

Jean Dutoit Collective

Report for the rights and mobility of black African migrant persons in Switzerland and in Europe

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The Report is freely accessible on the Collective's web page: <http://collectifjeandutoit.wordpress.com>, in the original French version and in English. You can also order hard copies or contact us by writing to us at the following address: jeandutoit@riseup.net.

Summary

The Jean Dutoit Collective was born in Lausanne (Switzerland) in 2015 following the encounter between a hundred-odd individuals originating from West Africa and a group of Swiss citizens. This report is based on their testimonies, their experience in the field as well as research into the institutional, academic, journalistic and legal sources of the migratory phenomenon. With a focus on the situation of black African migrant men in Switzerland, this report attempts to place Swiss and European migration policies into a critical perspective.

Although the Collective was founded with the aim of finding a roof for its African members – who were living and sleeping in the street for lack of available, suitable accommodation – it was immediately confronted with the political, social, economic and cultural dimensions that condition the existence of people who migrate to Switzerland and to Europe. Its members from a migrant background (residents of the house occupied by the Collective) and its Swiss members (who act as an interface with local society) have united their efforts over the course of the last two years to fight the discrimination and abuse targeting the former and thus to create viable alternatives.

This report contains three parts that reflect three major stages in our research: Why and how did the African men who currently form the Jean Dutoit Collective end up in Lausanne? In what way does the formation of the Collective, and its ensuing developments, constitute a response to the precarization and immobilization these individuals experience within Swiss and European societies? What forms of discrimination, impairment of rights, abuse and persecution target these persons, and how can we understand these phenomena in order to combat them?

In the first part, we lead an investigation into the migratory journeys of the members of the Collective. By leaving their homes in Africa, over land – because of the stricter visa policies that entered into effect in European countries during the 80s and 90s – they made their way through different countries and were forced to negotiate modes of survival that would fend off threats against their integrity. In Europe, they became captive of the EU's immigration and asylum policies: from 2008 in the context of the economic crisis, then from 2014 in that of the migration crisis. In Switzerland, some made their way through the administrative apparatus of the asylum process. Their asylum plea having been rejected, they wound up in the hands of the canton's emergency aid program, a dehumanizing process which they were forced to leave in order to avoid its next logical step: forced expulsion. Ending up on the street – through a lack of suitable structures but also because of an evident absence of political will – they lived on the margins, within the informal circuits of trans-European migrant workers. To describe these resulting situations, we use the term *standstill*: immobilized in reception centers and camps – where they either undergo pressures aiming to make them leave, or are simply forced to do so – or socially excluded and stigmatized because of the absence of recognition of their fundamental rights by European nations, these persons experience further forms of dehumanization as the standstill continues. Hence the creation of the Jean Dutoit Collective.

In the second part, we examine the Collective's two years of existence in a narrative and critical exploration of its relationship with the society and authorities of Lausanne on the one hand, in parallel to its internal evolution and the strategies that the Collective implemented in order to reach

its goals on the other hand. How does one find a roof for a hundred-odd people? Under what conditions? With what consequences? With the authorities displaying their desire to avoid the creation of unauthorized settlements (“lieux de fixation”) and refusing to recognize that these standstills are actually the result of inadequate policies, the Collective was faced with the imperative to remain mobile and activate new forms of convergence. This second part concludes with an overview of cooperative and inclusive accommodation, considered as an alternative to the current practices of the Swiss state, which concentrate migrant persons together while separating them from the rest of the population, producing situations of exclusion.

In the third part, we identify the sufferings, persecutions and discriminations undergone by migrant persons in Switzerland (in particular black African migrants), working from the testimonies of members of the Collective. In order to comprehend their breadth and character, we cross-reference these testimonies with Swiss and international institutional reports, as well as recent inquiries led by sociologists and political scientists. We specially discuss anti-black racism and the relationship between xenophobia, migration and the rise of nationalism, as well as the phenomenon of the European “migratory crisis”. Through the prism of exclusion and precarization, we question the activity of cocaine and cannabis dealing in Lausanne: the market and its actors, the concentrated repression targeting street sellers, the stigmatization and criminalization of African and black migrants that follows, at the crossroads of the fight against illegal drugs and Switzerland’s policies of forced expulsion. We then concentrate on racial profiling – understood as State racial discrimination –, a concept which allows us to highlight certain underlying social issues and provides the necessary bases to conceptualize suitable measures for combating racism. Finally, we report and analyze the violence and abuses of power carried out by certain police officers against migrant persons, which continue to go unpunished to this day. After having shown how the organization of the legal institutions in Switzerland makes it almost completely impossible to file complaints against these practices, we plead for the creation of independent and neutral instances in each Swiss canton for the filing of complaints and pressing of charges concerning police brutality and abuses of power. We end by denouncing the treatments experienced in situations of custody, in prisons and administrative detention centers in Switzerland, where migrant persons are criminalized and deprived of their rights.

In the conclusion of this report, we inscribe several recommendations aiming to resolve the violence, exclusion and discrimination of which the members of the Collective, as well as many others, continue to be victims in Switzerland, in situations that deprive them of their rights. These recommendations represent thresholds to overcome and stem from a will to contribute to the elaboration of short-, mid- and long-term solutions. We maintain that a policy of cooperation and mobility, via a strategy of access to rights and the institution of several legal and structural transformations favoring the State of law and democracy, would be the first step in instigating lasting change.

In short, our recommendations are as follows:

FUNDAMENTAL RIGHTS: It is primordial to establish a relationship of cooperation with migrant persons present on the Swiss territory, based on providing access to rights, with a view to finding suitable constructive solutions in a non-discriminatory manner.

→ Access to free movement, food, housing, employment, a stable status and family life (among other things), for all migrant persons.

COOPERATIVE HOUSING AND MOBILITY: The current strategy of imprisonment and segregation precarizes and stigmatizes migrant persons. It prevents the emergence of positive social, cultural and economic developments.

- Establish a strategy of cooperative, supportive and inclusive housing. These places should be situated within urban conglomerations and function through exchanges and activities directly involving civil society and the economy.
- Create a federal network for hospitality, mobility and the fostering of relationships, that would eventually replace the current policy of administrative detention, immobilization and expulsion.

DE-PRECARIZATION: The emergency aid accorded to rejected asylum seekers forbids them from finding employment and creates situations of standstill. Moreover, low-threshold services are very unequally distributed on the Swiss territory and insufficiently endowed, thus producing concentrations, exclusions and a growing precarization that create catch-22 situations.

- Asylum emergency aid should become compatible with salaried employment.
- Create a continuum of low-threshold services throughout the cities of Switzerland.
- Emergency shelters should be declared *sanctuary zones* regarding migration policies.
- We support the motion for Lausanne to become a sanctuary city, as well as the creation of a municipal identity card in Lausanne.
- We ask for a night-time truce to be declared on the entire territory of the Lausanne conglomeration, and that persons may no longer be fined for unauthorized camping when there is no more available space in emergency shelters.

COMBATING DISCRIMINATIONS: Switzerland is undergoing a profound modification in population and rapid social changes. It is essential to take the necessary measures to combat racial, economic and social discrimination.

- Recognize racism and xenophobia as important problems in Switzerland. Audits, training schemes for public officials and awareness campaigns should be decisively reviewed and the means allocated for this issue increased in order to effectively combat racism and segregation in the country.
- Revision of Article 261bis of the Penal Code, which is inapplicable as is. The law should be able to sanction concrete and everyday situations of racial discrimination (for example in the hiring process, during studies, when looking for accommodation etc). Reverse onus should be adopted into the legislation. The introduction of notions of social and economic discrimination is also urgent.
- The distribution of a receipt at the outcome of each police check would allow for efficiently leading and re-thinking the combat against racial profiling. Following the example of the city of Bern, such a system would allow to take stock of the terrain, collect statistics, facilitate the filing of complaints in cases of racial harassment and render the activities of the police force more transparent in the eyes of the population.

DE-CRIMINALIZATION: Migrant persons – either in regular or irregular situations from the point of view of the Foreign Nationals Act – are coerced into illegal activities because of the Swiss policies of exclusion and the structure of its employment market. Among these activities, the sale of cocaine and cannabis is strongly criminalized by the State and cantonal authorities; a mode of repression that performs power but is useless in resolving the situation. On the contrary, it leads to an ever-increasing stigmatization of African and black people and to a legitimization of racist behaviors and discourses in Switzerland.

- End the policy of repression in favor of globally constructive measures, in continuity with the combat against precarization, against criminal networks and against racial, economic and social discriminations.
- End the policy of administrative imprisonment: persons who have not committed any crime should not be treated or stigmatized like criminals.

COMBATING IMPUNITY: The obstacles in the process of filing complaints against police brutality and abuses of power are such that they make the application of the law impossible. This situation is the source of a rapid degradation of the social fabric and an increase in violence and racism.

- We strongly recommend setting up independent and neutral instances for the filing of complaints and pressing of charges concerning brutality and abuses of power leveled at police officers, at municipal, cantonal and supra-cantonal levels.
- We ask the municipalities of Lausanne and Renens as well as the Canton of Vaud to open an inquiry in order to determine responsibility in the cases of abuses of power, brutality and grave negligence stated in the present report.

*

An expanded version of these recommendations can be found at the end of this report, accompanied by references to the different chapters that motivate them.

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Translator's note

Linguistic regions of Switzerland

The events laid out in the following report concern a region of Switzerland known as the *Suisse romande*: this term refers to the French-speaking area of Switzerland, which occupies the Western area of the country. Since the use of the term “French-speaking” might give rise to confusion when discussing non-linguistic matters, we have opted to translate *Suisse romande* as “Western Switzerland”. This term should nevertheless be understood as referring to the French-speaking region, since the original appellation designates a linguistic, rather than geographical, border.

Neologisms

Readers will notice the use of two coinages: the terms *precarization* and *precarized*, as translations of the French terms *précarisation* and *précarisé*. Indeed, the French language recognizes that some persons' situations *have been made* precarious through societal processes. The terms *precarization* and *precarized* have therefore been invented out of a necessity to calibrate the difference in the French and English active and passive voices.

Nota bene

All translations into English from French language sources are the translator's own, unless specified otherwise.

Preface

August 2018

Full credit for this second edition of the *Report for the rights and mobility of black African persons in Switzerland and in Europe* goes to its translation into English. The publication of the latter will allow all the members of the Collective, who are English-speaking for the most part, to read the entirety of the Report in its final form. Moreover, a translation into English – the superlanguage of today – will enable the Report to be read by a greater number of people, be it in Switzerland, in Europe or further afield.

The text of the original French edition has been modified on the surface only. We have eliminated some typos and clarified some remarks here and there. By re-reading and comparing the French and English versions with the translator, we benefited from her perspective and her quest for clarity.

Since November 2017, date of the first publication of the French version, events have taken place that we must here briefly recall. Although they confirm the analyses and prolong the testimonies of the Report, they mostly provide a measure of the deterioration in the life conditions of the concerned persons.

In the night of February 28th to March 1st 2018, Mike Ben Peter, a member of the Jean Dutoit Collective, died as a result of an operation carried out by six young officers of the Lausanne Municipal Police. Stopped on grounds of “suspicious behavior”¹, he was allegedly held face down against the ground for several minutes, with his hands cuffed behind his back and an officer’s knee pinning him to the ground. Several witnesses, who were present around the *place Ste-Luce* that evening, remember hearing groans and cries of pain. Realizing at one point that the man was no longer breathing, the officers then allegedly relaxed their pressure and called an ambulance. They also allegedly noticed a trickle of saliva on the ground next to his mouth which was tinted with white powder, possibly indicating that the man may have swallowed one or several cocaine pellets. The first results of the official enquiry report multiple rib fractures, the consequences of the blows he allegedly received when he was on the ground, his face pressed into the tarmac. A toxicology report will have to determine the exact cause of Mike’s death, whose result is awaited – along with the complete autopsy report – in the following weeks or months.

This result, however, will not speak to the extreme precarization and the racist stigmatization into which the European world pushes those who have migrated here, in particular when they are from the African continent. Mike was married in Spain and was father to two children aged 11 and 9. The shock caused by his death, for his family, within the Collective and within the concerned communities, is huge. All the resident members of Jean Dutoit, fathers or no, asylum seekers or no, drug dealers or no, live with sadness and anger at having lost a friend. And this death hangs above

¹ Press release, « Lausanne, un Nigérian fait un malaise lors d’un contrôle de police – appel à témoin », State of Vaud, 01.03.2018.

their heads, along with the attending feeling that any black African person can die at the hands of the Swiss police – *because* they are a black African person.

On March 10th 2018, a protest was organized in Lausanne by the Jean Dutoit Collective, with backing from many other groups, in order to demand immediate changes from the authorities. The latter would remain silent at best. Other gatherings in Mike’s memory took place, as well as collections to raise funds for the repatriation of his body and to support his family. In Zürich, Geneva and Paris, groups of people showed their support and denounced the situation of impunity and non-respect of fundamental rights of which this event showed proof, once more, in Switzerland. After the death of Lamine Fatty in Lausanne (in September 2017) and that of Hervé Mandundu in Bex (November 2016), there have now been three deaths, in the space of a year and half, of men of African origin as a result of actions by the police. When will the Swiss authorities start taking these deaths seriously?

On March 23rd, the *24 heures* newspaper revealed that the six police officers responsible for Mike’s arrest had been charged with negligent homicide². Several articles appeared in newspapers alluding to episodes of police brutality and challenging the manner in which officers are trained at the Savatan police academy. Two months later, however – as if the scales had tilted too far in the direction of human rights, or had asked too many questions – the backlash would be violent.

On May 25th, while Mike’s body lay in a cold chamber still awaiting his repatriation, the film director Fernand Melgar published an opinion piece in the *24 heures* – kickstarting a wide-ranging controversy – criticizing the lax attitude of the Lausanne authorities towards cocaine dealing in the streets of the *St-Roch* neighborhood. He finished on these words: “For each teenager who dies of an overdose, should the Municipality of Lausanne not be charged for negligent homicide?”³. The (intentional?) repetition of the charge of negligent homicide produced an effect of competition between the protection of the life of young Swiss persons on the one hand, and that of African persons criminalized by the practice of street dealing on the other hand. The fact that deaths in Switzerland linked to a legal drug such as alcohol are, at the very least, 1000 times higher than those linked to cocaine use (between 0 and 3 deaths per year from 2010 to 2015, according to the Federal Statistical Office (OFS)⁴), appeared of little importance to the film director.

The fault of this opinion piece was not to lay into street dealing, which admittedly inconveniences some inhabitants and shopkeepers, and most importantly is perceived as a last resort by those who engage in it, in a context of serious precarization and exclusion from the employment market. The fault here was to have chosen targets – facile ones at that, since African

² Chloé Banerjee-Din, « Des policiers lausannois feront face à la justice », *24 heures*, 21.03.2018. The death of Lamine Fatty was also treated under the angle of “negligence” by the Swiss media.

URL: <https://www.24heures.ch/vaud-regions/lausanne-region/policiers-lausannois-feront-face-justice/story/29578626>

³ Fernand Melgar, « Le laisser-faire lausannois frise l’homicide par négligence », *24 heures*, 25.05.2018.

URL: <https://www.24heures.ch/signatures/reflexions/Le-laisserfaire-lausannois-frise-l-homicide-par-negligen/story/17503375>

⁴ The Federal Statistical Office reported 6 cases of deaths by cocaine overdose from 2010 to 2015. In contrast, “it is estimated that in 2011, 1’600 deaths of persons between 15 and 74 years of age were due to alcohol.” Each year in Switzerland, 1 in 12 deaths is linked to alcohol and 1 in 9 deaths is attributable to the consumption of tobacco (by the way, Lausanne houses the operating headquarters of Philip Morris International and British American Tobacco Switzerland...).

The criminalization of the consumption and sale of certain drugs as a way of controlling populations considered as “dangerous” or “undesirable” is old news. We refer readers to the third part of this report, as well as the book by Anita Kalunta-Crumpton, *Race and Drug Trials: The Social Construction of Guilt and Innocence* (1999).

URL: <http://www.suchtmonitoring.ch/fr/5/7.html?cocaine-mortalite>

URL: <http://mouvements.info/les-drogues-et-la-race-en-grande-bretagne/>

drug dealers are already stigmatized – whose life conditions it glossed over with a coat of ignorance and contempt, confirming their exclusion. “Through the impunity of a handful of delinquents from West Africa, a huge prejudice is done to the entire well-integrated African community and to those who flee persecution to find refuge in our country.”⁵ As it happens, the persons who are dealing drugs on the street came to Switzerland precisely to find refuge from political and/or economic persecution AND had their asylum requests rejected, thus being prohibited from finding work. When F. Melgar took the liberty of speaking in the name of “the African community”, he was revealing not only his paternalistic tendencies, but also the disintegration of the right to asylum on the European continent.

On May 29th 2018, as the controversy surrounding this opinion piece raged on, the Vaudois Cantonal Police intervened at around 10am at the house of the Jean Dutoit Collective, *chemin des Sauges 30* in Lausanne, as well as at another unspecified place, within the context of an operation targeting the sale of illegal drugs. About 150 officers were deployed; but at *Sauges 30* only one ground floor apartment was searched, and the two persons in it were arrested. The residents of the thirteen other apartments in this small building were informed that they were not concerned and were instructed to stay inside their flats until the end of the operation. In an ambiguously worded press release, the Cantonal Police announced that it had seized 6 kilos of cocaine over the last few months, without clarifying the circumstances of these seizures. However, as specifically concerned the operation of May 29th, the amount seized reportedly weighed 100 grams, and the police refused to clarify for journalists in which of the two premises searched it was found. The confusion between these 100 grams and these 6 kilos, fed by one journalist’s mistake, would delight the xenophobic right-wingers of Western Switzerland, especially on social media platforms.

In the wake of this operation, the controversy surrounding street dealing would swell even more, feeding a wave of overtly racist hatred hitherto unseen in the history of the Collective. Lambasted as a “collective that protects drug dealers”, its Facebook page sustained several attacks. In defiance of all common sense, cocaine and cannabis dealers were designated as “merchants of death”; racist insults flew thick and fast; the fear and frustration of some condensed for an instant on these ready-made scapegoats. The dominant media did not question this frenzy; on the contrary, it had been piling onto this heap from the beginning of the “Melgar affair”, multiplying the publication of opinion pieces, fake scoops and erroneous or incomplete information for more than a month. Rock bottom was reached when *L’Illustré* magazine published 4 pages of photos presenting black men in the streets of Lausanne, taken from above, giving this town of 140’000 inhabitants the impression that it was equal to a metropolis. In the meantime in Italy, a xenophobic right-wing government was being set up under the authority of Matteo Salvini and attacks against persons of African descent were proliferating, as the hysteria surrounding black drug dealers in Lausanne reached its peak. Members of Jean Dutoit received death threats⁶.

On June 8th, three months after his death, Mike’s body was finally repatriated to Nigeria. He was buried upon his arrival at Benin-City, where his family lives. On Facebook, the Collective’s announcement of his burial was followed by a new volley of racist and degrading abuse.

On June 15th, the Lausanne Municipal Police launched its “new” measure: on each of the city center’s infamous drug dealing spots, a lone officer now stands guard from 8am to 10pm, dissuading

⁵ Cf. article quoted in footnote no. 3.

⁶ One particular threat was reported to the Lausanne Police and the Cantonal Police in June 2018.
URL: <https://collectifjeandutoit.wordpress.com/2018/06/25/un-membre-de-jean-dutoit-se-fait-menacer-de-mort/>

any illicit transactions by his presence. Hidden from the eyes of the Swiss – as many other things in this country – this market will reorganize itself in underground networks, since its consumers have not vanished...

Neither have the persons precarized locally and globally by the societies of the European continent, and neither has the racism produced by these societies in order to ground the legitimacy of these forms of exclusion.

Introduction

1/ Honing our alert thresholds

With a referential framework determined by several decades of relative stability, Swiss citizens are inclined to believe that global crises – be they related to climate, politics, economy or migration – hardly concern them; or if they do, it is only from far away. This habit of stability produces “a risk of blindness: the constitution of potentials for rapid social change will not be visible, even when one can already touch this change with one’s fingers.”⁷

This risk is accentuated by several factors which contribute to its formation, even when a lack of stability begins to be felt. As a form of preamble, let us look into these factors for a moment, in order to sketch a hypothesis for the reaction of Swiss and European societies in the face of global crises which – this much is obvious – are only beginning. Why is it that our sense of urgency seems suspended?

A first factor concerns the disaster that has already taken place. At this level, the problem is not one of ignorance, since we know... but we do not want to believe what we know⁸. According to the data published by the International Organization for Migration (IOM), the number of people dead or missing in the Mediterranean between January 2014 and October 2017 amounts to 14’994⁹. And yet, whatever the discourse that orientates its reception, one thing escapes no-one: this number states something real. What becomes then of this reality? Given the contradiction between the fact that these people were left to their own fate, and the humanist values to which the countries of the Old Continent claim to adhere, it has every chance of appearing *too* real, thus engendering strategies of defense “through indolence, repression or refusal”¹⁰. In other words, the more indisputable the situation, the more the first reaction is to run away. Conversely, contemplating the breadth of the disaster entails being prepared to integrate it into our interpretation of reality and drawing conclusions capable of surmounting this crisis of meaning. For Switzerland and the European Union (EU), this would mean recognizing that the “migration crisis” is first and foremost a crisis of their migration policies, in view of five centuries of colonialism and neo-colonialism.

The second factor of risk of blindness is mediatic distance. Migrants and refugees live in the building next door, go to the same supermarket etc, but this proximity is supplanted by the media. The siege of Sarajevo is a telling example of this phenomenon: in the almost four years (1992-1996)

⁷ Harald Welzer, *Les guerres du climat*, Gallimard folio, Paris, 2009, p. 266. Welzer is director of research in social psychology at the Witten/Herdecke University (Germany).

⁸ This is the conclusion at which Jean-Pierre Dupuy, professor of social and political philosophy at Stanford Polytechnic and University, has also arrived. He has criticized the principle of precaution, in its application to the consequences of climate change, whose excesses he interprets as a “refusal to believe”, analogous to the attitude of the world at the moment when the existence of the Nazi extermination camps became irrefutable. In *Petite métaphysique des tsunamis*, Seuil, Paris, 2005.

⁹ « Missing Migrants Project », *International Organization for Migrations*, United Nations.

URL: <http://missingmigrants.iom.int/>

¹⁰ *Les guerres du climat*, *op. cit.*, p. 267.

of televisual broadcasting of this crushed and wounded city, a displacement occurred in the imaginary geography¹¹ of its viewers, which pushed the city back to the confines of the European continent¹². The spectacle and its distancing only serve to confirm the viewers' powerlessness. The consequence is that the local issues which are most directly linked to distanced situations become unintelligible and at the same time cease to exist as loci of vital, desirable or even possible action. Moreover, it is necessary to underline how information in the internet age now entails a regime of emission/reception that is very fast, yet emerges drop by drop. This regime produces a habit of high but irregular intensity which entails an indefinite suspension of judgment: we must wait for the next dose of information before making a decision, since everything can change from one moment to the next. In these conditions, the question of *when* we decide to act also tends to dissolve itself.

Third factor: the *crisis of time* in the societies of late modernity. Caused by "the accelerated transformation of living conditions, institutions, relationships, in other words the acceleration of social change"¹³, this crisis is at the root of the sentiment often expressed in our era: that of not having enough time. Social acceleration, multiplied by globalization, actually produces ever stronger effects of *desynchronization* – between institutions and their actors, between developments in science and technology and legal regulation, between the consumer world and the production conditions of consumer objects, between the different fields of knowledge and between knowledge and practices, between daily life and biographical time, between generations, etc. – which result in a constant effort made by individuals to resynchronize with the different aspects of the world in which they live. These desynchronizations are all the more difficult to manage, occurring as they do in front of a hypersynchronization of consciences under the regime of the media and the cultural industry, stripping people of their individuation, a concept developed by the philosopher Bernard Stiegler¹⁴. The crisis of time is threatening in many respects. It is the cause of tension between the panic of the latest wave and an increasing need for normalization, which tears apart the relationship to the real-present¹⁵. Notwithstanding the fact that, on top of the risk of being socially excluded, "the anxiety-inducing and ever-present possibility of becoming excluded"¹⁶ has now been superposed; this will occur if one has not kept up with the rhythm of acceleration in training and the job market, social media, political opinion, lifestyles, etc.

Should we continue by speaking of the power of consensus in Switzerland – this idea of stability – as well as the racism and xenophobia that also create bias and denial, to the point of the "will to ignorance"¹⁷ evoked by the philosopher Achille Mbembe? We will devote an entire chapter to this later on. For now, may it suffice to have sketched out the contours of this risk of blindness to change – which is also blindness to otherness and to others – and underlined its omnipresence.

¹¹ A notion developed by Edward Said in *Orientalism: Western Conceptions of the Orient*, Penguin, London, 1977. "It is enough for 'us' to set up these boundaries in our own minds; 'they' become 'they' accordingly, and both their territory and their mentality are designated as different from 'ours'." (p. 53).

¹² See also Paul Virilio in his book on the first Iraq war, historically the first live news coverage war, *L'écran du désert : chroniques de guerre*, Galilée, 1991.

¹³ Hartmut Rosa, *Accélération, Une critique sociale du temps*, La Découverte, Paris, 2010, p. 30.

¹⁴ Bernard Stiegler, « Le désir asphyxié, ou comment l'industrie culturelle détruit l'individu », *Le Monde diplomatique*, June 2004.

URL: <https://www.monde-diplomatique.fr/2004/06/STIEGLER/11261>

¹⁵ In this way we can understand the recurrent discourse heard in 2016, expressed in such terms as "We didn't see it coming...", following Brexit or the election of Donald Trump.

¹⁶ *Accélération, op. cit.*, p. 366.

¹⁷ Achille Mbembe, *Critique of Black Reason*, Duke University Press, Durham, 2017. Translated by L. Dubois.

We wish to invite each person who reads us to reconsider with us, over the course of these pages, the pertinence of their alert thresholds and their critical thresholds; in the end, the only reasonable course of action is to hone and understand them.

The Jean Dutoit Collective would not be here today – and you would not be reading these pages – if this will to understand and to act did not exist.

2/ A hybrid perspective

This report comes into being in an unquiet world. The horizon of its reception is saturated with streaming informations flying in all directions; the spectacularization of the news cycle, debates about filter bubbles¹⁸ and fake news¹⁹: these represent as many failures to attempt to make sense of reality. In such a context, how can we speak, write, present facts, analyze them and present solutions?

In the writing process, it became necessary to start from diverse sources and make several levels of reading coincide. On the one hand, between testimonies and work on institutional, academic, journalistic and legal sources; on the other hand, between research and direct action. Indeed, the question is not simply what to know, but also how to integrate that knowledge. Incidentally, this might be the only way to draw attention to problems while also signaling their complexity – a complexity too often invoked to explain a sense of powerlessness or to justify giving up.

The crux of these hybridizations is thus to resynchronize the timeline of people's lives with that of the evolution of societies, with a view to opening up lanes of action. Any synchronization being, by definition, partial and momentary, each of its instances constitutes an *opportunity*.

The necessity of a hybrid form is inscribed in the experience of the Jean Dutoit Collective from its very beginning: although it was created with the aim of finding a roof for its members from a migrant background, it was immediately confronted with the political, social, economic and cultural dimensions that condition the existence of these persons on Swiss and European territories. It has been necessary for Swiss members to *perform* their citizenship, for example by signing a contract of trust for a lease, because the signature of the African members could not offer the legal guarantee demanded by a Swiss owner. But also, on another level, it has been necessary to grasp the institutional issues and stakes that underlie the mechanisms of injustice, in order to protect the Collective from them and if possible, to respond to them. These tensions – between national logic and human necessity – are produced by circumstances which hybridization can counter through a strategy that foils the normative character of the former, while still allowing us to perform it when needed.

Jean Dutoit is composed of some hundred-odd persons from a migrant background and a handful of others from a Swiss background. If we, in this report, resort to referring to migrant/African/black/foreign members and local/European/white/Swiss members, it is because this

¹⁸ A concept invented in 2011 by Eli Pariser: the idea according to which social media algorithms (among others) only suggest content that already interests the user.

¹⁹ In the strictest sense, the term designates the diffusion, on any medium, of deliberately faked or manipulated information, whose aim is propaganda or blurring. In an enlarged sense, it designates the contemporary debate concerning the line between facts and interpretation.

partition is necessary to analyze the articulations of our experience in the context of a world divided into Nation-states where the racialization of black persons is a thriving reality. We therefore only use these categories in relation to the social, economic and political effects they produce. We expressly highlighted them where it seemed pertinent, in order to combat the habits of language and culture that contribute, today and every day, to the reproduction of discrimination.

Between ourselves, within the context of the Collective, it sometimes happens that we reference the *black collective* or the *white collective*, a shortcut which expresses – from within a relationship of trust – the differences in the possibilities of action and experience caused by a nationalization of rights and surrounding racialization²⁰. However, most of the time we simply call each other by our first names.

In this report, in order to make this dimension of our experience and the activity of the Collective more vivid, we use certain functional categories, in speaking of the *resident members* and the *interface members*. The former are those who live in the house occupied by the Collective – currently, an apartment building located at *Chemin des Sauges 30*, in Lausanne – where they live and organize their lives collectively. The latter are those who regularly participate in the house's weekly meetings and draw on their know-how during the Collective's exchanges with owners, public authorities, neighborhood residents and the media.

Let us specify that although the resident members are all men (we will return to this point in chapter I.1), the interface members represent all genders. For other questions relating to the organization of the Collective, we refer our readers to the presentation that can be found in the Annexe.

3/ Writing process and outline of the report

Written two years after the formation of the Jean Dutoit Collective, these pages are the result of events, discussions, stories and research that we have taken over collectively on our own account – in English, a language of practicality since it is spoken by all the members of the Collective – during our weekly meetings that took place over the spring, summer and autumn of 2017.

From this material, the writing team – composed of interface members – was tasked with writing successive versions in French and their subsequent translation into English, in order to see through a collective process of thought and re-reading. In particular, the issues addressed in the third part as well as the recommendations destined for the Swiss institutional and political spheres were decided on together by the entirety of the Jean Dutoit members.

At several stages of this process, we were lucky to be able to call upon the critical gaze of persons from academic, political, associative and activist backgrounds in Western Switzerland. We hope to

²⁰ Racialization is active in the societies of the Old Continent to varying degrees. On this subject, see the Eurobarometer on discriminations, carried out in the countries of the EU in 2015. This study is incomplete in several respects, as it does not establish points of intersection between racial, social and economic discrimination (the difference for example between the lived experience in France of a rich black person, who enjoys a status as a native and citizen of France, and a poor black person who is a native and citizen of Mali).
URL: http://data.europa.eu/euodp/en/data/dataset/S2077_83_4_437_ENG

have benefited from the high standards of their contributions and thank them warmly for their support.

This report contains three parts that reflect three important stages or moments in our research: Why and how did the persons who currently make up the Jean Dutoit Collective end up in Lausanne? How has the formation of the Collective, and its ensuing developments, constituted a response to their precarization and their immobilization within Swiss and European societies? From what forms of discrimination, impairment of rights, abuse and persecution do these persons suffer, and how can we understand and combat these phenomena?

In the first part, we lead an investigation into the migratory journeys of the members of the Collective. By leaving their homes in Africa, over land – because of the stricter visa policies that entered into effect in European countries during the 80s and 90s – they made their way through different countries and were forced to negotiate modes of survival that would fend off threats against their integrity. In Europe, they became captive of the EU’s immigration and asylum policies: from 2008 in the context of the economic crisis, then from 2014 in that of the migration crisis. In Switzerland, some made their way through the administrative apparatus of the asylum process. Their asylum plea having been rejected, they wound up in the hands of the canton’s emergency aid program, a dehumanizing process which they were forced to leave in order to avoid its next logical step: forced expulsion. Ending up on the street, through a lack of suitable structures but also because of an evident absence of political will, they lived on the margins, within the informal circuits of trans-European migrant workers. To describe these resulting situations, we use the term *standstill*: immobilized in reception centers and camps – where they either undergo pressures aiming to make them leave, or are simply forced to do so – or socially excluded and stigmatized because of the absence of recognition of their fundamental rights by European nations, these persons experience further forms of dehumanization as the standstill continues. Hence the creation of the Jean Dutoit Collective.

In the second part, we examine the Collective’s two years of existence in a narrative and critical exploration of its relationship with the Lausanne society and authorities on the one hand, in parallel to its internal evolution and the strategies that the Collective implemented in order to reach its goals on the other hand. How to find a roof for a hundred-odd people? Under what conditions? With what consequences? With the authorities displaying their desire to avoid the creation of unauthorized settlements (“lieux de fixation”) and refusing to recognize that these standstills are actually the result of inadequate policies, the Collective was faced with the imperative to remain mobile and activate new forms of convergence. This second part concludes with an overview of cooperative and inclusive accommodation, considered as an alternative to the current practices of the Swiss State, which concentrate migrant persons together while separating them from the rest of the population, producing a closed-off situation.

In the third part, we identify the sufferings, persecutions and discriminations undergone by migrant persons in Switzerland (in particular black African migrants), working from the testimonies of members of the Collective. In order to comprehend their breadth and character, we cross-reference these testimonies with Swiss and international institutional reports, as well as recent inquiries led by sociologists and political scientists. We specially discuss anti-black racism and the relationship between xenophobia, migration and the rise of nationalism, as well as the phenomenon of the European “migratory crisis”. Through the prism of exclusion and precarization, we question the activity of cocaine and cannabis dealing in Lausanne: the market and its actors, the concentrated repression targeting street sellers, the stigmatization and criminalization of African and black

migrants that follows, at the crossroads of the fight against illegal drugs and Switzerland's policies of forced expulsion. We then concentrate on racial profiling – understood as State racial discrimination –, a concept which allows us to highlight certain underlying social issues and provides the necessary bases to conceptualize suitable measures for combating racism. Finally, we report and analyze the violence and abuses of power carried out by certain police officers against migrant persons, which continue to go unpunished to this day. After having shown how the organization of the legal institutions in Switzerland makes it almost completely impossible to file complaints against these practices, we plead for the creation of independent and neutral instances in each Swiss canton for the filing of complaints and pressing of charges concerning police brutality and abuses of power. We end by denouncing the treatments experienced in situations of custody, in prisons and administrative detention centers in Switzerland, where migrant persons are criminalized and deprived of their rights.

In the conclusion of this report, we inscribe several recommendations aiming to resolve the violence, exclusion and discrimination of which the members of the Collective, as well as many others, continue to be victims in Switzerland, in situations that deprive them of their rights. These recommendations represent thresholds to overcome and stem from a will to contribute to the elaboration of short-, mid- and long-term solutions.

4/ Horizon of interpretation

The persons who have been active at one moment or another in the Collective gave their time without knowing how long the adventure might last. Two years? No-one expected it to last this long.

The following pages are important in this respect. They serve our memory. By going over the events of the past two years, we were able to remember, to create meaning. This process was an opportunity to examine our journey and learn from it. It might prove as helpful later, when faced with different circumstances or read by different eyes.

But what are our circumstances? Throughout our research process, we have asked this question again and again: in what world are we living, and how do we understand it? Let us now broach this horizon of interpretation to end this introduction, contemplating the landscapes through which we have thought it possible to trace paths.

In recent times, we have been living in a “globalized” world. But globalized does not mean unified: only that we, human beings, exist here among currents that produce the imbrication of national, transnational and international forms of power, generate widespread systemic reactions and produce the feeling of a reality whose extremities all connect (which is, of course, far from being the case). On this stage, several actors have the main role: States, companies and organizations... without forgetting the people who, from one end to the other, participate in these structures, cross and skirt them, benefit and suffer from them.

Let us briefly rewind to two centuries ago. There have always been currents of power that cross borders, whether they consist of persons, goods, capitals, techniques, ideas or beliefs. These currents have shaped history. But it took the Treaty of Westphalia in 1648, followed by the birth of the Nation-States in the 19th century and the emergence of the market economy, before companies (whose function is defined through a movement of separation from the social and whose legal status is determined by the State) would consider pursuing their activities beyond the borders of a national

State, and before other States would “denationalize a part of the institutional and legal framework so that a foreign company might operate within them *as if* it were global”²¹. This is what we call globalization.

The tensions between these three poles – society, State and companies – have been continuous since the French Revolution. The division of society into classes (owners and workers), but also colonial policies, totalitarianism, fascism and liberal representative democracy, can be understood as so many reconfigurations of the power relationships between these three poles. What is the state of affairs in this day and age? Since the 1980s, neoliberal practices have moved in a new direction: by forcing national markets to open up and by pushing States to become competitive on an entrepreneurial mode via austerity measures and privatizations, neoliberalism has sped up globalization and engendered ever more violent desynchronizations. States now find themselves more dependent than ever on capitalist companies. They create attractive framework conditions for them, even cover for them, as was the case with the 2008 bailouts. Another consequence is that the rights of workers and the exercise of democracy are weakened.

If we do not consider globalized to mean unified, it is namely because we do not believe in the *end of history* as announced by Francis Fukuyama²², who in 1992 saw the fate of the world as being finally united through the victory of “liberal democracy”. In our sense this proposition, naïve at best²³, fails to conceptualize the world we live in in a constructive way and reinforces a dangerously blind ideological hegemony.

To be sure, the time when we spoke of the Western and Eastern blocks has been over since the beginning of the 1990s. As for the time when we spoke of the Third World, it is apparently also over since 2009, at least if we believe Robert Zoellick’s speech pronounced the following year when he was president of the World Bank: “we are now in a new, fast-evolving multipolar world economy [...] where North and South, East and West, are now points on a compass, not economic destinies”²⁴. To be sure once more – but let us not erase the past too quickly.

The extreme disparities between the Gross Domestic Products (GDPs) of the world’s countries may no longer be indexed on the compass, yet they are still indexed on the developments of history (such as European colonization and its consequences, the developments of liberalism and the Nation-States, as well as imperialist, nationalist and neocolonial wars). However, something has changed in the last twenty years. Whether they be rich or poor, most of the world’s countries have joined the orb of capitalism, leading the way for a reconfiguration from which Nation-States and

²¹ Saskia Sassen, *Critique de l’État. Territoire, Autorité et Droits, de l’époque médiévale à nos jours*, Demopolis/Le Monde diplomatique, Paris, 2009, p. 27.

²² Francis Fukuyama, *The End of History and the Last Man*, 1992.

²³ The historian Henri Lefebvre wrote in 1970: “the exclusive worry of economic growth plays the role of a limiting ideology, as well as the priority given to the quantitative right up to the demands and aspirations of the working class. Technology and technicity, with the social support of their importance, that is to say the associated technocracy and bureaucracy, exert a pressure on what hampers them. We sometimes suppose that this social milieu, technicians and technocrats, “technostructure” if you will, can play a “historic role”. If that is the case, it will be to the detriment of history. Historic conscience hampers these people, and more than anything, it is foreign to them.” In *La fin de l’histoire*, Les Éditions de Minuit, Paris, 1970, p. 9.

²⁴ Robert B. Zoellick, “Modernizing Multilateralism for a Multipolar World”, speech given at the Woodrow Wilson Center, *The World Bank*, 14.04.2010.

URL: <http://www.banquemondiale.org/fr/news/speech/2010/04/14/end-third-world>

multinational companies emerge reinforced²⁵. All these countries are now composing with the inequalities occurring in the distribution of wealth *within* these countries²⁶, a consequence of the liberalization of their national economy and their markets.

Over the course the 1990s, a historic reversal was observed²⁷ at this level: whereas inequalities between countries had been steadily increasing for more than a century, they now began to retreat; while inequalities within countries, which had decreased during the 20th century, began to increase the world over²⁸.

From the fact that populations find themselves extremely precarized even in countries whose GDP is high – the United States, China, Brazil, South Africa, Nigeria²⁹ – we can conclude that the “South”, which used to be synonymous with a poverty indexed on the “compass” of colonial and neocolonial history, only ceased to be so by reproducing its model within the borders of all the world countries. It is in this double sense that we speak here of a *globalized South*, in order to express the spread of systematic precarization, produced by globalization and steered by a set of axioms that remains in the hands of the countries of the historical North.

Indeed, as noted by the Tricontinental Centre of Louvain-la-Neuve, the architects of the ideological evolution that stretches from the Third World to the multipolar world “are to be sought... in the North much more than in the South”. The conclusion is that in the face of current challenges, “the undeniable necessity of building new global partnerships does not dilute international power relationships, in this case the North-South relationship. It gives them a new framework.”³⁰ As clear as it may seem that the countries of the historical North find advantage in making the countries of the South forget about their exploitation, the globalized North – as a dominant apparatus operating through all the countries that live in the orb of capitalism – finds advantage in reminding the citizens of the world, ever more precarized in the exercise of their rights, that the fate of the countries of the historical South is a threat that now overshadows everyone.

Undoubtedly, the national-liberal States have always, since their appearance in the 19th century, related to their workers as to populations “of the South”, and the owner class tends to consider these citizens as their subjects³¹. But it is precisely within this relationship that the entire framework

²⁵ As well as the countries of the globalized North... the neoliberal measures of the Washington consensus applied to economies greatly burdened by debt as of 1989 have increased this gap.

²⁶ See the report by I. Ortiz and M. Cummins, *L'inégalité mondiale. La répartition des revenus dans 141 pays*, UNICEF, 2012.

URL: [https://www.unicef.org/socialpolicy/files/L_Inegalite_Mondiale\(1\).pdf](https://www.unicef.org/socialpolicy/files/L_Inegalite_Mondiale(1).pdf)

²⁷ François Bourguignon, *La mondialisation de l'inégalité*, Seuil, Paris, 2012. See also by F. Bourguignon and A. Châteauneuf-Malclès, « L'évolution des inégalités mondiales de 1870 à 2010 », *Ressources en Sciences économiques et sociales*, SES-ENS Lyon, 20.06.2016.

URL: <http://ses.ens-lyon.fr/ressources/stats-a-la-une/levolution-des-inegalites-mondiales-de-1870-a-2010>

²⁸ On the question of the causes of this increase, we refer the reader to the previously cited book by Saskia Sassen, as well as the works of the economist Thomas Piketty, which have taken this debate into new terrain.

URL: <http://piketty.blog.lemonde.fr/2016/09/20/le-fmi-les-inegalites-et-la-recherche-economique/>

²⁹ World Economic Outlook Database, International Monetary Fund.

URL: <http://www.imf.org/external/pubs/ft/weo/disclaim.htm>

³⁰ Centre Tricontinental, *Obsolète, le clivage Nord-Sud ?*, CETRI - Syllepse, 2016.

URL: <http://www.cetri.be/Obsolete-le-clivage-Nord-Sud-40e-4096>

³¹ Jean-François Bayart summarizes this “constitutive ambivalence of a lapidary formula: national-liberalism is liberalism for the rich and nationalism for the poor.” In *L'impasse national-libérale, Globalisation et repli identitaire*, La Découverte, Paris, 2017, p. 16. The author is director of research at the CNRS, professor at the Institut d'études politiques in Paris and chair of comparative African studies at Mohammed VI Polytechnic University.

of *belonging* has faltered. The faith that citizens of the historical North may have had in their governments, their belief that they belong to the most civilized, rich and “real” region of the globe, has considerably weakened under the effect of neoliberal policies, the rise in power of social movements, as well as the multiculturalism touted by the United Nations (UN) in the wake of the devastating effects caused by racial nationalism in the 19th and 20th centuries.

In reaction to this, States have implemented legislations relating to citizenship and rights that proceed more than ever to the reterritorialization of individuals within the structures of the nation. However, contrary to what we often hear, they do not do this to protect themselves from globalization, but rather to profit from it: for their countries to be competitive on the global stage, States lead reforms in order to limit social spending, reorganize education and security by externalizing them towards the private sector and conduct an international policy guided by the acquisition of markets for national companies, amongst other measures.

Furthermore, as shown by the American philosopher and political scientist Wendy Brown³², since the 1990s governments have been leading vast operations spectacularizing their political sovereignty, in particular through the construction of walls and the reappropriation of nationalist and/or theological discourse, in order to produce a new group spirit. This results in “civilizational”³³, culturalist³⁴, racist or religious³⁵ polarizations whose heralds regularly move from the periphery to the center of the State and are then sent back to the periphery when they have performed the exclusion that is expected from them³⁶.

In this context, the complex of national identity is reinforcing itself in the whole of Europe. We must wonder whether the real content of this reinforcement is down to a decrease observed everywhere since the 1980s in the exercise of social and political rights. How else can we explain this conviction that the rights of citizens should be likened to “privileges”? This means ceasing to consider rights as the indivisible foundations of the law, defining them instead from the institution of citizenship as a social capital whose distribution will inevitably follow class divisions. In the idea of *national preference* – coined by individuals affiliated with the French National Front (*Front National* or FN) in 1985 and recently reiterated by the Swiss Liberal-Radical Party (*Parti Libéral-Radical* or PLR)³⁷ – it is precisely its exclusive character that determines privilege; an exclusion that touches the workers, but never the wealthy.

The freedom to move, access to employment, housing and healthcare, the guarantee to a fair trial, freedom of faith and opinion, etc, have only recently become what left-wing parties present as

³² Wendy Brown, *Walled States, Waning Sovereignty*, Zone Books, New York, 2010. Brown is professor of political science at the University of California (USA).

³³ Following the outlines of the theory developed by Samuel Huntington in *The Clash of Civilizations and the Remaking of World Order* (1996).

³⁴ Those who wish to go through the naturalization process in Switzerland are confronted with this. In certain Swiss cantons, motives for application rejections include: not being able to name the national sport (wrestling) or the churches and museums of one’s town, wearing tracksuits outside the home or not participating in the ski camps and swimming lessons organized by the school.

URL: <https://www.rts.ch/info/suisse/7846095-pourquoi-les-cantons-latins-sont-plus-liberaux-en-matiere-de-naturalisation.html>

³⁵ Let us mention the hijab affair in France in 2005, the treatment of terrorist attacks by ISIS, the manipulation of information around the events in Cologne in the beginning of 2016, the nationalist rhetoric surrounding Brexit, the muslim ban pronounced by Trump in 2017.

³⁶ In Switzerland, this role is held by the UDC (*Union démocratique du centre*, the Swiss People’s Party) and its tutelary figure, Christoph Blocher, who occupied one of the Federal Council’s seven seats from 2004 to 2007.

³⁷ Lise Bailat, « Pourquoi la préférence nationale est à la mode », *Le Temps*, 30.05.2016.

URL: <https://www.letemps.ch/suisse/2016/05/30/preference-nationale-mode>

established social rights. The fear that one may have to share them some day with foreign-others is instrumentalized by the national-liberal discourse in order to accelerate the desocialization of rights. This operation is helped along by practices of restructuration, austerity, competition to growth and debt that have contributed to the perception of rights as loci of every-man-for-himself, concerning individuals and social groups as much as States.

Two centuries ago, no one would have thought to speak of rights in terms of gains or privileges: when we envisaged such guarantees, it was obvious that they could only be obtained through a demanding struggle, and a necessarily transnational one at that, because capitalism's currents of power are transnational. Conversely, when in this day and age a State wants to "protect" its citizens against the effects of globalization through a nationalization of rights, it does not only do so to the detriment of the citizens of other States, but to the detriment of its own citizens who little by little see their own rights restricted.

For the aforementioned citizens to accept this restriction, is it sufficient to occupy their attention with the spectacle of their difference from these "migrants" – persons that the member-States of the Dublin Regulation (with Switzerland at the forefront) dehumanize in order to better send back or let die at sea? Not without having harvested the quota of workers they will place in positions that nationals will then feel privileged for no longer having to occupy³⁸...

The Jean Dutoit Collective wishes to embody a quest for other possible strategies. These strategies may not be ideal nor perfect, but they ask demanding questions in the face of our world, its capacity to produce meaning and to transform itself – without losing sight of the lives of individuals.

³⁸ As Achille Mbembe reminds us, "for a large part of modern history, race and class have maintained relationships of co-constitution." *Critique of Black Reason*, *op. cit.*, p. 63.

FIRST PART

Borders of sand, water, violence and paper

1.1. From West Africa to the North

The resident members of the Jean Dutoit collective have in common the fact that they have all left their countries behind... for reasons that are particular to each. Thus, the degree and the nature of the situations of precarization and persecution that contributed to each of their departures should not blind us to the fact that there are also social issues at stake.

Currently aged between 21 and 45, they left home several years ago. This duration itself likens their migration to an exile, and is often felt as such. Originally from West African countries such as Nigeria, the Gambia, Mali and Senegal, they come from different social classes, faiths and professional fields. Football player or cook, carpenter or history professor, nothing predestined them to end up side by side in the back of a truck in Lybia, in a camp in Italy or in a house in Switzerland. What have their life courses been? We have tried to apprehend some of their singularities and in parallel, to document the moments when their trajectories were determined by similar, even identical social and geopolitical conditions.

In the 1990s, as Europe was being built, the various migration policies of countries that belonged to the budding European Union were being modified and standardized via the Maastricht Treaty and the institution of a community visa model. This closing of the European borders to “third-party countries” concerned especially West African nationals. Indeed, it would have been much cheaper and much less dangerous to take an airplane... When that became impossible, the inhabitants of these countries previously colonized by France or the United Kingdom had no other choice but to take the route over land and sea. For Europeans, used to traveling by air like some travel by bus, such a motivation can be difficult to understand: essentially, it highlights that the closing of borders does not concern Europeans themselves, but only the inhabitants of the globalized South.

Incidentally, this closing produces a paradoxical effect: once they have landed in Europe, the people who have migrated there cannot take the risk of returning to their countries – round trips which many seasonal workers had been doing for years – since returning to Europe would mean undertaking another long and perilous journey. Thus, the destination and the nature of West African migrations changed. On the one hand, they increased in the direction of other African countries,

mainly to the North³⁹. On the other hand, emigration towards Europe became, more than ever before, a matter of exile. However, since the 1990s, the growing connectedness of the world via the internet has considerably modified the nature of geographical distance. Phone calls through WhatsApp, the use of Facebook, and the possibility of sending money safely and quickly, have all contributed to creating new forms of transnational relations.

The resident members of the Collective carry with them the hopes of their society and of their family and friends, who are often the ones who pool together the money necessary for the beginning of their journey. According to the sociologist Jean-François Bayart, this motivation is “eminently social. It is a question of improving the lot of loved ones, of affirming one’s dignity and one’s adult maturity, and of succeeding in life.” Emigration can thus have many faces, and this variety is exemplified by the Jean Dutoit members: some have left home because of difficult life conditions, some to escape persecution, others to help and support their families, others because they wanted to leave and discover North Africa or Europe; and more often than not these reasons can overlap. In these conditions, it is more adequate to speak of constellations of motives for emigration, whose social dimensions – and stakes – are the common articulation. Over the course of their journey, some have asked help from their parents or loved ones, when the situation gave them no other choice but to do so; and as soon as it became possible, they found work and began to reimburse these loans as well as helping their families in return. This loyalty is embedded in the shaping of these men’s subjectivity and in their cultural and existential horizon.

At this point, one particular question must give us pause: why is the Jean Dutoit Collective made up solely of men? Among the persons who emigrate from West Africa, the numbers indicate a slightly higher percentage of women⁴⁰, but once they set foot on European soil, the number of men rises to 65%⁴¹. Taken captive by trafficking networks, especially in Libya, many migrant women are sold into slavery and forced prostitution. This explains why more men reach the shores of Italy than women. One of the members of the Collective, telling the story of his crossing, reported that out of about 220 people on board, there were only a dozen women, most of them pregnant. In Europe, some will be forced to stay in camps, for example in Greece or Italy, especially when they have children. At the time we are writing these lines, a huge number of them are stuck in these camps waiting for papers. What we can observe thanks to the work of Rachel Silvey and Camille Schmall among others, is that women are victims of a double discrimination throughout their entire migratory journey: forms of racial and gendered⁴² discriminations that divide social spaces⁴³. When the Jean Dutoit Collective was formed in the summer of 2015 (cf. Chapter II.1), there were only men in the garden of the *Sleep-in* in Renens. We will therefore not be speaking of migrant women in these pages. Others will, and will do so better than us⁴⁴. They must not be made invisible.

³⁹ Let us remind the reader that 80% of African emigration takes place within the African continent. Cf. Christophe Daum and Isaïe Dougnon, « Les migrations internes au continent africain », *Hommes et migrations*, 1279 | 2009, 29.05.2013. URL: <http://hommesmigrations.revues.org/280>

⁴⁰ S. Braibant, « Femmes et migration : raisons et routes de l’exil », TV5 Monde, 05.10.2015. URL: <http://information.tv5monde.com/terriennes/femmes-et-migrations-raisons-et-routes-de-l-exil-57956>

⁴¹ Statistics on migration and the migrant population, data extracted in March 2017, Eurostat.

URL: http://ec.europa.eu/eurostat/statistics-explained/index.php/Migration_and_migrant_population_statistics/fr

⁴² See the publication edited by M. P. Anglade, L. Bouasria, M. Cheikh, F. Debarre, V. Manry and C. Schmall, *Expériences du genre, Intimités, marginalités, travail et migration*, Karthala, 2014.

⁴³ Loïs Bastide, *Habiter le transnational*, ENS éditions, Lyon, 2015.

⁴⁴ We would like to mention the work in Switzerland of the *Appel d’elles* initiative, which asks Swiss authorities to “acknowledge violence against women during their migratory journey as a reason to examine their asylum requests immediately”, to implement a systematic care process for women and children victims of physical and

For both women and men, migration arises within a context. Life conditions in West Africa are marked by recent colonial history and the memory of slavery, as well as by the current North-South exploitation in the horizon of globalized capitalism. They are marked by increasing inequality in the distribution of wealth⁴⁵, poverty⁴⁶, unemployment⁴⁷, corruption⁴⁸, exploitation⁴⁹, and in some regions, by dictatorship⁵⁰, ethnic⁵¹ and religious⁵² oppressions and/or armed conflict⁵³.

psychological after-effects, and to put an immediate end to the expulsion of women and children towards Italy or any other country that would not be able to ensure their protection. URL: <http://www.appeldelles.ch/>

⁴⁵ See the bibliography presented on the website of the SES-ENS in Lyon; the thematic article grouping on the website of the *Monde diplomatique*; the website of the Committee for the Abolition of Illegitimate Debt (CADTM); as well as the publication by Maurizio Lazzarato, *La fabrique de l'homme endetté : essai sur la condition néolibérale*, éd. Amsterdam, Paris, 2011.

URL: <http://ses.ens-lyon.fr/articles/references-bibliographiques-25429>

URL: <https://www.monde-diplomatique.fr/index/sujet/ajustementstructurel>

URL: <http://www.cadtm.org/La-dette-du-Tiers-Monde>

⁴⁶ In a report published in 2016 by the World Bank, *Poverty in a Rising Africa*, we learn that “the number of African people living in extreme poverty has increased considerably since 1990”, going from 280 million people living with less than 1.25 dollars per day in 1990 to 330 million in 2012.

URL: <https://openknowledge.worldbank.org/handle/10986/22575>

⁴⁷ In Nigeria for example, Oxfam reports a youth unemployment rate oscillating between 12.1% and 21.5% in 2016. URL: <https://www.oxfam.org/en/even-it-nigeria/nigeria-extreme-inequality-numbers>

⁴⁸ According to the United Nations’ African Governance Report IV, 2016, “There is increasing evidence that the social and economic cost of corruption disproportionately affects the poor, who not only suffer from the lack of services and an efficient Government, but who are also powerless to resist the demands of corrupt officials. Different arguments have been put forward to explain the pervasiveness of corruption in Africa; these include poverty, the personalization of public office, the political culture, and the inability of leaders to overcome their colonial mentality in respect of their perception of public office.”

URL: https://www.uneca.org/sites/default/files/PublicationFiles/agriv_fre_fin_12april.pdf

⁴⁹ According to a press release from the World Bank in October 2015, it is “a worrisome development: Africans living in resource-rich countries (endowed with gold, diamonds, copper, oil, etc.) are paying a human development penalty: they have 10% shorter life spans on average, are less literate, have higher levels of malnutrition, and suffer more from domestic violence.” The Glencore multinational has recently been suspected of corruption in the Congo.

URL: <http://www.banquemondiale.org/fr/news/press-release/2015/10/16/africa-gains-in-health-education-but-numbers-of-poor-grow> + <https://www.tdg.ch/economie/accords-secrets-glencore-congo/story/29379250>

⁵⁰ This was the case in the Gambia until quite recently: at the end of January 2017, Yahya Jammeh relinquished power after 22 years of sole rule. Having been defeated during the presidential election of 2016, he only conceded under international pressure.

⁵¹ This is the case for the populations of the Biafra, who suffer the consequences (endemic unemployment, corruption, repressive violence) of the civil war that left over a million people dead, in a region that became a terrain of standoff between two old colonial powers, France and the UK, arming both edges with an eye to keeping control on the oil resources of the region. Tensions have recently become quite preoccupying since the Indigenous People of Biafra movement (IPOB) was declared a “terrorist organization” by the central government of Nigeria. Cf. Chijioke Jannah, Daily Post, 16.09.2017.

URL: <http://dailypost.ng/2017/09/16/biafra-us-breaks-silence-growing-tension-nigeria/>

⁵² Christians in Nigeria have been intensely persecuted for many years. The Christian Association of Nigeria advances the following numbers: “This report bases itself on the study led jointly by *Portes Ouvertes* and the CAN, which documents the murders between 2006 and 2014 of 11’500 Christians and the destruction or closing of 13’000 churches in the North of Nigeria. There is also the matter of 13 million displaced Christians.”

URL: <https://www.portesouvertes.ch/fr/persecution/documents-analyses/01-nigeria-13000-eglises-fermees/>

⁵³ “Since 2009, the insurrection led by the djihadist group Boko Haram, born in the State of Borno, in Northeast Nigeria, has thrown 2.3 million displaced people onto the roads. Seven million people divided into the four countries that share the lake – Cameroon, Niger, Nigeria, Tchad – are starving. In February, the UN alerted to the risk of famine in the inaccessible zones where populations remain trapped between the combats of the military and the insurgents.” in Laurence Caramel, « Survivre entre Boko Haram et les rives asséchées du lac Tchad », *Le Monde*, 30.05.2017.

URL: http://www.lemonde.fr/planete/article/2017/05/27/les-vies-sacrifiees-des-habitants-du-lac-tchad_5134662_3244.html

We cannot enter into all this detail here, and so have opted for footnotes, allowing our readers to sketch out an outline for themselves concerning some of these situations. A little common sense also suffices to grasp that no one leaves their country without solid reasons to do so. As exemplified in this journalist's question, on a reporting assignment in a village in the Gambia: "Don't people know what they are risking? The answer, from this Gambian village at least, is yes, of course they know. But still they come. They see no alternative."⁵⁴

For the older members of the Collective, their arrival on European soil dates back to ten years ago or more. Before the economic crisis, they were able to obtain an Italian or Spanish work permit, find a job and start a family. These countries – Spain in particular – were experiencing a high demand for unqualified workers and were actively inviting immigration. The crisis destroyed this dynamic, shutting off the possibility of finding work for these immigrant persons as well as for any new arrivals. In order to provide for their families, they were then obliged – as many Europeans⁵⁵ were at that time – to choose a second exile, further north. Another consequence of this situation is that the women with whom they were sharing their life were unable to accompany them: they remained behind in Spain, Italy or Africa, where they work and take care of the children. The migration of these men is once more synonymous with a collective effort.

As for the younger members of the Collective, they made the journey to the North in a post-Gaddafi world and under the conditions of the European migratory crisis.

Like their elders, they left their countries and crossed the desert; a portion of the journey which most Europeans ignore, but whose dangers are recognized since 2015 by the International Organization for Migration (IOM). To our knowledge, two principal routes exist. The first follows the coast, aiming to reach Morocco and the Spanish enclave of Ceuta, and crosses the Western Sahara. A member of Jean Dutoit, Franck⁵⁶, took this route in 2003. He tells of a journey in the back of a truck, hidden with other people under a tarpaulin. After passing a checkpoint in Southern Morocco, a police car began to follow the vehicle. The smuggler driving the truck, attempting to avoid the check, began to speed, taking a small side road into the desert. The truck sank into the sand, getting stuck. Franck and the other passengers were arrested and spent several months in prison. When he was freed, he resumed his journey towards the North through Morocco to the Ceuta enclave, which he reached by swimming.

The second route, much more in use in recent years in order to reach Libya, passes through Northern Niger⁵⁷. Although the number of people who have died or gone missing in the Sahel is unknown, there is evidence to suggest that it has been greatly underestimated: indeed, there are very few governmental or humanitarian missions in these areas. In October 2017, however, an estimate of 30'000 deaths since 2014 was suggested, but this number must be taken with a pinch of

⁵⁴ J. Bostrup & F. Frandsen, "They know the risks and they still come: why young Africans chase the European dream", *The Guardian*, 06.11.2017. URL: <https://www.theguardian.com/world/2017/nov/06/they-know-the-risks-and-still-they-come-why-young-africans-chase-the-european-dream>

⁵⁵ "According to the *Migrantes* Foundation, almost 40'000 Italians aged 18 to 34 left the peninsula in 2015 to try and make it abroad." in *AFP*, « Chômage, désillusion, les jeunes Italiens quittent leur pays », *Le Point international*, 21.07.2017. URL: http://www.lepoint.fr/monde/chomage-desillusion-les-jeunes-italiens-fuient-leur-pays-21-07-2017-2144860_24.php

⁵⁶ This is a pseudonym. The members of the Collective generally have more than one name, and rarely go by the name on their African ID papers when in Europe. Several members of Jean Dutoit preferred to testify anonymously. We have given them assumed names which are marked by an asterisk *.

⁵⁷ Eva Huson, « L'Algérie, nouveau relais migratoire sur la route vers l'Europe », *IRIN*, 25.10.2016. URL: <https://www.irinnews.org/fr/reportage/2016/10/25/lalgerie-nouveau-relais-migratoire-sur-la-route-vers-leurope>

salt since it was cited without any source in the context of the defence before the UN of a project of military intervention by a coalition of five countries (Burkina Faso, Tchad, Mali, Mauritania and Niger) supported by France and the UK, aiming to combat human trafficking and terrorism in the region⁵⁸ (with the glaring objective of stemming the arrival of migrant persons in North Africa and therefore in Europe).

Several members of the Collective recount how they crossed this region in the back of a truck, hidden with 20 to 40 other people. But making the journey through the desert with smugglers means being at their mercy, and so arriving at one's destination with empty pockets, if you're lucky. On top of this systematic extortion, it has been reported that some smugglers break their unspoken agreement and abandon their passengers in the middle of the desert. This was the case for example in June 2017, when 24 West African migrant persons were rescued by the Nigerien army; not long after, 50 people, including children, were found dead in the region of Agadez, in the north of Niger⁵⁹.

Arriving at the city of Sebah in southwest Libya, Toure⁶⁰, a member of the Collective, tells how he found work as a tile layer. He stayed there six months, until the spring of 2013, long enough to save up 600 dollars: enough to pay his passage to Tripoli and have a little money left over. Once more, he had to travel under a tarp with 20 other people, in the back of a Toyota bus this time, hoping to remain unseen when passing through the numerous checkpoints that punctuated their route. Arriving in the Libyan capital, he recounts how he was taken to a building for migrant persons belonging to a locally influential person. At this point in time, women and men were lodged separately and according to country of origin. Each person had to pay for their stay and their protection – the building was guarded day and night by armed men – against the local police forces, among others. He lived there for several weeks in a constant state of tension. The smugglers eventually became his jailers. No doubt about it, says Toure, it's a lucrative business... He soon found himself out of pocket. But to leave this place, there was only one option: pay his passage to Italy. Toure was lucky to be able to contact his family and ask them for help. His parents and the people of his village, who were very worried, pooled together to send him about 1000 dollars; a sum which would end up in the hands of the smugglers.

The people who migrate to Libya do not find there what they had hoped for. On the contrary, many will undergo abuses and degradations, cross zones of open conflict and/or witness potentially highly traumatic events.

Several members of Jean Dutoit tell how they experienced a war zone: machine-gun bursts, bullets flying, explosions. Some men are still carrying physical (partial deafness, wounds that never healed properly, and so on) and/or psychological after-effects. What they experienced in Libya drove them to flee the country.

The United Nations High Commissioner for Refugees (HCR) recently reported that "in the mixed refugee and migrant flows, around half of those travelling to Libya do so believing they can find jobs there, but end up fleeing onwards to Europe to escape life-threatening insecurity, instability, difficult

⁵⁸ Patrick Wintour, "New \$400m army to fight human traffickers and terrorists faces UN moment of truth", *The Guardian*, 30.10.2017. URL: <https://www.theguardian.com/world/2017/oct/30/new-400m-army-to-fight-human-traffickers-and-terrorists-faces-un-moment-of-truth>

⁵⁹ Boubacar Sanso Barry, « Le Sahara, nouvelle étape mortifère sur la route des migrants », *Courrier International / Ledjely.com*, 28.06.2017.

URL: <https://www.courrierinternational.com/article/migration-le-sahara-nouvelle-etape-mortifere-sur-la-route-des-migrants>

⁶⁰ Pronounced "Touray". Originally from the Gambia, he was 18 at the time.

economic conditions plus widespread exploitation and abuse.”⁶¹ This is also the case for an increasing number of Libyan nationals.

However, Switzerland and the European Union rarely acknowledge refugee status for these persons, even though they have risked their lives to flee what the Western media has termed “the Libyan hell”: arbitrary imprisonment, kidnapping and ransom demands⁶², extreme prison conditions in one of the country’s 30 temporary detention camps⁶³, torture, rape, forced labor, forced prostitution and slavery⁶⁴.

A hell which the Western forces (France, the UK, NATO) have largely contributed to creating through their military intervention in 2011, turning the UN’s initial resolution – whose aim was to protect civilians – into a process of regime overturning.

⁶¹ “They include refugees, asylum seekers, economic migrants, unaccompanied minors, environmental migrants, victims of trafficking and stranded migrants, among others.” Cf. UNHCR, “Insecurity, economic crisis, abuse and exploitation in Libya push refugees and migrants to Europe, new study reveals”, 3.07.2017.

URL: <http://www.unhcr.org/fr/news/press/2017/7/595a1221a/nouvelle-etude-linsecurite-crise-economique-abus-lexploitation-libye-poussent.html>

⁶² Martin Lavielle, « En Libye, les migrants affrontent l’enfer », *L’Obs*, 22.07.2017.

URL: <http://tempsreel.nouvelobs.com/monde/migrants/20170720.OBS2381/malnutrition-torture-travail-force-en-libye-les-migrants-affrontent-l-enfer.html>

⁶³ « “C’est inhumain de repousser les migrants vers des camps de la mort libyens” », *L’Obs*, 12.08.2017.

URL: <http://tempsreel.nouvelobs.com/monde/20170811.OBS3261/c-est-inhumain-de-repousser-les-migrants-vers-des-camps-de-la-mort-libyens.html>

⁶⁴ According to an article by *Reuters/Le Monde* on 12.04.2017, persons are allegedly sold between 200 and 300 dollars. Women are particularly exposed. In November 2017, *CNN* filmed an auction of migrant persons of sub-Saharan origin in Libya.

URL: http://www.lemonde.fr/afrique/article/2017/04/12/en-libye-des-migrants-vendus-sur-des-marches-aux-esclaves_5110019_3212.html + URL: <http://edition.cnn.com/2017/11/14/africa/libya-migrant-auctions/index.html>

1.2. *Crossing the Mediterranean*

Over the course of the last twenty years, the sea that separates Europe from Africa has lost some of its representation as a natural border in the public imagination. Since 2015, several European media outlets have been speaking of a gigantic marine cemetery, but is this description not misleading?

Indeed, it glosses over the horror of the shipwrecks. To speak of a “cemetery” – although these people are not buried, but drifting without a grave, belonging nowhere – might be another clue as to Europe’s denial. In truth, the Mediterranean has hollowed itself out to the point of becoming a chasm. A chasm that reminds Europeans of the fate of these people whom they might have helped, to whom they might have sent rescue boats, but did not.

In July 2017, the HCR wrote: “the number of deaths recorded in the Mediterranean Sea in 2016 has exceeded that of all previous years. Out of the 5096 refugees and migrants who died or were reported missing at sea last year, 90% had made the crossing to Italy by sea, which represents one death for every 40 people who attempt the crossing.”⁶⁵

The members of Jean Dutoit who lived through the crossing speak of their experience with reserve.

Toure tells how after having been transferred by the smugglers into a house by the sea, he and the other detainees had to wait several days for a boat to become available. During this time, they were half-starved on bread and water. Then came the night of the departure: the smugglers began by fleecing them of everything they owned (money, watches, jewellery, telephones etc). The smugglers made them walk by groups of twenty until they reached an undergrowth, from whence they made their way to the beach and the boats. They had to walk quickly and not ask questions. At the sight of the boats, many people were afraid and wanted to turn back, but the smugglers prevented them from doing so. Those who refused to move were beaten with sticks and threatened with death.

When all the passengers made it to the main craft – in Toure’s experience, it was a wooden fishing boat, but other people report having been forced to attempt the crossing on small inflatable rafts, documented by many pictures and testimonies – the smugglers left the boat in their hands. With Toure on that day, in the summer of 2013, there were about twenty women and 200 men, packed into the hold and on the deck. The conditions were extremely difficult. After a day and a half at sea, the battery of their electronic compass died. Navigating blindly on the open sea, with no water or food, the passengers began to think they would not make it. By chance, at the end of their second day, their boat met a Tunisian frigate whose crew gave them a backup battery and indicated the way to Lampedusa. Their boat arrived at their destination on the morning of the third day, without anyone having been dispatched to their aid from the Italian coast.

⁶⁵ UNHCR, *op. cit.*, 03.07.3017.

According to the information we have been able to gather, this is an example of a crossing that took place in much better conditions than most, if only because the boat was able to make it to the other shore in one piece and that all its occupants survived the crossing. The assessment of the Italian coastguard and NGOs is that over the course of these last years (2014, 2015, 2016, 2017), the conditions of the crossing have greatly worsened⁶⁶. Persons travelling alone, families and children see their fate toyed with by people-smuggling gangs⁶⁷. We find all the characteristics of a human trafficking regime, save for the fact that it is the detainees who must pay to be “freed” on the open sea, subjected to the elements.

The conditions of their rescue at sea have varied from one year to another, even from one month to the next. Survivors have been rescued by commercial boats, Italian police forces or coastguards, ships chartered by the EU (operations *Triton* and *Sophia*) or by NGOs – a situation that went through a brutal reversal during the summer of 2017, when Italy forced NGOs to change their modes of action⁶⁸ and many of them saw their crews threatened by machine gun bursts fired into the air by the Libyan coastguard. Yet when a boat is intercepted by the latter, the passengers are returned to dry land and taken to holding camps – which in some cases might save their lives, but these lives are then condemned to relive the horror from which they had been fleeing.

Among the people who arrive in Italy, the most represented nationalities are African⁶⁹. As soon as they set foot on dry land, they are taken to holding camps.

This is the beginning of administrative procedures. Each person will be registered (their identity and fingerprints are sampled and transmitted to the European database Eurodac⁷⁰) and will then have to wait for many months, sometimes more than a year.

⁶⁶ William Spindler, « Les garde-côtes italiens portent secours à des milliers de migrants et de réfugiés en Méditerranée », *UNHCR*, 14.04.2015.

URL: <http://www.unhcr.org/fr/news/stories/2015/4/552e6a0ec/garde-cotes-italiens-portent-secours-milliers-migrants-refugies-mediterranee.html>

⁶⁷ Persons with more money have been able to cross under better conditions, according to an article by Lorenzo Tondo in *The Guardian*, 14.09.2017. In this example, a Ukrainian smuggler was offering an obstacle-free sea voyage for the sum of 8'000 euros per person, to doctors, lawyers and magistrates from West Africa and the Middle East.

⁶⁸ In June 2017, Italy once again sounded the alarm: the number of persons arriving from the coast of Africa was at a 20% increase compared to the same period in 2016. Austria threatened to send its army to its border to stop migrants from entering the territory. Italy then threatened to close its ports. At the beginning of July, Italy demanded that the NGOs that ensured 1/3 of sea rescues sign a code of conduct: it included the ban on entering Libyan waters, which restricted their field of action. It would be even more restricted when, at the beginning of August, Tripoli announced the extension of its reserved search zone at sea. The Libyan coastguard, trained and financed by the EU, then threatened humanitarian boats; bursts were fired into the air. Several NGOs decided to stop their operations, unable to ensure the protection of their own crew. When numbers of arrivals in Italy for the month of July 2017 were announced, the data showed a “spectacular decrease”, half the amount as the same period in 2016. The tendency continued. The criminalization of humanitarian organizations has recently been highlighted by the Institute of Race Relations. In a report published in November 2017, the British institute denounced the instrumentalization by the States of the EU and the Dublin regulation of the laws for combating people smuggling and human trafficking, to stop NGOs from bringing humanitarian relief to migrant persons.

URL: <http://www.irr.org.uk/news/eu-member-states-in-criminalising-humanitarians-are-feeding-europes-far-right/>

⁶⁹ In decreasing order, in May 2017: Nigeria, Bangladesh, Guinea, Ivory Coast, Gambia (Source: IOM). The number of persons arriving from each country changes from month to month. Nevertheless, Nigerians occupied the top spot in arrivals in Italy by sea in 2017 and 2016, and the second spot in 2015 after Eritreans. The other national origins represented at the outcome of this crossing include Somalia, Sudan, Morocco, Ghana, Ethiopia, Egypt, Pakistan, Palestine, Iraq, Tunisia, Cameroon and other African countries. It should be noted that in 2015 for example, 7'138 persons were of unknown origin to the IOM.

What is the reason behind such a long wait, such an immobilization in these camps? Firstly because of the Dublin regulations, which stipulate that an asylum application can only be examined once within the “Dublin zone” (the EU States + Switzerland, Norway, Iceland and the Principality of Lichtenstein)⁷¹: in the country of first arrival. Consequently, Italy and Greece, who concentrate a huge majority of arrivals, are the countries who will decide on the legality of these persons’ stay. In Italy in 2016, 123’600 persons were applying for asylum⁷². In Greece, in early 2017, more than 62’400 refugees were living in holding camps, which has led to the country being described as an “open-air prison”⁷³.

Secondly, because despite their promises to welcome migrant persons – governments speak of “relocalization” – the States of the Dublin zone are turning their backs on Greece and Italy. What are the reasons behind this political disengagement? They seem to be linked to the electioneering culture of the EU countries, the migratory crisis happening (and happening *as* a crisis) at the moment when these countries are negotiating their new relationships of responsibility and sovereignty with and against this supranational entity. The rise of nationalism and the neoliberal management of the Nation-States contribute to turning the asylum application process into a series of costs regarded as dispensable by xenophobic political parties.

After having successively undergone the ill-treatment of the Libyan smugglers and a crossing of the Mediterranean where their life hung by a thread, these people thus find themselves in holding camps in Europe, dependent on the laws and hatreds of the Old Continent.

⁷⁰ The Eurodac reforms carried out in recent years have led to its reinforcement and a widening of its field of application. Its detractors warn against the stigmatization of migrant persons to which this formalization leads, and question the principle of proportionality in the use of biometric data, worried in particular about the question of confidentiality.

URL: <http://www.aedh.eu/La-reforme-d-EURODAC-Renforcement.html>

⁷¹ “Within the Dublin area, an application can only be examined once. This is to ensure that an application is actually processed and that asylum seekers may not be bounced back from one State to another without the application having been examined (in order to avoid so-called “orbiting refugees”). The Dublin regulation should also stop asylum seekers from continuing to migrate towards other member States and applying for asylum several times.” in « Schengen/Dublin et la Suisse », *Organisation suisse d’aide aux réfugiés*, csl 10.07.2017.

URL: <https://www.osar.ch/droit-dasile/bases-juridiques/schengendublin-et-la-suisse.html>

⁷² Italian Ministry of the Interior, Dipartimento per le libertà civili et l’immigrazione.

URL: <http://www.libertaciviliimmigrazione.dlci.interno.gov.it/it/documentazione/statistica/i-numeri-dellasilo>

⁷³ F. Perrier, « Les promesses trahies du pacte entre l’Europe et la Turquie », *Le Temps*, 19.03.2017.

URL: <https://www.letemps.ch/monde/2017/03/19/promesses-trahies-pacte-migratoire-entre-leurope-turquie>

1.3. Into Switzerland's administrative filtering machine

Having heard that once they had been registered they would be forced to see out their entire asylum process in Italy, some of the younger members of the Collective, decided to try their luck elsewhere and left the Italian camps as soon as they had arrived, before being processed.

However, most of them followed the most customary procedure, and entered an asylum application during their stay in Italy. Whether they obtained a temporary work permit after a long wait⁷⁴, or whether they decided to leave without any papers (but still registered in the Eurodac database), they moved further north hoping to find a country less affected by the crisis, having run out of patience and possibilities of action.

What awaits them in Europe and especially in Switzerland, is an administrative machine that will decide on their future by distinguishing them according to their country of origin and their financial means (visa policy) and, if these two factors are not in their favor, according to their migratory journey and a categorization of the sufferings they may have experienced (asylum policy). In Switzerland, "asylum was granted to 5'985 persons"⁷⁵ in 2016, that is to say a grant rate of 22.7% of the requests received that year. Later on, we will touch upon the fate of the remaining 77.3% that Switzerland rejected or attempted to send back to Italy or Africa.

To grasp the social (class) dimension of such a procedure, we only need to remember how wealthy people can obtain a European visa, the so-called golden visa, on the basis of their financial investments in an EU country⁷⁶. In Switzerland this is also common practice, controlled by the State Secretariat for Migration (SEM): since a change in the Foreign Nationals Act in 2008, it is possible to buy a B permit for the sum of CHF 50'000, a relatively modest sum when compared to the EUR 500'000 in investments demanded by Portugal for example. "At the end of 2016, 523 foreigners who exercised this privilege obtained a residency permit in Switzerland, as confirmed by the SEM to the *Nordwestschweiz* in its February 10th 2017 edition. The Russians are in first place with 165 permits delivered, followed by the Turks (36), Americans (21), Canadians (17), Brazilians (17), Serbs (16) and Ukrainians (15)."⁷⁷

Of course, these people land in airplanes. They do not arrive at the Swiss border by foot, by bus or by train. They do not have to endure the humiliation of an asylum process which, for most persons who request it, will amount to nothing more than a circuit whose aim is to eject them from Switzerland in the shortest amount of time possible.

⁷⁴ After 6 months of State aid, Italy reckons that the migrants can support themselves, and thus delivers them a temporary work permit.

⁷⁵ State Secretariat for Migration, *Communiqués*, 23.01.2017.

URL: <https://www.sem.admin.ch/sem/fr/home/aktuell/news/2017/2017-01-23.html>

⁷⁶ Instances of fraud have been reported in Cyprus and the United Kingdom. Sara Farolfi, David Pegg & Stelios Orphanides, "Cyprus 'selling' EU citizenship to super rich of Russia and Ukraine", *The Guardian*, 17.09.2017. URL: <https://www.theguardian.com/world/2017/sep/17/cyprus-selling-eu-citizenship-to-super-rich-of-russia-and-ukraine>

⁷⁷ "Article 30 paragraph B of the Foreign Nationals Act stipulates that since 2008, exceptions to the conditions of admission can be made by taking into account "individual cases of extreme seriousness or major public interest." Cf. Pascal Schmuck, « Les riches étrangers peuvent s'acheter un permis B », *Tribune de Genève*, 10.02.2017. URL: <https://www.tdg.ch/suisse/Les-riches-etrangers-peuvent-s-offrir-un-permis-B/story/28654976>

Switzerland is once more hunting down “fake” refugees, as it did in the 1990s with people fleeing the war in ex-Yugoslavia. As written by A. Maillard and Ch. Tafelmacher in 1999, “it is a procedure that turns any claimant into an *a priori* suspect, an intruder who can be treated without any regard for the most basic human respect.”⁷⁸

Refugee status, according to the text of the Geneva Convention of 1951, is only granted to persons whose return to their country of origin would pose a threat to their life. But since any claimant is envisaged as a cost for Switzerland, the SEM is above all a filtering institution aimed at avoiding expenses that are deemed useless or undesirable, more than an instance investigating proofs of endured persecution.

In an informal manner, this sorting begins at the border: the migrant persons of which we speak have black skin, and racial profiling on trains and on the roads is commonplace (cf. Chapter III.3). The experiences of the Jean Dutoit members clearly establish that the “African migrant” is discriminated by border police, as, we will see, he is within the Swiss borders. Because of this, illegal entries become more frequent, a consequence of which is greater risk-taking and deaths⁷⁹.

Among the border police officers, some treat persons with respect for their dignity, while others do not. It can happen that persons do not get checked at the border, because the officers are otherwise occupied at that moment. When they are checked, they are regularly discouraged from entering, even turned away⁸⁰. Normal procedure consists in indicating to any person without an entry visa that they can/must file an asylum request, although this indication more often resembles a command. One of the Jean Dutoit members, Peter*, tells how he wanted to travel from Italy to Germany, without knowing that Switzerland was located between these two countries. The Swiss border officer told him it was impossible to transit; if he wanted to enter the Swiss territory, he had to file an asylum request. He did so, not knowing that in Switzerland his request had only a slim chance of coming to a successful conclusion.

Asylum seekers' applications are examined by the State Secretariat for Migration (SEM), first of all to verify whether they are “Dublin cases”: if the SEM discovers that a person was registered upon arrival in another European country, it demands that they return there; if applicable, it effects their expulsion. Switzerland is the European country that carries out the most “Dublin expulsions”⁸¹, thus profiting from its geographical position and breaking with the Mediterranean countries. “Over the 2009-2014 period, Switzerland emerged victorious from the Dublin Regulation: indeed, they

⁷⁸ A. Maillard and Ch. Tafelmacher, « *Faux réfugiés* » ? *La politique suisse de dissuasion d'asile, 1979-1999*, Éditions d'en bas, Lausanne, 1999, p. 13.

⁷⁹ Youssouf Diakite, originally from Mali and 20 years of age, was found dead in Balerna (TI) at the end of February 2017, following his electrocution on the roof of an SBB train. Three weeks later, a 22-year old man from Cameroon fell victim to serious burn injuries on the roof of a train carriage at Chiasso.

URL: <http://www.laliberte.ch/ajax/news/detail/384837>

URL: <http://www.lematin.ch/suisse/Retour-sur-la-funeste-epopee-de-Youssouf-Diakite/story/15837218>

⁸⁰ During the summer of 2016, the Swiss Organization for Aid to Refugees (OSAR) criticized the situation at the Ticinese border: “The refugees concerned by expulsions are not correctly informed about the process of asylum requests. They do not know when they can file an official request.”

ATS, « Le Tessin attend un afflux de migrants cet été », *Tribune de Genève*, 23.04.2017.

URL: <http://www.tdg.ch/suisse/Le-Tessin-attend-un-afflux-de-migrants-cet-ete/story/29824716>.

⁸¹ In May 2017, Amnesty International denounced this Swiss practice: “since 2009: more than 25'000 persons have been sent back to other European countries, which represents more than 15% of asylum seekers arriving in Switzerland. In comparison, the expulsions carried out by Germany only represent about 3% of asylum seekers.”

URL: <https://www.amnesty.ch/fr/themes/asile-et-migrations/docs/2017/le-reglement-dublin-et-la-suisse>

expulsed 19'517 asylum seekers, of which the other States only returned 2'523 persons"⁸². These regulations are applied ad absurdum: Switzerland is regularly condemned – by its neighbors as well as human rights defense groups in Switzerland – for not sufficiently drawing upon the sovereignty clause of the Dublin III Regulation. Indeed, Article 17 specifies that “each Member State may decide to examine an application for international protection lodged with it by a third-country national or a stateless person, even if such examination is not its responsibility under the criteria laid down in this Regulation.”⁸³ According to Amnesty International, in May 2017 the Swiss authorities were continuing “to send particularly vulnerable persons such as families with young children and sick persons back to countries that are not able to guarantee their fundamental rights.”⁸⁴

The second filter applied by the SEM to West African immigrants is the *fast track* procedure. It concerns persons who, according to the SEM, “do not require protection in the sense laid out by the Asylum Act”⁸⁵; a list of countries that the Swiss administration deems “safe” and towards whose immigrants it has adopted a more expedited treatment (currently, the list consists of Morocco, Nigeria, Tunisia, Algeria, Gambia and Senegal). The SEM maintains that this has “enabled the long-term decrease in the number of new requests filed by immigrants from countries whose protection rate is very weak.” This move incidentally enables the decrease of numbers of asylum seekers in the statistics – a means to positively present the migration situation to the Swiss people⁸⁶ – at a moment when ever more persons are arriving from Italy and presenting themselves at Switzerland's southern border. These asylum requests are most often dismissed (i.e. a decision of non-consideration, “non-entrée en matière” or NEM), meaning that their request will not be examined in depth.

Third filter: such an examination is undertaken and, for the duration of the procedure, the persons are attributed a Canton of residence⁸⁷. This is a situation that several Jean Dutoit members went through and which resulted in a refusal in every case.

According to the SEM, following this filtering, “if the interested party is the object of a negative decision and is not disposed to return to their country, they are only eligible for emergency aid.”⁸⁸ Their asylum request having been rejected, these persons nevertheless remain affected by their passage through the administrative machine⁸⁹. They are pressured to return to their country

⁸² Duc-Quang Nguyen and Stefania Summermatter, « La Suisse défend l'accord de Dublin et ce n'est pas un hasard », *Swissinfo*, 19.02.2016. URL: https://www.swissinfo.ch/fre/politique/politique-de-l-asile_la-suisse-défend-l-accord-de-dublin-et-ce-n-est-pas-un-hasard/41969008

⁸³ (EU) Regulation no. 604/2013 of the European Parliament and the Council of June 26th 2013.

URL: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:180:0031:0059:FR:PDF>

⁸⁴ Amnesty International, « Le règlement Dublin et la Suisse », 11.05.2017.

URL: <https://www.amnesty.ch/fr/themes/asile-et-migrations/docs/2017/le-reglement-dublin-et-la-suisse>

⁸⁵ State Secretariat for Migration, *Communiqués*, 24.02.2017.

URL: <https://www.sem.admin.ch/sem/fr/home/aktuell/news/2017/2017-02-24.html>

⁸⁶ Cf. for ex. the enlightening interview with Lukas Rieder, spokesperson for the SEM, broadcast during the RTS news bulletin at 7:30pm on July 20th 2017: “Persons who have no chance of obtaining asylum in Switzerland no longer even file requests. On the other hand, Italy is now registering practically 100% of the persons who alight on their shores, and are therefore responsible for a large part of them.”

URL: <https://www.rts.ch/play/tv/19h30/video/tres-net-recul-des-demandes-dasile-en-suisse-au-premier-semester?id=8790731>

⁸⁷ Some of the cogs of this distribution are dangerously blind: for example, what sense does it make to send a French-speaking man from Senegal to German-speaking Solothurn?

⁸⁸ State Secretariat for Migration, *Principes régissant le traitement des demandes d'asile*, 31.05.2017.

URL: <https://www.sem.admin.ch/sem/fr/home/asyl/asylverfahren/behandlungsstrategie.html>

⁸⁹ Let us note that one of the results of this filtering process is also to create (and fragment) the combats of human rights defense groups: some preoccupy themselves with “Dublin cases”, others with undocumented persons, others with immigrant workers.

“voluntarily”, or, if legally possible (safety, agreements with the concerned country), sent back by force. Of course, in the meantime they remain in Switzerland, “enjoying” an emergency aid which, as we will see later (cf. Chapter 1.6), brings together all the traits of a policy of dissuasion. Many of them then decide to leave the reception centers to try their luck elsewhere; but also to avoid a situation where police officers come to fetch them at 3 or 4am to bring them to an administrative detention center with a view to expelling them⁹⁰.

These persons are thus batted back and forth from one end of Switzerland to the other. If they – perhaps – want to see their asylum request completed, the authorities demand that they comply with these successive resettlings and obey the orders they receive. “Reluctant asylum seekers” are given disciplinary measures⁹¹, or even put into special detention centers⁹².

John*, a member of Jean Dutoit, tells of his route through Switzerland, from his first entry on the territory to his attempt to extract himself from the system. Arriving in Chiasso in 2014, he submitted an asylum request and received a train ticket that allowed him to make his way to an SEM center near Bern. From there, he was assigned to the Canton of Vaud and driven to Lausanne. After his asylum request was dismissed (NEM), police came to fetch him to bring him to Altstätten, in the Canton of Saint-Gallen, not far from the Austrian border. He remained there for three weeks, before being sent by plane to Sicily, as near as possible to the Catania camp where he had been processed many months before. Italian police officers met him at his arrival and without further ado, accompanied him into town, where they wished him good luck. Back to the drawing board.

In Italy, the situation had not changed, and he could not find a job, nor any other source of income, at which point he decided to undertake once more the journey to the North and return to Lausanne, because he had met people there with whom he had forged relationships. This time however, he made sure to “stay off the radar”.

⁹⁰ Since 2012, Switzerland has also been operating via collaborations with certain African countries: African specialists travel to Switzerland to identify the ethnicity to which the rejected asylum seekers belong, allowing Switzerland to proceed with their expulsion. Errors and abuses of power have been identified in these practices by the Jean Dutoit Collective. Cf. *Voix d'exils, Collaboration renforcée entre les autorités suisses et celles des pays d'Afrique de l'Ouest*, 04.10.2012.

URL: <https://voixdexils.ch/2012/10/04/collaboration-renforcee-entre-les-autorites-suisses-et-celles-des-pays-dafrique-de-louest/>
⁹¹ Vithyaah Subramaniam, « Privation des droits dans les centres de la Confédération », *SOSF*, September 2017.

URL: <https://asile.ch/2017/10/03/sosf-privation-droits-centres-de-confederation/>
⁹² Arthur Grosjean, « Les requérants d'asile récalcitrants mis à l'écart », *24 heures*, 15.06.2015.

URL: <https://www.24heures.ch/suisse/politique/Les-requerants-d-asile-recalcitrants-mis-a-lecart/story/29079099>

1.4. *Informal strategies of survival and resistance*

Persons who find themselves having to slip through the cracks of population control meet with many obstacles. Living in an urban environment, they constantly find themselves having to present identity papers, whether it is to obtain a SIM card from a phone company, open a bank account, sleep in a hotel, etc. They have to try to get by with other resources, while avoiding identity checks which would take them back to their starting point once again (or not quite, since persons who attempt to avoid their expulsion order are directly placed in detention centers). New forms of solidarity and avoidance are born from this life on the margins. Where to sleep? Where to find means of communication? Where to meet people?

Many new spaces have cropped up in these conditions, such as *locutorios*, to use the Catalan expression. Maria Sabaté i Dalmau, a sociolinguist who published a study in 2014 on the use of information and communication technologies (TIC) by migrants in Catalonia, describes them thus: “a type of *ethnic* call shop that sells telephony, internet, fax and money transfer services which, gradually established in many Catalan suburban areas at the turn of the 21st century, became a unique informal meeting point for all sorts of transnational migrant networks seeking transnational survival.”⁹³ These places allow people to remain connected: either by meeting people there or by keeping in touch with their families and friends in Africa and in Europe. As Dalmau stresses, *locutorios* are informal forms of resistance to the ordinary regimentation to which the mainstream use of TIC proceeds: the obligation to present identity papers, even to give an address, to obtain a SIM card (not to mention contracts), occurs at the crossroads of business models and State control.

Other meeting spaces exist in the Lausanne region: cafés and hair salons for example, which enable persons to spend time together, exchange resources and advice on local possibilities (housing, health services, food, etc), but also to keep abreast of what is happening on the roads and participate in the network that circulates information from one end of Europe and Africa to the other. It is an empirical form of knowledge, and from that point of view, migrant persons know the socio-economic situation of the different European regions better than Europeans themselves: not only because, as we will see in the next chapter, they move from one country to another, but also because they participate in this informal network of solidary help that communicates through Whatsapp and Facebook⁹⁴.

Not to mention grocery stores. Choosing and preparing one’s own food is an important issue for any human existence. It signifies the possibility of being in touch with oneself as well as others, of producing a feeling of community, a parcel of land, wherever we find ourselves. It signifies the possibility of giving a rhythm, a sense of routine, something organic that belongs to us. To use the

⁹³ Author’s emphasis. Maria Sabaté i Dalmau, *Migrant Communication Enterprises, Regimentation and Resistance*, Multilingual Matters, 2014, p. 19.

⁹⁴ The Swiss media mostly touched upon this matter concerning refugee persons arriving from Syria. For France and Spain, where these informal networks are more developed, there are more detailed studies. Cf. Julie Conti, « Migrants connectés, le nouveau système D », *Le Temps*, 03.09.2015, and Farid Gueham, « Le rôle inattendu des smartphones dans la crise des migrants », *Contrepoints*, 02.03.2016.

URL: <https://www.letemps.ch/monde/2015/09/03/migrants-connectes-nouveau-systeme>

URL: <https://www.contrepoints.org/2016/03/02/241227-migrations-numeriques-des-smartphones-et-des-hommes>

title of a recent collective intervention in a small art space in Lausanne: *Cooking is dwelling without a house*⁹⁵. It seems to us that cooking, from preparation to sharing food, speaks to much more than food: it is always much more than a strategy of survival, and rather something that involves creativity.

Moreover, all these places allow for a certain blurring of lines, a form of communication between dimensions normally separated by the geography of national States. “In the canton of Vaud, several day welcome centers aimed at asylum seekers are mysteriously named ‘Mama Africa’. It is warm, there are sofas, sometimes games, a lot of down time, and quite a bit of invisibility.”⁹⁶ These places produce a *singular* geography: as many way stations on an ever-changing map, which adapts itself to the movements of people, morcels of culture and belief, the shock of the temperature difference between Africa and Switzerland etc, as well as a specific temporality, since this time is not that of the Swiss working week of 5 days, and nor is it in tune with feast days and public holidays.

This cartography also composes with real or perceived threats, mostly linked to police: what are the favorite paths and stomping grounds of the patrols? Where does one risk being systematically stopped and searched if one is black? At this level, the question arises for all immigrant African persons, whether they are documented or not (cf. chapter III.4 and following). The existence of such a cartography does therefore not depend only on the threat of imprisonment and expulsion that a person risks, since persons who are legally on the Swiss territory also anticipate these threats, on the mode of police harassment towards migrant persons and/or on the mode of anti-black racism.

Finally, the need to fly under the radar of the authorities echoes another reality: Swiss society does not *see* these people, does not recognize them as being part of society. In this respect, invisibility is a double issue: living between a desire to hide and a desire to be known and acknowledged. These two issues are not simply the two poles of a same tension, because belonging to society means being able to go unnoticed in the crowd, whereas the possibility of positioning oneself in the public space by playing with its codes relies on a socialization of the visible.

These descriptions of life in Switzerland, of passages through the administrative filtering machine and of strategies of survival of course leave out many problems and particularities that make up the substance of a person’s experience. But they highlight a part of what these persons are going through. They show persons who find air where they can, despite procedures which tend to make decisions about their lives in the manner of a *deus ex machina*.

They also show relationships, exchanges and the creation of value, in spite of a society that does not acknowledge them and makes their lives appear superfluous and/or illegal. Rather than talk about lives “on the margins” which relates them to a “center”, would it not be more exact to speak of interstitial lives, that intertwine here and there with others?

⁹⁵ This intervention by Deborah Z3, Stéphanie Rosianu, Emmathegreat and Nastasia Meyrat was hosted from June 30th to August 25th 2017 at the *La Placette* art space in Lausanne.

URL: <http://www.laplacette.ch/?project=155>

⁹⁶ Adina Secrétan, *Mama Helvetica*, a performance presented at the *far°* arts festival in Nyon, 2017.

URL: <http://festival-far.ch/festival/section-edition/programme-2017/mama-helvetica/>

1.5. *Trans-European precarized workers*

One condition is shared by all the members of Jean Dutoit: they must earn a living and many of them have to send money to their family, toiling under the double disadvantage of a precarized status and a skin colour because of which they are ostracized.

In Italy, when the maximal duration of stay in the camps is reached, that is to say 6 months, migrant persons – even though the status of their asylum request has not yet been decided upon – can receive a temporary work permit: the government considers them to be sufficiently integrated to find a job and no longer depend on social welfare⁹⁷. However, this projection is not realistic, on the one hand because of language issues and on the other hand because it does not take into account discriminations experienced during the hiring process. These persons will then either find a source of income in the local parallel market or emigrate towards another European country.

Persons who immigrated in pre-2008 conditions also find themselves without resources. With the recession severely affecting the southern countries of the continent, precarious jobs, previously reserved for immigrants, are now the prerogative of these countries' citizens. The threshold of precariousness has thus been lowered. On December 19th 2015 in Spain, nine persons were arrested for having employed illegal immigrants "in abusive working conditions close to slavery"⁹⁸. Moreover, according to different cases, immigrant persons are only allowed to work in a single country and thus find themselves immobilized: these are the "stranded migrants"⁹⁹, denied the possibility of projecting themselves into the future.

For these persons, moving from one country to another is a risk to take. They regularly return to the country that issued their temporary permit in order to extend it, but also to see their families¹⁰⁰. Until the outcome of a procedure that will deliver them a long-term right to residence in Italy or Spain after fifteen to twenty years, they circulate through Europe, according to friends or family relations who point out a temporary place of employment or housing. By plane, car, bus, or train, they devise paths through discriminations in the hiring process, racial profiling, and crossing borders. For them, just like for those whose asylum request in Switzerland has been rejected and find themselves without documents, and like for those who have received a temporary work permit following an asylum request in another European country, life takes on the aspect of a trans-European migration, even though they are officially prohibited from moving in this way.

⁹⁷ As seen previously, this duration of 6 months is not automatic and it has happened that persons have been forced to stay in a camp in Italy for over a year. Cf. Michela Morroi, « Le traitement des demandeurs d'asile en Italie », *Hommes et migrations*, 1300 | 2012, 31.12.2014.

URL: <http://hommesmigrations.revues.org/923>

⁹⁸ AFP/Le Monde, « En Espagne, neuf interpellations pour l'emploi de migrants « esclaves » dans des serres », *Le Monde*, 19.12.2015. URL: http://www.lemonde.fr/europe/article/2015/12/19/en-espagne-neuf-interpellations-pour-l-emploi-de-migrants-esclaves-dans-des-serres_4835298_3214.html

⁹⁹ Gunhild Odden, « Parcours et projets des migrants subsahariens en Espagne », *Hommes et migrations*, 1286-1287 | 2010, 29.05.2013. URL: <http://hommesmigrations.revues.org/1731>

¹⁰⁰ Spain, and more recently Italy, demand the presentation of a work contract in order to continue procedures. Some members of the Collective tell how unscrupulous entrepreneurs offer fictitious work contracts to immigrants, which they have to pay upfront.

It is a difficult and precarious life, pulled between two poles: settling down long-term in Europe *versus* staying mobile in order to survive. On both sides, they face costs – travel, administrative procedures, fines, etc – which participate in their territorialization. A third pole is added to this, that of their country of origin. On the one hand, they feel to what extent the xenophobia and racism of some Europeans would like to send them back there; on the other hand, for some, the idea of returning to live there one day is their wish. Their starting project left the idea of a definitive emigration undefined: gone to find possibilities for living in North Africa then Europe, some hoped to then return to their country, perhaps with better training, money to set up a business or when the socio-political climate had become more stable.

For now, they are in Europe, and like any human being they are trying to find a silver lining to their situation. Time goes by, they meet people, friendships take root, they fall in love, etc. There should be no shame in saying so: most of them would like to live in Europe, would like to live in Switzerland. But this wish is not authorized: one of the members of Jean Dutoit told of his recent audition in front of a Lausanne judge, who was to decide of his parole in the context of a deportation order breach. Having been processed in Spain, he was to be sent back there. In this context, the judge asked him several questions concerning his future plans. He answered in all honesty that he wished to live in Switzerland, where he has friends, whereas he has no life waiting for him in Spain. The judge understood that, as soon as he was sent back, he would try to make his way back to Switzerland; consequently, she did not grant his parole.

In these conditions, what future can these persons allow themselves to imagine?

Let us say a few words about the youngest members of Jean Dutoit. Having arrived on European soil one or two years ago, they were hoping to be able to continue their studies or find work in Switzerland or in the EU, in a framework that would allow them to express their potential and find viable living solutions.

For now, like others, they live off informal jobs: cleaning, cooking, moving, agriculture, etc. Also like others, some have lapsed into unlawfulness by dealing illegal drugs (cf. chapter III.2). Between the hopes that could have been theirs and the chill of their Swiss “welcome”, the gap is wide.

Let us also evoke a certain “European dream” - that idea of a peaceful and just world, built-up and glossy – which is due in part to the consequences of the colonial era and to the soft power exercised by the global North. A strong tension comes to light between this icon of an ideal world and the treatments the States and certain European populations reserve for these persons. The other reality they know, that of their country of origin, is tainted by corruption and cronyism. From the point of view of employment as much as civic and political life, these young men wish to be part of a society that respects them and that they could respect in return.

But Europe will not get involved. Instead, it is producing a new class of individuals without rights, pushed onto the parallel job market, which it refuses to consider as immigrant workers and thus confines to remaining “migrants” for ever: individuals condemned to circulate, in conditions of grave material and psychic precariousness.

1.6. *In Lausanne, emergency aid and the “pull factor” rhetoric*

Although the reasons that drove these persons towards Lausanne are varied, their life conditions and their state of immobilization can only be understood by looking at the institutional policies of Switzerland, the canton of Vaud and the Lausanne agglomeration. How is it that these persons are reduced to sleeping outside for months, even years on end?

Emergency aid is inscribed in Article 12 of the Swiss Federal Constitution¹⁰¹. This aid for severely precarized people is a right and concerns any human being in a situation of distress.

Rejected asylum seekers must request emergency aid in the canton to which they have been assigned. Emergency aid is then picked up by the asylum system, whose modalities are defined by the cantons. When a canton happens to find on its territory an asylum seeker whose request has been rejected by another canton, it will thus attempt to send the person back to that canton, since it does not want to welcome – or rather does not want to pay for – persons who have been assigned to another canton, thus mirroring the Dublin regulation on a smaller scale.

In fact, there exist two emergency aid systems which are often amalgamated: emergency aid as it is inscribed in the right to asylum, which is the cantons’ prerogative; and emergency aid as an apparatus deployed by certain cities to “cover the fundamental needs of persons in situations of great precariousness”¹⁰². In Lausanne, this apparatus is called emergency social aid. In order to avoid misunderstandings, we will speak of cantonal emergency aid on the one hand and municipal low-threshold services on the other. This partition, as we will see, is discriminating on more than one level, in particular because it leads to the immobilization of persons for whom the proposed alternative – being expelled from the country – represents an impossibility.

Problems will arise firstly from the fact that cantonal emergency aid is not enough to live on: it is designed to push persons whose asylum request has been dismissed to leave Switzerland¹⁰³. As noted by the *humanrights.ch* platform in 2012, “branded a ‘social under-aid’, insufficient to allow persons to survive with dignity, emergency aid as it is concretely applied in the cantons is considered by many as being incompatible with Article 12 of the Constitution”¹⁰⁴. The second problem is that

¹⁰¹ “Art. 12 The right to obtain help in situations of distress. Whosoever finds themselves in a situation of distress and is unable to support themselves has the right to be helped and assisted and to receive the essential means to lead an existence in keeping with human dignity.” In the federal Constitution of the Swiss Confederation of April 18th 1999.

URL: <https://www.admin.ch/opc/fr/classified-compilation/19995395/index.html>

¹⁰² The city of Lausanne’s social emergency aid.

URL: <http://www.lausanne.ch/aide-sociale-urgence>

¹⁰³ In the same vein as for ex. the working group of the Population Office (SPOP) and the EVAM, commissioned by Philippe Leuba and which, in 2012, “worked on a series of propositions for decreasing the number of asylum seekers requesting emergency aid”. This resulted in ideas such as creating centers in the mountains or in the countryside, in particular far from public transport, as well as the restriction of emergency aid to the duration of one working day, renewable on request. Cf. Valérie Hauert, *RTS info*, 19.11.2012.

URL: <https://www.rts.ch/info/regions/vaud/4444334-mesures-pour-dissuader-les-requerants-de-demander-l-aide-d-urgence.html>

¹⁰⁴ “The Legal advice office for exiled persons (SAJE) has also clearly demonstrated [...] that emergency aid entails a relationship of constraint between the administration and the concerned persons. This relationship affects families as well as individuals and constitutes an offence against the moral, social, familial, political and

municipal low-threshold services are very unequally distributed on the territory. Yet not only have the cities of Switzerland not put such apparatuses into place – far from it – but most of the existing venues have been forced by the cantons to refuse rejected asylum seekers. In other terms, these persons are pushed towards the cantonal emergency aid system, where they are constantly surveilled and regularly ill-treated¹⁰⁵, and where they undergo the pressure to “return voluntarily”; those who refuse to do so are expelled by force¹⁰⁶.

Rejected asylum seekers who have been assigned to the canton of Vaud and who request emergency aid are housed by the Etablissement Vaudois d'accueil aux migrants (Vaud cantonal establishment for migrants, or EVAM) in housing facilities or in Civil Defense shelters (bunkers)¹⁰⁷, even in hotels when spaces are too few. This accommodation is only for nights: each morning, these persons have to leave with all their belongings. Moreover, they undergo identity checks and have to present themselves at the Population Office (Service de la Population, or SPOP) on a frequent basis (up to twice a week). In these different places, the members of Jean Dutoit report situations of harassment, disdain on the part of some civil servants, never-ending waits and constant uncertainty. As a consequence, they decided not to set foot there anymore and thus disappeared from the cantonal radar.

Persons who have been assigned to other cantons experience life conditions that are just as stifling and precarizing, perhaps even more so¹⁰⁸. This was the Switzerland-wide assessment which the Swiss Refugee Council (OSAR) had already drawn up in 2011: “The authorities [...] adopt a battery of measures, all more dissuasive than the last, to incite persons receiving emergency aid to leave the country voluntarily, sometimes going as far as trampling on their fundamental rights. This is the case for example with presence checks¹⁰⁹ – which lead to the cancelation of emergency aid in

economic integrity of persons, and is incompatible with Article 3 of the European Convention on Human Rights which prohibits the infliction of ill treatments.”

URL: <https://www.humanrights.ch/fr/droits-humains-suisse/interieure/asile/divers/non-lelargissement-regime-de-laide-durgence-a-requerants-dasile-copy>

¹⁰⁵ Cf. previous note. Moreover, housing vulnerable persons in bunkers constitutes a case of ill-treatment contravening, among others, Article 12 of the Swiss Constitution.

¹⁰⁶ Federal Foreign Nationals Act, Art. 69.

¹⁰⁷ Many persons having stayed in Civil Defense shelters do not wish to return there, given the bad conditions rife in these underground “housing” systems, synonymous with imprisonment and exclusion. The *Stop Bunker* movement in Geneva, which subsequently joined forces with other collectives under the umbrella name *No Bunker*, represents the combat against this situation. In Lausanne, several political groups have also protested against this purely Swiss practice, a situation which has arisen partially because of the astronomical quantity of anti-nuclear shelters that were built during the Cold War, as well as the lobbying of the concrete industry during those years.

¹⁰⁸ In November 2017, an Afghan man died in circumstances that remain unclear to this day, when he fell off a cliff in Valzeina (GR) as the police were trying to stop him. He was allegedly involved in a conflictual situation in the housing facility where he was staying and had allegedly “threatened other asylum seekers with a knife.” What is the share of responsibility of a system that keeps persons excluded from society and shut away for months or even years on end, although they have not committed any crime?

ATS, « Il chute d'une falaise en fuyant la police », *24 heures*, 10.11.2017.

URL: <https://mobile2.24heures.ch/articles/5a05d326ab5c374b18000001>

¹⁰⁹ The OSAR thus notes that “since February 2017, the distribution of emergency aid to persons in connection with asylum in Zurich is dependent on their presence twice a day at specified times at the housing facility to which they have been assigned. What’s more, since March 2017, these persons are obligated to spend the night at the facility.”

URL: <https://www.osar.ch/des-faits-plutot-que-des-mythes/articles-2017/aide-durgence-droit-fondamental-ou-moyen-de-contraainte-de-la-part-des-autorites.html>

the case of repeated absences, obligating the concerned person to submit another request – or with regular changes in the location of housing”¹¹⁰.

A recent study, led by three researchers of the universities of Geneva (UNIGE) and Neuchâtel (UNINE), synthesized fifteen-odd psychology studies conducted between 2007 and 2017 in different European countries, including Switzerland. The authors “demonstrate that the symptoms of post-traumatic stress disorder (PTSD) and depression, for example, are aggravated, triggered or even provoked by the difficult reception conditions reserved for migrants”¹¹¹. The authors also reveal that “the duration of the asylum procedure and the fear of expulsion, added to pre-migratory experiences, wear persons down and overwhelm the resilience abilities of refugees.” This is followed by episodes of decompensation, depression, breathing difficulties and somatic pains¹¹².

Subsequently, many persons who are going through an asylum request process, or whose request has been rejected, decide to leave these facilities. But where can they go within Switzerland? They go wherever low-threshold housing facilities have been implemented – an assistance for seriously precarized persons, both Swiss and non-Swiss, with regard to which intercommunal and intercantonal coordination seems non-existent.

This situation leads to a downward leveling and results in a stricter application of the normative and repressive solution by the canton of Vaud, one of the last cantons that until recently still applied other measures (or had, at least, tolerated that some cracks in the system might remain as spaces of possibility). Arguing from a will to unclog low-threshold housing facilities, the city of Lausanne and the canton of Vaud thus established a new regulation (acDURG) stipulating that these facilities (the *Sleep-in*, the *Marmotte* and the Civil Defence shelter of the Vallée de la Jeunesse) are not allowed to take in rejected asylum seekers and are required to denounce them to the police¹¹³. This requirement is, in our view, a grave error: a low-threshold facility must be a space where persons can find shelter. And this is not an empty word: the employees of these facilities have had to defend cases of persons fleeing from the conditions of cantonal emergency aid housing for psychological and also health reasons (depression, decompensation, asthma incompatible with sleeping underground, etc). The pressures of the canton nevertheless produce an effect: these facilities now mostly house seriously precarized persons of Swiss origin or who have papers from other European countries. The others sleep outside, in particular illegal immigrant men traveling alone and all those whom the canton wants to drive back towards the EVAM. Nonetheless, the lack of space in emergency aid facilities also leads Swiss and European persons to sleep on the streets.

This situation highlights to what extent Article 12 of the Constitution goes over most people’s heads. Do human lives weigh so lightly in the balance compared with the budgets of institutions? Indeed, the latter use administrative control in order to segment population and distribute people more efficiently between existing structures according to the funding allocated by the

¹¹⁰ Michael Sutter (OSAR), *Aide d’urgence pour les requérant-e-s d’asile débouté-e-s* (Emergency aid for persons whose asylum request has been rejected), Bern, 2011.

URL: <https://www.osar.ch/assets/asylrecht/asylverfahren/aide-durgence-pour-les-requerantes-dasile-deboutes-osar-2011.pdf>

¹¹¹ Betty Goguikian Ratcliff, Gail Womersley & Laure Kloetzer, *Press release*, 19.10.2017.

URL: <http://www.unige.ch/communication/communiqués/2017/limpact-des-conditions-daccueil-sur-la-sante-mentale-des-migrants/>

¹¹² ATS, « La santé des migrants pâtit des conditions d’accueil », *La Tribune de Genève*, 20.10.2017.

URL: <https://www.tdg.ch/suisse/conditions-accueil-pesent-sante-migrants/story/30947846>

¹¹³ For the category of non-Swiss men traveling alone, only 3 nights per month are authorized in the emergency aid housing facilities of the City of Lausanne.

Confederation¹¹⁴, the cantons and the cities. The Confederation gives the cantons a *one-off* standard payment of 6000 CHF per dismissed asylum seeker, that is to say practically nothing¹¹⁵. If the cantons do not wish to contribute, they will have to dissuade people from staying. Rather than considerations for assisting precarized persons, these represent money-saving measures as well as the systematization of a policy of disuasion.

Since 2015, the Jean Dutoit Collective, among others, has been ceaselessly denouncing this negligence. Indeed, although the low-threshold housing facilities are saturated, the solution must not be the repression and precarization of migrant persons, but the opening of new appropriate facilities.

In that year, the number of persons having received an NEM and having fled the conditions of cantonal emergency aid increased sharply. The concerned authorities did not react with the necessary swiftness, partly – this was a leitmotiv on the lips of some political figures – out of fear of a “pull factor” (*effet d’appel d’air*)¹¹⁶. In other words, the fear that offering conditions which are “too nice” to rejected asylum seekers (and more generally to legal or illegal migrant persons) would encourage many others to knock on the door; and that it would therefore be better to place them in bunkers and dissuade them from coming and staying. This is the policy led in the canton of Vaud by Philippe Leuba, member of the Liberal-Radical Party (PLR), chief of the Department of Economy, Innovation and Sports since 2012 and in charge of migration. The result? According to the numbers, between 50 and 60% of dismissed asylum seekers move into clandestinity¹¹⁷.

Although Switzerland has been able to distribute asylum seekers throughout its territory, the cantons find themselves under pressure from the federal policy of allocating meager funds to emergency aid, which leads to a degradation of the latter. The Federal Council and both parliamentary chambers weighed heavily: rather than taking emergency aid seriously and turning it into a network for the mobility of persons and access to rights, they set the tone for the dehumanizing process that is currently happening. These practices contravene Articles 7, 8 and 10 of the Swiss Constitution: the respect for the dignity of persons, the equality of all persons before the law, the right to personal freedom and the prohibition of degrading treatment.

¹¹⁴ State Secretariat for Migration, *Subventions fédérales*, 21.04.2017.

URL: <https://www.sem.admin.ch/sem/fr/home/asyl/sozialhilfesubventionen/bundessubventionen.html>

¹¹⁵ An ATS article published on August 30th 2017 on the website of the *Le Temps* newspaper describes the Confederation’s project to replace this one-off sum with three different rates. Their proclaimed objective: saving money. “If the emergency aid is meant for a person whose Dublin procedure is finished, the canton will receive 400 francs. If a person’s accelerated procedure is finished, this increases to 2013 francs.” In other words, a greater pressure would be applied on cantons so that they effect expulsions more strictly and swiftly.

URL: <https://www.letemps.ch/suisse/2017/08/30/confederation-verser-dargent-aux-cantons-lasile>

¹¹⁶ The “pull factor” rhetoric has been used widely in other European countries. The *asile.ch* platform attempted to decode this expression, and associates it with a “polite, policed, sterilized and politically correct version of the invasion.”

URL: <https://asile.ch/2016/02/27/l'expression-du-jour-appel-dair/>

¹¹⁷ Valérie Duby, « Les squatteurs investissent les parcs genevois », *Le Matin*, 14.08.2017.

URL: <https://www.lematin.ch/suisse/squatteurs-investissent-parcs-genevois/story/28612868>

1.7. *Excursus: of the necessity of sanctuary zones*

Low-threshold housing facilities thus become the center of attention: if they do not cooperate with the canton to guide dismissed asylum seekers towards leaving the country, they represent a breach in the system. Pressures on these places of assistance ensue, even though they represent the only places where persons can find shelter, alongside the activist housing organized by collectives or individuals.

The Swiss authorities want to ensure that their policy is enforced and that the administrative machine is operating efficiently. We believe its cost is a human, political and legal one. To shed light on this point, let us go back a little and attempt to make sense of the words *asylum* and *sanctuary*, such as they have been handed down to us by history and such as they continue to express an important, if not fundamental, dimension of the law.

The term asylum is directly descended from the Latin word *asylum*, which in the Roman period meant “inviolable place”. From this point of view, Switzerland’s status as a land of asylum shifts according to its admission criteria and to the zeitgeist¹¹⁸ – but, if we take the etymology literally, it is a land of asylum for no-one, to the extent that imposing conditions on the granting of sanctuary boils down to negating its very principle. A sanctuary, as were the temples of the Roman period and as some churches still are, creates the possibility for individuals to find themselves *momentarily* in an inviolable place. In a sense, the line which separates the sanctuary from prison is slight: but one is forced into prison, whereas one chooses to enter into a sanctuary. It is precisely this function of preservation of freedom which is at stake.

We believe that if Switzerland can call itself a land of asylum, this does not stem from actual facts but mostly from an imaginary representation. A representation reinforced by elements such as bank confidentiality, now replaced by other financial practices in the Swiss market, such as assisting tax evasion¹¹⁹. It is also reinforced by the imaginary representation of mountain ranges as protective walls enclosing the country, despite the fact that the conditions of modern war render this protection anecdotal, to say the least¹²⁰. This fantasy of Switzerland as a place of secrecy protected by its mountains nevertheless contributes to creating an image of Switzerland as an inviolable place.

And yet, the more its reality concretely finds itself unprepared for the socio-economic and political transformations that surround it, the more this image becomes in turn a sanctuary for Swiss citizens who are struggling to find their bearings. Otherwise, we cannot understand why citizens can continue to believe in the myth of “Switzerland, land of asylum”, when everything is being done to dissuade migrant persons to request asylum there or even to look in its direction for a mote of possibility. Switzerland is thus a “land of asylum” for... Swiss people. Indeed, from that point of view, Switzerland does ensure rights for its citizens. Although it does so differently according to whether

¹¹⁸ Pauline Cancela, « La Suisse, une terre d’asile à géométrie variable », *Le Courrier*, 09.10.2015.

URL: https://www.lecourrier.ch/133300/la_suisse_une_terre_d_asile_a_geometrie_variable

¹¹⁹ Cf. the Panama and Paradise papers.

¹²⁰ Olivier Pauchard, « Le réduit national, une nécessité pour Guisan », *Swissinfo*, 16.04.2010.

URL: <https://www.swissinfo.ch/fre/le-reduit-national--une-necessite-pour-guisan/8683034>

its citizens are nationalized, or foreigners with a residency permit, it tends more and more towards depriving of their rights persons who do not correspond to these formal modes of citizenship.

What must hold our attention therefore, is the link between refuge and law. The rule of law – implying the primacy of the law over political power – should be guaranteed by the State. The law cannot be validated only by the State (since the political would then sit above the law) but should be validated by the sovereignty of the population, in other words via the democratic exercise. But who makes up this population and on what does its sovereignty rest? What makes it possible for a group of individuals to affirm their will? What do we base ourselves on to say – and live in a world where – each individual can exercise their will, and where the combined wills of all produce a (“popular”) will? Our argumentation is directed at the function that *ensures* the social production of liberal democracies – that ensures that society, the State and corporations can go forward, fuelled by the constant tensions between them. This function is embodied in the existence of leeways for all, guaranteed by the law. In other words, in the existence of a freedom that is always imaginary, at least in part, but requires being embedded into the machinery of society. In Switzerland, as in other countries, this embedding is produced *via* the exercise of democracy and access to rights – seeing as the principle of freedom is inscribed in the Preamble of the Constitution¹²¹.

Currently, corporations have a lot of room for maneuver; the State grants itself as much as it can, but what of civil society? It is divided by the nationalization of rights to which the State is proceeding in its attempts to protect its own margins of action in the neoliberal context. But this division between different types of citizenship is causing the rule of law to constantly vacillate. The thing is that a society *is not* a static or homogenous whole; it cannot be. A society is a dynamic and elusive group, changing according to births and deaths, intergenerational transformations, but also entrances and exits to and from the territory, emigration, immigration, as well as relationships between people (whether these relationships take place within a state, corporate or civil framework). What the nationalization of rights creates, however, is a division which operates on this group *as if* it were static, by distinguishing a national population from a foreign population, and – further determining the production of classes within liberal society – this division subsequently engenders an informal citizen, necessarily on its margins: the *foreigner without a status*, for whom the rule of law is suspended.

Such a suspension, however, is not legitimate – although it can be explained by the history of the development of the Nation-States – and thus should not happen, since liberty does not define the *citizen* person, but the *human* person.

If we are defending the fact that there should exist zones of sanctuary (where any person can find themselves momentarily protected from immigration laws), it is thus according to a perspective where the rule of law can only come about when the laws that concern illegal persons are not enforced by the State in cases where they negate human liberty¹²².

Within this perspective, a sanctuary zone is the opposite of a no-go zone: it is a zone of *safekeeping of the rule of law*. In the event that a State is driven to overstep the legitimate exercise

¹²¹ Federal Constitution of the Swiss Confederation, Preamble: “in the knowledge that he is free who makes use of his liberty, and that the strength of the community is measured by the wellbeing of its weakest members”. URL: <https://www.admin.ch/opc/fr/classified-compilation/19995395/index.html>

¹²² The functioning of the State follows on from human liberty and is founded on its exercise. It is from this downstream position that it captures its currents. But to what extent does the State’s negation of certain persons’ freedoms amount to the self-negation of the State?

of power – which can happen anytime, anywhere – it is necessary that any person may be able to find sanctuary and, if needs be, seek help against these abuses of power.

Although this concerns foreigners, that is to say persons defined and eventually, produced as “foreign” by the law of a country, the nationalized persons of that country also depend on these zones of safekeeping to the extent that the fulfillment of the rule of law depends on them.

Human history teaches us that leaving a group of persons without rights engenders a situation which eventually leads to an indefinite suspension of the rule of law for all. Under the nazi regime, Jewish people ended up being no longer considered as persons, but as goods. As for the citizens of the then-German State, they entered into that gray zone – a zone of non-thought, of empty liberty – which the philosopher Hannah Arendt called the *banality of evil*¹²³.

This line of questioning was re-opened in Western Switzerland in the spring of 2015, when “persons threatened with expulsion and for the most part concerned by the Dublin Regulation flocked to the meetings of the *Droit de Rester* Collective, a collective defending rejected asylum seekers”¹²⁴ in Lausanne. An appeal was then launched and a group formed: the Collectif R. Its aim was to call out the State so that it would recognize the fundamental liberty of these persons and consequently, put a stop to its forced expulsions. The State turned a deaf ear, and the aim of the Collectif R thus became to create a sanctuary zone which would be a zone of safekeeping of the rule of law, by the very fact that it would be a zone where the liberty of these persons was acknowledged.

On March 8th 2015, the collective opened a *sanctuary* (refuge) at the Saint-Laurent church, in the city center of Lausanne, where they began by sheltering 6 people, then others in small groups. Incidentally, this action would allow these refugees with no legal status to file an asylum request in Switzerland, without the SEM being able to effect a Dublin expulsion, since such an expulsion can no longer be automatically effected after 6 to 18 months depending on the situation. Supported by these activists and by the involvement of several local left-wing political personalities, several of them (60 at the time of writing) have since obtained refugee status in Switzerland.

As we can see, the stakes are as concrete as they are symbolic, and carry forward questions that are profoundly relevant to the world of today. Thus in 2016 the Collectif R would support the idea that Lausanne could become a sanctuary city, like Barcelona since September 2015, an initiative followed by other Spanish cities faced with the government’s lack of willpower on the subject of refugee welcome¹²⁵. In Lausanne, the Collectif R’s demand was “relayed by a proposition by the group *La Gauche* at a town council meeting”¹²⁶ which was discussed in December 2017. A similar project is also under consideration in Geneva¹²⁷.

What is a sanctuary city? The process would consist in modifying the remit of the employees of the commune, so that they do not engage the city’s resources with a view to helping the cantonal police to effect expulsions. Such measures have existed in San Francisco since 1989, founded on the

¹²³ Hannah Arendt, *Eichmann in Jerusalem: A Report on the Banality of Evil*, 1963.

¹²⁴ URL: <http://www.desobeissons.ch/le-collectif-r/>

¹²⁵ At the initiative of Ada Colau, the mayor of Barcelona. Cf. Isabelle Piquer, « En Espagne, un réseau de “villes refuges” », *Le Monde*, 07.09.2015.

¹²⁶ Mario Togni, « Pour que Lausanne devienne “ville refuge” », *Le Courrier*, 09.12.2015.

URL: https://www.lecourrier.ch/134847/pour_que_lausanne_deviennne_ville_refuge

¹²⁷ Rachad Armanios, « Genève souhaite rejoindre le réseau des Villes de Refuge », *Le Courrier*, 07.04.2016.
URL: https://www.lecourrier.ch/138010/geneve_souhaite_rejoindre_le_reseau_des_villes_de_refuge

Sanctuary Ordinance in order to promote trust and cooperation among all the city's inhabitants¹²⁸. Such a measure enables all persons who find themselves in breach of the Foreign Nationals Act to be able to solicit the police when they, or people around them, are in danger, without having to fear expulsion. It thus puts a stop to the criminalization of undocumented persons¹²⁹.

As noted by the philosopher Jacques Derrida – in response to the appeal launched in 1995 by the International Parliament of Writers to create a network of sanctuary cities¹³⁰ – this is not a new idea, since we can find it in the Bible, as well as in the writings of some Greek Stoics, Cicero, Saint Paul and Kant. The sanctuary city is a concrete formulation of hospitality, whose principle is irreducible. Hospitality can only be conceived at first as unconditional. But, as Derrida wrote, “*the unconditional law of hospitality needs the laws, it requires them. [...] It wouldn't be effectively unconditional, the law, if it didn't have to become effective, concrete, determined, if that was not its being as having-to-be. It would risk being abstract, utopian, illusory, and so turning over into its opposite*”¹³¹. Laws – for example the Swiss policy regarding asylum and emergency aid, or those that govern low-threshold housing facilities – necessarily pervert the law, continues Derrida, since they impose their own conditions. But this is precisely what *produces* hospitality: a dynamic between perversion of the law by laws, and the perfectibility of laws by comparison with the law – through exchanges and tensions that produce its historicity.

From this point of view, instead of proposing another law of hospitality, instead of moving forward at the risk of History, the *pull factor* rhetoric constitutes a *hollowing out*. It sends us back to an *imaginary representation* of the land of asylum – to the principle of hospitality – but by abstracting it from the laws which should articulate it concretely. The result is indeed the reversal of hospitality into its opposite: rejection and exclusion, which tend to produce an attitude of privilege in the country's nationals (cf. point 4 of the Introduction) towards foreigners, a source of segregation.

Moreover, the pull factor rhetoric operates a revealing displacement: by turning hospitality into a question of *economic support*, it unites neoliberal austerity measures and Eurocentric paternalism. This rhetoric, which presents migrant persons as benefit scroungers – even though it is the policies supported by this rhetoric that break down and immobilize migrant persons – is in bad faith.

The Jean Dutoit Collective supports the processes aiming to create sanctuary cities in Switzerland and underlines the importance of sanctuary zones in the current context. We maintain that such zones should be created inside the main cities of Switzerland. This represents a necessary counter-movement to the nationalization of rights and a minimum strategy against worst-case scenarios.

The establishment of a *night-time truce* could be a partial response to these objectives: in the hours between sunset and sunrise, people should be able to rest, whatever their situation regarding

¹²⁸ City and County of San Francisco, Office of Civic Engagement and Immigrant Affairs. “San Francisco is just one of hundreds of cities across the U.S. with sanctuary policies or related law enforcement orders.”

URL: <http://sfgov.org/oceia/sanctuary-city-ordinance-0>

¹²⁹ This measure functions complementarily with an independent and neutral instance for the filing of complaints against police brutality and abuses of power (which do not concern only border guards but all municipal and cantonal police bodies). Such an organism does not exist in the canton of Vaud and we insist on the necessity of its creation in chapter III.5.

¹³⁰ From the website Idixa, « Avec la “ville-refuge”, ce serait un nouveau concept de Ville qui pourrait émerger, un autre droit d’asile, une autre hospitalité qui transformerait le droit international ».

URL: <https://www.idixa.net/Pixa/pagixa-1308210805.html>

¹³¹ Jacques Derrida and Anne Dufourmantelle, *De l’hospitalité*, Calmann-Lévy, 1997, p. 75.

English version: *Of Hospitality*, tr. Rachel Bowlby, Stanford University Press, 2000, p. 79.

the Foreign Nationals Act. No expulsion should take place at night, nor without human rights defense groups having been informed. Moreover, it should be forbidden to fine homeless persons for unauthorized camping when there are no more spaces available in the city's emergency aid shelters: in such cases, handing out a fine amounts to persecution.

Another proposition seems constructive in that it would allow precarized persons in an irregular situation to exercise some of their fundamental rights. Presented to the Lausanne city council in 2017 by the group Ensemble à Gauche, it asks for the introduction of "a municipal identity card for Lausanne" which all the inhabitants of the city would receive, whether they are Swiss, foreign, in possession of a residency permit or undocumented. "This means that persons without legal status can identify themselves in order to open a bank account, sign a lease, borrow a book from the library, receive medical care in hospital, declare a theft or even exchange with the municipal police without exposing themselves to the threat of expulsion", writes Claude Calame, the author of the proposition. Such a measure, currently in discussion in the cities of Bern, Biel and Zurich¹³², has already proven its worth in several large US cities, for example in New York¹³³. Such a card would be a first stage for persons in an irregular situation according to the Foreign Nationals Act to be able to step out of the shadows in which they have been living – often for years on end – and feel like they belong to a community.

The Jean Dutoit Collective also supports this project, synonymous with acknowledgment, access to rights, culture and mobility for migrant persons living in Lausanne.

¹³² G. Sassoon, « Zurich réfléchit à une carte d'identité pour clandestins », *24 heures*, 28.09.2017.

URL: <https://www.24heures.ch/suisse/sanspapiers-zurich-reflechit-carte-identite-clandestins/story/24467789>

¹³³ « À New York, un bout de plastique pour identité », *Le Temps*, 24.02.2015.

URL: <https://www.letemps.ch/monde/2015/02/24/new-york-un-bout-plastique-identite>

1.8. *Immobilized persons, dehumanized persons*

For the time being, there is no sanctuary city, no sanctuary zone, no municipal identity card in Lausanne, and neither are there any available and appropriate emergency housing facilities. This is the situation that led to the formation of the Jean Dutoit Collective in 2015 and it has persisted, even worsened, to this day. As we are writing the last lines of this report in November 2017, almost a hundred persons of African origin come each night to sleep in the environs of the Sleep-in, for lack of available spaces¹³⁴. They are regularly brutalized by local police and pressured into going to the EVAM; in short, pressured into “disappearing”¹³⁵.

They are not the only ones: Romani people, Swiss people, precarized people (whether they are from a migrant background or no) are sleeping in the streets, in parking lots or in the forests because of the lack of space in the city’s emergency housing facilities. The city council puts spanners in the wheels of volunteers who come to support these precarized and homeless people¹³⁶. Moreover, the police are quick to fine persons who sleep outside for unauthorized camping, as well as taking their sleeping bags by force, as reported by *La Maraude Lausanne*, a group that helps homeless persons and is very active in the region since 2016¹³⁷.

Precariousness, which can be deadly during the winter months, creates vulnerability for different reasons according to the seasons. We previously evoked (cf. chapter 1.4) certain informal strategies of survival and we hope that they gave an idea of how these persons are fighting to keep a sense of initiative in their own lives – and also how they eventually chose to leave the Swiss institutions that denied them this very initiative. But living on the streets entails conditions that are arduous, dangerous from a social-health perspective and morally degrading. These persons sleep outside without a sense of psychological safety and without any form of relationship with the society that surrounds them. But even though the Swiss authorities are not doing enough to help these people, the illusion is that at least they are not doing anything against them.

¹³⁴ The Sleep-in is an association which receives funding from the City of Lausanne and the Canton of Vaud, and is part of the low-threshold network of the Lausanne agglomeration. The building itself belongs to the City of Lausanne, but is on the territory of the town of Renens.

URL: <http://www.sleepin-lausanne.ch>

¹³⁵ The Sleep-in association sounded the alarm and also denounced “harassment and police brutality”. Cf. Alain Détraz, « Tensions au Sleep-in à l’approche de l’hiver », *24 heures*, 30.10.2017.

URL: <https://www.24heures.ch/vaud-regions/lausanne-region/tensions-sleepin-approche-lhiver/story/22547749>

¹³⁶ The town council of Lausanne refused parking rights to the volunteers of *La Maraude Lausanne*, who had come to bring clothes and food to homeless people in the city center. Cf. R. Haddou, « La Maraude accuse Lausanne de l’empêcher d’aider », *24 heures*, 11.10.2017.

¹³⁷ In collaboration with *La Maraude Lausanne*, the *Collectif R, solidaritéS, L’armoire à couvertures, le Collectif vaudois de soutien aux sans papiers, Toit pour tous, SOS Asile Vaud* and others, the Jean Dutoit Collective participated in an outdoor action – a “sleep-out” – in support of homeless persons, which was held on the night of November 10th/11th at the *Place Saint-Laurent* in Lausanne.

Cf. R. Bournoud, « Un rassemblement de nuit pour soutenir les sans-abri », *24 heures*, 11.11.2017, and C. Banerjee-Din, « “On peut être contrôlés dix fois en une soirée” », *24 heures*, 11.11.2017.

URL: <https://www.24heures.ch/vaud-regions/lausanne-region/rassemblement-nuit-soutenir-sansabri/story/23213472>

URL: <https://www.24heures.ch/vaud-regions/lausanne-region/peut-controles-dix-fois-soiree/story/23861517>

This is in fact an illusion because, contrary to what the word “migrant” tends to suggest, these persons are *immobilized* by Swiss and European policies. This immobilization is geographic, created by visa policies, but also imprisonment in detention centers followed by forced deportation. It is also micro-geographic, carried out by all the places, businesses and institutions from which these persons are excluded: employers, phone companies, health insurances, banks, etc. As we have shown previously, the figure of the trans-European worker is a paradoxical figure of immobilization: condemned to remain mobile in order to find work, these persons cannot enjoy a family life or a stable situation.

Finally, this immobilization is psychological and political, since these persons are assigned categories such as “economic migrants”, “refugees”, “homeless”, “squatters” and “clandestines”, to which they are constantly brought back and reduced. This takes place in the media, which proceeds to their distancing, as well as in two types of currently dominant discourse: the nationalist discourse, which reinforces active segregation, and the politically correct discourse, which backs passive segregation (“that’s just the way the world is”, “there is no alternative”). Moreover, as we will see in the third part of this report, there exist gray zones in Switzerland that concretely prevent these persons from exercising their fundamental rights, namely when they are victims of persecution, racism and police brutality.

Camps, reception centers and administrative detention (or retention) centers are the most direct manifestation of this¹³⁸. In Italy, in Como, Connetta, Foggia and elsewhere, the camps are described by local inhabitants as “human dumpsters” and “modern concentration camps”¹³⁹. Humanitarian organizations denounce these life conditions week after week. What’s more, the number of ghetto-cities is exploding: filled with persons gradually reduced to delinquency, they are splashed over the headlines of the xenophobic press. Lampedusa, Lesbos and Samos, Chios, Athens, Rome, Milan, Calais, Paris, Madrid, Hamburg. In Geneva, where there exists only one emergency housing facility managed by the Salvation Army, local associations evaluate the number of persons sleeping outside each night to be between 800 and 1000.

In a recent article in the *Le Matin* newspaper, we could read this description of a Geneva park, situated, as the author specifies, a stone’s throw away from a luxury hotel: “Here, every evening, more than twenty African men settle down for the night. ‘There are more and more’, reckons a municipal employee. ‘They also sleep during the day. One time, we spent some time trying to wake one up’, the civil servant smiles [...]. ‘Sometimes I see them washing their clothes in the lake and drying them on the rocks’, adds a restaurant employee who walks through the park each morning. The Ganges, but in Geneva.” This last comparison exerts a profound distancing effect, by comparing to India – evidently identified as an under-developed part of the world – a situation that the journalist designates as an enclave of poverty in a world constructed for rich people. Every element of this article is symptomatic of how migrant persons are distanced and kept at bay, objectified like outsiders from another, subhuman, world. The journalist apparently did not deem it necessary to speak to them, or if she did, she did not think it important to share their words in her article.

¹³⁸ *Close the camps* (Migreurop) has created a cartography of the camps in Europe. The website *asile.ch* also proposes other maps, with a particular focus on detention centers in Switzerland.

URL: <http://closethecamps.org/>

URL: <https://asile.ch/prejuge-plus/detention/2-rendre-visible-la-detention-administrative-par-des-cartes/>

¹³⁹ Kelly Velasquez and Ella Ide, « Italie : colère et incompréhension dans les “dépotoirs” à migrants », *AFP/Forbes Afrique*, 14.07.2017.

URL: http://www.forbesafrique.com/Italie-colere-et-incomprehension-dans-les-depotoirs-a-migrants_a8475.html

The question posed in this context *is not* to determine what is “acceptable”, what “looks good” on the news or what would cost taxpayers the “least” amount of money. This is the question of short-, mid- and long-term consequences on the lives of these persons and on the future of European societies. It is the question of the value we give to the rule of law in Switzerland and in Europe, to the European Convention of Human Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Universal Declaration of Human Rights, among others.

To speak with the terms of the Swiss Constitution, if “he is free who makes use of his freedom”, then among these persons who sleep outside, some are, in some respects, more free – because they *are making use of* their freedom by taking much greater risks, and this to face much more difficult situations – than those whose head rests on a pillow which they only possess because they were born in the right place. A Swiss person who decides to go live abroad to try out a new life would not need to clamber into a dilapidated boat and risk their life at sea, would not have to worry about sleeping outside or being mistaken for a drug dealer, would not be forced to go through a humiliating asylum procedure, would not see their diplomas called into question, would not be suspected of wanting to enter into a sham marriage, would not meet with obstacles when trying to obtain a work permit. We would not call them a “migrant”, but an “expat”. These observations are necessary for understanding that a privilege is a right founded on the exclusion of an other – and that privilege does not determine freedom in any way.

Humans are made in such a way that they forget the rights which they enjoy, quickly considering them as a given (shifting-baseline). This is the case for example of free movement. Swiss persons cross borders without thinking about it, they have integrated this ease, it is part of their habits. From this moment, when confronted with persons who cannot enter into Switzerland, or are undocumented in Switzerland, some holders of that red passport emblazoned with the white cross are at pains to understand these situations. To this end, we hope that this first part may have given our readers an idea of the difficulties undergone by migrant persons, particularly those persons who are members of Jean Dutoit and whose experiences and testimonies have motivated and constructed these pages.

We will now return to two years ago and to those encounters that enabled the formation of the Collective, allowing it to evolve and establish itself over the course of several moves. In this respect, one of the interface members of the Collective came up with a very revealing image, which she laced with the necessary amount of cunning and joy to recount this adventure. It is the image of a house perched on legs; chicken legs which, in some Russian fairytales, can take the witch Baba Yaga wherever she desires.

A moving house, carried by human legs and sitting on the border between several different worlds: that is the story of these two years.

SECOND PART

The Jean Dutoit Collective:

Two years of occupations and actions

II.1. *Summer 2015, the people of the garden find a roof*

During the course of the year 2014, migrant persons came knocking on the door of the Sleep-in, a low-threshold housing facility located in Renens, in the Lausanne agglomeration. Because of the lack of available beds inside and because of the regulations that the facility's employees had to apply (cf. chapter I.6), these "non-Swiss single men" could not receive shelter there¹⁴⁰.

They decided to sleep in the garden. Among them, some would come here, or come back, over the course of several months to find a space to bed down for the night, using material salvaged here and there or donated by associations and individuals. For these persons, this was also an opportunity to meet other people from their region of origin, who spoke the same language and/or had encountered the same difficulties in Switzerland and Europe.

At first, this new concentration went unnoticed. During the same period, immigration began to intensify. Media stories, analyses and testimonies flooded in concerning the deaths in the Mediterranean of persons who were trying to rejoin European soil by any means, particularly from Syria but also from Afghanistan and Iraq. These persons fleeing war – who should receive refugee status for this very reason – were joined by nationals of African and other countries with which Switzerland plays an ambiguous game. Young Eritrean men flee their country because of the dictatorship that forces them into a long-term military service in conditions close to slavery. But what about the others? In particular the West Africans, from Nigeria, Mali, the Gambia; who are they and what are they doing in Switzerland? A widespread opinion designates them as "economic migrants", persons who have left their country to improve their life conditions. Another widespread opinion consists in identifying them with the men who practice the sale of cannabis and cocaine on the streets: "drug dealers", an appellation which stigmatizes them and renders them invisible all at once, obscuring their life conditions and not acknowledging them as human persons in their own right.

In the spring of 2015, the migratory influx towards Europe was growing. On the weekend of April 18th and 19th, 700 African migrants lost their lives drowning off the coast of Lampedusa.

¹⁴⁰ Cf. footnote no. 134

At the beginning of the summer, more than 60 persons were sleeping each night¹⁴¹ in the garden of the Sleep-in and others, whom the authorities would have preferred not to see, continued to arrive.

Everywhere in Europe reception centers were overflowing, a consequence of governments who had not measured the scale of unfolding events. The description of this immigration as “massive” by several media outlets and political parties spoke to this European position. It apprehended these migrants and refugee persons not as individuals from different social classes, cultures and nationalities, but as a homogeneous whole which threatened to submerge European identity. The metaphor of the migratory “wave” also evokes the threat of an impending lack of differentiation. In another register, the populist discourse of “invasion” – formed on the basis of the speech by Valérie Giscard d’Estaing in 1991¹⁴² – gathered a disparate reality into one sole fantasy which it would color with stereotypical and discriminating cultural and religious elements.

The “migratory crisis” quickly became a political issue, and left- and right-wing parties positioned themselves along the lines of their archetypal values. The political field reconfigured itself around the question of immigrants and refugees, two notions mired in a semantic and political fog which rendered debates difficult: should these “migrants” be welcomed or sent back? Indeed, when posed in this way, the question floats away from reality and the concrete conditions of these persons’ lives, as well as the strategies that could be put into place to respond to this situation.

The Swiss – and Vaud – authorities concentrated on the filtering of refugees: the aim was to manage the influx of persons through sorting and processing asylum requests. In actual fact, this policy would contribute to extending a no-rights zone that would concentrate all the persons whom the Swiss State did not want to see: rejected asylum seekers and Dublin cases (who were threatened by asylum administration processes and/or resist Switzerland’s policy of forced expulsion) and precarized trans-European workers who did not correspond to this system. These were the persons who found themselves in the garden of the Sleep-in, along with a few others who, despite the fact that they were in the midst of an asylum request procedure, have decided to leave the EVAM¹⁴³ centers for health/ psychological reasons or because they did not feel welcome or respected there¹⁴⁴.

But for the State of Vaud, only one solution was possible: pressuring these persons to leave the garden and return to the EVAM centers, so that the procedure of asylum – and expulsion – may follow its intended course¹⁴⁵. Among other things, the authorities feared (based on the example of what is happening elsewhere in Europe) that the garden would become an unauthorized settlement (“lieu de fixation”)... even though it was the Swiss and European policies that had led to this concentration of persons who live without rights and sleep on the streets. The more the authorities

¹⁴¹ C. Banerjee-Din, « Le problème des migrants sans abri éclate au grand jour », *24 heures*, 27.7.2015.

URL: <https://www.24heures.ch/vaud-regions/probleme-migrants-abri-eclate-grand-jour/story/18526198>

¹⁴² See the discursive and mediatized analysis of this interpretative turn led by Yves Lavoine the following year: « *Invasion* » : *du scandale à la banalisation*.

URL: http://www.persee.fr/doc/homig_1142-852x_1992_num_1157_1_1878

¹⁴³ These are mostly Civil Defense shelters – in other words, bunkers – that have been opened to house the asylum seekers attributed by the Confederation to the Canton of Vaud.

¹⁴⁴ An article by Sophie Dupont, « Personne n’a remarqué sa mort », *Le Courrier*, 15.11.2017, reports the death of an asylum seeker in his room at the EVAM shelter in Malley, Lausanne, and whose body was discovered several days after his death. He had a 10-year old daughter.

URL: https://m.lecourrier.ch/154309/personne_n_a_remarque_sa_mort

¹⁴⁵ C. Banerjee-Din, « Le camp de migrants du Sleep In doit être évacué », *24 heures*, 03.08.2015.

URL: <https://www.24heures.ch/vaud-regions/lausanne-region/camp-migrants-sleep-in-doit-evacue/story/14040733>

pushed for evacuation, the keener the citizen response became. That summer, the situation around the Sleep-in would crystallize the societal tensions around the welcome of migrant persons, xenophobia and racism, the place of Switzerland in the world, democratic sovereignty and human rights.

For the inhabitants of the region, whether they were Swiss citizens or no, this also marked the possibility of doing something concrete. Indeed, it is Swiss bureaucracy that manages arrivals and expulsions: migrants find themselves in reception centers away from the population, which makes it easier to then present them as simple numerical data in a budget. Here, however, in the garden, it was possible to help and feel useful, but also to exchange with these persons, to listen to their stories; in short, to be human beings.

This encounter was made possible by the existence of a common language: English. The Gambians and the Nigerians speak it because of the colonisation of their country by the United Kingdom. Swiss people learn it at school, a consequence of American hegemony during the second half of the 20th century. French and Spanish are also spoken, and of course several West African languages such as Igbo, Yoruba and Mandinka.

The inhabitants of the region who set foot in the garden of the Sleep-in for the first time were indignant that seriously precarized persons could be left there to live without a roof above their heads or help of any kind. This indignation was fed by the disgust they felt when faced with the Swiss and European authorities' lack of generosity concerning the help and welcome of migrant persons, when hundreds of thousands had left their countries because of wars, dictatorships and disastrous socio-economic conditions – in the development of which the responsibilities of the North are well known.

One thing leading to another, a collective was formed. It took the name *Jean Dujardin*, a pun in French playing on the words for “people of the garden” (*gens du jardin*) and the name of a famous French actor. Its aim was for these persons to not simply be expelled from the garden, returned to the streets or expelled from Switzerland; not to hide their destitution, but to find an answer for it; in practical terms, to find housing solutions. The combat continued during the whole summer of 2015, in the midst of tarpaulins and mattresses improvised out of cardboard, in the crossfire of mediatized exchanges with the authorities.

When the Municipalities of Lausanne and Renens ordered the expulsion of the people of the garden for the end of August, the Collective changed its mode of action and incidentally, changed its name. In order to put a roof over these persons' heads, a decision was made to occupy an empty building situated at *Route de Berne 30*, in the heights of Lausanne. The newly renamed *Jean Dutoit Collective* (for *gens du toit*, “people of the roof”) set up camp in this small ex-school: “We want to make visible the fact that when people are turned away, they do not disappear, but look for another place; from this point onwards, we refuse for this quest to remain solitary and clandestine.”¹⁴⁶

The Collective was now made up of about 80 migrant persons, supported by 30-odd inhabitants of the region who relayed each other to ensure a presence day and night. One of their fears was that in the absence of Swiss persons, the authorities would order the building to be emptied by the

¹⁴⁶ « Les migrants du Sleep-in squattent un ancien collège lausannois », *24 heures*, 31.08.2015.
URL: <https://www.24heures.ch/vaud-regions/lausanne-region/migrants-sleepin-squattent-ancien-college-lausannois/story/10885765>

police¹⁴⁷. The City, being the owner of the building, filed a civil lawsuit against the Collective. Work was about to begin on the building and the City was losing money: the lawsuit was therefore accompanied by a superprovisional measure (accelerated procedure).

The judgment took place in situ. Five white men in dark suits and long coats (the lawyers), one man in a suit and a long beige coat (the judge) and a woman in a blue suit and coat (the court clerk) emerged from the metro and opened their umbrellas; they took a few steps and entered the school courtyard. The resident members congregated around them: about a hundred black men dressed like ordinary people, and the interface members (white, black or mixed-race persons from the region), as well as many people who had come as backup to show their support. As the translations between French and English unfolded, the Collective learned a little more about its fate. A few days later, the judge gave his verdict: an expulsion notice was set for the following week.

¹⁴⁷ This is an experience familiar to many persons from precarized, alternative and/or anarchist backgrounds in the region: houses occupied peacefully are evacuated in the early hours of the morning by forces of law and order dressed in riot gear, despite an opening of lines of communication with the authorities or the owners, as was the case in 2016 at the *rue de l'Avenir* in Renens.

URL: <https://reverse.co/Les-maisons-de-la-rue-de-l-Avenir-expulsees-583>

II.2. *Six months in the old Heineken hall in Renens*

The Collective decided to leave and occupy another empty building, this time in Renens: an abandoned hall, built by the Heineken company and located at *Chemin du Closel 11*. This took place on September 22nd 2015. The Collective barricaded itself inside upon arrival, the police surrounded the venue, a lawsuit was filed and a new expulsion order pronounced.

However, to the Collective's surprise, they were approached by civil servants of the State of Vaud¹⁴⁸. The latter offered to sign a convention that would allow the Collective to occupy the building legally, on the condition that they first leave the premises on the appointed expulsion date, and return ten days later.

In principle, the Collective accepted the offer. Thus began the negotiation of the convention, which would be signed between the owner of the building, the *Société de transports publics de la région lausannoise* (Lausanne public transport company, hereafter TL, whose headquarters were close by) and the Collective, without the intervention of the State appearing in the document. The members of the Collective were wary of this move, and rightly so; but winter was approaching and the necessity of finding somewhere to live took first place. A crucial point in the establishment of the convention was sharply debated: it concerned the number of persons authorized to stay in the livable area of the old hall. The Collective now comprised about 120 persons from a migrant background. At first, the State representatives and the TL put forward an occupancy number of 50, whereas the Collective wanted to be able to house all its members. The former accepted to increase the occupancy to 70 maximum, given their evaluation of the appropriate public health conditions. With no other choice and without any solution for the 50 persons left out¹⁴⁹, the Collective accepted this number and five of its Swiss members signed the convention.

Between the day of the expulsion and the day the convention entered into effect, all the resident members were put up in the four corners of Lausanne during 10 days. An appeal for solidarity was launched and many people responded. The 117 resident members of Jean Dutoit were welcomed in cultural venues, art galleries, homes, and by collectives and associations. The entire alternative scene of Lausanne was shaken up, and this moment of solidarity brought about by circumstances made a lasting impression.

The resident members of Jean Dutoit began their legal stay in the Heineken hall on October 15th 2015. The convention was valid for a duration of 5 ½ months and contained a possible renewal clause, which could only happen after an evaluation of the situation one month before the March 31st 2016 deadline. This evaluation never happened. In a written communication dated February 17th 2016, the TL informed the Collective that the convention would end on March 31st. The principal reason invoked concerned the overoccupation of the building compared with the number authorized by the convention.

¹⁴⁸ These were civil servants from the Department of Infrastructures and Human Resources of the Canton of Vaud, then led by Mrs Nuria Gorrite (now President of the Vaudois State Council).

¹⁴⁹ In spite of the Vaud Constitution: "Any person in need has the right to appropriate emergency housing and to the means indispensable to lead an existence in alignment with human dignity."

URL: <https://www.admin.ch/opc/fr/classified-compilation/20030172/index.html>

This calls for two observations.

The first is that, on October 15th 2015, the Collective had no idea of the number of persons who would come knocking on its door in the following weeks and months: precarized migrant persons who found themselves in the area and who were sleeping in the streets, parks and forests, or in apartments with unfair letting or subletting conditions. Some of the new arrivals had a family member or an acquaintance within the Collective, or simply spoke the same language and came from the same region. The inhabitants of the Heineken hall thus found themselves having to work out this nightmarish equation: let these persons in so that they may also enjoy shelter during the winter months, or refuse them entry in order to ensure more stable conditions for those already living there and to respect the terms of the convention.

In parallel, the structures established by the public authorities – in the framework of cantonal emergency aid and municipal low-threshold facilities – were already at excess capacity and could not take in any more persons. The Collective did not measure what was happening quickly enough: by mid-November 2015, the number of inhabitants had doubled, and life in the hall became more and more difficult. In addition to this, among the resident members, there were many individuals who, without activity nor bearings, were experiencing in this house their first moment of respite in many months, which translated into periods of depression and/or decompensation, while others found solace in alcohol or cannabis. Tensions increased, which resulted in insults and fights.

Having been alerted to the situation, some African and Swiss members of the Collective reacted. The house was threatening to become a place where ethnic and religious particularisms overtook the will to live together, where an individualism born of a survival instinct undermined any possibility of collective organization. Following an extremely gruelling week and the expulsion of certain persons who had arrived recently and whose behavior threatened the whole enterprise, operating rules were instituted. They included limiting the number of residents, prohibiting visitors and excluding any person who provoked or participated in a situation of violence. At the end of the month of December, the situation became livable again and the Collective began to acquire a conscience of its future as well as the imperatives it had to follow if it wished to survive.

The second observation concerns the isolation in which the Collective found itself during this period. Living in a rarely visited industrial zone, the inhabitants of the Heineken hall were left to their own devices, without the slightest possibility of integration. In parallel, the number of Swiss members went from about thirty at the time the convention was signed, to about ten; several persons having decided to leave during the difficult episodes in November. Although these circumstances represented a failure for the Collective, neither the TL nor the civil servants of the State of Vaud seemed to worry about the turn of events – despite the fact that the Collective was alleviating the situation concerning the housing of precarized persons, to which the State was turning a blind eye.

Instead of social workers, it was the police that showed up: the *Chemin du Closel* – a street located between two series of rail tracks – became the scene of day and night racial profiling, strip searches in the middle of the street, verbal and physical aggression directed at the resident members, all of African origin and all identifiable by skin color.

Arguing that some of the inhabitants of the Heineken hall sold cannabis and/or cocaine in the center of Lausanne, the police placed the hall and its inhabitants in a state of siege. The fact that this activity is practiced by some of them is no mystery. But it soon became obvious that some police officers had drawn up a generalizing pattern which they used to justify stopping and expelling

migrant persons: by giving themselves the possibility of suspecting any black man of selling drugs, the police could carry out checks within these populations left and right, and paraded this discriminatory practice aiming at expelling migrants as a mission to fight the sale of illegal drugs. We will return to this subject in the third part of this report, to testify to and analyze the reasons behind the sale of illegal drugs understood as a form of insecure employment on the one hand, and the discriminations and acts of violence committed by members of the police force on the other hand. We will restrict ourselves here to stressing how these police operations are made possible by denying migrant persons their presumption of innocence as well as the right to equal and dignified treatment.

In the beginning of February 2016, the Collective decided to protest in Lausanne to bring these abuses of power to the knowledge of the population and the authorities. The latter responded in the press: “The cantonal police denies any attempt at duress. It justifies increased vigilance because of the presence of a large number of migrants in the same place, following the example of other places in the canton”¹⁵⁰. Faced with this stonewalling and in a context where its members felt more isolated than ever, the Collective had the impression of having jumped feet first into a trap – the convention proposed by the State – a trap that was now closing upon them.

During its last month in the Heineken hall, the Collective was still trying to convince the authorities and the general public of the necessity of a place such as this one, which could provide shelter for homeless migrant persons. But the end of the winter was approaching and it was easy to realize that the authorities did not feel the same pressure when they did not have to worry about homeless persons dying of cold outside.

On March 9th 2016, the Collective handed a letter to the State Chancellor, Mr. Vincent Grandjean, in front of the old *maison de maître* located in the parc de l’Elysée, in which the members of the State Council were meeting¹⁵¹. Nothing came of this. After all these efforts and sick at heart, more than a hundred persons now had to pack their bags. A short while later, the TL barricaded the doors and windows of the Heineken hall to prevent any new occupation.

¹⁵⁰ S. Dupont, « Une marche contre la pression policière », *Le Courrier*, 04.02.2016. The journalist was summarizing here the words of Jean-Christophe Sauterel, spokesperson for the cantonal police.

URL: https://www.lecourrier.ch/136241/une_marche_contre_la_pression_policiere

¹⁵¹ C. Banerjee-Din, « Les squatters de Renens interpellent le Conseil d’État », *24 heures*, 09.03.2016.

URL: <http://www.24heures.ch/vaud-regions/Les-squatters-de-Renens-interpellent-le-Conseil-d-Etat-/story/18625152>

11.3. *Dissolution of the Collective and auto/critique*

On March 31st 2016, the Collective in effect ceased to exist. Each person returned to their previous life: for the resident members, this meant the street, the woods or a return to the garden of the Sleep-in. For the interface members, this meant the house or the apartment in which they had lived this whole time. This partition left a strong impression. It marked a moment of reckoning for each.

Those who lived through these months of occupation remember them with a mixture of joy and bitterness. Joy, because they were the beginning of an action that allowed its members to find a roof, share experiences, and learn together. Bitterness, because the life conditions were harsh, its actors placed under the constant gaze of the people, the media and the State, and racked by emotional ambivalences but also by isolation.

It is not easy to lead an autocritique in a situation in which so many social actors are implicated and most of which found themselves overwhelmed by the events, as much on the level of the authorities as that of the Collective. Nevertheless, four elements can be clearly sketched out.

The first is that the tension between the Collective and the authorities should have found a resolution, in the interest of all. Although the Collective's actions allowed precarized and homeless persons to find a roof, its wariness did not allow it to look for support in an expanded manner. Of course, the fact that this wariness was regularly justified does not speak in favor of the municipal and cantonal authorities: at best, they kept their distance, refusing to play the role of mediator which could have been theirs.

The second element comes down to the fact that the number of local persons invested in the Collective at the moment of the first occupation of the Heineken hall drastically fell after the signing of the convention; but the hardships were yet to come. As soon as a housing solution was found, the feeling of indignation subsided. Many lost sight of the fact that events do not impose themselves with the same restrictive force according to whether we hold a Swiss passport or not. The Swiss frames of reference are in question here, and we notice that they are only partially linked to a political positioning. But that is also to say that these events have produced particularly keen tensions: all these persons acted on their own initiative and found themselves at odds with the authorities as well as their own values. In this sense, it was a nexus of political and human experience.

This critique goes hand in hand with a third element: the lack of experience and knowledge of the field, as much as concerns the authorities as the Collective. For the latter in particular, it ran into the fact that none of the resident members were prepared to see through an experiment in collective living, all the more demanding because the conditions were precarious and the context was tense. The necessity of having an internal organization and rules of behavior, as well as establishing a livable proportion between the dispositions of the occupied spaces and the number of residents, are some of the conclusions to which the Collective arrived along the way. To conclude on this point, the State and the TL negotiators – although they were certainly right to want to limit the number to 70 – failed to take into account the tension they created with the reality of the field, by not considering all the persons still sleeping on the street.

The fourth element stems from the political and media context particular to the year 2015-2016. Inexperienced in matters of communication, the Collective made several mistakes in the ways it addressed the media, which resulted in biased or incorrect information, but also in truncated and weakened arguments. To an extent, this point also stems from the responsibility of journalists, who, subjected to a pressure to produce content, do not always do justice to the work of investigation. Mass circulation newspapers – above all the free publications – as well as televised news broadcasts, now opt for short formats which are inadequate for conveying the complexity of situations, using images to provide a tailored experience which, since it does not stimulate thought, makes way for inertia. Moreover, this criticism should be leveled at the Swiss political college, by denouncing their silence. Although it is necessary to note the unhealthy impact exerted by a part of the population on public opinion – via discriminatory words or actions, internet trolling, condescendence, contempt and hate towards migrant persons – it is also necessary to notice how elected officials failed in their duty to defend constitutional values through speeches and acts.

The assessment of these six months in the Heineken hall was also financial. At the end of its stay, the Collective received electricity, water and gas bills for a total of 34'104 CHF, which it was not able to pay. The issue stemmed on the one hand from a lack of communication between the TL and the Collective, the former having communicated false estimates to the latter concerning the amounts they should expect. On the other hand were the difficulties met by the Collective in the organization of an efficient fundraising method, which was only really up and running as of the end of December 2015, and which did not suffice to compensate for the lost months. With regard to this, the fact that the TL and the State of Vaud did not make the slightest gesture to respond to an exceptional situation gave rise to feelings of incomprehension, disappointment and indignation.

The problem of these last bills – and this deserves to be highlighted all the more – was solved thanks to the solidarity of many associations and individuals. By sums varying greatly from one person to the next and one group to the next according to their means, they responded to Jean Dutoit's appeal and contributed to the payment of almost the entire sum of 34'104 CHF.

This moment was a red-letter day, since it consisted in a kind of emergence from the Collective's isolation and an opening onto future alliances.

II.4. *Raid of June 2016 and re-formation of the Collective*

The first semester of the year 2016 was marked in Switzerland by several votations on the subject of migration. It is necessary to delve into these in order to contextualise what is about to follow.

On February 28th 2016, 58.9% of Swiss citizens¹⁵² rejected an initiative put forward by the UDC¹⁵³, with which the party intended to push the government into “implementing” the initiative “for the expulsion of foreign criminals”, the latter having been approved in 2010 by 52.3% of voters. It would be wrong to interpret this rejection as a change of course, since it mainly seemed motivated by a desire to take the UDC down a peg, in a context where this new initiative was presented as bypassing the application law of the 2010 initiative that had been proposed by the government¹⁵⁴.

In fact, three months later, on June 5th 2016, 66.8% of Swiss voters approved the reform of the Asylum Act¹⁵⁵, put forward by the Minister of Justice Simonetta Sommaruga. Saying yes to this reform also meant saying no to the UDC, since it was the UDC who had put this reform to the popular vote through a referendum. However, despite the fact that it was not as strict as the UDC wished, this reform would still create a tougher stance on asylum conditions.

Indeed, its aim was to accelerate the procedures for treating asylum requests¹⁵⁶, guarantee a “fair” treatment of procedures, as well as reduce costs. The budgetary savings in question were to be made possible by the concentration of procedures, in centers for whose construction the Federal Department of Justice and Police (FDJP) would become the sole competent authority¹⁵⁷. It therefore did not constitute a change of course, since the treatment in question would be led exclusively by government agents, which implied that they might seek to dissuade rejected asylum seekers from filing an appeal¹⁵⁸. Although on the one hand, the acceleration of procedures is welcome, the political agenda here was mostly to make the Swiss administrative machine more effective. The point was to reduce its costs, by preventing the obtention of refugee status for persons “who have

¹⁵² That is to say those of the Swiss citizens who voted. Between the 1980s and the 2010s, the average rate of participation was between 40 and 45%.

URL: <https://www.bfs.admin.ch/bfs/fr/home/statistiques/politique/votations/participation.html>

¹⁵³ The UDC (*Union Démocratique du Centre*, known in English as the “Swiss People’s Party”) is the most far-right of the parties represented in the government. It follows a national-conservative, liberal, Euroskeptic and sovereign ideological line. It has a little over a quarter of the seats at the National Council and occupies 2/7 seats in the Federal Council.

¹⁵⁴ « L’initiative de l’UDC est refusée à 58,9% », *Tribune de Genève*, 28.02.2016.

URL: <http://www.tdg.ch/suisse/Le-renvoi-des-criminels-etrangers-est-refuse/story/31152491>

¹⁵⁵ URL: <https://www.admin.ch/ch/f/pore/va/20160605/det604.html>

¹⁵⁶ I.e. to “process 60% of requests in 140 days maximum. The average duration of procedures is currently 278 days, although 80% of them are processed in 150 days.” In Christine Talos, « La révision de la loi sur l’asile en un clin d’œil », *Tribune de Genève*, 09.05.2016.

URL: <http://www.tdg.ch/suisse/revision-loi-asile-clin-doeil/story/22112421>

¹⁵⁷ State Secretariat for Migration, « Mise en oeuvre de la revision de la loi sur l’asile (LASi) : accélération des procédures d’asile », 08.06.2018.

URL: https://www.sem.admin.ch/sem/fr/home/aktuell/gesetzgebung/aend_asylg_neustruktur.html

¹⁵⁸ See the question advanced on March 3rd 2016 by the National Councillor Cesla Amarelle (PS): « Loi sur l’Asile. Quelle indépendance pour la protection juridique face à l’État ? »

URL: <https://www.parlament.ch/fr/ratsbetrieb/suche-curia-vista/geschaefte?AffairId=20165119>

refused to serve or have deserted”¹⁵⁹, terminating requests without the possibility of appeal for those who did not collaborate as expected with the procedure¹⁶⁰ (“uncooperative asylum seekers”), as well as extending enforcement measures in the context of detentions with a view to expulsion¹⁶¹. This reform therefore proceeded to a series of administrative hardenings, under the cover of politically correct arguments.

Ahead of this votation and against a backdrop of terrorist threats in Europe and of combating the Islamic State in Syria and Iraq, xenophobic populism played its role, allowing Switzerland to harden its migration policy. It is plausible to conclude that the rejection of the UDC referendum in February contributed to accepting the reform of the Asylum Act in June: the threat of being considered racist was safely tidied away. Subsequently, why not accept this reform, which to top it off, was advanced by the socialist Federal Councillor Simonetta Sommaruga?

These events in Swiss politics had an influence on the after-life of the Jean Dutoit Collective. We will see how the UDC took advantage of the endorsement of this reform to labor their point, and how the Vaud State Council immediately followed suit.

A hundred kilometers south of Bern, many members of the now defunct Jean Dutoit Collective had now returned to the garden of the Sleep-in, rejoining new arrivals. The months of April and May saw old encampments re-form¹⁶², under torrential rains that made life conditions miserable and alarming from a health point of view.

The day following the vote on the reform of the Asylum Act, during a session of the National Council on Monday June 6th 2016, two members of the UDC challenged Simonetta Sommaruga about the situation of the Sleep-in in Renens. The minister, who had just asserted her legitimacy on this case with her victory of the previous day, answered that “it is the Canton of Vaud’s responsibility to carry out the expulsions of the illegal foreigners who have taken up residence in Renens”¹⁶³. Interviewed the following day, Philippe Leuba – the PLR Vaud State Councillor in charge of migration – said he was “‘happy’ to note that Simonetta Sommaruga has the same ‘interpretation of the law’ as him”¹⁶⁴.

In the following days, a wave of police checks and arrests took place around the garden. Rather than risk carrying out these checks directly on the premises, the police officers – most of the time in plain clothes – criss-crossed the surrounding streets and the public transport that led to the

¹⁵⁹ This hardening was mostly aimed at Eritrean refugees. Indeed, the new law, Article 3 para.3, indicates that “are not considered as refugees persons who, on the motive that they refuse to serve or deserted, are exposed to serious prejudice or rightly fear to be so.” The UN special report on the rights of migrants criticized this change of course in February 2017. Moreover, collusions between the Swiss State and the Eritrean State aiming to stem the flow of persons from the country are in cause.

URL: <https://www.admin.ch/opc/fr/classified-compilation/19995092/201610010000/142.31.pdf>

URL: <https://www.rts.ch/info/suisse/8396261-la-gestion-des-refugies-erythreens-par-la-suisse-critiquee-par-l-onu.html>

URL: <https://www.letemps.ch/suisse/2017/07/02/erythreens-suisse-craignent-durcissement-lasile>

¹⁶⁰ Art.8 para.3bis A lack of presence for 20 days entails the de facto renouncement to the rest of the procedure. A new request may be not be filed for another 3 years.

¹⁶¹ The appeal rolled out on April 4th 2016 by Yves Brutsch, Nils De Dardel and Christophe Tafelmacher mentions several other points on the hardening of this new reform of the Asylum Act.

URL: <https://www.solidarites.ch/common/fr/immigration-racisme/234-sauvegarde-droit-asile>

¹⁶² C. Banerjee-Din, « Les migrants sans abri de retour à la case Sleep-In », *24 heures*, 06.05.2016.

URL: <http://www.24heures.ch/vaud-regions/lausanne-region/migrants-abri-retour-case-sleepin/story/24733559>

¹⁶³ M. Togni, « Renvois : le “laxisme” vaudois agace la Berne fédérale », *Le Courrier*, 08.06.2016.

URL: https://www.lecourrier.ch/139784/renvois_le_laxisme_vaudois_agace_la_berne_federale

¹⁶⁴ L. Bourgeois, « Les migrants du Sleep In font gronder Berne », *24 heures*, 07.06.2016.

URL: <http://www.24heures.ch/vaud-regions/lausanne-region/migrants-sleep-in-gronder-berne/story/10582172>

neighbourhood, asking all black men to step off the bus so that they could proceed to ID checks. Concern spread quickly. Many collectives and associations of the region manifested their anger. A dozen town councillors from Renens and Lausanne asked both municipalities to stop applying these measures¹⁶⁵. To no avail.

In its June 22nd edition, the *Le Matin* newspaper reported on the official assessment of this raid: “Out of the 77 persons checked¹⁶⁶, 46 were able to walk away after the checks. Eighteen asylum seekers whose request had been rejected or who had disappeared from their official residence were accompanied back to their canton of attribution. Nine persons, sentenced for drug trafficking or for contravening the Foreign Nationals Act, were detained for sentences ranging from 18 to 425 days in prison. Four persons were placed in administrative detention awaiting expulsion.”¹⁶⁷

The administrative machine had done its work, reassigning each individual to a category, without questioning why they ended up in this place, nor the climate of terror these checks created, nor the repressive attitude of the authorities. Moreover, it is important to note that two thirds of the persons who were stopped were not “illegal foreigners”. Mrs Sommaruga and Mr Leuba had therefore not spoken or acted on the basis of solid information. Their opportunism stigmatized all the persons who had been stopped on false motives – and discriminated against because of the color of their skin – as well as all migrant persons.

This is the context in which some old African and Swiss members of the Collective met up again and decided to re-form Jean Dutoit. It was no longer quite the same group: some had left, some had arrived, as much among the Africans as among the Swiss. And among those who had stayed, all had been changed by the experience of the six months in the Heineken hall and the recent series of events.

From the moment the Collective re-formed, a certain number of rules and operating strategies were set up, whose necessity had been demonstrated by experience. The pressure of the circumstances contributed to rallying the resident members of Jean Dutoit: the repression of the authorities, the stigmatization linked to their skin color, the fact of having to live in large numbers in a house or a small building. All these constraints highlighted the difficulties and the salutary articulations to the communal life they were considering. This was the moment when it was decided to keep a list of the resident members which, subject to exceptions, would remain closed.

¹⁶⁵ See the news item by Michal Poeker, « Le bras de fer continue entre Lausanne et une centaine de migrants SDF », *RTS info*, 25.05.2016, and the article by the ATS, « Un collectif d’aide aux migrants SDF occupe une maison à Lausanne », *RTS info*, 27.06.2016.

URL: <https://www.rts.ch/info/regions/vaud/7746591-le-bras-de-fer-continue-entre-lausanne-et-une-centaine-de-migrants-sdf.html>
 URL: <https://www.rts.ch/info/regions/vaud/7839972-un-collectif-d-aide-aux-migrants-sdf-occupe-une-maison-a-lausanne.html>

¹⁶⁶ At the time, the resident members of the Collective quoted numbers of 120 to 150 persons. It is likely that the police forces did not keep an exact tally of the persons they let go.

¹⁶⁷ « Le canton intervient au Sleep-in de Renens », *Le Matin*, 22.06.2016.

URL: <http://www.lematin.ch/suisse/canton-intervient-sleepin-renens/story/27842833>

11.5. *Anger and lawyers in Chailly, constructive dialogue in Romanel*

During the month of June 2016, the reformed Collective occupied an empty house in Chailly, one of Lausanne's residential neighbourhoods. The house was a very large chalet belonging to private individuals. The latter immediately filed a complaint through their lawyer. The hearing took place on the premises...

One of the building's owners arrived extremely worked up, and began to take photos of the persons present with his smartphone, in order to be able to identify guilty parties at a later date. Apart from this incident, the hearing took place without any hitches; that is to say in this instance without any communication... We were treated to the owner's tour of the house, and made to promise to take care of the fireplaces, despite the fact that the building was slated to be torn down.

During the month of July, while waiting for the judge's decision to be announced, lively discussions took place within the Collective on another topic. What was this new Collective going to be? The Swiss members were afraid that the events of the Heineken hall would repeat themselves. Although the decision to keep a fixed number of resident members was adopted by a very large majority by the residents themselves, the issue of how to enforce it divided opinion. Day after day, night after night, many homeless persons came knocking on the door of the Chailly chalet. If they were allowed to enter, the life of the house risked deteriorating rapidly, given the precariousness of the situation.

During a separate meeting, several Swiss members decided to offer to maintain an on-call presence in the house, thus watching over the entrances. This proposition was accepted during a general meeting. However, tensions quickly arose. Firstly, because some of the interface members challenged the validity of these meetings held separately: they appeared as meetings between Whites, and therefore tended to reproduce the paternalistic, postcolonial dimension of the relationships between Swiss and African people. Secondly because the management of the entrances by the interface members contradicted the principle of self-management which the Collective as a whole wished for the house.

Several Swiss members left the Collective during this process. Nevertheless, they left a lasting impression on the future of the parties involved. Indeed, the guarding of the entrances was soon left up to the responsibility of the resident members. As for the separate meetings, they were off the agenda. In fact there were several situations unfolding in concert, each with discrepancies and misunderstandings, and personal tensions which individuated positions at certain moments, but also allowed for the circulation of ideas through affects that embodied their stakes. The resident members were now a fixed number, and this was a new element for them to get used to. Moreover, the relationships of trust between resident and interface members had grown, which would allow the Swiss members to circulate more easily and in a more personal manner among the resident members, this collective that made up the life of the house. During this time, the idea surfaced that the Swiss members inhabited a gap in which their specific dynamic resided: the interface. They were not residents, they did not make the decisions. But they participated in each discussion and the resident members counted on them to allow them to exercise their initiative and their judgment on

the basis of elements of local context which they brought back. Finally, if this arrangement could work, it was because all the members were getting to know each other, evaluating and respecting each other: in that way we could appreciate, within a network of information, what came under a margin of contextual interpretation and thus left room for a margin of response.

After a month in the Chailly house, the judge's ruling of July 26th 2016 ordered the Collective to leave the premises before August 2nd. On the eve of the departure – in a moment of irony – the members of Jean Dutoit watched from the balconies of the big chalet as fireworks erupted above the lake, marking the Swiss national holiday on the 1st of August.

Despite the Collective's letters, communication with the owners of the chalet was nonexistent from start to finish. The aggressive stance adopted by their lawyer reflected their refusal to enter into discussion. The building in question was slated to be torn down, but the Collective's entering into play only exacerbated the frustration of the owners, whose real estate venture¹⁶⁸ in the neighbourhood had met with oppositions that have not been lifted to this day. We can only regret that they preferred to operate through a lawyer, before even communicating their desires in their own words. In this situation, we may also notice that the immediate recourse to legal authorities reflects a form of privilege: the responsibility for the legal costs incurred by the ruling was given to the Collective; yet it goes without saying that these thousands of francs represent a small sum for the owners of this house, but a large one for a collective made up of precarized migrant persons. Should the Swiss institutions not prevent such biases, and should they not follow the principle of fairness, one of the fundamental principles of democracy and the rule of law? By leaving the Chailly house, the Collective left behind housing that has remained unoccupied to this day. Just like the old Heineken hall. It is clear that the motives that spur us to action are not the same whether we are owners or persons without a home, and they do not unfold over the same timeframe.

In the early hours of the morning on August 2nd 2016, the Collective left Chailly and moved a dozen kilometers away, occupying a disused building in the industrial estate of Romanel-sur-Lausanne. It was a big space, laid out on three levels, whose location offered certain advantages: close to the *Vernand-Camarès* stop on the LEB tram line, 20 minutes from the centre of Lausanne and close to supermarkets.

The disadvantages of this building were just as apparent: apart from a leak in the roof that was soon sealed up, there were only two toilets per floor and no kitchen space. By groups of 5-10 approximately, the members of Jean Dutoit settled into these spaces that had previously served as offices for an engineer consulting firm – Infralab – and several other small firms. To furnish the spaces, we received help from many individuals, but also associations, like the *Centre Social Protestant* and *Emmaüs* who brought us lots of mattresses. The concrete floors were covered with carpets; camping stoves soon popped up in the bedrooms and the tenants were soon coming and going to the toilet sinks to collect water in order to prepare food¹⁶⁹. In the meantime, the Collective contacted the firm who owned the building as soon as they arrived, and the latter agreed to enter into discussion.

¹⁶⁸ The project was to erect two small buildings in place of the large chalet.

¹⁶⁹ The resident members of the Collective often organize themselves to shop by room, cook each in turn, find the necessary ingredients in the city's shops and prepare these meals whose nutritional value they know and which make them feel at home. These moments of sharing deserved a footnote!

After many adverse experiences, we were surprised to come face to face with a man with no hidden agenda, in the person of a lawyer and member of the Infralab board of directors. He came several times to Romanel to meet the Collective and professed to be favorably impressed by our way of managing life in the house. Transformations being scheduled for the spring, it was agreed that the use of the building was to be left to the residents until April 30th 2017, at which date the Collective would have to leave. In the practice of occupation, this is the best scenario: a trust agreement valid until the effective beginning of the construction work.

In parallel, we asked three trustworthy persons whether they would be ready to sign this agreement in the name of the Collective. They accepted, after taking part in one of our general meetings on site. We are indebted to them for their generosity and their integrity. Indeed, all three being members of political parties (*Ensemble à gauche*, the Green Party and the Socialist Party), these persons – acting on their own initiative – accepted to think with us in pragmatic terms and quickly understood that the value of their engagement was not only represented by their signature, but also by the manner in which the Collective was committing itself to their trust at the same time as the owner's. The entering into play of these three signatories was also planned as a way of not exposing the interface members, in order to spare their energy in favor of the house and the relationships they were keeping up with the people, neighbours, authorities, police and media. Moreover, the three signatories enjoyed a stable mooring on the public stage that seemed likely to discourage some attacks.

By the intercession of its representative, the Infralab firm asked for a sum of 10'000 CHF to be guaranteed in the event that the Collective did not respect the terms of the agreement. The Collective and the three signatories accepted this condition. Of this sum, half was drummed up within the Collective itself and placed in a bank account. As for the other half, we launched an appeal to the persons likely to help – among others, those who had lent a hand at the end of the Heineken hall occupancy – by asking them for a pledge. Through this approach, the Collective was able to constitute a reserve for the remaining 5'000 CHF. Thankfully, the agreement was upheld completely during the Collective's entire stay and until the fixed term.

11.6. *Nine months in the Romanel house*

These negotiations took place from August to September, and the agreement was finally signed in October. From this point, reassured that they would not have to fear an expulsion procedure, the members of the Collective could finally enjoy what can be termed a respite, after months of existence on high alert. For the resident members, the Romanel house became a safe place where they could rest and sleep without having to worry about police interventions, where they could build a slice of home and participate in the life of a community in the making.

From August 2016 to March 2017, the Collective was made up of a hundred-odd migrant persons and four local persons. Other allies came when they could, to give punctual assistance; theirs was always a welcome presence, a reminder that the life of the Collective extended beyond Romanel, through time and space.

Each Wednesday, we met to debate – in English, sometimes with translations to Mandinka and French – over practical questions of collaboration, to share experiences and problems with institutions and the police forces, to exchange information and advice. Self-management is a difficult exercise: each must learn to relinquish some control over the manner in which discussions play out, but also to hold their ground and respect the open space of the dialogue. Each week we were between 40 and 90 persons in this large ground floor room, speaking and letting others speak, listening to each other and perfecting our arguments, in a kind of miniature parliament with its deliberations and effervescences; but a parliament whose members live together and share the same adversity. Sometimes it was necessary to put things in check, which could take the shape of a long speech, a diatribe, a moral invective, or a reminder that many of us have children “and should know better”; sometimes bellows of laughter, moments of tenderness; and the weight we all felt from a situation that seemed like a dead end. But there was a roof, and people beneath it, and so we continued.

The interface members made sure not to take a leadership or abstract stance. As the months went by, they were there, persons among others and defending their own vision. They sometimes acted as safeguards when situations became tense, thanks to their position as non-residents. Moreover, through their knowledge of the country and the language, they tried to make contextual elements manifest and relay information and perceptions. As for the resident members, they were careful not to invoke their cultural and religious differences during debates, and avoided some topics on which (as it became clear after a few attempts) they would not easily find common ground. On the other hand, when the topics touched upon life in the house and the future of the Collective, a quality of attention appeared as a value, a practice and a sensitivity that was produced collectively. Malians, Senegalese, Gambians, Nigerians, Swiss, Christians, Muslims, atheists: the respect for each in their singularity, horizons and projects, their capacities, joys and sadnesses, their rants and their fatigue, allowed us to collaborate and live together during these 10 months.

A large room on the ground floor was transformed into a gym, while French lessons took place every Thursday on the first floor, thanks to the generosity of three volunteer teachers. Through a now effective collection system, we could begin the necessary work, buy or rent equipment and pay our water and electricity bills as they arrive. One of our close neighbours, a publishing house called

La Maison de la Bible, invited us to several apéros, especially on the occasion of Christian holidays. Cashiers working at the neighbouring supermarkets such as Lidl, Denner and Migros, also got to know us, albeit at a respectable distance. Any time one of our neighbours brought a problem to our attention, we discussed it during our general meeting and found a solution. Stemming from all these activities, the entrance hall of the house was decorated little by little with security reminders and indications as to the house decisions, as well as information concerning outside events.

Indeed, the life of the Collective was also cadenced by public life. At the end of August 2016, we learned of the arrest of two migrant persons sheltered by the *Collectif R*, as they were taking the metro to return to the shelter after an event organized to protest against Dublin expulsions¹⁷⁰. Some of us took part in the protest on September 3rd demanding their release. Fifteen days later, we read news in the local press of raids carried out by the police at the homes of three sponsors of the *Collectif R*, who were hosting migrant persons¹⁷¹. We took part in large numbers in the October 1st 2016 protest in Lausanne demanding the right to asylum, shoulder to shoulder with persons who had come from all four corners of Switzerland¹⁷².

A short while later, we heard about the suicide of one of the old members of the Collective, in a prison of the State of Vaud. His name was Chizoba Joseph Otutubuikem. He was from South-West Nigeria and was 34 years old. His death greatly affected the Jean Dutoit residents, as well as many other persons in the region, Swiss or non-Swiss, who had become friends with him during his stay in Switzerland.

In the beginning of November, we read in the press about the unjustified arrest and the treatment endured by a Swiss man of Cape Verdean origin, who was out jogging in Lausanne and whom the police “mistook” for a drug dealer.

In the same month, news reached us of the death in Bex of Hervé Mandundu, a man of Congolese origin having grown up in Switzerland, following three shots fired by a police officer in unclear circumstances¹⁷³. Some of us took part in the protest that followed on November 19th, organized by black persons of Western Switzerland and led by the *À qui le tour?* collective¹⁷⁴.

Then, at the end of November, it was the presidential election in the Gambia that held our attention: on December 1st, Yahya Jammeh, the autocratic president who had been in power for 22 years, was not re-elected, and the house celebrated the news. When he conceded defeat at the end

¹⁷⁰ M. Togni, « Deux habitants du Refuge Mon-Gré arrêtés », *Le Courrier*, 30.08.2016.

URL: https://www.lecourrier.ch/141917/deux_habitants_du_refuge_mon_gre_arretes

¹⁷¹ See the press release by the Collectif R on September 16th 2016, the article published in *Le Courrier* recounting the raid at the home of Matthieu Gafsou shortly thereafter, as well as the article published in *Le Temps* about the raid carried out at the home of Manuel Donzé, PDC councillor, on February 14th 2017. In each situation, the persons were “Dublin cases”.

URL: <https://asile.ch/2016/09/16/communiqué-collectif-r-perquisitions-mesures-de-contraintes/>

URL: https://www.lecourrier.ch/142980/encore_un_parrain_perquisitionne

URL: <https://www.letemps.ch/suisse/2017/02/14/une-perquisition-chez-un-depute-vaudois-suscite-controverse>

¹⁷² « Lausanne : Manifestation contre les renvois Dublin », *24 heures*, 01.10.2016.

URL: <http://www.24heures.ch/suisse/suisse-romande/Lausanne-Manifestation-contre-les-renvois-Dublin/story/31468108>

¹⁷³ ATS, « Un homme tué par un tir de la police à Bex », *Le Temps*, 07.11.2016, and David Genillard, « Fusillade : La mère du Congolais abattu à Bex par un policier témoigne », *La Tribune de Genève*, 11.11.2016.

URL: <https://www.letemps.ch/suisse/2016/11/07/un-homme-tue-un-tir-police-bex>

URL: <http://www.tdg.ch/suisse/La-mere-du-Congolais-abattu-a-Bex-par-un-policier-temoigne/story/29474041>

¹⁷⁴ Sylvia Revello, « Les policiers suisses ciblent-ils les Noirs ? », *Le Temps*, 06.12.2016.

URL: <https://www.letemps.ch/suisse/2016/12/06/policiers-suisses-ciblent-ils-noirs>

of January and accepted to leave the country, some members of the Collective began to speak of returning home...

During these ten months, week after week, some of our members were arrested and imprisoned, and each day we had to face prevailing animosity and discriminating, racist and xenophobic connotations. Having a place at our disposal where we could meet in mutual trust was, in these circumstances, an extremely precious thing. During this time, the Swiss members of the Collective were able to realize to what extent the injustices committed against migrant persons are underestimated; to what extent the sufferings these persons have endured, and continue to endure because of their skin color and legal status, are glossed over or silenced. Time is needed so as to free up and make heard the voice of those whom society has accustomed to feel excluded from speech and from the law. This time can only be given and does not enter into any agenda; it is a time when one must be available and remain without expectations.

This also means being there in cases of emergency. We would like to illustrate this by giving the example of one of the resident members, a Nigerian man in his thirties, who underwent decompensation episodes twice within the walls of the house, paired with alcohol abuse¹⁷⁵. It was necessary to accompany him to the emergency room ("PMU") for a psychiatric evaluation, at which point he was transferred to Yverdon hospital. However, this assistance did not solve the problem, since he was released one week later, precarized once more and without a psychiatric follow-up. It was the solidarity of the resident members, the care for one another, the relationships of trust and friendship that allowed us to support him and raise the alarm in time.

Another difficulty consisted in having to refuse entry every single day to persons who were not members of the Collective, as was necessary in the previous houses. The list of resident members is closed: this principle was reaffirmed many times during meetings. When persons came knocking, the member who opened the door took their name and phone number and wrote their details down on a second list. At the beginning, we did not know whether we would be able to give this "waiting list" – which held more than a hundred names – a reason for being. But during the winter of 2016-2017, the residents realized that a number of them had left the Collective to try their luck elsewhere. After discussion, the Collective proceeded to let new persons in, in groups of about thirty people at a time. The long-standing members taught the house's operating rules to the new arrivals, which gave rise to temporary tensions and new dynamics. But what needs to be highlighted above all is that the Collective was unable to take in all the persons on the waiting list: what became of them?

When it is possible to stay somewhere, in a place that becomes a home, time goes by differently, its story is told otherwise. The winter months held some surprises, with temperatures falling below -10°C, against which we had to insulate the basement pipes in a hurry. For the interface members, there were 4am phone calls, because police officers had been spotted and the resident members feared an intervention. One of these episodes happened in February 2017, when one night, fearing for a sick companion, the residents called an ambulance. But when they exited the house carrying their sick friend in their arms, the ambulance drivers took fright and drove off. This was not only because they saw four black men in an industrial estate; it was also because in opening the door of the house, the handle came off in the hand of one of the men... a handle which the ambulance

¹⁷⁵ S. Dupont recounts in her article dated 22.06.2017 for *Le Courrier* the similar health conditions of a Nigerian man sent back to his country on a special flight despite his "serious post-traumatic stress syndrome and an elevated suicide risk".

URL: https://www.lecourrier.ch/150442/requerant_d_asile_nigerian_renvoye

drivers, standing a few meters away, mistook for a handgun! They called the police, and several police cars arrived a few minutes later, creating great unrest within the Collective. Tensions ran high until the residents are heard out and the misunderstanding was cleared up. The ambulance returned and the police officers left the premises.

Often, the debates during meetings gave us the impression that we were going nowhere... this was also because the preoccupations concerning the use of a place by its inhabitants could seem derisory compared with political discussions, but it would have been wrong to think so. In fact, it was essential to be able to have freeflowing discussions concerning, for example, the use of the toilets or the respect that was due to each user. Through these exchanges on the subject of the common good, an entire process was begun. Concerning the toilets – six in total – they were thankfully all equipped with faucets; but six in total meant that these bathrooms were made to fulfill different functions: arrangements had to be made between those who used the toilets, those who used the faucets to collect water for cooking and those who needed the sinks to wash before prayer, thus respecting the others in their needs, their habits and their beliefs.

II.7. *Summer 2017: move to the Chemin des Sauges in Lausanne*

In the month of April 2017, as the arranged date for the end of Jean Dutoit's stay in the Infralab building approached, we asked their representatives what the status of the building was and whether an extension might be possible. Seeing as the date of the construction work had been pushed back, we received a positive answer and, thanks to an amendment to the agreement, Infralab prolonged our authorization of stay until the following June 15th. During this time, new ideas would emerge, while the Collective began to look for its new house. The impending change produced worry and sadness, which we tried to transform into a desire to move onwards.

During the spring, two local persons joined Jean Dutoit, bringing their energy and their grain of salt to the debates and actions we undertook. Football practice now took place twice a week on public fields; one of the objectives was to eventually establish a team which could engage in friendly matches with teams from the region. Another idea began to germinate, that of setting up a cooperative: among the members of Jean Dutoit, there were clothesmakers, woodworkers, barbers and persons of other trades whose countries' know-how has no counterpart in Switzerland; they might be able to find opportunities on the local market. The promotion of this know-how could enable these persons to be acknowledged and paid for their work. The feasibility of the project still had to be evaluated from a legal point of view, but the idea itself testified to unfurling possibilities... In these precarious circumstances, it was difficult to conjugate in the future tense, seeing how easily the flow of life could be interrupted.

During its stay in Romanel, the Collective welcomed several journalists, as well as students from the universities of Geneva, Neuchâtel and Lausanne who expressed their support and their desire to understand. The question of our future and our perspectives never ceased to crop up through them: What to do? How to do it? What to say? Whom to ask? University members? The political world? The population? Which one? The press? Through a phenomenon of habituation in a world saturated with information, the Jean Dutoit Collective, no longer making waves because of its moves or its alerts, had little by little disappeared from the attention span of local society. At first, this respite was welcome. But then the questions returned: what to do, how to do it, what to say, whom to ask?

These questions hung in the air. In May, we learned of the death of a friend who was also a member of Jean Dutoit in the past. His name was Timba Joseph Mbote. He died following a fight in the galerie Saint-François, in Lausanne city center. Many members of the Collective and people who had known him came to say their goodbyes at the foot of the steps that mark the entrance to the gallery. A portrait of him, flowers, candles, and words in his memory and the memory of all those who have lost their lives in this city of Lausanne. They would remain etched in our memories, as well as the dawning realization that we had begun to count our dead.

The Collective started organizing its move. Let it be said in passing that it is not easy to find an unoccupied building that can house a group of about a hundred people... There are many empty houses in the Lausanne region, but the Collective must take several imperatives into account: size, access to electricity and running water, neighbourhood and transport links, among others. Moreover, the Municipality of Lausanne implied to us during a casual meeting that the occupation of a building belonging to the City would be immediately followed by a lawsuit. Several working groups

then formed, and tasks were distributed. A first possible house was identified at the end of May, but we would eventually discover that it did not offer the required conditions. Luckily, we found another space, and after much preparation we left on the afternoon of Sunday June 11th to set up camp in a small building situated in Lausanne's *Blécherette* neighbourhood. The four following days would be very full: we spent our time organizing life in the new house and, in parallel, emptying the old one of all that we had brought into it, respecting the terms of the agreement. As during each move, the help of friends and allies was of great succor. Finally, on June 16th, following an inventory with the Infralab representative, the planned construction work could begin and the Jean Dutoit Collective could turn its sights towards its new city dwelling with a sigh of relief.

The Collective had hardly settled in when the announcement of the death of a friend rocked everyone's foundations. His name was Lamine Fatty. The only boy of four siblings who was still alive – his older brother had died in Libya – he worked hard to send money to his mother and his sisters, who had remained in the Gambia. After passing through Italy in March 2017 to renew his documents, he had made his way to Germany to visit friends, then passed through Switzerland on his way back to Milan. But during this second journey, he lost his wallet and with it, all the money that was going to allow him to retrieve his documents (880 Euros) from the Questura. In Milan, he began to feel unwell and lost consciousness. Friends who were with him in this moment witnessed the wave of panic that hit him when he realized he had misplaced all his money. We need look no further as to the cause of his heart attack. When the ambulance arrived at the scene, Lamine's heart had already stopped.

Questions came back. For the Jean Dutoit Collective, it was the realization that we had begun to count our dead and its immediate pushback: the refusal to count, the refusal to open another series of those macabre numbers we saw every day on the news and each month in the reports on the "migration crisis". What could we do with these interruptions in meaning? How could we manifest all the feelings that arose from these injustices?

A few months earlier, after inviting Oscar Tosato – a Lausanne town councillor in charge of sports and social cohesion – for an informal discussion in Romanel, the Collective had decided to write a new letter to the political world and the press. Yes, that far-away world, the "political world". But a letter...? A letter like the others we had already written, to say things we had already said, to people who had responded little or not at all to the previous ones? Let us rather write a report, which no-one might read the whole way through. But perhaps they would read the summary... perhaps they would read the recommendations... We would write no less, think no less, and week after week of going over the past and the future together, we could create meaning, there in the midst of our unfinished business. We could send this report to institutions, associations, to Amnesty International, to the UN, to the Human Rights Committee, so that the situations endured by the members of Jean Dutoit may be ignored no longer. In case things went downhill, it would be a form of insurance that at least this had not happened without witnesses.

The writing team began work at the end of June, and at the moment these last lines are being written, in mid-November of 2017, the Jean Dutoit Collective is still living in the same house. For a time, questions gave way to answers¹⁷⁶.

¹⁷⁶ Note of the second edition (August 2018): At the moment of the second edition of this Report, the Jean Dutoit Collective is still living at *Chemin des Sauges 30*. But not for much longer. After a year of silence, the owner of the building has contacted the Collective to propose an agreement. This agreement commits the Collective to leave the building on September 30th 2018, barely 3 months after the signature of the agreement

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The Jean Dutoit Collective resides at the *Chemin des Sauges 30*, in Lausanne, at the end of a small road that winds its way through this residential neighbourhood. In contrast to the Infralab building, this is an apartment building. Opinions were quick to be voiced, and it seemed that a part of the authorities and public opinion can tolerate “migrants” sleeping in industrial buildings, but were reticent to the idea that they might be living in decent conditions. As it happens, the fifteen small apartments that make up the building each have a kitchen and bathroom space. Although – as we have worked out – the resident members dispose of only 3 square meters of personal space each, this relative normalization of living conditions represents a step in the right direction.

Moreover, the building is surrounded by other apartment buildings, and life in a dense neighbourhood also changes the way the Collective relates to its living space. On the day we arrived, we distributed a message of information in the surrounding mailboxes. Two weeks later, we organized an *apéro* for our neighbours, to get to know each other. Several people came by to say hello, exchange a few words and have a drink. What’s more, as of the first day, certain neighbours contacted the Collective via email or via Facebook to share their grievances or their support. A process of mutual socialization.

As soon as it arrived on the premises in June 2017, the Collective wrote to the owner of the building. A new letter was sent in August. Both attempts at communication remained unanswered. To our knowledge – information shared by a member of the Lausanne police who used to keep in touch with the Collective on a casual basis – a new construction project was being envisaged. Incidentally, a complaint had allegedly been filed against the Collective, currently on hold depending on whether this project could be realized or not. For Jean Dutoit, as the month of August rolled around, the thought of winter came knocking. Would it be possible to stay at the *Chemin des Sauges* until the spring?

The months went by. Between August and September, the Collective contributed to the repatriation of Timba’s body to his family in Nigeria. The resident members pooled together some money to help the small group of friends who were overseeing the formalities and who had to face the slow, procedural and insensitive Swiss system. Timba’s body spent the whole summer in a cold chamber in Switzerland, far from his family who were waiting to bury him.

In mid-October, a member of the *Collectif R* asked Jean Dutoit to participate in a protest organized by a group from Tessin, as a show of support for the socialist deputy Lisa Bosia Mirra, who had just been sentenced to 80 days of imprisonment convertible to a fine by the Tessin legal system, for having helped migrant persons including four minors of African origin¹⁷⁷. Jean Dutoit decided to join this action when it passed through Lausanne. The date was set for November 17th 2017. Members of the Collective had also observed an increase in border checks during the last few months as well as an increased criminalization of persons who showed solidarity with the cause.

(in July). For the owner, this is a way of evicting people under the guise of correctness. As for Jean Dutoit, it is a way to buy some time, in light of the alternative presented by the owner: the filing of a civil complaint that would lead to the expulsion of the Collective within a month.

¹⁷⁷ ATS, « Le Tessin condamne Lisa Bosia Mirra », *Le Courrier*, 13.04.2017. See also the case file prepared by the *asile.ch* platform on this topic, « Délit de solidarité | Procès de Lisa Bosia Mirra », 21.09.2017.

URL: https://www.lecourrier.ch/148624/le_tessin_condamne_lisa_bosia_mirra

URL: <https://asile.ch/2017/09/21/tessin-proces-de-lisa-bosia-mirra/>

Tuesday, October 24th. In the evening, the website of the *24 heures* reported on the death in Lausanne of a young man named Lamine, originally from the Gambia. He was found that morning in the cell where he had been detained since the previous day, in the prison premises of the Vaudois cantonal police, at the Blécherette headquarters. The title of the print article, “Mysterious death of a young Gambian in his cell at the Blécherette”¹⁷⁸, was placed in the miscellaneous news section (“faits divers”), thereby marking his death as a non-event. Because his full name had not yet been released, everybody is worried: “Lamine” could very well be a member of Jean Dutoit. By reading the news of his death, we all thought of persons we knew and who corresponded to the description sketched out in the *24 heures* article.

From meetings to phone calls, press articles to police declarations, we learn that Lamine Fatty – the same name as the old member of Jean Dutoit whose death had reached us several months earlier – was wrongfully arrested on Sunday evening by the border police at the Lausanne train station: they mistook him for yet another Gambian of the same name, signaled by the authorities of the Canton of Luzern and who, under the Dublin regulations, was to be sent back to Italy. As for the young man they arrested, he was registered with the EVAM and suffered from epilepsy. “After his arrest, Lamine F. spent the night at the CHUV’s emergency room following loss of consciousness. According to our information, he had undergone a surgical intervention at the end of September in the same establishment. A scar was visible on his head. Epilepsy medication was found in his room at the asylum seekers’ shelter in Écublens (VD)”¹⁷⁹. How is it possible that, despite the surveillance camera in his cell, the police did not intervene to prevent his death? That they only realized he was dead late that morning, at 11am? How is it possible that, although he had on his person the card that showed he was registered in the Canton of Vaud’s emergency aid system, that no phone call was made to the Population Office, which was aware of Lamine’s health situation and could have intervened?

The following day, the Collective held a meeting, and the next day it met with other Collectives and political groups¹⁸⁰, in order to find out missing information and to organize a march in Lamine’s memory which took place on Wednesday November 1st 2017. The persons present that evening had come to denounce “grave negligence” and to demand answers from the authorities. These “mistakes” appeared as consequences of the discriminations to which Lamine fell victim: did the officers consider him as a man whose life was dispensable, because he was black? Did the officers reduce him to a person who ought to be sent back to his country, because he was African? The border patrol identified a name in a database and decided it was “him”, put him in jail without looking at him, without listening to him. Lamine died, alone and without rights, in a Lausanne prison cell. Following the march on November 1st, an increase in police violence towards migrant black persons of the region was reported by many sources. Through these reprisals, the police was marking its territory and implementing a climate of fear.

¹⁷⁸ L. Antonoff, « Faits Divers : Mort mystérieuse d’un jeune Gambien dans sa cellule à la Blécherette », *24 heures*, 24.10.2017. URL: <https://mobile2.24heures.ch/articles/59efa538ab5c371f00000001>

¹⁷⁹ Camille Krafft, « Lausanne : Ils interpellent le mauvais requérant gambien. Ce dernier meurt en cellule », *Le Matin Dimanche*, 28.10.2017. URL: <https://www.lematin.ch/navlematindimanche/ouvert/ils-interpellent-le-mauvais-Gambien-Ce-dernier-meurt-en-cellule/story/22210231>

¹⁸⁰ Many persons, groups, associations and collectives gathered together following the death of Lamine to organize the November 1st march in his memory and to denounce racism, dehumanization and indifference: the *Collectif Afro-Swiss*, the *Collectif R*, the *Collectif Droit de rester pour toute-s*, the *Amar*, the *Allianz Gegen Racial Profiling*, the *Collectif Faites des Vagues*, the *Sleep-in* and *Solidarités Vaud*. Many others joined the march on the day.

11.8. *Conclusion:* *for a cooperative and inclusive housing model*

Between 2015 and 2017, the Jean Dutoit Collective fought for the respect of the dignity and the fundamental rights of its constitutive members, black African migrant persons who had been dehumanized by the asylum system and the migration policies that instrumentalize it. Not only is asylum granted to a very small number of people according to budgetary priorities rather than in recognition of the value of human life and dignity, but the resulting system leads to the stigmatization of these persons and their exclusion from all rights.

Placing migrant persons between four walls in centers, camps, prisons etc and thus isolating them from society is a negation of the human need to foster relationships, to feel and to understand. This concentration-like system rests only on the resilience of these persons, that is to say their ability to internalize their freedom so as not to be destroyed by the system. When this ability runs out, they die.

Placing migrant persons behind walls, in outlying areas or outside cities prevents any encounter between them and the local population, for whom it becomes no longer possible to feel nor to understand their plight. This is the other facet of the current system of segregation. It is a serious situation: by validating this policy of the administrative management of lives, the citizen population of Switzerland is locking itself into incomprehension and indolence.

On the contrary, inventing new forms of cooperative living in towns and villages creates a common ground, fosters intelligence and sensitivity, and forges relationships.

The question we are asking is a larger one, and concerns the political project of Swiss society faced with the many discriminations of which it has become the matrix. It is no longer enough to respond to the situation of homeless persons by opening a space, with a view to a strictly technical resolution of the “problem”. This roof must have certain qualities, must be inhabited by stakes, must be the locus of a production of meaning, and not a simple technical answer to external pressures. Human rights must constitute the basis of any social project.

Within the Collective, the principles of self-management have allowed the self-determination of each to come to the fore. The horizontal nature of decision-making within the Collective asks from each of its members that they take responsibility for their words, their actions and their choices, and allows them to appreciate the consequences individually and collectively. For such an organization to work, it is necessary for the persons to constantly commit to and re-actualize the understanding they have of themselves, according to their environment and its changes. It is necessary for something to be at stake. The existence of the house is such a thing.

When faced with questions such as housing, sourcing water and electricity, managing waste, accidents and illnesses that call for external intervention, the habits and conventions of each in matters of neighbourly behavior, etc, the members of Jean Dutoit – both resident and interface – have cobbled together from their life in Lausanne a practical knowledge of the field.

Through its financial independence, its internal organization and its links with the different milieux of the local civil and political society, the Collective has, far from forming an enclave, constituted an effort of social and inclusive cooperation. Instead of talking about the integration of foreigners on a national scale, we speak of a mutual and reciprocal integration of human beings in their social future. The resident members of Jean Dutoit can live in exchange and diversity and be perceived as humans in day to day life. And all the persons who surround them and live with them, among them and close to them, can do so too.

THIRD PART

Discrimination and repression: Testimonies and analyses

III.1. *Through the prism of exclusion*

It is difficult to speak of racism in the country of consensus¹⁸¹. The historical conditions of racism in Switzerland¹⁸² – especially of anti-black racism – are such that its denial is frequent: having only indirectly participated in the European colonization of Africa via its insurance companies and its businesses, Switzerland has never felt very concerned by the issue. To such an extent that it has become pertinent to speak of “colonialism without a colony”, according to the historian Patricia Putschert¹⁸³, as well as a *racism without races*, as proposed by Noémi Michel, a researcher in political theory at the University of Geneva: “a regime within which it is taboo to reference racial categories verbally and in a direct manner”¹⁸⁴. Such a regime creates many obstacles for the denouncement of racism, while conversely facilitating its recurrence.

For all that, racism is not ignored. The greater part of the resident population of Switzerland – 66% according to the 2016 survey *Vivre ensemble en Suisse* (“Living together in Switzerland”)¹⁸⁵ – feels that it constitutes an “important social problem”. However, its phenomena are so profoundly enveloped in modes of socialization and mentalities that there remains, in spite of this acknowledgment in principle, a resistance towards the denouncement of real situations, for example when institutions are involved. This is a problem that the Jean Dutoit Collective – among others – runs into when it denounces instances of racial discrimination, racial profiling, abuses of power,

¹⁸¹ The analysis of this consensus by Jean Ziegler in his book *Une Suisse au-dessus de tout soupçon* is still topical, for example when he concludes that “the practical conditions of its articulation render its denouncement almost impossible”. In this book published in 1975, the sociologist highlights the “standardized pluralism” of Swiss society, which he designates as a “unanimous pseudo-egalitarian society” (Seuil, Paris, 2016, p. 115).

¹⁸² For an introduction to the work of historians in this field, read the article by Nic Ulmi in *Le Temps*, « La Suisse, un pays colonial sans colonies » published on July 15th 2015.

URL: <https://www.letemps.ch/culture/2015/07/25/suisse-un-pays-colonial-colonies>

¹⁸³ On the subject of Switzerland’s implication in the colonial enterprise and the transatlantic slave trade, see the works of P. Putschert and H. Fischer-Tiné, *Colonial Switzerland*, Palgrave Macmillan, 2015, as well as David, Etemad and Schaufelbuehl, *La Suisse et l’esclavage des Noirs*, éd. Antipodes et SHSR, Lausanne, 2005.

¹⁸⁴ Interview with Victor Santos Rodriguez published on September 27th 2017 on the *Jet d’encre* website.

URL: <http://www.jetdencre.ch/avec-noemi-michel>

¹⁸⁵ OFS, *Intégration et racisme, Evaluation du fonctionnement et des problèmes en 2016*.

URL: <https://www.bfs.admin.ch/bfs/fr/home/statistiques/population/migration-integration.assetdetail.2345325.html>

gross negligence and police brutality towards black African persons to the authorities and the media. This is compounded by the fact that the members of Jean Dutoit do not suffer only from racial discrimination: in addition to anti-black racism there exists anti-immigrant xenophobia, as well as social discrimination against precarized people. This overlap of registers of discrimination within Swiss society renders their suffering invisible and, as we will show in this third part, destroys their rights and puts their lives at risk.

In this first chapter, we are going to go over these different registers of exclusion, by attempting to tease out the ways in which they are linked. After that, we will discuss in particular their destructive overlap within the figure of the “drug dealer”, identified with a person who is male, poor, foreign, from a migrant background and of African origin. In the consecutive chapters, we will call into question the causes underlying the Swiss legal system’s current incapacity to treat situations involving discrimination, abuses of power and acts of violence committed by public officers. Racial profiling, xenophobic acts of violence, abuses, conditions of detention: we will bring testimonies and analyses to the table and offer some potential solutions.

The first step consists in acknowledging, the second in solving, by finding ways of fighting against discrimination and impunity. Nevertheless, as explained by Malcolm X, that cannot be sufficient. The final aim should be healing: “If you stick a knife in my back nine inches and pull it out six inches, that’s not progress. If you pull it all the way out, that’s not progress. The progress comes from healing the wound that the blow made.”¹⁸⁶

To put it in synthetic terms: the aim for Switzerland, its institutions and its inhabitants, should be to attempt to construct a society on bases such that no form of discrimination would be possible any longer¹⁸⁷.

Anti-black racism

Mandated by the Confederation’s *Service de lutte contre le racisme* (SLR, Service for Combating Racism), a study was published in October 2017 by the Swiss Forum for Migration and Population Studies of the University of Neuchâtel (SFM) which sheds light on this type of racism¹⁸⁸. Titled *État des lieux du racisme anti-Noir-e en Suisse (Assessment of anti-black racism in Switzerland)*, its authors conclude that anti-black racism (shortened to “ABR”) can be found in “most of the people surveyed [...] from very different social backgrounds, spanning the entire professional, even political, spectrum”¹⁸⁹.

The study concludes that one of the specificities of ABR pertains to the hypervisibility of black people – revealing the insistence of gazes directed at them – and their ensuing feeling of not being able to go unnoticed in Swiss society. This is not only down to the fact that the resident population of Switzerland is mostly white, but also that the presence of black people, which is relatively recent

¹⁸⁶ Theresa Perry (editor), *Teaching Malcolm X*, Routledge, 1996.

Video extract of this speech at the following URL: <https://www.youtube.com/watch?v=XiSiHRNQiQo>

¹⁸⁷ We take inspiration from a proposition by the philosopher Slavoj Žižek in his commentary on a book by Oscar Wilde, in a video by the RSA titled *First as Tragedy, Then as Farce* (2010).

URL: <https://www.youtube.com/watch?v=hpAMbpQ8J7g>

¹⁸⁸ Denise Efionayi-Mäder and Didier Ruedin, with the contribution of Mélanie-Evely Pétrémont, Noémi Michel and Rohit Jain, *État des lieux du racisme anti-Noir-e en Suisse. Etude exploratoire à l’attention du Service de lutte contre le racisme (SLR)*, SFM, Université de Neuchâtel, October 2017.

URL: <http://www.unine.ch/sfm/fr/home.html>

¹⁸⁹ *ibid.*, p. 18.

and linked to migration, is perceived as a foreign, non-Swiss element, through the filter of conscious and unconscious prejudices¹⁹⁰.

We have made the same observations. In Lausanne, a city which is still one of the most multicultural and multiethnic of Switzerland, the members of Jean Dutoit have the feeling that they are being watched and immediately correlated to “foreigners”, which removes the possibility for them of mixing with this population of persons-who-consider-themselves-as-Swiss-and-are-therefore-white. This is a reality of which any person can become aware, for example by listening in to conversations on the bus: when a white Swiss person wants to describe a black person, whether they are Swiss or no, they will mention color (in French, both “noir” or the English “black”¹⁹¹) as a preeminent distinctive feature, which they would not have done to describe a white person.

This hypervisibility is also a kind of hyper-exposition: black people are exposed to more looks, more threats, more denigrating or hurtful words, whether they are pronounced with an intent to hurt or not. In this respect it might be useful to remind ourselves that “racist” is not a natural determination for an individual or a population (nobody is born racist), but stems rather from cultural, psychosocial and political dispositions, which are impossible to understand without reference to their historical developments.

The consequences of colonialism and slavery clearly extend to Switzerland, marking the daily perceptions but also the unconscious representations that the Swiss population has of black people in this day and age. Let us briefly mention the most widespread of these racist representations and prejudices that black people are associated with: criminal activities (drug dealing, gangs, trafficking etc.); abnormal strength and/or brutality; strong bodily odor; animals (simians); and sexually-connoted exoticism. These elements, which all derive from cultural constructions, are highlighted in the racist insults that are leveled at black people, as well as the behaviors aiming to keep them at bay.

As the SFM study picks up on, bodily hypervisibility is accompanied by a social invisibility and a denial of equality that count among the forms that their exclusion can take: “More than other minorities, black people are boiled down to a demeaning difference that places them at the bottom of the human status scale, that is to say at the limit of humankind.”¹⁹² Under these conditions, discriminations committed against black people are not perceived with the same degree of seriousness as those committed against white people: we will tolerate them more, confer upon them the validity of the norm, grudgingly treat cases of denouncement, refuse to recognize black people’s suffering, refuse to believe people who testify, turn the accusation against them by accusing them of anti-white racism, etc.

These discriminations occur in the field of education, in institutions, in services, in public spaces and in the workforce. As stated in a report by the SFM titled *Mesures de lutte contre les discriminations à l’embauche* (*Measures taken to combat discrimination in the hiring process*),

¹⁹⁰ It is important to clarify that, contrary to many people’s idea of it, racism does not only exist where there is an *intention* to harm, occurring most often in a “passive” and unconscious manner through the reproduction of social behaviors.

¹⁹¹ The use of English could confirm that many Swiss people see black people as coming from another world; in that we can also recognize the influence of American culture. The use of the English “black” constitutes a distancing that is also considered as an attenuation of the racial phenotype, transposed onto a cultural level (American films, series and music).

¹⁹² *Etat des lieux du racisme anti-Noir-e en Suisse, op. cit., p. 19.*

“nowadays, discrimination targets defined groups in an “ethnicizing” manner: it is therefore destined to continue in spite of the permanent settling of these groups in the country; it shows itself through, among other things, obstacles in the hiring process”¹⁹³. The report *État des lieux du racisme anti-Noir-e* confirms this analysis and mentions “the influence of stubborn stereotypes, stemming from colonial history, which can become particularly prejudicial in the professional field: nonchalance and even laziness, limited intelligence and impulsiveness.”¹⁹⁴

In order to describe this phenomenon, the sociologist Michel Wieviorka speaks of a *racism of subordination*, “which facilitates the exploitation [of the immigrant workforce] and often contains a dimension of colonial-type contempt.”¹⁹⁵ Indeed, this kind of racism is founded on a relationship of domination, in which the dominant person will voluntarily despise the reality of the dominated person, by glossing over it. The philosopher Achille Mbembe speaks of the *will to ignorance* of the colonizer: “The fact that one knows next to nothing and that it does not occur to one to learn, can be explained by the conviction according to which, in one’s relationships with African people, strength will always compensate for the absence of truth and the vacuity of the law.”¹⁹⁶

In this way we come to an important dimension of this type of racism: prejudices about Africa, and mostly about black Africa – a locus of fantasy for many Westerners¹⁹⁷. Through a critical reading of a speech pronounced by the French president Nicolas Sarkozy in Dakar in 2007, Mbembe describes these stereotypes, reminding us that they were popularized by Western intellectuals such as Hegel or Lévy-Bruhl¹⁹⁸. The latter would, in the 1920s, “persist in giving a pseudo-scientific endorsement of the distinction between the “Western man”, endowed with reason, and the non-Western people and races imprisoned in the cycle of repetition and mythico-cyclic time”¹⁹⁹. Still – and Sarkozy is a symptom of this – Africans continue to be stigmatized through this racist imagination as frivolous, exotic and lazy beings with a pre-logic mentality; populations that are still on the cusp of history and plunged in an obscure savagery.

From there stems another prejudice: if savagery is their natural state, how can Africans be authentic refugees? Can they have a genuine desire to know anything else other than that which, according to this prejudice, pertains to their “nature”? And of course: if all Africans are savages, does it follow that we should extend asylum to the entire continent?

Let us repeat: the existence of such anti-black prejudices within the Swiss population is hardly acknowledged²⁰⁰. Yet it takes years for stereotypes to lose their clout: not only for the intellect to

¹⁹³ Rosita Fibbi and Etienne Piguet, *Mesures de lutte contre les discriminations à l’embauche*, Neuchâtel : SFM, Swiss Forum for Migration and Population Studies, cop. 2005.

¹⁹⁴ *État des lieux du racisme anti-Noir-e en Suisse, op. cit.*, p. 33.

¹⁹⁵ Ph. Bataille, K. Couper, D. Martuccelli, A. Peralva, under the direction of Michel Wieviorka, *Racisme et xénophobie en Europe, une comparaison internationale*, éd. La Découverte, 1994, p. 18.

¹⁹⁶ *Critique de la raison nègre, op. cit.*, p. 108.

¹⁹⁷ Which the Kenyan novelist Binyavanga Wainaina holds up to ridicule...

URL: <https://www.courrierinternational.com/article/2009/08/01/ah-ces-fantasmes-de-blancs>

¹⁹⁸ On this subject, see Achille Mbembe, *De la postcolonie*, Karthala, 2000. The idea of white racial superiority from a genetic point of view has long been disproved, but racist prejudices linked to a difference in structures of thought has endured until today.

¹⁹⁹ Achille Mbembe, *L’Afrique de Nicolas Sarkozy*, 2007.

URL: <http://africultures.com/lafrique-de-nicolas-sarkozy-6784/>

²⁰⁰ It is even denied by the public authorities. In August 2017, Erich Hess, a Bernese UDC national council member, spoke the following sentence in front of the Parliament of the city of Bern, on the subject of the *Reitschule*: « on y voit principalement des nègres en train de dealer » (“we mainly see Negroes dealing drugs”). A complaint was filed by the Jeunes Verts Suisses for incitement to racism, but the regional prosecutor did not

understand them as such, but also for affects, fantasies and instinctive behaviors to change. It is therefore urgent to act. Without this, new deaths, new injustices and new sufferings will continue to happen in Switzerland.

Anti-migrant xenophobia

In addition to the hypervisibility and exclusion provoked by anti-black racism, the members of Jean Dutoit are affected by yet another stigma: they are *migrants*, a term which we will here interpret in turn as a synonym for “foreigner” and “nomad”.

Foreigners are the figures through which change arrives: their customs are different, as are their ways of thinking, moving and speaking. Xenophobia can thus be defined as the fear of the irruption of this difference that would then become a cause of change. It manifests itself in the refusal to change the status quo. In the introduction, we touched upon another refusal: that of the populations of the European continent to consider themselves as part of a growing community together with the inhabitants of the global South, a refusal to jointly imagine these destinies. Indeed, does Switzerland not represent in the eyes of its residents a haven of peace, well-being and security, and is it not this very stability – in other words, the status quo – which they believe they must protect above all? This perception is reinforced by two centuries of *neutrality*²⁰¹ and *peace*, eighty years of *industrial peace*²⁰², followed by twenty years of island-becoming in the midst of the construction of the European Union.

But as we well know, when it comes to defending their stability, human beings are capable of putting their moral principles on hold as to the means they use to do so. We can desire the one while remaining blind to the other, and indeed everything takes place as if the promotion of stability found itself completely separate from the promotion of justice and equality²⁰³. First conclusion: that which we value is not stability in itself, but stability for oneself. Second conclusion: to the defence of stable life conditions – when this defence is separated from the means of their implementation – is superposed, even substituted, the defence of a *picture* of stability, which responds to an elementary psychosocial function: stabilize and reassure²⁰⁴.

We are reminded of a line by Ramuz: “the “Swiss” (if they existed) would thus be good people that did not take any interest in others, with the sole aim of avoiding others taking an interest in them.”²⁰⁵ In the end, does maintaining the status quo boil down to a desire to keep oneself away from the world, far away from its agitations and its problems? Yet here again – and especially in this space left vacant by Helvetian quietism – the subscription to this illusion does not excuse one from

take it further. There is however no doubt possible that Eric Hess’s intervention in this context should be sanctioned by Article 261b. See the analysis by Maliza Kinya in her article published on November 9th 2017.

URL: <https://www.tdg.ch/suisse/L-elu-UDC-avait-le-droit-de-parler-de-negres/story/17792602>

URL: <http://malizakinya.com/2017/11/erich-hess-negre/>

²⁰¹ Switzerland’s permanent neutrality was concluded on March 20th 1815 at the Vienna Congress.

²⁰² The first conventions made between trade unions and employers date back to 1937.

²⁰³ Pascal Schmuck, « Inégalité : Répartition des richesses : La Suisse est pire que des dictatures », *Tribune de Genève*, 09.05.2014.

URL: <https://www.tdg.ch/economie/Repartition-des-richesses-la-Suisse-est-pire-que-des-dictatures/story/17309463>

²⁰⁴ In this sense, it constitutes a defence mechanism. See Anna Freud, *Le Moi et les Mécanismes de défense*, Presses Universitaires de France, 1975, pp. 41-42.

²⁰⁵ This quotation is from a text that caused a stir when it was published, in the journal *Esprit*, under the title « Letter » (October 1937). Ramuz was addressing Denis de Rougemont. This text is re-edited in the *Œuvres complètes*, éd. Slatkine, volume XIV, pp. 139-145.

reality. Xenophobia can thus become without knowing it an important ally of big financial and industrial groups that are Swiss or have their headquarters in Switzerland: supported by the framework conditions and the tax system offered to them by the Helvetian nation, these groups are given free rein to exploit the populations and resources of other countries as they see fit. Collective representations of the Swiss are no less hybrid: a people of emigration, the country of the Red Cross and international institutions, a place of trade for raw materials and banks, etc. The question thus remains: what are the deeply rooted reasons that make society accept/tolerate/participate in the precarization, the exploitation and the repression of another part of humanity? To the extent that people die in Switzerland and at its border, or far away, in the sea, in almost complete indifference – this is only slightly rocked by televised news, the locus of a managed and channeled empathy which does not, at any moment, threaten the established order.

Xenophobia maintains the foreigner at arm's length: we do not want to know what they have gone through, nor what they have to say. But what makes a person a foreigner? The "foreigner" is a fantasmatic category that is projected onto persons – and that anchors itself in concrete measures – relative to a cultural and historical background. Thus, although such a person might be, for example, an inhabitant of Switzerland for 20 years or even a Swiss national, they will not for all that be acknowledged as an equal, as belonging to the same circle. In this, xenophobia exceeds a simply national framework: it is a psychosocial drive. Incidentally, it is not unheard of for persons who themselves hold foreigner status, to display aggressive xenophobia towards people that they perceive *as* foreigners.

Let us examine its social dimension. Because although xenophobia is carried out and felt by individuals, it remains a group phenomenon: it establishes a distinction between an *us* and a *them*. It produces a "home" which is also "not their home". How is this "home" created? How does this reality, common to a group of people, come into being? By cooptation. It is a "where we are together" before becoming a "home". The decision is thus not only subjective, but intersubjective. It will rarely resist the temptation to pretend to operate via objective criteria, which are actually merely *objectified* via an intersubjective process of repression and forgetting. The criteria for cooptation are divided mainly into two types: they are either phenotypical traits (skin color, hair color, eye color, nose shape, clothing, distinctive markings, manner of speaking, manner of moving, etc.) or social structures (family, profession, class, nation, etc.).

How does a "where we are together" become a "home"? Cooptation will extend to a place (the house, a neighborhood, the city limits, the territory of a state, etc.) and take root there. The psychosocial projection that turns a territory into "our territory" and finally a territory that chose "us", stems from a territorial behavior that humans have refined over millennia through two modes of life: nomadism and settlement.

These are two modes of relationship to the territory, two distinct modes of taking root. The settler puts down deep roots in his environment, and these roots anchor and immobilize him. Any way of life that does not correspond to his will thus be ex-posed: vagabonds, travelers, homeless persons, migrants, are all interpreted by the settler as dangers, in that they are not governed by identifiable or assimilable modes of cooptation, and thus risk putting his loved ones in danger. The settler does not understand what these people are/do and fears that their apparent uprootedness might itself be *contagious*. The more the settler settles down, the more he creates buildings, structures, etc., the less he understands the nomad and the more he projects onto him a fantasy image (thief, child-snatcher, fortune-teller, etc.).

Such ways of life, for example that of the Jenisch family in the eyes of the Swiss of the beginning of the 20th century, were thus synonyms for instability, an inability to stay in the same place for a long time, an absence of order, laziness, alcoholism, criminality and illness²⁰⁶. Many of these stigmata are today attached to Romani populations as well as migrant persons of different origins. Through these prejudices, the society at the time justified that children be taken from their parents in order to “civilize” them. Only denounced in 1972, an action led by Pro Juventute thus sequestered between 600 and 730 children (according to sources), destroying entire families²⁰⁷. However, forced settlement usually represents the exception. As the historian Jean-Pierre Liégeois writes, “the rejection through banishment away from the territory was an attitude adopted almost unanimously by all public authorities during the five centuries of Gypsy presence in Europe.”²⁰⁸ We had already reached this conclusion when we spoke earlier of the fate reserved for migrant persons on Swiss and European territories: rejected wherever they go, unable to insert themselves in one or the other modes of co-optation of local societies, they are condemned to circulate. The paradox of this *migratory block*, is that persons who would like to settle down are being prevented from doing so, and the more they are sent on their way and their settlement made impossible, the more they are stigmatized.

An example from the 17th century is particularly striking in this regard, in that it shows this succession of coercive measures followed by manhunts. After the Thirty Years’ War left uprooted farmers and soldiers relieved of their service to roam the countryside, “between 1610 and 1630, Bern and Zürich created workshops for them where, chained up, they were obligated to work. These measures becoming too expensive, all these people were rejected from the cities.” Thus began the hunt for beggars, authorized by the cantons but carried out by the citizens: “in 1639 in the sole village of Bremgarten, 236 vagabonds were killed.”²⁰⁹ – We could seemingly recognize the same motif in the actions of the Nazis: their first course of action was to deport the Jewish and Romani populations, before incarcerating them in camps, then finally deciding on their genocide (and the idea of racial purity is, in the same way, the idea of purity of a mode of co-optation that rejects all others or, at a push, dominates them).

But why is it “too expensive” to make people work in such conditions of slavery? Too expensive in relationship to what? It can only be costly in relation to other expenses envisaged by the collectivity, in the face of which options such as bestowing a piece of land, an activity, or acknowledgment upon uprooted persons represents a form of excess. The crux of the problem lies in what we consider to be excessive vis-à-vis a norm that is judged preferable. At this level, “excess” does not therefore stem from financial costs, but rather from the psychosocial and political expense that would have to be deployed in order to transform a socialization and its modes of co-optation within historical conditions interpreted according to these same power relationships. One can only be struck by the fact that the violence inherent to the ensuing subtraction of humanity does not appear as an excess. But is this really the case? Will this subtraction not *transform* the sedentary citizens that carry it out with their guns or via their taxes? In what manner does the exercise of violence participate in the territorialization – and the nationalization – of populations?

²⁰⁶ See Hélène Beyeler-von-Burg, *Des Suisses sans nom. Les Heimatlose d’aujourd’hui*, Sciences et service, Pierrelaye, 1984, et Walter Haesler, *Enfants de la Grand-Route*, Delachaux et Niestlé, 1955.

²⁰⁷ Sylvia Thodé-Studer, *Les Tsiganes suisses*, éd. Réalités Sociales, Lausanne, 1987, p. 134.

²⁰⁸ J.-P. Liégeois, *Tsiganes*, éd. La Découverte, 1983, mentioned by S. Thodé-Studer, *op. cit.*, p. 110.

²⁰⁹ *Des Suisses sans nom. Les Heimatlose d’aujourd’hui*, *op. cit.*, p. 164.

Racism and xenophobia thus often go hand in hand, although it is difficult to know which of these forms of violence serves as a prop for the other, or which makes the other's bed. Racism seems to come first in offensive movements, when a *where-we-are-together* is displaced towards the *home of another*: it precedes and accompanies this expansionist aggression, whether it be territorial, cultural, religious, economic or social. Conversely, xenophobia seems to stem primarily from a drive to defend. But in many situations, defending against new arrivals goes hand in hand with a feeling of superiority, except when it takes the form of an offensive drive to subject new arrivals to the sedentary order.

This is the case when it comes to migrant people in Europe today, who are at once excluded/subjected by xenophobia and attacked by racism. This is the conclusion that we must draw from the existence of anti-black racism: it is not only the production of a defense mechanism against non-coopted people, it is also the expression of a feeling of superiority and/or a desire of domination towards black people and the African continent.

Finally, xenophobia and racism tend to become normative in any society which tolerates these behaviors, even if it does not encourage them. In the current historical conditions, to believe in the existence of countries without racism and without xenophobia – so-called “innocent” countries – leads to serious prejudice.

For this reason, *acknowledgment* can never be considered a done deal. Only through concrete measures of resolution can we make possible the return of that which has been repressed, thus upping the stakes of socio-psychic work. These are the necessary conditions for healing to occur one day. One day, when this society is ready to rebuild its modes of coexistence.

The figure of the scapegoat

Let us address one last aspect of exclusion. Taken as the scapegoats of a crisis that will not say its name, migrant persons become targets of another social defense mechanism. According to the anthropologist and philosopher René Girard, any society in a period of crisis tends to find such figures in order to channel the violence stemming from suffering; the causes of which it cannot – or (which boils down to the same thing) does not want to – identify.

“[R]ather than blaming themselves, individuals necessarily have a tendency to blame either a society in its entirety – which does not hold them to anything – or other individuals that seem particularly harmful for reasons that are easy to detect. These suspects are accused of crimes of a particular type.”²¹⁰ Here we find the hypervisibility of black people, but also other persons of color to varying degrees, as well as the distinctive signs of Muslim religion (hijabs in France, minarets and burqas in Switzerland). We also find the presence of migrant persons outside, in the street or in public parks, in the “jungles” and the camps, exposed to the gaze of the settled people while the latter go about their business. We also find a population which we have already touched upon: the Romani people²¹¹, as well as the local precarized and excluded population, some of which find themselves in this position because of substance addiction.

²¹⁰ René Girard, *Le bouc émissaire*, Grasset, Paris, 1982, p. 26.

²¹¹ The ban on begging in the Canton of Vaud, decreed by the Vaud parliament in 2016 with a small majority, was a response to complaining shopkeepers. An appeal was filed against this decision in September 2017 at the Federal Court.

But – before we move on, which crisis are we speaking about? This question is necessary in order to grasp how its scapegoat corresponds to it. According to Girard, a crisis is defined as a situation of undifferentiation of social structures, caused by a large-scale fall or transformation. On the European continent, the crisis in question started with the fall of the Berlin Wall and continues to this day, through the birth and the development of the European Union. The passage from national structures to these supranational structures of the EU produces tensions in all the member countries. However, we are not so much witnessing a crisis of European integration, as a crisis of the European *project*.

Europeans – populations and nations that have been antagonists for so long – now find themselves able to enter into and work freely in neighboring countries, to see their money circulate from one end to the other of the continent, to be or to feel moved by what is happening in a country that they used to consider as far away and separate from theirs. What qualifies this crisis for the most part is this change in the contours of the identity of this citizen “I”, the feeling of identity produced by these limits and the nature of the symbolic exchanges that happen within them. The citizens of the EU are searching for themselves and testing themselves, torn between a momentum towards the supranational and a return to the national. With one question in mind: what is Europe? Is it a political identity, or merely an economic one? Is it defined by liberalism? By nationalism? What do we do with the French and Dutch citizens’ rejection of the Lisbon Treaty in 2005, and what do we do with the parliamentary ratification that followed, in spite of the wishes of the population²¹²? Is the EU a constellation of democracies, or a way for the oligarchy of its member States to escape democratic authority?

In this context, the crisis of 2008 blew up in the face of the EU. Greece, Spain, Portugal, Ireland: the debt crisis struck hard, and once again the borders of the European Nation States seemed, in the eyes of many, too porous to stem the risk of contagion. It was also the interference of the IMF and the World Bank (as well as private banks) in the management of the public debt crisis in Greece from 2010 to 2015 that would weaken the edges of this European Union, of which many – on the left as well as the right – were already doubtful. The confusion was further accentuated by the fact that many member countries do not apply the European directives.

Under these conditions, that which Nietzsche termed in 1886 the *madness of nationality* came back into play: a movement that leads “the European populations” to become “more and more foreign to each other [...] pathological reciprocal ignorance [...] praised to the skies by shortsighted and quick to anger politicians, who have no idea how much their policies of disunion can only be an interlude”²¹³. But an interlude in the midst of what? In the process of European unification, which the philosopher interpreted as a structural movement. This reciprocal ignorance, far from contributing to solving the crisis, would merely provoke more undifferentiation (this is the sense in which it is “pathological”).

Cf. Jean-Pierre Tabin and René Knüsel with the collaboration of Claire Ansermet, *Lutter contre les pauvres. Les politiques face à la mendicité dans le canton de Vaud*, Éd. d’en bas, Lausanne, 2014.

URL: <https://lectures.revues.org/14757>

URL: <https://www.tdg.ch/suisse/grand-conseil-interdit-mendicite/story/31918282>

URL: <https://www.tdg.ch/suisse/suisse-romandemendicite-recours-interdiction-vaudoise/story/30109601>

²¹² Geoffroy Clavel, « Traité constitutionnel européen : dix ans après, le non l’emporte toujours mais l’idée européenne séduit encore », *Huffington Post/Le Monde*, 29.05.2015.

URL: http://www.huffingtonpost.fr/2015/05/29/traite-constitutionnel-europeen-dix-ans-apres-non-idee-europeenne_n_7467018.html

²¹³ Friedrich Nietzsche, *Beyond Good and Evil*, §256.

The rise of nationalist movements is happening all over Europe. *FPÖ* in Austria, *Pegida* and *AfD* in Germany, *Front National* in France, *Ukip* in the United Kingdom, the *Lega* in Italy, the nationalist right of Viktor Orbán in Hungary, in Poland etc. and of course, the UDC in Switzerland. In 1999, having taken advantage of the European crisis, Christoph Blocher's party became the biggest in Switzerland. However, other political parties are also imbued with nationalism, for ex. the Parti Libéral-Radical (Liberal-Radical Party), which recently attempted to introduce national preference in certain institutional processes (cf. Introduction /4).

From this point, the accusers – whether they claim to be nationalist or not – will bring those guilty of the undifferentiation of social structures to the attention of the citizens. As Girard wrote, “it is to report the “undifferentiation” of the crisis to victims that they are accused of “undifferentiating” crimes. But in truth, it is their victimary signs that designate these victims for persecution.”²¹⁴ Groups of people will thus be accused of provoking undifferentiation, of course not because of the undifferentiation they might be causing (because that is not where undifferentiation comes from) – but because of the *victimary signs* that their accusers will ex-pose: skin color, language, habits, distinctive signs, etc. The accusation will thus base itself on the most prominent forms of racism and discrimination in a given society. In Europe and Switzerland, this consists mainly of anti-black, anti-Romani and anti-Arab racism, as well as the demonization of the Muslim religion, whose believers are attacked via visible external signs: hijab, burqa or minaret. It is of little consequence for the accusers that all these signs to which they give hypervisibility are not, for the concerned persons, the result of an intention to make themselves visible, since the accusers will make these signs say that they represent intentions to distinguish oneself from others and represent an intention to harm. The concerned persons become, in the eyes of the accusers, the causes of undifferentiation; causes which it therefore becomes legitimate to destroy. Of course, this destruction will not solve the crisis, since the crisis has not been caused by the persons designated as scapegoats, but rather by other causes which people do not want to see (the crisis of the European national-liberal democracy).

The persons concerned by the process of collective release are excluded and stigmatized, beaten and killed, become excluded and are discriminated against. For all that, the justifications of such behavior abound. For example, when religious signs (that only exist for believers according to an affiliation that “goes without saying”²¹⁵) are held high as the signs of a “war of civilizations” – founded on Samuel Huntington's theory – we are witnessing a justification of the fantasy of the scapegoat, combined with transatlantic imperialist racism.

All the latest poster campaigns by the UDC have accused religious and racial minorities of being the causes behind the loss of Swiss identity. They have designated these minorities as scapegoats for the attention of the Swiss people, by insinuating that “no, there is nothing wrong with attacking people who want to destroy your identity”, which is leading racism against these minorities to be denied and painted over with the idea of the defense of the native culture and the rights of Swiss citizens. The UDC initiatives *For the expulsion of foreign criminals* and *Against mass immigration* are

²¹⁴ *Le bouc émissaire, op. cit.*, p. 36.

²¹⁵ Fatou Diome, in *Le ventre de l'Atlantique*, writes: “The feeling of belonging is an intimate conviction that goes without saying; to impose it on someone is to deny their aptitude to define themselves freely.”

eloquent examples of this morbid alliance between racism and the search for scapegoats, which renders the former invisible while making the latter hyper-visible²¹⁶.

Since 2015, the figure of the *economic migrant* has become one of the scapegoat victims of a Europe in crisis. Within this framework, the adjective “economic” is reductive, but it perhaps reveals the loss of meaning from which European populations suffer. The problem here stems from the implicit use of the comparative: economic migrants come here in search of a *better* life. But this is not the case. They come here in search of a *good* life. It is Europeans who believe themselves superior and take it as a given that their life is “better”, while having so little assurance as to what a good life should resemble.

The European frustrations, sufferings, losses, humiliations and defeats are searching for someone or something on which to release, and these affects seize upon what they find in their way or what is brought to their attention. In this sense the Swiss and European governments can be held *responsible* – through opportunism, blindness or a lack of political courage – for the rise of racism and xenophobia in Europe: by putting people in camps, in producing them as figures of the excluded, they are attributing victimary signs to them. These people, who are shown as racialized, who are shown as excluded, who are shown as being without rights, whom police can brutalize in the street with impunity (cf. chapter III.5), will be thus loaded with contempt until the moment when violence will erupt, and this cycle of loading-unloading will continue as long as the crisis persists and that these victimary signs are not denounced, and the conditions of their attribution reversed.

In other words, if everything is going wrong in Europe, it is not because of migrant persons, black people, Arabs, Islam, globalization, etc. It is because of Europeans.

To conclude, what journalists and politicians have presented as “the migration crisis” is not the crisis at hand. It is the fact of having made migration visible *as* a crisis that we are questioning. Immigration from Africa was continuous before 2014, and we can only speak of migratory *spikes* since 2014, caused for example by the serious consequences of the war in Syria and by Western interference in Libya. There is no migration crisis, there is only the question of knowing whether Europeans will face their demons and answer to their mistakes.

²¹⁶ When they protest against the discriminations aimed at them, persons constructed as scapegoats feel the extent to which the slightest action on their part could refer to – in the eyes of the crowd – one of the victimary signs that the crowd recognizes (most of the time, these are racist stigmata), and the effect will be to reinforce the signaling of the victim. For example, if a protest by black people for the rights of black people is an occasion of violence, instead of reaching the objective of an effective denouncement of racism, its effect will be (in the eyes of the crowd) a reinforcement of it and will signal black people even more as potential scapegoat victims. On these bases, it has been observed many times that members of the police forces position themselves strategically during protests so as to provoke the protesters, in order to set off the aforementioned process. In the same way, groups of white supremacists will – as is frequent in the United States – organize a counter-protest, with the sole aim of “proving”, by setting off violent reactions, that black people are violent, when in fact they were only meeting the aggression encountered from white people. White supremacists are so convinced that the racist stigma is present in a majority of the population that they perceive this strategy as a winning one every time. We can only hope that they are mistaken, and be cautious when organizing protests in order to put across the message that should be heard.

National-liberalism, discrimination and democracy

The crisis of the European project is a crisis of European humanism. Black African migration here acts as a tell-tale sign, because it is the continued presence of slavery in another form, its afterlife²¹⁷. It shows Europe to what extent its universal model of the human is liable to suffer exceptions. Europe refuses to be reminded of fascism, refuses to see that the racist violence that was given free rein during the Second World War was in fact given free rein during the preceding centuries in Africa. A blind spot was formed in the vision that Europe has of itself, preventing us from seeing that it should have prevented the deaths of the people who perished in the Mediterranean, in the camps, in the prisons and on the roads.

To say that it is the migrants' responsibility, in the sense that they are the ones who chose to cross the border, to attempt the crossing, to take that risk, and that from that moment the risk belongs to them, is a form of denial. These deaths are not contingent. They belong to the development of the European project, they are a direct consequence of colonialism, racism and slavery. These deaths are *gratuitous*, in the sense that Europe accounts these lost lives as sub-lives which it can do without.

Switzerland is no less a part of this Europe than the countries of the EU. Its modern conception of national borders and rights, its production of classes articulated on national and racial difference – the “poorer” you are, the more “African” you are – make Switzerland a model of national liberalism, lodged at the heart of Europe's blind spot.

The conditions of national-liberalism engender two types of discrimination that it is necessary to recognize if we want to grasp the crux of the problem. The first concerns the nationalization of rights which excludes to different extents persons with foreigner status and persons without status. The second concerns the quest for profit under the constraint of competition²¹⁸, which leads to discriminations that favor the rich and exclude the poor, leading to the increase in wealth of the former²¹⁹ and the pauperization of the latter²²⁰. Faced with these five grave tendencies – racism, xenophobia, scapegoating, nationalization of rights and socio-economic discrimination – we believe that the State can no longer content itself with establishing repressive measures against discriminations. The State and the citizens must act ahead of time, to change the modes of co-optation and socialization.

In other terms, it is a political question.

²¹⁷ T. P. Woods & P. K. Saucier, *Slavery's afterlife in the Euro-Mediterranean basin*, 19.06.2015.

URL: <https://www.opendemocracy.net/beyondslavery/tryon-p-woods-p-khalil-saucier/slavery-s-afterlife-in-euromediterranean-basin>

²¹⁸ Danièle Lochak, *Loi du marché et discrimination*, in Daniel Borrillo (under the direction of), *Lutter contre les discriminations*, éd. La Découverte, 2003, p. 12.

²¹⁹ After the Panama Papers, the Paradise Papers recently brought this reality to the fore (again). Glencore in the Congo, Crédit Suisse in Mozambique... big corporations based in Switzerland and other countries of the global North are waging a neocolonial economic war in Africa.

URL: <https://www.letemps.ch/economie/2017/11/05/paradise-papers-ebanlent-monde-loffshore>

URL: <https://www.lameduse.ch/2017/09/28/credit-suisse-au-mozambique-une-nouvelle-piece-au-dossier/>

²²⁰ “Moreover, the poverty of some is the condition of the wealth of others – and vice versa. This is what Karl Marx set out to show with his notion of social classes, which refer to the relative position of their members in relationships of production, while distinguishing the objective belonging to a class from the subjective conscience of sharing the same material interests.”

Cf. Igor Martinache, « Qu'est-ce que la pauvreté ? », *Idées économiques et sociales*, 2013 | 1, n°171.

URL: <http://www.cairn.info/revue-idees-economiques-et-sociales-2013-1-page-4.htm>

We could of course briefly discuss the socio-economic benefits of immigration for a country like Switzerland. Many have done it before us and failed. On the one hand because the European governments know these numbers perfectly well, on the other hand because the Swiss and European populations cannot be convinced in this way, because the problem does not lie there. These numbers mostly show to what extent Switzerland benefits from migration and contents itself with being on top.

Switzerland has benefited from the opening of borders, more so than any other country in Europe²²¹: “since the year 2000, Switzerland has outranked its neighbors by an employment boom, writes Daniel Müller-Jentsch, an economist with *Avenir Suisse*. Employment increased by 10% in Switzerland during the period. The demand for qualified workers was only satisfied thanks to immigrants. Since 2002, the increase of immigrant populations has contributed by 0.5% to the 1.9% increase of the annual GDP, notes the Zürich-based *Institute of economic analysis KOF*.”²²²

Moreover, foreign workers strongly contribute to the viability of the Swiss State’s social security. “[A]s noted by the Federal office of statistics (OFS), almost 72% of people of foreign nationality are between 20 and 64 years old, contrary to only 58.8% of natives. There is a clear overrepresentation of the active population within populations of foreign nationality, which is even more visible if we only take into account those who have immigrated.”²²³ Finally, the sociologist Jean-Pierre Tabin notes in this analysis published in May 2017 that “many immigrants participate in the financing of the Swiss social security system without being able to fully reap its rewards” (*AI, APG, PC annuities*), which, once more, benefits persons having a citizen status in Switzerland. However, this might not be sufficient since the OFS has prognosticated that persons from a migrant background will not suffice to counter the ageing of the population²²⁴. This is also the case for all the countries in Europe and has been known for at least 20 years, giving birth to many reports on *replacement migrations* by the Population Division of the United Nations²²⁵.

Conclusion: the national-liberal State uses discriminations as structuring elements of its economic growth. There again, nothing new. Achille Mbembe has shown how the enslavement of black people was directly linked to the emergence of capitalism²²⁶, and one must not underestimate the impact of this alienation, first on black people, then on all human beings. The forms of segregation we are witnessing today are its historical consequence, but also its re-actualization.

²²¹ According to the report on the net budgetary impact of immigration published in 2013 by the OCDE, Switzerland and Luxemburg are very high on the list of countries having benefited from immigration.

URL: <http://www.oecd.org/fr/els/mig/PMI-2013-chap3-impact-fiscal-de-l-immigration.pdf>

²²² « L’eldorado migratoire Suisse », *Le Temps*, 12.01.2014.

URL: <https://www.letemps.ch/no-section/2014/01/12/eldorado-migratoire-suisse>

²²³ Jean-Pierre Tabin, « Quand l’État social profite des immigrants », *REISO*, 15.05.2017.

URL: <https://www.reiso.org/articles/themes/migrations/1755-quand-l-etat-social-profite-des-immigres>

²²⁴ OFS, *Scénarios de l’évolution de la population Suisse 2015-2045*, 22.06.2015.

URL: <https://www.bfs.admin.ch/bfs/fr/home/statistiques/population/evolution-future.assetdetail.39912.html>

²²⁵ United Nations Population Division, *Les migrations de remplacement : s’agit-il d’une solution au déclin et au vieillissement des populations ?*, New York, 1995.

URL: <http://www.un.org/esa/population/publications/migration/execsumFrench.pdf>

²²⁶ “The pressing question from 1670 on was how to deploy large numbers of laborers within a commercial enterprise that spanned great distances. The answer was the invention of Blackness. It was the cog that made possible the creation of the plantation – one of the period’s most effective forms of wealth accumulation – and accelerated the integration of merchant capitalism with technology and the control of subordinated labor. The plantation developed over this period represented an innovation in scale, through the denial of liberty, the control of worker mobility, and the unlimited deployment of violence. The invention of Blackness also opened the way for crucial innovations in the areas of transportation, production, commerce and insurance.” In *Critique of Black Reason*, *op. cit.*, p. 38.

Henceforth, if there is one thing that is necessary in this day and age, it is to fight racism and especially anti-black racism, as well as the impunity that adds fuel to its fire.

This struggle must take root in concrete and daily situations – with an aim to investing the political – as well as on the level of the democratic exercise and the transformation of laws. In Switzerland, the first penal norm against racial discrimination dates back to 1993, only 25 years ago. In fact, it is seldom applied because it is hardly applicable and must thus be reformed.

Article 261bis of the Swiss penal code condemns for racial discrimination any person “who will have *publicly incited* hatred or discrimination towards a person or a group of persons because of their racial, ethnic or religious affiliation”²²⁷. Let us compare this law with Article 14 of the European Convention on Human Rights, ratified by Switzerland in 1974: it prohibits any discrimination “based upon sex, color, language, religion, political opinions or any other opinions, national or social origin, affiliation with a national minority, wealth, birth or any other situation.”²²⁸ Concerning the nature of these discriminations, Article 261bis does not cover a third of those that are denounced by the European Convention on Human Rights.

Swiss law also fails to anchor the action of justice in the concreteness of situations. It is the daily life of discriminations that is at stake, whereas Article 261bis only acknowledges (public) incitement. In 2007, in his *Report submitted by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and its associated intolerance*, presented in front of the Human Rights Council of the UN, Doudou Diène took Switzerland to task for its many “deficiencies concerning the protection of the individual against racism and racial discrimination” and thus observed the “weakness of Swiss legislation in the administrative and civil fields concerning the protection against discrimination, in particular in the fields of housing, work and access to public spaces”²²⁹.

The Federal Commission against Racism came to the same conclusion 10 years later. In 2016, in an issue of its journal *Tangram* titled *Discrimination raciale et accès à la justice (Racial discrimination and access to justice)*²³⁰, professionals and researchers report on their experiences and underline the lack of Swiss legal framework, mechanisms and instances for combating discriminations.

We find therein an important criticism leveled at Swiss law: it puts the burden of proof on the plaintiffs, for situations that happen most of the time in private, in a society which we have shown is reticent to acknowledge racism and speak of it openly. One solution would be to adopt *reverse onus* in cases of racial discrimination. As Adola Fofana – lawyer and mediator for the *Centre Écoute Contre le Racisme* in Geneva – wrote in 2016, “it would thus suffice for the violation of the right to be considered as plausible in order to be admitted.”²³¹ This measure is already in effect in the *Gender Equality Act*, whose Article 6 stipulates that “[i]n relation to the allocation of duties, setting of working conditions, pay, basic and continuing education and training, promotion and dismissal, discrimination is presumed if the person concerned can substantiate the same by *prima facie*

²²⁷ Swiss Penal Code of December 21st 1937 (status on September 1st 2017). Our emphasis.

URL: <https://www.admin.ch/opc/fr/classified-compilation/19370083/index.html>

²²⁸ *European Convention on Human Rights*, accessible from the Council of Europe website.

URL: http://www.echr.coe.int/Documents/Convention_ENG.pdf

²²⁹ The document is easily accessible on the *humanrights.ch* platform.

URL: https://www.humanrights.ch/upload/pdf/070412_UN_ReportDine.pdf

²³⁰ CFR, *Discrimination raciale et accès à la justice*, Tangram n°38, 12.2016.

URL: <http://www.ekr.admin.ch/documentation/f108.html>

²³¹ *Ibid.*, p. 42.

evidence.”²³² Just like women who press charges in a society dominated by men, black people who press charges in a society dominated by white people will immediately be suspected of lying or exaggerating, which – and the legislation recognizes this in the case of women – constitutes a discrimination in itself. Such a reversal should thus be inscribed in the Swiss law against racial discrimination in order to re-establish the rule of law.

Without such changes, the lawless situation in which we are living in this day and age, which discriminates against Swiss and foreign black people, cannot be recognized in its true expanse nor can it be fought. That being said, it falls not only to the legislator to foil racism and victimary signs, it also falls to the federal, cantonal and municipal executive bodies as well as law enforcement and the population.

It is this imbrication of several levels of discrimination which we will now deconstruct, through a figure that concentrates them all and will turn out to be a pivotal point in the understanding of the facts which we are denouncing: the figure of the drug dealer.

Anti-black racism, anti-migrant xenophobia, scapegoating, national and socio-economic discriminations: these are all superposed in the image of the “poor black African criminal migrant”. This superposition is the source of the confusion that surrounds the subject, as well as the impunity of the violent acts and institutional abuse committed against racialized persons... who are mistaken for dealers because they assemble its “signs”.

²³² Federal Act on Gender Equality, of 24th March 1995 (Status as of 1st January 2017).

III.2. *Sale of illegal drugs: the reasons behind a trade*

“All the black men in Chauderon are drug dealers”

One sentence summarizes the stigma: “All the black men in *Chauderon* are drug dealers.” We have heard it on site, at the *place Chauderon*, in the center of Lausanne. We have heard it in discussions with citizens, but also from the mouth of police officers, men and women, new recruits and senior officers alike, members of the Lausanne Police, Pol-Ouest or the cantonal police force. By the discriminatory generalization it operates, this sentence announces the scope of the problem, since what the police says and does instantly becomes an example to be followed, at least for a part of the population. This aspect must not be underestimated. According to a national survey carried out by the ETH Zürich in 2017 on the issue of security, the police tops the list of institutions in which the Swiss have the most trust, ahead of the courts and the Parliament, and way ahead of the media²³³.

We happen to know three variations on this theme: “All the Nigerians of Lausanne are drug dealers”, “All the Gambians of Lausanne are drug dealers” and “all the black men of Jean Dutoit are drug dealers”. These statements betray racial discriminations, as well as being excessive and unfair simplifications which criminalize the Jean Dutoit Collective and its members.

Because the authorities and the police forces start from this set of premises, the next step in their reasoning is easy to predict: since the Jean Dutoit Collective is composed solely of black men from West Africa, this collective must be a group of dealers; its existence encourages drug dealing in Lausanne and must therefore be surveilled; the comings and goings of the drug dealers must be monitored, they must not be allowed to settle down. This Collective must be kept under pressure in order to protect the peace. However, these premises are not only incorrect, but also highlight racial/social/national discriminations, and the same applies to the hypothetical progression of the reasoning.

Police harassment and the inspections recounted in the second part of our report show how, far from being anecdotal or an idea shared only by a few isolated officers, this categorization (West African, black man = drug dealer) is part of the daily life of the region’s police forces. We will return to this point later, by describing in more detail some operations that cannot be explained otherwise.

Before we do this, let us repeat once again the realities which we face. Firstly, by saying that the Jean Dutoit Collective is composed of a hundred-odd people whose life journeys, professions and family situations are varied and of which only a certain, variable number temporarily resorts to, or has resorted to, the sale of illegal drugs on the territory of the Canton of Vaud in order to survive.

²³³ “The police (7.9) continues to benefit from the highest level of trust, followed by the courts (7.4) and the Federal Council (7.1) in third place. The Swiss economy (6.8), the army (6.8) and the parliament (6.6) stand on middle ground. Political parties and the media (with 5.5), trailing at the bottom, are the institutions that are least trusted.”

Quoted from T. Szvircsev Tresch, A. Wenger, S. De Rosa, Th. Ferst, E. Moehlecke de Baseggio, O. Schneider, J. V. Scurrrell, *Sicherheit 2017, Aussen-, Sicherheits- und Verteidigungspolitische Meinungsbildung im Trend*, Center for security studies, ETH Zürich, 2017, p. 27.

This situation has been known to the police forces and the authorities since 2015. Although some exploit the situation on the political stage, no-one seeks to understand the phenomenon of street dealing from a social and economic angle, nor to ask questions about the racism which it links to, even less about Switzerland's asylum policy.

This code of silence is all the more serious because it legitimizes impunity: more particularly, violence and abuses of power by police forces against people associated with drug dealing, whether or not they resort to this activity in order to survive, whether or not they are African. They are, however, always black. This code of silence prevents us from seeing how all black people of the region are criminalized in this manner – be they citizens or residents – and especially all African black men from a migrant background. This code of silence prevents us from recognizing that it is not because a person turns to a certain trade as a means of survival that anyone is allowed to identify them permanently with that trade – neither this particular person, nor any other person who “looks like” them.

For reasons which will elude no-one, let us clarify that the Collective has organized itself in such a manner that this situation will neither threaten its security, nor be a source of unpleasantness for its neighborhood²³⁴. The resident members having never engaged in drug dealing – as well as the interface members – have all taken cognizance of the fact that some members have engaged in, or are engaged in this activity. Although they are aware of the situation, they refuse to discriminate against these members and stigmatize them for this activity.

Between drug dealers, police, and... consumers

Why does street dealing exist in Switzerland, in the Canton of Vaud, in Lausanne? Who are its actors, from the buyers to the sellers? What do the life journeys of the latter look like? What are the historical, political and economic conditions that have led to this situation? How can we change them? What are the risks incurred by this activity? What are its social-health and economic stakes? Who suffers from it?

Let us clarify a first point: what are the drugs in question? Cannabis and cocaine²³⁵. What role do the street sellers have in this activity? That of “foot soldiers”, resellers, the end of the supply chain. They are not intermediaries (for bulk purchases which largely outstrip their buying power), even less the ones who illegally import these drugs onto Swiss territory. On the European drug routes, it is well-known that the transport of drugs destined for individual sale is made by white (European) people, who are less likely to be stopped at borders and within cities.

What about the current state of affairs of the aforementioned market? Consumers of these two drugs can be uncovered in all categories of the population, from civil servants and students to

²³⁴ The Collective concluded that the persons who practice this activity are answerable to the Collective as to their behavior insofar as they put the Collective in danger. We refer the readers to the Annexe on the organisation of the Collective for more details.

²³⁵ We have heard reports of occasional sales of ecstasy (this market is allegedly more active in Geneva than in Lausanne).

executives and bank employees, etc.²³⁶ If we wish to determine why the sale of drugs exists in Switzerland today, we must then ask the populace: what motivates this consumption? Let us highlight straight away that consumers are very rarely bothered by the police, which would tend to determine that the “problem” (from the authorities’ point of view) is effectively the sale – and not the consumption – of drugs.

Henceforth and secondly, we must ask the authorities in accordance with which strategy they are leading a witch-hunt against street dealers²³⁷, when we know that these foot soldiers are easily replaced by others, and so to struggle at this level is necessarily futile? Most police officers questioned by the press readily concede this point. In truth, we are not witnessing a fight against drug trafficking, but a mission to keep the peace, whose explicit goal is to “reassure the population” according to a spectacular strategy of force deployment²³⁸. Yet it is obvious that this mission overlaps with that of the country’s deportation policy.

What possible answers can be supplied by the experience of the Jean Dutoit members who practice, or have practiced, this activity at some point in their journey?

As stated beforehand, because of the socio-economic and political conditions of the EU, men who have arrived in Europe find themselves without the possibility of finding work for months or even years on end. Young and not-so-young, with or without dependent children, they move further north in order to find something to survive on and take care of their families’ needs. Precarity, discriminations and exclusion articulate this situation. Rejected asylum seekers, Dublin cases or precarized trans-European workers – in fact, any person from a West African country who finds themselves in a situation of migratory deadlock in Europe – will have some chance of finding themselves confronted with the possibility of exercising an illegal activity.

This is a situation which has been going on in Italy for far longer than in Switzerland, and where the key players are not drugs, but rather clothes, belts, watches, bags, sunglasses, etc. For each country, undeclared trades are devised in response to a demand, consumer habits and differentiated networks of goods supplies. Regarding this point, it is essential to demystify street drug dealing in order to understand it as an undeclared employment like any other. If it happens to find itself front and center in Switzerland, it is because the conditions of this trade are made possible here.

²³⁶ The *Addiction Monitoring in Switzerland* report for 2015, commissioned by the Federal Office of Public Health, indicated that “6.5 % of the resident Swiss population aged 15 and above used cannabis at least over the last 12 months” and that “about 0.5% of the resident Swiss population aged 15 and above used cocaine at least once over the last 12 months”.

URL: http://www.suchtmonitoring.ch/docs/library/gmel_ig1f1nkdw5wd.pdf

²³⁷ The production, transport, possession and commerce of drugs are prohibited by Article 19 of the Narcotics Act and are punishable by imprisonment.

²³⁸ In its evening news edition (December 12th 2017, 7.30pm), the RTS showed a feature highlighting the will of the city official Pierre-Antoine Hildebrand (PLR) – in charge of Security and Economy for the City of Lausanne since 2016 – to increase the number of patrols to fight against drug dealing. He declares: “the advantage of patrols is that they disturb the exchange of merchandise between dealers and consumers, and we hope to disturb the market a little, create effects of avoidance, which will impact on the number of arrests.”

According to us, the mistake in this strategy is that it does not take into account demand. If drug dealing cannot take place on the street, its conditions will worsen. Persons active in this market have reported being robbed by clients, for ex. in situations where the client invited them to make the exchange in their apartment, then refused to pay and threatened to call the police. In the end, this measure taken by the Municipality of Lausanne legitimizes the stigma (the black African migrant drug dealer) instead of fighting the legal, social and structural reasons for the sale AND the use of cocaine and cannabis in Western Switzerland.

URL: <https://www.rts.ch/play/tv/19h30/video/vd-le-nombre-de-patrouille-pour-lutter-contre-le-deal-va-augmenter?id=9079821>

Finding oneself confronted with the possibility of having to deal drugs does not, for all that, signify an absolute determinism. Other solutions exist: this is true for the Jean Dutoit Collective, where only a certain number of people resort or have resorted to this activity, and always temporarily. What are these other solutions? We must first underline with what little means disadvantaged people manage to survive. It is wretched, it means sleeping outside, but it is survival. Some receive money from their families and can continue to look for work. Most pour all their energy into insecure, undeclared employment (cleaners, bouncers, security agents, movers, hairdressers, waiters, etc.). Others come with the money they earned on farms in Spain or sweatshops in Paris, to see whether they can find work in Switzerland.

Contrary to popular opinion, one does not earn very much from dealing drugs on the streets. As mentioned earlier, it constitutes a lifeline. The money thus earned will have various recipients: it could serve to support a mother in Africa or a family in Spain; to pay for children's schooling in Italy or elsewhere; but also, to reimburse family members the advance with which the journey to North Africa or Europe was undertaken. These costs – including the various amounts paid to people smugglers – range from a few thousand to several tens of thousands of Swiss francs, according to each person's situation and journey. The decision to enter into the sale of illegal drugs thus depends on many circumstances, but mostly on the fact that European societies close off any constructive alternative for migrants, whatever their professional experience or their motivations may be. The structuring of the employment market as well as discriminations during the hiring process make it very difficult for these people to find a source of income. It is essential to take into account this extremely restricted room for maneuver.

The conditions of this work are difficult. Because it *is* work: outside in the street in any sort of weather, exposed to freezing temperatures and cold looks. It means being vulnerable. It means getting into the habit of perceiving police officers as a threat, a new element which must be integrated for these people who are in no way “professional criminals” and have not, except for a handful of exceptions, committed any criminal offences before they entered into this activity. These men would much rather have legal employment. They feel great shame for resorting to this activity. They do not speak about it to their families. And aside from a solidarity that sometimes arises from a common language or origin, they are not part of a network: they have access to this market only at the level that concerns them, and so they remain isolated. A sociological study²³⁹ carried out in 2015-2016 in Geneva, as well as the analysis led by Olivier Guéniat and Anaïs Gasser in 2016²⁴⁰ and a book written by the historian and sociologist Stephen Ellis²⁴¹ corroborate these findings.

²³⁹ The *24 heures* newspaper reports the conference given in March 2016 by Loïc Pignolo, author of a Master's thesis in sociology recounting his immersion in the life of street drug dealers in Geneva: “Contrary to received ideas, the majority of drug dealers are not consumers and do not take any pride in this activity. Some sellers even seem to have a conflictual relationship with drugs”, reports the researcher. In particular with cocaine, which they deem to be most dangerous to consumers. Many refuse to work with this substance even though it is more lucrative. And many feel uneasy when they have to lie to their families about their source of income.”

URL: <http://www.24heures.ch/suisse/certains-dealers-rue-rapport-conflictuel-drogues/story/23569500>

URL: https://www.lecourrier.ch/137788/lumiere_sur_l_univers_ferme_des_dealers_de_rue

²⁴⁰ Olivier Guéniat and Anaïs Gasser, « Trafic de drogue : “Les secrets des mafias ouest-africaines de la cocaïne” », *L'Hebdo*, 30.06.2016. The authors do not give their source, but reading this article it seems clear that an important part of their information comes from Stephen Ellis' book.

URL: <http://www.hebdo.ch/hebdo/idees-debats/detail/trafic-de-drogue-«les-secrets-des-mafias-ouest-africaines-de-la-cocaine»>

²⁴¹ Stephen Ellis, *This Present Darkness. A History of Nigerian Organised Crime*, Hurst and Company, London, 2016, pp. 176-177.

People active in the sale of illegal drugs rarely consume the drugs they sell: occasionally cannabis, almost never cocaine, considered to be a “bad drug”, the scourge of “rich Europeans”. This implies that they do not necessarily know the quality of the products they are selling; but also, that they develop a picture of their buyers as people who are needlessly putting their lives in danger. Indeed, these Swiss or European people who come to them seeking illegal substances have a job, a stable situation. How do these men with a migrant background – who see the sale of drugs as an exceptional recourse, a *temporary* and *degrading* activity which will allow them to survive, or help their families to survive – perceive these consumers who are partying at the other end of the discrimination scale? And how do they feel they are perceived by Swiss people, who most of the time are incapable of telling the difference between a “dealer” and another “dealer”? Incidentally, consumers looking for drugs actually contribute to stigmatization: the members of Jean Dutoit suffer from this attitude of white people who, in looking for a dealer, start a conversation only because they are *interested*, then leave surprised and empty-handed because the person they approached does not practice this activity.

The gap widens all the more so because street dealing is rarely practiced by white people and even less by Swiss persons (contrary to other kinds of selling: for example, dealing in nightclubs, which according to our sources is operated mostly by white people). Firstly, because it does not bring home as much money as we imagine: street dealers have neither car, nor apartment, nor gold chains. We are far from the stereotype of the American “gangsta” rapper. In fact, it is the opposite: these people find themselves in a situation of great economic and social insecurity and are regularly forced to sleep outside. Secondly, because it is a high-risk activity, which only isolated people take up, because they are not aware of the risks to which they are exposing themselves and are steered towards this line of work by the multiple exclusions which target them.

Switzerland therefore employs migrants to practice the activities that Swiss people will not. Consumers are of course not the only ones to be held responsible for this situation, since there exists a supply that has its roots in the history of illegal drug sales in Europe since the 1950s. However, this is not a market where the disappearance of the supply would occasion the disappearance of the demand. The consumption of psychoactive substances is a permanent anthropological feature²⁴². Concerning specifically the consumption of these two drugs in Switzerland and Europe, we know that cocaine has been in use on the Old Continent since the 19th century, where it was first prescribed by doctors as a medicine, then underwent a boom in the beginning of the 1960s, and has since been used in all socio-professional environments for leisure or performance enhancement. As for cannabis, although we find traces of therapeutic use going back to Ancient Egypt, its use as a drug originates in the hippie movement. Today, the consumption of these two products is regarded as unremarkable in Switzerland.

Incidentally, a legal cannabis market – low in THC and high in CBD – has recently come into being in Switzerland and has seen a rapid expansion: production, store chains, sales in kiosks and at the supermarket²⁴³. This is not the same market as that of street dealing, since Swiss law establishes a distinction between two types of commerce based on the content of the psychoactive substance:

²⁴² Domenig, Dagmar, Sandro Cattacin and Erik Verkooyen (trad.) (2015) *Les drogues sont-elles dangereuses ? Estimations de la dangerosité des substances psychoactives*. Research carried out at the request of the Federal Commission for issues relating to drugs. Geneva: University of Geneva. (Sociograph - Sociological Research Studies, 22b), p. 10.

²⁴³ Marc Gagliardone and Feriel Mestiri, « Le CBD, ce cannabis légal qui fait le buzz en Suisse et qui embête la police », *RTS info*, 21.03.2017.

URL: <https://www.rts.ch/info/suisse/8428018-le-cbd-ce-cannabis-legal-qui-fait-le-buzz-en-suisse-et-qui-embete-la-police.html>

cannabis which is high in THC is illegal, while that which is low in THC²⁴⁴ (and high in CBD) is legal. However, on the side of the consumers, the border remains porous. Finally, let us underline the fact that cannabis and cocaine are part of the modern pharmacopoeia and that their trade thus depends on the global drugs market, currently operated by two types of flourishing transnational commerce: criminal networks on the illegal side, and the pharmaceutical industry on the legal side.

Another sector of the “Swiss economy” finds itself in a similar position: that of prostitution. Framed by laws, sex work in Switzerland can take place in allocated spaces, with a minimum of social protection. But, for all the women (and also, but more rarely, men²⁴⁵) who cannot subscribe to the conditions of this framework, working on the street is the only remaining solution. During a Jean Dutoit meeting where we broached the subject of the dangers linked to dealing, it seemed a possible avenue for us to think about creating parallels between these two activities: they are both strongly gendered and determined by exclusion. This parallel allows us to look at the racialization and criminalization of street dealing from a different perspective, by recognizing common conditions with the situation of African women who have been or are active in the field of prostitution. Recorded by *Voix d’Exils*, the testimony of Anouchka, a rejected asylum seeker living in Switzerland and mother of four children, is unequivocal: “I am a single mother receiving emergency assistance. I survive with less than three hundred Swiss francs per month. I prostitute myself to support myself and my children financially. I have been in Switzerland for ten years and I am not allowed to work here. What else can I do?”²⁴⁶

Both sides face precarious and dangerous working conditions, which entail becoming a target of ostracism by one part of society and the public authorities. It means having to deal with racist and/or sexist terms and gestures in exchange for a piteously low income, furthermore involving a particular relationship with the “Swiss client”. These are activities that carry high psycho-social and health risks, because of the isolation they cause, the social image of oneself they entail, the psychological fragility they generate and that can give rise to troubles whose seriousness is widely acknowledged. It also seems possible for us to compare these two activities because they imply a dependency on third parties: here large-scale traffickers, there pimps. But this is where the comparison ends, since women are threatened by the other great axis of human injustice: male domination. A woman who prostitutes herself and a man who sells drugs do not expose themselves to the same risks, whether these forms of violence – sexual or not, insults, thefts, brutal arrests, etc. – come from consumers or police officers²⁴⁷.

²⁴⁴ It must contain less than 1% THC to be legal.

²⁴⁵ Male prostitution of migrant persons of African descent is a reality in Geneva, if we are to believe an article by Maude Malval published on January 24th 2013 in the *GHI*.

URL: <https://www.ghi.ch/le-journal/geneve/des-dealers-africains-proposent-aussi-du-sexe>

²⁴⁶ “Most African women have passed through Spain or Italy, after a journey through different countries of Sub-Saharan Africa which led them to Morocco. [...] Most of them are under 25 years old. Some made the decision to leave their country of origin because of political reasons or to escape a forced marriage with an “old man”, others because they were tricked by organized crime networks via the internet or via adverts in magazines. [...] Some left knowing that they would be working in the sex industry in Europe; whereas others were duped as to the nature of the work they would be doing. This is the case for most Nigerian women, but also women from Cameroon, Senegal and the Congo whom we met at the *rue de Genève* or *rue de Berne*, the “headquarters”, in Lausanne and Geneva respectively.”

F. Bradley Roland, « Les dangereuses illusions de la prostitution », *Voix d’exils*, 27.04.2012.

URL: <http://voixdexils.ch/2012/04/27/les-dangereuses-illusions-de-la-prostitution/>

²⁴⁷ Police officers who are most often men, confronted with drug dealers who are also men, enter into relationships of power and violence which can only be explained by a macho or belligerent socialization. As stated below in the context of police brutality (cf. chapter III.4), some police officers exhibit a form of racism

Nonetheless, the people who practice these two activities – men and women, “drug dealing” and “prostitution” – find themselves assigned to the same globalized socio-economic class: that of precarized workers in a postcolonial national-liberalist society.

Who suffers from drug dealing?

Let us ask one last question: who suffers from the exercise of this activity?

According to a 2015 study on the dangerousness of drugs carried out at the University of Geneva at the request of the *Commission fédérale pour les questions liées aux drogues*, the addiction and health risks of cannabis and cocaine are both low²⁴⁸.

But, if it falls to the State to weigh the interests and risks in the field of public health and legislate in consequence, how can we not return to the comparison between the health costs of cannabis – an illegal drug – and those of alcohol – a legal drug? Physical dependency, general toxicity²⁴⁹ and social dangerousness are estimated to be low or very low for cannabis, but high to very high for alcohol. Consequently, what sense is there in targeting people who sell cannabis and cocaine, when we can purchase alcohol over the counter – globally, a much more dangerous drug for consumers in terms of health and socialization? To say that the State seeks to protect consumers by penalizing the sale of cannabis and cocaine is an indefensible position.

Let us turn to a population susceptible of being affected by the exercise of the activity: people who live in proximity to drug dealing spots. Many elements indicate that most people have become used to this presence; if worry remains, it is in part because people do not know who these street workers are, nor why they do this type of work. For those who are a bit more *au fait* – and who have gone to the trouble of speaking with them – “neighborhood dealers” can conversely become a reassuring element of the urban landscape²⁵⁰. If that is not the case, this presence will likely be felt as invasive²⁵¹. But we are entitled to wonder whether it is the sale of drugs that is unnerving – and its realities, or its representation in politics and the media? – or whether, if we take into account the

that is specifically linked to masculine domination within Swiss society. If a white woman is out with a black man, this will be perceived by the police officer as a betrayal on the part of the white woman and an illegitimate act of appropriation perpetrated by the black man. – This idea of appropriation, in that it refuses and denies the woman her capacity/legitimacy to choose the man with whom she wants to live, is of course the crux of the problem. Especially as the legal patriarchal order aims for the domination of men over other men, domination over women appearing as a manner of affirming this domination.

Cf. Mary Becker, *Cases and Materials on Feminist Jurisprudence: Taking Women Seriously* (1993)

²⁴⁸ *Les drogues sont-elles dangereuses ?*, *op. cit.*, p. 28. Concerning cocaine, physical addiction is deemed low, while psychological addiction is high albeit discontinuous.

URL: https://unige.ch/sciences-societe/socio/files/2814/5068/7868/Sociograph_22_b.pdf

²⁴⁹ However, the quality of cannabis sold on the black market is problematic. This is what Olivier Guénat reports, interviewed by *Le Temps* in March 2016: “The seizures carried out by police show that the product that is circulating on the black market is of bad quality, containing pesticides and fungicides in inadmissible quantities. Repression is not producing the anticipated effects.”

URL: <https://www.letemps.ch/suisse/2016/03/23/cannabis-nocif-alcool>

²⁵⁰ Read for example the testimony of Julie Gilbert, published on the *Le Courrier* website on 26.06.2017.

URL: https://m.lecourrier.ch/150399/julie_gilbert_monologue_pour_un_dealer_de_ma_rue

²⁵¹ The *Lausanne Cités* newspaper regularly recounts complaints by local inhabitants and shopkeepers. For example the article on 07.09.2016 titled « Maupas-Tunnel : l’exaspération et la peur face aux dealers », and that of 26.08.2015, « Rien contre les dealers, mais nous, on nous harcèle ! ». URL: <http://www.lausannecites.ch>

racist abuse which these black African workers receive, it is more likely to be because of their skin color and the fears that some residents project onto them²⁵².

Does repressive police action reassure local inhabitants? There is reason to doubt this. The Lausanne Police recently sent a survey²⁵³ to the inhabitants of the Chauderon, Riponne and Tunnel neighborhoods, all infamous dealing spots. But none of the questions were linked to the activity of street dealing, which could have brought certain elements of response concerning the perception of the population.

With city operations such as *Strada* and *Héraclès*²⁵⁴, whose tactics can be summarized as an intensification of police presence and checks, we must question the alarming character of this interventionism... which completely fails at eradicating drug dealing from the streets of Lausanne. How do these police operations present themselves? What face do they present to the town, and of police activity? Seeing a dozen police officers jumping out of a van and chasing down young Africans, then throwing them to the ground, handcuffing them and lining them up against a wall to check their IDs; driving through a dealing spot and insulting the black migrants there; or running after a black man in the middle of the afternoon to check his ID before realizing he is a Swiss student at the University of Lausanne; none of this is “reassuring”, and conversely transforms the urban space into an anxiety-inducing landscape.

For that matter, the thesis in sociology published in 2017 by David Pichonnaz on the subject of police officer training highlights the martial character of these operations: at the Savatan Academy, officers are prepared “for war”²⁵⁵. This is also the opinion of Frédéric Maillard, an educational specialist and analyst of police practices in Western Switzerland. For him, Western Swiss police forces apply methods which betray a “bellicose and chauvinistic subculture”²⁵⁶. As it happens, police officers apply these methods within a larger strategy that designates drug dealers as dangerous criminals (thus justifying a “proportionate” deployment of force). – But this is far from being the case: dealing zones are known for being “green zones” in terms of violence, and as we mentioned earlier, people who deal on the streets are not involved in criminal networks. – Subsequently, when the police designate them as dangerous criminals, arrest them in a spectacular manner and lock them away in great numbers, it produces anxiety and at the same time poses the police force as a savior of the populace. Should we see these drug dealers, these victims of discrimination, vulnerable and without any rights... as scapegoats, or stooges?

²⁵² At this level, it would clearly be constructive to lead awareness campaigns targeting the population rather than police operations; and to create an association for the support, social-health assistance and safeguarding of rights of drug workers, based on the model of what already exists in Lausanne for sex workers. Such an association would also function as an interface with society. It is essential to acknowledge these persons as well as the persecutions and difficulties to which they are exposed.

²⁵³ In collaboration with the Criminal Science School of the UNIL, the survey titled Security Lausanne 2017 is only available online for persons having received a participation code in their mailbox. M. Robert Joosten, town councillor for the Socialist Party, criticized in his motion on May 23rd 2017 its “plethoric” questions and the stigmatizing nature of some of these regarding several population groups: drug addicts, beggars, groups of young people and non-conformists.

URL: <http://www.securitelausanne2017.ch> → <https://people.unil.ch/christineburkhardt>

²⁵⁴ See for example the article « La police part à la reconquête des rues », *Le Temps*, 03.04.2013.

URL: <https://www.letemps.ch/suisse/2013/04/03/police-part-reconquete-rues-lausanne>

²⁵⁵ This thesis was published in 2017 under the title “*Devenirs policiers*”, éd. Antipodes.

URL: <https://www.24heures.ch/val-de-romandie/Les-eleves-policiers-se-croient-en-guerre/story/27238947>

²⁵⁶ Frédéric Maillard, « En Suisse, les violences policières subsistent », 29.10.2015.

URL: <https://blogs.letemps.ch/frederic-maillard/2015/10/29/en-suisse-les-violences-policieres-subsistent/>

In any case, this strategy allows the authorities to construct a reassuring world. In light of the previously cited ETH survey reporting a globally high feeling of security in Switzerland – 93% of people questioned declared that they feel safe²⁵⁷ – we are led to believe that, from this point of view, the strategy is working. *But a feeling of security is not the same as justice.* How will authorities respond when faced with this authoritarian drift?

On the one hand used as delinquency scapegoats by police officers who can unleash their violence and frustration on them, on the other hand placed by buyers in a subordinate position where no one would imagine a white Swiss person, “dealers” are an ideal target inasmuch as everything dissuades them from filing a complaint against the abuses of one or the other.

Who suffers from this activity? Above all the precarized people who practice it, as well as those who find themselves in a situation of exclusion, which leads them to think about practicing it.

All black people from and/or in Switzerland suffer because of the tendency towards the abusive generalization of prejudice and police misconduct, which will continue to happen without fail if no measures are taken by the municipalities and the cantons to change the perception that many of their officers have of black/African/migrant people.

²⁵⁷ *Sicherheit 2017, op. cit.*, p. 26.

III.3. *Racial profiling in Switzerland*

As much as concerns the stigmatization of the drug dealer as what touches upon other types of discrimination, it is on the behaviors of state officers that we must concentrate. Racial profiling exists as soon as an instance of racial discrimination is committed by a person or a group of persons in the exercise of their public function, whether these discriminations result from their explicit mission or no. Given the grey area which often surrounds these notions, it is useful to start by defining them and thus remove certain ambiguities.

Definition and disambiguation

Reminder: what constitutes an instance of racial discrimination is “any distinction, exclusion, restriction or preference founded upon race, color, descendance or national or ethnic origin, whose aim or effect is to destroy or compromise recognition and the enjoyment or the exercise, in conditions of equality, of the rights of man and the fundamental freedoms in the political, economic, social and cultural fields or in any other field of public life.” (*International convention on the elimination of all forms of racial discrimination*, 1965/1969, approved by Switzerland in 1993 and entered into effect in 1994.)

When state officers, instead of protecting the rule of law in a non-discriminatory manner, operate forms of racial discrimination in the exercise of their function, the consequence of which is to deprive people of their rights, we are in the presence of racial profiling. Questioning the methodical and systematic character of the discriminations at hand will be of utmost importance; but what defines *racial profiling*, is its State dimension²⁵⁸.

In particular, any racially discriminating stop and search carried out by a police officer pertains to racial profiling. That is also what the expression “*contrôle au faciès*” (“face-based profiling”) designates, although imperfectly, since it only references the face of the discriminated person, whereas other elements can also serve as a basis for discrimination, such as clothing or other elements of the appearance, but also national or ethnic origin. For that matter, racial profiling can happen in other situations: this is the case each time a state officer (social worker, doctor, ambulance driver, etc.) acts in a discriminatory manner in the exercise of their function and thus compromises or destroys the rights of a person. Let us finally underline that *racial* profiling constitutes a particular case of *discriminatory* profiling: indeed, the actions of an officer can be discriminatory on other bases, for example gender, social status or political affiliation.

Racial profiling rests on elements that distinguish, in the eyes of officers and/or institutions, a person or a group of persons from the rest of the population. It implies the subjectivity of the aforementioned officers, their cultural, social and political frame of reference, the institutional mission, the directives of their hierarchy, and finally the State that vouches for this institution and

²⁵⁸ Indeed, it is the one and indivisible sovereignty of a State that is designated through racial profiling. What a civil servant does speaks for the State, and when a civil servant strays from their mission in unlawfulness they are sued by the State. “Nobody is above the law” is the foundation of the rule of law, and the rule of law is at the foundation of democracy.

thus the citizen population who, in a democratic regime, legitimize this State. These imbrications – as unfinished and imperfect as they may be – matter to the extent that, if it is evident that an officer who applies the racist laws of their country practices racial profiling, it is less evident to grasp how nonracist laws applied by a racist officer, a racist institution or within a racist population, risk giving way to situations of racial profiling. Moreover, it is necessary to consider cases of racial profiling that do not stem explicitly from the desire to harm, but from unconscious and routine behavior.

In virtue of the Article 261bis of the Swiss penal code and the international conventions currently in effect in Switzerland, racial profiling is illegal in all circumstances on the entirety of the territory. Considering that only a small number of cases have been brought to court, jurisprudence is thin. As we will see further on, there are many obstacles to the filing of complaints for this kind of abuse of power; moreover, the fact that State courts then judge cases of State discrimination can give rise to collusions.

Concerning police work, a grey area is regularly maintained between racial profiling and criminal profiling, two operations that are nevertheless clearly distinct.

Racial profiling does not constitute in any case a subsection of criminal profiling. The difference is simple, as long as we deign to think about it: criminal profiling operates via particular determinations of a person or a group of persons that are being looked for, whereas racial profiling operates via general determinations and racist bias. The former operates with the word “some”, the latter with the word “all”. Indeed, to say that “some men of African origin are drug dealers” is not more of a discrimination than to advance that “some men of Swiss origin have no taste in fashion”. The logic does not allow us to conclude that all Swiss men have no fashion sense. In the same manner, carrying out spot checks on all black African men for the reason that *some* of them *have been* arrested for drug dealing is an error of logic. However, such errors do not happen because some police agents are incapable of using common sense (although that might be possible), but rather because of racist socializations, representations and prejudices, which consciously or unconsciously take over the exercise of reason. Although we will evaluate a conscious and intentional instance of discrimination differently to an unintentional instance of discrimination, let us recall that for the victim, the consequences are the same: the destruction and the compromising of their rights and fundamental freedoms.

Compromised or violated rights

Racial profiling takes place at one of the most important articulations of modern and democratic societies: the equality of all in regard of the law.

Within a multicultural society such as Switzerland, the consequence of racial profiling is a reinforcement of segregation and weakening of diversity. Within a national-liberal society such as Switzerland, the consequence of racial profiling is the promotion and the reproduction of two generic socio-racial classes: a class of privileged people (white people) and a class of subordinates (people of color).

If racial profiling as well as all other forms of discrimination are not combated, these consequences lead to the ruin of democratic societies through the destruction of the rule of law. The resulting forms of society range from oligarchy to totalitarianism. But it is especially important to see how such forms exist today in Swiss and European democratic societies: microsocial forms of power but also structural persistences, they are the consequences and the continuation of the

history of the development of these societies and of their nationalist, colonialist and slave-trading past.

In the city of Lausanne as on the whole of the Swiss territory, members of Jean Dutoit are frequently the subjects and/or the witnesses of this illegal discriminatory practice. It is a form of police harassment: people of color are stopped because they are of color, whereas white people never have their identity checked in the street by police officers. But harassment on the street can go even further: some members of Jean Dutoit recount that although their papers are in order, they are taken to the police station without any motive²⁵⁹. There, they are regularly ill-treated (cf. chapter III.4) then released.

As black African people, the resident members of Jean Dutoit are the object of racial profiling carried out by white Swiss police officers. As white and black Swiss people, the interface members witness racial profiling carried out against black African people. Moreover, especially as white Swiss people, the interface members are subject to the positive discrimination carried out by the Swiss white police officers. This point is too often forgotten: there is racial profiling only to the extent that it discriminates – by slightly simplifying – two categories of the population; positively discriminating the privileged and negatively discriminating the subordinates. The white interface members of the Collective, and even more so the men than the women, are recognized more readily as interlocutors to be taken seriously and whose rights will be respected.

In the case that concerns us, there are whites and blacks – terms that are fallacious in themselves since nobody is “black” or “white” – but all ethnic origins and all chromatic variations are touched by this plague. Let us recall that racism (and the nationalism that is part of it) has served to legitimize colonial wars, the slave trade, the Shoah, the Armenian genocide, the Srebrenica massacres, and the Tutsi genocide in Rwanda, among many others. There is no need to spare sensitivities embarrassed by the problem of racism by toning down the presentation of consequences that the nationalization and even the systematization of discriminations inevitably lead to. Although pedagogical approaches in a constructive and cooperative mode are welcome, it is important not to lose sight of the fact that institutions are a major playing field of socialization and the (re)production of conditioned behaviors. In Switzerland, the term “racial profiling” came into the public eye very late, following a report by Amnesty International in 2007²⁶⁰. The older expression “*contrôle au faciès*” is there to remind us that this is not a new problem.

However, its resolution depends mostly on the acknowledgement of racism in Switzerland and on the laws that should allow plaintiffs to sue in the case of discrimination. As we have shown, the legal framework in question is currently insufficient (cf. chapter III.1).

Switzerland is known for being a “bad student”, and many States, in Europe and elsewhere, are much more advanced in the matter (as is the case for Uruguay). The situation in the United States²⁶¹,

²⁵⁹ To combat racial profiling, the city of Zurich has recently introduced the obligation for police officers to give the person they are stopping the reason for which they are doing so.

ATS, « La police veut éviter le délit de faciès », *24 heures*, 20.11.2017.

URL: <https://www.24heures.ch/suisse/police-veut-eviter-delit-facies/story/31886653>

²⁶⁰ Amnesty International, Swiss section, *Police, justice et droits humains*, Bern, 2007, p. 88.

URL: https://www.humanrights.ch/upload/pdf/070625_AI_rapport_police.pdf

²⁶¹ Cf. the comparative USA-Europe study by R. Delsol of the Centre for crime and justice studies.

URL: <https://www.crimeandjustice.org.uk/publications/cjm/article/racial-profiling>

in England²⁶², France²⁶³ and other countries of the globe no longer leaves governments the choice to simply look the other way... and yet the measures put in place by these States are not sufficient either. On the one hand, because there is always a lack of acknowledgement of racism and discrimination. On the other hand, because there is an almost total denial concerning the (re)production of national-liberal classes of society and their racial delineations. But, when policies of redistribution likely to maintain and promote the rule of law are not implemented, these societies invariably see an increase in racism and segregation, indexed on the increase of economic and social discrimination (even more so in periods of crisis and unemployment). In truth it is a global problem for current societies²⁶⁴, to which all public authorities should attempt to respond by working from their own field of action: cities, regions, countries.

The mediator of the city of Zürich states: “Racial and ethnic profiling exists in Switzerland too. The experience of the mediation service of the city of Zürich shows for example that young black people from certain neighborhoods are subjected to more identity checks than the average, and are taken to the police station even if they have an ID. There they must submit to more questioning. The European Commission against racism and intolerance (ECRI) underlines that any police measure taken in the absence of individual suspicion contravenes the anti-racism and anti-discrimination dispositions. It recommends for Switzerland to make all its police bodies attend training programs in the matter.”²⁶⁵ Preventing is not healing, but at least it is acknowledgment.

What is the state of affairs in Lausanne? Reluctance, in spite of the fact that the *Carrefour de réflexion et d'action contre le racisme anti-Noir* (CRAN), the *Alliance contre le profilage racial*, the *Collectif Afro-Swiss*, the *Collectif À qui le tour, solidaritéS*, *Amnesty International Suisse*, the *Collectif R*, the Jean Dutoit Collective as well as several other associations and collectives fighting for human rights and/or support for migrant persons have all denounced the use of racial profiling.

In Lausanne, an attempt to muddy the waters

These past few years, the tendency has rather been to muddy the waters. That is the assessment we can make upon reading the *Avis du Comité d'éthique du Corps de police de Lausanne (Notice from the Ethics Committee of the Lausanne Police Force)*, published in June 2010 and titled *Du « délit de faciès » à la « recherche ciblée de personnes »* (“From face-based discrimination to the targeted search of persons”). Upon reading this title, a first question arises: should it not logically be “*contrôle*

²⁶² According to an official British report, 1 out of 7 stop and searches is allegedly unlawful.

URL: <https://www.theguardian.com/law/2016/feb/11/uk-police-forces-still-abusing-stop-and-search-powers>

²⁶³ An inquiry carried out with the collaboration of the CNRS in 2009 in Paris came to the conclusion that “persons perceived as “black” (of Sub-Saharan or West Indian origin) and persons perceived as “Arabic” (from the Maghreb or Machrek) have been disproportionately stopped and searched compared with persons perceived as “white”. According to watchdog sites, black persons risked being stopped between 3.3 and 11.5 times more than white people, considering the proportion of these two groups in the population that can be checked by the police (or the border patrol). Arabs are generally more than 7 times likelier to be stopped than white people; globally, they risked being stopped by police (or border patrols) between 1.8 and 14.8 times more than white people in observed locations, also regarding the composition of the available population.”

URL: <http://www.cnrs.fr/inshs/recherche/docs-actualites/rapport-facies.pdf>

²⁶⁴ This is the observation, among others, of the Open Society Foundations.

URL: <https://www.opensocietyfoundations.org/voices/police-profiling-global-problem>

On this issue, see also the dossier by the *humanrights.ch* platform.

URL: <https://www.humanrights.ch/fr/dossiers-droits-humains/racisme/delit-de-facies/contextes-nationaux/>

²⁶⁵ Claudia Kaufmann, « Le profilage racial et ethnique, un phénomène inconnu chez nous? », *Tangram*, Nr. 26, December 2010, p. 71.

au faciès” (“face-based checks”), if we wanted to compare it to “recherche ciblée de personnes” (“targeted search of persons”), in order to differentiate it? The expression “face-based discrimination” also refers to another expression – “le délit de sale gueule” (literally “the offence of having an ugly face”) – and problematizes the face as a crime instead of problematizing the process itself.

We nevertheless understand that the issue will be to differentiate an illegitimate face-based check from a legitimate targeted search of persons. There ensues a discussion of several pages. But as they are concluding, the authors write the following words: “the legitimacy of the “targeted search” of persons (more colloquially referred to as “délit de faciès”)²⁶⁶. – The confusion is total, and the ambivalence revolting. This work of ethics could therefore be read as attempting to show how face-based discrimination can be legitimate... when in fact the expression itself indicates there is discrimination at work. This brutal ending reinforces the impression that the function of this *Notice* is to serve as an alibi in a situation where the problem is mostly glossed over.

Besides, how is it possible to reflect on these questions based on no field work, and no testimonies on either side? The result resembles an assemblage of stagnating theories. Moreover, this *Notice* pretends to lead an ethical reflection while completely omitting the political, social and economic dimensions of racial profiling. It pretends to wade into the problem with the assurance that we live in a world where “white” and “black” are discriminated only through skin color, when in fact, as we have shown, they are discriminated for political, economic and cultural motives whose developments are to be sought out at the least in the history of the last five centuries.

We nevertheless salute the *Warning* at the head of the *Notice*, concerning the “risks of authoritarian drift”²⁶⁷ of the police forces; it would also have been good to remind readers of the conditions that led to fascism, as a crystallization of racial privilege and warlike ideology. We also note the pertinence – although it might have been more efficiently supported by examples – of the five criteria that should allow police officers maneuvering in a “changing democratic and multicultural society” to act with knowledge of the law, rigor, an awareness of the context, an attention to consequences and a sharper relational sense. The fact remains that words are one thing, and practice another.

Face-based checks in Lausanne, during the day or at night, have been reported *each week* by the members of Jean Dutoit, over the course of the last two years. We have also *regularly* received reports of black people, Swiss citizens or no (and not always of African descent), being spot checked in the city center, presumptively for drug dealing.

One point that sticks out by a mile in all of these cases is the absence of communication on the part of police officers during such spot checks. Faced with Swiss citizens, police officers most often realize in time that they are barking up the wrong tree and the situation will not escalate further than a few racializing comments. To our knowledge, these police officers never apologize. But how can they, if the State does not acknowledge the problem? Yet for this acknowledgement to come to pass, it unfortunately seems necessary for a spot check to become violent, for officers to *mistakenly*

²⁶⁶ Ethics Committee of the Lausanne Police Force, *Avis No 1, Du « délit de faciès » à la « recherche ciblée de personnes »*, Lausanne, 2010, p. 12.

URL: http://www.lausanne.ch/lausanne-officielle/administration/securite-et-economie/police-de-lausanne/la-police/la-police-c-est-aussi/une-philosophie-de-travail/ethique/mainArea/02/links/04/linkBinary/160531_Avis__1_delit_de_facies_Recherche_ciblee_de_personnes.pdf (sic)

²⁶⁷ *Ibid.*, p. 3.

proceed to an arrest – and for the victim to press charges – before the population can become aware of it through the media, then protest against these behaviors and call upon the State.

Such was the case of a Swiss man of Cape Verdean origin who was violently stopped in November 2016 at the *place du Tunnel* in Lausanne: the police had mistaken him for a drug dealer. When he and his friend asked for explanations at the police station, they received the answer: “Well, you know, most drug dealers are black.”²⁶⁸ Although we must note that in itself, this statement does not constitute an instance of racial discrimination, given the reality of the field – contrary to a statement such as “most black people are drug dealers” – what must be underlined is the fact that the police acted completely illegally during this arrest: according to the testimony of the victim, Claudio, the agents did not speak to him, flattened him against a wall then tackled him to the ground where they showered him with blows before taking him to the station²⁶⁹. In this context, the most probable hypothesis is that the police officers intervened believing they had happened upon a migrant person that they could treat without consideration for that person’s rights or for the law. As such, it constitutes a socio-racial discrimination, through the chain of identification *black = drug dealer = migrant = without rights*. The remainder of Claudio’s testimony reveals the malevolence of the officers in question (“they were laughing”), and then, when they realized that Claudio was Swiss, the manner in which they tried to place the blame on him and dissuade him from pressing charges.

Two other cases made front page news in the press in November 2016: the events in Bex, mentioned earlier, let us believe that a racial bias participated in the death of a man of Congolese descent; the *black-man = probable-criminal* association tending to reinforce the aggressive reactions of a police officer in such a situation. In Zürich, there began the trial of three police officers accused of bodily harm and abuse of power against a man of Kenyan origin: spot checked in a tram in 2009, he had refused to hand over his ID, “estimating that he had been the only person on the tram to be checked and that it was a case of face-based discrimination”²⁷⁰. In the end, he would be sentenced for non-respect of police measures²⁷¹. In each case, as notes the *Swiss Competence Center for Human Rights* (CSDH), “independent and in-depth investigations”²⁷² are necessary to uphold the rule of law.

Face-based checks have also happened on a larger scale. In the second chapter, we cited the systematic checks that would take place around the Heineken hall in Renens during the 2015-2016 winter, as well as around the garden of the Sleep-in after the intervention by Mrs. Sommaruga in June 2016. Another episode of this nature happened in the spring of 2017, on the LEB tram line between Romanel and Le Lussex. According to our information, the police of West Lausanne had

²⁶⁸ Evelyne Emeri, « Passé à tabac : “Ils m’ont pris pour un dealer” », *Le Matin*, 04.11.2016.

URL: <https://www.lematin.ch/suisse/suisse-romande/m-pris-dealer/story/24383506>

²⁶⁹ *Ibid.* “I was jogging from *la Riponne* to the *place du Tunnel*. I was at the level of *Chez Xu*, the Chinese restaurant. Someone grabbed me by the neck and slammed me against the wall. I felt I was being attacked, I struggled. Then I received a blow to my crotch,” recounts the young man. “I ended up on the ground, there were five of them and I received a surge of kicks and truncheon blows to my legs. I stopped struggling, I felt a knee pressing into my neck, I couldn’t breathe. They overpowered me, gassed me and handcuffed me. That’s when I understood they were police officers.” A van arrived to take him to the *St-Martin* police station, 400 meters away. “I was dazed, I was in pain everywhere (*editor’s note: ribs, thighs, shoulders*), my legs were bleeding. I asked them why they were doing this to me. They replied: ‘That’s the way it is.’”

²⁷⁰ « Zurich : Contrôle policier musclé : acte d’accusation incomplet », *La Tribune de Genève*, 28.11.2016.

URL: <https://www.tdg.ch/suisse/controle-policier-muscle-acte-accusation-incomplet/story/21472125>

²⁷¹ A synthesis of this “unprecedented legal case” is available on the information platform *humanrights.ch*.

URL: <https://www.humanrights.ch/fr/droits-humains-suisse/interieure/poursuite/police/delit-facies-audience-judiciaire-precedent>

²⁷² URL: <http://www.skmr.ch/frz/domaines/police/nouvelles/police-violence.html>

URL: <http://www.skmr.ch/frz/domaines/police/nouvelles/force-police.html>

decided to lead this operation in order to push back against drug dealing on the streets of Renens. Having assimilated the Jean Dutoit Collective to a “den of drug dealers”, they wanted to carry out a sting operation. Several police officers spent the afternoon entering the LEB at Romanel in the direction of Lausanne, asking all black people who did not speak French to get off the tram at the next stop, where the officers carried out ID checks and searches. The result? Police found cannabis on one of the persons they had checked... a person who was neither African, nor a member of the Jean Dutoit Collective. That day, the police left empty-handed, not without having once more humiliated and stigmatized non-white persons, their skin color and origin having been the sole motives of the checks.

In view of this, we must conclude that the problem of racial profiling in Switzerland – and especially in the Western region – is not just due to isolated individuals, but concerns the police institutions *in their entirety*, from training to field operations and from politics to the chain of command.

Measures to combat racial profiling

In February 2017, the City Council of Bern overwhelmingly accepted “a motion demanding that for any identity check, police should have an obligation to deliver a receipt to the person being checked.”²⁷³ The Bernese cantonal police opposed this measure, speaking of administrative bother and additional costs. We can also suppose that this opposition belies a certain narcissistic wound, caused by the fact that the City Council, by approving this motion, seemed to be disowning its police force.

Police bodies, like any other institutional body, fear a loss of power and independence when they hear about control measures. And yet, police officers would benefit from such measures, given the response of the population who, in the wake of police “mistakes” and “blunders”, can only be led to further distrust the police, even to track instances of abuse with cameras and smartphones – a practice born in the USA known as *copwatching* – and which is not illegal as long as it does not hinder the activity of the police²⁷⁴.

We believe that the police forces and authorities of Western Switzerland would be wrong to underestimate this impact. According to an officer of the Metropolitan police of London in 2016, “every single major report into disorder in this country since 1970 places stop and search as one of, if not the most important contributing factor, and those lessons need to be learned.”²⁷⁵ Acts of racial profiling are not only experienced as “belittling, degrading and humiliating”²⁷⁶ by the persons who

²⁷³ Alain Arnaud, « La ville de Berne veut lutter plus efficacement contre le profilage racial », *RTS info*, 04.02.2017. To our knowledge, the city does not intend to indicate on this receipt the skin color of stopped persons. We believe this is a mistake. To combat racism in Switzerland, we must begin by extricating it from the “racism without races” situation evoked above.

URL: <https://www.rts.ch/info/regions/berne/8361449-la-ville-de-berne-veut-lutter-plus-efficacement-contre-le-profilage-facial.html>

²⁷⁴ A similar situation was reported by the *Lausanne-Cité*, in an article published on 09.03.2016, “the Vaudois man Kyril Gossweiler was recently arrested after photographing police officers”. Moreover, we have heard several police officers pronounce themselves in favor of wearing miniature cameras on their uniforms: such a measure could indeed have several advantages in the combat against racial profiling.

URL: <https://www.lausannecites.ch/lactualite/eclairage/devrions-nous-vraiment-tous-filmer-la-police>

²⁷⁵ V. Dodd, *UK police forces 'still abusing stop and search powers'*, *The Guardian*, 11.02.2016.

URL: <https://www.theguardian.com/law/2016/feb/11/uk-police-forces-still-abusing-stop-and-search-powers>

²⁷⁶ Amanda loset, « Faire le procès du profilage racial n’est pas une sinécure », *Gauchebo*, 10.11.2016.

URL: <https://www.gauchebo.ch/2016/11/10/faire-proces-profilage-racial-nest-sinecure/>

are subjected to them: they stigmatize, criminalize and ostracize entire communities. Consequently, the latter lose faith in the institution and the state of law and, in the end, cease to recognize the legitimacy of the actions of the police.

Issuing a receipt each time a person is checked also enables the creation of statistics relating to police checks²⁷⁷. This is a measure that can also prevent the same person from being checked multiple times in a short space of time, without a valid reason²⁷⁸. All these elements could, little by little, become integrated into the police gesture itself, supporting the awareness and the understanding that a police officer has of the implications and consequences of their actions. As mentioned by the Ethics committee of the Lausanne Police Force, recourse to the targeted search of persons must be “respectful of a clear preponderance of its predictable positive effects over its predictable negative effects”²⁷⁹. We call on the communes of Lausanne and Renens as well as the Council of the State of Vaud to take into account these elements and to contribute to the establishment of such measures, in collaboration with the municipal and cantonal police forces.

In 2014, the city of Lausanne counted 42.3% of non-naturalized inhabitants²⁸⁰. Another number reported by the *Le Temps* newspaper is important in this respect: “53.6% of the country’s younger inhabitants are born to couples from a migrant background, or mixed couples”²⁸¹. Persons from a migrant background are essential to the demographic maintenance of Switzerland as well as the health of social security. So why do police forces project, to this day, the image of a white bastion? What strategies will be implemented to change this situation, which invariably leads to a worsening of discriminations and tensions between police and minorities? What measures will be taken to encourage diversity, fight against socio-racial privileges and support the rule of law in Switzerland? How to stop acts of violence that are committed with impunity by members of the police forces? How to not only acknowledge the injustices but also change the structures and the mentalities that contribute to reproducing them? How to resolve these situations with a view to one day being able to heal them?

Swiss migratory policy is also in question, in particular the manner in which asylum is instrumentalized with a view to expelling all the *undesirables* from Switzerland. The list of “safe countries” establishes profiling on a national basis, which constitutes a form of discrimination. The advantage that Switzerland draws from the Dublin agreements by operating mass expulsions towards Italy and Greece stigmatizes migrant persons and there again constitutes a form of discrimination. It is impossible to contend in these conditions that the Swiss State does not have a stake in these cases of racial profiling that happen on the country’s streets, seeing as the decisions and actions of the administration engage the responsibility of the political body and set the tone for

²⁷⁷ In the United Kingdom, “the document will record the person’s skin colour, name and address, while overall race totals will be gathered in a bid to crack down on police who stop too many blacks and Asians.”

URL: <http://www.dailymail.co.uk/news/article-174640/Police-issue-stop-search-receipts.html>

²⁷⁸ The Lausanne police currently has a system of recording stop and searches: indeed, each officer in situation will contact their headquarters to confront the identity of the stopped person with the police databases. However, the data from this system cannot be made public, which makes its social and political use impossible. The importance of statistical data must be stressed: it allows us to know how police training can be improved with the aim of combating all forms of discrimination.

²⁷⁹ *Du « délit de faciès » à la « recherche ciblée de personnes », op. cit., p. 8.*

²⁸⁰ Statistique Vaud, *Ville de Lausanne. Portrait en chiffres*, 2015.

URL: http://www.scris.vd.ch/Data_Dir/ElementsDir/5658/36/F/Portrait_de_Lausanne_2015.pdf

²⁸¹ “By ‘from a migrant background’, we are essentially designating first- or second-generation foreigners established in Switzerland, as well as persons who have been naturalized.” In Sylvain Besson, « Les Suisses “de souche” deviennent minoritaires chez les jeunes », *Le Temps*, 02.10.2015.

URL: <https://www.letemps.ch/suisse/2015/10/02/suisses-souche-deviennent-minoritaires-chez-jeunes>

behaviors that civil servants then feel authorized to adopt. This criticism is leveled at the whole of Switzerland.

As we will see in Chapter III.5, the creation of an independent and neutral body for the filing and processing of complaints concerning police abuses and brutality is here a *sine qua non* condition. Before touching upon this point, we will present in the following pages the criminal actions of which the members of the Jean Dutoit Collective have been victims or have witnessed. They show the urgency of a response to these situations of total impunity.

III.4. *Police brutality and abuses of power*

This presentation of the acts of violence and abuse endured by the African members of Jean Dutoit has value of testimony. None of the situations evoked below could be denounced before the law, and as such this impunity leads to a worsening of acts of violence and abuse. Everything leads us to think that these situations are linked, which should be determined by an official investigation. We will content ourselves with relating the facts and making sense of our observations.

In the month of December 2015, in the first months of the life of the Collective in the Heineken hall in Renens, a member of Jean Dutoit reported the following events:

On December 4th 2015, I was walking towards *place de la Riponne* to take a bus to go home. A man stopped in front of me and asked me if I spoke French. I said no, but that I speak English. Without adding anything, he pushed me violently and grabbed my throat. Several police officers in uniform arrived, including a woman. She punched me in the stomach. Because we were in front of a bar and people were staring, the police officers dragged me to a van with tinted glass parked a bit further. Inside, they continued to hit me, and I got hit by the butt of a firearm on the right side of my head and in my eye. I fainted. I woke up a while later and I did not recognize where I was. I was asked how I was feeling and a police officer gave me some water. My vision was blurry. Then they left me at *la Riponne* and I called a friend who came to pick me up.

Several of our members have told of walking alone on the streets of Lausanne city center and being stopped in the same manner by a plain-clothes officer or a police vehicle, sometimes an unmarked car. These are typical cases of racial profiling.

This is followed by a degrading and/or brutal stop and search: for example, in the hope of finding a cocaine pellet, officers exit the car and one of them seizes the person by the neck to force them to open their mouth. But they find nothing and – after having brutalized them – let the person go.

On the pretext of fighting against the sale of illegal drugs, police brutality is rife in and around identified or well-known drug dealing spots²⁸². Let us reiterate that nothing justifies gratuitous violence, not even towards persons suspected of an illegal trade. The use of force must be proportionate, and the rest can only be carried out when a suspicion is supported by repeated observations or a *flagrante delicto*. In Lausanne, the well-known drug dealing spots are the streets adjacent to the *place Chauderon* (*rue du Petit Rocher*, *Chemin des Cèdres* and *rue Saint-Roch*), next to the train station (*rue du Petit-Chêne* and *avenue de la Gare*), around the *place St-François* (*rue de Bourg*), as well as the *place de la Riponne* and the *place du Tunnel*. These are zones frequented on weekend nights, through which many Swiss people pass when going for drinks and/or going clubbing; or else zones made up of small streets easily accessible by car, through which consumers can come and buy drugs from morning til night, without impeding traffic. These consumers are

²⁸² The Drugs Task Force of the Geneva police was denounced by the European Committee for the Prevention of Torture (CPT) in 2016, which considers that “a phenomenon of police brutality persists there” and is “extremely preoccupied by the situation”. Cf. Sophia Roselli, *Tribune de Genève*, 23.6.2016.

URL: <https://www.tdg.ch/geneve/actu-genevoise/violences-policieres-nouveau-denoncees/story/17541899>

rarely bothered by the police, and no awareness campaign targets them. As mentioned in the testimony above, police forces are careful not to expose their brutality to the eyes of the population, taking the persons in their custody into an adjacent lane or into a car or a van.

In early 2016, another member of Jean Dutoit related the following:

Friday March 11th, I was waiting for the bus at the *Chauderon* stop to go home. Plain-clothes police officers stopped me and dragged me into the underground passage beneath the bus stop. There were four plain-clothes police officers. They asked me to empty the contents of my pockets onto the ground. I first took out CHF 40, and the first police officer took the money and put it in his pocket. Then they told me to leave with the rest of my things still on the ground. I refused to leave without my CHF 40, because without it I wouldn't be able to buy food the next day. The police officer gave me back the CHF 40, and began to punch me. I cried out in protest. A second police officer approached me, made me fall on the ground and put his knee on my neck to keep me from screaming, while the first officer continued to hit me in the legs. I heard "Go back to your fucking country, you have no right to be here". When I got up, they checked my ID – which was still on the ground – which I had received from the Registration Center in Vallorbe. Seeing it was out of date, they pocketed it and left.

Sequestration, blows, theft and insults. These racist practices and words here suggest that police officers are substituting themselves to the course of justice, in the manner of *vigilantes* in the United States. In such a situation, the victim could have received one blow too many and died on the spot, without their aggressors being worried. Going from the idea that "luckily", this has never happened because such a case has never been reported, is a fantasy. *It has probably already happened*, without anyone noticing. In this context, the life of these African men is considered as a sub-life, a life which society does not need and which no one will step forward to claim.

During the months of June and July 2017, two black African men were beaten up by Lausanne police officers near the playground situated opposite the entrance of the municipal library, on *place Chauderon*. In the second case, which happened on the afternoon of July 14th, the victim says he saw police officers running after other African men in direction of the Chauderon bridge. A little later, he saw them coming back and heading in his direction. He began to run, found himself at the edge of a wall, jumped from a height of 4 meters, hurting himself in the process, then hid between parked cars. The police officers, who returned with a dog, managed to find him. They took him into a car. On the back seat, the man was subjected to a first beating. The car then stopped in a secluded area: the police officers made him get out and beat him up; he vomited. They then took him to the police station, *place du Nord*. When the ambulance came to pick him up, he was lying on the ground, naked. One of the interface members of the Collective was now present, having been alerted by a friend of the victim who had witnessed the beginning of the scene. She recovered his clothes; someone had apparently attempted to clean them, but they still smelled like vomit. The ambulance took the man to the CHUV hospital, where he stayed for three days. Not having any papers, he did not want to risk of pressing charges, for fear of being arrested and detained with a view to being expelled from the country.

These testimonies allow us to understand the fear that migrant persons – black African in particular, but not only – feel in Switzerland. This climate of fear is a form of violence. If it is not

institutional, it certainly appears so and, until proof of the contrary, enjoys its legitimacy. Violent persecution is always latent and threatens to erupt at any moment²⁸³.

Some police officers seem completely unconscious of this climate of fear created by racial profiling and the impunity of violence. We have heard officers imply that when they wish to check black migrant persons in the street, the latter begin to run, which according to the officers, is a proof of their guilt. According to us, this proves only that these persons are afraid of being subjected to degrading treatment and/or being arrested with a view to being expelled from the country. And we are not speaking here of persons who might have been caught dealing drugs red-handed, but of persons who run away from police in broad daylight because they feel criminalized and understand that they are targets even though they have committed no crime and their papers are in order. Most of the persons to which the police give chase in this manner will be released in the hours that follow.

*

Other situations have been recounted by the members of the Jean Dutoit Collective as well as by black migrant persons of the region. The following list constitutes a cross-section of their testimonies:

- Insults and humiliations: Leveled by police officers against persons perceived as having an African migrant background, we here find all the elements of anti-black racism: migrants are called profiteers, leeches, simpletons, belonging to underdeveloped countries to which they should return (“there is nothing for you here”, “this is not your fucking country”). Some police officers become particularly nervous at the sight of a black man on the arm of a white woman and address the man by speaking for example of “the gazelle he found himself”. Moreover, it has happened that police officers fixate on the muscle structure of a man they are questioning, forcing him to do 25 push-ups, with the sole aim of humiliating him. Insults are often proffered in English, and police officers often have recourse to a series of interjections that seem lifted straight out of American action movies (“fucking dealer”, “motherfucker”). They can be explicitly racist, for ex. in this expression recently heard by a resident member: “let’s go negro hunting”. These humiliations take place in the middle of the street, by day and by night. They are proffered by officers carrying out an operation or no, in uniform or in plain clothes, on foot, by car or simply driving past.
- Death threats: several members report having received verbal threats from police officers, and particularly male officers. Early November 2017, after the death of Lamine Fatty in Lausanne in the Blécherette police center, one of the members of Jean Dutoit who was questioned and released heard a police officer say to him: “Do you know we can kill people and nothing happens?”
- Confiscation of papers: during spot checks, it can happen that police officers either confiscate – illegally – the identity papers of a migrant person (identity card or residency permit from an EU country, or a card delivered by a Swiss registration center) or dispose of them before their eyes, by tearing them into pieces. When one of

²⁸³ As Miguel Benasayag writes, “torture always acts as an irruption, an interruption of all meaning.” Moreover, “the parallel between the silence of the victim and that of the State is evident: the victim cannot recount the essential part of what happened to them, because there is no word for the unnamable – that which is beyond the border of language; and the State cannot admit that it tortures, because it would be acknowledging after the fact that it has stepped beyond that border, thus forfeiting its legitimacy.” in *Utopie et liberté. Les droits de l’homme : une idéologie ?*, La Découverte, Paris, 1986, pp. 38-39.

the African members of the Collective then attempts to recover his papers at the police station, he is told to come back later... this is proof of additional discrimination, since when one of the Swiss members of the Collective comes to retrieve these same papers, the situation is unlocked and the papers are returned.

- Confiscation of money: members who were stopped in the city of Lausanne have seen their money confiscated by police officers. This has happened both within and without of the framework of an arrest for drug dealing. Although this confiscation is potentially justified when it is proved that the money results from an illegal sale, the presumption of innocence is not applied here. The money in the possession of a man who has been caught red-handed is not necessarily the product of his sale. As for the money belonging to a man who was not caught red-handed, nothing justifies its confiscation. Precarized migrant persons of course do not dispose of a bank account, nor of any secure place to keep their money. When they receive money from their family or from their friends via an international transfer service, thus helping them to survive for a while, they have no other choice but to keep this money on their person. This is the money that the police officers confiscate.
- Withholding of money by the legal system: What's more, when a sum of money is confiscated during an arrest and the defendant manages to prove, by using receipts, that this money belongs to him – a complicated process in itself, which necessitates the help of a local French-speaking person – he still needs a bank account for the public authorities to be able to reimburse this unlawfully confiscated money. Indeed, the State of Vaud does not reimburse cash sums, which is inadmissible and constitutes yet another violation of rights.
- Theft: “Confiscation” of money takes place without any receipt being given to the person who has been stopped. These are instances of theft, pure and simple. Such cases happen within the framework of spot checks stemming from suspicion of or *in flagrante* drug dealing and within the framework of racial profiling. Police officers that act in this way are evidently looking to create even more precarious and insecure conditions for migrant persons, making them feel like they “are not welcome in Switzerland”. Moreover, the question remains: do these police officers then put this money into the coffers of the State, or into their own pockets?
- Failure to respect private life: during checks, many people have reported that police officers have demanded that they “open” their cell phone; such a request is illegal in the absence of a motivated arrest and an official charge. In the same cases – and in other cases where no previous request has been formulated – police officers seize a person's cellphone, remove the SIM card from the phone and break it in half. Several people report that some officers do not even go to such trouble, instead destroying the phone by throwing it on the ground and/or stomping on it. Let us remind our readers that for migrant persons, a mobile phone is a vital tool, since it contains the contact information of their family in Europe and in Africa.
- Physical violence and beatings: instances of physical violence include shoving, slaps, punches, kicks, blows dealt with the butt of a firearm, throwing persons to the ground or against a wall, and the aggressive use of pepper spray. Let us remind ourselves that in all the cases described, police officers are superior in number to the migrant person or persons. The victims regularly describe being thrown to the ground and subjected to blows from most of the police officers present at the scene. Moreover, several members of the Collective recount that when a situation is about to become violent, one of the police officers will hide their ID number: they are the one about to deal the

blows. In other situations, all the officers present hide their ID numbers. These instances of brutality happen away from the eyes of passers-by, in small streets and underground passages, but also (as mentioned earlier) on the back seat of a police car or in a van, as well as at police stations and detention units (including many cases at the Lausanne police headquarters).

- Instances of “negligence”: instances of gross negligence – for example those that led to the death of Lamine Fatty in his cell at the cantonal police detention center of *la Blécherette* – are forms of institutional violence and abuse of power. Through negligence, laxity, cowardice, racism and/or tolerance towards injustices committed towards racialized and stigmatized persons, public officers are guilty of failing to assist a person in danger, even of criminal collaboration. The routine dimension of such actions and the absence of appropriate responses incriminates the institutions of the State.

There is no possible compromise in such situations: justice must be served. We call on the municipal, cantonal and federal authorities to not only acknowledge these situations, but to take the necessary steps in order for such situations to be followed up on. Internal enquiries should be opened in order to determine the responsibilities of this brutality, torture, harassment, discrimination and “negligence”.

One must also ask why this abuse and brutality happens, by underlining once more that this phenomenon is not new. In 2007, the *Rapport du groupe de travail sur le fonctionnement de Police-Secours* (GTPS)²⁸⁴ addressed (pp. 45 and ff) the question of “brutality towards the public”. Based on testimonies by Lausanne officers, we find mentions of most of the acts described above: “lack of respect and politeness, which can range from denigration to insults and humiliation (for example, identity papers thrown to the ground after being checked)”; threats; abuses of power “to bestow privileges upon oneself or to obtain something (for example, equipment seized without a receipt)”; ““punishment” or vengeance in a moment where one can consider that the person is in a situation of weakness”, the “excess of violence “in the moment”, such as letting a dog attack without necessity”, the fact that “police officers deal blows or exercise coercion to release their own tensions, or without reason”, and finally “violence we believe to be legitimate in order to be more efficient, for example to impress a presumed delinquent and obtain information from him”. The list is eloquent.

Nevertheless, it does not question the reasons for which some people find themselves in a situation of “weakness” and from that point become easy targets, nor why aggressiveness is triggered against certain people and not others. Neither does it highlight the *gratuitous* dimension of the violence in many of the situations we have described... gratuitous meaning that the violence deployed against the person will be perceived as having no moral consequence, which presupposes that this person is considered as a non-moral, non-human or sub-human subject. This list shows that the police and the authorities know very well that some police officers have committed abuses and brutalities that remain unpunished to this day.

The accusations that we are leveling here are serious. The fundamental human rights of many people have been and continue to be flouted and trampled underfoot. The rule of law and the Swiss constitution are ignored and reduced to protocols without value. The Swiss State must answer for

²⁸⁴ *Rapport du groupe de travail sur le fonctionnement de Police-Secours (GTPS)*, Lausanne, May 2017.
URL: http://ouvertures.info/police_lausanne_rapport.pdf

the actions of the persons it employs and for its inadequate institutions. Each public officer enjoys a discretionary margin and it is down to them to act in the direction of the respect of the rule of law and not according to their personal desires or dislikes. In the case of the latter, it is up to the different instances of the State to re-establish justice and legality.

The silence of Swiss institutions is all the more unacceptable because the situation has been known for a long time. One example will suffice, in order to open onto the next chapter.

In 2014, the United Nations Committee on the Elimination of Racial Discrimination wrote in its final Observations on Switzerland: “the Committee states that it is once again worried by the racial profiling deployed by law enforcement officers and by the absence of statistics in the matter. It also considers worrying the information reporting excessive use of force during police spot checks and harassment measures against Romani people and persons of African origin, as well as the absence of an independent instance charged with investigating complaints relating to police brutality (art. 2 and 5). »²⁸⁵

So far, Switzerland has refused to establish such an instance and thus continues to sanction the abuses of power and brutalities committed by law enforcement.

²⁸⁵ Committee on the Elimination of Racial Discrimination, *Concluding observation on the combined seventh to ninth periodic reports of Switzerland*, United Nations, 13.03.2014.
URL: <http://www.ohchr.org/FR/Countries/ENACARRegion/Pages/CHIndex.aspx>

III.5. *Of the necessity of an independent instance for the filing of complaints concerning police brutality and abuses of power*

As we have just shown, the fact that no complaints have been filed does not mean that there are no cases warranting complaints – far from it. However, it is the opinion of all law specialists that such a situation will only change when these cases have been brought to trial: only then can the problem be acknowledged by the institutions²⁸⁶.

If, to go back to Malcolm X quoted above, it is not yet within our power to heal the wound of racism and abuses of power, we can show the wound and show that the knife is still lodged within it. But in order to allow others to see it and to acknowledge what is happening, institutional measures need to be taken in order for complaints to be filed effectively. The subject of the present chapter is to highlight the obstacles that currently impede the filing of complaints as well as demonstrating the necessity of an independent instance for the filing and investigating of complaints concerning acts of violence and abuses of power committed by law enforcement officers in the performance of their duties.

Seven obstacles to justice, seven reasons for impunity

The first obstacle to filing a complaint is the effect of a system. Let us remind our readers how police officers make use of the power of a function, delegated to them by the State and symbolized by the wearing of a uniform: officers manifest, through their presence in the public space, the power of the State. But this is a double-edged sword. On the one hand, the police officer creates around them an aura of respect mixed with fear, which must contribute to the respect of the laws and the collaboration of the population. On the other hand, the police officer receives the feedback of this aura, they observe how people respect and fear them. From this feedback, inexperienced officers often take away a portion of narcissistic gain: they take for their own the respect and fear which should be the State's only. Instead of acting as a function of the State, they experience the desire to embody it, the consequence of which is a perversion of their public mission. These agents will then actively seek out situations in which they can make use of the power of the State, not with restraint and attentiveness – which form the basis of the principle of the presumption of innocence – but rather with repressive force, i.e. in any manifestation of force that is likely to feed and reinforce their feelings of power. In principle such behavior is punished by the police code of professional conduct, whereas in actual fact this is far from the case. This contributes to the fear felt by many concerning the filing of complaints against the police.

²⁸⁶ In Lausanne at the end of 2016, the Jean Dutoit Collective discussed this problem with members of the *Ensemble à Gauche* group. How can we make the voices of victims heard? The result was an unofficial complaint document that any victim can fill out following an episode of brutality or abuse of power. However, in the face of a document without any legal weight, persons might feel like they are not being taken seriously enough. Several of these complaint documents were nevertheless filled out, whose existence and contents were mentioned by the *Ensemble à Gauche* group during a motion at the Lausanne City Council in February 2017.

The second obstacle to denouncing cases of brutality and abuses of power is the concealment of identity. Many members of the Jean Dutoit Collective, both African and Swiss, have been witnesses to the fact that some police officers conceal their ID number during certain operations, thus making it impossible to identify them. Although in federal legislation the uniform suffices to legitimate the officer, the Police Act of the Canton of Vaud indicates in Article 19 that “uniformed officers must give their name and present their card if requested to do so.”²⁸⁷ However, it happens that some officers refuse to give their name or ID number, and instead of complying with good grace to this citizen request, they react vehemently instead, in the manner of persons who seem to find it difficult to stand any apparent challenge to their legitimacy/“authority”. These reactions are worrying in themselves, since they bear witness to a nervousness and an attachment to the power of their function that are incompatible with the function of a police officer. In any case, these gestures of concealment – which nothing in the operational framework of situations such as *Strada* or *Héraclès* can justify – constitute breaches of the law.²⁸⁸

Third obstacle: the dissuasion of witnesses. When citizens decide to intervene in the case of identity checks happening on the street, because they consider that a police officer is displaying signs of a disproportionate use of force or degrading behaviour, the officers then turn on these citizens to check their identity and hand out a fine for “obstructing the actions of a police officer”. In an article published in the *Le Courrier* newspaper in December 2013, three similar cases were reported. A young woman testifies: “The only thing I did was ask them to stop hitting a man who was not resisting in any way”²⁸⁹. The result? A 300 CHF fine plus administrative fees. So to this type of *in situ* dissuasion is added the financial dissuasion of the cost incurred from appealing such fines. Appeals which, according to our sources, have almost no chance of making their way to Swiss courts, whose institution seems to be protecting that of the police in several respects.

The fourth obstacle concerns the experience of non-white persons – from a migrant background or no – during a police stop and search operation. These persons speak of great stress, whether they are legally on the territory or not. Let us highlight that this is also the experience of persons who have a legal status in Switzerland (who have a residency permit or have obtained Swiss nationality) and have never committed any offence, but who feel that they are perceived as foreign. The reason of this stress is systemic and anchors itself in the effects of exclusion and racism which these persons endure. How many of them were discriminated against in the hiring process? In the field of customer service? Through street harassment, words spoken by passersby, snide jokes? This situation compromises these persons’ feelings of legitimacy when faced with State officials. They will tend to keep a low profile, put up with insults and even blows. They will not risk asking the officer’s name, for fear that the latter’s aggressiveness may escalate. Faced with a police officer presenting themselves as an embodiment of the Swiss State, an immigrant person knows that they are seen as the “last arrived”, even as a person to whom “emergency aid” is “allocated” - so many words that weigh heavy in the scales of self-worth and the feeling of one’s own legitimacy. When it comes to non-Swiss persons, especially the most precarized and stigmatized, police officers concerned with

²⁸⁷ The Police Act of 1975. This is also the recommendation of many ethics committees, such as that of the European Code of Police Ethics, §45.

URL: http://www.rsv.vd.ch/rsvsite/rsv_site/index.xsp

URL: https://www.humanrights.ch/upload/pdf/150410_Ethique_police.pdf

²⁸⁸ This point was also highlighted in 2007 in the aforementioned report by Amnesty International on police practices in Switzerland.

²⁸⁹ M. Togni and S. Dupont, « Témoins de violences policières, ils reçoivent des amendes salées », *Le Courrier*, 07.12.2013. The reported cases took place in Lausanne.

URL: https://www.lecourrier.ch/116981/temoins_de_violences_policieres_ils_recoivent_des_amendes_salees

promoting equality and the rule of law should act with an interpersonal sensitivity that takes this reality into account. Justice does not exist without the principle of proportionality. Yet the opposite regularly takes place: some officers look down on “foreigners”, even ones who have been living in Switzerland for several years, making them feel like they are not “at home”, are slightly too “tanned”, have an “accent”, etc. Let us add finally that most persons from a migrant background are often unaware of their rights, have a social network that is not greatly developed locally and/or do not speak the language, and sometimes do not know how to write, which makes handing in a written complaint impossible.

The fifth obstacle touches a police practice concerning which it is legitimate to call out the chain of command, seeing to what extent it seems to sketch the contours of a culture of impunity within the forces of law and order. The Swiss section of Amnesty International wrote in 2007: “plaintiffs are often subjected to a counter-complaint and are systematically accused and prosecuted for opposition to the actions of the authorities and violence or threats against officers”²⁹⁰. This practice is still rife ten years later. It is mostly enacted in the field, when through the use of insults, a police officer will attempt to make the person match their escalating aggression, until the latter ends up insulting the officer in their verbal defence. The same tactic is applied through unnecessary physical contact, gestures of provocation or blows designed to provoke a verbal or physical response on the part of the person who has been stopped. This practice is also enacted in police stations, when a person comes to complain about a police abuse of power: the incriminated officer will immediately file a counter-complaint, to establish that their use of violence was proportionate, relative to the real or imagined aggression of the person who was stopped. As a result, the complaint against the police officer is dropped and the assaulted person is now faced with a fine, topped with administrative fees. Once more, it is precarized persons who suffer most from such situations: not only because they will find themselves in financial difficulty, but because they will be discouraged from filing complaints in the future. The greater the impunity, the greater the abuse of power.

In this respect, the sixth obstacle is also that which signals the most serious and most cowardly kinds of violence. In the case of a person who finds themselves in an illegal situation regarding the Foreign Nationals Act – for example, over the legal duration of their stay or breaching an inadmissibility decision – the impunity of police brutality is total. Indeed, it is evident for the officers concerned that the person will not go to the police station to file a complaint, since they would then be checked, arrested, placed in a detention center and expelled from Switzerland. It has been reported to us that women who engage in sex work are also faced with this problem: they thus find themselves in grave danger not only regarding police officers, but also faced with clients who know that they will never file a complaint with the police.

Seventh and last obstacle: the absence at a federal level, as well as in all the Western cantons, of an independent and neutral instance for the filing and processing of complaints and appeals concerning police brutality and abuse of power. For now, when a victim of brutality or a witness to abuse of power wants to file a complaint or an appeal, they have to do so to the very persons they hold responsible for the offending action. Yet as we have shown throughout the preceding chapters and the six points above, there are far too many elements that contribute to a culture of impunity for this option to be ethically and legally defensible.

²⁹⁰ Amnesty International Swiss Section, « La police Suisse dans la cible », *Amnesty*, n°50, 2007.
URL: <https://www.amnesty.ch/fr/sur-amnesty/publications/magazine-amnesty/2007-3/la-police-suisse-dans-la-cible>

In these circumstances, it is just as unacceptable to pretend to resolve such situations by proposing to victims that they send a letter to the police ethics committee or to the Chief of Police²⁹¹. If the police force is unable to reassess itself and if the State is unable to enforce the law among its officers, it is evident that the respect and the trust of the population will decrease, the effect of which can only be to increase the number of excesses on both sides and to weaken the respect of rights in Switzerland.

In 2012, the new Chief of the Lausanne municipal police thought he could solve the problem internally, by the intercession of an article in the police code of conduct stipulating that “a police officer who is witness to breaches to the present code engages their administrative responsibility, subject to possible penal action, if they do not take steps to make them cease and neglect to bring them to the attention of their hierarchical superiors.”²⁹². However, by demanding that officers denounce the unlawful acts and abuses of power committed by their colleagues in a context within which impunity has reigned up to that point, this measure led to a deterioration of the trust between police officers. So much so that the leadership back-pedaled and removed the article in question from the code of conduct, without any measure being taken to create another instance. As it happens, this non-restrictive article in the code of conduct could never be sufficient: the very idea that the police force be placed under the exclusive regulation of... the police force, is not a democratic idea and reinforces autocratic behaviors.

1998-2016: the UN Committee Against Torture admonishes Switzerland

We are not the first to ask the Confederation and the cantons to set up such instances. How do the authorities justify the fact that, despite a recommendation to this effect by the United Nations Committee Against Torture dating from 1998, nothing has been done? It was almost 20 years ago: “The Committee recommends that mechanisms be put into place in all cantons to receive the complaints directed against certain members of the police force for ill treatment during arrests, interrogations and custody”²⁹³.

This is just the beginning of a long series. In 2005, the same Committee recommended in its report on Switzerland “to encourage all cantons to establish independent mechanisms in charge of receiving complaints against members of the police force reporting torture or ill treatment”²⁹⁴. In 2010, the Committee Against Torture changed its tone: “The Committee is preoccupied by the allegations of police brutality or excessive use of force or other ill treatment by the police forces during the arrest of suspects in their home or in police stations. The Committee is especially concerned by the fact that some of these allegations report the excessive use of force against foreigners, notably asylum seekers and migrant persons, especially of African descent, and in particular in the cantons of Geneva and Vaud (articles 2, 12, 13, 14 and 16)”. The Committee calls out Switzerland which, as a member State of the Convention Against Torture, “must make sure that an independent instance authorized to receive all complaints concerning violence or ill treatment on

²⁹¹ These were among the recommendations of Mr. Grégoire Junod in 2013, then in charge of the Police at the municipality of Lausanne. See the article by S. Dupont and M. Togni quoted above.

²⁹² F. Camponovo, « La police lâche du lest sur son code de déontologie », *24 heures*, 07.09.2012.

URL: <https://www.24heures.ch/vaud-regions/La-police-lche-du-lest-sur-son-code-de-deontologie/story/17426008>

²⁹³ *Rapport du Comité contre la torture*, United Nations, A/53/44, New York, 1998, p. 18. The annual reports of the Committee are available on the United Nations website.

URL: <http://www.ohchr.org/FR/HRBodies/CAT/Pages/CATIndex.aspx>

²⁹⁴ *Rapport du Comité contre la torture*, United Nations, A/60/44, New York, 2005, p. 41.

the part of police and to investigate these complaints in a timely, in-depth and impartial manner, be created in each canton”²⁹⁵. And still nothing. In 2016, faced with the feigned deafness of the Swiss authorities, “the Committee urges the State party to create an independent instance authorized to receive all complaints concerning violence or ill treatment on the part of members of the forces of law and order, and to investigate these complaints in a diligent, efficient and impartial manner”²⁹⁶. But still nothing.

In its 2016 report, the Committee Against Torture also looked into the case of Mr. Dembele, whose complaint had just been handled in the European Court of Human Rights. In the context of this case, Switzerland was sentenced for failure to respect Article 3 of the European Convention of Human Rights, forbidding torture and any other form of inhuman or degrading treatment²⁹⁷. The Committee Against Torture reminds that situations of police brutality must not be dealt with behind closed doors by mediators, or internally via codes of professional conduct. They must be handled by courts, in the wake of complaints which victims or witnesses should be able to file without being subjected to pressure. They must give rise to inquiries led by an instance that is independent and neutral from the incriminated police bodies. Without such an instance, without new verdicts, without legal precedents, there can be no possible acknowledgment nor resolution, even less healing.

In the summer of 2017, it was the turn of the Human Rights Committee to call out Switzerland on the subject: “the State party should promptly set up an independent mechanism appointed to: a) receive all the complaints linked to brutality or ill treatment inflicted by police forces; b) investigate said complaints and take legal action, efficiently and impartially; and c) keep up-to-date, centralized and broken down statistics on the entirety of the complaints, legal proceedings and convictions linked to police brutality”²⁹⁸. Does Switzerland fear for its sovereignty by implementing these recommendations from the United Nations? Does it not lose more of its sovereignty by disavowing its own promise, seeing as it has signed and approved these Conventions?

As much as it is sovereign on its own territory, the Swiss population could only benefit from such an instance from a social and political point of view. As the civilian review and complaints commission for the RCMP (Royal Canadian Mounted Police), this mechanism is underpinned by “the fundamental question of knowing whether this process can inspire the trust of the public concerning the transparency, impartiality and integrity of the criminal investigation and its results”²⁹⁹.

Concretely, as requested by the motion introduced at the Parliament of the Canton of Vaud (Grand Conseil) by Jean-Michel Dolivo (from the *Ensemble à Gauche* party) in 2007, such an instance should be made up of representatives of human rights defence and anti-racism associations, and

²⁹⁵ *Rapport du Comité contre la torture*, United Nations, A/65/44, New York, 2010, pp. 139-141.

²⁹⁶ Comité contre la torture, *Observations finales concernant le septième rapport périodique de la Suisse*, 07.09.2015, p. 3. URL: <http://undocs.org/fr/CAT/C/CHE/CO/7>

²⁹⁷ The definitive judgment is available on the website of the European Court of Human Rights. A summary of the proceedings is available on the *humanrights.ch* platform.

URL: <http://hudoc.echr.coe.int/eng?i=001-126452>

URL: <https://www.humanrights.ch/fr/droits-humains-suisse/cas-credh/cas-suisse-expliques/violence-policiere-a-geneve-credh-condamne-suisse>

²⁹⁸ Human Rights Committee, *Observations finales concernant le quatrième rapport périodique de la Suisse*, UN, 22.08.2017, p. 5. URL: <http://www.ohchr.org/FR/Countries/ENACARRegion/Pages/CHIndex.aspx>

²⁹⁹ Commission for public complaints against the RCMP, *Police Investigating Police – Final Public Report*, 2014. URL: <https://www.crcc-ccetp.gc.ca/en/police-investigating-police-final-public-report>

dispose of the means necessary to lead independent inquiries. “The free nature of the procedure and the right to an efficient and in-depth inquiry”³⁰⁰ should be guaranteed.

Since Switzerland is a confederation, such an instance should be created in each canton. Moreover, it is necessary that cases implicating the police forces of several municipalities and cantons be treated at a supra-cantonal level. The cooperation of all levels of the Swiss State is thus required, and the federal executive office should propose to the parliamentary chambers a constructive and adequate legislation along these lines, that would be able to put an end to impunity.

As we mentioned earlier, the police forces are nevertheless not the only institutions in which abuses of power and situations of discrimination can be found. Situations have been reported to us that call into question the Population Office of the Canton of Vaud (SPOP), as well as the EVAM shelters. The situation is probably similar in other cantons and cities of Switzerland. We have not led those investigations and hope that others will.

There is one point left to broach, about which the resident members of Jean Dutoit have often spoken and which leads to serious human rights violations. We are speaking of the conditions of imprisonment in Switzerland, in administrative detention centers with a view to expulsion, in the cells of police stations and in penal establishments.

This last chapter will bring to a close the topic we brought up many pages ago when we broached the issue of the migratory standstill of migrant persons in Switzerland and Europe. If on the one hand these persons are condemned to circulate, if they are not acknowledged the right to settle down anywhere but rather are constantly worried by discriminations, the refusal of the right to work, police officers who wake them up in the middle of the night to make them “scarper”, to fine them for unauthorized camping or to place them on a special flight – on the other hand these persons are immobilized in detention centers even though they have committed no crime.

³⁰⁰ « Motion Jean-Michel Dolivo et consorts visant à une modification de la loi sur la police cantonale (LPol) pour instituer une instance indépendante de plaintes compétente pour instruire des dénonciations et plaintes déposées à l'égard de la police », proposed on October 23rd 2007.
URL: https://www.safarinet.vd.ch/objet_detail.aspx?pObjectID=265979

III.6. *Detention conditions for migrant persons*

Swiss citizens are rarely aware of the location of their local prisons, even less that of administrative detention centers. There is a reason why the everyday French language refers to the penal “world” or even “universe”: prisons exist in another world, a parallel – and invisible – dimension. High concrete walls, barbed wire, surveillance cameras, guards, dogs, etc. It is only when we find ourselves prisoner or when we go to visit a friend or family member that a part of this world is revealed.

In 2016, 5'732 migrant persons were detained in Switzerland in the country's 32 detention centers. Of these centers, 17 are separate sections within criminal prisons. Only 5 are places specially designed for administrative detention. The others are shared out between cantonal police office cells, centers for asylum seekers and airport detention facilities. The *Global Detention Project* issued a report in 2011 about these different locations, indicating their geographical situation and the problems raised about each of them at the time, 6 years ago³⁰¹. The *asile.ch* platform has kept up to date with recent data³⁰².

The segregation operated by prison walls exerts a great symbolic force: as much on the persons who are held there – the function being to separate them from the rest of the population and to punish them with deprivation of liberty – as on the persons outside these walls, seeing how prison can intimidate, frighten and designate those who are locked up there as pariahs in the eyes of the outside world. But, once more, its first function seems less moral than social: in the 18th century, it was the persons who were perceived as eluding modes of social cooptation (cf. Chapter III.1) who would become the first modern prisoners. As expounded by Michel Foucault³⁰³, it was vagrancy as an ethos that led Western societies to lock people up: the point, by immobilizing them, was to implant them into the disciplinary order, whether they were Jewish children, farmers without land or migrants from Africa and elsewhere.

Swiss administrative detention centers nevertheless contribute to another type of response to the question “what to do with vagrant persons?”. Instead of attempting to implant them, these centers are a step towards their banishment. What is it that justifies this preference for expulsion in the eyes of Swiss society? Budgetary considerations, essentially.

Racist and xenophobic stigmas also enter into it: administrative management as a form of passive-aggressive withdrawal. There are considerations pertaining to a national-liberal management of the social question. There is also a lot of political opportunism: without the Dublin regulations, Switzerland could not uphold the frenetic expulsion policy it currently leads. But it is the increase in GDP and the budgetary balance that justify this opportunism in the eyes of parliamentarians, as they guide certain Swiss economic circles in their criticism of the UDC's anti-migration policy. Insofar as immigration is perceived as a workforce, the discourse is humanist only

³⁰¹ Global Detention Project, *Switzerland Immigration Detention*, October 2011.

URL: <https://www.globaldetentionproject.org/countries/europe/switzerland#gdp-detention-facts-figures>

³⁰² *Asile.ch* platform, tag archive for « *détention administrative* ».

URL: <https://asile.ch/tag/detention-administrative/>

³⁰³ Michel Foucault, *Discipline and Punish*, 1977 (1975).

in its surplus: it is above all economically motivated. There is no doubt that some members of the Parti-Libéral Radical (PLR) – who have defended the idea of national preference – would not look unkindly on the expulsion of immigrants who are too incompatible with the modes of cooptation of Swiss society, nor on the privatization of detention centers.

Nonetheless, the fact that the State calls these places “administrative detention centers” shows that it mixes the registers at its disposal and manages the migration question on a national and segregating mode. A nation identifies itself with its borders. Administrative detention centers – as several geographers have termed them³⁰⁴ – are thus a *post-border*, that is to say a form of border management that takes place inside the State. The fact that this detention is “administrative” reminds us that it is State policy that is at work here and that it will justify its decisions on a legal-budgetary level. However, the fact that it remains a form of detention, although these persons have committed no crime, is symptomatic of the criminalization of foreigners in Switzerland, legitimated on a symbolic, even legal, level through the referendum of November 28th 2010 on the subject of the “expulsion of foreign criminals”. The situation, such as it is presented to immigrant persons, is simple: conform, because you have no room for error. Persons who would render themselves guilty of petty crimes are the main targets, that is to say persons whose asylum request has been rejected, precarized and immobilized in that “outside” produced by all the closed doors they meet with in Switzerland.

The confusion is thus kept up: even though it does not consist of a “sentence” in the penal sense of the term, detention with a view to expulsion constitutes a deprivation of liberty. Persons are detained because, according to the Foreign Nationals Act, they must be expelled from Switzerland (according to one of the 5 regimes planned by the Act³⁰⁵), but, on a symbolic level, expelled persons will be marked as criminals owing to their imprisonment and their expulsion, the latter ratifying at the same time a non-responsibility on principle of the Swiss State towards the fate of foreign nationals. Concretely, their names are recorded in the Eurodac database as soon as they set foot on the European continent, and in the Swiss databases as soon as they enter the territory or during their first identity check. When these persons, having been expelled once before, are stopped once again on the territory, the same circuit starts all over again.

During their migratory journey in Switzerland, many members of the Collective have experienced detention: from the expulsion procedure to an arrest for being caught in the act of selling drugs, from a violation of inadmissibility to detention in custody following situations of racial profiling, there are multiple scenarios.

In the following pages, we will briefly relate the situations where the rights of persons have been compromised or violated, on the basis of testimonies and observations.

³⁰⁴ *Pre-border, border and post-border*: on the subject of these notions, see the article by Cristina Del Biaggio « Des murs et des frontières, ou le fantasme du contrôle migratoire », on the basis of the cartographic work by Philippe Rekeawicz, « La Méditerranée, plus loin que l’horizon », on *Visionscarto.net*. Cf. p. 134.

URL: <https://asile.ch/2016/12/13/regard-dune-geographe-murs-frontieres-fantasme-controle-migratoire/>

URL: <https://visionscarto.net/la-mediterranee-plus-loin>

³⁰⁵ Foreign Nationals Act, Art. 73. This Act accepted in 2005 entered into force in 2008. It is described by the UN as one of the harshest in Europe: “UNHCR deeply regrets the adoption of the new asylum law yesterday by the *Conseil des Etats*. It is one of the strictest pieces of legislation in Europe, and comes at a time when the number of asylum seekers arriving in Switzerland has already fallen to its lowest level since 1987.”

URL: <http://www.unhcr.org/423ab71a25.html>

URL: <https://www.admin.ch/opc/fr/classified-compilation/20020232/index.html>

Expeditious verdicts and detention in custody

Within a penal framework – an arrest for drug dealing or a violation of inadmissibility for example – persons will be brought to the police station closest to where they were apprehended and placed in custody. A prosecutor will deliver a summary penalty order, generally within the 48 hours following the arrest. This simplified verdict procedure, conducted by the public prosecution office (Ministère Public), happens without an audience and without the presence of the accused.

Although it is possible to ask for a formal verdict by appealing the summary penalty order, this must be written and submitted to a post office or at the counter of the public prosecution office. These actions require human resources that migrant persons who do not speak French and sometimes do not know how to write, simply do not have. In other cases, no penalty order is necessary if a charge has already been brought as a result of a previous episode. In this case, the police will only have arrested the person so that they actually serve their sentence.

Given the lack of room in penitentiary establishments, persons are detained on average between 10 to 20 days on the premises of the *Blécherette* police station or the Lausanne police headquarters (stays up to 30 days in length have been related to us).

The conditions of detention in custody, which should last no longer than 48 hours, were denounced to the State Council of Vaud by the National Commission for the Prevention of Torture (NCPT) in April 2015³⁰⁶. Moreover, the unlawfulness of these detention conditions was established by the verdict of the Federal Court on July 1st 2014³⁰⁷, making it possible to claim a compensation of 50 CHF per day of imprisonment in police custody. We can confirm that the conditions denounced in the NCPT report correspond to the testimonies of the Jean Dutoit members having experienced them since April 2015. In addition to the fact that some cells are located underground, none have any windows, thus completely depriving the detainees of fresh air and the light of day. They are allowed only two daily walks of 30 minutes each (which, at the *Blécherette* station, take place in a covered and closed car park).

To this must be added the light of neons switched on day and night – whose fluttering can cause fits in the case of pre-existing epileptic conditions – and the complete absence of intimacy, due to cameras constantly pointing at the detainees, even when they are using the toilet in their cell. 5-minute showers once a week at the Lausanne police headquarters; a psychologically oppressive environment due to any access to information being made very difficult, through translations that are not systematically made available, and often refused; the impossibility of receiving visits or parcels; the absence of qualified personnel, like when the State employs security guards (*Securitas*) instead of prison guards having undergone training.

These conditions turn detention into a grueling endeavor, and their accumulated consequences can have serious social health repercussions.

³⁰⁶ CNPT, *Rapport au Conseil d'État du Canton de Vaud concernant la visite de la Commission nationale de prévention de la torture dans les postes de police de la Blécherette (police cantonale) et de la ville de Lausanne (police municipale)*, 03.12.2014.

URL: https://www.nkvf.admin.ch/dam/data/nkvf/Berichte/2014/blecherette/150416_ber_blecherette-f.pdf

³⁰⁷ Criminal Law division of the Federal Supreme Court of Switzerland, BGer 6B_17/2014, 01.07.2014. However, it must be noted that, invoking a deduction of legal costs owed to the State, this compensation is never paid out, which is contrary to the law in virtue of Art. 431 para.1 CPP.

URL: http://www.servat.unibe.ch/dfr/bger/140701_6B_17-2014.html

Human isolation, silence of the law

The interface members of Jean Dutoit have often met with difficulties to obtain information about where a resident member is being detained: invoking the protection of prisoners, the enforcement office refuses to give this information to any person who is not a family member. Yet it is obvious that their families are not in Switzerland, nor even in Europe in most cases. The Swiss members of the Collective are the only persons likely to entertain a social relationship with these detainees, a link which turns out to be essential to their health and morale. Moreover, the interface members are often the only relay enabling the circulation of information between the detainees and their families.

To the difficulty entailed by distance, we may add that of the language barrier for foreign detainees. Once in prison, they often have no official assistance for the translation of legal documents concerning them. Some prisons, like *La Croisée* in Orbe, do not organize a replacement when their translator is on holiday. Other detention centers do not even have such a service, essential though it is. When it was possible to do so, the Swiss members of the Collective were able to make up for this; but it is a function that requires a State official to execute it in a systematic manner in the name of treatment equality. Moreover, let us add a serious suspicion: if the Swiss State does not want detained immigrants to know too much about the Swiss legal system, is it not because any person who appeals the decision of a court increases the State's expenses?³⁰⁸

And yet, every time such a dysfunction happens in the prison apparatus that impedes or prevents a detainee from exercising their rights fully – delay in the distribution of mail, observed several times; inadequate or impossible translation; pre-filled forms; lack of information, communication; etc – the detainee does not only suffer from that event, but from the accumulation of all that has happened since their arrival on the Swiss and European territories. These dysfunctions, which can be effects of either structures or established procedures, or the result of “negligence”, even intent to harm, slowly chip away at a person's capacity for self-determination, destroy their feeling of legitimacy by humiliating them and having them undergo a treatment that can only seem unjust. For example, being obligated by the forces of law and order to serve 3 months of one's life in prison for having sold cannabis to a Swiss person – for whom the only consequence will have been to spend a “fun night” in the *Flon*³⁰⁹ with their group of friends.

There are also insults and innuendos made here and there by the guards, never-ending nuisances and power plays. In detention centers, in the police forces and administrations, should we say that racism is becoming professionalized so that civil servants can enact the instructions of national-liberalism more efficiently?

Moreover, a migrant person who gets arrested for illegal stay on the Swiss territory is likely to experience some regional particularities of the penitentiary establishments. The discrepancy between one canton to the next can be like that between the Middle Ages and modernity, in local apparatuses that combine dungeons and neoliberalism, fortresses and top-notch private prison management. An arrest in the canton of Valais will probably lead to the *Prison des îles* in Sion, where it is only possible to see a detainee through a glass panel, without any physical contact. As for *La*

³⁰⁸ One example: in preparation for their parole, a detainee receives a letter detailing the conditions of their release; at the end of this letter, they can tick one of the boxes, according to whether they accept the decision or request an audience with the executive magistrate; yet we have seen letters in which the first box had already been ticked.

³⁰⁹ One of Lausanne's nightlife neighborhoods.

Colonie in Orbe, in the canton of Vaud, what is there to say regarding the salary that detainees can earn, if they are lucky to move up the long waiting list of those wishing to work: 5.50 CHF an hour for working in the fields or for packaging chickens? With the money earned, they can pay for access to television, among other things, and reimburse the costs of their incarceration.

When we know that refugee persons arrive in Switzerland with more than 1000 CHF see their money confiscated – which the State justifies as a contribution to asylum procedure costs³¹⁰ – we are hardly surprised by this approach which puts us in mind of the chained vagabonds of the 17th century: a modern form of exploitation.

Administrative detention at the ends of the earth

Multiple legal forks can lead a person to administrative detention. If they have been sentenced to expulsion under the Dublin regulation, they may have been escorted by police one morning from a cantonal reception center. If this person had decided not to go there any longer, it may happen that they get checked on the street in a Swiss city and, their description having been disseminated by the canton that declared them missing, they get arrested by the police or the border guards. It may also happen that, following a short prison sentence, they are freed on the condition that they accept their expulsion; if they do not, this will happen when their sentence is fully served, and in both cases they will be transferred directly from their place of criminal detention to an administrative detention center.

The incarceration continues, yet in a place that is no longer really a Swiss prison, but rather the anteroom of the rest of the world, at the ends of the earth, where the territory of national – and in many cases human – responsibility ends.

We have said it: most of these centers are not buildings meant to fulfill this specific function, but rather are part of the penitentiary establishments of criminal law, in which case a floor or an annexe is given over for administrative detainees. The latter will then wait for their expulsion to a third party country, for an extremely variable amount of time. But what country? That is the question the State Secretary for Migration is asking itself in the meantime. If a Dublin expulsion is possible, to what country; and if not, an expulsion to the country of origin, but one must be sure that the detainee really comes from this or that country, because their papers might be fake; in which case they will have to be brought to an African embassy to see if people there recognize them as “one of their own”, or perhaps return unsuccessful and try again in another embassy, etc. The detainee is informed of all these comings and goings at the last possible moment, and must comply or else be coerced.

One of the two authors of a recent study by the National Center of Competence in Research *nccr-on the move* of the University of Neuchâtel made the following observation: detainees “do not know the duration of their detention”³¹¹ and suffer the effects of this uncertainty: anxiety, weight loss, insomnia, deterioration of health. Detained only because they are foreign, the detention conditions of migrant persons are “that of criminal prisoners”. Sometimes they are worse. In the

³¹⁰ « Les réfugiés participent déjà aux frais d’asile », *Tribune de Genève*, 15.01.2016.

URL: <https://www.tdg.ch/suisse/refugies-participant-deja-frais-asile/story/17476337>

³¹¹ Study carried out by Christin Achermann and Laura Rezzonico, interviewed for the *24 heures* by Caroline Zuercher, « Gros plan sur la détention administrative des migrants », 09.07.2017.

URL: <http://mobile2.24heures.ch/articles/595e0978ab5c376b41000001>

detention center in Solothurn for example, persons detained with a view to their expulsion are not allowed to receive mail or food, unlike the other prisoners.

As the study also highlights, the problem concerns not only the detention itself, but the strategy in which it constitutes a cog. On one side there is the cost of the operation (300 CHF per person per day) and on the other, its punitive dimension. As we have already discussed (cf. Chapter III.1 on the subject of anti-migrant xenophobia), the cost of the detention of migrant persons becomes a motive for additional stigmatization.

As for the punitive dimension, it is clear that incarceration does not produce the anticipated effect – that is to say, that these persons will not return to the Swiss territory. In spite of the risks they take, many will try their luck again: “I ran into a man whom Switzerland had to send back to Italy five times, despite the fact that he had been detained for over a year. Another made the journey three times from North Africa.”³¹² This is an experience that a growing number of Jean Dutoit members are also going through.

How many times have the Swiss authorities arrested the same persons for illegal stay, sentenced the same persons to cumulative prison sentences of between 2 and 10 months, expelled the same persons by stamping them with inadmissibility?

As the European countries of the Dublin regulation are congratulating themselves for the 70% decrease in arrivals through the Mediterranean observed since July 2017³¹³, a lead weight is about to drop. Why are the reasons that led to this decrease not being mentioned? Agreements with third party countries under threat of economic sanctions, agreements with Libyan groups to block migrants in the desert, legal dissuasion and physical threats against NGOs come to rescue boats at sea or persons on land, among many others.

The questions raised by this report may well be buried in the coming months.

³¹² Laura Rezzonico, in the interview cited above.

³¹³ Reporting the meeting of the Central Mediterranean Contact Group on 13.11.2017, in its 12:30 news broadcast the RTS almost completely skipped over the causes for the decrease in these arrivals, evoking only the increased efficiency of the Libyan coastguards, the journalist Pierre Nebel omitting to mention that they are trained by the EU. A series of euphemisms followed concerning the persecution and torture going on in Libya and the implicated political responsibilities. Everything was done to reassure the Swiss viewer that boats had ceased to arrive in Italy.

URL: <http://www.rts.ch/play/tv/12h45/video/rencontre-du-groupe-de-contact-sur-la-mediterranee-centrale-les-precisions-de-pierre-nebel?id=9081991>

Recommendations

A POLICY OF FUNDAMENTAL RIGHTS

In the current context, establishing conditions that will allow all human persons to be able to exert their fundamental rights, is to establish with them the bases of a relationship of cooperation with a view to finding constructive and adequate solutions for the present and the future. It means fighting discrimination and exclusion; creating possibilities and commonalities; reinforcing the rule of law and democracy; as well as preserving human life and the fabric of society.

Economists, sociologists and demographers have all proved that Switzerland benefits from immigration (cf. chapter III.1). We therefore call on Swiss authorities to take cognizance of this fact and to act in consequence, through the empowerment of the competencies, autonomy and motivations of each person. The *affaire des 523* in the canton of Vaud, as well as the *Papyrus* operation in the canton of Geneva, have shown to what extent the regularization of undocumented persons is a winning strategy in human, social, cultural as well as economic terms.

The policy of the State should concern all the persons who live on the territory of that State in an inclusive and non-discriminatory manner. What is at stake here is no less than the respect of the Swiss Constitution, the European Convention of Human Rights, the United Nations Convention against Torture, and the International Convention on the Elimination of All Forms of Racial Discrimination.

We recommend to the Swiss authorities to set up a federal policy of access for all migrant persons to free movement, food, housing, employment, secure status, training opportunities, family life and political participation.

In particular, institutional and legal bridges should be created in favor of persons of irregular status, so that they may extract themselves from the different regimes of exclusion of which they suffer because of current legislation.

Pending the establishment and taking effect of such a policy, the Confederation, or failing that, the cantons or the municipalities, should set up mechanisms and measures allowing migrant persons to exercise their fundamental rights.

COOPERATIVE HOUSING, NETWORK AND MOBILITY

In Switzerland, there have been many initiatives taken by individual persons, associations and collectives in order to defend the rights of migrant people to housing and humane treatment (cf. chapters II.1 and following). Nevertheless, the current policy includes indefinite detention, often violent dissuasion of stay, and increasing insecurity for these persons in Switzerland.

This policy does not respect the dignity of persons, undermines social fabric and diversity, creates a negative image of migrant persons – in particular black Africans – and keeps the citizen and resident population of Switzerland under the illusion that the migratory question can be maintained on the periphery of its daily reality without harm. What happens is the opposite: the human and social harm of the Confederation's and the Swiss cantons' prison-camp practices is tangible. The strengthening of racism, especially anti-black racism, under the compromising of rights to which these practices lead demands an urgent response from populations and authorities.

We strongly denounce the material, moral, physical and psychological harm undergone by persons who are placed in bunkers and reception centers where they are isolated from the rest of the population, even housed outside cities in some cases.

Finally, by isolating, stigmatizing and demanding from persons a unilateral effort of adaptation, we render impossible the development of interpersonal relationships between migrant persons, residents and citizens. But these relationships are at the basis of any social development, any cultural exchange and any economic cooperation.

We therefore believe that reception policies should be thought and structured around mobility and put at the service of the creation of relationships. This mobility-relationship axis should eventually replace the immobilization-integration axis.

We recommend to the Swiss authorities a change of course, in order to establish a modular strategy of cooperative housing with a view to welcoming migrant persons (cf. Chapter II.8). The goal is the establishment of a federal network of welcome, mobility and relationship, which would replace the current policy of administrative immobilization, detention and expulsion.

In the meantime, it would fall to the Cantons and the municipalities to put into place constructive solutions in this direction, by encouraging the creation of centers where persons from a migrant background can be autonomous, mobile and able to take part in society.

The recourse to civil defense shelters should be banned, since these places do not offer the necessary conditions for a dignified and healthy human life. Moreover, the centers should be open onto society and not isolated in industrial parks or areas that are difficult to reach.

On the level of State policy, we recommend that the current policy of concentration and segregation be abandoned entirely and as quickly as possible. A commission should be set up whose mission would be to successfully navigate this change of course.

POLICY OF DE-PRECARIZATION

The efforts of the canton of Vaud and the city of Lausanne in the matter of social diversity and support for precarized persons have demonstrated to the rest of Switzerland that this is a constructive strategy. Unfortunately, these efforts are abandoned in favor of restrictive policies, creating conditions of penury and begetting behaviors – particularly in public offices – which operate more and more on a normative and repressive basis.

One of the priorities of social development is for each human being to have food, shelter, cover in the case of illness and accident, and mental health support or treatment when needed. But it is necessary to create conditions from the beginning that will eventually allow persons to emerge from a regime of survival.

With this aim, the cooperation between cantons and between municipalities is essential: without this cooperation, new concentrations happen which result in pressure exerted on the concerned places and services, and a unilateral policy of “scam hunting” which, far from solving the problem, results in turn in racial, economic and social forms of discrimination.

Finally, emergency aid, in the strictest sense of the Swiss Constitution, should be accompanied by measures allowing persons to effectively benefit from this aid, and so for them to be safe from police as concerns their status relative to the Foreign Nationals Act. Emergency aid must necessarily be combined with sanctuary zones (“zones de refuge”).

We recommend to the Swiss authorities to reform the functioning of asylum emergency aid. It should cease to be at the service of a policy of dissuasion; in particular, the ban on paid work for rejected asylum seekers should be lifted.

Moreover, we recommend the establishment throughout the cities of Switzerland of a continuous network of low-threshold services, comprising emergency housing, access to treatment and to food. This network should benefit from federal incentive measures.

We also recommend that emergency shelters be declared zones of sanctuary: that it be forbidden for the employees of these spaces to use public resources to assist the police in the application of the Foreign Nationals Act (cf. chapter I.5).

In parallel, we recommend that a night-time truce be pronounced: that, from sunset to sunrise, there may be no arrest on the grounds of illegal stay in Switzerland, and that no expulsion may happen in the entirety of the Lausanne agglomeration.

Finally, we demand that the police may not fine persons for unauthorized camping when there are no more spots available in the emergency shelters.

COMBATING DISCRIMINATIONS, RACISM AND XENOPHOBIA

Switzerland now finds itself at a turning point. The country is home to one of the greatest ethnic diversities in Europe and yet it still does not have a coherent policy in the matter of combating racism and racial discriminations. The lack of political will in this regard is extremely preoccupying. The Human Rights Council recently exhorted Switzerland in this direction³¹⁴.

In this context, anti-black racism (cf. chapter III.1) is a source of segregation, activated by police brutality and racial profiling that profits from an illegitimate categorical junction between migration and criminality (cf. chapter III.2 and following). A response from the authorities cannot wait any

³¹⁴ ATS, « Le Conseil des droits de l’homme exhorte la Suisse à faire mieux », *RTS info*, 09.11.2017.
URL: <http://www.rts.ch/info/suisse/9070967-le-conseil-des-droits-de-l-homme-exhorte-la-suisse-a-faire-mieux.html>

longer. It should take into account the systemic dimensions of the racist problem, particularly where it touches upon the production of economic and social conditions that favor its emergence and its reinforcement.

We recommend that the Swiss authorities acknowledge racism (in particular anti-black racism) and xenophobia as urgent problems.

The members of executive bodies and parliaments at the federal, cantonal and communal levels should give voice and the value of the law to such positionings that enter into the respect of life and dignity of each person, the equality of each person in the face of the law, democracy and the commitments made by Switzerland at an international level.

On a legislative level, we maintain that Article 261b of the Penal Code should be revised and enlarged. The penal norm should be applicable in concrete situations, going beyond the frame of “incitation” to racial hatred. Indeed, all the fields of daily life are affected by racism and racial discrimination: employment, housing, trade, institutions, etc.

We also call for the introduction of *reverse onus* in the instance of the legislation against racial discrimination (cf. chapter III.1).

Moreover, we recommend the introduction in the penal norm against discriminations of the notions of economic and social discrimination, whose realities are linked to racial discrimination in a systemic manner.

In order to combat racial profiling during law enforcement spot checks, we recommend the rapid setting up of a system for the distribution of receipts after each of these checks (cf. chapter III.3).

We recommend to the cantons and the municipalities to establish a training strategy for public servants which takes into account in an adequate manner the current social changes and enters into the combat against racism and xenophobia in Switzerland. It is intolerable for Switzerland to continue to legitimize State racial discriminations.

POLICY OF DE-CRIMINALIZATION

The criminalization of migrant persons, in particular black African persons, has become more and more alarming in the past few years and its effects more and more perverse.

The precarization of persons via the emergency aid policy of dissuasion, the police manhunt strategy to combat street dealing, the instrumentalization of asylum for control purposes, the detention of rejected asylum seekers with a view to expelling them from the country even though they have committed no crime: these tough stances are contrary to the respect of the dignity and fundamental rights of human beings. They are also counter-productive in that they engender a degradation of the fabric of Swiss society (cf. chapters I.6, III.3 and following).

The current policy of combating street dealing contributes to the reinforcement of discriminations, by reason of the contextual criminalization of black African migrant persons to which it gives rise. The inadequacy of the legal framework, of the social-health realities of the drugs in question (cannabis and cocaine), of the law enforcement strategy and of the realities of the field is

all the more striking since it has been proven many times that a combat on the level of street dealing is entirely ineffective (cf. chapter III.2).

We recommend to the Swiss authorities to completely renounce the policy of administrative detention of persons with a view to their expulsion. Persons who have committed no crime should not be considered, treated or stigmatized as criminals.

Pending this change, detention centers should be separated from prisons as soon as possible (cf. chapter III.6) and the treatment conditions in these centers should not be that of an illegitimate detention, but that of a temporary and humane accommodation.

We recommend the cessation of the unilateral policy of street dealing repression, currently underway in the canton of Vaud and Switzerland, in favor of globally constructive measures, in line with the combat against precarization, against criminal networks and against racial, economic and social discriminations.

POLICY OF COMBAT AGAINST IMPUNITY

Police abuse and violence should retain the full attention of the Swiss authorities, at a federal level as well as in the cantons and communes responsible for police training and action. Impunity engenders an increase and a worsening of these infractions committed by public officers against persons whose rights are being flouted.

Turning a blind eye is not admissible. And yet this is what the Swiss authorities have done on numerous occasions, after the United Nations Committee against Torture (1998, 2005, 2010 and 2016), Amnesty International (2007), the United Nations' Special Rapporteur on the contemporary forms of racism (2007) and the Committee on Human Rights (2017) recommended to the Swiss State and to the cantons to establish independent instances for the filing and processing of complaints concerning police abuse and violence. This situation poses serious questions about the rule of law in Switzerland as well as the existence of a culture of impunity.

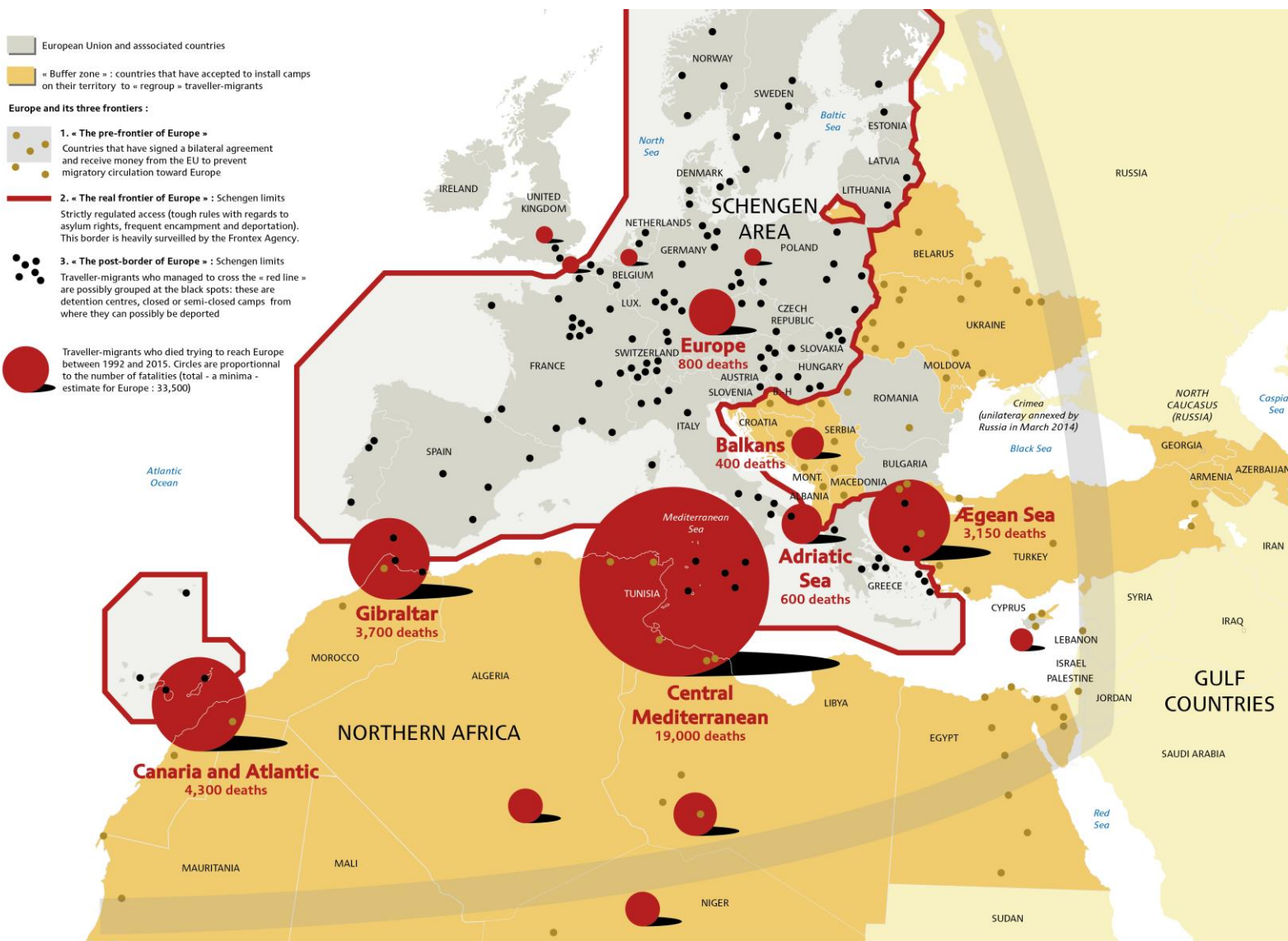
The current obstacles to the filing of complaints – especially for precarized, socially stigmatized, racially discriminated persons and/or persons with an illegal status – are such that they render impossible the application of the law. This situation is the source of a degradation of the social fabric, represents a major danger for multiculturalism in Switzerland and constitutes an infringement of the respect and the dignity of all non-white people living in Switzerland, be they citizens, residents or migrants (cf. chapter III.1 and III.3).

We ask the authorities of the cities of Lausanne and Renens and of the Canton of Vaud to open an inquiry in order to determine responsibilities in the cases of racial discrimination, abuse, police brutality and gross negligence described in this report.

We strongly recommend to the cantonal and municipal authorities to set up as quickly as possible independent instances for the filing of complaints and investigating cases of police brutality and abuses of power (cf. chapter III.5).

As a medium-term objective, the creation of such organisms should be supervised by federal measures, in order to harmonize their institution in all the cantons and allow these organisms to operate at a supra-cantonal level, a condition of the upholding of the rule of law in Switzerland.

Lastly, we recommend to the Western cantons to de-militarize police training and to work on the creation of a police force that is adapted to the current social and security challenges. Police forces should not be states within the State but should respond to the rest of society and act as examples when it comes to the promotion of the law and of democracy.



Philippe Rekacewicz, visionscarto.net, 2016,
Map drawn up together with Olivier Clochard (Migreurop Network).

With the gracious authorisation from the author.

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Annexe:

Organization of the Collective

We would now like to present the organization of life in the Collective – its structure, rules and operating methods, as well as some of our projects – such as it results from two tumultuous years. These are not statutes, but a “cross-section” of the present.

This presentation does not claim to be exhaustive, since a collective such as ours functions first and foremost thanks to the informal relationships that have sprung up between the persons who compose it. However, we see an opportunity here to reflect on our journey and our present, and perhaps to open paths for thought and action for others.

In the following pages, we do not explain the conditions out of which each rule emerged, the events which presided over it, nor how they were modified over time and were enriched by responses to concrete situations. Nor do we claim to offer a model to be followed; only the momentary result of strategies which we have invented according to events, by merging what we could from the referential framework of each member.

The term “house” has appeared from the beginning as our strongest common unit. From there, we can shine and radiate outwards. That is also where we can be threatened. What is the Jean Dutoit Collective? Above all, it is a group of people who live together.

*

1. Principles

The Collective is made up of resident members and interface members. They all have the same right of speech during assemblies, whatever their legal status, age, gender, origin, language, religion, skin color, etc etc etc.

When voting, each voice counts as 1 vote.

The Collective is inspired by principles of self-governance.
Decisions concerning the Collective are taken together by all the Collective members.

A collective does not have legal force (as opposed to an association), but designates the movement of persons that have gathered together to contend with, counter and take care of a situation that appears problematic and is a source of hardship; persons who have decided to create something in common together.

Because the collective form allows for fluidity and autonomy, it is best suited to the conditions of our struggle: on the one hand, because our members come from different political and cultural horizons, among which we have learned to move and circulate; on the other hand, because the legal form that presides over associations in Switzerland would not allow us to operate on an equal footing.

Our guarantee is, more than anything else, this quality of sharing: the responsibility taken by each of our members on a voluntary basis, and the solidarity among us, made up of attention and availability. These things only take on meaning and value to the extent that each of us is acknowledged in their capacity for self-determination.

As for the rest: “from each according to [their] ability, to each according to [their] needs”.

2. Structure

a) Resident members

The resident members of the Collective are a fixed number. Each resident’s name is recorded on the register, and no-one is allowed to stay in the house whose name does not appear on this list.

This restriction on number allows for two things. Firstly, that we may get to know each other, a *sine qua non* condition for collectively managing life in the house. There results from this a common experience for all members of the problems encountered and the reasons that have led the Collective to its current dispositions.

Secondly, this restriction prevents the house from being visited by persons who would not be answerable for their actions before the Collective.

The Collective may include new resident members in the case that some of its members have left. New members are taken in in the chronological order of their enrolment on the waiting list. This possibility of new inclusions is solely dependent on circumstances and departures and requires a decision on the part of the Collective.

What’s more, all the resident members are adult men. What began as an arbitrary circumstance – during the first and second formation of the Collective, only men were present – has been transformed into a structuring element of the organization: no women nor minors may be admitted as resident members of the Collective. Although this helps us avoid issues that may arise from gender diversity, this situation produces its own tensions, as well as dynamics that come under the perception of gender roles within a self-managed collective and which must be addressed.

b) Interface members

The interface members are persons, both men and women, from local civil society. They dispose of their own housing and are invested in the Collective in a voluntary capacity.

Active in different professional fields, they put their knowledge, qualifications and networks at the service of the Collective, according to their energy and availability. Given their small number, interface members take care to distribute tasks evenly, on a voluntary and solidary basis.

Interface members – in their exchanges with neighbors, owners and public authorities, as well as with the media – generally do not use their own names and avoid being photographed in order not to leave themselves open to the widespread tendency that consists in wanting to find “Swiss/white persons in charge” of the Collective.

c) General meeting

A *General meeting* is held once a week. All the resident members of the Collective are present. Latecomers pay a 10 CHF fine, while absentees pay a 20 CHF fine (except for special cases or a previously disclosed prolonged absence).

Interface members attend according to their availability. Generally speaking, there are about two interface members present for each meeting.

Moreover, meetings without the attendance of interface members are regularly organized, so that the residents may meet amongst themselves, without external gazes; these meetings reflect a common desire to deconstruct the power relationships that can set in because of the difference in legal status, life experience and culture between members.

Meetings are overseen by the *meeting chairman*, assisted by the *secretary*. These two positions are held by resident members (the same over the course of the last year).

Discussions take place in English. Translations may be requested at any time.

The chairman collects points for the agenda – to which each member is invited to contribute – then leads the session. The session generally lasts between two to three hours. During the discussion of each point on the agenda, each member has the same right to speak, which they request by raising their hand. After each intervention, the chairman summarizes it and gives the floor to any person who requests to speak. Each person present is also attentive to those who raise their hands and respects each person's contribution by listening.

Decisions concerning the Collective, its self-determined rules and its organization, are all taken during meetings. If strong disagreements appear, we proceed by a majority vote by show of hands. Decisions are recorded by the secretary.

d) Task force

In order to ensure the respect of the community living rules, the Collective has established an enforcement group: the *task force*. It is made up of a dozen voluntary resident members, as well as a *task force chairman*, who leads the group's activities and reports on the latter to the Collective.

Since this is a demanding function, a new person takes it on every few months.

The persons who make up the task force, as well as the task force chairman, can leave their function when they request to do so. It is then up to other volunteers to come forward.

When complaints and/or criticisms are leveled at the task force concerning the way it manages tasks and applies the house rules, they must be addressed during a weekly general meeting and added to the agenda. The case is thus put forward to all the members present and each situation is debated and treated specifically.

d) Collection and treasury

Each week, a collection is carried out by the task force and the secretary. Each resident member is required to participate in this collection, for a weekly sum of 10 CHF.

The secretary keeps the payment register. In the case of a temporary inability to pay, a member can receive an extension. In the case of a refusal to pay, a member can be excluded from the Collective.

This money serves to pay for: electricity and water bills, taxed rubbish bags, household products, medicine, material for repairs, printing and sending letters and leaflets, special expenses (plumbing intervention, vehicle rental, etc).

For security reasons, the role of treasurer is held by one of the Collective's interface members. Indeed, seeing as the police operates by racial profiling and has often failed to apply the principle of presumption of innocence, some members of the Collective have been stopped for no other reason than the color of their skin, and any money they had on them was confiscated.

The treasurer is in charge of keeping the books on behalf of the Collective, depositing the collected money in the Collective's postal account, and paying household bills.

e) Illness, accidents and first aid

The resident members of the Collective are informed of the resources at their disposal in case of illness or accident, and are accompanied according to the circumstance by one or several interface members, either to the *Point d'eau* Foundation³¹⁵ or to the hospital.

The interface members make sure that the house's first aid kit is always stocked with the necessary material and medicine. Notices are written out in English on each medicine. Herbal teas are also available.

Given her past as a nurse, one of the interface members is regularly called upon for her advice and know-how. Other qualified persons who are active in the region's collectives and associations for aiding migrant persons also contribute assistance.

Moreover, regular house visits by a doctor are organized, on a voluntary basis.

In case of wounds due to police brutality, the concerned person is accompanied to the CHUV's emergency room and a forensic report is requested.

3. Rules for community living

a) Front door and visitors

The front door of the Collective's house is always locked.

During the day, a key is left in the lock on the inside of the door. Members wishing to enter must contact a person from their room so that they can open the door for them.

During the night, members who wish to enter must contact the person on their floor who has been designated as the key guardian. As much as possible, members avoid coming home between midnight and 6am.

Visitors are allowed to enter the house between midday and 6pm only. Resident members are responsible for making them leave after this time. If a visitor is present outside of these hours, the room hosting them receives a 100 CHF fine.

³¹⁵ *Point d'eau* is part of the low-threshold aid network of the City of Lausanne.
URL: <http://web.pointdeau-lausanne.ch/>

b) Regulation of violence

The general principle concerning violence, insults and other incivilities, is that of the care that members of the Collective can show one another. Each is enjoined to moderation, attentiveness, comprehension and respect.

If a member physically assaults another member, they are excluded from the house for 2 weeks. If they are repeatedly involved in such events and display bad faith, their permanent exclusion from the Collective can be decided upon during a meeting. Given the significance for a resident member of being permanently excluded from the house, the Collective as a whole tries as much as possible to act in a spirit of conciliation, tolerance, clarity and firmness towards unacceptable behavior.

In case of complex or unclear situations, the task force or the implicated persons can choose to submit the case to all the members of the Collective during a meeting. The meeting chairman then presides over testimonies and deliberations.

c) Noise and neighborly relations

The resident members of the Collective respect Swiss legislation in matters of noise pollution and are attentive to their neighbors.

As of 10pm, each room (or the task force if needs be) enforces quiet among the inhabitants. If this rule is not respected, an accruable 20 CHF fine can be handed out.

In the vicinity of the house, as well as on the streets leading to the city's principal arteries, the members of the Collective are required to behave respectfully towards their neighbors, by day and night.

d) Ban on drugs

Intended for the persons concerned by this activity, the sale of drugs is formally prohibited in the house, around the house and in the entire neighboring area, including in the vicinity of neighboring public transport stops.

Any member of the Collective flouting this rule is excluded from the Collective.

Moreover, in order to ensure the safety of the Collective's habitation, no storage of drugs intended for sale is authorized inside the house, on penalty of exclusion.

e) Hygiene and recycling

Each team or room is required to keep up standards of cleanness and hygiene in the spaces it occupies. A review is carried out regularly by the task force. Special attention is given to kitchens and bathrooms.

The collective spaces are managed per floor: the teams there clean their landing, as well as the stairs leading to the floor below. All the residents are responsible for the maintenance of the entrance hall as well as the meeting room.

Waste sorting is encouraged: glass, paper, aluminium cans. In each apartment, a sorting apparatus is installed in order to facilitate the process. Each apartment is responsible for depositing its bins directly in the outside containers.

Concerning trash collection, arrangements are made with the City's public services in order to have enough attributed containers.

4. Activities

a) French lessons

French lessons are organized at the house, to facilitate the access of the Collective's resident members to life in French-speaking Switzerland. This is also a safety measure: in our experience, police stops are less likely to end in brutality when the stopped person speaks a few words of French.

The residents are also informed of possibilities for learning French offered by associations or collectives in the Lausanne region (*Franc-parler, Palabres*, etc) for low prices and in a social and human context.

b) Football

In 2015, at the time of the occupation of the Heineken hall, we went around the table for the first time, asking about the professions practiced by the Jean Dutoit members. Some of them being professional football players, the Collective had organized a few meetups.

It was only at the end of the stay in Romanel-sur-Lausanne that training became regular. At first, equipment was scarce, and when a player exited the field he gave his shoes to the player entering the game. But this was also the time when the very motivating idea of forming a team appeared.

Now, motivated players train on a regular basis, 2 to 3 times a week. Thanks to collections, and even though football shoes remain difficult to source, they have more equipment. Always with the same goal in mind: to form a team and organize meetups with other local teams, which would be a way for them to make the Collective known, and to find a space for exchange within an atmosphere of sporting solidarity.

c) Cooperative

We are currently examining the possibility of creating a cooperative for the promotion of the Collective members' know-how. Is it feasible? With what means? To what end?

The Collective houses workers – garment makers, carpenters, barbers, etc – whose know-how is new to Switzerland. The working methods and techniques used, imported from their countries of origin, deserve to be promoted in exchanges with Swiss persons and the production of goods and services which do not exist on the local market.

Such a business could allow some resident members to earn a living, to regain some self-confidence and to gain acceptance in local social life.

d) Writing and testimonies

We encourage each member to share their experiences and thoughts, whether it is through simple discussions, in writing or during interviews.

It is not easy to speak of events of which one has sometimes been the only witness, and whose experienced violence and feeling of injustice make sharing complicated, for fear of being judged, misunderstood or disbelieved.

Through writing workshops and recorded interviews, the Collective would like to eventually publish testimonies, to make some of these life journeys known and raise questions, far from the clichés and routine representations that occur in most media.

6. The Collective extra muros

As much as possible, interface members assist the resident members for questions concerning the comprehension of official and legal documents written in French. They create contacts to this effect and set out to decipher administrative procedures, so as to warn the residents about the risks they incur and the possibilities of appeal that are normally guaranteed to them under Swiss law.

As much as possible, interface members check in with residents who have been arrested by the police, in order to find out their condition, if applicable their place of detention. A list of persons being detained is kept up to date by the secretary (this list also contains the name of contact persons or persons of reference for the concerned members).

Prison visits and care packages are always welcome.

Moreover, the Collective seeks to form alliances with other local collectives and associations that come in aid to migrant persons. It participates in debates, protests and working groups, as time permits (cf. II.6). We are particularly grateful to the SAJE, *Droit de Rester* and *SOS Asile*, *La Maraude Lausanne*, the *Collectif R*, the *Afro-Swiss Collective*, *Outrage Collective*, *L'armoire à couvertures*, *Emmaüs*, *Caritas*, *The Salvation Army*, *solidaritéS* and *Ensemble à Gauche*, the *POP* and others, as well as any persons who contribute to the upkeep of the solidarity network in Western Switzerland.

7. Media and communication

The Collective responds to interviews and keeps in touch with the media, which it keeps informed about its activities, through telephone, email or in person. This communication aims to inform the population of the actions of Jean Dutoit, as well as attracting attention to problems that are not known/denounced enough, or at all.

Recourse to the media is also necessary for the safety of the Collective: if its situation is known to the general public, if we can maintain a presence in current affairs, this is also an assurance against abusive police practices.

As mentioned above, the media also represent a risk to the extent that some journalists are likely to reduce the information to make it correspond to the expectations of their audience and the formats of their medium. We ask journalists not to come for a 2-minute news item or a 10-line article, but rather with a desire to take part in a process of exchange with the resident members, for example by taking part in one or several meetings. We have often had the impression that journalists came to see us simply because they had sniffed out a “good story”, receiving no feedback and never seeing the journalist in question again.

The paralysis of information in the media goes hand in hand with the search for maximum viewing numbers, which results in lurid titles and a penchant for the dramatic. For example, emphasizing an occupation's illegal nature rather than why or how some persons have decided to enter into this occupation and how they have decided to go about it. The interface members in particular try to prevent these drifts, while making the effort to explain to journalists the reasons for these precautions.

As much as possible, the Jean Dutoit members ask journalists to be consulted before the broadcasting/publication of an article. This right to remain informed about what is being written about the Collective is all the more important given that Swiss society excludes and stigmatizes black African migrant persons.

If we could be sure that journalists always respected the Munich Agreement, this question would not even have to be raised. Unfortunately, this is not the case.

Members of the Collective as a whole generally do not give their name, and ask for photographers and camera operators not to record pictures of their faces, or with the consent of the concerned persons only. These persons' safety is at stake.

During interviews, the Collective favors the intervention of its resident members. Too often we have seen journalists eager to question interface members in order to wrap their work up quickly. Interface members can be present when needs be, for example to translate from English to French.

Moreover, the Collective manages a Facebook page, "Collectif Jean Dutoit", and regularly gives news via this platform to persons who wish to stay up to date, responding to questions, propositions, requests and complaints with benevolence and a sense of context. Racist and degrading comments posted on the Facebook page by third parties are flagged, and the authors of the comments can be blocked.

At regular intervals, the Collective sends out a newsletter to the persons, collectives and associations who support it, and updates its mailing list.

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