

## Statewatch bulletin

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### CIVIL LIBERTIES

#### Ireland: ID Cards introduced

The Irish government has decided to introduce identity cards for all persons over the age of 16, and the first cards will be issued to young people on social welfare. The Department of Social Welfare will issue the cards which, the Department claims, are designed to be a 'national ID system for state services' to facilitate the individual's 'interaction with State services'. The cards are described as being non-compulsory and will be the size of a bank card. They will carry information on the holder recorded on a magnetic strip. No photograph will be on the cards, but they will contain personal details such as name and address, and the individual's social welfare record, insurance number and 'other private information'. About 300,000 people between 16 and 20 years old will receive the cards in the autumn.

#### 'The Fettesgate Affair'

The affair started on 19 July when intruders broke into the headquarters of the Lothian and Borders police force in Scotland and stole equipment and documents from the regional Scottish Crime Squad office (including the Drugs Intelligence Unit). It led to the arrest and detention of two journalists and revelations about unaccountable telephone monitoring.

The intruders are said to have spent three hours in the offices, sprayed an Animal Liberation Front slogan on one wall, taken dozens of files on drugs cases, surveillance videos and used a photocopier to copy other files. The raid was first claimed and then disowned by the Animal Liberation Front.

Ron McKay, a reporter with the quality paper *Scotland on Sunday*, wrote a story on 26 July based on an account from someone claiming to have taken part in the raid and on several of the files. Two days later Andrew Jaspan, editor of *Scotland on Sunday* agreed to be interviewed by police at his home at 9am - he was woken up by them at 7.15am. The next day Ron McKay, on holiday in Kent with his partner and baby son, was woken by Scottish detectives at 7am. The house was searched, his car broken into and searched, so too was a basement flat he owned in Maida Vale, London. He was handcuffed and flown back to Scotland where he spent a night in police cells, and then charged with 'reset' - an offence in Scottish law similar to handling stolen goods.

Another journalist, Alan Muir, who had written about the break-in for the *Sun* newspaper was arrested at his home in Ayr at 7 am the next day. During questioning he was shown a list of telephone calls made to and from the *Sun's* Glasgow offices and a transcript of a conversation Muir had with a contact. These early morning raids on journalists brought protests from other Scottish newspaper editors and the National Union of Journalists. On 2 August *Scotland on*

*Sunday* followed up with a front-page story based on information from the stolen files giving details of Lothian police monitoring telephone calls.

The story detailed a full record of the telephone monitoring operation of more than 150 calls made from an Edinburgh phone in a two-week period in January 1990. It gives the names, addresses and telephone numbers of 78 people and organisations with the date, time and duration of the calls. This method of surveillance known as 'metering', which has been available since the mid-1970s, does not come under the Interception of Communications Act 1985 and therefore does not require a warrant signed by the Secretary of State for Scotland or the Home Secretary. The value of 'metering' for police surveillance is that it can give a detailed picture of a person's work, political activity and personal life. It can, for example, show them who a lawyer or journalist has spoken to. *New Statesman & Society*, 7.8.92; *Police Review*, 7.8.92.

#### The PTA and Channel Four

For the first time ever, the Prevention of Terrorism Act has been used in an attempt to force journalists to reveal their sources. In October 1991, Channel Four broadcast a Dispatches programme made by Box Productions which claimed the existence of a 60-strong committee of loyalist paramilitaries, members of the UDR, councillors, business people, solicitors and a group of RUC officers known as the 'inner circle'. According to the programme, this committee was involved in organising the assassination of republicans and those thought to be republican sympathisers. After the broadcast, Channel Four sent the RUC a dossier of evidence including the names of 19 members of the committee. The RUC's response was to seek an order under the Prevention of Terrorism Act requiring Channel Four to hand over more material, including the names of any sources they had used - Box Productions had interviewed more than 100 people when researching the programme but the RUC was particularly interested in 'Source A'.

The order was obtained under a 1989 revision to the PTA which copied similar provisions under PACE. Section 17 of the PTA confers powers on the police to collect information for the purpose of investigating terrorism. Under Schedule 7, the police can apply to a circuit court judge for a warrant to obtain any information for which there are 'reasonable grounds' for believing that the said information will be in the 'public interest' for the police to have, or will be of 'substantial value', in the investigation of terrorism. The hearing was in camera and the order granted. In January 1992, Channel Four informed the court that it had no more material to offer. Channel Four and Box Productions were then sued in the High Court for contempt. At the end of July, they were fined £75,000.

Following the judgment, RUC Chief Constable, Sir Hugh Annesley, took the unusual step of placing half-page

advertisements in *The Irish Times*, *the News Letter*, *The Belfast Telegraph* and the *Irish News*. The advertisement begins with a quote from Sean McPhileney of Box Productions saying, 'it we had not given an unqualified undertaking to our sources, no one would ever have known that members of the RUC have been running death-squads'. Describing the allegations as without foundation, the advertisement goes on to say that 'extensive investigation' now shows that the idea of an inner circle within the RUC and an overall organising committee was an invention of someone with a political grudge against the RUC. This person made a statement to his solicitor which said: 'I considered that the RUC was being used to implement the Anglo/Irish Agreement and to suppress any loyalist opposition to it...I decided that I would attack any credibility that the RUC had been given by the minority community as a result of this exercise. I invented the story about there being an inner circle in existence within the RUC and that members of this Inner Circle were prepared to take part in a coup in the event of a United Ireland.'

Channel Four responded by saying they know of the RUC's witness when making the programme but that he had in no way been connected to the programme. Furthermore, the solicitor to whom the statement was given was one of the 19 named members of the committee which Channel Four had given to the RUC.

The day before the advertisement appeared, it was revealed that the Chief Constable had refused to handover police interview notes for ESDA testing in relation to Seamus Mullen who claims he was convicted in the mid-1980s on the basis of uncorroborated and fabricated verbal statements. A letter to Mullen's solicitor states that: 'the Chief Constable is obliged to bear in mind that if he grants your request he may be faced with similar requests in respect of a large number of criminal trials'.

### **Ireland: Section 31 Ruling**

The High Court ruled on 31 July that the broadcasting authority RTE is wrong to apply a blanket ban on interviews with members of Sinn Fein under Section 31 of the Broadcasting Act. Justice Rory O'Hanlon ruled that RTE's decision not to broadcast interviews with strike committee chair Larry O'Toole, recorded during an industrial dispute at the Gateaux company's plant in Finglass two years ago, was 'bad in law, erroneous, based on a misconstruction of the law and null and void'. The decision arose from a case taken by O'Toole, a member of the executive committee of the Bakery Union, who successfully applied to the court for an order stating that the provisions of Section 31 do not forbid the broadcast of any material by a person solely on the grounds that he or she was a member of Sinn Fein.

RTE's Director of Broadcasting Developments, Wesley Boyd, responded by calling for the repeal of Section 31. He pointed out the ludicrous situation in which Section 31 was used to ban an interview with an eyewitness to a fire because it transpired he was a member of Sinn Fein. Boyd stated that the High Court decision now suggested that RTE could interview Sinn Fein President Gerry Adams about his latest book, *The Street and Other Stories* (a book of short stories), but could not carry his political speeches or comments. RTE have responded to the ruling, however, by refusing to alter their practice, pending an appeal to the Supreme Court. Notwithstanding Boyd's understanding of the current legal position, RTE have refused to broadcast an advertisement by Brandon Books for the Adam's book on the grounds that it contains words spoken by Adams.

*Irish News* 19.8.92; *APRN* 6.8.92.

### **Holland: Dissertation veto**

The Dutch Ministry of Justice has asked a court to oblige academic researcher Mr. Anil Ramdas to present all his publications, including a PhD study, to a Ministry screening board before publication. Mr. Ramdas attended closed meetings of the advise commission for Alien Affairs in 1988, in which the commission hears asylum seekers whose requests have been turned down. Last year, Amnesty International asked Mr. Ramdas to give a talk describing his experiences with the appeal procedures, after which the Justice Department started summary proceedings to withhold Mr. Ramdas from disclosing confidential information. The researcher described the appeal procedures, which in some 4 percent of the cases lead to a review, as a 'tragic ritual' in which a body incapable of dealing with all requests goes through the motions just to allow the Dutch public peace of mind. The Ministry of Justice states that dozens of researchers are allowed access to confidential procedures and situations. They all sign confidentiality agreements, and this is the first time anyone chooses to violate them. After studying the rather vague confidentiality agreement that Mr Ramdas signed before commencing his research, the judge last year allowed him to continue with his publications in a 'responsible manner'. A ruling which the Ministry of Justice has now appealed against.

Mr Ramdas, who expects to finish his dissertation next year, has agreed to present it to the advisory commission before publication to allow discussion over disagreements. He says: 'This is my interpretation of the agreements. But I know that Justice holds a different view: they want a veto over it'. He feels that confidentiality is being enforced in this case to avoid a critical presentation of sensitive practices. He denies painting a negative picture. 'My research is all about the question how a society holding humanitarian ideals can turn against the coming of migrants and asylum seekers. One of my explanations is that the welfare state has limited capacities. The treatment of asylum requests takes place in a situation of impotence. This results in a ritual which allows politics to stay out of the process while giving the asylum seekers the impression that they get a fair chance'.

### **Parliamentary debates**

Ethnic minorities 9.6.92. *Commons* cols 149-202

Travellers 29.6.92. *Commons* cols 688-694

Obscene publications Act 1959 2.7.92. *Commons* cols 1061-1068

Pornography 9.7.92. *Commons* cols 678-689

Civil rights (disabled persons) Bill 15.7.92. *Lords* cols 295-305

### **POLICING**

#### **Stop and search figures**

The number of people stopped and searched by the police in England and Wales in 1991 was 303,800 (256,900 in 1990). Of these 46,200 were arrested for an offence (39,200 in 1990) 15% of those stopped. This means 257,600 were stopped and searched under the Police and Criminal Evidence Act (PACE) and not arrested. Of those arrested no figures are available for those subsequently charged and/or convicted. Moreover, these figures do not give the higher numbers of people stopped and questioned *but not search* as these stops do not have to be recorded by the police.

These figures given in the Home Office annual statistics for 1991. The statistics cover stop and search, road-blocks, extended

detention and intimate body searches.

These stop and searches were made by police on the grounds of suspected stolen property, drugs, firearms, offensive weapons and other offences.

No of stop and searches    Arrests (1986-1991)

1986 109,800 18,900  
1987 118,300 19,600  
1988 149,600 23,700  
1989 202,800 32,800  
1990 256,900 39,200  
1991 303,800 46,200

As in previous years the highest number of stops was in the London Metropolitan Police District (Met) where 172,401 people were stopped in 1991 (150,252 in 1990) and 24,105 people were arrested (22,055 in 1990). With just 20% of the overall police strength in England and Wales the Met conducted 57% of all stops and searches. In Greater Manchester there were 11,101 stops and searches with 1,725 arrests; in Merseyside 12,929 with 2,024 arrests; in North Wales 8,004 with 706 arrests (less than 10% arrested).

A total of 222 road-blocks (298 in 1990) were set up in 1991 involving 31,787 vehicles with 39 people arrested in connected with the reason for the road-block (18 in 1990) and 48 for reasons not connected with it (33 in 1990).

The number of people detained under PACE for more than 24 hours and released without charge was 366 - a figure which has fallen each year since the high of 1,187 in 1986. There were 271 people held for more than 36 hours of whom 233 were subsequently charged. The number of intimate body searches of people in police custody from 51 to 76 (the second highest figure since PACE came into effect in 1986). In only 5 cases was the suspected item found.

*Operation of certain police powers under PACE, 1991*, Home Office Statistical Bulletin, July 1992. See also *Statewatch* vol 1 no 4.

### Holland: Women police

The Dutch National Police Emancipation Committee (LPEC) has severely criticized the government's plans to have at least 25% female police personnel by 1995, and says the working climate for women with the police is a disaster. At present, less than 13% of the force consists of women, most of them serving in the lower ranks. Of the officers working in the higher echelons only 2% is female. The primary reasons for this are the very women-unfriendly professional culture and virtually non-existent flexible working schedules and child care.

Over the last two years, criminality among young women has seen a very strong increase, according to a report by the Justice Department's study centre WODC. Women in Holland now account for twenty percent of registered criminality, with a noticeable increase in violent and white-collar crimes. Journalists reacted to these figures by going out on the street to locate 'girl-gangs' that reportedly beat up fellow citizens selected indiscriminately just for fun. Probation officers and others working with them claim that most of them hold very traditional values, combined with macho and violent behaviour.

### Use of police informers

A study has shown that nearly 70% of police informers are

recruited while in police custody or under investigation for a crime. The study, carried out by a former Detective Inspector, looked at regular informers who tended to be male, under 30, unemployed and with previous convictions. Most detectives have regular informers who are paid between £20 to £100 a time. The motive of detectives in applying 'pressure' to recruit informers did so to increase their clear-up rate. For the informers, often recruited while in police cells, money was the main motivation with 'enjoyment' of being an informer and expecting a favour in return also playing an important part.

New Home Office guidelines were issued earlier this year governing the use of 'resident informers' who are the cream of informers on major crimes (or 'protected witnesses if they are in prison). A 'resident informer' is defined as someone who is 'an active participant in a serious crime or succession of serious crimes who, after arrest or conviction, elects to identify, give evidence against and provide intelligence about fellow criminals involved in those or other offences' (a serious crime is taken to mean one that could attract a 10 prison sentence or more).

*Police Review*, 14.8.92; *Home Office guidelines on resident informers*, February 1992.

### Thirteen released

In July Glen Lewis, 27, from Wolverhampton, became the thirteenth prisoner to be released from jail following an inquiry into the West Midlands Serious Crime Squad. Lewis was cleared of robbery and burglary at his retrial when the jury was directed to return a not guilty verdict following forensic tests which cast doubt on his alleged confession. He had consistently claimed that the evidence against him was concocted and had alleged that he was assaulted and racially abused when arrested. Lewis' claims of racism repeats earlier allegations and is supported by the fact that he is the seventh person, of the thirteen released to date, who is black.

The West Midlands Crime Squad was disbanded by then chief Constable Geoffrey Dear in August 1989 following mounting allegations of corruption including the fabrication of confessions, tampering with evidence and the intimidation of suspects.

The allegations prompted a £4 million inquiry, which was supervised by the Police Complaints Authority and headed by the assistant Chief Constable of West Yorkshire, Donald Shaw. The Shaw inquiry took over two years to complete and investigated 62 separate investigations into complaints by 91 individuals as well as eleven reports of the misappropriation of police funds. It recommended that up to sixteen police officers should face charges.

Despite this the Director of Public Prosecutions (DPP), Barbara Mills, decided in May this year, that there was 'insufficient evidence to prosecute any police officer in connection with any of the complaints investigated by the West Yorkshire police, which related to the activities of the West Midlands Crime Squad'. Her decision received widespread criticism and prompted her to deny accusations that she was not prepared to prosecute police officers in a letter to daily newspapers. The thirteen men released so far are: **Keith Parchment** (cleared July 1989), **Hassan Khan** (cleared 23.2.90), **John Edwards** (cleared 16.1.91), **Anthony Wellington** (cleared 25.3.91.), **Geoffrey Cheetham** (cleared 30.7.91), **Danny Lynch** (cleared 21.10.91), **Gerard Gall** (cleared 21.10.91), **Ronnie Gall** (cleared 21.10.92), **Valentine Cook** (cleared 14.1.92), **Delroy Hare** (cleared 19.5.92), **Robert Haughton** (cleared 19.5.92), **Michael Bromwell** (cleared 22.6.92.), **Glen Lewis** (cleared 23.7.92.)

*Crown Prosecution Press Release* July 1992; *CARF* No. 9, July/August 1992; *Independent* 20.5.92; *Guardian* 24.7.92.

## Drug cases thrown out

The Crown Prosecution Service (CPS) has abandoned two recent drug cases involving police officers from Stoke Newington police station in north London. The cases, against Dennis Bramble, 35, and Tony Wood, 26, were dropped at Snaresbrook Crown Court because of the unreliability of police evidence. They are the latest in a series of drug cases involving the station that have been abandoned or resulted in acquittal.

Stoke Newington police station has been the subject of a police investigation for the past eighteen months following allegations of racism and corruption, including claims that police officers were involved in the re-selling drugs seized on the street and planting evidence (see *Statewatch* vol 2, no 2). Eight officers have been moved from the station since the inquiry began including Pc Ronald Palumbo who, the CPS admitted during the Wood hearing, 'cannot be relied upon as a witness of truth'. After his acquittal Mr Wood said: 'I will have to watch over my shoulder all the time after this. That is what it is like living round here'.

The latest issue of *Community Defence* (the bulletin of Hackney Community Defence Association) leads with the story 'Police drug ring exposed' on the continuing scandal of recycling drugs, fitting up and other malpractice at Stoke Newington police station. It is available price 20p from HCDA, Unit D, 10a Bradbury Street, London N16 8NJ.

*Guardian* 20.6.92, 21.6.92.

## Policing: in brief

\* **PCA:** The Police Complaints Authority (PCA) came in for criticism when it decided that no officers involved in the death of Oliver Pryce were to face charges, despite the verdict of unlawful killing returned at Pryce's inquest in November 1991. *Independent* 25.7.92, 1.8.92, *Guardian* 29.7.92.

\* **Belgium:** Mr Tobback, the socialist Minister of Internal Affairs, is proposing to introduce a law that recruits to the Belgian gendarmerie should be tested for HIV. It appears that the gendarmerie has been unofficially using screening since 1987.

## Policing: new material

### White-Collar Crime and the Justice Department: The

**Institutionalization of a Concept**, Tony G Poveda. *Crime, Law and*

*Social Change*, Vol 17, pp235-252, 1992. Discussion of the sudden priority given to the investigation of white-collar crime.

**Dynamics of the Soviet Illicit Drug Market**, Rensselaer W. Lee. *Crime, Law and Social Change*, Vol 17, pp177-233, 1992. Examination of the drug market in the former USSR. It is hypothesised that if current trends continue this area of the world could become a significant world supplier of hashish and opium products during the 1990's.

**Violence against women: what protection is there?** Aziz, Razia, Sibusiso Mavolwane & Jill Radford. *Spare Rib* August/September 1992 pp32-35. Aziz, Mavolwane and Radford, from Rights of Women, look at the recommendations made by the recent Victim Support publication *Domestic violence working party report*.

**The story of ACPO**, R B Johnson. *The Police Journal* July 1992 pp193-199. Account of the history and growth of the Association

of Chief Police Officers by their President.

## LAW

### Ireland: Sentencing Rapists

Judge Feargus Flood has caused a public furore by adjourning sentence on a rapist who had pleaded guilty. The 18-year old man, William Conroy from Kilkenny, was allowed to walk free from the court on 15 July after Flood told him he was 'giving him a chance as a human being'. Following the judge's decision, the victim, Lavinia Kerwick, publicly protested that Conroy had been freed, saying, 'I just could not believe it. He might as well have raped me again yesterday.' The case has highlighted once again the vast differences in judges' punishment of rapists which range from life to suspended sentences. Some women's groups are demanding mandatory sentencing for rape but the Minister for Justice has promised instead to introduce legislation allowing the DPP to appeal against a lenient sentence.

*The Sunday Tribune* 26 July 1992 gives a digest of rape cases heard by the Central Circuit Court from July 1991 to July 1992.

### Two released on appeal

Two more miscarriages of justice were exposed when the Court of Appeal, in separate cases, quashed the convictions of Paul and Wayne Darvell and David McKenzie. The jury in the Darvell case were 'seriously misled' as to the reliability of confession evidence, said the Court of Appeal, after scientific evidence established that interview notes had been tampered with. The Darvells were among forty people interviewed by Swansea police whose interview records had been altered, according to an inquiry by Devon and Cornwall police. As a result of the Darvell case, seven officers have been suspended and the CPS is considering charges.

David McKenzie, described as a 'serial confessor', was cleared of manslaughter of two old women after it was revealed that he habitually confessed to crimes he could not possibly have committed, and the jury were not told of this at his trial. The court said that where a case is based on an uncorroborated and unconvincing confession by a mentally handicapped person, it should be thrown out by the judge. That, of course, is a long way from excluding all uncorroborated confessions.

Lord Chief Justice Taylor, who presided over both appeals, said he thought the right of silence of defendants should go so that police will not be tempted to 'bend the rules' by fabricating confessions.

### Conviction quashed

Kiranjit Ahluwalia, who killed her husband after ten years of brutality and humiliation, won a limited victory when the Court of Appeal quashed her conviction for murder and ordered a re-trial, but was refused bail. Campaigners on behalf of Mrs Ahluwalia, Sara Thornton and other women driven to kill their violent husbands, were delighted with the quashing of the murder conviction, but disappointed that the Court refused to interfere with an old common-law definition of provocation as behaviour causing a 'sudden and temporary loss of self-control'. They argue that the definition is gender-biased, favouring men carrying weapons or able to use their superior strength in a fight. In addition, they say that men are more liable to react instantly to provocation, while for women, there is a 'slow-burn' reaction.

*Independent* 4.8.92.

## Law: new material

**A system riddled with racism**, *Labour Research* August 1992 pp.9-10

**The professionalisation of criminal justice**, Bridges, Lee. *Legal Action* August 1992 pp.7-9

**Public order review** Cooper, Jo. *Legal Action* August 1992 pp.13-15

**Evidence from phone tapping**, Leigh, Ian. *New Law Review* 3.7.92. pp944-945 & 10.7.92. pp976-977

**Video taping interrogations**, McConville, Mike. *New Law Review* 10.7.92. pp960-962

**A A S Zuckerman**, Miscarriage of justice - a root treatment, *Criminal Law Review*, May 1992, pp323-345

## Parliamentary debates

Criminal law 23.6.92. *Commons* cols 199-212

Imitation firearms 6.7.92. *Commons* cols 155-162

## EUROPE

### EC border deal denied

The widely reported 'deal' over border controls between the Home Secretary, Mr Kenneth Clarke, and the European Commissioner for the Internal Market, Mr Martin Bangemann, has been denied categorically in Brussels. At a private meeting during the June EC summit in Lisbon Mr Clarke was said to have received an 'assurance' from Mr Bangemann that the UK would not be taken to the European Court of Justice if it maintained external border controls after 1 January 1993. In return the UK government promised to apply 'a lighter touch' to its checks on EC nationals entering at ports and airports.

The European Commission have denied a deal was agreed saying that Mr Bangemann only agreed to discuss the problem with Mr Clarke at talks scheduled for early September. A Commission spokesperson said: 'Mr Bangemann denies having said anything of the sort', on the contrary, 'member states have to abolish border controls as of 1 January 1993 including those on people'. Moreover, they said this was a view that Mr Bangemann 'may very well' defend before the Court of Justice. On 31 July the Commission sent 'precontentious' letters implicitly threatening legal action to member states, including the UK, who had not taken the measures to remove all border controls.

On 11 May Jacques Delors presented the Commission opinion on the removal of all internal borders under Article 8a of the Single European Act 1987 (ratified by all EC states) to the European Council (the Council is the body with government representatives from all 12 EC states). The opinion states that the European Court of Justice had established that the internal market of the EC could be equated with a national market (judgement in case 15/81 Schul [1982] ECR 1409, ground 33). The community-wide internal market was to be seen as if it was one national market. Following this principle Article 8a states that the internal market 'shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured...' This means, says the opinion, the abolition of:

*all controls, formalities, procedures, checks, examinations, inspections etc...at internal frontiers, just as there are no border controls between regions of national markets.*

The Commission says this obligation to remove controls 'leaves no margin of discretion' and that they must be abolished 'whatever their form or justification'. This does not, it says, deprive national states of the right to exercise controls *inside* their territory but 'the crossing of an internal frontier will no longer in itself give rise to control'. The opinion states that this view holds 'irrespective of their nationality' and that 'there is no objective legal reason to differentiate between national of Member states and nationals of non-member states'. It explicitly rejects the UK government's argument by saying that it would be contrary to Article 8a for controls to be exercised to determine whether a person is a national of a Member state or whether 'he or she is a danger to public order, public security or public health'.

The UK government's political argument against the effect of Article 8a rests on a General Declaration in the Single European Act which says Member states can take measures to control immigration from third countries and to combat terrorism, crime and drugs. The Commission's opinion says: 'A declaration can never deprive an article of the Treaty of its practical effectiveness'. *Independent*, 3.8.92; *Guardian*, 4.8.92; *Agence Europe*, 4.8.92.

### EC asylum procedures

Britain and Ireland are the only two EC states to deny asylum-seekers a right of appeal against the refusal of their application, according to a recent survey. The survey, carried out by the European Parliament's Committee on Civil Liberties and External Affairs, was completed in October 1991, and revealed very wide discrepancies in the treatment of asylum-seekers from country to country within the EC.

Only in France, Germany, Italy and Portugal is the right to asylum enshrined in the constitution, although all other states theoretically comply with the provisions of the 1951 Geneva Convention. Denmark refuses entry to anyone without the necessary travel documents. Belgium refuses those who have a ticket for transport to a third country, those who have lived in another country for over three months, those who have already been expelled, and those who constitute a 'danger to public safety and order'. In Germany, entry can be refused only to those who have established residence in a safe third country. Greece, Spain and France reject those who already have the protection of a safe third country. Theoretically this is the same for the UK, although in practice asylum-seekers who have spent two hours in a transit lounge in a European airport, or who have been smuggled across Europe in lorries, are invariably returned to the last country they embarked from.

According to the survey, the Netherlands appears to be the only EC country to have set up 'accelerated procedures' to deal with applicants arriving at Netherlands airports. The introduction of such 'accelerated procedures' is one of the measures which the European Commission would like to see generalised across Europe. In its Communication to the Council and the European Parliament on the Right of Asylum, also published in October 1991, the Commission makes clear that its main priority is to 'combat abuse of the right to asylum' - abuse which it blames both for the rising numbers of asylum-seekers and for the growth of far-right 'opposition groups' in Europe. Apart from the accelerated or abridged procedures to deal with what it calls manifestly ill-founded applications, the Commission's other main proposals are harmonisation of procedures and substantive law on asylum; advanced

implementation of the information exchange provisions of the Dublin Convention on Asylum-Seekers, to enable countries to share information about refugees' countries of origin; a common definition of what is a 'manifestly ill-founded' application; and the immediate ratification of the Dublin Convention (to prevent 'multiple applications' in different countries).

The Commission points approvingly to the initiatives taken by member states to dissuade asylum-seekers, including measures 'aimed at making the material situation of asylum-seekers less attractive while their case is being considered: withholding of certain social security benefits, restrictions on employment and freedom of movement', and to the setting up of registers of asylum-seekers, with fingerprints, to aid identification and combat multiple applications. It also notes, in the same vein, the restrictive visa policies and carrier sanctions adopted by some member states. It concludes that the treatment of asylum-seekers throughout the Community needs to be harmonized, so as to avoid an 'uneven distribution' with too many asylum-seekers going to states which allow them to live where they want to, to work and to claim social security benefits.

Its proposals and recommendations sit uneasily with its note that only 5 per cent of the world's refugees come to Europe. But it justifies its harsh line by remarking that the vast majority of asylum-seekers are not fleeing persecution, but war, civil war, famine, poverty, chronic unemployment or lack of prospects at home. Needless to say, there is no suggestion that the definition of refugee should be widened to include any of these categories of 'bogus' refugee.

Because the European Commission refuses to draft its own directives or regulations on asylum-seekers, it can have the best of both worlds: putting forward the reactionary positions on the issue of refugees without having to defend its proposals in any other European forum. The proposals will be taken away by ministers who will work behind closed doors to draft another treaty which will not be accessible to public scrutiny or debate, as happened with the Dublin Convention and the draft Treaty on External Borders.

*Survey of the right of asylum in the Community Member States*, European Parliament Civil Liberties and Internal Affairs Committee; *Communication from the Commission to the Council and the European Parliament on the right of asylum*, October 1991; *Commission Communication to the Council and the European Parliament on Immigration*, October 1991.

### **Holland: identification bill**

The Dutch government has presented a bill requiring persons in certain categories and situations to identify themselves to government functionaries. Parliament is expected to discuss the matter in October.

In the following situations citizens are required to identify themselves upon request: 1) the use of public transport without a valid ticket; 2) at soccer matches in the event of punishable acts or disturbances of public order; 3) when applying for a social-fiscal identification number; 4) when accepting a job; 5) at certain financial transactions, e.g. at banks; 6) when having an act drawn up by a notary's office; 7) at work in case of controls related to social security and illegal employment; 8) in case of inspections by the Alien Branch for illegal residence.

### **EP Civil liberties committee**

In the wake of the Maastricht Treaty discussions in December 1991 the European Parliament (EP) decided to set up a new Committee

on Civil Liberties and Internal Affairs (previously these matters had been dealt with by the Legal Affairs & Citizens Rights committee). The Chair of the Committee is Amdee Turner, Conservative UK, and there are 31 Members of the EP (MEPs) on the Committee plus substitute members who often attend meetings. It held its first meeting on 16 January 1992.

The main business of the new Committee has been to appoint a number of *rapporteurs*, MEPs taking the lead in preparing reports and inviting outside people to give evidence. The *rapporteurs* appointed so far include: immigration (Mathilde van den Brink, Socialist, Netherlands); right of asylum (Patrick Cooney, Fine Gael, Ireland); freedom of movement for persons (Konstantinos Tsimas, Socialist, Greece); entry into force of the Schengen Agreement (Lode van Outrive, Socialist, Belgium); establishment of EUROPOL (Lode van Outrive); international terrorism (Heinke Salisch, Socialist, Germany); annual report on respect for human rights in the EC (Karel de Gucht, PVV, Belgium); social code for the treatment of prisoners (Claudia Roth, Green, Germany); immigrant workers (Dacia Valent, Communist Party, Italy; Djida Tazdaït, Green, France).

### **Greece: Maastricht & Schengen**

The Greek parliament ratified the Maastricht agreement by an overwhelming majority at the end of July. The three major parties were all in favour, New Democracy (the government party), PASOK (the socialist party) and SYN (the United Left). Only the KKE, the Communist party, opposed the agreement. The voting was 286 for 8 against with 6 MPs absent.

The successful application of Greece to join the Schengen group of EC countries has been the subject of little discussion or parliamentary debate. However, Greece has just passed a new law on Aliens Immigrants and Refugees, the first since major change since 1929 (Law 1975/1991). This law brings Greece into line with the Schengen countries on the grounds for issuing and refusing visa and sets up 'anti-clandestine immigration patrols' and lists of undesirable aliens.

On 6 November the Schengen group - Belgium, France, Italy, Germany, Greece, Netherlands, Luxembourg, Portugal and Spain - are expected to formalise the decision of the 19 June meeting to put into practice the border-free internal area from 1 January 1993. The three EC members not in the Schengen group - Denmark, Ireland and the UK - are, according to these reports, going to see their citizens subject to border controls in the rest of the EC (see Statewatch vol 2 no 4).

*TO BHMA*, 5.7.92; *Hellenews*, 6.8.92; *The new legal framework of alien immigration in Greece: a draconian contribution to Europe's unification*, Nicholas Sitaropoulos, Immigration & nationality law and practice, vol 6 no 3, 1992, pp89-96.

### **Europe: In brief**

\* **Trevi 92**: The European Commission has been taking part in the Trevi group working party, known as Trevi 92, since the beginning of 1991. The Trevi group was founded in 1976 and is an inter-governmental body outside the formal structures of the EC (Trevi stands for terrorism, radicalism, extremism and violence).

The Trevi 92 working group, set up in April 1989, is looking the policing and security implications of the creation of the Single European Market - namely the abolition of internal borders and the strengthening of the external borders of the EC. *Background report*, Commission, 26.3.92.

\* **SIS on schedule**: Two regions of the Dutch police, Rotterdam

and Arnhem, will start using the test version of the Schengen Information System in October. This summer, police personnel are being familiarized with the system in a series of presentations in the country. Project manager Mr D A Kottevan at the CRI (Central Criminal Intelligence Service) believes deployment at the Dutch borders on January 1, 1993 is feasible, but police forces in the rest of the country will have to wait a little longer.

### Europe: new material

**European security at a time of radical change**, Colombo, Emiliano. *NATO Review* June 1992 pp3-7

**The other side of 1992**, Moodley, Ronnie. *Kairos* April 1992 pp63-70. Critique of 1992 and the Single European Act.

**Trends in European racism**, Marie Macy. Community and Race Relations Unit, Council of Churches for Britain & Ireland, 35 Lower Marsh, London SE1 7EL. £1.80.

### Parliamentary debates

Maastricht Treaty (Danish referendum) 3.6.92. *Commons* cols 827-840

European community (UK presidency) 2.7.92. *Commons* cols 976-1059

Enlargement of the community: EC report 14.7.92. *Lords* cols 145-197

Ethnic minorities: Employment in the EC 14.7.92. *Lords* cols 203-216

## SECURITY & INTELLIGENCE

### Holland: phone-tapping

The number of phone tapping warrants issued to the Dutch police has again increased in 1991 to 2071 cases, 888 of which were drug-related. One warrant can cover several subscribers, the average being almost two per warrant. The police note that criminals show an increasing awareness of the risks of discussing sensitive matters over the phone, and many of them resort to using faxes, computer communication or encryption equipment. Cellular car phones are also popular, since they are more difficult to monitor permanently, as is the new PTT service of switching incoming calls to another subscriber, the so-called 'follow-me' system. PTT has recently adapted this service to allow police to monitor such calls, but Justice Department officials still complain that the privatized phone company increasingly fails to take their needs into account when offering new communication services to the public. The new ISDN-network now being implemented and the Europe-wide car phone network to be opened in 1994 are mentioned as examples of 'intraceable communication channels'.

PTT Telecom has started logging detailed traffic data on all telephone calls, thus preparing for a new customer service to be introduced next year that will allow detailed bills listing all calls made from a subscriber's connection. Over 300,000 subscribers such as journalists, lawyers and aid services, have already indicated they want to use the option of not having their number listed on other people's bills, but these data will still be kept on a database accessible by the justice department. Press representatives have already voiced concern over the possibly unlimited access of authorities to the PTT database, which will allow them to locate confidential sources of journalists and whistleblowers informing on

dubious political or corruption practices.

Numbers not listed in the phone directory and secret numbers will not show up in any bill. Standard bills will only list the costs by category. Customers wanting detailed bills listing all numbers called pay 1.5p extra per call. The Dutch phone company claims the option of screening off phone numbers is unique in the world.

### No 'tapping' of 'subversives'

Lord Justice Lloyd, the Commissioner appointed under the Interception of Communications Act, says in his latest annual report that no warrants were issued in 1991 to tap the phones of subversives. The 'threat of subversion has steadily declined', he says, 'in 1985 there were a number of warrants issued against individual subversives who were regarded as being a major threat to Parliamentary democracy. Last year there were only two. Now there are none.'

Lloyd says that during six years as Commissioner he has not come across 'a single warrants which could not be justified' under the 1985 Act. He also says that there is no basis for the 'speculation' of unauthorised tapping and widespread interception by GCHQ published in the *Guardian* and elsewhere (see *Statewatch*, vol 1 nos 3 & 4, vol 2 no 4).

The number of telephone tapping and mail-opening warrants issued during 1991 was 732 a rise of 217 on 1990. This rise Lloyd says is due to the efficiency of police and customs officers efficiency in targeting criminals because the warrants are only needed for a short period of time before arrests are made. The Tribunal, set up to investigate complaints from the public, received 58 applications from people who suspected they were wrongly being tapped. None of the 43 completed complaints were upheld.

*Report of the Commissioner for 1991*, Cm 1942, HMSO, £2.90, 1992.

### Subversion - the 'paradigm shift'

The targeting of legitimate political movements who are portrayed as 'the enemies of democracy' and who affected by the 'paradigm shift' is the subject of an excellent article by Chip Berlet in *Covert Action*. The term 'paradigm shift' means a major negative change in the way the public perceives a political movement which is ultimately victimised, and then often subject to surveillance, break-ins and harassment.

For many years the perceived threat to the American 'way of life' was seen as communism, then leftist revolutionism and now domestic terrorism. It is based on the 'subversion myth' where dissent is transformed from a movement for reform into a threat to national security justifying extreme counter-measures. The targeting of a particular group can often be traced to right-wing groups whose views are then transmitted uncritically in the media and used to legitimise surveillance.

Examples in the US are the National Lawyers Guild, which fought for civil liberties in the McCarthy and Cold War eras; the Committee in Solidarity with the People of El Salvador (CISPES) which saw hundreds of offices, churches, homes and cars broken into; the environmental groups 'Earth First' and 'Greenpeace'; and gay groups.

*Covert Action*, Summer 1992.

### Security & intelligence: In Brief

\* **MI6 HQ:** Douglas Hogg, the Foreign Office Minister, has said that the cost of building MI6's new headquarters will be £150 million plus a further £90 million for adaptations. *Times*, 17.7.92.

## Security & Intelligence: new material

**The surveillance state: the origins of domestic intelligence and counter subversion in Canada, 1914-21**, Kealey, Gregory S. *Intelligence and National Security* 7:3, 1992 pp180-210

**Sea of lies** Barry, John and Roger Charles. *Newsweek* 13.7.92. pp9-17. Report on US government cover-up after shooting down an Iranian passenger plane in July 1988, in which 290 civilians were killed.

## IMMIGRATION

### UK and the Dublin Convention

The UK has deported 36 Yugoslavian refugees back to Belgium and Germany by strictly applying the terms of the Dublin Convention which says that refugees seeking asylum should be returned to 'safe' third countries. A further 20 refugees from Yugoslavia are facing similar treatment and lawyers dealing with these cases believe many more have been sent directly back when they arrive at ports and airports and therefore have never been recorded in the figures.

Under the Dublin Convention refugees can only seek asylum in the country to which they first flee and because there are no flights out of Yugoslavia direct entry to the UK is virtually impossible. Mr Charles Wardle MP, Under Secretary of State at the Home Office defended the government's action and said they would be more sympathetic to applications for asylum from those who had clearly not 'lingered' in another country. These deportations have been condemned by the United Nations High Commissioner for Refugees, other EC governments and refugee groups in the UK.

### The Dublin Convention & the 'Ponsonby rule'

The Dublin Convention was prepared by the Ad Hoc Group on Immigration and agreed by the 12 EC governments in Dublin in June 1990. It is an inter-governmental agreement which is not subject to debate in the formal structures of the EC so the European Parliament had no chance to debate it. Under the Convention a refugee can only apply for asylum to one country in the EC and this is the country their first arrive in. It also sets out that refugees can be deported to 'safe' third countries.

Under UK parliamentary procedure the Dublin Convention was 'laid' before parliament in September 1991, when the House of Commons was not sitting, under what is known as 'the Ponsonby rules'. As no MP objected it was formally ratified by the UK state 21 days later. Arthur Ponsonby, a life-long pacifist and campaigner for open government, a Under-Secretary of State at the Foreign Office in the Ramsay MacDonald government of 1924. He gave an undertaking, during the 2nd reading of the Treaty of Peace (Turkey) Bill on 1 April 1924, that the House of Commons would be informed of all treaties and agreements and that they would be 'laid' before the House for 21 days. It became a constitutional practice observed by governments. Unlike most other national legislatures where written constitutions gives parliaments the formal power of ratifying treaties and agreements this power rests with the government in the UK (exercising the royal prerogative on behalf of the monarch) - parliament only has a say if a very keen-eyed MP spots a proposed agreement during the 21 days and organises opposition to it. Graham Allen, Labour frontbench

spokesperson on Home Affairs, has written to the Home Secretary saying that the Convention which 'fundamentally affects the rights of refugees and migrants in the UK and Europe...has escaped effective parliamentary scrutiny'.

*Independent*, 12 & 13.8.92; *Dublin Convention*, Cm 1623, HMSO, 1991; *Treaties and the House of Commons*, Factsheet no 57, Public Information Office.

### UK out of order

On 7 July the European Court of Justice ruled that the Home Office was wrong to try to deport Surinder Singh, the Indian husband of a British woman, when the couple's marriage broke down. Mr Singh and his wife had lived and worked in Germany before they moved to Britain, where they separated. The Court said that the EC directive on free movement applied, giving Mr Singh the right to stay in Britain for so long as he remained married, and not British immigration law, under which the Home Office could ask him to leave once he was no longer living with his wife.

The ruling was widely expected, and caused the Home Office to soften its instructions to Immigration Officers on the notorious 'primary purpose' rule, whereby non-EC spouses of British citizens must prove that they did not marry to gain settlement. The rule has been applied very strictly since its introduction ten years ago, separating thousands of couples. Now, the new instructions say that applications should not be refused under the rule if the marriage has lasted five years or there are British children.

The Court's ruling also means that the Foreign Office may have to refund the £80 visa application fees paid by non-EC spouses living with partners in Europe, and may additionally have to compensate them for any financial losses arising from the British failure to apply the directive since 1973.

*Independent* 8.7.92; 8.8.92.

### Holland: Asylum seekers

The centre for turned-down asylum seekers, the 'Grenshospitium' which was opened last spring in Amsterdam, looks and feels like a prison, but government officials referred to it as 'the next best thing to a hotel'. They are that the 'guests' can always leave the country.

In June however, the Minister of Justice announced plans to start this summer with using the 'hospitium' for illegal aliens convicted of criminal acts. Staff employees and MPs expressed concern over establishing two regimes in one compound and the damage this would do to the public image of the 'hospitium', but a parliamentary majority is expected to agree with the proposal, motivated by the shortage of available prison cells. This has resulted in several cases of releasing suspects of violent crimes, as well as emergency initiatives such as the reopening of old, unused prison cells, the installing of a 'container jail' and the use of army prison cells.

### Asylum seekers end up in Holland by coincidence

A University of Amsterdam research team that surveyed 677 asylum seekers from Ghana, Ethiopia, Eritrea, Iran, Rumania and Somalia, concluded that fifty percent came to Holland through mediation by family members or others. A third of the asylum seekers intentionally choose the Netherlands because they already had family there or on the basis of a positive image of Dutch society. Many asylum seekers feel undesired aliens, and long for more contacts with Dutch people and possibilities to familiarize themselves with Dutch society. Many complain over loss of self-respect and the lacking of structure in their daily lives.

## Medical data disappears

Mr Jean Muluta, the husband of Mrs Jojo Mulata who died last April because Dutch immigration authorities for two weeks failed to recognize her serious medical condition (see Statewatch vol 2 no 4), has for three months been trying in vain to locate his luggage containing medical data from a Libyan doctor who examined Mrs Mulata shortly before her arrival at Schiphol airport en route to Copenhagen. Finally, Mr. Muluta and a group of supporters went to the KLM lost luggage depot after the airline company repeatedly claimed it could not find the suitcases. At the depot, Mr. Muluta pointed out his belongings immediately, but was surprised to find that some clothes, a photo album and the medical data were missing from one of the cases. KLM now claims 'Murphy's Law is applicable here: everything that could go wrong, went wrong'.

## Immigration: new material

**Asylum seekers strike for freedom**, *CARF* No 9 July/August 1992, pp 4-5. On hunger strikes of asylum seekers in Britain and Europe.

**Developments on asylum**, *JCWI Bulletin* Vol 4 no 12, July 1992, pp. 3-4

**Sex and drugs and immigration control ... the double punishment and deportation of black prisoners**, by Steve Cohen. *Immigration and Nationality Law and Practice*, Vol 6 no 3, July 1992, pp. 78-82. Manifesto of the Campaign against Double Punishment, c/o Partners of Prisoners, The Black Resource Centre, The Old Library, Cheetham Hill Road, Manchester 8, which works to bring together the families of prisoners under threat of deportation in order to help to publicise the issue and resist deportations collectively.

**The Spanish law on asylum and refugees**, Ella Rule. *Immigration and Nationality Law and Practice*, Vol 6 no 3, July 1992, pp. 83-88

**A charter for all? CAB evidence on immigration and nationality**. *NACAB*, July 1992, 37 pp. Documents the lack of information and openness, the unreasonable burden on applicants, the excessive delays and the discrimination against black people which are endemic in the procedures of the Home Office Immigration and Nationality Department.

**Recent developments in immigration law**, Rick Scannell. *Legal Action*, May pp16-17 & August 1992 pp.19-21.

**Immigration controls - the human cost**, Shervington, Julia. *Kairos* April 1992 pp.71-77

**Current and future trends affecting Europe**, John Salt. Prepared for the 4th Conference of European ministers responsible for migration affairs, 1991. Council of Europe, 1992.

**Migration into Western Europe**, Nicholas Hopkinson. Wilton Park papers no 49, HMSO, 1992, pp50, £7.50.

## PRISONS

### Report slams Ashworth

Patients at Britain's largest special hospital, Ashworth in

Manchester, may well have been subjected to inhuman and degrading treatment. This is the finding of the year-long inquiry by Sir Louis Blom-Cooper QC.

The Ashworth inquiry was set up after a Channel 4 documentary in March 1991 exposed physical ill-treatment at the 650-bed hospital. It received numerous complaints of bullying by 'mini-Hitlers' from patients and their relatives. The complaints included allegations that British National Party material was displayed and that black patients were particularly victimised. Despite expenditure of £65,000 per patient per year, the report concluded that its regime is 'brutalising, stagnant and oppressive'. It suggested that the hospital should be visited by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

The report's publication on 5 August led to the immediate replacement of its general manager and the suspension of seven named nursing staff for alleged gross professional misconduct including bullying, brutality, threats and cover-ups. The staff were all members of the Prison Officers Association (POA), which has consistently refused to co-operate with internal inquiries. The POA had been on an overtime ban for a month after two staff who terrorised patients with a pig's head were sacked. After the report's publication it called off the ban, while complaining of a 'media campaign waged by those with a vested interest in attacking the POA'.

In the longer term the report may lead to the closure of the country's three large special hospitals, Ashworth, Broadmoor and Rampton. In these places seriously deranged prisoners rub shoulders with harmless long-term schizophrenics when patients should be in smaller, more therapeutic and less security-obsessed hospitals.

*The Report of the Committee of Inquiry into Complaints about Ashworth Hospital*, HMSO, Cmnd 2028-1 and 2028-2, 1992.

### Numbers in prison

At the beginning of July there were 920 prisoners in Wales; 1,834 (including 483 in Long Kesh/Maze) in Northern Ireland and 5,294 in Scotland. The prison population in England was 44,831, (excluding 1,367 prisoners in police cells). Twenty five pregnant women were detained in Holloway Prison. In 1991 311 prisoners were recorded as having escaped from prison, or prison escort in England and Wales. Thirty-two prisons exceeded their 'certified normal accommodation'. They are Bedford, Birmingham, Brinsford, Bristol, Brixton, Chelmsford, Durham, Exeter, Hindley, Hull, Lancaster, Leeds, Leicester, Lewes, Lincoln, Liverpool, Moorhead, New Hall, Northallerton, Northeye, Oxford, Pentonville, Preston, Shepton Mallet, Shrewsbury, Spring Hill, Stafford, Styal, The Verne, Wandsworth, Whatton and Wormwood Scrubs.

*Commons Hansard* 7.7.92; 13-14.7.92.

### Prisons: new material

**Saving Community Penalties: Remaking Sentencing Tariffs**, Howard Parker. *Probation Journal*, June 1992, pp58-62. Parker states that probation workers should remain positive in the light of new sentencing procedures as 'pro-active probation practice can mediate and modify the way sentencers behave'. **Rehabilitation and CJA 1991: A World Still to Win**, Viv McLaren and Jon Spencer. *Probation Journal*, June 1992, pp70-73. Examination of the role of rehabilitation under the Criminal Justice Act 1991. **Criminal Justice Act 1991: Implications for work with Prisoners**, Brian Williams. *Probation Journal*, June 1992,

pp74-77. Williams discusses the advantages and disadvantages of the CJA 1991 in terms of its effects on throughcare. **Women and the Criminal Justice Act 1991**, Joan Orme. *Probation Journal*, June 1992, pp78-81. Assessment of the Criminal Justice Act 1991, in terms of whether it will mean beneficial changes for women in the criminal justice system. **The Probation Service: A Few Valedictory Comments**, Philippa Drew. *Probation Journal*, June 1992, pp92-94. Drew has recently left her post as Head of the Probation Division at the Home Office and moved to the Prison service. In this article she gives her views on the state of the probation service at present. **Mentally Disordered Offenders and CJA 1991**, Dorothy Tonak. *Probation Journal*, June 1991, pp99-102. Assessment of the potential of the Criminal Justice Act 1991 to 'improve resources, effective coordination and sentencing options'.

**The death of prisoner DB3178**, Oulton, Charles. *Independent on Sunday* 26.7.92. pp8-11. Article on the death of 18-year old Philip Becket, the latest in a growing list of suicides in Armley prison, Leeds.

### Parliamentary debates

Prison (Liverpool, Walton) 10.6.92. *Commons* cols 421-428  
Mentally ill and handicapped prisoners 24.6.92. *Commons* cols 359-366  
Prisons 6.7.92. *Commons* cols 119-144  
Parole board 6.7.92. *Commons* cols 145-154  
Young offenders 24.6.92. *Lords* cols 506-540  
Prisoners and criminal proceedings (Scotland) Bill 25.6.92. *Lords* cols 551-571  
Criminal Justice Act 1991 (Contracted out prisons) Order 1992 7.7.92. *Lords* cols 1094-1109  
Parole Board (Transfer of functions) Order 1992 13.7.92. *Lords* cols 38-48

### RACISM

#### European race audit

The alarming increase in racism and fascism across Europe is the subject of a three-year research project to be undertaken by the Institute of Race Relations. The European audit on racism will be analysing: the new 'pan-European racism' which is institutionalised through inter-state treaties such as Schengen and unaccountable bodies like the Trevi group; the growth of the far-Right and other populist racist movements; and the popular fight against racism.

The areas the audit will be monitoring include racial violence and harassment, the treatment of asylum-seekers and refugees, black resistance and organisation against racism, the use of race issues in and by the media, the role of the extreme Right in elections, and race relation policies and strategies. *Statewatch* will be carrying reports on the audit's findings.

To find out more about the audit, receive materials it produces or to help in the collation of material please contact: *Liz Fekete, Institute of Race Relations, 2-6 Leeke Street, Kings Cross Road, London WC1X 9HS Tel: 071-837-0041.*

#### Racist killing in south London

Rehullah Aramesh, a 24-year old Afghani refugee, became the fourth victim of a racist killing this year when he was beaten to death by a gang of white youths in Thornton Heath, south London.

Mr Aramesh had arrived in Britain eight months ago after fleeing the civil war in Kabul and had recently found work as a translator. Five people have been charged with murder, violent disorder and grievous bodily harm in connection with the incident.

Earlier this year, in Manchester, Siddik Dada, a 60-year old shopkeeper was attacked by a machete-wielding gang of white youths and died from his injuries thirteen days later. Three days later Mohammed Sarwar was dragged from his taxi and beaten to death. Panchadcharam Sahitharan, a Tamil refugee, was beaten to death in a racist attack in Newham, east London in December 1991.

#### BNP: no prosecution

Following a police raid on the headquarters of the British National Party in Welling, Kent, early this year the Crown Prosecution Service has decided not to prosecute. Acting on advice from the Treasury Council it decided that material taken during the raid 'was not such as to give rise to a realistic prospect of conviction'. The Attorney General concluded that the decision was 'entirely justified.'

*Hansard* 13.7.92.

### NORTHERN IRELAND

#### Military Intelligence and Northern Ireland

*MI5, the Security Service which deals with espionage and subversion within the UK and the colonies, has been given the lead responsibility for intelligence work against the IRA in Britain.*

The Home Secretary, Kenneth Clarke, announced the change on 8 May following two reviews of the role of intelligence services undertaken by the former head of the Secret Service (MI6), Sir Christopher Curwen, in 1990 and 1991. Curwen argued for a strictly limited and subordinate role for MI5 but the Home Secretary rejected this advice. MI5 already has primary responsibility for intelligence work in relation to loyalist and international terrorism, as well as IRA activity in Europe and elsewhere. The move had been widely anticipated following a number of leaks which may have come from both the police and MI5. In April, the *Irish Times* was sent documents containing confidential minutes of a quarterly meeting between the Metropolitan police's policy committee and senior area officers held in December 1991. The minutes apparently disclosed that the police had little intelligence on the IRA's firebombing campaign in the north of England and that the IRA threat remained high. Since 1988, the IRA has mounted over 40 attacks in Britain, involving an estimated 17 deaths.

Clarke's announcement brings to an end the primacy of the Special Branch after 109 years - the Branch was originally founded to combat Irish Fenian bombings in London. In 1990, the police sought to strengthen their anti-terrorist role through the establishment of an advisory group of the Association of Chief Police Officers. The ACPO group is headed by the assistant commissioner for specialist operations at the Metropolitan police, William Taylor. In addition, the Commander of the Metropolitan police anti-terrorist branch was appointed as national co-ordinator of police counter-terrorist investigations. Neither this reorganisation, nor Curwen's reviews, nor opposition within the police itself, were enough to dissuade the Home Secretary from the promotion of MI5. As he made clear in the House of Commons, the

ending of the Cold War means, 'we simply have the opportunity to switch more resource within the security services into this key area of Irish republican terrorism in this country ... As a result of political changes, there is greater opportunity for the Security Service to put more of its resources into that activity'. According to one report, the director general of MI5, Stella Rimington, is hoping to expand the role of the Security Service still further by contributing to intelligence-gathering in relation to drugs, major fraud and other fields, such as the animal liberation movement.

#### Accountability

The decision on MI5 has given renewed impetus to the debate over the accountability of intelligence agencies. Under the Security Service Act 1989, MI5 is 'amazingly accountable' according to Kenneth Clarke. The Act established a Security Service Commissioner, who produces an annual report, and a tribunal whose decisions cannot be challenged by any court. (see Statewatch May/June 1991) The new provisions have not satisfied some MPs who continue to press for proper parliamentary accountability which goes beyond Stella Rimington reporting to Kenneth Clarke. The Labour Party would like to see the establishment of an intelligence select committee comprising senior Privy Councillors. Alternatively, it has been suggested that accounting officers for each of the security services should give evidence on financial matters to the Public Accounts Committee in closed session. Early in May, the Prime Minister stated that the veil of secrecy surrounding MI6 would be lifted and the Secret Service put on a statutory basis.

In June, the Cabinet committee on the intelligence services, whose existence was only publicly recognised in May, decided to subject MI5, MI6 and GCHQ to a limited form of parliamentary scrutiny, the details of which are likely to emerge from the Bill providing the legal framework for MI6 and GCHQ which is to be published in the autumn. How far these proposals will challenge existing secrecy remains to be seen, but the Home Secretary's view is clear: 'I think there comes a point when one cannot have the widest possible discussions about how we shall organise intelligence gathering against Irish republicans in this country. I think that everybody accepts that... There is no point in having accountability and openness in respect of operations if it is of a kind that will damage the effectiveness of the service.'

The changing parameters of intelligence work have also affected MI5's role *within* Northern Ireland. Officially, the Royal Ulster Constabulary retains primacy in intelligence and operational matters, a position established in 1976. In a move designed to strengthen police primacy, a second post of Deputy Chief Constable has recently been created with responsibility for the CID and Special Branch and with the specific brief of enhancing RUC/British Army liaison. According to a new book by Mark Urban, former defence correspondent of the *Independent*, the relationship between MI5 and RUC Special Branch (RUC SB) is somewhat different than the British equivalent. Because of its dependence on the RUC's extensive network of informers, MI5 is more respectful of RUC SB. But MI5's influence has clearly expanded over the years.

During the earliest years of the current conflict, the British government favoured the use of MI6 in Northern Ireland (and in the Republic). On the basis of countering IRA bombing campaigns in Britain, MI5 pushed for a presence in the North and from 1973 onwards began to build itself organisationally until reaching its current estimated strength of around 70 staff. It was this period of the mid-1970s that gave rise to intense rivalry and conflict between MI5 and MI6, as well as between the British military and the RUC. Urban claims that Army and RUC officers alike derided MI5

efforts in the 1970s. It was during this period that Michael Bettaney worked for MI5 at Stormont. Bettaney began to sympathise with the situation of the Catholic minority in the North and later on began supplying information to the Russians for which he received a 23 year prison sentence in 1984.

The rivalries between RUC SB and military intelligence agencies came to the attention of senior MI6 officer, Maurice Oldfield (previously Director-General of MI6), who was appointed as Security Co-ordinator for Northern Ireland in October 1979. Less than a year later, Oldfield was removed from this position because, as Mrs Thatcher's statement in the Commons claimed, he had 'confessed' to being homosexual. But for a brief period, Oldfield sided with the British intelligence agencies, arguing that it was dangerous to rely too heavily on the RUC.

By the late 1970s, most MI6 agents had been taken over by RUC SB or MI5, and MI6 itself had withdrawn from RUC and Army headquarters, although it retained an office at Stormont. In contrast, MI5 installed itself to the extent that its operational head, the Director and Co-ordinator of Intelligence (DCI) at Stormont, is now a key adviser to the Secretary of State. This relationship is formally recognised under the Security Service Act in that DCI reports to the Secretary of State for Northern Ireland, not to the Home Secretary in London - though clearly MI5 in Northern Ireland retains close links with London. MI5 has offices at Army HQ in Lisburn and at RUC HQ. It floats in and out of the three intelligence co-ordinating Tasking and Co-ordination Groups (TCGs) based at Castlereagh, Gough Barracks and in Derry, depending on its interests in a given operation. From the late 1970s the TCGs combined the CID, SB and the Army, allowing the linking together of informer-based intelligence and the surveillance and ambush activities of undercover units. Urban says that the Army representative on TCGs 'is almost always a veteran of an SAS or 14 Intelligence Company tour'. (14 Intelligence Co. is an Army undercover surveillance unit.) The Army also contributes intelligence gathered from its agents run by the Field Research Unit, set up by Commander of Land Forces Major General Glover in 1980. The bulk of intelligence available to the TCGs comes not from MI5, FRU or 14 Intelligence Co., but from RUC SB. Brian Nelson, the Ulster Defence Association intelligence officer sentenced to 10 years imprisonment in February 1992, worked for FRU. (see Statewatch, March/April 1992)

#### The Nelson case

The Nelson case shows that RUC SB/Army rivalry continued into the late 1980s. The head of FRU at that time was the Colonel 'J' who ran Nelson as an agent and who gave evidence at his trial. One RUC officer is reported to have described Colonel 'J' as 'a liar, a cheat, a manipulator with no integrity in his approach'. Since the trial, more has come to light about Nelson and his FRU handlers in a Panorama programme broadcast 8 June. The programme was based in part on a 90,000 word journal written by Nelson while on remand which Nelson himself claims was stolen from him and given to the Panorama team who used it without his consent. Panorama claimed that FRU knew the UDA had targeted Brendan Davison, an IRA member who was supplying information to RUC SB. Davison was important to the RUC because he was part of the IRA's counter-informer unit. One report claims that military intelligence knew of Davison's role as an RUC agent and that RUC detectives believe the Army played an underhand role in the events which led to his death. Similarly, FRU had knowledge of at least four other targets who were later murdered, including the solicitor Pat Finucane. At least 16 people on Nelson's target list have been killed or wounded, including 8 since his arrest. FRU is implicated in this because it helped Nelson to organise and streamline his UDA intelligence files, in some instances assisting with

photographs of intended targets and premises. The whole Nelson affair has been referred back to the DPP amidst demands that Colonel 'J' be prosecuted for murder.

From the mid-1980s, counter-terrorist work became much more important to MI5. 'High flyers' in the service were often sent to Northern Ireland: Patrick Walker, appointed director general of MI5 in 1989 (Rimington's immediate predecessor), served in Northern Ireland in the late 1970s. Eventually, counter-terrorism became a branch of its own and the director of counter-terrorism acquired the same status as director of counter-espionage. As such, the director of counter-terrorism sits on MI5's board, as does Northern Ireland's MI5 head, the Director and Co-ordinator of Intelligence.

Sources: *Hansard*, 8.5.92, cols. 297-306; *Irish News* 23.4.92, 19.3.92, 8.5.92, 22.6.92; *Independent*, 9/6/92, 8/6/92; *Guardian*, 8/6/92, 26/6/92; *Big Boys Rules - the secret struggle against the IRA*, Mark Urban. Faber & Faber, 1992.

## Review

*Upholding the rule of law? Northern Ireland: criminal justice under the 'emergency powers' in the 1990s.* Haldane Society of Socialist Lawyers, 1992, 68 pp. The report from a delegation visiting the north of Ireland in September 1991 is an indictment of the continuing human rights abuses committed by the RUC and the legal framework giving them carte blanche to do so. In the criminal justice system, the security situation has provided the justification for the institution of non-jury (Diplock) courts, the right to detain suspects for up to seven days, abolition of the right to silence, the right to deny access to a solicitor to suspects in custody on much broader grounds than in mainland Britain, the admission of confessions obtained by all means short of torture or inhuman or degrading treatment, the use of helicopter video evidence for identification of suspects, and the stretching of the doctrine of 'common purpose' to convict, in the notorious Casement Park trials, anyone from the nationalist community who was on the scene of the killing of two armed undercover British soldiers at a funeral. On the streets and in the police stations and holding centres, these official denials of due process feed down into random arrests for questioning, gross physical and psychological abuse tacitly condoned as a legitimate means of obtaining evidence by confession, and the criminalisation of entire communities. The Haldane report is a sober and strong document which should be read.

## Women Prisoners Punished

Following the mass strip search at Maghaberry women's prison in March (see *Statewatch*, vol 2, no 3), prisoners have been punished for a range of offences including barricading cells, refusing to be strip searched and assaulting staff. 21 prisoners have been found guilty of refusing to obey an order to undergo a full search and were punished with seven days' loss of remission, 14 days' loss of access to the yard in the afternoon and 14 days' loss of evening association. Seven prisoners were found guilty of erecting barricades for which they received 14 days' loss of remission (to run consecutively), 28 days' loss of afternoon yard access, 42 days' loss of evening association, and three days' cellular confinement. Of the seven charged with assaulting staff, one has been found guilty while six cases are pending. Fifteen of the group have been granted a judicial review of the governors' adjudications and twelve were granted interim relief from the punishments in relation to 20 charges, pending the High Court's review.

## UDR Men Released

Three of the UDR 4, Winston Allen, Noel Bell and James Hogan, were released by the Appeal Court in Belfast on 29 July. The case had gone back to the Court following ESDA tests which showed that interview notes had been rewritten and false authentications appended to the notes by senior police officers. The tests made it clear, the judgement states, that police officers gave untruthful evidence at the trial. There was a reasonable doubt, therefore, as to the reliability of the confessions which were the only evidence against the three acquitted men. In the case of Noel Latimer, however, the Court had eye witness evidence as well as a confession to consider. Although one witness claimed that the gun man she saw was definitely not Latimer, the Court accepted other eye witness evidence suggesting otherwise. Campaigners who include Ian Paisley jnr will continue to fight for Latimer's release.

## Northern Ireland - new material

**Stalker, conspiracy?**, Stephen Dorril, *Lobster* 23, 1992. Dorril reviews several recent contributions to the Stalker affair.

**More, not less, dialogue**, Rolston, Bill. *Irish Reporter* 7, 1992 pp3-5

**Facing realities and discussing possibilities**, McAliskey, Bernadette. *Irish Reporter* 7, 1992 pp6-7

**Human rights and the fight against terrorism in Northern Ireland**, Leslie MacFarlane, *Terrorism and Political Violence* 4:1, 1992, pp89-99. 'While individual rights have been infringed' in certain important areas, British governments cannot justifiably be accused of 'undermining or even destroying democracy on the grounds of defending it'.

## Parliamentary debates

Northern Ireland (Prevention of terrorism) 10.6.92. *Commons* cols 369-420

Northern Ireland Act 1974 18.6.92. *Commons* cols 1054-1096

Northern Ireland Act 1974 (Interim Period extension) Order 1992 9.7.92. *Lords* cols 1343-1360

## BOOKS RECEIVED

All books received are listed on the on-line database with chapter headings and short summaries.

**Policing a Socialist Society: the German democratic republic**, Nancy Travis Wolfe. Greenwood Press, 1992, pp244, £43.95, hd.

**The death lobby - how the West armed Iraq**, Kenneth R Timmerman. Fourth Estate, 1992, pp443, £17.99, hd.

**Co-optive politics and state legitimacy**, Michael Saward. Dartmouth Pub. Co., 1992, pp196, £32.00, hd.

**The European Community in the 1990s**, Brian Nelson, David Roberts and Walter Veit (eds). Berg Publishers, 1992, pp232, £32.00, hd. Series of essays including four on foreign policy and defence.

**The Denning Report - on the Profumo Affair**, by Lord Denning. Pimlico, 1992, pp114, £8.00, pk. Original 1963 report.

**The Franks Report - Falkland Islands Review**, with new introduction. Pimlico, 1992, pp106, £9.00, pk. Reprint of the original 1983 report.

**Short guide to the European Convention on Human Rights.** Council of Europe Press, 1992, pp156, £7.00, pk. Obtainable from HMSO.

**Titanic Town - memories of a Belfast girlhood**, Mary Costello. Methuen, 1992, pp342, £15.99, hd.

**Rethinking Criminology: the realist debate**, Jock Young and Roger Matthews (eds). Sage, 1992, pp164, £10.95, pk.

**Issues in realist criminology**, Jock Young and Roger Matthews (eds). Sage, 1992, pp180, £10.95, pk.

**Watching Police Watching Communities**, Mike McConville and Dan Shepherd. Routledge, 1992, pp272, £45.00. 'The public have little commitment to Neighbourhood Watch and police rank-and-file culture is hostile to community policing ideals'.

#### **RESEARCH & INFORMATION NOTICEBOARD**

Readers are invited to send in items for this column - conferences, reports, books for sale, researchers looking for information.

**Conference: Immigration and asylum law in the European context: the application of the European convention on human rights to community law**, London, organised by the Immigration Law Practitioners Association and Interights. 2 October 1992. Details from: ILPA, 115 Old Street, London EC1V 9JR. Tel: 071-250-1671 Fax: 071-253-3832.

**Conference: Fair procedures and rights of appeal: principles for a harmonised EC immigration and asylum policy**, London, organised by the Immigration Law Practitioners Association. 3 October 1992. Details from: ILPA, 115 Old Street, London EC1V 9JR. Tel: 071-250-1671 Fax: 071-253-3832.

**Political archives:** the Brynmor Jones Library at Hull University have issued a guide to the archives held on the political papers of groups and individuals held there. Send stamped addressed envelope (A5 size) to: Brian Dyson, Brynmor Jones Library, University of Hull, Hull, HU6 7RX.

**Conference: Black women, social control, racism and community support**, 19 September 1992, 11am, Lambeth Town Hall, Brixton Hill, London SW2. Details: Orville Blackwood Community Campaign, c/o Brixton Community Sanctuary, Talma Road, SW2 Tel: 071-924-0913.

**Conference: Police, courts, prisons and mental health**, organised by MIND, 18 November 1992, Abbey Community Association, Westminster, London SW1. £75 voluntary agencies. Details from: Legal Courses, MIND, 22 Harley Street, London W1N 2ED. Tel: 071-637-0741.

**Research:** John Hopton - undertaking studies on psychiatric nursing and demands of mental health service users and also on an oral history of nurses' impressions of institutional life in two psychiatric units (1957-1984). Contact: 64 Peveril Close, Whitefield, Manchester M25 5NR. Tel: 061-798-8340.

**Conference: police cooperation in Europe**, 1-4 December 1992. Details: IHESI, colloque, 19 rue Peclet, 75015, Paris, France. Tel:++33 14530 5070. See Statewatch vol 2 no 3, page 8.

**Translators wanted:** European languages other than for French and German for European racism audit, see page 9. Tel:071-837-0041 (Liz Fekete).

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### **Statewatch briefings**

**The Schengen Agreement:** *Statewatch briefing* full text of the Agreement plus an introduction, European Parliament resolutions, and a select bibliography. Cost: £5.00 inc p&p (Europe £6.00; outside Europe \$15 or £7.00 sterling).

**Gladio** *Statewatch briefing*, introduction and background country-by-country; article (2pp); *State Research*, article from 1977 (1p). Total: 16 pages. Cost: £2.00 inc p&p.

**Official secrecy in the European Community?** *Statewatch briefing*, May 1992. Cost: £3.00 inc p&p (Europe £3.50; outside Europe \$10 or £4.00 sterling).

**Back issues of Statewatch:** Back issues are available at £2.00 each. Six issues pa. Volume 1 had five issues, nos 1-5.

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