

Compassion and Repression: The Moral Economy of Immigration Policies in France

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“Reconcile humanitarian aid to refugees with refusal of clandestine immigration: such is the intention of the *préfet* (chief administrator)—who nevertheless recognizes difficulties in finding the point of equilibrium.” So ran the headline of a local newspaper in the north of France (*Nord Littoral* 1999e). A compassionate repression: this could have been the oxymoron used to define the political program of this zealous but sympathetic representative of the left-wing French government. The article referred to the dilemma that national authorities were confronting: Hundreds of immigrants from Kosovo, Kurdistan, and Afghanistan were fleeing oppression to seek asylum in Britain. Invariably costly (with smugglers asking \$500–\$1,000 to cross the channel), these trips also proved life threatening, as some asylum seekers fell from the train cars of the Eurostar or died of suffocation in a container. Waiting to make this passage, the “candidates for the British Eldorado” (*Nord Littoral* 1999d) were camped in a park at the heart of Calais, where many inhabitants protested against the transformation of their city into “the funnel of misery” (*Nord Littoral* 1998) of Western Europe. At the same time, others had formed a nongovernmental organization (NGO) to demand “refuge at any price” (*Nord Littoral* 1999b) for these unfortunate foreigners who had been deprived of everything.

A week later, the state seemed to have made its choice among contradictory alternatives and the paper quoted the *sous-préfet* as saying that he was now going “to switch [his emphasis] from [one of] humanitarianism to security” (*Nord Littoral* 1999a). For an observer of the local scene, this rhetoric both responded to and reversed a shift in policy from three months earlier, asserting that “after announcing securitization, the time had come for humanization” (*Nord Littoral* 1999d). But now times had changed. The police expelled the undocumented immigrants from the park and arrested over 200 of them. Nevertheless, the use of force had to be

counterbalanced by more humane measures, and the government decided to open a “refuge” under the patronage of the French Red Cross (*Nord Littoral* 1999c). Ironically, both the media and the local population began to refer to the immigrants as “refugees.” However, this term indexed their residential situation and their universal condition rather than a legal status that the state authorities were not eager to grant them. In fact, the asylum seekers would have preferred to seek refugee status in Britain where their networks functioned better and where welfare provision was more favorable.

The Sangatte Center, an unused warehouse of 25,000 square meters (approx. 30,000 square yards) a few kilometers outside of Calais, opened on August 14, 1999. It soon became known as a transit camp because it was supposed to provide accommodation for only a short stay for immigrants on their way to Britain. As it happened, however, during the first two and a half years of its existence, it had accommodated up to 50,000 persons, only 350 of whom asked for asylum in France. The rest managed to cross the channel, usually after having spent less than a month in the refuge. The French government could thus get off lightly by combining the appearance of “humanitarian aid to the refugees” while refusing “clandestine immigration,” to quote the *préfet*. The situation changed, however, when the British government, under public pressure, decided to restrain access to asylum and block illegal entrance to its territory. In the context of a national debate exacerbated by newspaper headlines such as “Asylum: Yes, Britain Is a Soft Touch!” (*Daily Mail* 2001) and “Kurds on Way: But Will Jack Send Them Back?” (*Sun* 2001), referring to British Minister of Home Affairs Jack Straw and his supposedly weak policy, Tony Blair negotiated with Jacques Chirac during a meeting held in Cahors to gain stricter control of immigration networks in France and a tighter collaboration between the police of the two countries concerning the Eurostar, the high-speed train uniting the two countries under the English Channel. On February 12, 2001, the communist newspaper *L'Humanité*, denouncing the loss of national sovereignty implied by this policy, led with the bellicose headline “The English Recapture Calais.” Following this new political turn, getting out of Sangatte became more and more difficult for immigrants, and the Red Cross center increasingly turned into a place of confinement, with as many as 1,500 people in a place initially opened to receive 200–300 persons. “Sangatte emergency center, a small town of 1300 inhabitants who dream of England,” was the title of an article in *Le Monde* on 30 May, 2002. However, with its circulation of people among a city of large tents, its huge canteen where long queues waited for meals, its prefab buildings housing administrative and medical services, and its open space for Muslim worship, this “small town” began to acquire distinctively urban features (see Figure 1).

During this last period, as the crossing of the channel became more perilous, the organization of smuggling became more lucrative. Conflicts developed between Kurds and Afghans for the control of this activity, especially for access to the sites where it was possible to catch the trains or gain access to containers. Violence increased at the center between rival groups, and several immigrants were wounded



Figure 1

The center of Sangatte, a few kilometers from Calais. Artist: Olivier Clochard. Courtesy of Groupe d'Information et de Soutien des Immigrés 2001.

or murdered (*Le Monde* 2001b, 2002a, 2002e). The Red Cross had to accept the permanent presence of the police in a compromise of humanitarian sentiments with security preoccupations. The state security police parked a bus day and night at the entrance of the center, and policemen making rounds among the tents and the prefabs became a part of everyday life for immigrants. For the French visitor entering Sangatte, the sight of armed men in military uniform on the iron platform looming above the “refugees,” however peaceful this appeared, produced a strange feeling of déjà vu. The memory of the concentration camps of World War II gave a polemic tone to most comments on the subject in the public sphere (See Groupe d'Information et de Soutien des Immigrés 2001). For the Red Cross, the situation was extremely uncomfortable as critiques mounted against its collaboration with repressive policies (Red Cross 2002). Sangatte had become a focal point for human rights grievances as well as a potential menace to the public order. For many, the humanitarian center looked more and more like an internment camp (see Figure 2).

In May 2002, when the new right-wing government took office following a presidential campaign centered mainly on public security issues, the first act of the French minister of the Interior, Nicolas Sarkozy, was to visit Sangatte and announce that he would close it by the end of the year. Arguments for this decision were twofold: first, such a place was a magnet for illegal immigration, and second, it was shameful for a modern democracy to allow such an institution to persist. The fear of attracting migrants is a classic theme used by a right-wing constituency to justify immigration control. The reference to national shame is more unusual, but quite clever, as it speaks to left-wing critiques that reference the dark memory of German concentration camps. On November 5, 2002, the registration of new inmates for the center was stopped. Under the headline “Farewell to Sangatte,” *Libération* told the story of the first three families who had to leave the center on December 3, 2002. Once again asylum seekers invaded the streets of Calais. Some



Figure 2
Tents in the center of Sangatte. Artist: Jacqueline Salmon 2001.

made temporary homes in a blockhouse left by the Germans on the beach at the end of World War II. The police were accused of setting one of the shelters on fire with gasoline (*Le Monde* 2002c). Local and national NGOs called for humanitarian management of the cases. As an increasing number of immigrants gathered in a church hall, the government decided against the use of force, and the new préfet announced that a place would be opened to accommodate them. A year later, the Sangatte warehouse had been destroyed, and the media were no longer interested in Calais; yet immigrants were still trying to get to Britain. While waiting for an opportunity to cross the channel by boat or by train, they wandered through the streets and slept in the parks of the city.

The drama of Sangatte is paradigmatic of tensions between the discourses and practices of compassion and repression in the policies of immigration and more specifically of asylum in Europe (Bloch and Schuster 2002). In a wider perspective, it offers a basis for understanding the moral economy of contemporary Europe. In his historical study of the British poor, E. P. Thompson (1971:79) referred to “moral economy” as a “traditional view of social norms and obligations, of the proper economic functions of several parties in the community,” which “impinged very generally on eighteenth-century government.” In his ethnographic research on Southeast Asian peasants, James Scott (1976:3) similarly defined “moral economy” as a “notion of economic justice and [a] working definition of exploitation,” which permitted us “to move toward a fuller appreciation of the normative roots of peasant politics.” Both give a specific economic meaning to the concept, but in their utilization, they obviously open it to a broader sense: the economy of the moral values and norms of a given group in a given moment. I will retain this meaning here in the analysis of the values and norms by which immigration and asylum are thought and acted on and, in a broader sense, which define our moral world (Fassin 2005).

This moral economy defines the scope of contemporary biopolitics considered as the politics that deals with the lives of human beings. The study of biopolitics is particularly crucial when it governs the lives of undesired and suffering others (Fassin 2001a), undocumented immigrants in this case, but it would not be so different if we studied the political treatment of the undeserving poor (Geremek 1987), the urban underclass (Wacquant 1999), or delinquent youth (Fassin 2004), oscillating between sentiments of sympathy on the one hand and concern for order on the other hand, between a politics of pity and policies of control.

Reexamining Max Weber's analysis of bureaucracies (1976) and following Mary Douglas's description of institutions (1986), Michael Herzfeld (1992) has proposed a vivid perspective on the culture of European states and more specifically on their "social production of indifference." The question he wants to answer is the following: "How does it come about that in societies justly famed for their hospitality and warmth, we often encounter the pettiest form of bureaucratic indifference to human needs and suffering?" (1992:1). Exploring a distinct but complementary domain in political anthropology, my purpose here is to unveil the ethic of contemporary states when it comes to the moral evaluation of difference. This evaluation is anything but indifferent: it is full of passion and norms, of feelings and stereotypes. Strong beliefs and deep prejudices are expressed about the legitimacy and utility of certain categories of individuals, about their culture and their future, and about their obligations and their rights. The question I want to address, therefore, is why, in societies hostile to immigrants and lacking in concern for undesirable others, there remains a sense of common humanity collectively expressed through attention paid to human needs and suffering?

In a study of the Swedish welfare state and its responses to a growing presence of refugees, Mark Graham (2003) has shown some of the dilemmas that civil servants face in their everyday contact with immigrants and how a bureaucracy can become "emotional" under such circumstances. Indeed, these emotions may also have their limits, as the repetition of pathetic narratives erodes the affective responses of civil servants and even provokes a general distrust regarding the accumulation of misfortunes told by applicants to welfare personnel (Fassin 2003). However, my intention is somewhat different here in moving beyond the individual difficulties and contradictions of the social agents who have to implement national policies to grasp what Josiah Heyman (1998) calls the "moral heart" of these policies. What values and hierarchies of values are mobilized within states to decide how to manage transnational human flows and how can we account publicly for these decisions? Such questions cast a light on the contemporary ethos, the "genius" or guiding spirit of an institution or system (following Bateson 1958:2), in the policies of immigration and asylum.

For Giorgio Agamben, "if refugees represent such a disturbing issue in the organization of the modern nation-state, it is above all because, by breaking the continuity between mankind and citizenship, between birthplace and nationality, they question the original fiction of modern sovereignty" (1997:142). Confronting



Figure 3
Everyday life in Sangatte. Artist: Jacqueline Salmon. Courtesy of Galerie Michèle Chomette.

Michel Foucault's biopolitics (1978) and Hannah Arendt's *vita activa* (1958), he develops the distinction between *zoë*, or bare life, the fact of being alive, and *bios*, or full life, the social presence in the world. Exploring the genealogy of Western societies, he asserts that "the implication of bare life in the political sphere represents the original but hidden core of the sovereign power" (Agamben 1997:14). The refugees thus occupy a central place in our moral economy because they reveal the persistence of bare life in contemporary societies: deprived from their human rights by lack of citizenship, they can only claim to stay alive, most of the time confined in camps settled in countries near the one from which they have fled. Our world is thus characterized by "the separation between humanitarianism and politics" (1997:144), as the former defends human beings reduced to their physical life at the margin or even against the latter. In conclusion, "separated from the political, the humanitarian can only reproduce the isolation of sacred life which founds sovereignty" and "the camp—the pure space of exception—is the biopolitical paradigm with which the humanitarian cannot get through" (1997:145). Sangatte, with its refugees, would thus be the perfect expression of this paradigm in the new context of the European Community (see Figure 3).

However, anthropological anamnesis and ethnographic observation lead to a different diagnosis. If the refugees occupy a crucial space in the biopolitics of

Europe today, their collective treatment does not rest on the separation of the “humanitarian” from the “political,” but on the increasing confusion between the two, which consequently redefines the contemporary signification of the camp. In this article, I analyze this new configuration within the French context. First, I show how asylum lost much of its legitimacy in the 1990s for victims of political violence, even while a new criterion based on “humanitarianism” was developed for sick immigrants. Second, I suggest that, during the same period, the discrediting of refugees has been accompanied by a “humanitarianization” in the management of asylum seekers. Third, referring to the longer history of camps, I suggest that in the context of the perceived threat to the security of the nation by aliens, compassion has opened new paradigmatic relations between the figures of the camp and polis.

Political Asylum versus Humanitarian Reasons

Marie is a 25-year-old Haitian woman. Her father, a political dissident, was murdered by unknown assailants some years ago. Her mother later disappeared and is thought to have been killed. Marie was raped in the presence of her boyfriend by a group of men who burst into her house. In the following weeks, after having found a temporary refuge with a relative, she decided to leave her country and sought asylum in France. Her request for asylum was rejected by the Office français de protection des réfugiés et des apatrides (the French Office for the Protection of Refugees and Stateless People [OFPRA]). So was her appeal. The absence of corroborating evidence outweighed her testimony, despite confirmations by her boyfriend. After several months of increasing social isolation and feeling more and more depressed, she went to a hospital. The physician she saw was convinced by her symptoms of psychic suffering and sent her to a psychiatrist who immediately started treating her with antidepressants. Both doctors were aware of a legal criterion recently introduced in the 1945 Immigration Act recognizing the possibility that undocumented immigrants who faced severe health problems and who had no access to effective treatment at home might obtain a residence permit “for humanitarian reasons.” Depression was not a very good case, however, because state medical experts often refused to consider it as a valid reason and, in fact, often suggested that, back in the country of origin, the patient would benefit from returning to a traditional environment and forms of treatment. They nevertheless prepared a file but did not have time to send it to the immigration office for evaluation. A series of blood exams revealed that Marie was HIV+. With AIDS, the case was now legally “easy,” and she did obtain a residence permit on the basis of “humanitarian reasons.” What she had not been able to get as a right had finally been given to her by compassion.

Of the refugees, stateless people, and minorities whose number dramatically increased in the aftermath of World War I, Hannah Arendt (1951) writes: “Those whom persecution had called undesirable became the undesirables of Europe.”

In 1981, 20,000 foreigners sought asylum in France; out of these, 80 percent were recognized as refugees. In 1999, 30,000 applied for the same status under the Geneva Convention; however in that year, 80 percent were rejected (OFPRA 1996, 2004). Within less than two decades, the attitude of public authorities had completely reversed, from relative tolerance to general mistrust. This evolution became particularly clear at the end of the 1980s, a time when the political changes in Eastern Europe and the regional conflicts in the former Yugoslavia generated massive migrations toward Western Europe, tripling the number of asylum seekers between 1988 and 1990 (Berger 2000). Meanwhile, the National Front, an extreme-right xenophobic party, developed an aggressive rhetoric denouncing an "invasion" of France by immigrants from the South and grew in electoral significance from less than one percent of the vote in the early 1980s to 14.4 percent in the 1988 presidential election (Hargreaves 1999). Within this new political context, the number of foreigners benefiting from political asylum decreased sixfold in France during the 1990s, gradually stabilizing at around 2,000 refugees per year, not counting children who automatically became refugees on reaching the age of 18 (Legoux 1999). This decrease corresponds to two distinct trends sharing a common logic: the number of claims submitted was reduced by two-thirds and the proportion of accepted claims was halved.

Considering the international situation during this period, it would be hard to argue that this dramatic drop in the number of refugees had resulted from a reduction of conflict in the world. Rather, it is the consequence of two phenomena: first, at all possible entrances to French territory, border officials were turning away an increasing number of potential asylum seekers before they could file their cases (Julien-Laferrière 2002); second, the civil servants who evaluated the claims were determined to lower the percentage of acceptances (Teitgen-Colly 1999). As a consequence of deep changes occurring in popular attitudes toward asylum, explicit orders had been given by the Ministries of the Interior and Foreign Affairs to their respective administrations, and police officers in the airports and bureaucrats of OFPRA have come to view asylum seekers with systematic suspicion: all candidates for refugee status are now considered, until there is evidence to the contrary, to be undocumented immigrants seeking to take advantage of the generosity of the European nations. Use of the expression "false refugees" to refer to "economic immigrants" who claim political asylum has become central to bureaucratic common sense (Valluy 2004). The Geneva Convention is thereby implemented in a more and more restricted way by governments who declare that it should be rewritten.

In contrast, during the same period, another category of immigrants were increasingly being granted residence permits: those with health problems, or more precisely, with severe pathologies for which they had no access to proper treatment in their home countries. This new criterion is officially designated as "humanitarian reasons" (Lochak 2001). It was invented in the early 1990s in response to pressure from medical NGOs like Médecins Sans Frontières and Médecins Du Monde but also from human rights associations who found themselves confronted by patients

who suffered from life-threatening illnesses, such as AIDS or cancer, and who were at risk of being driven out of France for being undocumented. At first, the decisions concerning these cases were rare and arbitrary: they depended on the degree of social mobilization around each case and on the good will of the *préfet*. Progressively, however, the practice became more common and more publicized until the right-wing Minister of the Interior Jean-Louis Debré included a ban on expelling foreigners with severe health problems, whatever their legal status in the 1996 Immigration law. This fact is remarkable because it was the one concession made with “respect for individual rights” within a piece of legislation largely characterized by its “firmness against illegal immigration.” Still, it was not a measure that granted full residence right, and beneficiaries were not allowed to enter the labor market. A few months later, with the installation of a new parliamentary majority, the 1998 Immigration law introduced by the socialist Minister of the Interior Jean-Pierre Chevènement was approved: for the first time, the existence of health problems could confer the right to a residence permit, social protection, and authorization to work. Under a humanitarian principle, the suffering body was now recognized as the main legal resource for undocumented immigrants (Fassin 2001b). The yearly number of foreigners awarded residence permits because of an illness increased sevenfold during the 1990s. By 2000, it had become equivalent to the number of political refugees recognized every year.

The chronological association between the marked drop in political asylum and the increasing recognition of humanitarian reasons is not a coincidence. The two phenomena are linked. Thus, as a high-level administrator of the Ministry of the Interior explained to me in an account of the 80,000 legalizations of undocumented foreigners they had processed in 1997–98, those categorized under humanitarian reasons had been treated “as a priority” while political asylum had been treated “as a subsidiary concern.” In fact, many lawyers, human rights activists, and even local state officers in immigration services understood this new policy very clearly. For them, as well as for the undocumented immigrants themselves, “Article 12bis-11” of the law became the best hope for asylum seekers in the administrative jungle of immigration legislation: More specifically, the law mentions the right to a residence permit for “the foreigner living in France whose health status necessitates medical care, the default of which would have consequences of exceptional gravity, considering that he/she cannot have access to the proper treatment in the country from which he/she comes.” (Groupe d’Information et de Soutien des Immigrés 1999) For asylum seekers seeking advice, advocates would ask: “don’t you have an illness you could invoke?” and then suggest a visit to the doctor.

An African immigrant recalls what he was told by a volunteer in one of the main solidarity NGOs he had consulted: “I showed her my prescriptions. She said I surely had a severe disease. She told me to go to a doctor, and with good evidence it will not be a problem. I will have my residence permit. I just have to show that I cannot get treatment in my country.” Paradoxically full of hope at the idea of an illness, the undocumented immigrants would go to their physician or to the

hospital, sometimes with a letter from the préfet requesting “diagnosis, treatment, and perspectives on prognosis” under cover of “medical confidentiality.” Often, on hearing the doctor say that “their disease is not severe enough to justify the claim,” they would express their disappointment or their anger. Sometimes, as in the case of the young Haitian woman, they would obtain not only medical approval but also free health care with the *couverture maladie universelle*, the social protection system for the poor. As one of the beneficiaries of this administrative decision once said to me: “It is the disease that is killing me that now keeps me alive” (Fassin 2001c). He was from Nigeria and he had spent ten years in France and Germany without a legal permit. He had recently discovered that he had a severe form of AIDS. After having lived for such a long time under the threat of being sent back to his country, he had finally received the residence permit under this new article of the law and was undergoing intensive antiretroviral therapy free of charge.

No situation could reveal more obviously the recent change in European politics of life than this shift from political asylum to humanitarian reasons. For the French government and parliament, the legitimacy of the suffering body has become greater than that of the threatened body, and the right to life is being displaced from the political sphere to that of compassion. It is more acceptable and less dangerous for the state to reject an asylum claim, declaring it unfounded, than to go against medical expertise recommending a legal permit for health reasons. On Tuesday, October 7, 2003, access to French territory was refused to a woman from Chechnya and her two young children who had asked for political asylum. Her husband and father-in-law had been abducted by men with uniforms in Grozny; the former was never seen again and the dead body of the latter was discovered a few days later. When she started to search for her husband, she received an anonymous letter threatening her and her children with death if she continued her inquiry. The French administrator of the Ministry of Foreign Affairs who met her at the Roissy airport, however, concluded that she could not show sufficient evidence of exposure to threat, and thus a few hours later, before a lawyer could intervene in her defense, she was sent back to Moscow with her children (Fédération Internationale des Droits de l’Homme 2003).

This is one of the many examples in which asylum seekers are denied entry even before they can file their cases. Meanwhile, state medical experts face an increasing task of ruling on the “humanitarian reasons” of claims, and immigration services are ordered to systematically “follow medical advice,” except in cases in which there is a “menace to public order.” It is much less politically risky for the government to deny entry to refugees than to expel a patient with AIDS or cancer. In Agamben’s (1997:9) terms, the full life (bios) of the freedom fighter or the victim of repression has less social value than the bare life (zoë) of the immigrant suffering from a severe disease. Many foreigners understand in their “flesh,” to use Maurice Merleau-Ponty’s concept (1964), that their presence in France is not recognized for the political risks they have taken or the dangers they face but rather for the physical or psychic distress they can demonstrate. Their access to French

society is deeply marked by this often humiliating experience of having to use their biology rather than their biography as a resource to win the right to exist.

In his study of the “double absence,” Abdelmalek Sayad (1999) asserted that “the immigrant is but a body” and that its dysfunctions reveal “embodied contradictions.” A few decades ago, this body was legitimate for economic reasons and disease would be suspect. I suggest that the situation is reversed now. The body being useless for work, disease has become a social resource. Up to the 1970s, immigrants were workers whose labor was necessary for the reconstruction of European countries profoundly damaged by World War II: in those days, their work permit served as a residence permit. Their bodies had to be healthy, and if that was not the case, then they would be suspected of feigning illness to gain the benefits of the social security system. Times have changed. With the modernization of industry, which has replaced most of the unskilled labor by machines, their bodies have become superfluous because of real or supposed competition in the workforce, with the exception of certain economic sectors such as the building or clothing industries, in which illegal workers are still a necessary source of cheap labor (Morice 1997). In this new economic context, it is now the suffering body that society is prepared to recognize. The undocumented immigrants have understood this shift well, and some do not hesitate to engage in hunger strikes when seeking to have their rights recognized (Siméant 1998). Instead of provoking suspicion, illnesses now seem to be the most successful basis of claims for many undocumented immigrants, a condition I call “biolegitimacy” (Fassin 2000)—the legitimization of rights in the name of the suffering body. In the context of a consolidated European Union, which has strengthened control at its frontiers, the political economy of contemporary Europe has reduced immigrants from poor countries to what Hannah Arendt called “workers without work, that is, deprived of the only activity left for them” (1983:38). Its moral economy has evolved toward a compassionate attention to individual suffering in which the search for a common humanity resides in the recognition of bare life, that of the physical alterations of the body.

However, in this paradigm, political asylum and humanitarianism still remain two separate and parallel entities that appear to represent distinct moral values. The mere fact that a rejected asylum seeker can be encouraged to present his or her case again under a humanitarian rationale underscores that there are two different administrative realities governed by separate institutions: the OFPRA, under the Ministry of Foreign Affairs, and immigration services, under the Ministry of the Interior. However, recent evolution in political discourse and practice suggests that another paradigm is emerging, in which the two norms are becoming irrevocably linked, with the category of asylum increasingly subsumed under the category of humanitarianism.

The Humanitarianization of Asylum

The *East Sea* ran aground off the French Riviera on February 17, 2001. It had 900 persons on board, most of them Kurds. It was only one of many ships

carrying thousands of people every year as they flee countries in Eastern Europe, Africa, and Asia to better their conditions of existence. The first public reaction was quite hostile. The wreck raised suspicions of what many political commentators described as a “planned” accident that would force France to receive the ship’s passengers. During the days that followed, the socialist government as well as its right-wing opponents converged in denouncing the shipwrecked foreigners as “illegal immigrants” and condemning the “criminal organizations” that had helped them on their way to Europe. This discourse had the effect of disqualifying any claim to political asylum on the part of the passengers: they were to be considered as *clandestins* (illegal immigrants) rather than possible refugees. Publicly represented as such, they were parked in a “detention center” without any freedom of movement. Nevertheless, as the television coverage started to show images of destitute families, crying children, pregnant women, and sick old people behind barbed wired fences, indignant reactions were provoked from human rights associations as well as from the media and the public. This gave birth to a different rhetoric. They became “victims” of political oppression as well as of common misfortune. Surely, the “homeland of human rights” would not let them suffer in what was now referred to as a “camp.” In response to this unexpected wave of collective sympathy, Prime Minister Lionel Jospin declared that each situation would be examined on the basis of “humanitarian criteria.” He did not mention claims for asylum but instead evoked the sense of compassion one needed to have under such circumstances. As *Le Monde* commented approvingly: “The heart has its reasons, indeed even its reflexes, to which reason must listen” (2001a). This approximation of Pascal’s aphorism eluded what could be more bluntly cast as the mere substitution of a political right by a moral sentiment. In fact, the residents of the “detention center” were relocated to small units dispersed all over the country, and their files were evaluated by the OFPRA, which recognized 83 percent of the claimants as refugees—an exceptionally high proportion in a period when this institution delivered political asylum to only 12 percent of all candidates. National emotion had indeed benefited them. Moreover, the demographic cost was low, because only 160 of the shipwrecked Kurds ultimately stayed in France, the rest of them preferring to go to other European countries, mainly Germany, where they had more effective networks.

Following Hannah Arendt’s analysis (1951) of “the decline of the nation-state and the end of human rights,” one can assert that the Geneva Convention was a response of the international community to the neglect of the 32 million refugees and stateless people during the 1930s and 1940s. However, beyond this ideological goal were the pragmatic objectives of meeting the concrete needs of “displaced persons,” whose number reached seven million immediately after 1945, and of solving a series of demographic and economic problems linked to the losses of war and the requirements for reconstruction. In the case of refugees and stateless persons, one should certainly not idealize the conditions of the founding of a new world order on the UN’s Universal Declaration of Human Rights (Noiriel 1991). If the “never again” leitmotiv in the wake of the Holocaust was a strong incentive

for the consolidation of a specific status of “political asylum,” the universal solidarity that it expressed in official rhetoric did not exclude national interests that manifested themselves through background discussions about the distribution of refugees and the stateless among European nations, mainly on economic grounds. Whatever the motives of governments, the Geneva Convention had a strong symbolic effect reversing the stigma that had affected “displaced persons” in the aftermath of the war (Cohen 2000). The international status they received in 1951 gave them a transnational nobility through recognition of the rightness of their political cause or, at least, of the wrongness of the violence to which they had been submitted.

Although it took some time to enter into administrative practice, the legitimacy of political asylum grew after the Geneva Convention. The “undesirables” became heroes for some, victims for many. They served as symbols of resistance to oppression, as in Chile after the 1973 coup, or of the suffering of the oppressed, as with the Vietnamese boat people of 1978. The level of protection they received during this period was a sign of this social recognition (Brachet 2002). In France, social rights for refugees obtained between 1975 and 1984, including authorization to work and social aid for the unemployed, were extended to asylum seekers in 1985. This evolution is all the more remarkable given that the period is also characterized by an overall setback in policies toward immigrant aliens, particularly the interruption of labor immigration in 1974, followed by the restriction of provisions for family reunion in 1984 (Weil 1991). In fact, until the early 1980s, refugees were the most legitimate figures within the implicit—and sometimes explicit—hierarchy of foreigners, and they thereby benefited from relatively privileged conditions. At that time, asylum seekers had a reasonable probability of achieving this socially valued status. But, as Giovanna Zincone (1997) suggests: “We tend to be better at practicing the virtue of tolerance when it is least needed.” Generosity was not so difficult in those years because few benefited from it, and the rate of official recognition was high because the number of claims was small. France needed a labor force, as did other European countries, and instead of entering the long administrative path of asylum, most politically oppressed people preferred to get a work contract that entitled them to stay. In the mid-1970s, when the positive image of political asylum was at its peak and when the social rights associated with it were being extended, the presence of refugees in France had reached its lowest level since World War II. Moreover, during this period asylum seekers were mainly from Eastern Europe and East Asia, groups that were assumed to be easier to assimilate. This happy picture was to change rapidly during the 1980s.

The year 1989 represents a turning point. The number of asylum seekers entering France that year was the highest recorded in decades: 62,000 new files, compared to roughly 20,000 in the early 1980s and a meager 2000 in 1974 (OFPRA 1996, 2004). This spectacular increase was mainly the result of the end of the Cold War and the opening of the borders of formerly communist countries. However,

it was more profoundly a sign of structural changes occurring in international migration. At the global level, the rapid transformation of a "new world order" determined an exacerbation of nationalisms and transnational processes resulting, on the one hand, in a series of regional conflicts and, on the other hand, in the development of clandestine immigration networks. Both phenomena led to an acceleration in the movements of human beings (Kearney 1995). In the local logic, with increasingly restrictive immigration laws, asylum became one of the only remaining "avenues of access" to legal status, thus facilitating a lack of distinction between political and economic motives (Watters 2001). Confronted by an increase in claims, the most common political reaction was to denounce the "crisis in asylum." The socialist Prime Minister Michel Rocard made his famous statement, "France cannot welcome all the misery of the world." This rhetoric reinforced the confusion between economic immigrants and political refugees, thereby discrediting the latter. Asylum seekers became suspect. Soon the dramatization of this discourse legitimized the use of more severe criteria for recognition of legal status and an increasing restriction of social rights.

As Aristide Zolberg (2001) has suggested: "Indeed the prevailing sense of an 'international migration crisis' has profoundly inflected the consideration of policy alternatives. In particular, it has been invoked to justify draconian measures to protect national borders, even at the expense of obligations towards refugees." The story of the *East Sea* illustrates how asylum has become a concern of ordinary policing, interrupted only by specific political emergencies that arouse temporary public sympathy toward victims. The dramas of Bosnia and Kosovo are examples of these fitful displays of generosity when the political elite tries to follow or even anticipate public opinion (Rosenberg 1995). However, the victims of violence very soon become mere illegal immigrants again, and they are hunted down as the Bosnians and Kosovares have been on the shores of Italy. Episodes of compassion toward refugees thus appear as privileged moments of collective redemption eluding the common law of their repression.

However, to make this repression socially acceptable, one has to disqualify asylum seekers. Here, the performative power of words is particularly effective in attaining this objective (Fassin 1996). The claimants are commonly designated as clandestins, thus justifying official actions against them, such as sending them to detention centers or driving them back to their countries. Even the services in charge of the reception of asylum seekers seem to have internalized this negative representation. A social worker in one of my studies explained, for example, that although such claimants had the official provisional status of asylum seekers, she considered them to be *sans-papiers* (i.e., undocumented) because she knew that most of them would end up as such. Her anticipation of the eventual outcome, which was statistically correct in more than eight cases out of ten, led her to deprive them of universal social security benefits, for which she substituted less beneficial and clearly stigmatized charitable medical aid. In this process of disqualification of refugees, successive French governments developed three strategies.

The first is dissuasive and based on the principle of deterrence through restrictions on welfare benefits (Düvell and Jordan 2002). It consists in reducing the social rights of the asylum seekers through suppression of the housing subsidy in 1989, the suppression of the authorization to work in 1991, and limitation of financial aid to one year and to a monthly allotment of \$250 (one third of the poverty level). With this new situation, asylum is supposed to be less attractive—especially in relation to neighboring countries such as Britain. The second strategy is repressive and corresponds to a “criminalization of immigrants” (Palidda 1999). It includes driving back asylum seekers seeking to enter the national territory, confining them in fenced detention centers, implementing the unique French system of *double peine* (a double sentence), specific to aliens. Those who refuse to embark on planes are first condemned to prison and are then deported when they get out of jail. More generally, these immigrants are included in the category of ordinary “delinquency” as it appears in police statistics. The third strategy is distinctive and intended to restructure the status of refugees on a “discretionary” basis (Delouvin 2000). The 1998 law passed by the socialist government thus distinguishes “conventional asylum” from two other forms: on the one hand, “constitutional asylum,” a category corresponding to the supposedly nobler and rarely granted status of “freedom fighter,” and on the other hand, “territorial asylum,” a category for victims of nonstate persecutors. Initially invented for Algerians, this last category actually appeared to be a disguised and precarious form of temporary status, as it is reevaluated every year to facilitate a return to the country of origin when the political situation there is deemed to be more democratic and stable. To harmonize European policies, this specific status was later abandoned but replaced by an even lower one.

Within this new context, the confinement of asylum seekers in transit camps becomes possible, and the government can pretend to forget that they are seeking asylum and generously offer them humanitarian treatment. A display of sympathy thus replaces the recognition of a right. The biopolitics of asylum must be understood as the substitution of a social order founded on “obligation” for a social order grounded in “solidarity,” to use Georg Simmel’s words (1998). The recognition of the refugee status by European nations appears as an act of generosity on the part of a national community toward a “suffering stranger” (Butt 2002) rather than the fulfillment of a political debt toward “citizens of humanity” (Malkki 1994). Constructed as illegal immigrants and commonly qualified as clandestins, asylum seekers oscillate between being objects of repression and compassion. On the one side lie the waiting zones, where 18,936 foreigners were detained in 2000 and where a state of exception reigns that has been denounced both by human rights activists and by the appeals court of Paris (Rodier 2002). On the other side lie humanitarian organizations that offer assistance by preparing narratives corresponding to the expectations of state officials and by testifying as medical doctors to physical and psychic traumas (Veisse 2003). The hierarchy introduced among refugees in the new French legislation appears to be a clear contradiction of the

Geneva Convention as well as a paradoxical evocation of its deep historical significance. At the top of this hierarchy stands the eternal hero who (exceptionally) obtains constitutional asylum for his or her fight against oppression and his or her defense of liberty; next comes the permanent victim who (less and less frequently) receives through conventional asylum official protection for the violence inflicted; lower still comes the transitory victim who (increasingly) occupies a provisional status that is as precarious as possible to avoid future integration; and at the bottom lies the great mass of asylum seekers who will be classed as illegal immigrants and chased by the police. The harmonization of European policies after the Convention of Dublin in 1990 tends to pull this hierarchy downward, while at the same time appearing to be more subtle than the classical dualism between the “deserving” and the “non deserving” (Sales 2002). For instance, in the European Union in 1999, only one refugee in five had been recognized under the heading of conventional asylum, whereas four in five received the recently invented “subsidiary protection,” also called “status B,” which replaced the French territorial asylum (Bouteillet-Paquet 2002). But on the whole, both statuses left out several hundreds of thousands of rejected aliens who had sought in vain protection from the Geneva Convention.

The Last Camp

Agamben (1997:195) posits two models of social organization, the camp and the polis, and concludes that the former and not the latter corresponds to our late modernity: “The biopolitical paradigm of the West today is not the polis, but the camp.” And by this word, he meant the concentration, and even the extermination, camp. Commenting on this polemical sentence in *Le Monde* (2004), he insists that this is “a philosophical thesis and not a historical narrative.” The pessimistic vision that it expresses has the merit of attracting our attention to the places where, and the moments when, the state of exception becomes the rule. These are the sites that Carl Schmitt (1985:5) defined as the foundation of sovereignty in his political theology: “Sovereign is he who decides on exception.” Certainly, from an anthropological perspective, this tension between the camp and the polis cannot be discussed as a desocialized space or in an ahistorical time. To put it bluntly, Sangatte was neither Auschwitz nor Guantanamo—the two camps positioned by Agamben (2003) as the horizons of contemporary biopolitics. In Sangatte, no citizenship was recognized, but human rights were respected; foreigners could claim asylum in France; the circulation of people was free as long as they did not try to cross the channel; whereas humanitarian organizations, lawyers, journalists, and even ethnologists were allowed to cross freely. So, the parallel with Auschwitz or Guantanamo is misleading. However, as long as we avoid the intellectual perils of mere analogy, thinking about Sangatte in terms of the broader form of the camp might help to comprehend the profound nature of our treatment of refugees and in a broader sense the moral economy of our societies.

In the present French context, to designate Sangatte as a camp is a highly polemical act, because the memory of transit camps such as Drancy (from which French people, mainly Jews, were sent to Auschwitz after 1942) has been recently revived by historiography, literature, and cinema. Significantly, Smaïn Laacher, the sociologist who was contracted by Sangatte's director to write the history of the place and its occupants through a study of asylum seekers, refers to it as "Sangatte Center" in his book (2002), but the title of a lecture he gave to the League of Human Rights at the Ecole des Hautes Études en Sciences Sociales in 2003 referred to it as the "Camp of Sangatte." In the war of words that surrounds the issue of immigration, this expression has generally been used by those who denounced the site as shameful for France. In May 2002, Nicolas Sarkozy made his first official visit as the newly designated Minister of the Interior to Sangatte, immediately announcing that he would close it, but this was not just for "humanitarian considerations" or because it was "a facilitator of illegal networks"—as he declared on June 4, 2003—but also and primarily because it was a "symbol" (Carrère 2002) through which the memory of the past could too easily and effectively be evoked by critics (see Figure 4).

In fact, the history of camps in France began a little before World War II (Peschanski 2002). The confinement of undesirable foreigners in specialized centers had been decided in the decree of November 12, 1938, "in the interest of public order and security," as xenophobia and anti-Semitism were at their climax in France. The first camps, initially designated as "concentration camps" (an expression that later turned out to be difficult to keep using), served to gather Spanish Republicans fleeing Franco's dictatorship after the fall of Barcelona on January 29,



Figure 4

A geography lesson among Kurd asylum seekers (Zidane is a French soccer-player of Algerian origin known as "best player in the world" who has become the symbol of "successful social integration"). Artist: Plantu (*Le Monde* 2002b).

1939, and collected some half a million people in the south of France, the majority of whom were repatriated more or less voluntarily within a few months. During the weeks that followed the declaration of war against Germany, on September 3, 1939, 83 "confinement camps for the enemies" were progressively added to the eight camps already devoted to Spanish refugees. The French policies at that time were much more repressive than those of other countries such as Great Britain. After the defeat in June 1940 and the instauration of the Vichy regime, the camps served first to detain communists and then, increasingly, Jews, but it was not until the spring of 1942 that they became the antechamber of the final solution under the designation of "transit camps." When the war ended, the same camps ironically served to confine Nazi collaborators until May 1946.

One should certainly not confuse Sangatte, conceived at first to give shelter to candidates for immigration into Britain, with the transit camp of Drancy, the camp for "undesirable aliens which opened at Rieucros," the camp for Spanish refugees of Saint-Cyprien, the camp at Chateaubriand where communist detainees were arbitrarily executed, and the camp at Montreuil-Bellay where 1,000 nomad Gypsies were held, or the Conciergerie where collaborationists were imprisoned after the liberation of Paris. Each one of them had its own reason for being, its specific logic of confinement, and its particular rules of control. However diverse the social realities of the camps may be in these different moments of the dark side of French history, the permanence of the camp structure is in itself revealing. Indeed, Erving Goffman (1961) discovered a common functioning of what he called "total institutions" behind the different motivations that gave birth to the psychiatric hospital, the prison, and the convent, and it may be possible to transcend the historical variety of the camps to unveil their shared signification.

The camps correspond to a specific response to problems of public order by instituting small territories of exception. What justifies these local states of exception is an emergency that makes the gathering up of people appear as a practical solution. But the suspension of the usual social norms is accepted only because it is implemented for "undesirable" subjects. A situation that should be considered intolerable is in fact tolerated because the public order is threatened by immigrants, enemies, communists, gypsies, Jews, and collaborators. Therefore, because Sangatte is open for asylum seekers to come and go (under control of the police) and is administered by a humanitarian organization (with the collaboration of many volunteers), it cannot therefore be simply equated to other camps in modern French history. Nonetheless, the memory it disturbs tells us a profound truth. This memory says less about the center than about its inmates—who might be better described as "vagabonds," in Zygmunt Bauman's (1998) terms. From a long-term perspective, it becomes obvious that the opening of Sangatte recasts the asylum seekers as the new "unwanted"—a role they have long occupied, as Michael Marrus recalls (1985). The present reinvention of the camp reveals the continuity of the preoccupation: the camp draws attention to those who are constructed as living outside the polis—literally, the "alienated." The contemporary figure of the

alien is the asylum seeker. As such, it became the theme of *Last Caravanserai*, an eight-hour play created by the famous director Ariane Mnouchkine in the Cartoucherie de Vincennes near Paris and later presented as the main event of the Avignon Festival: "The Théâtre du Soleil carries the voices of the refugees," ran the headline of *Le Monde* on April 1, 2003, indicating that the text had been based on "testimonies from Sangatte and other places." The drama of the asylum seekers had given birth to a national cultural performance.

Viewed from Europe, the figure of the asylum seeker is today essentially constructed within the framework of what Liisa Malkki (1995) calls the "emergence of refugees as a third world problem." On the one hand, it corresponds to a demographic reality crudely illustrated by statistics: most of the world's refugees come from poor countries. On the other hand, it reveals a political truth that is often neglected: the majority of them remain in poor countries. With 154,000 new refugees in 2002 and a total of 4.2 million refugees, Europe is only taking a limited share of the global distribution of the estimated 17 million victims of forced displacement in the world under the UNHCR responsibility (2004). And with 102,000 recognized refugees and 47,000 asylum seekers living in France, the so-called "crisis of asylum" is quite minor compared to small African countries such as Guinea, where more than 400,000 refugees are packed in camps (Wihtol de Wenden 2002). The dramatization of the situation in Western countries thus results far more from representations than from social facts; but then, one knows that in this matter, as in others, representations are social facts (Rabinow 1986). Bearing these paradoxes in mind, one can understand the biopolitics of asylum, which falls under a larger biopolitics of otherness in a polarized world, as a two-sided phenomenon.

On the one side is the polis within a protected European space of aggregated nation states, the highest protection being among the 25 nations of the European Union. Its core was delimited in 1985 by the Schengen Convention as a zone that should be defended against aliens. The Tempere Conference in 1999 defined a new common policy linking the forms of immigration that it was supposed to discourage with asylum that could then be more effectively restricted. Those who are identified as belonging within this European space are called *communautaires* (community members) and those who are identified as outside of it are, *étrangers* (foreigners). The protected zone is thought to be threatened by two kinds of security problems. First, public security at the national level menaced by terrorist attacks and at a local level by ordinary criminality and delinquency. These have become the major issues of French politics during the early 2000s, as the combined result of the international situation after September 11 and a national political campaign based on everyday insecurity. Second, social security is threatened, whether it is thought of as an outcome of the welfare state present inside the French territory or extended, under certain conditions, to the wider European space. The argument that an influx of too many immigrants or refugees would endanger the welfare system is often presented as a reasonable justification for the implementation of draconian policies. A third

dimension of the menace has recently become perceptible. Although difficult to name, as it is masked by cultural or religious, sometimes ethnic, description, it can be characterized most bluntly as racial security: it has to do with the protection of a European, Christian, and white civilization against Third World, Muslim, or black populations, as the debates surrounding the entrance of Turkey to the European community and the contestation about Islamic veiling in public institutions in France have revealed. Within this context, which has evolved far from the humanist principles of the Geneva Convention, asylum seekers and aliens in general are seen as potential threats to these three dimensions of European security.

On the other side of the biopolitics of asylum lies the camp as a territory of exception. Although Sangatte represents the most famous and symbolic image of this figure, it is only one of its numerous manifestations, and it is certainly not the worst. In the 122 “waiting zones” existing along France’s borders, where asylum seekers are retained until official agents decide whether they will be allowed to present their file, human rights activists regularly criticize the indignity of the accommodations and the violence exerted by the police, the lack of communication with the outside, and the impossibility of receiving the legal assistance of lawyers, as well as the absence of any external control or judicial appeal. Of the detention centers where the undocumented foreigners, many of whom are rejected asylum seekers, wait to be deported, many reports, including some from the conservative senate, have denounced the inhumane conditions and the suspension of normal rights. The unique “double sentence” is applied to aliens accused of delinquent or criminal acts, which in most cases are simply acts of resistance to expulsion. These individuals are condemned to be imprisoned and then driven out of the country on release, no matter how long they have lived in France, in some cases from the time they were children. In the first months of 2003, two immigrants died of suffocation as they struggled against police officers attempting to secure them for detention. The aftermath of this case demonstrates how far one can go to get rid of the undesirable with apparent impunity and little public outcry. These scenes delineate a map of territories within the European political geography where the exception comes to be tolerated (see Figure 5).

Contrary to Agamben’s prophetic view that the camp, and not the polis, is the biopolitical paradigm of the West, I would rather say that these are the two sides of contemporary democracies. Because these regimes defend the polis for the happy few, they invent the camp for the undesirable. In the former, life is recognized as the political existence of the citizen, whereas in the latter, it is reduced to the bare life of the vagabond. Between the polis—however idealized it may be—and the camp—however marginal it may seem—the tensions are thus extreme. However, it would be cynical or simplistic to think that the collective renunciation manifested by the camp is the price we pay for the comfort of the polis. Indeed, these tensions between the two figures of our world explain why, with respect to asylum seekers and unwanted others in general, repression and compassion are so profoundly linked. Not only is there no separation between



Figure 5

Search for carbon dioxide to detect human presence in trucks crossing the border from France to England. Artist: Oliver Clochard. Courtesy of Groupe d'Information et de Soutien des Immigrés 2001.

the humanitarian and the political but, in contradiction with Agamben, I suggest that the latter increasingly integrates the former, which in return redefines it. The increasing confusion between the humanitarian and the political is a structural feature of contemporary biopolitics.

Expressing sympathy for the asylum seeker or the undesirable immigrant holds fewer benefits for that figure than it has for us, as we show how humane we finally are. The medical doctor legalizing the unwanted refugee whose presence suddenly becomes legitimate because of a life-threatening disease, as in the case of the young Haitian woman, and the chief of government who asks civil servants to examine claims for asylum with humanitarian feelings, as in the case of the Kurds of the *East Sea*, both participate in a redefinition of the moral economy of our times: a unique combination of policies of order and a politics of suffering, in which the protection of security for the few within the polis is maintained while a compassionate treatment for those within the camps is assured.

The young Afghan hero of Michael Winterbottom's 2003 film *In This World* leaves a refugee camp resembling a city in Pakistan, which is the country in the world with the highest number of refugees. He crosses countries in buses and trucks, endures misfortunes, and confronts dangers to reach Istanbul. Later, he loses his older companion who dies asphyxiated in a container while traveling by

boat to Italy. Finally, he reaches Sangatte, the last waystation before Britain, where he will subsequently succeed in becoming a dishwasher in a restaurant and obtain subsidiary protection until he reaches his legal majority. For him, Sangatte exists only as an episode in his journey, the last station as he enters the polis where he will join the ranks of the third world underclass. To get there, the risk he took was (merely) his life. The sympathy he arouses among the film's spectators makes them believe that, beyond his misery, they share a common humanity. For this moment of fictional illusion in our moral world, the film surely deserves the Golden Bear, the Prize of Peace, and the Prize of the Ecumenical Jury, all of which it received in Berlin in 2003.

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ABSTRACT *Immigration policies in Europe in the last three decades have become increasingly restrictive. During the 1990s, political asylum lost much of its legitimacy, as new criteria based on humanitarian claims became more common in appeals for immigration. Asylum seekers were increasingly identified as illegal immigrants and therefore candidates for expulsion, unless humanitarian reasons could be found to requalify them as victims deserving sympathy. This substitution of a right to asylum by an obligation in terms of charity leads to a reconsideration of Giorgio Agamben's separation of the humanitarian and the political, suggesting instead a humanitarianization of policies. Sangatte Center, often referred to as a transit camp, became a symbol of this ambiguous European treatment of the "misery of the world" and serves here as an analytical thread revealing the tensions between repression and compassion as well as the moral economy of contemporary biopolitics. [immigration, asylum, France, biopolitics, humanitarianism]*