

Racist Violence before the Law

by Magda Boutros

French law defines racism in terms of discourses, not actions. Based on an analysis of 731 crimes, R. Brahim shows how physical violence is compounded by psychological violence when the legislative and judicial system denies or downplays the racist nature of the crimes.

A review of Rachida Brahim, [La race tue deux fois : Une histoire des crimes racistes en France](#), Éditions Syllepse. 228 pages, €18.

On 25 August 1973, an Algerian man killed a bus driver in Marseille. This crime triggered a spate of racist attacks and murders targeting Arab men. In a climate already marked by racial tensions linked to the Algerian War, the bus driver's murder further fuelled the belief in a "North African danger" and led to a series of punitive attacks on North Africans. These attacks are among the 731 racist crimes identified and studied by Rachida Brahim in *La Race Tue Deux Fois* ("Race Kills Twice"), in which the sociologist analyses the denunciation and institutional handling of racist crimes in France from 1970 to 2000.

The originality of the work lies in the fact that the author goes beyond examining the perpetrators' motives or ideologies and extends the analysis to the legislative and judicial handling of this violence, to demonstrate the structural dimension of racism. The central thesis of the book is that race – understood as "the placing of people in a racial category in order to establish a power relationship" (page 12) – kills twice. First, it triggers physical violence, in the form of the blows to bodies stigmatised as "undesirable" or "dangerous". This is followed by a second, psychological form of violence arising at the institutional level when the legal system

ignores the racist nature of the crimes and treats them as less severe than they really are. Rachida Brahim's social history exposes the connections between the interpersonal dimension of racism and the institutional dimension that contributes to the legitimisation or concealment of the resulting violence.

Rachida Brahim uses the concept of "race" in the sense of structural racism, "meaning the idea that it is the very organisation and rules of a society that form a system by contributing to the legitimisation of racial inequalities and of the consequent violence, despite their denunciation" (page 214). The sociologist argues that racial violence is rooted in the construction, within society and in the judicial and legislative spheres, of a category of people associated with a danger requiring a defensive response. "Stigmas single groups out and expose them to violence. Because they serve to identify a problematic group, they create a relationship of domination, a reason to discriminate and use force. By drawing an ethnic boundary, they create potential for targets and attackers within society" (page 117). This operation of stigmatisation is central to the process of racialisation, because it assigns a negative value to physical, cultural or religious characteristics, thereby creating a group whose members are treated as inferior.

Race kills physically

Based on archives from organizations, newspapers, and the Ministry of the Interior, Rachida Brahim draws up a list of 731 racist crimes between 1970 and 2000, including 353 homicides. Drawing on this database, she proposes a typology of racist crimes consisting of three categories: ideological violence, situational violence and disciplinary violence.

The majority of the crimes listed constitute ideological violence, motivated by the desire to defend a territory against a presence seen as harmful and excessive. This category includes attacks claimed by right-wing extremists and those targeting places owned or used by North Africans, as well as punitive attacks aiming to indiscriminately punish any North African for an action committed by a member of this racial group. The second type, situational violence, takes place within an everyday situation in which the perpetrator targets a North African because they see them as a threat to their property, honour or tranquillity. One such example is the murder of Djellali Ben Ali by the concierge of his building in 1971. Finally, disciplinary violence

is committed by representatives of the state (for example members of the police force or the military) against a category of the population deemed deviant and deserving of punishment. Brahim describes some of the most emblematic cases: the death of Mohamed Diab, who was killed by a police sergeant at the Versailles police station in 1972, and that of Malik Oussekine, who was beaten to death by police in 1986.

These attacks are not purely a product of interpersonal relationships. Rachida Brahim argues that they are part of the racist logic that has been guiding French politics since the end of the Algerian war. Her analysis of the debates that have surrounded the evolution of French immigration policy reveals a central tension between republican principles and racist principles. While extolling republican universalism, governments have introduced policies that single out certain categories of immigrants. Policies relating to immigration, integration, return, and accommodation demonstrate that it is not all immigrants that “pose a problem”, but more specifically African immigrants, described as insalubrious, criminally inclined and impossible to integrate. The children of these immigrants, born in France, have inherited this stigmatisation, which the media and political fields have continued to spread. The figure of the “Arab worker” in the 1960s and 1970s was replaced by that of the “sink estate youth” in the 1980s and 1990s, but the stigma of a maladjusted and delinquent population persists and continues to expose racialised groups to specific violence.

Race kills psychologically

Physical violence is accompanied by another form of violence: psychological violence. This arises when victims come into contact with the legislative and judicial system and this system denies the racist nature of the crime, trivialises it or places the responsibility on the victim. Rachida Brahim borrows the concept of secondary victimisation from feminist studies on sexist violence: like the victims of sexist violence, victims of racist violence suffer a second victimisation at the hands of the media or judicial system, which tend to blame them for their own victimisation (page 138).

This secondary victimisation is evident in the way racist violence is punished. Rachida Brahim shows that, except for ideological violence, racist violence is most often tackled as a misdemeanour rather than a crime, resulting in light sentences.

Furthermore, these sentences are often suspended, or the case is dismissed or the perpetrator acquitted. This is what lawyer Jacques Vergès called the “Arabicide misdemeanour”, observing that murders of Arabs are generally punished by a sentence of less than five years in prison: the kind of sentence given for a lower-level offence¹. Moreover, in criminal hearings, the racist dimension of the violence is obscured, even when the perpetrators make it explicit, for example by telling the police that they “didn’t like North Africans” or by admitting their intention to “scare Blacks and Arabs” (pages 178-9). In short, the racist nature of the violence is ignored in these trials.

This denial of the crimes’ racist dimension stems from the fact that the concept of racist crime does not exist in French law. One of the most interesting parts of Rachida Brahim’s work is her analysis of the changing anti-racism laws in France since the 1970s. Drawing on parliamentary debates, she shows that French legislation has focused on criminalising *racist discourse* (inciting hatred, negationism), while refusing to criminalise *racist violence*.

The International Convention on the Elimination of All Forms of Racial Discrimination, which France ratified in 1971, requires member states to criminalise incitement to racial hatred, racist discrimination and racist violence. However, when France joined this convention, the legislator created new crimes of incitement to racial hatred and discrimination (Pleven law, 1972), but did not criminalise violence committed with a racist motive. Until the 2000s, despite international provisions to this end, activism and diplomatic pressure (particularly from the Algerian embassy), parliamentarians rejected the idea of harsher sentences for crimes committed with a racist motive, arguing that ordinary law was sufficient, and that it would be against republican principles to create a law specific to a category of people. Consequently, laws designed to combat racism criminalise racist discourse and discrimination (defined as the denial of goods or services based on discriminatory criteria), but not racist violence. Rachida Brahim observes that “within the legislative arena, racism is not an act of physical violence: it is seen only as words amounting to defamation, insult, provocation, incitement to hatred or discrimination” (page 166).

It was not until 2003 that the racist motive was included in the law as an aggravating circumstance, at the instigation of MPs from the UMP (a French right-wing political party) who anticipated the need to comply with EU law. However, the grounds put forward for this legislative change “demonstrate a fight against racism

¹ Fausto Giudice, *Arabicides : Une Chronique Française, 1970-1991*, Enquêtes (La Découverte, 1992).

that paradoxically strengthens ethnic boundaries” (page 204). To justify the law, the MPs pointed to the rise of anti-Semitism, which they blamed on “young North Africans” in a context of re-emerging Israeli-Palestinian clashes. During the debates, they hierarchised racism: at one end of the hierarchy, there was violence targeting North Africans and black people (which still constituted the majority of attacks), and at the other, there was anti-Semitic violence, seen as more worrying and above all blamed primarily on North Africans. Furthermore, although the racist motive was finally considered an aggravating circumstance, the law stipulated that, to be proven, it must have been expressed aloud or in writing by the perpetrator. In other words, “racism can only exist in criminal law if it is expressed in words by the perpetrator” (page 211). This considerably limits the acts that can be considered racist crimes.

The law therefore inflicts violence on a second level, because when people denounce the racist treatment they have experienced, the principle of universalism denies the identity distinction that motivates this violence. Rachida Brahim describes a “double process of racialisation and deracialisation”: racist violence, migration policy, and anti-racism legislation “racialise while simultaneously denying race” (page 215). This denial of the racist dimension of the violence maintains the perception of perpetrator impunity for victims and their loved ones, who have been fighting since the 1960s to denounce both racist violence and its handling by criminal law. This denunciation echoes the current battle against the racist violence and de facto impunity seen in the police force.

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