljazeera.com/news/2016/10/eu-deal-clears-deportation-unlimited-afghan-refugees-161004132025865.html>.

European leaders have completely lost track of reality, and the deal currently being negotiated between the EU and Turkey is one of the clearest examples of their cynicism. For each refugee that will risk their life at sea and will be summarily sent back to Turkey, another one may have the chance to reach Europe from Turkey under a proposed resettlement scheme. This crude calculation reduces people to mere numbers, denying them humane treatment and discarding their right to seek protection.⁹⁴

One of the many concerns with this deal is that the camps on the Greek islands are now de-facto detention centers as the legal nature of the asylum seeker and their claims must be processed before they are allowed to stay. At the end of 2016, there were over 57,000 refugees stranded in Greece due to the EU-Turkey deal, as they are unable to move on and unable to be deported until their claims are processed.⁹⁵

The EU-Turkey deal is effectively an externalization of the EU borders, where the EU can place responsibility on Turkey to monitor its border. Indeed, the Turkish Coast guard along with Frontex is a constant in the Aegean (sea between Turkey and the Greek islands). The number of arrivals of asylum seekers has dropped steadily since the deal, especially in the first month when arrivals went from 56,000 in February 2016 to 7,800 in March.⁹⁶ However, the starkest effects of the deal have been less of a deterrent and more of a stall for refugees stuck in Greece. With the July 2016 coup in Turkey and constant human right violations by Erdogan, many European officials have talked about disbanding the deal, specifically in regards to loosening visa requirements for Turkish nationals.⁹⁷

⁹⁴ “European Union and Turkey Reach Inhumane Agreement on Refugees,” *Médecins Sans Frontières*, March 8, 2016, accessed October 22, 2016, <http://www.doctorswithoutborders.org/article/european-union-and-turkey-reach-inhumane-agreement-refugees>.

⁹⁵ “Refugees in Limbo: Greece.”

⁹⁶ “Migrant Crisis: EU-Turkey deal is ‘working,’” *BBC*, April 24, 2016, accessed October 21, 2016, <http://www.bbc.com/news/world-europe-36121083>.

⁹⁷ Michael Burnbaum and Erin Cunningham, “Turkey’s migrant deal with Europe may collapse under post-coup crackdown,” *Washington Post*, August 23, 2016, accessed October 21, 2016, https://www.washingtonpost.com/world/europe/turkeys-post-coup-crackdown-may-cause-its-migrant-deal-with-europe-to-collapse/2016/08/22/f60a74e0-6651-11e6-9161-aa7c674b6ede_story.html.

In addition to detainment for those in Greece, asylum seekers face similar conditions in Turkey. Turkey has followed the global trend toward immigrant related detention and in 2010 the policy for foreigner ‘guesthouses’ were transitioned to accelerated deportation for all migrants, including asylum seekers. Detention is now used as the administrative processing tool to systematically categorize and then remove asylum seekers from the state space.⁹⁸ In addition, Turkey’s migration law has effectively been ‘Europeanized’ resulting in an integrated border management.⁹⁹ The EU-Turkey deal exacerbates this relationship and grants Turkey greater agency in controlling the borders, namely through detention and deportation policies.

Outsourcing border control

Outsourcing border management is not new to the EU. Peripheral territories such as Libya and Morocco are often charged with stemming migrant flows to Europe. In addition to enforcing physical constraints to the borders EU countries have taken to placing advertisements dissuading migration in sending countries in order to reduce pull factors. In Austria, Afghans make up about a quarter of applicants for asylum and are the second highest nationality after Syrians.¹⁰⁰ In order to stem this flow the Austrian government started an advertising campaign in Afghanistan to warn against migration.

⁹⁸ Nurcan Ozgur Baklacioglu, “From “Guesthouses” to Removal Centers,” in *Detaining the Immigrant Other*, ed. Rich Furman, Douglass Epps and Greg Laphear (Oxford: Oxford University Press, 2016), 155.

⁹⁹ Baklacioglu, “From “Guesthouses” to Removal Centers,” 156.

¹⁰⁰ Mark Tran, “Austria tightens border policy for Afghans,” *The Guardian*, November 3, 2016, accessed October 22, 2016, <https://www.theguardian.com/world/2015/nov/03/austria-tightens-its-asylum-policy-for-afghans>.



The signs are placed on buses, billboards and around major cities, specifically Kabul. This sign above reads, “human smugglers lies” and “refugee laws in Austria will get tougher yet”.¹⁰¹

Harsha Walia argues, “border securitization operates not as a fixed site but rather through structures and technologies of power across geographies.”¹⁰² This placing of ads is a physical manifestation of those power relations although these measures are intangible as well.

Sociologists Serhat Karakakayali and Enrica Rigo argue that the EU uses maritime spaces to control their borders, especially for routes where clandestine migration is popular.¹⁰³ They explain the concept of virtual borders and how the promise that an asylum seeker can be returned from whence they came is the mechanism for how virtual borders function.

Virtual borders do not exist *unless they are crossed*. At the same time, the very possibility for them to be crossed by “illegal” migrants implies that a boundary of difference between “legal” and “illegal” movement has already been traced...Indeed it is the very possibility that a migrant can be deported from European space, repatriated to or “received” by (and detained in) a third transit or origin country, that constitutes the difference according to which the vessel that carries him or her is considered a virtual border and is discouraged from entering European space.¹⁰⁴

¹⁰¹ Emron Feroz, “In Europe, Afghan refugees anticipate deportation,” *Al Jazeera*, October 22, 2016, accessed October 22, 2016, <http://www.aljazeera.com/indepth/features/2016/10/europe-afghan-refugees-anticipate-deportation-161018120108917.html>.

¹⁰² Walia, 50.

¹⁰³ Serhat Karakakayali and Enrica Rigo, “Mapping the European Space of Circulation,” in *The Deportation Regime: Sovereignty, Space, and the Freedom of Movement*, ed. Nicholas De Genova and Nathalie Peutz, (Durham: Duke University Press, 2010), 124.

¹⁰⁴ Karakakayali and Rigo, “Mapping the European Space of Circulation,” 126.

IR specialist Bigo expands on the protection of virtual borders when he discusses the hyper-vigilant protection of EU ‘walls’ or ‘metaphor of walls’ in the maritime context, through excessive force by the militarization of borders.¹⁰⁵ This is especially important in terms of detention and practice for those who cross the borders of the EU but first must be deemed as worthy. Bigo writes,

Border guard attitudes vary – from aggressive behaviour against ‘queue jumpers’, ‘bogus’ refugees who steal the places of ‘genuine’ refugees, the illegal migrants who compromise the good relations of a society with legal migrants, and implicitly reinforcing racism, to more comprehensive and ‘compassionate’ attitudes based on the recognition that migrants seek to escape difficult life conditions and that they want new chances for themselves and their children.¹⁰⁶

He adds that those who are detained, must be kept in conditions that are fair yet not nice enough that one would choose to stay or attempt to return. The Head of the Hellenic Police puts it simply: “We have to make their lives miserable, otherwise they will be under the impression that coming to Greece they will be free to do what they want.”¹⁰⁷ This idea of disincentivizing asylum seekers plays into the labeling of worthy or unworthy, legal or illegal, irregular or regular. These labels function distinctly in this discourse as the criminalization of migrant bodies determines how asylum seekers are treated in transit countries.

¹⁰⁵ Didier Bigo, “The (in) securitization practices of the three universes of EU border control: Military/Navy – border guards/police – database analysts,” *Security Dialogue* 45, (2014): 212.

¹⁰⁶ Didier Bigo, “The (in) securitization practices of the three universes of EU border control,” 215.

¹⁰⁷ Mary Bosworth and Adriani Fili, “Immigration Detention in Greece and the UK,” in *Detaining the Immigrant Other*, ed. Rich Furman, Douglass Epps and Greg Laphear (Oxford: Oxford University Press, 2016), 86.

Chapter 2

“Welcome to the Hell”: Mobility and Stasis Within Detention

We spent as I told you 3 nights there in Turkey and then we thought if we stay here in Turkey it is a waste of time because we came to Turkey by an illegal way. So you are also in big problem. So me and Mohammed we decide which place would be the safest place. And we decide to start a new life. For us, ok. But what about the kids? They have nothing here in this life. So we said ok we will go to Europe but we didn't decide which country this would be. We said how is the way, we are pharmacist, we don't know how is the way of travelling using traffickers, using the money and even I am afraid that I am paying the money to people who make me escape from place to place. So this was super difficult...From Istanbul we got the phone numbers of one of the traffickers. And he said ok you can come to Izmir...So I talk to this guy and ask how is the way. Is it safe? Because we've heard too many stories of...the boat was broken or... But he said no this will be yachts and the yachts will be super safe for you and your family... So those traffickers they were stealing the yachts, they were not yachts, they were more like fishing boats...And we were just only counting the kids making sure we didn't miss one. So I counted my kids, Mohammed's kids and Hassan's kids... And so in the boats, we start moving and the sailor, he was a refugee also. We thought for a while that he was working with this trafficker. So he says ok I am a refugee also so I'm not a boat sailor. So our lives was in the sailor's hands who wasn't a sailor himself.

—Excerpt from interview with Ibrahim¹⁰⁸ from Iraq

Ibrahim is one of at least 24,790 people who have made the journey along the Balkan route since the EU declared the route closed in March 2016.¹⁰⁹ Due to the transnational nature of this migration route, the closure of one set of borders effects all other borders in the region. Recall that in 1985 the EU ratified Schengen, effectively removing internal border checks by 1990. The idea of Schengen was to have a single EU territory with freedom of movement within the region and exterior borders surrounding the zone.¹¹⁰ Although the majority of countries in

¹⁰⁸ All names have been changed for privacy

¹⁰⁹ Patrick Kingsley, “Tens of thousands migrate through Balkans since route declared shut,” *the Guardian*, August 30, 2016, accessed October 22, 2016, <https://www.theguardian.com/world/2016/aug/30/tens-of-thousands-migrate-through-balkans-since-route-declared-shut>.

¹¹⁰ K. Kirisci, “A Friendlier Schengen Visa System as a Tool of “Soft Power,”” 343.

this region (Greece, Croatia, Hungary, Slovenia, Austria and Germany) are EU member states,¹¹¹ an important caveat of Schengen is the ability to install temporary borders in the case of a national emergency.¹¹² These checks can be renewed for two months and in exceptional cases last two years.¹¹³ In September of 2015, Hungary was the first country along this route to close its borders. The government emphasized its closed-door policy with the addition of a razor-wire fence along the border with Croatia and Serbia.¹¹⁴ This led to a domino effect, with all other countries in the region (Greece, Macedonia, Serbia, Croatia, Slovenia and Austria) closing their borders by March of 2016. In February of 2016, Balkan police chiefs held a conference in Zagreb and soon after the majority of the borders became militarized. A month later the borders were closed and the route was declared officially closed.¹¹⁵

The building of fences is a popular method used by state governments to stem the flow of refugees. Since the fall of the Berlin Wall in 1989, approximately 1,200 km (750 miles) of anti-immigrant fencing has been constructed with a cost of at least 500 million euros (\$570 million).¹¹⁶ In 2015 alone, Hungary, Bulgaria, Austria, Slovenia and Macedonia all announced plans to erect fences.¹¹⁷ German Chancellor Merkel has been a staunch opponent of border closures. Instead, she believes a long lasting solution is the EU-Turkey deal.¹¹⁸ One of the many concerns with this deal is that the camps on the Greek islands are now de-facto detention centers

¹¹¹ With the exception of Serbia and Macedonia

¹¹² Atger, 15.

¹¹³ "Schengen: Controversial EU Free Movement Deal Explained," *BBC*, April 24, 2016, accessed October 21, 2016, <http://www.bbc.com/news/world-europe-13194723>.

¹¹⁴ "Migrant Crisis: Hungary Closes its Border with Croatia," *BBC*, October 17, 2015, accessed November 30, 2016, <http://www.bbc.com/news/world-europe-34556682>.

¹¹⁵ Interview with UNHCR Macedonia (July 27, 2016).

¹¹⁶ Gabriela Baczynska and Sara Ledwith, "How Europe Built Fences to Keep People Out," *Reuters*, April 4, 2016, accessed January 25, 2017, <http://www.reuters.com/article/us-europe-migrants-fences-insight-idUSKCN0X10U7>.

¹¹⁷ Aamna Mohdin and Keith Collins, "This is what happens when we build walls and fences to keep people out," *Quartz*, October 10, 2016, accessed January 26, 2017, <https://qz.com/783678/this-is-what-happens-when-we-build-walls-and-fences-to-keep-people-out/>.

¹¹⁸ "Migrant crisis: Angela Merkel condemns closure of Balkan route," *BBC*, March 10, 2016, accessed January 27, 2017, <http://www.bbc.com/news/world-europe-35772206>.

as the legal nature of the asylum seeker and their claims must be processed before they are allowed to stay. Those in the camps in Greece are unable to be deported and unable to move on until their individual requests are heard.¹¹⁹ This is true throughout the Balkans. Despite continuous movement, many asylum seekers are stuck—constrained in the physical spaces of informal camps, reception centers and detention— due to closed borders and increased regulation.

In this chapter I argue that the process of being stuck while in transit is a form of incarceration that occurs in the asylum procedures in Europe. The administrative detention that takes place is rooted in the carceral state and is maintained through surveillance mechanisms.

The UNHCR defines detention as,

Confinement within a narrowly bounded or restricted location, including prisons, closed camps, detention facilities or airport transit zones, where freedom of movement is substantially curtailed, and where the only opportunity to leave this limited area is to leave the territory.¹²⁰

In this chapter I examine the physical centers of detention for asylum seekers and the administrative measures that facilitate this confinement. I look at the politics of visibility and how states' control who is allowed in public space. I explore what it means to be stuck and the temporal functions of the border. Specifically, I focus on the consequences of forced stasis on asylum seekers and the mental toll of waiting. I explicitly look at the overarching policies in place that enforce this system and how the shifting transnational policies create greater uncertainty.

Incarceration as method of the border

¹¹⁹ “Refugees in Limbo: Greece.”

¹²⁰ “Revised Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum Seekers,” *UNHCR* (1999): 3.

In *Border as Method*, Mezzadra and Neilson argue that borders serve as sites of purposeful inclusion that filter people within the state, and thus society. They write that “by showing how borders establish multiple points of control along key lines and geographies of wealth and power, we see inclusion existing in a continuum with exclusion, rather in opposition to it.”¹²¹ While this sometimes takes the form of the ‘linear border,’ such as fences and walls these often are extensions of larger systems in place.¹²² In this scenario, if borders are the mechanisms that demarcate the borderlands, then the Balkans operate as the larger borderland for migrants. Gloria Anzaldúa speaks of this distinction between borders and the borderlands. She writes,

Borders are setup to define the places that are safe and unsafe, to distinguish *us* from *them*. A border is a dividing line, a narrow strip along a steep edge. A borderland is a vague and undetermined place created by the emotional residue of an unnatural boundary. It is in a constant state of transition. The prohibited and the forbidden are its inhabitants.¹²³

Within this there is incarceration for those who are not yet/will never be included. This specific phenomenon is known as immigrant related detention, which the Global Detention Project defines as “an administrative (or “civil”) procedure that is undertaken to verify the identity of individuals, process asylum claims, and/or ensure that a deportation order is carried out.”¹²⁴

Immigrant related detention involves long periods of waiting, as its main intent is the administrative process of data collection to see if an individual qualifies for asylum. Law professor Juliet Stumpf writes that “Both criminal and immigration law are, at their core, systems of inclusion and exclusion.”¹²⁵ Both create categories of people (illegal vs. legal) and determine

¹²¹ Sandro Mezzadra and Brett Neilson, *Border as Method, or, the Multiplication of Labor*, (Durham: Duke University Press, 2013), 7.

¹²² Mezzadra and Neilson, *Border as Method*, 7-8.

¹²³ Anzaldúa, *Borderlands La Frontera*, 3.

¹²⁴ “FAQ.”

¹²⁵ Juliet Stumpf, “The Crimmigration Crisis: Immigrants, Crime, and Sovereign Power,” *American University Law Review* (2006): 380.

whether one may enter society or remain excluded from it. In the case of the migrant, one is treated as a non-member of society until the burden of proof shows otherwise.¹²⁶

The creation of a common border policy through Schengen led to stronger migration controls for third party nationals entering EU space. These policies emphasized the prevention of irregular entry or ‘unauthorized migration.’¹²⁷ While the act of entering unauthorized into EU space is not a criminal offense, those who do so are criminalized through these controls. In 2011 the EU Court of Justice prohibited “imprisoning irregular migrants for the mere offence of illegal stay.”¹²⁸ However, individuals may still be placed in administrative detention, which has a maximum duration of 6-18 months at the discretion of the state.¹²⁹ In her book, *Asylum-A Right Denied*, Helen O’Nions argues against the conflation of asylum and immigration policy, which she posits lowers the protections afforded to asylum seekers.¹³⁰ In 2013, the European Court of Human Rights upheld this practice of detention for those with unauthorized entry including asylum seekers.¹³¹ This standard is seen in the Dublin Regulation as well. While a state cannot punish someone simply for claiming asylum, temporary detention is not seen as a punishment but rather an administrative procedure.¹³² Clause 20 of the Dublin III Regulation states,

The detention of applicants should be applied in accordance with the underlying principle that a person should not be held in detention for the sole reason that he or she is seeking international protection. Detention should be for as short a period as possible and subject to the principles of necessity and proportionality.¹³³

¹²⁶ Stumpf, “The Crimmigration Crisis,” 400.

¹²⁷ O’Nions, 73.

¹²⁸ Charles Gosme, “Trapped Between Administrative Detention, Imprisonment, and Freedom in Limbo,” in *Immigration Detention, Risk and Human Rights*, ed. Maria Joao Guia et al, (London: Springer International Publishing, 2016), 92.

¹²⁹ Charles Gosme, “Trapped Between Administrative Detention, Imprisonment, and Freedom in Limbo,” 97.

¹³⁰ O’Nions, 77.

¹³¹ Elspeth Guild, “Understanding Immigration Detention in the UK and Europe,” in *Immigration Detention, Risk and Human Rights*, ed. Maria Joao Guia et al, (London: Springer International Publishing, 2016), 151.

¹³² O’Nions, 142.

¹³³ “Dublin II Regulation,” *Eur-Lex*, accessed 26 September 2016, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV:133153>.

The intention behind this detention procedure is the speedy processing of asylum applications. Yet it is this indefinite process that leads to extended periods of administrative detention. Unlike detention for irregular entry, the detention noted in the Dublin Regulation does not have a maximum time period. Those who are detained may be so multiple times: as they wait to apply, when they await their decision and awaiting their eventual deportation. Hence, those whose asylum claims are not addressed are criminalized and streamed into detention for ‘unauthorized entry’ while those waiting for their claims to be processed are also placed into detention for administrative purposes.

The Philosopher Giorgio Agamben argues that detention centers operate as ‘spaces of exception’ where “regimes of police prevail over regimes of rights.”¹³⁴ Feminist scholar Andrijasevic challenges this idea of sites of exception and argues that the detention camp is an example of the delocalizing controls on the border and incorporation of migrants within European society.¹³⁵ Rather than seeing these claims as opposing, I argue that detention operates as an inclusion mechanism rather than a site of exclusion. However, like Agamben, I believe these spaces are controlled by a regime of the police. As of 2015, the information processed by EURODAC, the database for fingerprint collection and personal information, is sent directly to local law enforcement. O’Nions argues that this streamline of data to the police increases notions of criminality of asylum seekers.¹³⁶ The police are also active in registering asylum claims. The site where most people apply for asylum is a local police station. From there individuals are sent to their respective holding area (reception center, camp or detention facility). Thus, the police act

¹³⁴ Katia Cardoso, “Immigrants as Detainees: Some Reflections Based on Abyssal Thinking and Other Critical Approaches,” in *Immigration Detention, Risk and Human Rights*, ed. Maria Joao Guia et al, (London: Springer International Publishing, 2016), 200.

¹³⁵ Nathalie Peutz and Nicholas De Genova, ed., *The Deportation Regime: Sovereignty, Space and the Freedom of Movement*, (Durham: Duke University Press, 2010), 18.

¹³⁶ O’Nions, 79.

for the state in monitoring who is entering and when they do so. This control of time is crucial to the function of inclusion.

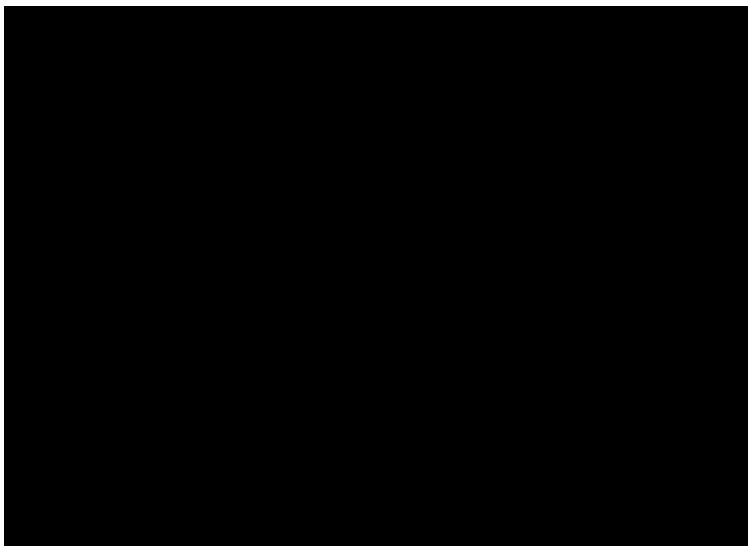
National law enforcement oversees the timing of who is entering the EU through securitization mechanisms such as fences, camps, and one could argue, the physical border itself. Mezzadra and Neilson write, “the temporality of migration is increasingly marked by the emergence of various zones and experiences of waiting, holding, and interruption that assume many institutional forms, among them camps and deportations.”¹³⁷ These processes filter those seen as deserving into society and monitor the timing of one’s inclusion. This can be seen in the placement of holding centers along the outskirts of borders, allowing the police to designate timed entries to specific individuals.

In January 2016 holding centers were set up along the Austrian-Slovenian border to supervise the flow of asylum seekers.¹³⁸ Prior to this, 150 Austrian policemen, 400 soldiers and local volunteers were tasked with shepherding new arrivals to buses going to Graz and Vienna.¹³⁹ These structures, although now empty, still cover the landscape beyond the border patrol on the Slovenian side.

¹³⁷ Mezzadra and Neilson, 143.

¹³⁸ Allison Langley, “Austria Streamlines Slovenian Border to Process Refugees,” *DW*, January 22, 2016, accessed January 27, 2017, <http://www.dw.com/en/austria-streamlines-slovenia-border-to-process-refugees/a-18999606>.

¹³⁹ Jamie Merrill, “Refugees’ horror in Austria: ‘It’s not human. We are treating them like sheep in pens,’” *Independent*, October 30, 2015, accessed January 27, 2017, <http://www.independent.co.uk/news/world/europe/refugees-horror-in-austria-it-s-not-human-we-are-treating-them-like-sheep-in-pens-a6715206.html>.



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The area takes up 8.65 acres with tents to host those who remain overnight(s). It has the capacity for 4,000 people and officials check passports and dialects upon arrival.¹⁴¹ Translators check dialects to ensure that those arriving were from ‘refugee producing countries,’ such as Iraq and Syria and not economic migrants from elsewhere in the MENA region.¹⁴² Hence, the function of this holding center was to provide direction but also to filter out those who were unauthorized to enter Austria. Asylum seekers were held here as officers sorted people using wristbands, in order to control for the large crowds. Although the majority of those waiting were let in the country, the conditions in which they were forced to wait were inattentive to the cold weather or medical care that many people needed while they waited.¹⁴³

I interviewed a young man from Iran, whom I will refer to as Amir, who described the freezing conditions in which he had to wait in before crossing into Austria:

I spent the night in a huge camp on a freezing night. It was so cold. The women and children were able to sleep inside with the heat but there wasn’t enough room for the men

¹⁴⁰ Border Crossing Spielfeld, Facebook, June 19, 2016.

¹⁴¹ Langley, “Austria Streamlines Slovenian Border to Process Refugees.”

¹⁴² Refugee status is determined on an individual basis. Refer back to chapter 1 for this discrimination.

¹⁴³ Interview with Borderless, August 12, 2016.

inside. So single men like me had to sleep outside. I had a sleeping bag but I opened it up so others could sleep under it too. Even with all the boys huddled together it was still so cold. This was the fall not the winter. At the camp people gave me clothes, food, and cream for my feet. The cream was for my feet because it was so cold and my feet were sore from walking.¹⁴⁴

Amir's story is not unique. Multiple volunteers along the border told me that they were unprepared for how quickly people were passing through the Balkans in the winter to get to Austria. For many, this last border check before arriving in Austria was the first time asylum seekers had to sit and wait before entering the country.

This quick travel slowed significantly by the spring when the borders officially closed. Anthropologists Griffiths et al speak to the tempo of the timing of migration. They argue that asylum procedures can at once be too fast and too slow.¹⁴⁵ In the fall/winter of 2015 the influx of people into Europe had organizations scrambling to find the resources and accommodations for asylum seekers. There are stories of people who did not stop to eat between Macedonia and Austria because they were shuffled onto buses and forced to keep moving. A representative of Border Crossing Spielfeld called this phenomenon an elevator:

There was no food in Austria, but in [Slovenia] they had food prepared for them, but the train would arrive and they said, 'ok, so the first 100, you go straight to registration.' So these were people that had nothing to eat, but they were not allowed to sit down, even drink 1 cup of tea, they were sent straight to the Austrian side. And then they were waiting for registration, no food. And then they would be brought, say, to Salzburg if they wanted to go over to Germany. And on this whole journey, no food, no drink. So then we got phone calls from Salzburg saying 'people are collapsing here with dehydration because they have nothing to drink.' Sometimes from Serbia or Croatia...No break, no nothing. And you know, before it was the opposite problem. So it's really weird how you have people who have the same journey, but the experience is so different.¹⁴⁶

Many were shuffled through the borders in fear that the borders would close soon. By the winter of 2015 restrictions began slowing this process down. Legis, an organization in Macedonia

¹⁴⁴ Interview with Amir, Vienna

¹⁴⁵ Melanie Griffiths, et al., "Migration, Time and Temporalities: Review and Prospect," *COMPAS Research Resources Paper* (2013): 18.

¹⁴⁶ Interview with Border Crossing Spielfeld

explained that in November 2015 Macedonia declared only Syrian, Afghan and Iraqi refugees were allowed to enter the country. On the 19th of January Afghans were barred from entry and consequently were stuck in Macedonia and Greece. On March 9th the borders officially closed.¹⁴⁷

Temporality of the border

In Turkey it was bad so we took a boat to Lesvos. At first we were caught and had to turn around but on the second try we made it. We went to Mytilene harbor and were sent to Moria. You know Moria? In Greece they always want you in a camp. We were never allowed out. We filed asylum claims there and may have received asylum but didn't want to remain there. It took a couple tries but eventually we flew to Athens using fake passports [paying money]. From Athens we went to Thessaloniki and from there to the border between Greece and Macedonia. There were so many refugees there. It took me 10 tries to get through to Macedonia but on the 10th try I made it. My cousin made it right after I did.

—Interview excerpt from Hamza from Pakistan¹⁴⁸

Due to shifting border policies and roadblocks, travellers along the Balkan route must be hypersensitive to time. Like the story above shows, many asylum seekers attempt to cross a border many times before they successfully enter a country. Border closures have led many to attempt riskier routes to avoid the police and physical boundaries (i.e. fences). In addition to the heightened risk of these journeys, the actual timing of one's trip can be the difference between being in Germany and stuck in Serbia. While Germany has a vibrant social service system established for asylum seekers there is little assistance available in Serbia. Moreover, for many travelling, Germany is the ideal destination and the Balkan countries are simply stops along the route. In the case of the Pakistani man above, his friend successfully crossed the Greek–Macedonian border on his third attempt, placing him in Germany at the time of my interview with Hamza in Serbia. Since physical barriers and surveillance along the border fluctuates,

¹⁴⁷ Interview with Legis, July 20, 2016

¹⁴⁸ Interview with Pakistani men in Serbia, August 1, 2016

asylum seekers are forced to wait for the opportune moment to cross a border, often relying on smugglers to host them in crowded houses until a route opens up.¹⁴⁹ O’Nions relates border closures to the use of the ‘virtual fence’ in the Americas that increased costs of surveillance and policing. She observes the correlation between policing and smuggling, where states make smuggling lucrative and smugglers reinforce the police state. She writes in the US case “far from causing a decrease in illegal entry, the policy has simply led smugglers to adopt more dangerous modes of travel in order to avoid detection.”¹⁵⁰ The same is seen in the Balkans where border closures expose asylum seekers to increased exploitation and extortion. The Belgrade Center for Human Rights reported an increase of smuggling operations in Serbia since the route was declared closed in 2016. However, it is difficult to prosecute smugglers since a witness is needed and oftentimes asylum seekers are more focused on reaching their destination than staying and testifying.¹⁵¹ There are also reports that gender based violence has increased with this rise in smuggling, as women travelling alone are highly vulnerable to trafficking and sexual exploitation as a currency for passage.¹⁵²

While many are forced to wait in established camps, others camp informally near borders until it is safe enough to cross. Governments do not wish for refugee populations to be visible and this has forced asylum seekers into ‘no man’s land’ and into dangerous living situations. In Belgrade, Serbia many asylum seekers squatted near the train station and two adjacent parks known colloquially as Afghan Park. But in July 2016 the government built a 6-foot high fence around this area to ‘help the grass grow.’ This fence also keeps people from sleeping in this visible spot.

¹⁴⁹ Interview with Belgrade Center for Human Rights

¹⁵⁰ O’Nions, 85.

¹⁵¹ Interview with Belgrade Center for Human Rights

¹⁵² Ibid.



Picture of fence in “Afghan Park” in Belgrade, Serbia

Now, individuals are forced to sleep along the river, which is unlit at night or stay in houses hosted by smugglers where they are susceptible to extortion.¹⁵³ Oftentimes, these smugglers are fellow countrymen who charge exorbitant prices to act as guides to cross the border. With border closures, prices have increased and there are reports of people being held for ransom until their families transfer money through Western Union. I was told an account of a family who paid \$15,000 and then were told they only paid \$10,000 so they would not be taken across the border. Not only could they not move forward but they lost all their savings for journeying further.¹⁵⁴ While travelling with smugglers is dangerous, increased state surveillance makes it one of the only viable options for asylum seekers in the Balkans.

In addition to public spaces, large, informal camps are also common throughout the Balkans. Perhaps the most notorious is Idomeni, located between the Greek and Macedonian

¹⁵³ Interview with Refugee Aid Serbia

¹⁵⁴ Interview with Atina

border. Idomeni is often compared to Calais, which in 2016 made international news when the police burned much of the camp in addition to displacing the residents. Calais is a port city in France and a popular last stop in Western Europe before the UK. Since 2009, camps have popped up in this town, known colloquially as ‘The Jungle,’ where migrants and asylum seekers wait to cross clandestinely into the UK. This informal camp has come under scrutiny for the violence inflicted by police raids and the horrific living conditions for those who are waiting to cross the border. It has called attention to the UK’s strict visa policies and the racialized process of claiming asylum.¹⁵⁵ Like Calais, Idomeni is an informal camp that sprung up at Macedonian–Greek border due to the closures. Idomeni hosted approximately 8,400 people although at its peak it contained over 14,000 refugees mainly from Syria, Iraq and Afghanistan. At the end of May 2016, the Greek police launched a 10-day campaign to empty the camp using 700 riot police.¹⁵⁶

Under the Dublin Regulation,¹⁵⁷ waiting is used as a tool to process information. The no-man’s land between Hungary and Serbia has been called the new Idomeni by many NGOs. Like Idomeni, the police have raided it multiple times and there is poor sanitation. In the camp there are no toilets or shelters and Hungarian organizations are not allowed to build any temporary structures (including portable toilets).¹⁵⁸ There is a bottleneck at the border and asylum seekers are forced to camp out indefinitely in this transit zone north of Subotica to make one of the limited, prized spots on the list to get into Hungary. Although Hungary’s borders are closed, it officially takes in 30 people total per day (up to 15 people at two locations). However, these 30 spots are reserved for Syrians and Afghans and of those, priority is given to families with

¹⁵⁵ Calais Migrant Solidarity, “Calais Migrant Solidarity,” accessed February 17, 2017, <https://calaismigrantsolidarity.wordpress.com/introduction-to-calais/>.

¹⁵⁶ “Greek police move to shut down Idomeni refugee camp,” *Al Jazeera*, May 24, 2016, accessed February 3, 2017, <http://www.aljazeera.com/news/2016/05/greece-begins-idomeni-refugee-camp-evacuation-16054051404401.html>.

¹⁵⁷ Communal asylum law in the EU

¹⁵⁸ Interview with Hungarian InterChurch Aid, August 2, 2016

children and women. Usually, only a couple of single men make it through daily and once through they are held in blue containers for at least a week and up to 24 days. During this time, the government conducts interviews and processes fingerprints to verify that there is no evidence that the men have either 1) been in another safe country and/or 2) filed a request of asylum in another country.¹⁵⁹ Once they are processed they are either sent back to Serbia or move into the appropriate facilities (reception or detention centers).

Confinement

Incarceration within the delineated space of a camp is the reality for most asylum seekers in the Balkans. Not only is one confined within this space but these camps are generally located on the periphery of populated areas. This is the case in Athens, where refugees were pushed to the edge of the city limits due to tourism. In April 2016, Greece moved tens of thousands of asylum seekers from the city of Athens to abandoned properties on the outskirts of the municipality: two abandoned Olympic stadiums and the Elliniko airport. Prior to this removal, 14,000 asylum seekers were estimated to be camping out at Piraeus (the port) and thousands of others in Victoria Square, a central plaza in Athens.¹⁶⁰ This move was prompted by the anticipated arrival of 23 million tourists generating \$20 billion in profit.¹⁶¹ When I visited Athens in July 2016, there was little presence of the thousand of refugees who once resided in Piraeus, besides limited graffiti declaring ‘Refugees Welcome.’

¹⁵⁹ Interview with Hungarian InterChurch Aid

¹⁶⁰ Helena Smith, “Athens under pressure: city races to clear port's refugee camp before tourists arrive,” *The Guardian*, April 26, 2016, accessed January 28, 2017, <https://www.theguardian.com/cities/2016/apr/26/athens-under-pressure-city-port-refugee-camp-tourists>.

¹⁶¹ “Greece removes refugees from Athens due to tourist rush,” *Al Jazeera*, April 29, 2016, accessed January 28, 2017, <http://www.aljazeera.com/news/2016/04/greece-moves-refugees-athens-due-tourist-rush-160429183920419.html>.

This placement of camps along the edge of urban areas is not unique to Athens. In Berlin the main camp lies in an abandoned airport. In Macedonia the two camps are along the Greek and Serbian borders. Refugees used to stay in the town of Gevgelija, along the railway but due to complaints from the town, were pushed into a camp in a field on the periphery.¹⁶² This geographic confinement is especially seen in militarized spaces, like the camp Moria in Lesbos, Greece. Mezzadra and Neilson write that this placement of camps is part of the state's method of "exclusion through inclusion."¹⁶³ The camp is not outside the social order but rather integral to the functioning of the state. By placing people in a camp, the state is placing people into the legal system. Under the Dublin Regulation registration is crucial to determining who gets asylum where. Typically, those outside of the camp are living unregistered in an attempt to bypass the system. So controlling the placement of camps as well as their function (registration) allows for the state to effectively keep asylum seekers on the periphery while still remaining within the system.

In instances of detention, asylum seekers are placed in a state of limbo, waiting to see if their case will be seen as valid and if so if they can continue on or must remain in that country. Both the Dublin Regulation and the EU Turkey deal emphasize waiting. In the case of EU-Turkey, the Greek islands in the Aegean have become holding spaces for asylum seekers.¹⁶⁴ While in the camp, there are multiple stages of waiting. There is waiting concerning documentation, waiting concerning a move to a nicer camp and waiting for the indefinite move to the mainland for the asylum process to continue. Shortly after the deal was passed in March 2016, the UNHCR noted that Greece "does not have sufficient capacity on the islands for

¹⁶² Interview with Legis, July 20, 2016

¹⁶³ Mezzadra and Neilson, 148.

¹⁶⁴ The deal allows the EU to return all "illegal" asylum seekers who arrive after March 20th and in return the EU will make a larger effort to resettle Syrian refugees who are in Turkey, in addition to increased funding for refugee programs in Turkey and an accelerated visa program for Turkish citizens.

assessing asylum claims, nor the proper conditions to accommodate people decently and safely pending an examination of their cases.”¹⁶⁵ This has exacerbated the already delayed Greek detention policy.

Waiting is an intentional tool under systems of incarceration and those waiting in Greek detention often must do so indefinitely. The length of detention for immigrants in Greece is now under the decisions of upper level police officers. In 2008 the maximum length of detention was increased from 3 months to 6 months. In 2012, this was extended to 18 months. In 2014 the Greek Legal Council decided the police could not only extend this 18-month period but could hold people in detention indefinitely.¹⁶⁶ Currently there are over 57,000 refugees detained indefinitely in Greece due to the EU-Turkey deal.¹⁶⁷ The DEVAS project was a study conducted in 2010 in 22 European countries by the Jesuit Refugee Service-Europe (JRS-Europe) analyzing the use of detention for vulnerable populations, such as asylum seekers. The findings reported asylum seekers typically experience the longest periods of detention, compared to irregular migrants.¹⁶⁸ Asylum seekers express less knowledge of why they are detained compared to others and this lack of information has a negative correlation with length of detainment (the less you know the longer you stay).¹⁶⁹

In *Carceral Spaces*, geographer Benedicte Michalon argues that mobility functions as a control mechanism of the state. In situations of detention, movement is used to control those who are confined and therefore acts as the largest deprivation of space, as governments may control

¹⁶⁵ “UNHCR redefines role in Greece as EU-Turkey deal comes into effect,” *UNHCR*, March 22, 2016, accessed January 28, 2017, https://data.unhcr.org/mediterranean/flash_read.php?ID=113.

¹⁶⁶ Rich Furman, Douglass Epps and Greg Laphear, *Detaining the Immigrant Other*, 81.

¹⁶⁷ “Refugees in Limbo: Greece.”

¹⁶⁸ Jesuit Refugee Service-Europe, “Becoming Vulnerable in Detention,” *Europarl*, (2010): 4.

¹⁶⁹ JRS-Europe, “Becoming Vulnerable in Detention,” 5.

who can leave, when and where.¹⁷⁰ Along the Balkan route, access to movement is tangible in one's success in crossing a border. This can be seen in the case of Macedonia. There, I visited the camp, Vinojug, near the Greek/ Macedonian border. In Macedonia there are only two camps with each hosting about 100 people. The camp in the north is only a 30-minute walk from the Serbian border. Thus the population has decreased from 1500 people to 90 people over the course of the spring and summer of 2015.¹⁷¹ The camp in the south, however, lies near the Greek border. It was established by the UNHCR as a transit camp while the borders were still open. In the camp, people live in plastic containers without ventilation and most without AC since the containers were only meant to house people for a maximum of 1-2 nights. Not only are the conditions stark, but the main reason why people are stuck in this camp is simply due to timing. I spoke to a man who told me,

I am writing a book called "last train to Serbia." We went north to Tabanovce [camp in north] for 19 days and made it to Serbia. But we were pushed back because the borders were closed. We've been here 5 months.

Like many in the camp, he was simply too late. He was on the last train to Serbia when the borders closed and he was sent back. Yet now in the camp he is forced to wait. They call the camp a prison. In the camp a Syrian girl told me that she cannot sit there doing nothing. It makes a person go crazy.

In camps, mobility is used to control who can leave and where they can go. In the case above those in the camp may not exit the facilities. Due to the border closures they are simply waiting to be processed. Anthropologist Bendixsen writes "waiting has become one local effect

¹⁷⁰ Stephanie Silverman, ed., *Carceral Spaces: Mobility and Agency in Imprisonment and Migrant Detention*, (Routledge, 2013), 51.

¹⁷¹ Interview with Legis

of policies and management of migration at the nation state and supranational EU scale.”¹⁷²

Griffiths et al, add that rather than being an asset, too much time can create a state of limbo where one feels “socially abnormal outside the rush of the rest of society.”¹⁷³ On Lesbos I spoke with a man from Nigeria who had just arrived two months prior. Although the European Asylum Support Office (EASO) had denied his claim initially, he petitioned for an appeal and now has a temporary status until his case is revisited. While he is able to leave the camp, unlike many stuck in Moria, he is unable to work and live on his own as he is waiting. He told me there was nothing to do in the camp. He eats, sleeps and thinks about what has happened. He said he is going crazy as there is nothing to do and all he does is think about his family who died in the war.¹⁷⁴ Craig French describes the phenomenon of waiting in the detention centers as a foundation of anxiety. He writes,

Caught between worlds (the sending nation and the receiving nation), confined, unable to go about their normal business, detainees are prevented from being able to project a stable sense of themselves into the future or be with others. The place of the detainee is destroyed, and instead, the individual is thrown back into mere space, in confinement. The detainee is, in other words, evicted from the house of being, which leads to his or her consumption by what Heidegger called anxiety.¹⁷⁵

Griffiths et al, write that excess time can be paired with waiting but that it is also viewed as “unproductive and pointless stasis” often fueling a sense of shame.¹⁷⁶ They add, “This form of temporal experience can be understood as a form of disjuncture, in which an individual feels ‘outside’ of the normal flow of time of mainstream society. Such discontinuity or stasis is associated with people’s understandings and expectations of the future.”¹⁷⁷ In detention waiting

¹⁷² Simone Bendixson, “The refugee crisis: destabilizing and restabilizing European borders,” *History and Anthropology* 27 (2016): 543.

¹⁷³ Griffiths et al, “Migration, Time and Temporalities,” 22.

¹⁷⁴ Interview in Lesbos, July 20, 2016

¹⁷⁵ Craig French, “To Lose One’s Home in the World: The Injustice of Immigrant Detention,” *Journal of International Political Theory* 11 (2015): 365.

¹⁷⁶ Griffiths et al, 22.

¹⁷⁷ Ibid, 28.

to be processed there is little to do to fill one's time. In the DEVAS project, the Jesuit Refugee Service reported,

The strict regimes found in many detention centres have a profound negative impact on detainees' lives. The fixed eating times, recreation hours and mandatory nightly curfews lead detainees to feel as if they are in prison.¹⁷⁸

Indeed, this rhetoric of 'hell' and 'prison' are frequently used to describe the detention facilities.

One of the men I spoke to in Salzburg gave free violin concerts to pass the time. But until his asylum claims are processed he is stuck in the camp with limited activities. He mentioned they call the camp 'the hell' because there is nothing to do. It is like a prison.¹⁷⁹

Criminality

The Dublin Accords are premised on the assumption that all EU countries are 'safe,' meaning one should register in the first country one enters.¹⁸⁰ The policy is based on a system of mutual trust that is ill founded. In 2008 Greece was accused of refouling some asylum seekers and not processing others.¹⁸¹ Movement to secondary countries often occurs because of failing asylum systems in the first country of asylum, yet this is unlawful under the Dublin Accords. I argue that the structure of the Dublin Accords facilitates criminality. Anthropologist Bendixsen explains that the Dublin Accords are structured to prevent 'asylum shopping,' the phenomenon when asylees pick specific European countries to claim asylum in or putting in claims in multiple EU countries.¹⁸² Yet not all European countries are equal. Claiming asylum in Macedonia is markedly different than claiming asylum in Germany. During an interview with Atina, a feminist organization in Belgrade that has been active in supporting female refugees, I was told that most

¹⁷⁸ Jesuit Refugee Service-Europe, 5.

¹⁷⁹ Interview in Salzburg

¹⁸⁰ O'Nions, 101.

¹⁸¹ O'Nions, 103.

¹⁸² Bendixsen, "The Refugee Crisis," 543.

people try to leave Serbia because they are given very few incentives to stay. There are limited social services and cash assistance is scarce. Compared to the robust social welfare of Germany or Austria there is little to compare.¹⁸³ Yet it is technically illegal for one to travel from Serbia to Germany. The policy in Serbia is that you must claim asylum within 72 hours of arriving in the country and registering at the nearest police station. But there is no one to enforce this. No one escorts asylees to the camps so many remained unregistered. However, if you enter the country illegally and do not claim asylum you can be prosecuted for your irregular entry and sent to detention centers.¹⁸⁴

Similarly, in Macedonia the majority of those in the camps have not sought asylum. Many NGOs struggle with this because they cannot force individuals to seek asylum if they do not wish to, but the government needs to register them or they become illegal (criminals). In the summer of 2015, Macedonia amended the asylum law. The government introduced ‘Intention to Seek Asylum.’ With this, an asylum seeker has 72 hours to decide if they will apply for asylum. If the 72 hours pass and they do not apply and are caught, they are placed in the same detention facilities as foreigners who overstay their visas—thus categorized as criminal. If someone submits the intention, and they ask for asylum within 72 hours, they must go to a police station or reception center and go in front of a police officer to submit the application. Then after the asylum application, in front of the Ministry of Interior, they become an official asylum seeker. I spoke to the Macedonia Young Lawyers Association about this process and they stated that this is problematic, as a person is an asylum seeker when they arrive, not when the police officers receive the application.¹⁸⁵ It creates an additional barrier to asylum. Mezzadra and Neilson argue that migrants are often deemed as illegal prior to entering the country (zone). It can be difficult to

¹⁸³ Interview with Atina

¹⁸⁴ Interview with Belgrade Center for Human Rights

¹⁸⁵ Interview with Macedonia Young Lawyer’s Association

discern between refugee and migrant due to the dangerous journeys that they take.¹⁸⁶ The shared behavior the irregular migrant and the asylee (illegal entry) becomes the defining feature of both, hence they become illegal. By marking their entry as illegal, asylees must prove their worthiness of asylum through the arduous asylum process. In other words, rather than granting immediate asylum one is a criminal until proven otherwise.

According to the IOM, upon entry to Hungary, asylum seekers must file an asylum claim in Hungary or they will be sent back to Serbia. However, the asylum process takes approximately three months in Hungary. It is illegal to go to another country in the EU during this time while one's case is still open in Hungary.¹⁸⁷ While one waits, asylum seekers must reside in detention centers (slightly nicer 'reception centers' for some families). Unlike detention centers, reception centers are typically open. Some of these detention centers are technically considered open yet if the men do not return by a set curfew their legal case for asylum will disappear from the system and they will have to start over. Additionally, while they may technically leave, if they are caught by the police they will be put into a detention center (if they resided in a reception center prior).¹⁸⁸ The movement of asylees is policed to the extent that visible bodies are incarcerated rather than supported. While Hungary's asylum policies appear extreme in many ways they are complying with EU law. Their implementation of Dublin is an accurate reading of the document and they have called out other countries like Greece and Italy for not complying with the accords and collecting data (fingerprints) upon entry to the EU. Yet, during this process of data collection, asylum seekers remain stuck until their information is processed. Even if the detention is intended to be brief the slowness of processing asylum claims lends itself to the extension of stay.

¹⁸⁶ Mezzadra and Neilson, 144.

¹⁸⁷ Interview with IOM Hungary, August 3, 2016

¹⁸⁸ Interview with IOM

This detention is in large part due to the labeling of migrant bodies even before they file for asylum. Dublin is dependent on EURODAC.¹⁸⁹ Through this system states can determine where the first claim of asylum was made and send asylees back to that location if it is considered safe. Geographer Michalon argues that confinement is necessary to this process as it ensures that asylees remain static. This facilitates the information gathering process as well as the speedy removal and deportations of those who have already been processed.¹⁹⁰ Indeed deportations, known as ‘push backs,’ often occur after this data collection process. In countries of asylum threat of deportation is used to monitor inclusion and instate control.

¹⁸⁹ The data collection system that records fingerprints

¹⁹⁰ Michalon, 46.

Chapter 3

Instilling Social Control Through Threat of Deportation

99% of people come this way...Because all the time I was speaking with other people, they were saying that, yeah, this way, this way...And as my friend said, we came to Macedonia. After that we passed the border with train. Before that registering, lots of registering... And over there I ask, 'what country can I go?' They said that you can go to Austria and Germany. And I knew that Austria is nearer. And I said, 'ok, I go to Austria,' because my daughter was ill, sick, and I said 'I want to stay the nearer place that I can stay.' 'Ok, just Austria.' And I was even speaking with my mother-in-law that 'I want to go to Austria, do you want to go to Germany or no?' Because lots of people were going to Germany because... everybody think of Germany is really better. But I said 'no, because of my daughter I don't want to go there. It takes more time for me.' Ok, I said my family, and they accepted to come to Austria. And we passed the border with train; this train goes straight until Serbia border...We passed about 2 hours, the border, by walking. And we reached Serbia. Over there, there was place to stay the night. They said that "you can go right now, but it is very cold and it is not good for you" ...In the morning we started again by walking to reach the place to again register and go by bus or train to the Croatia. And we choose with bus and with bus they start in the morning. We reached to the Croatia in the evening...And after that we stayed about 1 night before the border because the border was closed. And they said that it is not clear that when it will be open...And after that we, it was a very cold night. We had to stay in the bus. And we were stayed near big restaurant and it was empty for us, for all the immigrants, people that were coming. And after that night, in the morning they said that 'border is open and you can pass it. As soon as possible you should pass it because maybe it get closed again.'

—Interview excerpt with Hakim from Afghanistan

As Hakim mentioned, the end destination for many travelling along the Balkan route is Austria or Germany. Historically, Germany and Sweden are preferred destination countries in Europe with the two taking up 40% of all asylum applications in 2014.¹⁹¹ Both provide robust social welfare for asylum seekers awaiting decisions and fairly speedy residency compared to

¹⁹¹ "Germany, the EU country which takes the most asylum seekers, is straining," *The Economist*, August 21, 2015, accessed February 25, 2017, <http://www.economist.com/news/europe/21661941-wanting-burden-shared-germany-eu-country-which-takes-most-asylum-seekers-straining><http://www.economist.com/news/europe/21661941-wanting-burden-shared-germany-eu-country-which-takes-most-asylum-seekers-straining>.

other European countries.¹⁹² In 2015, one million people applied for asylum in Germany.¹⁹³ By the end of 2015, Germany had the highest number of refugees in Europe with 316,100 protected persons.¹⁹⁴ Germany became increasingly popular as a destination country in January of 2015 after a late night tweet by the German Office of Migration and Refugees. The office tweeted “We are at present largely no longer enforcing #Dublin procedures for Syrian citizens.”¹⁹⁵ What this meant is that all *Syrian* refugees who made it to Germany would be protected from the deportations and pushbacks instilled in the Dublin Regulation. However, in August of 2015, Dublin was reinstated due to the surge in the number of applicants and the fear of growing numbers.¹⁹⁶

With rumors of bottlenecked asylum claims in Germany and the reinstallation of Dublin, Austria became a more desirable destination country. In 2015 there was a mass influx of asylum applications. Between 2015-2016, nearly 100,000 people came to Austria. It is unclear the exact number that stayed in the country. Approximately 20% made asylum applications but it is possible that some left for other countries. As of August 2016, Austria has 86,000 people registered but not everyone in this number are still present. In August 2016, 75-80,000 people were estimated to be undergoing the asylum procedures in Austria.¹⁹⁷ While these numbers are

¹⁹² Elsa Buchanan, “Migrant Crisis: Which European Country Offers the Most Help to Refugees,” *International Business Times*, October 15, 2015, accessed April 17, 2017, <http://www.ibtimes.co.uk/migrant-crisis-which-european-country-offers-most-help-refugees-1523852>.

¹⁹³ “Migration, Asylum and Refugees in Germany: Understanding the Data,” IOM, January 22, 2016, accessed February 24, 2017, <http://www.iom.int/news/migration-asylum-and-refugees-germany-understanding-data>.

¹⁹⁴ “UNHCR redefines role in Greece as EU-Turkey deal comes into effect.” UNHCR, March 22, 2016, accessed January 28, 2017, https://data.unhcr.org/mediterranean/flash_read.php?ID=113.

¹⁹⁵ Peter Foster, “One year ago, Angela Merkel dared to stand up for refugees in Europe. Who else even tried?” *The Telegraph*, August 24, 2016, accessed February 25, 2017, <http://www.telegraph.co.uk/news/2016/08/24/one-year-ago-angela-merkel-dared-to-stand-up-for-refugees-in-eur/>.

¹⁹⁶ “Germany reinstates Dublin rules for Syrian refugees,” *DW*, October 11, 2015, accessed February 25, 2017, <http://www.dw.com/en/germany-reinstates-dublin-rules-for-syrian-refugees/a-18842101>.

¹⁹⁷ Interview with Diakonie

large, the conversation surrounding Austria's resources in comparison to the influx have blown up the consequences of such numbers.

Similar to Serbia and Hungary, visibility is crucial to the handling of asylum claims. The claim that Austria or Germany does not have the resources to handle the number of asylum claims is an artificial argument. In the summer of 2016 there was a debate over whether the influx of refugees created an 'emergency situation' in Austria. With this emergency situation, officials could effectively suspend the Dublin Regulation and refuse to accept more people. Diakonie, a legal aid organization I met with in Vienna argued that this rhetoric of emergency is ill founded. I was told, "So we see that there aren't that many people coming right now. We have empty places. Thousands of empty places. So there is no emergency situation here." The overfilling of reception centers such as Traiskirchen outside of Vienna sent a message to the media that there were no facilities for asylum seekers in Austria when in fact there were empty buildings.¹⁹⁸ This use of the media to control perceptions of asylum seekers is one of many tools the Austrian and German governments use to distort the reality of asylum seekers in Europe.

In this chapter I look specifically at the fallout of the Dublin Regulation and the impact this has had on asylum seekers. I argue that the looming threat of deportation and use of pushbacks through Dublin enforce and expand the carceral state. I examine the consequences of marginalization and how this tool is used to facilitate the deportation process. I explicitly look at the resources available to asylum seekers and how lack of access to the labor market keeps asylum seekers to the margins of society. I explore the rhetoric used to describe refugees that reinforce notions of security and criminality. Lastly, I look at the rights afforded to refugees and how restrictions to movement limits protections even after asylum is granted.

¹⁹⁸ Interview with Diakonie

Economic and social stratification

The state controls who is included within society through enhanced border control. For those who reach countries of destination, timed integration is used as tool to filter asylum seekers. Though these asylum seekers have entered the physical space of the state they occupy the liminal space and not the center. Lentin and Titley argue, “Integration has become a process, beyond and inside the territorial border.”¹⁹⁹ Indeed, integration is a border to those wishing to enter society and restrains asylum seekers to the periphery. This is facilitated through the interview process and the rights afforded to asylum seekers, specifically access to the labor market.

The process of applying for asylum in destination countries mirrors those in transit countries with the exception that one wishes to stay. Like before, the criminalization of asylum seekers is propagated throughout the asylum process. Asylum claims are filed at police stations and individuals must wait within a designated area to have their first interview. Hence, the police control this aspect of inclusion, which is essential to the functioning of the carceral state. In addition to the similar process, the idea that one is illegal until legal is embedded in this system. Ibrahim, from Iraq, explains that he and his family had to wait for a month before their first interviews.

And the disaster starts when we move to Klapfort. It was a tent. And it was cold that night in Austria...And we spent 4 weeks in the tent...The problems are not by the Austrian system. There are too many refugees asking, asylum seekers wanting fingerprints in Austria. I asked the police officer why we are living or sleeping in tents. He said we don't imagine that all of these numbers are coming. Are registering in Austria...So we will start building containers. So they start building containers and this was enough. Every family had his own container. Super small. But it was ok for us because at night it was cold and you know, you are home.²⁰⁰

¹⁹⁹ Mezzadra and Neilson, 164.

²⁰⁰ Interview with Ibrahim in Graz

While one waits for the first interview freedom of movement is not granted. Rather individuals are confined to set spaces, in this case containers in Graz, until their claims are validated. During the interview process, families are separated for questioning. Their stories are placed against each other to see if they match. A volunteer with Border Crossing Spielfeld explains,

And this is also one of the problems where I think the people in the police or at the registration centers, they have so little information about how life works in other countries, and in other religions and in other systems, that for them anything like that is a sign that somebody is trying to hide something or trying to come into this country illegally...He was talking about trust before, but there is this deep mistrust. So if they find anything where you contradicting yourself or even, like 'how can you be hesitant about your birth date? You must have something to hide, yeah.' And nobody sits down and says, 'ok, so why exactly is it that you cannot tell your date of birth?'²⁰¹

The scenario she is referencing is the different calendar system that changes people's birth dates. When there are slight discrepancies, even for minor issues such as birth dates, asylum officers often become suspicious of the asylum seeker and the truth of their claims. Another issue with the interview process is the translators. In this interview, we were told that oftentimes, the translators would change the story of an interviewee to help their case. Yet if that person's story does not match their spouses, for example, their claims are invalidated. While this happens in other countries as well, the stakes are highest in destination countries where the filtering of claims is the difference between the beginning of a new life or being deported.

After the first interview asylum seekers must wait for their second interview. This second interview determines if one is granted asylum but often people must wait indefinitely for this interview to take place. This creates a scenario of limbo, much like time spent in the camps, where one must wait until the state decides if they can remain. Of those I spoke to in Austria and Germany this waiting period was the greatest generator of uncertainty. Amir from Afghanistan

²⁰¹ Interview with Border Crossing Spielfeld

explained that the timing of the second interview is arbitrary. He knows two brothers who came to Austria at the same time. One brother got his second interview after one month and the other one got his after three years. So now he is just waiting. This is the hardest part. He has been in Vienna for about 10 months and has not had his second interview yet nor does he have any idea when it will be.²⁰² Marginalization is heightened during this period as movement is restricted and there are few ways to integrate economically and socially within the community.

Germany and Austria both operate under a quota system. Each district must take in a certain percentage of asylum claims. This is in large part due to the equal distribution of social services. But for the asylum seeker this means they must wait in the district they applied for asylum in until their claim is processed. There is talk of extending this restriction of movement for those granted asylum but this is highly controversial since once you have asylum you are a legal resident and afforded all the rights of a EU resident, including movement.²⁰³ But until you are a legal resident, freedom of movement is not a given. Opportunities for filling your time depend on the district you are in. Some offer free language courses and the ability to go to university courses. For those in places like Vienna, cultural passes are available to visit museums and other landmarks. But those in smaller towns or rural areas have little to fill their time with.

Austrian and German law does not allow asylum seekers to work. Hence they are marginalized from the economic sector. In Salzburg, Austria I spoke to two Syrian men who declared:

Without a job you don't have a normal life. And you will have to hide yourself from everyone because you will feel shame...and that is the problem here. We are sitting without doing anything, without doing nothing and this is the shame.²⁰⁴

²⁰² Interview with Amir

²⁰³ Interview with Diakonie

²⁰⁴ Interview in Salzburg

There is little to do to fill one's time during this waiting period and the economic resources that do exist are for those who are granted asylum. There are very few resources granted to asylum seekers while they are waiting.²⁰⁵ It is technically illegal to hire someone who has not been granted asylum and this economic marginalization keeps those who wish to contribute to the state they reside in from doing so. In his article, "From Refuge the Ghetto is Born," Agier writes, "those confined outside are people who are "cast out inside" within the state-space. The extraterritoriality of outcasts is thus defined by this constant tension between an inaccessible inside, in regard to the category of national citizens."²⁰⁶ Asylum seekers in the EU are 'cast out' of the state space, as they are continually 'othered' within society. They exist outside of the social order yet central to the policies in place that police their bodies. Agier adds, "the place finds itself cornered, even confined, in these marginal areas, stigmatized by the prejudice and stigma associated with the physical border between a fantasized interior and exterior, between 'us' and 'them.'²⁰⁷ Indeed, those who occupy these liminal spaces grapple with the social stigma of being 'othered.'

While it is not legal to work for money, it is permissible to volunteer. I spoke to two asylum seekers who volunteer their services in Austria. Nabil, a man from Syria, performs free violin concerts in Salzburg to give back to the community. He was a concert violinist in Syria and uses this skill, as well as his English to translate for others. Likewise, Amir, a young man from Afghanistan volunteers at an organization that helps asylum seekers with positive decisions find work. He assists with job fairs and translation services. He explained that this is a bit ironic since he himself cannot be employed. He is often asked why he does not have a job if he is

²⁰⁵ Interview with Samaritan's Purse

²⁰⁶ Michel Agier, "From Refuge the Ghetto is Born: Contemporary Figures of Heterotopias," in *The Ghetto: Contemporary Global Issues and Controversies* ed. Ray Hutchison and B.D Haynes (Westview Press, 2011), 279.

²⁰⁷ Agier, "From Refuge the Ghetto is Born," 271.

helping others find jobs but he must wait until his second interview to find out if he has been granted asylum. While the state marginalizes asylum seekers through its policies of exclusion, many individuals find ways to integrate themselves in the community. This is through making Austrian and German friends, taking university courses and exploring the city. There is also a level of ownership and belonging in one's new home. On multiple occasions, I was given tours of the city by those I interviewed since they were residents and I was the visitor. Asylum seekers exercise agency over their situations and though language skills and educational levels create advantages, people do find ways to push themselves from the periphery of society. This is not to dismiss these individual cases of inclusion but to speak to the larger structural transnational policies that enforce marginalization.

This marginalization is important not just because of the social anxiety it creates. It also keeps asylum seekers to the outskirts of society, ultimately making it easier to deport them. De Genova writes, "Deportable populations do not embody the supposed absence of the state but rather become the object of its sovereign power to exclude, even while it incorporates them."²⁰⁸ By keeping asylum seekers to the peripheral of society it is less noticeable to remove them from state. In Sweden those who will not be integrated into the welfare system are deported preemptively. Furman states, "Detainees should be excluded (deported) today, because they are ineligible to be included tomorrow."²⁰⁹ This attitude of deporting those who will not be integrated is present in Germany and Austria as well. By keeping all asylum seekers to the margins until these groups have been filtered, state's can quickly remove those seen as 'undeserving.' This furthers the state's control over inclusion and is fundamentally embedded in notions of criminality. It is only after intense surveillance and research into the 'worthiness' of

²⁰⁸ Nicholas de Genova, *Deportation Regime*, 15.

²⁰⁹ Furman, 171-172.

the claims are individuals included into society. Until then, this marginalization ensures the smooth facilitation of deportations that do occur.

Threat of deportation

Threat of deportation is used by the state as a method of control over asylum seekers. Daniel Kangstrom raises the idea of deportation as a form of ‘post-entry social control’ in addition to a form of border control.²¹⁰ This expands on Mezzadra and Neilson idea that borders function as sites of inclusion and threat of deportation enforces this mechanism. De Genova writes, “In deportation, the whole totalizing regime of citizenship and alienage, belonging and deportability, entitlement and rightlessness, is deployed against particular persons in a manner that is, in the immediate practical application, irreducibly if not irreversibly individualizing.”²¹¹ This is seen in the case of the asylum seeker.

In 1993 Germany made it illegal for people to seek asylum who entered from states who are members of the Geneva and European Human Rights conventions.²¹² While this is restrictive, it is upheld by the Dublin Regulation, with the requirement that one must apply for asylum in the first country one enters. Hence, this policy is normative. After the first interview, there is the period of waiting mentioned above where states determine whether to grant asylum. If officials have evidence that the applicant has applied for asylum elsewhere they are pushed back. These push backs are a bit complicated in that the country has to accept the deported person. These countries are also part of the Dublin Regulation or part of the EU. Each state has a deadline to ask another to take back a person. Once that deadline passes the state must keep the case. For example, if Austria wants to send someone back to Croatia they officially ask and then Croatia

²¹⁰ Nicholas de Genova, 22.

²¹¹ Ibid., 34-35.

²¹² Mezzadra and Neilson, 144.

has two months to answer. After the two months, if they haven't replied, the case is automatically theirs, as it defaults back to the country that has been asked. So in this case Croatia would automatically take the person.

In the summer of 2016, Croatia never gave an official reply to Austria. So all these cases took the maximum number of time, which is two months. On the day after the two months, Austria says "congratulations the case is now yours." The government then notifies the asylum seeker with a letter with an intention to deport. The applicant has an interview with access to legal aid and this is where civil society steps up to defend people. In an interview with Diakonie, a legal aid organization, I was told,

Croatia does nothing with Dublin. They won't take anyone from Hungary or Italy or here. Hungary won't take anybody back. Croatia wouldn't have to take anyone back if they just said ok but they don't answer requests.²¹³

This refusal to uphold the Dublin Regulation, adds to the uncertainty of asylum seekers as their lives are put in flux.

Uncertainty is also created through the lack of knowledge of when someone will be deported. In Austria and Germany, you cannot be deported without your family. A representative from Border Crossing Spielfeld explains this process:

There's also some things like if you're a family unit, the family has to be deported together, so some families have taken to not sleeping in the same place anymore, once they get served the second letter. But that's like extremely stressful for the people because it means someone has to literally go and sleep somewhere else, but still kind of stay in touch and 'ok, on my half, have the police knocked on my door while I was away or have they not?'²¹⁴

This constant of hopping from house to house to escape the police creates anxiety. There is a paranoia concerning if someone will come to deport you and if so when they will. This is

²¹³ Interview with Diakonie, Austria

²¹⁴ Interview with Border Crossing Spielfeld

exacerbated by the long wait times and the lack of control that asylees have over the asylum application process.

The fear of being ‘pushed back’ is one that preoccupies many of those I spoke to. Hakim, a man from Afghanistan travelled through Serbia and Croatia with his sick daughter to get to Austria. He explains that every time they stopped in a new country, he would ask if they could stay and seek asylum there.

We were saying we want to stay because all the time when I was touching my daughter, I understood that she has a high fever. But they were saying, ‘no, because you should go. There is no place for you here. You cannot here stay...And all the policemen’s were facing with us with very cruel behavior that ‘you should go.’

When he got to Austria his daughter was treated in a hospital and they applied for asylum. This summer (2016) he found out he got a negative decision since there was evidence that he travelled through Croatia. In accordance with the Dublin Regulation he is legally supposed to go back to the first safe country he entered (Croatia). He said,

They say that right now you should go back to the Croatia. And at first I was really shocked. Why we came this way and all the time they were saying that you should go this way, and right now they are saying you should come back because of the Dublin matter...And really it is hard for us for right now that we should go there. Because somehow we think if they, the most awful things that come to our mind is if they, if Austria says, ‘oh, you should to go Croatia,’ maybe they say ‘you should go to a place maybe Greece, maybe Turkey.’ And because of that, there is no, what is, trustful matter that we can say, yeah, we can trust that. And I don’t know.²¹⁵

The fear of pushbacks is not just the fear of being sent back to the prior country but also the country before. There is talk of people being sent back to Turkey and the greatest fear is being sent back to your home country. With talk of making Afghanistan a safe country and creating ‘safe zones’ within other countries this fear is not far-fetched. Ibrahim, a man from Iraq spoke of his fear of being sent back home.

²¹⁵ Interview with Hakim

And as I said one of the things that I'm afraid of that if the Austrian government says no to me, deporting me back to Iraq, where shall I go? In Baghdad, in the airport they will say you are from Mosul. So you will be, there is a big question mark on your name. So there will be no investigations no nothing because everyone is under suspicion in Mosul.²¹⁶

Ibrahim is from Mosul, a territory controlled by ISIL. Everyone living in Mosul is under suspicion of being affiliated with ISIL so Ibrahim fears that not only will he be sent back to Iraq, but once he is, he will be killed for formerly living in Mosul. The fear of pushbacks is not simply the fear of having to start a journey over, although that certainly is a valid fear, but for many is the fear of a death sentence. For returning to their home countries is a death sentence for many fleeing war and persecution. Even for those being sent back to other European countries there is uncertainty concerning what happens next. A representative from Diakonie told me they are concerned because they never hear back from their former clients who are deported to Croatia. They receive calls from those sent to Slovenia but no one knows what happens when someone is sent to Croatia.²¹⁷ There are suspicions that those who are sent back are detained by the state and treated as criminals. Those sent back to Turkey as well are often detained. There are few remedies in place for those who are deported. They become stuck in much the same process discussed in chapter two.²¹⁸

While deportation can function as a death sentence for many, for others it operates as a phase rather than an end in itself. This is less for those returned home but for those sent to other 'safe countries.' Peter Nyers coined the term *deportspora* in 2003 to refer to those whose asylum claims have been rejected and other stateless and undocumented persons who are members of

²¹⁶ Interview with Ibrahim

²¹⁷ Interview with Diakonie

²¹⁸ "Information Note on Asylum Seekers in Detention and Dublin Procedures in Hungary," *Hungarian Helsinki Committee*, accessed March 21, 2017, <http://www.helsinki.hu/en/information-note-on-asylum-seekers-in-detention-and-in-dublin-procedures-in-hungary/>.

‘transnational corridors of expulsion.’²¹⁹ Typically members of this category come from similar nationalities. In the European example, Afghans make up a sizable population of the deportspora. These people are forced to re-navigate their journeys much like those who are blocked by a closed border.

While the threat of deportation looms over many, this fear is validated through the actual pushbacks that do occur. Transfers under Dublin often begin with detention.²²⁰ According to Article 28 of the Dublin III Regulation referring to detention for transfers,

1. Member States shall not hold a person in detention for the sole reason that he or she is subject to the procedure established by this Regulation.
2. When there is a significant risk of absconding, Member States may detain the person concerned in order to secure transfer procedures in accordance with this Regulation, on the basis of an individual assessment and only in so far as detention is proportional and other less coercive alternative measures cannot be applied effectively.
3. Detention shall be for as short a period as possible and shall be for no longer than the time reasonably necessary to fulfill the required administrative procedures with due diligence until the transfer under this Regulation is carried out.²²¹

While there are safeguards in place to protect those placed in detention, the hiring of private contractors and the lack of access to legal procedures threatens the safeguards that exist. In addition, the widespread use of detention for transfers undermines this process. EU states implement detention as a procedural first step in transfers instead of as a method of last resort.²²² Similar to the detention that occurs for those upon arrival, there is no maximum time limit for the detention for transfers. Oftentimes these detention centers are placed in or near airports to facilitate accelerated departures. The agents of deportation include transnational authorities, transportation companies, private security agencies, transnational experts and deportation

²¹⁹ Furman, 170.

²²⁰ O’Nions, 117.

²²¹ “Dublin II Regulation,” *Eur-Lex*, accessed 26 September 2016, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV:l33153>.

²²² O’Nions, 117.

escorts.²²³ Hence, deportation is not a covert operation but one that involves many international actors.

Types of protection

The process of gaining protection is not an egalitarian system. There are discrepancies over who gets asylum and what type of protection one receives. Most people who apply need to go through the appeals process. In general there are many positive decisions for Syrian refugees but not always for others. The biggest refugee population in Austria is Afghan. This is because it was easier for Syrians to travel to Germany under the ‘open door’ policy, which was only intended for Syrians. Hence, many Afghan refugees remained in Austria for their asylum procedures. A large portion of this population receives negative decisions. With the influx of more asylum seekers arriving, the number of negative decisions has grown. In the beginning of the influx, 77% of Afghans had positive decisions in the first instance and once appealed most got asylum or protection. But this is changing. In my meeting with Diakonie I was told that they are still making appeals under Dublin but often these appeals have little effect. During the appeals process you have to prove that the system is at fault and not the actions of individuals, which can be difficult. It is not enough to say with evidence that you have been in Hungary and were mistreated by the police. You have to connect this to larger structural issues. For instance, I interviewed someone in the midst of his appeals process and he was attempting to connect the failure of other countries to register him to a larger system wide issue in the EU.²²⁴

In addition to the difficult asylum process, once one has a positive asylum decision, protection is not guaranteed. In the EU there are two types of asylum protection: refugee status

²²³ Furman, 177.

²²⁴ Interview with Diakonie

and subsidiary protection. Refugee status is in accordance with the UNHCR²²⁵ and lasts for three years with the ability to extend the protection period pending review.²²⁶ Subsidiary protection is for those who do not qualify for refugee status but are still at risk of serious harm in their home countries. These protections are laid out in Directive 2011/95/EU of the European Parliament and of the Council (2011). In article 2 point F, subsidiary protection is granted to those who meet the qualifications below:

Person eligible for subsidiary protection' means a third-country national or a stateless person who does not qualify as a refugee but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to his or her country of origin, or in the case of a stateless person, to his or her country of former habitual residence, would face a real risk of suffering serious harm as defined in Article 15, and to whom Article 17(1) and (2) does not apply, and is unable, or, owing to such risk, unwilling to avail himself or herself of the protection of that country.²²⁷

In Germany, those given subsidiary protection are granted legal residency for one year (can be extended to two or more years), the possibility of a settlement permit (if one has sufficient knowledge of German and the attainment of a secure living situation) and access to the labor market.²²⁸

There are stark differences between refugee status and subsidiary protection, namely the freedom of movement. Those with subsidiary protection cannot leave the state they reside in, meaning that although they live in the EU and are legal residents they are not allowed to move freely within that space. I was told, “We hear stories of people who don’t get to see their family

²²⁵ A refugee is anyone “owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.”

²²⁶ BAMF, “Refugee Protection,” *Federal Office of Migration and Refugees*, accessed March 18, 2017, http://www.bamf.de/EN/Fluechtlingsschutz/AblaufAsylv/Schutzformen/Fluechtlingsschutz/fluechtlingsschutz-node.html;jsessionid=FA50CDABEC35A20A70E3ADEEAF8C2DE5.2_cid286.

²²⁷ “Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted,” *Eur-Lex*, accessed April 17, 2017, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32011L0095>.

²²⁸ BAMF, “Subsidiary Protection.”

members in other countries. Like their parents are dying in Italy and they just want to say goodbye but they can't leave."²²⁹ Further, those with subsidiary protection cannot participate in family reunification programs. This means they cannot bring their family over from their home countries in an expedited process. But perhaps most importantly, subsidiary protection is only a short-term solution. While it can be renewed and settlement permits are available to some after five years, it is difficult to meet the preconditions of a secure living situation. Conceptions of a stable future are also difficult under this protection. In order to be a citizen you cannot be on social welfare but if you cannot get employed you will never be fully off all welfare. In an interview with Diakonie I was told, it is difficult for those with subsidiary protection to rent a flat or find a job because on their cards it says when their protection expires. Most people do not want to rent a flat to someone under a two-year contract if they will not be there for the second year. Likewise, it is difficult to find short-term employment, especially with a lack of language skills.²³⁰ Since most language courses are only offered to those with protection, it is only once one has protection that one may begin utilizing these resources.

This dichotomy of refugee status and subsidiary protection has always been an unequal system but the closing borders have drawn attention to the limitations of subsidiary protection. Before people could travel freely throughout the EU due to the open borders. But now with the prevalence of internal border checks, this is almost impossible. Thus, those with subsidiary protection are stuck in the country they applied in. A representative from Diakonie remarked,

Subsidiary protected refugees are not refugees. It is a second-class status...So from our point of view it makes no sense to have these different statuses. With refugee status, you get a blue convention passport immediately. Basically you have the same rights as Austrian citizens.²³¹

²²⁹ Interview with Diakonie

²³⁰ Ibid.

²³¹ Ibid.

In another interview I was told that ‘there are no second class refugees’ yet we see that there are clear distinctions under these two types of protections. There is also inequality in who gets what protection. Not only are Syrians more likely to hear back first (with a positive decision) but they are also more likely to receive refugee status. Hakim, from Afghanistan says,

And another thing, and I see, maybe nobody speak about it. Somehow there is difference between people here. Between refugees. For example, the people from Syria, after five or six months, they get...passport. But another people from Afghanistan or Iraq, after one year or two year [get passports]...They say, ‘Because there is a complete war in Syria.’ I don’t know. Because...I am really thankful for all the supports, all the help that you had from us. Because even in our country they don’t, they do not do even half of that. But when I see this somehow difference, I ask myself why? Really there is difference between refugees? All of them they come from very bad situation.²³²

Hakim’s point, that all refugees should be treated equally is a valid one. While Syrians are streamlined through this process others have to wait years before even hearing what type of protection they get, not to mention the inequities in these types of protection. This further marginalizes those who do not qualify for refugee status from those who are seen as deserving (i.e. Syrians).

Analyzing freedom

What does freedom of movement mean in countries of asylum? How does the fear of deportation and marginalization that occurs stifle this movement? Freedom of movement is not just freedom to cross borders but also freedom within the space you occupy. This freedom encompasses the ability to participate economically within society, the ability to take up public space and the ability to stay. As discussed in chapter one, the No Borders Movement is rooted in the freedom to leave and to stay. As activist Syed Khalid Hussan, proclaims, “What we seek is

²³² Interview from Hakim

freedom. Freedom to move, to return, and stay.”²³³ In countries of asylum there is not a guarantee of the freedom to stay or move freely within that society.

This movement is not solely based in physical mobility but also social and economic mobility. For many asylum seekers, economic integration is unattainable. Waiting until one has a positive decision to work hinders this process. The lack of resources to support this sector prior to protection further acts to stratify those on the margins. Likewise, social mobility is difficult for those on the periphery. It is in the integration process that asylum seekers (now refugees) are especially vulnerable to xenophobic rhetoric. The securitization of migration controls is fully exhibited in the social sphere under the idea of migration as a “danger to public order, cultural identity and domestic and labor market stability.”²³⁴ Refugees are seen in opposition to the European way of life when they complicate notions of multiculturalism and inclusion. Unlike ‘economic migrants,’ asylum seekers are not afforded access to the labor market until they are granted protection. But once granted protection, asylum seekers are not as expendable or deportable as those in the EU for the purpose of labor. International politics scholar Huysmans writes that the precarious legal standing of economic migrants makes them even more “flexible and exploitable.”²³⁵ The conflation of asylum seekers with economic migrants is heightened under this rhetoric of fear. If asylum seekers are seen as economic migrants in disguise, then the idea of them taking valued European jobs and benefitting from welfare services seem less far-fetched.

In addition to the fear of taking jobs, access to welfare benefits is a contested issue. Huysmans adds, “For welfare chauvinists, immigrants and asylum-seekers are not simply rivals

²³³ Walia, 280.

²³⁴ Jef Huysmans, “The European Union and the Securitization of Migration,” *Journal of Common Market Studies* (2000): 752.

²³⁵ Huysmans, “The European Union and the Securitization of Migration,” 754.

but illegitimate recipients or claimants of socio-economic rights.”²³⁶ These fears are embedded in the securitization of EU asylum policy and notions of ‘deserving’ and ‘undeserving.’ Asylum seekers are viewed as guilty until proven innocent and labeled as criminals or freeloaders. This attitude is not new in Europe but has been heightened with the influx of people. Bunyan writes “the equation, familiar to Britain, of blacks with crime and drugs and terrorism, and all of that with illegal immigration...has spread across Europe, so it now forms a basis for the new European State.”²³⁷ In a Pew study conducted in July 2016, fears of terrorism, job stealing and crime were measured in 10 European countries. More than 50% of those responding in five countries remarked that refugees would take away jobs and social benefits. In Germany, 61% believe that refugees will increase the likelihood of terrorism, 31% believe that refugees will take jobs and social benefits and 35% believe that they will increase crime rates. It is important to note that of the 10 countries surveyed, Germany and Sweden ranked the importance of national identity as least crucial.²³⁸ But these countries also tend to have the last say in who will be integrated within society since they are further north and west, especially compared to Spain, Hungary and Greece (3 of the other states sampled).

This rhetoric of linking refugees to crime, terror and freeloaders makes social mobility difficult. It also reinforces notions of criminality, which can impact future policies. In 2015, during his presidential campaign, Donald Trump gave a speech about how Mexican immigrants are bringing crime and drugs to the US and in order to prevent this the US needed to build a wall. He contrasted this with Germany’s open door policy, which has allegedly led to increased rates

²³⁶ Huysmans, 767.

²³⁷ Monica Den Boer, “Moving Between Bogus and Bona Fide: The Policing of Inclusion and Exclusion in Europe,” in *Migration and European Integration: The Dynamics of Inclusion and Exclusion*, ed. Robert Miles and Dietrich Thränhardt, (Fairleigh Dickinson University Press, 1995), 96.

²³⁸ “Europeans Fear Wave of Refugees Will Mean More Terrorism, Fewer Jobs,” Pew Research Center, July 11, 2016, accessed March 20, 2017, <http://www.pewglobal.org/2016/07/11/europeans-fear-wave-of-refugees-will-mean-more-terrorism-fewer-jobs/>.

of crime. Although there is no evidence in such increases and it has been reported that refugees commit criminal activity at an equal rate to German citizens, Trump is not alone in assuming that refugees create a dangerous atmosphere in Europe.²³⁹ This has led to backlash from the German people, specifically from the far right. In 2016 the Federal Criminal Police Office in Germany reported 970 attacks on asylum centers and 2,396 crimes against individual refugees. Not only is there an increase in crime against refugees but the threat of deportation still looms over those granted protection, particularly for those with only subsidiary protection. Interior Minister Thomas de Maiziere has called for more returns and the establishment of detention facilities in airports to facilitate this process.²⁴⁰ Hence, the struggle for the freedom to remain in countries of asylum is not won. Even the coveted protected subject is a deportable body to the EU.

²³⁹ Aamna Mohdin, "What effect did the record influx of refugees have on jobs and crime in Germany? Not much," *Quartz*, February 2, 2017, accessed March 20, 2017, <https://qz.com/901076/what-effect-did-the-record-influx-of-refugees-have-on-jobs-and-crime-in-germany-not-much/>.

²⁴⁰ "BKA: 2016 crime rates show Germany continues to be dangerous for refugees," *DW*, March 2, 2017, accessed March 21, 2017, <http://www.dw.com/en/bka-2016-crime-rates-show-germany-continues-to-be-dangerous-for-refugees/a-37394946>.

Conclusion

Freedom is a Long Time Coming

Today marks a dark day in the history of refugee protection – one in which Europe’s leaders attempted to buy themselves out of their international obligations, heedless of the cost in human misery. A year ago, the Greek islands were transformed into de facto holding pens, as Europe’s shores went from being sites of sanctuary into places of peril. One year on, thousands remain stranded in a dangerous, desperate and seemingly endless limbo.

— John Dalhuisen, Europe Director of Amnesty International²⁴¹

Between January 1st and March 19, 2017, 722 asylum seekers have arrived in Europe via Italy, Greece and Spain. This is eight times lower than the rate of arrival in 2016. However, the warmer weather in February saw a 50% increase from January and it appears that people are still steadily arriving.²⁴² Despite these numbers, media attention of these arrivals is scarce. Visibility is a key issue concerning the influx of asylum seekers in the EU. From reading the news one would think that the ‘refugee crisis’ is over. It is difficult to find articles beyond autumn of 2016 discussing current trends and EU policies. Nevertheless, this issue is ongoing and policies are constantly changing. I conducted my research from July-August 2016. Circumstances are rapidly changing and the situation in the spring of 2017 is not synonymous with the situation from the summer.

Anti-immigrant sentiments are high in Europe. The election of Trump in the United States is not just reflective of right wing populism in the US but in other parts of the West as

²⁴¹ Helena Smith, “Refugees in Greece suffering after EU deal with Turkey, say NGOs,” *The Guardian*, March 16, 2017, accessed March 20, 2017, <https://www.theguardian.com/world/2017/mar/17/refugees-in-greece-suffering-after-eu-deal-with-turkey-say-ngos>.

²⁴² UN Children’s Fund, “UNICEF Refugee and Migrant Crisis in Europe: Regional Humanitarian Situation Report #21, 15 March 2017,” *Reliefweb*, March 15, 2017, accessed March 20, 2017, <http://reliefweb.int/report/greece/unicef-refugee-and-migrant-crisis-europe-regional-humanitarian-situation-report--21-5>.

well. Anti-immigrant parties are contenders in the Dutch, French and German elections of 2017. These campaigns are anti-Islamic, conflate the migration of brown and Muslim people with terrorism and are largely populist.²⁴³ The outcomes will have serious ramifications on asylum seekers-both for those still arriving and for those making new homes in the EU.

Incarceration

Although arrival numbers have dropped, a large number of asylum seekers are still trapped on the Greek islands in the Aegean. In 2015, the island of Lesbos received approximately 10,000 people per day and in 2017 this trend is closer to 100.²⁴⁴ However, those that do arrive are subject to detention. On March 16th, Oxfam, the International Rescue Committee and the Norwegian Refugee Council released a joint press report condemning the EU-Turkey deal and the long periods of limbo it places asylum seekers in. They claim that 14,000 asylum seekers remain stuck in the Aegean as they await processing. This is double the capacity of the facilities on these islands. In total, 62,434 people are trapped in Greece, unable to move forward with the closed borders. Rather than hearing out each individual claim, the vast majority of asylum seekers are being returned to Turkey even though Turkey has not been approved of as a safe country.²⁴⁵

This trend of increased confinement is not unique to Greece but can be seen in Hungary as well. The Hungarian parliament has voted (138-6) to put all asylum seekers in mandatory detention until their asylum procedures have concluded. While a spokesperson hesitated to call these ‘shelters’ detention centers, he claimed that the goal was to hinder the free movement of

²⁴³ Philip Blenkinsop, “Dutch voting in test of European anti-establishment sentiment,” *Reuters*, March 15, 2017, accessed March 21, 2017, <http://www.reuters.com/article/us-netherlands-election-idUSKBN16K1WN>.

²⁴⁴ Smith, “Refugees in Greece suffering after EU deal with Turkey, say NGOs.”

²⁴⁵ *Ibid.*

migrants in Hungary since “everybody who comes to the EU as a migrant basically comes here illegally.”²⁴⁶ These ‘shelters’ are repurposed shipping containers (the same that asylum seekers can be held in for up to 28 days when entering the country). Those in the containers will not be allowed to legally contest their confinement and will only be allowed to leave if they go back to their home countries or drop their claims and return to Croatia or Serbia.²⁴⁷ From there they are vulnerable of re-entering the cycle of pushbacks.

Further research should be conducted on the toll of waiting for populations stuck in these camps and detention facilities. In the report released by aid organizations, it claims, “Over the course of the year, there have been deaths, suicide attempts, people engaging in self harm, and children, women and men exposed to abuse and sexual violence.”²⁴⁸ Indeed, there are many claims that suicide rates have increased in camps, particularly in Greece. Yet there is little qualitative research on the mental health concerns of these populations, particularly for children.

Mobility

The Balkan route has remained closed since spring of 2016 and those waiting for the borders to open are still waiting. On March 3, 2017 142 of the 150 asylum seekers residing in Vinojug, the camp in the south of Macedonia returned to Greece after a year of stalling.²⁴⁹ When I visited the camp in the summer, people were still hopeful that the borders would open and they would continue on to Germany. Yet the borders never opened. While it is unclear how voluntary

²⁴⁶ Patrick Wintour, “Hungary submits plans to EU to detain all asylum seekers,” *The Guardian*, February 7, 2017, accessed March 21, 2017, <https://www.theguardian.com/world/2017/feb/07/hungary-submits-plans-automatically-detain-all-asylum-seekers-donald-trump-viktor-orban-zoltan-kovacs>.

²⁴⁷ Patrick Wintour, “Hungary to detain all asylum seekers in container camps,” *The Guardian*, March 7, 2017, accessed March 20, 2017, <https://www.theguardian.com/world/2017/mar/07/-hungary-to-detain-all-asylum-seekers-in-container-camps>.

²⁴⁸ Smith, “Refugees in Greece suffering after EU deal with Turkey, say NGOs.”

²⁴⁹ “The last refugees left the camp Vinojug, Gevgelija,” *Legis*, March 13, 2017, accessed March 19, 2017, <http://www.legis.mk/news/2288/the-last-refugees-left-the-camp-vinojug-gevgelija>.

these removals were, Dublin rules are meant to be re-instated for Greece in March 2017. This means that anyone arriving post March 15th is subject to returns to Greece. Those arriving prior are supposed to still be processed in the state they reside in but it is too soon to tell if this will be upheld.²⁵⁰

What are the larger consequences of these border closures? With the closure of the Balkan route and continued securitization of European borders, more people are turning to the Central Mediterranean route from North Africa to Italy, one of the most treacherous journeys by sea. In 2016, 5,000 people died on this Mediterranean crossing. To slow down these arrivals, the EU has continued efforts to externalize its border management through new deals with Libya, Tunisia and Algeria. The deal with Libya includes supplying patrolling equipment such as helicopters, radars, boats and other securitization measures. Those pushed back to Libya are sent to detention facilities.²⁵¹

Conclusion

While policy is constantly changing, the same themes of incarceration, limbo, confinement, marginalization and notions of criminality are being utilized to control the lives and bodies of asylum seekers in the European space. EU asylum policies facilitate these processes through the use of pushbacks, administrative detention and data collection. Not only is there a need for greater communication and transparency but there is need for greater responsibility on the part of every EU state. These policies have extremely real impacts on the lived experiences of asylum seekers particularly in regards to the temporality of their journeys.

²⁵⁰ “EU restarts asylum seeker returns to Greece,” *DW*, March 15, 2017, accessed March 21, 2017, <http://www.dw.com/en/eu-restarts-asylum-seeker-returns-to-greece/a-37939811?maca=en-tco-dw>.

²⁵¹ Manasi Gopalakrishnan, “What you need to know about the refugee crisis in the Mediterranean Sea,” *DW*, March 20, 2017, accessed March 21, 2017, <http://www.dw.com/en/what-you-need-to-know-about-the-refugee-crisis-in-the-mediterranean-sea/a-38027330>.

This process of movement and stasis is a cycle. Move forward a bit. Wait. Move a bit more. Wait. For some this route is linear and for others it is a complete circle with these people returning to the point of departure. But for all, this movement is illegal and must be conducted covertly. The risk of being sent back is a real fear for the majority and protection is not guaranteed. In *Violent Borders*, Reece Jones writes, “By refusing to abide by a wall, map, property line, border, identity document, or legal regime, mobile people upset the state’s schemes of exclusion, control, and violence. They do this simply by moving.”²⁵² Indeed it is this continual movement despite the odds and mechanisms in place to stall them that allows asylum seekers to take control of their situations. Freedom of movement is not yet a universal right. Yet it is this determination to keep moving despite the policies that police and criminalize bodies that challenges asylum policies and structures in the EU.

²⁵² Jones, 180.

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