Coloniality and Racism in the Spanish Deportation System: Exceptional Practices and Violence During Deportation to Morocco

Colonialidad y racismo en el sistema de deportación español: prácticas excepcionales y violencia durante las deportaciones a Marruecos

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Proponents of biopolitical approaches to migration have recently been accused of epistemological racism by those who advocate postcolonial perspectives. This article aims to contribute to the postcolonial understanding of the Spanish deportation system by focusing on its connections with racism, exception, and violence. It does so by relying on Fanon's anti-colonial ideas, together with Mbembe's biopolitical developments and the concept of coloniality. It analyses the deportation system as implemented in Spain and shows that it is within a legal materiality that results in racialised violence, exception and the production of death. The case of Morocco and six direct testimonies of deported nationals are studied. The analysis leads to the conclusion that the deportation system as implemented in Spain is intertwined with coloniality, exception and violence, and often produces the death of racialised groups.

Recientemente, los estudios migratorios, en particular las perspectivas biopolíticas, han sido acusadas de racismo epistemológico en lo que se ha denominado un giro postcolonial. Apoyándose en el pensamiento anticolonial de Franz Fanon el desarrollo teórico de Achille Mbembe y el concepto de colonialidad, este artículo pretende contribuir una visión postcolonial en el estudio del sistema de deportación español. Para ello, explora las conexiones entre racismo, la excepción, la violencia y la muerte de grupos racializados en el marco de las deportaciones de este país utilizando Marruecos como estudio de caso y analizando seis testimonios de personas deportadas. El artículo concluye que el sistema de deportación español está ligado al racismo de la historia colonial, la excepcionalidad, la violencia, en ocasiones produciendo la muerte de grupos racializados.

Abstract

Racism; postcoloniality; deportation; borders; biopolitics

Racismo; deportación; poscolonialidad; fronteras; biopolítica

Key words

Dates

1. Introduction

Detention and deportation are one of the main pillars of the EU's migration policy (Cassarino 2010; Isakjee et al., 2020).[1] The academic literature has coined the term "deportation regime" to refer to the institutionalisation and generalisation of deportation as a key instrument of migration control (Gibney, 2013; Isakjee et al., 2020; De Genova and Peutz, 2010).[2] According to Kalir (2019, pp. 20-24) a more appropriate term to use would be "Departheid", which emphasises the violent racist exclusion and systematic production of death inherent to the deportation regime. Deportation is understood as the administrated technocratic and racialised violence that exists within the institutional procedures of migration control and comes with high levels of discretionary power (Flynn 2014; Kalir 2019, p. 20; Kalir & Wissink, 2016, p. 36; Lemberg-Pedersen, 2019, 2022). Departheid adopts different shapes and intensities depending on the State where it is employed (Kalir, 2019, p. 26).

Since the late 1990s, biopolitical studies on migration from different disciplines have seen borders as spaces of biopolitical intervention (Vaughan-Williams, 2015; Walters, 2011; Williams, 2015). A very productive area of research was built by applying biopolitical concepts to the study of borders and migration, such as exception, inclusive exclusion and bare life, which were developed by Foucault and Agamben (Foucault, 2000; Agamben, 2016, 2019; Esposito, 2008). Specifically, biopolitical approaches to deportation have focused on the exercise of sovereign power when controlling people who are out of place.[3] These analyses often address specific laws, instruments, and practices (Andriasevic, 2010; Kalir, 2019, p. 22; Kalir & Wissink, 2016; Lemberg-Pedersen, 2022).

Biopolitical studies have recently been accused of epistemological racism by those advocating postcolonial migration approaches. This is due to the fact that European colonial history has been systematically excluded from the analysis of migration and border spaces. This is palpable in the lack of analyses of the role of racism as an embryonic element of migration policies (De Genova, 2018, p. 1769; El-Enany, 2020, p. 10; Grosfoguel, 2012; Grosfoguel, Oso & Christou, 2015; Wake & Kazami, 2020; Rajaram, 2018). Indeed, research on migration has usually ignored racism by failing to identify its connection with colonial practices (De Genova, 2018; Mayblin, 2017; Mellino, 2019).

In this context, a postcolonial turn has become established in migration and borders studies (Tudor, 2018). Postcolonial perspectives on migration have mainly drawn on Fanon's (1964, 2009) analysis of violence and racism, along with *necropolitics* as the production of death by bio-power defined by Mbembe (2016, 2019) and the idea of "coloniality" (Grosfoguel, 2011;

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1 The EU's readmission agreements grew from 33 in 1986 to over 156 in 1995, 186 in 2004 and 216 in 2010 (Cassarino, 2010, p. 11).

2 For an analysis of the terminological debates on deportation, see Cassarino (2020).

3 There is a specific body of literature which explores the intersection between biopolitics, humanitarism and border control (Cuttitta, 2018; Fassin, 2012; Pallister-Wilkins, 2015).

Quijano, 2000; Mignolo, 2000). These perspectives have rigorously approached the role that colonialism and racism have played in the mobility of the population (Lemberg-Pedersen et al., 2022, p. 11; Mayblin & Turner, 2021).

Spain is a State in which deportation and death are often framed by exception, and where the Moroccan border plays a very prominent role (Ferrer-Gallardo & Gabrielli, 2018; Johnson & Jones, 2018; López-Sala & Moreno-Amador, 2020).[4] The literature has studied deportation in Spain from different angles that have focused on detention, legal operators, police practices and the junction between prison and deportability (Barbero, 2014, 2018; Gonzalez Beilfus et al., 2018; Brandariz & Fernández-Bessa, 2017; García-España, 2017, 2018; López-Sala & Godenau, 2017; Martinez-Escamilla, 2017; Moffette, 2018; Orgaz, 2018). However, little research has been done into racism and colonial legacies, and consequently race-blind analyses have often been produced (De Noronha, 2019; Kalir, 2019; Lemberg-Pedersen, 2020).

The connection between the colonial history of Spain and Morocco and the use of exception and violence with regard to deportation require further specific reflection. Relying on the analysis of primary and secondary sources, this article adopts a postcolonial approach in connection with the Spanish deportation system and contributes to the existing understanding of the connections between racism, exception, and colonial history by taking Morocco as a postcolonial case study. To do so, it presents a theoretical framework and a methodology that analyses the implementation of Departheid in Spain as a specific context of legal materiality and practices that emphasise violence, exception and the production of death associated with racism. Relying on the case of Morocco, it analyses six testimonies which serve to illustrate these theorical underpinnings. The article concludes that the implementation of Departheid is intertwined with coloniality, exception and violence and it causes the death of numerous racialised group members.

2. Theoretical framework

Built on Foucault's (2012) thinking, biopolitical approaches to migration focus on the relationship between governance and population at borders. Those perspectives propose to look at borders as spaces of biopolitical intervention where the protection of life is juxtaposed to the production of (certain) deaths (Walters, 2011; Cuttitta, 2018; Pallister-Wilkins, 2015; Vaughan-Williams, 2015). Whereas Foucault did not pay much attention to borders, the application of his concepts is essential to the understanding of borders as complex spaces where sovereignty is reasserted to control the movement of people who are "out of place" (Kalir, 2019, p. 22). These concepts condense the contradictory relations between law, sovereign power and violence developed through the ideas of "exception", "bare life" and "inclusive exclusion" (Walters, 2011, p. 139, Williams, 2015; Vaughan-Williams, 2015).

The state of exception is at the intersection of violence and the law (Agamben 2016, pp. 84-89). The definition of "exception" (Agamben, 2019) articulates the relationship between sovereign power, violence, and law and is understood to be the institutionalisation of dom-

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4   For the purposes of this paper, the term "deportation" refers to all the cases covered by Organic Law 4/2000 on the Rights and Freedoms of Foreign Nationals in Spain and their Social Integration, concerned with the removal of foreign nationals from the territory of Spain (involving refusal of entry, expulsion, readmission) and to the practice of push-back.

ination (Foucault, 2000). Agamben defines exception as the specific moment at which the law is suspended in order to ensure its own continuity and its very existence. The absence of law (exception) is a permanent contradiction, but it is also necessary for the existence of the sovereign. For Agamben (2019), the suspension of law does not mean the elimination of the law, but the absence of it.

In this context, it is important to consider how lives are governed under exception. Agamben (2016, pp. 147-156) stated that bare life is an analogy of sovereign exception, opposed to and trapped by violence. When there is bare life, perpetrators remain unpunished because even though bare life is taken, this is not deemed to be a criminal offence. However, Agamben's ideas of exception and bare life have been heavily criticised by several migration researchers because these are absolute concepts, which eliminate opportunities and space for resistance (Mezzadra, 2005, 2011; Papadopoulos et al., 2008).

This paper conceives exception exclusively as the absence of law affecting certain spaces or situations, and bare life as the categorisation of migrants as manageable. These are fundamental concepts and approaches, but they are excessively focused on the European case and race blind. Foucault's theories and their further development have been identified as suffering from colonial amnesia, which has contributed to lowering a veil over colonial and racial oppression (Grosfoguel, 2012, 2015). As a consequence, they have received criticism from different approaches, mainly from feminism[5] and postcolonial perspectives.

Researchers holding postcolonial views have accused migration studies scholars of failing to acknowledge race and class, which has shaped what has been termed "postcolonial turn" (De Genova, 2018; Mayblin & Turner, 2021; Mellino, 2019; Rajaram, 2018; Tudor, 2018, p. 1065). Postcolonial approaches usually understand race as a naturalised effect of a racist regime. These analyses consider race to be a fact of racism and provide tools to address the unequal exposure to violence and premature death suffered by racialised groups (De Genova, 2018, p. 1770; El-Enany, 2020, p. 7). "Racialisation" refers to the process by which people are embedded within hierarchical differentiation based on a colonial racist history and influenced by policies, politics and police practices (Fanon, 2009; Grosfoguel, 2016; Kalir, 2019, p. 480; Mayblin, 2017, pp. 29-49). Indeed, border policies and practices actively construct race (De Noronha, 2019, p. 2427).

Postcolonial approaches are essentially based on Fanon's anti-colonial thinking and Mbembe's biopolitical developments (Fanan, 1965, 2009 [1952]; Mbembe, 2011, 2016). This has taken shape along three axes: (1) the application of the idea of coloniality and the incorporation of colonial history into the analysis; (2) the consideration of violence against racialised subjects to be a continuation of colonial logic (Fanon, 2009); and (3) the inclusion of the concept of necropolitics (Mbembe, 2011).

Firstly, coloniality is the continuation of the racist colonial structure in the contemporary migration governance logic, legislation, and practices.[6] This is "the invisible but constitutive side of the whole of modernity" (Cazzato, 2016, p. 3). In applying this concept, migration re-

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5   While the inclusion of gender in the biopolitical approach is crucial to the analysis of borders, it is outside the scope of this paper. See Weheliye, 2014.

6   The decolonial approach developed coloniality within three spaces: power, knowledge and being. Quijano (2000), Grosfoguel (2007) and Mignolo (2000).

searchers aim to break away from the race-blind analysis that has characterised migration studies. Coloniality is extremely useful because it helps look at borders and international mobility by incorporating postcolonial perspectives and the role of racism (Grosfoguel et al., 2015). Recent research has addressed the continuation of colonial practices of population management and contemporary migration control measures. In this regard, Hannah Arendt argued that deportation is rooted in colonial configurations for managing "race subjects" (cited in Kalir, 2019). Kalir based his argument on this idea (2019, p. 20), showing that the colonial logic of managing non-white populations has persisted in the form of "Departheid".

Secondly, Franz Fanon stated that colonial powers are, by definition, violent; they legitimise violence against the colonised (Fanon, 1961). For Fanon, both colonialism and the anti-colonial struggle require the use of violence. He articulated the analysis of violence with racism by developing the ideas of "zones of being" and "zones of non-being" (Fanon, 2009). On this basis, it can be argued that the process of racial production affects the entire population, resulting in a hierarchy that privileges certain groups while imposing violence and death on the "other" colonised, racialised subjects. Following Fanon's conceptual developments, it can be said that postcolonialism and violence are intrinsically connected (Fanon, 1961, 2009; El-Enany, 2020; Moscoso 2021, p. 535).

Thirdly, Mbembe (2011, p. 23) placed the junction of racism with biopolitics at the crossroads of life, death and law. This means that certain groups of people are protected by sovereign power, while others are exposed to death. Racism is the dividing line between those who have the right to live and those who are to die (Foucault, 2000). Necropolitics represents the division between those who are protected and those who are left to die (Mbembe, 2011, p. 39). Mbembe established an analogy between the colony and the border as emblematic spaces of exception; colonial occupation is a space that produces bare life. His concept of "necropolitics" is interpreted as an exercise of sovereignty in colonial spaces. Therefore, racism is not an irrational phenomenon; on the contrary, it is in perfect harmony with contemporary capitalism (Mbembe, 2011; El-Enany, 2020, p. 25). Racism, as a structural element of biopolitics, facilitates the understanding of how the law ultimately "distribute(s) chances of life and death" (El-Enany, 2020, pp. 13-17, 24; Mayblin et al., 2020, p. 111).

Even though the connection between sovereignty, law and race is timidly acknowledged by classic biopolitics, racism and colonial legacies have not been sufficiently addressed within migration studies (Mellino, 2019, p. 137). Deportation practices illustrate how the law is part of a racial power regime that is in line with colonial configurations (El-Enany 2020, p. 27; Kalir, 2019, p. 21). Deportation in Spain is a good example of how border policies, laws and practices are intertwined with racism and violence against racialised people, and often occur within the framework of exception, coloniality and violence.

3. Methodology

Based on an analysis of primary and secondary data, this article introduces postcolonial contributions to the study of deportation in Spain. The analysis relies on postcolonial critics of biopolitical approaches to migration and specifically, on deportation, addressing the connections between exception, violence, and racism during deportation processes in Spain. After presenting an analysis of the concepts underpinning this, the paper illustrates how a deportation system has been implemented in Spain, focusing on the applicable legal developments and connecting them with violent events and the deaths of racialised migrants embedded in

a postcolonial geography. A methodological strategy used in this paper is analysing Morocco and Moroccan migrants as a postcolonial case study.

Morocco has been chosen as a case study for several reasons. First, because the Spanish/Moroccan border is a paradigmatic example of exception, violence and the death of racialised groups, particularly with regard to deportation in a postcolonial geography. Second, because despite the colonial history between Spain and Morocco, colonial history is under researched in Spain when it comes to migration. Third, the Spanish deportation exit system is concentrated on Moroccan nationals, as exceptional practices are often found at the border with this country (Ferrer-Gallardo & Gabrielli, 2018, Kalir et al., 2021, p. 48). In fact, Moroccan nationals are the most often deported. Over the past decade, more than 50% of Moroccan deportees from the EU were deported from Spain (Irídia, 2020). Fourth, because while most deportations involve Moroccan citizens, there is no clear public legal framework for them, a state of affairs that is clearly linked to exceptionality, violence and impunity. Fifth, because there is a lack of official data on deportation (which, in addition, is neither gender sensitive nor systematic or public) (Fernandez-Besa, 2019), and therefore, further research is needed of the Moroccan case. Lastly, Moroccan nationals are a unique case within the Spanish deportation system, as these citizens are the only ones that can be deported without having been registered with the police (López-Sala and Godenau, 2017, p. 159). These reasons explain the need to conduct further research on deportation logics between Spain and Morocco and explore their relationship with racism.

This paper explores the findings of a two-month period of fieldwork in Morocco in which six semi-structured qualitative interviews were held with Moroccan men[7] who had been deported from Spain (Annexe 1). The experiences and discourses of deportees are rarely investigated, as testimonies are very difficult to collect due to the stigma attached to deportation in Morocco. In addition, the repressive measures against returnees and irregular migrants in that country makes contacting them extremely difficult. In light of this, snowball sampling was used for the selection of interviewees in an exploratory phase. The respondents' ages ranged between 24 and 48 years old, and most of the interviews were conducted in Madrid (Spain) and Rabat, Tangier (Morocco) between December 2020 and August 2021. One of them was held by telephone.

Given the difficulty of identifying deportees in Morocco, contact with deportees was based on trust, and so a non-purposeful sampling strategy was used. All the testimonies were related to fast-track deportation practices which were enforced in less than 72 hours directly from police stations or from prison gates (Barbero, 2018; Fernández-Bessa & Brandariz, 2016). As a result, fast-track deportations played an important role in the analysis of the Moroccan testimonies, as they helped contextualise what happens at the junction between measures of migration control and criminality (Barbero 2018, 2020; Brandariz & Fernandez-Bessa, 2017; Stumpf, 2016). Even though fast-track deportations are not in the majority in Spain, and the prison-deportation continuum is outside the scope of this research, the six testimonies collected show how racialised nationals face exceptionally violent practices and are disproportionate exposed to harm in the Spanish Depardheid (El Enany, 2020; Fernandez-Bessa & Brandariz, 2016; González-Sánchez, 2015).

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7 Fernández-Bessa (2019) explained the 'gender gap' in deportation practices.

The following section will illustrate the implementation of Departheid in Spain as a specific materiality of law, including detention centre violent practices and the production of death (Kalir, 2019, p. 20). It will also address the racialisation of certain groups and outline the possible connections between racism, exception, and violence (De Noronha, 2019; Kalir, 2019; Kalir & Wissink, 2016, p. 36; Wake & Kazami, 2020).

4. The implementation of Departheid in Spain

The postcolonial literature has shown how the colonial logics used in managing non-white populations have resulted in a generalised "Departheid" (Kalir, 2019, p. 20; van Houtoum, 2010). According to El-Enany (2020, pp. 7, 11), the use of certain legal categories is the basis for racist violence, generating a scenario where the racialised poor are systematically controlled, policed, deported, and killed. In Spain, migration law has constructed a "spatial engineering for the identification, sorting and differential treatment of racialised migrants" to manage the mobility of illegalised migrants (Kalir 2019, p. 20; López-Sala & Moreno-Amador, 2020). As the Spanish deportation system is complex, the intention here is not to provide an exhaustive analysis of its functioning but to outline the main legal elements that are linked to the implementation of Departheid.

Since the entrance of Spain into the EU, Spanish legislation has progressively incorporated irregular status, detention centres and deportation into laws, legitimising a racist management of the population (Barbero, 2014; Moffette, 2018). The first Foreign Nationals Act in Spain (Law 7/1985 of 1 July)[8] was the embryo of the current deportation system. The Organic Law on Rights and Freedoms of Foreign Nationals and their Social Rights in Spain (Law 4/2000 of 11 January), and its further reforms (hereinafter, Foreign Nationals' Rights and Freedoms Act) later established deportation through different legal concepts, procedures, and safeguards of rights (Martinez-Escamilla, 2015; Fernandez-Bessa, 2021; Irídia, 2020). These measures included detention in detention centres (known as CIEs by its abbreviated form in Spanish "Centros de Internamiento de Extranjeros") for at least 60 days; and precautionary detention for up to 72 hours before the request for internment deportation (Articles 60 and 61 of the Foreign Nationals' Rights and Freedoms Act) (Brandariz & Fernandez-Bessa, 2017, p. 122; García-España, 2017, 2018). The regulations governing the operation and internal regime of the CIEs were subsequently approved. In Spain, deportation and detention centres are spaces where police forces regularly and arbitrarily violate foreign nationals' rights (Barbero, 2014, p. 141, Irídia, 2020, 2021).

As noted by the academic literature, migration control measures are often associated with criminality, blurring the boundary between a migrant/foreign national and a criminal (Stumpf, 2006). In Spain, this is a significant association that takes the form of two different kinds of expulsion, an administrative one and a penal one. While Article 57.1 of the Foreign Nationals' Rights and Freedoms Act provides that administrative expulsion is a legal consequence for serious or very serious offences and Article 57.7 of the same Law sets out that foreign nationals are to be expelled if they have a criminal record, Article 89 of the Spanish criminal code (including its further reforms) (hereinafter, CC) regulates the various legal means

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8 Organic Law 7/1985, of 1 July, on the Rights and Freedoms of Foreign Nationals in Spain.

for expelling convicted foreigners.[9] It sets out the various legal means for the expulsion of convicted foreign citizens and includes the possibility of deportation, even if they have legal residence in Spain (Brandariz & Fernández-Bessa, 2017a, pp. 120-122; García-España, 2017, 2018).[10] This means that, under Spanish law, foreign nationals who have strong social ties to the country may be deported. Consequently, the same offence could have a different impact depending on who the perpetrator is (González-Sánchez, 2015). Applying El-Enany's (2000) ideas to the interpretation of the Spanish law, it could be argued that law contributes to the racialisation of some populations, exposing them to higher levels of police practices such as detention, violence, and deportation.

Once Departheid is legally implemented, deaths become a systematic occurrence because of the use of psychological and physical violence (Kalir, 2019, p. 24). Violence takes place through deportation, and it is applied through immigration policies and practices, which are devices for the racist administration of the population (Lemberg-Pedersen, 2020, p. 3). The killings of racialised individuals during deportation is facilitated by the fact that they are constructed as deportable and imprisonable subjects by law.

In Spain, several examples illustrate how violence and death regularly occur during detention and deportation, framed by exception (Ferrer Gallardo & Gabrielli, 2018; Johnson and Jones, 2018). In 2007, Osamuyi Akpitaye was suffocated to death during a deportation flight from Spain to Nigeria after his guards' duct-taped his mouth (Medina, 2008). Following Akpitaye's death, the Spanish authorities adopted a protocol for the transport of detainees,[11] reminding the competent authorities that they must not endanger the life of deportees while transporting them. This protocol authorises the use of medically prescribed sedatives on deportees. In other words, some remains of the colonial racist history have become embedded in the law, whereby racialised groups are exposed to violence.

Samba Martine was interned in a detention centre for foreign nationals in Madrid for 39 days in 2011. She died an agonising death despite having asked for medical assistance more than ten times. Samba died while being taken to the hospital in a police car on 19 December 2011. Nobody was held liable for her death. Despite Martine's repeated pleas for pain relief, she was not taken to a hospital in time and no tests were carried out, which are all examples of ill-treatment caused by racism. In 2019, a judgment[12] stated that there had been: "omissions [...] and [...] bureaucratic shortcomings (that) played a very important role in the failure to provide the necessary treatment to the internee". Similarly, Alik Manukyan died in unclear circumstances during isolation while he was interned in a detention centre in Barcelona (Rodriguez, 2013). One month later, Idrissa Diallo died in the same detention centre in unclear circumstances. Again, Mouhamed Bouderbala was found dead in his isolation cell in a CIE in Málaga (Archidona) in dubious circumstances in 2017, with no investigation undertaken.

9   Organic Law on the Criminal Code 10/1995 of 23 November.

10   Organic Law 1/2015, of 30 March, on the Criminal Code which modifies Organic Law on the Criminal Code 10/1995 of 23 November.

11   Ministry of Interior (2007) *Procedural rules for the repatriation and transfer of detainees by air and/or sea.* https://www.reicaz.es/pagina.php?tipo=archivo&url=normas-de-actuacion-en-las-repatriaciones-y-en-el-traslado-de-detenidos-por-via-aerea-y-o-maritima

12   Judgment no. 201/2019, 10 June, fast-track procedure no. 10794/2011 on Samba Martine.

As noted by El-Enany (2020, p. 12), "contemporary immigration law maintains the global racial order, whereby racialised population groups are disproportionately deprived of access to resources, healthcare and safety, and are [...] systematically made vulnerable to harm and premature death" (Moscoso, 2021).

Besides, it is important to notice that Spain signed the Schengen Agreement[13] in 1991, thus becoming part of the EU's area of freedom, security, and justice but Ceuta and Melilla were excluded because they were seen as exceptional or special spaces. These cities hold an important place within migration studies, particularly regarding deportations, due to their close connection between exceptional practices often in the form of pushbacks, violent practices and border control (López-Sala & Moreno-Amador, 2020; Martinez-Escamilla, 2017, pp. 59, 62).

There are several examples on how exceptionality frames violence, impunity and death during deportation procedures and migration control. For example, fifteen racialised black migrants were killed with anti-riot material on the Tarajal beach[14] by Spanish police forces at the border in 2014. No one has ever been condemned because of their deaths. Another recent example of violence and death of racialised people are the violent events of June 2022 between Melilla and Nador (Morocco), where at least 37 racialised people were killed due to the violent repressive methods applied for migration control purposes (International Amnesty, 2022). No emergency services were alerted despite the clear signs of danger to migrants' lives. The Spanish Ombudsman stated that more than 470 people were illegally deported by the Spanish police.[15] Even though these facts were filmed and proven, investigations were closed by the States prosecutor's office in December 2022 based on the argument that "there did not seem to be any evidence of criminal actions on the part of the Spanish police officers".[16] The prosecutor's office held that the officers did not witness the avalanche and endorsed the pushbacks. At Spanish borders, exception is not only legally but also politically invoked through the constant denial by the Spanish authorities of the use of violence and exceptional practices (Ferrer-Gallardo & Gabrielli, 2018).

Both legal underpinnings and documented events have been provided to show how Departheid works, clearly linked to exception, violence and death at the Spanish-Moroccan border. They illustrate the racist structure that allow racialised people to be detained, deported, and exposed to violence and premature death by the authorities (El-Enany, 2020, p. 25; De Genova, 2018, p. 1770; Mayblin & Turner 2021, p. 50 and 73). As argued by De Genova, despite "the brute racial fact of this deadly European border", racism "is seldom acknowledged, because it immediately confronts us with the cruel (post)coloniality of the new Europe" (2018, p. 1766).

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13 Agreement between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany, and the French Republic on the gradual abolition of checks at their common borders, Schengen Agreement, 14 June 1985

14 Comisión Española Ayuda Refugiado (2023, February 6). *Caso Tarajal: 15 muertes y nueve años de impunidad*. https://www.cear.es/caso-tarajal/?gclid=Cj0KCQiA-oqdBhDfARIsAO0TrGE3-i6U_HHputM1jDE8aiYuNQIUV_XBqUOSeIxcpGw27QQiOTkGxg38aAj-XEALw_wcB

15 Spanish Ombudsman (2022, October 14). *El defensor avanza sus primeras conclusiones sobre lo sucedido en el perímetro fronterizo de Melilla.* [Press release]. https://www.defensordelpueblo.es/noticias/sucesos-melilla/

16 State Prosecutor's Office, Immigration Unit, Investigation file no. 1/2022, 22, December 2022, p. 36.

In the following section, Morocco will be analysed as a postcolonial case, focusing on colonial history, violence and exception during deportation (Moscoso, 2021).

5. Morocco as a postcolonial case

Morocco was both a Spanish and French protectorate from the beginning of the 20th century (1902) until its independence in 1956. During the Rif war (1921-1927) against the resistance of Abdelkrim El-Kttabi, both colonial imperial powers bombed the region with chemical weapons, breaching the international law in force at the time. The law protected some individuals, but not colonised subjects. During the war, Spain and France used mustard gas against the local civil population, indiscriminately killing unarmed people, including children. As a consequence, still today Riffians have the highest percentages of cancer in Morocco (Mimoun, 2014). Therefore, the consequences of colonial violence can be clearly identified today. "The colonial conquest reveals hitherto unseen potential for violence", where "the colony represents a site in which sovereignty fundamentally consists in exercising a power outside the law" (Mbembe, 2019, p. 76). Similarly, the Spanish towns of Ceuta and Melilla are strongly connected with colonial history, which predates the Rif War and still today exhibits features of exceptionality in migration control.

Except for the area of Western Sahara, Spanish colonial domination continued during Franco's dictatorship until 1956. In 1958, Western Sahara was given to Morocco; the area is still today undergoing a decolonising process under the aegis of the UN.[17] The towns of Ceuta and Melilla have been claimed by Morocco as part of its national territory (Mimoun, 2014). These are only some introductory strokes on the Spanish-Moroccan border and its link to colonial history and racist violence, something that remains, especially regarding migration management issues. There are some peculiarities in the relationship between Spain and Morocco when it comes to the unlawful use of violence. The discussion of the cases of some Moroccan nationals who were deported will arguably lead to the conclusion that the use of violence against unarmed Moroccan individuals has persisted over time. Anchored in colonial history, Spanish law has deliberately racialised Moroccans, relegating them to violent and exceptional deportation practices.

According to the Spanish National Institute of Statistics, in January 2022, 776,223 Moroccan nationals were living in Spain, out of a total of 5,417,883 foreigners living in this country. This means that approximately 7% of resident foreigners are Moroccan nationals.[18] Moroccan individuals are the most often imprisoned[19] and deported foreign residents in Spain (Kalir et al., 2021, p. 48). From 2011 until 2020, Spain accounted for more than 50% of the total of Moroccan deportees in the EU (Table 1). Despite this data made available by the EU, there

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17 United Nations. The United Nations and decolonisation. *Non-Self-Governing Territories*. https://www.un.org/dppa/decolonization/en/nsgt

18 Instituto Nacional de Estadística (2022, June 21). *Cifras de Población a 1 de enero de 2022. Estadística de Migraciones.* [Press release]. https://www.ine.es/prensa/cp_e2022_p.pdf

19 Data on the nationality of people in prisons are in page 64 and in page 68 of the of Spanish Home Office reports 2020, 2021. https://www.interior.gob.es/opencms/pdf/archivos-y-documentacion/documentacion-y-publicaciones/publicaciones-descargables/instituciones-penitenciarias/informe-general/Informe_general_IIPP_2020_12615039X.pdf

is a generalised lack of official data on deportation, and particularly, no information is generally provided on the sex of the deportees, which hinders thorough research on the matter (Fernández-Bessa, 2019, p. 89; Kalir et al., 2021, pp. 219-220). Moreover, deportation figures often refer to irregular migrants, who are not included in official statistics.

Table 1. Eurostat data

Year	EU total deportation figures	Total number of Moroccan citizens deported from the EU	% Moroccan deportees from the EU	Total number of citizens deported from Spain	Moroccan citizens deported from Spain	% Moroccan citizens deported from Spain	% Moroccan deportees from Spain out of total Moroccans deportees from the EU
2011	122520	11835	9.7%	20325	8990	44.2%	76%
2012	131960	12095	9.2%	17520	8365	47.7%	69%
2013	137560	10870	7.9%	16240	7490	46.1%	68%
2014	129155	9265	7.2%	14155	6365	45%	68.6%
2015	155225	8460	5.5%	12235	5840	47.7%	69%
2016	192460	9795	5.1%	9530	5330	55.9%	54.4%
2017	160650	10085	6.3%	10165	5845	57.5%	57.9%
2018	145905	10805	7.4%	11800	6945	58.9%	64.3%
2019	142320	10235	7.2%	11525	6380	55.4%	63.3%
2020	70230	2855	4.1%	4855	1515	31.2%	53%

Source: Developed by the author based on Eurostat data on returns to third countries. This data is not disaggregated by sex. https://appsso.eurostat.ec.europa.eu/nui/submitViewTableAction.do

Deportation involves cooperation with third countries, which usually takes the form of readmission agreements (Cassarino, 2010, p. 9). These agreements are often memoranda of understanding, arrangements, pacts and readmission clauses. As they are usually informal diplomatic cooperation or informal arrangements, these kinds of agreements are difficult to monitor, since they are not necessarily published in official journals nor are they always recorded in official documents (Cassarino, 2010, pp. 9-11). In Spain, these types of arrangements evade parliamentary controls and do not appear in the official journal (Irídia, 2020). The consequent lack of clear legal framework facilitates exceptional practices and secrecy during deportation.

Cooperation on deportation with Morocco on Moroccan nationals relies on informal arrangements where the law is either absent or not applied (Iridia, 2020). In this regard, it is often believed that the 1992 Agreement[20] regulates deportations to Morocco, including nationals from that country, disregarding the fact that Article 1 of this Agreement states that it does not affect Moroccan nationals. But the only public and official document on the process of deportation of Moroccan nationals is a police arrangement made in 2010 between the two

20   Agreement between Spain and Morocco on movement of people, transit and readmission of foreign nationals who entered illegally, signed in Madrid on 13 February 1992

countries on cross-border police missions.[21] This agreement established that there would be Centres for Police Cooperation (Art.1) to combat irregular migration (Art.5b) located in Algeciras (Spain) and Tangier (Morocco) (Art.4). While these are the provisions on the deportation of Moroccans, no further information is provided about procedures, methods or safeguards (López-Sala and Godenau, 2017).

Moroccan nationals represent a significative volume of the deportees by the Spanish system; however, these deportations are carried out with no clear legal framework or specific regulations (Irídia, 2020, 2021; López-Sala & Godenau, 2017). Exception is evident when it comes to the deportation of Moroccan nationals, and it is especially visible in the Ceuta and Melilla borderlands. The sovereignty of these towns, as well as the sovereignty of the Western Sahara, have been claimed by Morocco. This political dispute often causes diplomatic confrontations between Spain and Morocco. One of the more obvious examples of exceptionality during the deportation of Moroccans was the event that occurred in Ceuta in 2021, when the leader of the Polisario Front of the Western Sahara was hospitalised there. This was interpreted by Morocco as a political offence, resulting in a diplomatic crisis. As denounced by Amnesty International, in the course of the crisis, more than 8,000 thousand people (including 2,000 unaccompanied minors) illegally entered Ceuta, taking advantage of a temporary lack of border control by Morocco. Migrants were subjected to violence, and more than 5,000 were collectively deported,[22] including 55 unlawful deportations of minors (Testa, 2022) by Spanish security forces and the army, which entailed throwing them into the sea at the border between Spain and Morocco.[23]

In order to explain those events, the Spanish Home Office Minister, Grande-Marlaska, referred to the 1992 agreement with Morocco as the legal framework that regulates these kinds of deportations. However, this agreement clearly covers other nationals but not Moroccan nationals. These deportations were framed by Grande-Marlaska as an "extraordinary and exceptional situation".[24] These events show that when it comes to racialised groups, exception is presented by the political powers as the norm, and access to rights becomes racialised (Agamben, 2019; Moscoso, 2021).

The next section explores how exceptional practices were employed by authorities for fast-track deportation of six Moroccan nationals after having been tricked by the Spanish National Police. The six collected testimonies serve to shed light on the connection between racism, exception and violence over racialised groups (Wake & Kazami, 2020).

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21 Agreement between the Government of the Kingdom of Spain and the Government of the Kingdom of Morocco on cross-border police cooperation, entered into "ad referendum" in Madrid on 16 November 2010

22 This practice is prohibited by Protocol 4, Art. 4 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, 4 November 1950, ETS

23 International Amnesty (2021, May 19). *Spain/Morocco: migrants subjected to violence and used as 'pawns' at Ceuta border*. [Press release] https://www.amnesty.org.uk/press-releases/spainmorocco-migrants-subjected-violence-and-used-pawns-ceuta-border

24 La Moncloa (2021, May 28) *Press release after the Minister Council: María Jesús Montero y Fernando Grande-Marlaska* [Press release] https://www.lamoncloa.gob.es/multimedia/videos/consejoministros/Paginas/2021/180521-cministros.aspx

5.1. Experiencing fast-track deportations

Little academic research has been conducted on fast-track deportations in Spain (Barbero, 2018, 2021; Fernández-Bessa & Brandariz, 2016, p. 14; López-Sala & Godenau, 2017). This might be due to the lack of information and secrecy, the speed with which they are enforced, and the false pretences used by National Police officers to detain deportees, which makes analysis difficult. All the interviews conducted within this study were fast-track deported under false pretences by Spanish National Police. This kind of deportation, as it will be illustrated by the testimonies, makes racialised people physically disappear from one day to the next; they are no longer at their places of residence (even if in prison) as bare life, with no punishment (Agamben, 2016).

The law does not regulate fast-track deportation, it is a practice established in Spain since 2013 (Barbero, 2018; SJM, 2014). Moreover, this practice is not subject to any judicial control and is framed by the absence of law or exceptionality. As it will be shown below, the absence of law within this kind of deportation has practical implications and occur within high levels of discretionary power (Kalir, 2019). Fast-track entails the enforcement of deportation by the Spanish National Police in under 72 hours. This modality of deportation by-passes migrants' internment in a CIE either directly from police stations or from prison gates as soon as the relevant judgment is issued (Barbero, 2018; Irídia, 2020; SJM, 2014).

All interviewees have been living in Spain for more than ten years and had completely served their prison sentences before being deported; they were therefore doubly punished as racialised groups (De Genova, 2018; Fanon, 1952, 1965; García-España, 2017, 2018; González-Sánchez, 2015; Mbembe 2011, 2016; Mellino, 2019). In fact, in 2014, some reports on the matter stated that "police practices involving deceiving or tricking foreign nationals into attending police stations to have them expelled should cease" (SJM, 2014). However, still in 2020, fast-track deportations represented 62% of the total, whereas 38% of deportations were arranged from a detention centre (El País, 2021). The increase of fast-track deportations over time in comparison with other procedures means that fast-track deportation can be regarded as a characteristic of Spanish Departed.

In the cases studied here, three of the subjects were deported from prison (I3, I5, I6) and the other three from a police station (I1, I2, I4). In the first method, police officers were waiting at the entrance of the prison in order to detain and deport them immediately after their release. The second method involved Spanish National Police officers requiring non-nationals whose residence permits had expired, or who had an expulsion order pending execution, to appear at the police station (Barbero, 2018; García-España, 2017, 2018). They demanded that these individuals bring with them certain documents to secure their legal status. However, once at the police station, they were arrested and immediately deported. In other words, the police lied to them, detained them, and deported them to Morocco without giving them the opportunity to confer with a lawyer.

Yassin (I2) was deported in 2019, after having completed his prison sentence. He was given an appointment to appear at the police station in Aluche under the pretext of securing his administrative status. The case of Yassin[25] (I2) is extreme. Despite having been born and raised

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25   Yassin expressed his desire to be mentioned by name and for reference to be made to his music project, 'Illegal': https://www.youtube.com/watch?v=JqCPcgtfnp8

in Madrid, he was subject to fast-track deportation to his parents' country, Morocco. He was only able to call his mother to tell her that he was going to be immediately deported. This is what Kalir (2019) identified as psychological violence, which affects not only deportees but the whole of their family. His mother was not allowed to visit him or give him money, documentation or clothes at the police station. He only had his Spain-issued foreign national identity card for residents and was not able to take any other documentation. Once in Morocco, he managed to obtain some help and was able to return to Spain *illegally*. A few months later, he was identified and transferred to a CIE in order to be deported again. However, he was released when enforced deportation became impossible due to the closure of national borders during the pandemic.

At the moment of their deportation, Mahmoud (I3), Amine (I4), Samir (I6) were married to Spanish residents and had children under the age of 18 who had Spanish nationality. Youssef (I1) and Taha (I5) had studied at Spanish schools because they had migrated when they were very young. Yassin (I2) was born in Madrid and therefore went to school there. Three of the interviewees, Amine (I4), Taha (I5) and Samir were in the open prison regime (third degree of the Spanish imprisonment regime) at the time when they were deported. At the time of the interview, all of them expressed their desire to return to Spain, where their lives were and were planning ways to achieve this. Except for Youssef (I1), Yassin (I2) and Taha (I5), they (I3, I4, I6) were working at call centres in Tangier thanks to their good knowledge of Spanish and because this enabled them to be closer to Spain. Before their deportation, none of them were able to speak to their families or prepare documents or money for their arrival in Morocco. They could not even say goodbye to their families. Youssef (I1) was interviewed in Rabat. He was saving some money to return to Spain after his deportation. He had been deported from a police station after completing his prison sentence. The police had made him attend an appointment at the station, supposedly to arrange some documentation issues. He had been deported more than once and was planning to pay a smuggler to come back to Spain, where he had resided for more than 20 years.

Like the case of other deportees, double punishment and exposure to violence are visible in the case of Amine (I4) a 42-year-old man who was 12 when he arrived in Spain. Today he has a 14-year-old son who lives in Madrid. Amine had the same problem when his residence permit was blocked while he was in prison; he was made to travel all the way to Algeciras in handcuffs and subsequently deported. Similarly, Taha (I5) arrived in Madrid when he was 15 years old. When he voluntarily went to sign the documents to have access to the open prison regime, he was arrested, handcuffed, and taken in a car to Algeciras, to be deported in less than 72 hours. He left behind his mother, his two brothers and his four-year-old daughter. His was a fast-track deportation directly from prison, a process in which he had no time to say goodbye or the opportunity to avail himself of any legal assistance.

Samir (I6) was taken from a Madrid prison to Cadiz in a car with two National Police Officers and directly deported. Samir (I6) had been misled by the police, who told him that he had to renew his residence permit as soon as he was released from prison. The police told him that they were on their way to attend his hearing and resolve his case. Instead, he was taken to a police station under arrest for one night in the same space with eight Moroccan men who were also going to be deported. The following day, they all crossed to Ceuta in handcuffs in a commercial ferry together with regular passengers. Samir (I6) spent three days in the police station at the border, but he never knew why. During that period he could not communicate with his family, who were extremely worried about him.

Kalir (2019, p. 20) stated that Departheid is achieved by the deployment of violence (De Genova, 2018). These police practices are carried out in a context where exceptionality is the norm, where individuals are subjected to high levels of psychological and physical violence (Kalir, 2019). This is illustrated, for example, by the anguish that families and deportees face when no information is made available to them, either prior to or after deportation. Mahmoud (I3), a 20-year-old man, was deported directly from the entrance of the prison after completing his sentence. After his residence permit was blocked, the police gave him an "expulsion order" while he was in prison, and he was unable to secure his administrative status because he was not allowed to appear before the authorities to formalise it. On the last day of his prison sentence, National Police Officers were waiting for him at the entrance to the prison and he was directly deported to Morocco in front of his wife, who was waiting for him there. He has two children in Spain and his wife is in Madrid, but he could not say goodbye to them, as nobody informed him that he was being deported. Before placing him in the police car, he was told that he would be attending a hearing to secure his residence status. However, this was not true, and he was eventually deported. He has been unable to make a formal complaint about what happened to him, as he is currently in Morocco. Framed by exception, impunity and violence, no one is usually held responsible for these practices, because it is extremely complicated and expensive to seek justice from another country.

Once in Morocco, deportees find themselves in a very difficult situation, due to the speed of their deportation process. They have no credit card or even their relatives' telephone numbers to resort to them for support. They often find themselves far away from their (or their relatives') places of origin. This was particularly difficult for Yassin, because he had never lived in Morocco before; the country is unknown to him. As was the case for other deportees, once in Morocco, Yassin (I2) was released outside the police station in Nador. He was left on his own, with no telephone, no money and no change of clothes. The only person he knew in Morocco was his grandmother, who lived in Rabat, approximately 500 km from Nador. Given his situation, he decided to go back to Madrid. He managed to do it by using the residence permit that he had been able to hide in his clothes when he was detained.

As a consequence of the speed, secrecy and lack of information, they cannot even communicate with their families before being deported, nor can they arrange their personal affairs or take money with them before their displacement (I1, I2, I3, I4, I5, I6). It is difficult to monitor these practices because after deportees are no longer in the country, they are often not willing or able to file formal complaints. It should be noted that police practices use secrecy and speed to circumvent legal procedures and safeguards during deportation. As stated by Fanon (1952, 1965), (post)colonisation and violence are connected (Mbembe, 2011, 2016). When it comes to racialised groups (El Enany, 2020), exception comes up as the norm (Agamben, 2016, 2019). Departheid is violence exercised against both racialised deportees and their families (De Norona, 2019; Kalir, 2019).

6. Conclusions

Biopolitical approaches to migration rely on concepts like exception, inclusive exclusion or bare life in order to understand migration policies (Agamben, 2016, 2019; Foucault, 2000, 2012). Although these concepts are useful for the study of borders, biopolitical approaches have been criticised for failing to take into account racism and the colonial history of domi-

nation. However, in combination with postcolonial perspectives, they can prove to be highly informative in understanding the Spanish deportation system.

Postcolonial approaches have contributed to the inclusion of the colonial history of domination and racism in the analysis of migration. Franz Fanon's conceptual developments on racism and violence, together with Mbembe's necropolitics and the idea of coloniality are fundamental in order to acknowledge racism as an inherent feature of the EU's and Member States' migration policies. These perspectives have shown that (1) racist colonial logics have influenced the shaping of present legal frameworks and practices of deportation, contributing to the racialisation of certain groups; and (2) there is a structural mistreatment of some migrant population groups, who are exposed to higher levels of violence and are more likely to die, especially during detention and deportation (Kalir, 2019, p. 20).

The Spanish deportation system is characterised by similar features as those seen in other EU countries. These common features are associated with the reproduction of logics and practices of colonial management of non-white racialised populations. Deportation is one of these practices which are anchored in colonial logics and practices. These generalised and institutionalised deportation regimes are a continuation of colonial violent devices used against racialised groups.

The Spanish deportation system is in line with the definition of Departheid provided by Kalir (2019). Departheid in Spain entails violent exclusion and may result in death during detention and deportation. Since Spain's entry into the EU, Spanish law has embraced colonial racism, creating hierarchical categories that contribute to the racialisation of deportable and imprisonable people. Racialisation in Spain determines different levels of access to rights and the exposure to detention, deportation and death. This article has shown how the development of law and practices have contributed to the installation of Departheid in Spain and how the regular occurrence of racialised death during detention and deportation is met with exception and impunity.

Spain has significant ties with Morocco, firstly because of the geographical proximity between the two countries and secondly, because of the colonial history of domination. The inclusion of the colonial history of domination in the analysis makes it possible to identify the persistence of features of the protectorate, the absence of law when interacting with unarmed Moroccans, the use of violence and the recurrence of impunity and exception. Spain deports more Moroccan nationals than any other country in the EU. In addition, more Moroccans are deported from Spain than any other nationals. These deportations occur in an ambiguous legal framework. This paper has provided evidence that Spain's deportation system inflicts racial, psychological and physical violence on racialised Moroccans within a context of exceptionality. This means that, despite the existence of relevant laws, exceptionality, the violation of rights, death and violence are regular practices when it comes to racialised groups in detention for the purposes of deportation.

Spanish Departheid also exhibits particularities such as fast-track deportation practices, characterised by the lack of a clear legal framework, speed, secrecy and exception in order to circumvent the rights of deportees. These testimonies have contributed to providing evidence of the connection between racism, exception, violence and death in Spanish Departheid perpetuating colonial violence. The six testimonies collected in this study show how deportation violently destroys life projects and sometimes families, as they affect not only deportees but their loved ones as well. Exception and the violation of rights are extremely difficult to identi-

fy and monitor during deportations, particularly when they are secretly enforced in less than 72 hours. Legal safeguards are often not respected, but even if the process is conducted in line with applicable laws and regulations, it regularly entails the use of violent practices. The deportations of these Moroccan nationals illustrate how, when abusive practices are framed in a context of exceptionality, it is usually difficult to prove their existence and to bring those responsible to justice.

Acknowledgements

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Annexe 1. List of Interviews

Code		Interviews	City	
I1	Youssef	Men with Moroccan nationality deported from Spain to Morocco	Rabat	Deported from police station by plane and bus via Melilla to Nador
I2	Yassin[26]	Yassin; born in Madrid; 25 years old; Men with Moroccan nationality deported from Spain to Morocco and detained in detention center in Madrid.	Madrid	Deported from police station by plane and bus via Melilla to Nador
I3	Mahmoud	48 years old; Men with Moroccan nationality deported from Spain to Morocco	Tanger	Deported from prison's entry in ferry from Algeciras to Tanger
I4	Amine	42 years old; Men with Moroccan nationality deported from Spain to Morocco and detained in detention center in Madrid	Tanger	Deported from police station by ferry from Algeciras to Tanger
I5	Taha	29 years old; Men with Moroccan nationality deported from Spain to Morocco	Telephonic	Deported from prison's entry by ferry to Algeciras o Tanger
I6	Samir	27 years old, men with Moroccan nationality deported from Spain to Morocco	Tanger	Deported from prison's entry from Madrid to Algeciras in Police car and then in Ferry to Tanger
6	TOTAL			

26   All the names are fiction except Yassin who have express his desire to appears with his real name.