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Grand-mother, from postmemory | 2019 | Rachida Brahim (courtesy of the artist)



BEING AND DYING. STRUCTURAL RACISM IN CONTEMPORARY FRANCE

Rachida Brahim

The news in France is littered with stories of police officers implicated in the deaths of young black men. The theme of violent death, and its connection with the colonality of power, has a long history that is at once silent and deafening. This refrain, which we can trace back to the colonial period, continues to worm its way through our minds however hard we try to expurgate it from our memories and our language, and in spite of the silence and humiliation which attends it. When it returns to the surface, it tells us something at once tragic and banal: no-one should die because of their name, face or being. Yet things are organized so that some of us do. How can we go about our daily lives under this terrible paradox? How can it exist alongside the idea of social concord put forward by the state? How can it exist alongside democratic institutions?

Only the notion of structural racism allows us to understand the paradox that within the proclamation of the right to life some of us are let die. Structural racism expresses the insidious war beneath the republican ideas of liberty, equality and fraternity: those who are cast as abnormal and problematic are the subject of harm. It expresses that society is structurally racist because it is, above all, a class system, in which markers of class, gender and race stigmatize some to be subjugated and exposed to particular violence. Structural racism names that which allows the inequality and violence produced by the construction of race to persist and exceed its apparent denunciation. I have previously argued that the law plays a key role in the production and maintenance of inequality. In particular, I am interested in a period of French history between 1970 and 2000. Passed in 1972, the Pleven law is viewed as one of the pillars of French anti-racist legislation. However, it was not until 2003 that France actually passed a law which enabled the state to take the “racist intention” of a crime into account. Only since then, and only under certain conditions, have racist motives come to be seen as aggravating factors in certain kinds of criminal offenses. Therefore, in the thirty years between 1970 and 2000, though the question of racist violence often occupied activist and media spaces, the idea of racist criminal motive was absent from the legal sphere. Two conceptions of a singular reality existed in that period: the reality



lived by the group subject to violence, and the state's understanding of that violence. For activists there was no doubting the racist character of criminal violence, but legislators often rejected the very concept of racist motives.

In France, struggles over immigration and urban social struggles were conducted by different generations: the generation of those who had migrated during the colonial period and around independence, then that of their children born in France in the 1980s and 90s. The collective actions of these two generations have taken very different forms, in very different contexts, but their objectives have remained the same. They have both struggled against inequality by resisting the racism which has permeated various spheres of social life, from the right to movement, work, housing, education and health. The question of racist criminal violence is also shared between these different movements; the denunciation of racist aggression and violence has been a constant theme.

To give a clearer idea of the evolution of this violence, in my PhD Thesis I created a database of acts reported as racist between 1970 and the late 90s. I have found 731 cases. Police archives are not easy to access and the risk of under-reporting is high. But this does give us some basis for drawing conclusions. There are a number of particularities to be noted. Firstly, the victims targeted are various: isolated individuals or groups, public buildings representing the Algerian state, or areas, buildings, or cafes frequented by North Africans. The major difference is that from the 1980s the black or Arab "youth of the *banlieue*" replaced the "Arab workers" targeted in the 1970s. And, over time, Islam was more and more directly targeted.

There are continuities. For instance, whatever the decade, violence expressed itself in three forms. Firstly, political violence by people aligned with the extreme right conducting atrocities, threats or roving violent attacks. Secondly, situational violence embedded within everyday life. For the perpetrators, the aim is generally to protect what they consider to be their property in the most general and subjective sense of the term: this could be a home, a business, a family member, a woman, a national holiday, or just a sense of stability. Two factors explain the trajectory towards violence: on the one hand the problem or threat incarnated in North African bodies, and on the other hand the idea of a property to protect. Finally, there is disciplinary violence, police violence, which was associated in the 1970s with racist crimes. The idea of discipline is important because it allows us to see what lies beneath: the illegitimate use of force comes from the desire to discipline bodies categorized as deviant.



Since the 1970s, activists have drawn attention to racist crimes, but the vast majority of trials result in suspended sentences, dismissals or acquittals. Ethnicity and race – that is, the demarcation of traits to establish a power relationship – are at once nebulous and sophisticated. Race kills twice over. Firstly, physical violence is done to the individual because of the ethnicity they have been assigned. Secondly, psychic violence emerges from the penal system's failure to put racism on trial.

In fact, if race kills twice over it is because it echoes a double movement of the law which traps minority groups. The first corresponds to the primary act of racialization and is based on a particularizing approach. This singularizes individuals and categorizes them according to ethnic criteria. From decolonization onwards people with certain physical or cultural traits have been associated with problems of housing, unemployment or insecurity. The media and public discourse have colluded to put racial markers on the question of migration, and to suggest a series of irreducible differences between Africans and Europeans. The particularizing approach suggests that specific laws must be adopted to govern this part of the social body. In the period in question a series of policies related to migration worked from this premise: the closing of borders in 1974 which targeted post-colonial immigration; the policies of return aimed at Algerians in the late 70s; the Pasqua-Debré laws of the 80s and 90s which restricted entry; the rights to stay in the Schengen regulations; and even urban policies. People who were associated with a problem by ethnic markers often had the impression of being othered, and forced into a position that warranted special treatment. Racial categorization exposes people to particular violence in the institutional and interpersonal spheres: discrimination, aggression or murder.

In denouncing this violence a second type of legality comes into play: a universalist law which perpetuates racial categories and violence precisely by turning a blind eye to the process of racialization set off by particularist legal frameworks. This operation is, paradoxically, brought to its zenith in antiracist legislation itself. The legal journey of the concept of racist motives is very revealing. In the four laws passed between 1972 and 2003, at each turn legislators refused to define such motives in relation to common law, to the idea that the law must be the same for everyone, and that by definition it is impossible to create an individualized law. This lack of a legal definition of racist motivation has led to the frequency of dismissals, acquittals or light suspended sentences. Universalist law consists in applying common rules to groups which have previously been differentiated – which is to say universalizing individuals precisely when they denounce the violence produced by particularism. Just as particularism creates race, universalism upholds it by obscuring it. This interaction between



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particularism and universalism marks out racism as a structure, and not a sentiment. Individual reason cannot abolish it. It is the fruit of a permanent and enduring power relation in which the continuity of privileges assigned to some relies on the reproduction of inequalities which penalize others. To guarantee this continuity relies on creating particularist, exclusionary categories, and maintaining them against claims to equality based on universalism.

So, some are condemned to die. This observation seems to give a lead role to despair. Not a bit of it: we must go beyond this and imagine a new energy fed by this despair.

Translated by [Archie Davies](#)

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