Deportability, Medicine, and the Law
Michael Nijhawan

This paper explores the institutional and everyday conditions that define ‘deportability’ as a lived experience at the social margin. Focusing on Germany as a paradigmatic case for the new immigration and deportation policies of the new Europe, it investigates state rationales through which certain bodies are produced as ‘deportable’ and takes a specific look at the role of medicine in this matter. The first part of the text traces a genealogy of various forms of medical intervention. Based on ethnographic fieldwork carried out from September 2003 to April 2005 in an institutional setting in Frankfurt/Main, the main focus of the discussion is the situation of traumatized refugees and asylum seekers, for whom German asylum and immigration law reserves special conditions. The second part investigates how the issue of deportability is negotiated by Punjabis in Germany’s Rhein-Main area. It can be discerned from both perspectives—state-centred as well as community-centred—that the body of the migrant has become a locus of otherness and bearer of debts in relation to the state. And yet the margin acquires significantly different meanings when approached through an ethnography of migrant communities and localities, for it is here that, as a social context and particular form, the margin is both a lived reality and site of intervention.

Introduction

State practices regulating migrant groups, especially upwardly mobile groups, are not simply responses to ‘marginality’ entering the state from the outside. With the inception of the modern nation state, questions of belonging that apply to labour migrants became intimately bound up with the emerging political forms of national self-regulation based on principles of territorial and social closure. Rogers Brubaker among others points out that ‘the territorial state has a basic and distinctive interest in being able to control the flow of persons across its borders’ in order to ‘compel, induce, discourage, or forbid the entry or exit of particular categories of persons’ (1992, p. 25). This core principle of defining and regulating citizenship was true for the early phase of state formation. And it can be said to apply to the contemporary
political landscape as well, even though globalization has led to new forms of ‘flexible citizenship’ based on complex transnational alliance patterns (Ong 1999). The argument that the state is weakening is, after all, least plausible where border regulations apply to the socially underprivileged such as unskilled labour migrants.

There is a further dimension that has been recognized in this context. Practices of border regulation and boundary formation that function as core principles of national self-organization, have produced what Balibar and Wallerstein (1991, p. 96), call ‘fictive ethnicities’: imaginary forms of national self-definition organized around cultural, ethnic, and/or racial identity markers. In other words, people may occupy the margins of the state but still be definitive of the dominant discourse. In this regard, it is necessary to distinguish between the different sites of marginality and the historically specific political processes that make certain forms of marginality more permanent and pervasive than others. It is also important to think critically about the notion of the margin itself, and to develop different ways of understanding marginality as a lived reality and embodied form.

For Veena Das and Deborah Poole (2004), understanding the margin from an anthropological perspective is closely connected to an understanding of the state and its disciplinary procedures, particularly because bureaucratic routines and practices through which modern states exert their power over populations have had a strong impact on notions of everyday life. ‘It is in these processes of everyday life’, Das and Poole argue, ‘that we see how the state is reconfigured at the margins . . . Margins are not simply peripheral spaces. Sometimes, as in the case of the borders of a nation’s states, they determine what lies inside and what lies outside. Other times, as in the case of checkpoints, they run through the political body of the state’ (2004, p. 19). Among the different concepts of the margins introduced in this volume, the notion of borders, checkpoints, as well as the relationship between law and the biopolitical body are particularly suited to frame the kind of issue with which I am concerned.

A ‘checkpoint’ generates an image of interaction with the state where ‘the security of identity and rights can become suddenly and sometimes violently unsettled’ (Das & Poole 2004, p. 10). The Punjabi migrants I have worked with in Germany include a significant number of asylum seekers and undocumented migrants. For them, territorial borders, as well as mobile police ‘checkpoints’ in the urban landscape, constitute points of entry and exit where they experience their vulnerability to state control in an immediate way. When movements and activities at particular localities come under the close purview of the state, these processes of social and territorial closure have a significant impact on the self-organization of migrant communities. We must further note the process of shifting the focus of border regulations from the national (or European) borders to interior spaces (the search for ‘illegal’ migrants in cities) and the individual body of the migrant as a bearer of otherness. If Sikh men with their turbans and beards are regularly checked for identity cards in German cities, it means, first of all, that ethnic profiling has gained significance and second, that the focus on bodily signs of difference engenders new strategies of survival under conditions of deportability. The ethnic profiling that informs identity checks indicates a form of vulnerability to state control that is manifest
spatially: under certain legal conditions, mobility is constrained, and transgressions can result in deportation. For people forced into illegality (due to a loss of residence rights or ‘illegal’ immigration), the situation is even more dramatic. ‘Undocumented’ migrants adopt strategies of self-normalization and make themselves as publicly invisible as possible. A significant number of undocumented male Sikh migrants shave off their hair and beards before arrival in Europe. I will try to demonstrate below in what ways members of the Punjabi community share a sense of vulnerability.

There is a further and decisive point I want to raise. Das and Poole (2004) alert us to the relationship between the politically—and the biomedically—signified body. In recent years, new forms of state regulation of migration and political asylum were introduced in Germany. The ill body—specifically the mentally ill body diagnosed with Post-Traumatic-Stress-Disorder (PTSD)—has become a central focus of state intervention. These changes had an impact on the number of migrants obtaining medical reports, on doctors getting entangled in legal battles about the legitimacy and reliability of such reports, and also on counter-strategies by the state to implement new rules for deportation at the local level of law enforcement agencies in different German states (Bundesländer).

In what follows, I want to first discuss the institutional setting in which medicine and its practitioners find themselves entangled in today. A brief historical outline is followed by a detailed picture of the German situation for which I make use of newspaper articles, expert reports, and information that I have culled from expert interviews during my fieldwork in Frankfurt/Main in 2003 and 2004. In a subsequent section and on the basis of ethnographic work with the Punjabi community in Frankfurt/Main, I will explore how everyday life in a migrant locality is shaped by the ‘conditions of deportability’ (De Genova 2002).

The Institutional Setting: State, Medicine, and the Law

The modern history of labour migration to Europe and North America has a long record of collaboration between state practices of border enforcement and medical interventions.2 There is a growing body of scholarly work dealing with the many ways in which emerging nation states made use of public health rationales to manage population flows across borders. Key to this process was the containment of diseases and spread of epidemics (Baldwin 1999), an issue that has also functioned metaphorically to picture immigration flows in terms of ‘epidemic’ waves (Haraway 1989). Nayan Shah’s (2001) work on epidemics and race in San Francisco’s China Town illustrates this process for early twentieth century immigration agendas in North America. In those times, health screening practices became obligatory for all immigrants who entered America on the West coast. As a part of a broader, worldwide system of quarantine discourses, health inspection programs ‘served as ‘imperial defence’ against the potential invasion of epidemic diseases into metropolitan parts in North-America and Europe’ (Shah 2001, p. 179). In San Francisco, labour migrants who were mostly of Asian origin were detained on Angel Island where they had to undergo health screening procedures on the basis of which
their right of entry was decided. Shah describes three stages of inspecting the migrant body, which included the inspection of the naked body for visible signs of disease, a kind of organ screening, as well as the microscopic inspection of internal fluids and excrement (2001, pp. 180–181). Even though the entire procedure was legitimized on the basis of scientific reason and medicine’s concern for the common good, the actual practices of health screening showed features of (racial) differentiation, as indicated in the mandatory hookworm exams in the 1910s (2001, p. 192).

Quarantine procedures and ritualised forms of inspecting migrant bodies are also known from the more recent history of labour migration to Europe. East and South European ‘guest workers’ who were hired in the 1960s and 1970s had to pass medical tests in recruitment centres. In John Berger’s (1975) portrayal of this early period of post-War labour migration to Europe, some photographs indicate the sense of humiliation many applicants would later report. During a medical check up in a recruitment centre in Istanbul, for example, Turkish men were lined up in a row, their hands extended to be examined by a German practitioner. In another picture, the same men are shot in a frontal view, the doctor stripping one of the applicant’s underwear to check for abnormalities below the waist. There is a medical rationale to this procedure that transcends the specific context of immigration. And yet, the humiliating demands to line up naked and follow incomprehensible orders in the German language, the lack of awareness about feelings of shame in the Islamic world—all these observations attest to an issue that goes beyond a mere lack of ‘cultural sensitivity’. The practice of medical inspection has a double performative effect: it first makes visible a collective body of ethnic otherness, and then declares this body as fit to be accepted into the mainstream—or not. In a way, ethnic others are turned into novices who, in Berger’s words, undergo a rite of collective transformation.

While such ‘guest labour’ recruitment centres have become obsolete, state enforced medical intervention still applies in particular and less visible ways to asylum seekers. The obligatory medical inspection for asylum seekers’ (‘first inspection’ [Erstuntersuchung] according to German asylum law [AsylVfG]) continues to be legally framed by the early twentieth century quarantine discourse (Bundesseuchenschutzgesetz). Again, the rationale behind it is to protect the German population from epidemics and diseases, and at the same time to provide medical support to the incomer. Yet it should also be noted that the picture according to state-appointed doctors (Amtsärzte) who work at local health offices for asylum seekers is less clear-cut. First of all, they emphasize that medical support for the asylum seekers, when it is actually needed, is often impeded by the state bureaucracy. Some doctors also express their reservations against the consequences of ‘first inspection’ procedures in which people are forcefully examined.

There are other sites where medicine and law negotiate immigration and citizenship. One of them is what Abdelmayek Sayad (2004) calls the ‘medical tribunal’, a site where the modern welfare state determines whether an applicant has the right to receive welfare services or not. Because claims to welfare benefits are tied to citizenship, the frequent claims of physical and mental disability among migrant workers in France has led to a strict regulation of their citizenship applications. Medical assessments of what counts as a rightful claim have been vital in this regard.
The medical system has the power to name diseases, attest physical disability, and decide whether somatic complaints count as ‘real’ or at least as a kind of ‘culture-bound’ syndrome. In this way, uncertainties experienced by the migrant become dependent on legal reasoning, and medical authority is experienced as judicial authority: ‘It has its hearings, its procedures, its standards of proof, its practices of examination (or even cross-examination), and of confrontation, and it too can award benefits. All its procedures are broadly analogous with those of a court’ (Sayad 2004, p. 193). By using techniques of medical evaluation, therefore, the law is able to produce certain categories of bodies, an insight that resonates with what I want to discuss below around issues of deportability in contemporary Germany.

Deportability in the Light of Germany’s New Immigration Law

When I began conducting ethnographic fieldwork in Germany’s Rhein-Main area, I soon realized that for many of the people I worked with, much of their daily activity consisted in talking about their ‘case’. This was different from what Sayad (2004) discusses in relation to physical disability. Reference here was to pending court cases of Punjabi asylum seekers (most had been dismissed but granted temporary residence rights) in which issues of residence rights became indirectly linked to medical questions. This was also a key issue debated among local human rights experts, social workers, and doctors, who regularly met in Frankfurt and with whom I conducted various interviews. With a rising number of migrants being pushed into illegality, these people working at the grassroots level began recognizing the need to expand their services, including their capacities to provide culturally sensitive health care for traumatized migrants.

At the same time, medical practitioners have become more attentive to the increasing demands for their services in contexts of deportation, particularly after the new immigration law (Zuwanderungsgesetz) was introduced in 2003. The government considers the new law as a progressive step in the direction of a birth and residence-based (instead of a purely descent-based) model of German citizenship. The law makes legal immigration easier, extends political asylum to those who have suffered gender-specific forms of persecution, and reduces bureaucratic hurdles that apply to immigrants who had entered the country as asylum seekers. More support is meant to be given to those who ‘deserve’ immigration status on legal grounds, while (and this was the subtext of the law) the large number of so-called economic migrants who have ‘illegitimately’ filed asylum cases and stayed on for years would be pushed out, so that in the long run the social welfare system would not be ‘overburdened’.

In order to balance the social consequences of this step, the first draft of the law included an amnesty regulation (Härtefallregel) that applied to refugees and asylum seekers who have stayed in Germany with undecided cases for a significant number of years. Yet this paragraph did not get the necessary majority in the national assembly and had to be dropped. As a consequence, many of those who have previously hoped for permanent residence and work permits are now threatened with immediate deportation. With the enforcement of deportations, this threat is now very real and has pushed many immigrants further into illegality.
What I want to discuss here is not whether the new law is legitimate and ethically sound (a significant number of intellectuals, politicians, writers, and human rights activists argue that it is not). I rather want to indicate that the way the law is executed in a systematic fashion has generated a harsh climate around issues of deportation. During the period of my research work, several individuals have been physically harmed, some have committed suicide, and some have been killed in the process of deportation. All of this has attracted much public attention. Aamir Ageeb—to name one of the more recent cases—died during his deportation because of misconduct at the hands of the border police at Frankfurt airport. Suneya Ayari was taken out of a local hospital in Frankfurt where she was under psychiatric treatment by the same agency, and subsequently deported after an external practitioner attested to her general fitness for travel. These incidents shed light on the collusion between state and medicine in matters of deportation, a collusion that has caused an uproar among local experts (cf. Mesovic 2004).

The annual conference of the ministers of internal affairs (Innenministerkonferenz) recently initiated a working group called ‘deportation’ (Rückführung), which issued a list of criteria to simplify doctors’ decisions to write reports and do everything to attest a deportee’s fitness to travel. As a poignant example, doctors are asked to indicate potential methods of caretaking during a flight (‘flugbegleitende Maßnahmen’) even if the patient’s health would normally not permit travelling. If such measures do not seem to be applicable, they are asked to specify later therapeutic necessities in the country of destination. This in turn has been criticized by medical organizations such as the Hesse doctors’ association (Landesärztekammer Hessen).

According to German law, only after a medical report has been issued by an independent practitioner may a person who was denied asylum be legally extradited from German territory. There are two dimensions to this practice. The first one focuses on health issues that pertain to the situation a person faces in Germany, the second to the situation in the country to which he or she is deported. As for the first dimension, the state, through the local foreigners’ office (Ausländerbehörde), has to guarantee that there are no health risks due to travelling (Kriterium der inlandsbezogenen Gesundheitsprobleme). More precisely, the state demands medical expertise in evaluating serious health risks (erhebliche Gesundheitsgefährdung) that relate to physical transport and travel (Abschiebungshindernisse according to §§ 51, 53 AuslG [foreign law]). For a great number of doctors with whom I have spoken, this procedure violates the ethical codes of their profession (see also Beck 2005). Despite increasing resistance from medical practitioners, law enforcement agencies have been successful in identifying a group of ‘travelling doctors’ who have been employed in order to write such attestations after brief medical examinations of the candidates. One should note that there are certain grey areas in terms of law enforcement. On the one hand, there is a certain inconsistency in the tactical employment of the law (variation among the different administrative units and courts). On the other hand, practices like those of the travelling doctors have made it more difficult for lawyers and human rights activists to intervene on behalf of deportees, since the secretive manner of deportation (often in the early morning hours) leaves little time for intervention.
The other area addressed by the deportation laws revolves around the question under what conditions severely ill migrants can be deported. The laws stipulate that deportation is possible if the person has been cured, or if the person can find suitable treatment in the country of destination. The Federal Office for Certification of Foreign Refugees (Bundesbehörde für die Anerkennung ausländischer Flüchtlinge [BAFl])\(^{13}\) decides whether or not Section 53 AuslG prohibits deportation (even if the asylum case was dismissed) on grounds of physical disabilities as well as somatic and/or mental illness, if adequate treatment or conditions of living in the country of destination cannot be met (zie STAatsbezogenes Abschiebungshindernis).\(^{14}\) Over the last decade, there has been a significant increase in the number of asylum seekers and political refugees who, when threatened with deportation, claimed to suffer from post-traumatic-stress-disorder (PTSD).\(^{15}\) The most significant reason for the sudden awareness of traumatization was the influx of war refugees from Bosnia and Kosovo. Media images of war crimes, torture, and mass rapes heightened public attentiveness to this issue. The state, in turn, recognized the need to grant refugees access to specific medical and psychiatric treatment in Germany. In November 2000, the conference of interior ministers finally decided to grant permanent resident status (Bleiberecht) for traumatized refugees, who—based on particular dates of entry into Germany and selected programs of therapeutic treatment—could make their case on the basis of a psychiatric report. This was a singular decision, applicable to a limited number of war refugees. The discussion that emerged from this precedent, however, entailed a far greater number of claimants, not only of current war refugees, but also of individual asylum seekers who demanded similar protection from the state. This included torture victims from countries that were not included in the list of insecure states, specifically women subject to persecution on sexual grounds (cf. German Red Cross 2003).

State bureaucrats at the BAFl tend to be suspicious of asylum seekers who claim to be traumatized in order to be protected under Section 53 after having been denied their rights of residency (so-called ‘nachträgliches’ or ‘gesteigertes Vorbringen’). Judges noticed a sudden rise of PTSD claims that coincided with the changes in the immigration law. At stake here, once again, is the role of medical expertise in evaluating traumatization. Medical reports that are sympathetic to the migrant but not based on clinical symptoms are suspected of being based on mere favouritism (Gefälligkeitsgutachten). The BAFl is currently reconsidering how medical standards of diagnosing PTSD can be improved. It is interesting to observe how a demand for ‘culturally sensitive health care’ has become a critical issue here. In a recent conference on traumatization organized by the BAFl, health experts were invited to debate international standards of diagnosing PTSD. Yet it became evident that a broad range of medical doctors would not be willing to apply fixed standards in daily practice (see Bundesweiter Arbeitskreis Migration und Öffentliche Gesundheit 2003). The forum was intended to standardize evaluation practices on the basis of tough criteria, yet doctors and psychiatrists at the conference were unanimous in their criticism of an overly simplistic approach. Central to the discussion was the attempt to broaden the debate on PTSD, to include a variety of culturally specific forms of trauma that are often not acknowledged in the standard procedures.
of medical evaluation. This is the first context in which many practitioners feel overburdened by the task at hand. Connected to this question is the ambivalent role which trauma therapists, psychiatrists, and general practitioners find themselves obliged to fill, since they often serve as therapists and assistants in legal matters, and at the same time are required by the courts to provide objective medical reports on a patient’s trauma episodes by the courts. This is of fundamental importance, since it is in the courts and in hearings of the BAFI where the validity of a medical report is evaluated in the light of a claimant’s ‘credibility’. Psychiatrists argue, however, that inconsistencies in patients’ statements can be an effect of trauma episodes, and are not necessarily a case of false testimony.  

Migrant Locality and Everyday Life

Many daily activities of local experts who deal with migrants’ health and deportation involve identifying legal issues, making them public, and finding potential interpretive spaces that might be used in favour of a particular individual. Where the sovereignty of the state is in question, it is a valid strategy to interrogate its rationales and to point out to the paradoxes in law enforcement in particular cases. However, for an anthropological perspective on the ills of marginality, a wider approach must be taken. I want to return here to Das and Poole’s (2004) rethinking of the margin as a site where a certain uncontrolled, sometimes unsystematic or even ‘magical’ presence of the state is experienced (2004, pp. 8, 226). In the context of my work on the Punjabi diaspora in the Rhein-Main area, such a magical presence can indeed be discerned. Issues of border enforcement, medicine and the law that I have so far discussed then take on a new significance when approached from the margin. To be sure, when I speak of the Punjabi diaspora, I do not imply that the entire community is entangled in issues of asylum law and various forms of illegality. Since the early 1960s, when the first Punjabi labour migrants arrived, there has been a steady increase of legal immigration by Punjabis into Germany. Punjabis of Hindu, Muslim, and Sikh affiliations established themselves professionally, especially as entrepreneurs, industrial workers, and restaurant owners. Approximately 5,000 to 8,000 Punjabis live in or the immediate surroundings of Frankfurt/Main. In comparison to other South Asian groups, Punjabi Sikhs have a disproportionately strong presence, and I will restrict my argument to this section of the Punjabi population.

Two events have had a particularly deep impact on how Punjabi Sikhs in Germany perceive issues associated with asylum and deportation. The first was the insurgency during the ‘Khalistan’ movement for an independent Sikh State in the Punjab during the 1980s, when many Sikh political activists and self-declared resistance fighters filed asylum cases in Germany. The second event was the entry of large numbers of Punjabis in the mid-1990s: mostly young, undocumented men in their twenties. Both events are related to each other in practical terms, but have separate dynamics. Let me begin with the political crisis and the related asylum issue.

In the wake of Prime Minister Indira Gandhi’s assassination at the hands of Sikh extremists in 1984, Punjabi Sikhs suffered severe human rights violations,
such as torture in Indian prisons, ‘disappearances’ of suspected militants, and staged ‘encounters’ in which young male Sikhs were shot by intelligence forces and their bodies dumped on deserted roads. The crisis was internationally recognized, and seen as severe enough to warrant political asylum for Sikhs in Germany. However, a closer look at court decisions of the time shows that only few of them were granted permanent residency rights. By and large, the courts argued, Sikhs also had the option to take refuge in other regions of India (considered as not affected by the crisis). Only political activists who could prove a direct involvement in political organizations connected to the militant struggle (such as the International Sikh Youth Federation or the Babbar Khalsa) were considered under Section 51 AuslG that prevents deportation in case of potential human rights abuses. As a consequence, a majority of Sikh asylum seekers had to renegotiate their residency status every two years or even more frequently. In the long run, the legal implications of their situation produced a kind of political hyperactivity around homeland issues in the Sikh Punjabi community, since it was crucial to demonstrate one’s legitimate claims in order to be granted protection by the German state. People had for example to prove their membership in political organizations, or to show press reports in which their open claims to separatism were documented. They had to organize annual protest marches to commemorate the Indian army’s violation of Sikh sacred territory and emphasize in weekly liturgical settings the 1984 killings and riots.

Until today, Sikh community life at the local gurdwara (literally, ‘dwelling of the guru’; the site of Sikh congregational prayer) is visibly and audibly shaped by the events of 1984. This is discernible from the numerous paintings, photographs, and pamphlets on display, from public oratory in the congregation hall, and in informal conversations among the visitors to the locality. To argue that German asylum laws caused these concerns would be an overstatement. A sense of collective trauma from 1984 is real, and exists independently of the German context. Indeed, the alienation from the Indian nation state was shared by the majority of Punjabi Sikhs, who were not sympathetic to the goals of the militants. Trauma was also real insofar as many of the Sikhs who arrived in Germany had been tortured, and memories of dead friends and family members still haunt the community. Since the conflict in the Punjab was mostly regarded as an ‘internal’ problem of the Indian state in foreign affairs, Sikhs were never recognized collectively as a refugee population. Trauma could only be claimed in individual cases. At the same time, those who claimed involvement in political activities were easily regarded as potential terrorists themselves. In this context, it is easy to see how legal demands to produce evidence of political activism in order to secure residence rights has a profound impact on Sikh community life in Germany.

Several of the Sikh asylum seekers with whom I worked have created ‘file identities’ for themselves, that is, files in which they meticulously collect reports in the Punjabi press (such as Desh Pardesh, which is circulated in the diaspora, or in Punjabi newspapers) in which their names are listed and connected to political issues, in addition to jail records and photographs of human rights violations, preferably of people they personally knew. In the few suitcases they possess,
these documents occupy a significant amount of space—they bear heavy, so to speak, on their hopes of finding legal recognition. The courts frequently dismiss these documents in relation to political asylum claims, but that does not render them useless. Together with a medical certificate attesting PTSD, such files increase the chance of being recognized as a traumatized victim of violence.

Gurdit is one of my fieldwork interlocutors who has—so far—been granted permission to stay under section 51 of the law, based on a history of trauma. Gurdit is among the Sikhs who has, without a shred of doubt, suffered torture at the hands of Indian security forces while being held in a prison in Punjab. Since his entry into Germany, where he filed for political asylum, he endured conditions of extreme insecurity for almost fourteen years. While living with his wife and two young children, who were both born in Germany, Gurdit still faces the possibility of deportation the moment immigration officials determine that his health allows it. He is among the few Sikhs I have met who managed to receive therapeutic treatment for PTSD. In our conversations he did not refer to this illness category, but was fully aware of the fact that it is only thanks to his medical report that he has not yet been deported. The way he described his situation as one of extreme marginalization is striking. I expected him to emphasize mental problems, but they were not his point of reference. Instead, he underlined how much he suffered from the bureaucratic handling of his case. Currently, he has been assigned the status of Duldung (it might be useful to translate this so as to get a sense of its demeaning nature—‘toleration’ according to section 55 and 56 AuslG is defined as the temporary suspension of deportation and thus is only a quasi-legal status). Gurdit has to show up regularly at the local foreigners’ office (Ausländerbehörde) to get an extension of his residence permit. These permits are sometimes issued for two weeks, sometimes for two months, sometimes for two days. He describes his psychiatric therapy sessions mainly as an opportunity to renew his medical attestations of trauma symptoms. For him, the most upsetting problems are the legal prohibitions against employment and free movement. He experiences the law as arbitrary and dependent upon individual decisions by people in the local administration. Hence his sense of marginality is not restricted to the memory of torture experiences in the past, although in court he is only able to voice these former traumas. For him, restricted movement, housing, work, and health-seeking are intrinsically related to his fear of deportation.

Indeed, it seems to me that a closer look at the context in which asylum seekers live is necessary not only to recognize where a migrant life potentially slides into ‘illegality’, but also to understand the complex interweaving of the community’s ‘collective trauma’, forms of state intervention due to suspected terrorist activities, everyday marginalization and health problems. It seems that the life of asylum seekers is in many ways a health hazard. There is insufficient care for people who are already ill. Living in asylum homes or shared housing exacerbates the problem: sanitary conditions can be very poor, they are crowded and unsafe places, and the risk of robbery and personal assault is always present. These homes are usually located at the periphery of towns or in the countryside, making it more difficult for people to move, work, or seek medical support. Related to this issue is the state’s control of physical movement that applies differently to asylum seekers.
(movement beyond administrative limits only with permission) and undocumented migrants (their appearance in public spaces is completely illegal). Especially when migrants gather at community centres, these differences can cause stress and friction.

More than thirty percent of Frankfurt’s population is non-German, and the city has a high degree of ethnic diversity. Within Frankfurt, the sites where the Sikhs meet ensure some sense of ‘normal’ community life. Sikh asylum seekers participate in a social network that also comprises legal residents of the Punjabi community and an increasing number of undocumented migrants. Community networks are available and provide essential sources of food, social support, work opportunities, and religious engagement. These networks are organized around migrant localities such as shops and restaurants, and especially Frankfurt’s gurdwara. The gurdwara is located in an old industrial zone in Frankfurt-Hoechst and was inaugurated in 1998. With its constant flow of visitors, especially on weekends and festival days, when numbers run in the hundreds, the gurdwara can also give a sense of privacy and anonymity for those without legal papers, as no-one would be required to declare where he or she was coming from. As a place on the urban periphery, more or less out-of-sight of the local public, it shelters self-organized community activities. This does not mean, however, that the place is a safe haven. There is a common saying that wherever Punjabis come together, there are at least two feuding factions. Indeed, a good part of regular community life is characterized by factionalism. This is not an issue that would usually deserve great emphasis. Yet, in the light of my previous discussion of asylum law and the peculiar role of political activism among Sikh asylum seekers, factionalism is particularly poignant. Belonging to a particular faction, either a political faction or a kinship group (the boundaries are often blurred) entails rights and obligations and structures networks of reciprocity. Negative reciprocity is also part of the picture, as factional politics always bear the danger of mistrust and denunciation. I have recorded several cases in which such practices had a direct impact on the legal handling of asylum cases, as people were reported to the police by members of rival factions. Even people who consciously try to stay away from politics can become embroiled in such affairs when political leaders use their knowledge of a particular person’s background for their own power games. Many Sikhs are dependent on jobs that are only accessible through support from a community leader. More important still, they are often dependent upon resourceful and established persons as translators of legal documents and official letters. These documents are undecipherable if one is not acquainted with the peculiarities of bureaucratic language. Immigrants rarely understand the language of the law, hence they have to rely constantly on advice from others, as well as on rumours as they circulate in the community. Yet it is hard to hold anyone accountable for circulating misleading information. When rumours and hidden transactions are a prime means of keeping informed, coping with legal problems is extremely difficult.

Sikh experiences of uncertainty are also produced by police checking of visitors to the gurdwara. Since the events of September 11, police surveillance of the gurdwara has increased, and undocumented migration has become even more problematic. In the course of my research work, I witnessed several visits by the police.
Searching for suspected illegal migrants, the police usually enter the locality without prior notice (and sometimes without court permission). I have recorded numerous stories in which people have been checked on their way to the gurdwara. A police car regularly patrols the route from the local metro station to the locality, and visitors are asked for identification cards. People are even stopped in their cars. Some of my informants have been detained for a day or two, only because police considered their legal documents invalid. Early morning inspections by the police only ended after the gurdwara committee put up signs indicating that overnight stays were prohibited. People have developed routines and display a sense of humour in dealing with these issues. Yet it seems that the high frequency of somatic complaints (headaches, stomach aches, difficulties in concentrating, dizziness, and depression) among my Sikh informants might be caused by their constant feelings of insecurity. Hence, when people like Gurdit complain about their situation, they refer to a broad range of negative experiences. The Sikhs’ trauma does not just come from past events.

Concluding Remarks

I began this article with an outline of medicine and the law in relation to labour migration into the modern nation state. Using the current situation of Punjabi Sikhs in Germany as my primary example, I have shown how bureaucratic regimes can mark out certain migrant bodies as ‘deportable’. The discussion in the last section has shifted the focus from state institutions to experiences among Frankfurt’s Punjabi community. In this context, it has become painfully clear how issues of ethnicity inform law enforcement strategies in substantial ways. Among the cases I have discussed, Gurdit’s case shows perhaps more than any other how ethno-national border controls are mapped onto the individual migrant’s body, especially onto the asylum seeker with only semi-legal resident status. This body becomes a surface upon which realms of belonging and exclusion are inscribed through everyday practices of testimony and inspection. The migrant’s body is also severely regulated in its capacity to move in space. Practices of territorial and social closure (Brubaker 1990) are not only applied to rights of entry into a nation state, but also within nation states, and allocations of migrants and asylum seekers to different administrative units is part of the state’s overall policy. Being caught by the police outside one’s assigned living area is one of the most frequent offences by asylum seekers. The more residence is restricted, the more migrants are found breaking the law and penalized. When the individual claimant’s life becomes confined to community networks around the gurdwara, shops, and restaurants, he or she can suffer from misinformation that can lead to deportation. The people I have encountered during my fieldwork developed great creativity in grappling with marginalization. They refer to the zone they are not allowed to enter as the outkreis: it literally means ‘outside the circle’, but plays on the larger issue of social belonging. Concepts of space are thus linked to perceptions of marginality (the migrant as a kind of ‘outcaste’). In this fashion, marginality can also be ironically transgressed, and vulnerability to the law countered with a great sense of resilience.
Acknowledgements

Thanks to Stefan Ecks, William Sax, and two anonymous reviewers of Anthropology and Medicine for providing helpful comments on an earlier draft of this article. I am grateful to Khushwant Singh for his comments to this paper and his research assistance. I also thank Harjot Singh for his close collaboration in the field. Field research work in 2003 and 2004 was funded by the German Research Council (Sonderforschungsbereich 619 ‘Ritualdynamik’).

Notes

[1] In Germany, the paradigmatic example was the Slavs who lived for generations in the eastern parts of the country. For Max Weber, as for the majority of intellectuals in that period, it was self-evident that these ethnocultural ‘others’ could not be considered citizens of a territorial nation state.

[2] It must be noted that asylum laws and immigration laws have different rationales. Yet due to the high number of economic migrants that have filed asylum cases in Germany and elsewhere, the lines between these categories are often blurred.

[3] These examinations were targeted at Asian immigrants regarded as the carriers of the worm. The archival material consulted by Shah (2001) has many baffling stories to tell; a strictly ‘medical’ rationale for many of these procedures seems doubtful.

[4] Forms of state-sponsored bodily inspections are also applied to German citizens. The mandatory health screening of all eighteen-year-old males for military recruitment (Musterung) is a case in point. Yet there are decisive differences between inspecting Germans and inspecting migrants, not least because they are experienced very differently when nothing less than one’s citizenship is at stake.

[5] Migrants who have entered Germany through Frankfurt/Main International Airport, as well as official interpreters working there, told me that medical inspections can involve bodily penetration, especially when it is suspected that they might hide drugs in their stomach.

[6] Sayad (2004, p. 215) discusses medical interventions in which somatic forms of illness are translated by medical doctors into psychiatric problems (e.g., depression). The medical logic is that patients cannot express psychological problems, and resort to somatic forms of expression.

[7] For this point see also Das and Poole’s (2004) discussion of Giorgio Agamben’s work and the discussion of how ‘individuals are reconstituted through special laws as populations on whom new forms of regulation can be exercised’ (p. 12).


[9] For example, there are now only two resident categories—one is a permission to stay (Aufenthaltserlaubnis), another is a permission to settle (Niederlassungserlaubnis).

[10] A critical juncture in the history of German immigration law was reached in 1993 when, because of various legislative changes, it became extremely difficult to be granted asylum based on Article 3 Section 1 of the German constitution. Two developments were responsible for this. First, following the 1990 Dublin convention, only persons arriving from non-adjacent states could be granted recognition under asylum law. This prevented the majority of those who crossed land borders from filing a case without making false statements. Second, the legal procedures of hearing applicants’ cases were constrained, thus making it more difficult for lawyers to appeal once the administrative court had turned down an appeal.

[11] Many doctors consider certain x-ray examinations and gynaecological examinations to certify the age of an asylum seeker (those younger than 16 years must not be deported) as unethical.
[12] Certain agencies, such as the Ausländerbehörde in Hamburg, are notorious for their deportation practices; other agencies in the country have a more liberal attitude. As a consequence, asylum seekers in neighbouring administrative units can face very different procedures, even if their cases are similar. Migrants experience this feature of German federalism as complete arbitrariness.

[13] The BAFI has recently been renamed as the ‘Federal Office for Migration Issues’ (BfM, Bundesbehörde für Migration).

[14] The administrative court (Verwaltungsgericht) of Sigmaringen decided in 2002 that the BAFI must evaluate fitness of travel even in cases in which asylum seekers are deported to ‘secure’ adjacent states.

[15] The category of post-traumatic stress disorder (PTSD) has been widely debated in medical anthropology, especially after the publication of Allan Young’s acclaimed *Harmony of Illusions* in 1995. Young argues that PTSD is ‘a product of psychiatric culture and technology’ (1995, p. 116). This article does not aim to discuss PTSD except the claim that the focus on PTSD tends to obliterate the complexity of life situations that deportable persons face, and that these complexities themselves can contribute to mental illness.

[16] This has been recognized by two administrative courts in 2002, Aachen and Stuttgart. In both cases, courts acknowledged that persons who suffer from PTSD cannot be expected to give detailed and unambiguous reports of how they became traumatized.

[17] I bracket the question of Ahmadiyya migration from Pakistan to Germany, even though there are important parallels to the Punjabi Sikh experience. The Ahmadiyya have for a long time been granted political asylum on a collective basis because of severe religious discrimination in Pakistan. They have not faced the same difficulties as many of the Sikh asylum seekers.

[18] I estimate the number of illegal Punjabi workers in the Rhein-Main to be anywhere from a few hundred to one thousand.

[19] For the idea of in-country asylum, see the decision at the administrative court of Potsdam in 2000. Administrative courts in Cologne (in 2000) and Ansbach (also in 2000) recognized political activity for the Dal Khalsa (part of the Sikh militant wing) as reasons to prevent deportation.

[20] I use pseudonyms throughout the text to protect the identity of my interlocutors.

[21] Initially, Gurdit’s situation seemed promising when he acquired a work permit and a temporary Aufenthaltsbefugnis (limited residence permit). During this period, he also married, and his wife gave birth to their first child. They shifted temporarily to friends, who assisted them after childbirth. When the Ausländerbehörde (Foreign Nationals’ Authority) found out about this, it considered it a violation of his restricted rights of movement within an administrative unit.

References


