

# Governing the Boundaries of the Commonwealth

## The Case of So-Called Assisted Voluntary Return Migration

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*David Loher*

### Introduction<sup>1</sup>

In recent years, programmes for so-called assisted voluntary return migration (AVR) have become an important pillar of European migration policy (Broeders 2010).<sup>2</sup> These programmes target asylum seekers whose chances of admission are considered to be low and, in some cases, rejected asylum seekers. They provide advice and financial incentives with the aim of persuading these people to agree to return to their countries of origin. A growing number of studies of migration policy have evaluated and measured the effectiveness of these programmes (e.g. Gosh 2000; International Organization for Migration 2004; Black and Gent 2006; Geiger 2009; Black et al. 2011). However, few studies have attempted to understand the underlying structures and logics of this specific form of migration management, which oscillate between deportation and the provision of assistance on humanitarian grounds (cf. Hammond 1999; Blitz et al. 2005; Webber 2011; Lietaert et al. 2016).

This chapter discusses the logics of these programmes through an analysis of the self-representations of counsellors who work in Switzerland's return migration bureaucracy. It approaches these self-representations not

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- 1 This chapter is based on my PhD research project on the governance of clandestine Tunisian migration in the context of Switzerland's assisted voluntary return migration programme. The research was supported by the Swiss Scientific National Foundation SNSF.
  - 2 In this chapter, the term AVR refers to a specific form of migration management in the form of these government programmes. It does not imply consent or agreement with the purported voluntary nature of these programmes.

primarily as individual expressions of personal attitudes, but rather as a reflection of the conflicting bureaucratic ethics that provide moral legitimisation for concrete bureaucratic practices. Whereas several studies have highlighted the messy, conflicting reality of migration bureaucracy and its domination by various interests and actors (e.g. Eule 2014; Cabot 2013), I also see the effects of a structural incommensurability between bureaucracy's universal promises and the governance of commonwealth boundaries. An ideal-typical bureaucracy serves for the benefit of everyone. The critical question is therefore: Who is part of the commonwealth and included in "everyone"? Usually this question is beyond the scope of bureaucracies and allocated to the realm of politics in a Rancièrian sense (see Rancière 1999). In the case of migration bureaucracies, however, structural incommensurability occurs because the object of administration is precisely the formation and delimitation of the commonwealth, and this undermines bureaucracy's universalistic claim. The structural incommensurability of migration bureaucracy generates its necessarily exclusionary logics.

AVR operates against a backdrop of – and often hand in hand with – forced deportation. Since its success depends on the threat of coercion, there is a permanent need to legitimate AVR and to position it in the field of migration management in relation to forced deportation. In order to explore these tensions, I focus primarily on the self-representations of return migration bureaucrats. These officials are well aware that "deportability" (de Genova 2002) is indispensable for AVR as a whole as well as for their individual professional success. At the same time, they assume an ambivalent stance towards coercive measures: either they consider each forced deportation to be a failed AVR, and therefore as a professional failure, or they obfuscate the relationship between AVR and forced deportation. In the latter case, officials argue that they are only consultants, independently and objectively informing their clients – i.e. the migrants – about their rights, duties, constraints and opportunities.

In the first part of this chapter, I discuss the notion of bureaucratic ethics, asking in what ways the ethics of migration bureaucracies differ from the ethics of other bureaucracies. The second part explores the context of AVR, and how this specific field within migration bureaucracy as a whole operates at the intersection between coercion and voluntariness. The third part focuses on the self-representations of return migration bureaucrats in Switzerland and shows via ethnographic analysis how their self-representations

relate to different bureaucratic ethics. Finally, I return to the paradox of voluntariness based on coercion and link it to the conflicting bureaucratic ethics of return migration bureaucrats, which causes the structural incommensurability between bureaucracy's universal promise and the administration of commonwealth boundaries.

This chapter draws on ethnographic material I collected between 2012 and 2016 during my PhD research project on the governance of clandestine Tunisian migration in the context of Switzerland's assisted voluntary return migration programme. My research reconstructs the transnational trajectories of Tunisian migrants – so-called *harragas* – confronted with governmental attempts to organise transnational mobility via AVR programmes.<sup>3</sup> In this chapter, I focus on interviews with representatives of five return migration offices in different cantons in Switzerland. Additional observations and analysis of documents help to clarify the logics of the return migration bureaucracy.

## Bureaucratic ethics and the specific case of migration bureaucracies

Setting aside the debate on Weber's bureaucratic ethos (see Weber 1922: 655ff; Eckert this volume) – interpreted either as imbued with ethics (see du Gay 2008), or potentially becoming devoid of ethics (e.g. Arendt 1995, Bauman 1989; Habermas 1988; Bayertz 1995: 35f) – I address the question of ethics by examining the aims and values that migration bureaucracies strive to uphold. This approach follows the notion of bureaucracy in Bear and Mathur (2015), who identify two prominent characteristics: the administration of public goods and the pursuit of a utopian social order.

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3 The term *harraga* is widely used in Tunisia and other North African countries, where it refers to the high-risk migration strategy of crossing the Mediterranean clandestinely in small fishing boats. Harraga has a number of different meanings: On the one hand, it denotes the act of clandestine migration by boat. At the same time, it refers to people who perform the "harraga". The term literally means "burning" or "those who burn", implying a clandestine border crossing ("burning the border"), the people who cross the border, or the act of destroying one's personal papers during the clandestine crossing, a common practice to conceal one's identity from state authorities.

Bureaucracies are also expressions of an implicit social contract between citizens and officials. According to Bear and Mathur, they share four main elements. First, bureaucracies geared towards the public good work by promoting goods and services in the commonwealth according to predefined sets of rules. Second, a delineated commonwealth has the legitimate right to participate in the public good governed by the bureaucracies. In most cases, this right is expressed in the notion of the citizen (see Ferguson 2015).<sup>4</sup> Third, the definition of citizen mediates the relationship between individuals and officials, who enact the relationship between individuals and the state. And finally, bureaucratic practice is oriented towards an imagined utopian social order. This last element contains normative aspects and tells us how society should be. For the interpretation of migration bureaucracies, this last aspect is of particular importance.

Migration bureaucracies share distinct features that set them apart from other bureaucracies. They are characterised by competing logics and agency turf wars (see Eule 2014; Eule et al. 2017), and by illegibility (Hoag 2010). Even though these aspects can be found in virtually any bureaucracy, they appear to be particularly pronounced in migration bureaucracies. Yet, a further aspect points toward a structural difference. Migration bureaucracies are geared towards the governance of inclusion and exclusion (Tuckett 2018). Thus, its object of governance is the commonwealth itself, and not any public good. It differentiates those who are part of the commonwealth from those who are excluded from it. This creates a unique disposition. Those who are excluded from the commonwealth by the migration bureaucracy are both under its governance, and at the same time removed from its realm and placed beyond its reach due to their excluded status. To illustrate this point, compare the migration bureaucracy to a social welfare bureaucracy: Everyone who is part of the commonwealth is a potential beneficiary of the welfare bureaucracy. Whether one is actually entitled to benefit from the goods and services it governs depends on a series of criteria one has to meet (e.g. lack of income, lack of private wealth, further indications of social vulnerability). However, unlike migration bureaucracies, this differentiation does not question one's inclusion in the commonwealth and entitlement, in principle, to these social welfare goods if predefined criteria are met.

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4 This resonates with Arendt's (1986) idea of citizenship as the right to have rights, when we include in the notion of the public good not only goods and services, but also rights.

One might object that migration bureaucracy's public good is precisely the entitlement to participate legitimately as a full member of the commonwealth – to share in the public good. However, this argument would introduce a sort of second order of public good. Furthermore, it would conflate the distinction between rights/entitlements and public goods.

In the ethnographic material, the ethics of AVR appear as principles and aims such as “protecting the system against abuses”, “enforcing the law”, and “governing migration in a humanitarian way”. In order to explore this specific character of return migration bureaucracies in more detail, the following sections examine the case of Switzerland's AVR programmes not only as a specific type of bureaucracy, but as a specific area within migration bureaucracies.

## Governing return migration: Switzerland's AVR programme for Tunisian asylum seekers

In June 2012, Switzerland launched an AVR programme for Tunisian asylum seekers: the *Länderprogramm Tunesien* (country programme Tunisia).<sup>5</sup> This programme provided financial and professional support to individual and collective return projects for Tunisian asylum seekers. These small-scale economic projects were mainly located in the agricultural sector (sheep and cattle breeding, vegetable growing), the small-scale fishing industry, or in skilled crafts and trades. This AVR programme attempted to respond to the increasing number of Tunisian asylum seekers appearing after the Ben Ali regime in Tunisia fell on 14 January 2011. The ensuing turmoil and crumbling security apparatus opened a window of opportunity for mostly young male Tunisians to leave the country comparatively easily. As so-called *harragas*, they left their homeland clandestinely and reached northern Mediterranean shores in old fishing vessels. From there, they moved northwards. At the same time, earlier Tunisian migrants who were employed in Italy's shadow

5 Switzerland has two types of assisted return. The “country programmes” (*Länderprogramm*) provide assistance for a limited period, often consist of relatively generous financial support that may be accompanied by the establishment of support capacities. The other is individual return assistance. With some reservations, any asylum seeker can apply for the latter. In general, individual return assistance provides smaller amounts of financial support with little additional support.

economy joined the migration northwards to escape the consequences of the 2008 global financial crisis, which hit Italy's economy hard. Thus, two groups of Tunisian migrants applied for asylum in Switzerland and surrounding countries, and caused a sharp rise in asylum applications between 2011 and 2013.

June 2012 is often considered the beginning of what has become known as the contemporary migration crisis.<sup>6</sup> The *Länderprogramm Tunesien* responded to this supposed crisis, but earlier AVR programmes had already existed.<sup>7</sup> In institutional terms, they can be traced back to the second half of the 1990s in Switzerland. Before that time, return aid was granted randomly to individual return migrants, with no distinct legal basis.<sup>8</sup> It consisted mainly of unofficial assistance to destitute return migrants in the form of plane tickets or small amounts of money to alleviate individual hardship after their return (Kaser and Schenker 2008).

The attempt to integrate an AVR approach into Switzerland's migration policy is closely linked to the end of the Balkan wars. At that time, Switzerland terminated temporary collective protection for people displaced by war. Suddenly, the thousands of refugees remaining in Switzerland were denied subsidiary protection. Lacking valid residence titles, their stay in Switzerland no longer had a legal basis. The consequence was mass expulsion. In order to ease the situation for individual returnees, but also to facilitate and accelerate returns, an AVR programme to Bosnia and Herzegovina was launched as a pilot project in 1996, with assistance from the International Organisation for Migration (IOM) (Kaser and Schenker 2008: 208).

Since then, Switzerland has implemented more than ten *Länderprogramme*. This includes programmes for Sri Lanka (2000-2004), Angola (2002-2007) and Armenia (2004-2008). Country programmes focus on asylum seekers of a particular nationality for a limited period of time so that a joint effort on the part of the migration bureaucracy may decrease their numbers in the asylum system. One can identify three main reasons why

6 The popular crisis discourse, however, is not only questionable, producing a permanent "border spectacle" (de Genova 2013, see also Andersson 2016), it also has a short-term memory. Today, the 2015 "refugee crisis" has already superseded the 2012 "crisis", which, today, is nothing more than a faint memory in public discourse.

7 For an overview of AVR in Europe see also Lietaert et al. (2016).

8 The origins of assisted return migration can be traced back to the year 1959 (Kaser and Schenker 2008).

migration bureaucrats consider AVR as the easiest possible way to expel asylum seekers, illegalised migrants and rejected asylum seekers. AVR does not risk violating the fundamental human rights principle of non-refoulement, as every returnee signs a document stating that he or she “returns voluntarily to the country of origin”. This document is bureaucratic evidence of the returnee's free decision to return home. In addition, countries of origin, which are often reluctant to accept their deported citizens, or may even forcibly reject them, are more willing to comply with assisted return. Finally, AVR is less costly than forced deportation.

In recent years, expelling rejected asylum seekers and migrants without residence permits has become a political priority in many European countries. As Broeders (2010) observes, this policy has led to contradictory results: Capacity for administrative detention has increased, while at the same time the effective number of expulsions has stagnated or even fallen (see also Castañeda 2010). This means that the “deportability” (de Genova 2010) of thousands of migrants across Europe does not lower the numbers of undocumented migrants and rejected asylum seekers. Instead, increasing numbers are living in a state of legal uncertainty and the everyday threat of deportation. Assisted return operates precisely in the milieu of this everyday insecurity, offering an end to this precarious and uncertain status. Against the backdrop of forced deportation, assisted voluntary return might become an option worth considering for Tunisian asylum seekers, although it contradicts the initial intentions that motivated their clandestine migration.

## The double vocation of return counsellors

Since AVR works against the backdrop of forced deportation, a series of appraisals has argued that AVR, in fact, is nothing more than poorly masked coercion and forced deportation. Instead of replicating this important critique once again, I focus on Switzerland's AVR programmes as a case study, examining return migration bureaucrats' self-representations to explore the tension between voluntariness and coercion that results from competing bureaucratic ethics.

As part of my research on Switzerland's Tunisian AVR programme, I conducted a series of interviews with return counsellors. At the beginning of these conversations, my informants often talked a lot about how they

conceive of their own work. It was striking to observe how their self-representation systematically invoked the ideal-type of the Weberian bureaucrat. They described asylum bureaucracy as a machine-like system that processes applications with precision, consistency and impartiality. Their role consisted in keeping the system running as smoothly as possible. This template can be found in the self-representation of any of my informants. But as the conversations unfolded, it quickly became obvious that return migration bureaucracy – in its practice, but also in its very conception – does not correspond to this Weberian ideal at all, as is shown in the following example, reconstructed from my field notes.

I was sitting in one of Switzerland's return migration offices, interviewing two bureaucrats about their work.<sup>9</sup> The office was located on the ground floor in a side wing of the canton's security and police department, sharing its reception area with the migration service (*Migrationsamt*), who administer bureaucratic affairs relating to foreigners in Switzerland.<sup>10</sup> Decorated with a few posters of unidentifiable foreign destinations, the office faintly resembled a travel agency. In one corner near the entrance, a rack contained AVR information brochures in a number of languages. One of my two informants leafed through a pile of documents he had prepared for our conversation and pulled out an image. It was a flowchart, representing Switzerland's asylum procedure schematically. He handed me the chart, pointing with his pencil to the bottom, and began to explain: "Our task is [to ensure] that asylum seekers with negative [asylum] decisions leave Switzerland." The head of department – also present in the room – added:

We do not like forced deportations. I am convinced that we all want to avoid forced deportations. Our aim is that every rejected asylum seeker returns voluntarily to his home country. [...] As you know, I am just here to enforce negative decisions. I do not make [asylum] decisions. And I am not part of the police forces. So, I try to convince the migrants for their own sake to return to their country of origin.<sup>11</sup>

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9 Fieldnotes August 2014, clarifications in brackets by D.L.

10 The *Migrationsamt* is the cantonal migration authority. It is responsible for the registration of the non-national population and executes decisions of the federal State Secretariat for Migration.

11 Interview August 2014, clarifications in brackets by D.L.



During our conversation, the two informants repeated on several occasions that they tried hard to avoid forced deportations. These efforts paid off, the department head proudly explained. His canton's return migration office had had the highest proportion of AVRs to asylum seekers in recent years.

The self-representations of these two informants contain three constitutive elements typical of this field: They highlight their duty to enforce negative asylum decisions; they voice their disapproval of forced deportations, while nonetheless defending them as indispensable; and they stress that they suggest the best possible solutions for the asylum seekers they advise. Yet, the weighting of these three elements varies among return migration bureaucrats. Apart from individual preferences, this variance largely depends on the location of each officer's AVR office within the national migration bureaucracy. This becomes apparent when different cases are compared.

In this particular case, the two informants were both committed to enforcing the rules and considered themselves submissive servants to these rules. They both argued that the AVR office contributes to enforcing decisions made previously within the limits of the authority of the office, yet each officer added nuance in stating his position. The head of department clearly prioritised the need to enforce decisions, yet, as the quote shows, argued that certain enforcement methods are preferable to others. The return counselor, for his part, deviated from the clear-cut, rule-oriented narrative of his superior and mentioned the importance of working with returnees towards mutual consent.

Strict rule-orientation and as well as the emphasis on mutual consent between bureaucrats and asylum seekers are strong expressions of bureaucratic ethos. They serve as a kind of guideline for bureaucratic procedures. And they show that, although enforcement of negative asylum decisions (i.e. returning rejected asylum seekers to their country of origin) is the unquestioned and ultimate aim of the return migration bureaucracy, decisions can be enforced in different ways, and some ways are better than others. In this context, return migration bureaucrats apparently consider so-called voluntary return morally preferable to forced deportation. This contributes to the moral legitimisation of deportations.

## Rule-orientation and the public good

Let me take this argument a step further. Rule-orientation always includes more than just concern about procedure or, to borrow John Rawls' term, procedural justice (Rawls 1999: 73–78; see also Nelson 1980). Bureaucrats believe that reliance on the principle of rule-orientation in everyday bureaucratic practice adds to the public good in substantial ways. This blurs the boundaries between bureaucratic ethos and ethics. Defence of procedural rules and principles via strict adherence can be considered an intrinsic aim of bureaucracy, and, it follows, also as an element of bureaucratic ethics. It is no coincidence that the return migration bureaucrat quoted in the previous example refers to a flowchart to explain his work. That tool perfectly visualises the key idea of bureaucracy: an unambiguous set of actions and decisions that is rigorously aligned and follows an exact path. Each action and each decision is preceded by a precisely defined previous action or decision, and followed by a precisely defined subsequent action or decision. The two core principles of bureaucracy represented in the flowchart are hierarchisation and the division of labour (see Handelman 2004). In short, the flowchart is the perfect image of the Weberian ideal-type of bureaucracy.

When asked why this rule-following principle is so important, return counsellors often link it to the issue of fairness. Or, as another informant puts it:

It would be unfair to those who accept a negative asylum decision, if at the same time others resist and are rewarded for their misconduct, in the sense that they can remain [in the country]. Therefore, it is important to enforce negative decisions.<sup>12</sup>

Identifying the principle of rule-orientation with fairness indicates that more is at stake than concerns about pure procedure. Not enforcing a negative asylum decision is considered unfair towards rejected asylum seekers who accepted their decision and left the country. By this reasoning, rendering justice to every asylum seeker means that every bureaucratic decision must be enforced, because the scope of fairness includes anyone subjected to certain rules. “Fairness” – in the emic meaning captured in the quote –

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12 Interview August 2014, clarification in brackets by D.L.

corresponds in each case to the idea of coherence throughout the system. This means that each individual case is treated exactly the same as all other cases with the same characteristics, and that sameness makes the system as a whole coherent. Here, the scope transcends the individual case to focus on migration bureaucracy as a whole.

These emic ideas of fairness and coherence contradict a familiar critique of bureaucracy which argues that such a strong sense of commitment to rules – as identified in the statement above – implies simultaneous de-responsibilisation. Commitment to rules does not lead to de-responsibilisation from the bureaucrat's perspective. On the contrary, return migration bureaucrats take the rules seriously precisely because they feel deeply responsible for the commonwealth, and thus insist on the coherence of the decisions.

However, defending the principle of rule-orientation does not imply that return migration bureaucrats agree with the rules they are enforcing. They are well aware that these rules might in some cases lead to questionable results. Some civil servants even criticise the actual migration laws more or less explicitly.<sup>13</sup> They defend rule-orientation by arguing that it guarantees equal treatment to every asylum seeker. In other words, they draw a sharp distinction between the defence of a procedural principle and justifying the actual rules as such. Yet the ethnographic data shows that, in general, return migration bureaucrats only criticise the rules they enforce as private individuals, not in their official roles. This highlights the mode of operation of the bureaucratic principle, which disconnects the private from the official, as Weber (1999) notes. It prioritises rule-following – and therefore procedural or formal justice – over substantive justice. Openly criticising a decision made previously would be judged unprofessional, unless this decision is the outcome of a violation of bureaucratic rules.

The idea that the rule-following principle is worth defending contains a further aspect. Return migration bureaucrats argue that the rule-following principle and the enforcement of negative asylum decisions is “for the benefit of everyone”.<sup>14</sup> This aspect is different from fairness, as Moore reminds us: “Strict rules yield certainty but are sometimes unfair. Equity gives attention

13 In most cases, this critique is voiced in informal settings. During the interviews, most of the informants avoided personal critical statements.

14 Interview with a return migration bureaucrat, July 2014.

to fairness and morality, but at the expense of legal certainty” (1972: 53). This aspect of certainty is crucial, as it goes beyond the individual case at stake. Following and enforcing bureaucratic rules correctly and consistently is not only an issue between bureaucrats and those immediately concerned with a certain bureaucratic rule. It contains the idea that defending the rule-following principle has a much broader impact on society as a whole. Bureaucrats understand their everyday practice as a contribution to the public good, as this Weberian-like ideal-type bureaucracy stands for the fundamental principle of justice. As du Gay (2000) argues, neutrality, fairness and equal treatment of cases without regard to person form the indispensable condition of possibility of democracy. This is the bulwark against arbitrariness, injustice and unequal treatment. This self-representation assumes that the rule-following principle contains an intrinsic value worth defending, as it provides the necessary condition of democracy.

As a guiding principle of bureaucrats' everyday practice, strict rule-orientation exhibits a surprising parallel to Weber's distinction between *Gesinnungsethik* (ethics of conviction) and *Verantwortungsethik* (ethics of responsibility) (Weber 1922: 237f). Rule-orientation resembles an ethics of conviction in the sense that it focuses on rules and ignores the outcomes. Therefore, rather than echoing a Bauman-inspired critique of bureaucracy as anethical, the ethnographic material reveals a migration bureaucracy full of ethical considerations, which tend to take the form of an ethics of conviction.

Rule-orientation is not the only principle to which migration bureaucrats' self-representation adheres. The following ethnographic material suggests that the principles of efficiency and humanitarian reason contradict – each in a distinct way – the neat picture of bureaucracy wherein rule-orientation provides an indispensable threshold against arbitrariness and injustice.

## Efficiency versus rule-orientation

Efficiency as a second principle of bureaucratic ethos stands in tension with the principle of rule-following path-dependency. I suggest interpreting return migration bureaucracy as an institutionalised deviation from strict rule-orientation. In contrast to the dominant mode of self-representation of virtually all return counsellors, the return migration bureaucracy *does not enforce* negative asylum decisions, but *anticipates* such decisions for the

simple reason that there are no expulsion orders to enforce – so far at least. The AVR programme for Tunisia explicitly targets Tunisian asylum seekers whose applications are still pending. Why did my interlocutors systematically overlook this obvious paradox?

In conversation, I often asked my informants why they emphasised the rule-following principle, even though AVR operations are obviously *not* in accord with it. In general, their first reaction was incomprehension. Interlocutors rejected my objection as “naïve”. They agreed that potential return migrants had not yet received a negative decision on their asylum application when so-called voluntary return was proposed to them, yet my objection seemed “out of touch with reality”. One of the two return migration bureaucrats introduced in the first part of this section agreed with his colleagues’ assessment of my failure of comprehension. Concerning Tunisian asylum seekers, he argued, it is “obvious” that their asylum applications are “unfounded” and that they will receive a negative decision sooner or later anyway. Another informant explained that, for this reason, his office’s policy is to approach every asylum seeker systematically at the “earliest possible moment” in order to disseminate information about AVR among them. Along with many other colleagues, he believed that Tunisian nationals’ asylum applications were an “abuse of the system”.

These reactions show that return counsellors constantly anticipate procedural outcomes and make guesses about the likelihood of positive decisions. Their anticipations and guesses are mainly informed by State Secretariat for Migration (SEM) statistics on asylum seekers’ acceptance rates broken down by country of origin: Tunisian asylum seekers rank at the bottom. Their anticipations and guesses are further fuelled by a wide variety of notions and prejudices, some based on individual experience, that circulate among the return counsellors. Considered in this light, processing Tunisian asylum seekers’ applications step by step from beginning to end is a waste of time. This delegitimisation of Tunisian applications prepares the groundwork for calls for more efficient procedures. The focus shifts away from a thorough examination of every asylum application, scrupulously following the prescribed bureaucratic path step by step, and towards reducing costs and improving the efficiency of the migration bureaucracy.

This shift accompanied the proliferation of “audit culture” (Shore and Wright 1999; 2015) in public service, which turned the main focus of state bureaucracies away from fair procedures and equal treatment and towards

efficiency and cost reduction (see Hibou 2012: 46-51). AVR is a result of this shift. Yet migration bureaucracy can speed up procedure and skip certain administrative steps only with the cooperation of the potential returnees. Only an asylum seeker can renounce their legal rights to a thorough examination of their case and potential appeal of a negative decision by voluntarily revoking their asylum application. Hence, it is of the utmost importance for the success of AVR that return counsellors and potential returnees reach mutual consent, as will be explored in more detail in the next section.

In contradiction to Weber (1999: 157-234), the return migration bureaucracy shows that rule-orientation is not necessarily the basis for an ever more efficient bureaucracy. These two principles may even stand in opposition to each other. AVR is the attempt to reconcile the two conflicting principles of rule-orientation and efficiency and resolve this contradiction. It curtails asylum procedures without breaching rules. Therefore, terms such as “dignity” and “informed consent” – the latter explicitly expressed in a signed declaration-of-consent document, a pre-condition for AVR – serve to legitimise this non-compliance with strict bureaucratic rule-orientation.

## Enforcing decisions “the human way” versus rule orientation

The two informants in the introductory interview referred to a further principle that stands in tension with strict rule-orientation. As the return counsellors mentioned, return migration enforcement should be executed in “a human way”. Both emphasised in conversation that not a single person in the migration office would prefer forced deportation over so-called voluntary return – and not only for reasons of cost-efficiency. In AVR, one can observe that the humanitarian argument dominates other self-legitimation strategies. This finds several different forms of expression. In addition to the above-mentioned argument that negative decisions should be enforced in “a human way”, the phrase “return in dignity” is frequently deployed, an expression that is particularly common in the language of the IOM.<sup>15</sup> But why are return migration bureaucrats inclined to defend AVR by mobilising humanitarian arguments rather than referring to cost-efficiency

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<sup>15</sup> See the IOM description of assisted voluntary return and reintegration: <https://www.iom.int/assisted-voluntary-return-and-reintegration> [accessed 12 January 2017].

or other criteria? A simplistic answer would point out that the humanitarian argument is nothing more than a poor cover-up for a cost-benefit calculation. Forced deportation is expensive and may include pre-deportation detention, accompanied flights or even chartered special flights. Furthermore, depending on the country of origin, the success of forced deportation is highly uncertain (see Rosenberger and Küffer 2016).<sup>16</sup> Yet this does not answer the question of why the humanitarian argument is considered more legitimate than the cost-efficiency argument in this particular field of bureaucracy.

The majority of return migration bureaucrats whom I interviewed sincerely care that migrants have the opportunity to return “in dignity” to their country of origin, as one of them put it, echoing the IOM’s official language. For her, “in dignity” means two different things. On the one hand, she associates this term with voluntariness. The return decision should be of the returnee’s free will. And she considered it even more important that returnees be able to frame their return as a success and not a failure. A closer look at the self-legitimisation strategy of this particular return counsellor further illustrates this point. She is the head of a cantonal AVR office. Unlike in the first case, this AVR office is not part of the Aliens Police (*Fremdenpolizei*), which is located far away in a different part of town. Instead it belongs to the canton’s welfare department. This results in a different notion of the office, a different professional ethos and a different idea of the relationship between civil servants and the public. The rule-enforcing aspect is less apparent, and return counsellors consider themselves more as service providers. When I asked this return counsellor to describe her own role, she replied:

Look, my task is precisely not to enforce asylum decisions. My mission as a professional social worker is to assist my clients in the realisation of their decisions. If they decide to return: Fine, I will help them. If they have other plans: Fair enough. I will do what I can. But in that case, my options are limited, as you can imagine.<sup>17</sup>

16 For example, asylum seekers and migration bureaucrats are both well aware that Algeria does not accept forced deportations of its citizens. It only takes back those who return voluntarily.

17 Interview with a return migration officer, August 2014.

This informant described her role in substantially different terms from those of the two return migration bureaucrats we encountered earlier. In her self-representation, the focus is less on the enforcement of rules and decisions, and more on the relationship between the return counsellor and the asylum seekers subjected to the migration bureaucracy. She emphasised her professional ethos as a social worker who is committed to her clients as well as to the office. She regarded the double vocation towards the state and the individual migrants as part of the duty of the office, and not as a breach or weakening of bureaucratic principles. Therefore, she considered herself less as an administrator, and more as a mediator between the constraints of the migration bureaucracy and migrants' aspirations. Commitment towards the asylum seekers and a desire to take their aspirations seriously are entwined in her professional ethos. She emphasises this orientation through her frequent use of the word "client". This standpoint is different from that of the two return counsellors in the initial example who continuously use the term "asylum seeker". At the same time, "client" not only implies a more equal relationship, it also tends to conceal the structural power asymmetry at work. The term suggests that enforcement of previously made decisions stands on the same level as migrants' plans for their future. Emphasising consultation and help as the AVR's two dominant ideas, the return counsellor described her own role as though the return migration bureaucracy had temporarily suspended the dominant rule-following principle. Only by disregarding the overall logics in which return migration bureaucracy is embedded is it possible to take this stance.

In defining humanitarian reason, Didier Fassin (2012) describes how the language of compassion and suffering has replaced terms of interest, rights or justice. One can no longer address claims of the state in the antagonistic language of rights and legal entitlements, but only in the submissive mode of compassion. In the context of migration, this means that asylum has become less and less a legal entitlement, and more an act of benevolent charity in the face of unbearable suffering. AVR advances this tendency to remove rights from the forefront, as it contributes to replacing a rights-based language with the language of care. The return counsellor's statement points exactly in this direction. In mobilising a language of empowerment ("[I] assist my clients in the realisation of their decisions") she omits any reference to rights.



## Conclusion: policing the boundaries of the commonwealth

Thus far, this text has examined three aspects that dominate AVR bureaucrats' self-representation: rule-orientation, striving for efficiency and humanitarian reason. The discussion of the ethnographic material has shown that none of these aspects can be reduced to procedures – i.e. to bureaucratic ethos or to bureaucratic ethics alone. The rule-following principle guarantees certainty and predictability. Efficiency can tame excessive rule-orientation and aim for fast, lean procedures. And the principle of humanitarian reason attempts to reconcile the other two bureaucratic principles that are predominantly geared towards the public good with the needs, aspirations and wishes of individual asylum seekers subjected to the migration bureaucracy.

AVR's mediation between common interests and individual claims leads us back to the boundaries of the commonwealth, and the structural incommensurability between bureaucracy's universal promises and governance of those boundaries. I have argued that bureaucracies are geared towards administration of the common good: The primary bureaucratic concern is modes of fair and just allocation of goods and services within the commonwealth, hence one benefits, at least hypothetically, from this administration of the common good in virtue of one's individual status as a member of the commonwealth. This is true even where a given bureaucratic measure is to one's individual detriment. Migration bureaucracies – and AVR in particular – primarily deal with a different issue: They distinguish those who are part of the commonwealth from those who are excluded from it. The targets of this bureaucratic administration are not included into the utopian social order; they are removed from it. The benefits AVR provides are a substitute for the bureaucratic promise of the commonwealth, from which asylum seekers are excluded.

This results in a particular relationship between the return migration bureaucracy and the people subject to its attention. Tunisian asylum seekers' migration strategies and their asylum applications can be read as a call for inclusion in the commonwealth's utopian social order: a social order from which they are excluded and which the return migration bureaucracy protects.<sup>18</sup> At the same time, they are affected most directly by these bureaucratic

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18 This argument has been put forward by the thesis of the autonomy of migration (Papadopoulos et al. 2008; de Genova 2010). It appears in a different form and a context other than

interventions. Migration bureaucracy is structurally unable to incorporate these *harragas* into the utopian social order because it would imply redrawing the commonwealth's boundaries, a power that belongs to the political realm, not to the bureaucratic realm. Tunisian *harragas* call for inclusion through their sheer presence in a confrontation of "the logic of equality with the logic of the police order" (Rancière 1999: 101). The only two options in this Rancièrian political moment are repression and compassion. This structural inability of the migration bureaucracy to redraw commonwealth boundaries illustrates the aporia of universalism inscribed in bureaucratic ethics. The struggle for inclusion in the realm of the universal is always fought for and realised by those who are excluded from it (see Buck-Morss 2009). As discussion of the self-representation narratives showed, return migration bureaucrats must navigate these mutually exclusive claims. The wish to assist Tunisian asylum seekers in realising their own plans for the future collides with the exclusionary logic of the migration bureaucracy, which removes them from the commonwealth it is charged with protecting.

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