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**Restricting Immigration: Practices,
Experiences and Resistance**

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Swiss migration law defines rules and measures aiming at excluding “unwanted migrants”. However, we know very little about the way in which different actors put these rules into practice. Our project investigates how the exclusion of migrants who are trying to enter or have been requested to leave the Swiss territory is practiced, experienced and contested by the people involved, in particular state agents and migrants. Two fields of exclusion practices and experiences are at the center of this project: border control and detention pending deportation.

Messages for Decision-Makers

- **Legal exclusion measures are subject to cantonal and individual discretion: exclusion practices therefore differ considerably throughout Switzerland.**
- **Exclusion practices have profound consequences on the people concerned: questions of legitimacy and proportionality should be considered seriously and systematically.**
- **Immigration detention in Switzerland is deeply embedded in the penal field, thereby criminalizing individuals who are detained prior to their deportation.**

Our study relies mainly on qualitative methods: observations at border posts and in two prisons holding immigration detainees, as well as interviews with cantonal immigration officials, prison staff, detainees and associative actors. In addition, we analyzed administrative detention statistics provided by the State Secretariat for Migration (SEM).

Exclusion at the Border

Foreign nationals wanting to cross the Swiss border have to prove they fulfill the national and Schengen legal criteria: in particular, they need to have a recognized identity document, a visa, and must not represent a security threat. In practice, Swiss border guards decide over territorial access or exclusion in two steps: first by deciding who is to be controlled; second, by interviewing those who do not dispose of the requested documents in order to determine, through very basic communication, who the person is and whether he/she should be granted access to the territory, including to file an asylum claim. The final decision is determined by the discretionary evaluations of border guards, which are based on their experiences and on subjective criteria as well as on the behavior and appearance of the migrant. In the course of this process of evaluation, security concerns play a major role, but such decisions are also influenced by economic and practical considerations. Finally, humanitarian concerns are also relevant, because they may influence how border guards interact with migrants.

Exclusion through Detention

Exclusion measures also target foreign nationals expected to leave the Swiss territory. The cantons, that are responsible to execute deportation orders, can decide to

order detention for up to 18 months with the administrative goal to ensure deportation (including in case of a Dublin transfer). The use of detention is mainly justified by referring to the risk of absconding and the threat to public security and order. Between January 2011 and September 2017 an average of 6'000 detentions per year were issued. The average period of detention is 22 days and most of the people detained are men (92%) and relatively young (on average 29 years). We also find that two out of three detainees filed an asylum claim.

During the period of analysis, some cantons issued a high number of detention orders – Zürich (8'209), Bern (6'493) and Geneva (3'442) – while others issued only very few – Appenzell-Innerrhoden (36) and Obwalden (150). Significant differences persist if we calculate the ratio of the number of detention orders per 1000 inhabitants, but the ranking changes: high ratios in Uri (11.5) and Basel-Stadt (10.6), and low ratios in Vaud (0.9), Thurgau and Aargau (1.7).

Several aspects explain the differences in the cantonal use of administrative detention. First, the specific geographic, political, and economic characteristics of a canton define its migrant population, as well as its policies regarding the exclusion of “unwanted migrants”. Second, cantons establish criteria and priorities that reflect their specific political framing of the topic. These criteria are related to three main rationales. According to a security rationale, most cantons privilege the detention of persons who cause “security problems”. An economic rationale refers to questions of efficiency and pragmatism, related to the effective possibilities and costs of detention and removal. Finally, a humanitarian rationale can be in tension with the previous ones and concerns motives leading to refrain from detaining migrants, for instance because they are considered “vulnerable”.

The Use of Prisons and the Experiences of Prison Staff

The conditions of detention differ considerably among the approximately 30 facilities used across the country. According to the law, immigration detention should take place in appropriate facilities, separately and in more lenient conditions than penal detention. However, most cantons confine migrants pending deportation in prisons and in conditions that are those of the penal context: high security standards and restricted freedom of movement prevail.

In prisons that confine both migrants pending deportation and penal inmates, staff usually makes little distinction between them in their everyday practice. Prison employees mainly understand immigration detention through the lens of illegality, implicitly relating illegality of stay with the illegality of crimes committed by other prisoners. They also interpret it through the lens of deservingness,

implying that if a migrant ends up in detention, he/she must be undeserving of staying. Being at the margins of the deportation procedure, prison staff often lacks knowledge of the specific situations of those confined. This ignorance enables them to keep a certain distance from detainees and their sorrows.

Detainees' Experiences and Resistance

Although immigration detention is not intended to be a punishment, detainees clearly experience it as such. They perceive detention as a space of indefinite waiting and uncertainty about the present and future. Beyond the deprivation of liberty, the symbolic meaning of the prison as a space of punishment and exclusion reinforces this feeling of being unjustly treated like a criminal. Practices such as handcuffing, body searching and camera surveillance are intensely experienced by detainees, who often contest their detention legally and discursively, arguing that they are not criminals but refugees or citizens, and must be treated as such. Other ways of resisting the conditions of detention consist in small acts of sabotage and disobedience, as well as in bodily protests like self-mutilations or hunger strikes, to which the prison reacts with the use of coercion and heightened surveillance.

Key Publications

- Achermann, Christin. “Bureaucrates anonymes ou êtres humains agissant ‘en leur âme et conscience’? Fonctionnaires dans les administrations de la migration.” *terra cognita*, no. 32 (2018): 18-21.
- Achermann, Christin, and Jana Häberlein. “Von Grenzkontrollen und Grenzen der Kontrolle.” *nccr – on the move Blog*, 09.09.2016.
- Rezzonico, Laura. “Maintaining Distance, Producing Indifference: Interactions between Staff and Detainees in Swiss Prisons Used for Immigration Detention.” *Border Criminologies Blog*, 04.12.2017.
- Rezzonico, Laura. “Doing Research in Securitised Spaces.” *Border Criminologies Blog*, 15.11.2017.
- Rezzonico, Laura. “Les agents de détention entre contrôle et assistance.” *terra cognita*, no. 32 (2018): 108-110.