



SPECIAL ISSUE ARTICLE

# Embodying legal precarity: Living with ongoing short-term protection in Germany

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## Abstract

Immigration regimes pay particular attention to the migrant's body in the process of legal and bureaucratic inscription. Legal precarity, defined by the repeated reception of short-term protection from deportation, is an existential and deeply embodied experience. The analysis of *Schwangerschaftsduldung* (temporary suspension of deportation based on pregnancy) and protection for unaccompanied minors, two legal situations in Germany, can shed light on how the migrant's body receives centre stage in the process of legal status determination and shows how the long journey to relative legal stability deeply affects the body. The two legal categories have in common a temporal limitation and an association with bodily transformations. By centring on the legal trajectories of three migrants, this article shows how the body is taken as the marker of vulnerability and (un)deservingness and becomes the bearer of legal precarity.

## INTRODUCTION

This article explores the prominence of the migrant's body within processes of legal and “bureaucratic inscription” (Horton, 2020: 2). It traces how bodies become meaningful in the migration regime and asks how ongoing legal precarity is embodied. The body is thus analysed both as an object that can be interpreted and evaluated and as a living entity through which the world is experienced (Desjarlais & Throop, 2011). The focus of this article is on two temporarily limited legal situations that exist in Germany: *Schwangerschaftsduldung* (temporary suspension

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of deportation based on pregnancy) and protection for unaccompanied minors. While these are not legal statuses in the juridical sense, they describe concrete circumstances that have legal implications and consequences. Apart from their temporal limitations, they share an association with bodily transformations, namely, pregnancy and birth and growing up, and they are thus contingent on ascriptions of temporary physical (and psychological) vulnerability. I show how the body – its appearance, assumed maturity, reproductive choices and affective and sexual ties – takes centre stage during process of legal status determination. Moreover, I ask how these two legal categories and their aftermath are experienced and how they “can penetrate the ‘inward parts’ of people” (Willen, 2019: 230/231). The body responds to legal precarity showing various somatic responses and the internalisation of frames of deservingness. Racialisation proves to be an important aspect of the embodiment of legal precarity.

This article presents the legal trajectories of three migrants – two of them held a *Schwangerschaftsduhlung* and one was considered an unaccompanied minor for a brief period. I show how these periods of protection can often merely create a brief relief from deportability within a legal biography defined by ongoing uncertainty. By expanding on their aftermath, I seek to pay tribute to the short period of relief vis-à-vis the long legal trajectory of instability and insecurity.

In this article, I present a case of failure, in which the body is unable to prove vulnerability; a case of success, in which constant interrogation into the body's constitution, reproduction, and affective relationships is finally met with relative legal stability; and a case of ongoing legal precarity, in which the body's vulnerability and its ties are not perceived as being sufficient in granting long-term protection. Since both legal situations I discuss in this article have an expiration date (the third month after child birth and the 18th birthday), I show how, subsequent to holding one of the legal statuses, my interlocutors experienced prolonged periods of repeated reception of short-term legal statuses. My interlocutors respond with stress, fatigue, insomnia and other distinct “somatic modes of attention” (Csordas, 1993: 138) to their condition. Apart from an engagement with mental health issues that arise as a result of grappling with constant legal precarity, the article sheds light on the body as racialised in the process of fighting for legal stability. Racial discrimination and the experience of the body as being othered overlap with legal precarity. Finally, I present how notions of (un)deservingness are internalised and how my interlocutors respond to these in their narratives and actions.

Studying people who live in legal precarity raises ethical concerns. De Genova (2002: 423) stresses that the constitution of “undocumented migrants (the people) as an epistemological and ethnographic ‘object’ of study” make researchers accomplices to the discursive power of immigration law, since they actively engage in the everyday production of migrants' illegalisation. In order to study illegality as a socio-political condition rather than focusing on undocumented migrants as “illegal aliens” (ibid.), De Genova recommends taking inspiration from Coutin's approach. She defines her research among Salvadorans struggling with legalisation as “an ethnography of a legal process rather than of a particular group” (2000: 23). Following her example, I prioritise two distinct legal processes and do not categorise research participants along the lines of their gender, nationality, race, or socioeconomic background. By tracing legal trajectories rather than perceiving legal statuses as a given and its acquisition as a one-time event, I also account for migrants' immense efforts to not lose their legal status (Luibhéid, 2013: 19).

## EMBODYING LEGAL PRECARITY

The concept of precarity can capture an existential experience of uncertainty: Following Allison (2016), living a precarious life means that the present is “all-consuming” requiring all available energies. In a similar vein, Tsing (2015: 2) defines precarity as “life without the promise of stability”. Bringing precarity in contact with (forced) displacement foregrounds the loss of control over one's time and a navigable future (Ramsay, 2020).

Legal precarity is multi-dimensional and constructed by state policies, regulations, and practices of policy implementations (Goldring et al., 2009: 240). For migrants, living in legal precarity translates into “vulnerability of deportation and state violence, exclusion from public services and basic state protections [...] and everyday discrimination or isolation” (Paret & Gleeson, 2017: 5). Ellermann (2020: 2469) stresses that status precarity

affects all immigration status and calls for a “more fluid and non-linear understanding of precarity/precarioussness”. Furthermore, she argues that immigration law creates hierarchies among migrants based on gender, race, nationality, religion and class (ibid.). Goldring and colleagues (2009: 245) emphasise that status precarity reflects “the tendency to make citizens increasingly individually responsible for their existence”. In this article, the term legal precarity is used to analyse the consequences of ongoing reception of short-term legal statuses. I seek to grasp the omnipresence and plurality of insecurities that defined my interlocutors’ lives and the implication that they were responsible for their situation.

The body plays a crucial role in the process of acquiring one of the two short-term protection periods at the centre of this article. Following phenomenological approaches, I understand the body as the bearer of consciousness which is always situated, located and in interaction, and embodiment as a mode of being-in-the-world (Young, 2005: 7). Furthermore, bodies are “primary objects of inscription – surfaces on which values, morality and social laws are inscribed” (Longhurst, 1997: 489). In contexts of migration and displacement, understanding the body as a biopolitical entity means tracing how administrations and authorities read, interpret and evaluate the migrant’s body (Otto & Kaufmann, 2018: 71). Migrants, and especially as asylum seekers, find themselves confronted with a “culture of disbelief” (Crawley, 2007: 26) and need to prove through their body that they are eligible for (temporary) protection. Thus, the body becomes “the place of production of truth on the asylum seeker” (Fassin & d’Halluin, 2005: 598). To reveal its truth, the migrant’s body must appear as fixed (Ticktin, 2011: 147/152). Challenging the “truths” that can be distilled from the body, Netz (2019: 723) shows in her analysis of age estimation processes in Germany that the body is contingent and relational dependent on biomedical, scientific and bureaucratic practices.

Migrants experience illegality as a specific mode of being-in-the-world that affects their sense of time and space, conduct and how they feel in their bodies (Willen, 2007: 16). I argue that living in legal precarity has similar impacts on migrants. Social stigmatisation, precarious living conditions and the climate of fear generated by restrictive immigration policies create a sense of being undeserving of certain rights, affects individuals’ health status and triggers significant psychological distress (Larchanché, 2012). In this article, I consequently understand the body as a highly relevant biopolitical entity in the migration regime and as a living entity that bears witness to the consequences of legal precarity.

My data shows that racialisation is a relevant aspect of legal precarity. In fact, legal precarity overlaps with processes of racialisation and social exclusion (Goldring et al., 2009: 241). Racialisation refers to “the processes through which any diacritic of social personhood [...] comes to be essentialized, naturalized, and/or biologized” (Silverstein, 2005). Racialisation targets the body as an entity that is known beforehand and reduced to the inferior whole (Fourlas, 2015: 104). I analyse how “race is made ‘real’” in my interlocutors’ encounters with the German migration regime and how race is lived through the body (Nayak, 2017: 289). Migration laws and the state’s treatment of migrants and asylum seekers institutionalise racialisation (Chacón & Coutin, 2017; Luibhéid, 2013). Even in contexts of resettlement, racialisation does not cease to exist, since dark skin colour continues to encode assumed otherness and creates vulnerability to state intervention (Ramsay, 2017: 524). Racialisation takes on a specific role when directed at black, pregnant bodies as Shandy (2008) stresses in her analysis of pregnant asylum seekers from the African continent in Ireland who experience public demonisation. Pregnant migrant women of colour in the global north challenge ideas of national belonging (Castañeda, 2008: 343) and expose the racialised imaginary of the national body politic (Tormey, 2007). Similarly, racialisation takes a specific shape when directed at adolescents. The figure of the unaccompanied minor brings together both: the notion of the apolitical and ahistorical child victim and the racialised and gendered image of migrant youth who is out of control (Lems et al., 2020: 318).

## ETHNOGRAPHIC RESEARCH IN BERLIN

My arguments are based on findings resulting from 16 months of ethnographic fieldwork conducted in two phases between winter 2017 and spring 2020 in Berlin. Since I stayed in touch with most research participants I had met

during the first fieldwork phase, I followed and traced their trajectories for more than 2 years. My ethnographic research took place in three contexts: a refugee shelter, a legal advice centre, and a project dedicated to refugee mothers and their children. The methods of data collection included participant observation, casual conversations, semi-structured interviews and the collection of life stories. Apart from joining group meetings, visiting families, and socialising in public spaces, I often accompanied interlocutors to their appointments with different state authorities. Being present during, before and after these appointments allowed me to get a deep sense of my interlocutors' emotions, worries and aspirations. In total, 49 migrants with various legal statuses, mostly from the Middle East, the African continent and Afghanistan, participated in this research project. Most of them had arrived in Germany between 2015 and 2017. Among the group of migrants were 10 young adults and 22 mothers. Given the participants' precarious legal situations and the detailed descriptions of the individuals' legal cases that I provide in this article, the anonymity of interlocutors is of utmost priority. I use pseudonyms and have disguised as many identifying details as possible, such as places of origin, professions and current locations.

## HOLDING A *SCHWANGERSCHAFTSDULDUNG*

Foreigners in Germany who are required to leave but cannot be deported at present, receive a *Duldung* which translates into "toleration". It is not a residency status and describes a temporary suspension of deportation (Drangsdland, 2020: 1129). A *Duldung* can last from a few days to several months and needs to be renewed continuously. Usually, it does not provide permission to work or access to integration courses (Tize, 2020: 4). Thus, living with a *Duldung*, in "permanent temporariness" (ibid.: 2), means long-standing insecurity, social stigma and exclusion from several basic rights (Drangsdland, 2020: 1134).

Pregnant migrant women in legal uncertainty can apply for a *Schwangerschaftsduldung* at the Berlin foreigners' registration office 3 months before the expected due date until 3 months after having given birth, if they can prove that they currently reside in Berlin (VAB, 2021: 434) and if they hold a (valid) passport (Castañeda, 2008: 355). This is based on the idea that travel presents special risk to pregnant women and that physical and psychological stress can endanger mother and child (Castañeda, 2010: 254). Upon registration, the woman receives the *Schwangerschaftsduldung*, which authorises access to prenatal care and covers delivery costs (Castañeda, 2008: 348). If the child's father is a German citizen, the child has the right to German citizenship and its mother will have the right to reside in Germany and have access to the social welfare system as the custodial parent (Feldman-Savelsberg, 2016: 70). A formal acknowledgement of paternity is required and directly after the child's birth, the foreigners' registration office requests the presentation of a birth certificate that includes the father's name (VAB, 2021: 444). During a conversation with a legal adviser I was told that, to the foreigners' registration office, a woman who is deportable and can get a legal status through a man's acknowledgement of paternity is per se suspicious. State authorities are asked to report any indication of abusive acknowledgement of paternity to the foreigners' registration office.<sup>1</sup> For women who do not have the option to receive German citizenship for their children through the father, a *Schwangerschaftsduldung* can be an immediate relief from illegalisation that eventually backfires: through direct contact with the state authorities and the disclosure of their situation and whereabouts, the women effectively risk deportation after the expiration of their *Schwangerschaftsduldung* (Castañeda, 2010: 255).

## PROTECTION FOR UNACCOMPANIED MINORS

For individuals who enter Germany unaccompanied and are underage the principle of the "primacy of child and youth welfare" is applied (Tangermann & Hoffmeyer-Zlotnik, 2018: 17). If an age assessment test proves their minority, the respective youth welfare office begins a process of taking the youth into their care (ibid.: 25). Unaccompanied minors usually receive a suspension of deportation. Together with the legal guardian, who

represents an unaccompanied minor until adulthood, it will be decided whether an asylum application is in the best interest of the individual (ibid.: 18). Once unaccompanied minors turn 18, they are fully responsible for their own interests and legal representation (ibid.: 19). If they have not yet applied for asylum, they immediately lose deportation protection (Thomas et al., 2018: 81). Moreover, they lose many of the rights and entitlements as well as the general support they had (Netz, 2019).

Unaccompanied minors are on the one hand perceived to be innocent and vulnerable, while, on the other hand, they are the cause of fear and anxiety (Lems et al., 2020: 6). There is a profound sense of suspicion regarding unaccompanied minors' "true" identity, age and motives (Wernesjö, 2020: 389). In a similar vein, unaccompanied minors are often deeply concerned, ambivalence relating to their strong fear of turning 18 and the clear temporal limitation of protection (Lems, 2020). Against the backdrop of an unknown future, the inclusionary measures dedicated to unaccompanied minors become "a very brief reprieve from a life of extreme uncertainty" (ibid.: 406).

## FAILING TO PROVE VULNERABILITY THROUGH THE BODY

Walid arrived in Germany before his 18th birthday without his family and was made painfully aware of his body's (im)potence to prove his vulnerability and consequent eligibility for protection for unaccompanied minors. He left his home country in the Middle East directly after his 17th birthday, crossed the Mediterranean Sea by boat and walked long distances through Italy and France. Upon arrival in a southern federal state in September 2017, he was put in a shelter for underage refugees, underwent medical examination and age assessment resulting in approval of his status as an unaccompanied minor. After a few weeks, however, he was transferred to Berlin where his age was assessed again. This time, he was told that, based on the test results, his age was 19 or 20. Walid was shocked that the German state "stole [his] age" in a procedure entirely unclear to him. When I met him, 4 months after the second age assessment in a refugee shelter for adult asylum seekers, Walid was still in anger about the loss of his age:

How do you assess age? By appearance? If you determine it by how I look, then remember that I crossed the sea. I have been through things that were beyond my age. I saw terrors and horrors. Things that even someone in their eighties might not have seen.

With this statement, Walid questions a correlation of bodily maturity and the traumatising experiences one endures and survives. He felt that the age assessment left him without his "proper identity". The age miscalculation he experienced was a profound feeling of loss. "I felt something was taken from me. I did not feel full freedom. Age is something that has to do with my being, with my identity." When Walid had to sign the final age assessment report, he remembered that it was presented to him as if he had no option but to conform.

That day was disastrous. It was the day when they told me that I am nineteen years old and I was asked to choose whether to consent and sign the age assessment report or end up being in the street. They said: 'you have no other option but these two because you are above eighteen and you cannot stay [in this shelter] any longer.' This means that the shelter gives up on you. Then, who will be there for you?

In his encounter with the German immigration regime, Walid's body was unable to prove his true age resulting in immediate exclusion from legal protection as a minor. During age assessment, his body was "objectified" and became "merely a source of evidence that facilitates legal mechanisms" (Altinay, 2009: 170). Walid had to realise that to count as a minor was "open to interpretation, negotiation and manipulation" (McLaughlin, 2018: 1764) with severe consequences for his life. The deprivation of his age deeply affected him: he could not tolerate the confusing and incomprehensible nature of the process of age assessment and felt that his vulnerability was ignored. His categorisation as an adult fails to account for Walid's complex case and experiences of discrimination (see also Otto & Kaufmann, 2018: 66).

## DISPLAYING DESERVINGNESS (THROUGH THE BODY) – A SUCCESS STORY

Susan had come to Germany from a West-African country. She had submitted an asylum request when she arrived in Germany in 2017. However, since she was pregnant at that time, she was advised to cancel the asylum request and apply for a *Schwangerschaftsduldung*. Her asylum request was likely to be rejected, since she was from a so-called safe country of origin. Her cancellation was met with a letter from the foreigners' registration office in which she was asked to return to her home country. In a legal advice centre, Susan received reassurance that she could not be threatened to go to her home country because of her advanced pregnancy. In addition, because of her partner's residency, who was the father of the child, there was a chance that Susan's *Schwangerschaftsduldung* could be superseded by a long-term residency based on her daughter's German citizenship. Susan explained that her partner, who was also a migrant, was "with a white woman" who had German citizenship and had a son with her. Thus, Susan and her partner did not consider marriage.

On the day I accompanied Susan to the foreigners' registration office, three months after the birth of her daughter, Susan was reprimanded for having missed her previous appointment and it took her a while to explain to the civil servant that her partner had phoned in accordance with the rules to cancel the appointment. Then, the civil servant questioned why Susan's daughter did not have a birth certificate yet. Susan explained that she had applied at the civil registry office, but was unable to receive one because her passport had expired. Having finally received her new passport from the embassy, Susan came that day to present it to the foreigners' registration office. Subsequently, she was quizzed about her relationship to the child's father. Where does he live? Does he regularly see his daughter? Was she in a relationship with him? Susan affirmed these questions. Then, the civil servant focused on the couple's age difference. She said she considered the age difference of more than 20 years quite significant. Eventually, Susan received a 6-month *Duldung* and the civil servant explained that she would withhold Susan's passport until further notice. When Susan asked how she was supposed to apply for the child's birth certificate without her passport, the civil servant reluctantly made a copy of the passport and wrote a note for the civil registry. In addition to the child's birth certificate, Susan was asked to bring a notary-certified statement about the parents' shared custody to her next appointment. With these papers, the civil servant said, the foreigners' registration office would consider giving Susan a long-term residence permit.

When Susan's *Schwangerschaftsduldung* came to an end, she needed to find another way of proving that she was eligible to stay in Germany. Deservingness based on her physical vulnerability immediately before and after giving birth needed to be proven anew in her current context as a young mother. With her daughter's potential for German citizenship that would then also guarantee the mother's residency, the father's persona assumed centre stage. Susan's future within the German immigration regime thus depended on the presence of her child and the child's father (Feldman-Savelsberg, 2016: 204; Castañeda, 2008). It was not the first time that Susan had experienced interrogation about her relationship to the father. When she received her *Schwangerschaftsduldung*, the father of the (unborn) child had already been the subject of concern. She was asked whether she lived with him and whether they were married. Then, while holding the *Schwangerschaftsduldung*, she was asked to bring his identity documents to one of her appointments with the foreigners' registration office. Susan's reproductive and sexual practices and the nature of her relationship to the child's father were constantly on display (Tormey, 2007). In addition, documents were requested to prove the couple's relationship and the father's involvement and commitment. Susan's intimate ties become the basis for rights, claims and entitlements (Luibhéid et al., 2018: 23). Through interrogations and penetration into Susan's private life, "truth" and "lies" were sought to be disentangled. Not conforming to the civil servant's sense of "normal" could easily cause loss of credibility and had the potential to endanger Susan's legal trajectory.

After 6 months of legal precarity, during which Susan held a *Duldung* and was told that she had to wait for the verification of her case and eligibility for a permanent stay, she received a long-term residence permit based on her daughter's German citizenship.

## IN BETWEEN FAILURE AND SUCCESS

Emilia, from a central-African country, arrived in Germany together with her daughter of primary-school age in 2016. The father of her daughter, from whom she was separated, resided in Germany. For a while, her situation was unresolved. She had no legal status and stayed with a friend. During a legal consultation, she was advised to conduct an acknowledgment of paternity. The father agreed and after the procedure, Emilia presented herself to the foreigners' registration office. She was shouted at, accused of being in Germany illegally, and her passport was taken away. Then, she was sent to the police station where pictures were taken. After a formal registration process at the regional office for refugees, she went to the social welfare office and was put in a refugee shelter holding a *Duldung* of three months' duration.<sup>2</sup> When she got pregnant by the father of her first child a few months later, she received a *Schwangerschaftsduldung*. Emilia remembers the time of her pregnancy as utterly confusing. She said that she heard conflicting opinions and advice, and as a newcomer, was unable to understand the law. She had felt certain that she could not be sent back to her home country if she gave birth in Germany and had to find out that this was not true. Even though the child's father acknowledged paternity for both children and shared custody with Emilia, his residence in Germany could not secure a legal status for his children. He was married to an EU-migrant but was separated by the time his son was born and no longer in touch with his spouse. He told Emilia that the foreigners' registration requested his spouse's presence during one of his appointments and refused to renew his residence permit as long as she remained absent. The unresolved legal situation of the father severely and continuously affected Emilia and her children's legal trajectories.

Eight days after her son's birth, I met Emilia and her children at the foreigners' registration office to renew Emilia's *Schwangerschaftsduldung*. Emilia did not have the financial means to get a stroller and carried her infant son wrapped in a pillow. In the midst of confinement, she was visibly stressed by the confrontation with the immigration authorities. Three months later, Emilia's *Schwangerschaftsduldung* came to an end and she received a *Duldung* of 4 weeks' duration because matters with the children's father remained unresolved. She told me afterwards that the civil servants accused her of being in Germany illegally and that this humiliation made her break down in tears. Holding a *Duldung* of 4 weeks' duration caused all kinds of problems. For instance, her electronic health card expired and as a consequence, Emilia no longer went to a doctor. During a visit to the social welfare office she learned that she needed to go to the health insurance company to get a written document confirming that she was insured before visiting a doctor. In this period of extreme legal marginalisation, I accompanied her to the youth welfare office where she wanted to apply for maintenance advance. She was supposed to receive financial support from the father of her children, however, he only paid infrequently and never the necessary amount. Emilia was told that because she held a *Duldung* she would not get the maintenance advance. In order to receive it, she would need a more solid, long-term legal status and would also need to open a bank account.

When the 4-week long *Duldung* was about to expire, Emilia went to the foreigners' registration office again, this time with an experienced volunteer. She was told that her passport had expired and was asked to renew it. Furthermore, she was asked to bring the father of the children with her and finally, she was told that she had to come back the next day and queue from 4 AM in the morning in order to draw a number and wait her turn with the others. Emilia responded in tears that this was impossible because she was alone with two children. Eventually, she received a new *Duldung* for 6 months without having to queue.

More than 2 years after the termination of Emilia's *Schwangerschaftsduldung*, the family still balanced between one *Duldung* and the next. After a period in which the family repeatedly received a *Duldung* of less than 3 months' duration, the length of each *Duldung* eventually extended to 6 months. This was still the case in September 2020 and it affected her daily life:

Holding a *Duldung* in Germany is not so easy. With a *Duldung*, there are some benefits that you don't get. You don't get a real identity card. It's so difficult, especially for a woman with children. With a

*Duldung* you can't enrol in a normal German course. You don't get Job Center support. They even deprive the children of benefits.

With this statement, Emilia summarised her concrete experience of legal precarity. She was particularly concerned that the children were insured via their father and that their health insurance could expire at any moment. The father had work and was insured, yet, if he did not work for a month, Emilia described, he could immediately lose insurance protection and nobody would support him in that case. This would then directly affect the children. In fact, more than once Emilia had presented the children's health insurance cards at the paediatric practice only to be informed that they were not working.

In contrast to Susan, Emilia's intimate ties are not sufficient to secure a stable legal status. Emilia's case exemplifies that holding a precarious legal status produces exclusion from basic rights and resources. Furthermore, it shows the internalisation of legal marginalisation (Willen, 2019) when Emilia denies herself the right to see a doctor after her health card expired. Finally, Emilia's experiences shed light on her vulnerability as a single mother which is neither acknowledged nor eased in her encounters with the German state authorities.

## THE RACIALISED BODY

Coming back to Walid who had settled in the refugee shelter for adults after he was not considered an unaccompanied minor any longer. He continuously pondered over the reasons behind the age miscalculation wondering whether racism was at play and hindered the recognition of his true age.

There are people from Africa who have dark skin. So, if you are going to assess their age by appearance, you would say they are above twenty but they [the authorities] accept that they are minors. When it comes to me, they keep asking and raising doubts about my age. Why you are making things difficult for me? Because I am an Arab? [...] I am me, not my race, name, or creed. Why do you feel I am a danger? If I were European, would you give me back my age?

Frequently, he reiterated that he assumed that "racism towards Arabs" was the reason behind the age miscalculation. In Walid's eyes, bureaucratic procedures, rules and laws were elusive and did not apply to everyone which made it impossible to trust the law. Walid's inability to comprehend why his body was deemed ineligible for protection as a minor creates a feeling of racialisation and exclusion based on racism. Without being able to prove Walid's specific claim, Crawley's (2007: 50) study found that social workers in the UK felt that ethnic differences affected whether individuals appeared older or younger than they actually were. And Oertli (2019) comes to the overall conclusion that age estimations produce and confirm racialised Othering.

In a similar vein to Walid, Emilia was aware that racism and legal precarity were deeply entangled. Firstly, it was through her daughter's struggles in school that Emilia felt racialised. The family's poverty, the daughter's initial inability to speak German and their black skin resulted in "differentiation" and "discrimination", as Emilia phrased it. She had to intervene by explaining to teachers and classmates that they were all the same despite different skin colours. In addition to her daughter's experiences in the classroom, the daughter's teacher approached Emilia and accused her of lying about the girl's age. Emilia insisted on the daughter's date of birth, while her teacher was convinced that Emilia had made her daughter younger. Additionally, Emilia felt racialisation when encountering the state authorities, for instance, when she was rudely treated as a "liability" who came to abuse the system, which she considered an underlying, tacit perception behind many encounters. She described that she always had to fight for her rights and had to remind the civil servants in the different offices about what they promised her the last time she met them. Then, she added: "The people behind the desks feel superior. They abuse their power". After a particularly unpleasant encounter in one of the state offices, Emilia said she felt she was being treated



like “trash” and that the discriminatory, unfair treatment she experienced made her question her humanity. Apart from the school setting and her contact with state authorities, Emilia felt racialised in her everyday life. In the bus, she was once accused of only having children in order to receive parental allowance. Another time, she was told that Africans stink. Feldman-Savelsberg (2016: 165) describes “microaggressions” in African migrant mothers’ everyday life in public places in Germany and how they affect the women’s emotional and practical lives. For Emilia, racialisation meant awareness of the inequalities and injustice she encounters with her skin colour being taken as a proof of difference and wrongdoing. Emilia’s “body ‘speaks’ for her” (Tormey, 2007: 82) in the public sphere and in contact with state authorities and defines her experience of legal precarity.

## EFFECTS OF ILLEGALISATION ON THE BODY

Having described how the body is implicated in processes of legal status determination, I turn to the analysis of how the body suffers under the legal precarity it experiences. Ever since Walid had arrived in the adult refugee shelter, he was haunted by the age miscalculation. He grieved that he was “robbed of [his] age”, and he felt that his psychological state deteriorated. He expressed that he was confronted with a plethora of challenges:

from the very moment I arrived here, I told them I have psychiatric problems. At night, I have nightmares that disturb me. I speak aloud while sleeping, dream of certain people, wake up, stare at my roommate, and imagine that it was he who killed my brother and my family. I am usually asleep and awake at the same time, not feeling conscious.

Describing insomnia, nightmares and hallucinations, Walid worries about his body’s malfunctioning and somatic response to the overall stressful situation. His sleep deprivation took its toll on his performance in the German course he attended and increased his feeling of being a “loser” who failed in his life.

In response to the asylum request he made when he was considered an adult, Walid received an interview invitation at the BAMF. However, he missed this appointment:

I did not know that I have a hearing to attend. [...] All the notices I receive are in German and I cannot read them. From whom shall I seek help? I do not have a guardian anymore. I do not have anyone to offer me advice, to let me know if I have any appointments or interviews, and why I am having them.

Ever since Walid had to leave the shelter for unaccompanied minors, he felt that his life had become more complicated, that he was left alone with unknown responsibilities, challenged, overburdened and without guidance. When being positioned as a grown-up asylum seeker, Walid began to experience a “nervous everyday” (Huschke, 2013) which culminated in a persistent feeling of being “dead from the inside”. He repeatedly mentioned suicidal thoughts that he could not control. Walid’s case supports Crawley’s (2007: 181) argument that the experience of being age disputed is one of the most distressing aspects for young migrants often resulting in significant mental health implications.

Eventually, Walid managed to find a lawyer who represented him in his asylum request and made an appeal against the false age determination. He also received increasing support from the social workers in the refugee shelter and the youth welfare service provided him with a case worker. However, when I asked him a couple of weeks later about his overall situation, he said: “I am still living the same misery. I cannot sleep at night. [...] I also lost weight. I spend the night in stress, thinking and remembering the past.” Seven months after his arrival in Germany in response to his asylum claim, Walid was informed that he was denied legal status in Germany. His fingerprints had been taken in Italy and thus he was a Dublin case and Italy was responsible for him. He considered many options that would allow him to stay in Germany, among them church asylum and marrying a woman with German citizenship. He became increasingly depressed, desperate and negative. The lack of access

to a legal status created intense pressure and Walid's mental health further deteriorated. Eventually, Walid was admitted to a hospital and stayed in the psychiatric ward for several weeks. After he returned from the hospital, he was informed of an appointment with the foreigners' registration office. Walid was shocked to learn that he had received a certificate of border crossing and that this meant the closure of his case and an immediate threat of deportability. The uncertainty in Walid's life turned into the certainty of illegalisation once he decided to stay in Germany without a legal status until the end of the Dublin time limit. Spending most of his energy on avoiding deportation by roaming the streets at night and sleeping during the day, he could not focus on studying German despite his determination to master the language quickly. In the time of his illegalisation, Walid was often on drugs and always exhausted. He felt that his future was out of reach which made the planning of his day-to-day life an extreme challenge. He seemed "without a past or future, stuck in an endless, anxious present" (Andersson, 2014: 805) and developed new ways of "inhabiting and moving about in [his] bod[y]" (Willen, 2019: 58). Illegalisation became an all-encompassing condition affecting every aspect of his life: it deeply changed his daily rhythm and routine, further disturbed his mental and emotional state, as well as his capacity to think and plan for the future.

One month into his illegalisation, Walid received a letter that informed him about the final decision made in the court case about his age, namely, that the German state officially considered him to be 19 years old. This letter produced "truths" (Borrelli & Andreetta, 2019: 3) with wide implications. It conveyed Walid's specific relation to the state and the definitiveness of his "bureaucratic inscription" (Horton, 2020: 2) as an adult migrant. On the day he received the letter, he shouted when we met: "The German state plays with me. It's laughing at me!". He felt that his rights were trampled on and that he only experienced injustice in Germany despite his attempts to be "good".

## CLAIMING DESERVINGNESS

Walid's ambition to study German, graduate from middle school, and start learning an instrument only returned when the Dublin time limit ended and he could make a new asylum request, thereby stepping out of illegalisation and again into the position of an asylum seeker. Waiting for the decision about his new asylum request, Walid was again in a situation of uncertainty. When I asked him how he was coping, he drew a circle in his hand showing me how on one side of the circle there were present difficulties: no flat of his own, no legal status, and no stability. On the opposite side of the circle, there were the problems from his past that he had to face, such as the traumatising trip to Europe and the loss of his family. He said he could not change the past but that he wanted to change his present conditions. While waiting for the decision of his asylum claim, Walid sought to graduate from school and begin a vocational training, since he assumed that it was more difficult to be denied a legal status, if one was in the middle of vocational training. In fact, in 2016, as part of the Integration Act, the *Ausbildungsduldung* was introduced as a chance for rejected asylum seekers to start and complete vocational training receiving a suspension of deportation for the duration of training (Drangslund, 2020: 1129). The *Ausbildungsduldung* thereby effectively functions as a biopolitical mechanism, filtering migrants based on their ability to become skilled workers (ibid.). There was also the *Beschäftigungsduldung* that gave migrants the chance of permanent residency if they could prove, among other criteria, that they earned a living for an extended amount of time (Von Beyme 2020: 148/149). Presenting his body as ready to labour shows that the discourses surrounding these migration policies, which demand economic utility from migrants in return for legal inclusion, informed Walid's thinking.

Walid kept saying that he wanted to "become someone" in Germany, that he had high ambitions, and that he wished to be "a useful member of the community to return the favour to Germany". Over the course of his legal trajectory, Walid's rhetoric had changed from a focus on why his body failed to prove his eligibility for protection as an unaccompanied minor to self-presentation as an asset to the host society. Walid moved on in his rhetoric to "performance-based deservingness" (Ataç, 2019: 48) highlighting his economic potency and willingness to integrate. Wernesjö (2020: 395) argues that there is a script written for unaccompanied minors defined by

the power structures that mark their relationship to the receiving state. This script establishes gratitude as an accepted response. Yet, narratives of gratitude also function to show deservingness and help in positioning oneself as responsible and active (ibid.: 396). Seemingly following a similar script, Walid makes a promise to his host to become productive and economically active in the future. In 2020, after several short-term legal statuses and almost 3 years of living in legal precarity, including 6 months of illegalisation, Walid received a year-long *Verbot der Abschiebung* (prohibition of deportation) because he was diagnosed with a post-traumatic stress disorder.

In a similar vein to Walid, Emilia responded with emotional upheaval and turbulences to encounters with the immigration regimes and the experience of being legally marginalised. In the small flat to which she had moved after a year in a refugee shelter, I asked how she coped with her odyssey of visits to different state institutions. She reiterated the feeling of not being in control of her life and said angrily: "Sometimes you want to hit yourself and you wonder: 'Why did I come to this country?'". She found visits at the foreigners' registration office particularly disturbing:

When you are going there you have to be thinking constantly. What will be the next thing they ask you? I heard of some people who are getting suicidal there. There is fear because I don't know the next thing they might ask, the next steps.

Remembering her arrival in Germany and how she learned about the constant threat of deportation that framed each short-term legal status, she described: "You get depressed. You keep thinking. All of a sudden, they might send you back to your country. A person can kill herself in such a situation." The regular encounters with the state severely affected Emilia's self-worth and sense of dignity (Willen, 2019: 232) and resulted in episodes of depression and anxiety. However, Emilia did not remain passive vis-à-vis the challenging encounters with the immigration regime and the consequences of her legal precarity in the everyday life. In a similar vein to Walid, she highlighted her activity and self-improvement. When I visited her in summer 2020, she told me with pride that she attended two language courses while her children were in school and nursery and had applied for internships. Furthermore, she was in the process of figuring out which job would be compatible with her responsibilities as a single mother. Referring to the foreigners' registration office, she said:

I don't know their next steps. This is why I am doing one programme after another. They will see that I am not a liability, that I am not sitting and sleeping. The language school is four hours, from 9 to 1 PM. The other one is from 2:30 to 4 PM. [...] Yesterday I had to go to the parents' evening of my daughter's school after I had been to two classes of my own. My day from morning until evening is occupied.

Emilia tried to discipline the contingencies in her life by being active. She proactively educated herself in order not to be perceived as a burden to the host country. Thereby, in a similar vein to Walid, Emilia responded to prominent deservingness frameworks by making "real practical [...] changes" (Chauvin & Garcés-Mascreñas, 2014: 427) in her life. She thus reacted to the compulsion on asylum seekers of becoming "liberal subjects who govern themselves as self-examining, self-expressive, and self-responsible entrepreneurs" (Conlon and Gill, 2013: 255).

## CONCLUSION

In this article, I explored the situations of three migrants who were temporally protected from deportation, because they underwent the bodily transformations of pregnancy and child birth and growing up. I then traced their legal trajectories in Germany and asked how their ongoing legal precarity affected their bodies.

An analysis of Walid's legal biography brings to the fore how his body is deemed mature thus denying him legal protection as a minor. The age miscalculation produces a profound feeling of loss and increases his self-doubts. Susan's experiences exemplify the climate of mistrust in which she needs to assert herself. After holding a *Schwangerschaftsduldung*, Susan's body remains centre stage, since it is through her affective and sexual

ties to the father of her child that she can receive residency in Germany. Emilia's struggle as a single mother balancing from one *Duldung* to the next shows the lack of attention given to concrete vulnerabilities once the *Schwangerschaftsduldung* has come to an end.

In the aftermath of holding a legal status that directly applies to bodily transformations, Emilia's and Walid's narratives diverted from the focus on the vulnerable body and centred on the body's productivity and how it can serve the host country in the future. Discourses of deservingness and productivity inscribed themselves on their bodies.

The body is thus many things at once: it is taken as the signifier of truth within the migration regime, it becomes a site of legal and structural violence, and a product of legal precarity. The body bears witness of and becomes deeply marked by the legal inscription it experiences. Legal precarity leaves its traces on the body in the form of somatic responses and internalised frames of (un)deservingness. Beyond the somatic responses, racialisation is a component of legal precarity experienced with and through the body.

This article can advance our knowledge on legal precarity as we learn to perceive it as an extended, exclusionary and embodied condition that takes shape in encounters with state authorities and in migrants' everyday lives. Despite the purpose of *Schwangerschaftsduldung* and protection for unaccompanied minors to protect migrants in a period of physical and psychological vulnerability, an engagement with both legal situations and their aftermath show that they remain a brief pause from a legal trajectory of extreme uncertainty. The perspective on the migrants' body should be advanced in future studies and urges a debate on the validity of "truths" that can be distilled from the migrant's body. Similarly, the overlap of legal precarity and racialisation requires further analysis and critical reflection. The continuous reception of short-term protection statuses and the severe consequences for migrants' bodies urge a rethinking of the potential of providing more long-term legal statuses especially in the interest of particularly vulnerable populations, such as migrant single mothers.

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## PEER REVIEW

The peer review history for this article is available at <https://publons.com/publon/10.1111/imig.12903>.

## ENDNOTES

- 1 See § 1597a BGB and § 85a AufenthG.
- 2 This is the information I received from Emilia. I could not verify on which grounds she received this *Duldung*.

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