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## **Extirpate and expell: on the penal management of postcolonial migrants in the European Union**

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### **Abstract**

This paper extends the theoretical model of the linkage between ethnoracial division and the penal state in the United States I have elaborated elsewhere (Wacquant 2001) to cover the stupendous surge in the incarceration of postcolonial migrants in the European Union over the past two decades, that is, in the era of triumphant neoliberalism.

### **Keywords**

penal state, neoliberalism, incarceration, European Union, migrants

**Ostracizing undesirable immigration**

Let me present the overall argument upfront in a nutshell. The building of “fortress Europe” in the age of labor flexibility and generalized social insecurity has accelerated a twofold movement of ostracization of unwanted “guest workers” turned “immigrants.” The first proceeds through *external removal* via expulsion of irregular migrants. The second operates through *internal extirpation* via expanded incarceration. These two processes are directly aimed at those populations embodying the social and symbolic exterior of the emergent postnational Europe, namely postcolonial migrants and their immediate descendants.

Empirical indicators show that the presence of foreigners inside European houses of detention has increased rapidly in the past two decades and far exceeds both their weight in the general population in most nation-states of the continent and the overrepresentation of blacks in the US carceral system. The EU has witnessed a proliferation of “waiting areas” and “retention centers” across the continent to contain a floating population of unwanted and undocumented migrants. Meanwhile, the ritualized mass expulsion of illegal or convicted aliens via “charter flights” serves as penal spectacle designed to convey the resurgent penal fortitude of the authorities and to offer an expressive vehicle for the social amplification and cultural legitimation of collective feelings of resentment toward these categories.

The fixation on the politics of the intrusion and extrusion of extra-communitarian aliens serves as a substitute and subterfuge for the lack of a policy of incorporation of immigrants and assimilated categories. Penalization operates as a conduit for the depoliticization of issues--ethnoracial division, immigrant incorporation, and international relations to the former colonies--that are quintessentially political in that they engage the definition of core “membership” in the national or supranational community.

Now, before I go further, I will assumed established three basic facts:

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1 – the massive and rapidly rising overincarceration of foreigners in European prisons and jails, superior in ten countries to the overincarceration suffered by blacks (relative to whites) in the US.

2 – that this overincarceration is produced not by the excess criminality of immigrants but through selective targeting and preferential confinement (in my book *Deadly Symbiosis* [Wacquant 2008], I offer a critical survey of the existing sociological, criminological, and legal literature on this issue in a half-dozen countries).

3 – that Europe has witnessed a rapid proliferation of the “waiting areas” and “retention centers” in which increasing numbers of foreigners without papers are held after arrest at border-crossings or await deportation, especially owing to the generalization of “double sentencing” procedures which attach a decree of expulsion to a penal sanction. (Under penal law in France as in several other European countries, foreigners can be subjected to “*double peine*”: they are sanctioned, first, by imprisonment for the offense they committed (including illegal entry and sojourn) and, second, by expulsion from European territory after they have served their sentence in the case of undocumented immigrants or legal aliens deemed to “pose a threat to public order” --a clause routinely invoked by the authorities to deport repeat offenders.)

#### **A novel penal state ritual: the “charter expulsion”**

The expulsion of undocumented foreigners and alien convicts sentenced to territorial banishment has turned into a media theater onto whose stage elected officials vie to display their professed resolve to “stop clandestine immigration”—and thus symbolically stem the tide of unemployment, delinquency, dependency, and assorted cultural maladies commonly attributed to it. In France, for two decades successive Ministers of the Interior of both the Right and the Left have boasted of boosting the number of deported migrants and have sought public credit for forcible mass deportation via *specialty chartered airplanes*. The inauguration of this state-bureaucratic ritual of made-for-media collective expulsions was the infamous “charter of the 101 Malians” dispatched on 18 October 1986 on the heels of the legislative victory of the conservatives in an overt effort to seduce the then-surgingly electorally of the National Front. This policy innovation was endorsed and later pursued by the Left governments of Edith Cresson and Lionel Jospin. By the late 1990s, various European countries were cooperating to pool their deportees onto jointly commissioned planes and unload them in Senegal, Mali, Zaire, Romania, and China.

One illustration: one night in late September 1996, 43 Zairians and 23 Senegalese, 18 of them embarked in the Netherlands and 3 brought in from Germany, were forcibly heaved onto a Euralair jet for the sixth European exilee charter flight to Kinshasa from Roissy-Charles-de-Gaulle that year. These operations have become frequent and large enough to foster the creation and ensure the prosperity of airlines specializing in the transport on-demand of expelled aliens—some estimates put the total number of foreigners thus banished from “Fortress Europe” at 200,000 annually.

These operations effect a *reductio ad absurdum* of immigration policy to pure penal ceremony and brute bureaucratic myth. They are not rites of passage, marking a transition from a “before” to an “after,” but what Pierre Bourdieu calls *rites of institution*

drawing a clear-cut boundary between those whom the rite concerns—unwanted aliens, undocumented or delinquent, thus amalgamated together— and those who cannot undergo it—members of the community of European nationals, which is thereby set apart and solidified. They purport to dramatize the capacity of the state to police its internal boundaries and to protect its external borders through penal means, just as both are coming unglued under the press of global economic restructuring, on the side of the market, and European integration, on the side of political sovereignty. Yet upon close scrutiny they evince little more than the derisory character of such pretention.

From a practical standpoint, collective expulsions are remarkably burdensome, ineffective, and counterproductive. They are first extremely expensive: chartering a flight can cost in excess of a quarter-million dollars, which means that the policy target of “one charter a week” periodically proclaimed by French Ministers of the Interior is financially insupportable. Next, they do not noticeably affect the presence of undocumented migrants since those deported via charters are less than 10% of the yearly quantum of foreigners banished, who themselves represent but a fraction of the total population of illegal aliens present on French (or other European) territory. Penal expulsions are intended to reaffirm legality, yet they induce a multiplication of administrative irregularities and a routinization of illegalities as well as state-sanctioned violence that can escalate to homicidal proportions (as in the case of Semira Adamu, a Nigerian asylum seeker smothered to death in Brussels by two border policemen while being held under duress in her airline seat on a Sabena flight bound for Lagos in September 1998).

These “charters of aliens” undermine the rule of law in that they violate both protocol 4 of the European Convention on Human Rights and article 19 of the Charter of Fundamental Rights of the European Union, which stipulates that “collective expulsions are forbidden” and that “no one can be sent away, expelled, or extradited to a state where there exists a serious risk that he [sic] will be subjected to the death penalty, tortured, or receive other inhumane or degrading sanctions and treatments.” Mass deportations exert no detectible deterrent effect on immigrant inflows. Finally, these charter expulsions nourish deep resentment in the emigrating countries, where they are experienced as a collective humiliation, as well as create chronic diplomatic friction with their governments.

### **Penalization, depoliticization, and racialization**

In many respects, the spread of the ritualized mass expulsion of illegal or convicted aliens in the EU as penal spectacle stands as the structural analogue to the reintroduction of chain gangs, striped uniforms, and assorted shaming punishments harking back to a bygone era of social cruelty towards black convicts in the US. First, it fulfills the same function, namely, to convey to the witnessing public the resurgent penal fortitude of the authorities by staging their commitment to act in an openly retributive manner towards categories that conspicuously disrupt the (supra)national symbolic order. And it offers an expressive vehicle for the social amplification and cultural legitimation of collective feelings of resentment toward these same categories. Next, “charter deportations” turn out to be just as financially ruinous, organizationally wasteful, and penologically pointless—if not counterproductive—as contemporary chain gangs. Expulsion under “double sentencing” is a labor-intensive operation that absorbs a growing share of the

resources of the border police, derails the normal processing of inmates, and aggravates prison overcrowding.

Much like the stylized reassertion of retribution for retribution's sake which temporarily obviates the need to face the absence of an operant philosophy of incarceration in the United States, the fixation on the politics of the intrusion and extrusion of extra-communitarian aliens serves as a substitute and subterfuge for the lack of a policy of incorporation of immigrants and assimilated categories. The hysterical obsession with the former contrasts sharply with, and indeed serves as mask for, the "vertiginous void of public action" as regards the latter (Faber 2000). Just as rolling out the carceral system to restrain and contain the troublesome segments of the Afro-American community in the remnants of the historic Black Belts allows the US to continue to avoid addressing the threefold legacy of slavery, Jim Crow and the urban ghetto, the deployment of the penal apparatus to deal with immigration enables Europe to shun facing its deep-seated entanglement in the fate of the postcolonial societies of its former empire as well as the multifarious forms of social and state ostracization that continue to derail the path of non-European migrants in national life even as they gain legal status.

In his pathbreaking studies of Algerian peregrinations to and through France, Abdelmalek Sayad has shown how "emigration-immigration always engages two political orders, two nations and two nationalities, and not simply two countries, two societies or two economies as we are accustomed to consider." This implies that it expresses "a relation of domination between different socioeconomic formations;" it is the precipitate of an *interstate nexus* that is eminently political also in that it necessarily entails "the transfer of citizens and thus of nationals, and in the final analysis of *political subjects*." Yet, through such penal rituals as collective expulsion, the doublet emigration-immigration is reduced to the singleton of immigration, itself shrunk to the illicit and intolerable presence of postcolonial foreigners. Through such state ceremonies, "the relation of state to state which is at the very foundation of immigration [is] negated" so that the phenomenon "becomes a domestic matter, pertaining to the sole competency of the receiving state" (Abdelmalek Sayad, *L'Immigration ou les paradoxes de l'altérité*). That state can then (pretend to) act to extirpate and rid itself of unwanted persons, who are thereby obliterated as nationals and political subjects, just as convicts are erased from the civic map of the United States through extensive and expansive disenfranchisement laws. On both sides of the Atlantic, then, penalization operates as a conduit for the depoliticization of problems, ethnoracial division and immigrant incorporation, that are quintessentially political in that they engage the definition of core "membership" in the national or supranational community (as Seyla Benhabib and Michael Walzer have shown).

Finally, the generalization of "double sentencing" laws in Europe not only helps produce the very criminality such laws are meant to suppress via the geographic "neutralization" of would-be offenders in that they force an ever-growing and self-centered population of undocumented aliens and returning deportees into a submerged life made of illicit employment, administrative subterfuge, unstable residence, identity manipulation, and avoidance of the authorities. It also institutes a bifurcated and asymmetric juridical space: the nationals are sanctioned once, for the criminal offense they have perpetrated; the foreigner on the other hand is struck twice, once for the acts (s)he has committed and a second time for who (s)he is. His or her very being triggers an extra dose of punishment,

sending the unmistakable signal that (s)he is not part of the emerging European civic community. This differential treatment partakes of the racialization of foreigners insofar as it treats foreignness as an inherently criminal property that automatically warrants an aggravation of punishment. Being an extra-communitarian alien thus functions as a permanent and indelible penal handicap much in the manner that we have seen convict status does in the US.

Now, anti-immigrant sentiments in European countries have a long and lush history. Foreigners and visible “ethnics” throughout the continent have been recurrently associated with the gamut of disorders ranging from public health threats and political dissidence to sexual degeneracy and street crime since the onset of the urban industrial era. The trajectory of transborder migration across the Old World is stamped by the contrapuntal interplay of ascending nationalism and gusting xenophobia. But, if anti-foreign animus is a relative constant or at least a recurring factor, the configuration crystallizing at the turn of the millenium differs from previous iterations of capitalist transformation and ethnonational conflict in at least three important respects.

1. Old World nationals presently face a double menace: the one arises from below through the consolidation of unwanted “foreign intrusion” in the lower regions of social space made palpable by the gradual conversion of labor migration into settlement migration; the other comes from above, in the guise of a juridical and bureaucratic process of European integration that converges with the global neoliberal revolution to strip the national state from its capacity to penetrate and protect the social body. This pincer movement exacerbates the sense of group vulnerability and rivalry at the bottom of the social structure and intensifies the quest for collective scapegoats as well as the urge to exclude rather than absorb them.

2. The deployment of the police, courts, and prisons to tackle extra-communitarian foreigners partakes of a broader, epochal shift from the social-welfare to the penal treatment of problem categories and territories in the dualizing metropolis. To be more precise, the “extrusion” of immigrants from both declining lower-class neighborhoods (via disproportionate arrest, prosecution, and incarceration) and from the national territory (via criminal expulsion and administrative banishment) serves as spearhead to implement the penalization of urban poverty designed to complement economic deregulation and welfare retrenchment. This is because the penal management of foreigners elicits less resistance and even generates support for such punitive policy among the precarious fractions of the native working class which constitute its main foil.

3. Penalization strikes at vulnerable and stigmatized categories against the backdrop of the decomposition of the working class and its historic territories such that no centripetal forces of solidarity can effectively counteract it. In previous eras of economic transformation, industrial conflict and union mobilization supplied both an operant organizational vehicle and a potent idiom to unify the disparate segments of the labor force issued from various countries, to fuse issues of work and community, and to convert “foreigners into nationals.” By swamping nationality with class in and around the workplace, unions and assorted laborers associations joined with left parties to fashion a compact bloc presenting collective claims to the state that cut across and even erased putative ethnic lines in the public sphere. Nowadays, the fragmentation of the working class into atomized households facing a structural crisis of reproduction simultaneously

on the labor market, in the neighborhood, and in the school system just as they are being deprived of voice in the political field by the rightward shift of socialist parties has stripped unskilled immigrants from the institutional and cultural buffer they enjoyed in the previous era of class consolidation anchored by the Keynesian-Fordist compact.

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**Conclusion**

It is not hostility against foreigners that is novel, then, nor the degree of cultural alterity or phenotypical distinctiveness of the latest wave of migrants that explains the sharp spike in the salience of foreigners on the criminal scene and their massive presence in the prisons of Europe. Rather, it is the vastly greater capacity and propensity of the state to deploy its penal resources at both the national and the supranational levels to “resolve” the problems they pose or embody, whether real or imagined, connected to transborder peregrination or displaced from the broader broiling arenas of work, place, and identity.



**Quote this article**

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**Notes**

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