11 Towards a Critical Theory of Migration Control: The Case of the International Organization for Migration (IOM)

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December 2011 marked the 60th anniversary of the International Organization for Migration (IOM). For this occasion IOM created a dedicated website to highlight its achievements.[1] On this website the IOM describes itself as being »the leading international agency working with governments and civil society« on migration. IOM presents a narrative of its history that is composed of a chain of successes in »assisting migrants« and helping states to develop »orderly and humane responses« to migration »for the benefit of all«.[2] It does not mention the more contentious aspects: Since the 1990s, many of IOM's activities have been sharply criticized by NGOs, academics, migrant groups and social movements for infringing letters and spirit of human rights and for prioritizing the interests of its state donors over the hopes and rights of migrants.[3]

To be explicit: While we personally sympathize with this criticism and have contributed to it[4], in our view there are severe problems and limits to

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1   See IOM's special website: http://www. 60years.iom.int (6 May 2011).

2   All quotes so far: http://www. 60years.iom.int (6 May 2011).

3   See for example Amnesty International/Human Rights Watch, Statement by Amnesty International and Human Rights Watch to the Governing Council, International Organization for Migration in Geneva, 24 Dec 2002, http://amnesty.org/en/ library/asset/IOR42/006/2002/en/d8e09dee-d774-11dd-b024-21932cd2170d/-ior 420062002en.pdf (6 Jun 2011); Antirassismusbüro, Stop IOM! Global Movement against Migration Control, Bremen 2004, http://www.ffm-berlin.de/iomstop engl. pdf (6 Jun 2011); Manisha Thomas/Ed Schenkenberg van Mierop, Editorial. IOM, Darfur, and the Meaning of Undermining (MoU), in: Talk Back. The Newsletter of the International Council of Voluntary Agencies (ICVA), 6. 2004, http://www. icva. ch/doc00001253.html (6 Jun 2011); Franck Düvell, Die Globalisierung des Migrationsregimes: Zur neuen Einwanderungspolitik in Europa, Berlin 2002.

4   Our own, ongoing PhD projects both aim to contribute to a critical analysis of IOM by focusing on a reconstruction and explanation of IOM history (Fabian Georgi) and on anti-trafficking operations in the Russian Federation and Germany (Susanne Schatral). See also Fabian Georgi, Kritik des Migrationsmanagements, in: Juridikum. Zeitschrift für Kritik, Recht, Gesellschaft, 2009, pp. 81–84; idem, For the Benefit of Some: The International Organization for Migration (IOM) and Its Global Migration

the way IOM (and other institutions of migration controls such as Frontex[5]) are criticized today. To overcome these shortcomings, we develop an alternative framework for critique. In doing so we draw on two sources, one mainly theoretical, one more political: First we draw on historical-materialist critical theory as developed, among others, by Karl Marx, the theorists of the older Frankfurt School Max Horkheimer and Theodor W. Adorno, but also contemporary thinkers like Alex Demirović. Second we draw on the movements and struggles of migration that confront the restrictive, bitter reality of migration controls with everyday practices of survival, and with conscious, strategic struggles against deportation and detention, and for equal rights and global freedom of movement.

Our contribution has three main parts. The first part starts out with a brief introduction on IOM, before describing and evaluating two categories of human rights-based criticism of IOM. The second part lays the groundwork for our own framework of critique. It does so by sketching crucial episodes and ideas of the struggles for global freedom of movement, afterwards describing the »single existential judgement« (Max Horkheimer) that underlies our critique. This judgement is developed by making six arguments in favor of the abolition of migration controls and applying them to IOM. Building on this groundwork, the third part moves on to describe two methods of critical theory, *immanent critique* and *radical contextualization*, and illustrate the latter by explaining the expansion of IOM since the 1980s within a wider (geo)political and economic context.[6] In outlining the political and normative groundwork and the methods of a critical theory-approach to IOM we want to contribute to the broader debate about a critical approach to the study of migration and border regimes that is currently being led, for example, in the mostly German-language Network for Critical Migration and Border Regime Studies (Kritnet).[7]

Management, in: Martin Geiger/Antoine Pécoud (eds.), The Politics of International Migration Management, Basingstoke 2010, pp. 45–72; Susanne Schatral, Categorisation and Instruction: The IOM's Role in Preventing Human Trafficking in the Russian Federation, in: Tul'si Bhambry et al. (eds.), Perpetual Motion? Transformation and Transition in Central, Eastern Europe & Russia, London 2011, pp. 2–15.

5   See the contribution of Bernd Kasparek and Fabian Wagner in this volume.

6   In outlining our arguments we rely on secondary literature and the available primary sources as well as on archival work and interviews we conducted separately with representatives of IOM and different NGOs in 2003 and 2008–2009.

7   See for example: http://www.kritnet.org; see also Geiger/Pécoud (eds.), The Politics of International Migration Management; Sabine Hess/Bernd Kasparek, Grenzregime. Diskurse, Praktiken, Institutionen in Europa, Berlin 2010; Fabian Georgi/Fabian Wagner, Macht Wissen Kontrolle. Bedingungen kritischer Migrationsforschung, in: Kulturrisse. Zeitschrift für radikaldemokratische Kulturpolitik, 1. 2009, http://kultur risse.at/ausgaben/012009/oppositionen/macht-wissen-kontrolle; Fabian Georgi/

Human Rights-inspired Criticism of IOM

Founded in 1951 as an US-dominated anti-communist logistics agency, IOM today is the next-to-largest intergovernmental organization in the field of migration (the organization of the United Nations High Commissioner for Refugees, UNHCR being the biggest). As of July 2011 it had 132 member states with an additional 17 states and 80 NGOs as observers. It has more than 400 field locations and about 7,000 staff members that work on more than 2,800 projects all over the world.[8] We analytically distinguish five areas of activities[9]: (1) IOM directly supports the movements of emigrants, migrant workers and refugees. It arranges resettlement, sells discounted airline tickets and organizes language courses and overseas job placements; (2) IOM builds up the capacities of states for migration control. It supports states to expand, and often to build up in the first place, the political, institutional and cultural conditions and bureaucratic capacities to control migration; (3) IOM itself takes a role in all phases of operative migration control, from *mass information campaigns*[10] over the running of detention camps to *assisted voluntary returns* (AVR); (4) IOM is a competitor in the humanitarian marketplace and takes part in humanitarian emergency operations after natural disasters and (civil) wars. In 2010, these activities comprised 52% of IOM's operational budget[11]; (5) the IOM engages with discursive practices in the struggles over hegemony in international migration policy. IOM issues a wide variety of publications, it regularly organizes conferences on migration issues or sends staff to participate in such events. With secretarial functions it supports many government-led conference processes at regional and global levels. With the concept of migration management[12], IOM attempts to hold these very different activities programmatically and strategically together.[13]

Bernd Kasparek, Jenseits von Staat und Nation. Warum Frontex abzuschaffen ist, in: Informationsstelle Militarisierung (ed.), Frontex. Widersprüche im erweiterten Grenzraum, Tübingen 2009, pp. 39–42, http://www.imi-online.de/download/frontex2009-web.pdf.

8   See the IOM website and IOM's organizational information provided at: http://www.iom.int.

9   Georgi, For the Benefit of Some, pp. 47f.

10   Celine Nieuwenhuys/Antoine Pécoud, Human Trafficking, Information Campaigns, and Strategies of Migration Control, in: American Behavioural Scientist, 50. 2007, no. 12, pp. 1674–1695.

11   IOM, Summary Update on the Programme and Budget for 2010 (MC/2296). Geneva 2010, http://www.iom.int/jahia/webdav/shared/shared/mainsite/about_iom/en/council/99/MC_2296.pdf (7 Jun 2011).

12   As regards this concept see also the contribution of Bimal Ghosh in this volume.

13   For further analysis of IOM see Düvell, Globalisierung des Migrationsregimes; Martin Geiger, Internationale Regierungsorganisationen und die Steuerung von Migra-

Since the late 1980s, the dual processes of neoliberal globalization and the implosion of the Eastern bloc have provided IOM with a unique opportunity for growth and expansion. Since the mid-1980s, its membership has more than quadrupled. While the struggles over migration, borders and (migrant) rights intensified throughout the 1990s and 2000s and the control regimes expanded, IOM expanded, too, into new operational and geographical areas. In this context several human rights organizations, above all Amnesty International (AI) and Human Rights Watch (HRW), began to accuse IOM for violating the human rights of the very people it is tasked with assisting.[14]

As IOM expanded it became dependent even more than before on the cooperation with local, operative NGOs to implement hundreds of new projects. But whereas IOM depicts its relationship with civil society organizations as a mutual give and take[15], its actual relations with NGOs are often strained. An evaluation of IOM anti-trafficking programs in the Western Balkans documents that IOM considers itself to be »the trafficking solver«.[16] On the contrary, NGOs believe that IOM instrumentalizes them to implement its own projects and thereby ignores the NGOs' unique positions and experiences.[17] Also, around 2003, several NGOs in Germany began to feel uncomfortable about future collaboration with IOM.[18] Tellingly, such contentious relations between IOM and local NGOs do not occur where IOM collaborates

tion, in: IMIS-Beiträge, 2007, no. 32, pp. 61–87; idem, Mobility, Development, Protection: The IOM's National Migration Strategy for Albania, in: idem/Pécoud (eds.), The Politics of International Migration Management, pp. 141–159; Georgi, For the Benefit of Some; Jürgen Bast, International Organization for Migration (IOM), in: Max Planck Institute for Comparative Public Law and International Law (ed.), Max Planck Encyclopedia of Public International Law. Online Edition, Heidelberg 2011, http://www.mpepil.com; Schatral, Categorisation and Instruction; Lise Andersen/Sofie Havn Poulsen, The International Organization for Migration in Global Migration Governance. Unpublished Master thesis, Roskilde University 2011.

14   Amnesty International/Human Rights Watch, Statement by Amnesty International and Human Rights Watch to the Governing Council; Human Rights Watch, The International Organization for Migration (IOM) and Human Rights Protection in the Field. Current Concerns, London 2003, http://hrw.org/backgrounder/migrants /iom-submission-1103.pdf (15 Jun 2011).

15   International Organization for Migration, IOM Partnership with Non-Governmental Organizations (NGOs) in Managing Migration (MC/INF/253), Geneva 2002, http://www.iom.ch/jahia/webdav/shared/shared/mainsite/about_iom/en/coun cil/84/Mcinf253.pdf (22 Sep 2010).

16   Carolina Wennerholm/Eva Zillén, IOM Regional Counter-Trafficking Programme in the Western Balkans, 2003, p. 76.

17   Ibid., pp. 78, 88; Geiger, Mobility, Development, Protection.

18   Theda Kröger/Nivedita Prasad, Fragen für das Treffen mit IOM, als Ergebnis eines Erfahrungsaustausches am 27.11.03 bei Ban Ying, 2003; Personal interview with Marion Böker (KOK e.V.; April 2003).

with new networks of civil society organizations, established and qualified by the organization itself.[19] It appears as though IOM partly avoids potential problems with NGOs by subcontracting to organizations that, from the beginning, are not its partners, but rather subordinates.

The variety of criticism of IOM by NGOs, human rights organizations, liberal academics and others can be sensibly categorized in two categories.

The Legalistic Strategy

The first NGO strategy of criticism is the legalistic one. It denounces the IOM for concrete violations of national and international laws. A good example is the criticism IOM has drawn since October 2001 for running so-called migrant processing centers on the Pacific islands of Nauru and on Manus (Papua New Guinea) as part of Australia's ›Pacific Solution‹. In the camps hundreds of refugees, who were refused to enter Australia, were detained. Amnesty International and Human Rights Watch reproached[20] IOM for being involved in the breach of a series of international laws such as the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment due to the bad conditions of detention[21]; the Universal Declaration of Human Rights (article 9: »No one shall be subjected to arbitrary arrest, detention or exile«)[22] and of the UN Convention on the Rights of the Child, article 37b (due to the prolonged detention of children).[23] Amnesty International concluded: The IOM

> »has effectively become the detaining agent on behalf of the governments involved. The absence of basic safeguard to prevent arbitrary detention raises questions about the IOM's responsibility for ensuring that its activities are not in violation of international human rights and refugee law.«[24]

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19 Bonnie Bernström/Anne Jalaka/Christer Jeffmar, Anti-Trafficking Activities in Central Asia financed by Sida, Stockholm 2006.

20 Amnesty International, Offending Human Dignity. The Pacific Solution, London 2002, http://www.amnesty.org/en/library/info/ASA12/009/2002/en (6 Jun 2011); Human Rights Watch, By Invitation Only: Australian Asylum Policy, London 2002, http://www.hrw.org/en/reports/2002/12/10/invita-tion-only (6 Jun 2011).

21 Amnesty International, Offending Human Dignity, pp. 12–14; Human Rights Watch, By Invitation Only, pp. 67–70.

22 United Nations, Universal Declaration of Human Rights, New York 1948, http://www.un.org/en/documents/udhr (28 Jun 2011).

23 Amnesty International, Offending Human Dignity, p. 13; Australian Human Rights Commission, A Last Resort? National Inquiry into Children in Immigration Detention, Sydney 2004, ch. 6, 7 and 8: What is the impact of the ›Pacific Solution‹ on the ›shortest appropriate period‹?, http://www.hreoc.gov.au/human_rights/children_detention_report/report/chap06.htm (6 Jun 2011); UN Convention on the Rights of the Child, New York, http://www2.ohchr.org/english/law/crc.htm#art37 (27 Jun 2011).

24 Amnesty International, Offending Human Dignity, p. 14.

The Rights-Based Approach

With their second strategy of criticism, NGOs in principle affirm that migration control measures like visa, border controls, detention or deportations are acceptable and legitimate – as long as these measures meet the requirements of a rights-based approach, that is a generous interpretation of international human rights and refugee law and a priority on the full protection of the rights of refugees and migrants. In a typical formulation Human Rights Watch et al. acknowledge that return operations like those conducted by IOM are necessary:

> »NGOs acknowledge that the credibility of the asylum regime does depend, to some extent, on the return of persons who, after a full and fair determination procedure, are found not to be in need of protection, to their countries of origin. Due attention should however be paid to the following concerns«.[25]

In the following Human Rights Watch et al. add a long list of rights-based qualifications, such as upholding the fundamental principle of non-refoulement, taking into account the security situation in target countries, the physical integrity of the deportees during deportation and the ›sustainability‹ of returns.

An argument that goes in a similar direction is the common complaint of NGOs that IOM has »no protection mandate«[26] – »protection«, the UNHCR writes, »is usually defined as all activities aimed at obtaining full respect of the rights of the individual in accordance with the letter and spirit of the relevant bodies of law.«[27] Unlike UNHCR, the IOM is neither mandated nor obligated by an international law treaty like the Geneva Refugee Convention to protect the rights of the people with whom it works. In effect, NGOs claim, that because the IOM lacks the authority and independence that an international law mandate for protection would give it, IOM serves primarily the interests and wishes of its donors and member state governments – for whom the full protection of the rights of refugees and migrants might

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25   Human Rights Watch (HRW) et al., NGO Background Paper on the Refugee and Migration Interface. Presented to the UNHCR Global Consultations on International Protection Geneva, 28–29 June, Geneva 2001, p. 12, http://www.hrw.org/en/repor ts/2001/06/28/ngo-background-paper-refugee-and-migration-interface (5 May 2011).

26   Azadeh Dastyari/Castan Centre for Human Rights Law, Testimony at the Australian Senate Legal and Constitutional Legislation Committee, in: Australian Senate Legal and Constitutional Legislation Committee (ed.), Hearing on the Migration Amendment (Designated Unauthorised Arrivals) Bill 2006, Canberra 2006, pp. 37–49, here p. 46, http://parlinfo.aph.gov.au/parlInfo/download/committees/comm bill/9410/toc_pdf/4743-2.pdf;fileType=application%2Fpdf#search=%22committees /com mbill/9410/0004%22 (7 Jun 2011).

27   UNHCR, Protection of Persons Involved in Migration. Note on IOM's Role, Geneva 2007, p. 1, para. 2, http://www.unhcr.org/4bf644779.html (15 Jun 2011).

not be the first priority. Thus, Amnesty International demanded: »IOM should not provide an alternative agency for states where they prefer to avoid their human rights obligations.«[28] This is also illustrated by the question the International Council of Voluntary Agencies (ICVA) asked in its newsletter from October 2004: »Is IOM an agency that will do anything as long there's money with which to do it?«[29]

IOM is frequently portrayed and criticized as a donor-driven agency for which the monetary value of a project tends to supersede ethical or political considerations. One reason for this donor-dependence is that IOM raises about 96% of its overall budget through mostly temporary projects and grants, funded by member states or other intergovernmental organizations (IGOs).[30] Thus, IOM is dramatically dependent on the successful acquisition of new projects to save the jobs of its staff and keep its local offices.[31] This financial dynamic leads to a strong competition between NGOs and IOM over donor money. Juliette Engel, head of the Moscow based MiraMed foundation, sums up her experiences with IOM:

> »I think that's a pattern for [IOM]. To go in, take the resources, they really absorb the resources that would be going to the NGOs. So they sort of intercept the resources and dismantle NGO networks.«[32]

As a consequence, Juliette Engel argued, these policies made IOM »ineffective in terms of human rights«[33], and that IOM took away money from local, community-based NGOs who, in her opinion, worked effectively for the ›sustainable‹ protection of people affected by trafficking.[34]

Anti-trafficking-work is a central field where NGOs accuse IOM for not living up to the high-standards of a rights-based approach.[35] NGOs make six

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28   Amnesty International/Human Rights Watch, Statement by Amnesty International and Human Rights Watch to the Governing Council, p. 2.

29   Manisha Thomas/Ed Schenkenberg van Mierop, Editorial. IOM, Darfur, and the Meaning of Undermining, in: Talk Back. Newsletter of the International Council of Voluntary Agencies (ICVA), 6. 2004, no. 1, http://www.icva.ch/doc00001253.html #editorial.

30   For further details see: Georgi, For the Benefit of Some, p. 62f.

31   Personal interview: Staff members of the IOM headquarters, Geneva (September 2009).

32   Personal interview: Juliette Engel (Director of MiraMed Foundation, Moscow; August 2008).

33   Ibid.

34   Ibid.

35   An internationally binding definition of trafficking is fixed in the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children supplementing the United Nations Convention against Transnational Organized Crime (2002). Based on this definition NGOs, GOs, and IGOs strive to put into practice the 3p-approach: to *prevent* trafficking, to *protect* people who were affected by trafficking and to *persecute* trafficking as a criminal offence. Arguably,

central accusations. They say that: (1) IOM's assistance programs are defined by a *lack of legally fixed standards*[36]; (2) IOM's *assisted voluntary returns* of people identified as *victims of trafficking* are often in fact *mandatory* returns due to IOM's restrictive understandings of voluntariness[37]; (3) returns within IOM-programs often *stigmatize* the returnees in their home societies[38]; (4) IOM's assistance programs *re-victimize* the women affected by trafficking[39]; (5) IOM shelter staff members treat affected persons in a *paternalistic way*[40]; (6) many former victims of trafficking returned by IOM face *scarce chances* in their home countries and are unable to start a new living.[41] In sum, NGOs argue that their own anti-trafficking-work aims to *substantially* empower women affected by trafficking to claim their human rights and to gain back control over their lives. In contrast, they portray IOM's anti-trafficking-work as characterized by a narrow, technocratic interpretation of human rights that limits the support for people affected by trafficking to physical and psychological elements of temporary wellbeing.[42]

A third, well-documented field where NGOs see IOM activities in opposition to a rights-based approach are IOM's AVR programs for persons

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these rescue-industries contribute less to help trafficked people, than to contain migration through a stricter handling of visas and border crossings, applying new technologies to reduce the number of those migrating or intimidating potential migrants through anti-trafficking prevention campaigns. In contrast we would suggest an anti-trafficking approach that supports people to use their mobility according to their wishes, e.g. as a resource for gaining a better life (see Mirjana Morokvasic, Transnational Mobility and Gender: a View from Post-Wall Europe, in: idem/Umut Erel/Kyoko Shinozaki (eds.), Crossing Borders and Shifting Boundaries, vol. 1: Gender on the Move, Opladen 2003, pp. 101–133).

36 Bärbel Heide Uhl, Zerrreissproben. Internationale und Europäische Menschenhandelspolitiken zwischen Kollateralschäden und Menschenrechtsschutz, in: Katrin Adams (ed.), Frauenhandel in Deutschland, Berlin 2008, pp. 144–151.

37 Personal interview: Marion Böker (KOK e.V.; April 2003).

38 Barbara Limanowska, Bosnia and Herzegovina, in: Global Alliance Against Trafficking in Women (ed.), Collateral Damage. The Impact of Anti-Trafficking Measures on Human Rights around the World, Bangkok 2007, pp. 61–86, here p. 75; Elaine Pearson, Half-Hearted Protection. What Does Victim Protection Really Mean for Victims of Trafficking in Europe?, in: Gender and Development, 10. 2002, no. 1, pp. 56–59.

39 Limanowska, Bosnia and Herzegovina, p. 76; Heide Bärbel Uhl/Claudia Vorheyer, Täterprofile und Opferbilder. Die Logik der internationalen Menschenhandelspolitik, in: Osteuropa, 56. 2006, no. 6, Special Issue: Mythos Europa. Prostitution, Migration, Frauenhandel, pp. 21–32, here p. 31.

40 Limanowska, Bosnia and Herzegovina, p. 76; Wennerholm/Zillén, IOM Regional Counter-Trafficking Programme in the Western Balkans, p. 31.

41 Limanowska, Bosnia and Herzegovina, p. 75.

42 Personal interview: Marion Böker (KOK e.V.; April 2003).

that states want to remove from their territory.[43] The main point of contention between NGOs and IOM is whether or not these AVRs are in fact *voluntary*. NGOs criticize that, often, deportation by force, imprisonment or destitution are the only other options.[44] Under these conditions, NGOs say, so-called *voluntary* returns are actually often *mandatory* returns.[45] They see them as a »cheaper variant of deportation.«[46]

Limits of Human Rights-Based Criticism: An Immanent Critique

The survey on NGO criticism of IOM has shown that, in public, NGOs affirm the migration control measures IOM is involved in – while at the same time sharply criticizing legal rights violations and the gap to the standards of a rights-based approach. There is evidence, however, that many NGO workers, human rights activists, academics and, in fact, many people within the liberal mainstream, have an awareness of what we would call the fundamental injustice of migration controls. Stephen Castles for example argues that, while few people may openly call for open borders, »*many more of us* might agree« with »the defence of open borders based on ethical principles.«[47] Tellingly, a

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43 AVR programs that have been especially criticised include the certainly not-that-voluntary return of Iraqi refugees from Jordan and Lebanon to Iraq (Human Rights Watch, Flight from Iraq: Attacks on Refugees and other Foreigners and their Treatment in Jordan, London 2003; Human Rights Watch, Human Rights Watch's Statement to the IOM Council. Geneva 2007). Other IOM's return programs have drawn criticism include IOM's work with internally displaced persons, namely in Sri Lanka and Sudan/Darfur.

44 Human Rights Watch, Statement to the IOM Council, 27–30 November 2007 (94th Session), Geneva 2007, http://www.hrw.org/en/news/2007/11/28/human-rights-watch-s-statement-iom-council (6 Jun 2011) see especially footnote 4; Human Rights Watch, IOM and Human Rights Protection in the Field, pp. 4–8; Human Rights Watch, Rot Here or Die There. Bleak Choices for Iraqi Refugees in Lebanon, London 2007, http://www.hrw.org/en/reports/2007/12/03/rot-here-or-die-there (30 Oct 2010).

45 European Council on Refugees and Exiles (ECRE), Position on Return by the European Council on Refugees and Exiles, Brussels 2003, p. 3, http://www.unhcr.org/4d948adf9.pdf (15 Jun 2011); Stephan Dünnwald, Angeordnete Freiwilligkeit: Zur Beratung und Förderung freiwilliger und angeordneter Rückkehr durch Nichtregierungsorganisationen in Deutschland (Pro Asyl-Studie), Frankfurt-on-Main 2008, p. 83.

46 Thomas Berthold, Die zweite Säule der Abschiebepolitik. Der politische Rahmen der freiwilligen Rückkehr, in: Flüchtlingsrat 104/105. 2005, pp. 57–60, here p. 57 (our own translation).

47 Stephen Castles, A Fair Migration Policy – Without Open Borders, London 2003, http://www.opendemocracy.net/people-migrationeurope/article_165 7.jsp (20 Apr 2011), own emphasis added. On practical grounds, however, Stephen Castles rejects open borders because he believes that it would disadvantage workers in the industrialized countries and therefore such a position will be marginalized and achieve nothing.

representative of the British think tank IPPR (Institute for Public Policy Research), proponent of a managed migration-approach, complained in the British Newspaper *The Guardian*: »[M]any migrant support groups make it their mission to frustrate any return of refused clients, whatever the merits of their case.« [48] And in an interview one IOM representative explained:

> »[A] part of the NGO constituency […] believes a migrant should have the right to stay where he wishes and wants to stay. I mean, it is a little bit blunt but that is pretty much what a lot of people think. And [we are] an intergovernmental organization that lives in the real world of sovereign states, borders, and nationalities, and residences categories, where what this group would like to see is never gonna happen.« [49]

Thus, beyond pragmatic strategies, the ethical principles mentioned by Stephen Castles lead many people in the NGO community, in academic migration research and related fields to perceive a lot of IOM operations instinctively as *unjust*. These ethical principles lead them to perceive it as *wrong* to detain people who seek a better life in IOM-run migrant processing centers in Nauru; they feel it is *not just* to force people who search for a better life in unseaworthy boats out to the sea because IOM-propagated integrated border management prevents their legal entry; they think it is *unfair* to blackmail people into IOM-conducted assisted voluntary return-programs. This kind of ethical sensitivity often leads to an implicit attitude of solidarity, sympathy and even practical support for the illegalized practices of refugees, migrants and workers. Thus, while the individual consciousness of NGO staff and some of their activities point towards a much more radical critique of IOM, most of their public statements fall far short of it. The UK ›No One Is Illegal‹ Manifesto argues a similar point, saying that even people who reject all migration controls, sometimes do not openly say so because they fear to alienate potential allies:

> »The result is that the argument against controls is simply not presented. Many people, perhaps most fair-minded people, if they are presented with the case, do agree that in principle immigration controls are wrong, but may also believe that to argue for their abolition is unrealistic.« [50]

But what follows from this? In our view, the IOM is not criticized the way it needs to be criticized; be it because of theoretical and political ambiguities or

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48   Tim Finch, Immigration must be a Bigger Part of the Reform Agenda, in: The Guardian, 2 Aug 2010, http://www.guardian.co.uk/commentisfree/2010/aug/02/immigration-part-of-reform-agenda (15 Jun 2011), own emphasis added.

49   Personal interview: Staff members of the IOM headquarters in Geneva (September 2009; own emphasis added).

50   Steve Cohen et al., No One Is Illegal Manifesto (UK), London 2003, http://www.noii.org.uk/no-one-is-illegal-manifesto (15 Jun 2011).

because of – understandable but still highly problematic – tactical considerations and opportunism on part of the critics. In sum: To limit the criticism of IOM and similar migration control institutions to legalistic points and a rights-based approach, runs danger of missing the actual problem: In our view the actual problem is that migration controls *as such* can never be fair and just and adequate to the ideal of humans as free and equal beings. To us, this demonstrates the need for an alternative approach to the critique of IOM. As a first step towards such an approach, in the next section we develop its *ethical* and *political* groundwork.

Groundwork for a Critical Theory of Migration Control

The Counter-Hegemonic Project of Global Freedom of Movement

Karl Marx regarded his critique of political economy in a specific relation to the real struggles of the working class: »[Marx] criticizes the existing social order from the point of view of real struggles against it, judging that workers' struggles point towards a fuller realization of human freedom.«[51] In a similar way, we think that any critical theory of migration control must anchor and build its critique on the ›real movements‹ of migration that struggle for freedom of movement on the face of the earth. Without aiming to be comprehensive, we will sketch briefly the context and some episodes in the development of these movements.

Roughly since the early 1980s, migration became a survival strategy for many people in the Global South, set against a background of poverty, destitution, Cold War-related (civil) wars and the social devastation inflicted on large parts of the developing world by neoliberal structural adjustment programs and free trade. As a result of complex relations of forces, including strong racist dynamics, (Western) industrialized states (over)reacted and continue to react with ever more restrictive, ever more repressive migration and border controls, among them mandatory detention, illegalization, forced destitution and mass deportations. These state practices resulted in massive human suffering, embodied in the thousands of refugees, migrants and workers who die every year at the rich country's borders. They drown in the Mediterranean or off Australia's northern coast; they die of thirst in the Sahara or in the Arizona desert.

The control practices and their terrible effects have increasingly been attacked since the 1980s by migrant groups, NGOs, social movements, trade unions, churches and leftist organizations. What became clear in the last three decades, though, was that their struggles against specific elements of

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51 Paul Blackledge, Marxism and Ethics, http://www.isj.org.uk/?id=486 (Website of International Socialism, article posted 6 Oct 2008) (6 Jul 2011).

the new migration regimes were not succeeding in changing the course of these regimes: While they prevented many individual deportations and, often, the worst elements of new legislation, overall their political opponents, the social forces pushing for *more* repression, forced through an ever more extreme radicalization of control and exclusion. As a counter-reaction to this radicalization of control, some sections of the movements fighting these developments radicalized their own political visions or applied older notions of internationalism to the new, anti-racist struggles around migration: Since the 1990s, the demands for a more generous treatment of asylum-seekers or, if only, the conformity of state practices with national and international law, were accompanied by slogans like ›No One is Illegal‹, ›No Borders!‹ or ›Global Freedom of Movement‹.

Slowly, these ostensible utopian ideas are coalescing into a substantial *counter-hegemonic political project*.[52] In the 1980s, the *Sanctuary movement* in the US set up a covert network to smuggle political activists and refugees from the US-backed civil wars in El Salvador and Guatemala to the US and hide them from authorities. Today, similar groups provide water, food, orientation and rest to Latin American migrants crossing the Southern US deserts. Both movements have drawn explicitly on the experiences and the heroic spirit of the *underground railroad* that in the 19th century helped people enslaved in the South to escape to safety in the North and in Canada.[53] In 1969/70 rebellious student groups in Germany campaigned under the slogan ›Tear the Foreigners Law apart!‹ (›Zerreißt das Ausländergesetz!‹), portraying the law as a link in the chain of global imperialism.[54] In 1983 the political refugee Cemal Altun committed suicide by throwing himself out of a courtroom window in Berlin, to prevent his deportation to Turkey, where he was threatened with torture. His death was a catalyst for the anti-racist migrant-

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52   With the concept of counter-hegemonic political project we draw on Neo-Gramscian political theory to describe a more or less loose, often only implicit or indirect coalition of different social and political forces that coalesce around a specific political aim or idea in order to challenge and alter an aspect of the existing hegemonic order (Adam David Morton, Unravelling Gramsci. Hegemony and Passive Revolution in the Global Political Economy, London 2007).

53   Renny Golden/Michael McConnell, Sanctuary. The New Underground Railroad, Maryknol 1986; Welcome to Europe, No Border Lasts Forever Conference. From Abolitionism to Freedom of Movement? History and Visions of Antiracist Struggles, Frankfurt-on-Main 2010, http://conference.w2eu.net/files/2010/11/abolitionism. pdf (1 Jun 2011); Luis Cabrera, Underground Railroads. Citizen Entitlements and Unauthorized Mobility in the Antebellum Period and Today, in: Journal of Global Ethics, 6. 2010, no. 3, pp. 223–238.

54   Niels Seibert, Vergessene Proteste, Münster 2008, pp. 133–139.

solidarity movement in Germany. A broad coalition, among it the Green Party, demanded the free movement of people on earth for the first time.[55]

In the mid-1990s the autonomous struggles of the ›sans-papiers‹ in France strongly influenced and inspired anti-racist movements in Germany, the UK and many other countries.[56] In Germany, the racist violence of the early 1990s and the inspiring example of the ›sans-papiers‹ contributed to a radicalization of parts of the anti-racist movements. In 1994 refugees in Germany began to organize as The VOICE Refugee Forum and since then the group struggles continuously against legal discrimination, detention camps, deportations, and the German residence restriction law for asylum-seekers (Residenzpflicht).[57] In 1997 the broad ›No One Is Illegal‹-network was founded. From 1998 onwards a series of Antiracist (No)Border Camps began at Germany's eastern border. The concept of NoBorder Camps spread, and camps were held in Poland (2001, 2003), Romania (2003) and the Ukraine (2008), as well as in Spain (2001), France (2002), the UK (2007), the US (2007) and Australia (2002).[58] These camps became crystallization points for the freedom of movement-project, as several generations of anti-racist activists (and academics) were socialized there.

One key actor of these movements was the European NoBorder Network, initiated in 1999 and comprising groups from Germany, France, Austria, Poland, Finland, Romania and the Ukraine.[59] In 2002 the network initiated a campaign against the IOM carrying the title ›Combat Global Migration Management‹. The NoBorder activists singled out the IOM because it seemed to have its finger in nearly every pie of migration control activities, all over the world, making it a key factor in the »globalization of migration control«.[60] They interpreted IOM's concept of migration management as combining two formerly distinct elements of migration policy: first, control-measures like borders, illegalization, detention camps and deportation; second, the selective recruitment of labor and the regulation of labor mobility.[61] The NoBorder Network targeted IOM in a series of direct actions: In Novem-

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55   Ibid., pp. 181–189; Kanak Attak/Vassilis Tsianos, Border Clash. Festung Europa. Polysemie des Grenzregimes, Autonomie der Migration, 2002, http://www.rechtauf legalisierung.de/text/border.html (7 Jun 2011).

56   Madjiguène Cissé, Papiere für alle. Die Bewegung der Sans Papiers in Frankreich, Berlin 2002.

57   See The VOICE Refugee Forum website: http://thevoiceforum.org/taxonomy/ term/6.

58   NoBorder Network, About No Border, http://www.noborder.org/about.php (22 Sept 2010).

59   Ibid.

60   Düvell, Globalisierung des Migrationsregimes.

61   Antirassismusbüro, Stop IOM, p. 22.

ber 2002, protests were held at IOM offices in Berlin, Vienna and Helsinki. In June 2003, during the G8-Summit in Evian, a major demonstration with 2,000 people marched to the IOM headquarters in Geneva. In August 2003, several hundred people gathered for a rally in front of the IOM office in Bonn.[62] Discursively, the NoBorder Network challenged the IOM in a number of articles, leaflets and brochures. One pamphlet put the criticism into a nutshell: ›The IOM, Spies and Migrant Hunters‹.[63] In May 2003, the network released a 33-minute anti-IOM documentary and in October 2004 it published a brochure that documented activities and results of the campaign.[64]

Overall, the movements calling for global freedom of movement produced a series of key political documents that lay down their principles.[65] The 1997 German manifesto of ›Kein Mensch ist illegal‹ (No One Is Illegal) was calling, explicitly despite and against state laws,

»*for the support of migrants on entry and the continuation of their journey […] for the provision of work and identity papers […] for the supply of medical care, education and training, accommodation and material survival, because no one is illegal.*«[66]

Thousands of individuals and organizations signed the call, including many Members of Parliament. Antonio Negri and Michael Hardt, in their book

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62   Personal interview: NoBorder Activist (May 2009).

63   NoBorder Network, The IOM, Spies and Migrant Hunters. Campaign to Combat Global Migration Management, http://www.noborder.org/iom/index.php (22 Sept 2010).

64   Antirassismusbüro, Stop IOM; Gina Bremen, The IOM, Spies and Migrant Hunters, 2003, 33 Min., VHS.

65   These political movements have also found expression in academic and philosophical debates, with a focus on political philosophy: Veit Bader, The Ethics of Immigration, in: Constellations, 12. 2005, no. 3, pp. 331–361; economics: Nigel Harris, Thinking the Unthinkable. The Immigration Myth Exposed, London/New York 2002; geography: Harald Bauder, Justice and the Problem of International Borders: The Case of Canadian Immigration Regulation, in: ACME. An International E-Journal for Critical Geographies, 2. 2003, no. 2, pp. 167–182. Among the most important works are: Joseph H. Carens, Aliens and Citizens: The Case for Open Borders, in: The Review of Politics, 49. 1987, no. 2, pp. 251–273; Brian Barry/Robert E. Goodin (eds.), Free Movement. Ethical Issues in the Transnational Migration of People and Money, University Park 1992; Teresa Hayter, Open Borders. The Case Against Immigration Controls, London 2004; Antoine Pécoud/Paul de Guchteneire (eds.), Migration without Borders. Essays on the Free Movement of People, Oxford/New York 2007. This literature, however, is very fragmented and authors do not take excessively account of each other. A detailed debate between them would be high time.

66   No One Is Illegal, Appeal: No One Is Illegal. Documenta X. Kassel, Germany, 1997, http://archiv.antira.info/kmii/appell/proclaim.html (4 Jun 2011). For lists of signatories see http://www.medialounge.net/lounge/workspace/cross_the_border/DOCS/2/rightbar%281%29.html (28 Jun 2011).

›Empire‹, proclaimed in 2000: »The multitude must be able to decide if, when and where it moves. […] The general right to control its own movement is the multitude's ultimate demand for global citizenship.«[67] The 2003 ›No One is Illegal Manifesto‹ (UK) called in the clearest possible words for a world without borders and the end to all immigration controls.[68] With the 2006 ›Call of Bamako‹ European and African movements joined together for »a year long international mobilization in defence of the right of all people to circulate freely around the world and to determine their own destiny.«[69] And on 5 February 2011, during the 11th World Social Forum in Dakar, Senegal, the ›World Charter of Migrants‹ was proclaimed on the Isle of Goreé near Dakar, a symbolic place for the transatlantic slave trade. The Charter declares:

»Since we all belong to the Earth, all people have the full right to freedom of movement and settlement on our planet anywhere on this earth. […] All laws in regard to visas, laissez-passer and authorizations as well as all those limiting the freedom of movement and settlement must be abolished.«[70]

In our view, these struggles and movements create social relations, experiences, practices, affects, feelings, norms, ideas and thoughts that point towards an internationalist, post-national or cosmopolitan solidarity. They point towards a world that is beyond the one that IOM helps to shape through *migration management*, *migrant processing centers* and *assisted voluntary returns*. They reveal an immoral reality, provide a basis for its critique and produce the relations, experiences, affects that are necessary to overcome it. Friedrich Engels once described Marx' critique of political economy as »nothing but the reflex, in thought of the social conflicts endemic to capitalism.«[71] Similarly we understand our critical theory of IOM and migration controls to be *one* reflex in thought to these struggles of migration.

Critical Theory as an Unfolded Existential Judgement

In the classic text, ›Traditional and Critical Theory‹ Max Horkheimer described critical theory as »unfolding a single existential judgement«.[72] An existential judgement is a statement on how practices and circumstances could be and ought to be. Other than a *categorical judgment* (»It is like that.

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67 Michael Hardt/Antonio Negri, Empire, Cambridge, MA 2001, p. 400.

68 Cohen et al., No One Is Illegal.

69 Polycentric World Social Forum, For The Dignity and The Respect of Migrants, Bamako 2006, http://www.manifeste-euroafricain.org/spip.php?article37 (6 Jun 2011).

70 World Assembly of Migrants, World Charter of Migrants, Declaration of the World Assembly of Migrants in Gorée 2011, http://www.blaetter.de/archiv/dokumente/world-charter-of-migrants (6 Jun 2011).

71 Blackledge, Marxism and Ethics.

72 Max Horkheimer, Critical Theory. Selected Essays, New York 1972, p. 227.

Nothing can change it«) and a *hypothetical judgement* (»This may be so. Or it may be different«), critical theory as an existential judgement declares: »It must not be like this, men can alter being, the conditions to do so already exist.«[73] Alex Demirović explains that theoretical analysis as unfolded existential judgement »includes the proposition about whether specific social conditions should or should not exist«, it includes a »negative judgement with regard to the continued existence of the concrete ontological order«[74] that is target of the critique. Marx himself demonstrated in emphatic prose one of the existential judgements underlying his theory when he attacked the reactionary state of affairs in Germany in 1844:

> *»War on the German state of affairs! By all means! They are* below the level of history, they are beneath any criticism, *but they are still an object of criticism like the criminal who is below the level of humanity but still an object for the* executioner. *In the struggle against that state of affairs, criticism is no passion of the head, it is the head of passion. It is not a lancet, it is a weapon. Its object is its* enemy, *which it wants not to refute but to* exterminate. *For the spirit of that state of affairs is refuted. In itself, it is no object* worthy of thought; *it is an existence that is as despicable as it is despised. Criticism does not need to make things clear to itself as regards this object, for it has already settled accounts with it. It no longer assumes the quality of an* end-in-itself, *but only of a* means. *Its essential pathos is indignation, its essential work is denunciation.«*[75]

Similarly, John Holloway, an Irish-Mexican Marxist argues that the starting point of theoretical reflection is opposition, negativity, struggle. »It is from rage that thought is born, not from the pose of reason, not from the reasoned-sitting-back-and-reflecting-on-the-mysteries-of-existence.«[76] Yet, before we can unfold the specific critique of IOM, we think it necessary to at least sketch briefly the philosophical, ethical and political reasoning that lets us arrive at a position so starkly removed from positions publicly voiced in the mainstream today. In the following we sketch six arguments in favor of global freedom of movement that we hold to be especially relevant:[77]

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73   Ibid.

74   Alex Demirović, Kritik und Materialität, Münster 2008, p. 32f. (our own translation).

75   Karl Marx, Contribution to the Critique of Hegel's Philosophy of Right. Introduction, Paris 1844, www.marxists.org/archive/marx/works/1843/critique-hpr/intro.htm (28 Jun 2008).

76   John Holloway, Change the World without Taking Power. The Meaning of Revolution Today, London 2005, p. 1.

77   As the philosophical, academic and political debate on these questions is still in its very early stages, these arguments may appear partly additive or contradictory. They are preliminary and by presenting them we hope to foster further debate.

(1) Global freedom of movement as end in itself: Today, at least in theory, freedom of movement within a national territory is enshrined as a basic human right. The Universal Declaration of Human Rights of 1948 states in article 13(2): »Everyone has the right to freedom of movement and residence *within* the borders of each state.«[78] We hold that in the same way *global freedom of movement* must be understood an end in itself, as a good in its own right and as a condition to realize meaningful human freedom in a globalized world. In a world so deeply inter-connected as ours, to discriminate and hierarchically order people according to citizenship, and to privilege *fellow national citizens* or *compatriots* over people with a different citizenship or people living in different countries, starkly undermines the conditions for human freedom. Authors using the concept of *cosmopolitan justice* have argued that today the nation-state can no longer be the ethico-political frame of reference. It must be the global scale, a cosmopolitan realm.[79]

(2) Global justice: Second, we hold that at the very least as long as there is dire poverty and massive inequality in life chances, any restriction to global freedom of movement cannot be justified because the *normative good* of a life without destitution for all overrules almost all other considerations that might justify restrictions. Moreover, today's inequality is the result of a »history of conquest, colonialism, and imperialism. […] The starting positions of the better- and the worse-off are a result of massive crime, force, and fraud.«[80] Since the 1970s migrant activists are shouting: »We are here because you were there.« In the 1990s they reformulated it to: »We are here because you destroy our countries.«[81]

(3) »Citizenship is like feudal privilege«: In an often-quoted passage, Joseph H. Carens argues:

> *»Citizenship in Western liberal democracies is the modern equivalent of feudal privilege – an inherited status that greatly enhances one's life chances. Like feudal birthright privileges, restrictive citizenship is hard to justify when one thinks about it closely.«[82]*

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78 United Nations, Universal Declaration of Human Rights, New York 1948, http://www.ohchr.org/EN/UDHR/Pages/Language.aspx?LangID=eng (30 May 2011).

79 Omid A. Payrow Shabani, Cosmopolitan Justice and Immigration. A Critical Theory Perspective, in: European Journal of Social Theory, 10. 2007, pp. 87–98; Seyla Benhabib, The Rights of Others: Aliens, Residents, and Citizens, Cambridge 2004.

80 Bader, Ethics of Immigration, p. 344.

81 Arun Kundnani, The End of Tolerance. Racism in 21st Century Britain, London/Ann Arbor 2007, p. 22; The Voice Refugee Forum, We are here because you destroy our countries! Solidarity against deportations! Caravan Tour from May 19th to June 4th 2007, pamphlet, http://thecaravan.org/files/caravan/Call_Tour_07_en.pdf (28 Jun 2011).

82 Carens, Aliens and Citizens, p. 252.

This argument confronts migration controls with the promises of the human rights discourse: If all humans are free and equal, have the same worth and dignity, then all privileges that come from arbitrary criteria of a person or a group are indefensible and must be abolished.[83] Since the Enlightenment a series of grand struggles have been led about the abolition of such arbitrary institutions, among them the distinctions between nobels/serfs and freemen/slaves, the caste-system, the superiority of men over woman, the discrimination of non-Whites and of LGBTI[84]-people. While almost none of these power relations have disappeared, what has changed is that they once appeared to be completely self-evident and natural (appeared so at least to the superior side). In the past, especially white people thought that *of course* a black person cannot have the same rights as them; men thought that *of course* women were inferior to them. And today most citizens of rich, industrialized countries think that *of course* a non-citizen cannot have the same rights as them, that *naturally* foreigners living somewhere else must be excluded from the citizenship privileges they enjoy. What we argue is that whereas in the 19th and 20th centuries the great emancipatory struggles to end discrimination based on race, caste, gender or sexuality were led primarily within the nation-state, in the globalized world of the 21st century the political, economic, social and ethical frame for struggles of emancipation has been irreducibly expanded to the transnational sphere. Thus, the historic struggle for the abolition of migration continues in the 21st century as the successor of the older abolitionist struggles against feudal privileges, slavery or patriarchy.

(4) Migration controls and capitalism: Stable and profitable capital accumulation was and is always based upon other, intersecting relations of domination and social hierarchization[85]: Capitalism was and is build on *racism* that legitimized colonialism, slavery, and racially segregated labor markets; capitalism was and is based on *patriarchy* that provided free or cheap reproductive labor of women; and capitalism relies on discrimination based on

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83   In its core this is of course a liberal bourgeois argument because it implies that in capitalist societies inequality is morally acceptable if it is based on differences in merit, hard work, private enterprise or event inherited ›talent‹ and if there are *equal opportunities*. Leftists and especially Marxists reject privileges derived from capitalist competition and confront them with their principle of: »From each according to his ability, to each according to his needs!«; Karl Marx, Critique of the Gotha Programme. Part I, 1875, http://www.marxists.org/archive/marx/works/1875/gotha/ch01.htm (28 Jun 2011).

84   Abbreviation for Lesbian, Gay, Bi, Transgender, Intersexual.

85   Nandita Sharma, Home Economics: Nationalism and the Making of Migrant Workers in Canada, Toronto 2006; Pia Garske, Intersektionalitat als Herrschaftskritik? Die Kategorie Klasse und das gesellschaftskritische Potential der Intersektionalitätsdiskussion [forthcoming].

citizenship because it leads to the juridical disenfranchisement of »migran-tised«[86] workers, even their illegalization. As a consequence, their position vis-à-vis capital and the state is weakened, which allows for more intensive exploitation. The profitability of whole economic sectors is built on this, with famous examples being agribusinesses in Spain and the US.[87] The struggle for the abolition of migration controls, then, is another reiteration of the long-ongoing struggle to emancipate those sections of the *global working class*[88] that are most disenfranchised and that, because of it, allow capital to con-tinue accumulation despite all of its crisis tendencies.

(5) Migration controls as global apartheid: Migration controls and borders stabilize the capitalist world system because they regulate its massive ine-qualities by containing them, violently, in distinct spatial territories. Migra-tion controls make it possible for the citizens of rich countries to largely ignore the dire conditions in the developing world because the people living under these conditions are spatially confined to their home countries. They are imprisoned within a system of »global apartheid«.[89] This global apart-heid is materialized in the institutions of migration and border controls, among them IOM.

(6) Exit is voice: The consequence is that most people in the periphery have no effective exit-option to escape from inhuman living conditions. And because they have no exit-option, their voice is weakened:

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86   In our view, the process in which people are socially constructed as different kinds of migrants has to be problematised. The effect of constructing people as migrants is to position them at the periphery of today's nationalised political communities. As used today, migrants and migration are methodologically nationalist concepts: Nina Glick-Schiller, A Global Perspective on Transnational Migration: Theorizing Migra-tion without Methodological Nationalism, Working Paper No. 67 (Centre on Migra-tion, Policy and Society, University of Oxford), Oxford 2009. In order to overcome methodological nationalism and its exclusionary and hierarchising effects, we sug-gest a deliberate *de-migrantisation* of language, research topics, theory and politics as crucial part of a critical engagement with migration and border regimes. Instead of using the migrant concept it would be analytically and politically more productive to either speak and write in a humanist way about people, or in a more historical-materialist sense about workers who belong to a global working class; Marcel van der Linden, Workers of the World. Essays toward a Global Labor History, Leiden 2008.

87   Europäisches BürgerInnenforum (ed.), NoLager Bremen, Peripherie & Plastikmeer. Globale Landwirtschaft, Migration, Widerstand, Wien 2008; Martin Geiger, Les Ac-teurs Locaux et l'Inclusion Sociale des Ouvriers Agricoles Marocains dans la Pro-vince Espagnole d'Almería, in: Migrations Société, 102. 2005, no. 17, pp. 215–233.

88   Marcel van der Linden/Karl Heinz Roth, Über Marx hinaus, Berlin 2009; Van der Linden, Workers of the World.

89   Étienne Balibar, We, the People of Europe?, Princeton 2004, p. 113.

>*›Exit‹ – to claim one's freedom of movement and to migrate in order to find a different, better life, and ›Voice‹ – to raise one's voice and struggle locally, are not contradictory, they are rather mutually intertwined.«*[90]

›Exit‹ functioned as ›voice‹ in 1989 as the migration of thousands of people from the state-regimes of the Eastern bloc were a key factor in their downfall. In patriarchal marriages husbands only stop to treat woman in oppressive ways, if and when women have the effective exit-option to divorce and to live independent lives. ›Exit‹ as the right to leave any country is enshrined in the Universal Declaration of Human Rights, article 13(1): »Everyone has the right to leave any country, including his own, and to return to his country.«[91] Thus, because *exit is voice*, for billions of people in the ›developing world‹ visa regimes, border controls and immigration restrictions massively weaken their position in the *national* as well as in the *international* relations of forces – and thereby perpetuating their inferior status. Global freedom of movement, then, would have the effect to massively improve the power position of the subaltern classes of the developing world. It may be that only then the aim of ending poverty and achieving global justice can finally be achieved.

An Existential Judgement on the IOM

Now the ethical and political existential judgement that is unfolded in our critical theory can be formulated, at least roughly: In the previous three decades the struggles of migration have mercilessly exposed the hypocrisy of migration controls. It is intolerable to live in a world where a minority defends its privileges with an ever more extreme radicalization of border controls, detention and deportations. It is unbearable to live in a system of global apartheid, materialized in IOM's migrant processing centers, assisted voluntary returns and the ideology of migration management that aims to confine, to steer and to disenfranchise the movements, hopes and aspirations of human beings seeking a better life. Most fair-minded people know the situation is intolerable. They know because the practices of migration have made it clear to them: desperate but determined border crossings in deadly peril, everyday appropriation of rights to stay, to education and to medical services, uprisings in deportation prisons and the continuous, conscious struggles of the ›sans-papiers‹, the NoBorder movements, of NGOs resisting every single deportation or the activists of the new underground railroad. To

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90   Afrique-Europe-Interact/Welcome2Europe/kritnet, Freedom, Not Frontex. There cannot be Democracy without Global Freedom of Movement, 2011, http://w2eu. net/files/2011/03/fsf.en-freedom.not_.frontex.pdf (24 Jun 2011).

91   United Nations, Universal Declaration of Human Rights.

actualize today the radical emancipatory promises of the Enlightenment[92] means to assert: Migration controls need to be abolished. The abolition of migration controls is an indispensable, irreducible condition of human freedom.

But the concrete utopia of global freedom of movement is not about the formal equality of bourgeois monads who, in their capacity as laboring wage workers and entrepreneurs, can then finally circulate and compete without limits on the capitalist world market. The negation of migration controls is also *strategically necessary* because it is part of a much broader negation. It is part of a historic effort that is motivated by Marx' »categoric imperative to overthrow all relations in which man is a debased, enslaved, abandoned, despicable essence.«[93] In this effort, critical scholarship has a role to play. For Max Horkheimer, critical theory

> *»is not just a research hypothesis which shows its value in the ongoing business of men. It is an essential element in the historical effort to create a world which satisfies the needs and the powers of men […]. Its goal is man's emancipation from slavery.«*[94]

Based on our current knowledge, the IOM appears to be a serious hindrance to this effort. The organization not only passively affirms migration controls, as today still the vast majority of people in the privileged countries do. Instead, the analysis shows that the IOM actively propagates and contributes to the modernization and perfection of the system of global apartheid by performing control functions, expanding state capacities and rationalizing controls with its utilitarian migration-management ideology. Thus, in a way, our critique of IOM »does not need to make things clear to itself as regards this object, for it has already settled accounts with it.«[95] To a certain degree, then, the urgently necessary extensive and sober empirical analysis of IOM serves to provide detail, sophistication, adequacy and faculty of judgement (Ur-

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92   In referring to the emancipatory potentials of the *Enlightenment* we are influenced by Horkheimer's and Adorno's key work *Dialectics of Enlightenment*. For them Enlightenment (understood in a broad sense, as a historical tendency since mythological times) set in motion a process of instrumental reason in which humans aimed to control threatening, dangerous nature. But, they argued, the process of Enlightenment tipped over into an ordering domination of nature, of people and social reality. But while they sharply criticized the positivist, technocratic and managerial mindset that corresponded with this tendency, they did not give up on its radical emancipatory potentials (Max Horkheimer/Theodor W. Adorno, Dialectic of Enlightenment. Philosophical Fragments, Stanford 2002).

93   Marx, Introduction to Critique of Hegel.

94   Horkheimer, Critical Theory, p. 246. In the German original both men and man translate to *Menschen*, that is literally humans.

95   Marx, Introduction to Critique of Hegel.

teilskraft) to an existential verdict on IOM whose »essential pathos is indignation, its essential work is denunciation.«[96]

   This judgement has no ultimate, indubitably philosophical or even meta-physical justification. But by grounding it in a reflection of real struggles it *is* anchored in actual, historical reality and its dynamics.[97] What we have formulated is only the groundwork of a critical theory. The proper work of critique as *critical theory* only starts from here.

Methods for a Critical Theory of Migration Control

Two Methods: Immanent Critique and Radical Contextualization

Marx and Marxism have been interpreted as rejecting ethics and morality and instead performing cold-hearted analysis of economic categories. In fact, Marx criticized bourgeois morality and ethics as a tool to gloss over and partly civilize the immoralities of capitalist society. But as is evident in many of his emphatic formulations, he was very much motivated by moral notions of justice or human dignity.[98] With his method of immanent critique he and other critical theorists turned bourgeois morality against itself. Marx propagated this method in memorable words as he attacked the reactionary state of affairs in Germany in 1844:

   »*The point is not to let the Germans have a minute for self-deception and resignation. The actual pressure must be made more pressing by adding to it consciousness of pressure, the shame must be made more shameful by publicizing it. Every sphere of German society must be shown as the* partie honteuse [eyesore] *of German society: these petrified relations must be forced to dance by singing their own tune to them!*«[99]

In following Marx' method, we argue that IOM and other migration control institutions must be criticized immanently from their own alleged standpoint, that is the liberal promises of the international human rights discourse. We have already employed this method in our evaluation of the human rights criticism directed against IOM and within some of the arguments making the case for the abolition of migration controls. To put it simply, part of the critique should be to see how these organizations' practices match up with their own rhetoric.

   But historical-materialist critical theory cannot stop here: »Immanent critique attacks social reality from its own standpoint, but at the same time

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96   Ibid.

97   Demirović, Kritik und Materialität, p. 10.

98   Robert J. Antonio, Immanent Critique as the Core of Critical Theory, in: The British Journal of Sociology, 32. 1981, no. 3, pp. 330–345; Blackledge, Marxism and Ethics.

99   Marx, Introduction to Critique of Hegel.

criticizes the standpoint from the perspective of its historical context.«[100] Therefore, a second crucial method of critical theory is a radical historical and structural contextualization of the object of critique and its manifold elements, categories and concepts. It's a *critique of ideology* in the sense that it fundamentally analyses the historical processes that have brought about, for example, the migration management-ideology. To criticize the IOM, then, means to deeply analyze how the organization and its concepts and categories are bound up with specific historic structures of power and domination, how it is embedded in social, economic and political dynamics, how it is associated with concrete spatio-temporal materializations and tied up with the associated strategically organized interests. It also means to ask the cui-bono question: Who benefits?[101]

Critique in the form of such a fundamental analysis is necessary because its sole reason to exist is to fundamentally change society. And because it is a means to that end, in its analysis of society it cannot allow itself to be anything but as level-headed and *objective* as it possibly can. Critical theory is not ideological or dogmatic. It does not mix up aim and diagnosis, nor hope and understanding. Again: Marx saw critique not as an emotional passion of the head. Critical theory is the sober head that grows out of passionate ethical and political negativity. It is a determined head that analyses patiently and thoroughly to unmake the conditions that breed the negated object.[102]

In the following sections we outline preliminary elements of such a critique by analyzing and contextualizing the development of IOM since the 1970s.

The Crisis of the 1970s

Capitalist societies are centrally driven and structured by the constant need to maintain stable and profitable capital accumulation. Private corporations and the capitalist state, by way of taxes, are dependent on it. This ubiquitous, overarching need to create constant growth, as it is normally referred to, is difficult to fulfill because there are various factors that tend to decrease the profit rate and bring about crisis. This is what happened in the 1970s. In terms of regulation theory[103], the global recession of 1973 was the final crisis of the Fordist mode of regulation of Western post-war capitalism, characterized by class compromises and relatively strong workers movements. Cen-

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100   Antonio, Immanent Critique, p. 338.

101   Horkheimer, Critical Theory; Demirović, Kritik und Materialität; see also Georgi/ Wagner, Macht Wissen Kontrolle.

102   Marx, Introduction to Critique of Hegel.

103   Stephen Gill, Power and Resistance in the New World Order, Basingstoke 2008.

trally it was a profit crisis.[104] As the crisis intensified there were bitter political and ideological battles over strategies to overcome it and re-increase profits. As is known, it was neoliberalism that prevailed in becoming the new hegemonic project, dominating politics, economy and even culture for at least the three decades of 1979–2008 (and, as it appears now, much longer than that). Neoliberal reforms (deregulation, privatization, finanzialization and free trade: 1989 summarized in the ›Washington Consensus‹) were pushed through in intense societal struggles in country after country and in the international sphere. European states established the common market, the G7 countries and transnational corporations promoted the globalization of production and trade, and capital markets were largely deregulated.[105] These so-called reforms defined the conditions for the changing migration policies since the early 1980s – and for the expansion and transformation of IOM. Two neoliberal strategies have become especially relevant for migration policy: First, it was what David Harvey describes as »accumulation by dispossession«, second it was the regulation of transnational labor mobility under the imperative to optimize its utility for growth.

Neoliberalism in the Periphery: Accumulation by Dispossession as a Historical Chance for IOM

Several neoliberal strategies to overcome the low profit rates of the 1970s and 1980s targeted directly or had deep effects on the periphery. In large parts of the so-called developing world, millions of people reacted with community-supported migration projects to the shock strategy[106] of IMF structural adjustment programs that followed the debt crisis of the early 1980s. Economic reforms and the political manipulation of crises resulted in an »accumulation by dispossession«.[107] People could no longer survive as small-hold farmers in competition with international agribusinesses. Millions were driven from their lands, or lost jobs after public companies became privatized, public sector spending was reduced, or when uncompetitive firms could no longer survive after their local markets were opened to transnational corporations. As postcolonial societies were trapped between the double gears of forced world market integration and hegemonic power interventions in the context first of the Cold War, then the ›War on Terror‹, local elites took to ethnic identity politics and state terrorism to assert their power, thereby fuelling

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104 David McNally, Global Slump, Oakland 2011; Robert Brenner, The Economics of Global Turbulence, London/New York 2006.

105 David Harvey, The New Imperialism: Accumulation by Dispossession, London 2004; Naomi Klein, The Shock Doctrine, New York 2007.

106 Klein, Shock Doctrine.

107 Harvey, New Imperialism.

wars, civil wars and mass oppression.[108] Thus, millions of people began to move from villages to towns and cities and from peripheral countries to capitalist core regions. The post-war migration control apparatuses of Western industrialized countries, among them the IOM (or ICEM/ICM[109] as it was known until 1989) were no match for these new migration movements that flexibly adapted to new political regulations by subverting or circumventing them.

The reactions of industrialized countries to these new migration movements varied. In general, however, sooner or later they institutionalized new migration and border policies that were more restrictive than before, less generous for asylum-seekers and deeply hostile towards all but the most ›useful‹, mostly highly qualified migrant workers. Terms like ›The Wall around the West‹[110] and ›Fortress Europe‹ were applied widely to describe these processes. A major reason for these developments were the independent and at the same time intersecting dynamics of racism, directed especially against non-White immigrants, workers and asylum-seekers in many Western countries. There was, however, no real consensus on more restrictive policies or even ›zero-immigration‹. Since the 1970s, different capital factions and political forces within the industrial countries disagreed sharply over tightened migration controls. This often resulted in lax enforcement and the tacit, if controversial, acceptance of immigration as long as the ›migrantized‹ workers and working refugees were actively illegalized by state policies.[111]

It was in this situation, in the 1980s, that Western countries began to establish dozens of new institutions for migration control and migration research and exhibited a serious interest in international cooperation in the field for the first time. This was a historical chance for IOM. From the early 1960s onwards ICEM/IOM had experienced a severe crisis: Steady economic growth in Western Europe and the Iron Curtain between East and West reduced the demand for ICEM's services. Its institutional existence was openly questioned. From 1961 to 1981, ten member states left the organization, among them Canada and Australia.[112] Only slowly ICEM diversified its

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108   Kundnani, The End of Tolerance, pp. 27–29.

109   Intergovernmental Committee for European Migration (ICEM) resp. Intergovernmental Committee for Migration (ICM).

110   Peter Andreas/Timothy Snyder (eds.), The Wall around the West. State Borders and Immigration Controls in North America and Europe, Lanham 2000.

111   Nicholas de Genova, Migrant Illegality and Deportability in Everyday Life, in: Annual Review of Anthropology, 31. 2002, no. 1, pp. 419–447.

112   Worldstatesmen.org, International Organizations, http://www.worldstatesmen.org /International_Organizations.html (29 Jun 2011); see also Luise W. Holborn, Canada and the ICEM, in: International Journal, 18. 1963, no. 2, pp. 211–214; Freda Hawkins,

activities, taking pains to prove its continued utility to its member states.[113] In the mid-1970s, ICEM-Director General John F. Thomas failed to convince skeptical member states to make it a permanent organization by reforming its constitution. It was only in 1987 that IOM succeeded in mobilizing the support of its member states for a reform of the Constitution, thereby widening its mandate, becoming a permanent agency and increasing its membership.[114]

This enhancement from ICEM (a *commission*) to IOM (a permanent *organization*) must be understood before the historical background: As millions of people in the periphery were dispossessed of old forms of subsistence or wage labor through accumulation by dispossession and as some of them reacted with migration projects to the industrialized countries, migration became to be seen by Western governments as a new *problem*. In the mid-1980s, an *International Organization for Migration* became to be seen by them as a useful thing to have. The utility of IOM for Western governments was further fuelled by the disappearance of the Iron Curtain after 1989 and the shock therapies of privatization and market-reforms in Eastern Europe and the CIS-countries.[115] Thus, the reform and expansion of IOM since the early 1990s was an element of a complex process in which hegemonic forces in Western industrialized countries tried to shift the balance of forces between their migration control capacities on the one side and the mobility strategies that people employed as a reaction to neoliberal reforms on the other.

IOM Migration Management as a Neoliberal Strategy to Solve the Labor Problem

A second neoliberal strategy that had severe effects on migration policy and on the IOM was the regulation of labor mobility. The control of labor, its reproduction, its mobility, its skills and the condition of its exploitation belong to the key problems firms and states have to solve in order to maintain stable and profitable accumulation. For capital, in order to stay competitive, the structural problem is to maximize its flexibility in the utilization of labor in

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Critical Years in Immigration. Canada and Australia compared, Montréal 1991, pp. 161–163.

113 Marianne Ducasse-Rogier, The International Organization for Migration, 1951–2001, Geneva 2001, pp. 44–69; Søren Kjøller Christense, Relief. The Story of Helping Seven Million People to a New Future, Bedfordshire 2009, p. 111.

114 Personal interview: Staff members of the IOM headquarters in Geneva (September 2009); Richard Perruchoud, From the Intergovernmental Committee for European Migration to the International Organization for Migration, in: International Journal of Refugee Law, 4. 1989, no. 1, pp. 501–517, here pp. 506f.; Ducasse-Rogier, International Organization for Migration, pp. 88f.; Georgi, For the Benefit of Some, p. 51.

115 Klein, Shock Doctrine, ch. 9 and pp. 11–13.

terms of wages, conditions and quantity.[116] Transnational labor regimes that target the world labor market aim to solve some of these problems. There have been at least three neoliberal strategies that focus on labor to increase profits and growth[117]: (1) *Changing local conditions for the exploitation of labor*: limiting trade union influence, reducing wages, flexibilization and deregulation of labor laws, education, illegalizing workers; (2) *Moving production to where labor is:* foreign direct investments, relocation of production sites, outsourcing; (3) *Moving labor to where production is:* migration policy, managed migration, contract labor.

The implementation of managed migration policies in many industrialized countries since the 1990s was, then, a version of the third strategy. It was an attempt to overcome crisis tendencies and to increase economic growth and stabilize accumulation by optimizing labor supply and conditions of the exploitation of migrant labor. Migration became to be seen as positive because and insofar it helped to meet skill and price-specific labor demand. IOM's migration management discourse has been interpreted by many critical scholars as a strategy to make migrants' labor available and retrievable in order to utilize it in the process of capital accumulation and to anchor this strategy in the emerging global elite consensus on migration policy.[118] But IOM's migration management project is more complex. It is the attempt to forge a compromise. Against the background of stiff opposition from nationalist and racist social forces in the industrialized countries, the migration management compromise propagates restrictive border controls and effective deportation regimes as necessary preconditions to make a »regulated openness«[119] for the economically desirable politically feasible.[120] IOM tries to advance this compromise by depolitizing the deeply political concepts of its migration management-discourse as apolitical and technical

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116   Lydia Potts, The World Labour Market. A History of Migration, London 1990.

117   Ibid.; Beverly J. Silver, Forces of Labor. Workers' Movements and Globalization since 1870, Cambridge/New York 2003; Ferruccio Gambino/Devi Sacchetto, Die Formen des Mahlstrohms. Von den Plantagen zu den Fließbändern, in: Marcel van der Linden/Karl Heinz Roth (eds.), Über Marx hinaus, Berlin 2009, pp. 115–153.

118   Düvell, Globalisierung des Migrationsregimes; Georgi, For the Benefit of Some; Henk Overbeek, Globalisation and Governance: Contradictions of Neo-Liberal Migration Management, Hamburg 2002; Katrin Meyer/Patricia Purtschert, Migrationsmangement und die Sicherheit der Bevölkerung, in: Patricia Purtschert/Katrin Meyer/Yves Winter (eds.), Gouvernementalität und Sicherheit: zeitdiagnostische Beiträge im Anschluss an Foucault, Bielefeld 2008, pp. 149–172.

119   Bimal Ghosh, Towards a New International Regime for the Orderly Movement of People, in: idem (ed.), Managing Migration. Time for a New International Regime?, New York 2000, pp. 6–26, here p. 25, see also the contribution of Bimal Ghosh in this volume.

120   See also Georgi, For the Benefit of Some, pp. 63–65.

necessities, as just reasonable, and thereby constructing the particularist in-
terests behind it as the general interest. Rutvica Andrijasevic and William
Walters have pointed out that IOM's

> *»reformulation of the border in terms of technical norms, standards, and regu-*
> *lations and their implementation through networks and partnerships allows the*
> *control of borders to be represented as ›beyond politics‹.«*[121]

To sum up: One key reason why state migration controls expanded and have
become more restrictive since the 1980s and, thus, why IOM has expanded
into the role to support states and building up their control capacities, was
that governments needed to react to the counter-reactions of peripheral
populations to accumulation by dispossession and other neoliberal reforms.
These counter-reactions were migration projects, unintended and unwanted
by the industrialized states. The societal relations of forces within the indus-
trialized countries and increasingly also newly industrializing countries were
strongly shaped by racism and nationalist anti-immigration mobilizations.
Moreover, there was a deep hegemony in these states, that effective migra-
tion controls should be upheld and that state control capacities had to adapt
to the new situation. State institutions reacted to the challenges that the
mobility projects of peripheral refugees, workers and other migrants posed to
them. But there was another, more offensive element of migration control
within the neoliberal hegemonic project: It was the attempt to regulate the
mobility of labor and the conditions of exploitation for migrant labor
according to rationality of maximizing economic growth. The IOM became
instrumental for its rich state donor governments in both dimensions of the
new migration controls – and it grew and expanded accordingly.

Conclusions

We started out in this article by describing the two ways in which IOM and
other migration control institutions are mostly criticized: the legal strategy
and the confrontation with standards of a rights-based approach. We then
moved on to establish the groundwork of our alternative approach of critique
by sketching some episodes of the struggles that coalesce in the counter-
hegemonic project for global freedom of movement. We pointed out six ar-
guments that make the case for an abolition of migration controls. We also
roughly outlined the existential judgement that is unfolded in our own criti-
cal analysis. In the previous section, we demonstrated the method of radical
contextualization by locating the massive expansion of IOM within the geo-

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121 Rutvica Andrijasevic/William Walters, The International Organization for Migration
and the International Government of Borders, in: Environment and Planning D: So-
ciety and Space, 28. 2010, no. 6, pp. 977–999, see here p. 995.

political and economic transformation and struggles in the capitalist world system since the 1970s.

By way of conclusion, we highlight three points, which in our view, should be debated among (critical) scholars, NGO staff, activists, people subjected to migration controls and others. First, we think it is crucial to have a broader exchange between researchers, NGOs and others working with or about IOM in order to correct misinterpretations, achieve faculty of judgement and, overall, advance a critical engagement with the organization. Second, our aim was to contribute to the on-going discussion on the groundwork, justification, self-conceptions and methods of *critical migration and border regime studies*. In our view, further development of the series of arguments and analyses we made the case for global freedom of movement would be productive. It would also be interesting to make explicit and then debate the mostly implicit *existential judgements* that underlie different critical approaches. Third, we think that the critique of different migration control institutions can function along similar patterns. While each critique must be informed and ultimately structured by an intensive knowledge and deep analysis of its object, we think that the framework and the methods sketched here can be productively applied to other institutions.

Some of the ideas we have developed in this text may appear rather radical – and they are. But they are a reaction to a historical situation characterized by massive human suffering and deep hypocrisy. In a way, to us, global freedom of movement is the only realistic solution. We think the authors of the ›No One is Illegal Manifesto‹ are right when they concede: »The struggle against the totality of controls is certainly uphill.« *But*, they argue, »the achievement of fair immigration restrictions […] would require a *miracle*.«[122]

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122   Cohen et al., No One Is Illegal (own emphasis added).