

Expulsion of Refugees and Foreigners in 19th Century Europe

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ABSTRACT

The corollary of nations' sovereign right to grant or refuse asylum to refugees from the rest of the world is the possibility of deporting those who are found to be unworthy of it. Legislation began to address that practice only somewhat belatedly and partially, leaving great latitude to nations to use it as a way of regulating migration. The massification of expulsions meant that it was no longer reserved essentially for potential agitators. By also allowing for a selection process among migrants fleeing poverty, who were suspected of being lazy and/or vagabonds, mass deportations led to changes in migratory patterns by the end of the century.



“The Expulsion of the Princes,” anonymous engraving, circa 1886.

Source : [Musée Carnavalet](#).

The practice of expelling refugees is as old as the practice of migration itself. It is the result of nations' sovereign right to grant asylum to foreigners who request it, a right whose flip side is the possibility for those same nations to declare those foreigners undesirable, illegal or personae non gratae and to deport them from their country. In Europe, the 19th century was a key period in terms of the development of this practice: from an individual measure of exile generally guided by political motives, it became a means of controlling ever more massive migratory flows. Hence the importance of observing how this practice developed, outside of national or international legal norms.

Expulsion should not be confused with extradition. The latter consists in sending a foreigner back to their country of origin for them to be judged for a crime of which they are accused, while expulsion is generally to a third country. That's why expulsion policies are not limited, as Alexis Martini wrote in a comparative study of expulsion law in 1909, to a "bilateral act." Most often, they involve three nations: the person's country of origin, which sometimes pressures the host country to deport certain categories of refugees; the host country that establishes distinctions between legal and illegal aliens; and finally, the destination country, whose approval is often required in order to carry out the expulsion.

Expulsion is most often an administrative measure, taken by a prefect or the equivalent thereof, in accordance with instructions from the executive. It can also be the case that expulsion results from a judicial decision, or even that an individual or collective expulsion takes place outside of any legal framework. That would, however, be pushing the limits of the definition of expulsion, which implies government intervention, or at the very least, validation of a *fait accompli*.

Selecting Political Refugees: A Sovereign Right in Post-Revolutionary Europe

Revolutionary Europe was confronted with population movements that led them to reconsider the generous asylum policies that had generally prevailed over the course of the 18th century. So the French Constitution of 1793 was the first to establish the principle of a right to asylum, which was immediately reined in and subjected to exceptions. Article 20 of that document proclaims that "The French people give asylum to foreigners who have been banished from their homelands in the name of liberty, and refuse it to tyrants.". The distinction between foreigners "banished in the name of liberty" and "tyrants" is difficult to establish legally. While that Constitution never came into effect, the law of Vendemiaire 28 of the Year VI of the Republican calendar (i.e. October 17, 1797) confirmed the French people's sovereign right to expel unwanted foreigners.

The revolutionary episodes of the first half of the 19th century gave rise to large movements of refugees fleeing repressive phases consecutive to the revolutions of 1830 and 1848. Those influxes of refugees, combined with a fear of accompanying subversion, explains why a number of nations then adapted their legislation to make expulsions easier. In 1835, Belgium paved the way, with legislation enabling the government to force foreigners found to be undesirable to "leave the kingdom." The Netherlands followed suit in 1849, followed just a few weeks later by France, and then Spain in 1852. The French law of November-December 1849 stated that "the Minister of the Interior may, through policing measures, enjoin any foreigner traveling or living in France to leave French soil immediately, and to take them to the border." Concretely, that meant that from that time on, deportation was decided by prefects, which simplified the procedure and increased prefects' discretionary powers.

In Italy, many *Quarantotto* insurgents followed the path from Piedmont to Sardinia, the only pre-unification nation that had preserved the constitution adopted in 1848 and that welcomed its neighbors' revolutionaries without much haggling. Nevertheless, even there, the persistence of political unrest and especially refugees' involvement in the Springtime of Nation in Milan in 1853 led to a tougher stance towards refugees and to their being massively expelled to Switzerland, England and, above all, the United States.

While it was common, especially in the early 19th century, for expelling countries to simply inform the neighboring country of a deportation measure, the large increase in expulsions over the course of the century eventually turned it into a diplomatic issue, when third-party nations also began selecting which expelled persons they would take in. In the middle of the century, Switzerland, for example, where a tradition of asylum meant that numerous deportees had always been accepted, began requiring refugees to have sufficient funds to survive there. The Americas were then seen as the least-demanding host countries, in terms of immigrants' pasts or their finances. When, in the 20th century, the New World began to close its borders in turn, European metropolises sometimes used their colonial empires as destinations for foreigners found to be unwanted.

A Massification of Expulsions in the Second Half of the 19th Century

Studying refugee-expulsion campaigns means establishing lists of the people who are targeted by that measure. In France, *États signalétiques des étrangers expulsés* (or *Lists of Deported Foreigners*), which provide an overview of key moments in deportation cases, do exist. But the comparative study of those lists with individual case files in the Bas-Rhin department carried out by Hugo Vermeren shows how unreliable the official documentation is, as well as the usefulness of a micro-historical analysis tracking down foreigners' administrative interactions at a grass-roots level. Nevertheless, the omnipresence of those lists in governmental archives, which set great store by what Olivier Caporossi calls a "culture of record-keeping," does make it possible to analyze the process that leads to targeting certain foreigners for deportation. For the 1853 Piedmont deportees, for example, a comparison of the lists drawn up at different decision-making levels (provincial intendants, Ministry of the Interior) with those who were actually deported, allows us to see how a public-order measure was gradually turned into a tool for getting rid of political opponents.

Facilitated by the law, expulsions changed both in scale and in targets at the turn of the 1880s. In a period of economic crisis, when poverty migration outnumbered political exiles – a period which also coincides with the peak of what Gérard Noiriel called the "tyranny of the national" – deportation, along with border controls, became a method for managing population movements in order to enable selection of the migrants accepted on national soil.

As Paul-André Rosental wrote, "the late 19th century marked [...] a change of system for controlling migratory flow rather than its advent: regulation through preliminary filtering came after regulation through the sanction of social failure." But in some countries studied by Frank Caestecker, such as Belgium and the Netherlands, deportations did in fact become practically the only form of regulation. The number of deportations literally exploded in the last quarter of the 20th century, just as controlling visas at borders was practically abolished. While poverty migration is increasing exponentially and the authorities fear above all the arrival of vagabonds and idlers, deportation has become, in the words of Élie-Benjamin Loyer, a "technology for managing impoverished migrant populations."

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