The German Refugee "Crisis" after Cologne: The Race of Refugee Rights[1]

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I n early January 2016, violence at the Cologne train station on New Year's Eve drew tremendous attention from the German and international public. Over one thousand men reportedly descended on the central train station, in a convergence initially thought to be spurred by social media calls. Widespread theft and groping were reported to the police, with several white German women recounting being surrounded by groups of men described as looking "North African" or "Arab." A few weeks later, the German parliament held a parliamentary debate entitled "Konsequenzen aus der Ereignissen von Köln und anderen Großstädten in der Silvesternacht" [Consequences of the Events in Cologne and other Large Cities on New Year's Eve].

This parliamentary debate constitutes a unique moment in the discursive construction and representation of immigrants and refugees in Germany today. Despite the extremity of the reaction to these events on the part of populist radical right groups, as well as the contradictory and conflicted media response, nearly all of the speakers during the parliamentary debate cautioned against rhetoric that would reductively identify all (male) refugees as sexual perpetrators; many parliamentarians also highlighted the importance of recognizing neo-Nazi "hooligans" and other perpetrators of right violence as equal threats to public space. This effort to frame the debate in a non-racist way provides a marked contrast to the language and debates informing recent German engagements with race, refugees, and immigration, such as the headscarf debates of the early 2000s, which often imagined Muslim men in particular as inherently violent.

At the same time, a remarkable unity occurred across the political spectrum on the question of how the government might respond to the New Year's eve events in Cologne, reifying tired tropes of a public threatened by dangerous Muslim men. Most notably, the speakers during this debate almost uniformly called for an increased police presence; some additionally called for additional numbers of workers to process asylum claims. Accompanying this unity was a glaring refusal to discuss the major changes to asylum procedures announced publicly by the ruling coalition the previous day. This preliminary agreement, later called Asylverfahren Paket II (Asylum Package II), was intended to "speed up" the asylum process by broadening the conditions under which asylum seekers could be deported, and declares the countries of Tunisia, Algeria and Morocco—from which many of the alleged Cologne perpetrators were presumed to come— as safe countries of origin, rendering their citizens effectively ineligible for asylum. Even as the parliamentarians cautioned against racist responses

to the violence of Cologne, then, they turned to strategies of increased surveillance and security that have historically targeted racialized groups, and suppressed any reference to the *de facto* ban on North African applications for asylum.

The paradox of rights and racism, whereby human rights are re-racialized even as racism is rejected, reveals the deeply gendered workings of whiteness. Whiteness, as a consequence of racialization, is an "ongoing and unfinished history, which orientates bodies in specific directions, affecting how they 'take up' space."[2] Whiteness works as a social structure and a set of somatic norms that allows some bodies to be more at home in the world than others, and some bodies to move in the world more easily than others.[3] The debates about Cologne construed the safe movement of white women as threatened and failed to acknowledge the constraints on North Africans' movement to and in Germany, while heralding forms of surveillance and policing that often target racialized others. The debates about the violence in Cologne further suggest that where we do not attend carefully to the circulation of racist structures and discourses, or the importance of human security to understandings of human rights, whiteness is easily reinscribed in projects for a more just world.

At stake in the reaction to the events of New Year's Eve in Cologne are perceived rights to security in public space, imagined via narratives that circulate and transform across numerous sites, including news media, social media, and parliamentary discussions among others. The German media's response to Cologne, particularly where this took the form of critiquing the appropriation of the violence by right wing groups, betrays an investment in recuperating a European history of progressive values based on human rights.[4] Meanwhile, political speech at the level of national state politics reveals a tense negotiation among various aspects of human security, including rights to sexual self-determination and rights to adequate access to means for securing sustenance and housing. In this essay, I focus on the latter, taking up the parliamentary debate of January 13th and additional parliamentary discussions surrounding the passing of the so-called "Asylum Package II" as my archive in order to examine how understandings of the relationship between human rights and human security were deployed, reified, challenged and transformed in the wake of the Cologne attacks. Underpinning the silence about race and racism in human rights discourse is an epistemology that continues to invest hope for a better future in the recuperation of a tradition of European human rights, which are dispensed by Europe and North America, and remain accessible primarily to those who have European citizenship and those few whose noncitizenship can be rendered inoffensive under European protection. When the discourse of human rights ignores the workings of whiteness in Europe, Europeanness becomes a field of power that *produces* precarity in the name of security, via a policing of the boundaries of the human, deployed through the desire to create a heavily surveilled and policed public space.

Refugees and the Post World War II German Discourse of Rights
Germany's relationship to the contemporary incarnation of human rights is a unique one. The revival of human rights and their formalization in various treaties in the late 1940s and early 50s were framed and understood in particular as responses to the destruction of World War II and the Holocaust (yet to be named as such). Indeed, working through the Nazi past

itself became a form of human rights activism in the postwar West German context,[5] and the sweepingly universalizing language of human rights a way of rejecting Nazi pasts.[6] Supporting human rights also served as a way for West Germany to regain an entrance into the international community after the war.

German support for human rights expressed itself in a fairly liberal asylum policy, codified in Article 16 of the German constitution: "persons persecuted for political reasons have the right to asylum." Until 1978, this remained relatively uncontroversial due to the low numbers of asylum applicants, and the fact that most refugees to West Germany up until the 1960s were of German heritage, escaping East Germany or eastern Europe. After the 1980 military coup in Turkey, and the introduction of martial law in Poland around the same time, a brief spike in asylum applications drew new administrative restrictions that made the process more difficult, including a requirement that Turkish citizens obtain travel visas.[7] In the early 1990s, asylum law was further revised in response to a new spike in asylum-seekers, this time largely from the margins of Europe. Media coverage at this period was particularly sensationalist, focusing on refugees from the Balkans (most of whom only received temporary refuge rather than being granted asylum) and spectacularizing a few incidents of violence between Turks and Kurds in Germany. In contrast, there was little attention to extensive "ethnic German" immigration from Eastern Europe and the former Soviet Union, this despite their significant numbers.[8] Changes to asylum law in 1993 introduced the concept of "safe countries of origin" and called for the deportation of applicants who had passed through "safe countries" before arriving in Germany. Although West German and unified German asylum procedures always required proof of political persecution, the early 1990s brought attention to the category of the "economic" refugee for the first time, that is, people who were perceived as taking unfair advantage of the asylum system to pursue migration for economic purposes. The wave of physical violence that accompanied anti-refugee hatred at that time, including the burning of asylum homes and individual physical attacks, deployed language that named refugees as the ostensible targets, but also impacted immigrants perceived to be non-European as well as Germans of color.

Despite the clearly racialized nature of the attacks of the early 1990s, critics of the violence often used language that obscured the presence of racism, using terms such as xenophobia instead of racism even though the violence was targeted at many Germans of color. The German term for xenophobia, *Ausländerfeindlichkeit*, contains the German words for foreigner, which can be translated as "somebody from outside the country." The use of this terminology obscures the working of race in structural, symbolic and physical violence as well as the work of Germans of color to call attention to racialized violence. It further implies that those who immigrate to Germany remain permanently outside of the German community. The response to concerns about a liberal asylum policy intersects with a postwar silence about race in Germany, and for that matter in Europe, one that obscures racism and its effects by describing racist acts in terms of xenophobia. The recent attention to North African refugees, a very small percentage of current refugees to Germany, follows historical patterns of targeting racialized groups for exclusion while evading discussion of the presence of racism in Germany.

Human Rights and the Language of the Human

The language of human rights has frequently obscured how race functions to exclude groups from rights. This is unsurprising, given the history of the modern conception of "human" and "human rights" as mutually constitutive terms that both claim universality even as they exclude large portions of humanity from the category of the fully or properly human as a consequence of their geopolitical and geohistorical positions.[8] This is apparent from the inception of human rights: for example, the document "The Rights of Man and of the Citizen," often imagined as an originary document for both human rights and the modern conception of human, was written during the French Revolution in 1789, but also during the same year as the slave revolt in Martinique, and the Haitian revolution, during which attempts to assert such rights were violently suppressed. The philosophy of Immanuel Kant is often seen as lending moral underpinnings to the concept of human rights, rooted in claims about the autonomy and rationality of man, even as he also theorized race, constructing hierarchies of the human that privilege the white subject and undermine the universality of the human he espoused.[10] Colonialism and the race idea thus emerge as constitutive of the categories of humanness and human rights, positioning racialized others as the defining outside. It is not my goal here to dismiss the notion of the human or of human rights because of their Eurocentric foundation. I follow, rather, Gayatri Spivak's call to recognize the imbrication of colonialism (and by extension, racism) in human rights as an enabling violation.[11] In their contemporary instantiation, however, human rights remain haunted by their entanglement with a Eurocentrism that is rooted in racism and colonialism.

The post-World War II institutionalization of human rights and the resulting reconfigurations of the human did little to address the ways in which the language of universality and human rights continues to produce many peoples as outside of the properly human. As Hannah Arendt points out, rights-based language after 1945 did little to redress the processes by which Jews were denied rights during the Holocaust, given that rights remain largely claimable through access to national citizenship (in other words, that human rights were largely tied to civic rights). Yet Arendt's own critique of human rights and their link to colonialism is nevertheless unable to name their imbrication with European narratives of progress that rely on constructions of racial hierarchy.[12] Arendt locates racism as incompatible with Europe, rather than as something that emerges in tandem with European colonialism and racist thought. Arendt's articulation of human rights examines the lack of established political community to protect the rights of stateless people, those refugees arguably most in need of "rights," a discussion that also figures in Georgio Agamben's articulation of the "state of exception."[13] However, as Alexander Weheliye has pointed out, Arendt relies on a notion of the human that Sylvia Wynter terms "Man I," the political rational secular subject of liberal humanism, the emergence of whom renders colonialism's victims as irrational nonhumans.[14]

The Consequences of Cologne: Race, Gender, Security

These histories relegating the racialized other to a precarious status as less than fully human haunt the reactions to the New Year's Eve 2015/2016 violence at the Cologne train station, which has become a touchstone in debates about refugees in Germany. Over 1000 incidents of violence have been reported, with nearly half of those complaints of sexualized violence,

mainly groping; the rest were primarily reports of theft.[15] Several interviews have been published in which, although the heritage of the victims is not named, the perpetrators are described as "dark-skinned" or "Arab-looking."[16] As these reports circulate throughout the media, the perpetrators are often referred to as "North African" or "refugees." As of this writing, three perpetrators have been convicted, all for petty theft.[17] Although media reports broke within 48 hours, accusations of media and police silence about the attacks have been widespread. In the mainstream response to the attacks, calls to attend to the coexistence of racist and sexual violence have been published side by side with images evocative of the racist discourses that circulated during France's occupation of the Rhineland (using colonial soldiers) after World War I.[18] Images in the mainstream newspaper *Die Zeit* and the business oriented weekly newsmagazine *Focus* were particularly striking, depicting black hands on white female bodies.[19]

When the reports of sexualized violence moved from news media into social media, particularly on right wing sites such as Pegida's Facebook page, the accusations of groping quickly expanded into allegations of widespread rape, inspiring calls to close the borders to refugees, and for the widespread deportation of refugees to prevent sexual violence against (white) German women. The demands for faster and more widespread deportation of refugees lined up with several strategies already in discussion among politicians, but they accelerated after New Year's Eve 2016, spurring the bid to declare Tunisia, Algeria and Morocco safe countries of origin to effectively disqualify those refugees from the asylum process and virtually guarantee their deportation.

Rarely is the Cologne controversy framed in relationship to any right other than that of the right of German women to move freely in public space without fear of violence. Yet, the responses to Cologne also link up with key German debates about privacy, security, and women's rights as human rights. These are not necessarily articulated in relationship to protections provided by human rights regimes, but rather claimed through references to "commonsense" rights that include a desire to protect the space in which rights are perceived to be secured. Both the rights articulated—clustered around the woman's body and her right to sexual self-determination—and those unspoken, namely rights to privacy and an adequate standard of living, reflect an expanded understanding of human rights that might be termed human security. Such a use of the term security might be seen as a way to counter precarity, that is, the differential exposure of certain populations to violence and death.[20] However, without persistent attention to the ways in which race inflect claims to rights and security, the requirements of human security themselves may be wielded against the most vulnerable populations. Human security itself is not only a potential regime of human rights, but also a discourse that enacts power through societal relationships. For as feminist scholars have suggested, "in the discursive work around human security […t]he very idea of peace without justice implies a politics of silencing and disempowering groups whose needs are being systematically ignored and excluded."[21]

When the security of German women can be set against human security as human rights for refugees from North Africa, justice and security have been delinked. The response to

Cologne participates in a configuration of power whereby the hypervisible rights of white women serve as a legitimation for obscuring or excluding the rights of North African refugees, who are almost exclusively represented as male in these debates. The exclusion of groups from this space of rights become exclusions from the space of humanity, not only in the context of this controversy, but also in the larger context of the European refugee crisis. Consider, for example, the remarks by Green parliamentary representative Katrin Göring. Like most speakers during the January 13 debate, she opens her remarks with a declaration of support for refugees: "every person for whom the refugees are dear to their heart [am Herzen liegen]—I say this also personally—wants to know without a doubt what happened, who it was, and how the safety of women can be protected in public space."[22] She goes on, like many, to point out that this is not an imported problem:

> Every woman must be able to move freely and without fear in public. It is the task of the state to guarantee this. If the state fails here, it creates fear. Sexual assaults in public space are not a new problem. They were already a problem, before refugees came. But what is new is this particular form, which until now we only knew from patriarchally influenced societies such as India or Morocco.[23]

Göring's remarks are fairly typical of comments from across the political spectrum. She claims solidarity with (or at least empathy for) the refugees, and insists on the importance of recognizing that one cannot generalize from the actions of some refugees, but she does not see the "consequences of Cologne" as in any way relevant to refugee lives present or future. When Göring invokes this "particular form" she seems to refer to the convergence of a large number of men loosely organized by social media posts. In seeing the Cologne violence as something new, she frames sexualized violence as coming from the outside, even as she claims she does not.[24] The origin of violence is seen as external to Europe, and located in countries whose otherness is invoked through the existence of patriarchal influences, obscuring the presence of sexual violence in Europe. The world to which Göring speaks is suddenly a strictly European/German world; India and Morocco are marked as so distant as to be wholly other. Perhaps the most powerful contradiction here is the implication that in some way this is a new "form" of violence. Whether she is referring to the use of transnational digital media spaces to generate movement to a specific space, or to the actual physical form of "groping," there is nothing particularly new about this kind of violence; its supposed "newness" is deployed to suggest that this violence comes to Germany from the outside.

At its most extreme, the need for security is very clearly expressed as a priority for Germans when Scheuer states that "Germany is a State of Right and Security. This is also the reason why Germany is viewed so positively in the world. […] our maxim must be, that citizens possess clarity and a guarantee that Germany is secure and will remain secure."[25] At this moment, commonsense knowledge about what rights are narrows rapidly to the rights of the citizens of Germany, embodied by women as victims of sexual violence committed by perpetrators assumed to be from outside of Europe.

The need for safe spaces is thus also reduced to the need to protect the security and free movement of white women. This is replicated throughout the discussions. For example, Karin Maag of the center right party CDU/CSU[26] insists that

> […W]hether alone or accompanied women should be able to safely move in public space at any time. I see this right and this freedom endangered, and not just beginning with Cologne. […] Above all, we have a problem with the implementation of the law. Police positions are being reduced in many *Länder*. I want to turn the focus once again to police work. Valuable work time must be spent on coordinating images of red light transgressors. These officers are absent from the street.[27]

Although throughout the debate parliamentarians positioned themselves as concerned about existing as opposed to "imported" cultures of violence, the responses, or as the title of the debate implies, the "consequences" suggested do not address these cultures of violence in any way. Instead, the discussions promote the protective capability of the state, enacted through the surveillance of public space, as the solution to sexualized violence in public space. This mirrors tendencies in the broader public debate, in which several public figures initially proposed measures to modify women's behavior while in public rather than focusing attention on how to challenge the factors—in Europe as well as elsewhere—that sanction and promote sexualized violence. When cultures of violence are challenged, they are located as external to Europe. In later discussions of Asylum Package II, for examples, representatives will justify their vote for the package by claiming the need to support the values of "tolerance" and "equal rights" that are "not always self-evident in other countries and cultures of the world."[28]

For Göring and others, the way forward is not only to close loopholes in existing laws on sexual violence, but also to institute more police.[29] Indeed, Göring is particularly proud of the fact that the provinces ruled by coalitions that include the center right Social Democrats and the Greens had more police available on New Year's Eve than those provinces with Christian Democrat governments. In many cases, the legislators took the opportunity to commend police on their work that evening. Occasionally, they even suggested that refugees were themselves calling for additional policing. Heiko Maas, the SPD Minister of Justice, expressed a desire to increase implementation of existing laws by increasing the staffing of federal offices and adding 3000 additional positions for federal police.[30] He went on to connect the need for more police to the need to expedite deportation proceedings, for "then we also protect the hundreds of thousands of innocent refugees in our country who have not earned it, to be thrown in the same pot as criminals."[31]

Such a general call for police surveillance works to obscure the ways in which police surveillance tends to target and therefore exclude racialized groups. The UN Committee for Ending Racial Discrimination has repeatedly expressed significant concerns about Germany's Federal Police Act, which gives broad permission for police to stop and search people based on their physical appearance in trains, train stations and airports; the 2015 report reiterated these concerns to the federal government.[32] Only the Green Party responded to the UN

report with an official inquiry to the federal government. In response, the ruling coalition largely dismissed the inquiry misunderstanding racial profiling, arguing that targeting people based on their ethnic or national background is only prohibited in European law if no other factors are considered, and that adequate police training is already in place.[33] However, several high profile cases of police brutality have recently confirmed that increased police surveillance may indeed make the lives of people of color more precarious in the name of providing security for white women. Furthermore, forms of white queer gentrification in Berlin demonstrate that increased police surveillance disproportionately affects the most precarious of groups, trans people and queers of color.[34] Thus, widespread calls for increased police surveillance risk promoting the production of differential racialized vulnerability by the police.

Sara Ahmed's examination of whiteness, comfort, and movement in the UK resonates with the politics of movement enacted through the discussions of Cologne. She suggests that "to be comfortable is to be so at ease with one's environment that it is hard to distinguish where one's body ends and the world begins [...] whiteness may function as a form of public comfort by allowing bodies to extend into spaces that have already taken their shape."[35] Perceived threats to white women's bodies and comfort of movement result in responses that inhibit the movement of bodies of color, male and female alike.

Safe Countries of Origin
One of the major points of Asylum Package 2, a draft of which was agreed upon the day before by the ruling coalition, and which went into effect in mid-March 2016, remained nearly entirely absent from the parliamentary debate about Cologne. Added to this draft from previous 2015 proposals was an expansion of the list of so-called "safe countries of origin" to include Algeria, Tunisia, and Morocco—the countries from which the perpetrators of the Cologne violence were presumed to come. According to legislation dating from the so-called refugee crisis of the 1990s, "safe countries of origin" are defined as countries in which there is no danger of political persecution. Asylum Package 2 "speeds up the process of applying for asylum" for Algerians, Tunisians, and Moroccans, a euphemistic way of saying that refugees from these three countries will be more rapidly deported insofar as they are effectively prohibited from seeking asylum. It should be noted that despite the publicity accorded alleged economic refugees from North Africa, fomented by right populist groups including and inspired by Pegida, such refugees form an extremely small percentage of the total applicants for asylum. It is of course problematic to set up a clear division between "economic" and "political" refugees, but the reality is that the vast majority of the refugees are fleeing a state of war, with the largest numbers coming from Syria, Iraq and Afghanistan.[36]

During the parliamentary debate about Cologne, only one representative addressed the provision for new safe countries of origin: Andreas Scheuer of the CDU/CSU, who was so committed to the expansion that he not only brought it up during his talk but interrupted other speakers to convey its importance as well.[37] Scheuer, who has a long history of anti-immigrant positions, states:

> The process for members of certain states, who evidently come here purely as economic refugees – you mentioned the Moroccans – takes too long. Why? Because we lack the expansion of the list of safe countries of origin. We must bring about a quick decision so that these groups, as economic refugees, leave our country as quickly as possible.[38]

A complex set of silences converge at this point. The desire to find a legal means to exclude North African refugees as a response to the violence of Cologne is so problematic in the mainstream political context today that only the most extreme voices can utter such a desire. This taboo doubles, however, an unspeakability that renders the imagination of refugee participants in European democracy unimaginable. Indeed, the latter silence informs the former: because refugees are imagined as necessarily outside of the discussions of democracy, resulting in no attempt to incorporate or even respond to refugee voices during the parliamentary debate. The exclusion of North Africans from German space is rendered more palatable, and therefore harder to challenge, or even speak about. Ironically, the interjections of Scheuer function to make this double silence noticeable by calling attention to the desire to prevent refugee migration from North Africa, exposing the racialization of security by inserting the connection to Asylum Package 2 into the debate about the violence in Cologne. Through his words, so-called economic refugees, largely perceived to come from North Africa, are marked as undesirable refugees, while those whose presence is viewed more explicitly as a consequence of political persecution and threat of physical violence (in other words, Syrian refugees) are seen as more acceptable.

To be clear, the decision to declare Algeria, Morocco and Tunisia "safe countries of origin" *did* raise controversy in parliamentary discussion of Asylum Package 2, just not during the debate on the consequences of Cologne. Following the vote, numerous SPD politicians, as well as some CDU/CSU politicians, expressed significant concerns about adding Algeria, Morocco and Tunisia to the list of safe countries. Some pointed out that the package didn't address the overall need to develop legal paths to immigration for people who lack economic or life prospects in their own country; others were deeply troubled by the barriers created to family unification or youth protection;[39] still others pointed out that trans, lesbian, gay and queer citizens of these countries remain subject to persecution.[40] A few made explicit links to Cologne. SPD representative Simone Raatz argued that "it cannot be a solution to declare insecure countries safe, because a crazy mob at the plaza at the Cologne cathedral damaged the reputation of millions of other refugees,"[41] while Frank Heinrich of the CDU/CSU repeated the dictum that the events of New Year's Eve demand better prosecution of criminal activity and intensification of integration processes.[42] But although Cologne comes into view when the limiting of asylum possibilities is under question, the rights of asylum seekers largely disappear when the focus is on Cologne. That is to say, the safe movement of white women comes into view when the parliament discusses the limiting of asylum, but the rights of asylum seekers disappear when the focus is on the threat to white women thus setting up a hierarchy that prioritizes gender issues over those of refugees and obscures their mutual imbrication, prohibiting attention to refugee women as well. The delinking of the right to two aspects of security of person—movement in public space, and access to basic

means for survival—has powerful consequences, indeed, for refugees from North Africa who seek alternatives to extreme poverty, joblessness, and homelessness through migration to Europe. The separation of political from economic refugees, whose economic insecurity is deemed unworthy of redress in the name of public safety, intensifies the precarious conditions in which all refugees live.

Sexual Assault and Rape Laws

The Cologne attacks occurred just weeks after the chancellery gave its stamp of approval to a revision of the federal law on sexual assault that had been proposed by the minister of justice in October 2015. Although Germany was one of the first signatories to the 2011 Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, informally known as the Istanbul Convention, it had neither ratified nor brought German law into accordance with the convention. In particular, crimes could not be prosecuted as sexual assault or rape unless the victim could demonstrate physical resistance to the attack.

When changes were finally proposed in 2015, there was moderate public reaction and coverage in the news media. After Cologne, however, many more people and organizations across the political spectrum expressed support for the reform. The need for change became a topic in the January 13 parliamentary debate as well, when several representatives emphasized the importance of tightening laws against sexualized violence. Notably, Thomas Strobl of the CDU remarked that

> This coalition does not only discuss, it acts. This is also true when it comes to deportation of foreigners and those who have applied for asylum who have been sentenced for a crime. It is beyond explanation how one can flee from violence, rape, torture and war and then do something similar here. It is appropriate to remove such people from the process of asylum. Of course we show a red card in Germany for "grinding" [Antanzen]—what a trivializing concept! —and to the hundredfold groping of women.[43]

After years of CDU resistance to alterations in the definition of rape, the violence of Cologne suddenly enabled the need for much more radical changes to become "self-evident" [selbstverständlich]. I'm certainly not suggesting that renewed attention to sexualized violence and a commitment to expanding the definition of rape in German law are undesirable. However, to link attention to sexualized violence to the necessity for greater surveillance of refugees, who should also be easier to deport, is both to obscure the longstanding problem of sexualized violence in German and other European societies while simultaneously appropriating anti-violence discourses in order to expel certain populations from German space.

When reform was first discussed in 2014 and 2015, the discussion revolved almost exclusively around rape, although the reform proposed by the Ministry of Justice included added language about groping as an example of sexual assault in which the element of surprise would prohibit active resistance.[44] After Cologne, however, a broadly expanded definition of sexualized violence that emphasized the criminality of groping emerged in public discussions

of the reform; references to groping almost inevitably referred back to Cologne and the fact that many, if not most, of the incidents reported that night could not be punished under current law. During the debate, Manuela Schwesig, Minister for Family, Seniors, Women and Youth, suggested that

> If we want to prevent right extremists from using these deeds in such a repel-
> lent way as they are doing, then we Democrats must have the courage to say:
> yes, on New Year's Eve it was men from many countries, who really had said
> they wanted protection here, yet they took protection away from the women
> here. […] However, we must also take this discussion as an opportunity to bet-
> ter help women. For this reason I strongly support the recommendations of the
> Minister of Justice to close the loopholes in sex crime law, and for this reason
> we must now, more than ever, have a debate about how important equal rights
> for men and women are.[45]

The debate ultimately set (white) women's rights against (male) refugee rights, and con-
structed a hierarchy of state protection that discriminates amongst differently racialized
subjects' access to human rights, belying the cautions against racist constructions of the
immigrant other that were so often repeated in the debate. Because the parliamentarians'
assertions of anti-racist intent failed to acknowledge the continued circulation of whiteness
as a source of authority and object of protection, they ultimately functioned to reproduce the
very old trope of the sexually dangerous racialized other. Activist and intellectual opposition
to this trope has had an effect, in that it seems to be taboo to utter sweeping generalizations
about the immigrant other. It is clear as well that for most there is a desire to combat the
most extreme hatred that has emerged from the far right – indeed, Schwesig here frames her
remarks in the name of combatting right hatred. Yet, the more careful attention to language
seems here to have merely reinforced the power of whiteness. These minimal declarations
of antiracism exemplify what Ahmed has called, in another context, non-performative state-
ments of commitment,[46] in which declarations of antiracism might accumulate value for the
speaker or institution even though the statements do not do what they claim. For example,
a declaration of antiracism might function to distract from the existence of racism in an
institution.[47]

Human Security, Communities of Dissent and the Distant Other

Readers will note that I haven't entered into a discussion of "what really happened" on New
Year's Eve. There are many reasons for this: it is too early to have the full picture that would
allow us to assess the accuracy of the reports, and in particular the assertions about the
scope of the attacks, and I have no interest in participating in a discourse of victim-blaming.
More importantly, however, I think it is vital to consider the workings of whiteness and rac-
ism precisely at complicated moments that are easily appropriated to validate an opposition
between women's rights and the rights of immigrants, refugees, and even Germans of color.

The central paradox I have highlighted above, that representatives might name an anti-
racist position even as they contribute to structural racism, reflects and proliferates a lim-
ited understanding of the complex workings of racism, and delinks human rights from a

conception of human security that can incorporate broad-based understandings of justice. The parliamentary debate on the consequences of Cologne evinces a political community conceived as national, with the occasional gesture to the European, whose impulse is to protect women, largely coded as white and German. The insistence on a tension between the needs of German women and of male others figured as dangerous participates in a powerful set of narratives that had earlier gained renewed currency after unification,[48] narratives that downplay the potential for sexualized violence perpetrated by white men, prohibit possibilities for multipolar alliances against sexualized and gender violence, and obscure the violence faced by trans and queer people of color in Germany today. One cannot merely dismiss the implications of the "national" as the natural consequence of state politics, given the ways in which the national is reified as white. Alternatively, although the focus here on the national parliamentary debate has not brought this into focus, one also cannot ignore that this reification of whiteness is taking place in the context of a Europe-wide return to a set of discourses, intensified by current refugee flows, discourses that despite their range of political viewpoints and focuses nevertheless share a desire to recover an imaginary set of European values. To name just a few contexts, the anti-immigration sentiment that arose in the Brexit debates, as well as the insistent refusal to accept refugees by many EU countries, putting them in non-compliance with EU laws, and retroactively often justified with vague references to "the violence against women by refugees in Germany."

After Cologne, can German conversations about human rights be interrupted and differently imagined? At the very least, this requires a conception of the future that envisions refugees as contributory participants, in stark contrast to the parliamentary debates which utterly excluded refugee voices in any form. Groups such as Syrians against Sexism have formed in response to Cologne to demonstrate for an anti-sexist future, while the social media campaign #ausnahmslos (#withoutexception) has worked to articulate possibilities for a genuinely anti-racist, feminist coalition against sexualized violence. Already before the violence in Cologne, refugees were actively seeking to participate in constructing their own futures in Germany via initiatives such as the occupation of Oranienplatz in Berlin and the construction of Oplatz.net as an online public.[49] Shortly before the events of New Year's Eve, Naika Foroutan, academic and public intellectual who arrived in Germany herself as a refugee in the 1980s, called for "a debate about ourselves" in which "we need to be educated into an empathy that serves as a barrier for the devaluing of others. At the same time, it must also be painful when one notices any form of discrimination."[50] I only name, here, a very few among the array of projects taking shape within German borders in which potential imaginations of the future are formed by the diversity of peoples living in and passing through the space we call Germany.

Furthermore, attention to a broader understanding of human rights as human security must be coupled with a persistent attention to the complex, multivalent workings of racism and whiteness. Superficial declarations of antiracism are inadequate to the task; the very articulation of rights must rely on analysis and rejection of the racialization of rights. As consequence, racial and economic justice requires that refugees marked as non-European be granted the same fullness of human life imagined for Europeans. This means that human

rights cannot be reduced to a mere limitation of the immediate threat of politicized physical violence. The discussions of the violence of Cologne, and the decision, partly taken in response, to effectively prohibit North African immigration to Germany, ensure the opposite: that certain populations are deemed exterior to the fully "human" of human rights.

The empathy for which Foroutan calls can only function if it is imagined as empathy across difference rather than a discovery of sameness. More just futures invoking a discourse of rights may best be imagined by a community of dissent that constructs a new notion of human security and human rights. Such a community can rely on neither a discovery of shared experience, nor of shared identity. Indeed, Étienne Balibar proposes that we even might think of Arendt's work as pointing to a new political community—a political community yet to come rooted in a perpetual condition of dissidence, a community without foundation or of ground.[51] However, for the foreseeable future, communities that come together in the interest of a human rights as human security can only do so effectively with a commitment to recognizing and ending the ways in which whiteness and race subject certain groups to increased vulnerability that exclude these populations from rights, and from justice.

Such a community might call for a more just notion of human security, one which imagines freedom from gendered and sexualized violence, freedom from racialized violence, and rights to basic sustenance as constituent parts of security: in short, human rights as a fullness of human security. Imaginations of human security must reject the opposition of women's rights to refugee rights that continues to emerge in the discussion of Cologne, and instead conceptualize experiences of violence as dependent on complex sets of intersecting and mutually constitutive constructions of otherness—among which race, gender, sexuality, and religious and cultural difference are particularly current. Human security also requires persistent acknowledgement of the ways in which those institutions often charged with the enforcement of rights, such as the nation-state and the police, participate in deeply racialized forms of exclusion, as well as of the ways in which the very conceptualization of human rights continues to exclude large groups from the human. To return to the words of Ahmed, increased surveillance may merely extend the ways in which "whiteness may function as a form of public comfort by allowing bodies to extend into spaces that have already taken their shape."[52] A more just notion of human security, then, relies on a new discourse of human rights and security that can undo epistemologies invested in recuperating a European heritage of justice and rights that has never existed.

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NOTES

insightful responses at various stages of writing, and to Robin Cadow and Emily Frazier-Rath for their thoughtful discussions of current refugee movements in Europe during their thesis writing.

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24 Some feminists noted similarities to what takes place yearly as part of Oktoberfest in Bavaria, during which among huge crowds of people, sexualized violence is commonplace. Relying on a commonly cited figure that only 10% of rapes are reported, the suggestion was made that dozens of rapes take place every year, a suggestion that led to widespread outrage in the news media. Don Alphonso, "Sexuelle Gewalt in Köln mit dem Oktoberfest kleinreden - Deus ex Machina," FAZ.NET, January 6, 2016, http://blogs.faz.net/deus/2016/01/06/sexuelle-gewalt-in-koeln-mit-dem-oktoberfest-kleinreden-3075.html; Rainer Meyer, "Sexuelle Übergriffe: Lügenzahl vom Oktoberfest," *Frankfurter Allgemeine Zeitung*, January 8, 2016, http://www.faz.net/aktuell/feuilleton/debatten/die-uebergriffe-in-koeln-und-falsche-zahlen-von-der-wiesn-14004617.html; Hilal Sezgin, "Sexuelle Übergriffe: Ich bin es leid," Die Zeit, January 6, 2016, sec. Kultur, http://www.zeit.de/kultur/2016-01/koeln-sexuelle-uebergriffe-sexismus; Susi Wimmer, "Sexuelle Übergriffe: Der weite Weg von Köln zum Oktoberfest," *sueddeutsche.de*, January 11, 2016, sec. muenchen, http://www.sueddeutsche.de/muenchen/sexuelle-uebergriffe-der-weite-weg-von-koeln-zum-oktoberfest-1.2813464.

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