

## Statewatch bulletin

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### IMMIGRATION

#### Asylum Bill

The Asylum and Immigration Appeals Bill, introduced on 22 October by Home Secretary Kenneth Clarke, closely mirrors the first Asylum Bill which the *Independent* described as a 'mean-minded little bill' (see *Statewatch* Vol 2 No 1).

The Bill's provisions to deter asylum-seekers from trying to come to Britain are mostly identical with those in the last Bill: fingerprinting (now extended to dependants of asylum-seekers), with a power of arrest for non-compliance; reduced housing rights; a 'fast-track' procedure for claims certified by the Home Office as 'unfounded'; impossibly tight time limits for appealing; and a checklist of unfavourable indicators (destruction of documents, failure to seek refuge in another part of the country before fleeing, political activity in the UK).

The Bill says that only refugees under the Geneva Convention whose life and/or liberty are in danger in the country they have come from, will be granted asylum. This leaves out of account completely the vast majority of those who are currently granted permission to stay. The Geneva Convention only applies to victims of persecution, not those fleeing civil war or violent disturbances at home. The latter are granted exceptional leave to remain. In the first half of 1992, only 3% of applicants for asylum were granted refugee status, while 57% were granted exceptional leave. The Bill thus leaves it open to the government to abolish exceptional leave altogether, or drastically to curtail its use.

Only two concessions have been made to the criticism made of the first Bill: an adjudicator can extend the time limit for appealing; and there is a right to oral appeal (but no representation under legal aid) for all cases including 'unfounded' ones.

#### More rights removed

To 'balance' these concessions, however, rights have been removed from others. Those whose applications to visit Britain, or to go on a short course of study here, are rejected, will no longer have any right to appeal. This is justified as necessary to clear the backlog of appeals in the system and allow more important appeals (on marriage and settlement) to proceed. At the press conference to introduce the new Bill, Kenneth Clarke said of these appeals, 'What does it matter? The wedding's over anyway.'

This was a reference to the fact that under the present appeals system, someone refused entry to come to a relative's wedding in Britain has to wait over a year before the appeal (at which the Appellant cannot be present) is heard. Clarke's remark underlines the need for the appeal in these cases. Without it, the applicant is branded for ever by the refusal, and will find it almost impossible ever to be admitted to Britain. The removal of the appeal right allows even more arbitrary and racist decisions to be made at British posts abroad and at airports at home, in the knowledge that

no challenge is possible. Its justification is rather like abolishing the right of trial for shoplifting to clear the way for more important trials such as murder.

The vast majority of refused applications emanate from the Indian sub-continent, Africa and the Caribbean. A campaign against the Bill has been launched by the Refugees Ad Hoc Committee for Asylum Rights (RAHCAR), which is calling a march on 21 November at 12.00 at Hyde Park, with a rally at 3.00 pm at Trafalgar Square.

#### Secret resolution

On the day the Asylum Bill was published (22 October), a secret draft resolution, prepared by the Ad Hoc Group of Immigration Ministers under British presidency, was leaked to BBC Radio 4. The 'Draft resolution on manifestly unfounded applications for asylum', dated 1 July and due to be voted on at the Edinburgh summit in December, sets out the framework within which asylum applications should be dealt with. Those who fear human rights violations, it says, should if possible stay in their own country and 'seek protection or redress from their own authorities'. If they have to leave, they should seek protection in the first safe country they come to: 'intercontinental movements are seldom necessary for protection'. Finally, refugee status 'should not be granted merely because levels of security, economic opportunity or individual liberty are below European ones'. Only those complying with the strict terms of the Geneva Convention - those whose life or liberty is endangered by persecution on grounds of race, religion, nationality, political opinion or membership of a social group - should be eligible for protection. The resolution, if acted upon, sounds the death-knell to Third World refugees' chances of getting asylum in Europe, and it proposes to exclude from protection all those fleeing war or civil war, or those whose persecution (rape, beatings or torture) does not actually threaten their lives.

The effect of the proposal would mean that people fleeing from Uganda to Kenya would be expected to stay there as it is considered a 'safe' country and not fly to the EC. Kurds in Turkey would be expected to exhaust all available legal remedies within that country before applying to enter the EC. This is especially difficult as Turkey is a signatory of the European Convention on Human Rights with the right of appeal to the European Court of Human Rights - a very lengthy process. Similarly those fleeing from civil war, for example in Sri Lanka or Yugoslavia, would be excluded.

The clear intention is to put the clock back twenty years, to the time when only deposed leaders or those with friends among the powerful got sanctuary in the West.

#### Forgery course

In August and September, police and immigration officers from all

member states came together in Brussels and Eindhoven for a 12-day course on the detection of forged documents. The European Commission funded the course organised by the Belgian Gendarmerie and the Dutch National Criminal Intelligence Service (CRI), with the collaboration of the UK Immigration service.

The need for such a course has been brought about largely by member states' own punitive policies on asylum-seekers. No country issues visas to refugees, but since 1987, asylum-seekers from most refugee-producing countries need visas to travel; and the fines airlines receive for carrying passengers with no documents or with forged ones means that immigration control starts at the airline desk. Thus, the creation of ever better forged documents for people desperate to get out of their countries has become big business in the past five years.

*Migration Newssheet* October 1992; *Agence Europe*, 9.9.92..

### **France: Double punishment**

An Algerian national started his second hunger strike on 1 September in an attempt to stop his threatened deportation after serving a sentence for dealing in 500gm of cannabis. M Deradidj was on hunger strike with 20 others earlier in the year. He called it off after 40 days, when the Interior Ministry agreed to reconsider his case. He has now been told his deportation is to go ahead.

Double punishment - a prison sentence and deportation for the same offence - has been a campaigning issue for some years in France, and there have been a number of successful cases brought to the European Court of Human Rights, against the deportation of north Africans who have spent most of their life in France.

*Migration Newssheet* October 1992

### **UK: Double punishment**

The *Campaign against Double Punishment* has recently published the report of its first national conference, held in February 1992. In 1990/91, it reports, 415 people were recommended for deportation by the courts, and another 317 people were told by the Home Office that they were to be deported under the 'conducive to the public good' provisions of the 1971 Immigration Act. Prisoners facing deportation do not get home leave, and are often denied parole or are detained for deportation as soon as parole is granted.

The report draws attention to the particular problems of women prisoners, who often have to part with infant children because of shortage of mother and baby units in prisons. Drug 'mules', usually poor African or Latin American women recruited for very little money, get consistently higher sentences than their British counterparts, largely because of the lack of social enquiry reports into their home circumstances and lack of interest on the part of their legal representatives and the court.

*No immigration laws: no double punishment*, Campaign Against Double Punishment, The Old Library, Cheetham Hill Road, Manchester M8 7SN, tel: 061-740 8600, price £3.00.

### **Holland: military to control entry**

In September the major refugee organisation in Holland, 'Vluchtelingenwerk', published a report 'Rejected on Schiphol Airport' on the role of the Military Police at Schiphol Airport dealing with the asylum procedures. The Military Police (KMAR) is responsible for the controls of passports and visas at the borders of Holland. Many asylum-seekers come to Holland by plane through Schiphol airport, and the KMAR who have been given the job of checking their documents and requests for asylum.

The report describes the period from May 1991 to July 1992.

During that time 73 asylum-seekers were refused entry to the

country by the KMAR. As a result of this policy the number of asylum-seekers at Schiphol in 1991 was reduced to half the 1990 figures. The main reason was that 'gate checks' by the KMAR had been intensified. These controls take place at 'high risk flight' gates where planes arrive carrying people from certain countries which the KMAR suspect of using false documents.

The Vluchtelingenwerk report concluded that: 1) The situation for asylum-seekers at Schiphol airport has become worse since the KMAR has started to control the documents through 'gate checks'. They do not take proper care in cases of requests for asylum and asylum-seekers are sent back to countries where they fear persecution; 2) this procedure conducted by the KMAR is illegal under Dutch and international law; 3) The documented cases show that the procedure operated by the KMAR is not an incidental but is structural. As a result of the report the Minister of Justice Mr Kosto has decided to make an internal inquiry into the KMAR and investigate the incidents.

These 'gate checks' are part of the measures taken by the Dutch government to reduce the number of asylum-seekers. Other measures are being prepared in accordance with the Schengen Agreement and EC conventions - sanctions will be taken against airlines who transport people with false or no documents; there will be one common policy for visas in the Schengen countries (which have a list of 115 countries where people will need a visa to enter); and proposals on the EC-level defining country of first place of arrival.

### **Ireland: Asylum**

Amnesty International's Irish Section is campaigning to improve protection for asylum seekers with the aid of a private members Bill sponsored by Alan Shatter MP (Fine Gael). The present legislation in Ireland covering refugees and asylum seekers is the 1935 Aliens Act, which is based on the UK's 1914 Aliens Restriction Act (a draconian piece of law drawn up at the outset of World War 1). Under the 1935 Act the Minister of Justice has unlimited powers to detain and deport and there is no appeals procedure.

The procedure under the 1935 Act tie the subsequent statutory instruments to the UK's visa policy so that every time the Home Secretary extends the countries requiring visas Ireland follows suit. Very few refugees reach Ireland. In 1991 only 31 asylum applications were made with only one being granted. One in four applicants are detained in prison before being deported.

*Exile*, October 1992.

### **Immigration: In brief**

**Removals:** A mother of seven children was deported to India in September although her children were prohibited by court order from leaving Britain. The Home Office refused the mother's request to delay her deportation for a few days to enable her to apply to lift the court ban on her children travelling with her. The woman, who had been in Britain for nine years, was declared an illegal immigrant. *Independent* 19.9.92.

**UN guidelines ignored:** A Tamil asylum-seeker is to be deported in breach of UN guidelines. David Vigna, who had served a six-year sentence for drug smuggling, claimed he could not be deported to Sri Lanka, where he had been tortured by security forces. Medical reports supported his claim. The Home Office said he could be returned to Colombo, in the south of Sri Lanka, despite UNHCR guidelines which say that Tamils cannot be returned to the south 'in safety and dignity'. A High Court judge endorsed the deportation, saying that the Home Office was not bound to follow

the guidance. *Independent* 12.10.92.

**No sanctuary:** the Home Office tried to turn away a raped and tortured Angolan asylum-seeker whose only living relative, her sister, lived in Britain. She had spent five hours in transit in France, the Home Office said, and she should claim asylum there. The woman had fled Angola with her child after being forced to watch the killing of her husband. She was reprieved and allowed to present her claim in Britain only after the intervention of a solicitor and several social workers and psychiatrists. *Radio 4: Opinion* 22.10.92.

**Refugees in prison:** on 7 October 1992 there were 138 asylum seekers detained in prisons for more than seven days. Of these 32 had been detained for less than one month, 20 for between one and two months, 46 between two and six months and 40 for over six months. *Hansard, Commons*, written answer 19.10.92.

**Parallel Dublin Convention:** the EC Ministers meeting in June approved a report prepared by the Ad Hoc Group on Immigration setting out a 'parallel convention' to the Dublin Convention (which says that a refugee can only apply for asylum to one country in the EC and this is the country they first arrive in and says refugees can be deported to 'safe' third countries, see *Statewatch* vol 1 no 4 & vol 2 no 5). The object is to extend the Convention to non-EC states such as the EFTA countries. It is almost identical to the Dublin Convention but with two amendments. The first maintains control by the EC states over a country temporarily opting-out and the second which indicates that signatories to the 'parallel convention' will not be included in definitions of 'third countries' in applying the Dublin Convention. *Avant-projet de convention parallèle à la Convention de Dublin du 15 Juin 1990*, Ad Hoc Group on Immigration, 8.5.92.

**Migrant workers' rights:** the Central-Alpine trade union standing group "Arge der Gewerkschaften/Arge dei Sindacati" (with unions from Germany, Austria and Italy) passed a migrants right declaration at its 9th annual convention in Milan in October. The declaration calls for equality in all areas of work and social life for migrant workers. *Arge AusländerInnenwahlrecht*, Mühlbacherhofweg 5/7, A-5020, Salzburg, Austria.

## Immigration - new material

'If I'm sent back, I'll die anyway'. Webber, Frances, *Race and Class* 34:2, 1992 pp81-85. On the measures taken to prevent refugees from seeking asylum in western Europe.

**A right to asylum in Europe.** Tomuschat, Christian *Human Rights Law Journal* 13:7-8 1992 pp257-265

**Asylum policies in a European Community without internal borders,** Luise Drücke. *Churches Committee for Migrants in Europe*, Briefing paper no 9. 2 ECUs. CCME, 174, rue Joseph II, B-1040 Brussels, Belgium.

## LAW

### Assault on gypsies

'A modern-day charter for the persecution of gypsies' is how the President of the National Gypsy Council described the consultation paper, *Reform of the Caravan Sites Act 1968*, published by the

Department of the Environment in August 1992.

The central 'reform' proposed by the government is to abolish the way of life of gypsies. It plans to do this by abolishing local authorities' obligations to provide sites for gypsies, and the funds to provide them; by making it more difficult for gypsies who own land to get planning permission to park caravans; and then by criminalising gypsies who park on common land, land by the side of roads or who park without permission on private land, and by seizing their caravans if they persist.

The proposals have been greeted with outrage and disbelief. Luke Clements, a solicitor in Hereford who has worked on behalf of gypsies for several years, doubts that the consultation paper can become law. 'It will never get past the EC,' he says. 'It is a fundamental breach of the European Convention on Human Rights. It's like trying to enact apartheid.'

In an editorial of 28 August *Police Review* condemned the proposals saying: 'It is a source of alarm that the legislation has been drafted in a manner designed to drive 13,000 gypsy families into non-existent council houses ... at worst [the plans] can be construed as direct discrimination against a minority, a discrimination that would not be tolerated if gypsies were black, came from another country or were homosexual.'

It is hard to fathom what lies behind the consultation paper. There was the usual summer panic about 'new age' travellers, but these provisions are not primarily designed to combat them (they are to be dealt with separately). The government seems to have been persuaded by those authorities which have persistently refused or failed to comply with their obligations under the Caravan Sites Act - over three-fifths of all local authorities - that the Act is unworkable. While the Act is not perfect, it is the only positive law for gypsies ever passed, and it has provided a measure of security for a majority of the 13,500 gypsy families in Britain. 6,000 pitches have been provided under the Act since 1968, at a total cost to the government of £56m, with another 3,000 provided by the private sector. Before it came into force, pitched battles between gypsies and police and bailiffs evicting them were common. This scenario seems set to repeat itself if the consultation paper is enacted into law. For, as *Police Review* comments, 'the only way for a caravan to park legally in the future will be for a sympathetic landowner to seek planning permission for it to be allowed onto his or her land' - a not too common event.

*Gypsy bashing*, Luke Clements, *Legal Action* November 1992.

### Family law & domestic violence

This recent Law Commission report presents argument and a draft bill for reform of the present law relating to domestic violence. It details proposals to widen the scope of injunctions designed to protect individuals from assault and harassment and extends powers to remove violent parties from the home.

Since the late 1960s public awareness and legal remedies have developed to enable the courts to offer legal protection to those individuals, mainly women, who are experiencing violence in the home. The Domestic Violence and Matrimonial Proceedings Act 1976, the Domestic Proceedings and Magistrates Courts Act 1978, the Matrimonial Homes Act 1983, divorce proceedings and actions for assault and trespass can all be employed to protect these individuals. However, the very proliferation of legislation indicates that successive legal solutions had not provided the means to deal with the very wide and varied nature of the problem.

At present, the plethora of statutory remedies are only available to those who are married or those who are or who were cohabiting at the time of the violence. Other individuals have to rely on a civil action for assault or trespass, a remedy that cannot provide a power

of arrest or deal adequately with issues of occupation of the 'family' home.

Neither do the statutes recognise the large number of individuals who experience violence at the hands of other close relatives; when members of extended families believe that a woman has offended against, their cultural traditions; older sons side with their fathers adopting their negative attitudes towards their mothers; or elderly relatives are perceived to be a burden.

The Law Commission is proposing comprehensive reform with a draft Family Homes and Domestic Violence bill designed to replace the previous fragmented remedies and extend protection to all former spouses or cohabitants, members of the extended family household, a defined group of close relatives, groups of friends sharing accommodation, former fiancés and fiancées, those who have had a sexual relationship, parties sharing parental responsibilities and parties to the same family proceedings. In essence, this will offer protection to all those with close family or social ties.

The Law Commission discussed, but rejected, proposals to widen the scope of the bill even further to include those harassed at work or within a landlord and tenant situation. Having recognised the need to protect certain categories of person perceived to be potentially vulnerable to violence and harassment, it is unfortunate that they failed to acknowledge that tenants and employees formed just such categories.

The criteria for invoking the new non-molestation orders is broad recognising the need to respond to a wide variety of circumstances, not merely overt physical violence and focuses on protecting the health, safety and well-being of the applicant or child.

#### Occupation of the home

The Report proposes that the present variety of ouster, occupation and exclusion orders be replaced by a single occupation order. This order will be declaratory where the applicant already has a pre-existing right to occupy. In other cases, the orders would be regulatory and require one party to leave the property, allow the other party to return or regulate use of the property.

Where there is joint entitlement to the property, regulatory orders will be available to the categories of individual entitled to a non-molestation order. Where the applicant has no such entitlement, it will be available to spouses, ex-spouses, co-habitants and ex-co-habitants.

The draft bill will set out criteria to be met before granting regulatory orders, which will take into account the respective needs and financial situation of the parties and the likely effect of an order on the parties and any children involved and whether significant harm might be suffered if such orders were not made.

**Family Law Domestic Violence and Occupation of the Family Home**, The Law Commission no 207, HMSO £14.25.

#### Law - new material

**Criminal Justice Act 1991: discretionary lifers.** Wadham, John, *Legal Action* September 1992 pp11-13

**Criminal Justice Act 1991: parole changes.** Teggin, Victoria, *Legal Action* October 1992 pp11-14

**Black lawyers want justice to be colour blind.** *Police* July 1992 pp30-31

**Streamline Justice.** Mills, Barbara *Police* August 1992 pp22-23. Text of a speech by the Director of Public Prosecutions to the Senior Command Course at Bramshill College.

**Legislation on bail: what should be done?** *NACRO*, September 1992

**Data protection and the Royal Canadian Mounted Police.** McCormick, DJ *International Criminal Police Review* 434 (January-February) 1991 pp2-7

**Notes on Criminal procedure in the Netherlands.** Lensing, Hans and Louise Rayer *Criminal Law Review* September 1992 pp623-631

**A strategy for justice - publicly funded legal services in the 1990s**, a new book from the Legal Action Group. It describes comparable systems in Australia, Canada and the Netherlands and gives a critical account of the present state of provisions for those in need. £9.95 from: LAG, 242 Pentonville Road, London N1 9UN. Tel: 071 833 2931.

**Code of practice for local authorities on the use of bailiffs in the enforcement of the community charge and the council tax**, Duncan Forbes. Copies available free of charge from: Public Law Project, Charles Clore House, 17 Russell Square, London WC1B 5DR.

#### Parliamentary debates

Criminal Justice Act (contracted out prisons) Order 1992 - motion for approval, *Lords*, 7.7.92, cols 1094-1109.

Civil Rights (Disabled persons) Bill - report, *Lords*, 14.7.92, cols 295-305.

#### NORTHERN IRELAND

##### Intimidation of Lawyers

The International Federation of Human Rights has submitted a five page report to the Economic and Social Council of the United Nations concerning "the ongoing intimidation of lawyers in Northern Ireland by elements within the police force." The submission also covers the absence of safeguards to prevent the ill-treatment of detainees held under 'emergency' legislation.

The IFHR report states that: 'detainees regularly report that police officers make threats against the lives of their lawyers, question their lawyers' professionalism and suggest that their lawyers are in the pay of or are members of terrorist groupings'. The report comes at a time when it is being increasingly asserted by defenders of current interrogation powers and practices that detainees must be denied access to legal representatives in the early stages of detention to prevent those representatives assisting or warning the detainee's associates in some way. The assertion is that there is collusion between elements within the legal profession and the IRA.

Police officers who threaten detainees, the report alleges, often refer to the Belfast solicitor Patrick Finucane who was murdered in February 1989. Only three weeks before this murder, British government Minister Douglas Hogg publicly stated (and refused to retract) that in Northern Ireland 'a number of solicitors' were 'unduly sympathetic to the Irish Republican Army'. Finucane was killed by a British Army weapon, sold to a loyalist para military group, according to evidence revealed at the inquest. His murder has also been linked to the Nelson case. Nelson was the UDA's

intelligence officer until his conviction in February 1992. For ten years he acted as an agent for the British Army's Field Research Unit (see *Statewatch* Vol 2 nos 2 & 5).

Professor Claire Palley, Britain's representative on the UN Sub-Commission on the Prevention of Discrimination and Protection of Minorities (which received the report), commented that the concerns about the intimidation of lawyers 'appear to be wholly justified'. She also said that suspicions of official collusion in Finucane's murder could only be put to rest by an independent inquiry. Security Minister, Michael Mates, responded by accusing Palley of making unsubstantiated allegations, and by stating that 'the only people in Northern Ireland who do not respect human rights are the terrorists'. Mates, however, is aware that a dossier of 268 cases of alleged ill-treatment of detainees was submitted to the UN's Commission on Torture in November 1991. These cases involve 143 instances in which RUC officers allegedly made death threats against detainees' solicitors.

*IFHR and Committee on the Administration of Justice to Sub-Commission on Prevention of Discrimination and Protection of Minorities*, 4.8.92; *Guardian*, 21.8.92; 29.8.92; 5.9.92.

### **Annesley Fails to Get Met**

RUC Chief Constable, Sir Hugh Annesley has not been appointed Metropolitan Commissioner to replace Peter Imbert. The job has gone instead to Kent's Chief Constable, Paul Condon, who seems to have impressed the Home Secretary with his liaison with the French and preparations for policing the channel tunnel. Annesley was widely tipped for the post and his Police Foundation lecture (21.7.92) was seen as setting out his manifesto for the policing of Britain in the 21st century. The lecture questioned the need for 43 police forces and made the case for a national force operated on a regional basis. Understanding that this was unlikely in the immediate future, Annesley proposed two new operational units, a National Crime Squad and a National Anti-Terrorist Unit. The latter would have four divisions, one concerned with the cultivation of informants, the second with the gathering, analysis and assessment of intelligence, the third with providing an operational capacity to respond to such intelligence, and the fourth, a training, legal and support service wing. The unit, Annesley suggests, would incorporate the Security Service, the Metropolitan Police Special Branch and Anti-Terrorist Unit, with a significant input from provincial CID and Special Branches. It would also include military and customs personnel with the capacity to co-opt specific skills from other agencies or departments as appropriate. The National Anti-Terrorist Unit would provide 'a single police and intelligence focal point for liaison with the RUC, the Garda and the police forces and intelligence services of Europe and North America'. Who would lead such a unit, Annesley asks? The professional discipline of the post holder is secondary to getting the right person, he goes on to argue, and that person has to be someone capable of operating at the level of Metropolitan Police Commissioner and with a line of command to the Home Secretary 'but with direct access to the Prime Minister'.

Annesley's lecture gave details of firearms and explosives supplied by Libya to the IRA prior to the French customs seizure of the Eksund. These are estimated to include: 6 tons of Semtex, 1500 plus AKM rifles, 1.5 million rounds of ammunition, 20 SAM missiles, 50 RPG7 rocket launchers, 10 flamethrowers, a quantity of general purpose and heavy machine guns.

*Guardian* 23.10.92; *Police Journal*, October 1992.

### **UDA Proscribed**

From midnight on 10th August the Ulster Defence Association has been proscribed by the Northern Ireland Secretary of State, Sir Patrick Mayhew, under the Northern Ireland (Emergency Provisions) Act 1991. Mayhew took the decision using the 'urgency procedure' which means that, while the ban takes immediate effect, the order has to be ratified by parliament within 40 'sitting' days. The ban applies only to Northern Ireland. Mayhew had satisfied himself that 'the UDA is actively and primarily engaged in the commission of criminal terrorist acts...For these purposes, it acts as the Ulster Freedom Fighters.' *Northern Ireland Information Service Press Release, 10.8.92*

### **Northern Ireland - new material**

**Talking the peace?** *Troops Out* September/October 1992 pp9-11

**Struggle for truth** *Troops Out* September/October 1992 pp18-19. Interview with Eleanor McKerr about the death of her husband, Gerard, in November 1992, in one of the cases that was investigated in the Stalker Inquiry.

**Diplock and the presumption against jury trial: a critique.** Jackson, John and Sean Doran *Criminal Law Review* November 1992 pp755-766

**Legion of the rearguard: the IRA and the modern Irish state,** Conor Foley. Pluto Press pp241, £10 p/b. This book provides an account of the political evolution of republicanism following the partition of Ireland in 1920, focusing on the years 1920-1941.

### **EUROPE**

#### **UK borders: 'transitional' agreement**

The widely reported 'compromise' reached between Home Secretary Kenneth Clarke and Martin Bangemann, the EC Commissioner for the Internal Market, over UK border controls is a purely 'transitional' agreement pending full compliance (see *Statewatch* vol 2 nos 4 and 5).

Mr Clarke and Mr Bangemann met in London in September to discuss the UK's long-standing opposition to the abolition of border controls scheduled for 1 January 1993. Mr Clarke said in a press release that despite holding 'different views on the interpretation of Article 8A of the Treaty of Rome...we did agree to make it easier for EC nationals - including Britons - to pass through border controls' (Article 8A, which refers to the free movement of persons inside the EC was added to the Treaty of Rome through the Single European Act). Mr Clarke said: 'I am determined to insist that the United Kingdom will operate border controls that are necessary to combat terrorism, drug smuggling, immigration and international crime. He also stressed that non-EC nationals would continue to have their passports checked in the normal way (non-EC nationals are people legally resident in an EC country but without the right to travel in the EC unless national law allows it). In Brussels Mr Bangemann told a press conference, on 2 September, that he was 'encouraged by the meeting' and that they were looking for a solution which would 'permit the abolition of regular controls on EC citizens travelling between member states'. These views were duly reported with headlines like 'EC's border controls set to end soon' (*Guardian*) and 'Brussels retreats from battle over passport checks' (*Independent*).

On 23 September Mr Bangemann attended the meeting of the Civil Liberties and Internal Affairs Committee of the European Parliament when a different position emerged. He told the Committee that he had reached an 'intermediate' solution whereby EC citizens entering the UK would pass through passport control 'waving' their passports (a suggestion which provoked universal laughter from the MEPs). The 'waving' of passports was being suggested as a way of the UK officials 'recognising EC citizens so as not to be checked', he said. It was intended that EC citizens 'identify themselves in order to avoid controls'. MEPs said 'waving' a passport was a check and was not the European Commission the 'custodian of EC law?'

Mr Bangemann replied that: 'We want any EC citizen to go from Hamburg to London without a passport'. The Commission stuck by its legal opinion on the meaning of Article 8A issued in May and that it had always 'said it will take the matter to court' if necessary. But, said MEPs, what does an 'intermediate' solution mean? 'The agreement with the UK clearly states that it is only a transitional agreement on the way to a full agreement', Mr Bangemann replied. On 19 October Mr Clarke told parliament that discussions with the Commission on this issue 'are continuing'.

The Commission is reluctant to pursue legal action against the UK because of the confusion over the Maastricht Treaty (which has placed all potentially controversial measures on hold).

The question of UK border controls has also been discussed by the European Parliament. Mr Andriessen, Vice-President of the Commission, said Article 8A meant that 'Member states are required to ensure that any controls for any persons at the frontiers are abolished'. In a debate on cross-border co-operation Mr Blaney (Independent, Ireland) spoke of the 'extraordinary and unparalleled concentration of stockades being erected in preparation for 1993...nowhere in the world have been perpetrated upon any of our people in a cross-border region the stockades and the gun turrets that are 40 to 80 metres high and run right around our border between north and south'.

*Home Office press release, 2.9.92; Guardian & Independent, 3.9.92; Agence Europe, 3.9.92; European Parliament debates, 8 & 10.6.92; House of Commons, written answer 19.10.92.*

## Schengen delayed

The Schengen Agreement is not likely to come into effect until well into 1993 and then only in a limited way. After the meeting of Schengen states in early November in Madrid the Spanish State Secretary for European Affairs, Mr Carlos Westendorf, said a number of countries still had to ratify the Agreement. One of the reasons for the delay was differences over asylum policies with Germany likely to change its asylum laws, and Portugal which wants to 'legalise' 70,000 'illegal' immigrants before fully implementing the Agreement. At the meeting Greece was formally accepted in the Schengen Group, joining Germany, France, Italy, Spain, Portugal, Luxembourg, Belgium and the Netherlands. This leaves the UK, Ireland and Denmark as the only members of the EC outside the Schengen Agreement.

The meeting also heard that the Schengen Information System (SIS) was not going to be operational until the summer of 1993. It was agreed to give the contract for producing the new Schengen visas to a Swiss company - the new visa will have a hologram and be tamper-proof. People visiting the Schengen states from 120 countries will be issued with these visas.

Meanwhile, Belgium's Conseil d'Etat has issued a reservation on the Schengen Supplementary Agreement. Like the Dutch parliament, it is unhappy about the powers being given to the Executive Committee of Schengen and the lack of judicial control

over it. This problem will be encountered again, since none of the European treaties has been brought within the competence of the European Commission or the European Court of Justice. There is no international legal forum for the settlement of disputes, either between signatory states, or for aggrieved individuals. This contrasts with the free movement rights for EC nationals incorporated in the Treaty of Rome and subsequent EC directives, which can be litigated both in national courts and in the European Court of Justice.

## Europe: In brief

**EC: abolition of borders?** The EC has formally recognised that the suppression of internal borders will not take effect by the deadline of 1 January 1993, as planned. The date will depend on putting in place all the 'compensatory' measures on which the abolition of borders rests, to keep criminals, terrorists and immigrants out of the common European space. Progress on these measures is slow: the signing of the External Borders Convention (see *Statewatch* Vol 2 no 4) is still blocked because of the continuing dispute between Spain and Britain about Gibraltar, and the Dublin Convention on asylum-seekers, signed two years ago, is at present ratified only by three of the twelve (Britain, Denmark and Greece).

**Denmark:** the President of the Danish police trade union, 'Politiforbund', Mr T A Thomsen has protested against the setting up of Europol. The union, he said, was in favour of police co-operation but not the creation of an EC police force. He also said Danish participation, which was being led by the Foreign Ministry, was contrary to the legal position after the rejection of the Maastricht Treaty. The Danish government is now proposing that they should be allowed to opt-out of the law enforcement clauses of the Treaty as part of constructing an acceptable revision. *Agence Europe*, 10.9.92; *Guardian*, 28.10.92.

**BISS information exchange:** groups in Belgium, Netherlands, Switzerland, Germany and Statewatch in the UK are co-operating to produce a quarterly newsletter to exchange information on the development of the European state. It contains a listing of reports, documents, books and articles, the group holding each item and the languages it is available in. All the subject areas in Statewatch are covered. The initiative was taken at a conference in Berne, Switzerland in June when it was realised that each group was getting access to often different sources of information. *Copies of the BISS newsletter (four times a year) can be obtained from: Statewatch, PO Box 1516, London N16 0EW for £2.00 a year.*

**European Information System:** the European Information System (EIS) which is being set up under the External Borders Convention (which has yet to be agreed) is to hold a computerised list of people not to be allowed to enter the EC (see *Statewatch*, vol 2 no 4). It is seen as a first step towards greater police co-operation and judicial co-operation. According to confidential minutes, prepared by the UK which currently holds the Presidency of the EC, the EIS has 'to set up a single information system based on the Convention applying the Schengen Agreement' and 'the system should be devised swiftly, taking a pragmatic approach'. It also recognises that yet another inter-governmental convention between the 12 EC states will have to be agreed and ratified. *Minutes on form of agreement in the European Information System*, 29.6.92.

## Europe - new material

**On the reform of the supervisory system of the European Convention on Human Rights.** Golsong, Herbert *Human Rights Law Journal* 13:7-8 1992 pp265-269

**Right-wing extremism in Germany.** *RUSI Newsbrief*, 12:10 (October) 1992 pp73-75.

**Gypsy road to nowhere,** Nolan, Darren, *Guardian* 3.10.92. Report on the plight of the Romanians who were driven out of Romania and now fear that their asylum in Germany will be short-lived.

**Arabicide in France.** CARF, May/June 1992 pp4-5

**The new Italian code of criminal procedure,** d'Ambrosio, Loris. *International Criminal Police Review* 434 (January-February) 1992 pp8-16.

**1992 and all that,** Aziz, Razia. *Rights of Women Bulletin* Summer 1992 pp2-5. Aziz examines the consequences of European unification for women.

## PRISONS

### Prisons - new material

**The case against sentencing 15 year olds to prison service custody.** *Penal Affairs Consortium* October 1992

**Belmont Prison: the way ahead or the road to nowhere?** *Fight racism, Fight Imperialism* 15.7.92.

**Personal searches of psychiatric patients.** Gunn, MJ *Criminal Law Review* November 1992 pp 767-777

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

**Managing Sex Offenders: The Challenge for Managers,** Tony Morrison. *Probation Journal*, September 1992, pp122-128. Examination of the issues which need to be addressed in order to establish effective community based programmes for sex offenders. **Who Wants to be a Watchdog Now?** Anne Worrall. *Probation Journal*, September 1992, pp133-137. Examination of the future of the Board of Visitors now that they have lost their disciplinary powers. **Thrashing and Looting,** Moira Peelo and John Stewart. *Probation Journal*, September 1992, pp138-142. Peelo and Stewart discuss how offenders are vulnerable to property crime. **Quality Counts,** Gill McIvor. *Probation Journal*, September 1992, pp143-147. McIvor argues that the Criminal Justice Act 1991 will lead to Community Service being utilised more by sentencers and that this in turn could lead to 'mediocre work opportunities, less interest in offenders needs and a higher breach rate'. **From the Seventies to the Nineties,** Peter Ford. *Probation Journal*, September 1992, pp153-156. Examination of the probation service in the seventies compared to the probation service in the nineties.

### Parliamentary debate

Parole Board (Transfer of Functions) Order 1992 - motion for approval, *Lords*, 13.7.92, cols 38-48.

## CIVIL LIBERTIES

### D-Notice review

A review of the D-Notice system has been announced by Sir Christopher France, the Permanent Under Secretary at the Ministry of Defence. Sir Christopher is chairman of the D-Notice Committee which operates an 80 year-old system of voluntary self-censorship in co-operation with the media. Rear Admiral William Higgins, the Secretary of the Committee, told a meeting in London that he gave 'positive advice', urging editors not to publish, about a dozen times a year. In all, he said, he received about 100 inquiries a year from editors and publishers.

In April 1992 the Committee re-issued its guidance to the media. This guidance note covers 'the publication of information damaging to national security'. It invites editors and publishers to consult the Secretary in cases of 'doubt'. It ends by saying: 'Discussions between Editors and the Secretary of the Committee are regarded as taking place in confidence'.

In 1971 there were 12 D-Notices which were cut down to 8 in 1982. These cover: 1) defence plans, operational capability, state of readiness and training; 2) defence equipment; 3) nuclear weapons and equipment; 4) electronic equipment; 5) cyphers and communications; 6) British security and intelligence services; 7) war precautions and civil defence; 8) photography, of defence establishments and installations. D Notice no 6 on the security and intelligence services asks the media not to publish any information on their operations, structure, personnel or their surveillance methods.

*Guardian*, 24.9.92; *D-Notices guidance*, April 1992.

### Civil liberties: In brief

**No more leaks:** The Dutch cabinet has decided that civil servants are no longer allowed to have background conversations with journalists on subjects on which ministers still have to make a decision. Once a decision has been made, only the public relations offices are allowed to give clarifying statements. The administrative heads of the departments have been asked to see to it that leaks will no longer occur and that breaches of confidentiality are investigated.

**Government Data Network:** in answer to a question in the House of Commons the government said that 16 departments have been authorised to exchange personal data through the computerised Government Data Network (GDN), and 29 departments have access agreements with Racial Data Networks who run the GDN. *Commons Hansard*, 9.6.92.

**ID cards to 'assist crime fight':** Ron Hadfield, Chief Constable of West Midlands and vice-chairman of the Association of Chief Police Officers' international affairs committee, told a conference in London that mandatory national identity cards should be introduced throughout the EC to combat potential increases in terrorism, drug trafficking and criminal activities after the abolition of border controls next year. The cards, he added, should incorporate the persons's fingerprints and photograph. *Independent*, 16.10.92.

### 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.

**The United Nations and human rights: a critical appraisal**, Philip Alston (ed). Clarendon Press, 1992, 765 pp. £80 (hb).

**Human rights for all? A global view of lesbian and gay oppression and liberation**, Reading International Support Centre (RISC). RISC, 1992. 120 pp.

**Video taping police interviews with suspects: an evaluation**, John Baldwin. (Police Research Series: paper no.1). Home Office Police Research Group, July 1992, pp31.

**Cautions v prosecutions: ethnic monitoring of juveniles in seven police forces**, Commission for Racial Equality. CRE, 1992, pp26.

**Black workers in the prison service**, Robin Alfred. Prison Reform Trust, May 1992, pp46. £2.95 (pb).

**Terrorism in Europe: an international comparative legal analysis**, Antonio Vercher. Clarendon, 1992, 454pp. £45 (hb).

**Immigration law: the rules explained**, Christopher Vincenzi and David Marrington. Sweet & Maxwell, 1992, pp266. £45.00.

**Quest for justice: towards homosexual emancipation**, Anthony Grey. Sinclair-Stevenson, 1992, pp304. £9.95 (pb)

**Domestic violence: report of a national inter-agency working party on domestic violence**, convened by Victim Support Victim Support, 1992, pp96.

**Police complaints procedures**. Home Office. (Government reply to the fourth report from the Home Affairs Committee session 1991-92 HC 179) HMSO, July 1992, pp4. £1.50.

**A charter for all? : CAB evidence on immigration and nationality**. National Association of Citizens Advice Bureaux. NACAB, July 1992, pp37. £5.

**Bail information : an evaluation of the scheme at HM Prison Moorland**, Brian Williams. Horton Publishing, 1992, 121 pp.

**Beyond containment: the penal response to sex offending**, Prison Reform Trust (PRT) 1992, pp56. £4.95 (pb).

**Register of policing research 1992**, Cathy Bird. Home Office Police Research Group, 1992, pp211. Available from Publications Secretary, Police Foundation, 1 Glyn Street, London SE11 5RA (pb).

**Civil actions against the police**, Richard Clayton and Hugh Tomlinson. Sweet and Maxwell, 1992, pp498. £75 (hb).

## MILITARY

### Military: In brief

**Nuclear future**: Malcolm Rifkind, the Secretary of State for Defence, said in Paris that the French and UK nuclear weapons underpin the security of 'non-nuclear partners and allies'. These weapons would, he said, 'continue to play a fundamental role for the foreseeable future in ensuring strategic stability in Europe'. The

risk of nuclear proliferation meant that deterrence could only be effective 'if nuclear retaliation against aggression appeared credible'. *Ministry of Defence press release*, 30.9.92.

**British Army of the Rhine disbands**: at the end of September the British Army of the Rhine was disbanded. The British troops in Germany are now part of the Allied Command Europe Rapid Reaction Corps [ARRC] under the command of Lieutenant General Sir Jeremy Mackenzie. *Ministry of Defence press release*, 29.9.92.

**Use of force allowed in guarding army compounds**: The Dutch cabinet recently agreed on a bill that will allow military personnel the use of force on guard duties. Up till now, military personnel who used force could only claim self-defence. Although the threat of foreign spies trying to steal military secrets has diminished, the new legislation is thought necessary to scare off criminals from trying to obtain weapons by robbing military guards or entering army compounds. A side effect is that peace activists who have in the past entered military installations to protest or sabotage missions could in the future face the risk of being shot at.

**UK army training overseas**: under long-established arrangements troops from the UK army train in the following countries: Australia, Belize, Botswana, Brunei, Canada, Cyprus, Denmark, Falkland Islands, France, Germany, Gibraltar, Hong Kong, Hawaii, Italy, Jamaica, Jordan, Kenya, Malaysia, New Zealand, Norway, Oman, Portugal, Spain, Thailand and the USA. *Hansard Commons*, 11.6.92.

**UK military numbers**: in May 1992 a total of 138,982 civil servants were employed by the Ministry of Defence. The strength of the UK regular forces - Army, Navy and Air Force - is estimated to be 265,600. *Hansard Commons*, 24.6.92.

**Ministry of Defence Guard Service**: the new Ministry of Defence Guard Service was set up on 1 October. It has been formed from existing civilian guards forces, comprising 'guarding, patrolling and watching grades'. They are under the direction of the Ministry of Defence Police Chief Constable. The Ministry says that: 'Guards will be free to join any union of their choice. It has been the practice of successive governments that politically-affiliated unions are not recognised as representing non-industrial servants for collective bargaining purposes, because of the importance of maintaining the principle that the non-industrial civil service is politically impartial'. *Ministry of Defence press releases*, 25.4.92 & 28.7.92.

**Military bye-laws invalid**: the Appeal Court said in a judgement that the RAF Alconbury bye-laws 1985 and HM Forest Moor and the Menwith Hill Station bye-laws 1986 which purported to exclude members of the public from military bases were substantively invalid for failing to state with sufficient clarity the areas they covered. Moreover, in the case of the RAF Alconbury bye-laws which referred to covering the area within the outer perimeter fence 'the position of that fence had been moved, quite deliberately, so as to substantially increase the area covered'. *Independent*, 8.9.92.

### Military: new material

**The evolution of NATO's strategy of flexible response: a reinterpretation**, Duffield, John S. *Security Studies* vol 1 no 1, 1992 pp132-156

**Allied command Europe: a time of change**, Clauss, General Dieter, *RUSI Journal* 137:3 (June) 1992 pp1-5

**NATO's new strategic concept**, Legge, Michael. *RUSI Journal* 137:3 (June) 1992 pp11-14

**El Alamein to DESERT STORM**, Carver, Field Marshall Lord. *RUSI Journal* 137:3 (June) pp52-56

**Attacking terrorist attacks: initial tests of the contagion between domestic and international terrorism in Canada**. Ross, Jeffrey Ian, *Low intensity conflict and law enforcement* 1:2 (Autumn) 1992

**World wide terrorism: a selected bibliography of recent materials**. Sanz, Timothy L. *Low intensity conflict and law enforcement* 1:2 (Autumn) 1992 pp206-216

**The NATO role in Europe and the US role in NATO**. *NATO Review* August 1992 pp14-19

**Rules of engagement**, Scott D Sagan. *Security Studies*, vol 1 no 1, pp78-108. Looks at the rules and international law on using force from a US perspective.

**The evolution of NATO's strategy of flexible response: a reinterpretation**, John S Duffield. *Security Studies* vol 1 no 1, pp132-156.

**Western European Union: a military perspective**, Admiral Sir Benjamin Bathurst. *RUSI Journal*, October 1992, pp8-11.

**How valuable are the armed forces to the security of Britain?** N D Latham. *RUSI Journal*, October 1992.

### Parliamentary debates

Armed forces (discipline) 17.6.92. *Commons* cols 989-1012

Nuclear waste store 9.7.92. *Commons* cols 670-677

War crimes Act 9.7.92. *Commons* cols 705-712

Toxic waste disposal (Wales) 9.7.92. *Commons* cols 714-782

Nuclear weapons: policy 9.7.92. *Lords* cols 1266-1268

## POLICING

### Damages for Frank Crichlow

Black community activist, Frank Crichlow, 60, has accepted £50,000 and costs (believed to be around £70,000), to settle his action for false imprisonment, assault and battery and malicious prosecution, from the Metropolitan Police. It is one of the largest settlements and resulted from a raid on the Mangrove restaurant and community centre in All Saints Road, Notting Hill, west London in May 1988 in which Crichlow accused the police of planting heroin on him.

During the raid Crichlow was kept face-down on the floor for twenty minutes with two policemen sitting on his back and another with his foot on his head. Police officers claimed that cocaine and cannabis had been found on the premises and Crichlow was charged and remanded in custody in Wormwood Scrubs prison for five weeks.

In June 1989 he was acquitted of all charges despite the fact that 36 police officers gave evidence against him. After the trial he

began his action against the police.

Ever since Crichlow opened the Mangrove restaurant in the late 1960s it has been systematically targeted by the police. Repeated police raids led to local demonstrations and following a picket of Notting Hill police station during the 1970s, nine black people - including Crichlow - were arrested. The 'Mangrove 9' appeared at the Old Bailey in a trial that lasted for two months before they were acquitted.

In one month in 1987, during Operation Trident which coincided with the re-opening of the Mangrove, 4,000 police officers were stationed in the area, with 80 along the All Saints Road. It was only a few months after this that Crichlow, along with 53 others, was arrested.

Following the award Mr Crichlow said: "This was the ugliest experience in my life...I think the officers involved should be charged and they should be thrown out of the service. If this sort of policeman is allowed to stay, all of us - black and white people - have no hope in hell."

*Independent* 13.10.92; *Guardian* 13.10.92; *Voice* 13.10.92.

### Europol

The embryonic office and staff of Europol has been set up in Strasbourg (see *Statewatch*, vol 2 no 1). The office has been set provisionally on the same site as the Schengen Information System, is due to begin operation on 1 January 1993 (the permanent location has not yet been formally agreed). The fifteen staff, the working party, is comprised on 3 representatives from the UK, 3 from France, 3 from Germany, 2 from the Netherlands, 1 from Spain, 1 from Denmark, 1 from Ireland, and 1 from Italy. Belgium and Luxembourg are not currently represented.

The UK representatives are Detective Chief Inspector Andy Baker, from SO2 (Crime support), Detective Chief Inspector Ian Morrison, with extensive experience in SO11 (Criminal Intelligence), and former Metropolitan police officer and head of the National Drugs Intelligence Unit Barry Price is representing the Home Office. DCI Baker told a briefing meeting at Scotland Yard that: 'The idea is to link European criminal intelligence, but so far it is only Holland and the UK who have a National Criminal Intelligence Service-type body. The other ten have a year to set one up'.

The working party is currently charged with setting up the first Europol initiative, the European Drugs Unit (EDU). They will be reporting to the Ad Hoc Group on Europol, the Trevi 92 working group and the Council of Ministers. It is expected that the creation of Europol will be formalised through an inter-governmental Convention - thus excluding Europol from the formal structures of the European Community and from scrutiny by the European Parliament.

*Job*, 2.10.92.

### Trevi: Crime analysis

The Trevi III working group on organised crime is trying to establish uniform methods of crime analysis in the EC countries. Discussions began in September 1991 and were followed by a survey among the 12 EC countries was conducted by the Dutch CRI crime analysts (who are taking the lead in Europe because of their close contacts with US state-of-the-art analysts). The Trevi group, founded in 1975, is an inter-governmental group which looks at policing questions.

At the moment, only Belgium, the UK and Holland consider crime analysis a separate discipline for dedicated personnel. The use of strategic and tactical crime analysis include: setting of priorities;

allocating personnel and means; choosing criminal policing tactics and techniques; furthering new legislation, eg. in Holland making punishable certain preparatory activities.

Two expert meetings were held in Holland on March 13 and May 8. A common conceptual framework distinguishing 8 forms of analysis was agreed upon, and a number of methods and techniques were chosen to become the standard in all EC countries, in which the Dutch police will have a coordinating role. Dutch police officers are cooperating with Scotland Yard experts in the development of a specific 'profile analysis'.

### **M25 Three Campaign**

On the night of 15-16 December 1988, three masked men committed a series of violent robberies off the M25 in Surrey, which left one man dead and another wounded. Following the robberies, based on evidence from the victims, police issued a televised appeal stating that they were looking for two white men and a black man in connection with the crimes.

After a six week trial in 1990 three black men, Raphael Rowe, Michael Davis and Randolph Johnson were convicted of murder and robbery. All three men have consistently protested their innocence and Rowe and Davis both had alibis which demonstrated that they could not have been at the scene of the crime.

During the trial the main witnesses (who were originally suspects) against the three men admitted their involvement in the crimes. They admitted stealing the car initially used by the attackers, owning the air pistol used in the attacks and supplying and disposing of the masks used in the attacks. None of them were charged with any criminal offence.

The Campaign is also questioning breeches of the Police and Criminal Evidence Act and the judge's summing up.

The M25 Campaign can be contacted c/o Miss J Rowe, M25 Three Campaign, 105 Fearnley House, Vestry Road, London SE5 8JX. Tel. 071 703 8975 or 071 738 7477.

### **Policing: In brief**

**Data protection and police records:** in the annual report of the Data Protection Registrar, Mr Eric Howe, says that there is a danger that the exchange of information, intelligence and criminal records between European police forces will infringe the rights of the individuals. The registrar also considered a request by the Metropolitan Police to retain 3,500 DNA profiles held as a result of investigations into serious crime such as rape and sexual assault. They later decided to destroy the profiles but asked that the profiles could be kept for a limited period for research purposes. The registrar agreed provided they were depersonalised and could not be linked by to individuals. *POLICE*, August 1992.

**Police chief: 'structural failure':** Sir John Woodcock, Her Majesty's Chief Inspector of Constabulary who is responsible for the 43 police forces in England and Wales, told the International Police Conference that he did not believe in 'bad apples...I think that the problem is not one of individual predisposition to [police] wrongdoing but of structural - or cultural - failure'. For the criminal justice system to work it needs to be 'trusted by the police' themselves. The present Royal Commission on Criminal Justice 'will fail in any attempt to guarantee the integrity of police evidence unless the police service changes its culture dramatically', he said. *Guardian*, 14.10.92.

**Anti-Terrorist Squad:** Commander David Tucker has been appointed to head the Anti-Terrorist Squad (SO13) at Scotland

Yard. He takes over from George Churchill-Coleman. In January 1993 the security service MI5 will formally take over the running of anti-terrorist work leaving SO13 and the Special Branch in a secondary role (see *Statewatch*, vol 2 no 2).

**Ivan Fergus:** the 15-year old schoolboy imprisoned for robbery (see *Statewatch*, vol 2 no 4) has been released. A complaint by his mother about the quality of the legal advice the family received has led the Solicitors' Complaints Bureau closing down his solicitors.

**Police inquiry:** A third police officer has been suspended from duty at Stoke Newington Police Station. The station is at the centre of a corruption inquiry over allegations that police planted evidence and were involved in the re-selling drugs seized on the street (See *Statewatch* vol 2 no 2). The Hackney Community Defence Association has published a new report on corruption at the station. *Fighting the Lawman* can be obtained from the HCDA at The Colin Roach Centre, 10A Bradbury Street, Dalston, London N16 7JN. Tel. 071 249 0193.

### **Policing - new material**

**Guilty until proven innocent.** Foot, Paul. *Sunday Independent* 4.10.92, pp2-4. Foot looks at the latest developments in the case of the men accused of the Carl Bridgewater murder fourteen years ago.

**Targeting demonstrations.** *CARF* May/June 1992 p3. Scrutinises the use of the Territorial Support Group to police demonstrations.

**A comparison of the history of the entry of women into policing in France and Wales.** Dene, Elizabeth *The Police Journal* July 1992 pp236-242

**Looking out, looking in: reflections on race, culture and values in the police service.** McDonald, Superintendent Ian *The Police Journal* October 1992 pp316-325

**The citizen's duty to assist the police.** Nicolson, Donald *Criminal Law Review* September 1992 pp611-622

**A murky business.** Loveday, Barry *Police Review* 17.7.92. pp1318-19. A discussion of Home Secretary Kenneth Clarke's plans for police reorganisation.

**Working for justice in the West Midlands.** Richards, Anita *Liberty* Summer 1992 pp18-19. Reviews some of the cases of people who allege that they were falsely convicted by the West Midlands Serious Crime Squad.

**Videotaping interrogations: police behaviour on and off camera.** McConville, Mike *Criminal Law Review* August 1992 pp532-548

**A national activity survey of police work.** Bennett, Trevor and Ruth Lupton *Howard Journal* 31:3 (August) 1992 pp200-223

**Marital rape,** Rob Jerrard. *Police Journal*, October 1992.

### **SECURITY & INTELLIGENCE**

#### **Swiss get access to police files**

The Swiss parliament decided on 21 September 1992 to allow its

citizens access to their security service (Staatsschutz) files as of January 1993 (see *Statewatch*, vol 2 no 4). Those who have applied for access (some 350,000 persons, 40,000 of whom discovered they indeed had a file) will receive a letter asking them whether they want to see their file and for what reasons.

Since the Swiss discovered in 1989 that the Bundespolizei (Bupo) held Staatsschutz files on 900,000 individuals, campaigners have unsuccessfully tried to close down all Staatsschutz activities. Since mid-1990 the Bupo opened some 30,000 new files, at least 3,000 of which concerned persons of Arab origin whose data were supplied by Israeli intelligence during the Gulf crisis. The new files, together with some 5 to 10% of the old files that the Bupo claims it still needs, will be converted into a computerized database called Staatsschutz-Informationen system (ISIS).

The process of releasing and sanitizing the files will be coordinated by the "Delegierten für Staatsschutzakten" Mr. René Bacher, a judge who is considered liberal and independent. He will be assisted by a staff of 30, mainly jurists from the Justice and Police department and the Treasury department. It will be up to them to implement the two reasons on which information can be withheld: damage to third persons and legitimate interest of the state. Although no information on informers will be released, several sources have been identified recently, such as a university professor who reported his students to the police and a woman who let Bupo officers into a neighbour's house because she disliked the Karl Marx posters on the wall.

The investigators face a problem as they will have to rely on the only two Bupo employees left who know the way in the paper labyrinth. If a dossier seems to have disappeared, it is unlikely ever to be found again. However all the files will be kept in an archive, to be released in fifty years. Of the 105 citizens who have demanded compensation for damages 2 have been granted, 35 were turned down and the others are pending.

Critics such as Catherine Weber of the 'Kommittee Schluss mit dem Schnüffelstaat' (Committee to close down the snooping state) emphasize that the security police is still in business and will become more powerful by using new data processing techniques. The committee claims a number of shadow archives have been either destroyed or withheld, such as the 'Traitor index', which held 500 mainly leftists citizens who were to be interned in a case of national emergency. The committee also believes international pressure by the CIA, Israeli and South African intelligence was the reason the Swiss government took so long to come to a decision. Reportedly, the CIA Chief of Station had a heated argument with Bundesrat Mr. Arnold Koller in which he announced all exchange of intelligence would be stopped if the Swiss government released classified information.

Former Bupo chief Mr Peter Huber, who was sent on leave in February 1990 in relation to the security files affair, has been appointed vice-president and chief of the legal department in the Bundesamt für Ausländerfragen (federal bureau of foreigners affairs). Mr Hans-Rudolf Strasser, former chief of military intelligence, will go on early retirement. Mr Strasser was sent on leave on 11 December 1990 after it was revealed that he had withheld information on his membership in the secret underground organization P-26, the Swiss 'Gladio'.

*Kommittee Schluss mit dem Schuffelstaat*, Postfach 6948, 3001 Berne, Switzerland.

### Swiss intelligence re-organised

The re-organisation of Switzerland's intelligence services has led to the creation of the ISIS temporary computer system for state security data, and the setting up of a National Intelligence Service

(NIS) for foreign intelligence. A new set of directives from the Federal Department of Justice and Police (DFJP) defining intelligence-gathering inside Switzerland. The four areas are terrorism, espionage, violent extremism and organised crime. They are also authorised to set up a secret data bank on organisations 'susceptible to threaten Swiss security'. The new directives are already operational but the new law on state protection, which will legalise these powers, will not be discussed by the Swiss parliament until autumn 1993 or spring 1994.

*Intelligence Newsletter*, 24.9.92.; *Kommittee Schluss mit dem Schuffelstaat*, Postfach 6948, 3001 Berne, Switzerland.

### Telephone metering

A survey by the newspaper *Scotland on Sunday* on the practice of police forces asking British Telecom to provide lists of phone numbers called by a 'target' showed a wide variation in the rank of officers authorised to make such requests (see *Statewatch*, vol 2 no 5). In Fife it has to be at the rank of Assistant Chief Constable, while Central Scotland police force it is only a deputy chief inspector. The Lothian and Borders police had made requests on 35 occasions, Strathclyde 10 times and Grampian 3 times. The practice falls outside of the Interception of Communication Act 1985 because the technique is not regarded as 'interception'. British Telecom told the Scottish Council for Civil Liberties that its procedures were 'carefully controlled by our senior management teams' but were unable to provide a breakdown of the volume of requests as 'this information is not available'. Carole Ewart, SCCL's director, said it was shocking BT could not provide figures for such a "carefully controlled" system'.

*Scotland on Sunday*, 6.9.92.

### Security & intelligence: In brief

**New chair of Security Commission:** Lord Justice Lloyd has been appointed as chairman of the Security Commission. The Commission investigates cases of suspected breaches of security. The other members of the Commission are: Sir Michael Palliser, Sir Alan Cottrell, Sir John Belloch, Lieutenant General Sir Derek Boorman and Sir Christopher Curwen. Lord Justice Lloyd was the Commissioner under the Interception of Communications Act (1985) from 1986 to 1992. *10 Downing Street press release*, 15.7.92.

**Belgian mercenaries killed Dag Hammarskjöld:** After the plane carrying Dag Hammarskjöld, the United Nations Secretary-General, crashed in Rhodesia in 1961 the board of inquiry found that there was no evidence to suggest 'the aircraft was fired upon'. Now evidence supplied by a former UN official shows that the plane carrying 14 people was shot down by mercenaries on behalf of a mining cabal in the Belgian Congo. In 1975 the US Church Committee blamed the CIA for the assassination of Patrice Lumumba, the first Prime Minister, of the Congo (Zaire). *Guardian*, 11.9.92.

**Special Branch stop meeting:** In September last year a meeting was planned in Glasgow to mark the tenth anniversary of the hunger strikes in Northern Ireland. A hotel, part of a large chain, was booked for the meeting. After a visit from Special Branch officers from the Strathclyde police who told the hotel that the meeting was to 'raise money for the IRA' the hotel cancelled the bookings. They were taken to court by the organisers of the meeting but settled out of court and paid £750 in compensation. *Irish Democrat*, October 1992.

## Security and Intelligence - new material

**South African death squads: the government accused.** *Amnesty International Bulletin* August/September 1992

**Security and intelligence in the post-cold war period,** Reg Whitaker in *Socialist Register*, Merlin, 1992.

**Freedom of information case shows continuing evidence of CIA illegalities and coverups in Iran-Contra.** *First Principles*, July 1992.

## RACISM & FASCISM

### Germany: racism & asylum rights

Germany's coalition partners appear to have agreed to 'amend' the constitutional right to asylum, subject to the Social Democrat Party's extraordinary party convention to be held 16 November. This is a response to the demands of neo-nazis, whose violent attacks on refugees continued throughout September and October. Article 16(2) of the German constitution guarantees the right of asylum to all those fleeing political persecution. Although these terms are narrower than Article 1 of the Geneva Convention, to which Germany is a signatory, the significance of Article 16(2) is that it prevents Germany from removing any asylum-seeker without considering his or her claim. Many European countries now refuse to consider claims from people who have come through a 'safe' third country, and those who have had their asylum claim adjudicated in another country. This practice is legitimated by the Dublin Convention, signed by Germany in June 1990 but not yet ratified because of its incompatibility with the constitution.

Just two years ago talk of a 'flood of refugees' was limited to the extreme Right Republikaner Party now it is established orthodoxy. German Interior Minister, Rudolph Seiters has expressed a 'certain understanding' for the violence and said it showed 'there must be an end to the uncontrolled influx of foreigners'. The ritual condemnation of the violence by Chancellor Kohl and others have been belied by actions: first, a rush to abandon refugees' constitutional rights; the announcement of large-scale expulsions of Romanian gypsies, to take effect from 1 November; the prosecution of two leading anti-nazis, Beate and Serge Klarsfeld, for their role in a protest in Rostock against the deportations; and five neo-nazis receiving sentences of between two and a half and four years for beating to death an Angolan worker, Amadeu Antonio Kiowa, in Eberswalde during November 1990.

### Germany: racist attacks

Right-wing extremists, armed with petrol-bombs, and cheered on by local residents, set a refugee-centre ablaze after three days of racist violence in the Rostock suburb of Lichtenhagen in the former GDR. The attack was the worst outbreak of violence against refugees since neo-nazis laid siege to asylum seekers in the east German town of Hoyerswerda in September 1991 (see *Statewatch* vol 2 no 5).

The violence was directed against refugees housed at the regional *Zentrale Aufnahmestelle für Asylbewerber* (ZAST). The ZASTs, which were set up following changes in German asylum procedure in June, are centres where applicants for refugee status are held for the initial proceedings of their applications. They are frequently overcrowded, and this had been the situation at Lichtenhagen for several weeks. Indeed, many of the refugees preferred to live and

sleep outside the building rather than in the intolerable conditions inside. This led to complaints by residents who, rather than blaming the local authorities who set up the centre, held the refugees responsible.

Some days before the outbreak of violence on August 22, local newspapers received, and passed on to the police, warnings of attacks on the centre. Despite this no action was taken and only thirty policemen were guarding the centre when the violence broke out. The assaults intensified as neo-nazis from Hamburg and Berlin arrived in convoys to join in. It was not until Monday morning, following a second night of violence, that 200 refugees were evacuated from the centre. That evening the police withdrew, leaving the racists a free hand to attack it and a neighbouring building which housed over a hundred Vietnamese contract workers. Neither the police, nor the fire brigade, responded when arsonists set fire to the building housing the Vietnamese.

The programme presented by the Minister of the Interior to combat racist violence concentrates on an increase in police numbers and a greater role for the *Verfassungsschutz* (domestic intelligence service), who will be responsible for the surveillance of the extreme right. Special police anti-riot units to counter violence (from the left or the right) are proposed although, in reality, they have existed since 1951.

Neither of these measures would have made any difference at Rostock, where it was less a question of police numbers than the complete failure to protect the refugees despite being forewarned of the attacks.

*Süddeutsche Zeitung* 8.9.92, 11.9.92, 14.9.92, 21.9.92; *Analyse und Kritik* 346, 22.9.92; *Tribune*, 2.10.92. *CILIP*, Berlin.

### Racism & fascism: In brief

**Italy: fascists march in Rome:** An estimated 50,000 people took part in a march and rally organised by the fascist *Movimento Sociale Italiano* (MSI) in Rome in October. It took place on the seventieth anniversary of the dictator Benito Mussolini's march on Rome and was addressed by his granddaughter Alessandra Mussolini. Black-shirted supporters of the MSI stewarded the march giving fascist salutes.

**Norway:** A group called Norway Against Immigration (NMI) which until recently claimed it was not racist has entered into co-operation with a neo-nazi group led by Jan Holte. The leader of NMI Arne Myrdal said: 'We first have to see how things go in Germany and in the rest of Europe...we must be prepared for the day that the battle in Europe will begin. That day we can get rid of all Muslims for good'. *Dagbladet*, 27.9.92.

**Hungary: Anti-fascists march:** Seventy thousand people marched through the streets of Budapest in September in protest at the rise of right-wing extremism in Hungary. A tide of anti-gypsy and anti-semitic violence has been encouraged by the deputy president of the governing Hungarian Democratic Forum (MDF), Istvan Csurka. Csurka's supporters on the right of his party have recently expressed their support for a coalition of right-wing groups that include the Smallholders' Party and neo-nazi skinheads. Two gypsies were shot dead on the outskirts of Budapest in the latest violence. In the village of Ketegyhaza families were driven from their homes in petrol bomb attacks that destroyed property and livestock.

*Independent on Sunday* 25.10.92

**Austria:** On 30 October neo-nazis attacked the Jewish cemetery at Eisenstad 60 miles from Vienna and desecrated 80 of the 120 graves. The graves were daubed with swastikas and 'seig heil' and

'SS' slogans. Responsibility was claimed by a group calling itself 'Arian Racial-Socialist Resistance Group'.

Paul Grosz, President of Vienna's Jewish community said while Jews would be the first victims of xenophobia they would not be 'the last', referring gypsies and Turkish and Yugoslavian people who have also been the victims of attacks. *Inter Press Service*, 6.11.92.

### Racism - new material

**Yes it could happen here**, Waddington, PA, *Police* October 1992 pp24-25. Waddington draws a parallel between racist attacks in Germany and deprivation in Britain.

**Black politics: a historical perspective.** Wadsworth, Marc *Race and Class* 34:2, 1992 pp63-74

**Tide of race attacks greets refugees to 'promised land'.** McGhie, John, *Observer* 13.9.92. Article on racist attacks on refugees in Britain that draws attention to the worst areas.

**Crime, race and reporting to the police.** Shah, Rabinda and Ken Pease *Howard Journal* 31:3 (August) 1992 pp192-199

### RESEARCH & INFORMATION NOTICEBOARD

**National demonstration against the Asylum Bill.** Saturday 21 November 1992. Assemble: 12 noon Hyde Park. Rally: Trafalgar Square. Organised by the Refugees Ad Hoc Committee on Asylum Rights, 365, Brixton Road, London SW9 7DB.

**Northern Ireland:** a register of academic, public-sector and community-based research projects on all aspects of Northern Ireland, the first since 1983, is now being compiled. More information and questionnaires from Information Officer, Centre for the Study of Conflict, University of Ulster, Cromore Road, Coleraine BT52 1SA. Tel: 0265 44141 exts. 4168 and 4666; fax 0265 40917.

**British & Irish Legal Education Technology Association (BILETA):** 8th annual conference: 'Building systems'. 1-2 April 1993, Liverpool John Moores University. The conference will focus on the technological and practical issues in the building of systems for legal education and practice. Details and offer of papers to: Moyra Butterworth, Law Technology Centre, University of Warwick, Coventry CV4 7AL. Tel: 0203 523294; fax: 0203 524105.

**Conference: displacement and refugee regimes:** 30 November-1 December 1992, Berlin, Germany. For further information, contact: European Research Forum on

Migration and Ethnic Relations, Potsdamerstrasse 91, PO Box 1125, 1058 Berlin, Germany.

**Prisoners in Europe:** Chas Wilson is undertaking a research project on the use and effectiveness of the European Convention on Human Rights and the European Court in safeguarding the rights of prisoners. Please send any information on this subject from your country to him at: School of Social and Historical Studies, Portsmouth Polytechnic, Burnaby Road, Portsmouth, UK. Tel: 0705 84 2196.

**Irish Democrat:** 35mm microfilm of the paper between 1939-1980 available at £250.00. Contact: Four Provinces Bookshop, 244-246 Gray's Inn Road, London WC1X 8JR. Tel: 071 833 3022.

**Advance notice: Conference - Statewatching the new Europe.** Saturday 27 March 1993. University of London Students Union, Malet Street, London WC1. 10am - 6pm. Workshops on: policing, immigration and asylum, Trevi and Schengen groups, prisons, security and intelligence, racism and fascism, Europol. Registrations: £6 individuals (£2 unwaged), £10 voluntary groups, £20 institutions to *Statewatch*, PO Box 1516, London N16 0EW.

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**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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