

# Undermining of human rights of refugees in Germany at present



*Aische Westermann, Aachen (Germany)*

Social Work in Germany is still focusing great challenges in concerns of politics for human rights of refugees. Accommodation, racism, education of children and adults, advertisement for solidarity and inclusion have been main topics in the past, but especially are at present due to racist attacks on refugee homes every week, a huge readiness of the population to help voluntarily, a skeptical Federal Minister of the Interior and extreme distress of communes in terms of needing to cope with the increasing numbers of refugees.

This article will focus on how the German state tries to profit of refugees and migrants and refuses at same time to give entire and true access to human rights to illustrate main fields of action of Social Work today.

## **Economization**

The economization of refugees and its distinction into “waste” and “useful”, according to Zygmunt Bauman, is a process that is already lasting for centuries. Already the Prussians evaluated a human being by means of its promise to contribute to the material wealth of the state, as you can observe in the case of the escaped Huguenots in France, who were “useful” because of their skills on handicraft, and Sinti and Roma from Eastern Europe, who were “waste” because of an traditional ethnological discrimination which lasts until today.

In Germany we can currently observe another attempt to transform migrants into useful human capital. This is not conform to the implementation of basic human rights and hence reveals a form of exploitation. If we look at this from the perspective of Social Work, we have to state that there is certain stagnation in the expansion of the implementation of human rights.

In the context of economization and the devaluation of human beings a current enforcement in handling refugees in Germany and Europe can be observed. This goes in line with the drastic change in German law where now Macedonia, Serbia and Bosnia-Herzegovina have been declared secure home countries. People seeking asylum will be refused and sent back quicker, despite the fact that the security situation in their home country is definitely not always safe, especially for Sinti and Roma, which is clearly shown in the expertise of Dr. Karin Waringo for Pro Asyl, a German NGO. The expansion of the number of secure home countries in Germany goes hand in hand with an ease to step into the working market. This was negotiated by the government in order get the permission from the “Bundesrat”, the representative body of the German federal states, also the political opposition of the current federal government who had to agree. From a human rights perspective this freedom may by no means be subject to negotiation between the reigning parties and the opposition, but has to be self-evident.

The concessions are not surprising at all. Germany is facing a huge lack of skilled employees and is in need of well-educated foreigners. The demographic change will moreover intensify this even more. „We should tell them: If you’re doing your job well, you may stay in

Germany. “, announced the Federal Minister for Economic Affairs, Sigmar Gabriel (fr-online, 2015; translated by the author). It is no use, the minister stated, to send back well qualified young people. This underlines the distinction between „waste“ and the “economically promising” (Bauman, 2004). This can also be observed from the terms for acceptance of Syrian refugees in Germany; persons were prioritized that already had relatives or friends in Germany guaranteeing a financing independence from the state and/or those with academic education (BAMF, 2015; Pro Asyl). A Syrian man, having a place for his mother in the acceptance program, but no sufficient guarantees, stated: “To Germany there are coming no refugees but “richies” (rich refugees).

Even if we would want to reduce the value of a human being to his or her economic value: the study of Holger Bonin from the Centre for European Economic Research in Mannheim, concerning the economic contribution of foreigners, underlines on the one hand that – under an economic focus – the German state of course profits in terms of well educated migrants and also from those with a low and middle school education, if 20% of future migrants have a low, 50% a middle and 20% a high school education. But: the study also expresses clearly that Germany is in charge to provide more education programs and better policies for integration. As a result it’s not important who comes but how she or he is supported to be able to participate and contribute in a socio-economic way. Already now, foreigners in Germany pay more into the welfare system than they get: namely 3.300 per capita and all in all 122 billion Euros 2012 a year. A support for socio-economic assimilation would lead to same results in other spheres of the national budget like traffic, defense or environment. Due to a poor supporting system – in recent time mainly in the field of education – socio-economically weak migrants still struggle to reach financially German standards to contribute equally to the German budget – as also do socio-economically weak Germans.

The capability approach of Amartya Sen however shows that this reduction is not only stupid, but also inefficient. The welfare of a state and its population, including migrants, does not only consist of economic income, as he and several studies show, but also on a holistic participation and social exchange. That is beside the universal validity another reason why the realization of the following human rights has to be pursued in Germany.

## **Family**

In 2014 1.012 children between six and fourteen years old were asked in the so called “Kinderwertemonitor“, (an index evaluating the values of children) by UNICEF and the children’s magazine GEOlino about their values. 74 % of the children rated family as being „of primary importance“ and 23 % as „important“ for their life. In comparison to that property and money are of comparable importance to 21 % only. Feeling of security was rated as being „of primary importance“ by 59 % and by 39 % as being „important“. This result is validated by several studies as the so called “Shell Studie” and the “Monitor Familienleben 2013” of the Allensbach Institute. But also the German family report 2012 of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth shows that 78% of the interviewed persons indicated that family is pre-requisite for being happy in life. Today family is not limited to married couples with children only: Grandparents, unmarried couples, single parents are also being judged as family. Conclusion: People in Germany see family as an aspect of life which is not to miss. This is in line with § 6 (1) of the German basic law that values family.

Persons without German citizenship who didn’t migrate as a united family are confronted with German Law on Residence which makes the right on family difficult or even interdicts it (Eichler, 2014). Family reunification of foreigners from abroad to foreigners in Germany is

limited to the so called “central” family, consisting of mother, father, and underage children. So it’s only allowed for spouses or partners in life, underage unmarried children or to parents of underage unaccompanied refugees to follow. Siblings are not allowed to follow their siblings to Germany, even if they are underage and unmarried. The same is valid for fiancés and persons having the care and custody of the children, even if the parents died or disappeared. Exception can be granted through § 36 Abs. 2 Law of Residence to avoid exceptional hardship, but this is hardly ever done. According to § 27 Law of Residence the following foreigners have to possess a national passport and to proof their family relationship to be able to get a visa. Firstly, it can be as good as impossible to get papers in times of war. Secondly, it’s in certain times like for Syrians right now hardly to manage to get appointments at the German embassies in Turkey and Lebanon to get visas for the entry. Not to talk about the costs for papers.

Family reunification is furthermore only possible, if the relatives in Germany possess a particular residence permit associated with the proper paragraph, a settlement permit, a Blue Card EU or a permanent right of residence for the EU. Other kinds of status are not accepted for family reunification. For example people with an exceptional leave to remain stay on average with this status in Germany for 11 years, before they either get another status or leave the country. Thus, they have no right on family reunification at all.

People who are entitled to be granted asylum based upon § 16a of the German Basic Law or are acknowledged as refugees after the Geneva Convention (GC), get easier conditions than people with subsidiary protection for family reunification. The Directive 2011/95/EU of the European parliament and of the council ensures international security to persons with subsidiary protection because the Directive acts to the assumption that they are also severely in danger in their countries of origin. But they don’t fulfill the general criteria of the GC and as a conclusion not the criteria to become a fully recognized refugee. For recognized refugees conform to § 16a Basic Law and GC it applies: if the application for family reunification is submitted within three months, the family members can follow without the need to demonstrate basic knowledge of the German language. Even demonstration of sufficient earnings and room for living is not required in that case (§ 29 (2) Law of Residence). For persons with subsidiary protection it applies that: the family members have to proof basic knowledge of the German language, the protected person has to make a living and to possess enough room for living. In addition to that they have to argue that humanitarian reasons or the international law can be applied as reasons for the family to come to Germany. A political refugee whose family is not persecuted will most probably have problems to bring her or his family.

In principle GC refugees and people with subsidiary protection own equal rights with reference to the Directive 2011/95/EU. However it is obvious, that Germany is not applying this. Concerning the refusal of family reunification lots of people handle this bravely and admirably on one hand, but there is also sadness, desperation, mourning, anger and resignation on the other hand. Refugees are certainly still heavily connected to their families in their home countries. At the same time they have to face their future life and hence have to cope with learning German, finding a place to study, living with other young people who want to celebrate, learn and spend their free time – or even with creating their own family. Today digital media allows for continuous contact over long distances at reasonable costs. In addition to the geographic distance there is definitely a cultural difference resulting in different ways of life. As a consequence it can be observed that the boundaries given by law are not understood and accepted which either results in being even more active and fighting for acknowledgement or other solutions to stay – or a withdrawal from their family at home

due to shame and irritation how to behave. Maintaining the contact by visiting the family in their home country – even if it could be financed – can be very risky because it might lead to the situation that the status as a refugee can be denied. This can consequently lead to a lifelong physical and emotional loss of family, which cannot be overcome by phone calls or e.g. “WhatsApp”.

### **Electing and being elected**

Despite that several millions of refugees have come to Germany since the intro of the parliamentary democracy, there is no extra parliamentary lobby for refugees who is similarly respected and becomes involved by politics like the German Federal Child Protection Agency (Kinderschutzbund) or labor unions. Likewise there is no right to elect and to become elected. No matter whether I live in Germany already for ten years with an exceptional leave, for fifteen years with a residence permit or for twenty years with a settlement permit; it does not result in any right to elect or to be elected. All attempts to start implementing such kind of law have been blocked by the conservative party CDU, latest in spring 2014 once again. The Federal Minister of the Interior, Thomas de Maizière, explained, that paying taxes is already possible and nationality would otherwise become needless (ZEITonline, 2014).

About 7.095.486 people over the age of 18 and therewith eligible to vote but without German or European citizenship, were living in Germany on 31.12.2014 (Statistisches Bundesamt, Wiesbaden 2015). A migrated person over the age of 18 lived 2011 at an average 17, 6 years in Germany before leaving Germany or becoming a German citizen (Statistisches Bundesamt, Wiesbaden 2011). So this amount of people may pay taxes, but is not allowed to participate in parliamentary democracy. Only EU citizens are allowed to participate in communal elections after three months of residence in Germany (but not on the federal level). Democracy can be defined as a dialogue, which in Germany does not take place due to the fact that not only refugees but all foreigners cannot participate. But politics and society, including Social Work as part of the society, together with the migrants have to make sure, that a dialogue about basic human rights of refugees is being started and maintained. This is especially true, now that a new debate about a new Immigration Law is coming up and there will be many refugees living in Germany for the next years.

### **Summary**

Whilst the own people prioritize family over economic affairs, German politics turn it around when it comes to refugees matters. Through extra parliamentary protest and representative lobbies for migrants and refugees, changes have to be claimed and implemented together with politics. Current restrictive laws automatically negate human rights on equal protection of family and participation on parliamentary democracy. They become a symbol of status together with an attribute of distinction in the sense of Bourdieu between the German people and their state on one hand and the migrants and refugees on the other hand.

### **Conclusion**

When describing the situation of refugees in Germany, Europe or the world, we have to go one step further not stopping asking and analyzing precisely why refugees should be disadvantaged compared to the population of the states. One main statement of reasons for discrimination is the distinction of people in national and European laws related to their nationality. German laws have at least to guarantee, that parents, grandparents and children, no matter of what age can live together in Germany and participate on parliamentary

democracy. We have to increase the pressure in order to eliminate the breach of human rights because of distinction. Citizens and states have to ask themselves in the end if they can refuse to people what is most important to them as well: safety, family and parliamentary participation.

## References

Albert, M., Hurrelmann, K., Quenzel, G. & Schneekloth, U. (2010). Jugend 2010: Die 16. Shell Jugendstudie. Shell (Ed.). Retrieved from: <http://www.budrich-journals.de/index.php/diskurs/article/view/5158/4300> (07.03.2014)

Bauman, Z. (2004). Wasted Lives: Modernity and Its Outcasts. Cambridge: Polity Press.

Bundesministerium für Familie, Senioren, Frauen und Jugend (Ed.). (2012). Retrieved from: <http://www.bmfsfj.de/RedaktionBMFSFJ/Broschuerenstelle/Pdf-Anlagen/Familienreport-2012,property=pdf,bereich=bmfsfj,sprache=de,rwb=true.pdf> (07.03.15)

Bundesamt für Migration und Flüchtlinge (Ed.). Glossar. Sichere Herkunftsstaaten. Retrieved from: [http://www.bamf.de/DE/Service/Left/Glossary/\\_function/glossar.html?lv2=1364198&lv3=1504416](http://www.bamf.de/DE/Service/Left/Glossary/_function/glossar.html?lv2=1364198&lv3=1504416) (09.04.2015)

Bundesamt für Migration und Flüchtlinge (Ed.). Fragen zum Bereich "Aufnahmeverfahren syrischer Flüchtlinge". Retrieved from: <http://www.bamf.de/DE/Infothek/FragenAntworten/AufnahmeverfahrenSyrien/aufnahmeverfahren-syrien-node.html> (15.03.2015)

Eichler, K. (2014). Leitfaden zum Flüchtlingsrecht. Die materiellrechtlichen Voraussetzungen für die Gewährung von Flüchtlings- oder anderweitigem Schutz. Deutsches Rotes Kreuz und Informationsbund Asyl und Migration e.V. (Eds.) Retrieved from: <http://www.asyl.net/index.php?id=369> (09.04.2015)

Institut für Demoskopie Allensbach (Ed.). (2013). Monitor Familienleben 2013 Einstellungen der Bevölkerung zur Familienpolitik und zur Familie. Retrieved from: [http://www.ifd-allensbach.de/uploads/tx\\_studies/7893\\_Monitor\\_Familienleben\\_2013.pdf](http://www.ifd-allensbach.de/uploads/tx_studies/7893_Monitor_Familienleben_2013.pdf) (09.04.2015)

Frankfurter Rundschau (2015). Gabriel will Bleiberecht für Flüchtlinge. Frankfurter Rundschau. Retrieved from: <http://www.fr-online.de/wirtschaft/fluechtlinge-gabriel-will-bleiberecht-fuer-fluechtlinge,1472780,30094716.html> (13.03.2015)

Hecking, C. (2013). Zweitsitz Straßburg: EU-Parlamentarier meutern gegen millionenteure Pendelei. Spiegel. Retrieved from: <http://www.spiegel.de/politik/ausland/eu-parlamentarier-wollen-zweitsitz-in-strassburg-loswerden-a-934184.html> (14.03.2015 )

Pro Asyl (2015). Informationen zu den Aufnahmeprogrammen für syrische Flüchtlinge. Retrieved from: <http://www.proasyl.de/de/home/syrien/> (15.03.2015)

Pro Asyl (2014). Europas Schande: „Triton“ und „Mare Nostrum“ im Vergleich. Retrieved from: [http://www.proasyl.de/de/news/detail/news/europas\\_schande\\_triton\\_und\\_mare\\_nostrum\\_im\\_vergleich/](http://www.proasyl.de/de/news/detail/news/europas_schande_triton_und_mare_nostrum_im_vergleich/) (14.03.2015)

Waringo Dr., K. (2014). Serbien, Mazedonien und Bosnien und Herzegowina: Zur faktischen und rechtlichen Bewertung des Gesetzgebungsvorhabens der Großen Koalition zur Einstufung von Westbalkanstaaten als »sichere Herkunftsstaaten«. Gutachten zur faktischen Menschenrechtssituation in Serbien, Mazedonien und Bosnien und Herzegowina. Retrieved from: [http://www.proasyl.de/fileadmin/fm-dam/NEWS/2014/Pro\\_Asyl\\_Gutachten\\_zum\\_Vorhaben\\_der\\_Einstufung\\_von\\_Serbien\\_\\_Mazedonien\\_und\\_Bosnien\\_und\\_Herzegowina\\_als\\_\\_sichere\\_Herkunftsstaaten\\_.pdf](http://www.proasyl.de/fileadmin/fm-dam/NEWS/2014/Pro_Asyl_Gutachten_zum_Vorhaben_der_Einstufung_von_Serbien__Mazedonien_und_Bosnien_und_Herzegowina_als__sichere_Herkunftsstaaten_.pdf) (13.03.2015)

Statistisches Bundesamt (2015). Ausländische Bevölkerung in Deutschland am 31.12.2014 nach ausgewählten Altersgruppen und aufenthaltsrechtlichem Status. Not published.

Statistisches Bundesamt (2011). Ausländische Bevölkerung am 31.12.2011 nach aufenthaltsrechtlichem Status, Alter und Aufenthaltsdauer. Not published.

UNICEF & GEOLino (Eds.). (2014). GEOLino-UNICEF-Kinderwertemonitor 2014. Retrieved from: <http://www.unicef.de/blob/56990/a121cfd7c7acbd7c2f4b97cbcdf0cc716/geolino-unicef-kinderwertemonitor-2014-data.pdf> (07.03.2015)

ZEIT (2014). De Maizière lehnt Kommunalwahlrecht für Ausländer ab. Retrieved from: <http://www.zeit.de/politik/deutschland/2014-04/de-maiziere-kommunalwahlrecht-cdu-spd> (18.04.2015)

*The author works in the practice field of social work with refugees and is founding member of the [“Freies Institut für Gesellschaftsfragen”](#) in Aachen, Germany.*