



# **Crimes of arrival: immigrants and asylum-seekers in the new Europe**

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Written by Frances Webber a barrister specialising in immigration cases it looks the treatment of asylum seekers across the European Union.

This is the text of a talk at the 23rd Conference of the European Group on Deviancy and Social Control held in Crossmaglen, Northern Ireland on 1-4 September 1995. One of the purposes of the talk was to show that there are many alternative sources of information to what appears in the media.

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Criminologists, of all people, appreciate that there is no necessary “fit” between morality and “crime”, or between justice and law. But even criminologists might raise an eyebrow at the sight of someone being imprisoned on suspicion of not being British - imprisoned for over six months, in Pentonville prison, interrogated until he “confessed” that he was not British but Nigerian, a confession which turned out to be false, part of a psychotic episode induced by his detention.(1)

You might say I am cheating, that this is not crime and punishment but administrative detention. But when people are subjected to routine fingerprinting, when they are locked up, when they are restrained by body belts and leg shackles and thirteen feet of tape, or forcibly injected with sedatives to keep them quiet as they are bundled on to an aircraft, it seems reasonable to ask: what have they done? The answer is that they have tried to come to western Europe, to seek asylum, or to live here with their families, or to work here. And the whole panoply of modern policing, with its associated rhetoric, is applied against them.

Home Office sniffer dog Billy discovered 51 illegal immigrants in the back of a lorry at Dover at the end of July. They came from India, Pakistan, China and Turkey.(2) Eighteen Tamil asylum-seekers were not so lucky. Having paid £500 each in Romania to a smuggler who promised to get them into Germany, they suffocated, locked in to a lorry trailer whose driver ran away near the Austrian border in Hungary.(3)

Maidstone Crown Court, in common with other courts near air and sea-ports, sees two or three trials for facilitating illegal entry (smuggling illegal immigrants) every week. The average sentence is two to three years for commercial smuggling; 12 months for humanitarian smuggling.(4) As well as the sniffer dogs, the Home Office has teams of immigration officers equipped with night vision equipment trawling the lay-bys and petrol stations near Dover and other ports seeking evidence of people being transferred from containers to cars.(5)

Germany uses helicopters, patrol boats and three kinds of heat-seeking equipment to detect illegal entrants along its border with Poland, operated by military personnel in police uniforms.(6) A new law allows border police to stop and search vehicles and premises up to kilometres from the border for illegal immigrants.(7) Spain's north African enclaves of Ceuta and Melilla, and five patrol ships in the Strait of Gibraltar with electronic monitoring equipment with EC funding.(8) Austria has deployed 1500 military personnel on its borders since 1990.(9) There are detention centres in Morocco for people suspected of planning to migrate illegally to Spain.(10)

Vast amounts of money and time are devoted to improving the technology of control. Millions are spent on detection of forged passports and travel documents. A sub-group of the Ad Hoc Group on Immigration (now the K4 Committee of the Third Pillar of Maastricht) holds bi-monthly seminars on detecting forged travel documents.(11) Western Europe's junior partners, particularly Hungary, the Czech republic and Poland, which have been recruited as buffer states and act increasingly as the frontline of immigration control, are being supplied urgently with equipment such as automated travel document scanners, UV-IR lamps, security laminate verifiers and video-spectral comparators.(12) And biometric controls are being developed, which could do away with the need for passports. Digital fingerprinting and electronic scanning of the iris of the eye are being explored, and there are already pilot hand-scanners in use at JFK and Frankfurt airports.(13)

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Why? What's going on? Why the upsurge in the past few years of human smuggling and forgery of documents? Who are Europe's new illegal immigrants?

They are Sri Lankan Tamils, Turkish and Iraqi Kurds, Chinese, Bosnians, Croatian and Serb draft-dodgers from the former Yugoslavia, people from every African country and most of the countries of Asia. Many, if not most of them would (or should) qualify as refugees under the 1951 Geneva Convention.(14) Many more would (or should) qualify for humanitarian asylum as war or civil war refugees.

But for the states of western Europe, they are a visible and unwelcome reminder of the precarious balance of the new world order and of the human consequences of IMF structural adjustment programmes, of arms sales to repressive regimes, of corrupt aid deals, and there are too many of them, and the voters won't like it because they threaten living standards in the poor areas by competing for resources.(15) The equation of "immigrant" and "refugee" with "drug smuggler, terrorist, other serious criminal, undesirable" was first made back in the mid-1980s by the TREVI group and the Ad Hoc Group on Immigration as they started drawing up "compensatory" measures for the open internal borders envisaged by the Single European Act, the Schengen agreement... Squabbles have gone on ever since as to the extent to which the internal borders should be open to European citizens, but it was never intended that non-Europeans would be free to move within the European space, let alone that they should have freer access to it.(16) A decade of intergovernmental consultations, conventions, recommendations and resolutions has hammered that message home.(17) Those whom Europe's interior and justice ministers have called on to develop European immigration and asylum policy behind closed doors are policemen, security officials, immigration officers and civil servants. It is no wonder that what they produce smacks of a European police state, in which refugees are described as "disorderly movements" and measures designed to combat them.(18)

Asylum policy in Europe is about denial, prevention and deterrence. Refugees from Africa, Asia and Latin America have no business in Europe, the line goes, ("Intercontinental movements are seldom necessary for protection reasons")(19) and there is no such thing as a European refugee since western Europe is the cradle of democracy, and the countries of central and Eastern Europe are catching up fast. After all, "those who fear violations of their human rights should if possible remain in their own countries and seek protection or redress from their own authorities... individuals are not entitled to protection under the Geneva Convention merely because they come from countries in which levels of security, economic, opportunity or individual liberty are below those of the member states."(20)

The new asylum-seekers have therefore been denounced by politicians across the political spectrum as "bogus", "luxury refugees", "economic migrants", (21) and the increasingly tiny percentage of asylum-seekers recognised as refugees, itself a product of ever harsher recognition criteria and procedures, is cited in justification.(22) Civil war-torn Sri Lanka has solemnly been declared "safe" by the Swiss, Danish and British governments amongst others. Nigeria, where Shell and the military regime are in unholy and bloody alliance against the Ogoni, is "safe". Romania, where pogroms against the Romany continue, and where the dreaded Securitate has reemerged with a new name and old faces, is "safe".(23)

The process of criminalisation has taken place on a number of levels. The first is a literal one: forcing refugees into illegality by denying legal means of entry. You might be forgiven for thinking that this was unlawful under the Convention. While the Convention prohibits returning refugees to the country of their persecution, it says nothing about allowing them in in the first place. The central mechanisms of this criminalisation are visa requirements, carrier sanctions and the safe third country rule, which force resort to illegal and dangerous forms of travel.

Visa requirements used to be imposed in an ad-hoc, uncoordinated fashion. Every time a large number of asylum-seekers started to arrive from a non-visa country, Britain, Germany, France, the Benelux

countries would slap on a visa requirement. The British government did this with Sri Lanka in 1985, with Turkey after an "influx" of Turkish Kurds in 1989, with Rwanda, Bosnia etc as refugees from those countries started arriving.(24) Now things are much more systematic. The visa list is drawn up jointly, a matter for "inter-governmental cooperation" under the third pillar of Maastricht.(25) The list of countries whose nationals require a visa to enter EEA territory is now around 129, and includes all the "refugee-producing" countries.(26)

Refugees aren't given visas, even if they have the time to apply for them.(27) But carrier sanctions ensure that they cannot board an aircraft or a ship bound for western Europe (or now, Eurostar) without one. The British government, one of the first to impose sanctions, has made over £60m in fines since 1987.(28) So airline and shipping company staff worldwide have had to become immigration officers, turning back visa-less passengers or those with obviously forged documents.

The choices for refugees seeking entry to Europe are therefore to come in on visitor visas, or to spend a lot of money on good forged visas, or try to stow away or be smuggled in. Whichever option is chosen, the result of success is illegal entry. Only if they identify themselves and claim asylum at the port will they avoid being treated as illegal entrants. But if they do this, and have travelled overland or have changed planes en route to their destination country, they fall foul of the "safe third country" rule, the final brick in the wall of the fortress.(29)

In 1992, EU member states resolved to introduce accelerated procedures to return asylum-seekers to "safe" transit countries without considering their asylum claim.(30) Germany and France changed their constitutions to take advantage of rules which allowed them - especially Germany - to turn back thousands of asylum-seekers into neighbour states, in the process renouncing fundamental protections.(31)

The safe transit country concept has resulted in a huge increase in "Refugees in Orbit" or RIO, whereby asylum-seekers are "bounced" between European countries; British cases such as that of the Romanian, sole survivor of the inhalation of toxic fumes which killed four companions, being returned to France, where he and his friends had climbed into the lorry which brought them to England; (32) or the 17-year-old Somali boy who had witnessed his mother being killed and had fled via Italy to join his only surviving relative in the UK, who was returned to Italy. Or the Somali man with shrapnel lodged in his head, given painkillers and put back on the plane to Italy ... the examples are legion. (33)

It also leads to more smuggling. If it is impossible for an asylum-seeker to claim at Dover, because he or she will be put back on the ferry to Calais or Ostend, the solution for the person who must be allowed to stay in the UK is illegal entry. If asylum is claimed in-country, then, finally, the authorities must engage with the claim, even though the price for the asylum-seeker might be months of detention. It is the governments of Europe which, by criminalising entry for refuge, have created the smuggling rings which they are now acting so vigorously against. They have in the process caused large numbers of deaths. As stowaways, refugees have been killed and thrown overboard by captains unwilling to pay the fines for them. They have been left to float or drown in tiny dinghies cast off from Russian ships in the bitter seas of the Baltic, or in the small boats used to take them across the Straits of Gibraltar from north Africa to Spain. They have died swimming the icy river Oder to get into Germany from Poland. They have suffocated to death in sweltering metal containers, or have died from breathing noxious fumes used to clean the containers.(34)

So the vicious circle of criminalisation continues: more measures to prevent asylum-seekers from arriving; more ingenious and illegal counter-measures by the asylum-seekers (and the racketeers and organised criminals who are making an awful lot of money out of them); yet harsher control measures. The policing measures don't stop, of course, at the borders. There are increasingly pervasive internal controls to detect illegal entrants who slip through the net. In Switzerland they now register not just foreigners, but all the Swiss people who issue invitations to foreigners as well.(35) Laws have been

introduced in the Netherlands introducing ID and residence checks at work and elsewhere.(36) In France, police were given wide powers to check the ID of suspected “foreigners” under the Pasqua “zero immigration” package of 1993 (37); in Britain, as yet undecided about ID cards and the paraphernalia of checks, (38) police appear to do their own almost as a matter of course when they arrest any non-European (and sometimes with non-European victims of crime).(39) “Fishing raids”, in which whole black workforces are rounded up and taken in for proof of legal status, have made a comeback in the past few years, and the number of illegal entrants caught in Britain in 1994 doubled from 1993.(40) A July 1995 Recommendation under the third pillar of Maastricht enjoins member states to establish a central register of all foreign nationals and to give police wide powers for random ID checks (which would, in the case of non-EU nationals, include residence permit checks) in a number of specified situations.(41)

There are vicious circles at work here, too. For the numbers of illegal entrants are swelled not just by the virtual impossibility of entering the country legally, but by the fear (because of single-figure recognition rates and the virtual abolition of humanitarian status or “Exceptional leave to remain” (42)) that making an asylum claim will result in detention and removal. So many genuine refugees simply don't claim, preferring to remain underground and illegal, and only claiming asylum if they have to, ie, when they are caught. But the Home Office then uses the failure to claim asylum earlier as a ground for dismissing their claim as “bogus”.(43)

So far I have described ways in which Britain, in conjunction with other European governments, have forced asylum-seekers to resort to illegality in order to obtain refuge. But the rhetoric of floods and invasions of bogus refugees provokes and justifies the treatment of all immigrants and asylum-seekers as criminals both at the borders of Europe and inside the fortress.

In common with most of the countries of northern Europe, Britain routinely fingerprints all asylum-seekers as soon as they apply for asylum, including unaccompanied refugee children. (The justification given for this measure, affecting around 40,000 people a year, was the detection of multiple DSS claimants, of whom eleven had been convicted.(44) A European-wide computerised fingerprint... which is at the pilot stage, will detect “serial claimants' who have sought political asylum in another European country.(45)

And, of course, asylum-seekers, whether or not illegal entrants, are frequently detained. Including children. Answers to parliamentary questions tell you that only some 6-700 immigrants and asylum-seekers are detained at any one time. True, but misleading. Several thousands are detained annually, most for a matter of a few days or weeks.(46) For many, their only knowledge of Britain is of Haslar, or Harmondsworth, or Campsfield, or Dover police station, and the road between there and the port. Others have been in detention for over a year; one, for five years.(47) For in Britain, there is no limit to the length of administrative detention under the Immigration Acts.

The prison rules don't apply to administrative detainees. Nor do the UN minimum standards or the European prison rules, although the UN Committee on Human Rights' 1995 report recommended that all those involved in detention must be aware of these international obligations on the treatment of prisoners.(48) Group Four don't know anything about that, although they are training £4-an hour detention orderlies to become Britain's first private riot squad.(49)

Of course, unlike criminal prisoners, asylum-seekers are free to leave at any time, according to High Court judges back in 1987, justifying the 9-month detention of Tamils on board the RORO ferry *The Earl William* before the October hurricane forced the Home Office to scrap the floating detention facility,(50) and according to the coroner at the inquest of an asylum-seeker who hanged himself after spending five days in detention incommunicado.(51)

Campsfield detention centre, near Oxford, has 20 foot metal fences topped with razor wire, electronic gates and video cameras inside and out.(52) A Belgian centre for asylum-seekers has razor wire and

isolation cells “to allow troublemakers to cool off” according to the Interior Minister.(53) He responded to administrative court denunciations of conditions in asylum centres as inhuman and degrading, “It won’t be the last time.”(54) In France, cells in the basement of the Palais de Justice for asylum and immigration prisons, were condemned and 26 detainees released by a horrified judge in March 1995 after a series of violent incidents including beatings and an attempted rape by guards, and a suicide.(55) In Germany, there have been repeated allegations of police brutality towards asylum-seekers... containers, bunkers and camps which were pressed into service as “collection camps” in 1991-2.(56) In the Dutch detention centre of Greshospitium, Jacqueline Mulata died for want of medical attention;(57) and in Pentonville prison, Omasase Lumumba, great-nephew of Patrice Lumumba, was unlawfully killed by prison officers.(58)

Campsfield exploded in June 1994 after detainees witnessed a rejected asylum-seeker being removed in gag and handcuffs for deportation.(59) As the volume of expulsions increases, so does the level of brutality. Deportations of rejected asylum-seekers have involved the use of sedative injections, straitjackets, stretchers, face masks, handcuffs, leg irons, surgical tape.(60) Face masks were introduced in the Netherlands after surgical tape wound round the head and face of a Romanian deportee resulted in his suffering brain damage. Their use was discontinued after they proved ineffective to prevent the deportees making a noise, but the development of “better” face masks has not been ruled out.(61) After the death of Kola Bankole in Germany, while being sedated for deportation, the Nigerian embassy accused the German authorities of responsibility for 25 such deaths.(62)

Several dozen Zairean deportees were said to have been handcuffed and bound with tape throughout their journey, on two specially chartered planes, from France. The appeal of special charter flights for deportation is obvious; passengers travelling to a third world destination for profit or pleasure don’t want to see distraught deportees, sometimes shouting, lashing out and having to be restrained, or already under restraint, drugged or bound and gagged. They might be moved to intervene, as passengers have on occasion, refusing to travel unless deportees were taken off the plane.(63) Thus, a plane was chartered to remove around a hundred Jamaican visitors from Britain on Christmas Day 1993; they had been suspected of not being genuine, locked up in Campsfield for three days and deported en masse.(64) The entry into force of the Schengen agreement resulted in the first joint mass deportation, in which the French, Dutch and German authorities chartered a plane to deport 44 Zaireans from their respective countries, in the spirit of solidarity and burden-sharing.(65) The new French interior minister, Jean Louis Debre, who has announced a target of 20,000 deportations a year, defended joint mass deportations as cheaper than individual ones and said they would continue.(66)

The Ad Hoc group on expulsions and its successor have meanwhile been busy drafting resolutions and proposed readmission agreements to ensure that undocumented migrants... nevertheless be got rid of, and have proposed making it a criminal offence for a deportee to refuse to cooperate in their own deportation.(67)

To justify these measures, governments resort to the second kind of criminalisation: slander. Asylum-seekers are represented as not just bogus, but criminals and terrorists too. Sometimes this is done by sleight of hand, by juxtaposition of words. “Organised crime and immigration present the biggest threats to national security”, according to Swiss and Czech ministers of justice and home affairs.(68) Or they are denounced for their support for dissident or liberation groups at home. The PKK has been banned in France and Germany and suspected members, supporters and sympathisers rounded up and expelled as terrorists, while in Britain, Kurds, Tamils and Sikhs have been labelled as terrorists or supporters of terror.(69)

Police use the equation “refugee: immigrant: terrorist suspect to harass entire communities. In the wake of the killing of two French nationals in Algeria in August 1994, 20,000 Algerians were ID-checked. Now, in the aftermath of the Metro bombing, an estimated 1 million north Africans have been checked.(70)

If not “terrorists”, asylum-seekers are characterised as common criminals, guilty of large-scale social

security fraud, drug dealing, theft and violence. Sometimes this is done with selective racialised crime statistics (which in other contexts police agree are meaningless); more often the link is made by statements from mayors, police commissioners and politicians, all confident of huge and uncritical media coverage.(71)

All these measures of external and internal control, fingerprinting, detention, information exchange, ID checks, immigration raids, deportations - serve to exclude the target groups from mainstream society. They are excluded still more by explicit provisions which restrict or deny access to education, health care, social housing and welfare provision to "illegals", to temporary migrants and in some cases to asylum-seekers too, thus replacing the welfare-state principle of universal provision on the basis of need with status-based provision. In the UK, Howard's proposals to "re-align" eligibility for most benefits in line with immigration status extend and consolidate a decade of such measures, while drawing the providers in to a multi-agency immigration policing scheme.(72)

Hand in hand with new laws outlawing any help to illegals, head teachers in one department are being asked to identify irregular immigrant children and exclude them from school;(73) in Germany, where welfare benefits are being cut and changed from cash to vouchers; in Italy, where immigrant women have died in childbirth after being excluded from health care;(74) in fact all over western Europe. And in July, ministers agreed to apply the principles of status-based benefits and point-of-access immigration controls, across Europe.(75)

The new social outcasts live in bed and breakfast hotels, hostels, shanty towns, squatter camps, under motorways, in parks and in unsafe and abandoned buildings in and around many western European cities. These then become the target for attacks by local racists, fascists or police.(76) Their status forces them into conditions of slavery at work; whether it is Chinese immigrants working a 16-hour day in Madrid basement clothing factories or Rwandan women working for £1.50 an hour in London.(77)

Children brought up in these conditions of marginalisation are likely to get involved in criminality: violence, dishonesty, drug use. The criminalisation process is thus complete.

In the UK, resistance to the criminalisation of immigration and asylum has been fragmented and largely invisible, but it has been constant. There are huge obstacles. The new immigrants and refugees are not linked by a common language or a "mother country", as were the Commonwealth immigrants to the UK in the 1950s and 60s, or other ex-colonial subjects going to the metropolis. Illegal status impedes organisation, particularly in a climate where anonymous calls (or even electronic messages) to immigration, police and other authorities are officially encouraged. An employer faced with employees seeking to unionise, or demanding better pay and conditions, need only make one call.

In such a climate, legal battles, against detention of asylum-seekers, or for rights of due process, have tended to be divorced from the communities on behalf of whom they are launched. No movement sweeps the court cases along, as happened in the late 1970s and early 1980s with the anti-fascist and black self-defence cases such as those of the Southall 342, the Bradford 12, the Newham 8 or the Newham 7. In the absence of such a movement, immigration and refugee law has become, by and large, an esoteric preserve of the legal profession; and with no packed public gallery to keep up the pressure, most judges toe the Home Office line.(78)

Even the European Court of Human Rights, seen as the fount of justice by many lawyers and campaigners in the UK, have given immigration authorities a wide "margin of appreciation".

That is not to say that the law is useless, only that the struggle there is both defensive and ancillary to resistance on the ground. On the ground, there have been strong sanctuary movements in Switzerland and Scandinavia, building on the wartime resistance tradition of safe houses and underground railroads.(79) Detained asylum-seekers in Britain, as in the rest of Europe, have regularly used hunger strike as peaceful

protest;(80) in March 1994 the Home Office was alarmed by the bush-fire spread of hunger-strikes to over 200 immigration prisoners in several different prisons and detention centres. Asylum detainees have extremely rarely exploded into rooftop protests and disturbances, such as at Campsfield in June 1994.(81) Support groups and anti-detention campaigns have burgeoned in Britain with the increasing use and geographical spread of immigration detention, while anti-racist campaigning groups, magazines and the odd film company (such as Migrant Media) try to keep the issues in the public eye.

The death of Joy Gardner in August 1993, and the acquittal of the three officers involved in her death in July 1995, revealed unsuspected depths of anger about the brutal deportations of those deemed illegal. The public debate increased awareness of the links between immigration and policing for Britain's settled black communities. This year, for the first time, there was a European-wide day of action in June against the detention of asylum-seekers. Coordinated by the anti-racist network UNITED, it involved actions in 16 countries, including protests outside the EU office in the Hague on the anniversary of the 1951 Geneva Convention, and eight separate demonstrations outside prisons and detention centres in the UK.(82)

What is needed is an integrated approach in which support for asylum-seekers' struggles and self-help initiatives on the ground, and solidarity actions, are combined with lobbying and legal action. Refugees don't have the luxury of anger; those of us who can afford it must use our anger as effectively as possible to put an end to the crimes against asylum.

### **Postscript**

Since this talk was given, the criminalisation of asylum and the marginalisation of asylum-seekers have been reinforced by the Asylum and Immigration Bill currently going through parliament, and new social security regulations to come into force on 5 February 1996. Between them the measures will deny all social security benefits, including income support, urgent cases payments, child benefits and social housing to asylum-seekers who don't claim immediately at the port (who constitute about 70% of the total). And all benefits will cease once an adverse decision has been taken, effectively forcing asylum-seekers who wish to exercise their right of appeal to starve or be locked up. Criminal penalties will deter employers from hiring anyone whose status they are unsure of. It will be a criminal offence for individuals to help asylum-seekers to get into the country.

The government is insisting on pressing ahead with the social security measures despite unprecedented opposition from its own Social Security Advisory Committee as well as a formidable campaign involving refugee and black groups, churches, charities and trade unions. At the same time, the Home Office has ordered Saudi refugee Mohamed al-Masari to seek refuge in Dominica (a country with which he has no connection) because his London-based human rights campaign has caused distress to the repressive Saudi regime and its friends in the British arms trade. (83)



**Sources**

- (1) Case note (ongoing) 1995.
- (2) *Independent* 30.7.95. For the sniffer dogs, *Statewatch* vol 5 no 3, May-June 1995.
- (3) *Observer* 16.7.95; *Independent* 17.7.95.
- (4) The offences of illegal entry, overstaying a permitted period of leave, breaching conditions of leave, facilitating illegal entry, harbouring illegal entrants, obstructing an immigration officer, refusing to submit to examination, making false representations, were created by the Immigration Act 1971. Most carry maximum penalties of six months' imprisonment, but the maximum for facilitation is seven years.
- (5) Case files, ongoing.
- (6) *Statewatch* vol 3 no 6, Nov-Dec 1993.
- (7) *IRR European Race Audit* no 12, Mar 1995.
- (8) "Exporting immigration control" in *Inside racist Europe*, IRR, 1994.
- (9) *Migration Newssheet* Aug 1990, Oct 1990.
- (10) "Exporting immigration control", above.
- (11) *Statewatch* vol 4 no 1, Jan-Feb 1994.
- (12) the Report of the Working party on a solidarity structure (burden-sharing) of the Group of senior ministers entrusted with the follow-up to the Conference of Ministers on the movement of persons coming from central and eastern European countries (Vienna Group, Strasbourg, 3 June 1993, Council of Europe; *Statewatch*, vol 3 no 6, Dec 1993.
- (13) "The technology of immigration control" in *CARF* no 23,
- (14) The Geneva Convention on the status of refugees, 1951, defines a refugee as someone who has a well-founded fear of persecution on grounds of race, religion, nationality, membership of a particular social group or political opinion.
- (15) "Our passports on our faces" in *CARF* no 6, Jan 1992.
- (16) "Towards an authoritarian police state" in Europe: Variations on a theme of racism, *Race & Class*, vol 32 No 3 Jan 1991.
- (17) Intergovernmental cooperation on immigration and asylum, CCME, Brussels, April 1995.
- (18) Report of the Working party above.
- (19) Ad Hoc Group Immigration: Draft resolution on manifestly unfounded applications for asylum, Confidential, Brussels 1.7.92. The document was leaked to the BBC.
- (20) Draft resolution above.
- (21) eg John Pilger, "Racism in pinstripes" in *New Statesman* 20.12.91; "Refugees: countdown to zero" in *CARF* September 1991; "Few refugees had "genuine fear of persecution", in *Guardian* 8.12.92.
- (22) *Statewatch* vol 5 no 1 Jan-Feb 1995.
- (23) *Statewatch* vol 5 no 3, May-Jun 1995; "Exporting immigration control" above; "Stop the repatriations" in *CARF* No 20, Jun 1994.
- (24) eg, "Britain slams door on Bosnia refugees", *Independent* 6.11.92; "Caught in Britain's visa trap", *Independent* 19.11.92.
- (25) "Visas and external borders" in Intergovernmental cooperation above.
- (26) *ibid.*
- (27) Under the Geneva Convention, a person is not a refugee until they are outside their own country. Once outside, the rationale for refusal is that the refugee is now safe and does not need the protection of a western European state.
- (28) The Carriers' Liability Act 1987 (as amended) imposes a £2,000 fine for each passenger without travel documents or with forged ones. In addition, the carrier pays for the passenger's detention and removal under the Immigration Act 1971.
- (29) The Dublin Convention (Convention determining the state responsible for examining applications for asylum lodged in one of the Member States of the European Communities), signed in June 1990, was the first measure against "serial" asylum claims, and allotted asylum-seekers to the first EU country they came to, regardless of intention, language, culture and other links with the country of destination.

- (30)The resolutions on “manifestly unfounded applications for asylum”, on “a harmonised approach to questions concerning host third countries”, and “Conclusions on countries in which there is generally no serious risk of persecution”, agreed by ministers of justice and home affairs in London in November 1992, are summarised in Intergovernmental cooperation above.
- (31)see country summaries in "Inside Racist Europe".
- (32)*Independent* 16.2.94.
- (33)Europe on Trial, *IRR Race Audit*, 1995; Playing Human Pinball: Home Office practice in safe third country asylum cases, Amnesty International, July 1995.
- (34)eg CARF's annual round-up of deaths from 1992 onwards, in Nos 12, 18 and 24, and “Deaths in transit: the new boat people”, *CARF* no 24, Feb 1995.
- (35)*Statewatch* vol 4 no 6, Nov-Dec 1994.
- (36)“Identity cards: not welcome here” in *CARF* no 27, Aug 1995.
- (37)*IRR European Race Audit* no 4, Jul 1993, No 11, Dec 1994.
- (38)Identity cards: a consultation document, CM 2879, HMSO, May 1995, and “Howard faces revolt over ID cards”, *Independent* 8.8.95.
- (39)Ongoing case files, 1995, and see eg *IRR European Race Audit* no 14, Jun 1995.
- (40)“New instructions on police/immigration raids”, *JCWI Bulletin* vol 5 no 9, Summer 1995; *Independent* 20.7.95.
- (41)“Combating illegal immigration”: EU and UK in concert” in *Statewatch* vol 5 no 4, Jul-Aug 1995.
- (42)eg The last resort: violations of the human rights of migrants, refugees and asylum seekers, Liberty and JCWI, 1995, for statistics.
- (43)The (late) timing of the claim is a factor specified under the immigration rules (HC395) as capable of adversely affecting the credibility of the claim.
- (44)Asylum and Immigration Appeals Act 1993, s4. See “Tory policy: prejudice before fact” in *CARF* no 22, September 1994.
- (45)Intergovernmental cooperation above.
- (46)eg *Statewatch* vol 3 no 3, May-Jun 1993.
- (47)*Independent* 20.7.95. An Amnesty International report, Prisoners without a voice: asylum-seekers detained in the UK, 2nd ed May 1995, showed that a relatively high proportion of those subsequently recognised as refugees.
- (48)UN: Human Rights Committee: Consideration of reports submitted by States Parties under Art 40 of the ICCPR, CCPR/C/79/Add.55, 27.7.95.
- (49)“The accountancy of asylum” in *CARF* no 26, Jun 1995; *Statewatch* vol 5 no 3, May-Jun 1995. Immigration detention and transport is heavily privatised, with firms such as Loss Prevention International and Airline Security Consultants involved in recent deportations: see eg “Campsfield explodes” in *CARF* No 21, Aug 1994, and “The deportation of Ms Nwokedi” in *Statewatch* vol 3 no 6 Dec 1993.
- (50)For the Earl William, see *Runnymede Bulletin*, April, May, June and September 1987.
- (51)For the death of Kimpua Nsimba, see Deadly Silence: black deaths in custody, IRR 1991.
- (52)“Close down Campsfield” in *CARF* no 18, Jan 1994.
- (53)*Statewatch* vol 5 no 1 Jan-Feb 1995.
- (54)*Migration Newssheet* Jan 1994.
- (55)IRR European Race Audit No 14, Jul 1995.
- (56)“Prisoners of asylum” in *CARF* no 13 Mar 1993.
- (57)*Statewatch* vol 3 no 3 May-Jun 1993.
- (58)Amnesty International, UK: unlawful killing of detained asylum-seeker Omasese Lumumba, November 1993.
- (59)“Campsfield explodes” in *CARF* no 21, June 1994.
- (60)eg, Amnesty International: UK: cruel, inhuman or degrading treatment during forcible deportation, July 1994; *Statewatch* vol 4 No 5; “No more immigration deaths” in *CARF* No 26, June 1995; and the extensive reporting of the Joy Gardner case in the national press, 29 July 1993 on, and in *Statewatch* vol 3 no 4, Jul-Aug 1993.
- (61)*Statewatch* vol 5 no 1, Jan-Feb 1995.

- (62)*Statewatch* vol 4 no 5, Nov 1994.
- (63)And not only the passengers. In October 1994 the Home Office tried to deport a Pakistani who was badly injured that he required 59 stitches, provoking the captain of the airline to refuse to take him: *Guardian* 28.10.94.
- (64)*Independent* 23, 27.12.93, 17.1.94; *Times* 27.12.93.
- (65)"The accountancy of asylum" above.
- (66)*Independent* 26.8.95.
- (67)Intergovernmental cooperation above for details of resolutions and draft readmission agreements. Since then the French presidency has produced further proposals, on "a joint action on concertation and cooperation regarding the execution of expulsion measures", and on "principles relating to the drafting of protocol on the implementation of readmission agreements", which are submitted by the Home Office as Explanatory notes Nos 5403/95 and 5402/95, 11.5.95. On the criminal offence, see "Combating illegal immigration" above.
- (68)*Statewatch* vol 4 no 3, May-June 1994.
- (69)eg "The making of terrorists and dissidents" in *CARF* No 14 May 1993; "Criminalising the Kurds" in *CARF* no 19 Mar 1994; Inside racist Europe above, "Refugees = terrorists" in *Statewatch* vol 4 no 3 May-June 1994; "Police unit investigates terrorist blackmail", *Independent* 27.11.93.
- (70)*IRR European Race Audit* no 11, December 1994; "France finds immigrant suspects" in *Observer* 30.7.95.
- (71)examples in Inside racist Europe above; "Refugees guilty of Tube ticket scavenging racket" in *Evening Standard* 8/94; "Beggar off you cheeky Arab" in *Daily Star* 9.7.94.
- (72)eg From ill treatment to no treatment: the new health regulations, Manchester Law Centre, 1982; Social Security Act 1987; Income Support (General) Regulations 1987, "Benefit quiz condemned as racist" in *Guardian* 16.10.87; "No to passport checks" in *CARF* no 14, May 1993; *Statewatch* vol 4 no 4 Jul-Aug 94, and on Howard's proposals, vol 5 no 4 Jul-Aug 95.
- (73)*IRR European Race Audit* no 14, July 1995.
- (74)eg "Identity cards - not welcome here" in *CARF* no 27
- (75)Recommendation on harmonising means of combating illegal immigration and illegal employment and improving relevant means of control, ASIM 188, 16.6.95, reported in *Statewatch* vol 5 no 4 Jul-Aug 1995.
- (76)eg most issues of *IRR European Race Audit* for racist and on shanty towns and homeless immigrants.
- (77)"Defend undocumented workers" in *CARF* no 25 April 1995.
- (78)Immigration appeal statistics show an appallingly low rate of successful asylum appeals, and the refusal rate for leave for judicial review of immigration cases is four times that for homelessness cases. See Hansard 21.7.94 cols 412-3; Judicial review in perspective, Public Law Project, June 1993.
- (79)eg *Migration newssheet*, passim, for church actions in support of asylum-seekers.
- (80)*CARF* passim.
- (81)"Campsfield explodes" in *CARF* no 21, July 1994.
- (82)*CARF* no 27, Aug 1995.
- (83)See *Observer*, *Guardian* and *Independent* throughout December 1995 and in particular *Observer* 17.12.95, *Independent* 19.12.95, and on al-Masari, *Guardian* 6.1.96. See also *CARF* nos 29 and 30, December 1995-January 1996 and February-March 1996.

*Written by Frances Webber a barrister specialising in immigration cases it looks the treatment of asylum seekers across the European Union with many examples. The sources emphasise coverage from "grey literature" and alternative views.*

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