

Admitting the Stranger: The Rule of Law, the Ethics of Medical Hospitality and the Borders of Governmental Imagination in Nineteenth Century France

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"How can we define hospitality," the youngest disciple asked his teacher. "A definition is in itself restrictive, and hospitality does not admit of any limitation," replied the teacher. Edmond Jabes, *Rainbow II*

This essay takes as its point of departure a pair of perennial questions in western ethics: How might we know "the stranger"? What dictates proper behavior toward him or her? (Ogletree 1985) These ethical questions are also essential questions of culture, economics, law and diplomacy. They have inspired empathetic philosophical reflections, most notably in the work of Emmanuel Levinas (1969, 1998), theoretical work on difference, language, and subjectivity (Derrida 1998; Kristeva 1988), and literary explorations of human difference and alienation, most famously in Camus's *The Stranger*. ([1946] 1988; see also Stamelman on Jabes 1993) In Europe and North America, the treatment of the stranger who seeks refuge from political, cultural or sexual violence has surely been one of the signal ethical issues in immigration policy and foreign relations of the twentieth and twenty-first centuries. (Sassen 1999: 98-158)

The ethical question of the stranger and his or her welcome becomes particularly urgent--and perhaps particularly troubling--when the stranger appears as a figure of weakness and vulnerability, that is, when he or she looks less like an enemy than a possible dependent. While the political refugee is perhaps the most familiar incarnation of this figure (Noiriel 1991), the stranger marked by disease or physical disability often presents an even more disturbing challenge to the ethics of hospitality. (Kraut 1994, Fairchild and Tynan 1994) As Susan Sontag reminds us, moreover, illness by definition estranges; it creates powerful borders between the sick and the well. It likewise estranges us from ourselves, as we are forced in times of affliction "to identify ourselves as citizens of that other place." (1978: 3) Hospitalization, reserved until relatively recently in western history for the indigent or those without kin or companions, brings with it a different order of confrontation with "the stranger," most prominently the stranger who tends to the sick in the place of their own families or communities. (Rosenberg 1987, Rothman 1991:127-47) In these ways, illness and hospitalization foreground the body as the historical site at which identity, an irresolvable question where the stranger is concerned, is both created and destroyed.

For Levinas, the question of the stranger is most often posed as a matter of the constitution of the "I," the lone self who hears both the other's call and the call of "the third party" or "the one next to the other." (1998: 202) This essay, centered on the problem of the sick and destitute stranger in mid-nineteenth century French legal and administrative reflections, does not directly follow Levinas in exploring an ethical relationship between the particular self and the other(s), but takes the question of hospitality and the ethical address of the other to the terrain of law and government. By entering this arena of study, I seeks to make visible governmental imagination engaged in constituting its "self" as it considers the limits of hospitality, in this instance, the varieties of what I shall call "medical hospitality" inscribed in the debates, laws and customs addressing the admission of the poor stranger to municipal hospitals. In examining national legislation and the bearing of that legislation on local officials in Marseilles--a French city with one of the longest and most complicated histories of confronting suffering and impoverished strangers--I trace the lineaments of the complex and often self-contradictory interior conversations of government, of corporate bodies talking to themselves about the how to craft and administer an officially regulated ethic of care that attends to the needs of the outsider while also protecting the perceived vulnerabilities of the host.

Unlike Levinas's meditation on obligation of the "I" toward the other--where, as Jean-Francois Lyotard puts it, "the obligation in question does not result from an authority previously legitimated by me or by us" (1988: 112)--governmental confrontations with the ethics of medical hospitality are always predicated upon specific legal definitions, administrative languages, and jurisdictional landscapes. If the question of hospitality toward the poor outsider at first appears to be a perennial theme in western culture, as a matter of lawmaking, administration and the unfolding of official conversation, it must be

addressed as a question that is always situated, its meaning located not in the transhistorical or metaphysical but in the particular, the local, and, at times, in the mundane.

In this instance, I take mid-nineteenth century France as my particular terrain of inquiry. I do not, however, aim to provide a conventionally-framed history of this time and place, nor do I lead the reader through academic historians' debates on the interpretation of this moment in the French past that remain faithfully within the normative borders of the discipline. (on the policing of this border, see esp. Scott, 1998) Instead, I see in France of this period a compelling instance of a governmental struggle with hospitality that should be of broad interest to those concerned with the discourse and comportment of modern democracies as they face the suffering of all those officially classified as "outsiders." Further, France of the mid-nineteenth century provides a crucial vantage onto the construction of the conceptions and institutions of modern liberal government (Hazareesingh 1998), including the juridically-organized, bureaucratized, and increasingly medicalized government of poverty and health, that would serve as the bedrock both for future reflection on the care of the stranger and the actions those reflections inspired. This does not mean that I hope the reader will recognize his or her present fully incarnate in this historically-specific account. As Marianne Constable reminds us, inquiries staged in the past, and particularly those that allow for the past's inescapable alterity even when the reader might wish the author to approach this difference as "a gap to be bridged," (1994: 5) provide important opportunities to estrange ourselves from naturalized ways of talking and thinking about a given issue, and so, perhaps, begin to imagine otherwise.

From this perspective, the history of the destitute and ailing stranger in nineteenth century France and the multiple problems of hospitality he posed--so familiar on the surface, so evidently apiece with an unchanging topos in western civilization--invites the reader to embark on the counter-intuitive and unaccustomed project of defamiliarizing the strange. As much as it might disconcert, this approach opens an especially productive route through past meditations on both the kind of difference the stranger has represented and the proper response to his or her arrival. It also allows us to consider the question of the host in ways that extends the scholarly study of government and strangers beyond the analysis of policy or the direct mapping of governmental behavior onto the accrued social or ethnic interests of the individuals charged with legislative or administrative responsibilities. In his reading of Nietzsche's reflections on history and genealogy, Michel Foucault argued that "history becomes 'effective' to the degree that it introduces discontinuity into our very being--as it divides our emotions, dramatizes our instincts, multiplies our body and sets it against itself." ([1971] 1977: 88) In this context, the historically-riven "body" is not that of Foucault's individual subject, but the body governmental, the corporate self whose rationalities, emotions, instincts and ways of speaking, even when divided and set against themselves, are more than the sum of the interests they might individually represent.¹

By exploring the historicity of the sick outsider (*l'étranger malade*) and the governmental struggles to define the limits of medical hospitality, then, this experiment in defamiliarization aims to estrange the reader from acquired knowledges of the stranger as a transcendent figure, the ever-present remainder in humankind's ongoing reflection on and constitution of (it)self. In place of those universal narratives, this discussion of medical hospitality toward the stranger in nineteenth century France seeks to make fully visible the relationship between ethical questions and the constitution of modern governmental subjectivities by tracing the legislative and administrative operation of what Foucault has called elsewhere "the mode of subjection... that is, the way in which people are invited or incited to recognize their moral obligations." (1984b: 353)

The Legal Geography of Responsibility and the Suffering Body

During the nineteenth century, the problem of destitute and sick outsiders, along with the attendant administrative question of how and when to formally recognize a moral obligation to provide care for them, was framed within a national legal discourse that localized responsibility for the poor. In the first half of the century, hospital administrators and municipal officials were guided in their decision-making by the 1793 decree on the "extinction of mendicancy." (Duvergier [15 Oct. 1793] 1825, vol. 6: 283-88) The decree, crafted during the most radical phase of the French Revolution, took up the challenge of the revolutionaries' earlier investigation of poverty's implications for democratic political society. (Procacci 1993: 65-101) It outlined a wide-ranging program for the secular government of indigence, including the reorganization of public poor relief across France and the criminalization of begging.² Although many aspects of the revolutionary project were never realized or were dismantled by the early

years of the nineteenth century, significant parts of it remained embedded in the rules and customs of administrative practice in post-revolutionary France. (Woloch 1994)

The crucial passage of the 1793 decree for the general administration of aid to the poor in the first half of the nineteenth century was Title V: "*du domicile de secours*." This portion of the legal text remapped the geography of public assistance in France, defining the *domicile de secours* as "the place where the needy man has the right to receive public aid." Long-standing practice in medieval and early modern France, as in other European countries, had identified the parish as the primary terrain of localized responsibility and made the distribution of charitable aid a matter of Christian morals for the community, the individual donor, and the recipient. Hospitals, and the offer of institutional hospitality to poor strangers more generally, had also belonged above all to the world of religious devotion. (Hufton 1974: 131-76)

Beginning in the seventeenth century, French cities began to develop their own institutions of aid alongside the charity of church and parish, including hospitals for both mortally ill indigents and foundlings and poor houses for the institutional placement of those classified as beggars and vagrants. (Bloch 1908, Fairchild 1976) It was not uncommon for local officials to draw the lines of eligibility for admission to these new establishments directly over municipal rather than parish boundaries, reserving the city's hospitality for its own residents rather than poor pilgrims or travelers. (Higgs 1973; 191) Overall, however, no strict division was drawn between urban and parochial charity in this period. As Woloch notes, municipal hospitals and other urban institutions for the poor embodied a complex amalgam of resources, personnel, and functions, frequently conjoining both city and church funding, intermixing secular and religious principles of organization and staffing, and conflating charitable aims with newer programs of surveillance and repression.³ (Woloch 1994: 238-42)

The revolutionary decree of 1793 demanded in place of these hybrid practices and institutions a rationally-drawn system of borders that secularized both the administrative map and the meaning of the assistance provided within the spaces of social government it delimited. The new law specified that the "place where the needy man has the right to receive public aid" was the "commune," the smallest unit of municipal administration in revolutionary and post-revolutionary France, usually co-extensive with a city, town or village. (Woloch 1994: 31-36) The decree also elaborated a set of conditions that would establish the proper connection between locality and individual in a variety of imagined circumstances.

The complexity of Title V suggests that the nature of that proper connection between individuals and administrative spaces had proven difficult to conceptualize. Following the often paradoxical logic of revolutionary civics (Wahnich 1997) as well as the signposts of accreted administrative custom, the decree simultaneously elaborated a vision of the rights of domicile that stressed birth and nature, and developed an alternative vision that represented the rights of domicile as negotiable: they could be acquired simply through the performance of proper civic behavior. According to this dual line of thought, the "natural site" of aid was, first, a person's place of birth. Up to age twenty-one, "all citizens could claim the rights of domicile without formality, in their place of birth." At the same time, however, the decree allowed that the rights of *domicile de secours* could be acquired by paths other than the natural. A person could establish legal residency after living in a commune for a year, for example, by marrying a legal resident and maintaining his own residency for at least six months, or by working as a servant in a town for at least two years. While the decree allowed municipal authorities the general right to refuse domicile to "vagrants," it required that those over the age of seventy who had no fixed domicile, along with those people who became infirm and unable to provide for themselves while waiting to fulfill the conditions of establishing a new domicile, be sent to the nearest home or *hospice*.

The enumeration of the multiple ways of acquiring the legal right to local aid manifested within the body the decree a tangible anxiety about the very possibility of establishing a fixed and unique *domicile de secours* for every resident of France. Beginning with the ninth article, the problems of transfer, overlap, and duplicity--as well as the inescapable mobility of the population, and particularly the poor--disrupted the confident explication of domicile and the rights attaching to it. "He who leaves his *domicile de secours* to acquire a second one must fulfill the same formalities as for the first one." Article 10 extended these conditions to people seeking to return to communes where they had previously established legal residency, and article twelve insisted that "one must retain his last domicile, so long as the delay required for the acquisition of the new one has not yet elapsed, and so long as one had properly registered in the new municipality." "No one," Article 11 declared vigorously, "may have the rights of *domicile de secours* in two communes simultaneously." Even the confidence in the principle of

a natural domicile of birth was not as sturdy as it first appeared. "The child's place of birth," explained article three, "is the mother's usual domicile at the moment of birth." The "natural" order of natal domicile thus depended not on nature, but on patterns of maternal residency defined by the arbitrariness of everyday life. Further, the natural geography of aid mapped around children and their mothers ended at age of twenty-one. At that point in life, according to article nine, even those people living in their places of birth would be required to fulfill a residency requirement of six months and to register with the municipality before it would be considered their *domicile de secours*.

Despite its vacillation between notions of domicile that assumed its natural foundation and those that centered on its social constitution, almost every article of the 1793 text stressed the importance of charting the allocation of public charity according to a grid of fixed or fixable residency. Yet in its eighteenth and final article, the decree made a crucial distinction between the "needy," who had to establish a proper *domicile de secours* where they could receive public aid, and the physically stricken poor. "Every sick person [*malade*] without resources, legal resident or not, will be aided, either at his *de facto* domicile or in the nearest hospital." In this portion of the decree, the special status that resulted from the combination of poverty with serious illness or injury --the term *malade* connoting both conditions of acute physical distress--severely undercut the logic of residency enumerated with such concern across the body of the revolutionary-era text. In its place, this final article articulated a vision of hospitality that opened the doors of municipal hospitals to every sick and destitute individual. Legal geography mattered only in determining the hospital in closest proximity to the suffering body, wherever that body happened to be.

The 1793 decree thus both obsessively fetishized and refused the secular legal map of governmental hospitality and the geographical distribution of individual claims upon it. The effort to impose order on the possible multiplication of domiciles across time and space, along with the uncertainty about the relationship between aid, a natural geography of birthplace, and the inescapable mobility of the poor, resulted in a significant degree of indeterminacy in the statutory construction of a commune's obligation to offer charitable aid to the poor. The eighteenth article on admitting the sick or injured poor to the nearest hospital, "legal resident or not," imposed further interpretative complications by suggesting that when illness or injury clearly marked the bodies of the indigent, administrators ought not attend to the complex cartography of public aid at all. The decree's ambivalence about the normative order of localized responsibility--so evident in the tension between Article 18 and the rest of the text--would profoundly mark both the heterodoxy of administrative practice across France in the post-revolutionary period and the debates of mid-nineteenth century lawmakers intent on relocating the provision of hospital care to poor outsiders beyond the pale of revolutionary civics.

"Truly Christian Charity" and the Civil Ontology of Disease

Despite the repeated political repudiations of the Revolution during the first half of the nineteenth century, the 1793 decree remained in force as the legal text that governed the allocation of public hospital care to the poor. (de Watteville 1851) By the mid-nineteenth century, concerned legislators noted that local readings of the law had come to vary widely across France. In some towns and cities furnished with hospitals--still only an extremely small minority among French communes--officials strictly applied the more general rules of *domicile de secours* to the admission of nonresidents to their institutions, systematically refusing the special conditions described by Article 18. On the other hand, large cities such as Paris, Lyon, and Marseilles appeared to open their hospital doors to indigent outsiders without ever asking, as one lawmaker remarked in his approving description of hospital admissions in Lyon, "either where they had been or where they came from."⁴ (*Moniteur universel* [hereafter *Moniteur*], 6 April 1851)

During the brief but turbulent years of the Second Republic, the Legislative Assembly devoted itself to rethinking the lines of obligation and right between the state and the poor. (Thiers 1850, Agulhon 1983) French lawmakers, still shaken by the revolutionary upheaval of 1848 and the radical challenges to social and political inequalities that issued from it, drafted a variety of new projects on aid to the needy between 1849 and 1851, including the reorganization of the administration of public assistance in Paris and a statute on the provision of public legal aid for indigent citizens pressing civil suits. (Duvergier 1849, vol. 49: 6-7; 1851: 16-27) In keeping with the new government's growing interest in medicine and the regulation of health (Aisenberg 1999: 45-49), the capstone of these projects was the law of 7

August 1851 on the organization and administration of public hospitals across France. (Duvergier 1851, vol. 51: 332-34)

The 1851 hospital law, along with the parliamentary debates that preceded it, dramatically recast the conceptual and ethical foundations of government-sponsored medical hospitality. Refusing the radicalism of the French Revolution's promise of universal rights to hospital care and its recent reverberation in the 1848 revolution's experiments in the realm of social rights (Balch 1893, Agulhon 1983), legislative discussions in 1850 and 1851 focused instead on ways of reconstituting the moral responsibilities of towns and local institutions of public aid through the transcription of Christian principle into secular law. According to the subcommittee on assistance, the essential principles of hospitality had long been undermined by the common but mistaken application of residency qualifications at the hospital door. The Legislative Assembly, it argued, must reconceive an ethical genealogy for the allocation of state-sponsored assistance that reached beyond the anti-clerical Revolution to the "original" exercise of hospitality as a Christian virtue. "The oldest and often the most well-endowed institutions were reserved for wayfarers and pilgrims," argued Representative de Melun, who presented the subcommittee's report and draft bill to the Legislative Assembly in late December 1850. (*Moniteur*, 28 December 1850) "It was for the stranger, for the traveler in need of aid that people wanted to create a haven by providing him with hospitality, *hospitium*. It was this universal charity that embraced all people and all countries, and which, like the good Samaritan of the gospel, excluded no one." The assembly, he continued, should ensure that at least "a trace of our fathers' generosity" inform the modern administration of public assistance. "Let it not be said," de Melun pleaded, "that in France we require not only wounds and pain for admission to a hospital, but also the passports of those who suffer."

Although de Melun invoked a Christian charity indifferent to the particular identity of the poor and suffering individual, his report nonetheless turned on giving the needy stranger a specific aspect. The face he placed on the body of the sick or injured outsider derived from the physiognomy of rural France. "Access to our hospitals," de Melun contended, "should no longer be denied to indigents from the countryside who, despite the text of the law [of 1793] and the formal intentions of more than one founder, are almost everywhere excluded from them." de Melun suggested further that towns owed a particular debt to peasants and the rural poor, "men who nourish the cities without sharing in the their advantages, who pay their taxes with work and blood since they form the large part of our army..."

Few members of the conservative Assembly contested de Melun's reconstruction of the ethical frame for the secular legal regulation of public medical hospitality from the timbers of a pre-revolutionary Christian piety. Nor did they object to the rural specificity of de Melun's imagined stranger, particularly, perhaps, given the on-going agricultural crisis (Agulhon 1983: 84-5, Vigier 1967), the political volatility of the French peasantry in the early 1850s (Margadant 1979), and the increasing numbers of migrants who were leaving rural France for the city. (Juillard 1976) Putting a rustic face on the stranger, however, introduced into the legislative debates an awkward tension between the embrace of an undifferentiating spirit of hospitality and the justification of the call for legislative reform through the rhetorical conjuring of a quite particular--and particularly worthy--outsider.

The 1851 statute did not in the end inscribe the rural specificity that subtended its general reflections on hospitality in the section on hospital admissions. Nonetheless, the tension between the universal and the specific--exemplified here in the legislature's compulsion to identify the stranger who, it had also insisted, should never have to produce his passport--surfaced elsewhere in the new law. Despite the deliberate invocation of a "universal" Christian charity that never rejected outsiders on the grounds of their foreignness, the 1851 legislation imposed more stringent formal restrictions on the identity of those people who might legitimately receive municipal medical hospitality than had Article 18 of the 1793 decree. It did this above all by reconceiving the governmental meanings of illness itself.

First, the new law stipulated that the nonresident poor should be admitted only when their illnesses or injuries were deemed susceptible to treatment [*curable*]. According to this provision, the legal obligation to extend hospitality towards sick or injured strangers would henceforth depend in large part on whether admitting staff judged that the physical problems afflicting the poor outsider were both transitory and susceptible to medical intervention. In subsequent articles, the 1851 legislation tied these medicalized determinants of hospitality onto the older grid of localized responsibility. Municipal hospitals could legitimately refuse care to the chronically ill, the infirm and the aged who were officially domiciled in other communes, i.e., strangers who were not *curable*, although they might be admitted to local nursing

homes if a set daily fee was paid. People with treatable but pre-existing conditions domiciled in communes too small to support their own institutions of care might similarly be admitted to hospitals in other towns, but again only so long as they, their families or the commune in which they were legally domiciled, agreed to pay the daily cost of in-patient hospital care.

Even before it outlined the specific parameters of the illness or injury that would open the hospital door, with or without the pre-arrangement of payment, the 1851 law medicalized and circumscribed municipal hospitality through a subtle but deeply disruptive revision of Article 18. "When an individual without resources falls ill in a commune," the first article of the 1851 legislation stated, "no condition of domicile may be required for his admission into the commune's hospital." Unlike the 1793 decree, which promised the right to care "in the nearest hospital" for all impoverished *malades*, article one of the new law offered municipal hospitality only to poor outsiders fortunate enough to "fall ill in a commune" large enough to be furnished with its own public hospital. By restricting the spirit of "universal charity" through this new focus on the spatially-situated and medically-specific onset of illness or exact moment of injury, the first article profoundly undercut both the revolutionary decree's broad attribution of rights to the poor and the new dream that the Second Republic's legal reinvention of hospital administration might find its ethical ancestor in a venerable and all-embracing *hospitium*.

The idea that such restrictions might be accepted as consistent with even "a trace of [their] father's generosity" prompted outraged protests from several lawmakers involved in the first debates of the assistance subcommittee's report and draft bill in early 1851. Most vocal in this regard was Deputy Delebecque, who tried to rally support for maintaining the 1793 text as the law of the land. Quoting an 1829 circular issued by the Ministry of the Interior on the correct interpretation of the older decree, Delebecque condemned the new bill's moral foundation: "When a sick individual presents himself, whatever his own commune or department, we must not forget that it is in the spirit of our laws, as it is in the nature of our public mores, that all French people share in a community of aid..." By imposing the condition that the poor sick stranger must have fallen ill in a commune to be admitted to its hospital, Delebecque declared, the commission "had effaced this principle" of unrestrained generosity. "What I want," he insisted, "is not restricted charity, it is general charity, truly Christian charity." Deputy Chanay seconded Delebecque's call for "truly Christian charity" and extended its administrative meaning from the community of French people to the community of nations, citing with admiration the undifferentiating practice of admissions in Lyon, where Italians and Germans could be confident that they would be admitted to the city hospital without reference to their foreign origins. (*Moniteur* 6 Apr. 1851)

Delebecque was also the first to challenge the epistemological foundation of the first article, which already in draft form confined hospitality to those "falling ill in a commune." (*Moniteur* 28 Dec. 1850) "In certain cases," he explained to his colleagues in the Assembly, "it would be quite difficult to know where a sick person who appears at the hospital door had fallen ill." (*Moniteur* 6 Apr. 1851) Despite Delebecque's criticisms of both the spirit of the bill and the impossible knowledge project it seemed to require, the assembly voted to accept a version of article one that retained the requirement that poor strangers must fall ill within city limits to become eligible for municipal medical hospitality.

Although he could not sway his colleagues in the assembly, Delebecque was not mistaken in noting the significance of the law's reorientation from the simple manifestation of illness or injury to an originary moment of spatially-specific physical crisis that seemed by definition to escape the reach of both governmental and medical ways of knowing. As local hospital administrators would argue later, the moment and place wherein an individual fell ill or was injured could often only be known indirectly, through the testimony of the patient or those who brought him to the hospital door. Predicating municipal hospitality on an inaccessible and inevitably narrative moment when bodily suffering began thus inscribed disturbing epistemological ambiguities within both the logic of the law and its broader implications for the government of mobile populations. In their effort to write Christian charity into secular law, French legislators replaced an indiscriminating faith centered on the care of the immortal soul with an already faltering hope that medical expertise could read both the physiological and civil truths of the stranger's afflicted body.

In more general ways, the hospital law of 1851 produced a new kind of administrative disorientation. The first article's emphasis on the situated manifestation of critical illness or the moment of grave injury displaced familiar non-medical markers of identity and difference, obscuring both official and customary distinctions between French and foreign, the resident of the commune and the stranger. The epistemological difficulties arising from the new law's determination of local and strange through the

onset of disease or the moment of injury also made brutally apparent the difficulty of apportioning charitable responsibility for an increasingly migratory population across a static administrative map. In this regard, the 1851 law captures a moment of conflicting governmental desires. In those articles requiring the exercise of communal responsibility for those whose illness or infirmity predated their travel to a city furnished with a hospital, the legislation reiterated an older dream that all of France might truly be divided into units of localized governmental responsibility to which people belonged for life. At the same time, the law superimposed a new way of fixing the identity of the "native" at a time when the rapidly increasing mobility of persons and diseases seemed to make the fixed borders of rational administration meaningless.⁵ In this vision, the onset of acute bodily trauma rather than birth or even long-term residency made an individual ethically and legally autochthonous to a locality. Paradoxically, the particular temporal and spatial manifestation of illness or of the occurrence of severe injury would now mitigate the condition of strangeness rather than produce it. In this way, the 1851 law required the erasure of strangeness through the embrace of an originary moment of physical suffering as the primary sign of localized indigeneity.

In administrative discourse, the new legal category of individuals "falling ill in a commune" would serve more to reshape the narrative order of hospital admissions than it would provide easily testable conditions that might rationally organize the triage of the sick and wounded who sought free hospital care in cities other than their own. For hospital administrators this narrative work entailed above all both the temporal and spatial domestication of the patient's foundational moment of identity, that is, the moment of crossing from well to unwell, the moment of becoming, to rewrite Sontag, citizens of *this* place. In the frame of the 1851 law, in other words, Sontag's metaphorical reading of the "civic" borders of illness also illuminates a literal meaning that reversed the poles of familiarity and strangeness. If illness naturalized people as citizens of a foreign place in metaphysical or spiritual terms, the law of 1851 called for a second order of naturalization to be superimposed on the first: the municipally-bounded manifestation of illness or injury would turn those doubly strange strangers--"foreign" in both their legal domicile and their state of health--into officially recognized locals.

The 1851 legislation's dependence on this inaccessible moment of situated ontological transformation from well to ill and from stranger to "citizen" would prove difficult to assimilate into local administrative practice in the second half of the nineteenth century. At the same time, the law's position on admitting the stranger who fell ill within municipal boundaries set the stage for new efforts to imagine the difference between outsiders and insiders, and provided as well a concrete legal foundation for an ethics of medical hospitality based on the erasure or occulting of difference through the narrative domestication of disease or grave injury. It both depended upon and negated an established geography of local responsibility, thus reconfiguring the possible meanings and ways of exercising municipal hospitality. In its implication that the ethics of public hospitality should stand on both legislative and moral ground, finally, the 1851 statute opened the way for local administrators chaffed by its restrictiveness to consider other ways of opening the hospital door to poor sick outsiders while keeping their practice fully under the sign of law.

The Stranger at the Door

Strangers were an inescapable part of everyday life in nineteenth century Marseilles. A port city on France's eastern Mediterranean frontier whose ancient foundation could be attributed to seafaring Greeks, Marseilles maintained a cosmopolitan orientation from its earliest days. (Baratier 1973, Busquet 1998) By the mid-nineteenth century, travelers of diverse backgrounds constituted a regular feature of city life. Some were European migrants passing through on their way to more distant destinations. Others were sailors in French and foreign fleets seeking temporary harbor and supplies. Marseilles served as well as a maritime gateway for soldiers and civilians on their way to and from France's colonies in North Africa, particularly Algeria, and as an important commercial center in the import and export of goods and materials. With the development of free trade policies in the 1850s and 1860s, and with the 1869 opening of the Suez canal linking the Red Sea with the Mediterranean, Marseilles became ever busier as a port and drew to it ever larger numbers of outsiders. (Temime 1990, vol. 2; Busquet 1998: 353-54)

The complexity of strangeness in Marseilles emerges forcefully in the administrative language of the mid-nineteenth century. From the 1850s to the early 1870s the annual reports issued by the hospital administrative commission described the population treated in Marseilles' hospitals using an array of

categories that both attended to and cut across familiar lines of identity. The report on the patients treated in 1858 at the main public hospital, for example, distributed the total among the following "nationalities": "Marseillais"; "French (from other cities)"; "subjects of the Kingdom of Sardinia"; and nationals of "other foreign states."6 French patients who were not from Marseilles made up the majority of the "*malades étrangers*" admitted that year, 58.13% of a total of 6270. 7 (ADBR 46 HD 292, CRAHCM, 4 June 1859, 74, table 9)

Since foreigners--French and non-French--regularly made up the majority of indigent patients treated in Marseilles' public hospitals in the second half of the century, the question of the limits of medical hospitality came to be a particularly consuming preoccupation for urban officials. After the enactment of the 1851 hospital law, the destitute sick stranger emerged as one of the most potent discursive figures in both the reports and minutes issuing from the city's main governing body, the municipal council, and in the documents produced by the appointed commission overseeing the administration of public hospitals in the city. Indeed, the local debates about the care of the stranger almost always provoked multiple and contradictory expressions of Marseilles' legal, fiscal and ethical relationship to the needy outsider, contradictions apparent not only across and within the conversations generated by different institutions of municipal government and administration, but also even within individual contributions to the everyday discourse of governance.

Above all, the question of the stranger emerged as local officials struggled to determine the city's proper, and properly authorized, geography of medical hospitality. How, members of these bodies asked each other, might Marseilles reconcile the open ethical map inspired by the desire to offer medical hospitality to every needy stranger--a moral ambition few were ready to disown completely in this period--with the array of more carefully-policed borders charted both by the 1851 legislation and the demands of sound fiscal policy? How might they negotiate these competing geographies of hospitality's frontiers while sacrificing neither their sense of moral duty to the stranger nor their obligation to uphold the law and maintain the economic health of the rapidly growing city? And if written law, and especially the law of 1851, did not satisfactorily map this terrain, could the city determine the appropriate extent of its hospitality through an appeal to a law of a different order?

The records of Marseilles' municipal council and its hospital administration commission suggest that the tension between and within the multiplying visions of municipal hospitality surfaced quite soon after the passage of the 1851 law. Although the mayor of Marseilles contended in 1856 that an opposition between "the generous inspiration of charity and the severe exigencies of economy" fundamentally shaped the council's debates (AMM 1D 86, DCM, 18 Sept. 1856), the archives of municipal government suggest rather that even in the most cost-conscious account of the burden of medical hospitality, moral concerns inevitably informed the attempt to set limits on the provision of hospital care to poor outsiders. Similarly, those officials more interested in hospitality than in controlling the city's spending consistently went out of their way to justify the cost by producing, rhetorically at least, an extra-economic balance sheet. The conversations produced in these institutions of urban government, in other words, did not turn on a simple opposition between charity and economy, as the mayor suggested, but instead brought together diverse efforts to elaborate an economical ethics congruent with the members' equally diverse efforts to survey the moral landscape of municipal obligation in all its forms.

The debates and reports of this period also reveal that the question of municipal obligation inspired a strong ambivalence about the lines of difference and exclusion drawn by the new hospital law. In an 1855 report on the hospital budget, for example, one member of the municipal council noted with pride the way the city had managed both to increase its "charitable spirit" and to apply the new legislation so that administrators could "send away those parasitic strangers [*étrangers parasites*] who were seeking treatment in Marseilles..." (AMM 1 D 85, DCM, 17 Dec. 1855) By contrast, other councilors attempted to defend the provision of a hospitality towards poor strangers more expansive than the 1851 law required. "If, strictly speaking, Marseilles is in no way obliged to admit these patients," Councilor Roberty argued in 1856,

can we not say that in certain ways, it cannot comfortably refuse them, since it profits in large part from the labor and production of surrounding communes? For a city as well one may say, *noblesse oblige*. Marseilles is a large and wealthy city, and to close the doors of its hospital to the sick from neighboring communes who are attracted by its long-standing reputation for charity,

above all to those who need surgical procedures these same communes cannot provide, is to do something that is not very charitable, not very honorable. (AMM 1 D 86, DCM, 18 Sept. 1856)

For Roberty, the obligation to provide a medical hospitality that extended even to people with pre-existing conditions, such as those outsiders in need of non-emergency surgery, called Marseilles to step beyond the limits of the law. The cost to the city, he thus proposed, should be weighed not in terms of the economic burden of the sick stranger, but in terms of the advantages produced by the outsider; the poor stranger's relationship to the city should not be seen as parasitic, but symbiotic.

Marseilles' interest in medical hospitality, however, lay only partly in the calculations of wealth and its production. The heart of Roberty's discussion of hospitality was configured by the language of urban self-esteem. Withholding hospitality, Roberty suggested, would be far more costly to the city's honor than providing it would be to its material resources. In addition, "closing the [hospital] doors" unjustly punished those drawn to the city by the very reputation it sought to preserve and enhance in the mid-nineteenth century. By reading medical hospitality as the sign of municipal greatness, measured both in terms of wealth and honor, the councilor drew an extra-legal ethical map that bound Marseilles to its "foreign" neighbors by lines of economic interdependence, noble responsibility, mutual comfort, and irresistible public image. This plan, unlike the map of "strict obligation" generated by the 1851 law, charted the multiple ways the municipal "self" might be called to its moral duties and, in turn, might be constituted in the eyes of the stranger by the manner in which it attempted to answer that call.

At the same time that Councilor Roberty traced the boundaries of hospitality onto the profile of municipal self-image and honor, he also attempted to solve the vexing problem of the outsider's lack of a specific identity by restricting his concern to a middle terrain of strangeness: the ground of the neighbor. Neither wholly known nor fully foreign, the category of the neighbor recalled without naming the dictates of a Christian charity that demanded an ethical equivalence between one's neighbor and one's self. The figure of the neighbor thus allowed Roberty to stake the city's reputation on the embrace of a stranger who, in the end, might be understood as distinct from those who did not meet this test of second-order indigency.

Yet the neighbor could also be as much or more an object of municipal ambivalence as the out-and-out stranger. Councilor Martin, for example, stressed the burden incarnate in the neighboring outsider who illegitimately preyed on Marseilles' native hospitality. A large number of people sought treatment in Marseilles, Martin argued in 1856, who came from "neighboring departments," and "even from Africa and Constantinople; unless we are to turn Marseilles' hospital into a poor house," he contended, "it would be better to put an end to this invasion..." (AMM 1 D 86 DCM, 18 Sept. 1856) Mirroring the logic of the categories used to enumerate the population of patients admitted to marseilles' hospitals, Martin's remarks elided the difference between French and non-French outsiders, developing a metaphor of invasion that placed Marseilles in mortal opposition to its "neighbors" near and far.

Making the outsider more familiar, if not always more welcome, by circumscribing the disputed domain of medical hospitality to neighboring towns, departments and countries, was not the only approach to mitigating the stranger's anonymity at the local level, nor did it provide the only coordinates for mapping an ethically acceptable terrain for the exercise of municipal hospitality after 1851. A second line of reasoning charted the proper extent of Marseilles' hospitality according to the dictates of a universal humanity. Attempting to embarrass those who sought to impose more stringent limits on the city's care of outsiders, one member characterized the municipal council as a body unequivocally committed to "humanity" and the open-border policies it presumed. Rather than seeking to empty beds in the hospital, he argued in 1856, the council in fact wished to see "that all indigent patients are admitted, as in the past, every time it is in conformity with the rules or humanity requires it..." (AMM 1D 86, DCM, 18 Sept. 1856) Councilor Martin, also argued that humanity--rather than the law--regularly determined whether strangers in need of the most urgent care would be admitted. "These patients have always been admitted," he argued, "whether they show up day or night, and the hospital administration would rather sacrifice money than fail to observe the laws of humanity." (AMM 1D 88, DCM, 12 Dec. 1859)

The sense that a higher moral law superseded national law was echoed in the minutes of Marseilles' hospital administrative commission. In an 1855 letter to the departmental prefect, the commission declared that "Every time there is an emergency the sick are admitted even if they had fallen ill outside city limits." (ADBR 46 HD 292, CRAHCM 26 Apr. 1856, 79) Rather than stressing the indigency conferred by the localized onset of disease, the commission argued that its ethic of medical hospitality

must respond first to the pathos of the destitute sick wayfarer. "Marseilles, because of its location, is vulnerable to being visited by great numbers of travelers coming from all countries," the commission noted in an 1861 report. "Among these travelers there are many who are indigent and who arrive so sick that it is impossible to refuse to admit them, even though their illnesses were not contracted in Marseilles..." (ADBR 46 HD 293, CRAHCM, 14 Aug. 1861, 10)

Most crucial for their defense of a practice that did not conform with the 1851 legislation, the invocation of a door-opening humanity allowed councilors and hospital administrators to pit the moral power of affect against the unfeeling law, particularly when the hospital threshold provided the stage for an emotion-rousing spectacle of suffering. In 1859, for example, Councilor Roux defended the hospitals' practice of admitting *gratis* needy strangers with pre-existing conditions by opposing Marseilles' regional *noblesse* to the law's callous indifference in a narrative celebration of administrative sensitivity:

Marseilles is surrounded by poor communes, denuded of resources; when their sick come, exhausted, to knock on the doors of our hospitals, it sometimes happens that, armed with the law, you refuse them; but at other times you allow the heart to speak and you admit them because you don't have the strength to let them die on the hospital doorstep. Who would dare to make this the administration's crime? (AMM 1D 88, DCM, 12 Dec. 1859)

The local celebration of a humanity that engaged the emotions and superseded national law continued well into the 1860s. "Morals [*les mœurs*] are always more powerful than laws," argued Councilor Fabre in his report on the hospital budget in 1863. "Among laws there is one that dominates all from the heights of its divine virtue: humanity." Like Roux before him, Fabre also turned to the imagery of the hospital threshold and the awakening of affect that occurred there. Unlike Roux, however, Fabre focused less on the administration's heart than on the public emotions that might be roused by the spectacle of the administration's apparent inhumanity if it were to turn poor suffering strangers away. "Mark my words," he warned, "public pity would not long endure this spectacle of pain and agony, and the police, at that point more compassionate than us, would know well how to make us open our doors." (AMM 1 D 93, DCM, 11 Dec. 1863) Rather than unlocking the hospital door from the inside, pity and compassion would here threaten to force admission from without. Hospitality would not be freely offered, but compelled, either by the lawlessness of the outraged public, or by local law-enforcement's efforts to restore public order by addressing the institutional source of the disturbance.

The high drama in which the 1851 law confronted humanity at the hospital threshold played with similar force in the imagination of the hospital administration commission. In his report of 1869, for instance, the president of the commission argued strenuously that Marseilles must "[bend] the text of the law" as humanity required. To describe the affective engagement of this humane sensibility, this administrator painted his own nightmarish scenario of foreign suffering at the hospital threshold. Imagine, he suggested to his colleagues, "a man afflicted with a terrible illness contracted in a place he no longer inhabits. But now he is sick and indigent, stripped of everything, without shelter. Must we leave him to groan and perish on a doorstep? Humanity does not permit it..." In his narrative of the conflict between the letter of the law and the call of hospitality, the president also conceded that fear might open the hospital door if administrative humanity alone did not, particularly where negative public opinion and the possibility of popular violence threatened to bend the law to the breaking-point. "If the hospital resists admitting him," he noted, "passers-by gather and spew injurious remarks about the administration's rigidity, a misinterpreted rigidity, but one which yields in the face of scandal, the commission not being sufficiently protected by the agents of the higher authorities in this instance." (ADBR 46 HD 293, CRAHCM, 19 Oct. 1869, 11-12) As members of the municipal council had argued earlier that the extension of medical hospitality beyond the geographical and ontological limits imposed by the 1851 legislation was essential to the preservation of municipal honor, so the president of the commission suggested that the reputation of the hospital administration would be made or broken by its response to the agony of alien physical torment and collective local anger enacted at the hospital doorstep.

In their multiple efforts to map hospitality's passionate domain against the cool grid of the 1851 legislation, Marseilles officials thus repeatedly sought to elaborate a local practice that would be fully licit even where it committed the city to a generosity that exceeded the boundaries of the written law. The laws of humanity, they argued again and again in these two decades, authorized the development of an admission policy far more satisfying than the one determined by the law of the Legislative Assembly seated in Paris. Yet these officials were also divided within and among themselves by a

powerful ambivalence about the implications of humanity's rule and the meaning of emotion in a project of governance supposedly ordered by strength and reason.

First, the rhetoric of local government in Marseilles of the 1850s and 1860s repeatedly revealed the fear that "allowing the heart to speak" or responding to the humane passions of the crowd might produce a condition of administrative lawlessness. The extra-legal rule of emotion threatened to brand their obedience to the laws of humanity as "criminal." Second, as the municipal council and the hospital commission expressed their concerns about criminality, they also revealed a deeper concern about the way both "allowing the heart to speak" and strict obedience to the law suggested that truly ethical government might be a matter of emotional weakness rather than moral strength. Their conversations suggested that the mores of humanity were not "always more powerful than law," but instead left officials unwilling to endure the discomfort of refusing to admit the suffering and without "the strength to let [the sick outsider] die on the hospital doorstep." Should they try to enforce the law and close the door to those strangers with pre-existing conditions, on the other hand, they would not have the strength to resist the "more compassionate" police, nor would they be protected from the irate pity of the Marseilles public. In this way, both municipal medical hospitality and the maintenance of public order seemed to rest upon an affective and governmental frailty that left urban officials powerless to resist the call of the heart and equally powerless to keep the peace if they enforced the law.

In Marseilles, then, the law of 1851 inspired new and profoundly dissonant visions of urban ethics and municipal order. Disoriented in the new terrain of medical hospitality, councilors and hospital administrators combined stories of economic calculation, neighborliness, nobility, and humanity's irresistible imperatives with tales of fear, vulnerability and a sentimentality virtuous in its weakness. In telling these stories, officials recharted the terrain of hospitality and the place of the stranger in it. Most significantly, they repeatedly relocated the critical line of admission from the city limit to the threshold of the hospital itself. It was here, in the discourse of municipal medical hospitality, that urban officials could grant the law of humanity its full jurisdiction, and here that the abstract invocation of humanity could be narrativized in specific renderings of suffering and sentiment. And it was here, finally, that the institutions of local government were most fully "incited to recognize [their] moral obligations," and so were fully constituted as (divided) ethical subjects both in their own eyes and in the eyes of all those who observed and regulated their actions.

Figuring the Ethical Limit and the Unfamiliar Stranger

Attending to the imagery of the threshold is crucial for understanding the place and meaning of both hospitality and strangeness in the everyday life of urban governance. In midnineteenth century Marseilles, the threshold gave form not to a rigid administrative or legal limit but to a multidimensional ethical frontier. It was, in its metaphorical constitution, a site of liminality and ambivalence, simultaneously open and closed, an open stage for melodramas of popular emotion but also the administrative heart's inevitably public anteroom. The trope allowed the municipal councilors and administrators to represent the sick strangers who appeared at the hospital door as "outside" in both literal and jurisdictional terms, but also to argue that they were in fact already inside the boundaries of municipal hospitality--and so within humanity's jurisdiction--whenever their appearance on the threshold engaged the eye and the sentiments.

At the same time, the threshold described a different imaginary space of hospitality, one conditioned by a double threat of violence. First, it situated and gave concrete form to anxieties about the ways the law of humanity--and the erasure of legally valid categories of difference--might be imposed from without though the force of popular sentiment and police action. Second, and of equal significance, it figured officials' concerns about their own administrative violence, about the death sentence imposed on the weak and suffering stranger by means of the closed door. While scholars have reflected at length on the law's violence, particularly as enacted through the interpretation of criminal law, or on law as the expression of a legitimate, organized state violence more generally, (see esp. Cover, 1992)⁸ in this instance, the problem of violence emerged in the arena of administrative interpretation. It inhered in the practice of exclusion from the subjects of municipal medical hospitality, rather than in the inclusion among those subjected to the state's domination and its regimes of correction or punishment. It signaled a lethal negligence born of the law's indifference, rather than the violence of a justice interested in social order and public safety.

The imagined scenes of violent confrontation at the hospital doorstep over the body of the suffering stranger thus allowed Marseilles' officials in the 1850s and 60s to give dramatic realization to the internal and external conflicts of conscience in which they found themselves. In the last three decades of the nineteenth century, these concerns about the poor sick stranger and the hospitality one offered in his or her direction would take new forms as the national border seemed increasingly to mark the most critical political and cultural boundaries between "foreigners" and citizens. A national law passed in 1893 further hardened the primary identification of strangers with non-nationals by requiring the provision of free medical care to all impoverished French people, but also left local officials pondering the possible difference between "every individual falling ill within a commune"--the object of the still-in-force 1851 law--and the apparently exclusive "all French people" of the new legislation. With these new conditions, the trope of the threshold would yield to new ways of figuring the space and operation of municipal medical hospitality.

Conclusion

What is there to learn from the particular story of the stranger in France of the 1850s and 60s? What might those interested in law, strangeness, and hospitality more generally draw from this specific moment in the French past? I have not sought here to recuperate lost models of legislative action or administrative imagination that might serve as templates for the present, although some readers may find inspiration in the traces of an apparently strong investment in humanity or in the effort to instantiate a spirit of public charity that might truly be blind to those lines of difference that so often determine whether doors open or close. Nor has my aim been to rehabilitate the lawmakers, municipal councilors and hospital administrators of this period, most of them otherwise notable for their collusion in a post-revolutionary regime of political repression, as heroes for present-day emulation. Instead, I would argue that the detailed examination of the constitution and implications of the stranger in this time and place affords a valuable opportunity to consider how powerful and particular forms of strangeness might be produced in the most apparently ordinary kinds of legislative action. It also makes visible the ways that legislated abstractions of strangeness and its mitigation might operate locally and specifically, and opens vantages onto an administrative negotiation of those abstractions that not only invoked a language of feeling--a gesture rarely absent in contemporary politics--but explicitly and openly relied upon it for organizing governmental positions and policies. In this sense, the story of the poor sick stranger in mid-nineteenth century France suggests that we would be mistaken to overlook the ways the supposed rationalities of governance might be fundamentally organized by compassion, desire, and fear in ways that are not captured in current discussions of enlightened responsibility or xenophobic prejudice.

The discussion of the outsider and the multiple, sometimes contradictory bids in this period to chart the terrain of responsibility correctly also signals how our own, now almost reflexive familiarity with the stranger may serve to trap even the most generous among us in a one-dimensional ethical obligation toward "the other" that remains blind to the specific and multiple anxieties that the collect upon and radiate from this figure. This obligation may move us, for example, to defend the stranger against generic charges of deviance or criminality, common themes in the anti-immigration discourse of the twentieth and early twenty-first centuries, while encouraging us to ignore the ways that openness toward the stranger might also produce disturbing--and often politically powerful--subliminal visions of our own criminality or of the violence that the practice of hospitality might paradoxically entail. Overlooking the hidden imaginary that lines official enunciations of the obligation to be hospitable may well limit understanding of how the government of the stranger in western democracies truly operates, a matter of ever-increasing importance in an era of fallen walls, transnational political communities, and accelerating flows of immigrants from eastern and southern regions of the world.

As this inquiry into France of the 1850s and 60s might usefully alienate us from common understandings of how governmental thinking (or feeling) works, so too might it defamiliarize the stranger in productive ways. First, it makes apparent that the specific lineaments of official strangeness not only shift across time and place, but that they might be traced over a variety of distinctions, such as "not of Marseillais 'nationality'" or "fallen ill elsewhere," that bear little resemblance to common presumptions about what makes--and has made--strangers into "others." At the same time, these discussions surrounding the legislation and administration of municipal medical hospitality also serve to remind us of the profound discomfort that the fully strange stranger can generate in governmental

bodies, within governmental selves. Efforts to mitigate strangeness abound in this historical moment, from the identification of the stranger as one's neighbor to the attempt to naturalize outsiders as "citizens of this place" through the recognition of localized disease or injury. The question of the stranger in mid-nineteenth century France thus seems to suggest that governmental ethics of hospitality might often be riven by the need for both disorientating alterity, the prerequisite of "true charity," and a strategy of domestication that might provide assurance that the stranger is not so strange after all.

Finally, the instance of mid-nineteenth century France foregrounds the way that the problem of the stranger may become most visible in the tension between governmental disorientation and the strategies of location, particularly the repeated mapping of the limits of responsibility. The importance of geography, both literal and figurative, is perhaps not surprising given that the stranger is so often first identified as someone "not from here," however "here" and the condition of being "from" might be defined. Yet in the specificity of the geographies generated in order to "place" the stranger and so situate him or her in a variety of legislative, administrative and ethical landscapes, students of difference, hostility and welcome might find as well that the stranger on the horizon is not always the one we think we know, and that meaningful frontiers of inclusion and exclusion may lie where the surveyors of contemporary theory, law and politics have not yet set their sightlines.

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Footnotes

1 In conceiving of government in these terms, this essay draws upon a Foucauldian notion of "governmentality" as elaborated and developed in the collections edited by Burchell et al (1991) and Barry et al (1996).

2 Procacci (1993: 37-41) suggests that the modern government of poverty was inspired at least in part by official desires to contain "vagrants"--a category that inspired growing fears about the fragility of public order over the course of the eighteenth century. See also Farge and Revel. (1991: 29-50)

3 Hufton also notes this collapsing of boundaries noting that by the eighteenth century, people seeking parish relief often also had to meet municipal residency requirements. (1974: 143, 166)

4 Due to the irregular pagination of the *Moniteur*, citations are most effectively located by date.

5 On the mobility of disease in the mid-nineteenth century and the strategies of regulation it inspired, see Francois Delaporte (1986). Aisenberg (1999) also addresses the crossing anxieties about the mobility of individuals and diseases, especially in relation to immigrants and vagrants.

6 The kingdom of Sardinia in the first half of the nineteenth century included the island of Sardinia and the regions of Italy directly abutting the French border, including Piedmont and Savoy and the city of Nice. Italy ceded Savoy and Nice and its surrounding territory to France in 1860, redrawing the French-Italian border at the conclusion of the wars of unification.

7 Italians from the Kingdom of Sardinia comprised another 24.19% or 1517, with Italians from other regions accounting for another 129 patients. (ADBR 46 HD 292, CRAHCM, 4 June 1859, 74, table 9)

8 Cover also notes but does not explore the violent consequences of property law and other civil actions that might involve punitive sanctions. (1986: 1607, n.16)