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ARTICLE

Experiencing Police Stops in France

Low-Level Tensions, Trust and Citizenship*

Jacques de Maillard^{1**}

Abstract

Police stops are teachable moments, as they generate information concerning the status of the parties involved and the relationship between them. In France, research has highlighted the concentration of identity checks on young males from ethnic minorities living in urban areas. However, the contents of the interactions during police stops and the consequences of these stops have seldom been explored. On the basis of two research projects (a survey from the French Defender of Rights, and some direct observations of police-public interactions), we analyze here experiences of police stops. Although the behaviour of the police officers is mostly said to be polite, the relaxation of professional standards is, nevertheless, significant, and more accentuated for the young, male and minority populations. We find the roots of a vicious relational circle. The risk of a 'police stops trap' is obvious, as reciprocal hostile attitudes feed one another. We argue that targeted police practices undermine trust in the police and feed a more critical conception of citizenship.

Keywords: ethnic minorities, police stops, procedural justice, France, Citizenship.

1 Introduction

Police stops are the subject of repeated contestation and the attention of a large number of social actors and public institutions. It must be said that these police interventions can have dramatic consequences. It was for fear of an identity check (the French equivalent of police stops, see further on) that two children, from Clichy-sous-Bois in the region of Paris, died while hiding in an electrical transformer in October 2005, triggering an urban revolt lasting several weeks throughout the country. In February 2017, the 'Théo' case (named after a young man arrested in

* Acknowledgment: I warmly thank Mike Rowe (University of Liverpool) for the editing of this text. This article is derived from the participation in the PolStops EU Cost Action (<https://polstops.eu/about-us/>), in particular the participation in its Working Group 2 (Experiencing police stops). I thank all the participants for the exchanges.

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controversial circumstances in the northern suburbs of Paris) occupied media space in the first quarter of 2017 and saw one of the police officers indicted for rape. More generally, owing to their repeated nature, their non-justification by the police officers, their poor results in terms of combating crime, and the rough interactions to which they can give rise, the controls are likely to reinforce the distrust of certain segments of the population who consider themselves to be repeated targets.

The use of police stops therefore raises the crucial question as to what it means to wield police powers in western democracies: on the one hand, a police force that seeks to be effective in the fight against crime and to assert its capacity to maintain and produce order and, on the other, police officers whose actions must be based on some form of consent from the public and respect for individual freedoms. The issue is not new. In the United States, the Kerner Commission, as early as in 1968, identified police controls as one of the triggers of the urban riots of the 1960s. In England, the riots in Brixton in 1981 followed the widespread stops conducted by the Metropolitan Police as part of Operation Swamp. However, the stakes posed by the controls are now taking on a new dimension under the effect of three logics. First, police strategies have made increasing use of controls as an instrument in the fight against crime, particularly in the name of the war on drugs and violent crime (White & Fradella, 2016). Second, there has been an increase in academic work that measures its effects, in terms of effectiveness in the fight against crime, in terms of targeting certain sections of the population and assessing the link between trust in the police and stop policies (among many references, Bradford, 2017). Finally, there have been increasing social, judicial and political campaigns making a public issue of police stops (see, for example, Murray & Harkin, 2017 for Scotland).

In the international literature, one of the dominant questions is the 'who?': who is being checked, and what are the possible reasons for the over-control of a part of the population? This question refers to the differentiated treatment, or the over-control, of part of the population by police forces, and whether or not it is justified in terms of the fight against crime. Research has therefore long focused on this question alone, but the issues have broadened to include the way in which these controls are carried out. Significant in this respect is the shift in the meaning of 'racial profiling' in the American debate from the 1990s, when it was used to refer to roadside checks on African-American drivers (the so-called 'driving while black'). But the question is broader than just 'who' and has shifted to analyse a more global range of policing practices biased towards minorities. The issue of racial profiling has been subsumed by the question of racially biased policing, i.e. "when law enforcement inappropriately considers race or ethnicity in deciding with whom and how to intervene in an enforcement capacity" (Engel & Cohen, 2014, pp. 386-387; Fridell et al., 2001). In this article, we will focus on the 'how' and 'what consequences' questions. First, what is the level of tension between the police and the persons controlled, and how do the interactions between them take place? Second, what do they lead to in terms of judicial activities? What effects do they have on trust or on the conception of citizenship? The last question is absolutely essential because it refers to conceptions of the relationship between

police stops, trust in institutions, and the use of rights if citizens consider these controls to be unethical.

Those questions are important because police stops are teachable moments, “generating and communicating information concerning the status of the parties involved, the relationship between them and their mutual positions within wider social structures and processes” (Bradford, 2017, p. 142; see Tyler et al., 2014). Based on this premise, this article engages with research deriving from the procedural justice approach (see, among many others, Tyler & Huo, 2002), which has shown that legitimacy stems from appropriate behaviours (good listening, respect, impartiality, trust) rather than the outcomes of crime-fighting actions. To put it bluntly, “people’s willingness to accept the constraints of the legal authorities is strongly linked to their evaluations of the procedural justice of the police and the courts” (Tyler, 2003, p. 284). Therefore, understanding the nature of interactions and level of tensions may inform us about the respect, courtesy and dignity that mark the relations between the police and the public. More precisely, analysing the experiences of police stops, this article will show how the lack of justification of police stops and the unethical behaviours of police officers may undermine the legitimacy of the police (see Gau & Brunson, 2010; Saarikkomäki et al., 2020). It will also emphasize that the difficulties individuals have in defending their rights in instances of bad treatment by the police also imply a more critical conception of citizenship.

This article will deal with experiences of police stops in France. Studies on police stops have developed considerably over recent years (see for an overview of this growing body of research, Jobard & de Maillard, 2020). As we will see further on, a strand of research has demonstrated the concentration of identity checks on young males from ethnic minorities living in urban areas. As noted previously, we will focus on the interactions during police stops, and the consequences of these stops, on the basis of two research projects (see the methodological section for more details). The first is a survey conducted by the Defender of Rights (the French Ombudsman, *Défenseur des droits*, 2017). The second relies on direct observation of police patrols and interviews with police officers as part of the POLIS project (Police and teenagers in multi-ethnic societies), funded by the *Agence nationale de la recherche* (ANR) and the Deutsche Forschungsgemeinschaft (DFG).

The rest of the article is organized in four parts. After presenting the French context on policing (the dominant police style, the framework of identity checks and the social and political campaigns around the issue), we will present the different materials on which we base our analysis. We then address two different dimensions successively: the way in which these checks are carried out (and, in particular, the level of tension); and the judicial, legal and attitudinal consequences of these checks.

2 Some Notes on the French Context

The French police system is usually depicted as a dualist centralized system, composed mainly of two national forces placed under the responsibility of the

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minister of the interior: the *police nationale* and the *gendarmerie nationale*. The former is active in urban areas (5% of the French territory, 50% of the French population, 70% of delinquency), whereas the latter is in charge of rural and suburban areas (95% of the territory, 50% of the population and 30% of the delinquency). In this article, we will address mostly encounters between the public and the *police nationale*. Composed of 145,000 agents, it is a rather recent institution, the consequence of the nationalization of municipal police forces under the Vichy Regime. The history of the French police is marked by the priority given to the preservation of the stability of the government against radical groups, rather than to daily public security, the social demand for security or community relations (see de Maillard & Skogan, 2020; de Maillard & Zagrodzki, 2020).

2.1 Identity Checks in France: A Flexible Legal Framework and Discretionary Police Practices

In the text, we will speak indifferently of police stops and ID (identity) checks. In France the term 'ID check' is used, rather than 'stop and search', as police have the powers to oblige stopped individuals to present their identity papers (*vos papiers*) so that police officers can verify whether they are registered in any database of suspects or have prior convictions. The French Code of Criminal Procedure allows the police to conduct identity checks and search individuals who they have reason to believe are about to commit a crime, have just committed one or have information about one committed.

A distinction must be made between 'administrative' (or 'preventive') controls and 'judicial' (or 'repressive') controls. The latter consists, for a police officer, of inquiring about the identity of an individual who has just committed an offence or who is suspected of having just committed an offence. The first occurs without a prior offence or suspicion of an offence having been committed. They come under administrative policing, that part of police work, which consists of ensuring that nothing comes or will come to disturb public peace and order. When it comes to 'identity checks' in the public mind, it is the administrative police checks that are the focus of attention. Identity checks are regulated mainly by Chapter 3 of the Code of Criminal Procedure (*Code de procédure pénale*, CPP), "controls, checks and statements of identity" (Arts. 78-1 to 78-6 CPP). Article 78-2 provides for administrative checks, which may be conducted when 'plausible reasons' lead the officer to suspect that the person is wanted by the justice system or has breached obligations related to a sentence, has committed a crime, is preparing to commit one or can offer information useful to an investigation. But a person may also, under the same conditions, and 'whatever his behaviour', be checked to prevent a breach of public order, for example to the security of persons and property – which covers a particularly wide range of possibilities.

Much research has shown that police officers have a great deal of autonomy in deciding what 'suspicious behaviour' or what 'public order' is. Convergent research results have shown that French street policing is dominated by a rather enforcement-focused and confrontational style (Lévy, 2016), displaying forms of moral violence and discrimination (Fassin, 2013), although there are a variety of practices across a variety of street units, more or less proactive, confrontational or

unfamiliar with territories they police (de Maillard & Zagrodzki, 2021). Identity checks are a common policing tactic, serving multiple purposes, such as preventing crime, asserting police authority or collecting information (de Maillard et al., 2018; Gauthier, 2015).

Police agents exercise wide discretionary powers in determining when, on whom and how to conduct stops. Over recent years, a number of studies have shed light on the populations targeted by ID checks. According to a standardized observational study conducted in major Paris transit hubs (see Jobard et al., 2012), ethnic minorities were vastly over-represented in police checks: all things being equal, the likelihood of being stopped was multiplied 3.2 to 9.1 (depending on the location) for black people and 3.6 to 14.5 for North Africans. Other surveys have equally indicated the over-representation of young males of ethnic minorities in police checks (mainly, Beauchemin et al., 2018; Jounin et al., 2015). In sum, one may conclude that race overlaps other risk factors, as

race can be said to be a predictive variable indeed, all other things being equal, it is certainly not the only relevant feature (...). Being a young male is strongly determining as well. (Jobard & de Maillard, 2020, p. 208)

Thus, our article will deal with the other two questions identified in the introduction ('how' and 'what consequences').

2.2 ID Checks as a Public Issue

In France, racial profiling has become a public and political issue under the category of *contrôle au faciès*. The expression has been in use since the 1980s, when descendants of immigrants started to protest against police conduct. Numerous NGOs have regularly denounced the biased controls and excessive violence towards minorities. The Open Society Justice Initiative (OSJI) played an important advocacy role here. It funded the standardized observational study mentioned previously (Jobard et al., 2012), which has since been considered a landmark of French studies on police discrimination. Together with a collective of NGOs ("*Stop le contrôle au faciès*"; i.e. "stop racial profiling"), the OSJI initiated a major litigation case, supported by the French Defender of Rights. Thirteen cases of ID checks were brought to the civil courts, which eventually led, in 2016, to the condemnation of the French state for eight stops considered as unlawful by the Court of Cassation (the French highest court for civil and penal law) because of discriminations based on the ethnic appearance of the individuals.

In connection with these campaigns, the issue of racial profiling came onto the political agenda. In 2012, the left-wing presidential candidate, François Hollande (who won the election), promised to fight racial profiling by drafting legislation for a procedure that would be mindful of civil rights (which was imagined as the creation of a mandatory monitoring scheme). However, once in power, the proposal was abandoned rather quickly, partly because of strong opposition from the police unions. The issue has, however, not disappeared from public debate: scandals (around "hot" police interventions), reports (by academics and/or NGOs) and other litigation cases have kept the question very much alive (Boutros, 2020). After

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several events during the year 2020 (racist insults towards a person of Maghrebian origin and the beating of a producer recorded by amateur videos), the president has criticized the fact that “[t]oday, when you have a skin color that is not white, you are much more controlled (...). They are identified as a problem factor and this is unsustainable”.¹ At the time of writing, it is unclear whether these campaigns will impact on policing policies (changes in training, organizational instructions or monitoring of police stops). It is, however, obvious that police stops are on the political and public agenda.

3 Methodological Note

Our article focuses on the interactions during police stops and the consequences of these stops, on the basis of two different sets of data. The first is a survey conducted by the Defender of Rights (the French Ombudsman) among 5,117 people (*Défenseur des droits*, 2017).² The sample was drawn randomly in order to be able to establish a representative sample of the population aged between 18 and 79 years old residing in metropolitan France. The questionnaire explored several themes (knowledge of the rights and reputation of institutions, children’s rights, unequal treatment and discrimination, harassment at work, racism, public services and police/population relationship). Here we use the results of the questionnaire concerning the relationship between the police and the population: respondents’ experiences of contact with the police or gendarmerie during an identity or vehicle check, reactions in case of perceived non-deontological behaviour during the last stop, and general attitudes (trust, conception of citizenship). For each question, we performed statistical cross-tabulations with socio-demographic data (age, ethnic appearance, gender and place of residence).

The second source draws on 400 hours of direct observation in 2011 and 2012 and 60 interviews with police officers in two French cities, as part of the POLIS project (Police and teenagers in multi-ethnic societies), funded by the *Agence nationale de la recherche* (ANR) and the Deutsche Forschungsgemeinschaft (DFG). Observations and interviews focused mostly on constables and sergeants (*policiers* and *brigadiers*) from *Police-secours* (uniformed emergency response and patrol units), the *brigades anti-criminalité* (BAC, plainclothes squads whose job consists mainly in catching criminals in the act), and other entities that stand somewhere in between (local security groups, daytime units, transport police). Here we will focus on the contents of the interactions (293 interactions were recorded) (see de Maillard et al., 2018; de Maillard & Zagrodzki, 2021; for the German part, see Hunold et al., 2016), based on fine-grained descriptions of situations in order to uncover the full complexity of observed interactions. The observations and interviews were conducted by three trained researchers (including the author). All

- 1 *Le Monde*, “En colère après les propos de Macron sur les discriminations, deux syndicats de police appellent à ‘ne plus faire de contrôles d’identité’”, 5 décembre 2020.
- 2 Our research centre has an agreement with the Rights Defender to use the data produced by this survey.

observations and interviews were transcribed into a shared observation grid (describing the locations, participants, causes and unfolding of the interactions).

Although the two periods differ (2010-2011 for the interviews and observations, 2016 for the questionnaire), we contend that the two data sets are compatible. Despite a change of government in 2012 (from right to left), few changes in police policies have taken place. While the issue of identity checks was politicized during the 2012 presidential campaign (see 2.2), the government did not introduce any major reform, as the project of introducing a receipt issued to stopped individuals (a stop form) in order to avoid racial profiling was abandoned under pressure from the police unions. More generally, police-population relations have been the subject of only minor reforms (the creation of priority security areas, of a code of ethics or of a police identification number).

4 The Course of the Checks: Between Courtesy and Tension

What happens during a police stop? The issue here is the potential for conflict in these activities and the way in which the police deal with ordinary interactions with the public, including – but not limited to – ethnic minorities. Most stops are rather peaceful as citizens submit to the demands of police officers. A part of the literature has focused on use of force by the police during encounters (see the use of force continuum by Klinger (1995), from shouted commands to use of force through threats of use of force and weapon threats). In this part, we will detail the content of searches on the basis of the Defender of Rights' survey, questioning the extent of the unethical behaviours of police officers during the interactions. Furthermore, mobilizing the ethnographic survey, we will interrogate how the interaction unfolds and how police officers may behave in a procedurally unjust manner.

4.1 *The Content of Checks: Searches, Justification and Tensions*

Beyond the verbal interaction between police officers and those being checked, a stop may consist of a simple presentation of identity documents and perhaps also of a pat-down or a search. The Defender of Rights' survey provides valuable information on this point, as it shows that searches are 1.5 times more common among men than women, or among 18-24 years old than 25-44 years old who are stopped, and twice as common among men perceived to be Arab/Maghrebians as among other men. The accumulation of factors is again very predictive here: 80% of young men perceived as black or Arab/Maghrebians³ say they have been searched, compared with 28% of men in the general population (*Défenseur des droits*, 2017).

Checks are generally courteous, but the reasons for them are seldom explained. In the Defender of Rights' survey of 753 persons who had undergone a check in the past five years, 71% of those stopped thought that the police (or gendarmes) were

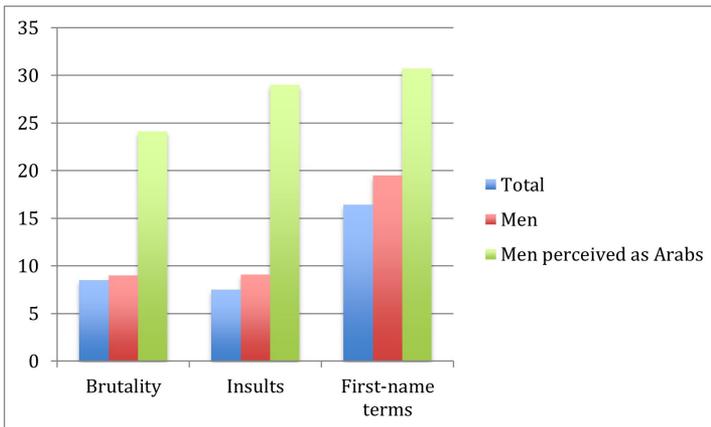
3 To address the issue of appearances, the Defender of Rights' questionnaire asked the following questions: "To conclude on your origins, how do you think others see you? You can give me several answers (White, Black, Arab, etc.)"; "and do you consider yourself as ... You can give me more than one answer".

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‘polite’. However, this proportion is heavily segmented according to the categories of people stopped: fewer 18-24 years old consider the policemen ‘polite’ (63.3%) and even fewer who identify as Arabs (54.7%). Another aspect is the justification for the stop: 41% of the interviewees stated that they had received an explanation of the reasons for the stop. Men (37% against 46.6% for women), people living in the Paris conurbation (31.4% against 50% for people in rural areas) and people perceived as North African (28.5% against 44.5% for people perceived as white) were less frequently given explanations. In line with procedural justice results, more persons who were told the reason for the check were of the opinion that the check was justified (72%) than others (53%).

The level of tension in controls is a central issue. In the Defender of Rights’ survey, one of the questions concerns police behaviour: “How did the policemen, the gendarmes, behave during the control?” Among the possible answers were the following: “they were brutal”, “they treated you badly”, “they provoked you, insulted you”. The survey specifies that 8% of those checked said they were brutalized during the last check, 7.1% were insulted and 16.3% were treated rudely using familiar terms (‘tu’ rather than ‘vous’).⁴ Here again, the characteristics of sex and appearance are central. Among men, these proportions are higher and even higher among minority men: 8.2%, 9.1%, 19.5% and 24.1%, 29.0% and 30.7%, respectively (Figure 1).

Figure 1 *Proportion of persons stopped who said that the police officers were brutal, insulted them or were rude during the last stop, by gender and minority status. “How did the policemen and gendarmes behave during this control?” (%)*



Access to Rights Survey, Defender of Rights, 2017.

4 This way of addressing (young) people may seem friendly, but in the French context (rather different from the German one from this point of view, Hunold et al., 2016), this is seen as rather over-familiar and disrespectful.

Scope: Total population reporting having been tested at least once in the last five years (n = 753).

Reading: 29.5% of young people aged between 18 and 24 who have been checked in the last five years state that they were treated rudely at the last identity check.

In other words, the Defender of Rights' survey shows the relative roughness of daily relations during checks, a harshness that is even more marked among the young, male and minorities. A further result of the survey is the wide variation in these different dimensions (politeness, justification, unethical behaviour), depending on the frequency of checks. Individuals who had been stopped more than five times reported being stopped in a singular way: they were more likely to consider that their last stop was not justified (76.5% compared with 59% of the entire population stopped); more frequently they felt that the stops were accompanied by rude behaviour and were more likely to report a lowering of professional standards (40.3% said they were treated on an over-familiar basis, 20.3% were bullied, 21.4% were insulted). These results call attention to the specific relations of a public with whom the police have regular relations, who are subject to repeated checks and who are subject to a greater relaxation of professional standards. The Defender of Rights' survey does not question the behaviour of those being stopped, but these results indicate a deterioration of relations that can be likened to a spiral of degradation, where distrustful behaviour feeds on itself (Brunson, 2007; Weitzer, 2017). The ethnographic approach favours a more comprehensive and fine-grained understanding of these tense interactions.

4.2 Pervasiveness of Low-Level Tensions with Young Minorities

The qualitative analysis of interactions occurring during controls leads to complementary conclusions. During our observations, physical violence (the unjustified and disproportionate use of force) rarely occurred. This may be easily explained: these events are rather rare, and our presence made them even less likely (see also Fassin, 2013, p. 131). Beyond the use of force, one may discern different practices of non-physical violence, from verbal abuse to intimidation or more subtle forms of insinuation. Fassin has rightly insisted on these dimensions, pointing out that these practices may "breach the integrity and dignity of individuals" (2013, p. 130). More generally, low-level tensions are pervasive, especially during interactions between young minorities and the police.

French police officers mostly believe that it is legitimate to control the identity of individuals in any situation because they are authorized by the law and that they do not necessarily have to justify themselves (see de Maillard & Zagrodzki, 2021). This attitude may lead them to adopt rather adversarial approaches, especially towards citizens that challenge their definition of the situation. As we noted during our observations,

The police spot a 16-year-old North-African walking on the side-walk, in a residential, low-traffic area. He is wearing a tracksuit. They stop him to check his ID. (...). The police call the station to perform all the necessary checks. (...) We spend long minutes waiting while nothing is happening. The youth, though

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not particularly upset, starts displaying some signs of impatience. 'It's humiliating, all these people passing by are watching me', he claims. 'Come on, they don't care at all, there's nothing humiliating', the sergeant replies knowingly. (Field journal, GSP, city centre, city A)

We come back to Rue X. And we immediately come across three young North Africans, whom the police officers check immediately. They react in a neutral way. The hairdresser next door comes out and says that they are his clients ... and that they are waiting for a fourth one whom he is doing ... they check another North African who is passing by at that moment in the street. Who doesn't really let himself be controlled ... In an aggressive tone: 'But why are you stopping me, I haven't done anything... I'm walking quietly in the street... and no, I don't have my papers ... Why are you asking me for my papers?'. Answer: 'We have a requisition from the prosecutor ... Sir, calm down'. 'But I don't give a damn about the prosecutor ... Why are you checking me?'. 'Wait, sir, calm down, it's only a check ...'. 'But I'm fed up with being checked when I've done nothing... I'm just passing by and being checked' ... 'I'd like to know your name, sir, and where you live', 'I live far away, but not too far'. 'Sir, if this continues, it will end up at the station '. The tone is particularly tense. (Field journal, North division, City Centre, City B)

These two interactions reveal deep contradictions between the police and the young minorities. On the one hand, police officers consider that an ID check is legally justified, and that the control is minor, whereas, on the other hand, youngsters feel repeatedly controlled and sensitive to the negative effects on their public image. This relationship could be characterized as restrained hostility, even though, of course, a whole series of variations can be observed around this repertoire, ranging from indifference to overplayed cordiality to defiance. The term "perverse familiarity" (Mohammed, 2007) aptly describes this situation whereby individuals (the police as well as the youths) who have no common ground are forced to meet again and again owing to their respective activities. The dominant logic here is one of low-intensity conflicts, based on mutual banter and stare-down contests that may or may not escalate. These results are similar to the conclusions of Brunson and Miller (2006) concerning young black men in urban America:

While our analyses include young men's accounts of police violence, theft and evidence tampering, the current study draws attention to the importance of understanding the harmful effects of more routine aspects of police behavior for police/minority relations. Complaints of persistent harassment and disrespectful treatment were the most widespread in our interviews. (2006, p. 635)

5 Consequences of the Stops: Citizenship Put to the Test

Checks are moments during which the legitimacy of and trust in the police services are tested, consolidated or questioned. The activity of control carries a symbolic meaning concerning the status of different groups, the values of a society and the way it is governed. Of particular interest here are studies of the experiences of policing: how do the individuals subject to policing perceive them? We will begin by emphasizing the relative invisibility of police stops: they are poorly monitored in French police organizations and do not often result in any judicial consequences. However, they weaken police trust and legitimacy. More fundamentally, they favour more critical conceptions of citizenship, defined broadly as a set of rights and obligations, encompassing civil, political and social rights (Marshall, 1965).

5.1 *Judicial and Administrative Invisibility of Police Stops*

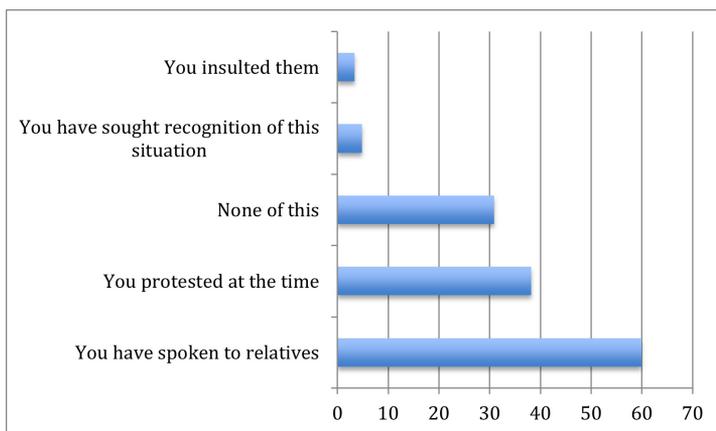
One of the first aspects of controls concerns the judicial dimension: what is the proportion of controls with judicial consequences (arrest, fine, etc.)? Surveys always measure this approximately. The few data produced by the General Directorate of the National Police on the occasion of experiments suggest that around 95% of checks have no follow-up (cited in Gauthier, 2018). The Defender of Rights' survey broadly confirms these data: only 5.9% of the persons checked were taken to the police station after the last check.

However, there are many reasons why a person may be taken to a police station. It may be an arrest if the person has committed an offence or is wanted or a simple identity check if the person is unable to provide proof. It should be added here that the greater the frequency of checks, the greater the likelihood of protesting: Around 19.7% of those who said they had been checked more than five times within five years said they had protested, compared with 3.7% who said they had been checked between one and five times. Once again, there is a recurring population of people who have been stopped and who are particularly defiant about being stopped and who reject the police definition of the situation.

While the large majority do not lead to any judicial consequences, it also appears that checks that go wrong, for example because of unethical practices on the part of law enforcement officers (as noted previously), very rarely involve the initiation of proceedings by those who believe they have been victims. While 38.2% said they protested at the time, or 59.9% told their relatives, a tiny minority took action (only 4.8% sought recognition of the situation, see Figure 2). To use Weitzer and Brunson's words, "the costs of lodging a complaint may be perceived as too high and the likelihood of success too low" (2009, p. 246).

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Figure 2 *People's reactions following their reported experience of unethical behaviour at the last identity check. "Following the behaviour of the policemen, what did you do?" (% , several answers possible)*



Scope: Persons declaring that they were treated in an over-familiar manner and/or brutalized and/or insulted during the last identity check (n=154).

Reading: 59.9% of people who said they had been treated in an over-familiar manner and/or brutalized and/or insulted during the last identity check told their relatives about it.

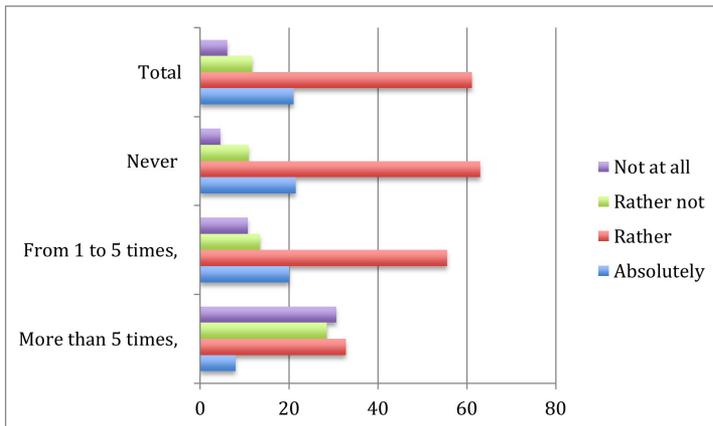
In total, the checks are largely legally invisible: they rarely give rise to legal action, and the problems they can cause rarely lead to action by people who consider themselves as victims. In addition, the very large number of checks carried out is invisible within the police organization itself: superiors are not informed of them, and there is no administrative record of these acts. They are, however, associated with crucial social representations of the relationship with institutions: trust in the police but also, more broadly, the conception of citizenship.

5.2 Police Stops and Trust

Much of the work of procedural justice has repeatedly addressed this issue, calling attention to the fact that such encounters damage trust and legitimacy (see especially Bradford, 2017; Mazerolle et al., 2012; Skogan, 2006). In Chicago, Skogan measured the relationship between stop, question and frisk and trust in the police (which he assesses through questions of honesty, sincerity, responsiveness to the needs of the population, commitment to the common good and commitment to rights-respecting policing) and shows that the level of trust is consistently lower (even among whites) among those who have been stopped. It underlines the delegitimizing effects of controls, equivalent to being fined or brought to the station (2018, pp. 261-262). In England, having had recent contact with the police is associated with less trust and legitimacy, especially because checks that are judged unsatisfactory have stronger effect than those that are judged satisfactory (Bradford, 2017, p. 177; Skogan, 2006). The results of the Defender of Rights'

survey largely confirm this: trust is very much undermined by the frequency of checks. While 82.2% of those questioned stated that they trust the police completely or somewhat, the result is only 40.8% for those who have been stopped more than 5 times (see Figure 3).

Figure 3 *Degree of trust in the police according to the frequency of reported identity checks. “From a general point of view, tell me if you trust the police” (%). (Frequency of identity checks within five years)*



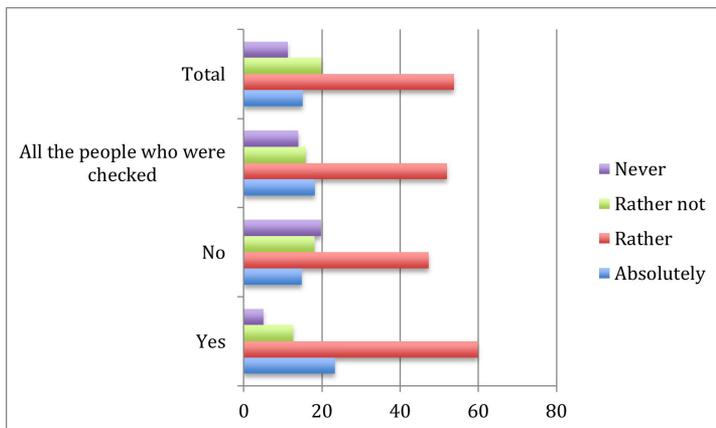
Scope: Total survey population (n=5,117).

Reading: 63% of people who say they have not been stopped in the last five years tend to trust the police.

Reconnecting the results of works undertaken with a procedural justice perspective (Mazerolle et al., 2012), it appears that the behaviour of the police officers during the last control is linked to variable levels of confidence. Around 59.1% of the persons who received explanations during the last control tend to trust the police, compared with 47.3% of the persons to whom the reasons were not explained (see Figure 4). In contrast, the level of confidence is also low for people who report having been disrespected, insulted or bullied during the last check. For example, the level of confidence for people who report having been insulted is 23%.

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Figure 4 *Degree of trust in the police according to the explanations received at the last control. “From a general point of view, tell me if you trust the police” (%). “During this control, the police explained to you what they were doing and why?”*



Scope: Entire survey population reporting having been checked at least once in the last five years (n=753).

Reading: 59.1% of people who received explanations during the last identity check tend to trust the police, compared with 47.3% of people to whom the reasons for the check were not explained.

In a similar vein, Oberwittler and Roché (2018, pp. 87-89) indicate, by integrating numerous control variables in a multivariate regression, that in France, as in Germany, confidence decreases in inverse proportion to the number of controls reported. Skogan’s conclusion for Chicago can summarize a more general position: “trust is threatened when police stop people but do not give any reason to hold them. It is undermined by these kinds of demeaning and meaningless experiences” (2018, p. 263).

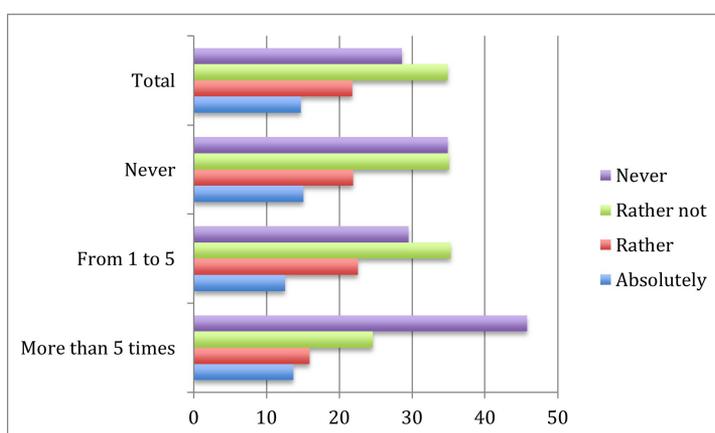
5.3 Police Stops, Citizenship and Use of Rights

Previous research has highlighted that repeated controls have effects on how individuals define and perceive themselves (see for the US, Epp et al., 2014). In France, using Beauchemin et al.’s (2018) data, Terrasse (2019) focused on the consequences of stops on self-perception. In this survey, 93 to 97% of migrants born in France said they perceived themselves as being French, but only 63 to 78% of them reported being perceived as French by others. Once the effects of age, occupation, education and neighbourhood were controlled for, multiple (two or more) stops over the last two years appeared to have a significant (though moderate) impact on how people think they are perceived – 15 to 20%, depending on the groups.

The Defender of Rights’ survey adds a political dimension to this issue of self-perception and perceptions by others. Firstly, the results highlight an

association between the fact of being controlled and a more critical conception of citizenship: around 45.8% of the people declaring that they have been controlled more than five times in the last five years think that French citizens are unequal before the law (Figure 5). This perception is in line with a traditional critique of citizenship: individuals with formally equal rights do not, in reality, enjoy the same rights. Certain social groups may now “enjoy nominal citizenship status, but their members are, in fact, afforded less in the way of substantive citizenship than others in society” (Bosniak, 2006, p. 30).

Figure 5 *Opinion on the principle of equality of citizens before the law according to the frequency of reported identity checks. “Do you think that all French citizens are equal before the law?” (%). (Experience of identity control within five years.)*



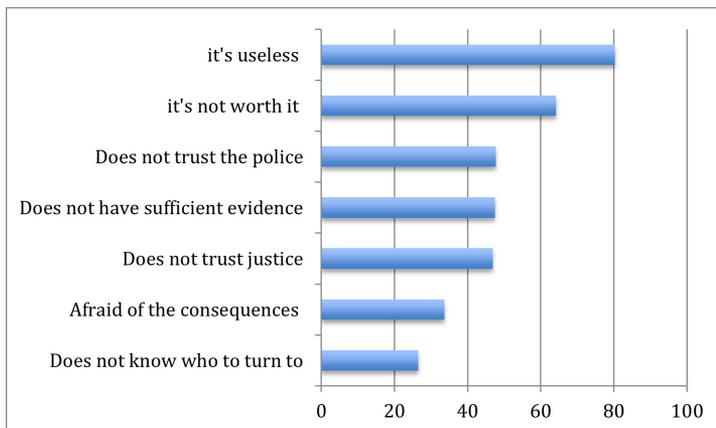
Scope: Entire survey population (n=5,117).

Reading: 45.8% of people who stated that they have been checked more than five times in the last five years think that French citizens are not at all equal before the law.

This critical view of citizenship is linked to an experience of discrimination: around 59.1% of those reporting frequent stops also consider that they have been discriminated against during a police stop in the last five years. Of the 753 people stopped, 20% consider that the last stop was discriminatory. Finally, the Defender of Rights' survey calls attention to the use of the rights of individuals who consider themselves victims of unprofessional behaviour. The survey thus shows that 80.3% of the people who declared that they were treated disrespectfully and/or brutalized and/or insulted during the last identity check believe that 'it is useless', 47.7% because they do not trust the police, 46.9% because they do not trust the justice system (Figure 6, see also Figure 2).

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Figure 6 *Reasons why those reporting a breach of law enforcement ethics at the last check did not seek recognition of the problem (Several possible answers). “Are there any particular reasons why you have not taken any steps?” (%)*



Access to Rights Survey, Advocate for Rights, 2016.

Scope: Persons declaring to have been treated in an over-familiar manner, brutalized and/or insulted during the last identity check and not having taken steps to have the problem recognized (n=146).

Reading: 80.3% of the people declaring to have been treated in an over-familiar manner, brutalized and/or insulted during the last identity check did not take steps to have the problem recognized because they felt it was pointless.

5.4 Identity Checks, Citizenship and Nationhood: Opposed Conceptions

Similar results emerge from the ethnographic data. Identity checks crystallize antagonistic conceptions of the relationship to national citizenship (or to the French Republic), developing a deep rift between young minorities and police officers. Rogers Brubaker (1992) has famously distinguished between the territorially inclusive French citizenry versus the ethnically exclusive German conception of citizenship, relying on conflicting understandings of nationhood. As we will see, French police officers' perceptions are close to this idealized conception of the French citizenship, strongly articulating citizenship and nationhood, which Zauberman and Lévy (2003) dubbed the “French Republican ideal”. In contrast, young descendants of migrants express contempt towards the false promises of the Republic (“why am I always controlled?”). They tend to see police officers as “the ubiquitous, public, authority-laden symbols of (their) second class-citizenship” (Bayley & Mendelsohn, 1969, p. 141) and themselves as second-class citizens, even excluded by the practices of those who embody the state (see Zedner, 2010).

These controls manifest oppositions between, on the one hand, young people from visible minorities reproaching the police for over-controlling them and, on

the other, police officers showing a certain annoyance towards young people who claim an identity other than French:

But I take them back quite a bit because they often give me the excuse 'you're checking me because I'm brown, I'm tanned'. I tell them 'but you have a French identity document, you are French'. (Constable, Transport police, City A)

French police officers are quick to stigmatize the inability of young visible minorities to comply with the "rules of the game" (in this case, to submit to police requests and be obedient) during identity checks or vehicle searches or the propensity of these same young people to question their membership of the French nation. Police officers nurture a form of distance, even irritation, towards young French people who favour identities other than belonging to the French nation (see also Fassin, 2013). One can, however, see a contradiction in their position. They often acknowledge that they check these young people more frequently, which calls into question the equality of citizens, while, at the same time, reproaching them for not feeling sufficiently part of the national community.

Young people belonging to minorities and living in the banlieues have the opposite image: they denounce the discrimination to which they are subjected and the hypocritical promises of Republican equality (Dubet et al., 2013; Lapeyronnie, 2008). The moral indignation of police officers towards young people who deny their French citizenship is matched by the resentment of young people who see themselves as victims of injustice and discrimination.⁵ An excerpt from observations provides a good basis for this problem:

It's after 10 pm. We stop again to carry out random roadside checks. A Golf is stopped with three North Africans between 18 and 25 years old on board. Their identity is checked, as well as their papers and the conformity of the vehicle. They are invited to get out of the vehicle and are searched. Everything went smoothly. However, the three young people's faces were closed. (...). The policeman asked the boy 'Didn't I already check you?' He replies: 'I'm 25 years old and got my licence at 18. Since then, there hasn't been a week when I haven't been checked'. (Territorial Unit, City A)

This situation is like a vicious circle: the police have to deal with defiant young people, sometimes exasperated by repeated police checks (see the 'perverse familiarity', above), but the 'Republican' discourse of the police, who are quick to remind these young people that they are, first and foremost, French, only fuels this defiance. And the young people's denials of their nationality only increase the feeling among the police that they do not behave like others.

5 According to a study by the European Agency for Fundamental Rights on people from minorities controlled by the police, minorities living in France more frequently feel that this control is the result of ethnic profiling: 18% for North Africans, 24% for Sub-Saharanans in France (European Union Agency for Fundamental Rights, 2010, p. 7).

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These oppositions are interesting when one relates them to political traditions (Brubaker, 1992) and the effectivity of legal rights: repeatedly stopped persons, often descendants of migrants, have a more critical conception of citizenship, in the sense that they feel they do not have real equal rights. Interactions crystallize the moral and emotional dimensions of citizenship: police officers emphasize the continuity between social identities and national citizenship (“you have some French papers and thus you should feel French”), whereas young minorities express scepticism (“I am not French, because I am not treated as other French citizens”).

6 Conclusion

As we know, interactions between police officers and citizens are “teachable moments” as they generate information concerning the status of the parties involved and the relationship between them. Three main findings appear significant. First, when we look at the interactions, the level of ordinary tensions that characterize these controls (between 7% brutality and 16% in an over-familiar manner) is striking. Although the behaviour of police officers is said to be mostly polite, the relaxation of professional standards is nevertheless significant and more accentuated for the young, male and minority populations. The level of tension seems higher than in equivalent countries. Oberwittler and Roché (2018) have emphasized the greater harshness of French interactions between high school students and the police compared with their German equivalents. According to the results of their survey, the police explained the reasons more rarely and became violent more often, although resistance by the young persons was also more frequent. One may conclude that the rather proactive and confrontational policing style in France is accompanied by some tougher daily interactions. In turn, these harsher relations undermine trust in the police (see also Gau & Brunson, 2010; Saarikkomäki et al., 2020). In line with results that procedural justice would predict (Tyler, 2003), our findings highlight how the way stops are conducted has harmful effects on trust. Our results are consistent with those of Brunson and Miller on young African Americans in the United States:

Young men’s complaints of aggressive and discourteous treatment during routine encounters illustrate that it is not only *who* is policed, but *how* they are policed that matters in establishing the credibility of police officers in minority communities. (2006, p. 636)

Apart from the issue of trust, these tough practices also diminish the sense of citizenship of certain individuals, thus undermining “the sense of secure belonging felt by certain individuals and social or ethnic groups” (Loader, 2006, p. 212).

Secondly, there is a minority with these characteristics (young men of minority appearance living in urban areas) who are subject to repeated checks and more often to a relaxation of professional standards. Here we find the roots of the vicious relational circle of perverse familiarity (Mohammed, 2007). When it comes to maintaining their presence, ID checks are a way for the police to take over the area

and show the youths “who is boss.” Stops perpetuate a relationship of dominance over their “clientele” (Lee, 1981). The risk of a “police stops’ trap” is obvious, as reciprocal hostile attitudes feed each other. As Hough (2013, p. 188) points out, “[C]hallenges to police authority can lock officers into the logic of confrontation”. To use another notion formulated by Hough (2020), by overusing their power to stop and search, police fall into a “hard power trap”, implying that there is no longer scope for the kind of soft power tactics that motivate consent to the rule of law. An interactional spiral is at work, when negative expectations on both sides (young minorities and police officers) lead to disrespect by the former and harsh treatment by the latter (Weitzer, 2017). As expressed by Donald Black some 50 years ago for young African Americans, “in anticipation of harsh treatment, blacks often behave disrespectfully toward the police, thereby setting in motion a pattern that confirms their expectations” (1971, p. 1109). The same could be said for police officers.

Thirdly, what is striking is that when professional standards are relaxed, only a small minority (approximately 5%) want to have this situation recognized, which reveals a particularly pervasive state of non-use of rights. This condition is also characterized by a more critical attitude to citizenship, with inequalities in rights being considered pervasive, at the expense of the promises of the French conception of citizenship (Zauberman & Lévy, 2003). In other words, controls have a paradoxical status in France: they can be the source of strong tensions in the interaction itself, and their repetition and targeting can be the source of polarizing public debates, but these controls rarely lead to judicial consequences, and police misconduct rarely involves individual mobilization to get the situation recognized.

This study thus shows the negative effects associated with a style of action relying on proactive stops (de Maillard et al., 2018; de Maillard & Zagrodzki, 2021): on the one hand, a relatively high level of ordinary tensions (insults, aggression) but, on the other hand, a decrease in trust and a more critical sense of citizenship. The combination of quantitative (highlighting the extension of low-level tensions) and observational (highlighting the unfolding of everyday conflicts) results consolidates the diagnosis: repetition of controls and unethical behaviours feed the risks of tensions and distrust between the police and the public. Furthermore, the controls crystallize opposing conceptions of citizenship and senses of belonging: the moral and vertical conception of the police officers conflicts with a feeling of a degraded citizenship shared by many young men from minorities, who deem they are treated discriminatorily by the representatives of Republican institutions. In Zedner’s words,

assertion of the state’s duty to provide security for bona fide citizens provide the rationale for measures ... (that) create a caste of outlaws and aliens whose status renders them suspect aside from any wrongdoing; whose interests are compromised in the name of protecting the public; and who must requalify to enjoy full citizenship. (2010, p. 379)

The lessons for the police are, in my view, twofold. Firstly, the negative effects associated with the repetition of controls require reflection on other, less confrontational and intrusive, ways of dealing with the usual police clientele.

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Secondly, police authority is played out in interactions: by making excessive use of coercion, the police establish the conditions for a vicious circle of relationships. Such an observation invites the police to engage in work (training and management) to help manage difficult interactions and encourage a de-escalation of tensions.

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