The Asylum Procedure in Border Detention
The Technicalities and Morals of Truth Determination in France

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Introduction

France has established a border control system at airports that organizes deportations in real time. These deportation practices are nonetheless restricted by international laws concerning asylum, which the French state undertook to respect as a signatory to the 1951 Geneva Convention on the Protection of Refugees. Two principles apply in particular: an asylum seeker is exempt from presenting documents to cross the border of a country where he or she seeks asylum, and he or she cannot be deported until his or her application has been heard and examined.[1] At Roissy-CdG Airport in Paris, for example, asylum seekers must be detained until their applications can be examined and adjudicated before they are allowed to enter France. Thus, the legalities of refugee protection necessitate their detention. This places asylum administration at the origins of border detention (Crépeau 1995).

State power holds sway over asylum applicants in an exceptional legal and administrative space determined by specific identification and classification processes. An applicant's personal account, given to a refugee protection agent at his or her hearing, is the foundation of asylum procedure. The conditions of migration are negotiated in a space where the national host community is redefined literally by filtering and excluding those who do not belong to it, and figuratively by affirming common rationalities and

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1 "Non-refoulement" (defined in article 33 of the 1951 Convention Relating to the Status of Refugees) has become a principle of *customary* international law, as it applies even to states that are not parties to this Convention or its 1967 Protocol.

moral values, such as democratic assistance or protection of the welfare state against abuses and false refugees (Noiriel 1992, Crépeau 1995, Lavenex 1999, Schuster 2005). Several studies have pointed out that asylum management in Western countries is based on truth determination practices (Herlihy, Gleeson and Turner 2010, Fassin 2013, Kobelinsky 2015, Kynsileto and Puumala 2015, Maskens 2015). These practices are articulated from imperatives of control that aim to restrict the immigration of asylum seekers from unwanted populations (Marrus 1985, Belorgey 2003 and 2007, Rousseau and Foxen 2006, Valluy 2009). These studies remind us that rules established (or crafted *in situ*) for truth determination are inseparable from issues of speech, power and population management. Starting with my fieldwork narratives, this chapter explores how asylum procedures at the border, built on ways of determining truth and falsehood, are exercised under the mutual suspicion of both the applicants and the administration.

For someone experiencing detention at the border, control and resistance are tied to the process of "narrating oneself" (Butler 2005), of putting memory into words. But this personal narrative is conditioned by the applicant's precarious situation and by administrative scepticism. Narrative structure and form are anchored in the narrator's psychic, cultural and social condition, including his or her experience of border detention. Both sides have a stake in how the narrative is articulated.

For applicants, coherence and veracity determine the likelihood of sincerity and whether their cases fit under an increasingly restrictive reading of the Geneva Convention. Narratives must also confront, deflect or decode collective representations in the host country that "produce indifference" towards asylum seekers (Herzfeld 199) in the administrative world of border control. For the administration, standards of judgement perform the double work of narrative transcription and evaluation, constructing a "regime of verification" (Foucault 2004b) to determine the fate of refuges. This chapter will investigate processes of identification and administrative categorization, the interactions and narratives that together build asylum procedure as a space where "truth" is investigated by asking: What epistemology is at work here? What meanings and definitions of "truth" apply? How are national rationalities and moral order delineated at the border, where individual decisions control who can enter and who cannot?

This chapter explores these questions through an ethnography of border detention based on my fieldwork at Roissy-CDG Airport in Paris, where

I volunteered as a legal assistant with the NGO Anafé (*Assistance nationales aux frontières pour les étrangers*) between 2004 and 2008. I assisted undocumented migrants and asylum seekers with their paperwork and helped them navigate their administrative journey through border detention. This "observatory participation" (Makaremi 2008) not only gave me access to the detention centre, it helped me understand the procedure, its temporality, its actors, its spoken and unspoken rules and how it functions in general. This kind of engaged ethnography presented specific methodological and ethical challenges. But it also offered new paths for knowledge production that combine the traditional demands of objectivity with an openness to the heuristics of emotions, experience and empathy.[2] The analysis I offer here builds on field notes, observations of individual trajectories, a critical review of forty-eight asylum decisions and interviews with both refugee protection officers and former detainees who had been admitted to France. Many years have passed since I collected this empirical data. Almost a dozen laws and regulations have modified border detention and asylum procedure in France. However, these legislative changes did not address real needs for procedural readjustment but rather directly reflect the role of immigration in global political power struggles. A new modality of ill-treatment and exclusion through administrative complexity has instilled institutional violence in the rule of law. Nevertheless, here I focus on the underlying logics and administrative episteme, setting aside recent border detention and asylum controversies, which have rearranged but not substantially affected the form of government at play.[3]

The bureaucracy of border asylum

According to figures from the French Ministry of the Interior, 33 percent of those kept in airport waiting zones in 2015 were asylum seekers (Anafé 2016). The special procedure for examining asylum applications in such areas has evolved over the past three decades, but its guiding principle is as follows: applications are examined at the border by officials of the Asylum Division, who draw up "opinions" for the Ministry of the Interior, which decides

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2 I discuss these issues in Makaremi 2008.

3 For a discussion of recent developments of asylum laws see, for instance, Palluel 2016.

whether or not to admit the asylum seekers to France. Yet, this decision is only a first screening. Although the administrative authority is the same, asylum at the border is treated differently from asylum within in country. Several procedural differences at the border influence the trajectories of asylum seekers.

Firstly, application at the border is not for refugee status, but to gain admission to the country as an asylum seeker. Once an asylum seeker's application has been accepted, he or she is allowed to leave the waiting area and enter France, but must apply for asylum in the prefecture within eight days. His or her application, consisting of a written form and an oral interview, is reviewed for the purpose of granting refugee status by the French Agency for the Protection of Refugees and Stateless Persons (OFPRA).[4] It is not rare for an asylum seeker admitted to the country to be subsequently rejected by OFPRA and then by the National Court of Asylum (CNDA), which examines appeals made by rejected applicants (Valluy 2009). Conversely, an asylum seeker rejected at the border, but who succeeds in entering France at the end of his or her stay in the waiting zone, can still apply for asylum and obtain refugee status.

Secondly, asylum application at the border does not involve the filling out of a form or presentation of a written personal narrative. The examination is based solely on an oral hearing lasting between ten minutes and three hours; the determination is reported within three days of the hearing on average.[5] OFPRA's procedure for granting refugee status allows the asylum seeker one month to complete a written file in French, which may be followed by an oral interview. According to OFPRA's 2015 annual report, the average time it took to process an application was 100 days – reducing processing time has been an important political issue in immigration control policy (OFPRA 2015: 35). Finally, OFPRA agents at the border examine asylum applications under Geneva Convention rules only: no subsidiary protection can be granted at the border, although this can happen on French territory.[6] Although offi-

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4 Karen Akoka offers a sociological history of this institution (Akoka 2019).

5 "In 2015, 72% of OFPRA's decisions were given within 48 hours of placement in the waiting zone, and 90% within 96 hours". (OFPRA 2016)

6 In France, subsidiary protection is the protection granted to claimants who are not granted official refugee protection (for instance, only subsidiary protection can be granted to people coming from countries officially recognized as "safe countries" by OFPRA, such as Turkey).

cials assert that examination criteria are the same in the waiting area and on French soil,[7] the Asylum Division at the border works according to particular rules (spoken and unspoken) linked to the specificities and technicalities of border detention. At the same time, the issues at stake and the practices of asylum treatment in a restricted space and time can be seen as a microcosm of asylum as a whole, as this chapter explores.

In 1991, the Marchand Decree established the procedure by which asylum seekers in waiting areas at the border are heard. The procedure falls within the competence of the Border Asylum Division (DAF), which was originally attached to the Foreign Ministry. In 1998, applications increased considerably, coming close to current figures.[8] In addition to a permanent staff of four OFPRA protection officers, ten to fifteen contractors were recruited and trained to handle the increase in applications by the head of the Sub-Directorate of Refugees at the Ministry of Foreign Affairs. This coincided with the introduction of a more restrictive doctrine for granting asylum.[9] From 1998 until 2001, the first team of agents left the DAF to form OFPRA's "Eurafrica section" (sections are organized according asylum seekers' region of origin). In 2001 and 2002 the establishment of a new management team within the DAF signalled the beginning of OFPRA's gradual strengthening of the asylum bureaucracy at the border. OFPRA was within the Interior Ministry, but the DAF was attached to the Ministry of Foreign Affairs. The DAF now began to develop its own approach to asylum based on the context and objectives of border control, as well as the personality, management methods and vision of its leadership. Restrictive interpretations of asylum led to significant pressure to reduce admission. Rates of around 40 percent in 2001 fell to just under 20 percent in 2002, and dropped dramatically to 3.8 percent in 2003. At that point even OFPRA expressed disapproval of asylum examinations at the borders.

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7 Minutes of the meeting between Anafé and OFPRA on the concept of "manifestly unfounded", 23 May 2007: http://www.anafe.org/download/generalites/CR%20r%E9union%20a nnuelle-version-assoc-16-04-07.pdf [accessed on 20 October 2018].

8 In 1991, 500 asylum claims were registered at the border. This figure increased to 4,409 in 2008, but decreased again to 1,180 in 2017, according to OFPRA annual reports (https:// www.ofpra.gouv.fr/fr/l-ofpra/nos-publications/rapports-d-activite [accessed 20 October 2018].

9 Interview with M. Souza, a lawyer and member of the Anafé executive board, 18 March 2005 (all names have been anonymized).

The DAF hired fifteen new staff members in 2002 to replace the former team and respond to increased asylum requests. This new team was composed of young graduates with master's degrees hired on short term contracts. The job profile for protection officers did not call for specific legal knowledge: officers learned the ropes by observing their supervisors on the job, as one recalls:

> My first chief was Mr. L.: he was from the DGSE [Directorate General of Foreign Security, Foreign Intelligence Services of France] and had been a former spy. How should I put it… he was more a man of the action than a man of reflection. For him, 98 percent of asylum seekers were liars. My training was to watch my chief do the job. The first time I had a conversation with Mr. L., I was embarrassed because I felt that the criteria for judgment were absurd. I recall how, in an interview, he asked an asylum seeker to describe his cell and tell him how many square meters it was. The asylum seeker, anxious, responded "four square meters". At the end of the interview, M. L. told me: "You see, he's telling lies. There are no prison cells of four square meters!" (Interview with Élodie Noir, protection officer (OP) in the Border Asylum Division, 19 May 2005)

The youth and inexperience of this second team of DAF officers, their status on short term contracts, the lack of prerequisite skills, and the on-the-job training methods combined to diminish their autonomy and room for manoeuvre in 2002. This trend strengthened the tendency of the DAF to operate autonomously of refugee protection procedures as they were applied on French territory proper. However, on 21 July 2004, a new decree placed the DAF under OFPRA's supervision, where it remains today. In 2004, the asylum admission rate was 7.7 percent. Since 2005, the DAF's management has changed, but the daily routine of asylum examinations has remained the same since airport waiting zones opened in the early 1990s:

> In the morning there are envelopes with cases: we divide the interviews. At present there are only one or two [cases] per person per day, which is not much. The narratives are taken in their entirety and sent with notes to the chief, who has already received the report on the individual's situation by fax. [...] The chief either accepts our opinion or does not: he intervenes only to turn an agreement into a refusal. Then he sends his opinion to the DLPAJ [police]

who transfer it to the GASAI [Interior Ministry], which gives the final decision. The officers who issued opinions on "manifestly unfounded" claims no longer have any influence decisions from the moment the case is reviewed by the chief. (Interview with Élodie Noir, protection officer (OP) in the Border Asylum Division, 19 May 2005)

All asylum applications rejected at the border are called "manifestly unfounded". This is because refusal decisions at first screening rest on a country's legal right to reject "manifestly unfounded" applications that are false or fall outside the asylum framework. Refusal decisions are issued by the Directorate of Civil Liberties and Legal Affairs (DLPAJ) of the Interior Ministry, on official forms faxed from its offices in Paris. The notice most often comes on two sheets. The first part cites the legal texts governing the right to asylum in France, the asylum seeker's identity as officially registered (e.g. "Youssef Betrik alias Ali al-Darwi, born on 27/03/1980, declaring himself a Palestinian citizen") and the application date. The second part summarizes the asylum seeker's narrative in a few lines before stating, in a second paragraph, the OFPRA's reasons for refusal. The last part presents the DLPAJ's formal decision: the application is rejected, the applicant will be deported, the border police are "responsible for the notification and enforcement of this decision".

The asylum framework

On the morning of November 5, 2007, the Roissy police arrest Ahmed Masri while checking a flight from Hanoi, Vietnam. Ahmed asks for asylum at the police station and is transferred to the detention centre. There an OFPRA officer, a man in his thirties wearing a suit and a tie, hears the case in the late afternoon. The room, unlike others in the centre, has windows that can be opened, which overlook shrubs bordering the entrance way. In Arabic, the agent asks Ahmed to sit on the other side of the desk. The agent stands behind a computer and says to Ahmed: "I'm listening." As Ahmed speaks during the 20-minute interview, the agent takes notes on his computer. When Ahmed finishes speaking, he is asked if he has anything to add. Then he is asked to name the Jewish settlements close to his home. Afterwards, the OFPRA officer thanks him and takes him to the door. Ahmed takes his police papers

and re-enters the hall, accompanied by one of the police officers at the desk. When they arrive on the first floor, the door of the refectory opens. Detainees are seated for the evening meal as the policeman brings Ahmed to join them.

At 1:30 am, Ahmed is in bed when a Red Cross employee comes to wake him up and asks him to go downstairs with his police papers. Ahmed rings the intercom in the hall, the door opens, and a policeman makes him enter and sit on one of the chairs along the corridor overlooking the police station. Then he comes back with a pile of papers. Ahmed signs two of them. One document extends his 48-hour stay in the waiting zone for another 48-hours. The other is a "notification of non-admission to asylum". He receives all the documents, which will be explained to him by the duty guard in the Red Cross office, where, evidently, insomniacs dwell. His rejection decision from the Interior Ministry reads:

> Considering that X […], going by the name of Ahmed Masri, declares that he was born at Toulkarem and resided at Irtah; that he is of Palestinian origin; that he has no political activity or commitment; that he has not been threatened; that the land belonging to his family was confiscated by the Israeli army; that he had no professional activity; that life in the West Bank was difficult; that he would like to live in safety, in France, where he could work and provide for himself;
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> Considering, however, that the applicant confines himself to invoking the economic situation which he would have experienced in Palestine; that there are no serious, direct and personal threats to him of any kind; whereas, moreover, he does not provide credible explanations concerning the exact conditions of his departure from Palestine; that he is ignorant of the area he claims to come from; that all his considerations are of an essentially economic nature and are connected with purely personal reasons, namely to find a job in France; therefore, his application does not meet the criteria laid down by the legislation governing asylum;
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> Considering that he comes from Vietnam; Article L.213-4 of the Code on Entry and Residence of Foreigners and the Right of Asylum, prescribes his return to the territory of that State or, as the case may be, to any country where he will be legally eligible;

IT HAS BEEN DECIDED THAT:

Article 1: The application for entry into France in respect of the asylum of X alias Mr. MASRI is rejected.

Article 2: X alias Mr. MASRI will be redirected to the territory of Vietnam or, where applicable, to any country where he will be legally admissible.

Article 3: The police services at the borders shall be responsible for the notification and execution of this decision, a duplicate of which shall be given to the person concerned.

The next day, November 7, two days after his detainment in Roissy airport, Ahmed Masri goes to Anafé, the legal aid NGO working at the centre, to get more information. Kadra Benbedrik, a NGO worker, translates the decision into Arabic, then asks him to tell his story. Several times she asks if he personally fears anything in particular if he returns to Palestine. Each time, Ahmed answers by describing his living conditions in Irtah. Kadra concludes that she cannot make an appeal in favour of Ahmed: "the narrative is weak", "his case does not fit in the asylum framework," she notes on the day's balance sheet. However, she takes Ahmed's police papers and writes a letter to the Immigration Analysis and Monitoring Group (GASAI), asking if Ahmed could be sent to Jordan instead of back to Hanoi, where he spent only a few hours. Ahmed explains that he will certainly be detained for some time in Aman, which happens to all who try to migrate irregularly, but he prefers detention in Aman to returning to Vietnam. Later that evening, Ahmed is handcuffed and escorted to the airport for return to Hanoi. He struggles hard against being put on the plane. Finally, deportation does not take place, Ahmed is beaten by the police and spends another night in detention. In the days that follow, he resists four more attempts to return him to Hanoi.[10] On 14 November, he goes back to the Anafé office to speak again with Kadra. She accompanies him to the Red Cross office. Perhaps a mediator could speak with the police and try to negotiate Ahmed's deportation to Jordan (except she knows very well that this never happens). Two days later, Ahmed's name

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10 The various practices associated with forced air deportation are detailed and analysed in Makaremi 2009.

no longer appears on the detention centre register. The Red Cross agent says they don't know what became of him. I also lose track of him.

In the waiting zone, the high stakes of selection, control and administration in treating asylum seekers are organized around distinctions between truth and falsehood. Here, I would like to reflect on how the practice of determining truth is constructed. In preparing this material, I do not have access to the interviews themselves, but only to re-transcriptions and syntheses by agents. Whereas the CNDA (the Appeals Court) is open to the public, and minutes of OFPRA agents' interviews on French soil are communicated to applicants when their applications are refused, in the waiting zone, the work of agents who listen to and transcribe narratives remains a blind spot for observers. It would be ideal to analyse the actual exchanges themselves, as they more clearly disclose standards of judgment. As an officer admits, these interactions insinuate mechanisms for discriminating against and rejecting asylum seekers within a procedure guaranteeing respect for asylum.

> I am asked to judge according to criteria that are not those of real life: I live in a universe with its criteria of judgments, but they no longer apply at all to the waiting area. [...] For example, at a party recently, I met a friend of a friend who was put in prison for two months in Tunisia where he was on vacation (he was mistaken for a trafficker) and he admitted that it was only two years later that he could talk about this experience. It is true that it is difficult to talk about something that has traumatized us.
> [...] There is also a difference between the objective threat as it is judged, and the fear that forces people to leave. [...] Yes, there is some schizophrenia and hypocrisy. Take the smugglers for instance: it is well known that sometimes asylum seekers cannot tell everything and hide with an awkward lie an episode as a smuggler. This used to be taken into account. But now the instruction is to use it as a pretext for refusal. (Interview with Elodie Noir, May 19, 2005)

The first distinction made in examining an asylum claim is between the application's form and its substance. In principle, the claimant's narrative recounts a situation corresponding to a sequence of events (including a threat and an escape), or describes his or her living conditions. The two axes of verification around which judgment is constructed are: "Is the narration true?" And "Does it place the subject in need of protection?" Processing applications

shows that these two issues at stake – i.e. veracity and bodily peril – are inextricably linked in the framework of adjudication, as Ahmed Masri's case illustrates. We can thus identify categories that inform the French definition of asylum. Without entering, for the moment, into judgments of narrative truth and applicant credibility, we recognize four exclusionary arguments that delimit the framework of asylum in France – which will be discussed in turn in the subsequent sections. In the administrative jargon of the border administration, they make a refugee's claim "*manifestly unfounded*" as interpreted under the Geneva Convention.

The national definition of asylum is elaborated in decisions by OFPRA and the CNDA, but its chief manifestation in terms of jurisprudence comes from the French Supreme Court (*Conseil d'Etat*), the highest national court of appeal for refugee determination procedures. Supreme Court jurisprudence addresses both the substance of refugees' asylum requests (for instance, the decision that the threat of female genital mutilation falls within the scope of refugee protection) and the form (for instance, the decision favouring the admissibility of a particular document as supporting evidence for asylum applications). Jérôme Valluy (2009) has studied the uses and challenges of jurisprudential asylum definitions. In my work, some asylum definitions drawn by the border administration incorporate elements of jurisprudential definitions, but others are more vague or differ from national jurisprudence. Rather than comparing categories of definitions over time, my empirical perspective evaluates definitions and categorizations observed within a specific bureaucracy at a given time and place, and their relation to specific aims of the border apparatus.

"Manifestly unfounded"

The first criterion, the state criterion, recalls how the treatment of refugees is linked to a temporary suspension of state protection (Arendt 2002 [1951]). At first, the border administration conceived of protection only against threats emanating from state authorities. Since the 1990s, however, the definition of asylum has adapted to the changing reality of conflicts. In particular, analyses in international relations of "weak" states, "collapsed" states, and the privatization of conflicts (Rotberg 2003, Rotberg, Dadmehr and Jenne 2003) have resulted in a re-evaluation to account for threats emanating from pri-

vate actors. However, OFPRA agents view this source of threat with great suspicion, and subject it to criteria that maintain state hegemony in ideas defining conflict and protection. Indeed, each asylum seeker must show evidence that the state did not or could not afford him necessary protection.

> He states that he did not seek protection from the Nigerian authorities, even though the said authorities would have been able to provide him with effective protection.

This criterion – lack of State protection – is not universal. It is not necessary in the Canadian asylum system, for example, where 70 percent of asylum requests are accepted (USCRI 2008). Yet it is just one reason why asylum refusals are much higher in France. Other factors are the link between asylum and immigration, asylum being increasingly considered as another immigration route in Europe and in North America, and differences in French and Canadian national cultures when facing the phenomenon of migration. For instance, Colombians who are able to go into exile and seek asylum abroad are generally well-off, with resources that make them desirable to the Canadian government. By contrast, France, with a European conception of "zero immigration", seems to establish criteria that exclude as many asylum applicants from the judicial process as possible, without attaching any particular importance to the socio-cultural situation or the potential "contribution" of different refugee groups.

A second criterion– the "general situation of insecurity" – is related to the first exclusion criterion. It is interesting to note that this criterion distinguishes the French definition of asylum from definitions in jurisdictions whose legal tradition is derived from English common law.

> She does not allege any personal threat to her; she merely refers to the general situation of insecurity prevailing in Haiti.

Indeed, in the specific reading developed by the DAF, following OFPRA, asylum applications due to situations of structural insecurity are *a priori* refused, except where a request presents an additional element of individual threat. Thus, among the asylum applications that I had the opportunity to see in the field (beyond the forty-eight cases studied here), descriptions of living condition without personal narratives of dangerous events are systematically

classified as outside the purview of asylum procedure. This definition of vulnerability and protection is at odds with practices in Canadian, American, Australian and British jurisdictions, which include general insecurity as a fundamental criterion in determining the need for protection. Conversely in France, an individual conception of asylum prevails. Applicants whose daily living conditions justify the need for protection are excluded on the grounds that their applications do not correspond to an individual trajectory, but to a collective projection. The discourse of asylum rejection is generally based on the figure of the false refugee, an economic migrant who invents false needs for protection. Whereas situations of "generalized insecurity" are recognized as living situations that require protection, belonging to a group that is subject to threats is disqualifying if no personal narrative distinguishes an applicant's singular situation from that of his or her fellow citizens (as in the case of Ahmed Masri).

Indeed, the "general situation of insecurity" is one of four official criteria named by the DAF's director as important in substantiating assessments of "manifestly unfounded" claims.[11] However, asylum applications from certain nationalities are largely accepted in practice: according to figures released by the Ministry of the Interior, 83 percent of Iraqi asylum-seekers and 63 percent of Sri Lankan asylum-seekers were admitted in 2007, while 30 percent of all asylum applications filed at the border were accepted (Anafé 2008).

A third exclusion criterion – "the absence of personal threats" – echoes "generalized insecurity" by highlighting the individual concept of protection defended by French asylum doctrine. Fear of persecution, the basis of the Geneva Convention's definition of refugee, is defined in French doctrine as the presence of clearly identifiable and attestable personal threats.

> He is not able to explain to what extent he would be threatened in case of return to the Congo.
> He does not mention any direct and personal threat to him from anybody.

Behind this perception of the refugee is the idea that the applicant bears individual responsibility for the persecution victimizing him or her. France offers protection to individual refugees involved in political activity, as con-

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11 Minutes of the meeting between Anafé and the OFPRA on the concept of "manifestly unfounded", *Ibid.*

firmed by the experience of Abdoulaye Ita. After his brother fled Chad to come to France, where he was given refugee status, Chadian authorities sought Abdoulaye Ita, suspecting him of knowing where his brother had taken refuge. Abdoulaye was refused asylum in August 2004 after meeting with OFPRA, however, because "he was not involved in any political activity".

In this frame of analysis, a final exclusion criterion – the "motive of pure personal convenience" – places applicants outside the field of asylum. Confirming a definition of asylum aligned with representations of political refugees (Noiriel 1991), the notion of "personal convenience" refers to personal elements, such as health, illness or family situations, that break the linear confrontation between the applicant and the power that threatens and targets him or her. As events necessitating escape become more distant in time, the asylum narrative is increasingly undermined and touched by the intrusion of personal considerations outside the tragic framework (the naked scene of oppression and resistance). Narratives are ultimately disqualified by such intrusions. Known as "pure personal conveniences", the necessary but unwelcome dimensions of life (such as family ties, psychic comfort, health status) disrupt and parasitize political tragedies that legitimize the use of asylum in the context of migration control. As an administrative judge told two Congolese children, a brother and sister who were juvenile asylum-seekers:

> You're talking about an indirect threat, because your father is concerned. The only thing that is established, without any proof, is the death of Mademoiselle's mother. And again, the soldiers did not come specially to kill her; she took a bullet as she went out. […] I understand that this is not an easy situation, but the asylum procedure must be strictly reserved for people who have no other solutions. You know what is happening in most African countries, one could tell the same kind of narrative that you did.[12]

This kind of judgement, which makes it possible to exclude all requests that fall "outside the field" of asylum, is only one dimension of asylum adjudication. It relates to the substance of the narrative and seeks to ascertain whether the claim is genuine. Another, more important issue is whether the claim is true. This issue is linked to the form of the narrative. However, these

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12 Field notes, Administrative Court, 5 April 2007.

two factors are closely aligned as motives for refusal decisions, which pass fluidly from one argument to the other.

The truth of the narrative: the technical sense and the moral sense of truth

How do we approach the process of truth determination at work in judging the applicant's narrative and spoken performance? Bernard Williams' genealogical study of truth determination (Williams 2002) is an interesting starting point for investigating adjudication processes that lead to an assessment of claims as "manifestly unfounded". Williams seeks to identify the intellectual and moral approaches, both scientific and casual, that guide our judgment of the veracity of a proposition – of its truth. For Williams, distinguishing truth from falsehood relies upon two "virtues of truth": sincerity opposes truth to lies, and accuracy opposes truth to error. These categories appear in the judgments of Border Asylum Division agents. DAF agents evaluate sincerity based on the applicant's subjective and emotional involvement in his or her narrative ("conventional", "impersonal", "stereotyped", "not very loquacious"), marked by the use of certain recurring narrative patterns (mentioning places of custody or means of escape). They also evaluate the criterion of likelihood ("the conditions are not credible", "unreliable"), simultaneously scrutinizing context and probability, and attributing intelligibility to the narrator's rational behaviour ("It is surprising that, having first crossed the French border to go to Dubai, she did not think of asking for asylum at that time").

This set of norms regulating the asylum narrative are culturally determined, referring to shared conceptions of what is "likely" or unlikely, or what makes speech "emotional" (Belorgey 2003, d'Halluin 2004, Crépeau et al 2001, Rousseau and Foxen 2006, Valluy 2009). Reaching a judgement here also implies an appreciation of accuracy, not this time in terms of assessing narrative norms, but rather in the application of norms of examination. Thus, the administration claims that its method determines the truth based on criteria of clarity ("confusing", "obscure"), accuracy ("the statements of the person's concerns are vague", "He is not in a position to say, even approximately, how many times he was placed in police custody") and verification ("without any conclusive explanation", "without detailed evidence", "the documents

showed do not contain any guarantee of authenticity", "without bringing any tangible element in support of this information"). These judgements rest on the epistemic norms that underlie any empirical or logical statement, including this ethnographic work. The criterion of verification raises the question of producing evidence and certificates (Fassin and d'Halluin 2005, d'Halluin 2006b, Fassin and Rechtman 2007). The need to substantiate and empirically validate applicants' narratives implies an administrative logic of proofs. In an interview, an OFPRA agent expressed his aversion to this analysis. But he admitted that he finds verification issues at different levels:

> The request for written evidence is an extrapolation of the Anafé.[13] Concerning the case mentioned in the report of the association (Anafé 2004) [a former bodyguard of Laurent Kabila, whose application was rejected until he produced a picture showing him in the exercise of his duties as bodyguard, was mentioned as an example of OFPRA's onerous requirements for concrete evidence], this guy was auditioned by me and indeed I was sure he was telling lies. I was very surprised when he showed me the picture, I really thought he was lying […] there are so many people who claim that they were Kabila's bodyguards!
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> […] Once I asked for information about a Rwandan asylum application: I did not know what to decide so I sent a note to a regional analyst of the Ministry of Foreign Affairs who contacted the Embassy of France on site. The Embassy of France replied that there were no problems, so no threats on the point in question. But we know they do not know everything. Later, the analyst told me: "I think it was a mistake". I did not know what to decide so I asked the advice of a third party. But I knew what the answer was going to be when I asked. When a case is difficult to judge, a third opinion from the Ministry of Foreign Affairs is sought, knowing that this opinion will always be on the side of refusal. (Interview with Julien Robert, Contractual Protection Officer (OP) at the Border Asylum Division, 3 July 2007)

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13 The case mentioned in the association report was that of a former bodyguard of Laurent Kabila, whose asylum application had been rejected until he showed a photo of him performing his duties as a bodyguard. This example denounced the tendency of the asylum division to require documentary evidence to believe applicants' stories (Anafé 2004).

Verification criteria, both scientific and legal, reveal how truth determination mobilizes issues of method, resulting from rational determination, and of judgment, calling for "intimate conviction".

The criterion of accuracy slides towards a third stratum – the moral domain. Determinations of clarity and precision are apparent in refusal decisions: "he remains evasive", "she is totally incapable of giving the slightest detail", "he is elusive". Opinions drawn from rhetorical or semantic methods evoke moral connotations. Moral evaluations of applicants distinguish a set of postures that qualify the oral narrative: notions of deception and also of cooperation and good faith are particularly distinguished:

> He cannot clearly state the reasons for his departure while the protection officer repeatedly asked him to focus his statements on recent events. [He] dwells on facts from the 1990s, without giving the reasons for his departure from Turkey in 2007.
> He keeps asserting, laconically, that he was beaten, while remaining silent on interrogations.

These statements characterize different levels of verification in manifestly unfounded asylum narratives. I refer to Williams to understand two dimensions of the production of truth that appear in asylum examinations. One refers to assertion (produced by the applicant), and the other to belief (the "intimate conviction" at the core of the OFPRA agent's judgment). Williams distinguishes these two poles by recalling the relational dimension of the production of truth engaged in an "epistemic division of labor" (Williams 2002: 43) between the one who states and the one who receives and judges the statement's veracity. If sincerity is virtuous, conveying truth in the enunciation of a proposition or the narration of a fact, ascertaining veracity also implies virtue in commitment to apprehending and judging the truth, which Williams calls the "investigative investment" (Williams 2002: 124). On the one hand, the figure of the "refugee-liar" (Rousseau and Foxen 2006) is based on assessments of sincerity, which I tried to understand via the semantic categories used to qualify lies. On the other hand, the time OFPRA agents devote to interviews, the formal requirements, judgment stereotypes and superficial information about cultures and countries of origin, show meagre "investment" (Belorgey 2003, Belorgey 2007, Valluy 2009). The discursive system of the "manifestly unfounded" claim, with its codes, themes, and oblig-

atory stages, rests on two fictions (Decourcelle 2002, Belorgey 2007): the agent's good faith, and the asylum seeker's capacity to summon biographical linearity and narrate his or her life clearly and concisely. The notion of "mistrust" used to describe the experience of the refugee (Daniel and Knudsen 1995) helps explain this space of suspicion where narrative is expressed or hidden.

In this game of utterance and conviction that determines truthfulness, Williams shows with pertinence that the truth at play is not of indivisible or unconditional value, and that it is not at stake in the same way for the one who states and the one who receives. At stake in sincerity is "should I tell the truth?" and "how much of the truth should I tell?" Thus, there is more or less truth. At stake in conviction is not the existence of truth ("must I believe in the truth?"). For receivers who admit that truth exists, the question then becomes, "Will I bother to find out about it?"

> There is this difference that in defining accuracy we must mention the truth, while with sincerity the reference to truth only comes to the next step. (Williams 2002: 126)

Analysing the values that define and underpin the question of truth in asylum examination shows how practices of administrative control and categorisation of asylum seekers are tied together in the moral and epistemological dimensions that shape the narrative of asylum.

Memory and the state

Certainly, the administrative world of border control is a microcosm, with logics of emancipation related to the supervisory administration of national territory. But the administrative machine also mirrors myths and national values forged in public spaces. Proposing an analysis that complements and critically addresses both the Frankfurt School's work on the modern episteme of administrative rationality (Adorno and Horkheimer 1997) and Hannah Arendt's observations on the banality of evil (Arendt 1965), Michael Herzfeld demonstrates how administrative categorization applies a national logic that seeks to "distinguish between those included and excluded from the national order and to represent these distinctions as given by nature –

rather than cultural or historical contingencies." (Herzfeld 1992: 174). Reflections on administrative rationality in the aftermath of the Second World War tended to see it as a self-referential mechanism capable of applying almost any national policy via unique systems of hierarchies and rationalities. Yet, Herzfeld guided his empirical investigations in a different direction. For him, the categorization practices underlying administrative rationality depend strongly on national circumstances, inasmuch as they are produced by national memory of who is included and who is excluded from national belonging: "The power to refuse Hospitality is the foundation on which indifference rests: it is a denial of the common substance." (Herzfeld 1992: 177). In this respect, it is significant that, after President Nicolas Sarkozy's election in 2007, the agencies referred to in this chapter were reorganized and merged into a single ministerial body called the Department of Immigration, Integration, *National Identity* and Solidarity Development.

The name of this new ministry permits the introduction of the idea that the process of asylum application and asylum itself are part of a broader set of relations between populations seeking asylum and administrations interpreting asylum in terms of post-colonial memories of power relations. In the novel, *Transit*, written by Djiboutian author Abdourahman A. Waberi, the protagonist, Harbi, an asylum seeker waiting at Roissy airport, bogs down in a bitter soliloquy:

> I cannot wait to find peace of mind and body again. To tame my mind where morbid, incongruous ideas keep running wild, and snuff out that snickering little voice. Glue the pieces of my dislocated being back together. In short, get used to my new identity. A memory anchored deep in the nest of my brain is coming back to me. I must have been a child of four or five then, and I can recall the frightened look in my eyes very clearly. One day, as I was walking with my aunt along one of the avenues in our neighborhood, I passed by a military patrol. Like a chrysalis about to burst, the question popped out instantly:
> "Who are those people?"
>
> "The French, our colonizers."

"Why are they here?"

"Because they're stronger than we are." (Waberi 2003: 17)

Here, free association of the narrator's thoughts links his memory of the colonial past with his present situation of confinement after his asylum request. Why does this memory resurface during the border transit? In the literary fiction Waberi imagines, Harbi's memory of colonial domination and its actualization in the contemporary global context contribute to configuring the practices of forced migration and asylum. This dimension stands out clearly in the administrative practice of granting more credit to certain asylum stories than to others based on country of origin. The French state has long applied a special kindness towards refugees from Rwanda that, it may be supposed, is related to France's ambiguous engagement in the Rwandan conflict and the failures of French intervention during these events (Prunier 1997). Another example of how political considerations connected to post-colonial memories and contemporary power relations shape the asylum system occurred in the winter of 2004-2005. Hundreds of Ivorian asylum seekers were rejected and sent back to Côte d'Ivoire in an acute climate of violence that presaged civil war. When the French army tried to intervene in the Ivorian conflict, its troops were attacked and denounced for conducting an operation of "post-colonial domination"; they eventually withdrew from the conflict (Marshall 2005). On Christmas night 2004, an Ivorian asylum seeker rejected by OFPRA cut his throat to resist deportation. A few days later, a Congolese asylum seeker from a refugee camp in Côte d'Ivoire, who had left during xenophobic attacks that had massacred part of the camp's refugee population, was rejected by OFPRA and sent back under escort to Côte d'Ivoire. A legal refugee in Côte d'Ivoire, Ernest Businga had brought with him several letters addressed to the UN High Commissioner for Refugees (UNHCR) in Geneva, requesting transfer to another country where he would be safe. These letters were authenticated by the UNHCR office in Paris, but the Ministry of the Interior held to its decision to reject and expel Ernest Businga, arguing that, although he was a statutory refugee who feared threats and had tried for months to seek the High Commissioner's protection from the violence to which he was exposed, his refugee status fell under the Convention of the Organization of African Unity (OAU) and not the Geneva Convention, to which France is a party. By taking the trouble to

argue why it had abandoned Ernest Businga to his fate, the administration's position quite clearly echoed France's withdrawal from regional issues in West Africa. This highlights the political stakes that underpin the selection of those with rights to national protection and others caught in the ramifications of diplomatic affinities and tensions in the arena of asylum. Ernest was finally removed by force ("*bien embarqué*"). For a few months I continued to receive his emails: he was hidden, terrified, asking for help.

Conclusion

The administrative elision of individual narratives entails the conjunction of various factors. These heterogeneous elements all stem from perceptions by French authorities of the migration "problem" and the asylum administration that results from this perception, its disciplinary management of flows of asylum seekers and its fight against perceived abuses of the welfare system. Migration and the control of migration confine asylum seekers in processes of subjectivation articulated around issues of mis/trust. Exile narration is the basis for asylum procedure administration. Yet, such narration confronts bureaucratic rationalities anchored in national logics and memory. It defies demands for linearity in support of truthfulness and ethical judgment, which suspends confiscated and alternative narrations[14] – the confused work of a living memory:

> Something we might tentatively call the truth of the person, a truth that, to a certain degree […] might well become more clear in moments of interruption, stoppage, open-endedness – in enigmatic articulations that cannot be translated into narrative form. (Butler 2005: 64)

As this chapter's observations show, I have not had access to this singular "truth", but to violent discrepancies that, at times, make one suspect its existence. In her definition of living memory, Judith Butler states, however, that her goal is not to celebrate

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14 These dimensions, referring to the lived experiences of border detention, are analysed in Makaremi 2011.

a certain notion of incoherence, but only to point out that our "incoherence" establishes the way in which we are constituted in relationality: implicated, beholden, derived, sustained by a social world that is beyond us and before us. (Butler 2005: 65)

The ordinary violence of border detention resides partly in the collapse and illegibility of this social world. Defiance links migrants to the violence of interpellation (Althusser 1976, Butler 2005), where they are constituted as the subjects of a control. It links them through a violent imposition of silence, where the "incoherence" of singular narratives binds them in an implacable procedure that unfolds from a fissured relationality to the exercise of force.

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