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Chapter 11

POLICE DEVIANCE IN FRANCE

Fabien Jobard

France holds a somewhat unique place in the European political space when seen through the prism of the police institution. France shares with Turkey the dubious distinction of having been twice censured for ‘torture’ by the European Court of Human Rights (in view of the European Convention on Human Rights). Moreover, these two condemnations did not occur during as disturbed a period as, for example, the Algerian war of independence (1954-62), but consecutively in 1999 and 2002 (in the cases of Selmouni vs France and Mouisel vs France).

But these two cases are not necessarily exhaustive of the magnitude of the problem in France, as shown by the rather spectacular uprisings that occurred in October and November 2005 in more than 250 cities in France, following the death of two young boys of African descent in a housing estate near Paris (Waddington et al., 2009). The factuality (i.e. the frequency and gravity) of the infringement of human and minority rights by the police in France is a secondary problem with regard to a sociological or ‘politological’ analysis of the problem in the sense that any social problem in the public sphere is merely regarded as a constructed object and, therefore, quite naturally ‘distorted’ by the players who initiate a discussion on it (Gusfield, 1984). Our intention here is to try and assess the extent of police deviance, apart from its articulation as a ‘public problem’. Our aim is to try and ‘measure’ acts whose primary characteristic is their very opacity and considerable difficulty in enumerating them; the same applies to other deviant phenomena (whether criminally reprehensible or not), but often for different reasons, such as white-collar crimes, sexual delinquency, consumption of alcohol or cannabis, etc.

In order to do this, we will demonstrate the considerable difficulty created by the problem of measurement through the medium of a conflict which for some years put the French government at odds with one of the institutions of the Council of Europe. This will help us, in passing, to get a better idea of the magnitude of the problem of police brutality. Then we will examine the problem of discriminatory practices on the part of the police in France **because the problem** of police violence is difficult to dissociate from police interactions with ethnic minorities.

I - Counting violence committed by the police: raw facts and narratives

‘A non-negligible risk of being mistreated’: this is the conclusion reached by the European Committee for the prevention of torture and inhuman or degrading punishment or treatment (CPT) following its visit to France (from October 27 to November 8, 1991) to determine the probability of occurrence of improper use of force by the police. The CPT is an independent organization created by the signatory States of the Council of Europe to ensure the effective enforcement of paragraph 3 of the European convention of human rights (‘No one may be subjected to torture or to inhuman or degrading punishment or treatment’). The CPT has the rare privilege of being allowed to make surprise visits to police stations and on the basis of its first-hand testimony, to challenge the government. Whereas associations such as Amnesty International must rely on the publicly available press as their source of information, the members of the CPT have complete freedom to uncover actual practices, behind the clauses in official documents on the legal use of force.

‘A non-negligible risk of being mistreated’. This sounds like both an evaluation and a warning: like a value judgment (a moral judgment) and a factual judgment (a scientific judgment). Is the approximation ‘non-negligible’ a sufficient expression of the gap between recorded facts and those acts that are unknown but believed to exist ? The CPT assessment raises the issue of its particular way of evaluating the probability that unlawful violence is exerted by some law enforcement officers. Let us look at how this judgment was generated: what are its foundations ? Next, we will follow the conflicts of interpretation between the French government, opposed to the verdict, and the CPT, which maintained it. What are the rules governing the calculations of probability used on each side ? Finally, we will attempt to determine whether the two views may be reconciled, and at what cost.

I - Probabilistic vs. judicial approaches in counting police violence cases

(...) The delegation heard a considerable number of allegations of more or less serious mistreatment inflicted on individuals in police custody. The allegations voiced mainly accused the police. They included: punching and slaps; hitting on the head with a phone book; psychological pressure; insults; deprivation of food and medication (...). The existence of this type of mistreatment was corroborated by several reliable sources. To illustrate this, the CPT mentions the case of a woman drug abuser seen during its visit to the Marseille-Baumettes prison who had allegedly been beaten during questioning by the police early in 1991. Her medical record showed that when she arrived at the prison she was heavily bruised and presented hematomas consonant with her allegations. The woman claimed to have filed a

complaint. (...) The CPT was led to the conclusion that a person taken into custody by the police runs a non-negligible risk of being mistreated' (CPT 19 jan. 1993, 15).

Here, then, are the grounds on which the CPT founded its evaluation of the risk of unlawful violent acts: 'a considerable number of allegations' (...) 'corroborated by reliable sources' and by one testimony cited 'to illustrate this'.

The French government made its response known promptly. Citing the conditional terms used by the Committee (the lady 'had allegedly been beaten' and 'claimed to have filed a complaint') it recalled that a duly founded judgment requires proof, which distinguishes it from a simple slanderous charge. It was therefore opposed to this formulation. In its opinion, the guarantees surrounding the use of force by police officers in France, and especially the code of ethics of the National Police department (1986) and the Declaration of human and citizen's rights (1789) considerably reduce the risk of mistreatment. Mistreatment is subject to preventive action defined by official texts, thanks to which it is quite infrequent, and the French government stressed the small number of allegations of violent acts reported to the board of control and disciplinary action of the national police force (at this time, about 250 to 300 annually) in France. Consequently, the government did not feel obliged to take action against this supposed risk:

'The Committee does point out that the expression 'non-negligible risk' was intentionally used instead of the expression 'serious risk' employed for other countries, so as to relativize its conclusion; nonetheless, the minute number of cases of this type brought to the knowledge of the judicial authorities in comparison with the total number of officers of the police and gendarmerie and the number of individuals held in police custody necessarily further accentuates this relativization. Moreover, for lack of details on the elements on which the Committee bases its assertion, the French government is unable to provide any valid response, and this leads it to express its reservations with respect to this assessment, which should be more explicit and given detailed discussion, at the very least' (CPT 19 jan. 1993, 4).

The conflict between the European Committee and the government went on for months and years in the same terms. The government waited for the Committee to furnish proof that the woman had definitely been the victim of materially identifiable assaults and that similar assaults had been observed on a sufficient number of victims for the expression 'non-negligible risk' to be attested by material facts. In response, the Committee could only brandish its conviction of the probability of all sorts of other unlawful forms of assaults on the body or breaches of the dignity of individuals held in police custody. In its last follow-up report on the 1991 inspection, the government draws the following conclusion: 'The French government notes that the Committee has still not given it the means to provide concrete

evidence so that it may defend itself against allegations which continue to be formulated in very elliptic terms' (CPT 17 feb. 1994).

A charge that is not supported by any element of proof is an allegation, and an unlawful one if it insults the honor or the dignity of the person concerned. The French government, accused by the CPT, asserts the need for proof as a guarantee that individuals are accountable and responsible for their acts. It refuses, and rightly so, to conceive of a charge unless an act has been committed. And the charge must then involve a duly recorded offense, and not a probability adducing a risk. This defines the gap between two judgments on a particular state of affairs: the illegitimate use of force by police officers in France. On the one hand, the government refuses anything other than recorded facts. On the other hand, the European Committee wishes to establish probabilities.

2 - Inference from data sampling

This disagreement led the CPT to refine its evaluation tools. During its visit in 2000, in particular, it went to the Paris medical/judicial emergency unit. 'Of the 2,980 individuals brought there by the police between December 1999 and January 2000, 137 showed injuries of traumatic origin and at least 39 showed injuries (hematomas, bruises, scratches, fractures) compatible with their allegations of mistreatment by the police'. The report actually added 'that a significant number of imprisoned individuals seemed frightened and refused to explain the causes of their injuries'. By concentrating its investigations on this unit in charge of providing first aid for individuals taken in by the police in Paris, the Committee proceeded by pre-selection, thus obtaining a double zoom effect. Firstly, it focused on a period coming immediately after interaction with the police, thus leaving little time for the different parties to advance any *post hoc* reconstructions. The Committee thus was able to correct the temporal distance separating it from the time when the individual was taken in. Secondly, it investigated individuals defined by two specific features: they had been victims of violence, and had been taken in by the police. This gave the Committee the possibility of learning that a non-negligible number of individuals taken in by the police impute that violence, precisely, to their interaction with the police.

A non-negligible number? Let us return to the precise figure for complaints filed for 'unlawful violence': between 250 and 300 annually in France (289 in 1995, 269 in 1996). There is undeniably a difference here. If we extrapolate from the CPT findings (39 physical problems compatible with the allegations of unlawful violence over a two-month period in Paris and the three surrounding suburban districts, which all gather a bit less than 10 percent

of French population), and if we set aside the number -unspecified, of course, but ‘significant’ -of individuals too ‘frightened’ to make such allegations, we may estimate that over the year, for these four districts, approximately 240 individuals showed bodily damage compatible with their allegations of unlawful violent acts. We are far from the 250-300 complaints filed in all of France at the time of the visit of the Committee. But we are even farther from the number of substantiated cases (by criminal courts or by the internal affairs) at that time, for around 80 percent of the alleged cases were dismissed by the judiciary. The risk of having a complaint filed for unlawful violence result in dismissal of one sort or another is therefore considerable in the case in point.

It is these various aspects specific to allegations of unlawful violence that must be pieced together. On the one hand, according to the CPT, ‘a non-negligible risk of being mistreated’. According to the government, a small number of filed complaints (250-300) and an almost negligible number of substantiated acts (20-25). On the other hand, a number found for individuals who are victims of violence and taken in by the police (for Paris only) and whose allegations are made plausible by the immediate visibility of their bodily injuries and the fact that the action had taken place recently, which is five to six times as high as the number of proved cases established by the justice system for the entire country.

It is precisely by following the repeated exchanges between the French government with its insistence on convincing proof and the CPT with its desire to go beyond appearances that we may identify the line that separates light from shadow, the visible from the invisible. The decisive gap, of course, is the difference between the twenty-odd proved cases and the 500 plausible ones, which only represent a bottom estimation, since they do not consider frightened individuals who are afraid to testify, and are restricted to four districts (France’s administrative system encompasses 100 districts). If we examine the distinguishing features between those cases of unlawful violence that remain in the shadows and those that come into the limelight, those that manage to achieve recognition by the justice system or by public opinion via the press, we find that the latter are subjected to serious constraints on the way.

In so doing, we can also provide some idea of scale. Firstly, the expression ‘police violence’ or ‘unlawful violence’ refers to the overwhelming majority of cases of the type of violence noted by CPT inspectors during the nights spent at the Paris high security ward where injured or sick persons under police custody are kept. Cases of death are rare; by this we mean that for the past 25 years there have been some ten cases of death per year (Jobard, 2002). For the rest, mistreatment mainly consists of blows, probably inflicted when the individual was being arrested rather than when he was in police custody, although

unfortunately we do not have sufficient proof of this. This assessment is made partly on the basis of personal observations in the spring of 2004 during some 250 hours of participation in police activities in so-called ‘sensitive urban areas’ (Jobard, 2006a, 2006b). It is also based on the fact that since the law of June 15, 2000 (prepared by the law of January 24, 1993), the lawyer of the person held in police custody has right of access in the very first hour of detention of the accused at the police station and that all remarks he considers important are forwarded to the prosecutor responsible for both overseeing the conditions of police custody and the investigation into the actions of the person taken for questioning. Typically, we would thus have the report of the physician who has to pay a visit to the individuals in police custody, and note the non-negligible neuropathic compression caused by the application of handcuffs. Indeed, as the authors say, ‘the frequency of these complications is unknown [but] twelve of 190 (6.3 percent) consecutive subjects kept in police custody presented distal neurological symptoms related to handcuff application’ (Chariot *et al.*, 2001).

Generalizing by extrapolating data collected during surveys and applying it to the whole of French territory is difficult. The four ‘Parisian’ districts represent 10 percent of the population, but are at the same time those where police strength is the highest (about a quarter of the total number of police officers in France). Are we to imagine that there are about 4,000 incidents of police excess occurring every year which necessitate moving persons to a medical facility ? If we are to continue this extrapolation, this (speculative) figure should be compared to the number of individuals in police custody reported in France, approximately 470,000 in 2004, to conclude that one in one thousand detainees in France needs medical intervention connected with the circumstances of questioning or, much rarer no doubt, of police custody. Let us however remember that these figures are anyway extrapolations and, as such, they should be treated with caution. They simply help to specify the scale of things.

II - Police and discrimination

We now have to examine a second point. One of the reasons for the fear that forces people interrogated in the Paris hospital by the CPT to remain silent, is the presence in their midst of strangers or people of foreign origin. The report adopted by one of the monitoring bodies of the French police, the Commission Nationale de Déontologie de la Sécurité (CNDS, 2005, p. 496 – see further) states that a ‘large nucleus’ of complainants of police mistreatment (total number = 36)¹ are ‘youth of 18 to 35 years of Maghrebian migrant origin, called in for

¹ Let us right away say, in relation to the earlier remarks about the intensity of violence, that about 40 percent of the 36 complainants did not suffer any medical repercussions, approximately one third experienced a short-lived

questioning in the disadvantaged Paris suburbs' (the four districts mentioned earlier on). It is this issue of discrimination or discriminatory practices that we have to now examine.

The question of relations between ethnic minorities and the police has only become a 'public issue' in the last twenty years, even though police action in urban residential zones in which migrant workers are to be mostly found, especially Maghrebian workers, was much more violent during the entire period of the Algerian war and subsequent years. But during this time, two social phenomena made their appearance. Firstly, the birth on French soil of the children of migrants, who underwent the greater part of their education and their socialization in France and then, at the age of 18, acquired French nationality. Secondly, the growing economic disparity between territories where the migrants lived, on the periphery of towns, a disparity aggravated by the industrial crisis of the mid-seventies (Zauberman, Lévy, 2003; Bonelli, 2007). Public opinion suddenly turned to the specific problem of these deprived urban areas (known in French as 'banlieues') when, the same year the Left came to power (in 1981), large scale violence² broke out in the housing estates of Lyon, bringing into the limelight a population of young children of impoverished workers, most of whom were of foreign origin and who remained outside the ambit of the dominant political debate (Beaud & Pialoux, 2001; Duprez & Hebberecht, 2002; Jobard, 2009 ; Lagrange, 2009; Mucchielli, 2009).

To simplify an extremely complex debate, we can roughly say that there are two distinct modalities of analysis. The first is qualitative and attempts to illustrate either through observations or through interviews, the racist conduct or attitude of the police. Scientific research has explored this avenue briefly, and has highlighted the significance of a racist culture among the French police (Lhullier 1987; Wieviorka *et al.* 1992; Hodgson 2005), which has been very well summarized by Zauberman and Lévy, 'People do not enter the

incapacity lasting less than a month, and one-fifth were complainants who suffered a lasting infirmity or incapacity of more than a year, or else plaintiffs of deceased persons (CNDS, 2005:498).

² Here too, when talking of urban violence, what Anglo-Saxon researchers call 'riots', the nature and the intensity of the violence are not comparable to what this [term stands for in the United States or in India](#). As Zauberman and Lévy (2003: 1073) stressed even before the 2005 unrest ([see also Jobard, 2009](#)):

However, these events are not comparable, in extent and intensity, to the full-scale urban riots that raged in the United States or even in Great Britain. They remain confined to small territories and mostly consist of attacks on private and public property. Cars are burned at random, stones are thrown at the police, and petrol bombs are thrown at police stations or other official buildings. It should be emphasised that there is typically no use of lethal weapons on either side during these riots, and thus, they never result in deaths.

police because they are racist; rather, they acquire racial prejudice through a process of professional socialization. In other words, the habit of judging individuals on the basis of their supposed ethnic characteristics is acquired on the job.’ (2003: 1076). This rough assessment amongst police does not however exhaust, on the one hand, the diversity of available opinions highlighted chiefly by recent researches (Monjardet & Gorgeon, 2005; Pruvost & Névanen, 2009) and, on the other, the gap that still exists between the expression of an opinion and on the job conduct (Manning 1976, Mastrosky, Reisig, McCloskey, 2002; Jobard, 2008). It is however not this first modality of analysis that we are going to discuss here, but the second, which is quantitative in nature.

On the quantitative study front, there is very little statistical data available in comparison with the English-speaking countries. The main reason for this is legal: in France the law forbids the inclusion of any ethnic and religious categorization of the population in public statistics and, more generally, does not allow the processing of ‘personal data revealing racial origin’ based on public records (Weil 2000; Simon 2005). And since most children of foreigners born and brought up in France take French nationality on reaching their majority, they ‘disappear’ from national statistics that only retain a dichotomous indicator: French/foreign. This clause in French law, relative to the protection of individual data has the indisputable effect of rendering racial problems invisible and is strongly discussed in academic circles.

At present, quantitative research that demonstrates discrimination against individuals of foreign origin by the French police is rare. Police statistics show an arrest rate for foreigners that is much higher than for French nationals, and this even when immigration offences are taken apart. Zauberman & Lévy thus mention that the arrest rate among foreigners was about 2.3 times higher in 2001 than the proportion of foreigners in the total French population (Zauberman and Lévy 2004: 1310). In addition, Lévy (1987) had already established that the risk of being taken to court (by the prosecution) and condemned (by the sitting judge) is higher when the person being questioned is of Maghrebian origin, even when controlling for type of offence and social profile of the offender. Lastly, in a recent study, Pager (2008) has demonstrated a close correlation between tribunals where a majority of the harshest decisions were taken (in this case police custody, legal restrictions pending trial and criminal sanctions) and the districts where young men of Maghrebian origin were in the majority: ‘it is the Maghrebian population that reveals the strongest association with local crime control. While ethnicity cannot be directly measured using the available data, these results are suggestive of a strong ethnic component in the local fashioning of punishment’.

1 - Investigation into the judicial handling of 'offences against the police'

In this section, I shall summarize results from a personal study on offences against police officers (OAPO) which highlights some important aspects of the relationships of police and minorities (Jobard, Nevanen, 2008). Data presented here stems from statistics taken from the district court of a town in the outlying suburbs of Paris, where I had also conducted qualitative surveys that showed the considerable and growing tension in the town since 1997, when a young man was shot dead by the police (Jobard & Linhardt, 2008). In the course of these inquiries, it appeared that the offences against police officers were considered by the young Maghrebians there as a particularly discriminatory instrument of repression used by the police against migrant youth.

OAPO are definitely revealing tensions between police and those which they label as 'youths known to the police', among whom we find mainly young men of foreign origin living in deprived urban areas. On the one hand, these offences are used by the police forces as indicators measuring urban violence. But on the other hand, the people who record them are also those who claim to be the victims, they are viewed by the accused as embodying the discretionary element of police power. These offences therefore reveal a crucial part of what goes on between police and the population.

Three offences are involved here: *contempt, obstruction and assault on an officer*. Our data cover 864 adults judged at the criminal court and charged with OAPO. I have collected a sample of over 1,500 cases judged between 1965 and 2005 at a *tribunal de grande instance* (a district court) in an outlying Paris area district. The data cover 864 adults judged at the criminal court and charged with OAPO, plus 268 defendants judged by a juvenile court. These documents do not give any information as to where the offences were committed, nor as to whether the suspect had any previous conviction, nor on social, occupational and marital status, although studies have shown these to be decisive factors in determining the sentences handed out.

a) Broad trends for the offences judged

The evolution of offences judged by the TGI between 1965 and 2005 shows a definite rise in the number of defendants: The OAPO rates were multiplied by two between 1965 and 1975, then leveled off, and doubled again between 1990 and 1999. A major change definitely occurred in the 1990s. No such rise can be found in drugs, property offences, violent offences: the rate of cases judged between 1990 and 1999 was only multiplied by 1.4.

The rise in the number of OAPO judged affects all categories, but differently depending on the type of OAPO (contempt, obstruction, contempt and obstruction, assault).

The proportion of assaults on officers dropped consistently, then rose a bit in the 2000s (one fourth of OAPO were assaults from 1965 to 1984 and only one sixth today). Now, between 1960 and 1980 few cases were taken to court, and the fact that assault represented a large portion of these shows that at the time the police only transmitted those cases they felt were particularly serious. Today we have quite the opposite: the police send all cases to the courts. This leads us to assume that in the past cases other than ‘assaults’ were handled outside the courts, on the spot, by anything from verbal admonition to a couple of smacks. This trend is most probably the other side of the gradual reduction of police brutality.

b) Defendants

In order to get around the lack of information on the origin of the accused, I have coded names and birth places, to set up what we will call, for want of a better name, ‘**race group**’. For the entire period, sixty two percent of the adult defendants are ‘Europeans’, twenty percent are ‘Maghrebians’, fifteen percent ‘Blacks’ (two percent others). This situation was of course fed by major demographic trends within the considered district. If we look at groups for juvenile court defendants, we find that thirty nine percent were ‘Europeans’, forty five percent ‘Maghrebians’ and twelve percent ‘Blacks’. Thus, over the last decade the proportion of the latter two groups was extremely high among those accused of OAPO, especially for juveniles.

A more detailed view of age groups shows a very large proportion of youthful defendants in the ‘North-African’ group. These defendants are strikingly young: for the period as a whole, fifty percent are under twenty two and twenty five percent are under eighteen. If we focus on 2002 and 2003 (data for the juvenile court judge’s chambers were missing for 1999, 2000 and 2001), the median age drops to twenty one. The majority of individuals prosecuted for OAPO are young adults and juveniles, just as were the people tried for unrest during the 2005 riots in a comparable Parisian suburb court. There is no main difference between the youngsters implied in daily conflicts with the police and the ones who took part in the November 2005 disorders.

c) Criminal sentencing and discrimination

The forthcoming analysis concentrates on adults and OAPO only, that is, with no other misdemeanours involved in the same trial (n=864).

Sentences are largely different with regard to the different ‘**race groups**’, since 13.6 percent of the ‘Europeans’ face an unsuspended imprisonment, but 23.6 percent of the

‘Maghrebians’ and 25.4 percent of the ‘Blacks’. Differences also appear with respect to average length of imprisonment: fourteen percent of imprisoned ‘Europeans’ get less than one month jail, but only seven percent of their ‘Maghrebians’ and three percent of their ‘Blacks’ counterparts; similarly around thirty three percent of ‘Maghrebians’ and ‘Europeans’ defendants were sentenced to more than two months of jail, but the proportion of ‘Blacks’ to forty four percent³.

What accounts for these differences? The most important factor is the type of offence get. Indeed, ten percent of ‘contempt’ cases unsuspended imprisonment as opposed to around twenty percent of contempt *and* obstruction or cases and around forty percent of assault cases (***)). Moreover the types of offences prosecuted are definitely not the same for the different groups alone: 61.5 percent of ‘European’ defendant are tried for contempt, only 15.5 percent for assault. Proportions are completely different among the two other groups: around forty two percent are judged for contempt versus, around nineteen percent for assault (***)).

Another reason is the type of trial: in French law, immediate hearing trial (IHT) is prescribed for misdemeanours incurring sentences of at least two years in prison, or one year in case of recidivism (Hodgson, 2005, Aubusson, 2006). Given the fact that the prescribed sentence is doubled in case of recidivism, it may safely be said that people who are given IHT for contempt, obstruction or contempt-obstruction (prescribed sentences = six months) are judged as ‘recidivists’ by definition. Now, defendants facing a IHT proceeding are usually exposed to a greater risk of imprisonment, and our data show no exception to this general statement: forty six percent of IHT-defendants are sentenced to jail against fourteen percent of others (***)); half of the defendants charged with contempt only are sentenced to jail if facing a IHT trial. Again, the differences among the groups are significant in this respect as well: only nine percent of the ‘Europeans’ face an IHT trial, against twenty one percent of the ‘Maghrebians’ and twenty eight percent of the Africans (***)).

As we can see, this study documents potential discrimination engendered by the judicial system rather than by the police; however, the penalties meted out are directed at misdemeanours whose particularity is that it is the police who say they are the victims. The rapid growth of this type of case in the suburban court examined points to growing of conflicts with the police in these areas, which are being taken up, by the courts.

³ Differences are statistically significant concerning the differences in sentences (chi2, <0.01), but non significant concerning the length of imprisonment. In what follows, (***) stands for <0.01 significance; (**) for <0.05 significance, (*) for <0.1 significance, (n.s.) for non-significance.

Beside it, our data do indicate a series of significant differences (more unsuspected prison sentences, longer prison sentences, more frequent requests of civil damages by police officers)⁴. There is thus a series of significant differences, but the variable ‘race group’ does not appear to be significant variable when included in a multivariate analysis with all the others. ‘Maghrebians’ and ‘Blacks’ populations are tried for particular kinds of offences within the OAPO category and more often tried as recidivists... Court decisions pitilessly echo and multiply the singularities of a population which differs in its origins, social status and relations with the criminal justice system.

We now turn on a second aspect of possible discrimination towards minorities in France, which is constituted by stop and searches operations (called “identity checks”) conducted by police officers in Paris.

II Identity checks in Paris

Law and jurisprudence in France on id checks by police officers are rather fuzzy (art. 78.1 to 78.6 of the Code of Criminal Procedure). officers cannot base their checks on the person’s physical appearance, and must allege a presumption that the person is a foreigner, based either on the person’s own admission or on some other « objective » fact (which case law has great difficulty defining). The legislation leaves some room for institutional discrimination here, since the public prosecutor may very well demand that the police target the offense of undocumented migration within an area defined by him.

Profiling may be encouraged by explicitly discriminatory policing policies, but it may also be the fruit of decisions by individual police officers, produced by shared stereotypes as to what should be viewed as suspicious, or as the propensity of any particular minority group to break the law. It may also originate in policies targeting specific kinds of criminal offenses and/or some geographic areas, with no regard for the disproportionate effects of those policies on particular minorities.

Due to the lack of any kind of official statistics on id checks made by police officers in France, René Lévy, John Lamberth and I conducted a research funded by the Open Justice foundation in order to know about who is checked in Paris places and if there is a discrimination between the people checked by the police and the people available on the places where the checks are conducted (Lévy & Jobard, 2010).

In order to do so, we first benchmarked the available population in the places we examined. Around 37.000 people ‘ characteristics were recorded ; these characteristics are : (approximate) age, gender, outfit, (alleged) race. In fact, our aim was to know if the people stopped and searched by the police share the same characteristics like the ones available on the different places. Race, age, gender and outfit are characteristics based on perceptions by the observers we had on the places.

The result is a massive case for discrimination, but race is far from being the only concerned variable. Age and gender are the most important variable at stake: young male are overstopped. Maghrebians and Blacks are also overstopped. For instance, Blacks are overstopped in places where they are only a few among the available population (like on international train peers at North Railway Station in Paris, where they are 7,5% of the available population, but 31% of the checked), and they are also overstopped in places where they are quite numerous (in Châtelet place in the very centre of Paris, which is a place where young people gather and chat, Blacks are 29% of the people available, and 62% of the those checked). In overall, odds ratios of Blacks compared to Whites are comprised between 4 and 11,5⁵; odds ratio for Maghrebians compared to Whites between 2 and 15 – which are very high numbers.

⁴ Fifty one percent of the ‘Maghrebian’ defendants and 46 percent of ‘Blacks’ face police officers asking civil litigation, but only thirty seven percent of the ‘Europeans’ (***). In regards with a logistic regression analysis, this difference is the only one where the group as such seems to have an influence on the observed differences (Jobard, Nevanen, 2008).

⁵ Odds ratios compare the respective probabilities of being checked for different groups in relation to the composition of the available population. Blacks have a risk of being checked compared to the the risk faced by Whites to be checked between 4 and 11,5 times more, with respect to the overall composition of the population.

But the influence of the “outfit” variable appears to be also massive on the respective risks of being stopped. In fact, being dressed in typical youth culture outfit (like hip-hop clothes) seems to influence the stops made by the police in a comparable proportion in comparison to the ones dressed “casual” or “business”. That is to say that police officers seem to target the young male minorities and/or the young male hip-hop youths... which are, in fact, quite indistinguishable: two third of the available population who are dressed in “youth culture” outfit have been sorted in minorities groups.

As a matter of fact, the police in Paris concentrate on a population which has always been a central target: the young male hanging out in public places, where the proportion of minorities is very high. The only belonging to a minority seems to influence the decision to stop made by police officers in Paris, especially as far as Blacks are concerned; but it is the combined belonging to a minority group and to a youth’ group which is over-predictive in the decision to stop. The case for blank racism from the police (or the political authority which drives the police) is then hard to make on quantitative basis, even if the numbers strongly suggest such a problem in the ranks of French police.

Conclusion

French research, especially in comparison to Anglo-American research, does not give precise quantitative information either in relation to frequency of police abuse nor to frequency of discriminatory practices. This confession of weakness should also be interpreted as an imperative of modesty: much of what we know is taken from interviews and very little from observations of concrete situations and even less from quantitative data. From the available quantitative data, we can nevertheless draw a certain number of conclusions.

- 1) Police work in deprived urban areas is characterized by growing dissent over a period of twenty Five years, spectacularly highlighted in November 2005. This situation of conflict is greater when the police interacts with the young, in fact the very young (around twenty years and even less) from a migrant milieu.
- 2) The conflicts are increasingly absorbed by the judicial system. This signifies that cases of settlement of conflicts by the use of physical violence are probably becoming rarer, but on the other hand, the population involved in conflicts with the police is coming increasingly within the ambit of the judicial system, thus reinforcing its character as ‘property’ (Lee 1981) of penal institutions.
- 3) When violence is used ill-advisedly by the police, it remains at an infra-lethal level. The cases of deaths during questioning and above all in police custody have now decreased considerably. This is probably due to greater judicial control exercised on police custody since 1993, including the right to access to a physician and to a lawyer.
- 4) The reports addressed by the Council of Europe to France suggest that the conditions of custody, police opacity and lack of diligence in the handling of judicial matters, implicating policemen, are more prejudicial in France than they are in Great Britain or in the North European countries, including Germany.
- 5) Police discrimination is an issue which cannot be properly assumed at present. It appears that the issue of discrimination is as much territorial as strictly racial. In France there is a vast difference between areas accessible to the middle and upper classes and those inhabited by the working classes, which today comprise in a very large part of people of foreign origin, **the ones who are targeted by the police.**

Consequently, it is not certain that a detailed investigation into the nature of discriminations will enable us to clearly separate territorial, social and racial discriminations.

- 6) Despite this, there exists among the French police a quite unanimously shared stock of prejudices against people of migrant origin. We cannot, however, scientifically establish the link between, on the one hand, an expressed attitude, and, on the other hand, a behaviour on the job and, on this point, probably cannot even distinguish the French police from its European counterparts.

From these facts, various political responses have emerged these last few years. A limited recruitment of officers of Maghrebian origin in the police force has been attempted (Duprez and Pinet 2002; Zauberman and Lévy 2003). We also note the creation in 2000 of a very interesting institution, the *Commission Nationale de Déontologie de la Sécurité*, whose task is to investigate any alleged violation of deontology committed by security personnel, whether public or private (CNDS 2005). Unfortunately, the Commission is not in a position (just like any institution or NGO working on data gathered from testimonies) to establish with precision indirect discrimination on the part of the police **and moreover government's aim is now to abrogate this institution.**

Lastly, it should be noted that the issue of police abuse and discrimination acquires a new place in French society. Carried by a wave of 'law and order' measures, the questions of security and of the police have acquired since a decade and in particular since 2002, considerable importance. This has two, somewhat paradoxical consequences. The first is increased repression of petty street crimes, targeting people exposed to risks of discrimination. But the second, unexpected consequence, is the greater attention paid by the press and public opinion to everything pertaining to the police, with raises the stakes of dissimulation (within the agencies and vis-à-vis society as a whole) of possible deviance. It is on this very narrow path that the issue of police deviance in France will evolve in the coming years.

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