Border Policies

From Denizens to Legal Ghosts

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This chapter investigates how, in response to trends in transnational migration, borders are governed through practices such as the confinement and deportation of foreign migrants and asylum seekers. In particular, the increasing prominence of camps or other restricted areas in which migrants or illegal aliens are held for varying lengths of time highlight a new distribution of power defined by access to mobility. An empirical investigation into these spaces shows how democratic governments manage non-citizen populations and examines the ways in which the types of restriction and surveillance brought to bear on these people reconfigure physical, moral, and political boundaries. Several issues shape policy on border detention: confinement, albeit in a humanitarian form; the administrative application of different standards of rights for various alien populations; the conflation of humanitarian care and control for populations identified as vulnerable; the redrawing of frontiers through networks and zones; and, lastly, the experience of mobility produced by the differential management of movement within the modern archipelagos of surveillance. Border policies frame a network within the territory, which maintains the individuals in spaces of administrative suspension (such as the ambiguous figure of the clandestine-asylum seeker) and in interdependent spaces of confinement (such as the network of border detention, administrative detention for *sans-papiers* and prisons). The paper sheds a light on how this device emerges, by which national borders are reactivated within the social sphere.

Ce chapitre se penche sur le phénomène des migrations transnationales et sur le gouvernement des frontières qui y répond, à travers des pratiques d'enfermement et d'expulsion des étrangers en Europe. La construction des camps d'étrangers, dont relève ce champ d'investigation, témoigne de nouvelles distributions du pouvoir qui passent par l'accès à la mobilité. Une enquête empirique dans ces espaces nous invite à comprendre les pratiques par lesquelles les gouvernements démocratiques administrent des populations non-citoyennes, et la façon dont ces modalités de prise en charge et de surveillance opèrent une reconfiguration des frontières physiques, morales et politiques. Le confinement des étrangers entrecroise plusieurs dimensions : la construction d'un enfermement humanitaire, et les usages institutionnels et militants de différents régimes de droits qui y sont en jeu; les pratiques de prise en charge de populations identifiées comme vulnérables; les reconfigurations de la frontière à travers de nouvelles formes réticulaires et zonales; et enfin, l'expérience de circulation que dessinent les archipels de surveillance, et les pratiques de gestion différentielle des mobilités dont participent les zones d'attente. Ces politiques de contrôle migratoire créent un réseau frontalier à l'intérieur du territoire, qui saisit les individus dans des espaces de suspension administrative (celle du « demandeur d'asile-sans papier » mis sous procédure d'asile prioritaire) et des espaces, interdépendants, d'enfermement (le centre de rétention administrative, la zone d'attente, la prison de droit commun). Comment se met en place ce dispositif qui réactive les frontières nationales à l'intérieur de l'espace social ?

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Introduction

Dynamics of conflict and cohabitation imply the notion of alterity, and more specifically they invite us to think about the link between spatiality and alterity. In this reflexion, the border appears as a point of contact and separation. For Europe, the political issue of borders is not so much about delineating each member state's national borders than protecting the borders of the European space against unwanted forms of mobility (Crépeau 1995, Lavenex 2001, Guild/Bigo 2003a, 2003b). This implies two processes. On the one hand, European citizenship and identity are being constructed in segmentary opposition to "third country" nationals (Schuster 2003). Segmentary modes of belonging, as anthropologists have argued, are the association of closer kin who put their conflicts to the side and unite against more distant kin (Evans-Pritchard 1940). We can see how the concept of European citizenship is internalized through a segmentary logic as the word "extracommunitario", borrowed from the European technocratic language to refer to "third country nationals", has penetrated popular culture in Italy to refer politically correctly to a category of foreigners who, due to their skin colour, seem visibly non-European. On the other hand, a regime of mobility control is being implemented (Bigo/Guild 2005, Jeandesboz 2008) as one of the most visible reconfigurations of political inequalities between the global North and South. In these processes, borders are both vanishing – between EU member States, for merchandise and European travelers – and being reinforced as places and practices of exclusion. This does not exactly imply the raising and lowering of wall-like borders, as the image of the "Fortress Europe" suggests, but rather an evolution in the very texture and forms of the borders as this chapter explores in detail.

Looking into these new forms of borders through individual experiences of crossing, dwelling and waiting, I argue that they are not spaces of antagonism, neither are they space of living together. Rather, they implement a differential management of exclusion. The concept of "differential management" is identified by Foucault (2004) as a main dimension of government developed around concerns of security. It approaches definitions of the legal and the illegal as well as the categorization and management of illegalities as having specific functions of regulation and government in the social world. This regulation draws on a process of flexible filtering and exclusion based on the differential application of norms according to social groups and categories: if "differential application" of norms and rules becomes a "differential management" insofar as it is used for the government of a population. Since discrimination, double standards, and exclusion are contrary to the foundational principles of EU legal regimes, a first reaction would be to oppose exclusionary border practices through the use of law and a demand for legal adjustment (Monforte 2014). However, in the case of EU borders, empirical study shows that the differen-

tial regime of exclusion is not an overextension of state prerogatives outside the rule of law: rather, it is produced through a set of legal and administrative rules.

Facing the new modalities and changing spaces of movement, how do states work out their borders and 'thicken' them into spaces where people live, are confined, selected, displaced? What do these ambivalent processes of deprivation teach about evolving regimes of government under the liberal rule of law? This chapter explores these questions through an ethnography of the border based on fieldwork in a border detention apparatus in France – where I volunteered as a legal assistant – and interviews with detainees who were admitted to the territory after facing several attempts of deportation.

Waiting Zones for People in Proceedings

The waiting zone is an extra-territorial zone of detention where undocumented aliens and asylum seekers are held from a few hours to several weeks while they await decisions on their entry to a given territory or the recognition of refugee status. Waiting zones are located within or outside of airports, ports, or train stations. Legally, they are not considered on the national soil; practically, they aim at being a vestibule to the territory. Indeed, the intensification and new rules of global mobility have created situations where the borders of a state are no longer crossed at the territorial boundaries but at the core of the territory. These borders, which are not lines but rather points, make it difficult to hold back those who are not permitted entry on the territory on the other side of the border: in international airports or train stations, there is no "other side". Hence, the idea, from the mid-1970s on, to maintain people inside the border. This is how new control devices have emerged in the last 20 years in response to ever-greater security concerns and the tension between the movement of human capital and the will of Western welfare states to control migration at their borders. But this new kind of border no longer obeys the definition of "a social order that binds two differentiated entities" (Heyman 1995: 262).

In France, unlike in other EU states, detention at the point of entry has its own structures and rules distinct from other situations of alien confinement such as the detention of *sans-papiers* waiting for their expulsion or the management of asylum seekers in closed centers, although very complementary to them. The waiting zone at Roissy-Charles de Gaulle airport (the largest international airport in Europe in terms of air traffic) receives 96% of all undocumented aliens held at French borders. In the last two decades, alien detention in this airport has evolved towards an integrated, de facto regime that implies several judicial and administrative structures and, from 2001 on, a center whose architecture and location have been specifically designed for this purpose. This regime has been given the euphemistic, mysterious

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name of "Zapi", the acronym for *Zone d'Attente pour Personnes en Instance*: waiting zone for people in proceedings.

The construction of a detention center in the airport for undocumented aliens entering the territory is the fruit of significant evolutions from the early 1990s on. After waiting zones were legally instituted in July 1992, the interior ministry rented the first floor of a hotel near the airport, which was declared a "waiting zone" (i. e. not yet on the French soil). The place was used for receiving undocumented aliens and asylum seekers held at the borders. Officers from the national office for refugee protection (*Office Français de Protection des Réfugiés et Apatrides, OFPRA*) led interviews with asylum seekers once a week in a room in the hotel. These practices were first an emergency solution to face the large number of asylum seekers arriving through air frontiers (their detention in the airport thus becoming visible to other passengers). They soon solidified and were legalized under the administrative name of "Zapi 1". In light of the growing number of undocumented aliens, a second floor was rented in the hotel, but the solution was temporary. In 2000 and 2001, new buildings were constructed and two other waiting areas opened: "Zapi 2" and "Zapi 3". Zapi 2 was located in a wing of the detention center for illegal immigrants (*Centre de Rétention Administrative, CRA*). In July 2000, half of the detention center was transformed into a waiting zone because Zapi 1 lacked room to receive all detainees.

In Zapi 2, aliens controlled at the borders and *sans-papiers* awaiting expulsion were held in the same building, which was modeled on a prison: lack of personal space, limited possibility for movement, surveillance, communal meals at set hours. The superimposition of the two regimes of alien confinement (*ZAPI* and *CRA*) was not coincidental. It revealed how the two regimes are complementary from a political, social and legal point of view, as they comprise the apparatus through which the country "puts aside" its unwanted aliens (Valluy 2005; Kobelinsky/Makaremi 2008). Like the first Zapi, the second one had a temporary and emergency character. A shift came in 2001, when an independent detention center was built in the airport industrial zone, under the authority and direct management of the French border police, for the specific purposes and needs of border detention. Zapi 3 has given the regime of border detention its definite, yet hybrid form, locking the security apparatus while delegating the daily management of detainees to humanitarian actors. Zapi 1 was shut down at the beginning of 2001, after the inauguration of Zapi 3. From 2004 on, Zapi 2 was emptied of undocumented passengers and returned entirely to its first purpose as a detention center for illegal immigrants. Zapi 3 remained the only permanent waiting zone in France.

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New Borders: Reticular, Thick and Liquid

Border detention, which opponents denounced as a "fiction of extraterritoriality", was founded on the ambiguous status of the geographic place were aliens stand: a space behind the customs marking the borders of the state considered, through a legal fiction, as being outside the territory. The *Arcade* hotel and, more broadly, the 1992 Act brought a shift. The international zone started from a geographic argument (these aliens are not on the French territory yet) to then transform this argument into a legal status. With the law, it is no more the place that defines the detainee but the detainee who defines the place. The international zone was also criticized for being an "indefinite" place. The institution of the waiting zone thus defines the place, but by dematerializing it in a *tour de force*. If at first aliens' legal status depended on where they were, the creation of the waiting zone introduces a radical shift: their legal status influences the place that they are in. This flexible definition of places according to the extra/ordinary status of the resident, well-illustrated by the hotel *Arcade*, brings a new outlook on the notion of territoriality. The logic initiated in 1991 and 1992 was completed with a later modification of the law. The November 2003 Act, called the Sarkozy Act, specifies that: "The waiting zone extends, without needing to take a specific decision, to the places where the alien shall go, either within the [judicial, administrative] procedure, or for medical needs".[17] With this evolution, the "border" argument has acquired a radical flexibility that questions in return notions of the extraordinary and the making of sovereignty. Based on the sovereign prerogative to control borders, an extraordinary law has been instituted for governing unwanted aliens. However, if the notion of border, as something between an inside and an outside, is moving towards a fluid idea; and if the extraordinary is not a suspension of the ordinary but a status that can cohabit with the normal, be activated and deactivated "without any specific decision" and thus any specific distinction, then, how do these evolutions and blurrings affect the notion of sovereignty?

Practices and regulations of border detention do not erect new and stronger walls against unwanted mobility: they change the texture and forms of the borders, as argued earlier. The borders become knots in a network of circulation, and thick habitable "zones"; they become liquid and stick to the unwanted travellers' footsteps. But beyond the time and space of the border and the realities of detention, passing through the waiting zone bears long-term "border effects" that I will now define and describe further.

17 Act on the control of immigration, residency of aliens and nationality, 2003–1119, 26 Nov. 2003, JORF 27 Nov. 2003.

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Networks of Confinement

How do the new forms of borders detailed above reshape the management of migrants' movement? This question requires that one take a step back from the border space and relocate it within a network of places and technologies that work together and produce new experiences of mobility. These experiences mobilize and conjugate two ends: detention/immobilization, and a mobility without any perspective of longer term settlement. Starting from the waiting zone, two lines delimit this separate regime of circulation. On the one hand, administrative and legal procedures are linked together so that they carry the migrant from one situation of detention to another. On the other hand, the waiting zone becomes a zone of passage between administrative and criminal procedures: this process of "penalization" sets in motion successive situations of clandestinity, "priority procedures" and refusals that install the migrants in a long-lasting exclusion. Individual experiences allow us to explore further these processes.

In winter 2004, while a civil war was raging in the Ivory Coast, Laurent Diarra[18] left Abidjan and reached Roissy airport, where he asked for asylum. He was detained in Zapi 3 while his asylum request was being reviewed by agents of the French Office for the Protection of Refugees and Apatrides (OFPRA). OFPRA's border office performs a first "screening" on asylum claims. If rejected, the asylum seeker is deported back to her/his country of departure. If accepted, the asylum seeker is authorized to enter the country and must register at the *prefecture* to officially become an "asylum seeker" and have her/his demand reviewed by the national office. In any case, the refugee status can only be granted by OFPRA's central office: the border examination is just a "first screening" and grants no status. Laurent's asylum demand was eventually rejected, and he faced several attempts of deportation, which he resisted. Border detention in France cannot exceed 21 days: detainees are either admitted or deported successfully before the end of this period, or they must be freed. By the end of his legal limit of detention, Laurent faced a last deportation attempt. He was handcuffed, tied and brought into the plane by special police forces, but he resisted once more. Finally, upon order of the pilot, he was removed from the plane and back to the police station, where he was put in custody, with the charge of "having resisted the enforcement of an administrative decision", which is a criminal offense punishable by prison sentence. In custody, Laurent was victim of police violence that left him injured. He was tried by a criminal court and sentenced to three months of prison, and three years of "interdiction of being on the territory". While in prison, Laurent filed an asylum claim at the central refugee protection office.

18 Names have been changed.

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Once released on to French soil, he had an asylum interview, and his demand was accepted. However, when Laurent went to the *prefecture* to get the resident card granted by his new refugee status, a problem arose. According to his criminal record and previous sentence, he was under a three year "interdiction of territory". Laurent was both a political refugee under protection of the French State, and a foreigner forbidden to stay in that country for the next three years. In the next years, until the end of this sentence, he lived with temporary residents permits to renew every 15 days at the police station, and was put under house arrest. His precarious status did not allow him to find work, and he had to find an under-the-table job where he was underpaid and exploited. Such was the muddled story of Laurent when I met him two years after his arrival: confined in his house and living as a *sans papier*, while holding a refugee status.

Laurent's case is not exceptional: asylum seekers' trajectories are more often than not marked by such complexity, messiness and absurdities. His experience is worth recounting, however, because it sheds a light on the asylum system, which is a pillar of public policies of migration control. It also illustrates the implementation of these policies through the administration of non-citizens, and the shaping of new kinds of borders, both at immaterial and very material levels. To begin with the last point, Laurent's trajectory of asylum illustrates how the borders are enforced through interrelated but different spaces and practices of confinement (Kobelinsky/Makaremi 2008, 2009). These can be located in the border; they can also be in many other places within the territory like the 26 detention centers for *sans-papier*. Prisons for criminal convicts are also part of the detention apparatus since the resistance to one's deportation is a crime and leads to conviction to a 3-month prison sentence. In the case of Laurent, his house arrest echoes his experiences of detention at the border and in prison: it is yet another form of confinement that is less circumscribed in time and space but organizes the exclusion of asylum seekers in the long run by keeping them at a distance from the possibilities of a regular legal situation and a regular life. Through these practices, two systems of law – administrative law and criminal law – intertwine and draw together a network of detention that enforces the border. Constructing borders as spaces of detention is not only common to every EU country, but these practices have also been exported to the neighboring countries in Eastern Europe and North Africa where they have been implemented through European Commission governance technologies and funding policies as a pillar of the "EU neighbourhood policy" program (Andrijasevic 2010).

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The Border Effect of Detention

These various practices of confinement also illustrate how democratic states based on the rule of law administer a population of non-citizens. Laurent's trajectory, which is one among many, conveys an overall impression of absurdity and waste. But this protracted situation of confinement and waiting – the state of suspension characteristic of asylum experiences – is created by the combination of administrative and criminal law that constitute the France's CESEDA, or Code of Foreign Nationals and Asylum Right.

As Laurent's experience shows, resisting ones' deportation is a criminal offense punishable by a prison sentence. This switch from administrative detention to criminal conviction has two effects. First, as explained before, it brings the prison into the apparatus of border drawing and border detention – which of course is an aggressive step in the enforcement of border control. Second, it opens a criminal case record for the migrant, and this has even more serious impact in the long run because a criminal case record puts the accused in the category of "trouble to the public order," which is an administrative category that suspends many rights for asylum seekers (such as the monthly benefit since asylum seekers are not allowed to work, or even the slightest chance to have access to housing). Moreover, since 2006, asylum seekers presenting a "trouble to the public order" are put on a fast track asylum procedure, the "priority asylum procedure". Contrary to what the name denotes, the priority procedure is actually crafted for asylum seekers who are suspected of being bogus and the rates of acceptance can be as low as 5%. This mechanism can be illustrated further through another trajectory in the labyrinthine asylum regime.

Beatrice Wemdo, an agent at the Ministry of Foreign Affairs, fled the Congo during post-election violence in February 2007. She arrived at Roissy airport with an Ethiopian airline company, through a transit in Addis-Abeba. She was placed in the waiting zone, refused asylum at the border, and due to be expelled to where she boarded from: Addis Abeba.[19] I met her in the waiting zone and later accompanied her in her procedures. Beatrice resisted several attempts at deportation before being handled by the escort special unit (the UNESI) at the end of her 20 days of detention. While being hindered, she resisted this last attempt and the pilot consequently cancelled her deportation. On her way back to the airport police station, Beatrice was injured by the escort unit, her knee broken. She was transferred to a detention center near Paris and judged the day after in an immediate criminal trial for "breach of entry or irregular stay and evasion from the execution of a measure of refusal of

19 The costs of detention and deportation are at the expense of the airline company that has brought the unadmitted traveler, whence an increase in private security checks performed by the companies.

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entry in France". During the hearing, the judges were sensitive to Beatrice's asylum narrative and the sight of her injuries: no consensus was reached after the hearing and the court decision was postponed to the end of August 2007.

Once released on French territory, Beatrice went to the prefecture to register an asylum claim, but her registration was postponed pending the final judgement of the court, i. e. seven months later. In August 2007, Beatrice was condemned to two months of prison, but her sentence was suspended so she could file her asylum claim. This time again, the prefecture refused to register her asylum claim and summoned her, without further explanations, to the Paris prefecture 8th office "in charge of aliens' removal procedures". Beatrice was in a tricky situation, where an appearance before the 8th office in order to register her asylum demand also exposed her to an arrest and transfer into a detention center for *sans-papiers* (*centre de rétention administrative*). She engaged, with the assistance of a legal NGO, in a correspondence with the 8th office, which finally sent her, in March 2008, a written authorization to go and register her asylum claim at the prefecture. However, the prefecture refused to register her on the usual asylum track and put her on "priority asylum" procedure, since she had a penal file and suspended prison sentence for breaching a criminal law. Not registered as a regular asylum seeker, Beatrice was a *de facto* sans-papiers, without the housing and minimum benefits attributed to asylum seekers, who do not have permission to work. On 29 April 2008, one year and two months after she arrived in France, Beatrice was summoned by the prefecture in order to file her asylum demand. It would be treated in priority procedure in a period of 96 hours to 15 days, with an average acceptance rate of 5% (Ofpra 2008). Beatrice's claim was rejected. She made an appeal before the National Asylum Court – the appeal instance – and was rejected as well 18 months later. Then Beatrice stayed in France as an irregular migrant and worked under a fake identity in a chocolate factory. In late 2013, Beatrice introduced a revision of her asylum claim after asylum was granted in several EU countries (Ireland, Belgium and France) to her former colleagues at the Congolese Ministry of Foreign Affairs, who shared the same experience and story as hers. Waiting for a new development in her long-lasting trajectory, Beatrice has now lived in France as an irregular migrant for eight years, works in a factory, and is linked by networks of obligation and debts to the people who lend her their identity. Her life, like many thousands, is encompassed in the comprehensive economy of irregular migration.

Legal Apparatuses of Exclusion

Beatrice's story is an experience of criminalization that shows how airport detention has "border effects" that go beyond the time and space of detention itself: it is like

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a railroad switch that puts asylum seekers on a track of legal exclusion and vulnerability in the long run. The "criminalization of migrants" often refers to the way migration is seen as a crime, and migrants are treated as criminals (Palidda 1999; Bigo 2004). But it also implies very literally to the use of criminal law (criminal court trials, criminal records) in the legal apparatus of migration control and in the administration of non-citizens. Refusing the status of "asylum seeker" to claimants excludes them from the housing opportunities, financial support and temporary resident permits associated with this status. Moreover, it places them in a strange administrative state of suspension, an absence of clear-cut decision on their presence on the territory. This opens a new discretionary margin: from now on, their protection against police arrests is, paradoxically, a warrant of "refusal of admission" from the prefecture.

Beatrice's complicated trajectory reveals how, within the rule of law, penalization is a point of passage from a "normal" legal regime to a discretionary regime. The interpenetration of administrative and criminal regimes is at the core of this differential exclusion. Here, the permeation is performed through the "breach of entry or irregular stay and evasion from the execution of a measure of refusal of entry in France" that justifies placement in custody. Resistance to deportation exposes the migrant to a prison sentence and an interdiction of French territory. Through such a "penalization of resistance" (Foucault 1975), the breach of law and the court sentence recorded in national databases available to the Prefecture categorize asylum seekers as delinquents. This categorization determines their overall administrative trajectory at every coming stage: at the national refugee office, at the prefecture, at the hospital, in a police station, etc. Empirical observations show that the effect of this management of movement goes beyond the detention of unwanted aliens: it aims at tracing and categorizing them through the recording of a criminal sentence. Penalization thus legitimates and makes technically possible a long-term exclusion; it deactivates future possibilities of regularization and political participation, and leads to an economy of irregular migration. In this context, each step towards regularization exposes undocumented aliens to situations where administrative power holds a grasp on them: can arrest them, deport them, and sentence them to detention. Exclusion comes as a waterproof inclusion in the rule of law, a fragile presence on the territory deprived of the benefits of residency or welfare.

Precarious Lives

Individual experiences of border crossing and dwelling reveal different textures and layers of violence. The first one is linked to the problem of discretionary power and police violence during deportation. This led, already before the year 2000, to several

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deaths during deportation (for a detailed account Makaremi 2009a). Since then, and in the wake of these events, the procedures of deportation have been regulated, and the police has been trained for deporting through what is called "technical gestures of intervention": medical doctors have produced manuals explaining for instance after how long pressure on the chest can kill, and which points in the human body should be pressured to constrain without exposing to death. However, what the case of Laurent and many others show is that police violence does not occur during this regulated, technical face-to-face. It occurs afterwards, when deportation has failed and angry, frustrated police officers bring the detainee back to custody. There, the violence that has been contained during deportation bursts out behind the scene and leads to severe injuries. Another layer, different from opacity and arbitrariness, is the violence of the law, the absurd, kafkaian administration discussed before. This absurdity orchestrates long-term exclusion and specific relations of mistrust between migrants and the state administration as well as a form of life in which, a suspension of time, a confinement in space, a deprivation of agency are as damageable as physical violence.

The space of suspension and exclusion that resituates state borders inside the country yields a third level of violence that is structural and economic. Indeed, the paradoxical figure of the *sans-papiers*-asylum-seeker who is not allowed the usual benefits, is waiting for her/his file to be reviewed, and has no right to work in the country ends up on the informal job market and is exposed to various levels of economic exploitation. This last dimension appears quite late in this paper. Yet it is absolutely crucial in order to put in perspective the asylum system as a piece in the puzzle of migration control policies. Indeed, the debate on asylum law is often seen through the lens of the ever-more limited resources of the welfare state, and why and how these shrinking resources should be used (or rather not) for non-nationals. But what this debate misses is how the reshaping of migration policies only through the door of asylum and the creation of a population of non-citizens excluded in the long run and exposed to economic exploitation is an economic resource at least as much as it is a cost. The hypothesis here is that a country like France, with strong labor standards and rights for its legal residents constructed over the last century, also needs such an informal economy to keep things running in a highly competitive global setting. On the one hand, the terms of the public debate are about the closing of borders and the impossibility to expand the state's generosity to asylum seekers, who in any case never fit the ideal figure of the suffering refugee (Kobelinsky 2008, Fassin 2013). On the other hand, today's protracted asylum seekers and *sans-papiers*, who often come from former colonies, are contributing in the economy in a way very similar to that of the legal migrant workers, who came from former colonies in the 1950s: as special categories of non-citizens exposed to economic exploitation,

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in such a way that the country can both afford regulated, solid labour law and adapt to the needs of the labour market for a precarious, compliant and cheap work force.

Violence and the Law

Studies of the dynamics of cohabitation often approach the problem of living together from a static perspective. The chapter explored this question through the lens of mobility, looking at the organization and constraints to mobility, and migration policies that create new forms of mobility: circulation without prospects of settlement. I have tried, through an ethnographic outlook, to discuss how the administration of unwanted mobility is reframing state borders in their forms and texture, and how these new borders are creating categories of non-residents, and situations of violence within the rule of law. In this process, border detention is an important apparatus, which carries "border effects" beyond the time and space of confinement itself: it is like a railroad switch that puts asylum seekers on a track of legal exclusion and vulnerability in the long run. This reality points to an important challenge facing states and civil societies as well as institutions. Whereas law is often conceived (and with reason) as the answer to violence, we see how there also is a violence of the law: violence organized through a legal and administrative management, within the rule of law, of people who are not citizens. Much research points out how in western democracies this kind of violence operates through a suspension of the law and pockets of arbitrariness within democratic spaces and as a condition of continuity or safety of the democratic spaces against unregulated migration (Makaremi 2009b). But the details of migrants' trajectories show that violence is not only linked to a *suspension* of the law: it is also organized by a complex entanglement of laws, administrative rules and procedures. In this context, researchers cannot be wise advisers and experts in the self-righteous equations that construct the problem of refugee management in terms of respect for the law, welfare attribution, and what is called the "burden of asylum" in the public debate. Instead, they have a responsibility to challenge the way public debate is constructed on these matters, and to discuss acutely the conceptual premises and empirical realities on which public policies are built.

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