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Migrant Management in the "Calais Jungle"

Intentional State Disengagement or Expression of the French Model Limitations?

In Partial Fulfillment of the Requirements for the Degree

MASTER OF ARTS
in
INTERNATIONAL STUDIES

By Sarah Bekrar
October 7th, 2023

UNIVERSITY OF SAN FRANCISCO

Under the guidance and approval of the committee, and approval by all the members, this thesis project has been accepted in partial fulfillment of the requirements for the degree.

APPROVED:

Capstone Adviser

Date

MAIS Director

Date

Abstract

This thesis aims to explore the disparities between the French state's apparent participatory efforts in the human rights regime and the exclusionary practices against migrants within the territory. What has been labeled "the European refugee crisis"- here in France, has exacerbated states' anti-migrant behaviors of hyper securitization, politics of refoulement, and practices of *burden shifting*. Under the Geneva Convention of 1951 relating to the Status of Refugees and its 1967 Protocol, France, among 149 other signatories, has agreed to recognize and apply refugee rights as outlined by the Convention and to participate in the global effort to protect them. While the Convention is a legally binding document and relies on states' voluntary participation and implementation, there have been many violations to refugee rights in France and other host countries who are, in fact, signatories. In the case of France, these transgressions have reached new heights with the case of the "Calais Jungle"- largest French encampment to this date, dismantled multiple times from the early 2000s to its destruction in October 2016. Far from the humanist politics it globally promotes, the French Republican model of integration's limitations transpire through migrants' rights violations disregarding regional and global commitments France has made in this matter. Some of these violations can be observed through the government's explicit use of burden shifting practices, legal loopholes in the global refugee protection regime – such as taking advantage of the Dublin agreement's clause of "first country of arrival", as well as the hyper securitization of its borders and extreme control of migrant populations. In addition to these administrative and physical obstacles, the COVID-19 pandemic adds yet another layer of struggle to already vulnerable migrant populations. Between local elected officials, NGOs, and civil society, alternative forms of solidarity and support to migrants have emerged all over the country to compensate for the state's lack of engagement and action.

Keywords: Refugee management, France, Calais, Geneva Convention, Dublin Agreement, Humanitarianism, Darmanin Law, Collomb Law, Directive 2001/55/EC, violence, refugee rights, OFPRA, burden-shifting, non-refoulement.

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I. Introduction and Background

1. History of Migration in France through its Integration Model Lens

The French integration model, commonly referred to as the French Republican model, represents the state's political system in which France's collective identity is thought as being created by the voluntary membership of the community of citizens sharing similar principles and values. This implied social contract is displayed in the 1958 French Constitution stating that "France is an indivisible, secular, democratic and social Republic". These four foundational terms frame a fraternal union between all free citizens and their equal rights before the law. The French model attempts to drift away from particularism, and especially from religious particularism to encourage population to, what many argue, assimilate rather than integrate. Sam and Berry (2010) argue that while the concepts of "assimilation" and "integration" both share the fact that there is willingness to belong to the national community, assimilation differs from integration in that it seeks to erase targeted populations' cultural particularities and characteristics.

France has historically welcomed waves of immigration through a "pull and push" pattern - to reflect labor demand when the economy needed it, mainly for labor purposes during the post-decolonization years. As former African colonies gained independence while suffering from unstable economies, an important number of individuals – especially from the Maghreb area, emigrated to France seeking better economic opportunities. While the 1958 Constitution promulgates the indivisibility and equal rights of all citizens before the law, the French concept of secularism tends to be in contradiction with that of public religious expression, specifically in a country as ethnically diverse as France, yet a country in which political and mediatic discourses

are constantly framed around the “dangers of communitarianism”.

Long before post-colonial times, the concepts of universalism combined with the rejection of particularism emerged during the French Enlightenment era as intellectuals believed in the rule of Reason and Law to the detriment of traditions and particularistic identities. On this matter, Wieviorka warns against the abuse of universalism, as he argues that “Universal values, when it becomes abstract universalism, hostile to all that resist them [...] can also lead to intolerance, violence, or even to certain forms of racism” (Wieviorka, 2008). Given the fact that some of the foundational concepts of the French Constitution are flawed in that they encourage the erasure of particularism in its society towards its socio-cultural homogenization, and that the concepts of assimilation and integration are often erroneously interchanged, what forms can integration take and how can it satisfy competing universalistic and particularistic demands?

2. The French Immigration Model Particularities

France is the oldest pro massive-immigration country in Europe as it started to welcome immigrants a century before its European counterparts. Immigration in France has traditionally been utilized as a solution to labor shortages. As mentioned previously, this pull-and-push strategy was used to allow workers to temporarily reside and work in France with the intent to return to their home countries. Citizenship came into question at the end of the 19th - early 20th century as the state faced demographic needs with low population growth and an increasing need for soldiers. Allocating citizenship to foreigners from different ethnic and religious backgrounds led to debates on “how to assimilate” populations in an era still very much anchored in colonial traditions. It was not until 1974 that the term “integration” came into question, as former French colonies gained independence and France was struggling with greater flows of immigration from

its former colonies.

One peculiarity of the French state lies in its political majorities constantly shifting from right to left and vice-versa. The topic of immigration has always been a controversial issue between parties. Many factors participated in developing exclusionary immigration policy. Post-World War II, government officials in favor of selective immigration targeting “good immigrants capable of doing hard labor and wanting to assimilate to the French Republican values” were dominant over supporters of permanent immigration. Due to France’s rapid economic growth and the lack of manpower, controlled immigration failed to answer employers’ needs, which eventually led to the National Office of Immigration (NOI) to lose control. Wihtol de Wenden shares that the NOI only managed 18% of entries in 1968, meaning that 82% were irregular entries. This failure of controlled immigration led, with the oil crisis of 1973, to a halt in the intake of immigrant workers in 1974. Between 1945 and 1980, no law was passed regarding immigration control. However, from the early 1980s, the country witnessed a rise of populism and nationalism with the rise of the far-right party of the National Rally (NR) which slogan “La France aux Français!” (“France to the French people!”) became the most vocal about immigration as a threat as well as claims of wanting to restore national unity and identity. Due to the strengthening of European rule, other actors such as republicans expressed anti-immigration sentiments and warned against a loss of national authority and consequences of uncontrolled immigration practices. In addition, trade unions were also supporting these discourses fearing the loss of protection of nationals’ work interests. On the other hand, advocates of permanent immigration and open borders included employers’ unions (such as the MEDEF), NGOs and associations of immigrants, and human rights advocates. This clear split in opinions led to an unstable political climate shifting from right to left and vice versa, directly impacting

immigration policy.

Another major factor to be considered is that France is subject to a multi-level governance, which makes decision-making processes at a local, national, as well as global level more challenging. Indeed, France has governance systems not only as a nation, but also as a member of the European Union, as well by its membership to global institutions such as the United Nations, NATO, and major economic organizations such as the IMF, OECD, WTO. Reaching a consensus on an issue as controversial as immigration with a multiplicity of actors is improbable. The Schengen Accords and its open border policy has sparked debate around the impact of a “border-free” region on irregular migration. In fact, Brexit is the most drastic representation of these fears as the United-Kingdom was neither prepared nor willing to handle the massive influx of migrants from 2015 and forward. While most of the migrants were and are still fleeing conflict zones and are seeking refuge in Europe, far-right parties in France (among other European countries) used this opportunity to rally supporters and frame these specific migration movements as consequences of a lenient European immigration policy.

3. Population of interest

While integration and the process of socialization have often been sociological tools used to look at certain categories of French citizens – individuals either born and raised in France, having one or both parents of French citizenship, or having gone through the process of naturalization – they have rarely been used as analytical tools when looking at other categories of populations such as migrants – legal or illegal. For the purpose of this research, I will use the terms “migrant” and “exiled” interchangeably to encompass a larger population that includes all populations who are neither in possession of French citizenship nor permanent residency status.

Therefore, this population includes refugees, asylum-seekers, and economic migrants. More details are below:

(1) Refugees who, as stated in the 1951 Geneva Convention, have a “well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it”.

(2) Asylum-seekers who seek protection from the international community from a danger in their country of origin and whose refugee status hasn't been processed yet. Importantly, while migrants eligible for refugee or asylum status are fundamentally protected under the Geneva Convention, a large part of the migrant population present in Europe and France do not qualify for such a protected status.

(3) Economic migrants – referring to migrants seeking better economic opportunities which include illegal migrants who often live in precarious conditions and are being marginalized in host societies. Economic migrants also refer to legal migrants residing in France under a visa such as a spouse or work visa. In other words, the population of interest includes any migrant living in the camps and having left their countries of origin, not by choice, but by necessity.

(4) War refugees protected under the European directive 2001/55/CE offering temporary protection to those escaping mass violence in their country of origin. The directive was drafted amid conflicts where mass violence took place in the ex-Yugoslavia and was never applied until recently, as it was approved in March 2022 by the EU member states' Interior Ministers' Council.

According to OFPRA data, the number of asylum-seekers reached 132, 826 cases in 2019 and includes 101, 513 new asylum cases, 21, 841 first-time minor cases, 328 cases of stateless persons, 8, 904 appeals and 240 reopened cases. These numbers place France as the third major destination country for new asylum-seekers after Germany and the United-States (UNHCR, Global Report 2019). While all migrant categories are equally important from a human rights perspective, the categories of interest for the purposes of this research are those categorized by the UNHCR as persons in need of international protection which includes prospective asylum-seekers, asylum-seekers, persons with determined protection status and persons with a refugee background including naturalized former refugees, children born of refugee family members from abroad, reunified refugee family members from abroad, and others with a refugee background. While the UNHCR's third category of "persons returned from abroad after seeking international protection" is crucial in understanding the full scope of refugee situations, only populations residing within the French territory are relevant here. Similarly, while IDPs (Internally Displaced Persons) constitute a large percentage of asylum-seekers, only forcibly displaced persons crossing the French borders are relevant.

After considering the failures of the French integration model amongst African immigrants who legally came to France throughout the 20th century and the state's disinterest in shaping a more inclusive immigration policy, the question remains: how are populations of migrants, as vulnerable populations of interest, experiencing their stay – temporary or permanent – in France? The case study on the Calais Jungle will allow for an improved analysis of refugees, asylum-seekers and stateless populations' experiences and challenges within this context. It is important to look at the differences in policy between the 20th and the 21st centuries, and more

specifically, how France's immigration policy adapted to globalization and growing concepts of transnationalism. It is also crucial to include the impacts of the 21st century's new challenges, such as the COVID-19 health crisis or climate change, which exacerbate the struggle of these already vulnerable populations. The COVID pandemic, for instance, not only impacted border controls, directly impacting the number of new asylum cases filed – 96, 424 cases, showing a 27.4% decrease from 2019 (OFPRA, 2020), but also increased the likelihood that they would be exposed to the virus as there was CDC guidelines.

The diversity of cases varies greatly. When looking at numbers of asylum cases regionally and nationally, in 2020 France treated 93, 475 cases out of the 516, 000 introduced in Europe making it the second-largest European host country after Germany and before Spain. Regarding countries of origin, France received 21% of Afghan cases introduced in Europe, 20% of Pakistani cases, 40% of Ukrainian cases, the majority of Guinea, Ivory Coast, and Bangladesh cases. Other notable countries of origin are the DRC (Democratic Republic of the Congo), Turkey, Haiti, and Somalia (OFPRA 2020). Given the multiplicity of asylum seekers' origins, it is apparent that a single model of integrative immigration cannot fit the needs and goals of populations as diverse as our populations of interest. By taking a migrant's perspective, in particular migrants fleeing conflict zones, their need for mobility transcends their need for integration. Following the same line of thought, I would argue that France and other host countries would benefit from focusing on facilitating migrants' movement rather than forcing a rigid pattern of integration – that has proved to be dysfunctional in 20th century permanent immigration situations. The complexities of migrants' trajectories and needs conflict with the French integration model- which is based on constructed myths incompatible with the current

migration realities and would benefit from prioritizing migrants' need for mobility regardless of the length of their stay within the territory.

4. France's Engagements in Global and Regional Institutions Relating to Refugees

At the global level, France is a member of the United Nations and has a permanent seat on its Security Council. It also is a member of the UNHCR and signatory of its 1951 Convention relating to the Status of Refugees and 1967 Protocol (to which France did not submit any reservations). Some of the articles of the Convention relevant to my research are in order:

(1) Article 1 relative to the definition of the term “refugee” defined as a person *“having well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it”*.

(2) Article 3 relative to the application of the convention *“without discrimination as to race, religion or country of origin”*.

(3) Article 21 through 24 relative to housing, public education, public relief, labor legislation and social security stating that *“refugees lawfully staying in a territory should be accorded the same treatments as nationals” in all categories above.*

(4) Article 33 relative to the prohibition of expulsion or return (“refoulement”) stating that *“No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion”*.

(5) Article 35 relative to the cooperation of the national authorities with the United-Nations

stating that *“The Contracting States undertake to cooperate with the Office of the United Nations High Commissioner for Refugees, or any other agency of the United Nations which may succeed it, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of this Convention”* as well as mandating contracting states to provide the Office with data concerning *“the condition of refugees, the implementation of this Convention and laws, regulations and decrees which are, or may hereafter be, force relating to refugees”*. Because of the nature of migratory flows and refugees’ attempts to cross seas to reach Europe, another form of authority of interest is the International Law of the Sea regulated by the UN Convention on the Law of the Sea as well as the International Convention for the Safety of Life at Sea (SOLAS) and International Convention on Maritime Search and Rescue (SAR).

Regionally, France is a member of the European Union and subject to European Law. EU Law stipulates that asylum seekers have a right to remain in the territory of the host state while they await a final decision on their asylum application and must be given a document allowing their stay in the Member State during the examination of the asylum application. Other crucial legal agreements for the purpose of this research include: (1) the 2008 Return Directive that requires EU Member States to either regularize the position of third-country nationals in an irregular situation or issue a return decision to them, (2) the 2013 Asylum Procedures Directive – specifically the following statement *“Applications for international protection made in a Member State to the authorities of another Member State carrying out border or immigration controls there shall be dealt with by the Member State in whose territory the application is made”* – and (3) the Pact on Migration and Asylum (PMA) adopted in September 2020 .

The major judicial body is the European Court of Human Rights (ECHR). Some relevant articles of the ECHR are Article 3 stating that *“turning away an individual, however, whether at the*

border or elsewhere within a state's jurisdiction, and thereby putting the individual at risk of torture or inhuman or degrading treatment or punishment, is prohibited". The following are relevant excerpts from the Handbook on European law relating to asylum, borders, and immigration:

"States have a right to decide whether to grant foreigners access to their territory, but must respect EU law, the ECHR and applicable human rights guarantees. [...] EU law and the ECHR prohibit rejecting persons at borders and returning them to states where they are at risk of persecution or other serious harm. [...] The EU Charter provides for the right to asylum and for the prohibition of refoulement. The EU asylum acquis applies from the moment an individual has arrived at an EU border. In certain circumstances, the ECHR imposes limitations on the right of a state to detain or turn away a migrant at its border, regardless of whether the migrant is in a transit zone or otherwise within that state's jurisdiction".

At the national level, article 53-1 of the 1958 French Constitution, revised in 1993 due to the harmonizing of France's obligation under the Schengen and Dublin agreements, originally recognizes asylum as a constitutional right when stating:

The Republic may conclude agreements with European States which are bound by commitments identical to its own in the field of asylum and the protection of human rights and fundamental freedoms, determining their respective competences for the examination of applications for asylum submitted to them.

However, even if the application does not fall within their competence under these agreements, the authorities of the Republic still have the right to give asylum to any alien persecuted because of his action in favor of freedom or who seeks the protection of France for another reason.

The article's lack of specificity meant that this constitutional right could be invoked in scenarios perhaps not originally intended such as that of "freedom fighters" who could access the status of refugee "even if the persecution they suffered was neither encouraged nor tolerated by the established authorities" (1998 Aliens Act) which fundamentally differs from the asylum-seekers protected by the Geneva Convention. The latter "are often actual or potential victims not so much of their actual opinions or actions but rather of those attributed to them because of their objective belonging to such or such human group, whereas the French constitutional asylum is aimed at people playing an active part in their political destinies" (Denis-Linton, 2014). In addition to asylum as a constitutional right, France has two major bodies that treat cases of our populations of interests; these bodies are the French Office for the Protection of Refugees and Stateless Persons (OFPRA) and the 1954 New York Convention and the National Court of the Right of Asylum (CNDA). The former is responsible for the implementation of the 1951 Geneva Convention while the latter is a specialized administrative court ruling on asylum decisions taken by the OFPRA.

Additional crucial conventions to be considered in this matter are the 1948 Universal Declaration of Human Rights in which article 14.1 states that "*Everyone has the right to seek and to enjoy in other countries asylum from persecution*" and the United Nations Convention against Torture (UNCAT) adopted in 1984 and entered into force in June 1987 that ensures protection for all against "*any act by which severe pain or suffering, whether physical or mental,*

is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed , or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind [not including] pain or suffering arising only from, inherent in or incidental to lawful sanctions” (Article 1, UNCAT). After an extensive debate about the definition of torture and whether the Convention should follow the principle of international jurisdiction – and by this, assuming that “jurisdiction [is] not only based on territory of the offender’s nationality but also over acts of torture committed outside its territory by persons not being its nationals”, the Convention was adopted, and France was one of its initial signatories. Article 3.1 of the UNCAT stating: "Not State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture." is also crucial to this research as it offers individuals “non-refoulement” guarantees if “there is a real risk that they would be in danger of being subjected to torture” in the countries in question, which is also a fundamental right stated in the Geneva Convention. However, article 3.1 of the UNCAT is not only applicable in asylum and refugee cases but to anyone that has experienced torture as defined above.

Article 3 of the Geneva Convention states that:

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions ; (1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, color, religion or faith, sex, birth or wealth, or any other similar criteria. To this end, the following acts are and shall remain

prohibited at any time and in any place whatsoever with respect to the above mentioned persons ; (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; (b) taking of hostages; (c) outrages upon personal dignity, in particular, humiliating and degrading treatment ; (d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

(2) The wounded and sick shall be collected and cared for. An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

The 1949 Geneva Conventions have been protecting victims of wars between states and had expanded its protection to victims of civil wars and internal conflicts. This article, common to all four Geneva conventions, was originally applicable only to international conflicts. It evolved, however, to cover situations of non-international conflicts (where protracted armed violence is taking place and its actors show a certain degree of organization). These conflicts include – but are not limited to – civil wars and internal armed conflicts in which third-party States or multinational forces intervene alongside the government. Steven R. Ratner provides an interesting perspective on conflicts labeled as international versus internal armed conflicts stating that the characterization of a conflict as the former or the latter has three significant legal consequences: (1) “The Geneva Conventions provide only very basic protections in the event of civil wars through Article 3 [that] prohibits certain flagrant violations of human dignity like murder, torture, ill-treatment, and taking hostages”, (2) “Additional Protocol II of 1977, which specifically addresses internal conflicts, provides fewer protections [than the Geneva Conventions does for international conflicts], and (3) “for prosecutions of war crimes, the conventions create criminal liability only for violations committed in international armed conflicts”. This lack of protections and specificities in internal armed conflicts not only renders prosecution of war crimes in internal armed conflicts more challenging, but also create loopholes for non-state actors such as terrorist groups to be afforded protection under Article 3.

II. Literature Review

Extensive studies were conducted about integration and assimilation of foreigners residing in a new country. The following major studies are relevant to this research as they focus on the topics of (1) cross-cultural adaptation and assimilation, (2) transit migration and integration, and (3) refugee management in France.

1. Cross-cultural Adaptation and Assimilation

In his article *Becoming Intercultural* published in 2001, Young Yun Kim discusses the phenomenon of cross-cultural adaptation and assimilation specifically in the United-States, which has welcomed a continuous influx of immigrants and what Kim defines as “sojourners” who have been, according to Kim, looked at through different perspectives at both the macro and micro-levels. While research done at the macro-level has almost often emphasized structural issues about immigrants, Kim argues that few have focused on individuals’ experiences. On the other hand, studies performed at the micro-level often lack “important structural conditions of the receiving environments” such as the status of the newcomers’ ethnic group”, natives’ attitudes towards that group. Both perspectives have often been considered separately without intersecting even though the intersectionality of those factors is ultimately essential to understanding migrants’ unique experiences.

Long-term adaptation studies have often been conducted with a focus on assimilation of the immigrants and refugees into the “dominant culture” or that of the host society where they become “absorbed into the native population through convergence in cultural values and personal traits as well as economic and occupational “mainstreaming’. Short-term studies, on the other hand, increased in the 1960s in the US with the establishment of the Peace Corps, to get a

better understanding of the process of acclimatization into a different culture. Academics have labeled the “psychological problems that arise when individuals encounter unfamiliar environmental demands during overseas sojourns” as “culture shock” – defined as a “sense of confusion, uncertainty, and anxiety that may affect people exposed to an alien culture or environment without adequate preparation (Merriam-Webster) – which is often based on the following 4 variables: (a) the perception and attitude toward the host society, (b) the satisfaction and psychological adjustment, (c) the patterns of interpersonal relationships, and (d) linguistic and other elements of intercultural competence (Ruben and Kealey, 1989). Another interesting point is the extension of a “culture shock” to include a “reentry shock” factor, defined as “the emotional and physiological difficulties an individual may experience on returning home after a sojourn in another culture”. A migrant or refugee who resides in a different country for an extended period is very likely to experience “reentry shock” when returning to one’s country of origin. For the purpose of this research, I would argue that Taft’s “culture shock” ‘s framework is most accurate with his identified 4 common reactions to cultural dislocation as followed: (a) cultural fatigue, (b) a sense of loss arising from being uprooted from one’s familiar surroundings, (c) rejection by the individual of members of the new society, (d) and a feeling of impotence stemming from being unable to deal with an unfamiliar environment. (Taft, 1977). Like the macro and micro-level perspectives, studies on long-term and short-term adaptation have often been conducted in isolation, leading to a failure to recognize the multiplicity and intersectionality of migrants’ journeys and backgrounds. Kim makes the argument when stating that there are implicit expectations from both the host society and the migrants; one expectation is that the longer sojourners live in the host society the greater cultural conformity and proficiency is expected from them.

Rather than having studies focusing on factors impacting migrants' adaptation, a better alternative would be one that encompasses both macro-level and micro-level perspectives, would include more individualistic perspectives on migrants allowing a cross-analysis of migrants and the host societies they interact with. For instance, instead of exclusively looking at host societies' expectations on migrants' acculturation, migrants' expectations are also valid and essential to understanding the difficulties and challenges that both parties face when accustoming to each other. It is also crucial to shift from the westernized concepts of "adaptation" and "integration" which often ignores migrants' needs, culture, and beliefs. A western perspective with downstream expectations imposed upon the migrants may be a rigid structure of values and beliefs that is rarely compatible with their native practices. The fact that migrants must adapt to a dominant culture that is fundamentally different from theirs, and the pressure of the host society's expectations, creates unbalanced power dynamics that can be seen as "cultural oppression" or what critical analysts refer to as the "fundamental power inequality that exists between the dominant group in a given society and that society's ethnic minorities".

Peter S. Adler makes a valid argument when stating that most studies focus on "culture shock" as being a negative reaction that needs to be fixed by a gradual acculturation of migrants to the dominant culture whereas it could be argued that it is a positive reaction that does not need a cure. Instead, this reaction is at "the heart of the cross-cultural learning experience, self-understanding, and change" and allows a "movement from a state of low self- and cultural awareness to a state of high self- and cultural awareness" which, in turn, fosters a more effective adaptation process than one that would be pressured upon migrants (Adler, 1987). Oberg echoes this argument with a 4-stage categorization of adaptation as it relates to "culture shock" as a catalyst for a more efficient adaptation. The categories are as follows: "(a) 'honeymoon' stage

characterized by fascination, elation, and optimism, [followed by] (b) a stage of hostility and emotionally stereotyped attitudes toward the host society and increased association with fellow sojourners, (c) a recovery stage characterized by increased language knowledge and ability to get around in the new cultural environment and (d) a final stage in which adjustment is about as complete as possible, anxiety is largely gone, and new customs are accepted and enjoyed” (Oberg, 1960). This hypothesis has been further researched and labeled as the “U-Curve hypothesis” but has shown rather inconsistent findings and data depending on the populations studied (Nash, 1991). It is also essential to point out that most studies have looked at populations in regular situations from developed countries sojourning in developing countries. When looking at irregular migrants and people fleeing their countries of origin such as asylum-seekers and refugees, there are more basic factors at play such as physical safety, food, shelter, in other words, access to basic human rights, as well as recognition of the legitimacy of their presence in the host societies. Moreover, studying long-term versus short-term adaptation can prove to be more challenging since each migrants’ story and goals are unique and that, in addition to the lack of data, illegal migrants’ lack of status makes their situation more precarious and uncertain than other migrant populations.

Kim mentions that there are more broad-based multivariate models while simultaneously noting the lack of consensus on these models. Kim notes that these studies combine psychological, social, demographic, and cultural factors (such as the knowledge of the host language, the motivation for adaptation, how positively the sojourner sees the host society, social interaction with the natives), while those same cross-cultural adaptation models often reflect the widely “accepted ‘assimilationist’ or ‘melting-pot’ social ideology” (23). Since the late 1980s and 1990s, academic discourses have emphasized the need for a more pluralist position when

looking at cross-cultural adaptation and assimilation which differs from traditional models with its “implicit assumption that adaptation is a matter of conscious (or unconscious) choice on the part of the individual whether they choose to identify with the dominant society, to identify with the ethnic group, to identify with both, or to identify with neither group” (25).

2. Transit Migration and Integration

In his 2008 article, *Integration: a concept in difficulty*, Wieviorka discusses the different types of migration in France and Europe in relation to integration models host societies have established. He considers 4 categories of migration that differ from regular long-term migration and therefore should not have to be subject to the same expectations: transit migration, nomadism, diasporas, and *métissage* (individuals with mixed ethnicities). Among those 4 categories, the former is especially relevant to this study as transit migrants constitute a large part of the migrant population in France. Wieviorka defines “transit migrants” as individuals who pass through a country where they do not wish to stay; he states that “France was astonished to discover that many migrants from the Middle East only wanted to transit through its territory to Scandinavia or the United Kingdom”. One example was of the Sangatte camp (opened by Red Cross in 1999 and closed in 2002) located near the Channel Tunnel which welcomed thousands of candidates for transit at the request of the Minister of Interior (39). Wieviorka argues that, in cases such as transit migration, the idea of politics of integration is absurd and irrelevant as transit migrants’ priority is to cross the territory safely. He adds that “their cultural difference is hardly problematic here, it does not enter into possible debates relating to a multiculturalist logic, or other” and that the governments of the countries in which migrants’ transit should focus on offering children and young adults in transit access to education and socialization (39).

3. Refugee Treatment and Management

On the issue of refugee treatment and management in France, there have been several studies conducted in the “Calais Jungle” among which a quantitative survey published by Bouhenia et al. in 2017 and conducted in November and December 2015 at the peak occupancy of the unofficial camp. The study gathered data on health and violence endured by refugees during their stay in Calais. While the situation in Calais has evolved throughout the years, the study based on a sample size of 402 migrants shows that at least 61% of migrants had encountered a health issue. Additionally, at least 65.6% had faced violence at least once during their stay in Calais, among which 39.9% reported not having access to healthcare. Data shows that among several other locations, Calais ranked 1st in medical issues reported by migrants, before Libya, Greece, and Turkey. Additionally, Calais is the second location reported by migrants when it comes to physical violence experienced with 25.3% after Libya (30.8%), before Iran (9.9%), and Sudan (8.2%).

On the same topic, Human Rights Watch published a major report in October 2021 that not only documents the evolution of the camp. The report includes testimonies of migrants and volunteers on violence and abuse performed both between migrants and to migrants by state-affiliated authorities. More than a study of demographics, the report shares the various techniques used by local authorities to discourage migrants from settling. These techniques include evictions every 48 hours, confiscation of goods, as well as legal and practical restrictions on humanitarian aid which directly impacts migrants’ access to basic needs such as food and water, as well as reinforcement of the construction of fences and barriers. Many of these practices encouraged by the local and regional authorities violate migrants’ basic human rights. While Human Rights Watch provides a qualitative perspective on migrants’ treatment, it also

shares a more critical and political position on French president Macron's disengagement from its humanitarian responsibility not only as a member of the European Union and the United-Nations, but also as a country that globally promotes humanist values.

III. Intentional Use of the Global Refugee Protection System's Loopholes by the French State

1. Utilizing Existing Agreements' Legal Loopholes to Evade Responsibilities

While France isn't the only member state that uses evasion strategies to avoid its responsibility in the global refugee protection system, the French government has used various ways to utilize these loopholes to avoid potential refugees from accessing the territory and by that, accessing refugee status determination procedures. These strategies are not only in violation with the global human rights regime, but are also directly impacting, if not denying refugees' their "right to life" or "*atteinte au droit a la vie*" as stated by the Universal Declaration of Human Rights. Obiora Chinedu Okafor, an Independent Expert, issued a report to the UN General Assembly in accordance with Human Rights Council resolution 35/3 relating to Human Rights and international solidarity in July 2019. The report supports this idea of member states abusing the global refugee protection loopholes which is in contradiction with 2017's resolution 35/3. This resolution reasserts the pledge states have taken to promote international cooperation and stresses the fact that it is states' duty to foster international cooperation that contributes "to the solution of current world problems". The resolution also reaffirms that "international solidarity is not limited to international assistance and cooperation, aid, charity or humanitarian assistance; it is a broader concept and principle that includes sustainability in international relations [and] equal partnerships and the equitable sharing of benefits and burdens" (UN Resolution 35/3, 2). A pledge that Türk and Garlick argue is a core element of the global refugee protection system in

that “ all Member States in Articles 55 and 56 of the Charter to ‘take joint and separate action in cooperation’ in order achieve such human rights goals as global refugee protection, imposes a hard ‘legal obligation for states to cooperate with each other in regard to refugee matters, directly among themselves and via cooperation with the Office of the United Nations High Commissioner for Refugees (UNHCR)’” (2016). Okafor points out many contradictions that have been observed throughout host states, including France. Among some of those inconsistencies, France has utilized burden shifting strategies, refoulement practices, and reinforced the hyper securitization of its borders that will be discussed in this section.

2. Rethinking “Burden-shifting Practices”

Burden shifting practices are defined as the intentional reallocation of the state’s responsibility to share one or more other states (Robinson et al., 2003). What Okafor would qualify as an “abusive deployment of international solidarity in global refugee protection” includes burden shifting practices using alternative agreements and pacts to defer part of its responsibility. The 2015 Joint Action Plan perfectly illustrates this argument; a plan that France, as part of the European Union, has financially and politically endorsed and whose explicit purpose is to “prevent refugees from Africa, the Middle East, and other areas from reaching [the EU’s] external borders”. Under this plan, Turkey would receive 3 billion euros from the European Union to support their efforts in migrant management. This plan raises the important questions whether it violates refugees’ human rights and whether the EU’s efforts are indeed, a stratagem to evade their obligations (under the 1951 Convention and other regional agreements related to refugee management) by shifting their “burden” to other state actors – here referring to the equal amount of responsibility that all countries pledged to share. A notable observation stated in section 45 of the report is that the Joint Action Plan was initiated with the goal of

forming a “wall of defense” against what was then portrayed in the media and politically framed as the “refugee crisis”. While enforcing border control and disabling smuggling networks are matters of national security and are an inherent right of the sovereign state, preventing populations from accessing refugee status procedures violates refugee rights and the state's commitment to the Convention and other binding agreements. Under the Joint Action Plan, Turkey oversees “sea patrols and enforcing border restrictions to, among other related things, manage the flow of refugees and asylum seekers to Europe, return refugees and asylum seekers to their countries of origin if they do not meet refugee requirements” (European Commission, 2015). With refugee and asylum requests already having a high rate of refusal, this “wall of defense” has proved to heighten this rate. Recommendations listed in the Joint Action Plan report suggest that Turkey needs to:

“make significant progress in preventing irregular departures of migrants and refugees from its territory; take urgent action to align its visa policy with that of the European Union, prioritize those countries that are a source of irregular [refugee flows and] migration to the European Union; step up bilateral cooperation European states in border surveillance, anti-migrant-smuggling efforts, and implementation of bilateral readmission obligations; and strengthen actions against human smuggling in coastal areas”.

In theory, these recommendations seem to align with global refugee protection commitments; the Plan offers security to refugees who “meet the requirements”. However, when we consider these requirements in practice, most refugees are unable to meet these standards given the situations and conditions in which they had to flee their countries. They often live in a state of urgency and, for one reason or another, simply do not possess the documentation needed to meet these

requirements. Therefore, it could be argued that this Plan constitutes an additional obstacle rather than facilitates potential refugees' access to safety. Individuals who legitimately seek refugee status and are faced with arbitrary practices of status determination are subject to deportation to a country where their life is at risk.

3. Reaffirming the Principle of *Non-refoulement*

As defined in the Art.33 of the Refugee Convention, the principle of *non-refoulement* stipulates, “No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.” This principle is widely accepted by the international community for its universal nature. As such, it has been accepted as a customary rule in international law.

As argued in the previous section, the French government has taken part in regional efforts to block migrants from entering its territory. While these drastic measures are effective in reducing irregular migration, it also negatively impacts individuals with legitimate claims to refugee status. In section 30 and 31 of his report for the UN General Assembly, Okafor argues that:

30. In some European Union member States, there are numerous obstacles that bar potential refugees from accessing refugee status determination procedures. In this context, refugees are exposed to the real risk of arbitrary refoulement in violation of article 33 of the 1951 Convention. For example, the European Court of Human Rights has held, in several cases, that the refugee status determination procedures in certain States members of the European Union and the Council of

Europe were deficient, leading to the rejection of the refugee claims of all too many persons who ought to have been accepted as refugees in those countries.

31. The adoption of measures that limit or deny access to the territories of European Union member States to potential refugees, including through pushbacks and collective expulsions, is another serious gap in human rights-based international solidarity in global refugee protection. Without access to these territories, potential refugees cannot access the refugee status determination procedures in the territories of member States to file an application for international protection. The European Asylum Support Office noted in its report of 2017 that contributing civil society organizations expressed concerns about “limited access to the territory, including the occurrence of pushbacks in several Member States”.

There are multiple accounts where the French government has practiced *refoulement* using a major loophole of the Geneva Convention: people fleeing war zones are not automatically considered refugees even though they would face life-threatening risks if sent back to these conflict zones. To meet refugee status requirements, one would have to show evidence of persecution based on “race, religion, nationality, membership of a particular social group or political opinion”. Since the early 2000’s, Nicolas Sarkozy – respectively Interior Minister from 2002 to 2007, President from 2007 to 2012, and candidate to the 2017 presidential elections – has intensified anti-migrant rhetoric stating that encampments show “a complete surrender of the French state” that is economically not capable of sustaining care for these populations. About refugees particularly, in a 2015 speech to the *Campus des Jeunes Républicains* in Touquet, he said: “If we must welcome war refugees, we should only welcome them for the duration of the

war. When the war is over, they must return to their home countries.” He argues that while welcoming war refugees is inevitable, the overflow of economic migrants is to blame for the migrant situation spiraling out-of-control, economic migrants for whom France have no more “money, housing, or jobs” left to offer. This over-simplification of a more complex issue attempts to justify the violations of the non-refoulement principle under Sarkozy and Macron’s administrations. This argument fails to recognize underlying phenomena that blur the lines between refugees and economic migrants. For instance, Frances Webber argues that “increasingly, refugees are to be found not only among those who claim asylum, but also among those who prefer to remain undocumented and illegal rather than making a claim that could result in summary rejection and removal” (2011, p.103). Debunking Sarkozy’s argument of an increased migration associated to a decline in employment for French nationals, Webber debates that “in 2008, one-third of all removals from France were listed as voluntary. But, according to a recent study, the voluntary return program has never been successful in its aim of freeing jobs for French workers” (2011, p.99). One of the most controversial actions ordered by the then Minister of Interior Sarkozy was the shutdown of a Red Cross refugee camp in Sangatte, near Calais. This was an encampment where most people came (largely from Afghanistan, Pakistan, and Iran) while trying to ultimately reach the UK. While many would qualify for refugee protection, their desperate attempt to reach England - often to reunite with family members and because they have basic English skills - has been labeled by both the French and British government as an unacceptable form of “asylum shopping” that violates the Convention’s principle of “first country of arrival”.

The Dublin II Regulation (343/2003) adopted in 2003 establishes the criteria and mechanisms “for determining the Member State responsible for examining an asylum application

lodged in one of the Member States by third-country nationals" in the context of individuals seeking international protection, in which the "first country of arrival" is held responsible for supporting individuals with asylum procedures. The Dublin system has been subject to revisions to adapt to global needs. Dublin II, for instance, expanded the states' responsibility of status determination of persons that have been present within the territory for 2 months – that was extended to 6 months. These constant changes can be a challenge to harmonize asylum procedures with States using different versions of the agreement or being reluctant to apply the agreement within their territories. The *first country of arrival* clause also fails to recognize national and local pressures that some Member States face such as economic crises, or a lack of reception facilities and therefore, were unable to provide decent living conditions and standards for asylum-seekers reaching their shores. While some states have legitimate claims to challenge the "first country of arrival" clause, France has the economic and spatial capacity to offer decent standards to these populations and possesses the infrastructures and trained staff to treat the number of cases that it receives every year (132 826 cases in 2019, OFPRA). Marie Martin, in an article for State Watch, argues that the lack of harmonization in asylum practices in the EU ultimately dooms the Dublin system to failure. If Member States fail to find common ground, thus perpetuating this systematic discrepancies, Martin believes that "the responsibility for asylum applications will probably shift from one country to another depending on how 'competent' countries will be found after judicial rulings, despite well-documented evidence of human rights violations available elsewhere" (2012).

4. Rethinking "Absolute State Sovereignty"

France, along with other Member States, is fostering ways to "contain" these populations away from their territories by disputing globally accepted legal refugee protections. These

protections include the Convention's clause of non-refoulement and Dublin II's "first country of arrival". An example of the state challenging these protections are by the Joint Action Plan agreement with Turkey. It also seems that Member States are not only questioning the efficiency of the current global refugee protection system but are also using various means to bypass it, asserting their prioritization of national sovereignty over regional agreements that they believe cannot be realistically met with their current domestic challenges. Since the early 2000s, French governments have placed immigration as a core topic of their domestic politics' priority. Francois Sarkozy, Marine LePen, and most recently Emmanuel Macron, have used anti-migrant rhetoric to rally voters from all sides of the political spectrum, often criminalizing foreigners while failing to make a distinction between irregular flows of migrants and potential refugees. For instance, Marine LePen, who was the primary contender in the 2012, 2017, and 2022 French presidential elections representing the far-right party the National Rally (previously the National Front), has claimed that the influx of people coming into France are a "burden" and comparable to a "flood" that is responsible for the "progressive dismantling of the national identity" as well as exposing France to "the infiltration of Islamic terrorists". On a visit to the Calais encampment, she also recommends that France must make criteria for the right of asylum considerably stricter and must return migrants "to their homes, even to war-torn countries" (2015). Only then, LePen claims, will France regain a semblance of national sovereignty - a sovereignty that she believes has been suppressed by the EU's pressure on Member States to adopt shared migration policy.

While political discourse in France is using immigration and border control as their topic of contingency, there is a gap between the discourse emphasizing the "regaining of absolute sovereignty" and the limits of national sovereignty in International Law, specifically in the global refugee protection system. Sovereignty can be defined as "the supreme, undivided,

absolute and exclusive power attributed to the state within a demarcated territory”; a definition that has been interpreted with an almost Westphalian vision of “absolute state sovereignty” in recent political debates, free of regional and global pressures. Under International Law, however, national sovereignty has its limits. While states have the right to limit entry to their territories and manage their borders, they cannot, as Okafor argues, manage it “in a way that imperils certain of the most basic human rights of refugees and other persons – such as their rights to life and dignity as human beings”. He adds that “while refugees do assume some risk in deciding to embark on such journeys in the first place, the aggravation of that risk by the laws, policies and practices of home, transit or destination States to the extent of imperiling such basic rights violates international human rights law” (s. 49). Instead of applying the humanist values that France preaches globally, the State fosters a xenophobic discourse, exclusionary practices, and condemns rather than welcomes these vulnerable populations. A closer look into the case study of the “Calais Jungle” will offer more insights on the actual practices within the French territory, and more specifically, in Northern France, which hosts a considerable amount of “would-be refugees”, among other migrant populations, due to its proximity to the Eurotunnel and the British channel.

IV. Case study: “The Calais Jungle”

1. History and Demographics

The “Jungle de Calais” was preceded by a similar situation a decade earlier, in 1999, with the Red Cross’ Sangatte refugee center; a center where it is estimated that about 70, 000 refugees have passed through during the 3 years it was functioning. Sangatte is a city located near the Channel Tunnel approximately 5 miles away from Calais. Most of the population the Red Cross center treated are Kurds from Iraq, Tajiks from Afghanistan and Kosovars who

had fled the Serbian oppression. Statistics also show that about 94.6% of these populations are religiously identified as Muslim.

The Sangatte case is crucial in understanding when and how the relationship between France and the UK evolved from the late 1990s up to the dismantlement of the Calais Jungle in 2016, and how the tensions between the two countries increased despite an “agreement” reached with the Sangatte center’s closure. The Sangatte Protocol was signed on December 2nd, 2002, allowing all Iraqis to enter the UK on a 4-year work permit – though renewable, it did not grant them the rights and protection of an asylum status. France agreed to take responsibility of all other residents of the center. France and the UK would later sign the Touquet Treaty on February 4th, 2003, to reiterate both countries’ responsibility regarding border control. This bilateral agreement, external to EU law, aimed to increase security around the countries’ “borders” – here meaning around the seaports and channel tunnel route. It was implemented through various forms: establishment of checkpoints in the ports of Dover and Calais, increase of police presence, construction of physical walls and fenced mechanisms, as well as through changes in the British immigration law. The treaty was put into effect in the UK by the 2002 Nationality, Immigration and Asylum Act also referred to as *Juxtaposed Controls*. In addition, Order 2003 added more checkpoints in ferry ports, followed in 2004 by the construction of a holding zone in Calais, and in 2007, by the opening of detention sites in Coquelles where the Eurostar is located. These treaties and agreements pushed both parties to ensure that:

[...] foreign border authorities and police in the areas governed by juxtaposed controls wield the same prerogatives as those they possess in their home country [...] within these geographical spaces, the British Border Force can stop and search individuals and freight vehicles on French soil, while their French PAF colleagues do the same on British

territory; anyone found with irregular immigration status or who claims asylum [...] may be briefly detained in STHFs for up to 24 hours or, exceptionally, for 48 hours. Since 2010, the British and French have run a joint 'operational coordination centre' in Calais to share intelligence. Finally, the UK also provides extensive funds for new technology and fencing around the border sites in France (Bosworth, 2022).

The Touquet treaty is considered one of the first treaties attempting to reach a more harmonized immigration policy between states by pointing out the weaknesses of the Schengen zone and the incompatibilities of European states' immigration policy in times of crisis. These inconsistencies in legislation not only show countries' unpreparedness, but also deeply impact would-be refugees through the increased securitization of borders and reinforcement of immigration policy.

The case of Sangatte has exacerbated tensions between France and the UK making border control and immigration one of the main political issues of the decade. The Sangatte Protocol came about as a solution to the chaotic situation that emerged from the French government *laissez-faire* policies and inaction. Even though the government granted work visas and *laisser-passer* to a limited population of the Sangatte Red Cross center, it only offered a temporary relief as there were no efforts made to prepare for similar situations that could arise from future conflicts. This allowed for the emergence of another humanitarian crisis in Calais (labeled by the media and politicians as the Calais "Jungle"). This encampment was open from April 2015 to October 2016, an 18-month period during which the "Jungle" housed thousands of migrants – with an estimated 10,000 residents at its peak. The Sangatte center closure did not stop migrants from all ages and nationalities wanting to reach the Calais-Dunkirk coastal area in the hopes of crossing to the United Kingdom. Statistics show that the main nationalities of these populations in Calais are Kosovars, Kurds, Afghans, Eritreans, Sudanese, Iraqis, and Syrians. This reflects a

diversity seen in the OFPRA statistics on demographics for asylum applicants for that year, which include in order of importance DR Congo, Kosovo, Albania, Bangladesh, Russia, China, Sri Lanka, Georgia, Pakistan, Syria, Afghanistan, and Serbia. It is also important to understand that starting from the early 2010's, all major European crossing areas were facing similar arrivals of migrants and therefore had their own encampments, holding and detention sites such as in Lesbos and Idomeni (Greece) or Ventimiglia (Italy). Hundreds of encampments have emerged following conflicts that arose in Africa, the Middle East and Asia, a flow of people that now must face the new restrictions and reinforcement of border control. Europe saw in 2015 the arrival of more than one million individuals from various regions; this was the year the media refers to as the year of the “migrant crisis”: a dramatized term that does not encompass the realities of these migrations but has been widely utilized in the media and political discourses.

2. Hyper securitization and authorities' abuse

The Calais “Jungle” has been the stage of controversial actions from police and other local authorities. It's also been the stage for acts of solidarity from local associations and volunteers to support the refugee populations. The camp which started to form in the 1990s has developed and attracted international media's attention in 2015 that labeled it the “migrant crisis”. Jacques Toubon, French Defender of Rights from 2014 to 2020 and appointed by President Francois Hollande, pointed out that the situation in Calais was unprecedented and violated migrants' fundamental rights. This was a situation where local authorities continuously destroyed encampments and prevented them from being rebuilt. Minister of Interior Gerard Collomb's efforts to prevent new arrivals had been sustained by a deployment of 150 additional police officers in June 2017 and what Toubon described as a continuous hunt of migrants. He

described Calais mayor Natacha Bouchart's actions as a "denial of exiled persons' existence". Among observations that he reported was the lack of shelter, the continuous dismantlement of precarious shelters, the suppression of all water sources, the absence of facilities for migrants to shower or rest as well as restrictions around food distribution by volunteers – allowed no more than once a day. These conditions have not only physically taken a toll on migrants but have also impacted their mental health. Calais mayor Bouchart stated that these observations were not reflective of the situation denying police brutality and insisted that she was acting on behalf of the 100 000 Calais residents who had expressed a "ras-le-bol" and "want their city back". It is interesting to see both perspectives; one of inclusion and one of exclusion. The former focuses on granting migrants' fundamental human rights and decent living conditions while the latter seems to prioritize the rights of nationals over non-nationals. While these are conflicting perspectives, they are not mutually exclusive. For instance, both partisans and dissidents could have put more effort into educating local populations about the reasons why migrants are residing within the territory. Additionally, a softer approach to communicating with camps' residents could have been taken; rather than destroying migrants' shelters and belongings, a better communication - facilitated with interpreters, and alternative shelters approved by the municipality could have prevented the brutal scenes witnessed at the "Calais Jungle" among other encampments. An interesting point made by Zygmunt Bauman, sociology professor at the University of Leeds and author of "Strangers at Our Door" is that:

There is currently a pronounced tendency – among the settled populations as well as the politicians they elect to state offices – to transfer the "issue of refugees" from the area of universal human rights into that of internal security. Being tough on foreigners in the name of safety from potential terrorists is evidently generating more political currency than appealing for benevolence and compassion for people in distress. And to outsource the whole problem into the care of security services is eminently more convenient for governments

overloaded with social care duties, which they are apparently neither able nor willing to perform to the satisfaction of their electors.

An interesting argument that is a direct critique of political parties such as the National Rally that have used the “migration crisis” as leverage to gain partisans, inherently shifting the attention from the cause of their presence on the territory, not by choice but by necessity. Bauman insists that “refugees end up all too often cast in the role of a threat to the human rights of established native populations, instead of being defined and treated as a vulnerable part of humanity in search of the restoration of those same rights of which they have been violently robbed”.

By looking at a quantitative survey by Bouhenia et al. *on health and violence endured by refugees during their journey and in Calais*, there are observations that can be made about the treatment of refugees residing in Calais. The survey was conducted in November and December 2015 (at the peak of the ‘refugee crisis’) on a sample size of 402 individuals. For this specific interviewed sample, most refugees came from East Africa, Central Asia and the Middle East with Sudanese, Afghanis, Iraqis, and Iranians constituting the largest nationality groups. Table 4 below shows the type of violence interviewees experienced and where they experienced it. By looking at the data, we can observe that 65.6% of the interviewees have experienced violence at least once during their migration journey, among which 30.8% took place in Libya, 25.3% in Calais, followed by 9.9% in Iran, 8.2% in Sudan, and 6.9% in Bulgaria. The data also show that 45.7% of interviewees have experienced assault and battery, 35.8% detention, 26.9% tear gas, and 14.2% repeated violence with forced detention.

Table 4. Type and place of violence during the journey, the Jungle, Calais, France, November–December 2015

	% (CI)
Violence encountered at least once during the journey and in Calais	65.6 (60.3–70.6)
If yes, where*	
Libya	30.8 (25.1–37.2)
Calais	25.3 (19.9–31.6)
Iran	9.9 (6.4–14.9)
Sudan	8.2 (5.0–13.2)
Bulgaria	6.9 (4.4–10.7)
Type of violence*	
Assault and battery	45.7 (39.3–52.2)
Detention	35.8 (29.6–42.5)
Tear gas	26.9 (21.4–33.4)
Repeated violence with forced detention	14.2 (10.1–19.6)

*Non-exclusive, categories do not add -100%.

In this same survey, Bouhenia et al. demonstrate the different types of violence perpetrated in the Calais Jungle. As shown in Figure 4 below, interviewees reported that about 100 violent acts against them occurred in Calais, which can be quite surprising, as it comes second after Libya, a geopolitically unstable country. It is also notable that the third location reported are “Other France”, with about 60 cases reported of violent acts, placing France as a country as the first in this list. The two major types of violence in Calais are noticeably “tear gas” and “battery/assault”, which testify of the particularly violent approach of local authorities towards the migrant population. Bouhenia et al. comment on these numbers by stating that:

[...] the absolute number of violent events reported in the camp itself was quite high and the majority due to tear gas fired by police forces [suggesting that] refugees constitute a vulnerable population experiencing often-ignored high rates of violence [that] should be brought to the attention of political and medical authorities as well as the general public [and that] mental health care with particular attention to post-traumatic stress, disorder, should be integrated in services provided to refugees (340).

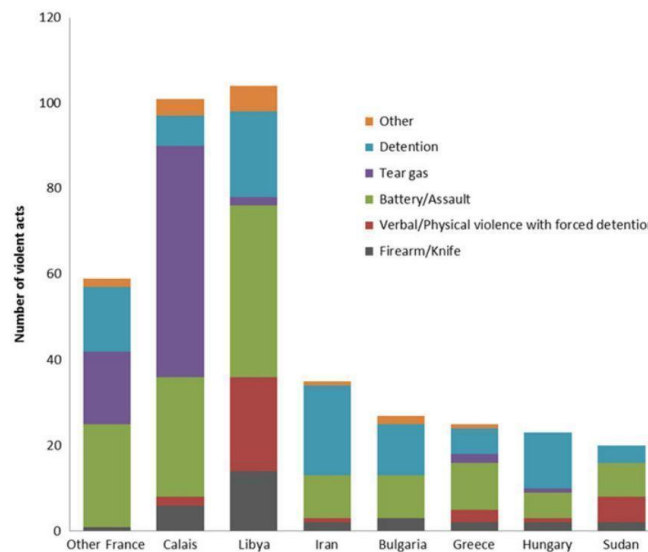


Figure 4. Type of violence in selected countries, refugees in the Jungle, Calais, Other France, November–December 2015.

While the fact that this survey has been conducted in Calais is variable that could have affected the high percentage of accidents reported in France, this survey undeniably shows that migrants have experienced violence from French authorities which is a violation to their human rights and refugee rights – for the would-be refugee population. Additionally, these violent patterns against minorities have often been observed in geopolitically unstable regions of the world which is why it is especially surprising that a country as developed and geopolitically stable as France would allow such behaviors against these vulnerable populations, behaviors that are in direct contradiction with the humanist vision France has been promoting in regionally and globally.

3. Interview with Damien Carême, European Parliament Representative of the Committee on Civil Liberties, Justice, and Home Affairs (LIBE)

This interview was conducted via Zoom on Monday, March 21st, 2021. Representative Damien Carême is a member of the Committee on Civil Liberties, Justice, and Home Affairs that oversees discussions on migration policies in the European Parliament. Following an English

translation; the original version was added in the annex. “SB” refers to myself: Sarah Bekrar, “DC” refers to Representative Damien Carême.

SB: First, thank you for taking the time to answer my questions. Could you briefly introduce yourself, and more specifically discuss your role in the context of migration policies?

DC: I am currently a member of the European Parliament in the LIBE Committee (Commission for Civil Liberties) in which European migration policies are discussed. I was also mayor of Grande-Synthe from 2001 to 2019 as well as co-president of the ANVITA association with the mayor of Strasbourg. The association promotes unconditional hospitality in French cities and territories. We base our mission on the belief that there is no migration crisis but a crisis of reception. The ANVITA association brings together 44 municipalities in France (including Paris) as well as 3 regions and 2 departments (Seine et Marne and Seine Saint-Denis). It is important to specify that in France, the departments are responsible for policies on children and unaccompanied minors.

SB: The reputation of the Calais Jungle has gone beyond national and European borders, do you have any comments or suggestions about the management of this “camp”? And more particularly, vis-à-vis the more than dehumanizing policies carried out towards the populations still residing in the city of Calais or its surroundings?

DC: There is no longer a “Jungle” but “wandering migrants”. There is an attempt to disperse the camps to "not create a pull factor". From Belgium to Normandy, especially in cities that have ferry lines, to Great Britain since many migrants want to reach England. They are dehumanized

places, without access to dignity; places like Cherbourg or Grande-Synthe are the direct consequences of the political will of French governments (and have been since 1990). It is not because we organize a reception that we attract people. The proof of this is that when the Grande-Synthe camp opened in March (with the help of the NGO Médecins sans Frontières) we had taken in around 1,300 people (including around 300 children and 300 women) and that in August this number was only 700 people. There is no “pull factor” but the State chooses to ignore it, one of the reasons being that it is more complicated to organize professional insertion with that many people.

SB: Have you, as a former elected representative of a municipality advocating for fairer and more humane reception policies for migrants, and more recently, as a member of the European Commission, exchanged communications with the mayor of Calais and regional elected officials? What are some of the feedback you received?

DC: With an organized reception (even without State participation), there is better acceptance by the populations, but the “pull factor” theory created by the National Rally and taken up by many right-wing politicians, feeds media discourse and xenophobia. The Mayor of Calais constantly requested the intervention of the army to "clean up" the city. There is no management, and anarchy creates tension. The National Rally (formerly National Front) vote is a "vote of despair" on the part of the people. There is a lack of transparency from the municipalities. I was a regional representative between 2004 and 2015. In 2008, we received for the first time women and children in the field (from 20 to 40 people). Migrant populations were generally concentrated in towns with gas stations on the highway leading to Calais, such as the village of Laurent-Fonte, which led the Regional Council to vote for a subsidy to contribute to a better reception, and this, after we had created the ANVITA association which stands for Association of Welcoming

Elected of the Nord-Pas-de-Calais region. It was a completely different time politically for the region. Since the region has been under the leadership of Xavier Bertrand, things have changed. I only had one phone conversation with him after a reaction on my part to one of his abominable tweets referring to the reception of migrants in the city of Grande-Synthe even though he had never set foot in our city. He communicated his dissatisfaction to me on the phone by insisting that he was the only candidate facing the National Rally in the Regional Council. Since then, the association no longer exists, even in Grande-Synthe where my successor has completely abandoned the reception policies I had put in place. These policies are disappearing in founding cities of ANVITA such as Briançon, near the Franco-Italian border, which after a change of administration, resigned from ANVITA. Grande-Synthe was recently expelled from the association because the policies that the city pursues are completely contrary to the association's charter. Unfortunately, this requires a continuous effort, but we are hoping to gradually manage to switch public opinion on this subject.

SB : In your opinion, is the rise of populism and nationalism on a national but also global scale a cause or a consequence of the politics that you define as " politics of closure" ?

DC: I'm not sure, but in any case, there is no longer any reason for the far right to come to power in France because we are already applying the laws demanded by the far right. Gerard Colomb's "Law for controlled immigration" that was recently passed in France was approved and voted on by the National Rally, they even applauded it - Orbane co-wrote it – even if he argues against its application today. We are experiencing politics that foster more and more isolation, that solidify European borders, that shut the door to hospitality and no longer encourage solidarity. It is not migration policies that are causing a rise in nationalism. Nowadays, politicians in power use this

subject to divert the people's attention from more pressing issues at the domestic level such as widening social inequalities, the disenchantment of young people vis-à-vis their future prospects and the multiple crises we are facing (climate crisis, biodiversity crisis, financial crisis, health etc.). Many French people have lost their life's ideals and I think that this destabilization has evolved into a *ras-le-bol* of the populations and that the rise of the National Rally is the consequence of these votes of contestation. I believe that many people do not realize what these votes represent and what frightens me is the fact that, if tomorrow the far right comes to power, all these liberticidal laws that we vote in France today will constitute a real "legislative arsenal" for National Rally, that they will be able to use to control the populations; carry out searches without warrant, wiretap individuals under the pretext of fighting terrorism among many others. This "legislative arsenal" that is slowly being developed in France is completely liberticidal and opens the door to revolting practices. And yes, successive governments are using migration policies as a tool to raise the tone, supposedly to fight against the far right. However, this is deceiving oneself to believe that. Moreover, at some point, the people will one day, or another, prefer the original to the copy. If you have been following the polls recently, this is unfortunately what is likely to occur: in the case of a Macron vs. Le Pen presidential second round, a considerable number of left-wing supporters declared preferring to abstain from voting rather than voting for Macron.

It is important to specify that, normally, the State is responsible for the politics of hospitality (receiving migrants and examining their cases) , it is not the responsibility of municipalities. Let's remember the Red Cross center in Sangatte that had to shut down due to the reception of 1500 migrants being too overwhelming. We also had about 1500 people when we first opened the camp in Grande-Synthe. I understand that at the time this may have seemed like

a lot, but if we put this situation into a more global context, compared to other camps in the world that hosted nearly 200,000 people at their peak, this number is very minimal. The State had and still has the means to deal with situations like these and to examine, as you mentioned earlier, the cases of those groups of Syrians who started to arrive in the Baroque district (Grande-Synthe). Speaking of which, the actress Yolande Borault, whom I had invited to our city, participated in a documentary made about Grande-Synthe's camps migrants at the end of 2015. The director of the documentary spoke Kurdish, which allowed simultaneous translation of the dialogues. When she asked the question, "Why don't you apply for asylum in France? Why are you trying to reach England? » to the interviewed individuals, the answer was almost unanimous; Syrian migrants do not want to seek asylum in France because they do not want to stay in a country with such deplorable hospitality, which is totally understandable. This documentary was filmed before the opening of the official structure built by the municipality of Grande-Synthe to welcome migrants. The fact is that, after the structure opened, many migrants started applying for asylum, which led to a decrease in the number of people in the camp. After applying for asylum, the applicants' responsibility was transferred to the organisms and facilities reserved for asylum seekers. When reception conditions are improved, it makes eligible individuals more willing to apply for asylum and since most migrants in Grande-Synthe at the time were Kurds and Syrians fleeing the conflict in their countries of origin, most of them would have been granted asylum status if they had applied for it in France. In Calais, most migrants came from Sudan and Eritrea, which would have been similarly protected under the Geneva Convention, if the State had offered the support, which was not the case. No facility has been set up to welcome them and no humanitarian or legal support has been offered to assist them.

SB: Does this mean that locally, municipalities and regions did not receive any government funding, any form of support to set up temporary solutions?

DC: No, we don't have any means at all. In the case of Grande-Synthe, the migrants suffered from gall, and we also had suspicions of tuberculosis. In France, municipalities must comply with codes such as the urban planning code, the civil service code, and more particularly the family and public health code. The public health code obliges mayors to take all necessary measures during an epidemic to contain this situation. The family code stipulates that we do not have the right to leave a family without garbage collection, access to water, toilets etc. As mayor, I used these codes to open a structure where these populations would have access to all these resources. That being said, the construction of the camp cost 4 million euros and we received zero euro from the state. The city of Grande-Synthe contributed 1 million euros, the Urban Community of Dunkirk 500,000 euros and Doctors Without Borders 2.5 million euros. It is thanks to these funds that we were able to build this camp and accommodate these populations. The State, having been presented with the *fait accompli*, agreed to pay for the operational costs of the structure. A village of 1500 inhabitants consumes electricity, water etc. The year of operation cost nearly 6 million euros. Now, 6 million euros is a small figure compared to the funds used by the state to pay for individual hotel nights, which costs the state more than 100,000 euros per night. This money used in hotels could contribute greatly to the construction of several hosting facilities, but the state refuses to commit.

In 2015, when the Syrian conflict broke out and many Syrians arrived in Europe, the government of Emmanuel Valls launched an appeal to mayors to welcome these refugees in leisure centers-type structures that were not being used at the time, and this, only for the winter period (from September 2015 to March 2016). And for those, the State took charge of the

operation costs of the already existing structures that the cities had made available and by mandating large associations on site to manage the premises. More than 1000 premises were opened at that time, and besides, it went wonderfully well everywhere. I had met mayors who were opposed to the opening of their structures and who had been forced by their prefects to respond to the government's call. These same mayors wanted to keep their structures open, even after the winter period.

SB: Did the camps in northern France have triage centers to define the status of each migrant?

DC: No, there were no triage centers, neither in Grande-Synthe nor in Calais nor anywhere else. In France, only the Asylum Application Commission can authorize whether a person is eligible for the status of asylum seeker and only the OFPRA can examine cases relating to refugee status and stateless persons. These state bodies examine these cases and grant these protections. In France, we have the so-called "subsidiary protection" which offers protection to people who do not meet the criteria of the Geneva Convention – war refugees, but who are persecuted in their countries for various reasons such as persecution based on their sexual orientation.

Firstly, we do not have the competence to grant subsidiary protection at the local and regional level and secondly, I personally and politically refuse to sort out asylum seekers and war refugees from climate, economic, etc. An anecdote to illustrate this choice; we hosted twin brothers in the Grande-Synthe camp, two Iraqi policemen who left Iraq for economic reasons on the pretext that civil servants had not been paid for more than a year – the budget being diverted towards war-related expenses. These two brothers could not feed their families and left Iraq mainly for economic reasons. We also had African farmers who suffered from global warming:

the climate was so arid that they could no longer farm. We had African chicken producers who, because of the European Common Agricultural Policy that led European producers to export their chickens to Africa – that became cheaper for Africans to purchase than their locally raised chickens - could no longer survive financially. There are many cases like these that are ambiguous: are the two Iraqi brothers economic or political refugees? Is the African farmer a climate or economic refugee? And the African chicken producer who indirectly suffers the consequences of European agricultural policies, I refuse to sort them out because I believe that no migrant migrates by choice or pleasure. We, who were born on the right side of the sea, can travel to 164 countries without a visa while Africans can probably count these countries on one hand. It is much easier for Europeans to do "migratory shopping" than Africans who, let us remember, leave their culture, their belongings, their families and who migrate out of necessity, and that is why I refuse to judge these individuals.

The State has the means it allows itself to give, but there has been a constant refusal to offer a dignified reception for these vulnerable populations because, perhaps, there is a fear of attracting too many asylum applicants. The state does not promote unconditional hospitality, this is certain, because I think that the state is afraid of figures that are constantly exploited by the far right. And the State uses these same figures; in 2019, I remember headlines mentioning "More than 120,000 asylum applications in France, an all-time record!" Of course, many people stop at these sensational numbers and are not aware of the more crucial details such as the fact that, of these 120,000 asylum applications, only 30,000 have been granted. Putting things in context, 30,000 out of a country of 67 million inhabitants is a relatively small figure considering that we are the 6th economic power in the world, do we not have the capacity to accommodate these people? Let's remember that 87% of migration generally happens to countries bordering

migrants' countries of origin, and that no, we do not welcome "all the misery in the world" as the far right constantly implies. The countries receiving the most migrants in the world are mostly developing countries and have far fewer economic means than France. *In my opinion, France is the country of the Declaration of Human Rights, but not of human rights.*

SB: In your opinion, what would be an alternative migration reform that would foster a reception of migrants more in line with the humanist values of the French Republic and above all, more applicable and conceivable at the national level ?

DC: There are many reforms that we, the Ecologists (Greens), have presented in the European Parliament. First, the end of this "country of first arrival" rule which stipulates that the country in which a migrant first arrives is responsible for the asylum application of these migrants; this rule is one of the major causes of situations found in places such as in Greece, with camps hosting more than 120,000 people to which it is responsible for examining the status and asylum applications, as can also be found in Italy and Spain where the situation has become uncontrollable and has favored the rise of certain political personas to power. An alternative to this "first country of arrival" rule could be to register migrants in the first European country of arrival and ask them which destination they are trying to reach. The country of destination can take charge of the asylum application, grant it or not, return migrants or not depending on their case. These European countries can also rely on a network of cities such as the ANVITA network in France - which exists in a different form in Spain, Italy, Belgium, or Germany among others – to offer a local solution that, with sufficient support, can both expand, and educate populations locally, and could potentially change public opinion on the situation and rights of migrants. There have been many positive experiences throughout Europe which prove that this

solidarity mechanism works, and that it is possible to spread out these populations on a European scale. We have the means to offer a dignified hospitality to these populations; we have had periods when we received more migrants, as with the Syrian conflict, but everything is temporary, and even if the figure has not gone down to that of the 1990s or 2000s – and this is mainly due to parts of the world that are destabilized by various conflicts – these are completely minimal figures for our country. If I remember correctly, the WHO has predicted that at the current rate, Europe will have lost 27 million inhabitants by 2050 and that receiving 1 million migrants in Europe per year would compensate for this decrease in population. It is a reality that exists and is certainly "utilitarian" to address in this context, but it is an argument that should not be denigrated.

This disengagement of the State is not a problem linked to increasing migratory movements but rather linked to a political will and a support issue. It is a desire of the State not to make it the key word of all public policies. It seems like migration is the greatest issue faced in France nowadays. During the conflict of the "yellow vests", when the French were interrogated about areas that worries them the most during public discussions all over France, even though the topic of migration almost never came out as an issue of interest, migration is the first subject that Emmanuelle Macron presented before the National Assembly, which proves that the issue of migration is used for political purposes. The French State is strategizing on this trend while Germany on the contrary, which is led by pro-hospitality Angela Merkel, has never used this anti-migrant rhetoric. We can see that Angela Merkel has always been very popular in the polls and in her career as a stateswoman. Europe could very well come together and agree on migration but unfortunately, the European system relies on obtaining the majority Member States' approval to set up a common policy. Moreover, Member States are very protective of

their sovereignty around migration policies.

SB: You advocate, through your association ANVITA and through your various media platforms, for better cooperation not only between EU member states, but especially between French municipalities. What do you think is a way to participate in local activism while being physically protected in the context of this pandemic?

DC: The pandemic has of course affected these populations, but the associations have continued to be present constantly. Fortunately, because these already very vulnerable populations do not have access to basic health conditions and the pandemic has been an aggravating factor. I went to many places where activists and volunteers continue their efforts, I participated in night patrols in the camps of the Alpine region among others, and yes, activists are as present as pre-pandemic. Of course, they take all necessary health precautions. The coronavirus has not affected associations and activist commitment in any way. On the contrary, I was very surprised by the number of young French people participating in these patrols to support the needs of migrants, which is very encouraging.

SB: The Pact on Migration and European Asylum focuses mainly on cooperation with countries outside the EU and denounces the numerous human rights violations perpetrated in these countries, but also those committed by EU countries through its practices of refoulement and "burden shifting" to the first countries of arrival or countries external the EU. What do you think of the dynamics of denunciations and blame between states, you, who call yourself a "citizen of the world" and advocate a more cooperative approach between nations of the world?

DC: The European Commission does not condemn countries that practice refoulement, because it is very difficult to get states to recognize these internal practices. The latest example that was debated in Parliament was the case of Greece: we had asked the European Commission to conduct a commission of inquiry on this matter, the request was refused on the pretext that the Greek government had been questioned about it and had denied having practiced refoulement. Of course, a state that uses these practices will not recognize it, because that would be recognizing illegal practices. We see what is happening today in Croatia, where the practices are barbaric. I had met migrants who passed through Croatia and who testified about their experiences during their stay in the country: shocking testimonies where they tell that, after the Croatian authorities confiscated their phones, they were completely stripped, searched, and released on the street disoriented and without any offer of support. Similarly, we know that refoulement practices take place at sea in Malta. We also know that Libya uses unspeakable practices and yet, the European Union has signed a pact with the Libyan government. In fact, one of the doctors I met in the Lampedusa camp in Italy, who is now a European representative, had visited Libya and was horrified by the treatment of migrants in these camps, which he defined as "concentration camps". ». Despite the testimonies of associations, activists, NGOs, Europe continues to push back migrants to Libya, continues to pay Libya for "taking care" of these populations and Frontex continues to send migrants arriving through the Mediterranean Sea to this country. What is happening in Turkey is not necessarily better and yet, the Pact on Migration and Asylum continues to encourage this "solution" with third countries. Today, Europe makes the development aid funds - that are allocated particularly in African countries - dependent on the condition that these countries monitor their borders. It is important to note that these stipulations and this desire to have rigid borders created a cultural upheaval in Africa, which is a continent

where people were used to moving freely. And this European desire to limit the arrival of migrants on their territory impacts not only migrants, but also the freedom of movement of populations in their region of origin.

SB: Do you think that the French state will ever be able to return to more inclusive policies vis-à-vis migrants given the current global situation in which, it seems that the priority of the majority of host countries is not to cooperate or defend the fundamental rights of the most vulnerable, but to secure their national interests?

DC: In France, no. Because today, our government has entered an outbidding game with the far right. Today, Interior Minister Gerald Darmanin discusses policies on television that are aligned with Marine Le Pen's discourses. I do not expect any change in migration policies from this government. I will continue my activism to show the failure of the current system. We have in France a whole electorate that is dissatisfied and frustrated with the pro-far-right rhetoric and inhumane policies of the current government. If we see a change of government, the country will have a better chance of returning to more inclusive policies. I support the Green Party (Ecologist Party) which, in France, gives great importance to migrants' hospitality in their campaigns.

ANVITA has recently won several major cities in France including Marseille, Lyon, Bordeaux, Tours, Poitiers, Strasbourg, all cities that were won by majority elected Ecologist mayors, and who promoted a more dignified reception of migrants during their campaigns. I think the Ecologists can create another society. That being said, if Macron is re-elected, nothing will change, and if Le Pen is elected, the situation will only get worse. A change of government is needed not only for the hospitality crisis but also for the climate crisis we are facing.

V. Non-state Actors' Engagement

This chapter examines the alternative strategies implemented in France by non-state actors to compensate for the State's lack of hospitality and offering basic human rights in the French encampments. There has been great engagement from not only NGOs, but also medical organizations and global advocacy groups. Municipalities have also been engaged through various actions challenging the State by implementing strategies to offer temporary relief to the camps' residents.

1. NGOs

One of the most active NGOs in Northern France is **CIMADE** (Comité Inter-Mouvements Auprès Des Évacués), which is to this date the only NGO having access to the 25 CRAs (Administrative Detention Centers) where undocumented migrants are being held while awaiting deportation. CIMADE was founded in France and is known nationally and internationally for their critiques of inhumane treatment of migrants held in CRAs as well as of the constant increase in rate of expulsions, especially since Nicolas Sarkozy's presidency from 2007 to 2011. Among the actions the organization is currently involved in are:

(1) The annulment of the prefectural orders that forbid associations' food distribution services in certain streets in Calais.

(2) Actions against the new "Asylum and Immigration Law", also known as the Darmanin Law that, according to the CIMADE, "leads to a radical denial of migrants' fundamental rights". The law aims to set in stone and radicalize arbitrary and repressive prefectural practices among which the systematization of OQTFs [Obligation to leave France] and IRTFs [Prohibition of

Return to French territory] following the instructions already taken to increase house arrest and the number of Administrative Detention Centers and premises.

(3) Legal support to all migrants (in CRAs and camps). Specifically in the cases of migrant detention, expulsion, deportation, unaccompanied minors, violence, imprisonment,

(4) Administrative support such as translation services, education on asylum and refugee rights,

(5) Humanitarian support such as food banks and distribution,

(6) Fundraising campaigns.

2. National and International Medical Organizations

Doctors Without Borders (Médecins Sans Frontières, MSF) is known globally for providing free medical care (primary and mental) as well as supporting populations in conflict zones or facing humanitarian crises. The organization specifically focuses on helping homeless people, refugees, migrants, and especially unaccompanied minors. In France, it is mostly present in Paris and its suburbs, even though its fundraising actions have been helping projects in other regions, such as the financing of the Grande-Synthe's camp to which MSF has contributed to 2.5 million euros. According to MSF, migrant populations in France are in a particularly complex situation as they are facing policies and practices that are "aimed at preventing them from settling or claiming their rights [especially] unaccompanied minors [who are] confronted by a lack of information, and a maze of administrative bureaucracy". MSF not only offers medical assistance, but also administrative support. The organization had been particularly active during the premise of the COVID-19 pandemic since migrants had little to no access to vaccination and healthcare. From June to September 2021, MSF launched a COVID vaccination campaign and conducted

awareness-raising activities among local populations and migrants.

Doctors of the World (DoW) started its activities in the early 1980s by providing medical support in conflict regions with their first clinic opening in 1986 in France to support migrants excluded from mainstream medical care. The support for migrants started when DoW realized that most refugees and migrants seeking asylum in France were not aware of their fundamental right to healthcare. In addition, refugees often find it difficult to access care due to language barriers, and lack of financial resources made access to medical care even more challenging for these populations. By opening free health centers, they not only provide medical care, but also provide information on French health laws and regulations. DoW was one of the only organizations present in the Calais Jungle up to its destruction in 2016 and witnessed the increasing precarity of migrants' life conditions. In 2018, Macron gave a speech against poverty and shared his commitment to reducing "slums" and encampments at France's national level by offering easier access to housing, work, and medical care. Despite the encouraging discourse, the reality in the field is very different; far from facilitating migrants' situation, their precarious shelters are being demolished by arbitrary prefectures' orders without being offered alternative housing.

Dr. Françoise Sivignon and Janice Hughes – Presidents of Médecins du Monde France and

Doctors of the World UK, respond to the state's hypocrisy by stating:

Those who make it to Calais are trapped in squalid living conditions on a disused refuse tip. Outbreaks of illness caused by these terrible living conditions are commonplace; trauma exacerbates people's fragile mental health. Adding to this are the injuries and anguish caused by regular violence from police and people smugglers. And yet, as the only humanitarian medical organization in Calais, it falls to our volunteers to pick up the pieces of Europe's broken asylum system. [...] Seeking asylum is not a crime. Migrants are not a security risk. They have not come to occupy Europe or to get medical care. They are simply, desperately, seeking a dignified life. In fact, migration drives economic prosperity and social

and cultural diversity. It is an asset not a threat. [...] Reception and protection mechanisms which are commensurate with the scale of the problem must be put in place, and quickly. Europe must assure asylum seekers safe passage via effectively implemented ‘legal corridors’. Resettlement schemes must be extended, and every effort taken to reunite separated families, especially in the case of the unaccompanied children we see in places like Calais. They have particular assistance and protection needs, which must be met since they are always at risk of violence and exploitation. The Governments of Europe need to act with courage. They must stop piling migrants into squalid camps and detention centers. They must lead with the principles and values that define the common European endeavor: humanity, dignity, and respect. [...] Calais could be the bridge back to the Europe we stand for – open, hospitable, and healthy.

In the field, DoW offers services ranging from on-site medical consultations to healthcare facility referrals, informing women about contraception, medical monitoring during pregnancy, informing migrants about their rights to healthcare and directing them to adequate structures according to their medical needs. Additionally, the group focuses on raising awareness in France and the UK about the challenges migrants must face when seeking basic services such as medical treatment or housing. Moreover, they offer psychological support for migrants suffering from PTSD, depression and anxiety resulting from their experience fleeing their country of origin, crossing borders, or negative experiences in the host countries.

3. Global Advocacy Organizations

Human Rights Watch (HRW) has been active and vocal about the treatment of migrants in Northern France. HRW released a 79-page report in October 2021 titled: *“Enforced Misery: The Degrading Treatment of Migrant Children and Adults in Northern France”*. This report sheds light on the unacceptable conditions migrants in Northern France (particularly in Grande-Synthe) are facing since the dismantlement of the “Calais Jungle” in 2016. Between immediate evictions and repeated destruction of migrants’ tents, migrants lose the little belongings they have and are forced to go to reception and assessment centers (CAES), where they usually stay for a few days

before being released into the streets. According to the Observatory of Collective Evictions from Informal Living Spaces, the cities of Calais and Grande-Synthe accounted for nearly 9 out of every 10 large-scale migrants' evictions in metropolitan France between November 2019 and October 2020. Additionally, most evicted did not know why they were being evicted and did not receive temporary accommodation. An important point brought out by HRW's report refers to the aggressive techniques and practices used by police authorities in Grande-Synthe and Calais that were experienced by many local associations' (Utopia 56 and Choose Love among others) volunteers during their humanitarian work. Among other behaviors, volunteers have mentioned being constantly fined for vehicle and traffic violations, being fined for violating COVID-related restrictions on movement or even being threatened to be arrested. Officials have communicated that firm practices are necessary to avoid drawing more migrants in the region while failing to acknowledge that geographically, the cities' closeness to the U.K. Channel will always be a pull factor. The report also points out that local and regional officials also fail to acknowledge the realities of Brexit; the U.K. is no longer subject to E.U. Law and with that, no longer allows (1) asylum-seeking unaccompanied children to join family members already in another state, (2) the return of most adult asylum-seekers to France without considering their asylum claims and (3) new family reunification transfer applications after September 2020. Despite observations made by global organizations such as the HRW, elected officials maintain their current rigid position; Interior Minister Gerald Darmanin (after whom the Darmanin Law was named) said about this in July 2021 that "The instruction I gave to avoid reliving what the people of Calais experienced a few years ago is for firm policing. It is true that this firmness means a very strong presence and operations every 24 or 48 hours".

Amnesty International (AI) is particularly engaged in political lobbying condemning

political discourses dehumanizing migrants. AI's main goal is for populations to understand the complexities of migrants' journeys and denounce the violence and human rights violations perpetrated against them. Amnesty International has launched a lobbying campaign against the Pact on Asylum and Migration, first introduced in September 2020, and recently presented before the National Assembly and Senate. This Pact aims at reforming asylum and migratory policies in Europe; among other points, it seeks a reinforcement of European external borders, with a triage system established to sort out "irregular migrants" from individuals eligible for protected status. The Pact also seeks the abolition of the Dublin agreement that includes the "first country of arrival" clause. The 2 major issues raised by Amnesty International are the clause stipulating that not 3 judges but only 1 judge will be responsible for granting or rejecting asylum requests. Amnesty believes that this single-judge system will lead to unfair decisions, the reasoning being that the 3-judges system in place until now includes "a person appointed by the United Nations High Commissioner for Refugees (UNHCR) [which] is a valuable asset because many have expertise on the countries of origin, which allows a better understanding of the reasons why the person is in exile" (Amnesty France). The second issue raised is the fact that minors will not be exempt from administrative detention in LRAs (Administrative Detention Facilities); even though the Pact includes the abolition of child detention in CRAs (Administrative Detention Centers), it fails to include LRAs. Administrative detention facilities (LRAs), smaller than the CRAs (which could be a dedicated room in a police station for instance), are used to detain foreigners in an irregular situation pending expulsion from the French territory. Generally, people stay there for a maximum of 48 hours before being placed in a CRA. Amnesty demands that the 3-judge decision-making system be maintained and that no migrant under 18 be detained in either CRAs or LRAs.

4. Local Activist Groups

Local activist groups specializing in migrant rights have participated in the solidarity efforts to compensate for the state's disengagement. Some major groups are *Calais Migrant Solidarity*, *Calais Ouverture et Humanite*, as well as *Worldwide Tribe*.ll of these groups have different areas of expertise and different ways to raise awareness about migrants' rights.

Calais Migrant Solidarity (CMS), an organization created in 2009, has been very active in Northern France, especially since the Calais Jungle's dismantlement in 2016. In 2020, the organization estimated that around 1500 migrants were still wandering Calais and its surrounding areas. CMS fights against migrant repression such as evictions, police brutality, violence, and arrests. While their mission statement is to show resistance to the police harassment of migrants, their political lobbying and activism aims at building "a stronger transnational movement against migration controls, comprised of those with and those without papers" as well as "putting an end to the deaths in the Channel" of migrants attempting to cross the sea. According to CMS, in 2021, 32 people died while crossing the Manche Sea. Another major tragedy occurred on December 22nd, 2022, when a boat carrying 47 migrants sank attempting to cross the Manche. While most of them were rescued, 4 migrants died. Some of CMS' strategies have been implemented such as the *AlarmPhone Network* which provides telephone assistance to people in distress at sea as they cross the Mediterranean or *Watch the Channel*, which was created in 2018 by French and British activists in response to the increase in attempted Channel crossings. *Watch the Channel* is a system that provides migrants and all actors supporting migrants with information to avoid risks and prevent further deaths. For instance, flyers with instructions have been distributed mentioning not to try crossing on a boat without an engine as currents are very strong in the Channel.

The association firmly believes that the French and the British governments' efforts to strengthen security and control in the Channel is not a solution and that the asylum system is flawed, dehumanizing, and needs to be reformed. French Interior Minister Gerard Darmanin's plan, announced in November 2022, includes providing 11 million euros for equipment (quads, 4x4s and thermal imaging camera) to increase security in the Channel; a plan that echoes its British counterpart that announced a contribution of 62.7 million euros in 2021 to "fight against illegal immigration". CMS argues that the militarization of the border is used for political means to further European political agenda on migration by portraying migrant flows as "an invasion staged as unmanageable and requiring immediate martial response" a discourse that *Corporate Watch* analyzed as "the perfect scare story that drives the border regime". Additionally, they argue that developing "safe and legal routes" would reduce the number of deaths; that would include allowing migrants to use safe transportation such as ferries and the Eurotunnel trains. CMS's engagement on the field includes monitoring police activity and intervening in the daily raids and arrests, finding empty buildings for migrants to "squat" out of complete necessity, holding public protests, distributing water, food, blankets, and tents. Other actions include doing outreach with local populations to raise awareness about migrants' rights, offering legal information as well as English and first aid classes to migrants, organizing fundraisers. The group also offers trauma support for migrants in Calais or having transited in Calais.

(2) Calais Ouverture et Humanite's (COH) mission statement is deliberately political and unfiltered. The group's objective is to share and inform about migrant populations' presence in Calais and surroundings. They mention wanting to "fight against stigmatization, xenophobia, segregation and far-right ideologies in general that try to blame exiled populations for all evils without any distinction of the real responsibilities of each" including the French state, the city of

Calais and the UK government. On their website, COH shares what they believe are the 2 main causes for the migrant situation in France and the UK: “the calamitous management of the presence of this population has led to the disastrous consequences we are experiencing, [and] the nationalist propaganda has poisoned human relations and divided the population”. While the aid group focuses on highlighting the state’s current system’s malfunctions and excesses, they do not want to take part in antagonistic “anti-migrant versus pro-migrant” discourses but rather a more humanist perspective prioritizing unity and humanity. Their objective is to fight for everyone's rights to dignity and peace but also to help Calais recover its original identity as a port city “where people pass, meet, work together, live together, respect each other and build together a future for all.” COH organizes protests, demonstrations, and meet-and-greets between migrants and local populations. Additionally, they initiated a “hosting program” through which locals can offer to host migrants in their homes. They offer guidance to migrants about the rights and services they are entitled to regardless of their eligibility for a protected status. COH has organized campaigns to raise awareness among local populations about the diversity of migrants on the territory, specifically to explain the differences between economic migrants and migrants eligible for a protected status, while focusing on the validity of everyone’s experience and journeys.

Worldwide Tribe is yet another aid group, albeit one that focuses on raising funds for the migrants by using creative strategies to humanize migrants’ experiences. For example, Worldwide Tribe uses storytelling to give a more personal, human perspective on migrants’ journeys by creating individual migrant profiles to tell their specific stories. In addition to these more artistic tools, Worldwide Tribe also launched a non-profit online store allocating its benefits to migrants in camps across Europe and the Middle East.

Other associations that have been working closely with migrants and human rights organizations are **Care4Calais** and **Refugee Info Bus**. **Care4Calais** is active in Northern France, as well as in Belgium, and in the U.K., on the other side of the channel. It is a volunteer-run charity that focuses on delivering direct aid to refugees by providing basic needs such as clothing, bedding, food, and medical assistance. It advocates for a better reception of migrants on both sides of the Channel (in Britain and France). It is especially active in Dunkirk and Calais. Among some of the association's projects are children centers, "social interaction" meetings during which migrants and locals can interact through various games and activities, and language lessons for either French or English. **Refugee Info Bus**, an organization present in the UK border and Northern France that focuses on providing migrants with legal information, as well as practical information by connecting them with other resources available to them such as food, clothing, education, or employment. They also provide access to internet and phone charging stations. Refugee Info Bus's main goal is to ensure that migrants stay connected and informed about their rights and resources available to them.

There are many more local associations and organizations providing help to migrants in various ways, and while the above list is non-exhaustive, it shows a willingness from the civil society to support these vulnerable populations by assisting them with direct humanitarian aid as well as legal and administrative assistance to compensate for the state's shortcomings. This solidarity expressed by civil society is not only essential to build a bridge between migrants and the country in which they are transiting or applying for asylum in, but also to foster relationships with local populations by educating them on migrants' journeys and rights.

5. Municipalities challenging the State

As mentioned in the interview with representative Damien Carême, not only civil society, but also elected officials have both advocated for a better reception of migrants and used strategies to find temporary or permanent solutions to the state's disengagement and controversial practices in the field. In the context of this research, elected officials directly challenging the State will be considered as non-state actors with the understanding that they are outliers in the French political spectrum. Some great examples of mayoral participation occurred in the cities of Grande-Synthe under Mayor Damien Carême, and Bayonne under Mayor Jean-René Etchegaray. These individuals have actively sought support from the State and have asked the government to reconsider the Dublin Regulation as they believe it is one of “the causes for increasing homelessness in France” for migrants who have been registered in a country other than France and are not being sent back to their first country of arrival. They also argue that France is failing its obligations under the Geneva Convention to provide unconditional support for individuals eligible for refugee status. In April 2019, in a letter to the government, Anne Hidalgo, Paris mayor, along with 13 other mayors, writes:

We need to construct a collective response to the challenges posed by taking in refugees in France [...] which is why we are asking you to meet with us as a group in order to discuss the reception and support system for migrants, as well as providing unconditional shelter to all those on our territory, since the law dictates that everyone, including Dublin transfers, must be cared for before their hypothetical expulsion.

This was a call for support and flexibility from the state amid increased efforts to tighten migration policies. During an interview conducted at the United-Nations in New-York in September 2019, President Macron responded that “France cannot host everyone if it wants to host people well [and that] in order to be able to welcome everyone properly, we should not be

too attractive a country” emphasizing the two following priorities: “Giving asylum as quickly as possible to those who have a right to France’s protection and integrating them more effectively through more French language courses and a more aggressive employment policy.” A controversial stand that does not offer an immediate solution to municipalities directly impacted by migrants’ flows. Among many more municipalities located near French borders, the mayors of Grande-Synthe and Bayonne have challenged the state’s position and offered alternative solutions.

Grande-Synthe, a small city in the Dunkirk urban conglomeration (Northern France), has been receiving a lot of media attention due to its proximity to the Calais Jungle and its former mayor Damien Carême’s outspoken advocacy for migrant rights. The case of Grande-Synthe was discussed in this case study and was part of the interview with Damien Carême. It is crucial to mention the efforts and challenges the city has faced during the construction and functioning of the official camp established by the municipality. In the Barosch neighborhood of Grande-Synthe, the number of migrants increased from 250 to about 3000 people between August and December 2015. The conditions in the self-build shelters were compared to the “Calais Jungle”. In this context, Damien Carême, mayor of Grande-Synthe from 2001 to 2019 and member of the Ecologist Party, decides to act and support those populations by building “dignified shelters” to host the migrants, mostly Kurds from Syria, Iraqis, Iranians, and Kuwaitis. In association with Doctors Without Borders and the Urban Community of Dunkirk, 375 individual shelters with a hosting capacity of 2500 people were built. Damien Carême mentions efforts from the government to delay the opening of the camp renamed “Linière camp” such as additional bureaucratic and administrative hurdles. However, the camp officially opened in March 2016. Jean-Francois Cordet, Nord-Pas-de-Calais Préfet, defends the State’s position on forbidding the

construction of migrant camps with the core argument that it ultimately increases the smuggling business in the area.

Unbalanced power dynamics between the state, the municipality, and associations led to constant renegotiations as the functioning costs of the camp were too costly for the city to handle alone (4 million euros per year), the state accepts to offer financial support under certain conditions: (a) UTOPIA56 volunteers who are managing the camp must be replaced by a professional team, the AFEJI (Flanders Association for Education, Youth training, Social and Professional Integration) association which includes social workers, educators and mediators. (b) In July 2016, a new condition arose from the prefecture stating that only asylum-seekers be hosted in the Linière camp - which was fought back by the city and eventually dismissed (c) the camp must gradually decrease in size and eventually close: from March to September 2016, about 60 individual shelters were already closed and removed. Duytschaever and Tisserand make an interesting point about the dual politics and visions in the Linière camp:

This type of opposition of volunteers versus professionals is not anecdotal. It recalls the lively internal debates within the field of humanitarian work: on the one hand, supporters of professionalization claim increased "efficiency and operability" compared to the "amateurism" of volunteers and, on the other hand, advocates of volunteerism highlight the "dehumanization of the humanitarian gesture" that can cause too much "operability". The difference in Grande-Synthe is that this debate goes a little beyond its usual field, to contrast humanitarian volunteers with this time social professionals. Two distinct visions of aid are being implemented: first we have a refuge policy (MSF/Utopia 56) based on volunteerism and a demand for "humanity" shared with migrants (access to rights, rehousing, etc.), then we observe a regulatory policy (state) based on "professionals" whose goal is also to shelter migrants, but above all to control their presence on the territory by accompanying them to other reception structures (CAO, CADA, etc.) (2017).

Both actors' dichotomous perspectives had to coexist and reach a compromise to offer a temporary solution. While the municipality challenged the State's perspective on migrant

management, the city had been successful in offering emergency relief. The Linière camp was destroyed in April 2017 by a fire after which the prefecture and the Interior Minister Gerard Collomb (Minister from 2017 to 2018) announced that it would not be reconstructed. This reinstated the State's rigid position on unauthorized camps and structures along the Northern coast.

Bayonne is a city located in Southern France in the Basque region. Because of its location near the Spanish border, it has received a large population of African migrants especially since Italy and France reinforced their borders and Spain became the new prime gateway into Europe for African migrants. Despite French president Emmanuel Macron's condemnation of Bayonne's rogue practices, its mayor, Jean-René Etchegaray, kept on challenging the state by welcoming migrants in a "condition of dignity". Most migrants transiting through Bayonne are young men from French-speaking West-African countries. Despite the state and prefecture's refusal to financially support the migrants, Etchegaray has used alternative means to welcome these populations; by repurposing unused military barracks and offering heated shelter, food, and decent sanitary conditions. In a New-York Times article, Nossiter argues that the French state's attitude toward Etchegaray illustrates Macron's "own ambiguities on the subject of migration. On the one hand, he has exalted France's humanitarian traditions and asked the police to treat migrants with fairness. On the other, his government has refused admission to migrant ships, put migrant rights advocates on trial and boasted about how many foreigners have been expelled or turned back at frontiers" (Nossiter, February 2019). Etchegaray condemns criticism arguing that his actions will create a "pull factor and attract more migrants" and create "another Calais" by stating that the state refuses to see the emergency while he cannot ignore it.

VI. Current state of French Legislation

1. The 1945 Ordinance

Ordinance 45 relating to the conditions of entry and stay of foreigners in France was promulgated on November 2, 1945. The ordinance is also the founding document of the French Office for the Protection of Refugees and Stateless Persons (OFPRA), attached to the Ministry of Foreign Affairs and responsible for recognizing refugee status and granting the benefit of subsidiary protection to persons eligible for this right. The OFPRA is the authority responsible for ensuring compliance with the fundamental guarantees offered by national law, the execution of conventions, as well as international agreements concerning the protection of refugees on French territory. The OFPRA collaborates with competent administrative authorities and the United Nations High Commissioner for Refugees. The order includes the following categories: (1) Entry into France, (2) Residence in France, (3) Family Reunification, (4) Removal Measures, (5) Controls and Sanctions, (6) The Right to Asylum, and (7) Common and Miscellaneous Provisions. Regarding the right to asylum, the ordinance clarifies the following points:

- Article L.711-1 relating to the definition of the term “refugee”:

The status of refugee is recognized for any person persecuted because of his action in favor of freedom as well as for any person on whom the High Commission for United Nations Refugee Agency exercises its mandate under Articles 6 and 7 of its Statute as adopted by the General Assembly of the United Nations on 14 December 1950 or which meets the definitions of Article 1 of the Geneva Convention of July 28, 1951 relating to the status of refugees. Such persons are governed by the provisions applicable to refugees under the aforementioned Geneva Convention.

- Article L.712-2-3 relating to subsidiary protection:

Subsidiary protection is not granted to a person if there are serious reasons to believe: a) That he has committed a crime against peace, a war crime or crime against humanity; (b) That he has committed a serious non-political

crime; (c) That he has been guilty of acts contrary to the purposes and principles of the United Nations; d) That its activity in the territory constitutes a serious threat to public order, public security or national security. [...] The benefit of subsidiary protection is granted for a renewable period of one year. Renewal may be refused at each expiry date when the circumstances which justified the granting of protection have ceased to exist or have undergone a sufficiently profound change for it to no longer be required. The subsidiary protection benefit may be terminated at any time for the reasons listed in a, b, c and d of Article L. 712-2.

- Article 713-2-3 relating to the common provisions:

Refugee status is recognized, and the benefit of subsidiary protection is granted by the French Office for the Protection of Refugees and Stateless Persons under the conditions provided for in Chapter III of Title II of this book. [...] The persecutions taken into account in the granting of refugee status and the serious threats which may give rise to the benefit of subsidiary protection may be the act of State authorities, parties or organizations which control the State or a substantial part of the territory of the State, or non-State actors in cases where the authorities defined in the following paragraph refuse or are unable to offer protection. The authorities likely to offer protection may be the authorities of the State and of international and regional organizations. [...] The asylum application of a person who would have access to protection in part of the territory of his country of origin may be rejected if that person has no reason to fear persecution there or of being exposed to serious harm there and whether it is reasonable to consider that he can remain in that part of the country. Account is taken of the general conditions prevailing in this part of the territory, of the personal situation of the applicant as well as of the perpetrator of the persecution at the time when the asylum application is decided on.

- Article L. 742-4 relating to the grounds for refusal of an asylum application:

Subject to compliance with the provisions of Article 33 of the Geneva Convention of 28 July 1951 relating to the status of refugees, admission to France of a foreign national applying for asylum can only be refused if:
(1) The examination of the asylum application falls within the jurisdiction of another State pursuant to the provisions of Regulation (EC) No. 343/2003 of the Council of 18 February 2003 establishing the criteria and

mechanisms for determining the Member State responsible for examining an application for asylum submitted in one of the Member States by a national of a third party country, or commitments identical to those provided for by said regulation with other States; (2) A foreigner who requests to benefit from asylum possesses the nationality of a country for which the stipulations of 5 of C of Article 1 of the aforementioned Geneva Convention have been implemented or of a country considered a safe country of origin. A country is considered safe if it upholds the principles of freedom, democracy and the rule of law, as well as human rights and fundamental freedoms. Taking into account the safe nature of the country of origin cannot prevent the individual examination of each request; (3) The presence of a foreigner in France constitutes a serious threat to public order, public security or national security; (4) The application for asylum is based on deliberate fraud or constitutes an abusive use of asylum procedures or is submitted solely with the goal of thwarting an imminent removal measure. Specifically, the fraudulent presentation of several applications for admission to stay under asylum under different identities constitutes an abusive use of asylum procedures. An asylum application submitted in overseas territories also constitutes an abusive use of asylum procedures if it appears that the same application is being examined in another Member State of the European Union.

The 1945 Ordinance was specifically structured and organized, with the creation of the OFPRA, to deal with post-war migration patterns and specificities. One could argue that the model's rigidity is outdated; the text lacks appropriate nuance and does not reflect current asylum-seekers and migrants' complex backgrounds. It may be necessary to add structural and legal amendments that would encompass a wider spectrum of migrants - including asylum-seekers that do not necessarily come from a country at risk but have a legitimate fear for their survival such as farmers suffering from climate change, unable to grow crops for an extended period of time and facing starvation. It also needs to reconsider the Dublin clause of first country of arrival, as many French mayors and activists have advocated for. Another improvement could be establishing legal sanctions against violence and abuse towards migrant populations that

would include a surveillance system for police activities and simultaneously foster better accountability and less violence (particularly in border areas).

2. 1951 Geneva Convention

As mentioned throughout this research, the Geneva Convention and its 1967 Protocol are founding documents and are still crucial texts when it comes to refugee rights and protection.

The relevant articles to this thesis are listed below:

Art. I-A. Definition of the term "refugee" : For the purposes of this Convention, the term "refugee" shall apply to any person: 1. who has been considered a refugee under the arrangements of May 12, 1926, and June 30, 1928, or pursuant to the Conventions of October 28, 1933 and February 10, 1938 and the protocol of September 14, 1939, or even pursuant to the constitution of the International Organization for Refugees. Decisions of non-eligibility taken by the International Refugee Organization during the term of its mandate shall not preclude the granting of refugee status to persons who fulfill the conditions provided for in paragraph 2 of this section; 2. who, [...] having a well-founded fear of persecution on account of his race, religion, nationality, membership of a particular social group or political opinion, is outside the country of which he has the nationality and who cannot or, because of this fear, does not want to claim the protection of this country; or who, if he has no nationality and is outside the country in which he had his habitual residence as a result of such events, cannot or, because of the said fear, does not want to return there. In the case of a person who has more than one nationality, the expression "of the country of which he is a national" refers to each of the countries of which that person is a national. Any person shall not be considered deprived of the protection of the country of which he is a national who, without a valid reason based on a justified fear, has not claimed the protection of one of the countries of his nationality.

Art. I-C. This Convention shall cease, in the following cases [...]:

1. if he has voluntarily claimed again the protection of the country from which he has nationality; or 2. if, having lost his nationality, he has voluntarily regained it; or 3. if he has acquired a new nationality and enjoys the protection of the country of which he has acquired the nationality; or 4. if he has voluntarily returned to settle in the country which he left or outside which he remained for fear of being persecuted; or 5. if, the circumstances following which he was recognized as a refugee having ceased to exist, he can no longer continue to claim the protection of the country of his nationality. It is understood, however, that the provisions of

this paragraph shall not apply to any refugee referred to in paragraph 1 of section A of this article who may invoke, in order to refuse to claim the protection of the country of his nationality, compelling reasons relating to previous persecution; 6. In the case of a person who has no nationality, if the circumstances following which he was recognized as a refugee have ceased to exist, he is able to return to the country in which he had his habitual residence [...].

Art. 1-D. This Convention shall not apply to persons who are currently receiving protection or assistance from any United Nations body or agency other than the United Nations High Commissioner for Refugees. When this protection or this assistance has ceased for any reason whatsoever, without the fate of these persons having been definitively settled, in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall automatically benefit from the regime of this Agreement.

Art. 1-F. The provisions of this Convention shall not apply to persons whom there are serious grounds for believing: a) that they have committed a crime against peace, a war crime or a crime against humanity, within the meaning of international instruments drawn up to provide for provisions relating to these crimes; (b) they committed a serious non-political crime outside the host country before being admitted there as refugees; (c) they have been guilty of acts contrary to the purposes and principles of the United Nations.

Art. 3. Non-discrimination: Contracting States shall apply the provisions of this Convention to refugees without discrimination as to race, religion, or country of origin.

Art. 33. Defense of expulsion and refoulement: 1. Neither Contracting State shall in any way expel or return a refugee to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion. 2. The benefit of this provision may not, however, be claimed by a refugee whom there are serious reasons for regarding as a danger to the security of the country in which he finds himself or who, having been the subject of a conviction for a particularly serious crime or misdemeanor, constitutes a threat to the community of that country.

3. Directive 2001/55/EC on Granting Temporary Protection

This directive was adopted by the European Union on July 20th, 2001, and lists the minimum standards for granting temporary protection in the event of a mass influx of displaced

persons. It also lists measures aimed at ensuring a balance between the efforts made by the Member States to welcome these people and share the responsibilities of this welcome. It has been applied in various scenarios such as the conflict in Kosovo and, more recently, the conflict in Ukraine. It defines “temporary protection” as “a procedure of an exceptional nature ensuring, in the event of a mass influx or an imminent mass influx of displaced persons from third countries who cannot return to their country of origin, protection immediately and temporarily to these persons, in particular if the asylum system also runs the risk of not being able to deal with this influx without causing adverse effects to its proper functioning, in the interest of the persons concerned and that of other persons seeking protection (Article 2.a)”. Among the important clauses are:

Article 3-3: The establishment, implementation and termination of temporary protection shall be the subject of regular consultations with the Office of the United Nations High Commissioner for Refugees (UNHCR) and other international organizations concerned.

Article 13-1: Member States shall ensure that beneficiaries of temporary protection have access to appropriate accommodation or receive, where necessary, the means to obtain accommodation. 2. Member States shall provide that beneficiaries of temporary protection receive the necessary support in terms of social assistance and subsistence, where they do not have sufficient resources, as well as medical care. Without prejudice to paragraph 4, necessary medical care support includes at least emergency care and essential medical treatment.

Article 17-1: Beneficiaries of temporary protection must be able to file an asylum application at any time. 2. The examination of applications for asylum, which have not been processed before the expiry of the period of temporary protection, shall be completed after the expiry of this period.

Article 25-1: Member States shall welcome, in a spirit of Community solidarity, persons eligible for temporary protection. They indicate, in figures or in general terms, their reception capacities. This information shall be included in the Council decision referred to in Article 5. After the adoption of this decision, Member States may indicate additional reception capacities, notifying them to the Council

and the Commission. This information shall be communicated without delay to the UNHCR.

This directive offers strong protections to populations in need of immediate protection in unique situations such as that of Ukraine's invasion by Russia that has led an important part of the population to seek refuge abroad. Under this directive, displaced persons are guaranteed temporary hospitality in member states' territory (with temporary access to social services, medical care, education, employment etc.). It also ensures them the right to file for asylum, all under the support and monitoring of the UNHCR. Additionally, it gives member states better transparency and understanding about each other's reception capacities and efforts in hosting these vulnerable populations,

4. The Collomb Law

The law for "controlled immigration, an effective right of asylum and successful integration", presented by the Minister of the Interior, Gérard Collomb, was promulgated on September 10th, 2018. Since 1980, it has been the 22nd law promulgated on Asylum and Immigration in France. Below are listed the provisions that are most relevant to our population of interest and have a significant impact, positive and negative, on their situation:

Shorter deadlines for filing and processing asylum applications:

- (1) One objective of the law is the reduction of the average processing time for asylum applications from eleven to six months. To achieve this, the text reduces various delays in the administrative procedure.
- (2) Foreigners have only 90 days (60 days in French Guiana), instead of the 120 days set by the law of July 29th, 2015, on the reform of the right of asylum, to file their asylum application once they have arrived in France.

Conditions of reception of asylum-seekers:

- (1) Amendment of the Act to specify the proportion of asylum-seekers accommodated in each region and the distribution of accommodation for them.
- (2) As of January 1st, 2019, asylum seekers are no longer free to establish their domicile or move without the authorization of the Office for Immigration and Integration (OFII). In the event of non-compliance with this obligation, the material reception conditions are automatically interrupted, and the examination of the asylum application may be terminated.

Tougher removal measures, longer administrative detention:

- (1) The law aims to secure the obligations to leave French territory (OQTF) after the rejection of an asylum application and accentuates the control over the persons targeted by an OQTF.
- (2) The duration of detention, a mechanism intended to allow the administration to organize the removal of a foreigner, is doubled from a maximum of 45 days to 90 days. The law also reduces the period of voluntary departure from thirty to seven days.
- (3) The law allows the detention of children if he "accompanies a foreigner placed in detention". In other words, there is no prohibition of detention of children as the Constitutional Council has validated the principle of detention of foreign minors, "justified by the desire not to separate him from the adult foreigner he accompanies".
- (4) The law authorizes a practice already implemented at the French-Italian border, consisting in refusing entry into the national territory to undocumented foreigners. Persons thus intercepted are turned back immediately, without being able to benefit from the strict deadline of one clear day.

- (5) The law of September 10th, 2018, on the right of asylum also gives the administrative authority the possibility to refuse refugee status or to terminate it in the event of a conviction for serious crimes in another EU country.
- (6) The law strengthens the penalty for refusing fingerprinting and photographing, already punishable by imprisonment and a fine, by allowing the criminal judge to impose a sentence of exclusion from the territory for a period not exceeding three years.

5. The Darmanin Law

The Darmanin bill was presented to the National Assembly on November 14, 2022, and aims to "control immigration" and "improve integration". The Senate began introducing the bill in March 2023 and is currently being debated in the Senate. Also called "the security law" or "programming law", this law would allocate a budget of 15 billion euros to strengthen border security, as well as increase police subsidies. Originally, the text proposed 32 articles, but after nearly 1200 amendments, the final text has 15 provisions. Most of the immigration provisions have been challenged by deputies from both left and right wing. However, some provisions remain ambiguous as they can indirectly negatively impact the conditions of migrants. The most relevant to our population of interest are listed below:

- (1) The reduction of protections against decisions of obligation to leave the territory (OQTF) in the event of a serious threat to public order.
- (2) The prohibition of placement in administrative detention centers (CRA) of foreign minors under the age of 16 to 18 does not evolve. The latter may still be placed in CRA as soon as they are accompanied by an adult foreigner.
- (3) The authorization of the use of coercion for the fingerprinting of asylum seekers at the border, possible visual inspection by the border police of private cars in the "border zone" (and

no longer only vehicles with more than nine seats).

Regarding asylum and litigation for foreigners, the bill provides:

(4) The creation of "France asylum spaces", to offer asylum seekers a simplified administrative procedure between the various competent administrations (prefecture, French Office for Immigration and Integration, French Office for the Protection of Refugees and Stateless Persons). A system which the government plans to deploy gradually according to local needs and capacities, in order to rebalance the reception of asylum seekers in the territory.

(5) The reform of the organization and litigation of asylum before the National Court of Asylum (CNDA), in order to speed up the processing of appeals against refusals of protection with the creation of territorial chambers of the CNDA (currently only located in Montreuil in the Seine-Saint-Denis region) and the generalization of the single judge are planned. . The matter will only be referred to the collegiate formation when the complexity of the case justifies it.

(6) The simplification of litigation involving foreigners (which represents 40% of the activity of the administrative courts) The number of standard contentious procedures is reduced from 12 to

Murielle Jourda and Philippe Bonnecarrière, rapporteurs for the Senate on the Darmanin law offer an interesting report on the first reading in the Senate of March 15, 2023. This was a commission that discussed the following 4 titles: (1) "Ensuring better integration of foreigners through work and language", (2) "Improve the system for removing foreigners posing a serious threat to public order", (3) "Punish the exploitation of migrants and control borders" and (4) "Initiate a structural reform of the asylum system". Murielle Jourda's position is as follows:

The number of foreigners in France is growing. In 2022, the issuance of residence permits increased by 17.2% and concerned more than 320,000 people, an

unprecedented figure. Illegal immigration is, by definition, difficult to quantify. Nevertheless, this figure is increasing every time the Minister of the Interior mentions it. According to him, "between 600,000 and 900,000" illegal immigrants would be present on the national territory. Asylum is also on the rise with more than 11,000 applicants each month. We can consider that asylum is a right due under our national and international commitments. I would point out, however, that 60% of asylum seekers are ultimately rejected and therefore had no legitimate reason for making this request. These figures obviously have consequences. Prefectures, at least a number of them, are embolized. As far as asylum is concerned, there is an inability to receive all asylum seekers when, according to European rules, we must accommodate them. We host about half of them, even though 60% of them are not entitled to this protection, I remind you. The National Asylum Court (CNDA) is the largest court in France in terms of the number of decisions, i.e., about 67,000 decisions per year. Texts need to be adapted; Justice is done under acceptable, but not optimal, conditions. In view of these elements, the lack of resources can be blamed, but this is not the only reason. In reality, numbers create difficulties. Foreigners regroup, on the one hand, because they are offered to gather in certain accommodations and, on the other hand, because it is natural to do so when arriving in a foreign country. However, this grouping can promote the emergence of communitarianism, because sometimes their mores and cultures clash head-on with the mores, cultures, principles of the French Republic and our fellow citizens, who live it badly. One of the main difficulties of our system lies in the great public impotence to enforce immigration texts. Thus, according to the latest available figures, 120,000 OQTFs are issued each year, but only 6% to 7% of them are executed. Immigration policy does not depend solely on France. Thus, we are required to respect the regulations and directives of the European Union, the European Court of Human Rights (ECHR), bilateral conventions, including the one that has bound us to Algeria since 1968, and we are quite dependent on French diplomacy.

According to Jourda, this bill's gaps need to be filled by:

- (1) Providing a definition of multiannual guidelines for immigration policy in an annual parliamentary debate, a strengthening of the conditions of access to family reunification - including the requirement of a minimum level of language for its beneficiaries and a strengthening of the control of the conditions of resources and housing.
- (2) Strengthening the conditions for admission to the title of "sick foreigner"

- (3) Having better control of student immigration, which has become the leading cause of issuing residence permits.
- (4) Experimenting with the "360°" examination of applications for residence permits.
- (5) Allowing fingerprinting and coercive photography.

VII. Conclusion

This research has shed light on practices that are not aligned with France's obligations when it comes to refugee protection and rights. It is arguable that the State's disengagement in migrants' rights is inherently due to successive governments' political aspirations and agenda, not from merely a lack of financial and administrative means. It is crucial to reinstate France's legal responsibility in the international refugee protection regime. France must abide by the national, regional, and international law when it comes to refugee protection and examine every application, treat every asylum-seeker with respect and dignity, and condemn abusive and violent practices against any category of migrants present in its territory. It is also necessary to find a balance between policy and humanitarianism by reasserting France's position as the country of human rights that offers support to people in need of international protection, but also by offering a fair hearing and dignified living conditions to all asylum applicants.

France's vision of "successful immigration" gradually shifted from an assimilation model to an integration model and, most recently, to an approach argued to be more universalistic. This current universalistic model supposedly allows people more freedom to retain and express their cultural and ethnic particularities rather than attempting to erase or replace them. Conservative far-right parties criticize the current approach as allowing communitarianism and thereby gradually erasing "French identity". However, far-right parties like Le Pen's

National Rally party are not the only critics. Parties from across the political spectrum use the topic of immigration as a scapegoat for domestic issues by portraying migrants as a major cause of any, and sometimes all, of the following: rising unemployment rates, increases in crime, and posing unique threats to public health and national security (in particular, problems related to the COVID-19 pandemic). Even though political discourse and the media portray migrants negatively, there are multiple testimonials of success stories. These successes are evidence that solidarity, education on migrants' journeys, and humanity are key to changing public opinion and improving migrants' life conditions. Additionally, while non-state actors' engagement and solidarity has helped to bridge the gap left by the State's unwillingness to offer support to migrant populations in sensitive areas such as Calais and its surroundings, this support is not sustainable and does not offer a long-term solution to this ongoing social and humanitarian crisis. As mentioned by Representative Carême in our interview, France has the budget and the means to offer dignified living conditions to migrants in need of hospitality. Unfortunately, the State and its politicians have intentionally preferred to shift the burden by using expensive deterrence techniques rather than bettering migrants' living conditions.

The 1967 Protocol to which France is one of the major signatories recommends facilitating asylum-seekers' journeys by allowing them to travel, keeping family units together, and giving them access to social services. Above all else, the Protocol also recommends signatories cooperate with one another to give asylum-seekers a chance to find a safe haven to rebuild themselves. There is an explicit recommendation that all signatories should remember that refugees are experiencing a humanitarian and social crisis and that effective communication among the parties ultimately helps prevent political tensions from arising. Considering the Protocols recommendations and France's own laws, representative Damien Carême's perspective

is extremely valuable in that it offers an alternative vision to the management of migrants.

Carême's perspective is one that could bring balance between rigid policy and human rights as it shows successful positive response in cities that utilized a more humane approach to hosting migrants by fostering interaction and communication between local populations and migrants.

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Annex

Original version (French) of the interview with Representative Damien Carême

Entretien avec Mr. Le Député Damien Carême

SB : Tout d’abord, merci de prendre le temps de répondre à mes questions. Pourriez-vous vous présenter brièvement, et préciser notamment votre rôle dans le cadre des politiques migratoires ?

DC : Je suis actuellement député au Parlement Européen dans la Commission LIBE (Commission des Libertés Civiles chargée des politiques migratoires) dans laquelle les politiques migratoires européennes sont discutées. J’ai également été maire de Grande-Synthe de 2001 à 2019 ainsi que co-président de l’association ANVITA avec la maire de Strasbourg. L’association promeut l’accueil inconditionnel sur les villes et territoires français. Nous partons du fait qu’il n’y a pas de crise migratoire mais une crise de l’accueil. L’association ANVITA réunit 44 communes en France (dont Paris) ainsi que 3 régions et 2 départements (Seine et Marne et Seine Saint-Denis). Il est important de préciser qu’en France, les départements ont la responsabilité des politiques de l’enfance et des mineurs non-accompagnés.

SB : La renommée de la Jungle de Calais a dépassé les limites des frontières nationales et européennes, avez-vous des commentaires ou suggestions à propos de la gestion de ce « camp » ? Et plus particulièrement, vis-à-vis des politiques plus que déshumanisantes menées envers les populations résidant encore dans la ville de Calais ou dans ses alentours ?

DC : Il n’y a plus de « Jungle » mais des « migrants dans l’errance ». Il y a une tentative de disperser les camps pour « ne pas créer d’appel d’air ». De la Belgique à la Normandie, notamment dans les villes qui ont des lignes de ferry jusqu’à la Grande-Bretagne étant donné que beaucoup de migrants veulent rejoindre l’Angleterre. Ce sont des lieux déshumanisés, sans accès à la dignité ; des lieux comme Cherbourg ou Grande-Synthe sont les conséquences directes d’une volonté politique des gouvernements français (et ce, depuis 1990). Ce n’est pas parce qu’on

organise un accueil qu'on attire les gens. La preuve en est qu'à l'ouverture du camp de Grande-Synthe en mars (avec aide de l'ONG Médecins sans frontières) nous avons accueillis environ 1300 personnes (dont environ 300 enfants et 300 femmes) et qu'en août ce nombre n'était plus que de 700 personnes. Il n'y a pas d'appel d'air mais l'Etat choisit de l'ignorer, une des raisons étant qu'il est plus compliqué de faire de l'insertion professionnelle avec autant de personnes.

SB : Avez-vous, en tant qu'ancien élu d'une commune prônant des politiques d'accueil des migrants plus justes et humanisantes, et plus récemment, en tant que député de la Commission Européenne, échangé des communications avec le maire de Calais et élus régionaux ? Quels ont été vos retours ?

DC : Avec un accueil organisé (même sans participation de l'Etat), il y a une meilleure acceptation des populations mais la théorie de l'appel d'air créée par le Rassemblement National et reprise par beaucoup de politiciens de droite, nourrit les discours médiatiques et la xénophobie. La maire de Calais faisait constamment des demandes d'intervention de l'armée pour « nettoyer » la ville. Il n'y a aucune gestion et l'anarchie crée des tensions. Le vote du FN est un « vote de désespoir » de la part des populations. Il y a un manque de transparence de la part des communes. J'ai été élu régional entre 2004 et 2015. En 2008, nous recevions pour la première fois femmes et enfants sur le terrain (de 20 à 40 personnes). Les populations de migrants se concentrent en général dans les villes possédant des stations-service sur l'autoroute menant à Calais, comme le village Laurent-Fonte, ce qui amena le Conseil Régional à voter une subvention pour contribuer à un meilleur accueil et ce, après que nous avons créé une association au niveau régional qui s'appelle l'Association des Élus Hospitaliers du Nord-Pas-de-Calais.

C'était une tout autre époque politiquement pour la région. Depuis que la région est sous la direction de Xavier Bertrand, les choses ont changé. Je l'ai eu au téléphone une seule fois après une réaction de ma part à un de ses tweets abominables faisant référence à l'accueil des migrants dans la ville de Grande-Synthe malgré le fait qu'il n'ait jamais mis les pieds dans notre ville. Il m'a communiqué son mécontentement au téléphone en insistant qu'il était le seul candidat faisant face au Rassemblement National au Conseil Régional. Depuis, l'association n'existe plus, même à Grande-Synthe ou mon successeur a complètement abandonné les politiques d'accueil que j'avais mis en place. Ces politiques se referment dans des villes fondatrices de l'ANVITA

comme Briançon, près de la frontière franco-italienne, qui après un changement d'administration, a démissionné de l'ANVITA. Grande-Synthe a récemment été exclue de l'association car les politiques que la ville mène sont complètement à l'encontre de la charte de l'association. Malheureusement, cela nécessite un effort continu, mais nous arriverons petit à petit à retourner l'opinion publique à ce sujet.

SB : Selon vous, la montée du populisme et du nationalisme à l'échelle nationale mais aussi globale est-elle une cause ou une conséquence des politiques que vous qualifiez de « fermeture » ?

DC : Je ne suis pas sûr mais en tout cas, il n'y a plus aucune raison pour que l'extrême droite arrive au pouvoir en France parce que l'on applique déjà les lois que réclament l'extrême droite. La « Loi pour une immigration maîtrisée » de Gérard Collomb qui a été votée en France, le Rassemblement National l'a voté et l'a même applaudi. Pareillement avec le *Pacte sur l'Asile et Migration* présenté par la Commission Européenne, l'extrême droite l'a applaudi, c'est Orbane qui l'a co-écrite - même s'il conteste son application aujourd'hui. Nous sommes dans une politique qui s'enferme de plus en plus, qui ferme les frontières européennes, qui ferme la porte à l'hospitalité, qui ne joue plus sur les solidarités. Ce ne sont pas les politiques migratoires qui causent une montée du nationalisme. Aujourd'hui les politiques au pouvoir s'en servent parce que c'est un moyen de détourner l'attention de sujets plus pressants au niveau domestique comme les inégalités sociales qui se creusent, le désenchantement de la jeunesse vis-à-vis de leurs prospects d'avenir, les crises multiples (crise climatique, crise de la biodiversité, crise financière, sanitaire etc.). Beaucoup de français ont perdu leurs idéaux de vie et je pense que cette déstabilisation a évolué vers un ras-le-bol des populations et que la montée du Rassemblement National est la conséquence de ces votes de contestation. Je pense que beaucoup de gens ne se rendent pas compte de ce que cela peut représenter et ce qui m'effraie, c'est le fait que, si demain l'extrême droite arrive au pouvoir, toutes ces lois liberticides que l'on vote en France aujourd'hui seront un « arsenal législatif » à disposition pour le FN pour contrôler les populations ; performer des perquisitions, mettre des individus sous écoute sous prétexte de lutte contre le terrorisme parmi tant d'autres. Cet arsenal législatif qui se développe en France est complètement liberticide et ouvre la porte à des pratiques complètement révoltantes. Et oui, les gouvernements successifs se servent des politiques migratoires comme d'un outil pour monter le

ton, soi-disant pour lutter contre l'extrême droite mais c'est se leurrer et d'ailleurs au bout d'un moment, les Français préfèrent l'original à la copie. Si vous suivez les sondages en ce moment, c'est malheureusement ce qui nous pend au nez : si Macron et Le Pen sont les candidats du deuxième tour, les partisans de gauche ont partagé leur préférence pour l'abstention plutôt que de voter Macron.

Il est important de préciser que normalement c'est l'État qui doit prendre en charge les politiques d'accueil, ce n'est pas la responsabilité des villes. Souvenez-vous du centre de la Croix-Rouge à Sangatte à l'époque, ils ont été débordés et ont dû fermer leurs portes avec à peu près 1500 personnes. Nous avons également à peu près 1500 personnes quand nous avons ouvert le camp à Grande-Synthe. Je comprends qu'à l'époque cela pouvait sembler énorme, mais comparé à d'autres camps dans le monde qui accueillent parfois près de 200 000 personnes, ce nombre est minime. L'Etat a les moyens de faire face à des situations comme celles-là et d'examiner, comme vous l'avez mentionné justement tout à l'heure, ces Syriens qui arrivaient à l'époque dans le quartier du Baroque (Grande-Synthe). D'ailleurs, la comédienne Yolande Borault que j'avais invité dans notre ville, a réalisé un reportage sur ces migrants à la fin de l'année 2015. La réalisatrice du documentaire parlait Kurde, ce qui permettait une traduction simultanée des dialogues. Quand elle posait la question « Pourquoi ne demandez-vous pas l'asile en France ? Pourquoi cherchez-vous à aller en Angleterre ? » à ces individus, la réponse était presque unanime ; les migrants syriens ne veulent pas demander l'asile en France car ils ne veulent pas rester dans un pays avec un accueil aussi déplorable, ce qui est totalement compréhensible. Ce court-métrage avait été réalisé avant l'ouverture du camp par la municipalité de Grande-Synthe. Le fait est qu'après l'ouverture du camp, beaucoup de migrants ont commencé à faire les démarches de demande d'asile ce qui a amené à une réduction du nombre de personnes dans le camp. Après avoir demandé l'asile, ces personnes étaient prises en charge par les structures réservées aux demandeurs d'asile. Quand on améliore les conditions d'accueil, cela donne plus envie aux individus éligibles de faire une demande d'asile et comme la plupart des migrants à Grande-Synthe à l'époque étaient des Kurdes et des Syriens qui fuyaient le conflit dans leur pays d'origine, la totalité d'entre eux auraient obtenu leur statut d'asile s'ils l'avaient demandé en France. A Calais, la majorité des migrants venaient du Soudan et de l'Erythrée, qui auraient pareillement été protégés sous la Convention de Genève, si l'Etat avait mis les moyens en œuvre, ce qui n'a pas été le cas. Aucune structure n'a été mise en place pour les accueillir, aucun

accompagnement humanitaire ou juridique n'a été offert pour les assister.

SB : Cela veut dire que localement, les communes et les régions ne recevaient aucun fonds du gouvernement, aucune forme de soutien afin de mettre en place des solutions temporaires ?

DC: Non, nous n'avons pas de moyens du tout. Dans le cas de Grande-Synthe, les migrants souffraient de la galle et nous avons aussi reçu des suspicions de tuberculose. En France, les municipalités doivent répondre à des codes comme le code de l'urbanisme, le code de la fonction publique, et plus particulièrement le code de la famille et de la santé publique. Le code de la santé publique oblige le maire de prendre toutes les dispositions pendant une épidémie d'utiliser tous les moyens pour endiguer cette situation. Le code de la famille lui, stipule que nous n'avons pas le droit de laisser une famille sans ramassage d'ordures ménagères, sans accès à l'eau, à des sanitaires etc. En tant que maire, j'ai utilisé ces codes pour ouvrir une structure où ces populations auraient accès à toutes ces ressources. Je devais répondre à mes obligations de maire. Cela dit, la construction du camp a coûté 4 millions d'euros et je n'en ai reçu zéro de l'Etat. La ville de Grande-Synthe a contribué 1 million d'euros, la communauté urbaine de Dunkerque de 500 000 euros et Médecins Sans Frontières de 2.5 millions d'euros et c'est grâce à ces fonds que nous avons pu construire ce camp et accueillir ces populations.

L'Etat ayant été mis devant le fait accompli a accepté de payer pour le fonctionnement de la structure. Un village de 1500 habitants consomme de l'électricité, de l'eau etc. L'année de fonctionnement a coûté près de 6 millions d'euros. Maintenant, 6 millions d'euros est un chiffre minime comparé aux fonds utilisés par l'Etat pour payer les nuitées d'hôtels d'exilés sans domicile, ce qui coûte plus de 100 000 euros par nuit à l'Etat. Cet argent utilisé dans des hôtels pourrait contribuer grandement à construire plusieurs structures d'accueil, mais l'Etat refuse de s'engager.

En 2015, quand le conflit syrien a éclaté et que beaucoup de syriens sont arrivés en Europe, le gouvernement d'Emmanuel Valls a lancé un appel aux maires pour accueillir ces réfugiés dans des structures de type centre aérés qui n'étaient pas utilisés, et ce, que pour la période hivernale (de septembre 2015 à mars 2016). Et là, l'Etat a pris en charge le fonctionnement des structures déjà existantes que les villes avaient mis à disposition en mandatant des grosses associations sur place pour gérer les lieux. Plus de 1000 locaux ont été ouverts à ce moment-là, et d'ailleurs, cela

s'est merveilleusement bien passé partout. J'avais rencontré des maires qui étaient opposés à l'ouverture de leurs structures et qui avaient été obligés par leurs préfets de répondre à l'appel du gouvernement. Ces mêmes maires souhaitaient garder les structures ouvertes même après la période hivernale.

SB : Est-ce que les camps du nord de la France possédaient des centres de triage afin de définir les statuts de chaque migrant ?

DC: Non, il n'y avait pas de centres de triage, ni à Grande-Synthe ni à Calais ni nulle part ailleurs. En France, seule la Commission de la Demande d'Asile est capable d'habiliter si une personne est éligible au statut de demandeur d'asile et seule l'OFPRA est capable d'examiner les cas relevant du statut de réfugié et des apatrides. Ces organismes de l'Etat examinent ces cas et qui octroient ces protections. En France, nous avons ce qu'on appelle « la protection subsidiaire » qui offre protection aux personnes qui n'entrent pas dans les critères de la Convention de Genève - réfugiés de guerre, mais qui sont persécutés dans leurs pays pour des raisons diverses comme la persécution basée sur l'orientation sexuelle. Premièrement, nous n'avons pas la compétence d'octroyer la protection subsidiaire à l'échelle locale et régionale et deuxièmement, je refuse personnellement et politiquement de faire le tri entre des demandeurs d'asile, réfugiés de guerre, climatique, économique ou autre. Une anecdote pour illustrer ce choix ; nous avons deux frères jumeaux dans le camp de Grande-Synthe, deux policiers irakiens qui ont quitté l'Irak pour des raisons économiques sous prétexte que les fonctionnaires n'avaient pas été payés pendant plus d'un an – le budget étant détourné pour les dépenses liées à la guerre. Ces deux frères ne pouvaient pas nourrir leurs familles et ont quitté l'Irak fondamentalement pour des raisons économiques. Nous avons aussi des agriculteurs Africains qui ont subi le réchauffement climatique : le climat étant tellement aride qu'ils ne pouvaient plus cultiver. Nous avons des producteurs de poulets africains qui, à cause de la politique agricole commune Européenne qui a amené les producteurs européens à exporter leurs poulets en Afrique revenant moins chers aux Africains que leurs poulets élevés localement, ne pouvait plus survivre financièrement. Il y a beaucoup de cas comme ceux-ci qui sont ambigus ; les deux frères irakiens sont-ils réfugiés économiques ou politiques ? L'agriculteur Africain est-il réfugié climatique ou économique ? Et le producteur de poulets Africain qui subit indirectement les conséquences de politiques agricoles européennes, je refuse de faire ce tri la parce que je pars du principe qu'aucun migrant ne migre par choix ou par plaisir. Nous, qui sommes nés du bon côté de la Mer, pouvons voyager

dans 164 pays sans avoir de visa alors qu'en Afrique on peut probablement compter ces pays sur les doigts d'une main. Il est beaucoup plus facile pour un Européen de faire du « shopping migratoire » que des Africains qui, rappelons-le, quittent leur culture, leurs biens, leurs familles et qui migrent par nécessité et c'est pour cela que je refuse de juger ces individus.

L'Etat a les moyens qu'il se donne mais il y a eu un refus constant d'offrir un accueil digne pour ces populations vulnérables parce que peut-être il y a une crainte de recevoir trop de demandes d'asile. L'Etat ne fait pas la promotion d'un accueil inconditionnel, cela est certain car je pense que l'Etat a peur des chiffres qui sont constamment exploités par l'extrême droite. Et l'Etat se sert de ces mêmes chiffres ; en 2019, je me souviens de gros titres mentionnant « Plus de 120 000 demandes d'asile en France, record absolu ! ». Bien sûr, beaucoup de gens s'arrêtent aux chiffres sensationnels et ne connaissent pas les détails plus cruciaux comme le fait que sur ces 120 000 demandes d'asile, seulement 30 000 ont été octroyées. En mettant les choses en contexte, 30 000 sur un pays de 67 millions d'habitants est un chiffre relativement minime si l'on considère que nous sommes la sixième puissance économique au monde, n'avons-nous pas les capacités d'accueillir ces personnes ? Je rappelle que 87% des migrations sont généralement frontalières des pays dont les migrants proviennent, et que non, nous n'accueillons pas « toute la misère du monde » comme l'extrême droite le sous-entend constamment. Les pays qui accueillent le plus de migrants au monde sont pour la plupart des pays en développement et qui ont beaucoup moins de moyens économiques que la France. *Selon moi, la France est le pays de la Déclaration des Droits de l'Homme, mais pas des Droits de l'Homme.*

SB : Selon votre opinion, quelle serait une alternative de réforme migratoire pour un accueil des migrants plus en accord avec les valeurs humanistes de la République française et surtout, plus applicable et envisageable à l'échelle nationale ?

DC : Il y a beaucoup de réformes que nous, les Verts, avons présentées au Parlement Européen. Premièrement, l'arrêt de cette règle qui stipule que le premier pays dans lequel arrive un migrant est responsable de la demande d'asile de ces migrants ; cette règle est une des causes majeures des situations comme en Grèce, qui se retrouve avec des camps de plus de 120 000 personnes dont le pays est chargé d'examiner les statuts et demandes d'asiles, pareil en Italie et en Espagne ou la situation est devenue incontrôlable et a favorisé la montée de certaines figures politiques au pouvoir. Une solution alternative à cette règle du « premier pays d'arrivée » est d'enregistrer les

migrants dans le premier pays européen d'arrivée et de demander quelle est la destination. Le pays de destination peut prendre en charge la demande d'asile, l'accorder ou non, effectuer un retour ou non.

Ces pays européens peuvent également reposer sur un réseau de villes comme le réseau ANVITA en France qui existe sous une différente forme en Espagne, Italie, Belgique ou encore en Allemagne entre autres pour offrir une solution locale qui, avec un support suffisant, peut à la fois s'étendre, et éduquer les populations localement, et grâce à cela, changer l'opinion publique sur la situation et le droit des migrants. Il y a eu de nombreuses expériences positives partout en Europe qui prouvent que ce mécanisme de solidarité fonctionne et cela permettrait de répartir ces populations à l'échelle européenne. Nous avons les moyens d'offrir un accueil digne pour ces populations ; nous avons connu des périodes pendant lesquelles nous recevions plus de migrants, comme avec le conflit Syrien, mais tout est temporaire, et même si le chiffre n'est pas redescendu à celui des années 1990 ou 2000 - et ce parce qu'il y a des parties du monde qui sont déstabilisées par des conflits diverses, ce sont des chiffres complètement minimes pour notre pays. Il me semble que l'OMS a prédit qu'au rythme actuel, l'Europe aura perdu 27 millions d'habitants d'ici 2050 et que l'accueil d'1 million de migrants en Europe par an permettrait de compenser cette décroissance de la démographie. C'est une réalité qui existe et qui est « utilitaire » d'aborder dans ce contexte, mais c'est un argument qu'il ne faut pas dénigrer.

Ce désengagement de l'Etat n'est pas un problème lié à des mouvements migratoires croissants mais plutôt lié à une volonté politique et un problème d'accompagnement. C'est une volonté de l'Etat de ne pas en faire le maître mot de toutes les politiques publiques. On a l'impression que le plus gros problème de la France de nos jours est le problème de la migration. Pendant le conflit des « gilets jaunes », lorsqu'on a interrogé les Français pendant des discussions publiques partout en France, la migration n'était pas du tout le sujet qui inquiétait les populations alors que le premier sujet qu'Emmanuelle Macron a présenté devant l'Assemblée Nationale était non sans surprise la migration ce qui prouve que le sujet de la migration est utilisé à des fins politiques. L'Etat français joue sur cette tendance alors que l'Allemagne au contraire, qui est dirigée par une pro-accueil Angela Merkel n'a jamais utilisé cette rhétorique anti-migrant et nous voyons qu'Angela Merkel a toujours été très populaires dans les sondages et dans sa carrière de femme d'Etat. L'Europe pourrait tout à fait s'accorder sur le sujet de la migration mais malheureusement, le système européen est basé sur l'obtention de la majorité des Etats membres

pour mettre en place une politique commune et que beaucoup d'Etats membres sont très protecteurs de leur souveraineté dans le domaine des politiques migratoires.

SB : Vous prônez, à travers votre association ANVITA et à travers vos différentes plateformes médiatiques, une meilleure coopération non seulement entre États membres de l'UE, mais surtout entre municipalités françaises. Quel est, selon vous, un moyen de participer au militantisme local tout en étant physiquement protégé dans le contexte de cette pandémie ?

DC : La pandémie a bien sûr affecté ces populations mais les associations ont continué d'être présentes constamment. Heureusement d'ailleurs, parce que ces populations déjà très vulnérables n'ont pas accès à des conditions sanitaires de base et la pandémie a été un facteur aggravant. Je suis allé dans beaucoup de lieux où les militants et volontaires continuent leurs efforts, j'ai participé à des maraudes nocturnes dans les camps de la région des Alpes entre autres, et oui, les militants sont aussi présents que pré-pandémie. Bien sûr, ils prennent toutes les précautions sanitaires nécessaires. Le coronavirus n'a affecté en rien les associations et l'engagement militant ; au contraire d'ailleurs, j'ai été très surpris du nombre de jeunes français participant à ces maraudes, ce qui est très encourageant.

SB : Le Pacte sur la Migration et l'Asile européen se focalise majoritairement sur la coopération avec les pays externes à l'UE et dénonce les nombreuses violations des Droits de l'Homme perpétrées dans ces pays, mais également celles commises par les pays de l'UE à travers ses pratiques de *refoulement* et de « 'burden shifting' / 'transfert de fardeau' » vers les premiers pays d'entrée ou pays externes à l'UE. Que pensez-vous des dynamiques de dénonciations et de blâme entre États, vous qui vous qualifiez de « citoyen du monde » et prôner une approche plus coopérative entre nations du monde ?

DC : La Commission européenne ne condamne pas les pays qui pratiquent des politiques de refoulement et ce, parce qu'il est très difficile de faire reconnaître aux États de ces pratiques internes. Le dernier exemple qui a été débattu au Parlement est le cas de la Grèce : nous avons demandé à la Commission Européenne de mener une commission d'enquête à ce propos, la requête a été refusé sous prétexte que le gouvernement grec avait été interrogé à ce sujet et avait dénié avoir pratiqué ces pratiques de refoulement. Bien sûr, un État qui utilise ces pratiques ne va

pas le reconnaître, car ce serait reconnaître des pratiques illégales. On voit ce qui se passe aujourd'hui en Croatie, où les pratiques sont barbares. J'avais croisé des migrants qui sont passés par la Croatie et qui ont témoigné de leurs expériences pendant leur transition dans le pays : des témoignages choquants où ils racontent que, après que les autorités croates aient confisqué leurs téléphones, ils ont été complètement dénudés, fouillés et relâchés à la rue, déboussolés et sans offre de support quelconque. Pareillement, nous savons que des pratiques de refoulement prennent lieu en pleine mer à Malte. Nous savons également que la Libye performe des pratiques innommables et pourtant, l'Union Européenne a signé un pacte avec le gouvernement libyen. D'ailleurs, un des médecins que j'avais rencontré dans le camp de Lampedusa en Italie et qui est maintenant député européen, avait visité la Libye et a été horrifié du traitement des migrants dans ces camps qu'il a qualifié de « camps de concentration ». Malgré les témoignages d'associations, de militants, des ONG, l'Europe continue de refouler des migrants vers la Libye, continue de payer la Libye pour la « prise en charge » de ces populations et Frontex continue de refouler les migrants arrivant par la Méditerranée vers ce pays. Ce qui se passe en Turquie n'est pas forcément mieux et pourtant, le Pacte sur la Migration et l'Asile continue d'encourager cette « solution » avec les pays tiers. L'Europe aujourd'hui, fait dépendre les fonds d'aide au développement qu'on attribue, notamment dans les pays africains, sur la condition que ces pays gardent bien leurs frontières. Il est important de préciser que ces stipulations et cette volonté d'avoir des frontières rigides ont créé un bouleversement culturel en Afrique, qui est un continent où les gens étaient habitués à circuler librement. Et cette volonté européenne de limiter l'arrivée des migrants sur leur territoire impacte non seulement les migrants, mais aussi la liberté de circulation des populations dans leur région d'origine.

Et que font ces politiques si ce n'est coûter une fortune aux gouvernements européens sans résultats prometteurs ? Ces politiques sont non seulement un trou financier, mais sont également la cause d'une prise de risque croissante des migrants qui meurent de plus en plus essayant de traverser la Méditerranée, en essayant de traverser le détroit du Nord Pas-de-Calais pour atteindre le Royaume-Uni, prennent plus de risques en essayant de franchir les zones de barbelés dans les Alpes. Ces politiques non seulement augmentent la mortalité chez les migrants, mais aussi enrichissent les réseaux de passeurs qui augmentent le prix du « passage » au plus l'accès au territoire de destination se durcit. J'aime donner cet exemple-là pour illustrer ce problème : un passage garanti via les réseaux de passeurs de Grande-Synthe à l'Angleterre en 2015 coûtait

entre 500 et 800 euros alors qu'aujourd'hui, un « passage » coûte entre 10 000 et 14 000 euros. N'oublions pas aussi que le trafic d'êtres humains est le troisième plus gros trafic du monde après le trafic de drogue et le trafic d'armes. Ceci est une conséquence indirecte des politiques européennes, qui au lieu de se focaliser sur un accueil des migrants, se focalise sur une hyper sécurisation des frontières ; depuis une trentaine d'année en Europe, nous avons construit près de 1000 kilomètres de murs, ce qui est un comble pour une région qui s'était enorgueillie après avoir fait tomber les 135 kilomètres du mur de Berlin. Vous devez maintenant comprendre que je suis complètement opposé à ce Pacte sur l'Asile et la Migration qui est complètement inutile et mène à des pratiques inhumaines.

SB : Pensez-vous que l'Etat français soit capable de retourner à des politiques plus inclusives vis-à-vis des migrants étant donné la situation globale actuelle dans laquelle, non pas coopérer ni défendre les droits fondamentaux des plus vulnérables, mais sécuriser ses intérêts nationaux semblent être la priorité de la majorité des pays hôtes ?

DC : En France, non ce gouvernement sera incapable de revenir en arrière car aujourd'hui nous sommes entrés dans un jeu de surenchères avec l'extrême droite. Aujourd'hui, le ministre de l'Intérieur Gérard Darmanin discute de politiques sur les plateaux télévisions qui sont alignés avec les discours de Marine Le Pen. Je n'attends pas de changement vis-à-vis des politiques migratoires de la part de ce gouvernement. Je continuerai mon militantisme pour montrer la faillite du système actuel et nous avons en France tout un électorat qui est insatisfait et frustré des discours pro-extrême droite et des politiques inhumaines du gouvernement actuel.

Si nous assistons à un changement de gouvernement, le pays aurait de meilleures chances de retrouver des politiques plus inclusives. Je suis partisan et soutiens le parti des Verts (Parti Écologiste) qui, en France, accorde une grande place à l'accueil des migrants dans son programme. L'ANVITA a récemment gagné plusieurs villes majeures en France parmi lesquelles Marseille, Lyon, Bordeaux, Tours, Poitiers, Strasbourg, toutes des villes qui ont été gagnées par des maires écologistes élus à la majorité, et qui ont promu un accueil plus digne des exilés pendant leurs campagnes électorales. Je pense que les Verts peuvent arriver à créer une autre société. Cela dit, si Macron est réélu, rien ne changera, et si Marine Le Pen est élue, la situation ne fera qu'empirer. Un changement de gouvernement est nécessaire pas seulement pour la crise de l'accueil mais aussi pour la crise climatique à laquelle nous faisons face.

