

**IMMIGRATION, SECURITY AND ORDER:
FRANCE AND/OR THE TERROR OF THE STATE**

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“Comprendre la justice comme ‘un monde ni plus ni moins cruel que la guerre ou le commerce’, comme ‘un champs de bataille’, en prendre la mesure et l’analyser tel qu’il est, quoi de plus utile en ce temps...?”

Michel Foucault, *Dits et Ecrits*, VI. IV, pp. 130.

“Ou sont ici la justesse et la justice? Qui les mesure, qui les pronocce? Tout me viendra d’ailleurs et du dehors dans cette affaire.”

Jean-Luc Nancy, *L’Intrus*, p. 22.

I. THE “ARAB” AND THE “KEEPER OF THE PEACE”

To talk about terror in contemporary France ineluctably leads to a consideration of three inter-related themes: immigration, security and order. On the one hand, the image evoked is that of a young “Arab”, a second or third generation immigrant, who, contudent object in hand, destroys everything in his path in a violent demonstration of anger against and defiance of the state and its representative the police. The image summons the spectre of disorder and leads to a vision of society as dislocated, assailed from its periphery, menaced with destruction by marginal, primitive hoards. It is apocalyptic: it foretells the end of civilisation as we know it or purports to. As such, it imbues terror in its beholder and calls for the drastic re-establishment of a presumed natural and pristine order. On the other hand, the image metamorphosises in the portrayal of a policeman, a security guard or any “keeper of the peace” intent upon arresting, beating up, deporting or murdering a young “Arab” arbitrarily. The image conjures up the spectre of state violence. It questions its legitimacy in the attempt to redefine the state’s interpretations of both order and disorder. This is no apocalyptic vision. Rather, the terror results from the abstruseness of state power as embodied in the “keeper of the peace”. There are two (hi)stories to be told here depending on the perspective of the teller, his/her position, and the receptivity of the audience. The first narrates the story of the one and indivisible France, what early twentieth century theorists and propagandists referred to as the “True France” (Liebowicz 1992). Against it stands the image of the young “Arab” in defiance relating the “chronicle” of France’s hybridisation: the story of its “illegitimate [Arab] children” (Boubeker and Beau 1986:12). This second (hi)story begins in France’s colonial possessions in North Africa and ends in the metropole. It is an account of colonisation, uprootedness and marginalisation. It opposes to the idyllic vision of a “True France”, the vision of a population invading it from without. There is no medium ground here. The two (hi)stories contrast each other and reveal the profound cleavages undercutting contemporary French society.

To appraise the meaning of terror in contemporary France, it is necessary to explore these two contrasting Frances. It is in the juxtaposition of the images evoked above, in the multiple interplay between these two opposite ideological referents as they inform social action, that terror is generated. It lies in the dislocation of (national) identity as we know it or purport to know it. This dislocation, however, is not properly speaking the result of a misunderstanding, of the failure to communicate across different social and cultural experiences or even the non-accomplishment of assimilation or integration measures. Rather, I’ll argue that it is an intrinsic aspect of the French Nation-state stance

on immigrants, all origins included, since the late nineteenth century. It rests upon notions of order and security -- as well as on the predication of their contrary meanings disorder and insecurity -- that have taken immigration issues as referents for the deployment of a will to control and regulate, delimitate and define the national community. It is generated by the intrusion of the “other”, perceived as the “savage” or “primitive” other, on the stage of national politics as a source of anomie. *Vis-à-vis* the “Arab”, then, the state forcibly takes on its full role as holder of the legitimate use of violence in order to turn back the marginal hoards threatening its integrity. To quote Max Weber, the State is here the “human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory” (Weber 1958:78). It “is a relation of men dominating men, a relation supported by means of legitimate (i.e. considered legitimate) violence,” (Ibid). While the “Arab” is both the dominated man and the man to be dominated in this equation, the ultimate aim is to restore the original order that the “Arab” threatens.

The State’s authority to exert violence, as Weber argued, rests on “the validity of legal statute and functional ‘competence’ based on rationally created rules” (Ibid: 79). The modern state emerges with “formalistic juristic rationalism” as a new, “legal type of domination” (Ibid). But where or in what instances state violence manifests itself, is made use of and to which end legalistic arguments might justify it? In referring ourselves again to the two images evoked above, we are constantly thrown between the “Arab” and the “keeper of the peace”, caught in the crossfire of violent confrontation and dislocated identities. Is the “human community” that metonymically embodies the State torn from within or assailed from the outside? Is the purported anomie structural or coincidental? As Taussig has demonstrated, we cannot separate “the crucial issue of ‘legitimacy’ of the institution” of the state from “the State’s embodiment of Reason” in Hegelian terms (Taussig 1992:115). However, “there is something frightening,” Taussig states,

merely in saying that this conjunction of reason and violence exists, not only because it makes violence scary, imbued with the greatest legitimating force there can be, reason itself, and not only because it makes reason scary by indicating how it’s snuggled deep into the armpit of terror, but also we so desperately need to cling to reason – as instituted -- as the bulwark against the terrifying anomie and chaos pressing from all sides.... Nothing could be more obvious than that the State, with its big S rearing, uses the sweet talk of reason and reasonable rules as its velvet glove around the fist of steel.... But on the other hand this conjunction of reason-and-violence rapidly becomes confusing when we slow down a little and try to figure it out... (Ibid: 115-116).

Is this conjunction between the legitimacy of the State, violence, “reason” and “reasonable rules” rational or irrational? Looking beyond the discourses on the legitimacy of state power to the bareness of state violence, a different idea of the State begins to emerge. This is perhaps what Taussig referred to as the reason “snuggled deep into the armpit of terror” -- reason itself hiding away from view behind the terrifying hand of the state as it legitimately sets about to make use of or engages in violence.

Let us go back to the two images, that of the State embodied in the “keeper of the peace” and of the young “Arab” in open defiance of the State. Certainly, it is within and through the latter image that both dislocation of identities and confusion between violence and reason must arise via its articulation with power. The “immigrant” in contemporary France, the “Arab” of everyday parlance, reveals the interstices, the borders where the State’s power, predicated on notions of “public order” and “security”, is made manifest. In contemporary discourses on immigration, the “immigrant” as trope is

the very source of that “anomie and chaos pressing from all sides” evoked by Taussig above. Thus, we must analyse its entrance into mainstream French politics not as a mere oddity, a chance historical happening, but as a constitutive aspect of the Nation-state’s discourse. The “immigrant” must be taken to represent the “outsider” in the midst of the human community -- the “outsider” who is simultaneously an “insider”. But we must not, I claim, confuse the “immigrant” as “Arab” for the locus of violence. Rather, the “immigrant” as “Arab” should be perceived as the other that explodes a system, which in and of itself is predicated on violence. It is almost as if the state needed such a trope in order to exert and maintain its power, in order to legitimate both power and itself. “Ultimately,” as Weber would have it, “one can define the modern state sociologically only in terms of the specific means peculiar to it... namely, the use of physical force... the relationship between the state and violence [being] ... an especially intimate one” (Weber 1981:78).

If, in purely Weberian terms, we analyse the processes leading to both the state’s monopoly and its use of violence as rational ones, no objection can be made to the “keeper of the peace”’s exertion of violence. Such an analysis is in accordance with a traditional reading of the Enlightenment’s project of modernity. It is a common place today that a belief in reason, progress and truth -- and the embodiment of these values in the State -- characterised the emergence of a new conception of human life towards the end of the eighteenth and throughout the nineteenth century. Man became the centre of a universe no longer resting on religious beliefs or superstition, but on rationally ordered scientific discoveries, treatises and theories. The use of violence, seen primarily as a primitive and destructive impulse proper to man’s natural state, was to be contained and organised via rational laws and procedures. The consolidation of the use of violence in the hand of the State via its representatives entailed the repression of both passion and aggressive impulses in the individual. This allowed for the emergence of social order and peace. As Norbert Elias explains,

... les sociétés dotées de monopole de la contrainte physique plus consolidés... sont des sociétés où... l’individu est à peu près à l’abri d’une attaque subite, d’une atteinte brutale à son intégrité physique; mais il est aussi forcé de refouler ses propres passions, ses pulsions agressives qui le poussent à faire violence à ses semblables (Elias 1975:189).

As societies evolve and become more complex, Elias tells us, the monopoly exercised by their controlling structures becomes more marked and individuals have less freedom to express their aggressive drives. We have here the notion that the State, as the embodiment of a collective and superior will, stands as guarantor of a rationally defined social structure and organisation. In order to avoid chaos, social anomie, the State functions to repress those aggressive drives that each and everyone one of us necessarily harbours by virtue of his or her humanity. State violence, unlike individual violence, is “rational”. Not only does it serve a purpose, but it is also necessary. On the one hand, it maintains order in society so as to prevent it from regressing to a state of social anomie where the strongest individual would reign instead of law. On the other hand, it keeps at bay man and his innate tendency to do evil. As such, state violence stands in direct opposition to individual violence, which is perceived as “irrational”. The former is a “regulated” violence while the latter is “unregulated”. Modern societies thus protect their individual members from the attacks perpetrated upon them by other members through formal and informal persuasion and outright repression.

What of the “Arab” then? Is he merely the justified target of state violence, the disruptive element from without/within the system? If state violence is rational, whence does the terror that it generates come from if terror is understood as the irrational irruption of unbridled fear, that fear that emerges when all limits have been breached and the individual stands face to face with the impossible, the

unnameable, the irrational itself? A seldom quoted author, René Girard, tells us that “ce n’est pas la ‘loi’, sous aucune forme concevable, qu’on peut rendre responsable des tensions et aliénations auxquelles l’homme moderne est exposé, c’est l’absence toujours plus complète de toute loi.” (Girard 1972:260). This statement, paradoxical at it might appear at first hand, leads us away from an understanding of state violence axed on a reading of the state as the rational embodiment of a superior reason. Within the law, the law is absent. There is a void here, a gap where terror sips through. It is the image of the “keeper of the peace” intend upon arresting, beating up, deporting or even murdering a young “Arab” arbitrarily. Yet, is this an “absence” or simply, as Girard’s reading of Franz Kafka’s work intimates, the realisation that the law has gone mad in a paradoxical form of excess (Ibid:261)? Would terror, then, be generated by this realisation? The question to be asked here is, has the law gone mad? Both Walter Benjamin’s and Hanna Arendt’s readings of Kafka’s works alerts us to the fact that the truth of the matter lies both in this realisation and elsewhere (Benjamin 1968; Arendt 1987). It is important to explore Kafka’s works in the context of our analysis, as they open up vistas unto the terror that might be generated by the blind workings of the state when rationality is taken to the extreme. Like Kafka’s characters, the “Arab” experiences the dislocation of all certainty brought about by the realisation that there are no longer any limits to the law. Accordingly, the law has not gone mad. It has simply lost all relation to its human origins in a functionally determined, operational thrust. Kafka believed, according to Benjamin, that ours is a distorted world where all certainty and all firmness have been lost, where the law has become oppressive and gloomy (Benjamin 1968:116). For Kafka’s characters, there is no “firm place in the world, inalienable outlines.... To speak of any order or hierarchy is impossible” (Ibid: 117).

Kafka’s works go beyond the individual to encompass a world where “there is no doctrine that one could absorb, no knowledge that one could preserve” (Ibid: 143). It is the “Arab” speaking here. Writing in 1946, Arendt believes that “Kafka esquisse... les plans du monde présent” -- we could say the same (Arendt 1987:113). It is a world where each character is faced with the imponderable and inhuman effectiveness of a system predicated on its own reproduction and survival. While his characters and the dramas they face were hardly understandable to Kafka’s contemporaries, they take on an added and eery reality in the post- War World II period. “Dans les années 1920”, Arendt writes, “l’essence propre de la bureaucratie en Europe n’était pas suffisamment connue, ou bien qu’elle n’était devenue le destin que d’une infime couche d’Européens en voie de disparition” (Ibid:102). The terror and astonishment produced by Kafka’s works did not reveal their full meaning until after World War II and the holocaust. Kafka’s characters, visionaries or prophets of an age yet to come, stand in opposition to a society which confuses itself with God’s representative on earth (Ibid: 103). The law and its representatives, in Kafka’s works, take on an added, almost surreal dimension. Man, his or her humanity, is absent so that the individual trapped in the system can only face the terror engendered by the realisation of his or her insignificance and powerlessness. The bureaucracy of the state, the same bureaucracy analysed by Weber, becomes both the repository and the interpreter of the law. And, in Arendt’s words, “la toute-puissance de la bureucratic impliquait [, implique,] que l’interprétation de la loi devienne un instrument de l’illégalité” (Ibid: 102). It is this same illegality that confronts the “Arab” and the “keeper of the peace” in contemporary France.

It is in the absence of a humanistic vision, that we must find a parallel between Kafka’s universe and the “Arab” and the “keeper of the peace”. While such a parallel will shock rather than comfort, it is important to deconstruct current discourses justifying the State’s use of violence as a means to maintain public order and peace. It is the all too real inter-penetration of the three themes immigration, security and order in everyday discourse and practice in contemporary France, that makes of terror not a metaphor for the relationship between the “Arab” and the “keeper of the peace” but a reality of the “Arab’s” everyday experience. The link made by both politicians and the media

between immigration on the one hand and delinquency on the other does not date from today. However, it escalated to serious proportions since the early 1980s when it was originally enunciated publicly since the end of World War II by both right and left wing parties. It was in the early 1980s that the second generation of immigrants of North African origin, that is whose parents originated from the former French colonies and protectorates of Algeria, Morocco and Tunisia, first made its appearance in the media. Laurent Mucchielli writes:

C'est avec les rodéos des Minguettes et l'été chaud' de 1981 que le thème des désordres urbains apparaît dans l'actualité médiatique et contribue à ancrer aux moins deux idées: celle de 'malaise des banlieues' et, dans la presse plus marquée politiquement à droite..., celle d'une liaison fondamentale entre délinquance et immigration (Mucchielli 2001:13).

The rodeos, savage car races carried out on the parking lots of suburban housing complexes with stolen cars before the eyes of the police, were the deeds of youths who were to a large extent second generation immigrants of North African origin. They spoke of a "malaise" but not only in the terms often picked up by the media at the time.

The marginalisation of second generation immigrants was a fact by the early 1980s: unemployment, exclusion, racism were everyday experiences not to be exaggerated as to their importance but nonetheless kept in mind and rightly analysed. More important was the growing tension between certain youths of the second generation and the police with respect to a number of police practices. These were largely glossed over by the media. Mucchielli enumerates them: "les policiers contrôlent au faciès, tutoient toujours, insultent souvent, brutalisent parfois" (Ibid: 106). However, it is important to note that the "malaise" goes beyond arbitrary police controls, the lack of respect the youths are prey to or even occasional police brutality. It touches the very right of individuals to live in the community, partake of a family or social life. Among the instigators of the rodeos we find a number of deportees. These are second generation immigrants, former convicts often in their early twenties but also much older, who have been notified a deportation order as an additional, security measure to whatever prison sentence they have served for the crimes they committed. They are to be "expelled", that is deported, to their parents' country of origin of which they retain the nationality -- a country they have hardly any notions of let alone personal links to. The "malaise" is not circumscribed to banal everyday racist events. It concerns notions of community, belonging and identity through the questioning of the very right to residency. Furthermore, it can even go beyond such practices, after all common-place from an administrative point of view, to concern the right to life. It is the case when the police accidentally or wilfully, the difference is too often never ascertained in any clear matter by the justice system, kills a second generation youth whether in the full exercise of its functions or parallel to them as a security "measure" or "crime". There is a parallel here between deportation, the doing away with the body without there being actual murder, and murder itself. The "malaise" these practices engender in the immigrant dominated suburban communities is great, even more so as it is accompanied by a feeling of hopelessness, where second generation immigrant youths do not see the possibility of any real delivery from the legal injustice they are prey to. Either rodeos, as in the case of 1981, or riots, as in more recent instances throughout the 1990s, should be perceived as staged reactions to police brutalities much in line with other anarchic forms of resistance.

In the discourse on immigration, security and order carried on by politicians and popularised by the media, however, the "Arab" is increasingly perceived from the 1980s onwards as a threat to society instead of its victim. Simone Bonnafous, in her analysis of the representation of the "immigrant" in 20 major French newspapers between 1974 and 1984, states with respect to the term violence that

Evolutif dans le temps, le lexique violence témoigne de la diminution du nombre d'articles qui paraissaient sans cesse à gauche dans les années 74-78, sur les brutalités et injures subies par les immigrés. La droite et l'extrême-droite imposent à tous de parler 'délinquance', 'sécurité' et 'incidents'. Comme avec les précédents lexiques, c'est le récit au plus près de l' 'immigré' qui laisse ainsi la place à un discours très auto-centré dont le point de référence est celui du locuteur français menacé dans sa sécurité ou dans son identité (Bonnafous 1991:250).

Whereas in the period 1974-1978 several newspapers to the left had actively denounced repressive police practices vis-à-vis first and second generation immigrants, this habit gives way to an assimilation of right wing discourses on immigration towards the beginning of the 1980s. It is the "Frenchman" menaced in his identity and not the "Arab" threatened with his life that is the centre of the new discourse conveyed by the media. The raise of the left to a position of power within French politics in the early 1980s might go a long way to explain this change¹. Be that as it may, by the early 1990s the link between immigration and delinquency becomes generalised: there is no longer a difference in the discourse of the right and the left regarding the immigrant dominated suburbs and their purported violence. On the eve of the presidential election of 2002, all candidates concurred in saying that there was a security problem in France and called for zero tolerance with respect to delinquency issues. Whether on the right or the left, candidates advocated a number of measures to eradicate this new plague. They ranged from opening new, special detention centres for minors modelled on 19th century youth rehabilitation centres, to revoking the responsibility of families to care for their children by placing minors in difficulty in special, new educational facilities away from their parents and siblings. These go hand in hand with several laws and government decrees that have helped change the status of immigrants and their children in France, not only with respect to their right to residency but also to the access to French nationality since 1981. Unstated but implied everywhere, the real target of these measures are second generation youths of immigrant origin mostly of North African but increasingly of Sub-Saharan African descent. We see in these measures "the velvet glove around the fist of steel" of state rationalism (Taussig 1992: 116).

Mucchielli analyses the discourse on urban violence that has developed over the past two decades from two vantage points: that of the "culturalist" argument and that which perceives these youths as socially deprived and psychologically affected. "Le premier," he writes, "interprète le problème en termes de 'conflit de cultures'. La version 'dure' de ce discours est constitué par celui... qui répète que la majeure partie de la délinquance des jeunes est due aux enfants des immigrés, incapables de s'intégrer." (Mucchielli 2001:7-8). The second, on the other hand, does not posit a clash but an absence of culture. The new generation, marked by unemployment and exclusion, has lost all social reference and due to this lack of references or norms is prey to a form of primary violence (Ibid:8). Hence, one would argue, the need to either expell these youths out of the national community as incapable of all national allegiance to its dominant cultural norms, or to reincorporate them through a forced, accelerated socialisation and acculturation process. The "Arab", whether we look at him through the eyes of the former or the latter approach has taken at the very worst the allure of the "bad" savage and at the very best that of the "good" savage. "D'un côté," Mucchielli writes, "c'est la version du 'barbare' et de sa culture violente, de l'autre la version du 'bon sauvage' et de son absence de civilisation" (Ibid: 8-9). Everything concurs to make of the "immigrant" as "Arab" the sacrificial

¹ The relationship between the coming of the left to power and activist struggles against deportation measures is treated elsewhere (Peinado fthc.).

victim of contemporary French society. Beyond the threat that the immigrant worker posed to the French one in terms of the right to a durable and stable employment, immigrants being perceived since the 1970s as the illicit beneficiaries of jobs rightfully French, the second generation immigrant has become since the early 1980s the source of all violence and disruption within civil society. The media and politicians alike portray the “keeper of the peace” and the “good” violence he incarnates as the only possible response to this state of affair.

It can be argued that this argument is simplistic as it takes no heed of current globalisation trends due to a new international order where far from seeing, as some would like us to, a stomping out of economic and social differences we are witnessing a resurgence of nationalism, right-wing sentiments and the increased pauperisation of developing countries. Given this setting, as indicated above, the “Arab” should not be taken as the locus of violence but as a trope of the French discourse on security and order announcing and symbolising the breakdown of the traditional structures of society where violence, whether of a social, economic or legal character, has broken free of all limits. While this break-down can be analysed as a consequence of this new international order, it is important to dwell here on the notion of “foreignness” evoked about immigrants and the difference it subsumes. It is this difference that fuels the discourse on immigration in France and underlies all assimilation between immigration and social anomie. We can then argue with Etienne Balibar that there are boundaries to democracy. These are both of a geographical or geopolitical order, and socially constructed boundaries between different human beings (Balibar 1992: 15-16). As Balibar reminds us, such differences are predicated at the highest level:

le discours présidentiel du 23 mars 1983 désignaient les travailleurs immigrés par cette periphrase: ‘ceux qui vivent parmi nous et qui sont différents’. C’est dire le gêne qu’on éprouve à ‘les’ nommer et l’incapacité où l’on se trouve de sortir de la distinction abstraite Français/étrangers bien qu’elle corresponde de moins en moins aux réalités sociales (Ibid:36).

It is to the discourse on immigration coming from the highest political instances, in this case President Mitterand himself, that the media echoes with its redefinition of the place of foreigners in French society. Yet it is difficult to ascertain who instigates and who follows: the media or the political establishment?

Bonnefous, in her lexical study on immigration reminds us of the resurgence in the early 1980s of a distinction us/they when referring to foreigners in the press. “De 1974 à 1984,” she writes, “l’évolution lexicale de notre corpus reflète d’abord une mutation thématique générale qui fait se déplacer la focalisation des articles, des conditions de vie et de travail des ‘immigrés’ aux difficultés de la cohabitation avec les Français, et, partant de la, au problème de l’ ‘assimilation’ ou de l’ ‘intégration’...” (Bonnefous 1991: 269). The trend she describes for France is common to the whole of Western Europe. The year 1974 marks the end of the golden period for immigration for all Western European countries. The closure of national boundaries, and the establishment of social and economic plans to facilitate the return of immigrants and their families to their countries of origin witnessed in France are replicated for example by the United Kingdom, Germany or Belgium to a greater or lesser degree. Concomitant to these new policies of “return”, it is safe to assert that a discourse emerges everywhere concerning the “violence” of “immigrant youths” or second generation immigrants. It is a new form of social protest that is coming into being, simultaneously the inheritor of the upheavals of 1968 and different in depth and scope, which addresses issues proper to identity, place and belonging. “Qu’il s’agisse des Maghrébins en France,” writes Jacqueline Costa-Lascaux, “des Pakistanais en Grande Bretagne, des Marocains en Belgique, des Turcs en Allemagne, les revendications d’identités

culturelles manifestent la constitution de minorités, une ‘minorisation des communautés’, une ‘ethnisation’ des relations et des appartenances.” (Costa-Lascaux 1992: 62). We encounter the same argument denounced above by Mucchielli, with difference being no longer predicated on class but on “culture”. The emergence of “ethnic” enclaves or “ghettoes”, or the perception thereof, belongs to the same logic.

Today, it is no longer in vogue to denounce the working conditions of immigrant workers, but to question the capability of Western European societies to “assimilate” or “integrate” their families. Quoting Bonnefous again, in France,

cette mutation passe par une sorte de ‘sas’ qu’on peut définir comme l’interrogation sur la nationalité et les conditions d’entrée et de séjour des ‘étrangers’ en France. Située en 1979, cette interrogation est cruciale car elle fait basculer les perspectives: à la visée extensive des années 70 (comment permettre aux ‘immigrés’ de bénéficier rapidement des conditions correctes de salaire, logement et d’éducation?) succède une visée restrictive (à quelle condition un ‘immigré’ peut-il accéder au territoire et au travail?). Cartes et frontières, ces symboles de la séparation entre ‘eux’ et ‘nous’, sont à nouveau rendus visibles pour tous les citoyens, et avec eux l’extranéité des ‘immigrés’. La voie est alors ouverte pour une interrogation sur les capacités d’ ‘absorption’ de la ‘nation française’ (Bonnefous 1991:269).

By the mid 1980s, the discourse making of second generation immigrants a threat to French society is well established. Unlike their parents, who were perceived as a necessary but temporary fixture, second generation immigrants were there to stay. The Front National, France’s leading extreme right wing party, makes its full-fledged appearance in the political arena by introducing a markedly xenophobic accent in French political discourses at approximately this time. While many saw in this surge of the extreme right-wing a passing fad, it is clear today that both the anti-immigrant discourse held by the Front National and its underlying tenets were just beginning to take hold. Unfortunately, the fear of the other, here identified with the “Arab”, slowly took over French society during the 1980s. The issue of whether France, as a nation, was capable of integrating and absorbing what were perceived as ever greater numbers and “different” types of people retained its actuality throughout the decade to influence the politics of both the right and the left during the following one. Immigration was presented by the Front National as a source of decadence, both because of the menace to French cultural and ethnic integrity it represented and the financial weight immigrants were made out to bear upon the state’s social structures. Moreover, the Front National propagated the idea throughout the 1980s that immigrant youths were a major sources of insecurity within French society. This xenophobic stance did not cease to grow in importance and to gain status nationally. Notably, it led to the adoption of a number of repressive laws with respect to the right to residency of foreigners in France during the 1980s, as well as to a reformulation of the French Nationality Act in the 1990s.

It is today commonplace for politicians on both the right and the left to decry the upsurge of violence in immigrant dominated neighbourhoods and for the media to echo them. Contemporary discourses on immigrants, particularly second generation immigrants, follow the trend outlined by Bonnefous above. The presidential elections of 2002 demonstrated the particularly powerful appeal of such discourses, leading almost effortlessly to the outstanding score achieved by the Front National in the first round of the elections on April 21st, 2002. In an effort to appeal to an electorate who sees in immigrants a potential threat to its security, France’s current government under the leadership of President Jacques Chirac and Minister of the Interior Nicolas Sarkozy aims at ruling the country with

an iron fist. Among the new measures adopted, one stands out in particular. Thirteen years old youths will henceforward stand trial and face prison charges. This is a turn-around with respect to the humanitarian laws which considered youths to be minors and not yet fully responsible for their criminal acts. As elsewhere in Europe and also in the U.S., the tendency is for an ever increasing responsabilisation and hence criminalisation of ever-younger “criminals”. Unlike in the U.S. or the U.K., however, these youths are not perceived as intrinsically belonging to the nation. Rather, they are seen as foreigners disrupting it from within/without. The focus is not on criminality as such, but on a specific set of criminals. Crime becomes then associated with a whole social class or “caste” almost, but not quite, predicated on a cultural if not quasi racial/ethnically determined presupposition. It is this paradoxical situation that engenders the contrasting images of the “Arab” and the “keeper of the peace”.

I argue that, far from being a post-modern distortion, the position of the “Arab” in French contemporary society is structurally determined. While historically grounded and contained, Bonnafous’s assessment of a shift in the focus of the discourse on immigration, security and order in contemporary France echoes discourses on immigration and the “immigrant question” raised in the past. Bonnafous herself makes reference to these parallels by quoting Gerard Noiriel’s work on the history of immigration in France over the 19th and 20th century (Noiriel 1988 cf. Bonnafous 1991: 269-270). Noiriel situates the development of a will to circumscribe and control immigrant populations as early as late 19th century France. He sees this as a natural advancement of the statistical and demographic sciences’ rational analysis of population movements within France at the time (Noiriel 1988: 78-80). Beyond any pure scientific concerns, in which we can see yet again the “reason” of state rationalism rearing its head, Noiriel sees in the developments of demography in the mid and late 19th century the basis for the differentiation between nationals and foreigners operational in French discourses on immigration ever since. This differentiation was accompanied by the development of a legal and juridical apparatus that translated the differences operational at the discursive level into everyday practice. In his work on refugees, Noiriel argues that it is precisely at the end of the 19th century that the French social sciences develop the criteria permitting them to differentiate the national from the foreigner (Noiriel 1991:89). These criteria were a product, among others, of those “invisible threads” that helped establish and bring forth a “national sentiment” unifying the French population. It is important, Noiriel argues, to elucidate “ce processus de construction d’un intérêt national, qui aboutit à la nationalisation en profondeur de la société française...” (Ibid: 90). For Noiriel,

Le point essentiel tient dans la centralisation et l’homogénéisation des images qui symbolisent désormais cette identité collective. Elles sont élaborées non seulement à partir des critères valorisant mis en avant pour définir le groupe (la vaillance des Gaulois, la sagesse paysanne...), mais aussi à l’aide de critères d’indignité qui servent à définir l’envers du national, c’est-à-dire l’étranger (Ibid).

Contemporaneously to the establishment of a set of scientific and rational measures determining the character and status of the various populations living in France towards the end of the 19th century, a set of legal and juridical norms emerged at this time to define and circumscribe such populations. Criteria of belonging and exclusion were shouldered by practical regulations: norms that had an important effect on the policing of immigrants’ lives in everyday practice. Concretely, the newly instructed norms set the stage for the actual control of immigrants’ actions and movements via a series of police practices. Complementing what Noiriel defines as the “critères d’indignité” cited above -- the same, I would argue, that informed (and continue to inform) the discourse on

immigration, security and order where the “immigrant” whether “Arab” or not becomes the trope of state violence -- a set of laws came into existence enabling the State to assert its sovereignty with respect to its foreign populations. It is then necessary to explore, from the vantage point of both theory and practice, the relationship between the criteria that enabled the establishment of a differentiation between national and foreigners in France, and the translation of these criteria into concrete police measures and practices since the late 19th century. In doing so, it is important to break away from standard analyses based on socio-psychological theories. These are quite popular among contemporary analysts who try to explain the failure of immigrants to integrate into mainstream French society through discourses invoking cultural arguments. Instead, the analysis of the position of immigrants in French society must necessarily follow that of the construction of the nation-state via its founding concepts. The sovereignty of the state as embodied in the community of citizens becomes here a key notion to be explored and deconstructed, as it articulates with discourses on immigration and the representation of immigrant delinquency, public security and order historically.

Deportation laws and practices are a means to explore and deconstruct notions of sovereignty, nationalism and citizenship. The present study attempts to subvert current or traditional approaches on the Nation-state by focusing on the community not of nationals, as theoreticians of citizenship and nationalism would have it, but of deportees who are by definition non-nationals. It analyses the situation(s) of those who inhabit the margins of the nation, who are liminal to it and who are perceived as the enemies subverting it simultaneously from without and within. Deportees are immigrants who are expelled from the national territory as either a security measure or a form of punishment, because of crimes they committed and for which they served prison sentences². By definition, they do not deserve to reside on French territory as they are unworthy of the right to residency let alone nationality. Thousands of immigrants residing in France receive a deportation injunction yearly. Over the past twenty years, the French newspaper *Le Monde* reported recently, it is estimated that approximately 17,000 immigrants received deportation injunctions in France (*Le Monde*, Friday, November 29th, 2002, page 7). In 2002 alone, 6,405 people were touched by the measure with 2,638 being actually deported from the country (*Ibid*). Several among them are what are termed “second generation immigrants”, i.e. the offsprings of parents who migrated to France when they were children or before they were born. Contrary to a widespread and popular belief, French nationality does not automatically devolve to immigrant children’s born on French territory nor to those who have resided there since early childhood. Many second generation immigrants retain the nationality of their parents’ country of origin either by necessity or choice. These deportees, by their common plight and their refusal to be forcefully deported, form a community within the community of nationals. French by “sentiment” if not by “right”, they inhabit the margins of civil society paradoxically its outsiders and insiders at the same time. They are flanked by other deportees who have developed strong ties with the nation even if they migrated to France at an adult age because of marriage with and/or parenthood of French nationals. Together, they perceive themselves as the “laissez pour compte”, the “abandoned” children of the nation. They oppose to the violence they are purported to incarnate as former convicts that of a state banishing them from family, friends and community.

The experience of deportation is one of deep terror that comes with the dissolution of life as the deportees know it. The sense of exclusion that deportation engenders leads to a much deeper

² I opted to use the term “deportee” as opposed to the term “expellees” of wider use in France because it is the standard use in English. It should be borne in mind, however, that today “deportee” in French is used exclusively to refer to the deportation of Jews during World War II. To note that “deportation” was also a 19th century practice legally different although structurally similar to expulsion, abandoned by France in the 20th century.

alienation of both individuals and whole communities than one is likely to think or dwell on at face value. This is particularly true of second generation immigrants, but might be applied to first generation immigrants with strong ties to the nation as well. Like Kafka's characters, deportees are confronted with the fragmentation of all certitudes as to who they are and where they come from. As prisoners, they were divested of their freedom as was part of a punishment restricted in time and place which represented a retribution for a certain deed committed. As deportees, they are divested of not simply their freedom but of all ties linking them to a particular place and community forever. The punishment, which in some cases is not a legal one but a preventive security measure and in others an additional form of punishment, is a life time sentence banishing the individual from his or her community. Beyond signalling to the deportee that he does not belong, it deprives him of all rights "de cité" by divesting him of all privileges and of official representation. While in prison, the deportee is denied a shortening of his sentence: he cannot benefit from furlows or conditional freedom unless he agrees to his deportation. Similarly, he is not given priority access to education or to rehabilitation plans with a view to his re-insertion in society. He is no longer considered a member of civil society as his removal from the national territory is imminent and definitive. At the end of his sentence, the deportee sees his residency card revoked, confiscated and destroyed. He might be immediately escorted to the airport, a port or a border area where he will be interned until his deportation is effected. If he remains in the country, against all odds, he will henceforward be an illegal alien deprived of an official identity and forced to inhabit the margins of civil society. It is in this no man's land of illegality that the deportee's nightmare begins. Notably, he can be arrested at all moments and be expelled to his country of origin after serving a prison sentence for illegal residency and refusing to obtemperate to a deportation injunction. In a country where all representation of self passes by a legal document, he has no legal status as such except at best that of "foreigner" or at worst "sans papier" or "undocumented". The deportee is by definition he who is not or should not be there, who does not or should not exist. Terror then emerges as the individual faces this liminal zone where all "law is absent", where he is alone and naked with respect to state power and violence.

While the focus has been here on the "immigrant" as "Arab", it is only coincidentally that the study has chosen to analyse the situation of second generation immigrants of primarily North African origin. I say coincidentally because I hold this to be a historically determined fact. During the period encompassing fieldwork, February 1992 to roughly September 1995, second generation immigrants of North African origin were over-represented within the statistical sample bearing on deportation because of the over-representation of immigrants of North African origin within the immigrant population. This is particularly true for the period beginning in the 1950s and ending in the late 1980s and early 1990s in France. If I were to do fieldwork today, the statistical sample would show a shift from second generation immigrants of North African origin to those of Sub-Saharan African origin. This is consonant with recent immigration trends that, beginning with the 1970s, have seen the proportional number of Sub-Saharan Africans migrating to France increase. If I had focused for example on the period spanning the late 19th and early 20th century, the statistical sample would have focused on second generation immigrants of Italian origin because of the numerical importance of Italian immigrants within the overall immigrant population residing in France at the time. While I do not want to minimise the importance of culture or ethnicity for the present study, I see the question of origins as mystifying the wider problematic of deportation laws and practices and their importance for an analysis of the history of immigration as it articulates with the process of the nationalisation of French society³.

³ The events of September 11th, 2001 have altered the position of "Arabs" world-wide. The problematic of being "Arab" in today's world goes beyond the scope of this study. While it definitely plays an important role in

Picking up on the personal histories of deportees and the immigrants' fights against deportation related to the history of deportation laws since the late 19th century, the present study investigates the discourses and practices of state construction that have helped to mould an image of the Nation-State predicated not on inclusion but on exclusion. By so doing, it hopes to shed new light on processes of state formation and transformation as they increasingly articulated with globalisation trends involving not only transfer of capital and technology, but also massive population shifts across the globe. The personal histories of deportees enlighten us on the emergence and maintenance of terror as a way to circumscribe, control and delineate national communities. Terror emerges then as a constitutive aspect of postmodernity where "the state, the market, and the transnational corporations enter into a new configuration of arbitrariness and planning" and "the very concept of the social, itself a relatively modern idea, [is]... outdated in so far as it rests on assumptions of stability and structure" (Taussig 1992:17). Deportees teach us that there is no inherent stability to society, that the structure we abide by continually fluctuates and changes to accommodate to the state's use of reason. Within this context, to use Taussig's words, it is important "to understand the flow of power connecting terror's talk with the use of disorder" (Ibid). Disorder is here the janused face of order so, that,

In the notion of the normality of the abnormal, and particularly in the normality of the state of emergency, what needs pondering... is the violent and unexpected ruptures in consciousness that such a situation carries. This is not so much a psychological as a social and cultural configuration and it goes to the heart of what is politically crucial in the notion of terror as usual (Ibid).

What then is the role of the nation-state here -- and what are the means at our disposal to break away from this rationalisation of the abnormal, the banalisation of terror? The community of nationals, as the old theories would have it, has lost its legitimacy and the question being asked is what will it be replaced by (Agamben 1990, 1995; Nancy 1999). A study of deportation practices and the predicament of deportees might help us articulate some of the analytical constructs on which to base ourselves. Such a study, however, necessarily needs to move away from both functionalist, structuralist or processual apprehensions of social reality where society is seen as a homogenous, organic or a systemic whole. As is evident from the above, society is dislocated, fragmented, disjointed. It's sole unifying discourse rests exactly on this fear of dissolution and anomie where the nation, as a whole, finds a common ground of understanding and its political mobilising force. Contemporary political debates on the role of immigration and immigrant dominated communities, as well as about the coverage of the violence purportedly generated by second generation immigrants in the French media, testify to this. Within this context, the immigrant and by extension the "bad" immigrant, the deportee, is France's vilest enemy.

II. FOREIGNERS, CITIZENSHIP AND DEPORTATION

I originally became interested in deportation as a means to explore the construction of immigrant identity(ies) in contemporary France. This cannot be separated from an analysis of the construction of the French nation-state and the role played by state violence historically in the demarcation of the

the assimilation of immigrant populations of North African origin in contemporary France, I shall argue that deportation measures have affected immigrants regardless of their ethnic origin at given moments in history.

national community. Immigrant as well as national identities are a function of this process⁴. "The state," Philip Abrams writes, "is not the reality which stands behind the mask of political practice. It is itself the mask that prevents our seeing political practice" (Abrams 1988:58 cf. Taussig 1992:113). The "imagined communities" constituting the world's modern nation-states described by Benedict Anderson are not merely "cultural artefacts of a particular type" emerging from distinct cultural systems (Anderson 1983:13). Rather, they are also a product of "self-consciously held political ideologies" that just like cultural systems can be plotted historically (Ibid:19). By "unmasking" the "mask" of political ideology, so to speak, we can gain an insight into the political processes whereby nation-states emerged and the different national identities were formed. In France's case, politically immigrants played an important role since the nineteenth century in the construction of the nation-state and immigrant identities have been forged in relation to these processes. Deportation laws and practices were at the forefront of these as they lead the State, on the one hand, and immigrants and their offspring, on the other hand, to confront issues pertaining to the nature of national boundaries, belonging and more particularly what today we define as ethnicity.

I would caution, however, that to attempt to reduce all discourse as to what immigrant identities are in contemporary France to a common denominator, the nation-state, is a reductionist practice. Similarly, contemporary French social theory describing immigrants as "divided" between two cultures, unable to assimilate into an overarching French identity are simplistic and misleading as they assume homogenous referents stemming from theoretical constructions of nationhood and state formation⁵. To quote a recent work on the construction of national identities, "identity... never signifies anything static, unchanging, or substantial, but rather always an element situated in the flow of time, ever changing, something involved in a process" (Wodak et al 1999:11). Travelling through cultural space and time, immigrants and their offspring have helped forge multiple and differentiated identities that harken both back to pre-conceived or imagined notions of the culture of origin as well as the incorporation of the dominant culture they live in and to wider globalisation processes. With respect to France, they have surreptitiously appropriated themselves dominant ideological constructs while constantly undermining them from the bottom up. Examples of this can be had from as early as the 19th century until today. Immigrants and immigrant dominated communities have thus entered the national landscape to people it with their very own "particularities" be they their food, music, dress style, linguistic idiosyncrasies and, why not, their smells, noise, violence and, generally speaking, emerging counter cultures rooted in socio-political movements⁶. This has been true of immigrant communities ever since the 19th century, be they of Belgian, Italian, Polish, North African or more recently Sub-Saharan origin.

Deportation laws and practices invest the social arena as a tool whereby to define and delimit both the national community and its possible sub and counter cultures. Civil society is thus circumscribed

⁴ Immigrant identities are often analysed with reference to the immigrants' culture of origin. Rather than taking the purported "culture of origin" as the starting point of the analysis, I focus on the articulation between discourse and practice by analysing the social context with respect to the dominant national culture. Several writers have, recently, moved in this direction abandoning analytical models that focused on purported clashes between immigrant and French culture to explore the nature of exclusion, poverty and violence in contemporary France (Ferreol 1992; Bourdieu 1998).

⁵ A recent French collective work on culture questions the validity of French social discourses positing that immigrants, and specifically second generation immigrants, are "divided" between pledging allegiance to their "culture of origin" and integrating into French culture (Wieviorka and Ohana 2001). Such views were particularly current among social scientists and widely spread by the media throughout the 1980s and 1990s.

⁶ In a by now famous speech, President Jacques Chirac, then Mayor of Paris, referred to the annoying "odours" generated by North African immigrants' cuisine during an official gathering in the early 1990s.

through the control of its actual and potential members by the State. Through deportation laws and practices we can begin to analyse and apprehend that space opening up to terror referred to above as it applies to immigrants and their descendants. First, as it began to take shape since the late 19th century during a period in which political institutions consolidated under the Third Republic. Subsequently, as it developed throughout the 20th century up to today through the vicissitudes of economic crises, violent political upheavals and the relative peace of the “trente glorieux” of the post-war period. History, I should precise, read from the bottom up and not vice versa. This is what Benjamin referred to as the “tradition of the oppressed” that teaches us that “the state of emergency in which we live is not the exception but the rule” -- to add that “we must attain to a conception of history that is in keeping with this insight” (Benjamin 1969: 257). While Benjamin wrote at the eve of World War II, a time wrought with uncertainties and dominated by the political shadow of fascism, several writers today see in this statement an incredibly lucid vision of what was to come. Giorgio Agamben, in particular, developed Benjamin’s analysis to argue that “l’état d’exception, qui était essentiellement une suspension temporelle du système, devient maintenant un ordre spatial nouveau et stable” (Agamben 1995:54). This is made possible by an anchoring of modern politics not on inalienable rights of individuals purported to be eternal and meta-juridical givens, as modern democratic political discourses might have it, but on the very concept of “bare life” where the nation-state “fait de la naissance (c’est à dire de la pure et simple vie humaine) le fondement de la souveraineté” (Ibid: 31).

We return here to the fundamentals of modern politics as enunciated at the end of the 18th century when sovereignty, as the absolute authority or rule incarnated by the sovereign, transmuted into the sovereignty of the people with the French Revolution. Where sovereignty is predicated on “bare life”, the ancient *zoe* of the Greeks, the individual as a living, human being becomes the foundation of the Nation-State. By establishing such a strong link between actual life in its most biological sense, birth and the nation, Agamben argues that the Declaration of the Rights of Man of 1789 did not only revolutionise the old political order but also introduced a radically new concept. Man as legitimising subject of the state by virtue of his *zoe* became also its citizen by virtue of his having been born into the nation. Agamben sees in this linkage between “bare life” and nation the anchoring of a modern biopolitics of the body. This transformation, he argues, is a first:

la vie naturelle comme telle, devient ici pour la première fois (par une transformation dont nous pouvons seulement commencer à mesurer maintenant les conséquences biopolitiques) le porteur immédiat de la souveraineté. Le principe de nativité et le principe de souveraineté, séparés dans l’*Ancien Régime* (où la naissance ne donnait lieu qu’au sujet), sont désormais unis irrévocablement dans le corps du ‘sujet souverain’ pour constituer le fondement du nouvel Etat-nation (Ibid: 31-32).

For Agamben there is no contradiction between the community of human beings, deriving their humanity by virtue of their very birth, and that of citizens linked to a specific, territorial entity the “Nation-state”. Implicit here is the notion that birth transmutes into “nation”. A link is established between the notion that every man has inalienable human right regardless of his origin, with that of citizenship rights derived from birth in a particular location or place. “Les droits,” Agamben writes, “sont ainsi attribués à l’*homme*, seulement dans la mesure où il est le pré-supposé – qui disparaît aussitôt en tant que tel -- du *citoyen*” (Ibid: 31-32). No human existence seems possible outside of and beyond the national community. The rights of “l’homme et le citoyen” are contained one in the other (Ibid:30). The nation founds itself on life -- “bare life”.

Agamben's approach is interesting to us in that it opens up a theoretical space where we can begin to analyse the position of the foreigner with respect to the community of nationals. If no existence is possible outside of and beyond the national community since 1789, what then of individuals who do not belong to the nation by virtue of being born into it? Writing about the political effects of the French Revolution, Dominique Schnapper comments that the status of "citizen" attributed to individuals after 1789 was not simply juridical and political (Schnapper 1994:14). It was "le moyen assuré d'acquérir un statut social, la condition nécessaire... pour que l'individu puisse être pleinement reconnu comme un acteur de la vie collective" (Ibid). We enter here the very realm of the definition of community and specifically of the community of nationals. Is it then a question of an "imagined community" that bases itself on an "invented tradition" which harkens back to a pre-existing but transformed "folk" culture or might be fabricated ex-novo, or is it something radically different (Andersen 1983; Hobsbawm and Ranger 1983; Gellner 1983; Thiesse 1999)? Agamben would retort to this that today no meaning can be attributed to the notion "a people" outside of the nation. "Le destin d'un peuple," he writes, " ne peut être qu'une identité étatique... le concept de peuple n'a de sens que recodifiée dans celui de citoyenneté" (Agamben 1995:78). The individual who lacks a direct and stated tie to the community of nationals by means of the status of citizen is not a member of the community. Once his ties to the nation are shed, his very humanity is at stake. While we could say with Schnapper that he is not an actor of collective life, by pushing the analogy to its farthest limit, we could also state with Agamben that where men and women are deprived of their political identity as citizens, members of a state, they are thrown back to "la vie nue... où le pouvoir n'a en face de lui que la pure vie biologique sans aucune médiation" (Agamben 1995:51). This has profound implications for the foreigner who is by definition other, outsider, stranger. It follows that his deportation is not something of the order of the unnatural. Rather, it is almost normal. He does not belong and by his not belonging he is reduced to a state of "bare life". We could almost say that he is no longer human as he has no identifiable social status beyond that of his being a deportee. We are tempted to say that he is a "barbarian" in the Greek, classical sense: devoid of language and hence humanity, an animal. In the last instance, he could be killed and it would not matter.

It is obvious that we are moving away here from the image of the "bad" or "good" savage evoked by Mucchielli above in order to explore what lies beyond it. It is important to dwell at this point on both the notion of "normalcy" contained in the state's power and will to deport foreigners, based on the very concept of sovereignty, and the status of "outsiders" embodied by foreigners. Developing the notion of citizenship further, Schnapper states as a self-evident truth "qu'en incluant et en intégrant les uns, la nation exclut, par là même, les autres, que l'inclusion des premiers implique l'exclusion des seconds, que l'identité collective des nationaux se définit par l'altérité des étrangers" (Schnapper 1994: 106). This implication is presented as natural, given -- it goes without saying. We are tempted to ask, "why"? Having attempted to define the "national", it might be interesting at this point to define the "foreigner". Immediately, we enter into a series of contradictory assertions where "foreigner" is by definition everything that is not "national", where the "national" can only be apprehended and understood in opposition to the "foreigner". There is a distance here, a gap, that cannot be filled. The foreigner can only be other and as such, by virtue of his very entrance in the body social of the nation, an intruder. The foreigner challenges the "imagined community" of nationals by the very nature of his "foreignness". Even if he becomes a "national" through his "naturalisation" into the nation, he is constantly called upon to justify his "integration" into the body social. He remains other by definition. We begin to delineate the criteria for belonging to the nation and those defining one's unworthiness to be a national evoked by Noiriel (Noiriel 1988).

"L'étranger," writes Jean Gaudemet, "l'homme étrange, est donc celui qui vient d'ailleurs" (Gaudemet 1992:38). It is the extent of the royal, seigneurial or municipal power that determined beyond which

territory one became a “foreigner” during the Middle Ages. According to Gaudamet, the term “aubain”, meaning “celui qui relève d’un autre pouvoir” defined the foreigner from the 12th to the 19th century in France (Ibid). Starting with the 14th century,

juridiquement, l’étranger est celui qui n’appartient pas au royaume, qui n’est pas sujet du roi. Cette conception persistera à l’époque contemporaine, quand, avec la Révolution, le sujet fera place au citoyen. L’étranger sera alors le non-citoyen, celui qui n’appartient pas au corps civique, à la nation (Ibid:43).

Gaudamet maintains that a fundamental dualism was introduced by the French Revolution, that of the citizen versus the foreigner (Ibid: 46). While the universalist bent of the first revolutionaries lead to a liberal understanding of the term citizen during the years immediately following 1789, soon foreigners began to be perceived as a potential threat to the emerging nation on political counts. To belong to the body civic, the Napoleonic Code of 1804 stipulated, birth into the nation by virtue of common descent was necessary. Unlike the principles operating under the monarchy, whereby one became a subject of the sovereign by virtue of having been born on his lands, the foreigner remained such in post-revolutionary France because he was not born of that community of French citizens by virtue of descent and territorial appurtenance. The foreigner’s origins are by definition located “elsewhere”.

Furthermore, Gaudamet states, “l’étranger inquiète” (Ibid: 48). We might ask, why is this so? The foreigner challenges the integrity of the community by introducing a discordant, unnatural element within it -- that is, something that is not of its order, proper to it, but again and especially originates from elsewhere. Jean-Luc Nancy tells us that the act of intruding is proper to the foreigner and that this act implies a certain violence. The intruder is someone who forces his entry, who enters without permission (Nancy 2000: 11). By definition, then, “il faut qu’il y ait de l’intrus dans l’étranger, sans quoi il perd son étrangeté. S’il a déjà droit d’entrée et de séjour, s’il est attendu et reçu sans que rien de lui reste hors d’attente ni hors d’accueil, il n’est plus l’intrus, mais il n’est plus, non plus, l’étranger” (Ibid). The foreigner remains an intruder by virtue of his very foreignness while the intruder is a foreigner by virtue of his very intrusion. Unless the intruder/foreigner merges with or assimilates to the body social, he is and can only remain foreign.

Une fois qu’il est là, s’il reste étranger, aussi longtemps qu’il le reste, au lieu de simplement se “naturaliser”, sa venue ne cesse pas: il continue à venir, et elle ne cesse pas d’être à quelque égard une intrusion: c’est à dire d’être sans droit et sans familiarité, sans accoutumance, et au contraire d’être un dérangement, un trouble dans l’intimité (Ibid: 11-12)

The foreigner is unfamiliar: he is the disturbing element which troubles one’s intimacy. It is at this point that the body social seeks to expel the intruder. It seeks to liberate itself of his presence. The experience is a cathartic one: the foreigner is refused “droit de cité”. He is thrown back, out, in the realm of all “others”, of the “barbarians” outside the limits of known civilisation. As citizens preserving the democratic ideal, again, we cannot accept this intrusion into, the disruption of the unity and homogeneity of the body social. As Nancy concludes, “le plus souvent, on ne veut pas... admettre” the foreigner (Ibid:12).

It is precisely this non-admission of the foreigner as intruder that we should explore within the context of deportation laws and practices. Agamben indicates that no existence is possible outside of the national community: we derive our very identity as humans from our appurtenance to the nation.

Nancy states that the foreigner is by definition an intruder to whom we react with a mixture of mistrust and rejection. Finally, Schnapper claims that “la citoyenneté ne peut être qu’une idée régulatrice” (Schnapper 1994:104). We are tempted to ask, of whom and what? “Toute identité”, she reiterates, “s’affirme en s’opposant aux autres” (Ibid:106). By establishing itself as a concrete source of identity, the “democratic nation”, helped create a specific social habit where individuals derive their identity from their status as universal human beings (Ibid). A collective memory, common habits, shared history define the members of the national community. The democratic nation is fragile, Schnapper tells us, as it bases itself on an abstract, rational principle (Ibid:108). It is this very fragility “qui impose la réinterprétation de références et des identités... ainsi que l’action de l’Etat pour renforcer les dimensions ethniques directement liées à la construction de la nation elle-même” (Ibid). The identity of the ones is here opposed to that of the others. What is the implication of such an oppositional schema in the age of mass migrations? What of the “other” in our midst? If, indeed, the nation in its democratic form forcibly implies an oppositional citizen/foreigner construct in order to predicate its identity, is the foreigner forever an intruder? Is he then liable to be deported, expelled, banished from the community of nationals as its quintessential outsider? Is he forever an “aubain”, placed under the governance of a power other than the nation’s?

It is important to pick up here Agamben’s analysis where we had left it, that is, where he defined the rights of man as presupposing that of the citizen. Agamben claims that “la nouveauté de notre temps, menaçant l’Etat-nation dans ses fondements mêmes, c’est que des parties de plus en plus importants de l’humanité ne sont plus représentables en son sein” (Agamben 1995:32-33). The term “citizen” no longer incarnates a viable concept. Nation-states today face a mounting pressure due to larger and larger part of their population consisting of “une masse des résidents stable non citoyens” (Ibid:34). These inhabit the margins of the nation, so to speak, not its citizens but “denizens”. Consequently, Agamben argues, we should leave aside those fundamental concepts through which we have so far analysed the subjects of politics (Ibid:26). Whether immigrants or refugees, the new foreigners inhabiting the nation are subverting it from within, exploding its very rationale. “Les termes de souveraineté, de droit, de nation, de peuple, de démocratie et de volonté générale recouvrent désormais une réalité qui n’a plus rien à voir avec celle que désignaient ces concepts” (Ibid:122). And, where we had thought to find a politic based on human rights, we discover with Agamben a logic vowed to power and domination basing itself on “bare life”.

En fait, les droits de l’homme représentent, avant tout, la figure originaire de l’inscription de la pure vie naturelle dans l’ordre politique de l’Etat-nation. Dans sa *nudité*, cette vie (la créature humaine) qui, dans l’Ancien Régime, appartenait à Dieu et, dans le monde classique, était clairement distincte (en tant que *zoé*) de la vie politique (*bios*), entre aujourd’hui dans les préoccupations premières de l’Etat et devient, pour ainsi dire, son fondement mondain (Ibid:31).

Where birth becomes the founding principle of national identity and one’s humanity depends from one’s status as a citizen, “il n’y a guère d’espace pour le *pur homme en soi*” (Ibid:30). It is at this point that the logic of the modern nation-state reveals itself. Not, then a sovereignty based on the exercise of a rationally conceived violence in the interest of a national body within the respect of human rights, but a sovereignty based on the very bareness of life where the sacred character of man, the *homo sacer* of the ancient Romans, brings him face to face with the abolition of “reason” and “reasonable law”. The *homo sacer* being defined here as the man who, by virtue of his being placed beyond all social bonds, can be killed without incurring any punishment.

Are deportees to be considered contemporary figures of the *homo sacer* described by Agamben? The parallel is tempting, the more so as the philosopher makes the link himself. However, the argument put forth by Agamben is a complex one, difficult to unravel. It will progressively become clearer as we shall analyse the historical development of deportation laws and practices. These will then need to be resituated within the discourse evoked above regarding foreigners in general and immigration, public security and order in particular. Agamben reminds us that, the state of emergency in which Benjamin saw a temporal suspension of the legal system placing men in a juridical no man's land, has today become a stable and new order (Agamben 1995:54). The implication is that the law has lost its regulatory character. Agamben pushes the analysis further. Concepts such as "sovereignty" or "constituting power" must be abandoned within this context.

Ils marquent le point d'indifférence entre violence et droit, nature et logos, propre et impropre et, comme tels, ils désignent pas un attribut ou un organe juridique de l'état, mais leur structure originelle même. La souveraineté est l'idée d'un lien indécidable entre violence et droit, vivant et langage, et ce lien a nécessairement la forme paradoxale d'une décision sur l'état d'exception... ou d'un ban..., dans lequel la loi (le langage) maintient son rapport au vivant tout en s'en retirant, en l'a-bandonnant à sa propre violence et à sa propre ir-relation (Ibid:125).

Proper to sovereignty, of an unnameable link between law and violence, is all abandonment of the law peculiar to the state of emergency and of banishment. We are dealing here with a liminal condition, one intrinsic to the notion of threshold and inherently ambiguous. The law is and is not at the same time. It looks on, but does not intervene. It is there, but absent. The state of emergency marks its suspension and retreat. It defines the violence arising in its (willed) absence. It leaves the door open to banishment.

It is interesting to note that, quoting Nancy, Agamben refers to the act of "banning", to the ancient sovereign's right to "ban". It is in this banning that lies the state of emergency, in this placing of the individual outside of the law in an undifferentiated place that is neither that of nature or of culture (Agamben 1997:120). In this space life is not simply a natural given, neither "la zoe des Grecs" nor "bios, une forme de vie qualifiée" (Ibid). The individual entering this space is neither human nor animal. Rather, he is the "hors-la-loi" excluded from the community (Ibid: 115). In ancient Germanic law, he was the *friedlos*, the one "without peace". For the Anglo-Saxons, he was the *wulshud*, the werewolf of traditional lore (Ibid:116). In both cases, he is the bandit who has contravened the law, who is expelled from the community and whose murder goes unpunished. "La vie du bandit -- pas plus que celle de l'homme sacré -- n'est un bout de nature sauvage avec le droit et la cité," Agamben tells us, "c'est, au contraire, un seuil d'indifférence et de passage entre l'animal et l'homme... l'exclusion et l'inclusion" (Ibid). As in all liminal situations, the banned is betwixt and between. Beyond the restricted, visible space of the law or hidden behind its more rational manifestation, there exists a space of non-right where "bare life" primes. It is within this space that the law "a-bandons" itself as the state of emergency is decreed. Agamben recognises this space everywhere in contemporary society where a situation arises for the suspension of the law: the immigrant dominated suburbs, retention centers for refugees or illegal immigrants near ports and airports, concentration camps. It is a space where coming face to face with "bare life", the *homo sacer* of the ancients who can be killed but not sacrificed, violence can reach its paroxysm. Concepts of the order of "'bonne moeurs', 'devoir d'intervention', 'motif important', 'sécurité et ordre public', 'situation de danger'" do not define a norm but a situation which the law is only partially able to address by means of a direct application of an existing legal measure (Ibid:185). We are tempted to

say that it is by banning, excluding or deporting for us, that such situations can and are ultimately addressed in contemporary society.

If in the state of emergency there is a suspension, an indifferentiation of the law that leads to its abandonment and ultimately opens up the possibility of unbridled violence, far from seeing in it an exception, we should take it as a common place occurrence. A precursor of both Benjamin and Agamben, Carl Schmitt, writing on the concept of dictatorship, argues that the law is a means to an end that is the subsistence of society (Schmitt 2000:18). Where society appears to be threatened, the law shows its true face. Schmitt states:

... si le droit montre qu'il n'est pas en mesure de sauver la société, la violence surgit alors et fait ce qu'il y a à faire; c'est "l'acte salvateur du pouvoir d'Etat" et le point où le droit débouche dans la politique et dans l'histoire. Mais ce serait, plus précisément, le point où le droit révélerait sa nature véritable, et où le caractère purement finaliste de celui-ci se manifesterait purement sans aucune des nuances qui, à leur tour, n'auraient été apportées que pour des raisons d'opportunité. La guerre contre l'ennemi extérieur et la répression d'un soulèvement intérieur ce seraient donc pas des états d'exception, mais constitueraient le cas normal idéal dans lequel le droit et l'Etat déploieraient leur finalité interne avec une force immédiate (Ibid: 18-19).

The statement is worth repeating: war against the external enemy and suppression of the internal one represent the law's ideal state. It is then this finality and no other that we should see at work in the law. Similarly in deportation laws and practices, as they place the deportee in a complete state of suspension of all rights, we should apprehend the rationality of the law as the finality of its subsistence. It is the "a-bandonement" of the culprit, potential or otherwise, to his "bare life" where all punishment suddenly becomes possible. Schmitt's analysis, preceding Benjamin's and Agamben's, reveals when paired with theirs the hidden workings of the law. Perhaps we have here a key to the problematic of the interpenetration of reason and violence as posited by Taussig. Not only the big "S" of the "State" using the "sweet talk of reason", masking the "fist of steel", but more profoundly the very structure of the Nation-state's sovereign power or "the nature" of the law (Taussig 1992:116; Schmitt 2000:18).

Schmitt analysis of sovereignty in his work on political theology points in this direction (Schmitt 1988). The sovereignty of the state, Schmitt argues, bases itself on the state of emergency. "Est souverain," he writes, "celui qui décide de la situation exceptionnelle" (Ibid:15). Hence the importance to delineate and define what constitutes the state of emergency. The controversy about sovereignty is not, Schmitt seems to argue, what we refer to as sovereign power but more subtly as to how it is concretely applied -- that is, "sur celui qui décide en cas de conflit, en quoi consiste l'intérêt public et celui de l'Etat, la sûreté et l'ordre publics, le salut public" (Ibid: 16). The state of emergency is by its very nature impossible to either define or foresee. A number of juridical/political instances ideally combine to forestall an abuse of power by one or several individuals, a dictatorship in Schmitt's definition, to take place in the case of the advent of a state of emergency in modern law. Nevertheless, a state of emergency, once evoked and installed, by definition brings about a suspension of rights as defined by the law. The dividing line between democratic order and dictatorship is tenuous. It is within sovereignty that lies the power to decide in case of conflict: "donc à définir une fois pour toutes ce que sont l'ordre et la sûreté public, à quel moment ils sont mis en cause..." (Ibid: 19-20). What are public order and public security, when are they threatened... these are the questions

immediately relevant to us when dealing with deportation injunctions. The State, with a big “S”, Schmitt seems again to argue, takes the centre stage in this debate. In reality, however, concepts such as public order or public security are vague and vary according to the type of authority one faces. This poses the problem of the interpretation of the law and of whom is empowered to carry on such an interpretation of the law. Again Schmitt writes:

l’ordre et la sûreté public présentent les visages les plus divers, selon qu’une bureaucratie militaire, une administration autonome dominée par l’esprit mercantile ou une organisation de parti radicale décide à quel moment cette sûreté et cet ordre public existent et quand ils sont menacés ou troublés (Ibid: 20).

In the case of deportation laws this becomes evident. While on the one hand there is the abstract text of the law, on the other there is its actual application and the abuse this might give way to. Beyond whatever dialectic this might lead to, however, there is the instance in which the State liberates itself from the fetters of the juridical norm and makes of its own decision an absolute (Ibid: 22). Deportations are pronounced in the name of public order and public security: they are (mostly) preventive measures to forestall the possible demise of this same order and security. Deportations are emergency measures directly dependent from the state of emergency. They are a product of the State’s sovereign power to suspend the law in an act of self-conservation (Ibid). It is important to note here that while in normal instances “le moment d’autonomie de la décision peut être ramené à un minimum, dans le cas d’exception, la norme peut être réduite à néant” (Ibid: 23). The State, as the holder of sovereignty, has the power to decide. According to Schmitt, this is the very essence of its authority as revealed by the state of emergency (Ibid). “Et là,” Schmitt writes, “l’autorité démontre que, pour créer le droit, il n’est nul besoin d’être dans son bon droit” (Ibid: 24). In the case of deportation laws and practices, this is evident as much in the arbitrariness of the causes leading to deportation, the interpretation of what constitutes a state of emergency in each particular situation, as well as in the way deportations are carried out. Where notions of public order and public security are invoked to deport individuals to their purported country of origin, a suspension of their rights is implied, called for and played out. The State, by means of its power to decide, suspends the law in order to preserve itself. By the same token it destroys the enemy “within”.

The importance for a study of deportation laws and practices of Agamben’s *homo sacer* figure begins now to become clear. If we take the *homo sacer* to be the liminal figure of the law, the individual who straddles both the legal system and its dissolution in the state of emergency, then we can equate the deportee with the *homo sacer*. Where the deportee derives its essence from a situation proper to the state of emergency, where the sovereignty of the state is established, it ultimately becomes he who can be done away with without incurring punishment. Nothing protects the deportee from the iron fist of the State: he is betwixt and between the law which, suspended because of the state of emergency, exceeds its own authority. The deportee’s position is not haphazard. It derives from the very structure and processes proper to the establishment of the Nation-state where the maintenance of the nation’s integrity predicated on inclusion (order) and exclusion (disorder) are seen as one of its primary functions. Paradoxical figure of the Nation-state, the deportee is he who inhabits both the world of the nation and who doesn’t. If only bare life is authentically political, Agamben argues, it is important to apprehend the space of sovereignty as that of banishment. Banishment, he writes, “est essentiellement le pouvoir de remettre quelque chose à soi même.... Ce qui a été mis au ban est restitué à sa propre séparation et, en même temps, livré à la merci de qui l’abandonne” (Agamben 1997: 120). Banishment is here “ni l’exercice d’un droit ni... [d’] une peine” (Ibid: 121). Similarly, deportation, the institutionalisation of the banishment of foreigners, is neither a right nor a form of punishment.

III. VIOLENCE, DELINQUENCY, IMMIGRANTS AND DEPORTEES IN CONTEMPORARY FRANCE

Michel Foucault stated, in an interview given in 1977, that “la vocation de l’Etat, c’est d’être totalitaire, c’est-à-dire finalement de faire un contrôle précis de tout” (Foucault 2001: 386). Foucault differentiated between totalitarian states as such and security-bound democracies, but the control mechanisms developed by the latter lead him to think of them as new, subtler and perhaps stronger configurations of power than the former. Foucault stated:

Les sociétés de sécurité qui sont en train de se mettre en place tolèrent, elles, toutes une série de comportements différents, variés, à la limite déviants, antagonistes même les uns avec les autres; à condition, c’est vrai, que ceux-ci se trouvent dans une certaine enveloppe qui éliminera des choses, des gens, des comportements considérés comme accidentels et dangereux (Ibid).

Difference is tolerated, within these new social configurations, as long as it is constrained within a set of pre-determined and well defined limits. Outside these boundaries, things, people and behaviours become dangerous for society. A certain flexibility might exist with regards to the definition of the limits assigned to acceptable as opposed to unacceptable difference. Yet, whatever flexibility might exist, this is annihilated by the overarching need of the Nation-state to protect its sovereignty. The abstruseness and arbitrariness of state power are at work here. The former is exemplified by the very fluidity of the limits’ boundary, depending on social, economic and political givens, while the latter is demonstrated by the rigidity of state decisions as instituted in the law.

Schmitt, Benjamin and Agamben provide the theoretical underpinnings for the analysis and comprehension of the position of the deportee in contemporary French society from the vantage point of sovereignty as inscribed in difference. Not the “bad” or “good savage” of right and left wing discourses, as noted by Mucchielli above, but the *homo sacer* of the ancients that could be banished and killed without incurring punishment because different and hence guilty with respect to society. The emblematic figure of the *homo sacer* has thus travelled through historical time to illuminate the very basis of the Nation-state sovereignty, the exception of the state of emergency, upon which state power rests. Eminently philosophical, Agamben’s argument needs to be grounded in the everyday reality of those who he sees as incarnating the *homo sacer* of today’s biopolitics. It might then be useful to delve deeper into the discourse on insecurity that characterises contemporary French politics as it is here that we find grounds for the establishment of an evermore comprehensive and globalising “state of emergency”. Philippe Robert writes that, unlike previous historical epochs,

la délinquance est appréhendée maintenant en termes de sécurité: ce sont les vertus politiques de sécurité que vantent ou dénigrent les différents forces politiques, c’est l’insécurité qui fait débat, c’est une revendication de sécurité que l’on brandit ou que l’on relaye. Pour cette raison, la seule criminalité qui retient l’attention est celle qui atteint directement chaque individu, même si, en fait, d’autres délinquances peuvent, au moins à terme, nous menacer plus gravement (Robert 2002: 5-6).

However, personal insecurity is not an objective condition insofar as it does not and cannot base itself in an observable and quantifiable reality in contemporary France. It stems from a diffuse and generalised fear of aggression that people experience in their everyday life, regardless of whether people are being aggressed or not. Within this context, it is important to retain that among those most fearful of a social debacle and the emergence of a generalised social anomie in France, we find people from regions where the crime rate is at its lowest. It is the fear of the other, perceived as the “savage” other, that is at play here rather than the reality of everyday life. People claim they “have had enough”, but of whom and of what is unclear.

The debate about order and security is a longstanding one in contemporary France. Robert places its beginnings in the mid 1970s, at the time when legal immigration flows stopped and illegal immigration made its appearance (Ibid: 9-16). The focus then was on employment and the security/insecurity issue brought about by the sharp raise in unemployment rates. Slowly, as we have seen, the debate shifted from unemployment as an issue to personal, physical insecurity explicitly imputed to new forms of violence and crime. This shift occurred over the 1980s and 1990s, but only reached its present level of importance at the end of the 1990s and beginning of the 2000s. The peaks of this feeling of insecurity seem to situate themselves around 1978 for unemployment issues, and 1985 and 2001 for violence and criminality (Ibid: 13). While the behaviour of youths had always been a central preoccupation of the debates on violence, a shift similarly occurred as to who was perceived as threatening over the 1980s. Writing in 1992, Christian Bachmann stated that “depuis plus d’une décennie, ce ne sont plus ni les blousons noirs, ni les contestataires gauchistes qui alimentent les inquiétudes médiatiques à propos de la jeunesse, ce sont les cités” (Bachman 1992: 129). The titles in the press, designed to catch the readers’ attention by their sensationalism, are eloquent for this period:

La guerre des banlieues; Couleurs sur Paris; gangs Blacks, Blancs, Beurs; Zoulous, terreurs du R.E.R.; Les cités de la peur; L’invasion des loubards; Une organisation paramilitaire: trois agressions par jour; Les cités interdites; Batailles rangées dans les cités.... Ce ne sont que bandes ethniques, échauffourées, voitures brûlées, devantures brisées, guérillas policières, drogues à tous les étages et panique des honnêtes gens. Au début de 1991, le quotidien en étaient à l’intifada des banlieues.... (Ibid).

Linking second generation immigrants of primarily North African origin with phenomena witnessed elsewhere, such as American-style gangs or the *intifada* of the Palestinian struggle for independence, the media depicted a situation throughout the 1980s and in the early 1990s where ethnically defined violence and guerrilla warfare became a common-place. However, Bachmann, argued, nothing justified the media’s stance. As reported by Adil Jazouli the previous year, the media based itself on vague rumours and a generalised, emerging fear rather than on clear and verified facts (Jazouli 1991 cf. Bachmann 1992: 130).

It took roughly twenty years for the assimilation of the “Arab” and violence to become a common-place in French public discourses and for repressive, as opposed to preventive policies to become the avowed focus of state action towards immigrants. While the early 1990s were a period still nominally vowed to prevention, the attempt to integrate youths of foreign origins within mainstream civil society, by the end of the 1990s the focus had shifted to repression with talk of the emergence of Mafia like networks in the immigrant dominated suburbs and the generalisation of drug related crimes. Robert analyses the development of these repressive measures as a consequence of both historical and structural conditions determining the approaches and methods adopted by the police to fight criminals. Following the end of the Cold War, he argues, the old differentiation between internal and external

security issues ceased to be operational (Robert 2002: 78). It was replaced by “une nouvelle cible unique par amalgame entre immigration, drogue, crime organisé et terrorisme: la menace vient de flux extérieurs qui relèvent d’une problématique policière plutôt que militaire” (Ibid). The police, incapable of facing up to the petty delinquency of everyday life too disparate to be apprehended as a coherent and organised entity, sought and still seeks to curb the feeling of insecurity by first positing petty criminality as a consequence of a particular type of organised crime originating from an undetermined “elsewhere” and then seeking to eradicate it from the top down. This has resulted in the inevitable criminalisation of immigration and consequently of immigrants. It is important to note the parallel here with the shift from a preoccupation with external threats to the policing of what Schmitt defined above as the enemy within. Beyond war against external enemies, it is the repression of internal upheavals that constitute the normal state of the law (Schmitt 2000:19). In the case proposed here, the immigrant, furthermore the second generation immigrant, epitomises the perfect culprit as both extraneous to the nation and internal to it. He constitutes the link, the missing link, between organised, international crime and internal disorder. This is all the more clear today as discourses on second generation immigrant criminality pick up and make use of notions hitherto applied to organised, international criminal organisation such as the Mafia. Almost nowhere are the more traditional causes of youth delinquency, such as low qualifications coupled with high unemployment and discriminatory practices on the job market, evoked. While these could and should be the target of consistent and rational state interventions, it is the repressive stance that primes today.

Deportation laws and practices inscribe themselves in this repressive logic. Ever since the 1980s, deportation laws have been at the forefront of political debates concerning immigrants and their descendants in France. Following the “hot summer” of 1981 and the subsequent outbursts of violence in immigrant dominated neighbourhoods throughout the early 1980s, the notion that there existed a second generation of immigrants both socially maladjusted and dangerous took hold in public discourses. Conveyed by both the media and politicians, the fear of the other as “savage” spread. It was both logical and inevitable that such discourses would be accompanied by a hardening of the law. In 1986, new deportation measures were passed and immediately applied. They lead to a sudden increase in the number of deportees: from 709 in 1985 to 1,746 in 1987 (Ministère de l’Intérieur 1990). The new law affected primarily the practices regulating deportations depending from an administrative measure: AMEs, “*Arrêtés Ministerielle d’Expulsion*”, taken by the Direction de Liberté Publique of the Ministry of the Interior as preventive measures for the maintenance of public order and security. At the same time, a sharp raise in juridical deportations or ITFs, “*Interdictions du Territoire Français*”, pronounced by judges as a complementary punishment in addition to a prison sentence for illegal immigration or a drug offence took place. ITFs had been introduced in the penal code in the 1970s, but increased substantially only over the second half of the 1980s from 2,583 in 1984 to 14,628 in 1990 (Ibid). No legal recourse was possible for ITFs in the 1980s, while for AMEs deportees could seize the Conseil d’Etat in the last instance. To note that over the 1990s, the number of crimes to which an ITF can be applied has increased a hundred fold, to encompass a wide variety of criminal offences over and above illegal immigration and/or drug related ones. Where AMEs as preventive, security measures were originally developed to counter the threat to civil society posed by foreigners, ITFs today serve the function of a true, additional, “double peine” (double punishment) targeting foreigners⁷. This is rightly perceived as a highly discriminatory and arbitrary practice. Increasingly, deportees have addressed themselves to the European Court of Human Rights in The

⁷ The term “*double peine*” was introduced in public debates at the end of the 1980s by the Comité Nationale contre la Double Peine. However, the notion that deportation constitutes a double punishment is longstanding, with the reference being made as early as the late 1880s.

Hague as a last resort to have deportation injunctions revoked. The argument put forth was and still is that deportations constitute a violation of the right to a family life.

Impossible to determine from official statistics, the number of deportees of the second generation among the numbers reported was throughout the 1980s and early 1990s substantial. Unofficial statistics carried out on the basis of a sample of approximately 200 AME deportation records that I studied during fieldwork during the early 1990s corroborate this claim⁸. Changes in the wording of the articles regulating administrative deportation practices in 1986, made it possible for the Ministry of the Interior to deport a number of second generation immigrants protected by the law since 1981. It was at this time, under the influence of the newly elected Mitterrand government, that a substantial number of restrictive measures with respect to deportation were first introduced in an immigration law since 1849. A set of protected categories, notably second generation immigrants and the spouses or parents of French nationals, could not be deported as of 1981 unless an imperative reason for state security could be invoked. The law stated, under its Article 26, that “en cas d’urgence absolue... l’expulsion peut-être prononcée lorsqu’elle constitue une nécessité impérieuse pour la sûreté de l’Etat ou pour la sécurité publique” (Article 26, Loi N° 81-973 of October 29th, 1981). The 1986 rewording of the law introduced the possibility of deporting individuals belonging to a protected category if their presence constituted a menace for public order. Article 7 of the new law stipulated a rewording of Article 23 of the Immigration Act of 1945. It stated that “l’expulsion peut être prononcée par arrêté du ministre de l’intérieur si la présence sur le territoire français d’un étranger constitue une menace pour l’ordre public” (Article 7, Loi N°n86-1025 of September 9th, 1986). The same law stated, with respect to Article 26 derogating to the categories of foreigners protected by the law against deportation, that “en cas d’urgence absolue... , l’expulsion peut être prononcée lorsque la présence de l’étranger sur le territoire français constitue pour l’ordre public une menace présentant un caractère de particulière gravité” (Ibid). While the 1981 wording essentially referred to terrorist acts, what could be considered as a “grave menace” by 1986 extended to common law crimes. Despite a new change in the law in 1988, deportation practices of an administrative nature continued to affect second generation immigrants. On the one hand, the changes enacted in the law in 1988 were not retroactive and left hundreds of deportees from the second generation in an illegal, marginal situation. On the other hand, while the law did return to the 1981 wording, it maintained several of the changes enacted in 1986 in practice.

ITF related deportations increased dramatically towards the end of the 1980s and over the 1990s. As stated above, this was due essentially to the enlargement of the scope of ITFs due to new legislation, but it was also a function of an amalgamation between immigration and drug related offences by the police and the judges. It is important to note, that it was not until 1991 that a law finally regulated the possibility of filing a recourse against ITFs and the modalities of their application. It was quite common at this time for deportees under an AME injunction to have incurred several ITFs for illegal residency. As deportees who remained illegally in France did not have a valid residency permit, they would incur a prison sentence and an ITF that could be limited in time or indefinite as an additional form of punishment for countering the law on immigration. As judges often liberated deportees of the second generation following their prison sentence for illegal immigration, individuals who had been born in France and had resided there all their lives could very well have accumulated one AME and several ITFS and still reside on French territory. Once the AME revoked, if the deportee was lucky

⁸ In spite of repeated requests, I was unable at the time to obtain official statistics from the Ministry of the Interior crossing the nationality of deportees with their place of birth. I was originally told that this information was possible to obtain given the Ministry’s records, but was only given a partial set of statistics with no mention of the deportees’ place of birth.

and the Conseil d'Etat ruled in his favour in the last resort, no recourse was open to him for the several ITFs accumulated during his years of illegal residency before 1991. The only possibility at the time was to file a request for pardon with the Presidency. It was the President of the Republic who could at the time, and in the last instance, decide of the maintenance in or expulsion from France of a deportee with one or several ITFs. Once the 1991 law was passed, it should be noted that deportees with ITFs could only file for their abrogation with the court having pronounced them in the first place. Deportees with several ITFs had to file several requests, no amalgamation of the different legal sentences being possible. The situation was similar for deportees facing ITFs for drug offences.

As recently as November 2002, the issue of who could be legally deported from France and who should be protected by virtue of his ties to the nation was still pertinent. A report to the National Assembly spearheaded by Cristophe Caresche and the Socialist Group recently argued for revising deportation laws and practices in view of the ties existing between potential deportees and France (Caresche 2002). The report decries the banalisation of deportation practices due to the introduction of a widespread, all-encompassing ITF legislation making of judges the sole arbitrators in the decision of whether to deport foreigners or not. Over 200 crimes can, since the 1990s, justify an ITF according to the new penal code: crimes against humanity; torture and acts of barbarism; sexual violence and aggression; drug traffic; procuring; theft, extortion and possession of stolen goods; destruction of property that incurs a danger for third parties; betrayal of the fundamental interests of the nation; terrorism; participating in an armed gathering, or a demonstration, or a combat group; breach of legal action; breach of public confidence; offences committed during a public demonstration (Ibid: 7-8). The list is not exhaustive but testifies to a will to limit and control a population perceived as intrinsically dangerous and extraneous to the national body. What had once been the prerogative of a restricted and selected number of people within the sphere of the Ministry of the Interior, has now become a generalised, legal practice of the judicial system. The state of emergency, which deportation gives way to, is today dictated and implemented by any and every judge. If, with Schmitt, we agree that is sovereign he who decides of the state of emergency, then this right has become incredibly fluid with respect to French society. It is here that we can begin to appreciate how the very concepts of order and public security take on the most disparate forms, and vary according to who is or are in a position to decide as to who can or cannot be deported. There is then a gap between the law and its application that rests on personal judgement. More important, however, there exists today in France a generalisation, a "banalisation" or a giving over to the police and to the juridical system, of the state of emergency.

In a partisan way, we can only regret that the law proposal was not retained by the National Assembly. However, the report is worth quoting. It states:

Lorsque sont en cause des étrangers qui, en raison de l'ancienneté de leur présence ou de leurs attaches personnelles en France, sont sociologiquement, humainement et culturellement liés à notre pays, une interdiction du territoire, qu'elle soit temporaire ou a fortiori définitive, ou une expulsion, représente une atteinte disproportionnée au respect dû à la vie privée et familiale. C'est alors que l'on parle de "banissement", comme dans l'ancien droit, ou de "double peine", l'éloignement s'ajoutant souvent à l'emprisonnement. (Caresche 2002:6).

Interesting here is the explicit reference made by the report to "banishment". The immigrant with ties to the nation, by virtue of the duration of his residency or his personal attachments, is perceived as sociologically, humanly and culturally tied to France. Deportation is then disproportionate with

respect to the immigrant's right to a private and family life. What does this mean? What are sociological, human or a fortiori cultural ties meant to imply in this context? Should we talk of private, family life or of the right to full citizenship and hence residency? The immigrant is and continues to be foreign in the discourse of the report regardless of his ties to the nation. It is on the discourse that, in spite of its humanism, posits an intrinsic and unbridgeable difference between the foreigner and the national that we should dwell here. Banishment, a practice now obsolete, is equated to deportation. Both find their origins in mid nineteenth century attempts to control deviant populations by extracting them from the national body. The former has fallen into abeyance because of international law and the inalienable right of citizens to reside in their country of origin. The latter endures because nobody questions the right of the Nation-state, in the full exercise of its sovereignty, to expel foreigners from the national territory. There is a gap between the immigrant with ties to the nation and the national that cannot be bridged by ties of a purported sociological or cultural nature let alone of a human one. The difference that the status of one and the other implies seems too great to be overcome. Whatever the categories protected by the law against deportation might be, the immigrant as foreign and non-citizen is forever liable to deportation. The law, in its latest form dating from the late 1990s, maintains the right of the State to deport foreigners even though they might have long-lasting and serious attachments to the nation. It is true that the motivation for such a measure must be founded on the seriousness of the acts committed and the gravity of the fault in their case. Yet, there is always a margin for appreciation with respect to terms such as law and order, emergency, gravity and so forth. It is not simply the law, but also its interpretation that founds the sovereignty of the State.

The history of deportation laws and practices in France, from the mid nineteenth century till the end of the twentieth and beyond, teaches us that "the state of emergency in which we live is not the exception but the rule" (Benjamin 1969: 257). Banal as this phrase might have become over the past decade, it is worth repeating and retaining. To recount the history of deportations is not simply to tell the story of immigrants and their children as they fought a constant battle for recognition by and integration into the French nation-state over the past century and a half. It also means demonstrating how the Nation-state was and is still predicated on the binary poles of exclusion and inclusion. Such poles operate at various levels and not only with respect to immigrants and their children. Agamben has demonstrated how spaces of exclusion are operational everywhere in contemporary society where the state of emergency, the gap between the law and its (legal) absence, is imposed or instated. Deportees can be perceived then as the last element on a long chain of casualties. As one of my informants, a deportee of the second generation I shall call Souffiane, once stated:

[as one retraces] the everyday, from the moment one wears his first pair of pants to when he starts shooting himself with heroin, one arrives at the realisation that he will end up being dead, or become an AIDS' victim or be deported.... Either death before the age of thirty, or ill with AIDS, or a social outcast, ... a double punishment, what, a victim of deportation....

Grim as this vision of society might be, it encapsulates the reality I witnessed as I did fieldwork among deportees in the early 1990s. In the search for identity, place and belonging, my informants most often than not found exclusion and actual or symbolic death. Some authors have gone to the extent to wonder whether we are not witnessing, and increasingly so, the instauration of an identity of "failure" in immigrant dominated neighbourhoods. Souffiane's statement should be then complemented by a final quote from Bachmann regarding second generation immigrant youths and their search for identity in the late 1980s and early 1990s in France. "Les jeunes des banlieues", he wrote in 1992,

ne sont en effet ni rattachables à leurs racines, ni assimilables à la seule modernité médiatique. Ils tentent, à leur manière, de se construire une formation culturelle de compromis, qui leur permet à la fois d'interpréter le monde social et de le maîtriser dans l'imaginaire (Bachmann 1992: 150).

This imaginary was, for Souffiane and many of his friends, profoundly biased. The search for a stable and durable identity had them come face to face with the reality of both actual or symbolic death: the actual death of AIDS, at the time perceived as a certain life sentence, and the symbolic death of deportation equated with a murder where the culprit, the State in this case, does away with the body. Theirs was the vision of the "Arab" standing against the "keeper of the peace", face to face with the open terror of state violence. As Souffiane concluded, "it is then that one understands that they, [the State and State institutions], wanted to and succeeded in destroying a whole generation."

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