



## Viewpoint

# Anamorphosis of the state The management of order in Europe

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The practices adopted by the French police over the last few months, and especially between the end of April and 18 May [2016], shocked the majority of peaceful demonstrators, causing many of them harm and injuries. On 17 May, the police staged demonstrations to protest against 'violence against cops' [*violence anti-flics*] and on 18 May the trade union stewards' service badly beat up some so-called *casseurs* [term used to describe hooligans, vandals or troublemakers]. Testimonies and debates surrounding these events have been plentiful (you can see such reports by *Médiapart*, a few television programmes and even in "*Le Monde*" and "*Libération*")<sup>1</sup>. However, a more in-depth reflection on what happened is missing, as is a comparative perspective with similar facts which have been observed over a longer period in other countries that claim to be democratic.<sup>2</sup>

**The events** [see the post-scriptum at the end]

An uncontrolled hardening, drift and deregulation, a violent regression: definitions such as these, employed by various commentators of recent police practices, indicate that we are supposedly facing an unexpected shift. Such events occurred in the conjuncture of the government's choice to impose the El Khomri law to reform the norms which regulate employment relations (a sort of *jobs act*, [reference to the law introduced by the Renzi government in Italy]) that is manifestly inspired by a neoliberal logic. The heads of state and of the government, François Hollande and Manuel Valls, have firmly stated their intention to rule out any negotiation with "dissident" MPs and with trade unions and striking workers. Before the demonstrations, Valls, interior minister Cazeneuve and the police prefects stated that they would not have allowed the protest to grow, invoking the alibi of the *casseurs* to legitimate, and justify, forceful practices. At that point it became clear that the government of public order had opted for it to be managed violently, rather than for

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<sup>1</sup> See, for example: <https://www.mediapart.fr/journal/france/120516/violences-policieres-quelle-strategie-de-maintien-de-lordre>

<sup>2</sup> Cfr. L. Zedner, *Policing before and after the Police: The Historical Antecedents of Contemporary Crime Control*, «British Journal of Criminology», XLVI, 2006, 1, pp. 78-96

peaceful or negotiated management. Moreover, it was taking advantage of a conjuncture in which the workers' movement had weakened, humiliating trade unions and any other protestor in spite of the absolutely peaceful character of a very large majority of the demonstrators (except for a few hundred so-called *casseurs*, that is, youths who imagine they commit "revolutionary" acts which are in fact ineffective or useless gestures, sometimes even wished for by the authorities for the purpose of unleashing police violence). Yet, we must recall that even in the past, every time governments have had to impose unpopular laws, they have resorted to the violent management of order, employing *agents provocateurs* and uncontrolled rogues. However, when the workers' movement was strong, the police did not dare to enter a march in order to break it up into various segments, caging in all the demonstrators, as happened on the past Mayday after the march left Bastille to head towards Nation. When demonstrators are relatively strong and "angry", the police avoids contact: it fears being disarmed, or that some demonstrators may bear authentic weapons.

### **Is the democratic rule of law an empty pretence?**

Legal texts, professional ethical standards codes and other regulations state<sup>3</sup> that the management of order in a state governed by the rule of law which deems itself democratic should, first of all, protect the right to demonstrate and hence guarantee the protection of peaceful demonstrators, even by means of isolating possible authors of disorders or "loose cannons" following modes which respect democratic guarantees. It should also adopt harsh sanctions towards agents and police officers who taint themselves with abuses, violence and arbitrary acts.

Without deluding ourselves about the actual possibility that the rule of law be respected, it must be noted that the government of security always sways between peaceful and negotiated management of disorder and its violent management, depending on the circumstances. Thus, it may happen that in the same conjuncture, there may be moments in which violent management is imposed at the expense of peaceful negotiation, and for this not to just concern public order, but also other situations classified - often enjoying a margin of discretion which may easily slip towards arbitrariness - as disorders, breaches or offences against norms. The passage from peaceful to violent management may follow precise directives from above (from political powers or police hierarchies) or take place occasionally (the troublemakers may be among the demonstrators, among the police ranks, sometimes in the midst of some small police trade union). Yet, clashes can always be kept in check and blocked if the officials of the forces of law and order in the streets really control their "troops" because, in any case, the police always has access to greater force (except for a few cases involving civil war). In various circumstances, we have seen how power "plays the disorder card to impose its own order": it uses the alibi of *casseurs* or members of the *black block*, often with assistance from *agents provocateurs*, but also through speeches which wind up the police forces and public opinion.

### **Police forces in the neoliberal drift**

Since a few decades ago, especially after the Genoa G8, the police forces of self-styled democratic countries have returned to the forceful practices which were

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<sup>3</sup> Cfr. S. Laurent e A. Sénecat, *Ce que la police peut et ne peut pas faire pendant une manifestation*

observed in several phases of late post-second world war period<sup>4</sup>. The goal was obviously that of discouraging, dissuading and demobilising the possibility of public action by those who contest the choices made by the dominant actors, that is, against the neoliberal drift. To do so police forces have been provided new equipment and trained to tackle “urban guerrilla” warfare, nourished by an internal propaganda which exasperates fears of “terrible attacks” by terrorists who would seek to infiltrate crowds, etc. A part of the new recruits in police forces are former military personnel who have left military missions in war theatres (in Iraq, Afghanistan, etc.) behind them. They are dressed as Robocops, equipped with *flashballs*, teargas, *tasers*, drones: equipment that, besides, is one of the great new 21<sup>st</sup>-century businesses, as are “intelligent” weapons. Abuse of such contraptions, which is not a rare occurrence, merely contributes to increase disorder and, if they are adopted by “troublemakers” as well, they can only lead to rather dangerous situations for everyone, including peaceful demonstrators and police officers who do not want to behave like Rambo. Moreover, it is understandable that a city swamped by teargas and images of clashes and “devastation” - often manipulated by the media – are functional to the purpose of dissuading people from taking part in protests (if private individuals were to fire all these gasses, they would be prosecuted for polluting!). This will certainly not help tourism; however, the state of war and the militarisation of the country which Hollande proclaimed are, first of all, a stupid act in a country which claims to be one of the great global powers and grants the dignity as an enemy to a group of terrorists who have escaped the control of the secret services.

Past experiences show that when the rope is pulled too far, in the game of providing order through disorder, there is a risk of promoting a genuine radicalisation. Instead, it is quite likely that, if the police maintained a discrete and non-invasive role, the demonstrations would take place peacefully and possible *casseurs* or troublemakers would be isolated by the majority of peaceful protestors. This has nothing to do with the actions of the trade union stewards’ services, which are notoriously in agreement with the police, as Valls himself requested<sup>5</sup>. In fact, even the trade unions have returned to participating in the co-management of public order: in what many demonstrators and grassroots trade unionists have defined as “collaborationism” (a term which, in France, evokes the spectre of the Nazi occupiers’ puppet government of Vichy after 1940). This fact is rather bewildering, because it worsens the trade unions’ loss of consent and it cuts down the recovery of credibility which began with the struggle against the El Khomri law. Once again, the trade union nomenclature thinks it can save its positions and regain influence through an under-the-table agreement with the government; and it will not obtain a review of the labour law. Police practices in the *banlieues*<sup>6</sup> or towards immigrants or even *clochards*, like those towards demonstrators for the most widespread causes, are inscribed within a conception of the government of security which is clearly incoherent with regards to that of a democratic state governed by the rule of law. The government seeks to violently impose economic, social and military choices which are not useful for the common good [*res publica*], misdirecting tasks and resources which, instead, should be deployed to tackle the real insecurities, that is, the risk of health-environmental

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<sup>4</sup> Cfr. *La Frénésie sécuritaire. Retour à l'ordre et nouveau contrôle social*, directed by L. Mucchielli, Paris, La Découverte, 2008 and the contributions collected in *Les violences politiques en Europe*.

<sup>5</sup> See <https://www.mediapart.fr/journal/economie/190516/services-d-ordre-contre-casseurs-lapetite-fabrique-de-la-division> and <http://www.liberation.fr/auteur/16582-charlotte-belaich>

<sup>6</sup> Cfr. M. Rigouste, *La Domination policière. Une violence industrielle*, Paris, La Fabrique, 2012; D.Fassin, *Pouvoir discrétionnaire et politiques sécuritaires. Le chèque en gris de l'État à la police*.

disasters (it would suffice to check the statistics on deaths resulting from tumours, workplace accidents and professional ailments), practices of neo-slavery which are connected to underground economies<sup>7</sup> and are, in turn, bound to the corruption of parts of the oversight agencies and police forces and to the decriminalisation of white collar crime<sup>8</sup>. Police forces always hold a discretionary power which can easily slip towards complete freedom<sup>9</sup> and it thus manages both tolerated unlawful acts and those which are intolerable<sup>10</sup>, “let things be or close one’s eyes” when facing situations of neo-slavery or sexual violence in workplaces, etc. In effect, in this way, it guarantees impunity for some illegal behaviours, it legitimates unlawful practices and it doggedly pursues people for offences which are attributed on the basis of physical appearance (ethnic profiling), for some minor breaches and sometimes even fabricates the evidence. It is not by chance that an effectively independent authority equipped with the power to control police practices has never been established.

### **The continuous anamorphosis of the rule of law, as the *res publica* is mocked**

The police enacts an anamorphosis<sup>11</sup> of the rule of law, up to the point where it sways between what is legal and illegal: in this way, it contributes to economic and social regulation and to the increasing hierarchisation of society. Its discretionary power is increased by the monopoly of force (legitimated by the political power and by the conservative consensus, even when it is illegal) and is structured at an intermediate level between the use of the carrot and the stick. Authoritarianism and democracy coexist, as do exemplary punishment and tolerance, the “police state” or “state of exception” and the “democratic state”: by now, authoritarian practices correspond to the opinion of a sizeable part of the population which has internalised the dominant actors’ discourse.

The timeless issue of the democratisation of police forces, prisons and the administration of justice, and of other institutions, is rendered vain once it is understood that democracy can only be an empty pretence, a trap to capture naïve preys, when it coexists with violent authoritarianism. The neoliberal shift has thus led to a further increase in power benefitting actors whose discretion and chances to act arbitrarily have grown, at the expense of the weaker social subject and the *res publica*.

What is the reinvention of the democracy in crisis, or the post-democracy which Dominique Schnapper and Yves Sintomer discuss? Or is it the renaissance Edwy Pleinel and *Médiapart* are hoping for? Are we heading towards an authoritarian regression, or towards a return to a competition between large mass political parties, or can we hope for a sort of “communism” as some believe is the idea or dream of philosophers such as Žižek, Agamben or Badiou?<sup>12</sup> Must we give credit to those who

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<sup>7</sup> Cfr. Governance of Security and Ignored Insecurities in Contemporary Europe, London, Routledge, 2016.

<sup>8</sup> Cfr. G. Chantraine-G. Salle, *Pourquoi un dossier sur la «délinquance en col blanc»?*, in «Champ pénal»/«Penal field», X, 2013: <http://champpenal.revues.org/8555>.

<sup>9</sup> Cfr. E. Bittner, E. (par R. Lévy) «Egon Bittner et le caractère distinctif de la police : quelques remarques introductives à un débat», [www.cairn.info/revue-deviance-et-societe-2001-3-page-279.htm](http://www.cairn.info/revue-deviance-et-societe-2001-3-page-279.htm)

<sup>10</sup> «Politix», 3, 87, a cura di N. Fischer e A. Spire: <http://www.cairn.info/revue-politix-2009-3.htm>.

<sup>11</sup> Cfr. J. Baltrušaitis, *Anamorfosi o Thaumaturgus opticus* [1955-1984], Milan, Adelphi, 1990.

<sup>12</sup> Cfr. <https://www.mediapart.fr/journal/france/030416/rencontre-agitee-entre-la-nuit-debout-et-la-nuit-des-debats> and <https://www.mediapart.fr/journal/france/140416/schnapper-sintomer-une-democratie-en-crise>.

dramatise the situation up to the extreme or, conversely, to those who claim that it is not a horrible conjuncture like there have been many in the past and that, in the end, “democracy” will be able to renew itself? However, won’t staying stuck at a crossroads leave us at the mercy of the usual game of the “debate”, which ends up making us digest anything, as well as its opposite? In short, do we not run the risk of participating in the game of the anamorphosis of the reactionary rule of law or of the democratic state? The facts appear to leave scant space for debates which are sometimes muddled. The European Commission appears to be like an elderly English lady surrounded by businessmen who are experts in *white collar crimes*, police officials, antiterrorism experts, military officers, arms merchants, heads of the “multinationals of the heart” (who take care of the disposal of the poor, refugees and migrants) as well as mandarins from the political and social sciences; a sort of Queen Elizabeth who reveres Arab emirs and Russian and Indonesian oligarchs who invest in London, pretending not to realise that this indirectly nourishes ISIS.

We are in one of the worst conjunctures since 1945 to date. The margins for public political action have considerably diminished. It is vital for there to be a rigorous effort to enable *parrhesia* [to tell the truth, speak frankly or candidly] as resistance for the sake of freedom of speech and action: within the bounds of what is possible, that is, taking real power relations into account and without harbouring any delusions<sup>13</sup>.

PS: As various reports by *Médiapart*, *Marianne*, *Libération* and *Le Monde* show, the conflict on the El Khomri law appears to move entirely into the workplaces, particularly in fuel and energy production businesses (refineries, deposits and nuclear power stations) and the transport sector (trains). The CGT [*Confédération Générale du Travail*] trade union, as well as FO [*Force Ouvrière*], but not the CFDT [*Confédération Française Démocratique du Travail*] which accepts an understanding with the government, appear ready to radicalise the game of “arm wrestling” but, so far, Hollande has peremptorily declared that there will not be any review of the bill. It is evident that, for the trade unions, this may well be the last opportunity to assert their contractual force again, in order not to definitively lose the “power” of negotiation which they hold alongside other concessions which are linked to it (such as appointments in the boards of directors of state companies, etc.). In fact, the new law cancels national contract agreements (as Marchionne [the CEO of FIAT Chrysler Automobiles] did in Italy) and seeks to entirely erode “trade union power”. In an attempt to break the struggle by the CGT and FO, the government has unleashed the patrol squads of the *Compagnies Républicaines de Sécurité* [CRS, specialised in crowd and riot control] against the trade union pickets. The *casseurs* have disappeared and the police badly beat up the workers. This goes to show that the collaborationism of the trade union stewards’ services with the police for the purpose of getting rid of the so-called *casseurs* certainly does not work to obtain wider margins for negotiation.

[Unofficial translation by Statewatch]

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[https://www.alfabeta2.it/2016/05/29/12960/?utm\\_source=notizie+da+alfabeta2+e+alfapi%C3%B9&utm\\_campaign=f17de8a86a-RSS\\_EMAIL\\_CAMPAIGN&utm\\_medium=email&utm\\_term=0\\_7e21973c9b-f17de8a86a-323837133](https://www.alfabeta2.it/2016/05/29/12960/?utm_source=notizie+da+alfabeta2+e+alfapi%C3%B9&utm_campaign=f17de8a86a-RSS_EMAIL_CAMPAIGN&utm_medium=email&utm_term=0_7e21973c9b-f17de8a86a-323837133)

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<sup>13</sup> *Italian Police Forces in the Neoliberal Turn*: <http://www.maklu-online.eu/nl/tijdschrift/ejps/volume-3/issue-1/italian-polizia-forces-neoliberal-frame/>.

