

Statewatch bulletin

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IN THIS ISSUE: * External Borders Convention * MI5's annual report * Cabinet Committees * ID cards? * EC secrets law * Switzerland: political policing * Casement Park trials * Parachute Regiment

IMMIGRATION

The death of Mrs Jojo Muluta - a Zaïrese asylum seeker

On 23rd of April Mrs Jojo Muluta, at that time pregnant, died in the hospital of Meppel. According to the official statement of the Minister of WVC, who is responsible for the refugee centres in Holland, she died of serious anaemia. How could it happen that she died after 14 days in Holland when medical treatment could have saved her? This is one example of what is happening with the 'harmonisation' of EC policies through the Schengen and Trevi groups.

Looking at the sad story of Jojo Muluta is in way looking at the story of thousands of asylum seekers. Entering Holland is becoming more and more difficult and asylum seekers who arrive at Schiphol (Amsterdam airport) especially get very hard treatment. What exactly happened to Jojo Muluta when she arrived in Holland with her husband and three children?

The family, originally from Zaïre, took refuge ten years ago in Libya, together with about 200 other Zaïrese, all members of the FLNC, a party which was (and is) forbidden in Zaïre and whose members were heavily persecuted. Last year the Zaïrese community in Libya fell in disgrace and most of them decided to leave Libya and seek asylum in Denmark and Germany. When the Mulutas, together with another family, the Abubes, left Tripoli on 9 April, they were heading for Denmark, where they had addresses of old friends. The plane did not go directly to Denmark; they had to change planes at Schiphol airport.

There they first came in contact with the new European policy on asylum seekers. On entering a European country you have to stay there and ask for asylum in that particular country, and are prohibited from continuing your trip. This happened to both Zaïrese families; their luggage went on in the normal way to Denmark, but they were held by the Dutch police. On the first day of their arrival Dutch immigration officials tried to persuade them to return to Libya.

Held in Holland

Since it was impossible to leave for Denmark they decided to stay in Holland and seek asylum, and then the waiting started. The normal procedure in Holland, said the Minister of Justice, is that asylum seekers can be held for maximum 24 hours in the airport transit space at Schiphol airport. There's no accommodation, no good food, no real medical care and no access to refugee help organisations. After the first day Jojo Muluta, who was 7 months pregnant, began to feel sick with stomach ache, headache and diarrhoea. When Jean Muluta asked the police for medical help, they said they only were there to watch them, and that they needed special permission to get out of the transit space, which they would

not get. For four days they had to stay and every request for medical care was not followed up. When after her death the Public Health Inspection investigated what happened at Schiphol airport the police insisted on the fact that they were never told Jojo Muluta was pregnant and they had not noticed it themselves.

On the 13 April Jean Muluta was interrogated by the aliens police. His wife Jojo was still ill and before the interrogation started he asked the interpreter for medical help. 'After the interrogation', was the answer, but after 7 hours of questioning, mainly on the situation in Libya, Muluta didn't get the medical help for his wife he requested.

Then they were not sent back to Schiphol airport, but were brought to the so called 'Grenshospitium'. This is a newly opened prison for asylum seekers, who in the eyes of the Dutch government can't stay in Holland. In this prison asylum seekers stay four to eight weeks, the time it takes to hear their lawyers appeal. Afterwards most of them are sent back to the country they came from. This prison is part of the new policy of the Dutch government to put off as many asylum seekers as possible. It is one of the restrictive measures that isolate the asylum seekers from entering the Dutch society and puts them in the position of more or less a criminal.

For eight days the Muluta Family were in this prison without proper medical care for the ill and pregnant Jojo Muluta. There had been a routine check by a nurse, but this meant only asking a lot of questions about her health. So Jean Muluta once again asked for a doctor and this time one finally came. She diagnosed fatigue symptoms and subscribed vitamin C pills. She didn't check the pregnancy of Jojo Muluta, neither did she take blood samples.

In the official report from the Public Health Inspection the situation in the prison is described as 'normal', and all stories about Jojo's medical situation are denied.

Moved again

After eight days the Mulutas were sent to an OC, an asylum seekers centre which is more open and for people with a greater chance of getting refugee status in Holland. From the prison they were brought by minibus to the railway station, because Jojo Muluta could not walk anymore. They had to go to Nijeveen, in the north of Holland but were given the wrong direction and they wandered around for hours and hours. They arrived late at night in Nijeveen and Jojo Muluta was so exhausted that she fell down at the gate of the centre. First thing Jean Muluta did next day was to look for a doctor because he felt more and more worried about his wife. They had to wait till eleven although everyone at that time could see how bad her condition was. The doctors in the asylum centres in Holland are only permitted to diagnose their patients, they are not allowed to treat them. This doctor thus only gave pills for the pain and said Jojo had to go to the doctor in the nearest town to get treatment.

Next day they arrived by taxi at the doctor's who was so shocked

at the bad condition of Jojo Muluta that he immediately decided to get her to hospital. The medical report of the Public Health Inspection doesn't say anything about the health situation of Jojo Muluta in the OC of Nijeveen. It says normal procedures were followed. Maybe the words of the official of the OC in Nijeveen are enough to quote: 'It is normal when people fall down after such a long trip.' Even in the so called open centres asylum seekers are not really taken seriously when they complain.

Once in the hospital things went very fast. They arrived at 11.30 and for the first time some blood was taken from Jojo Muluta. They found out she had a terrible anaemia. Because it was so bad they didn't believe it at first and did a second test. The results were the same and an immediate blood transfusion was necessary. Unfortunately it was already too late: Jojo Muluta died at 15.00 hours.

Afterwards Jean Muluta was really upset, they didn't tell him what had happened, why she died, what happened with the baby and so on. If he had not contacted the Zaïrese refugee community in Holland he probably would never have had answers to these questions. Thanks to those refugees, Jean Muluta himself and a few Dutch people who put pressure on the ministry of Justice and public opinion investigations had to be made on this tragic case.

The Minister of Justice regarded this case as a tragic coincidence and tried to concentrate the investigation only on the period they stayed at Schiphol airport. In this way he tries to stop the discussion on the treatment of refugees in the 'Grenshospitium' and in the regular centres. He doesn't want to take any responsibility for the new policy which isolates refugees from the Dutch society and makes it possible things like the death of Jojo Muluta possible.

In Holland a support group for Muluta was founded by Zaïrese refugees and Dutch people. They are supporting Jean Muluta by trying to reconstruct the real story about the death of Jojo Muluta. For more information, contact: *Support Group Muluta*, Kinkerstraat 48h, 1053 DX Amsterdam, tel 020-6126172, fax 020-6168967; or: *Buro Jansen & Janssen*, Postbus 10591, 1001 EN Amsterdam, tel: 020-6380555, fax: 020-6230680.

External Borders Convention

The proposed Treaty on External Borders, which Home Secretary Kenneth Clarke recently denied knowing was secret, has been awaiting the signature of the twelve EC states since June of last year, when it was held up over disagreements between Spain and Britain over Gibraltar.

An examination of this 'secret' Treaty reveals that like the Dublin Convention, signed in June 1990, which defined the country responsible for dealing with an asylum-seeker's application, the External Controls treaty takes important issues of immigration control, policing and information exchange out of the purview of the institutions of the EC. This means that neither the European Parliament nor the Court of Justice of the Community will have any power to intervene to protect the rights of those affected by it.

Some of the key provisions of the draft Treaty are: 1) sanctions for the crossing of external borders other than at authorised places and times; 2) a duty of 'effective surveillance' of all external borders by member states, including a duty of cooperation by surveillance services; 3) rigorous controls, by visa and other requirements, on the entry of third country nationals; 4) carrier sanctions for airlines and other passenger carriers who fail to ensure that third country nationals have the necessary travel documents and visas; 5) a common list of countries whose nationals require visas to enter any of the member states; 6) the provision of a uniform visa, valid for all member states, on common conditions and criteria, authorising a total stay of three months; 7) limited 'visiting rights' but no free

movement for third country nationals already living in the Community; 8) the establishment of a joint computerised list of 'inadmissible' third country nationals, by reference to the commission of immigration or other offences or a reasonable belief that the person is planning to commit a serious offence.

It is clear from the draft that many aspects of immigration control are to be shifted from the national to the European level, probably without the benefit of any informed debate. If Parliament and public are to have time to debate the new Convention then it will have to be published quickly because it is due to be signed in Edinburgh in December.

European Information System

Under the Convention the European Information System (EIS) will hold a joint computerised list from the national list of the 12 EC states on 'inadmissible third country nationals' (aliens). The Introduction says that the aim of the controls is to 'eliminate risks to public order and public security ... and to combat illegal immigration'. The joint list will not include nationals of member states. The criteria for putting people to be excluded from the EC on the list are: 1) that they have served a custodial sentence of one year or more; 2) that '*information*' to the effect that the person has committed a serious crime'(italics added); 3) serious grounds for believing they are planning a serious crime, represent a threat to public order or national security of a member state; 4) have committed a serious offence in relation to entry or residence of aliens (Article 10). People wanting to visit an EC country (short stays) will be checked against the computer list and will not be allowed entry if their presence would endanger public order, national security or the 'international relations of member states' (Article 7).

Under Article 25 an inter-governmental Executive Committee will be set up and it will be serviced by the General Secretariat of the Council of the EC (*inter-governmental* co-operation means that the European Parliament will have no say and that policies and practices are not subject to the Court of Justice of the EC). The European Commission will be allowed to participate in the work of the Executive Committee and its working parties.

Draft Convention of the Member States of the European Communities on the crossing of their external borders, Ad Hoc Group on Immigration (Confidential), 1991.

Immigration: In Brief

* **Aliens registration:** Early June in Holland the Aliens Administration System (Vreemdelingen Administratie Systeem VAS) started. The system will hold all data for identification and residence permits of all foreigners staying in Holland. The systems will be linked with the local registers. All police forces will have access to the system as will the social services and tax authorities.

* **Belgium: Surete to watch immigrants:** The Director-General of the Belgian civilian security service, the Surete, said in a magazine interview that the changing task of the security service now involved investigating networks of illegal immigrants and Arab fundamentalists.

* **EC immigration Ministers meeting:** at the meeting of EC Ministers responsible for immigration in Lisbon in June it was agreed to set up the Centre for Information, Research and Exchange on Asylum as a 'clearing house'. The Centre will be set up within the General Secretariat of the Council in Brussels (the Council is the body representing the 12 governments of EC countries). They also agreed to add 12 countries in the former Soviet Union to the

list of countries requiring visas to enter the EC. *Council of the European Communities*, press release 11.6.92.

Immigration: new material

Home Office statistical Bulletin, Asylum statistics United Kingdom 1990-91, HMSO, Issue 12/92, 24.6.92.

P Okojie, The march of the invaders: racism and refugee policies in Europe, *Sage Race Relations Abstracts* 17:1, 1992, pp5-29. As the Home Office evidence notes the provisions for the maintenance of external borders in the External Frontiers Convention and the Schengen Convention was 'very similar'.

LAW

New picketing code

The code of practice on picketing during strikes has been revised with effect from 1 May 1992. The new provisions include: limiting picketing at a place where there is more than one employer; ensuring that picketing does not give rise to civil wrongs; to ensure that pickets do not present themselves as 'official' when the union does not accept responsibility for the pickets' activities; ensuring essential supplies and services are not put at risk by picketing.

The new code says that it is not the responsibility of the police to enforce the civil law, thus an employer cannot require them to identify pickets in order to take a civil action. Nor is it the job of the police to enforce a court order, but they may 'assist' officers of the court if they think there may be a breach of the peace.

The police, says the code, have considerable powers under the criminal law to limit the size of pickets where they have reasonable cause to fear disorder. The High Court has upheld a decision by a police officer to limit the number of pickets to two. *POLICE*, June 1992.

Right to silence

The right to silence, one of the hallmarks of the criminal justice system, is under serious threat from the Royal Commission on Criminal Justice. The police have been trying to abolish the right for several years, on the ground that it gives an unfair advantage to criminals and induces police officers to bend the rules to secure convictions.

The right was abolished in Northern Ireland in 1988, in the middle of the trial of the Winchester Three (their conviction on terrorism conspiracy charges were quashed because of the way the announcement was made by the then Attorney-General).

Now all the signs are that the Royal Commission will propose the ending in mainland Britain of the right to silence - or at least its significant erosion by judicial comment on an accused's failure to account for themselves to the police. The Lord Chief Justice, Peter Taylor, in an interview in *Law in Action* on 26 June, indicated that there were problems with maintaining the right in all cases, and that in some cases the police felt it was only fair for judges to be able to comment. In this he dashed any hopes that observers might have had that his appointment marked a real and radical change in the attitude of the judiciary towards the protection of innocence in the criminal process.

If the Royal Commission makes such a proposal, it will be following the pattern set by its predecessors, all of which were set up in the wake of appalling miscarriages of justice, and all of which ended up by eroding suspects' rights further and granting the police

ever more powers.

Death penalty

The death penalty is still applicable in the UK for the following offences: 1) treason; 2) piracy with violence; 3) 'offences under the Armed Forces Act 1971 such as surrendering or abandoning a place or thing to the enemy and various offences with intent to assist the enemy'. *Commons Hansard*, 18.5.92.

Law: new material

D A Thomas et al., Criminal Justice Act 1991 [Special edition], *Criminal Law Review*, April 1992.

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

Philip A. Thomas, From McKenzie friend to Leicester assistant: the impact of the Poll Tax, *Public Law*, Summer 1992, pp208-220.

M Giles, Judicial law-making in the criminal courts: the case of marital rape, *Criminal Law Review*, June 1992, pp407-17.

P J Sutherland and C A Gearty, Insanity and the European Court of Human Rights, *Criminal Law Review*, June 1992, pp418-424.

Alfred M de Zayas, The follow-up procedure of the UN Human Rights Committee, *The Review* 47, December 1991, pp.28-35

G Marshall, Press freedom and free speech theory, *Public Law*, Spring 1992, pp40-60

Black people working in the criminal justice system, report of the NACRO race issues advisory committee. *NACRO*, 169, Clapham road, London SW9 0PU, 1992, pp32.

Parliamentary debate

Criminal law, *Commons*, 23.6.92, cols 199-212

MILITARY

Post Cold War defence changes

NATO Ministers decided in June that in future it could act outside its member territories. Until now NATO, founded at the beginning of the Cold War in 1949, could only act in defence of member countries. For this reason in the Gulf War European troops were sent under the umbrella of the Western European Union (WEU) not NATO. (The WEU consists of all European Community countries except Ireland, Denmark and Greece). In future, NATO forces will be able to undertake 'peace-keeping' operations on behalf of the 52 member nation Conference on Security and Co-operation in Europe (CSCE), which includes all the countries in Western and Eastern Europe.

Critics however say that NATO is geared up to war-fighting not peace-keeping and that money and resources would be better spent increasing these countries contribution to the United Nations and Blue Helmet peace-keeping corps. This view received backing when *Reuters* published a secret NATO strategy report (MC400) which shows that it is slimming down in order to survive. The report refers to using nuclear weapons with precision and

discrimination and securing the Suez Canal to safeguard oil supplies.

Earlier this year France and Germany decided to set up a joint 35,000 strong army corps which they hope will be the basis of a European army. France, which withdrew from NATO in 1967 because of US domination, sees future EC defence policy being centred on this initiative rather than on NATO. While NATO in May 1991 decided to set up a Rapid Reaction Force (RRF), to be operational by 1995, which the UK will lead.

The ending of the Cold War, between East and West, has turned NATO thinking South - with the residual need to provide a quick reaction force to deal with nationalist struggles in the 'wider' Europe. In this context the respective roles of NATO, the WEU, an EC force, and the CSCE are still in the melting pot.

Tribune, 5.6.92; *Guardian*, 5.6.92; *Jane's Defence Weekly*, 20.7.91; 'Europe within NATO', Sir Leon Brittan, *RUSI Journal*, Summer 1991; *MOD press release*, 9.7.91.

Belgium: Gladio enquiries

Mr Fred Erdman, Social Democrat, the secretary of the Senat (parliamentary) inquiry into the Gladio network in Belgium has called for a further commission to look at links between the security services and private organisations. The Gladio stay-behind network was created in 1948 to act as a resistance network in the event of a Soviet invasion in NATO countries.

The first inquiry report on its activities in Belgium revealed a connection between the military security service, SGR, and the extreme right network the PIO (Public Information Office). The PIO gathered information about possible subversive activities of political opponents including the peace movement. Cecile Harnie, Green MP and active member of the commission of inquiry, called for a further investigation of the secret role of NATO in the networks of secret services discovered. Witnesses, she said, hid behind NATO-secrecy in refusing to answer questions about the links between the international secretariat of the Gladio networks, the Allied Coordination Committee (ACC), the Coordination and Planning Committee (CPC, created in 1948) and Supreme Allied Headquarters Europe (SHAPE).

Military: new material

Brigadier PAJ Cordingley, *The Gulf War: operating with allies*, *RUSI Journal*, April 1992, pp17-20. Cordingley considers operations in the field, dealing with the media and morale. On the media he suggests that the military must: '...put our best officer possible into jobs that interface with press. It worked well in the Gulf once we had settled down, but we must waste no time in identifying the right people so that they are trained in future for such eventualities.'

Erika v. C Bruce, NATO's public opinion seminar indicates continuing, but not unshakeable, support, *NATO Review* 2, 1992, pp3-8.

Sir Michael Alexander, NATO's future challenges, *RUSI Journal*, April 1992, pp13-16. The author warns that the demise of the North Atlantic Alliance would have calamitous consequences to the collective defence of the west.

SIPRI Yearbook 1992 - world armaments and disarmament. *SIPRI*, 1992, pp670, £45.00. Available in UK from Oxford University Press.

Parliamentary debates

Soldiers' deaths (Gulf war), *Commons*, 19.5.92, cols 147-152

Trident project (small companies), *Commons*, 20.5.92, cols 471-478

MOD establishment (Harrogate), *Commons*, 22.5.92, cols 610-617

Armed forces (discipline), *Commons*, 17.6.92, cols 989-1002 & 1003-1012

Christmas Island Atomic test: health claims, *Lords*, 9.6.92, cols 1204-1216

The European fighter Project (Unstarred question), *Lords*, 18.6.92, cols 311-333

Army, Air Force and Naval Discipline Acts (Continuation) Order 1992 - Motion for approval, *Lords*, 23.6.92, cols 390-399.

SECURITY & INTELLIGENCE

Switzerland: political policing

Professor Krauss, University of Basel and Berlin, told a conference on political policing in Bern, Switzerland that the internal security agencies were looking for 'threats' to the security of the state. 'The threat to the internal security agencies in these times when there are no threats at all, is that without 'threats' they could be closed down', he said. These 'threats' mirrored the common theme of issues raised in the Trevi and Schengen groups - organised crime, drugs, illegal immigration and public order. (Switzerland is not in the EC but attends the Trevi Group meetings as one of the 'friends' of Trevi). The conference was organised by the *Kommittee Schluss mit dem Schnuffelstaat* (Committee to End the Prying State) and attended by groups from Belgium, Germany, Holland and the UK.

The Committee was formed following a scandal in 1988 when the then Minister of Justice and Police gave information in a case involving money-laundering to her husband a criminal lawyer. Although criminal charges against the Minister and others were dismissed the Swiss parliament set up an inquiry (PUK 1) which revealed in 1990 that the Political Police had collected files on 900,000 people, two-thirds foreigners, out of a total population of 6.5 million. There were also files on 30,000 organisations. 350,000 people made applications to see their personal files, 39,000 of whom had index cards and files held on them. The 39,000 people and several hundred organisations were given copies of the file index cards on their 'political' activity which only contained basic information. At the end of June the Swiss parliament decided they would not be allowed to see their files. Only in the city of Zurich were files given to some 3,000 people because these files had never been sent to the Federal Police Department. Records on most people were held at canton (regional) level as well as the federal (state) level.

The Military Secret Service also gathered information on more than 7,000 people who were shown their files. The files contained information gathered by the Secret Service and that passed on by the Federal Police.

One of the projects undertaken by the political police was to try to find common factors using 25 plus variables - single parent, broken home, students, signing petitions and attending demonstrations - of 'members' of anarchist groups, and concluded there were none.

At the federal level there are three organisations with police powers operating under the Ministry of Justice and Police. The Federal Police, the Aliens Police and the Federal Division of the Public Prosecutor (this is comprised of five sections with police powers including the Political Police who deal with internal security and the detection of undesirable aliens).

State protection law

The government responded to criticism by putting a Bill on state protection before the Swiss parliament in September 1991. The Bill covers organised crime, threats endangering Switzerland's foreign relations and thus its security, terrorism, 'violent extremism' and the threat or use of force to overthrow the state. A 'terrorist' threat is defined as an 'attack against the physical or psychological integrity of a person, aimed at achieving a political or illegal goal by creating fear and fright'. It allows the use of undercover agents and optical and acoustic surveillance with authorisation of the Federal Court in homes and offices, but no authorisation for surveillance in public places is required. The Federal Police will have automatic access to all personal records held by the Confederation and the cantons; information can be passed to the security agencies of other countries to safeguard the security interests of Switzerland or those of the receiving state; an obligation is placed on post and telecommunications services to pass on information which is a 'threat to internal security' thus by-passing current legal provisions; and employees of the state will be subject to screening when they have access to internal security, foreign affairs and defence matters.

Alexander Tschappat, a judicial member of the PUK I committee of inquiry, commented: 'Instead of eliminating the grievances revealed by the PUK in the domain of collection and passing on of personal data by the political police, the bill... deprives any complaints of a legal ground. Thus, a situation intolerable from a constitutional point of view is not removed but simply legalised instead'.

Komitee Schluss mit dem Schnüffelstaat, Catherine Weber, Postfach 6948, 3001 Bern, Switzerland; *Conference papers; Circular letter*, no 6; *Schnüffelstaat Schweiz, Hundert Jahre sind genug*, Limat Verlag, 1990.

MI5's annual report

In his annual report on the Security Service (MI5) the Commissioner, Lord Justice Stuart-Smith, says MI5 no longer destroys any of its records, even those it opened erroneously, in case the Security Service Tribunal (which investigates complaints by members of the public) wants to see them.

Three cases considered by the Commissioner raised the issue of whether or not MI5 acted unreasonably in retaining files on the complainants and this led him to enquire into MI5's policy on holding records on people. The general policy, he reports, 'is to retain records indefinitely in case they are of relevance any time in the future...and they [MI5] cannot accurately predict when files will ever be needed again. In my opinion as a general policy this is acceptable'.

MI5's procedure is first to open a 'temporary' file, with a maximum life of three years where they are uncertain if a permanent one is required. Then a 'permanent' file is opened using a system of colour coding which controls how files are used. Once the 'permanent' file is opened there is a period coded 'green' when the person is put under surveillance. At the end of the 'green' period it changes to 'amber' when further inquiries are prohibited but new information can be added. After the designated 'amber' period a file is coded 'red' when inquiries are prohibited and are any substantive additions.

Finally, after a period of 'red' coding the file is microfilmed and the hard copy destroyed. At this point the computer index entry in MI5's central registry index is moved from the 'Live Index' to the 'Research Index'. The Commissioner concludes that in the 'great majority of cases' retention of a file on microfilm will be justified but that MI5's must assess each case on its merits (it is not clear whether the Commissioner is referring to

new entries at the microfilm stage to be assessed or whether it refers to old records).

The logic of the Commissioner becomes quite tortuous when he comes to consider records held by MI5 which, but for the Security Service Act 1989, would have been destroyed. 'Temporary' files which do not become 'permanent' files would previously have been destroyed after three years so too would 'permanent' files on individuals and organisations erroneously opened - now they are retained in case the Tribunal wants to see them at some undefined point in the future and 'in appropriate cases make an order for the destruction of the records.'

MI5 holds records on those it vets or places under surveillance. These fall into several broad categories: those vetted for jobs in the Civil Service, defence industry, police and other sensitive areas; those thought to be engaged in espionage on behalf of a foreign power, and their perceived 'supporters' or 'sympathisers'; those suspected of involvement in terrorism; a broad spectrum of those perceived to be in positions of power and influence (including prospective parliamentary candidates, academics, leading industrialists and journalists - 'agents of influence' in CIA parlance); and those considered to be 'subversives' or a potential threat to national security (this last category is said to contain more than 1 million names according to a report in the *Guardian*).

The report gives no details of the warrants issued by the Home Secretary to 'interfere with property' (to secretly enter homes or to bug office/homes). In the first year of the Security Service Act there were 52 complaints to the Tribunal, none of which were upheld and in the second year 29, none of which were upheld.

Report of the Commissioner for the Security Service for 1991, Cm 1946, HMSO, 1992; *Guardian*, 21.5.92.

Cabinet Committees

The government announced in May 'in the interests of greater openness' the names and membership of Cabinet Committees. These included the Ministerial Committees on: Defence and Overseas Policy (OPD); Nuclear Defence Policy (OPDN); European Security (OPDSE); Hong Kong and other dependent territories (OPDK); Northern Ireland (NI); Intelligence Services (IS); Home and Social Affairs (EDH) and Ministerial Sub-Committees on: European Questions (OPD(E)); Terrorism (OPD(T)); Drug Misuse (EDH(D)); and Women's Issues (EDH(W), chaired by the Secretary of State for Employment).

However, no details were given on ad-hoc committees of which there were 140 in the last five year parliament on issues like the poll tax. Nor were details given on the official inter-departmental committees headed by Permanent Under-Secretaries (top civil servants) of which there were 100 in the last parliament. It is these latter committees which prepare all major policy reports for ministerial committees.

Details were given on the ministerial committee on Intelligence chaired by the Prime Minister and charged with keeping 'under review policy on the security and intelligence services' (the other members being the Foreign Secretary, Home Secretary, Defence Secretary, and Chancellor for the Duchy of Lancaster). But no details were announced on the inter-departmental Electronic Security Committee, the Permanent Under-Secretaries Committee on Security and Intelligence Services (PSIS) or the powerful Joint Intelligence Committee (JIC) chaired by Sir Roderick Braithwaite. JIC is attended by officials from the Foreign Office, MI5, MI6, heads of Defence Intelligence and GCHQ, and officials from the Ministry of Defence, Cabinet Office and Northern Ireland Office. The first half of JIC's meeting are attended by the CIA and representatives of the Canadian and Australian intelligence

services. Weekly intelligence reports are sent to Ministers in the JIC Red Book every Thursday morning.

House of Lords Hansard, 19.5.92; *Independent*, 16.6.92.

MI6: accountable or secret?

The government has announced that MI6, the secret service (the UK equivalent of the CIA), is to be put on the same legal basis as MI5. In May John Major became the first Prime Minister to admit that MI6 actually existed (it was founded in 1911), and acknowledged that it is currently headed by Sir Colin McColl.

This new 'openness' however does not mean that past secrets and operations are about to be revealed. A letter from the MI6 'welfare officer' to former staff says that this development in no way changes the practice whereby existing or former agents say nothing at all about MI6's organisation and do not disclose names of former colleagues. 'The avowal of the Service', the letter says, 'does not mean that we can reveal anything about our previous association with the Service to outsiders'. The letters were numbered and labelled 'Accountable letters'.

Guardian, 27.5.92.

Security and intelligence: in brief

* **GCHQ**: Robin Robison, former clerk in the Joint Intelligence Committee (JIC), revealed the Government Communications Headquarters (GCHQ) intercepted faxes and telephones calls from Mr Robert Maxwell in 1989 and passed them to the Bank of England. Two officials from the Bank of England were at that time seconded to the economic intelligence section of the Joint Intelligence Committee (JIC). Generally on GCHQ's activities Mr Robison said: 'My impression was GCHQ could intercept anything they liked. Every overseas call, every telex, every fax. They didn't need to put on a phone tap, they just flicked a few switches'. GCHQ is also routinely intercepting telephone calls and faxes from charities like Christian Aid and Amnesty together with surveillance 'targets' including academics and media figures. According to the group of signals intelligence operatives this is usually done without a warrant and is often based on speculation. *Independent*, 16.6.92; *Guardian*, 13.6.92; *Observer*, 26.6.92.

Security & Intelligence: new material

Edward Fox, Death of a dissident, *Independent magazine*, 9.5.92., pp24-29. Looks at the death, ten years ago, of the Communist composer Cornelius Cardew, and the claims that he was murdered for his political beliefs.

Reg Whittaker, The politics of security intelligence policy-making in Canada: 1970-84, 1984-91 (Parts 1 & 2), *Intelligence and National Security*, 6(4):649-668, 1991 & 7(2):53-76, 1992

European Court of Human Rights, Strasbourg, *Observer* and *Guardian v the United Kingdom* [Spycatcher], *Human Rights Law Journal*, 13:2, 1992, pp7-30; **European Court of Human Rights, Strasbourg**, *Sunday Times v the United Kingdom* [Spycatcher], *Human Rights Law Journal*, 13:2, 1992, pp30-34

Larry Hannant, Inter-war security screening in Britain, the United States and Canada, *Intelligence and National Security*, 6:4, pp711-735, 1992

Parliamentary debate

Counter-terrorism, *Commons*, 8.5.92, cols 297-306

RACISM & FASCISM

Racist attacks in Germany

Three German neo-nazi youths have been jailed for between three and a half and five years for taking part in a petrol bomb attack on a refugee hostel in Hunxe, on the lower Rhine. The petrol bombs exploded in a bedroom seriously injuring two young Lebanese girls. Seinab Saado, 8, barely survived the attack; she is left terribly scarred and her lungs are permanently damaged. Her six year old sister, Mokadas, also suffered severe burns. The public prosecutor in the case had recommended a sentence of 9 years, but the judge demurred, arguing that it could not be proved that the attack was meant to kill.

In June policemen in riot gear surrounded three refugee hostels near Freiberg, south west of Dresden and screamed racist abuse before storming the hostels. Several children as well as adults were injured in the raid. The raid was justified by the Chief of Police who cited German anxieties about the criminality of foreigners.

While the number of attacks on refugee hostels has declined in recent months there has been an increase in street attacks on black people. A Vietnamese worker, Nguyen Tu, was stabbed to death by neo-nazi skinheads, in front of dozens of onlookers, near Berlin. A Nigerian man, who was attacked in Wendisch Rietz, 30 miles east of Berlin, and beaten unconscious before being thrown in a lake, is still fighting for his life.

One of the few responses to these attacks is the establishment of government backed re-education centres for neo-Nazi offenders, such as the Roots project in Marzahn, Berlin, which sees the fascists as 'victims' in need of rehabilitation. Anti-fascists have pointed out that these centres are helping to facilitate racist violence rather than prevent it.

Book review: Blood on the streets

Blood on the streets - we fight back!, Annual report 1991/1992, pp68. The twelfth annual report of the Newham Monitoring Project (NMP), is dedicated to Panchadcharam Sahitharan, a Tamil refugee who was brutally murdered by racists in Manor Park, Newham in December 1991. Sahitharan died just a few yards from the spot where, in 1980, Akhtar Ali Baig was murdered by racist skinheads for a bet over 'who could kill the first Paki'. It was this murder which led to the formation of the NMP and their first major campaigns, the First Avenue 11 and the Newham 8.

The cornerstone of NMP's success has always been the fact that it is community-based and 'uses casework as the starting point to determine campaigning and educational priorities.' It is an approach that rejects the paternalistic attitude of the 'social advice agencies' and the knee-jerk interventionism of the white left.

During 1991 the Project dealt with 207 cases of racial harassment - a marked increase over the previous year (163) - some of which are documented in the chapter on Racial Harassment (pp6-17). The chapter 'Police response to racial harassment' is a particularly telling indictment and points out that Newham police's statistics for 1991 indicated a record 100% rise in reported racist incidents while the clear-up record had only increased by 4%. It points out the abject failure of police public relations exercises, such as NORIS (the Newham Organised Racial Incidents Squad), which are often more concerned with deracialising racist attacks and results in the

criminalisation of black people who defend themselves.

The problem is compounded by the attitudes of the police on the ground and the chapter on 'Police harassment' shows an increase in complaints reported to the Project from 132 in 1990 to 168 in 1992. The majority of cases arose from stop and search or traffic stops, with 31 complaints of physical abuse/assault. The report notes that despite public relations exercises; 'the police far from questioning its role in society is gearing up towards an even more oppressive stance.' In support of this the report points to their newly built, enlarged headquarters which symbolises the centralisation of the Newham police under one command.

If NMPs strength grows from its roots in the local community, demonstrated for instance in the chapter on the ongoing Deane Family Campaign, it also is not afraid to look at broader issues. Moving from related cases of police harassment elsewhere in the east end of London the report looks at fascism, football, the media and the criminal justice system. A chapter on outreach work records the Project's work around the Asylum Bill, with students and on an international level.

The quality of the NMPs Annual Reports, with their incisive analysis combined with exemplary campaigning work, has become a benchmark for all serious anti-racists/fascists. This report is highly recommended.

Newham Monitoring Project, 382 Katherine Road, London E7 8NW. pp68.

Racism and Fascism - new material

P. Gordon, Racial incidents in Britain 1988-90: a survey, *Runnymede Bulletin*, April 1992, pp7-9

L. O'Hara, Notes from the Underground: British fascism 1974-92, *Lobster* 23, 1992, pp15-19

Robin Richardson, Tricks, Trumps and the race card, *Runnymede Bulletin*, May 1992, pp2-5. Discussion of racism and coverage of the General Election.

CARF No. 9. The latest issue of CARF contains articles on a recent, but little publicised, hunger-strike by Kurdish asylum seekers; a discussion of the Los Angeles revolt; racism and the now disbanded West Midlands serious crime squad; the latest crisis in the fascist National Front, and a consideration of Scottish nationalism. *CARF* is available from BM Box 8784, London WC1N 3XX, at £7.50 for a year's subscription.

POLICING

Police suspended in Hackney

Two police officers, from Stoke Newington police station in east London, have been suspended from duty following allegations of attempting to pervert the course of justice. The action was taken against Detective Constable Ronald Palumbo and PC Bruce Galbraith as part of Operation Jackpot, an inquiry into corruption at the police station, headed by Detective Superintendent Ian Russell of the Metropolitan Police's anti-corruption squad.

The inquiry was prompted by a report from the Hackney Community Defence association, *A crime is a crime is a crime*, which detailed 143 instances of police malpractice over a period of three years. The allegations claimed that police officers had been involved in running drug dealers, planting drugs and fabricating evidence. Following publication of the report a former custody

officer at the station killed himself and another eight policemen were transferred to other stations (see Statewatch 2:2).

Prior to his suspension Palumbo was named in early day motions laid by five MPs at the House of Commons. One of them noted that he had been found to be a 'lying witness' by Judge Pitman in a case involving the planting of drugs.

Twelve firms of solicitors and nineteen barristers have written to the Home Secretary, Kenneth Clarke and the Director of Public Prosecutions, Barbara Mills, expressing concern that 'in the criminal courts, the Crown Prosecution Service has not fully disclosed the extent of the investigation as it relates to particular officers, nor the extent of the doubts that which must hang over the credibility of those officers.' There are ten potential appeal cases, five civil actions and one referral back to the Court of Appeal all of which contain allegations of criminal activity by the Stoke Newington police.

The police investigation into the allegations is expected to be completed within the next few weeks.

Guardian 23.6.92, 24.6.92; Independent 24.6.92.

Justice for Ivan Fergus campaign

Ivan Fergus is a 14-year old black youth who was arrested on his way to school in Peckham, south London, following an attack on a man a month earlier. He was convicted of assault and is currently serving fifteen months at Orchard Lodge, a local 'secure' children's unit.

The only evidence against Ivan was the victims identification of him, but serious doubts have been raised concerning it. Immediately after the attack he told police that his attacker was 5ft 11in tall, of slightly brown complexion with stubble on his face. He was 16-18 years of age. Ivan is described by his mother as 5ft 7in, with a dark complexion; he was only 13 and had not started shaving. He also has an alibi. At the time of the assault he says he was with school friends at a leisure centre several miles from Peckham. None of his friends was interviewed by police before the trial.

Mrs Fergus said: 'How could this happen when the description of the attacker didn't fit that of my son, when there was no evidence to support the charge and when Ivan continually protested his innocence and had an alibi?'

Justice for Ivan Fergus Campaign: 192 Evelyn Street, London SE8 5DB or telephone 081 692 1308.

Policing: In brief

* **Metropolitan Police officer dismissed**: following a disciplinary hearing investigating a complaint of racial abuse made by 25-year old Danny Goswell from south-east London. Goswell had been approached by PC Rhys Trigg and other officers and questioned about a stolen car. He was handcuffed and taken to the local police station where he suffered a number of injuries and required five stitches. He was convicted of assault by a magistrates court, but this was overturned on appeal. Pc Trigg is appealing against the decision. In Newham, east London, 37-year old factory worker, Malkjit Singh Natt, is considering suing the police after taping racist remarks made to him by police officers following his arrest earlier this year. Mr Natt, who alleges that police have been harassing him since 1989, recorded comments made to him while being taken from Newham to Plaistow police station. The Metropolitan Police said that two officers had been disciplined for abusive behaviour and fined a day's pay.

* **Black and ethnic minority police**: There are 1,631 black and

ethnic minority police officers in England and Wales, 1,297 men and 334 women. There are 561 (men and women) in the Metropolitan Police, 125 in Greater Manchester, 191 in West Midlands and 57 in Merseyside, while in Dyfed Powys and Norfolk there are none, and in Cheshire only 2, Durham 4, Humberside 6, and North Yorkshire 4. Between 1987-1991 84 black and ethnic minority officers have resigned from the Metropolitan police having served for an average of 3.3 years. *Commons Hansard*, 14.5.92 & 18.5.92.

Policing: new material

Crowd management: learning from history, Tony Moore, *Police Journal*, April 1992, pp99-108. Historical discussion of disasters at football grounds.

Britain's IT truncheon, Paul Norman. *Computer Talk*, 6.4.92, p5. Examines the relationship between the new National Criminal Intelligence System (NCIS) and its EC counterparts.

The Royal Commission - cataclysm or catalyst?, Chief superintendent Paul Acres, *Police Journal*, April 1992, pp109-125.

Who needs a Royal Commission?, Philip Rawlings, *Policing* 8:1, 1992, pp15-25.

Detention in a police station and false imprisonment, John Mackenzie, *New Law Journal*, 17.4.92., pp534-536

Putting the police on trial, Stephen Cragg, *Law Society Gazette* 20, 1992, pp17-18

The Police and Social Services Departments in England and Wales: the exchange of personal information, Bill Heberton and Terry Thomas. *Journal of Social Welfare and Family Law*, 1992.
Disclosure of Criminal Records: a comparative review, Bill Heberton and Terry Thomas. *Police Studies*, 1991.

EUROPE

France: immigration figures

Racist and rightwing groups in France are exploiting the confusion over the official figures for the number of 'foreigners' in the country. One figure of 14 million (1986) out of a total population of 56 million includes all those living in France of foreign extraction - either themselves foreign born (and of foreign ancestry) or those who had at least one foreign-born parent or one foreign-born grandparent. Another figure in circulation is 7.71 million 'foreigners' - comprised of 4.13 million immigrés (immigrants) in the 1990 census and 3.58 million étrangers (foreign residents). However, 2.84 million people (étrangers not born in France) overlap into both categories so the correct census figure is 4.87 million.

Le Figaro magazine conducted a public opinion poll in 1991 asking whether people thought there were the same number of immigrants as ten years before. Only 7% of the survey completely or more or less agreed, while 75% disagreed or definitely disagreed. In fact the census figures showed that between 1982 and 1990 the number of immigrés only rose from 4.02 million to 4.13 million and the number of étrangers actually fell from 3.68 million to 3.58 million (remember these figures contain 2.84 million overlapping the two categories).

Population Today, May 1992.

EC secrets law

The proposal to introduce an official secrecy law in the EC has come under strong attack from several quarters (see *Statewatch*, vol 2 no 3). Alex Falconer MEP, the rapporteur on the Legal Affairs Committee of the European Parliament on the EC proposals to introduce secrecy laws, said that the way the proposal had been sent to the Parliament was unusual: 1) it should have been referred to all Committees it would affect, that is several committees, when it had only been sent to the Legal Affairs Committee; 2) it had been sent under the 'co-operation' procedure which only allows the Parliament one chance to comment, whereas proposals are usually sent under the 'consultation' procedure which give the Parliament two chances of comment (e.g. their initial comments are sent back to the European Commission for revision and a proposal then goes back to the Parliament again).

At the Legal Affairs Committee meeting on 23 June it was agreed: a) to refer the proposal to three other Committees: Civil Liberties & Internal Affairs, Environment, and Rules & Procedure; b) to ask the Commission to set out the legal basis by which the proposal had been referred to the Parliament under the 'co-operation' procedure; c) to ask the Commission to bring forward freedom of information proposals.

The proposal has been strongly criticised by the International Federation of Journalists (who have written to Jacques Delors asking for a meeting), the European Federation of Trade Unions and Article 19.

An explanatory memorandum circulated to MPs by the Foreign Office says the UK is not in favour of the proposal as drafted. The government's objection to the proposal is not one of principle but rather because the proposal as presently drafted would require legislation, 'the measures which the UK think should be adopted would not'. The government is in favour of procedures to ensure an 'agreed standard of protection' to sensitive EC documents which would ensure the 'free flow of information between EC institutions and other member states'. However, it favours more specific areas being protected and does not want to see an 'excessive administrative burden' placed on member states. Perhaps they have in mind the UK Official Secrets Act which specifically covers defence, policing, intelligence, security and matters of international and foreign affairs. The nub of the UK government argument is that 'it remains an open question whether a Council Regulation is the best means of implementing such procedures'. This suggests that they would favour an inter-governmental agreement which would not be subject to scrutiny by the European Parliament. The EC proposal was prepared by the Security Office of the EC, the Legal Service, the Joint Research Centre and the Personnel Office (DG9), and would have been cleared with the General Secretariat of the Council of the European Communities (the Council Secretariat services the 12 EC governments).

EC vet job applications

Four Socialist MEPs from Portugal, João Cravinho, Luis Marinho, Coimbra Martins and Maria Belo, have put down questions in the European Parliament to the European Commission and the European Council on the vetting of applicants for jobs in the Commission. According to the Portuguese newspaper *Expresso* the Security Information Service (SIS), the internal security agency, is being sent job applications by the Commission in Brussels and asked to vet them.

The MEPs are asking why the SIS has access to these forms and how do the Commission/Council reconcile this practice with the

defence of the rights of the applicants? The Security Office of the Commission says this vetting is being carried out under regulation 3 governing Euratom. It appears that applicants for jobs at the Commission, not just for Euratom, are being referred to the internal security agency in Portugal. The secrecy law proposal (above) contains several clauses governing the introduction of vetting, however, it seems that the Commission is already vetting job applicants, especially for what it considers to be 'sensitive' posts, in advance of any power to do so.

Expresso, 20 & 27.6.92; *Guardian*, 14.7.92; *Explanatory note by the Foreign Office*.

Europe: In Brief

* **Greece to join Schengen:** At the meetings of the Schengen group in Luxembourg on 19 June it was agreed to accept the application of Greece to the group. Greece was admitted as an observer in December 1991, and is expected to become a full member in January 1993. The EC countries in the Schengen group are now Germany, France, Italy, Netherlands, Luxembourg, Belgium, Portugal, Spain and Greece. This leaves the UK, Ireland and Denmark outside the group. The Schengen Agreement was agreed by the governments in June 1990 and has to be ratified by each member state before it can come into effect, has so far been agreed by France, Spain, Portugal and Luxembourg. *Agence Europe*, 20.6.92.

* **Trevi briefings:** At the meeting of Interior Ministers in Lisbon on 12 June, meeting as the Trevi Group (an inter-governmental body of Ministers and officials from the 12 EC states), it was agreed that Spain should 'brief' Argentina in future and Denmark should 'brief' Finland; Germany already 'briefs' Hungary. The 'friends' of Trevi with observer status are the United States, Canada, Austria, Switzerland, Sweden, Norway and Morocco. *Reuters*, 12.6.92.

* **'Collection camps' in Germany:** From 1 July a new law in Germany will speed up asylum procedures and allow refugees to be housed in 'collection camps'. The law says that asylum seekers whose applications are 'obviously unfounded', because they are thought to be 'economic migrants' not political ones, will be sent to camps while they are processed. Two conservative states, Bavaria and Baden-Württemberg, and the Social Democrats in North Rhine Westphalia have already set up camps despite opposition from lawyers, church organisations and the Green Party. Mr von Niedig, head of Germany's central office for the recognition of refugees resigned at the end of June because he believed the backlog, which led to the new law, could have been avoided if the government had provided sufficient funds and that the law would fuel anti-foreigner sentiment. *Guardian*, 30.6.92.

* **Surveillance law:** The Dutch Justice minister has introduced a bill on the use of microphones and transmitters by the police saying that the police need to be equipped in order to beat the organised crime. It is clear however that the police are already using these surveillance methods and it has been admitted that the police are monitoring fax-communications. Lawyers say microphones are being used and that if suspects forget to put the receiver on the hook the police are capable of monitor discussions in a living room or office. Some years ago the Hoge Raad (supreme court) decided that information gathered in this way could be used legally in evidence.

* **EC redundancies:** the Regional Policy Committee of the European Parliament is considering a report on the effect of

abolishing internal borders in the EC from 1 January 1993. The report says that one of the sectors most at risk is customs officers with an estimated 62,000 jobs likely to disappear; 15,200 in France, 3,300 in the UK and 1,100 in Ireland. The European Commission has put forward a budget of 30 million ECU (£1 - 75 ECUs approx.) to retrain customs workers. *EP Briefing*, 8.6.92.

Europe - new material

Arbicide in France, *CARF*, no 8, May/June 1992, pp4-5.

H. O'Shaughnessy, Gladio, Europe's best kept secret, *Observer* review, 7.6.92.

L. O'Hara, Blinded by the light, *Lobster* 23, 1992, pp28-30. Review of Philip Whillan's *The Puppet Masters: the political use of terrorism in Italy* that considers some of the implications of the book, and takes issue with Willan's conclusions on Toni Negri.

Willem F Korthals Altes, The journalistic privilege: a Dutch proposal for legislation, *Public Law*, Spring 1992, pp73-91

Crime sans frontières or the end of liberty? Peter Warren. *Computer Weekly*, 7.5.92, pp40-42. Good summary of police and immigration computer system in the EC.

Greece - torture and ill treatment. *Amnesty International*, 1992, pp55. The report gives details of some 35 cases of torture, 'scores of people were tortured or ill-treated at the hands of the Greek police or prison guards last year to intimidate them or force them to confess'.

Parliamentary debates

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

Maastricht Treaty: Danish referendum, *Lords*, 3.6.92, cols 938-946

CIVIL LIBERTIES

ID cards and new police powers?

The debate over identity cards (ID) being introduced in the UK is continuing. The Home Office evidence to the Home Affairs Select Committee in February states that if internal borders controls were dropped (that is, for people arriving from within the EC) 'compensating action' would have to be considered. The crux of the Home Office evidence states that if 'ports controls under the Prevention of Terrorism Act were abolished, the introduction of identity cards, coupled with new police powers to demand their production away from the frontier, would not compensate for the loss (of frontier controls)... *the present arrangements could not realistically be replaced by a system of purely internal checks*' (italics added). The rejection by the UK government of removing border controls is because it does not believe that the external border controls by its EC partners will be efficient, and anyway, many 'undesirables' are already resident in the EC. The government therefore argues that: 'in order to ensure that non-EC nationals are successfully identified for examination, it is necessary also to check the status of British citizens and other EC nationals'.

The argument continues: 'It is unrealistic to think that the external frontier could ever be strengthened to the point where it was able to provide a certain barrier against such people (terrorists or drug

traffickers). A further particular consideration in this respect is that the principal terrorist threat to the United Kingdom and to UK interests on the continent of Europe comes from the Provisional IRA, not from terrorist organisations external to the Community'.

The 'compensating action' would include measures such as: 'punitive sanctions on the employers of unauthorised third country nationals and a requirement for people to establish their identity on demand...[and] procedures designed to prevent access to various kinds of State-provided benefits and services'. The government would have to consider 'a power for spot-checks without particular reason...a new power for spot-checks might well need to be underpinned by a requirement that people should carry identification documents at all times, and that might be facilitated by a standard identity document or card for British citizens or, perhaps, the resident population'.

The evidence presented to the Committee by the Police Service speaks of the need to exclude 'criminals, terrorists and their supporters' in the opening paragraph and later refers to 'terrorists, other criminals and illegal immigrants'. These 'illegal immigrants', especially from Eastern Europe, are described as 'economic migrants, many of whom live by crime'. They call for 1) the extension of the Prevention of Terrorism Act (PTA) to remove the constraint of 'reasonable grounds' when they suspect a person of having committed an offence; 2) the introduction of a 'Euro-warrant' to by-pass 'complicated extradition procedures'; 3) the introduction of mandatory ID cards throughout the EC. The Association of Chief Police Officers presented evidence on ID cards, which it is still studying. Any ID card, they say, should be a computer-readable smart card, including fingerprints, photograph, date of birth, and National Insurance number.

In the EC it is compulsory to hold a card in Germany, Belgium, Greece, Luxembourg and Spain (though only on Belgium and Greece is it compulsory to carry it around); there are voluntary ID cards in France, Italy and Portugal; and no ID cards in Denmark, Ireland, Netherlands and the UK.

Mr Bangemann, an EC Commissioner, has said that the UK could face legal action in the European courts if it maintained immigration controls for EC nationals after 1 January 1993 (when the internal borders of the EC are due to disappear). The Schengen Group of EC countries - Germany, France, Italy, Belgium, Netherlands, Portugal, Spain and now Greece are to remove their internal borders at the end of the year. This leaves the UK, Denmark and Ireland committed to retaining border controls. The Republic of Ireland however is said to be moving towards joining the others on the issue. If Ireland does follow suit then it will increase the possibility of the UK being taken to the European courts and being forced to end border controls and will also raise the question of border controls between the Republic and Northern Ireland.

Migration control at the external borders of the European Community, Home Affairs Select Committee Report, HC 215-i, ii and iii, 1992.

UK secrets law for Hong Kong

The government of Hong Kong is introducing the UK 1989 Official Secrets Act by order of the Privy Council, a process which means it cannot be amended or discussed by the Hong Kong Legislative Council. The 1989 Act replaces section 2 of the 1911 Official Secrets Act abolishing the offence of 'receiving' official information (the *retention* of official information remains an offence under section 1.2 of the 1920 Act).

Lawyers in Hong Kong believe the Act will contravene a new adopted Bill of Rights which guarantees freedom of information

and incorporates the International Convention on Civil and Political Rights.

Guardian, 10.6.92.

Civil liberties: new material

The following are recent publications added to the library of Liberty, 21 Tabard Street, London SE1 4LA. Tel: 071-403-3888. They are available for reference. Please make an appointment if you wish to visit - a small charge is made to non-members.

Regulating privacy: data protection and public policy in Europe and the United States, Colin J Bennett. Cornell University Press, New York, 1992, 263pp, \$18.65 (pb) \$43.95 (hb).

Criminal records checks within the voluntary sector: An evaluation of the pilot scheme, Judith Unell. Voluntary Action Research, second series, paper no 2, The Volunteer Centre, 1992, 139pp, £12.50 (pb).

When will democracy include women? Georgina Ashworth. Thinkbook VII, CHANGE, 1992. 57pp, £3.90 (pb).

The psychology of interrogations, confessions and testimony, Gisli H Gudjonsson. John Wiley, 1992, 361pp, £24.95 (hb).

Over here : young Irish migrants in London, education, training, employment, housing, health, anti-Irish racism, Geoffrey Randall. Action Group for Irish Youth (AGIY), 1992, 65 pp, £4.95 (pb).

Striking a balance: hate speech, freedom of expression and non-discrimination, Sandra Coliver (ed). Article 19; Human Rights Centre, University of Essex, 1992, 417pp, £9.95 (pb).

Comparative study on the provision of publicly funded legal services to asylum seekers in the 12 member states of the European Community. Ron Hooghiemstra. Immigration Law Practitioners' Association (ILPA), 1992, 17pp.

Family law, domestic violence and occupation of the family home, Law Commission. (Law Commission Report 207) HMSO, 1992, 141 pp, £14.25 (pb).

Prison conditions in the United Kingdom, Human Rights Watch. Helsinki Watch and Human Rights Watch. Prison Project. USA: Human Rights Watch, 1992, 54pp.

Imprisonment: European perspectives, John Muncie and Richard Sparks (eds). Harvester Wheatsheaf; Open University, 1991, 266 pp, £10.95 (pb).

Parliamentary debates

Ethnic minorities, *Commons*, 9.6.92, cols 149-202
Student Unions, *Commons*, 15.6.92, cols 752-758
Identity card scheme, *Lords*, 23.6.92, cols 400-418

PRISONS

Orville Blackwood campaign

Broadmoor special hospital is facing an inquiry following the disturbing death of a 31-year old black man, Orville Blackwood, who died after being restrained and given a massive tranquillising injection in 1991. He was awaiting details of his release at the time. Orville is only one of several black men who have died in similar circumstances. He had been jailed for four years in 1986 and moved to Broadmoor the following year where he was detained under the Mental Health Act.

On returning to their Brixton home from identifying Orville's body, another of Mrs Buckley's sons was assaulted and detained for two hours at Brixton police station, before being released without charge.

The inquest into Orville's death did not allow evidence about earlier suspicious deaths at Broadmoor to be considered, and returned a verdict of accidental death. His mother, Clara Buckley (who is also the grandmother of Rolan Adams - see Statewatch 5), has been campaigning against the decision and has now been given leave by the High Court to apply for a judicial review into the original inquest.

Orville Blackwood Community Campaign, c/o New Testament Assembly, 7 Beechcroft Road, London SW17.

Prisons: In Brief

* **Miscarriages of justice: Focus on Long Lartin:** the National Association of Probation Officers (NAPO) presented evidence to the Royal Commission on Criminal Justice on 22 inmates at Long Lartin. 'Long Lartin is a typical dispersal prison housing lifers and inmates serving more than five years... NAPO has sent case summaries on 22 inmates who claim their innocence to the Royal Commission'. NAPO, 3/4 Chivalry Road, London SW11 1HT.

* **Foreign prisoners:** at the end of 1991 there were 34,700 sentenced people in prison of whom 2,600 were foreign nationals. *Lords*, written answer, 19.5.92.

Prisons - new material

New prison rules and offences, Victoria Teggins, *Legal Action*, May 1992, pp13-15.

Following Woolf: the prospects for prisons policy, Rod Morgan, *Journal of Law and Society* 19:2, 1992, pp231-250.

Campaign to ban prison for 15 year old boys and girls, *Criminal Justice*, May 1992, pp5-12

Parliamentary debates

Prison (Liverpool, Walton), *Commons*, 10.6.92, cols 421-428

Mentally ill and handicapped prisoners, *Commons*, 24.6.92, cols 359-366

Prisoners and Criminal Proceedings Bill, *Lords*, 19.5.92, cols 553-576

Prisoners and Criminal Proceedings Bill, *Lords*, 2.6.92, cols 824-885

Prisoners and Criminal Proceedings Bill, *Lords*, 4.6.92, cols 1030-1072

Young offenders (Unstarred question), *Lords*, 24.6.92, cols 506-540

Prisoners and Criminal Proceedings (Scotland) Bill - report, *Lords*, 25.6.92, cols 551-571

NORTHERN IRELAND

The Casement Park trials

In March 1988, in the wake of the killings of three unarmed IRA members in Gibraltar and the attack on a subsequent funeral by a Loyalist gunman wielding hand grenades as well as a rifle, two off-duty British soldiers drove into the path of another funeral cortege as it passed Casement Park. The mourners stopped their car and disarmed them. Some time later a smaller group of men removed them from the park and took them to a piece of waste ground where they were shot.

The two men who actually killed the soldiers have never been apprehended. Instead, the investigation and the prosecutions have been directed towards anyone in the crowd of mourners who was in the vicinity of Casement Park as their car was stopped and they were taken into the Park. Scores of mourners have been arrested and 34 have been tried for offences which range from murder to perverting the course of justice. More are due to stand trial in the autumn.

The sentences received have been punitive - fifteen years for false imprisonment and life for allegedly aiding and abetting murder (by being present in the Park, whilst the soldiers were being questioned and before they were removed and killed by others). As a consequence, many observers view the trials and the sentences received as a means of punishing a whole community for their political views and allegiances.

The men have all been tried in the Diplock Courts and this has served to highlight the serious inadequacies of every aspect of this system. The trials have been presided over by a judge sitting alone without a jury. As most of the trials have involved disputed identification evidence, this means that one man has been the sole arbiter of complex issues of fact and law. The defendants' ability to raise a doubt about the evidence has further been hampered by the fact that as there are only 10 judges available to sit in these courts, every judge has been exposed to the same live and video evidence on a great number of occasions, hearing bail applications, the substantive trials and any subsequent appeals. In these circumstances, case hardening has to be a factor.

Identification evidence

The identification evidence itself centred around compilation tapes produced by the prosecution from television tapes impounded from journalists present on the day and from the heli-tele video tape shot by an army helicopter hovering over the funeral cortege. The material used was highly selective and unused material was not released to the defence lawyers.

Neither were they provided with the high quality equipment used by the Prosecution to enlarge and enhance various sections of individual frames of the tape. This meant that the defendants were at a clear disadvantage. They did not have access to sections of tape which may have supported their case or equipment to deconstruct the enhancements. Even the finished compilations were of extremely poor quality. Colour resolution was highly unstable and facial features were indistinct. Prosecution witnesses were identifying men by the way they walked or by a piece of clothing in a crowd of hundreds, all very similarly dressed.

The defendants were further handicapped by the removal of their right to silence by the Criminal Evidence (Northern Ireland) Order 1988. This meant that silence in court or during interrogation was capable of being used to corroborate very poor identification evidence in order to obtain a conviction.

In terms of substantive law the trials have also served to extend

the meaning of common purpose far beyond previous limits. Mere presence coupled with an allegation that the defendants must have at some time during the activities realised that one possible outcome of the actions taking place was murder of the soldiers was enough to convict several young men of aiding and abetting murder. No evidence was called to show that the killings were the result of any planned action. They did not belong to any group or gang with a previous history of such actions. The single judges took no account of the highly emotive atmosphere of the day, of the unpredictable nature of crowd reaction and of the speed of the events. There were thousands of people present at the funeral. The entire events were over in 16 minutes. It is interesting to note that even the test for common purpose adopted in South Africa in S v Mgedezi [1989] (1) SA 687 offers the defendant more protection. *Upholding the rule of law?*, The Haldane Society of Socialist Lawyers, 11 Doughty Street, London WC1. (£2.50); *The Casement Trials*, The Committee for the Administration of Justice, 45/47 Donegall Street, Belfast BT1 2FG (£3.00); *Guardian*, 9.6.92.

Presidential Pardon

At the end of April, Mary Robinson, the President of Ireland, was directed by the government to pardon Nicky Kelly, convicted of the 1976 Sallins mail train robbery. This case is the most infamous example of a miscarriage of justice in the Republic of Ireland. Kelly was one of six men originally charged with the robbery. Four of these went to trial and three were convicted. On appeal Brian McNally and Osgur Breatnach were released, but Kelly remained in jail, his eventual appeal to the Supreme Court being dismissed. Kelly had been convicted on the basis of a statement signed while under interrogation by the Garda's notorious 'heavy gang', allegations against which led the government to set up the O'Briain Committee in 1977. Kelly always maintained his innocence, arguing that he had only signed a confession after a sustained beating. Gardai claimed that the severe bruising found on Kelly when he arrived in Mountjoy prison had been caused by the other suspects in the case (who were also covered in bruises).

The first trial, which took place before the juryless Special Criminal Court, became notorious because one of the three judges kept falling asleep. The same judge was found dead at home one morning and the trial was abandoned after 65 days -- the longest trial ever in the history of the state. A new trial began and, during one weekend adjournment with McNally, Breatnach and Kelly out on bail, Kelly disappeared. Kelly fled to the United States. A year later, he returned to Ireland voluntarily and was arrested. In May 1983, following the Supreme Court's decision to uphold his conviction, Kelly began a hunger strike which lasted 38 days. One year later, in July 1984, Kelly was released 'on humanitarian grounds'.

Since his release, Kelly has not only campaigned for his conviction to be squashed, but has fought for an inquiry into the circumstances surrounding his conviction and has added his voice to the growing calls for a new procedure to investigate miscarriages of justice. In June the Irish government offered Kelly IR£75,000 in compensation. Kelly claims that fighting his case has cost more than IR£100,000.

'Shoot-to-kill' inquest

An inquest resumed on 5 May into the deaths of three men killed by the RUC Special Branch's undercover surveillance unit E4A on 11 November 1982. The families of two of the men, Eugene Toman and Sean Burns, are refusing to attend the inquest which is being resumed before coroner John Leckey, the fifth coroner to be

involved in the inquest to date. The killings formed part of the investigation into shoot-to-kill allegations carried out by John Stalker. In 1984, three police officers were acquitted of murdering Burns, Toman and McKerr by Justice Gibson who praised the police for bringing the three victims to 'the final court of justice', a comment which caused outrage at the time. Gibson and his wife were later killed by the IRA on the border at Killeen while returning home from a holiday in France. In 1988, Secretary of State Sir Patrick Mayhew - then Attorney General - ruled that, while there was evidence of attempts to pervert the course of justice, police officers would not be prosecuted on grounds of 'national security'. At the renewed hearing, the coroner has ruled that the Public Interest Immunity Certificate issued by the then Secretary of State Tom King in 1988 to prevent details of the RUC operation being revealed at the inquest, was technically invalid as King had not read any of the relevant documentation. After continuing legal arguments over the release of police documents, the inquest has been adjourned until September.

Coroner Leckey also presided over the inquest into the death of UVF member, Brian Robinson, who was shot dead in 1989 by undercover soldiers belonging to 14 Intelligence Company. The findings of the inquest suggest that Robinson could have been arrested. The DPP has been asked by the Committee on the Administration of Justice to reconsider his decision not to prosecute the soldiers involved.

The Parachute Regiment

A unit of the Third Battalion of the Parachute Regiment was involved in several attacks on unarmed civilians in Coalisland, Co. Tyrone in May. The soldiers allegedly assaulted staff and customers in two bars in the town on 12 May, apparently in retaliation for an IRA bombing in which one of the regiment lost both legs. One witness said the incident began when three soldiers burst into the Venue bar, smashing mirrors, glasses and doors. Customers were punched and kicked, while the bar's owner was dragged outside and set upon by a dozen soldiers. On Sunday 17 May, trouble again flared when a member of the King's Own Scottish Borderers allegedly challenged a local youth to a fist fight. During the ensuing brawl, a general purpose machine gun went missing. Later that evening, paratroopers were involved in another incident in which two of them opened fire, wounding three people outside a bar.

Michael Mates, the new Minister responsible for security in Northern Ireland, said the shootings were 'entirely justified' since the patrol was set upon by 'a gang of 40 to 50 thugs sponsored and organised by the IRA'. David Andrews, the Irish Foreign Minister, called for the withdrawal of the Parachute Regiment given their deplorable record from Bloody Sunday (1972) onwards.

Four days after the Coalisland shooting incident, Brigadier Tom Longland, the commanding officer responsible for border security in the Newry area, South Armagh and Tyrone, was removed from his post. The Ministry of Defence denied that the decision had anything to do with events in Coalisland. It is unusual, however, for a senior officer to be moved in this fashion only five months into a scheduled two-year tour of duty. Longland has a reputation as a tough and aggressive commander, and is regarded as a high flyer having been promoted from lieutenant colonel to brigadier, missing out the rank of colonel. Longland was replaced by Brigadier Douglas Crum who in 1974 appeared in court in Belfast accused of beating a former internee.

One of the local people injured at Coalisland was Feargal O'Donnell whose brother Kevin was killed in an SAS ambush earlier this year. O'Donnell, who needed eight stitches for a face

wound, travelled to London to brief Labour MPs on the Coalisland events. When returning home, police detained him at Heathrow, causing him to miss his flight.

Sources: *Irish News*, 15.5.92, 19.5.92, 25.5.92, 1.6.92, 4.6.92; *News Letter* 19.5.92; *Guardian* 19.5.92; *Independent* 15.5.92, 26.5.92.

Complaints against the RUC

The number of complaints against the Royal Ulster Constabulary increased by 25% last year, according to the 1991 report of the Independent Commission for Police Complaints. Only nine cases out of 2,500 resulted in criminal charges and none of these was upheld. The Commission was unable to substantiate a single case out of 840 complaints of ill-treatment by suspects held under emergency legislation.

Northern Ireland: new material

Politicians, soldiers and the place of the security forces, Peter Brooke MP, *RUSI Journal*, April 1992, pp1-5. Brooke considers security policy, the role of the security forces and social and economic issues in Northern Ireland.

Parliamentary debates

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

Northern Ireland Act 1974, *Commons*, 18.6.92, cols 1054-1063 & 1064-1096.

Northern Ireland (Emergency and terrorism provisions) (Continuance) Order 1992 - Motion for approval, *Lords*, 15.6.92, cols 44-71.

RESEARCH NOTICEBOARD

Readers are invited to send in items for this column - conferences, seminars, reports, books for sale, researchers looking for information, sources of information. Items should not be more than 300 words.

* **Citizenship, human rights and minorities - rethinking social control in the new Europe:** XXth Annual Conference of the European Group for the Study of Deviance and Social Control, 3-6 September 1992, Padova, Italy. Details from: Paddy Hillyard, Dept of Social Policy, University of Bristol, 8 Woodland Road, Bristol BS8 1TN.

* **European Civic Forum conference:** 2-9 August 1992. Includes workshops on Fortress Europe, Local planning and energy and East Germany. Details from: B.P.42, F-04300 Forcalquier, France. Tel: + 33 92 730598.

* **Public Record Office new openings:** copies of lists of new items released each 1 January at the Public Records Office on parapolitics, security and military. £10 for 1992 openings and £5 each year for 1989-91, from: Roger J Morgan, 15a Kensington Court Gardens, London W8 5QF.

* **Books for sale:** State Research Library has the following secondhand books/pamphlets for sale: **Contemporary Policing**, R Thackrah (ed), 1985, pp202, pk, £2; **Policing Schools** - Advisory Committee on Police in Schools, pamphlet, pp80, £1.50; **Living on the Frontline**, Aberdeen CND, 1981, pp42, £1.50; **The tape recording of police interviews with suspects**, Home Office, 1983, pp28, £1.50. Prices include p&p. From: State Research Library, PO Box 1516, London N16 0EW.

CONTENTS

Immigration 1

The death of Mrs Jojo Muluta
External Borders Convention
In Brief
New material

Law 2

New picketing code
Right to silence
Death penalty
New material

Military 3

Post Cold War defence changes
Belgium: Gladio enquiries
New material

Security & intelligence 4

Switzerland: political policing
MI5's annual report
Cabinet Committees
MI6: accountable or secret?
In brief
New material

Racism & Fascism 6

Racist attacks in Germany

Book review: Blood on the streets
New material

Policing 6

Police suspended in Hackney
Justice for Ivan Fergus campaign
In brief
New material

Europe 7

France: immigration figures
EC secrets law
In brief: Greece to join Schengen; Trevi briefings; 'Collection camps' in Germany; new surveillance law; EC redundancies
New material

Civil liberties 9

ID cards and new police powers?
UK secrets law for Hong Kong
New material

Prisons 10

Orville Blackwood campaign
In brief
New material

Northern Ireland 10

The Casement Park trials
Presidential pardon
'Shoot-to-kill' inquest
The Parachute Regiment
Complaints against the RUC
New material

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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). Available August 1992.

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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