The weight of France's colonial past on immigration policy

Alexis Spire

Chapter 12

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Abstract

Decolonization was a critical step in restructuring immigration policies in France because, at the beginning of the 1960s, French colonial subjects suddenly became foreigners. At the same time, former bureaucrats from the colonial administration found new employment in the public sector of metropolitan France. This chapter contributes to the academic debate about the continuity between colonial past and immigration present, by studying civil servants in charge of deciding who can enter France, to visit and work, and who can gain access to French citizenship. It is aimed at analysing the discretionary power of the functionaries and to exposing the norms behind their power. To understand what was at stake during this transition, the chapter starts by distinguishing between colonial domination and immigration policy. Then, it analyses the developments in the early 1960s and how certain bureaucrats were able to transfer their skills and practices from one realm to another. Finally, by analysing individual immigration files, it shows how this transition impacted foreigners themselves.

Introduction

In recent years, France's colonial heritage has been an important part of recent public discourse, but this was not the case, when I began my doctoral studies in 1998. By the year 2005, France was engaged in a symbolic war over its historical memory, which was crystallized in the law of February 23, 2005. Article 4 of this law stated, "university research and educational curricula should recognize the important role played by France in its overseas territories, most notably in North Africa". In response, most academics rejected this imposition and considered it an attempt by right-wing politicians to interfere in the educational process. For them, the political debate was between supporters and opponents of colonialism, but the academic debate was more focused on how to understand colonialism as part of the nation's history. That is, whether or not colonial racism was still relevant for explaining the discrimination faced by immigrants and their children in France. Ten years later, in the aftermath of the attack in Bataclan in Paris (in 2015), the hypothesis of a postcolonial crisis was one more time a burning issue. Until now, the colonial legacy is at the centre of debates surrounding racism and academics scholars are divided into two opposing camps. On one side, "historical entrepreneurs", like Pascal Blanchard, argued that there was a continuity between colonial racism and contemporary discrimination (Blanchard, 2017), while on the other side many specialists of colonial history, like Emmanuelle Saada, found this to be an oversimplification and argued that colonialism could not be reduced solely to its racist

dimensions (Saada, 2011). In this chapter, I would like to bring a sociological analysis to this academic debate about the continuity between past and present, by using my research on the immigration policy (Spire, 2005) To understand the practical implications of street-level bureaucracy, I have focused on the civil servants in charge of deciding who can enter France, to visit and to work, and who will gain access to French citizenship. All of these decisions involve discretionary power and require interpreting the regulations within a general framework established by the law. My aim was to analyse this discretionary power and to expose the norms behind this power. This research involved interviews with retired bureaucrats, which impressed upon me the importance of the colonial past for their career trajectory. As such, decolonization was a critical step in restructuring immigration politics because, at the beginning of the 1960s, French colonial subjects suddenly became foreigners (Weil, 2010). At the same time, former bureaucrats from the colonial administration found new employment in the public sector of metropolitan France. To understand what was at stake during this transition, it is important to distinguish between colonial domination and immigration policy. Then, I will analyse the developments in the early 1960s and how certain bureaucrats were able to transfer their skills and practices from one realm to another. Finally, by analysing individual immigration files, I will show how this transition impacted foreigners themselves.

Two types of domination

It is difficult to form a precise definition of colonialism, because there was such a broad range of power dynamics across different colonies. It is also difficult to form a precise definition of immigration policy, because there is such a wide range of ways in which immigration policy has played out across different nations. I will try to propose a typology for both of these forms of domination. One, a colonial domination, was based on interactions with *natives*: "the dialectics of domination, incorporation and differentiation were played out in the colonies in a form in which racial distinction was an organizing principle and a powerful rhetorical theme" (Cooper and Stoler, 1989). The other type of domination, the nation-state domination, was based on interactions with foreigners: the domination is expressed as modes of control whereby street-level bureaucrats seek to control the presence and the compliance of foreigners within the national framework.

Two ways of legitimizing power

According to Max Weber's sociology, the exercise of power requires legitimation (Weber, 1978). Pierre Bourdieu has also argued that to remain in power, it is necessary to develop discourses that justify why power is given to certain individuals (Bourdieu, 1994). It is in the

discourse justifying power that we find the first difference between colonialism and immigration policy. Colonial domination justified itself as a civilizing mission that brought progress to backwards people who were supposed to be full of gratitude for the colonial system: "The idea of a civilizing mission rested upon the twin fundamental assumptions of the superiority of French culture and the perfectibility of humankind" (Fischer-Tine and Mann, 2004: 4). The goal of the colonizer was to civilize the indigenous people and make efficient use of their land by exploiting the racial cleavage between Europeans and the indigenous people. As a side note, there are important links between the project of civilizing colonial subjects and the project of educating working-class and rural populations that was undertaken by republican elites (Lamont, 2000).

In contrast, immigration policy was based on the principle of national sovereignty. In France, the distinction between the foreigner and the national citizen is central to the construction of the state. At the end of the nineteenth century, the state developed ways of protecting French citizens, while creating national identity procedures that allowed it to distinguish between citizens and foreigners (Noiriel, 1996).

These two forms of justification also correspond to two forms of political domination. Colonial domination is based on a division of the population into different categories, each with distinct political rights. As highlighted by Burbank and Cooper (2010), missionaries, scientists and military leaders strove to make distinctions between colonizing and colonized people, but the racialized difference was not natural and required work on the law. Indigenous people were considered members of the nation, but they did not enjoy all the political rights of full citizens. They were governed by the "Code de l'indigénat" which was established in Algeria in 1881 and sixty years later repealed in 1946 (Merle, 2002; Mann, 2009). It created unique crimes (unauthorized assembly, leaving the local area without a travel permit, disrespectful actions …) and unique punishments (ranging from isolation to group imprisonment). Colonial administrators also applied these laws differently at different times, depending on the necessity of the moment, as the main purpose of the law was to block any possible avenue for the indigenous population to develop political rights. However, in the case of immigration policy, the exclusion of foreigners from full citizenship is based on the suspicion of their political allegiance. As such, one way of stigmatizing foreigners was to claim that they would maintain allegiance to the country in which they were born even once they had French citizenship.

These two forms of domination in France also led to two distinct forms of exclusion: in the colonial situation the notion of race allowed people to distinguish between those who

were "civilized", meaning those who could conform to the norms of rational law and the Civil Code (whether they were French, Italian, or European), and those who remained under the influence of traditional customs, that is to say the indigenous population (Saada, 2011). In comparison, immigration law and nation-state exclusion is based on a distinction between the citizen and the foreigner, which the state claims is necessary to protect the political, economic, and demographic interests of France.

Two types of power in practice

Beyond discourses of legitimization, it is also important to analyse the actual practices of government bureaucrats, both in the colonial administration and in the immigration administration. The first difference is in their methods of regulating the movement of persons. Colonial migration involved the movement of populations within the same sovereign territory. In a way, this was similar to internal regional migration. Of course, the domination of space was nonetheless essential to the colonial project and the colonial administration tried to extract a maximum amount of resources from the territory it controlled. According to the periods and the territories, there were methods to control the colonial subjects who wanted to leave their country. But after the Second World War and the creation of the *Union française*, it was more difficult for the colonial administration to limit circulation and there were no obstacles to freely moving within metropolitan France.

In comparison, international migration involves people moving from one national space to another. To enter a nation-state's territory the foreigner must submit him or herself to various procedures of identification verification and is subjected to surveillance during his or her entire stay (Torpey, 2000). Sometimes, the foreigner can be confined to a limited portion of the country, and he or she almost always has a limited amount of time to legally remain in the country. This temporal dimension is essential to the bureaucratic domination and control over foreigners.

The role of law in society is also different in colonial times when opposed to immigration policy. Colonial law was always inspired by the laws of metropolitan France but reinterpreted for local needs (Saada, 2002). It was a way of dominating the indigenous population and therefore took advantage of their traditional power structures. As such, by the end of the nineteenth century, the notion of assimilation was abandoned in favour of preserving the traditional customs of the colonies, which allowed the colonizers to better govern the indigenous people. To accomplish this, the colonizers often co-opted local elites who could give their domination more legitimacy. However, in immigration policy, the bureaucrats seek to avoid at all costs the emergence of spokespeople for each community. The

goal of assimilating foreigners leaves no place whatsoever for traditional customs and the same law applies across the entire territory, for all foreigners, regardless of their nationality.

This last point brings up an important connection to the law concerning the headscarf and shows that it is more closely related to the assimilation-based logic of French immigration policy, than to a resurgence of the colonial past.

Two types of relationships with the state

Finally, each type of domination involves and even requires a different relationship with the state. Colonial subjects were dependent on the rules of the colonial state, but they were not defended or protected by that state (Spire, 2003). They were essentially subjected to an administration that defended the interests of the colonizers, not the colonized. However, immigrants in France are protected by the state from which they emigrated. The home country state always has the possibility of intervening in host country affairs by its diplomatic representation (Zolberg, 1999).

In these two cases, the conditions for accessing political rights (that is to say for constructing a political existence) are quite different. Indeed, the colonial authority established a distinction between nationality and citizenship (Weil, 2010; Urban, 2011). For the indigenous colonial subject to become fully French it was necessary to submit to a naturalization procedure. It implied undergoing a profound transformation and changing his or her entire civilization by submitting to the Civil Code and agreeing to engage with and respect French culture. In comparison, the foreign immigrant becomes a member of the political community by the administrative procedure of naturalization, in which he or she must prove his or her "political loyalty" to France, but without renouncing his or her civil rights.

There were two types of domination that coexisted for a long time: each had its own logic, institutions, and bureaucratic enforcers. However, when decolonization occurred, these two worlds and these two modes of domination became superimposed and collided with each other. Therefore, I will now examine the dynamics of that transition from colonial domination towards a domination based on the legal status of foreigners.

The weight of the colonial past

The period between the mid-1950s and the early 1960s is crucial for understanding the impact of the colonial past on French immigration policy. This was the period when many colonies achieved independence, which therefore necessitated a restructuring of the bureaucratic agencies in charge of immigration.

Between 1956 and 1962, most of the countries colonized by France became independent: Morocco and Tunisia in 1956, the majority of sub-Saharan Africa in 1960, and of course Algeria in 1962. All of these newly independent countries then became countries of emigration towards France.

It was during this period that former colonial subjects of the French empire suddenly became foreigners. During the 1960s, Tunisian and Moroccan immigration was encouraged as a way of slowing down that of Algerians (Weil, 1995). During this time, the former colonial administrators also changed their status, as they now became bureaucratic administrators for metropolitan France. This reclassification of colonial administrators was a broad phenomenon that occurred across the government, not just for those in charge of immigration. These administrators played an important role in forming public cultural centres (Lebovics, 1994). However, one of the main destinations for reclassified colonial administrators was in fact the immigration bureaucracy.

The reclassification of colonial administrators

The first way in which the colonial past is important is its influence on the trajectory of civil servants, because many people who were bureaucrats in the colonial administration became bureaucrats in the immigration service after independence. In comparison, there are relatively few former colonial administrators among the high-level bureaucrats. The most famous example is Michel Massenet, who was named delegate of Social Assistance for French Muslims from Algeria in 1959, and then in 1966 was named director of the Office for Demography and Migration (Laurens, 2009). However, Massenet is an exception and former colonial administrators were primarily found in the lower ranks of the civil service.

In the 1960s, the prefectures submitted migrants to various forms of identification and in this perspective, the colonial experience was valued. Within the same immigration service, it is necessary to differentiate between the counter person who greets the foreigner and asks for his or her papers, the office person who reads the file, and the head of the office – the manager – who supervises the activities. Contrary to assumptions, the counter person, there to verify that the application is complete, has no decision-making authority. The office person is there to enact the norms established by the manager and is subject to the authority of his boss in cases of uncertainty. Therefore, the bureaucrat with the most discretionary power is the head of the office and he has the authority to explain and interpret the legal texts so that the other bureaucrats can use them in their daily tasks. After independence, the prefectures looked for officers from the colonial army to serve as managers in their immigration services. The basic argument was that these officers already possessed the relevant competency to deal with

former colonial subjects. In 1963, Maurice Papon (who was famously responsible for deporting Jews in the Second World War) decided to create a special service in the Paris Prefecture to regulate Algerian immigration and it was staffed with many former officers from the colonial army. Shortly thereafter, the service was also responsible for the 9,000 workers from former French colonies in sub-Saharan Africa. The common point between the Algerians and the sub-Saharan Africans is that both came from the former colonial empire and both had long-stay visas during the 1960s until the early 1970s. During this transition period, the prefectures asked the former colonial officers to perform surveillance on foreigners who otherwise would avoid being monitored as a result of their visa privileges. And it was because of their specific skills gained during colonialism that these officers were recruited for such sensitive tasks. When they became managers of their offices, they were able to use discretionary power for enacting certain measures that the high-level bureaucrats could not explicitly endorse in their texts. For example, when the Interior Minister wanted to increase the expulsion of Algerians in 1963 he could not officially ask the prefectures to do this because of the risk of provoking protest from the Algerian government. Therefore, he distributed a memo that encouraged an increase in expulsions of (so-called) "foreigners without long-stay visas", which usually applied to Algerians and immigrants from sub-Saharan Africa. It was then up to the office manager to explain to the counter person and the rest of the office staff how to act on the implicit principles behind the memos. However, former colonial administrators were also found in other institutions responsible for the management of immigration.

Sonacotra (the National Society of Housing Construction for Workers) is an organization created in 1956 to provide housing for French Muslims from Algeria. In 1962, Sonacotra expanded its mission to include all foreign workers. After independence, the administration used former colonial officers to run its properties. In 1972, of the 150 directors of Sonocotra housing establishments, over 90 per cent had come from a military background, whether in Indochina, Africa, or the Maghreb (Hmed, 2006). Experience in the colonial army was therefore a skill highly valued for managing migrants in France during this period. As such, civil servants who had been formed by their colonial experience were now in charge of providing social services to immigrants. In addition, these former colonial administrators were also found in other non-state sectors, for example they were often used by companies for assisting with the selection of immigrant workers.

Before 1962, several companies were already using former colonial army officers to select Algerian workers. But, after independence this practice expanded. Executives in large

construction companies appreciated the former colonial military officers for their authority and their knowledge of "indigenous" people. And to recruit immigrants, they used procedures directly inherited from the colonial administration: for example, employment candidates at the coal mines had to present themselves bare-chested and the recruiter would examine their teeth, muscles and spine, and then make a green mark on their chest if they were accepted and a red mark if they were rejected. Beyond this sort of anecdote, which come from these recruiters' narratives, we lack research on this topic.

After independence a variety of institutions valued the experience of colonial administrators and used them for managing immigration. Their training, their particular dispositions, and their capacity to distinguish between different immigrant populations were all extremely valuable skills. This shows clearly how civil servants moved from one sphere to another, from colonial surveillance to immigration control, and allows us to understand the movement from one form of domination to another.

Retraining of both ideologies and practices

The conversion of colonial administrators into immigration managers implies a reformulation of their previous representations. As such, prefecture employees used ethnic divisions that were dominant during the colonial period, such as the concept that certain minorities (Berbers, for example) were easier to assimilate than others. In addition, practising Islam was often seen as a handicap. However, within the bureaucracy, from the 1960s onwards, there was a distinction between immigrants from European countries, who were supposedly easier to assimilate, and immigrants from the Maghreb and sub-Saharan Africa, who the state considered more difficult to assimilate.

The continuity between the colonial past and contemporary immigration is not limited to the endurance of symbols or representations. The former colonial administration agents also continued similar practices of surveillance. During the 1960s, Algerians benefitted from a special legal status; that is to say that they had long-stay visas and did not need permission to work. In addition, they could, in theory, become French citizens more easily than other immigrants. However, they were also subject to much more rigorous surveillance in comparison to other immigrants: in 1964, 74 per cent of the foreigners expelled from France were Algerians while they were only 23 per cent of the foreign population (Spire, 2005). So, while immigrants from former colonies benefitted from certain legal protections, they were also subject to certain discriminatory practices, undoubtedly because of the strong presence of former colonial administration officers in the immigration services.

The contradictions of the colonial heritage

By the end of the 1960s, high-level French bureaucrats did everything possible to make a complete rupture with the colonial past. Over time, former colonial subjects were eventually governed by the same immigration laws as other foreigners. In 1959, Moroccans were officially treated like any other foreigner, then in 1963 Tunisians, and in 1975 migrants from sub-Saharan Africa were also subject to the same conditions as foreigners from anywhere in the world. Only Algerians remained subject to a specific regime of domination that was based on a bi-lateral agreement between the two governments. However, over time the treatment of Algerians became increasingly similar to that of other foreigners, and from 1968 they needed to file an official request for a visa to live and work in France.

This new legal framework had several consequences. First, the influence of the former colonial administrators was increasingly stigmatized. After May 1968, a number of pro-immigrants' rights movements publicly denounced the colonial aspect of French immigration policy. Therefore, the presence of these former colonial administrators in the bureaucracy became an increasing liability. In addition, independence for former colonial countries gave increasing power to their newly formed governments. These governments began to complain that their citizens were not being treated fairly in France, while in colonial times the subjects of the empire had not been protected by any state. For example, when the Algerian government protested the collective repatriation of its citizens by the French government, France was forced to stop such activities.

The governments of the migrants were also involved in negotiating bilateral agreements to provide social rights for their citizens while in France, rights such as social welfare, family benefits, or pensions, all of which were arranged by the two states. Of course, these negotiations were often unequal, but it was mostly an inequality based on economic differences as opposed to a resurgence of colonial domination.

The multiple forms of discrimination

The colonial experience was very important for the restructuring of immigration policy at the end of the 1960s, but how were these changes implemented in people's daily lives, and specifically in the processing of individual immigration files? Thanks to the exploitation of 1,600 individual files, I have tried to compare the practices of "street-level bureaucrats" (Lipsky, 1980) in 1956 and in 1975, which is to say before and after the independence of former colonial countries.

The hierarchy of nationalities

In principle, nationality is not a relevant criterion for the attribution of travel visas. In the

ordinance of November 2, 1945, there is no mention of different treatment according to the specific nationality of foreigners who want to travel to France. Nevertheless, according to the decisions made for the individual files, there was a number of preferences emerging.

In 1956 the majority of foreigners in France came from Europe, but within those countries there were still important differences in treatment according to national origins. Italians enjoyed relatively privileged treatment and obtained stable residency status after about 18 months. Spanish migrants were part of a more recent immigration wave and many were political activists fleeing the Franco regime, and they received a three-year visa after 20 months. Portuguese migrants had to wait two years for the same status, and refugees had to wait two and half years. This shows that there was a hierarchy of desirable nationalities even before decolonization, when the majority of migrants were European. At the top were Italians who were considered the easiest to assimilate; then the Spanish; then the Portuguese, who had arrived more recently; and, finally, refugees, who were considered "undesirable" primarily because of their political engagement with communists.

In 1975, the foreigners were not from the same countries, but the criterion of nationality was still important for understanding the diversity of bureaucratic practices. At this time, the hierarchy of nationalities was based on a distinction between European immigrants and immigrants from former colonial countries. Migrants from the European Economic Community obtained stable residency status after only 5 months. Next were the Portuguese, who received a three-year visa after 18 months. However, the treatment of migrants from sub-Saharan Africa was much worse. First of all, very few of them were able to obtain stable residency status in France: at most, one out of ten. Those who were able to prove that they had sufficient financial resources could obtain a one-year visa, but after that it was almost impossible to get a three-year visa. If they did manage to obtain a three-year visa, it was with an average wait of at least 22 months. Therefore, for migrants from former African colonies, 1975 was a key year: on the one hand, it was the end of a regime of colonial domination, but it was also a transition towards less favourable administrative treatment. It was not possible to study the treatment of Algerian immigrants, because they were subject to unique regulations and their files were administered by a special agency. But, one can imagine that their treatment was similar to that faced by sub-Saharan Africans.

In 1956, as in 1975, there was a hierarchy of desirable nationalities that changed over time. Discrimination was not a colonial invention but, in fact, a continual aspect of French immigration policy. In 1956, it was Italians who were privileged and the Portuguese who waited much longer for stable residency status. However, in 1975 we can see the importance

of the former colonial administrators, as the Portuguese became one of the most favoured migrant groups, while Africans had much greater difficulties obtaining stable residency status. Government administrators who had worked in the colonies brought with them their prejudices and their habits, although they readapted them to the bureaucratic traditions that were already in place.

The strategies of the foreigners

The analysis of individual files shows multiple strategies used by foreigners and former colonial subjects to subvert or avoid the power and influence of the bureaucracy. These strategies took different forms and could be a strategy of declaration, a strategy of mobility, or a strategy of naturalization.

The first place in which the foreigners' strategies are visible is in their declarations for the government registry (known in French as "l'état civil"). During the 1950s, the coal mines in northern France only hired Moroccan migrants if they were between 20 and 30 years old and therefore many Moroccan workers reduced their age on official documents in order to qualify for jobs. Twenty years later, many of these workers did not receive their pension because of the discrepancy between the age they declared and their real age. The declaration of marriage status was another way in which foreigners strategically interacted with the bureaucracy. In the 1950s, it was much easier to get visas as a worker than as a family member, and therefore many women migrants who came to join their husbands applied for admission to France as workers rather than for family reunification. Other strategies were evident in the declaration of profession. The French bureaucrats would often refuse applications in which the declared profession was too vague, for example "manual labourer". And, once refused, the applicant was legally obliged to leave the department or to find another profession. In reality, most immigrants who were rejected would do neither, but instead submit another application with a slight rewording of their profession, for example: "cement worker" instead of "mason" or "warehouse worker" instead of "dock worker". The logic behind this strategy was to appear as a more specialized worker to have a greater chance of being eligible. Therefore, until the end of the 1960s foreigners could use many different strategies of declaration to improve their chances of receiving visas.

Foreigners also used strategies of mobility, for example returning to their home country from time to time. In most of the files, foreigners who split their time between France and the country of origin were usually migrants who arrived alone, had relatively high-level employment, and therefore enjoyed relatively stable immigration rights. Of those who returned home, some remained and did not return to France. The analysis of the random

sample of individual files shows that about half of the foreigners who arrived in France during the 1950s and 1960s returned home permanently. However, only 40 per cent of the migrants who arrived in the 1970s returned home permanently. This shows one of the paradoxical aspects of immigration policy, which is that higher proportions of immigrants return home when access to visas is relatively easy, but when access to visas is stricter, immigrants are more likely to remain on French territory. This is why the stricter border controls of the 1970s had the paradoxical effect of encouraging more foreigners to remain permanently in France.

The application for naturalization is another way in which immigrants can attempt to avoid the power of the French bureaucracy, although not in the same way as those who returned home. One must remember that it is only a small minority that chose to become French. Of those who arrived in the 1950s and 1960s, only 16 per cent applied for citizenship, compared to 30 per cent of those who arrived in the 1970s. The percentage of foreigners who applied for citizenship was therefore halved during the period of economic growth and open immigration in comparison to the period of closed borders. Here again, we can imagine that immigration policy played an important role in structuring immigrant strategies.

Conclusion

To conclude, I would like to emphasize the importance of distinguishing between different types of state intervention for understanding immigration politics. If we focus on the "street-level bureaucrats", we can see the importance of the colonial experience for the reorganization of the prefecture offices. After independence, many of the administrators who were in charge of controlling colonial subjects became involved in the immigration administration. They brought with them their ideas and their practices, which they adapted to the bureaucratic traditions already in place.

Does this therefore mean that there is perfect continuity between colonial domination and migration policy? The answer is no. Starting in the mid-1970s, many of these former colonial administrators began retiring. The status of former colonial migrants began converging with that of other foreigners, and the high-level bureaucrats felt embarrassed by these former colonial administrators. Finally, immigration policy is no longer the monopoly of the bureaucracy and has now become a matter of public debate, that is open to influence from a variety of actors.

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