



THE DEPORTATION MACHINE
Europe, asylum and human rights

Liz Fekete

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PREFACE

Since 2003, the EU has acted to step up deportations of failed asylum seekers from Europe. In order to contextualise the EU Deportation Programme, this report highlights cases of human rights abuses that have occurred from the 1990s onwards. The main research, however, is on deportations since the year 2000. Although the focus is on EU countries, the EU Deportation Programme impacts on non-EU countries, and we cite many cases from Norway and Switzerland in particular. All cases cited have either been documented by a human rights NGO or a national newspaper. In a few cases lawyers or social workers have provided information directly to us. We are aware that we have cited a larger number of cases from Germany and the UK. This reflects our greater access to information from these countries and does not imply that asylum systems are more draconian there than in other European countries. It is not the intention of this study to make judgements on which European country is better or worse, as each country's record has to be judged in terms of its particular history of granting asylum.

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List of abbreviations

AI	Amnesty International
ANAFE	National Association Providing Assistance to Foreigners at the Borders (France)
ANR	National Security Agency (DRC)
APCI	Advisory Panel on Country Information (UK)
ARI	Anti-Racist Initiative (Germany)
BGS	Federal Border Guard (Germany)
BID	Bail for Immigration Detainees (UK)
CADIC	Coalition Against the Deportation of Irish Children
CIPU	Country Information and Policy Unit (UK)
COROC	Convention on the Rights of the Child (UN)
CPA	Coalition Provisional Authority (Iraq)
CPT	Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (Council of Europe)
DFP	Danish People's Party
DGM	Director General of Migration
DRC	Democratic Republic of Congo
EC	European Commission
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
ECJ	European Court of Justice
FIDH	International Federation of Human Rights (France)
HRW	Human Rights Watch
IAS	Immigration Advisory Service (UK)
ICCPR	International Covenant on Civil and Political Rights (UN)
IND	Immigration and Naturalisation Service (Netherlands)
IOM	International Organisation for Migration
IRR	Institute of Race Relations (UK)
JRS	Jesuit Refugee Service-Europe
KMAR	Military police (Netherlands)
LDH	League of Human Rights
LPF	List Pim Fortuyn (Netherlands)
Medical Foundation	The Medical Foundation for the Care of Victims of Torture (UK)
ODR	Federal Refugee Office (Switzerland)
Qualification Directive	European Council Directive on minimum standards for the qualification and status of third-country nationals and stateless persons as refugees or person who otherwise need protection
PCS	Public and Commercial Service Union (UK)
SREC	Scottish Racial Equality Council
SVP	Swiss People's Party
TEO	National Board of Medicolegal Affairs (Finland)
TNG	Transitional National Government (Somalia)
UNHCR	United Nations High Commissioner for Refugees
UKZCCDAS	UK Zimbabwean Community Campaign to Defend Asylum Seekers
WMA	World Medical Association

Introduction

We live in an age in which the rich industrialised world pronounces on human rights abuses abroad while failing to live up to its own standards at home, particularly in relation to its obligations under international law. But whereas the erosion of the international rule of law that arose from the War on Terror is recorded by a whole host of individuals, journalists and alternative tribunals, the degree of illegality that flows from the (undeclared) War on Refugees is less keenly observed. The War on Terror has undermined the 1949 Geneva Convention on the Treatment of Prisoners of War – the War on Refugees has undermined the 1951 Geneva Convention relating to the Status of Refugees. Both wars have eroded international conventions outlawing torture, cruel and degrading treatment or other punishment. This pamphlet, based on twelve months' research and bringing together over 200 case studies, explores the various ways in which the EU Deportation Programme undermines the Geneva Convention, and documents the other countless human rights abuses and illegalities that deportation policies have engendered.

At the time of writing, the Office of the United Nations High Commissioner for Refugees (UNHCR) is engaged in 'Convention Plus' – a series of 'global consultations' with the State signatories of the Geneva Convention (and other 'stakeholders') on how to update the 1951 Convention (and its 1967 Protocol) in order to 'address all the pressing issues pertaining to refugee protection in today's changing world'. But while (officially, at least) the UNHCR still speaks the language of refugee protection, the state signatories to the Geneva Convention start from an entirely different premise: the need to protect states from the growing international refugee burden. In the EU, the shift from protecting refugees to protecting states can be seen most clearly in the development of a common asylum policy based on set targets both to reduce the numbers of asylum claims and to increase removals of failed asylum seekers. What such targets signify is the EU's intent not to bring the Geneva Convention up to date, but to bypass the humanitarian principle that is its guiding rationale.

But how can EU countries assess individual asylum claims objectively and protect refugees displaced by war and conflict, if they are to predetermine, by the setting of quotas, how many refugees are to be absorbed into Europe, and how

many rejected? That it is need, not numbers, which characterises a humanitarian approach to asylum was a fact recognised by the original drafters of the 1951 Convention, who were responding to the humanitarian crisis after the end of the second world war, when displaced people wandered around Europe or squatted in makeshift camps, with barely any legal protection or assistance. The Geneva Convention (and its 1967 Protocol) was the first systematic attempt to hold states to account; it asserted that they had duties and responsibilities towards refugees. In compiling this report, I did not originally set out to document with what frequency European states were violating their international responsibilities under the Geneva Convention and other international laws. But as the distressing stories of those targeted for removal came to light, it became manifest that, if international law was respected, most of these removals would not take place at all. This is not a question of individual immigration officials making incorrect decisions on individual cases; what is key is the creation of a conveyor-belt system of removals designed to meet government targets. The rot starts at the top, when government ministers announce, in parliaments dominated by anti-immigration sentiment, targets for removal. Across Europe, the anti-foreigner press duly blazon such targets, while anti-immigration and extreme-Right parties urge even higher targets and the removal of ever-increasing numbers. The actions of government ministers, politicians, press and the extreme-Right all constrain the civil servants, immigration officials and police officers who have to enforce these targets to act with greater zeal. In the stampede that follows, the most vulnerable are targeted, precisely because they are easiest to remove. Today, those caught up in the EU's deportation drive include torture victims, those severely traumatised by war, psychiatric patients and the terminally ill. Even vulnerable children, including those who have sought asylum in Europe unaccompanied by any adult, are caught up in it. Some have developed symptoms of complete depressive breakdown, including severe apathy. Unable to thrive emotionally and physically due to traumatic experiences in their home countries, compounded in Europe by their fear of deportation, they have had to be hospitalised and intravenously fed.

But, then, the politicians do not tell us about the real life stories of such children, the sick or

the elderly; instead they speak as if all asylum seekers are young, fit, male 'economic migrants' in search of western prosperity and a better standard of living. Politicians harp on about the number of asylum seekers arriving, the difficulties communities face accommodating them, and how their very presence fuels the far-Right. In the UK, for example, Tony Blair has spoken in pious terms of the government's determination to protect us from those who 'simply flout negative decisions and remain' and whose continued presence sends the 'wrong message to those who may try to come to this country without genuine cause'. Prominent among these disingenuous and self-seeking individuals, it would seem, are those attempting to flee war zones who are now being returned to some of the most dangerous regions of the world – Iraq, Afghanistan, Somalia, Chechnya, the Democratic Republic of Congo, Zimbabwe, Algeria (the list of countries grows with each passing day). They also include Aids victims (who will die for lack of treatment in their home countries), homosexuals fleeing persecution, Roma escaping racial violence, girls who have been trafficked into sex slavery and the female victims of genital mutilation. While some may not be Convention refugees in the strict sense, do they not have a genuine claim to protection on humanitarian or compassionate grounds, as laid out in the European Convention on Human Rights and other instruments of international law?

In the era of a globalised economy, where more and more people are displaced by war, or by economic or environmental devastation, and where the distinction between an 'economic refugee' and a 'political refugee' is razor thin, western states are anxious to rewrite conventions relating to refugee protection. The EU has already been engaged in a systematic attempt to erode Article 31 of the Geneva Convention which guarantees the individual right to cross international borders to seek asylum. It is now ready to move to stage two of its plan, the creation of a new model of refugee protection based not on individual rights but on a system of 'warehousing' refugees in large camps in their region of origin until a conflict has been resolved to the satisfaction of the western powers. In this way, the EU seeks to transfer its 'refugee burden' onto the impoverished South (already host to the vast majority of the world's refugees) from where a chosen few will be selected for resettlement in Europe under an Australian-style quota system.

One of the first instruments to effect this change is the mind-numbingly named

'European Council Directive on minimum standards for the qualification and status of third-country nationals and Stateless persons as refugees or as persons who otherwise need international protection' – the 'Qualification Directive' for short – passed in June 2004. Whereas the Geneva Convention gave protection to refugees from conflict until a 'fundamental and lasting change has occurred in conditions in their country of origin and *state protection* has been restored' (emphasis added), the Qualification Directive states that protection can be provided not just by the State but '*also by parties or organisations, including international organisations... which control a region or a larger area within the territory of the State.*' (emphasis added).

In a global polity dominated by the War on Terror and where the doctrine of US security is paramount, where the source of 'terror' is deemed to lie in those states antithetical to US interests, the way is opened for direct western-led intervention into weaker (though theoretically sovereign) states. The danger, though, is that interventions lead to further displacement of peoples, greater refugee flight. And 'security' for the West is also security from refugees (humanitarianism, after all, only goes so far). Hence, the importance of the Qualification Directive in establishing that protection for refugees need not only be provided by a functioning state, but by protectorates (presumably under the auspices of the UN) which can confine refugees in camps in their regions of origin and prevent them seeking asylum further afield. And if extreme-Right parties such as the Danish People's Party have their way, refugee camps in regions of origin will also be used as dustbins for the asylum seekers Europe has rejected, the Iraqis, the Afghans, the Somalis, the Congolese who cannot be repatriated to their homeland because war is still ongoing, there is no functioning state and it is simply not safe to return.

The idea that refugees can be 'warehoused' – the term is significant – until conflicts are resolved denotes the denigration and reification of asylum seekers. Already set apart from society, they can be more readily expelled; treated as commodities, they can be parcelled up, packaged and sent out of Europe. To dehumanise asylum seekers like this indicates the xenoracism inherent in the whole deportation programme. What else but anti-foreigner racism can legitimise the use of such brutal force against asylum seekers as evidenced in case after case? Chapter 1 of this report, 'The culture of targets' starts by establishing the technicalities of the EU Deportation Programme with the

creation of the EU Expulsions Agency, the setting of targets for removal by individual member states and the subsequent escalation in the use of chartered flights and military jets to enforce removals. Chapter 2, 'The use of force' reveals how target-driven deportation programmes legitimise force and institutionalise brutality against asylum seekers. The harsh methods of control and restraint used to enforce removals have led to the deaths of eleven asylum seekers, mainly from suffocation. (People have in some cases been literally parcelled-up with adhesive tape; in others, sedated, or restrained where they sit by a special deportation helmet which locks the head onto the seat.) There have been countless injuries, ranging from those associated with prolonged periods in handcuffs to severe brain damage and loss of sight.

Yet death and serious injury do not just occur in the back of a deportation van, or on the aeroplane. Chapter 3, 'Returning to danger', documents the deaths of asylum seekers following their return, variously, to Somalia, Turkey, Syria and Eritrea. It covers the illegal detention and torture of other political dissidents in these countries as well as in the Democratic Republic of Congo, Nigeria and Egypt. Returning war refugees, political dissidents and others at risk of serious harm to countries still at war, or where torture and cruel and degrading treatment are systematic, is in violation of the Geneva Convention and other international instruments which set limits on the expulsion of asylum seekers to a country where their lives may be at risk. But as, globally, the national security of powerful states takes precedence over human rights, the War on Terror has ensured that such returns have become more commonplace. And, once again, the fact that there are no systematic attempts by member states to monitor the outcome of deportation programmes, in terms of the safety and security of deportees, indicates that asylum seekers are lower in the order of things than animals. Every cow which goes in and out of Europe is tagged, documented and monitored so that EU officials know details of its movements and its whereabouts. It is fully traceable. But the fate of asylum seekers is nobody's concern. They have less value than live-stock.

That the lives of asylum seekers have little intrinsic worth is reiterated in the chapter on 'The denial of humanitarian protection' which examines the fate of other categories of asylum seekers who are at risk of serious harm if removed. The politicians who set the targets and the officials who achieve them see their duty as owed to the system, and not to the tor-

tered, the traumatised and the severely ill. Sent back to countries without basic health systems, they face, at best, unalleviated disability, at worst, death through lack of treatment and medication.

The EU deportation machine is armour-plated against corrosion from any sense of compassion or responsibility. The refusal to yield to any basic human instinct of compassion extends to asylum-seeking children. They are increasingly being denied the protection of the UN Convention on the Rights of the Child, to which lip service is paid, which requires that the best interest of the child be paramount in executive and judicial decision making and action. Nothing speaks more clearly of xeno-racism than the fact that immigration law – including the right of states to detain and deport children – now takes precedence over the internationally-recognised rights of the child.

Yet what will happen to these children, to the sick, the elderly, campaigners ask? To which the reply is that targets must be met and the integrity of the asylum system must be preserved. In this view, children are pawns and arguments about their rights serve as a means for parents to evade deportation – in much the same way as the traumatised are seen to use their torture scars to dodge removal. A concluding section on 'Destitution, detention and human rights' records some of the terrible human price paid by asylum seekers in their struggle for justice. It documents countless incidents of self harm among asylum seekers, either in removal centres or destitute on the streets. But in much the same way as the US authorities at Guantánamo Bay have reclassified detainees' suicide attempts as 'manipulative self-injurious behaviour', EU governments ignore the shocking escalation in suicides and incidents of self-harm among the detained and the desperate. Instead, they denounce such individuals as 'self-mutilators' or 'emotional blackmailers' 'testing the hospitality' of the nation. It is a stereotype that not only ignores the very real human misery that prompts suicide, but adds a deeply offensive dimension to the growing xeno-racist discourse against asylum seekers and refugees. In effect, it turns reality on its head: states are the victims of such behaviour and asylum seekers their victimisers.

The EU deportation programme is a juggernaut. If allowed to continue unchecked, it will violate all our basic human values. It has already drawn in civil servants, immigration officials and police officers to a programme for removal based on the bullying of the vulnerable. But there is now an added danger. It is that the

deportation system is aiming to create a new layer of de facto deportation officials among public servants and welfare professionals generally. Doctors who are willing to sanction the use of force against asylum seekers – against their own ethical codes – will be incorporated into that system. Teachers, whose pastoral duty is to protect all children in their care will have to allow arrests for forced deportations to be carried out on school premises if so the state dictates.

The juggernaut has rolled on ignored, unmonitored and unimpeded for too long. It is high time that an EU-wide campaign for accountability and transparency of the asylum process was launched. Throughout Europe there are conscientious doctors, committed journalists and film makers, social workers, teachers, children's advocates, human rights campaigners and trades unionists, who are attempting to make clear the inhumane effects of a target-driven deportation policy. And asylum seekers themselves, denied every single civil, social and human right are using the only weapon at their disposal – their bodies – to highlight their predicament. Across Europe, they sew their lips together, they refuse food, they protest in any way they can. Governments that are strangers to compassion are deaf to despair. This document has been produced in the hope that its readers will make them hear.

1. The culture of targets

Many EU countries have publicly announced targets for increased deportations of ‘failed asylum seekers’, while other countries seem to have set unofficial targets. At the same time, governments are talking about the need to drastically reduce asylum claims. The discussion now seems permanently focused around statistical projections of refugee flows, and how they are to be managed. The drive by member states to deport more failed asylum seekers has been backed-up by the EU which is concentrating efforts on creating the machinery necessary to increase the rate of returns. In the process, the fact that those who seek refuge in the EU are human beings, not mere statistics, is lost.

INCREASING THE RATE OF RETURNS

EU foreign ministers have spoken of ‘increasing the rate of returns’ from the EU by ‘making effective use of resources’, with the use of chartered flights and military jets to carry out expulsions from a number of countries described as ‘effective and humane’.¹ The organisation Statewatch has identified the introduction of the following measures on removals since 2003.²

- **The Justice and Home Affairs Council has agreed to the formation of a new EU border management agency – the EU Agency for the Management of Operational Cooperation at the External Borders. While this new body was intended to co-ordinate national border controls, it also plays a role in the ‘the removal of third country nationals illegally residing in the EU’.**
- **An EU Expulsions Agency has been formed, with a mandate to arrange joint expulsions from the territory of two or more member states if there are sufficient number of people for it to make economic sense.**
- **A Council Decision has been taken on the organisation of joint flights for removals, from the territory of two or more member states, of third-country nationals who are subjects of individual removal orders. It was formally adopted on 29 April 2004.**
- **The Council of Ministers, at a meeting on 12-13 July 2004, instructed the European Commission to fund such removals and to make available the new information system**

ICONET as a secure facility for member states to communicate with one other and share information about the organisation of joint removal flights.

- **The European Commission has committed 30 million euros from the European Refugee Fund to fund joint expulsions in 2005 and 2006.**
- **So as to widen the net of possible countries to which rejected asylum seekers could be removed, the European Commission had already been mandated to negotiate readmission agreements with Sri Lanka, Albania, Macau, Hong Kong, Morocco, Turkey, Russia, Ukraine, China, Pakistan and Algeria. The purpose of such readmission agreements was to introduce an obligation on the third country to automatically readmit its nationals and stateless people coming from or having lived in that country.**

ASYLUM CLAIMS DOWN – FUNDS FOR REMOVAL UP

Governments argue that removal is an essential part of a credible asylum process. However, as the Refugee Council in the UK has pointed out, removal can only be seen as a fair end result of the asylum process if asylum claims have been dealt with justly, with claimants being given adequate opportunity to present their cases. But this is patently not the case in a Europe which has introduced systems to fast-track asylum cases (prejudiced as unfounded even before they are heard) and reduced the funds available for rejected asylum seekers to launch appeals. Furthermore, the systems introduced by the EU to prevent asylum seekers reaching Europe in the first place, ensure that the new tough approach to removals comes at a time when asylum claims to most EU countries are declining. A UNHCR report shows that claims for asylum in industrialised countries fell 22 per cent in the first half of 2004 compared with the same period in 2003 and the level of new asylum claims was the lowest in seventeen years.³ At the same time, the acceptance rate for those who actually manage to lodge an asylum claim has dropped drastically. Meanwhile, as asylum claims plummet within core European industrialised nations, the rate of removal of failed asylum seekers steadily increases, as does the size of budgets given over to forced removals.

- The previous centre-Right Spanish government created the Central Brigade for Expulsions, almost doubling funds for deportations in 2003 (the total figure of 18.6m euro assigned to the repatriation of foreigners constituted 60 per cent of the budget of the Government Delegate for Foreign Affairs and Immigration).⁴ The current administration has further strengthened the role of the Expulsions Unit which covers border surveillance, expulsions and repatriation.⁵

- In Sweden, the budget for removing failed asylum seekers has risen from 42m SKr in 2000 to 73m SKr in 2003, with the figure expected to be even higher in 2004 owing to a 30 per cent increase in expulsions. (Up until June 2004, 1,727 removals had been carried out, which is an increase of 21 per cent when compared to the same period last year.)⁶

- In Ireland, in the first three months of 2004, twice as many failed asylum seekers (300 in all) were deported as in the first three months of the previous year. Overall asylum applications for 2004 are believed to have dropped by 40 per cent.⁷

- In Germany, where the number seeking asylum in 2004 was the lowest in 20 years, statistics cited by *Deutsche Welle* suggest that 50,000 failed asylum seekers and other foreigners are removed each year. In 2004, only 960 people were granted refugee status.⁸

- In the UK, the home secretary Charles Clarke announced in February 2005 a five-year strategy for immigration and asylum which involves a pledge to step up the rate of removal of failed asylum seekers. Funds will also be set aside to expand the capacity of immigration removal centres and increase the resources of police officers used to carry out deportations. Asylum claims to the UK have dropped significantly. And the acceptance rate, following an initial claim, for refugee status is currently running at just four per cent.⁹

- The rapid increase in removal rates in EU countries also influences non-member states. In Norway, where asylum applications declined by nearly a half in the first nine months of 2004, a record number of asylum seekers and other foreigners (10,500 in all) were scheduled for deportation in 2004. In fact, in the first two weeks of January 2004, more asylum seekers were removed from Norway than new ones arrived.¹⁰

LEGISLATION AND TARGETS

So if asylum claims are down, why the pressure for more removals? One reason, as outlined in the introduction, is the new international consensus that asylum seekers be offered regional protection and held in large camps in their regions of origin until conflicts are resolved. That the EU is committed to such a vision is evidenced by the June 2004 European Commission Communication on Asylum 'Improving access to durable solutions',¹¹ which states that while there is a need to reform the international protection system, there is no need for refugees from the Third World to come to Europe when they could just as easily seek protection from neighbouring countries or elsewhere in their region of origin. The Commission proposes that requests for protection are processed in the region of origin and that an ad-hoc flexible EU resettlement programme be established to set up targets for groups suitable for selection.

Thus, the EU is moving towards the so-called regional model of refugee protection. In this sense, the removal of failed asylum seekers under the EU Deportation Programme is designed more for global consumption than anything else. It is aimed at sending a strong message to refugees that those seeking asylum in the West must be screened in advance and come to Europe via the route of official resettlement, and that those who bypass this route will be harshly treated. A former managing director of the Dutch Immigration and Naturalisation Service (IND) admitted as much in an interview where he claimed that 'Charter flights are important for the public image. The image in the Netherlands should be that people living here illegally are really going back. Chartered deportations also cause a lot of publicity in the country of origin which discourages those citizens to come to our country.'¹²

But the desire to publicise a deterrent asylum system abroad also speaks to domestic concerns in Europe. Pressure for more expulsion comes from within. New anti-immigration parties, powerful in countries such as Switzerland, Denmark, the Netherlands and Italy, deride human rights considerations. The long-established centre-Right and Social Democratic parties fear that such parties are cutting into their electoral support. They are not prepared to tackle the anti-refugee lobby head-on (this would entail educating the public about the reasons for refugee flight in a globalised economy). What they prefer to do is to cut into the electoral power-bases of the extreme-Right and anti-immigration lobby by placating their constituent

cies that are attracted to a simplistic anti-foreigner message.

It is significant that in countries where the xenophobic Right is either part of the government, or a strong oppositional force, governments are most proactive in setting targets for forced removals and making expulsion an issue of political debate. Party politics has been transformed beyond all recognition in the Netherlands since the stunning gains for the List Pim Fortuyn (LPF) in 2002. Today, the centre-Right coalition government has sought to undermine the LPF by adopting the LPF's asylum and immigration agenda itself. And this, despite the fact that the number of asylum seekers entering the Netherlands has fallen more significantly than in any other western European nation (a total of 10,000 people sought asylum in the Netherlands in 2003 compared with a peak of 43,560 in 2000).¹³ Hence, in February 2004, the government introduced legislation which, in creating a new offence of illegal residence, set to deport, by 2007, 26,000 asylum seekers who had failed to qualify for a residence permit under a recent amnesty. This 'deportation law' has created the conditions for what has been described as the biggest forced exodus from Europe since the second world war. But the Dutch immigration minister Rita Verdonk describes the law as 'very good, very humane'.¹⁴ She is unperturbed by mounting criticism from the UNHCR, Amnesty International (AI), Human Rights Watch (HRW) and the Council of Europe which convened a special debate to discuss the human rights implications of the deportation law.

As in the Netherlands, so in Denmark and Switzerland. In Denmark, in August 2004, the Danish People's Party (DFP) threatened to vote against the annual budget and withdraw support for the continued presence of Danish troops in Iraq unless expulsions to Iraq were stepped up.¹⁵ Already, in April 2003, the centre-Right government had passed legislation authorising police to forcibly return asylum seekers whose claims had been rejected. According to DFP leader, Pia Kjaersgard, refugees, asylum seekers and immigrants were 'a major financial burden' and it is 'our own citizens, and primarily the elderly, who are targeted for cutbacks'.¹⁶ What she did not reveal was the 25 per cent reduction from 2002 to 2003 in the number of people claiming asylum in Denmark (a total figure of 4,557 asylum seekers)¹⁷ and the fact that the acceptance rate for asylum seekers had dropped from 53 per cent in 2001 to around nine per cent today.¹⁸

In November 2002, the Swiss People's Party

(SVP) put forward a referendum on the abuse of the right to asylum which sought to tighten the law. The referendum failed by a narrow margin but, since the last general election, the SVP holds two cabinet posts and controls immigration and asylum policy through justice minister Christoph Blocher. One of Blocher's first acts – to commission a survey to ascertain the number of 'illegal immigrants' residing in Switzerland – was a prelude to tough new deportation measures. And this comes at a time when the number of people requesting asylum in Switzerland has dropped to its lowest level in seventeen years.

It is a significant feature of the present political climate that the debate, from Left to Right, is now being carried out without any pretence of concerns for human rights. And that is despite eleven previous high-profile cases in which deportees lost their lives (see Appendix). The Swiss debate, for example, is carried out with not even a passing reference to the deaths, during forced deportation, of Nigerian Samson Chukwu in 2001 and Palestinian Khaled Abuzarifeh in 1999. It is conveniently forgotten that Abuzarifeh, bound hand and foot and strapped into a wheelchair, sedated with his mouth sealed with adhesive tape, choked on his own vomit and suffocated after suffering a panic attack in a lift at Bern airport, and that, the restraint measures applied by several deportation officers who were attempting to force Samson Chukwu to leave a detention centre and take a deportation flight led to his death from 'positional asphyxia'.

In France, Belgium, UK and Spain, where human rights abuses during forced deportations have brought shame on past administrations, governments have also announced their intention to increase deportations. Forced deportations, suspended in Belgium in 1998 following the death by asphyxiation of Nigerian Semira Adamu, have been quietly revived. Most recently, in March 2004, the interior minister announced the intensification of forced deportations on specially-chartered flights. And in the first four months of 2004, 2,250 forced expulsions took place.¹⁹ France too was shamed as far back as 1986 for deportations, in violation of international obligations, when 101 Malians were deported, some in chains, while others had to be forced on board. Nevertheless, in March 2003, interior minister Nicolas Sarkozy announced that at least one flight would be chartered each week to carry out group deportations.²⁰ Shortly afterwards, two deportees – Ethiopian Mariame Getu Hagos and Argentinean Ricardo Barrientos – died in deportation

attempts from Paris. Concern about brutal tactics and illegal use of sedatives in Spain peaked in the 1990s. In 2004, according to interior ministry figures, expulsions have increased by 30 per cent from the previous year.²¹ In 2001, the British government ploughed an extra £2bn into the removal of failed asylum seekers, doubling the number of staff involved.²² In September 2004, the British prime minister set a target for the removal of failed applicants. At present, 50 per cent of those who fail in their asylum applications leave. By the end of 2005, Blair wants the monthly number of removals to exceed the number of unfounded applications.²³ In the second quarter of 2004, there were an average of 2,640 new asylum applicants per month, of whom 80 per cent were refused permission to stay in Britain, and of whom 1,043 a month were removed. In order to meet Blair's pledge, removals would have to increase threefold. The UK has gone still further, in proposing to include in its deportation programme those who, although they have full refugee status, are deemed to have committed 'serious crimes'.²⁴ The definition of 'serious crimes', it seems, is so widely drawn that it includes trespass, stealing a car and being caught in possession of an illicit drug, as well as immigration offences. If the proposals go ahead, the UK would be in breach of the Geneva Convention which states that a country can only throw out somebody already given refugee status if they commit 'a particularly serious crime', defined by the UNHCR as 'heinous acts and serious common crimes'.

MORE POWER TO MUNICIPALITIES

In Switzerland, France and the Netherlands, the government has sought to draw local municipalities into the deportation process, and in Italy an amendment to the Bossi-Fini law has transferred the power to deport to magistrates, who are now the single deportation authority.

Le Figaro has exposed the mounting pressure on local municipalities to reach deportation targets in France. In a government circular to prefects, obtained by the newspaper, interior minister Sarkozy demanded the deportation of at least twice as many illegal immigrants in 2004, and warned that he would write personally to each official giving them a precise target.²⁵ In Switzerland, where asylum policy is set at a federal level but implemented by the cantons, the federal administration has introduced incentives to encourage cantons to speed up deportations, offering, for instance, what amounts to a bounty per head of SFr1,000 for every person the local authority sends back to

her/his country of origin.²⁶ Meanwhile, in the Netherlands, local municipalities have been instructed to evict all rejected asylum seekers from emergency shelter. The idea is that ejecting them on to the streets will force them into special detention facilities, where they can be held pending deportation.

But dragooning local municipalities into the deportation process has created a backlash. Nowhere more so than in the Netherlands where the Dutch government and the municipalities have been involved in a protracted battle over the deportation law. After the Groningen Queen's Commissioner, Hans Alders, urged municipal councils in the northern province not to throw asylum seekers out on the street, some local authorities have increased the level of funding for initiatives for the homeless, so that they can continue to accommodate 'illegal foreigners'.²⁷ Den Bosch Council has even gone so far as to issue refused asylum seekers with passes to show to the police, and thus avoid the danger of being immediately deported for having no papers.²⁸ In Switzerland, where even more draconian asylum laws are currently being debated, some cantons are uneasy about their role in implementing policies drawn up by the anti-immigration SVP. Jean Martin, a Radical Party politician in the canton of Vaud tabled a resolution submitted to the cantonal government in September 2004 calling on the regional authorities not to remove rejected asylum seekers by force. The resolution, which was adopted by parliamentarians in Vaud, described the deportation policy as inhumane, given that a significant number of people whose residency applications had failed, could suffer traumatic experiences if expelled, singling out 'women from Kosovo, survivors of the Srebrenica massacre and families with young children who have until now lived all their lives in our country'. Martin believed that, 'By standing up against these measures to remove people, we have shown our determination to distance ourselves from the People's Party.'²⁹

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2. The use of force

Despite the embarrassment of high-profile deportation cases which ended in deaths or injury, it is notable that in the current discussion about forced deportations governments are silent on legal issues surrounding ‘the reasonable use of force’ by deportation officers. The right to life and the right to dignity – not to be subjected to inhuman or degrading treatment – are recognised as the most fundamental of all human rights. As such, they are at the heart of international human rights conventions such as the Universal Declaration on Human Rights and the European Convention on Human Rights and Fundamental Freedoms. Any expulsion carried out with the application of force potentially brings European states in conflict with fundamental rights and can also breach domestic law vis-à-vis powers granted to deportation officers. The fact that doctors are being co-opted into processes that sanction *any* level of direct force has been noted with concern by the medical profession. The World Medical Association (WMA) passed a resolution in 1988 stating that ‘Physicians cannot be compelled to participate in any punitive or judicial action involving refugees’. In 1999, the German Medical Council warned doctors who sanctioned deportations that they were in breach of medical ethical codes. President Günther Jonitz noted that ‘All measures using direct force are a danger to life and, as such, constitute bodily harm’.¹ The British Medical Association ‘considers that the involvement of doctors in the forcible removal of refugees or illegal immigrants constitutes an inappropriate use of medical skills’.

Today, a growing number of medical professionals and other concerned groups are attempting to document what they consider to be excessive, and perhaps unlawful, use of force in deportations. The Medical Foundation for the Care of Victims of Torture’s report on excessive force against failed asylum seekers advised that any form of restraint involving restrictive positioning (especially compression of the chest) or pressure on the neck carried with it a risk of serious injury and even, in the most extreme circumstances, death.² It cited evidence, including a doctor’s report, that in the past security staff had used ‘excessive or gratuitous force’ against detainees. One woman reported being ‘dragged on her back up the aircraft steps in handcuffs’; one man said he was ‘pushed, punched and slapped; another alleged being ‘kicked in the abdomen, chest, legs and

mouth while on the ground with his hands cuffed behind him’. Deportees were told they were ‘dirty’ or referred to as ‘black bastard’ or ‘black bitch’. The National Association providing Assistance to Foreigners at the Borders (ANAFE) made similar observations about racist slurs, excessive force and brutality in France in a report based on six-months observation at Charles-de-Gaulle Airport in Roissy, Paris.³

However, governments seem to choose to ignore the human rights implications of the use of force. The Medical Foundation and the Council of Europe’s Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) have both recommended the automatic medical examination of asylum seekers after a failed deportation attempt. But no government has acted on such a recommendation. Indeed, in the UK, the only recommendation of the Medical Foundation that the government acted upon was the installation of CCTV cameras in vans used to remove failed asylum seekers. A Home Office spokesman said that footage from the cameras would help ‘protect staff against malicious allegations as well as prevent potential abuse’.⁴ Since then, however, an undercover journalist working for a security firm transporting asylum seekers at Heathrow filmed colleagues advising how to act if a detainee turned violent. ‘As long as you can’t see any cameras, hit ‘em’, one said.⁵

Governmental attitudes imply that the use of excessive force results from the recalcitrance of the asylum seeker who has exhausted the patience of Europeans and threatens Europe’s liberal values. Just as home-owners would be justified in evicting squatters, governments are justified in booting out, by force if necessary, those who have benefited from the nation’s generosity and hospitality and still refuse to leave. UK prime minister Tony Blair put it most succinctly when he argued that a ‘mockery’ is made of our asylum system ‘if those properly denied the right to stay simply flout’ negative decisions and remain. He added that it is ‘unfair to those who play by the rules and sends the wrong message to those who may try to come to this country without genuine cause’.⁶

The Council of Europe’s CPT was quite clear about the use of force in its 1997 General Report. While recognising ‘that it will often be a difficult task to enforce an expulsion order in respect of a foreign national who is determined

to stay on a State's territory', and that 'law enforcement officials may on occasion have to use force', 'the force should be used no more than is reasonably necessary'. Furthermore, 'it would be entirely unacceptable for a person subject to an expulsion order to be physically assaulted as a form of persuasion to board a means of transport or as a punishment for not having done so.'

The Institute of Race Relations (IRR) has, since 1991, documented eleven deaths during forced deportations from Switzerland, Germany, Belgium, Hungary, France, Austria and the United Kingdom (see Appendix). In all these deaths, brutal, some would say reckless, methods of control and restraint were used against those who resisted deportation. The deportees literally suffocated in the ensuing struggle ('positional asphyxia' is the official term). In numerous other instances, too many to document, deportees have sustained serious injuries during deportation attempts. One of the most serious of these incidents was in 1992 when a 23-year-old Romanian asylum seeker was left brain damaged due to 'extensive oxygen deprivation' after having tape placed across his mouth, wound horizontally and vertically across his head and once around his neck during a deportation attempt from Schiphol airport in Amsterdam. More recently, in October 2003, the 59-year-old Togolese asylum seeker Doviodo Adekou sustained a serious injury, blinding his right eye, during a deportation attempt in Mettmann, North-Rhine-Westphalia.⁷

Presumably, the Council of the European Union was mindful of member states' obligations under international law when it drew up 'Common Guidelines on security provisions for joint removal by air' and instructed member states that joint removals should be implemented with due respect for fundamental rights.⁸ The guidelines on 'coercive measures' state that the principle of 'no removal at all cost' should be adhered to. Furthermore 'all measures shall be proportional and shall not exceed reasonable force', 'should not compromise or threaten the ability of the returnee to breathe normally'. But these instructions are only guidelines which means that they are non-binding on member states.

States continue to act in arbitrary and unaccountable ways, their officers continue to act in a reckless fashion. It is common practice for Belgian police to video 'difficult deportations'. The video of the forced deportation of 20-year-old Semira Adamu, subsequently broadcast on Belgian TV after her death, showed gendarmes cracking jokes as officers used the so-called

'cushion technique' to stop Adamu's verbal protests. One officer is seen gripping her arms, while another holds the cushion over her head for several minutes. This, and other techniques used to effect deportations, have been criticised by a variety of human rights group, as well as the Council of Europe's CPT. Yet, save in the case of Semira Adamu (the Belgian interior minister Louis Tobback resigned in recognition of the fact that he was responsible for the actions of the gendarmes), politicians have never been held to account; nor has any officer involved in a death ever served any sentence. (In the cases of Semira Adamu and Aamir Ageeb, officers were found guilty of manslaughter but then immediately given suspended sentences. In the case of Khaled Abuzarifeh, a doctor was sentenced to three months imprisonment but immediately appealed the sentence.)

The normal reaction is for an internal investigation to be launched, ending up in the introduction of new, equally dangerous practices, even as others are banned. Hence, after the 27-year-old Palestinian asylum-seeker Khaled Abuzarifeh died (he had been sedated, his mouth sealed with adhesive tape), the Swiss authorities announced that adhesive tape would not be used in future deportations. Subsequently, however, the inspector of the airport police demonstrated on television the effectiveness of a new method of restraint. The special deportation helmet (the use of which was one of the factors in the death in Germany of Sudanese asylum seeker Aamir Mohammed Ageeb) has a chin strap which prevents the deportee from moving his lower jaw. An additional strap covers the detainee's mouth. The helmet is designed so that police officers can attach it to the plane seat, thus restraining the detainee's movements still further. Following Semira Adamu's death, the Belgian government banned the use of sedatives and restraining methods that blocked breathing. However, by 2002, Al was reporting that gendarmes had blocked a deportee's airways by using heavily-padded gloves to cover the mouth. And a new technique, akin to the highly dangerous procedure known as 'hog tying' was introduced, which restricts breathing and can lead to death due to positional asphyxia. Deportees are placed face down in restraints with their hands and ankles bound together from behind, sometimes being left in this position for a prolonged period, and then carried in such a manner that the weight of the body puts extremely painful pressure on the area where restraints are placed.

SEDATION AND FORCE

The Council of the European Union's Common Guidelines on security provisions for joint removals by air state that 'The use of sedatives to facilitate the removal is forbidden without prejudice to emergency measures to ensure flight security'. In fact, the sedation of passengers, against their will has been one of the most controversial factors in past forced deportations. Palestinian Khaled Abuzarifeh, who died in a lift at Switzerland's Bern airport after suffering a panic attack causing him to choke on his own vomit and suffocate, had been given a sedative prior to having his mouth sealed with adhesive tape. The use of drugs had also been a factor in the death, in 1994, of the Nigerian asylum seeker Kola Bankole who had been bound, gagged and injected with a large dose of sedatives at Frankfurt airport. There have been other publicised cases including the case of 103 Africans illegally sedated in Spain. Also in France police tried to sedate five Malians they were forcibly deporting by holding to their mouths a handkerchief bathed in a chemical.

In response, parts of the medical profession have been vocal in their opposition to the use of such sedatives. The WMA resolution, cited above, includes in 'punitive or judicial action involving refugees', the administration of 'any non-medically justified diagnostic measure or treatment such as sedatives to facilitate easy deportation from the country'. And the president of the German Medical Council, Günther Jonitz, has told doctors that it is not their role to sedate people who do not want to be deported and obviously suffer symptoms of illness.

Such medical opposition has led to some government acknowledgement of the dangers attached to the use of drugs to enforce deportations. Guidelines issued to the German Federal Border Guard (BGS) forbids them from sedating asylum seekers by injection. In Belgium, the use of sedatives and restraint measures that block the airways were banned following the death of Semira Adamu. However, guidelines issued by Switzerland on the use of sedatives have been criticised by AI as falling well short of international standards.

The use of sedatives remains of concern because where guidelines do exist they either do not ban the practice altogether, or are non-binding or are qualified (as in the case of Council of the European Union guidelines cited above). Furthermore, the pressure to achieve targets for deportations means that any loopholes in guidelines are being exploited.

- The Autonomo Centrum in the Netherlands has documented the case of Oumar Ba, a Sierra Leonean asylum seeker who was deported on the fourth attempt to Senegal on July 19 2000. During the third deportation attempt, Ba was lifted from his prison bed and placed in a straitjacket. He was then taken onboard a KLM flight, but eventually removed after passengers objected to the violence used to stop his verbal protests against deportations. But not before a nurse from Medicare – a medical company that assists the Dutch military police and IND in deportations – had applied three injections to sedate Ba. The use of sedatives was later condemned as unlawful by the Health Care Inspection which ruled that it is not 'the task of a health care organisation to accompany physically healthy persons whose freedom has been taken from them involuntarily.' The Health Care Inspection instructed Medicare to review its criteria for participating in deportations as medical escorts. Medicare had argued that it had administered the injections to Ba because he was in danger of suffocation in his attempt to free himself from his handcuffs. Ba denies this, saying that his only resistance had been verbal.⁹

- In Ireland, in January 2001 a suicidal Moroccan asylum seeker was sedated and deported despite an attempt at self-injury hours before the deportation was due to take place. Mohammed Helal originally cut his neck with a razor in court and was rushed to hospital. The wounds were superficial and he was returned to garda custody where he reopened his wounds. He was again rushed to hospital to be restitched and sedated. Inspector Patrick Clavin from the Garda National Immigration Bureau rejected a suggestion that Mr Helal should have been kept in the country longer while his mental health was assessed, saying that 'When somebody is in custody pending a deportation order, we are totally bound to execute that order immediately.'¹⁰

- AI received reports concerning two foreign nationals who had allegedly been given sedatives prior to their removal from Germany – despite guidelines prohibiting their use being issued in March 2000. One case involved an Indian national who claims that in January 2001 he was injected with sedatives while being restrained on the floor of a police cell in Mannheim. He further alleges that after being taken to Frankfurt airport, where he was to be escorted onto a plane, he was forcibly given a tranquilliser. The man was not deported because the pilot refused to fly him.¹¹

• **The use of sedatives and other drugs during the forced deportation of the Shimansky family from Finland to the Ukraine has been criticised by the CPT as well as the European Commissioner for Human Rights. In October 2002, Mrs Shimansky and her two children, Aleksander (11) and Nastya (12), were injected with sedatives and neuroleptic drugs (which are generally used in the treatment of psychoses). Guidelines on the use of sedatives stipulate that they can only be administered by a doctor. In this case, the drugs were administered by a nurse who accompanied a large number of police officers to the Katajanokka detention unit in Helsinki to remove Mrs Shimansky and her children. The nurse, as well as a doctor who prescribed the drugs on the basis of the nurse's oral assessment and without seeing the family, were issued with written warnings by the National Authority for Medicolegal Affairs which stated that medical professionals must not participate in coercive measures. The nurse is in the full-time pay of the police, while the doctor is a part-time police employee. The doctor defended his actions on the grounds that the police were his employer and they had his confidence as well as that of the general public.¹²**

While the Finnish case resulted in a public exposé, and mass coverage in the press, sedatives and other drugs are being prescribed by medical professionals attached to the police service in other member states in order to ensure 'fitness to travel' of those who are seriously ill. German lawyer Ursula Schlung-Muntan warned that 'An immense machinery is deployed to ensure "fitness to fly" by sending the refugee back to their native country accompanied by security personnel and doctors. Treatment with sedatives during the flight is arranged for those such as the psychologically ill or those at risk of suicide.'¹³ We discuss the use of drugs in the deportation of particularly vulnerable categories of rejected asylum seekers further in chapter four.

AN INVISIBLE AND BRUTAL PROCESS

Forced deportations, despite EU guidelines, are still carried out using the methods that have already led to eleven deaths: deportation officers are known to have worn masks or hoods to hide their identity; irritant or incapacitating sprays have been used to restrain deportees; drugs are still administered; deportees have been blindfolded, racially abused, deprived of food and water; they have been denied access

to the lavatory and offered incontinence pads instead. (In Switzerland incontinence pads are no longer offered since the introduction of a specially-designed urine-absorbent seat.)

AI has documented allegations in Greece that a stun-gun, that gave electric shocks, was used to effect the deportation of a Nigerian. Recently, the Swiss cabinet issued a draft law which seeks to define legal and illegal methods for deporting foreigners who refuse to leave the country voluntarily. While outlawing any method of restraint that can block or be an obstacle to breathing, the draft law states that police should be allowed to use electroshock weapons, shackles as well as a baton 'proportionate to circumstances'. (Several people have already died in the US as a result of the use of electro-shock instruments, according to AI.)

One of the most alarming aspects of the EU's programme to accelerate forced deportations is the lack of information about the actual process. *Statewatch* noted in 2002 that statistics were very hard to come by, and, when provided, made no distinction between voluntary and forced expulsions. The EU and member states create new agencies to expel rejected asylum seekers, set targets for removal, but fail to provide adequate statistics about the actual number of deportation attempts, their success or failure or why they failed. Most importantly, no documentation is released on the physical methods to effect deportation and whether violence was used and/or injuries sustained. The lack of medical check-ups following the use of control and restraint techniques to effect a deportation concerns the Medical Foundation in the UK. In its report 'Harm on Removal: Excessive Force against Failed Asylum Seekers' it points out that handcuffing is known to cause nerve injury to the wrist, with the severity of the injury depending on the nerve affected and the duration of symptoms, which may resolve over a couple of months or may even persist over several years.¹⁴ The Medical Foundation's recommendation that an automatic medical examination be made of any individual, who is the subject of a failed removal attempt, has been ignored by the government. In France, ANAFE has documented numerous cases of excessive force, brutality and insults against asylum seekers being removed against their will. Witness statements attest to violence on the part of the police in the majority of cases. Intimidation, abuse, visible evidence of beatings including 'being kicked in the legs' or 'stamping on the lower abdomen' are recorded in ANAFE's report. But although the specific allegations were passed to the Public Prosecutor's Office, no action has been taken.¹⁵

The deportation process is characterised by invisibility, secrecy, and a lack of accountability. A fact recognised by Ireland's Labour justice spokesman Joe Costello, who, in highlighting the case of the Nigerian Nomoto Bamidele (whose asylum claim was based on the fact that she would be stoned to death for having children outside marriage if deported to Nigeria) criticised the surreptitious and secretive preparation for a mass deportation programme.¹⁶

In the absence of any concrete information about how targets for mass deportation will be met, it is not far-fetched to assume the use of brutal methods to force people to take the flights that they clearly do not want to take. A few humanitarian organisations which still have access to asylum seekers in airport deportation centres, have been trying to document this process. Occasionally, passenger objections to the use of force manages to expose the brutality of a deportation, as in France in December 2004 when an Italian anthropologist, and two French men (including a *Libération* journalist) objected to the use of force against a Congolese deportee to Senegal who allegedly had his face smashed against his seat, his head grabbed and pushed to the floor and, at one point, a glove placed in his mouth in order to quieten him down.¹⁷ The press, too, occasionally manages to get hold of the facts surrounding the process of forced deportations at European airports. One such glimpse was provided by journalist Mathias Theine of the *Frankfurter Rundschau* who obtained an internal BGS document entitled 'Regulations Concerning the Repatriation of Foreign Citizens by Air'.¹⁸ It instructed deportation officers to indicate their chosen method of binding a deportee, 'steel handcuffs', 'foot shackles', 'plastic handcuffs' and 'Velcro strip'. They were told to search the deportee's luggage prior to deportation and confiscate 'cash and objects to cover the deportation cost', to 'where possible complete... boarding of the plane prior to the other passengers' and to take special care in the event of a 'media presence' or that of a 'human rights group'. The instructions also do state that the deportations should not be at any price and that officers must observe the principle of proportionality.

CHILDREN AT RISK

One would have thought that in any forced deportation involving children, the 'best interests of the child' principle should be applied. The UN Convention on the Rights of the Child (1989) (COROC) requires the child's best interests to be paramount in executive and judicial

decisions and actions. Yet several European states, including the UK, have issued reservations to the Convention, effectively putting immigration control above the best interests of the child. This opens the way to the abuse of the rights of asylum-seeking children. In the UK, section 11 of the Children Act places a duty on organisations to safeguard the welfare of children – but excludes immigration and asylum authorities from that duty. Furthermore, the Home Office has issued a manual advising immigration service officials on the use of control and restraint techniques for deporting asylum-seeker children, stipulating that they must have skills in paediatric emergency life-saving. The manual also gives official sanction to the rounding up of children from schools to be detained with their families.¹⁹ Such a practice in Norway has alarmed the Norwegian Parents' Association which reminded the authorities that the school must at all times remain a safe place for the child.²⁰ And there seems to be no thought given to the long-term traumatic implications for children if forced to watch their parents degraded, humiliated and even assaulted during the deportation process. This is particularly inexcusable in the UK where lawyers for the son of Joy Gardner have been seeking compensation for the psychological damage that the boy (then aged five), suffered after witnessing deportation police restraining his mother with a body belt and other instruments while they wrapped 13 feet of tape around her mouth to stop her screaming.

- **The deportation on 29 April 2004 of three Lithuanian women and three children, the youngest of whom was apparently aged six, was witnessed by a British photographer on the same flight. Jess Hurd says that the women and children were placed at the back of the plane, screaming and crying. A young girl, aged between 12 and 14, was flanked by a male immigration officer who appeared to be holding her by the neck. A woman in her thirties, guarded by male officers, was handcuffed and wearing only her underwear. Hurd refused to travel on the flight while the women were in such distress and the immigration official agreed to remove the deportees from the flight. The woman was removed, hunched over, attempting to preserve her modesty, while the whole flight witnessed her walk from the plane, handcuffed and being pushed from the front and from the behind.²¹**

- **German lawyer Ursula Schlung-Muntan described the humiliation of a woman with five**

children resisting the family's deportation to the DRC. 'Afterwards she came here to the office and her whole upper body was covered in bruises. She told me that during the attempt to deport her, her pullover was taken off and she felt ashamed to be standing in front of the officials in her underclothes.'²²

- Bernice Wairimu Kamau was deported in May 2004 from the UK on a Kenya Airlines plane with her six-year-old daughter. Passengers are believed to have complained about the fact that she was restrained with foot and hand chains throughout the whole ten-hour journey. On arrival in Nairobi, she was admitted to hospital with facial injuries which it is believed were caused in a tussle with her three UK escorts. When representatives of the Kenyan media attempted to interview the UK escorts they locked themselves into a room to avoid the journalists.²³

- A woman from the Ivory Coast told the *Guardian* that during an aborted deportation attempt on 10 July 2004, nine officials had restrained her physically by pinning her by her arms, twisting her neck and sitting on her back. The incident was witnessed by her 15-month child who became distressed. When the mother asked that her son be taken to her father (who is a British citizen), the child was taken away and placed in foster care. It was some time before the father could make contact with him again. The woman was subsequently deported, without her son, to the Ivory Coast in August 2004.²⁴

On occasion, force has also been applied to minors.

- The forced removal from Malmö, Sweden to Serbia in April 2004 of 15-year-old Anisa Muric was filmed by her cousin and broadcast on a local Swedish TV channel. Anisa, fearing deportation, had become depressed. Her family had accepted that they would have to leave, but were fearful that, as Anisa had a fear of flying, she would have an anxiety attack on the plane. They had therefore asked the authorities to find them an alternative method of travelling. However, the authorities pressed on with the plans to deport the family by plane and, as it was considered a difficult deportation, transferred responsibility for the deportation to the police. The video film broadcast on TV showed Anisa, crying and screaming, being carried to a police riot van; she was bare-foot and did not have her glasses. There were four

police cars in attendance, and a dozen policemen and a number of civilian police. An asylum support group in Malmö alleges that during the subsequent deportation Anisa was placed in hand and foot cuffs and kept apart from the rest of the family. It is alleged that, at one point, she was left lying in the place reserved for dogs on the aeroplane. An official complaint has been filed with the Swedish Ombudsman and the chief prosecutor Kristian Augustonsson has launched an investigation into any possible breach of duty.²⁵

- Following a failed attempt to deport from Germany a minor from Kighizstan (the boy was not an asylum seeker but an orphan) who refused to be sent back without his eighteen-year-old brother, criminal charges of inflicting bodily harm during the performance of duties was brought against six members of the BGS. The pilot refused to fly the boy, after passengers intervened. It is alleged that guards hit the boy with their fists and that he was subsequently hospitalised.²⁶

MONITORING CHARTERED FLIGHTS, INCLUDING JOINT EXPULSIONS

When it comes to the use of chartered flights to enforce deportations, it becomes virtually impossible to monitor the sending state's use of force. When compiling evidence for this report, we found, that the source of information on group expulsions from individual or several member states was often non-European. For instance, in the case of group deportations to Egypt from Italy (one of which failed), it was an unnamed source at Cairo airport which provided information to *Agence France Presse*.²⁷ Following a riot on board a Libyan military plane transporting seventy-six Eritreans on a flight from Libya to Asmara an unnamed Sudanese official told *Agence France Presse* that between 200 and 300 Egyptians were being forcibly returned from Italy, Greece and Libya each week.²⁸

Information about group deportations is hard to glean. Group expulsions, sometimes on specially chartered flights (the French have chartered trains to Marseille where deportees are then taken by boat to North Africa) and sometimes on military aeroplanes, is the most invisible of processes. It is meant to be.

Since the mid-1990s there had been countless incidents – and even serious disturbances – when passengers objected to the violence used to carry out deportations, and the pilots – who are ultimately responsible for safety onboard –

refused to fly deportees.²⁹ Refugee support groups also held high-profile campaigns outside airline companies, urging them not to participate in forced deportations. As a consequence, European countries began to favour a policy of using small charter jets in cases of 'non-compliant forced returns'. In 1995 the first 'euro charter' was introduced by the Dutch. A Martinair Airbus left Schiphol with twenty-five Congolese (expelled from the Netherlands) and six from Germany. Another thirteen were picked up in Paris.³⁰ But 'insiders' to this process managed to expose the methods deployed on such flights leading to several public scandals, not least in Spain where in the Summer of 1996 an anonymous source within the airline Iberia revealed that sixteen Africans (including three women and a 13-year-old girl) were gagged, handcuffed and literally wrapped in packing tape in an attempt to force them onto a scheduled flight to Equatorial Guinea.³¹ Already, interior minister Jaime Mayor Oreja had been called to Congress to explain the facts surrounding the illegal sedation of 103 central Africans who had been transported to various African countries on a chartered flight on 22 June. In Belgium, too, the issue of expulsion flights was a hot political issue in 1996. When journalist Chris de Stoop published *Renter de linge*, a book on expulsion policies, the Belgian interior ministry organised a press conference within an hour of its Dutch-language publication to refute the claim that the government was allowing private companies and airlines to make a profit from deportations.³²

Unfortunately, today, there are even fewer independent sources of information on group deportations carried out by individual member states as well as the joint returns by several member states, sometimes in conjunction with non-EU states. We are not told what methods are used to force people on board, what conditions are like on board the plane, who trains the 'escorts' (the official term in the Council guidelines) or who guards the deportees.³³ (The EU guidelines state that private security guards can be used as escorts on joint expulsion flights and that they should 'preferably be familiar with the laws of the organising Member State and the participating Member States'.)³⁴

EU interior ministers cite joint expulsions as an 'effective' use of resources. But the idea that joint expulsions are cost effective is highly debatable, given the degree of planning involved, the fact that interpreters, doctors and scores of accompanying police officers are involved in military-style operations that make several stops, in several countries and even

involve the deployment of extra border police to 'provide a secure area at the departure airport'. The Norwegian immigration agency which chartered a jet to transport 19 Libyans escorted by 36 police guards out of the country, admitted that the process was extremely costly, at around \$100,000.³⁵

Economics, then, would not seem to be the principal determining factor. The more likely explanation is efficiency; they are, according to the Dutch IND simply 'the most practical solution'.³⁶ Governments which set expulsion targets are setting themselves up for attack from the anti-immigration lobby should those targets not be met. The authorities appear to believe that the resistance of deportees will wane when they are subject to military-style operations, and fewer deportations will be halted on grounds of objections from passengers.

But deportations are also to serve another purpose: to discourage new applicants. This is what Tony Blair meant when he said that the failure to expel rejected asylum seekers 'sends the wrong message to those who may try to come to this country without genuine cause'.³⁷ Danish immigration minister Bertel Haarder justified spending Dkr 278,000 on the repatriation of two rejected Afghan asylum seekers as setting an example to future arrivals from Afghanistan.³⁸ The same justification was used by the UK government in explaining that a film crew videoed the forced deportation of approximately two dozen Afghans from Gatwick airport so that the film could subsequently be broadcast in Afghanistan as part of a programme warning against refugee flight.

In the absence of any transparency and accountability at governmental level, human rights groups are attempting to prise open the process of group deportations. The Autonoom Centrum in the Netherlands, which has carried out research into charter deportations, provides rare information on charter operations which seem to be carried out as a military exercise.³⁹ In 2002, a total of twenty-five charter flights carried 1,384 escorts and deported 1,404 unwanted people. In a January 2003 press release the Justice Department stated that its goal was to increase from two to three charter flights per month. Deportation by charter flights is made possible through collaboration between the Dutch Military Police (KMAR), Migration Services, the Ministry of Foreign Affairs and the IND, which manages the entire process via its Department for Co-ordination of Removal. Often a so-called IND 'advance party' arrives in the destination country a few days before the deportation flight, to prepare the way for the

flight's arrival. Sometimes members of the IND Co-ordination Presentation Administration (CPA) remain behind, to ensure that everything goes smoothly. In terms of preparation for the actual flight, the KMAR devise a 'seating plan' based on the level of difficulty expected from the group and the consequent number of escorts required. Deportees are seated by the window, with two KMAR officers in the two adjoining seats, thus blocking the exit to the aisle. It is claimed that deportees are cuffed and bound like packages and then carried on to the planes feet first and often kept handcuffed during the whole flight.

Obviously, on military-style charter flights there are no independent witnesses to monitor what happens. Human rights groups have attempted to install observers at the airport and to glean information from deportees and their families after deportation.

- In April 2003, in the UK, approximately two dozen Afghani men were taken by force to Gatwick airport for deportation to Kabul, despite protestations from AI that conditions in Afghanistan were unsuitable for returns. Some of those deported later claimed that they were tied up and physically manhandled in order to force them on board. The Home Office denied the allegations.⁴⁰

- In Spring 2003, a group of fifty-four Senegalese and Ivory Coast nationals were deported on a charter flight from France to Dakar and Abidjan. AI received reports that they had been held under restraint throughout the entire flight with hard rubber cable wound round wrists and ankles and that some had also had their faces and legs taped and had been beaten. The allegations were rejected by the Ministry of the Interior and the frontier police.⁴¹

- In May 2004, failed asylum seekers from the Togo and the Cameroons were deported from Hamburg on a charter flight organised jointly by Germany, the Netherlands, Belgium, France and the UK. In Germany, the Caravan for the Right of Refugees and Migrants made the following allegations on the basis of relatives' testimony and their own observations at the airport: the deportees were taken by force from their beds from the JVA Fühlsbüttel and shackled; they were taken to Hamburg airport where the ban on night flights was suspended during the operation which took place at 2am, with the airport transformed into a 'police fortress'; more than 100 police officers took part; pepper

spray, dogs, plastic shackles, and the deportation helmet (introduced after the death of Aamir Ageeb) were used to ensure the deportees' compliance.⁴²

- Campaigners are particularly concerned about the fate of Togolese deportees expelled on 13 September 2004 as part of a group deportation of seventeen African refugees assembled from Germany, Switzerland and Belgium, (Britain, France, Denmark, the Netherlands and Luxembourg were offered places for refugees on the flight but said they had no current need). The chartered plane flew from Hamburg to Burkina Faso, Togo and Benin. The authorities had been deliberately secretive about the operation, fearing protests. At one stage it was reported that the flight would be accompanied by at least 100 border guards as well as a doctor.⁴³

- In France, the International Federation of Human Rights (FIDH) and the League of Human Rights (LDH) have launched an investigation into the 'undignified conditions' in which group deportations are carried out and are considering legal action against the government.⁴⁴

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- 30 See Autonoom Centrum, *Across the Border*, op.cit.
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3. Returning to danger

The deportation drive is leading to a tougher stance on returns of asylum seekers from post-conflict or transitional situations, and whole categories of asylum seekers, who, previously, because of known dangers at home, would have been allowed to stay. The overall aim, it would seem, is to eliminate war or the breakdown of state authority as a cause for non-removal. The 2004 'Council Directive on minimum standards for the qualification and status of third-country nationals and stateless persons as refugees or as persons who otherwise need international protection' (also known as the 'Qualification Directive') also appears to signal a fundamental break with the Geneva Convention which provides refugees with protection until 'a fundamental and lasting change has occurred in conditions in the country of origin and state protection has been restored'. The Directive, however, argues that protection 'can be provided not only by the State' (as stipulated by the Geneva Convention), but also by 'parties or organisations, including international organisations... which control a region or a larger area within the territory of the State'.¹

In the past, when the EU drew up repatriation schemes for asylum seekers from areas of the world devastated by war but since declared safe, the thrust (in theory at least) has been towards voluntary returns backed up by a programme of assistance to facilitate integration. But what is happening today in Europe is unprecedented in that a) insecure regions of the world, particularly those experiencing western military intervention, are declared safe when there is no meaningful peace, and b) the threat of forced return is used to push through voluntary returns, calling into question the very voluntary-ness of such repatriation schemes. Governments appear to be more ready to use the language of return within days of a declared cessation or military action, or to view military action (in the case of Afghanistan and Iraq) as a mean of facilitating returns. For specific ethnic groups, such as Kurds and Tamils, the new dispensation brought about by September 11 has led the EU to characterise conflicts in Turkey and Sri Lanka as between legitimate states and terrorist minorities and, as a result, remove protection from certain asylum seekers on national security grounds. The EU has also drawn up a 'white list' of countries declared safe despite evidence that minorities – for instance, Roma or homosexuals – are victims of state persecution and racist or homophobic violence.

HOW TARGETS DRIVE RETURNS

Refugees from war and other conflicts are being targeted for deportation despite the immense difficulties and human rights concerns attached to their removal. The EU has drawn up returns programmes for specific nationalities from conflict zones. It is also attempting to remove failed asylum seekers who previously were not deported because they had no travel documents and/or their nationality could not be established. But all these changes are just part and parcel of an entirely new approach to refugees from conflict, as seen by a draft EU directive (due to come into force in June 2005) which proposes that those seeking sanctuary from persecution, torture and inhuman treatment be given just temporary permission to stay in Europe.² The idea is to repeat the so-called Kosovo model where refugees from Kosovo in 1999 were given temporary protection because it was assumed that most of the ethnic Albanians expelled from the Serbian province would return within a year.

Criminalising illegal entry

Under Article 31 of the Geneva Convention it is not a crime to enter a country illegally if the purpose in so doing is to seek asylum. The Geneva Convention bans the imposition of penalties on asylum seekers entering the country of refuge illegally, provided they claim promptly and show good cause for their entry. However, European countries have been working assiduously to penalise or even criminalise all those who arrive without travel documents. Under the UK's Asylum and Immigration (Treatment of Claimants) Act, for instance, a new criminal offence has been created for those arriving without documents. The Swiss response to the problem was to propose amendments to the asylum law so as to deny access to those asylum seekers without identity papers.

And governments are attempting to get round the issue of how to return failed asylum seekers without travel documents in a variety of ways. The new UK asylum legislation mentioned above creates an additional criminal offence for those asylum seekers with no documents who refuse to co-operate with their removal. The Swiss government had already, throughout the 1990s, deported rejected African asylum seekers with no papers, irrespective of nationality, to Ghana or the Ivory Coast.³ This was not a government-to-government agreement (no read-

mission agreement was ever signed) but an agreement between a single security minister and an Ivory Coast lawyer negotiating on behalf of the Swiss government which offered a certain sum per head for each repatriated asylum seeker. This highly illegal practice was conducted by stealth. The scandal erupted once it was exposed by the national newspaper, the *Hebdo*. The government responded by systematising ad hoc practices into at least twenty-six government-to-government agreements for the return of rejected asylum seekers. At the EU-level there is support for the Swiss-style action. The EU Agency for the Management of Operational Co-operation at the External Borders has drawn up actions plans for the identification, processing and deportation of asylum seekers under which it proposes negotiations with volunteer host countries for the readmission of illegal immigrants who declare no nationality or a false nationality.⁴

In the pages that follow, we document the human rights abuses that result from this offensive to send back refugees from war and conflict. The vast majority of the cases detailed here about the return of asylum seekers without travel documents, relate to African victims of war. This is no accident. Public and media ignorance about conflicts in Africa sustain EU governments in the belief that deportations to African war zones may not lead to the same level of public scrutiny as other programmes might. But in effecting such deportations, the EU faces considerable obstacles. Many African countries refuse to take back asylum seekers because registers destroyed during civil wars make identifying citizens difficult, or because they are already home to so many displaced people.

Politicising country assessments

Today, EU and member states' assessments on safety in particular war zones and conflict situations are driven by EU targets to increase deportations and cut asylum applications. In the process, we are moving from a system based on voluntary returns to post-conflict situations, to a system of forced returns to situations characterised by danger. In the late 1990s, the EU embarked on a highly controversial voluntary returns programme to the former-Yugoslavia and Kosovo. Since then, the EU adopted the Afghanistan Return Programme in November 2002, formally launched in May 2003, it was intended to provide a framework for operational co-operation, although not pre-empting national initiatives. Initially this was a voluntary returns programme, but it now includes forced returns. Member states have also adopted their own returns programme for Afghanistan and are

taking a provocative attitude towards asylum seekers from other conflict zones such as Iraq and Chechnya as well as several African countries devastated by civil war or internal conflict, principally the DRC and Somalia, but also Algeria and Zimbabwe.

Such programmes are particularly nonsensical given that many asylum seekers actually desire to return to their homeland once peace and security is secured. Not unnaturally, though, they resist attempts to move them back to exactly the same conditions they fled in the first place. Furthermore, specific country programmes are often out of line with the member states' official pronouncements vis-à-vis safety in a region. For instance, member states, will warn their own nationals against travelling to a region on the grounds of the deteriorating security situation while arguing that is safe to commence repatriation schemes. In fact, the situation may be so precarious in a country deemed 'safe' that international agencies as well as European NGOs cannot operate in the area. Nor will the UNHCR have a base, making it impossible to monitor the fate of those who have been repatriated. Such deportations are also counter-productive in that forced returns to countries where the security system is not safe generate renewed cycles of internal displacement. Eventually displaced people become asylum seekers again.

As member states must provide their own assessments of whether a country is safe for return, it is vitally important that these are objective, not politically driven or linked to deportation targets. Returns based on faulty country assessments place the lives of deportees at risk and as such may constitute cruel and degrading treatment in contravention of Article 3 of the European Convention on Human Rights (ECHR). Professional agencies and human rights groups are attempting to draw attention to this. In the UK, the Advisory Panel on Country Information (APCI), an independent body set up by the government to make recommendations to the Home Office Country Information and Policy Unit (CIPU), criticised the 2003 CIPU report on Somalia as unreliable and inaccurate and lacking in independent analysis.⁵ A 2004 report by the Immigration Advisory Service (IAS) comprises an analysis of twenty-three Home CIPU reports. The IAS expressed serious doubts about the validity of reports, saying they suffered from 'a marked lack of objectivity' 'evidence of poor research methods' and a 'lack of editorial oversight'. According to the IAS, the CIPU reports put a more 'positive picture of tyrannical and repressive regimes than that

given by comparative sources'.⁶ In the UK, it seems that more and more countries, particularly in Africa, are deemed safe. In November, deportations to Zimbabwe, suspended in 2002, were resumed, despite the fact that the UK government saw no change in the human rights situation there. There is also concern that a Canadian report, which included incorrect information about the safety of those returned to Algeria, had been used by the Home Office to send failed asylum seekers back to an uncertain fate.⁷

DISREGARDING SAFE RETURN AND FAIR TREATMENT

European countries boast of their commitment to human rights and see themselves, in this respect, as superior to governments in the developing world. And yet basic procedures, to ensure that deportees are returned to a safe environment where they are guaranteed fair treatment, are not observed. The most important principle in this respect, laid out in the 1951 Geneva Convention Relating to the Status of Refugees is that of non-refoulement. The Geneva Convention says that 'No contracting state shall expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his, race, religion, nationality, membership or a particular group or political opinion.' Another important principle is laid out in the Article 3 of the ECHR which states that nobody should be returned to a situation where they face cruel or degrading treatment.

It is astonishing that the EU Expulsions Agency seems to have no mandate to monitor returns in terms of compliance with EU human rights obligations. The EU's total disregard for such concerns can be seen in the fact that it carries out deportations to specific countries and regions of the world in full knowledge that the UNHCR has no representation and therefore no facilities to monitor what happens to those asylum seekers that Europe rejects. But a concerted challenge to this approach is currently being mounted in the European Parliament. The 'Lambert Report' (named after its author Green MEP Jean Lambert), approved in December 2004, includes a proposal to monitor failed applicants who are returned to their country of origin. But whether the European Council or the member states will act on the proposal is another matter altogether.⁸

In fact, the attitude of member states to monitoring returns is equally negligent. For example, in 1999, the Dutch cabinet refused an

opposition proposal to set up procedures to monitor the safety on return of rejected asylum seekers on the grounds that such measures are unnecessary as only 'asylum seekers whose security after their return is in no doubt' are sent back.⁹ This was despite evidence that deportees from the Netherlands to Iran had either been tortured or disappeared.

The very manner in which European countries deport rejected asylum seekers without papers to so-called 'volunteer host countries' shows a total disregard for the obligation to 'ensure return to country of origin and fair treatment'. For return to a 'volunteer host country' does not constitute return to a country of origin, let alone safe return to a country of origin. It also opens up the possibility of indirect refoulement, as asylum seekers removed from EU member states may be further removed to other third countries and from there back to the state they fled in the first place. Such a practice (commonly referred to as a 'chain deportation') has been given the official stamp of approval in the form of the Council Directive on Minimum Standards on procedures in Member States for granting and withdrawing refugee status. The directive permits member states to deny people access to the asylum procedure if they have travelled via a so-called safe or even 'super safe' third country. According to UNHCR, the result could be that asylum seekers find themselves forced back to their home countries, in direct contravention of international law, as a result of chain deportations by a string of countries applying readmission agreements, starting with an EU member state.

- **Under the Swiss practice of deporting all West African asylum seekers to the Ivory Coast (see above), around ninety Africans were sent back to Abidjan in 1999. But no records were ever made available as to whether or not they actually reached their final destination. Once in Abidjan, deportees were placed in detention centres in order to establish their nationality. However, a Swiss 1998 statute on expulsion (subsequently reviewed in 1999) did not stipulate the standards of detention in Abidjan while investigations were carried out; nor did it establish any procedures to monitor what happened to deportees once the authorities in Abidjan arranged their onward journey.¹⁰**

Deportation to the Ivory Coast, then, certainly did not constitute 'return to region of origin' or fair treatment. But will a government-to-government agreement reached between Switzerland and Senegal prove any different, or

does it merely give the official form of a state treaty to the 'Abidjan idea'?¹¹ The 2003 transit agreement with Senegal allows the Swiss government to transport rejected asylum seekers, who originate from anywhere in West Africa, to Senegal in order to check their identity and organise their onward return journey. All that is known about how the transit agreement will operate is that Senegalese officials will have three days to carry out their investigations. But how the investigation will be carried out, and who is responsible for liaising with African embassies in Senegal to arrange onward journey, is not known.

In sum, the Swiss government has rid itself of the responsibility of 'ensuring safe return to country of origin and fair treatment'.

The forced removal of Chechen asylum seekers to regions in the Russian Federation is another example of failure to ensure return to country of origin and fair treatment. In much the same way as the removal of African asylum seekers from Europe is facilitated by gross ignorance about the human rights situation on the African continent, the removal of Chechen asylum seekers is facilitated by European indifference to Russian human rights abuses in the region and the gross simplification of the conflict there in terms of a Russian offensive against Chechen terrorism. It is estimated that up to 100,000 Chechens died after Russian troops entered Chechnya in the winter of 1994 to crush the independence movement. A further 200,000 have been displaced, many of whom now live in miserable conditions in tents in refugee camps in neighbouring Ingushetia. UNHCR statistics reveal that for the first time in its history, Russia tops the list of refugee-producing countries with a total of 33,400 asylum seekers heading primarily for Austria, Poland, the Czech Republic, Germany and Slovakia. (Both Austria and Poland have been accused of turning back Chechen asylum seekers at the border.) While Chechen refugees are seldom granted refugee status, their presence in Europe has been tolerated in the past on humanitarian grounds. No European country has adopted a voluntary or forced returns programme to Chechnya but some countries such as Sweden and (non-EU) Norway argue that it is legitimate to return Chechens to other regions in the Russian Federation.

- In Germany, the federal government is opposed to deportations of Chechen asylum seekers. Nevertheless, administrative courts in Hamburg have sanctioned a decision by the Aliens Office to deport Chechens to Moscow

with the justification that as Russia is so big, Chechens can always live in another part of the country.¹²

- In Switzerland, the Society for Endangered People has criticised the Federal Refugee Office (ODR) for forcibly returning a Chechen asylum seeker to Russia on 6 February 2004 citing 'lack of co-operation'. The authorities had criticised the Chechen for refusing to speak Russian; the asylum seeker had asked that an interview to determine his asylum claim be conducted in Chechen.¹³

In reality European governments who seek to send Chechens back to the Russian Federation (where they will then be returned to Chechnya) are indirectly sending Chechens back to cruel and degrading treatment in contravention of Article 3 of the ECHR. It should also be acknowledged that no EU agencies monitor the fate of returnees, given that the Russian Federation denies humanitarian aid groups and international bodies access to Chechnya. Nor does the UNHCR have a presence in Chechnya.

Recently, Italy and Germany, backed by the UK, Austria and the Netherlands proposed that new asylum seekers should be sent to processing centres in countries bordering Europe – such as Libya – where their asylum claims would be heard. While the proposal was opposed by Spain and the Scandinavian countries, Italy has already entered into an agreement with Libya whereby migrants who enter Italy by boat, and whose last point of departure was Libya, are immediately returned. This is part of Italy's new 'rapid expulsion policy' which means that there is no time for those who may want to seek asylum to file a claim. As Libya has not even signed the Geneva Convention, the Italian authorities must now be held responsible for any human rights abuses that occur when asylum seekers reach Italian shores but are sent back to Libya. It seems that the Italian agreement with Libya may also be unconstitutional, as the Italian Council for Refugees has accused the government of negotiating a secret readmission agreement with Libya, an agreement which has never been discussed, let alone ratified by the Italian parliament.¹⁴

- At the beginning of October 2004, the Italian authorities deported to Libya an estimated 1,000 handcuffed migrants from various African, Asian and Middle Eastern countries on at least eleven C130JS and other commercial flights, only days after they had arrived on the island of Lampedusa, a tiny Sicilian island

closer to Africa than the Italian mainland, by boat. Members of the Anti-Racist Network in Sicily have claimed that prior to their deportation, men were herded into groups of thirty to forty, and forced to stand for long periods in the boiling sun, facing the wall. They had been given no information about what was going to happen to them before they were escorted onto the military jets.¹⁵ Following criticism of the action, the deportations were temporarily halted, but then resumed within days, with hundreds more being deported. Giving details of the expulsions to a parliamentary committee, interior minister Giuseppe Pisanu confirmed that 1,153 people had been sent back to Libya in one week. Of these 1,119 were Egyptian, twenty-three were from Bangladesh and eleven were Moroccans.¹⁶

Once in Tripoli, the deportees were taken to detention centres. By 7 October, Libya reported that it had repatriated around 1,000 Egyptians following their expulsion from Italy. The flights from Libya to Egypt were paid for and organised by the Italian government on Italian flights.¹⁷

A number of challenges have been made against the legality of this 'collective expulsion' to Libya. The UNHCR has accused Rome of breaking international law by not allowing its officials to interview the migrants before they were flown out of the country. Three Italian associations working in the field of migrant rights have filed a complaint with the European Commission, calling upon it to sanction Italy for contravening international and European human rights law.¹⁸

Italy could also be complicit in the indirect refoulement of other African asylum seekers, as Libya has in the past returned hundreds of refugees to Somalia and Eritrea, both countries where human rights violations are rife.

Further issues related to guaranteeing safe return are raised by the use of charter and military flight, as return to country of origin is prepared in advance, in co-operation with the country's authorities. Such flights increase the risk that failed asylum seekers will be delivered into the hands of the authorities they fled from in the first place. As the Autonoom Centrum points out, 'The people concerned return involuntarily, and may be considered as dissidents and/or opposition – a de-stabilising factor in their home country. No one can guarantee their safety.'

Abandoning deportees

In some countries the security situation in the asylum seekers' country of origin is so poor that direct returns cannot be carried out. This, in itself, one would have thought would set alarm bells ringing about issues of safety. But the authorities seek to get round this problem by accompanying returning asylum seekers to a neighbouring country, or a part of the country where there is less administration, and then, it is alleged, abandoning them.

Somalia – considered as one of the most dangerous countries in the world – is in many ways the classic example of this trend. Warring militias control much of the southern part of the country, including the capital Mogadishu. Yet over the last year or so, the Netherlands, the UK and Denmark have all carried out forced deportations to southern Somalia, heedless of the fact that the state there has collapsed and that there has been no national government or administration, army, police or justice systems since 1991. While Somaliland in the northern part of the country has been deemed safe, deportations to the war zone of Mogadishu in southern Somalia are impossible as there are no direct flights. The UNHCR says that it has no capacity to monitor returns in southern Somalia and that the 'incomplete information about the risks to individuals means people are being sent back to something of a black hole'.¹⁹

• In March 2004, the UK government adopted a forced returns policy towards Somalis. Figures revealed in an official letter from Home Office minister Fiona Mactaggart to Liberal Democrat peer Lord Avebury show that 100 Somali asylum seekers were forced to leave the UK in the first half of 2004. The UK has no agreement with the Transitional National Government (TNG) in Somalia (which it does not recognise) to return failed asylum seekers, and the TNG, which only has authority in a small part of Mogadishu, has warned against forced returns. There was much concern about the fate of six failed asylum seekers who were returned from the UK via Dubai to Mogadishu in southern Somalia. It is difficult to ascertain the exact details. It is believed that some of the men could have been flown to Dubai and then on an uninsured flight by Dallo Airlines to an old Soviet airforce base at Bale Dougle which is controlled by clan militias. Other reports claim that the UK deportees (as well as deportees from other parts of Europe) are simply abandoned by their escorts in Dubai, as they cannot be put on any connecting flight. In October 2004, it was revealed that the UK's

policy of forcibly removing Somalis had to be temporarily suspended because Dallo Airlines, which flies asylum seekers into Somalia from Dubai, had refused to accept enforced returns for reasons that are unclear.²⁰

- There is speculation that the Danish government is attempting to push Kenya into accepting Somalis, whose asylum claims have been rejected. NGOs believe that the prelude for such forced returns was a visit by a team of Danish officials to Kenya, ostensibly to secure a deal whereby financial aid be given to improve conditions for the reception of Somali asylum seekers (an estimated 155,000 Somalis have already fled to Kenya).²¹

- A test case has been taken to the ECtHR challenging the Dutch programme of forced returns of Somalis to Mogadishu and southern Somalia. But while the ECtHR has issued a request to suspend removals, a full court hearing has yet to be heard.²²

There are fears that the treatment of Somalis will act as a precedent for other groups, particularly Afghans and Iraqis. Amongst countries revoking Afghans' temporary permission to stay are Germany, Belgium and Denmark. And this despite the fact that the security situation is extremely volatile in up to two thirds of the country. The Afghan Independent Human Rights Commission emphasises that the forced repatriation of Afghan refugees from various countries and a cessation of their refugee status is contrary to international refugee protection standards.

- In January 2005, a spokesperson for the city of Hamburg announced that deportations of male Afghans aged 18 to 60 would commence in May 2005. The UNHCR says that there should be no forced expulsions of single men to Afghanistan as they are confronted with the real risk of forcible recruitment by militia groups. The deportations are to take place whether or not negotiations with the Afghan government on the return of Afghan refugees have been concluded by 1 May.²³

Since 2003, member states have become equally intolerant of Iraqi asylum seekers. Many countries suspended all decisions on Iraqi claims following the start of military action, arguing that the outcome of the war would determine their case for asylum, while other countries such as Germany have initiated thousands of administrative proceedings aimed as

revoking the refugee status of Iraqi refugees on the grounds that it is safe to return to Iraq. Within months of the US military intervention, France, Germany, the UK, Norway, Denmark and Sweden had entered into negotiations with the Coalition Provisional Authority (CPA) and the UNHCR for the forced returns of Iraqis. While forced repatriation has been openly discussed, governments have reluctantly put deportations on hold due to objections from the US occupation forces, the CPA and now the Iraqi government. Despite the fact that violence is now the leading cause of death in Iraq, and safe return cannot be guaranteed, governments are placing extreme pressure on Iraqis to return. In the UK, in October 2004, home secretary David Blunkett threatened to defy a UNHCR advisory urging all countries to suspend the return of rejected Iraqi asylum seekers and to stop applying measures aimed at encouraging repatriation, such as financial assistance. The Home Office said that in its view 'returns of failed Iraqi asylum claimants are necessary to maintain the integrity of the asylum system'.²⁴

- In the UK, Home Office figures show that 545 Iraqis were 'removed' during the first nine months of 2004 to areas judged 'sufficiently stable' and where they would not be at risk. No information is available about their reintegration into Iraqi society nor would the Home Office specify exactly which areas of Iraq that they deemed safe.²⁵

In many European countries, including the UK, the International Organisation for Migration (IOM) has made travel arrangements for Iraqis who agree to leave voluntarily.

- The route currently used by the IOM to return Iraqi asylum seekers is to travel by air to Amman, Jordan, then overland to the Iraqi border, with onward transportation to Baghdad via Highway 10. Applicants must sign a waiver releasing IOM from responsibility once they arrive on Iraqi territory as the IOM cannot guarantee their personal safety once they cross the border into Iraq. The road from Jordan to Baghdad has become notorious for hijackings, kidnappings and killings, and the US State Department has warned that all vehicular travel in Iraq remains 'extremely dangerous'.²⁶

In fact, the role of the IOM in such 'voluntary repatriations' is highly contentious. Human Rights Watch (HRW) has accused the intergovernmental agency of being complicit in situations that threaten people's human rights in

many countries. It points out that the IOM has no mechanisms to evaluate whether decisions to return are made voluntarily, under duress or under circumstances that are indirectly or directly coercive, or to assess that conditions in certain countries are safe for returns. Nor are there any mechanisms to hold the IOM to account should the physical integrity or lives of these people be jeopardised.²⁷

Deportees as targets for violence

AI and the Dutch Centre for Political Refugees have also made the point that in some receiving countries, the very fact that people have spent prolonged periods living in a western nation makes them a target for violent crime. This is very much the case in Somalia where 'People try to survive, and they know immediately if you come from a western country. This is made all the more deadly if they come from a defenceless minority, because the victim will be seen as an easy target as there is no fear of clan retribution.'

- **Abdinassir Abdulatif, a Somali forcibly returned under the Dutch deportation programme was murdered in June 2004 after being kidnapped on the streets of Mogadishu. Another Somalian, Mohamed Yahya, who was from an ethnic minority known to have suffered persecution from specific clans, was also murdered several days after his deportation from Denmark. AI said that being visibly from a defenceless minority made Yahya an easy target because there was no fear of clan retribution. A spokesperson for the Dutch justice ministry said that no relationship could be established between the death and the Dutch deportation policy.²⁸**

As with Somalis, so too with Iraqis. The European press has focused on the kidnapping of foreigners in Iraq, obscuring the fact that kidnapping and murders of Iraqis themselves is a far more massive phenomenon.

- **Meri Ibrahim Kreci, denied asylum in Denmark and sent back to Iraq, was killed by an unidentified assailant on 12 August 2004 in Alsaniya, south of Baghdad, according to the Group for Iraqi Asylum-Seekers in Denmark.²⁹**

A case that caused concern in Switzerland involved a Turkish-Kurdish family.

- **Deported from Vaud, Switzerland, in September 2004, the family were immediately taken into custody upon arrival at Istanbul airport and questioned by the police. Although**

they were released, the father was then abducted by unidentified people who set him free two days later after robbing him of 3,000SF. The Federal Refugee Office (ODR) attempted to play down the incident, pointing out that it was a matter of routine for the Turkish police to question people who have been absent from the country for such a long time (the family had in fact been absent for ten years). It said that the abduction of the father was due to the fact that he had 'a large sum of money on him'.³⁰

Forcing countries to accept deportees

Some countries refuse to accept rejected asylum seekers and some embassies refuse to issue passports or passport replacement documents thereby preventing deportation. The EU has attempted to get round this by issuing EU Standard Travel Documents (sometimes referred to as the 'laissez-passer'). Many countries however do not recognise this document. Deportations to these countries compromise the security of those returned and seem to be a way of forcing 'recalcitrant states' to accept deportees.

- **According to a source at Cairo airport, the Egyptian authorities immediately placed seventeen deportees from Italy on a return flight. They said that there was no proof that they were Egyptians, but probably came from other North African countries.³¹**

- **An attempt by the Swedish immigration authorities to deport the stateless Melkymian family of Armenian origin to Azerbaijan on a specially-chartered flight failed when the authorities in Baku refused to accept them. When the plane arrived in Baku, it was surrounded by fifty police men. The authorities said that the plane would be confiscated if it did not return to Europe. 'The whole journey seems to have been a kind of experiment. The Swedish authorities are fully aware that Azerbaijan doesn't let in expelled refugees without a passport', said a spokesperson for the refugee support group, Artikel 14.³²**

- **Remy Yameogo, a 19-year-old asylum seeker, fled Burkina Faso when he was sixteen. Hamburg Aliens Office proposed to deport the young man using the EU standard travel document, despite the fact that the Burkinabé authorities did not recognise the document.³³**

- **On 20 August 2003, the deportation from the Netherlands of thirty Congolese was cancelled when Kinshasa revoked the right to land.³⁴**

EXPULSION TO TORTURE, CRUEL, DEGRADING TREATMENT OR PUNISHMENT

Freedom from torture, from cruel or degrading treatment or punishment, is an absolute right guaranteed under the International Covenant on Civil and Political Rights. However, deportations in contravention of these fundamental rights are becoming more commonplace due to the 'War on Terror'.

National Security versus fundamental rights

The ECtHR has said that the prohibition of torture and inhuman treatment includes a prohibition on expulsion to torture or inhuman or degrading treatment whatever the individual has done and whatever danger he or she might pose to national security. But in the post-September 11 world, this basic principle of non-refoulement has been under increased risk as protection was removed from asylum seekers from regions of the world whose governments were closely allied to the US and Europe in the war on terror.

Following September 11, the EU, under pressure from its allies, drew up a list of foreign terrorist organisations whose activities were to be outlawed in Europe. Any support, active or passive, with these organisations was outlawed, and all new asylum seekers were to be vetted to ascertain whether they had links with a banned organisation. If this proves to be the case, then the asylum claim is likely to be rejected. The 2004 Qualification Directive excludes from refugee status people who commit 'acts of terrorism'. This, as UNHCR points out, is deeply problematic as terrorism has no clear or universally agreed definition. While the power to exclude is not entirely new (the Refugee Convention itself provides that protection should not be given to those reasonably believed to be guilty of 'war crimes, crimes against humanity, acts contrary to the purposes and principles of the UN, or serious non-political crimes, committed outside the country of origin'), this Qualification Directive ensures that the extent and scope of exclusion is no longer clearly defined.

The Kurdish precedent

In fact, at a member state level, the move to withdraw protection from asylum seekers connected to so-called foreign terrorist organisations predated the events of September 11. Germany, for instance, had long since taken a hostile attitude towards the struggle for Kurdish self-determination in Turkey, and membership of the Kurdish Workers Party (PKK) was out-

lawed in the early 1990s. Furthermore, perceived membership of the PKK has been grounds for removal, even if that meant removal to torture. In its August 2003 report on the situation in Turkey, the German foreign office acknowledged that German officials handed over removed Kurdish asylum seekers to their counterparts in Turkey. German human rights organisations, concerned about the collusion between Turkish and German intelligence services which put the lives of rejected asylum seekers at risk, have tried to monitor the fate of deportees. An investigation carried out by Pro Asyl and the Lower Saxony Refugee Council established that at least five deported Kurdish asylum seekers were tortured on arrival in Turkey.³⁵

Germany and other European governments have attempted to argue that if a formal guarantee can be given by the government in the country of return that a deportee will not be subjected to torture or ill-treatment, then the absolute prohibition in international law against non-refoulement will still be adhered to. But research carried out by HRW has shown that the widespread and systematic use of torture in many of the countries to which people have been returned, indicates the futility of such diplomatic assurances and other safeguards against torture and ill-treatment.³⁶ The very fact that a European government seeks a diplomatic assurance indicates that that self-same government is fully aware that torture is systematic and routinely practised upon certain categories of people including political dissidents, conscientious objectors and those from certain racial, ethnic or religious backgrounds.

- **AI has recorded the torture and ill-treatment of many Kurds deported from Germany to Turkey following diplomatic assurances from the Turkish government that they would not be ill-treated. In 1998, Mehmet G was arrested in Turkey, interrogated about his PKK contacts and tortured with electric shocks. His genitals were squashed and his feet beaten with sticks. The Turkish government did not even reply to a letter from the German government requesting an explanation.³⁷**

Two deaths of rejected Kurdish asylum seekers have also been recorded as a result of deportations from Germany and the Netherlands.

- **In 2001, the Syrian Committee for Human Rights recorded that Hussein Daoud, a 28-year-old Syrian Kurd died shortly after his deportation from Germany to Damascus. The**

Committee says that on arrival in Damascus, Daoud was tortured by the secret services, who it believes fatally injured him after attempting to extract confessions regarding the Democratic Kurdish Unity Party and its members and officials abroad. Daoud, whose asylum application was rejected in December 2000, apparently had no identity documents but had attempted to co-operate with the authorities in Germany to establish his identity and nationality. The authorities in Lower Saxony were accused of facilitating his deportation by obtaining papers for him via the German embassy in Syria.³⁸

- In 2000, the Dutch justice ministry was forced to launch an inquiry into the death of Suleyman Aksoy, who fled Turkey after refusing to serve in the army to seek asylum in the Netherlands. His claim was rejected and he was deported to Turkey where he was forced to serve in the army where he died in disputed circumstances. The inquiry's findings that the Dutch government bore no responsibility for his death (which the Dutch and Turkish government categorised as suicide) was bitterly contested by Aksoy's family and Turkish NGOs. The father of the dead man said that the Turkish authorities had prevented him from seeing his son's body at the time of his death. However, at his son's funeral he observed that his son's face had been badly battered and he believes he had been tortured. Turkish human rights groups drew attention to the number of conscientious objectors who have died in similar circumstances in the army.³⁹

The links between German and Turkish intelligence agencies also put relatives of deportees under threat.

- The head of the Bekirogullari family was sent to prison in Germany in 2001, accused of membership of the PKK and participating in the occupation of the Kenyan travel agency in Frankfurt after the kidnapping in Kenya of PKK leader Abdullah Ocalan in 1999. In 2003, the whole six-member family were served with a deportation order. In Turkey, the police turn up regularly at the homes of members of Mrs Bekirogullari's family to question them about Mr Bekirogullari and generally intimidate them.⁴⁰

National security deportations

Since the events of September 11, the Kurdish experience of being returned to dangerous situations has been extended to asylum seekers

from other conflict areas of the world. As previously observed, freedom from torture is an absolute right under international law. Today, however, governments argue that interests of national security override the non-refoulement principle. Yet by returning a suspect to a country that practises the death penalty, torture and other forms of cruel and degrading treatment, the EU becomes party to the abuse of that suspect's human rights. In the case of Mohammed Alzery and Ahmed Agiza, two Egyptian asylum seekers expelled from Sweden in December 2001, the very mode of deportation made Sweden a party to extreme human rights abuse.

- Mohammed Alzery and Ahmed Agiza, both asylum seekers, were expelled from Sweden to Egypt in December 2001 without due process, on mere allegations of terrorism and without respect for human rights. The expulsion was carried out by US agents on a plane chartered by the US Defense Department. The men, handed into the custody of US agents at Stockholm airport, were taken into a room where a group of US officers in plain clothes, faces hooded, proceeded to cut the clothes from their bodies. The naked and chained prisoners then had suppositories inserted into their anuses and diapers put on. Forcibly dressed in dark overalls, their hands and feet chained to a specially designed harness, they were taken to the plane blindfolded and hooded.

HRW and AI have documented the treatment of the men in Egypt. Ahmed Agiza, it is alleged, was kept in an underground room in an Egyptian prison and told to write down what was dictated; when he refused, he was beaten and given electric shocks. He claims to have suffered all types of torture – sometimes he was laid naked on a mattress while his hands and feet were tied and electricity was applied to his body and a doctor allegedly used cream to apply to the areas of burn to prevent scarring. In April 2004, Agiza was sentenced to 25 years hard labour by a military tribunal which, according to HRW, violated fair trial standards. Agiza's lawyer maintains that prior to his trial his client had been subjected to electric shock treatment with electrodes fastened to his genitals, nipples, tongue and ear lobes.⁴¹

As in the case of the Kurds deported from Germany, the Swedish government justified the deportations on the grounds that it had received a diplomatic assurance that the men would not be tortured and would be afforded a fair trial in Egypt.

Concerned that such diplomatic assurances

might be used in UK deportation cases, lawyers are now demanding full disclosure in deportation and asylum cases, especially where the government invokes the 'War on Terror'.

- **Court documents made public in July 2004 show that Tony Blair repeatedly intervened in a bid to deport to Egypt four asylum seekers, including Hany Youssef, an Egyptian defence lawyer who fled to Britain in 1994, despite being told that they might be tortured and sentenced to death. The documents show that Blair attempted to receive a diplomatic assurance that if the men were deported, they would be humanely treated even though the then home secretary and senior Foreign Office officials made it plain such assurances were unlikely to be given and even if they were, could not be guaranteed. When Mr Blair was warned by the home secretary in a private letter that there was 'ample evidence from a range of sources of serious human rights abuses in Egypt' and that there was 'little scope for pushing deportations any further' he replied 'This is crazy. Why can't we press on?' When the Egyptians refused to give the diplomatic assurances sought, Blair sought just one assurance – that there would be no torture.⁴²**

One further development in Germany should be noted. Here, the refugee passports issued to thousands of Iranians who were granted asylum because they belonged to the People's Mujahedin (MEK) are being revoked. The justification given is that in 2002 the MEK was classified as a terrorist group. Thus, these people's status is now being revoked on the very grounds on which they were originally granted asylum. However, they will not be deported, as Iran is still classified as a country practising torture, but the change will restrict their freedom of movement and prevent them from accepting employment.⁴³

NO MONITORING OF TORTURE RISK

The risk of torture is not confined to national security deportees but other categories of asylum seekers, as we shall see, are also extremely vulnerable. The post-September 11 cases cited above have, at least, been well documented in the media. Not so with other cases. As the EU and member states do not monitor the outcome of returns, it is difficult to assess the real scale of the problem of torture and ill-treatment. The Anti-Racist Initiative in Berlin has attempted to do what the German government would not – to follow up the fate of deportees. Its research sug-

gests that from 1993 to 2004 at least twenty-one asylum seekers died after deportation to their countries of origin, and at least 384 asylum seekers were tortured by police or military after deportation.⁴⁴

In addition to the cases of a Turkish-Kurdish conscientious objector and that of a Syrian-Kurdish political dissident who died following deportation from Germany, cited above, there are other cases of army deserters and political dissidents, treated as traitors, tortured and killed after deportation from Europe.

- **Mohammad Said Al-Sakhri arrived at Milan airport in November 2002, with his wife and four children. Although Mr Al-Sakhri had been condemned to death in his home country for belonging to the Muslim Brotherhood, he and his family were expelled to Syria after being held for five days in remand, without the possibility of seeing a lawyer or any other third party. His pleas to be granted asylum in Italy or at least to be sent back to Iraq from where he and his family had come, were apparently ignored. The Italian authorities claim that he had not asked for asylum and was presented with a choice of being sent back to Jordan or Syria and he had himself chosen to be sent to Syria. On 28 February 2003, Mr Al-Sakhri was executed in Syria.⁴⁵**

- **In 1997, the Dutch government was presented with evidence of torture and disappearances amongst deportees from the Netherlands to Iran.⁴⁶ There is also another compensation case ongoing involving an Iranian who was expelled after an asylum application was turned down by the Refugee Board in 1999. The 23-year-old man, who fled Iran again and returned to Denmark, says that he was arrested on return to Iran and endured two years of systematic torture.⁴⁷**

- **The Maltese government launched an official inquiry into the group deportation of 220 Eritreans in September and October 2002 following evidence from AI that a number of the deportees were tortured or otherwise punished on their return. According to AI on arrival at Asmara airport, the deportees were immediately detained – with women, girls and children separated from men. The men were taken to Adi Abeto military detention centre where 180 of them were kept in detention, beaten with leather and rubber whips and tortured over a period of two and a half months; three were shot with one man dying from his wounds. In December 2002, the remaining**

detainees were transferred to a secret detention centre on the main Dahlak Island in the Red Sea, where they were subjected to forced labour. In July 2003, some were moved to secret prisons on the mainland, although several later escaped.⁴⁸

Al's report is based on the testimony of survivors at the Adi Abeto military detention centre where detainees were tied up day and night and given only short breaks for food and the toilet. Some became paralysed as a result of the treatment. It is alleged that one man died after he was shot attempting to escape. Another attempted to escape on two separate occasions, and was beaten until he vomited blood and then tied up in the 'helicopter' position for fifty-five days outside in the heat as a punishment for attempting to escape. Another deportee from Malta attempted to commit suicide at Massawa by tying his hands together and jumping into the sea. 'He got caught in the ship's propeller and his face was badly cut. He was taken out to sea, and we didn't hear of him again, maybe he died' said a survivor.⁴⁹

But the official inquiry, published in September 2004, exonerated the government of any wrong-doing. The Maltese authorities justified the group deportation on the grounds that UNHCR had assessed that the situation in Eritrea was safe for returns following the end of the 30-year-war with Ethiopia in 1991 and declaration of Eritrean independence in 1993. UNHCR said that the Maltese misinterpreted its advice. While in May 2002, UNHCR had announced cessation clauses for Eritrean refugees, crucially, attached to the cessation clauses were limitations and a declaration that many Eritreans were still in need of international protection.⁵⁰

EVIDENCE OF TORTURE DISREGARDED

The facts about the torture endured by the Eritreans provide a shocking example of the way in which member states can assess countries safe on the cessation of war, with little regard for the fragility of peace treaties or for the fact that torture and cruel and degrading treatment might still be rife. And this tendency is all the more likely to be enhanced within the target-driven Deportation Programme. A substantial amount of evidence has already been amassed to suggest that deportees to the DRC have suffered systematic abuse. What the cases demonstrate clearly is the human rights abuses that spring directly out of wrong and misleading country assessments that, as we have argued, are driven by the desire to reach deportation targets.

Over the years, asylum seekers from the DRC have suffered because of a lack of public knowledge about the conflict in the Great Lakes Region. Even in the early 1990s, group deportations of failed asylum seekers from what was then Zaire were being carried out by the French, Belgian and Dutch irrespective of human rights concerns. Three million people died in the DRC's 1998-2002 civil war, which involved six other African states. A peace treaty signed in 2003 between president Kabila and the former rebel group RCD-Goma is widely distrusted by refugees, and tension has once again erupted with neighbouring Rwanda. Today, tens of thousands of refugees continue to pour out of the DRC, and the UN has been forced to increase its peacekeeping force in the region. Despite this reality, an increasing number of countries including Belgium, the Netherlands, Germany, France, Austria and now the UK are arguing that the DRC is safe for returns.

Today, the majority of deportations from Europe to DRC originate in Belgium and the Netherlands. The Dutch organisation Docu-Congo is critical of the absence of any formal monitoring of the fate of returnees and the lack of response by the government to accusations of abuse in the DRC. In fact, the treatment of failed asylum seekers from the DRC by the Dutch government is fast becoming a national scandal. In February 2005, immigration minister Rita Verdonk was forced to answer parliamentary questions via a vis allegations made on the current affairs programme Network to the effect that the immigration service had sent confidential documents about rejected asylum seekers to the DRC.⁵¹

- **In July 2003 Docu-Congo reported that Congolese asylum seekers, returned from the Netherlands, had been handed over to the security services and subjected to harsh interrogations and tortured. The co-ordinator of Duco-Congo was particularly critical of a report commissioned by a European government which claimed that an international monitoring team had been operating at Ndjili airport to ensure the safety of deportees, when no such monitoring project existed. Evidence of abuse was passed to European government departments assessing country situations, but still returns continue to the DRC.⁵²**

Bail for Immigration Detainees (BID) the National Coalition of Anti-Deportation Campaigns and the Campaign to Stop Arbitrary Detentions at Yarl's Wood in the UK have documented deportations to the DRC.

- On 12 March 2002, thirteen Congolese nationals were sent by charter flight to Kinshasa. According to the testimony of one of the rejected asylum seekers, who later returned to the UK, the deportees were immediately detained on arrival at Kinshasa. They were beaten on a daily basis by three to six soldiers who accused them of being 'traitors'. The man who escaped says that he was raped by guards on at least six occasions. Human rights groups in the UK informed the Home Office but it apparently made no attempt to obtain information regarding the fate of the remaining twelve asylum seekers.

- M. was forcibly deported from UK to DRC. On arrival at Kinshasa, he was taken to prison, beaten and abused by guards. Relatives bribed officials and eventually secured his release. This case and various other reports of abuse, as well as the fact that removed asylum seekers are taken straight to prison on arrival at Kinshasa airport, have been reported to the Home Office. And yet the Home Office CIPU report on the DRC states that the British Embassy has not 'come across' any evidence of returned asylum seekers being persecuted.

- Of three deportees removed from the UK to DRC between October 2003 and April 2004, two were able to pass information back to the UK revealing that they had ended up in Makala Central Prison.

In all these cases, incidents of systematic abuse have led to no change of approach from European governments. So concerned is the National Human Rights Observatory in Kinshasa about the fate of returned asylum seekers that employee René Kabala Mushiya, paid a visit to Europe to raise awareness, addressing, among others the UK Bar Human Rights Committee.

According to the National Human Rights Observatory in Kinshasa, failed asylum seekers are handed over by their European counterparts to the offices of the Director-General of Migration (DGM), ostensibly the Congolese immigration service but, in reality, an arm of the government's security services. A file containing details of their claim for political asylum in Europe is also passed to the DGM (this is a very serious allegation as asylum files are meant to be confidential). Detainees are held by the DGM in small windowless and cockroach infested cells at the airport with no access to light before being taken to the director of the DGM for interrogation. Those who can pay a bribe of between US\$250 and \$300 have a chance of immediate

escape from detention as the DGM employees have not been paid for so long, accepting bribes is their only income. Some of those who do not manage to bribe their way out are handed over to the National Security Agency (ANR) which operates its own extra-judicial prisons where people are detained illegally for long periods of time. As people who have claimed asylum in the West, deportees are automatically regarded by the ANR as threats to national security in DRC. They may then stand trial under the national security legislation and, if convicted, find themselves imprisoned at Makala Central prison. The US State Department reports that sixty-nine people died there in 2003, some as a result of severe beatings, the others as a result of starvation and disease. The irony is that some of those returnees will have fled from DRC in the first place as political prisoners who managed to bribe themselves out of Makala prison. Now they find themselves returned to the same Makala prison.⁵³

Nationals of other countries are also in danger.

- The UK resumed deportations to Zimbabwe in November 2004, despite acknowledging that there had been no improvement in the human rights situation there. The UK Zimbabwean Community Campaign to Defend Asylum Seekers (UKZCCDAS) says that all deportees are handed over to the authorities on arrival in Harare and detained for questioning, and that families must pay bribes to secure their release. The UKZCCDAS cites reports from Zimbabwe suggesting that the first group of deportees forcibly removed from the UK in mid-November were paraded on Zimbabwe's national TV station, the ZTV, and that members of this group had been mistreated. Their claims are hardly surprising, given that the Zimbabwean interior minister has publicly stated that the deportees could be 'trained and bribed malcontents' sent back to Zimbabwe from the UK to disrupt the forthcoming general election.⁵⁴

- Cologne lawyer, Barbara Ginsberg, sent evidence to the Department for Foreign Affairs in Germany concerning the arrest, torture, killing and disappearances of refugees deported to Togo. Some of those sent back, she says, escaped and returned to Germany where she interviewed them and recorded evidence of torture. A woman, three months pregnant at the time of deportation, had scars from whippings on her belly on return, eight months pregnant. A man had regular scars on his belly which did not heal even after years because these cuts

had been done with a knife and chilly was sprinkled into them afterwards.’ Electroshocks and other methods of torture were also used.⁵⁵

- Médecins Sans Frontières has called on the Spanish government to launch an inquiry after its researchers concluded that Nigerians deported in 2001 were arrested in Lagos and taken to a special interrogation centre from which they were released only on the payment of a bribe.⁵⁶

- In August 2004, the Swiss ODR suspended deportations to Burma after a rejected Burmese asylum seeker was immediately arrested on his return and sentenced to 19 years’ imprisonment for having taken part in illegal political activities. The ODR and the Refugee Appeals Board justified the deportation on the grounds that neither had been in possession of any indication that the man risked imprisonment in Burma, adding that the information which he had given about his political activities was not considered credible. They also said that the man had come and gone from Burma on several occasions in the past, omitting to mention that the deportation procedure in itself would have drawn the attention of the Burmese authorities to the political dissident.⁵⁷

- Rafiq Sjirinov was deported from Sweden to Azerbaijan on 21 August 2004 because, according to the Migration Board and the Aliens Appeals Board, there is no general threat for asylum seekers from Azerbaijan. Two days later he was dead. According to the death certificate he died of a heart attack, but friends and family say he was arrested upon arrival at Baku airport and interrogated, beaten and tortured in detention. Relatives of Mr Sjirinov, who saw his corpse, claimed that there were clear signs of considerable violence.

Mr Sjirinov, who arrived in Sweden in 2002, had claimed that he had been arrested and tortured by the Azerbaijani police on a number of occasions and that his wife, who was arrested by police in August 2000, was raped and died as a result of violence.⁵⁸

Deportees do not just risk persecution from state agencies. In some countries, political dissidents face death threats from right-wing paramilitary organisations which may be working directly or indirectly for the state.

- A Colombian family of five were denied asylum in the UK and deported in March 2003. The

Home Office said that it was safe for the family to return to Colombia if they did not go to Cali in the south, where four members of Mr Reyes Prado’s family had already been assassinated by a right-wing paramilitary group. The group had also threatened Mr Reyes Prado with death. Within a month of his deportation, Mr Reyes Prado was the victim of an assassination attempt when two hooded men riding on motorbikes fired shots at him causing severe injuries to his arm.⁵⁹

REMOVAL OF PROTECTION FROM TORTURE VICTIMS

The fact that an asylum seeker is already a torture victim should be reason enough not to forcibly deport, as recognised by a dissenting judge at the ECtHR in the case of a Sri Lankan refugee under threat of deportation (from the Netherlands) to Sri Lanka.

- Ramachandraiyer Venkadajalasarma, a Tamil asylum seeker from the Jaffna peninsula who arrived in the Netherlands in 1999, had appealed against deportation on the grounds that he feared persecution from the Sri Lankan government (who had arrested him on suspicion of involvement in the LTTE) and the LTTE who had forced him to work for them and from whom he had fled after refusing to transport bombs. While the ECtHR in February 2004 turned down his application on the grounds of the improved security situation, one judge, Antonella Mularoni, issued a strong dissenting opinion. The judge noted that Venkadajalasarma was a torture victim and took into consideration the views of the UNHCR and the Medical Foundation that torture-related scars on the body of a returnee should be a relevant consideration in assessing the likelihood of danger upon the return of Sri Lankan Tamil asylum seekers. The judge said, ‘I do not question the current improvement in the human rights situation in Sri Lanka... However, in the light of the relevant international materials at our disposal, and especially NGO reports and statements, I consider that there is still a danger for the applicant that he will, if expelled, be exposed to a real risk of being subjected to inhuman or degrading treatment.’⁶⁰

For a torture victim, to lose an asylum claim and to be issued with a deportation order can reopen emotional wounds. The Medical Foundation suggests that those subjected to ‘unspeakable torture’ and persecution are particularly vulnerable to suicidal thoughts: their

pain is locked away inside and manifests itself as physical pain, nightmares, tremors and flashbacks. 'The nature of torture is that it destroys links and connections both in the external world, by breaking up families and communities, and in the body and mind of the individual, so that victims feel fragmented, and unable, or frightened to make connections. In such a scenario, it is not surprising that some torture victims chose to commit suicide rather than be deported.'

- In January 2003 in Germany, David Mamedov, a failed asylum seeker from Georgia, living in North-Rhine Westphalia, hanged himself after his initial recognition as a refugee was revoked following an appeal launched by the federal officer for asylum proceedings and he was served with a deportation order. Mamedov had been granted asylum in 1997 on the grounds that he was from the persecuted Yezidi minority (a religious sect combining elements of Islam and Christianity) and had been repeatedly mistreated by the police (in one incident his leg was seriously burned with a hot iron). The Minden administrative court rescinded his asylum status on the grounds that the actions of the police did not amount to state repression. Six months after Mamedov's death, his widow, who has three young children, was informed that she must leave Germany immediately or face deportation.⁶¹

- In November 2002, Sirous Khajeh a 29-year-old Iranian asylum seeker was found hanged at his home in Huddersfield, UK. He was a torture victim who had been informed by the authorities that his asylum claim had been rejected and he faced eviction from his home and then deportation. However, this information was incorrect and Khajeh had in fact been granted asylum. A Yorkshire coroner recorded a verdict of suicide and was critical of the Home Office's handling of his application.⁶²

- Yusuf, a Turkish Kurdish client of the Medical Foundation in the UK committed suicide after his asylum application was rejected by the Home Office. Singled out in Turkey for his left-wing political views and for being a Kurd, he was tortured by local police and victimised by fellow villagers. Yusuf arrived in Britain suffering from severe depression and poor physical health. When deportation officers arrived to take him away, he locked the door and set fire to himself.⁶³

THE INVOLVEMENT OF FOREIGN EMBASSIES IN DEPORTATION

Governments, desperate to be rid of rejected asylum seekers who have no identity documents, can take short cuts that further imperil a deportee's safety. They work through embassies from refugee-producing regions of the world well-known for keeping tabs on political dissidents from their country, often in highly unscrupulous ways which are only shielded from criminal prosecution by the fact that embassy officials have diplomatic immunity. Some countries of persecution, such as Iran, Sudan and Libya, have been known to send assassins abroad to deal with opponents. Yet, it is to the embassies of these countries and others, that European governments turn to facilitate the identification of failed asylum seekers. However, the very fact that refugees seek political asylum in the West makes them, in the eyes of embassy officials, traitors. Flight in itself characterises them as part of the opposition.

- According to the Dutch Refugee Council, at least ten embassies, including Serbia-Montenegro, China, Ethiopia, Sudan, Mauritania, Lebanon and Azerbaijan, are refusing to issue travel documents to rejected asylum seekers on the grounds that asylum seekers are traitors. It cites a letter received by an asylum seeker from Serbia-Montenegro's embassy explaining that he would not be issued with travel documents because he had committed high treason by seeking political asylum.⁶⁴

- In the case of the Syrian-Kurd, Hussein Daoud, who died after deportation from Germany to Syria (see p.31), it is alleged that the authorities in Lower Saxony had facilitated his deportation by obtaining travel documents for him via the German embassy in Syria.

- A group of Sudanese asylum seekers, who arrived in Malta in 2001 and were denied asylum, were still in detention in February 2004. Sudanese ambassadors in Libya and Italy had twice asked to meet the detainees. Despite the fact that the detainees refused to meet them, it was suspected that the Maltese authorities were supplying Sudanese officials with the information they needed to identify the detainees.⁶⁵

If embassy officials agree to co-operate with deportation plans it can necessitate taking rejected asylum seekers to the embassy for identification. But there is a very real danger that

such identification processes descend into intelligence-gathering exercises that put not just individual asylum seekers but whole communities at risk. The British High Court acknowledged this in the case of *Amirthanathan v Secretary of State* [2003]. It ruled that ‘once an appeal is lodged [against the refusal of asylum] it is inappropriate to require a person to give an interview to the authorities of the destination country to facilitate obtaining of a travel document, since the interview might lead to information being provided which might put the claimant or his family at risk.’ However, the UK government, in drafting new immigration legislation, seems to have ignored the High Court’s stricture. For the Asylum and Immigration (Treatment of Claimants) Act 2004 introduced a new criminal offence, punishable by up to two years in prison, of failing to co-operate with any action necessary to re-document a person for the purposes of removal. This could involve refusing to attend an interview at an embassy so that travel documents could be obtained. But many asylum seekers are fearful of reprisals against them or their families if their country knows they are in the UK. In response, the Home Office says that they do not tell embassies that those needing travel documents are failed asylum seekers. But they do not have to – embassy staff can guess.

An absence of clearly defined legal procedures governs such identification processes in certain European countries. But it is hard to gather comprehensive data. However, in one country, Germany, cases have been well-documented by groups such as the Caravan for the Rights of Refugees and Migrants and the Hamburg Refugee Council which reveal the dangerous collusion of embassies in the deportation process.

- In March 2000 in Hamburg, authorities sent out notices to 213 asylum seekers that they had to attend identification parades in front of officials from the embassy of Sierra Leone. The claimants in question staged a successful boycott, pointing to the total absence of any clearly defined legal procedures.⁶⁶

- On 17 March 2004, around 100 Algerian asylum seekers from Lower Saxony, Bavaria, Baden-Württemberg and Hesse were taken in police buses to a refugee camp in Fürstenried (Bavaria) for an embassy presentation, in the course of which representatives of the Algerian embassy, who were provided with a room at the camp, interviewed the asylum seekers in order to determine their country of origin so that they could be deported.⁶⁷

- Trier Aliens Office arranged for a group of thirty-one Chinese asylum seekers, who were not in possession of valid travel documents, to be questioned by ‘experts from China’. The questioning took place in summer 2003 in the cellar of the Aliens Office in Trier. No interpreter or legal adviser was present. The lawyer for one of the men has filed charges against the Rhineland-Palatinate deportation office for bodily injury, wrongful deprivation of personal liberty, coercion and intimidation. Eberhard Kunz alleges that the Chinese experts were security officers from Beijing’s ministry for public security who questioned the men about the activities of other Chinese dissidents in Germany.⁶⁸

- In 2004, the immigration authorities in Lower Saxony applied to the Turkish consulate in Hanover for substitute passport documents for twenty-two people who applied for asylum on the grounds that they were victims of the Lebanese civil war.⁶⁹ The asylum seekers, supported by lawyers and NGOs, say they are not from Turkey, but part of the Mahalmi, an Arabic-speaking minority which left Turkey several generations ago to migrate to Lebanon. Nevertheless, at least two of the asylum-seeking families were taken to the Turkish consulate by force.⁷⁰

The short-cuts inherent in such embassy presentations, coupled with the close working relationship that develops between civil servants and embassy officials, opens the way for all sorts of corrupt practices to flourish. This became a major issue in Hamburg from 1999-2002.

- In 2002, the authorities in Hamburg attempted to negotiate with the embassies of several African countries in order to persuade them to accept around £5,000 for each rejected asylum seeker they accepted, regardless of nationality. Campaigners had previously alleged that diplomats from several West African countries were offered cash incentives and other sweeteners to take part in interviews with rejected asylum seekers. It was also alleged that the Hamburg authorities were deliberately attempting to bypass legal judgements prohibiting deportations to Sierra Leone and Guinea by sending asylum seekers back to these countries via Ghana and the Gambia.⁷¹

- An official from the Cloppenburg Aliens Office in Lower Saxony falsified the data of an African asylum seeker in order to obtain a passport

replacement and facilitate his deportation. The asylum seeker said that he was born in the Ivory Coast, but his parents were from Mali, but both states refused to recognise him as a citizen and issue the necessary travel documents. At this point, the official contacted the Congolese embassy which issued the necessary passport replacement. However, to obtain this document the official had to specify the birthplace of the man to be deported as well as his old address in his supposed homeland. The deportation was in fact prevented following legal intervention. The official was subsequently prosecuted, but successfully argued that it was not he who had deceived the Congolese embassy, but the embassy that had suggested falsifying the data. During the court case, no embassy staff were questioned about the official's version of events.⁷²

Interpreters employed by immigration boards in Europe may also place asylum seekers at risk. In Sweden, the Migration Board has been forced to issue a new directive after journalists exposed that in some parts of the country the Migration Board does not use professional interpreters because they are too expensive. Among other things, interpreters working for the Iraqi embassy were used to translate the testimonies of Iraqi refugees.

- At least six Swedish citizens with Assyrian roots had, for many years, been sending information on the Assyrian community in Sweden to Saddam Hussein's regime. The spies informed on thousands of Swedish citizens with an Assyrian background, gathering information on family background, political views etc; they also attempted to infiltrate immigrant organisations. It has since emerged that one of the spies had been in the employment of the Migration Board for ten years. An internal investigation played down the incident, suggesting that while the spy had been employed in language screening tests he was not in possession of sensitive information regarding asylum claims.⁷³

- The nephew of an Eritrean woman was due to be interviewed by the Swedish Migration Board, in the presence of an interpreter from Eritrea. The young boy's aunt, aware that the Eritrean diaspora was split between those who were for or against the present regime, insisted that no interpreter was necessary. Nevertheless, the interview went ahead. The aunt says that a short while after the interview, the boy's father was arrested in Eritrea. She

believes he is now dead and accuses the interpreter of reporting the boy's testimony to the Eritrean authorities.⁷⁴

Nor is sufficient consideration given to the impact of an embassy presentation on an asylum seeker whose claim is based on allegations of torture in his or her home country.

- In September 2002, Kurdish poet Hamze Sen – who said he was a victim of torture in Turkey on account of his creative writing in which he had spoken up for the rights of Kurds – attempted to commit suicide by pouring petrol over himself and setting himself alight in Hildesheim, Lower Saxony. His friends managed to overpower him, and he was admitted to a psychiatric clinic. In a farewell letter to his family, Sen had written 'I don't want you to be sad, but I saw no other way out. Every door has been shut in my face. I am unable to bear the injustice being done to us any longer. I prefer to die here rather than in Turkey. Since they took me to the Turkish consulate I have been unable to sleep. I can't think clearly any more. I have no more hope.'⁷⁵

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4. The denial of humanitarian protection

Western European governments have for some time allowed people who did not qualify for refugee status 'to remain', either temporarily, which could be for long periods, or permanently, on humanitarian or compassionate grounds. This was not simply an act of beneficence, but reflected human rights obligations set out in Conventions to which European states were signatories. The foundation of non-refugee humanitarian law is laid out in the International Covenant on Civil and Political Rights (ICCPR) and the European Convention on Human Rights (ECHR) which prohibit torture or inhuman or degrading treatment. In theory, the EU and member states have not abandoned their obligations under the ICCPR and the ECHR. In Article 15 of the 'Qualification Directive', the European Council states that, in addition to refugees, 'those at risk of serious harm' should be given international protection. Serious harm according to the EC, includes those at risk of: the death penalty or execution; torture or degrading treatment or punishment; serious and individual threat to a civilian's life or person by indiscriminate violence in an international or internal armed conflict. From here, the European Council goes on to advise member states that they have liberty to include other categories at risk of serious harm.

Today, however, a concerted attempt across the EU is being made to deny that asylum seekers in a variety of categories are at risk of serious harm. Victims of civil war, those who don't fit the refugee criteria but whose lives would be in real danger if forced to go home, rape victims, women and children at risk from traffickers, the seriously ill (for example, asylum seekers suffering from Aids, who could not get treatment in country of origin), all fall under the category of individuals at risk of 'serious harm' whose plight should merit consideration on humanitarian grounds. Yet the authorities are increasingly rejecting the claims from these vulnerable groups of people, arguing that either the victims' accounts 'lack credibility' or that they have falsified or exaggerated physical violence or mental trauma in order to 'blackmail' the authorities and thereby prevent their expulsion. At every step of the journey through the asylum system, immigration officials appear to treat vulnerable and traumatised people not as individuals, each with a different story to tell, but as foot soldiers in an army of fraudulent applicants. And, the trauma that asylum seekers may

have suffered in their homelands is compounded by the harsh response they receive in their country of asylum.

A growing number of medical agencies now acknowledge the detriment this and other factors such as racial violence cause to mental and physical health. In the UK, the Royal College of Psychiatrists has acknowledged that the conditions in which asylum seekers are detained and live exacerbate any trauma they may have experienced in the past.¹ The Danish Red Cross has attributed the three-fold increase in asylum seekers needing medical treatment to the harsh asylum regime and the tougher criteria for granting humanitarian protection in Denmark. (To which immigration minister Bertel Haarder replied that some asylum seekers are exaggerating illnesses in order to get a residence permit.)² In Germany, the medical profession is concerned about the long-term effects racial violence might have on the mental stability of asylum seekers, who are being singled out for attack by neo-Nazis. The Irish Refugee Council says that children of asylum seekers are losing weight due to malnutrition and are developing a high level of stress-related illnesses due to cramped living conditions, delay in receiving medical care, rampant racial harassment and witnessing the humiliation of their parents.³ In Sweden, medical specialists report that an estimated 150 asylum-seeking children have developed symptoms of severe apathy and are not able to eat or function properly despite having no underlying physical illness. They lack a desire to play, to interact, even to live and, while this has a background in severe traumatic experiences in their home countries, it is compounded by the hopelessness of their situation in Sweden.⁴ As in Sweden, so in the German state of Hamburg, where an increasing number of children are suffering severe psychological illness due to the constant threat of deportation. One reason for this lies in the practice, quite usual in Hamburg, of granting long sequences of temporary residence permits extending over years, rather than granting the permanent residence necessary to provide a sense of security. In some instances the Hamburg Aliens Office grants successive temporary residence permits over a period of twenty years. When forced to leave, the children suffer from panic attacks, insomnia and learning problems. Some of them mutilate themselves or have suicidal thoughts.⁵

DEPORTATION OF TORTURE VICTIMS AND THE TRAUMATISED

In the previous section, country-specific EU deportation programmes, based on biased, distorted and incorrect information, which put the lives of torture victims at risk, were documented. The Bavarian Refugee Council has estimated that around one third of all refugees are victims of torture, or are severely traumatised after witnessing violence, including the murder of family members. Anni Kammerlander from the counselling service Refugio believes that the rejection of an asylum application can reawaken nightmares after many years of therapy thereby undoing hard-earned stability.⁶ Dr Christina Pourgourides, a consultant psychiatrist points out that the mental health of asylum seekers and refugees is embedded in wider socio-political contexts. 'This is not just a mental health issue. It's a human rights issue and a political issue right on our doorstep and as health professionals we have to engage with it.'⁷

- In September 2003 in Germany, the Federal Office for the Recognition of Foreign Refugees refused to grant asylum to an Iranian torture victim. His body was riddled with wounds, some fresh and some scarred over. Pro Asyl said that the authorities had never even seen the man, yet they dismissed all his statements – some assessed by doctors – as 'lacking credibility'.⁸

Torture victims suffer when their real life experiences are negated, as do victims of rape and sexual mutilation, who face particular suffering when asylum decisions negate their real life experiences, exposing them to further trauma.

- According to the Medical Foundation, in some cases, women political prisoners who have been raped have found their ordeal ascribed to nothing more than 'indiscipline on the part of security guards'.⁹
- In July 2004 in Ireland, the Mayo Rape Crisis Centre condemned the deportation to the UK under the Dublin Convention of Olivia Nzayishimy, an asylum seeker from Burundi, and her two young children. Ms Nzayishimy is a multiple rape victim and had seen her parents and 10-year-old son murdered in her homeland. Her 7-year-old daughter Chantel had witnessed her mother being raped and beaten by four soldiers on one occasion. The family had been staying at the Mayo Rape Crisis Centre where an independent consultant

had confirmed she was unfit to travel even to England due to health and psychological problems. Ms Loretta McDonagh, a counsellor at the Mayo Rape Crisis Centre who had attempted to put Ms Nazyishimy's case directly to the Taoiseach and the minister for justice, strongly condemned the deportation, saying that 'It's time the people of Ireland woke up and realised what is happening all around them.'¹⁰

- In Ireland, Elizabeth Onasanwo was placed in psychiatric care after suffering a nervous breakdown in 2002 when the state attempted to deport her. Doctors said that the breakdown might have been triggered by fears that her daughters would be circumcised if the family were sent back to Nigeria. Elizabeth Onasanwo left Nigeria in 1999. She says that her home was burned down by family members and tribal elders when she refused to allow her daughter to be circumcised. She had witnessed her own sister die from a botched female circumcision and did not want to see her daughters meet the same fate. Justice minister Michael McDowell refused to intervene in her case saying the integrity of the asylum system had to be maintained.¹¹

- In the UK, S., a woman from the Ivory Coast, became mentally ill and attempted suicide twice after the Home Office announced its intention to deport her to France which she had travelled through to enter the UK. S. believed that the French would deport her back to the Ivory Coast where she feared her daughter would suffer female genital mutilation, like her sister who had died from it. The Court of Appeal eventually overruled the Home Office, stating that removal would breach the human rights of S. and that she should be allowed to claim asylum in the UK.¹²

- In the UK, 23-year-old Josette Ishimwe, was in an extremely distressed state following the failure of her final appeal for asylum, and was being cared for by parishioners at the St Nicholas of Tolentino church in Easton, Bristol, where she had sought sanctuary to avoid deportation. As a thirteen-year-old girl, Ishimwe saw her mother, father and other family members hacked to death in Rwanda. She fled the Rwandan genocide and came to Britain in 1994. Father Richard McKay, who prevented immigration officials from entering the church to detain her, said that he was prepared to go to prison to stop her from being returned to Rwanda. The case went for judicial review.¹³

ELIMINATING HEALTH OBSTACLES TO DEPORTATION

The ECtHR has determined that expelling a traumatised, seriously-ill individual may constitute cruel and degrading treatment in violation of Article 3 of the ECHR. Common decency, one would have thought, would compel countries that boast a humanitarian tradition to refrain from deporting any seriously ill asylum seeker to a country where he or she would be condemned to a miserable existence, or die through lack of medication. The obvious just course of action would be to treat the illness in Europe. However, increasingly, the response of the authorities is neither to heal the victim, nor to treat the trauma, but to 'eliminate' illness as an obstacle to deportation. In Germany, the country which has traditionally hosted the largest number of refugees and asylum seekers in Europe, this process is at its keenest.

Challenging medical expertise

In a seminal article in the *Frankfurter Rundschau* Bernd Mesovic has exposed how a section of the German medical profession is being drawn into the deportation process, in violation of all medical ethical codes.¹⁴ For some time, the Federal Office for the Recognition of Foreign Refugees had argued that the medical profession was submitting too many medical reports and that subsequent health checks were hindering the speed of deportations. At the same time, there has been a growing move on the part of the immigration authorities to ignore professional guidelines on the compilation of medical reports on torture or trauma victims in favour of opinions from non-specialists within the medical and judicial field who dispute the fact that deportations of the sick could lead to serious harm. Mesovic warned that the 'vulgar theories' of non-specialists were popular both in the Federal Office for the Recognition of Foreign Refugees and among aliens offices and the courts. He cited as evidence the Dutch jurist Professor Peter Van Krieken who, despite having no medical expertise in the field of trauma, wrote an article in the *Informationsbrief Ausländerrecht (Information Bulletin on the Law on Aliens no. 11-12/2000)* in which he argued that almost all traumatic disorders have the best chance of cure in their country of origin and anyone who disagrees with this view is suffering from 'Eurocentric megalomania'. Now, the views of Van Krieken and his ilk seem to hold sway in much German judicial decision-making. Indeed, on 2 April 2003, (3Bs 439/02-) the Hamburg higher administrative court upheld the argu-

ment that individuals suffering from post-traumatic stress disorders usually have the best chance of cure in their country of origin as an important medical view. That the person might be re-traumatised by the deportation procedure, could delay the healing process but not, in the final analysis, put it at risk, the court observed.

Decisions such as the above give the green light for deportation orders to be issued to the seriously ill.

- **In February 2004, Zoura B., a seriously ill Chechen woman was certified fit to travel by the Minden administrative court. The woman suffered from a serious heart and circulatory disease, post-traumatic stress disorder and had suffered a stroke.¹⁵**

- **On 5 November 2002, a seriously ill Albanian, who had entered Germany from Kosovo, was deported to Kosovo despite the fact that she suffered from a severe illness of the nervous system which, in the absence of proper treatment results in paralysis and can lead to death. Sikrie Dervisholli had no relatives in Kosovo and was living with his sister in Germany. His neurologist commented, 'How could anyone allow a person to die so miserably?'¹⁶**

- **In April 2004, the Aliens Office of the district of Osterholz-Scharmbeck, Lower Saxony, declared that a traumatised Kurdish woman was fit to travel despite a period spent in hospital and several suicide attempts. The authority's official doctor said that the woman's fitness to travel could be established if her drug therapy were continued and she were placed under strict supervision from the moment she was informed of her impending deportation.¹⁷**

- **Mehmet A., a 47-year-old Kurd who has lived in Germany since 1995 has been in psychiatric treatment, having been diagnosed with post-traumatic stress disorder. Mehmet A. claims that he was tortured in Turkey after refusing the authorities' demand that he serve as a paramilitary 'village guard' against the PKK guerrillas. The newspaper *Junge Welt* alleges that authorities induced him to sign two documents at a meeting at which there was no interpreter, telling him – falsely – that the documents were to release his doctors from their medical duty of confidentiality. In fact the documents stated that he agreed to leave Germany 'voluntarily'. When he found this out, he tried to douse himself in petrol and set him-**

self alight. He has since been given leave to remain in Germany for one year.¹⁸

• In August 2004, an attempt to deport Ahmed Saado, a severely ill asylum seeker who had undergone several heart and stomach operations over the past year, to Turkey failed at the last moment when he collapsed at the airport. Ahmed Saado is from the Arabic-speaking Mahalimi minority from the Lebanon. He left Turkey at the age of three and has not been back since.¹⁹

The fact that the German medical profession, on the whole, has been so vocal in opposing these deportations, ensures that the treatment of vulnerable categories of asylum seekers is at least the subject of public debate in Germany. Human rights activists and concerned doctors in other countries should be grateful to German doctors for setting a lead. For all the evidence suggests that the same official lack of compassion is informing deportation decisions in the rest of Europe. In Finland, following the case of the Shimansky family (see p.17), the National Board of Medicolegal Affairs (TEO) carried out a study of the actions of the doctor and nurse in the case, issuing them with written warnings and instructing medical professionals that they must not participate in coercive measures. Human rights activists in Finland are also concerned that the Directorate of Immigration (UV) and the Helsinki Administrative Court are increasingly challenging the medical expertise and objectivity of attending doctors. A growing number of cases are also galvanising the British medical profession.

• The doctor for the Ahmadi family, who fled Afghanistan in 2000 and travelled to the UK via the Ukraine and Germany, had warned against the family's return to Germany on the grounds of Mrs Ahmadi's fragile psychiatric condition. In August 2002, the removal went ahead, with the Ahmadi family being forcibly removed from the Ghausia Jamia mosque in Stourbridge in the West Midlands where they had sought refuge. The High Court ruled the removal unlawful, but accepted the Home Office's argument that the family could appeal from Germany via video link. The appeal was lost after the Home Office hired a posse of doctors to counter the evidence of the family doctor.²⁰

Appointing specialists for deportation

In many of the above cases, doctors have been selected to counter specialist opinion that advises against deportation and declare the

seriously ill, 'fit to travel'. These Mesovic describes as part of a growing band of 'medical specialists for deportation' – namely doctors, some with dubious professional qualifications, who produce a final report on sick people shortly before an impending deportation. Sweeping aside medical certificates, opinions and reports that have been presented to them, medical specialists for deportation certify the patient's fitness to travel or provide advice on how such fitness can be brought about. Mesovic traced the creation of such doctors to a 2002 conference of interior ministers of the German Länder, and the subsequent formation, by the federal government and the Länder, of a working group on repatriation. This working group called for the formation of a central register of appropriately qualified doctors – linked to a uniform national standard for the determination of fitness to fly. From there, decrees were circulated to the Länder laying down regulations for the checking of medical impediments to deportation. The overall aim was to ensure 'fitness to fly', even of known suicide risks, by setting conditions or additional measures. These could include providing on-flight medical supervision and medication. Doctors would also be responsible for handing over the patient, with appropriate medical records, to some sort of medical care at the other end of the deportation process. Lawyer Ursula Schlung-Muntan describes how 'An immense machinery is deployed to ensure "fitness to fly", by sending the refugee back to their native country accompanied by security personnel and doctors. Treatment with sedatives during the flight is arranged for those such as the psychologically ill or those at risk of suicide. However, what happens subsequently in the refugee's native country is left completely out of the picture.'²¹

• In 2001, church and refugee organisations in the district of Giesen, backed by the regional medical council, criticised a doctor who certified the deportation from Frankfurt airport of the Sabic family to Bosnia. The doctor, who certified the family fit to travel, was not a specialist but a general practitioner, and yet he was allowed to override a specialist's report that confirmed that Mr Sabic suffered from serious post-traumatic stress disorder.²²

In the case of the Bekirogullari family (see p.31), the deportation would have resulted in the termination of Mrs Bekirogullari's therapeutic treatment (she was the victim a post-traumatic stress disorder as a result of her experiences at the hands of the Turkish police).

After the family received a deportation order, their 10-year-old daughter developed a sleep disorder, experiencing recurring nightmares as confirmed by the Friedberg education authority, which, along with the children's school and the local church, opposed the family's deportation. In Turkey, the family would have been unable to receive the medical treatment they needed.²³

Across Germany, spokespeople at therapeutic centres complain that expert medical assessments by psychiatrists are routinely overruled by police medical services which simply disregard a diagnosis warning of a latent danger of suicide. Mindful of the role that doctors, such as Mengele, played in furthering scientific racism during the Nazi period, German doctors are acutely aware of the need to maintain their independence and protect the ethical standards of their profession. In 1999, the German Doctors' Conference passed a resolution stating: 'Doctors' assistance in deportations in the form of accompaniment during flights, forcible administration of psychiatric drugs or the issuing of a "certificate of fitness to travel", while ignoring impediments to deportation that have been established by medical specialists, such as, for example, traumatisation that is under treatment, are incompatible with ethical principles based on the rules of medical practice.'²⁴ In 2001, the Aachen Appeal was launched – designed to bring about countrywide compulsory guidelines for doctors providing expert reports on refugees and strict regulations as to who might or might not examine traumatised individuals. The appeal arose out of the case of Hüseyin Calhan, a Kurd deported to Turkey after being certified 'fit to travel' by a medical officer in the Pakerborn district. (The official had overruled psychiatric specialists who had described Calhan as 'psychologically at risk' and traumatised by the torture that had been inflicted upon him in Turkey.)²⁵

Ignoring lack of treatment in country of origin

The judicial decisions in favour of deportations based on non-specialist medical opinion, cited above, seem to take little account of the absence of suitable medical treatment for the seriously ill in their country of origin. For rape victims, torture victims and others seriously traumatised by war, this basic lack of foresight into their predicament means a future of misery at best but a death sentence at worst. Immigration authorities are not unaware of this. Organisations like AI, HRW and the Medical Foundation and even the UN have drawn attention to the absence of a basic medical infrastructure in many of the refugee-producing regions of the world.

In the UK, where the Home Office had told a growing number of people who fled Kosovo (after Serbian special police and paramilitaries embarked on a campaign of ethnic cleansing in the 1990s and are traumatised from witnessing atrocities) that they must leave, the Medical Foundation carried out a fact-finding mission to Kosovo to assess the country's health provision.²⁶ In a subsequent report it urged the Home Office to assess the health and mental needs of those who fled atrocities in Kosovo on a case-by-case basis, pointing out that guidelines issued by the UN Interim Administration Mission in Kosovo stated that 'no-one with an illness or injury that is untreatable in Kosovo should be forcibly returned until such time as the need for treatment has ended'. The Medical Foundation drew attention to the chronic drugs shortage in psychiatric wards, a woeful lack of facilities for treating mentally disturbed children, and the ostracising of rape victims – even by their own families. Sevdie Ahmedi, executive director of the Centre for Protection of Women and Children told the Medical Foundation that 'the last persons who should be sent back to Kosovo are women of rape' as they will be 'watched constantly' by their relatives and 'revictimised' if returned.

The Medical Foundation's warnings have been repeated by AI in relation to the DRC. In its report 'Democratic Republic of the Congo: mass rape – time for remedies',²⁷ AI highlighted the lack of effective access to adequate medical care as one of the most pressing needs of survivors. Tens of thousands of women and girls (as well as a large number of men) have been systematically raped and tortured in eastern DRC as a result of the battle for control of land and resources by armed groups and warring factions. Some of the victims have suffered multiple rapes and other forms of sexual violence, while others have been raped by up to twenty-five combatants or used for months or years as sex slaves. In the DRC today, millions of civilians are suffering and dying from the injuries and traumas of many years of conflict, while the health care infrastructure is unable to offer even the most basic treatment. And yet every day European countries are returning asylum seekers, including rape victims, to the DRC.

DEPORTATION OF THE MENTALLY ILL

One of the main areas in which humanitarian protection or discretionary leave is applied is on medical and psychiatric cases. The ECtHR has ruled that the removal of someone who is mentally ill could violate Article 3 of the ECHR if the

predictable result of removal were serious damage to the person's human dignity and physical or psychological integrity. In the past, those whose removal would have directly exacerbated their illness would have been protected from deportation. However, asylum seekers who claim to have psychiatric conditions are regularly accused of using this as a dodge to escape deportation. Today, the politicisation of deportation is leading to legal fights in this area between governments and lawyers representing asylum seekers.

- **Police in Lich, near Giessen (Hesse) attempted at the end of July 2004 to deport a Turkish family, one of whose members was receiving psychiatric treatment as an inpatient. The Giessen administrative court judged that in Turkey there was no psychological or personal support for psychologically ill people and, for that reason, deportation should not take place. However, the Hesse interior ministry refused to recognise that psychological illness should act as an impediment to deportation.²⁸**

There are also divisions opening up within the medical profession.

- **In Germany, in February 2004, Suneya Ayari, a mentally ill female asylum seeker from Tunisia, was taken by force from a Frankfurt hospital by deportation officers. The organisation 'Socially Responsible Doctors' said her subsequent deportation resulted from a 'forcible abduction from a hospital ward'.**

In December 2004, Ayari, classified as a suicide risk, was removed from refugee accommodation at Frankfurt airport and transferred to the psychiatric ward of the Markus hospital in Ginnheim. Her doctor advised the FBG that any deportation attempt was liable 'to increase the risk of suicide' and was indefensible from a medical standpoint. Thereupon, the FBG wrote to the doctor advising him that they would take Ayari to be examined by another doctor. On 2 February, seven officers from the FBG came to the hospital to remove her. Once removed, Ayari was examined by a medical officer at the FBG office who advised that she was 'fully fit to fly'.²⁹

The deportation of Ayari to Tunisia led to a dispute between Socially Responsible Doctors and the medical profession at the hospital. Claus Metz of Socially Responsible Doctors said that the hospital contravened its duty of care by handing Ayari over to the FBG. Ernst Girth, human rights officer at Hesse Medical Council

said that 'When it is a matter of suicidal tendencies, the doctor is obliged to protect the patient'. It was unacceptable for the FBG 'to make decisions regarding patients in the hospital's care' and 'naïve' for the psychiatric department to submit to the FBG's suggestion. The psychiatric department's senior consultants responded to criticism by arguing that the removal process took place in an 'extremely considerate' manner, that the staff were not aware that the patient was being removed for deportation and the deportation served as a 'relief' to the depressed patient who arrived in Tunisia 'in good health'.³⁰

This inhumane and callous treatment of the mentally ill affects not just failed asylum seekers but other patients with disputed immigration status.

- **In Germany, a 27-year-old mentally ill patient referred to as 'Erhan' was issued with a deportation order because, according to the Aliens Office of the Waldeck-Frankenberg administrative district, it was proving too expensive to accommodate him within a closed unit of a mental institution. Erhan, who developed a psychosis at an early age, is a schizophrenic with a 'socially dysfunctional personality disturbance' which makes him a danger both to himself and to others. He was to be deported to Turkey despite the fact that all his immediate relatives lived in Germany and he barely spoke Turkish. The German consulate general in Istanbul admitted that facilities for the mentally ill do not exist in Turkey, but this piece of information was ignored by the judge who upheld the decision to deport him. Lawyer Reinhard Marx condemned the 'careless handling of the records of a psychologically ill man' adding that 'the judge didn't even read them through properly, even though a human life is at stake'.³¹**

In the UK, the Home Office said that it would seek expert guidance before removing a mental patient to a country where there were doubts about the appropriate medicine being available. A recent spate of cases, however, suggests that the Home Office is ignoring the very expert advice commissioned. Concerned by such developments, and particularly the case of Bonnet Malungidi Mbombila, (see below) Sandra Gidley MP, co-chair of the All Party Parliamentary Group for Mental Health, has warned that, while society is poor at understanding the problems associated with mental health disorders and even poorer at ensuring prisoners are treated positively, when you 'add

an asylum seeker into the mix' the 'individual seems to have no chance. Any society is measured by the way it treats the vulnerable. By all measures we are completely failing in humanity here.'³²

- **Rabie Boulia, a seriously-ill 24-year-old Moroccan, was deported to Casablanca in October 2004. He had been picked up by the Home Office in 2003 as an illegal entrant and detained in Norwich prison without charge or trial for two and a half years. Boulia's mental health deteriorated so seriously that he had a mental age of five, and had been known to eat his own faeces. A member of the Independent Monitoring Board (formerly the board of visitors) at Norwich jail, had warned that the man was too seriously ill to be deported. In Morocco, there was also no-one to care for him. His parents and six brothers lived in south London but had lost contact in 2003 and had been desperately trying to trace him. They only discovered that Rabie was in Norwich prison when the Moroccan embassy notified them of his imminent deportation.**³³

- **Another case in the UK involves a 32-year-old failed asylum seeker from the Russian Federation (who does not want to be named). A journalist and film-maker from Kabardino-Balkaria in the Caucasus, he says that he was arrested in Russia after making a documentary about Chechen refugees. While in prison, the authorities searched his flat and found evidence that he was gay. As a Muslim, he preferred to hide this from his family. The police, reportedly, made his sexuality public and he was subsequently disowned by his family. Professor Anthony Hale prepared a report for the Home Office in which he said that the film-maker was 'depressed and clearly unfit to travel as he has made clear his express intent to kill himself if he is returned to his own country'.**³⁴

- **In November 2004, a mentally ill asylum seeker from the DRC was deported from the UK. Bonnet Mbombila, aged 33, was a paranoid schizophrenic who needed a weekly injection, which he would be unable to access in the DRC, to keep his illness in check. Consultant psychiatrist Dr Jayasekera of Bolton Royal Hospital described his condition of paranoid schizophrenia as a 'long-term illness with a lifelong vulnerability to relapse of his illness'. Professor Anthony Hale said that the anti-psychotic drugs currently prescribed to Mr Mbombila were only available to the 'rich elite**

in third world countries such as the Democratic Republic of Congo'. The Home Office's own 2004 Country Report on the DRC states 'that the public health care system in the DRC has largely ceased to function' and that 'Public facilities that treat mental illnesses are few and far between and that those that exist are dilapidated'. In Mbombila's asylum appeal it was noted that his mother was Rwandan and he was therefore of mixed race. Both AI and the UNHCR consider returned asylum seekers of mixed race and specifically those of Rwandan background to be in a special 'risk category'.³⁵

This lack of care is even more reprehensible when it comes to children. The plight of asylum-seeking children who have lost the will to live, cited earlier, was in fact brought to national attention after deportation attempts.

- **In 2003, an 11-year-old girl from Kosovo, known only as Mariana, was deported from Sweden to Germany under the Dublin Convention, despite the fact that she was seriously ill. In fact, just prior to the deportation Mariana was in hospital, on a drip being fed intravenously. Journalist Gellert Tamil, who was making a television programme about the forced deportation of children, reported her case on national television. He was thoroughly shocked by what he saw. The professionals involved all thought they'd done a fantastic job but it was 'like they no longer see it's a child they're dealing with', he said. Following the programme, the National Social Welfare Board carried out an investigation into Mariana's case in which it criticised the local hospital, whose duty it was to care for children if their parents could no longer help them. Mariana was already suffering from mental health problems when she arrived in Sweden, she was too depressed for her parents to help her and continued to get worse as she was never treated. The psychiatric ward dealing with children and young people at the local hospital made a decision not to treat her because she was going to be deported, and treatment would be pointless. The clinic also failed to report the girl's condition to the social welfare agencies.**³⁶

- **Jennifer Ubami, who lived in a refugee reception centre in Boliden, Sweden, was taken for deportation to Macedonia, but the pilot refused to take her on board because of her serious medical condition. She was then taken to a Stockholm hospital, where it was impossible to communicate with her and she, too, had to be fed intravenously. Jennifer Ubami was**

seriously ill and if sent back to Macedonia no medical treatment would have been available. Media publicity eventually ensured that she gained permission to stay in Sweden on humanitarian grounds.³⁷

- In June 2004, Tanja, aged 13, was deported to Bosnia. She was severely depressed and had to be carried onto the aeroplane. The magazine *Artikkel 14* reported from Banja Luka where she did not have access to health care and spent all day lying on a plastic-covered mattress on the floor in a temporary office storage room. Her mother said that when they first arrived in Bosnia, the family were homeless and were forced to sleep on the streets until someone offered them temporary accommodation. The health authorities said that in order for Tanja to gain access to healthcare, the family should return to the area where they lived before the war. But Tanja's mother said it was impossible as, when she tried to return, she had been driven away.³⁸

- Nine days after Rufat, a 17-year-old boy from Azerbaijan, was hospitalised in a psychiatric ward, having lost the will to live, the Swedish Migration Board told his family that a specially equipped charter plane would be deployed to deport them, if necessary. Rufat needed 24-hour psychiatric care, and was fed intravenously. Rufat's mixed-race background singled him out for a serious racial assault in Azerbaijan, after which he became seriously depressed, but the family had hoped for an improvement in his condition in Sweden, and appealed against the decision to deport them.³⁹

The fact that people are suicidal at the point of deportation has led to horrific incidents at airports and other sites during removal. We have already recorded that in Ireland Mohammed Helal was sedated and deported despite a serious attempt at self-harm hours before his removal (see p.16). But his is not an isolated case.

- In May 2003 a 30-year-old Moroccan mother held in police custody while waiting to board a deportation flight from Lanzarote, Spain, suffered serious internal injuries after attempting to commit suicide by drinking a litre of bleach. The woman had asked passengers to keep an eye on her two young children before going to the bathroom and swallowing the bottle of bleach.⁴⁰

- In March 2004, in Sweden, a 37-year-old

failed asylum seeker from an eastern European country poured flammable liquid on himself and set himself on fire before passing through the checkpoint in the departure hall of Göteborg-Landvetter airport. Two passengers covered him with their jackets and the man was taken to hospital with severe burns.⁴¹

PICKING ON THE VULNERABLE

Such deportations are not confined to psychiatric patients – anyone with an illness that needs specific (and costly) medical treatment could find themselves targeted for deportation, as can anyone else whose claim may not fit strictly into the Geneva Convention definition of a refugee. Instead of compassion motivating decisions as to who deserves humanitarian protection, failed asylum seekers' very vulnerability seems to single them out as burdensome applicants to be removed at all costs.

- In 2003, Greece granted refugee status to just three people. For years, human rights activists have been campaigning for humanitarian status to be given to irregular migrants or asylum seekers who have had limbs blown off while attempting to cross the heavily-landmined Greek-Turkish border. In 2004, two boys who lost three legs between them due to landmines were given deportation orders, one on the eve of the paralympics. One young survivor hospitalised for eleven months, having lost both his legs and the use of his right arm, was handed a deportation order in his hospital bed. His response was 'How can I leave? I have no legs...'.⁴²

At an international summit for a mine free world held in Nairobi from 29 November-3 December 2004 the Greek Minister of Defence announced that the government would in future consider favourably giving mine victims prosthetic limbs and extended medical care. This coincides with Greece's obligations under the Ottawa Treaty (the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines, and on their Destruction). However, the Ottawa Treaty also calls for the 'social and economic reintegration' of landmine victims which many would argue should protect victims from deportation.

The failure to be recognised as refugees, as already indicated, particularly affected victims of rape or female genital mutilation. But young women and children, the victims of trafficking for enforced prostitution, are also affected. Despite the fact that, according to UNICEF and

Save the Children, 80 per cent of the victims of trafficking are under the age of 18 – that is to say children, under international law – many EU countries treat trafficking solely as a criminal matter, with the rights of child victims seldom acknowledged.⁴³ Human rights campaigners have long called for temporary or permanent residence permits (not linked to co-operation with police against traffickers) to be issued to victims in danger if returned home. But while Italy has set something of a lead in this matter, other EU countries are less generous.

- The Baltic Council's Commissioner for Democratic Development has criticised Denmark for giving the victims of trafficking just fifteen days' notice of having to leave the country, voluntarily or by force.⁴⁴

- In Greece, a law was approved in October 2002 stating that victims of the sex trade should be issued with a work and residence permit to enable both the prosecution of those who exploited them and their own rehabilitation. However, from October 2002 till March 2004, not one victim of the sex trade had benefited from the law.⁴⁵

- A 16-year-old orphan from Sierra Leone who was arrested by Berlin police during a raid on a brothel and then imprisoned for eight months, was deported to Spain despite having been granted leave to remain and having a doctor's certificate stating that she was suicidal. The girl, known only as Sophia, said that she fled Sierra Leone because her uncle, in whose care she was, planned to have her circumcised. In Berlin, she was forced into prostitution.⁴⁶

Illness

Nor is there compassion for those made vulnerable by illness or disease.

- In Germany, Mr and Mrs Oezmen, and their two children, aged 12 and 14, took sanctuary in a church in Menden-Lendingsen (Lower Saxony) after the family were issued with a deportation order. They were to be deported to Turkey, despite the fact that the Kurdish couple were both seriously ill. Fikret, 54, who has lived in Germany for fourteen years, suffers from serious kidney disease requiring dialysis thrice weekly, and also has cancer, diabetes and eye disease. In Turkey he would probably die, as he has almost no financial resources and could not afford to pay for dialysis. His wife has diabetes and serious psychological illness requiring intensive medical and therapeutic treatment.⁴⁷

- An attempt to deport a severely ill man, 44-year-old Ahmed Saado, to Turkey failed at the last moment when he collapsed at the airport. During 2004, Mr Saado had had a number of heart and stomach operations. He arrived in Germany nineteen years before, fleeing the civil war in Lebanon, and four of his seven children were born in Germany. Mr. Saado left Turkey at the age of 3, and has never been back since. He belongs to the Arabic-speaking Mahalmi minority, which used to live in south-eastern Turkey before emigrating to Lebanon, where they were not granted citizenship but lived as stateless persons.⁴⁸

- Hooman was a 27-year-old failed asylum seeker who fled from Iran to Sweden in January 2003 after evading military service and who feared imprisonment (he had already suffered physical abuse after being imprisoned after the military accused him of an irregularity). In Sweden, Hooman was diagnosed with a rare virus which caused his muscles to stop functioning and wither away and from which there is no known cure. As his illness progressed, he became very distressed and was diagnosed with post-traumatic stress disorder (PTSD). In a letter from the Swedish Migration Board outlining its decision not to grant asylum, he was told that he probably had nothing to fear from the authorities for evading military service because of his illness. Besides which, as the illness was incurable, nothing could be done to help him in Sweden. The Board suggested that if he returned to Iran, his grandparents (his only remaining family aged 85 and 73) could support him.

While Hooman contested the refusal of his asylum claim, his local council refused to pay for his care, while his doctor said what he needed most urgently was the elimination of stress. The doctor also says that Hooman needs a physiotherapist as well as a home modified for disabled access, but nobody was willing to pay.⁴⁹

Aids

The ECtHR had ruled that the removal of a terminally ill Aids patient, to a country where there was no treatment and where the patient would die a painful and distressing death, was inhuman and violated Article 3 of the ECHR which prohibits torture or inhuman or degrading treatment or punishment. (*D v UK* 1997) However, on 25 November 2004, in another ruling involving a rejected Togolese asylum seeker with Aids from the Netherlands, the ECtHR made a clear distinction between a terminally-ill patient without fam-

ily members to provide care and those who were not in the advanced stage of full-blown Aids.

- **Mr Amegnigan, a Togolese asylum seeker with Aids who had had his asylum claim rejected three times in the Netherlands, needed anti-retroviral drugs to survive. According to his specialist, if his HIV therapy were stopped, he would regress to the advanced stage of the disease which, given its incurable nature, would entail a direct threat to his life. However, the ECtHR in ruling that Mr. Amegnigan's case was 'manifestly unfounded' suggested that it was different from that of the St. Kitts applicant in D v UK 1997 in that the applicant had not (yet) developed full-blown Aids and that 'adequate treatment is in principle available in Togo, albeit at a possibly considerable cost'.⁵⁰**

The ECtHR's second ruling tallies with court decisions in member states where there is a hardening attitude to Aids victims, as well as others with severe, life-threatening or terminal illness, who are on anti-retroviral or other expensive or specialised treatments. In the UK, it is now virtually impossible to win an Aids case on humanitarian grounds. (The Home Office used to give such people leave to remain for 12 months at a time, or for four years, allowing for the possibility of eventual settlement. However, around 2000, it tightened up and now only grants leave to remain where a person is at death's door or has young children whose own lives would be put at risk by a return.)

- **In 2003, in the case of N., the Court of Appeal said that the removal to Uganda of a young woman currently on anti-retroviral treatment, who would suffer an early and painful death if she were forced to return, was not inhumane or degrading. The case went to the House of Lords in February 2005. A decision is awaited.⁵¹**

Racial violence

In the case of racial violence victims in Germany, the physical and psychological problems suffered by those who have faced neo-Nazi violence is actually being cited by officials in eastern Germany as grounds for their removal.

- **An Algerian asylum seeker from Brandenburg, near Berlin, identified only as Khaleb B., lost his right to stay in Germany on the grounds that he was no longer mentally fit to manage his own life. His lawyer said that this was because of the trauma he underwent in February 1999 when he watched his friend being lynched in the streets of Guben near the Polish border.⁵²**

- **In July 2003, in Germany, Orabi Mamavi, a Togolese asylum seeker living in Rathenow (Brandenburg) was issued with a deportation order despite the fact that criminal proceedings against rightwing extremists were ongoing in a case in which he was a principal witness. Mamavi had received an eye and neck injury during the attack.⁵³**

- **On 29 July 2003, the district of Schmalkalden-Meiningen (Thuringia) deported a 43-year-old Vietnamese man who suffered physical and psychological problems after being badly beaten by neo-Nazis in October 2001.⁵⁴**

Hardship status

In the Netherlands and Switzerland, a protracted battle is under way to halt governments from placing even more restrictions on the granting of humanitarian protection.

- **In Switzerland, the canton of Vaud (see p.12) sponsored the applications of 523 rejected asylum seekers, most from the former-Yugoslavia, for applications for residence on humanitarian grounds. But when the Federal Office for Refugee Affairs rejected the applications, it seemed that the canton would go ahead with the expulsions. However, the cantonal government was prevented by a large opposition movement, including a majority within its own cantonal parliament, and municipalities, including Lausanne, the capital. Jean-Pierre Hocké, a former head of the ministry for foreign affairs of Vaud, pointed out that among those to be expelled were widows from Srebrenica and 'a young 20-year-old woman, perfectly integrated, who knows nothing of her country of origin which she left at the age of five? This is absurd and examples of this kind are numerous,' he said.⁵⁵**

The Dutch target to deport 26,000 'failed asylum seekers' came after the giving of a limited amnesty granting residence rights to 2,000 asylum seekers who had lived in the country for more than five years. While another 2,220, who had claimed 'hardship' status, were given permission to stay, many more who had applied for residence under the special pardon regulation were deported, even before the criteria for hardship status had been finalised. In fact, the IND had acted unilaterally, refusing applications for clemency and ordering people out of asylum centres.

- **In August 2003, lawyers for a Somali woman,**

who failed to gain residence under the Dutch amnesty programme, took her case against deportation to the Maastricht court which ruled in her favour. The woman – a single mother with two children – was issued with a deportation order, just two weeks after she applied for residence under the pardon regulation. The Maastricht court ruled that she could not be deported because uncertainty existed around the Dutch regulation stating that asylum seekers who are in ‘distressing’ or exceptional circumstances can remain in the Netherlands.⁵⁶

This complete disregard for humanitarian principles is not going unchallenged. During the parliamentary debate on the new law in the Netherlands, it was revealed that a commission, set up by the government, had advised immigration minister Verdonk to extend the amnesty, reassess the dossiers of all asylum seekers who had waited for five years or more for a decision on their asylum claim and take a case-by-case approach in line with humanitarian principles to those who suffered illness and could not be treated in their homeland. (It seems that only 2 per cent of asylum seekers applying for residence on humanitarian grounds had been issued with permits under the amnesty).⁵⁷ The chair of the opposition Labour PvdA party, Ruud Koole, wrote to PvdA mayors urging them to ‘gather information over distressing situations of asylum seekers threatened with deportation’. By gathering such information, he said ‘the inhumane effects can become clear and the real people behind the figures can become visible’.⁵⁸

DENIAL OF RIGHT TO FAMILY LIFE

The other main area in which humanitarian protection or discretionary leave to remain applies is the right to family life and private life (understood to mean the sum total of a person’s ties of friendship, family, sexual, business, employment etc.) Article 8 of the ECHR protects the right to private and family life and in 1986, the ECtHR ruled that splitting up families by expelling a member or refusing entry to a member could violate Article 8 if the family couldn’t be together as a family anywhere else. In many countries of Europe, written constitutions also guarantee the right to family life. Yet in many cases already discussed involving the seriously ill, the right to family life, and consideration of Article 8 of the ECHR, do not seem to have entered the deliberations of immigration officials when issuing deportation orders.

What family life can Nigerian mothers, who have opposed the genital mutilation of their

children, expect for themselves and their daughters on return to Nigeria? The young Rwandan woman who watched as her parents were hacked to death in Rwanda was to be removed from her new family in the parishioners of St Nicolas – who constituted the sum total of her social relationships. How will the seriously ill care for their children if returned to countries where no medical care is available? And who will look after their children when they die, prematurely, through lack of basic medicines? Did the British immigration officials consider Rabie Boulia’s right to a family life when they literally dumped this vulnerable young man, with a mental age of five, on the streets of Casablanca, despite the fact that his parents and brother lived in London?

In all these cases, the denial of family life was an indirect result of deportation policies that target the seriously ill. But other cases involve a direct attack on the right to family life and the rights of the child under international law.

Immigration law versus international law

As human rights groups and lawyers increasingly challenge deportation orders that split families, European interior ministries are locked in legal battles over which takes priority – domestic immigration law or international human rights law. The UN Convention on the Rights of the Child (1989) requires that the child’s best interest be paramount in executive and judicial decisions and actions. Interior ministries, however, argue that the need of the immigration service must take priority over the rights of children. Furthermore, European Court and constitutional protections are being undermined by a raft of new laws that effectively prioritise immigration law over the rights of foreign families, even if the children of these families were born in Europe, and even if the parents had been long-term residents. The fact that a family is well-integrated and settled into European society should provide some protection from deportation; but increasingly it doesn’t.

LEGISLATION ATTACKING CHILDREN’S RIGHTS

Underpinning the raft of new deportation measures across Europe is a fundamental attack on the human rights of the children of asylum seekers who, as Nicola Rogers, a British barrister specialising in immigration law recently commented, no longer seem to be treated as children but simply as an extension of adults, scum, leeches.⁵⁹ Laws brought in by various member states differ in that some are aimed at curtailing

family rights, others at minimising the rights of unaccompanied minors, but each seeks to divest the state of its obligations towards the children of foreigners, particularly if they are asylum seekers.

Hence, in Spain, the state prosecutor issued guidelines in September 2003 to all prosecutors asking them to return foreign minors who attempted to enter Spain illegally to their country of origin. (The law was aimed primarily at Moroccan children who come unaccompanied to Spain often in rickety boats across the Strait of Gibraltar.) In the past, Spanish public authorities had had a duty of care towards such minors, particularly if they were deemed *desamparo* (defenceless). (*Desamparo* has a legal meaning relating to things such as the absence of parents, or the means of subsistence.) The state prosecutor argued that in many cases those intercepted crossing into Spain illegally were neither minors, nor 'defenceless', and that there was a need to 'maximise precautions for the system of rights and guarantees of the European Union member states not to be used fraudulently by the infringers of ... immigration laws to impose a residence that is completely inadmissible'.⁶⁰

In France, a new law came into effect in September 2003 aimed at making it harder for unaccompanied children to enter French territory and seek asylum by permitting the detention of unaccompanied children in the waiting zones of airports. The only protection these children seem to have from arbitrary decision-making comes from a nominated ad hoc administrator who is instructed to represent the interests of unaccompanied minors held in waiting zones and 'assist' them in all legal and administrative formalities. The result, according to the ANAFE is that unaccompanied children are regularly deported without their asylum claims being properly considered. A similar attack on the rights of unaccompanied children is set to take place in the UK. Under its five-year plan on immigration and asylum, the government is seeking to tighten the law to make it easier to remove unaccompanied minors. At present immigration officials have to trace the whereabouts of a child's parents before deportation but in future this may not be required if it can be established that they will be placed in the safe care of an agency or government.

The roots of similar legislation in Ireland are somewhat different. As part of the 1998 Good Friday Peace Agreement, anyone born on the island of Ireland, including British-controlled Northern Ireland, and not already entitled to nationality of another country, had the right to

Irish citizenship. In June 2004, the Irish government sought to challenge this by a referendum, which returned a yes vote in favour of the Supreme Court ruling that non-EU nationals with children born in Ireland should no longer enjoy the automatic right to stay in the country. Hence, a new law restricting the grounds for Irish residency affects around 8,500 former asylum seekers. Human rights groups were concerned because this group of people had been actively encouraged by the justice ministry to withdraw asylum applications and follow the route of application for residency on the grounds of having an Irish child. Now, the same so poorly advised people have been given just fifteen working days to make written representations for 'temporary leave to stay on humanitarian grounds' (no legal aid being made available to fill out forms and many lawyers charging fees beyond the reach of applicants) or agree to a 'voluntary returns' option. By November 2004, according to Department of Justice figures, thirty-two parents of Irish children had been deported, while another 352 deportation orders had been signed. The Irish government has also ruled that the partners of Irish citizens, whose marriages have broken down, will also be deported – leading to the potential expulsion of women, who have worked perfectly legally in Ireland for years, solely because their partners have left them and their children.

But agitation against the ruthlessness of such policies can claim some success in the courts. In Ireland, there have been successful legal challenges against the Supreme Court judgement and, in October 2004, the case of Man Lavette Chen, a Chinese national whose daughter was born in Belfast, was brought before the ECJ which ruled that children who are citizens of the European Union have the right to the care and company of their parents.⁶¹ In December 2004, the government agreed to debate proposals for granting residency in Ireland to migrant families with Irish children. The Coalition Against the Deportation of Irish Children (CADIC) hopes that the government may eventually have to readmit the deported parents of Irish children.

In Spain, in October 2003, the new Director of Public Prosecutions repealed the instruction of his predecessor urging the expulsion from Spain of minor illegal immigrants older than 16 years of age. This followed the intervention of the ombudsman, who warned of 'the erosion of certain fundamental principles'.⁶² In Germany, the Higher Administrative Court has ruled that officials cannot deport foreigners who are the

parents of a child with German citizenship, arguing that constitutional protections for the family have priority over immigration law. The Swedish authorities have responded to the plight of desperate asylum-seeking children by promising that asylum seekers with dependants will be given top priority in order to stem the development, because of lengthy waits. (The government has, however, refused a request from five opposition parties that all children suffering from clinical apathy be granted asylum on humanitarian grounds.) In the Netherlands, immigration minister Verdonk is under concerted pressure to extend the amnesty to all asylum seekers who have been in the Netherlands for five years or more and to take a more charitable approach, especially where children are involved.

TARGETS PRIORITISE FAMILY REMOVALS

The German, British and Irish governments seem to be targeting children as a means of coercing parents into returning. According to German refugee support workers the Aliens Offices often play on the vulnerable elements of families' feeling of belonging together in order to use the obligation of one individual to leave Germany to indirectly induce other family members to leave 'voluntarily'. This seems certainly to be the aim of new legislation in the UK. The Asylum & Immigration (Treatment of Claimants) Act 2004 allows for the withdrawal of all support from failed asylum seeking families, which could result in their children being taken into care, if their parents refuse to leave the country voluntarily. Up to 2,000 children in the UK could be affected. Ireland is unique among European countries in that the children being deported are actually Irish citizens. As the Irish-born children are not themselves subject to a deportation order, parents are instructed that, although they must leave Ireland, they do have the option of placing their Irish-born children into care.

In the UK, it is alleged that the government's deportation targets lead to prioritising family removals, particularly if those families are headed by sole women. People working in the field of immigration law believe that, given the pressure on immigration officers to meet quotas for removals, women with young children are being targeted for detention and deportation because it is assumed that they will go quietly. Stories of ill-treatment and injustice involving women and children are becoming more frequent.⁶³ A May 2003 memorandum from the union representing immigration staff, the Public and Commercial Services Union (PCS), to the Home Affairs

Committee Inquiry into Asylum Removal states that the pressure for instant results means that the removal of families is being prioritised seeing that 'families deliver huge cost savings in asylum support, compared to the negligible savings from removing single males'. Internal Immigration Service documents reveal a government target of removing 160 families a month.⁶⁴

Alarming, German deportation officers, in their haste to meet targets for removal, have actually deported children separately from their parents (or vice versa) in contravention, not just of international law, but of Article 6 of the German constitution, which upholds the right to family life.

In December 2004, Pro Asyl published a pamphlet documenting seventeen drastic cases, all assembled within a short space of time, of families being separated through deportation. 'The number of deportations in which families are torn apart has increased drastically' states Pro Asyl. 'Parents are deported while their children are at school, and children are removed from the country while their father is visiting the psychiatrist or their mother is out shopping.'⁶⁵ In the first two cases below there appears to be no recognition by state officials that they have a duty of care towards children; nor do the deportations take into account that under German law a deportation can be halted in order to wait for the outcome of the asylum applications of all family members.

- **On 6 May 2004, police from the district of Usingen (Hesse) deported Mr and Mrs Koyun to Turkey, separating them from their three children, aged between 16 and 12, who were left behind. Unable to find the children immediately (they had disappeared on the way to school), the officials, who had booked five tickets on a Lufthansa flight, went ahead with the deportation of the parents. The deportation was discussed in the Hesse state parliament with the actions of the police criticised as an infringement of Article 6 of the German constitution, which enacts the special protection of the family, and also Article 8 of the ECHR.⁶⁶**

- **Usingen police officers were also involved in the deportation of three children, aged 14, 16 and 19 to Turkey, without their parents. Police arrived at the home of the Boczdogan family in Neu-Anspach at six in the morning, and since the mother was sick and the father and another son were travelling, they took the three children away in handcuffs – not giving them time to eat, wash or take money with them. The children were taken directly to the airport and**

deported to Istanbul. Had the social service at the airport not given the children 50 Euros, they would have arrived in Turkey completely destitute.⁶⁷

- On 11 August 2004, the Berlin Aliens Office deported a number of traumatised refugees from former-Yugoslavia who had lived in Berlin for years. Two families were broken up. The deportation separated one 40-year-old man, at acute risk of suicide, from his wife and children. He had come to Germany in 1993 and was receiving psychotherapeutic treatment because of the effects of his experiences in the civil war. In another case, a man and his daughter from a Bosnian family were deported while the mother and another daughter remained in Germany because they had applied for asylum and their applications were still being processed.⁶⁸

- On 1 July 2004, the newspaper *Hamburger Abendblatt* reported that the Aliens Office intended to deport 17-year-old Merdiye Erman, of the district of Segeberg (Schleswig-Holstein) to Turkey on her own. Her parents and her siblings who were still minors could remain in Germany, as their asylum proceedings were pending. The family, who are Kurdish, lived in Germany since 1996. They say that Merdiye's father and one of her sisters were tortured in Turkey after the father had refused to perform military service.⁶⁹

- On 18 February 2004, between ten and fifteen police officers stormed the flat of the Shala family in the district of Döbeln in Saxony. The two sons aged 18 and 19, were absent. Mrs Shala was led out of the house while the 18-year-old daughter was carried out by police. Mr Shala would have been entitled to remain for the time being, due to proceedings still pending in the administrative court, but didn't want to be separated from his family. He was handcuffed and handled so roughly that he had to be taken to hospital with bruises and a broken arm. His wife suffered a nervous breakdown and was taken to a different hospital. The authorities thereupon decided to deport the daughter on her own. The police were searching for the sons.⁷⁰

Similar cases have been reported in the UK, Ireland and Switzerland.

- In 2002, Aziz Ahmed was deported from the UK to Zanzibar despite the fact that his wife and 4-year-old daughter had disappeared four-

teen months earlier, and the police had launched a missing persons inquiry. When Mr Ahmed originally applied for asylum he was separated from his family, interviewed, arrested and taken to a police station. He never saw his family again. Pleas from politicians from all parties not to deport Mr Ahmed, while his wife and children were missing, were ignored by the Home Office.⁷¹

- Mr Ay, a Kurd who fled Turkey with his wife fifteen years earlier, came to the UK after living in Germany. He lodged an asylum claim, but it was rejected and he was then immediately deported to Germany and then on to his homeland, where he hasn't been heard of since. Following this, Mrs Ay lodged a claim which was rejected, and with her four children she was deported to Germany on 5 August 2003.⁷²

- Mrs Rachel Igbojionu, a Nigerian asylum seeker, went, with her two Irish-born children (aged two and four) to attend a routine appointment at the Police Immigration Bureau in central Dublin, whereupon she was arrested. The police took her to her apartment and instructed her to collect clothes for the children. She was then taken handcuffed, alongside her two children, to the airport for deportation. When her husband Kingsley Igbojionu arrived home later that evening, he had no idea that his wife and family had been deported. It was only two days later that he received this information from the Gardai. Months later, Mr Igbojionu was deported as well. The whole family now live in a hostel in Lagos as Mr Igbojionu is too frightened to return to his home in the countryside where he fears persecution. The two young children are malnourished and have been hospitalised twice. The parents want to send the children back to Ireland for adoption. 'That's the decision my wife and I have made as we believe it's the best thing for the children', said Mr. Igbojionu.⁷³

- In November 2004, two Ecuadorian girls, aged 13 and 17, were deported from Basel, Switzerland, despite protests from their teachers. The two girls had been arrested by the police and put under pressure to reveal their mother's whereabouts. Since the police did not manage to find the girls' mother, they decided to deport the girls without her.⁷⁴

There is also a tendency to move quickly in order to deport young people as soon as they reach maturity. That a young person may be well

integrated or vulnerable through loss of other family members, is not taken into account.

- In July 2004, 18-year-old Remzi Kilic was threatened with deportation from Hesse, Germany, to Turkey. Already, in the Autumn of 2003, the Aliens Office had told the whole family to leave, whereupon Remzi's father took an overdose and his mother, in despair, poured petrol over herself. Subsequently, she spent several months in a psychiatric clinic. Neither Remzi nor his younger siblings speak Turkish.⁷⁵

- In the UK, in November 2004, Amin Buratee, an 18-year-old Afghan, was arrested by immigration officials and taken to Dover Immigration Removal Centre for deportation to Afghanistan. Amin had fled Afghanistan aged 16 as an unaccompanied minor when the Taliban targeted his family because of their involvement in the Communist Party. In 2001, Amin's uncle and brother were tortured and killed by the Taliban. Amin's father arranged for him to flee and after six months of traumatic travel he arrived in the UK where he claimed asylum. Following Amin's arrest, pupils at Canterbury High School were so devastated that they launched an immediate campaign, supported by five other schools which also had pupils who would be vulnerable to deportation when they reached 18 and are no longer classified as minors. Following pressure, the Home Office granted Amin temporary permission to remain so that he could complete A levels.⁷⁶

- In February 20 2005, Blerim Miloja, an Albanian, was arrested during what he believed to be a routine visit to the Home Office and placed in pre-deportation detention. His arrest came just two weeks after his eighteenth birthday. Blerim Miloja, an orphan (both his parents who had been politically active had been shot dead in separate incidents) came to the UK aged fifteen and was being treated by the Medical Foundation for the Care of Victims of Torture, He was still living in south London with his foster parents at the time of his arrest. His foster mother was devastated at the manner of his arrest, saying it was as though he had been 'kidnapped. They tricked us and didn't even phone me to tell me' she said. Mrs. Watts added that 'I was just given him to look after – as a son and he calls me "mum" now. I was never told that he'd be taken away from me.' Blerim Miloja's deportation has been delayed pending a judicial review.⁷⁷

- The German lawyer Ursula Schlung-Muntan cites the case of her client, a young Bosnian woman just about to sit her school-leaving exam. 'She was just due to sit exam papers, and had the misfortune of already being 18-years-old. Officers from the Frankfurt Aliens Office got her out of bed at six in the morning and took her to the airport, without having announced the deportation. In fact, appeal proceedings were still underway. If I hadn't happened to be in my office at 7.00am and the mother of the girl hadn't reached me, then she would have simply been deported. I was still able to raise the matter of the girl's traumatisa-tion and get her off the aeroplane at the last moment.'⁷⁸

In Ireland, stripping parents of Irish children of residence rights, created a target for the deportation of 10,000 parents, causing significant stress for families who feared they would be removed. The authorities, however, have shown that they will deport parents no matter the impact on the child.

- A distressed mother was deported in the middle of the night, and a young baby now remains in Ireland without its mother, according to Aisling Reidy, director of the Irish Council for Civil Liberties. It seems that the mother – one of twenty-five Nigerians deported on a chartered flight – had refused to give information about the infant's whereabouts to deportation officials, who deported her anyway. The baby is believed to be a girl, at most nine months old, who may be with her father.⁷⁹

- In Kerry, Ireland, in September 2003, Nteta Appiakorang, a South African mother of two fled to London a day after she had received a deportation order, leaving behind her two daughters, aged 11 and 8. Ms Cara Wallace-Costello, an Irish woman who had befriended the family, said she believed Mrs Appiakorang had been in a state of terror when she fled, and had acted to protect her two children from deportation as her major concern throughout the asylum process had been their well-being. In a note Mrs Appiakorang said she wasn't going back alive to South Africa. She had taken alcohol and medication and there were fears for her safety.⁸⁰

Deportations of dual nationality families

Many of the cases already listed involve the deportation of different members of one family, at differing times. But in some cases, where parents are of different nationalities, the deporta-

tions can involve sending the father to a different country to that of the mother and child, in breach of Article 8 of the ECHR.

- **In Norway, in January 2004, the State Aliens Appeal Commission ruled that a dual nationality family (the father had Indian nationality, while the mother was from Chechnya) could be expelled, even if it meant breaking up the family. The ruling suggested that the mother and two small children should be sent to Russia, the father to India, as neither country was willing to receive the whole family. Prominent members in the municipality where the family lived launched a campaign for the family to stay in Norway on humanitarian grounds.⁸¹**

- **In the case of the Shimansky family deported from Finland (see p.17) the father, Mykola, was Russian and the mother, Natasha, Ukrainian. The father feared return to Ukraine, where he had served as a frontier guard and complained of rampant corruption. Today, Mykola lives in Russia, while his wife and daughter live in the Ukraine. They keep in touch by telephone.⁸²**

INTEGRATION – NO DEFENCE

In the past, mitigating factors – such as length of residence, integration into the community, the ability of a child to integrate into the parent's country of origin – would have been taken into consideration as mitigating factors against a deportation. In the case of the Koyns and the Boczodogans, each of these Turkish families had lived in Germany for more than ten years, with the children's primary language being German. Referring to the case of the Indian/Chechen family under threat of expulsion from Norway, Conservative MP Inge Loenning declared that he couldn't understand why the regulations needed to be so inflexible as to exclude the use of common sense, pointing out that the family were well integrated into the local community and that the father was working. Across Europe, children's rights groups and politicians have called on governments to take a more compassionate approach particularly when families are involved. The Dutch Council of Churches says that when families have been successfully integrated into communities, those communities would undoubtedly oppose deportations. And the Special Commission examining the Dutch amnesty and deportation law, had asked that families' ability to integrate into Dutch society should be the deciding factor when determining cases. Immigration minister Verdonk seems to have

ignored this as well as opposition demands that families not be separated, children not be detained and adequate methods be deployed to determine who can and who cannot return to their home country.

- **The United Nations Committee on the Rights of the Child has called on the German authorities to 'take all necessary measures to review its legislation and policies regarding Roma children and other children belonging to ethnic minorities seeking asylum'. An investigation into the forcible expulsion of Roma from Germany to Serbia and Montenegro occurred after Romani children born in Germany, who had attended German schools for significant periods of time, were expelled. A lesser number of expulsions to Kosovo have also occurred. Some families had been in Germany for more than a decade as 'tolerated refugees'.⁸³**

As we saw in the case of Amin Buratee, the desperate circumstances of some children under threat of deportation elicits support from their school fellows and teachers which then brings them into direct conflict with the immigration services. In the UK and Germany, school children have often been at the forefront of anti-deportation campaigns.

- **In Germany in 2002, when 40-year-old Kurdish Hüseyin Vurucu killed himself by jumping under a train out of fear of deportation back to Turkey, and his widow and children were then issued with a deportation order, school fellows collected over 1,200 signatures for a petition to allow the family to stay. A final decision on the case is still pending.⁸⁴**

- **In 2005 in the UK, a campaign was mounted by pupils at Mayfield School in Portsmouth to prevent the deportation of Mrs Sulaiman, a Kurd from Syria, and her two daughters, Eva (16) and Lorin (15). They were arrested by immigration officials in October 2004 and placed in detention. Feelings amongst Lorin's school fellows are said to be running high, and the head teacher has had to organise counselling for pupils because they are so distressed about the imminent deportation of the family. The parents were both active in Weketi, a Syrian political party which campaigns for Kurdish rights, and nothing has been heard about the father since he was jailed for putting up posters in 1993. The mother was also jailed for political activity between 1997 and 2002, and claims to have been tortured.⁸⁵**

Teachers' unions in several countries have also expressed concern that new laws, permitting immigration officials to enter schools to arrest children for deportation, conflict with their pastoral duty of care towards children. In December 2004 in France, the trade union federation SUD Education sent an open letter to the minister of education deploring the fact that, on several occasions, the chief education officer had issued descriptions of missing children as a ruse to track down the children of families subject to deportation orders.⁸⁶ When a school principal or teacher replied to the request for information, the police arrived at the school to arrest the child and place him or her in detention. SUD Education's argument that the school must not become the site of deportation was reiterated by the Scottish Children's Commissioner who is launching an investigation into the deportation of asylum-seeking children and the distress it causes to the child's friends at schools when they are removed.⁸⁷

- In France, Monique Bochet, a spokesperson for the teachers' union FSU in d'île-et-Vilaine, Rennes, condemned the immigration authorities for tracking down Congolese Luzeyido Bondo through the use of the academic records of her six-year-old son Randy. In October 2004, Ms Bondo was arrested and taken to Rouen detention centre when she went to pick Randy up from school. 'School must remain a sanctuary where children are protected', said Bochet. 'Otherwise we will risk a situation where the children of illegal immigrants will not go to school for fear of helping in the arrest of their parents.'⁸⁸

- In Berlin, Germany, two Bosnian schoolgirls, aged 11 and 12, were taken directly from their classroom at school to the deportation prison in Berlin-Köpenick. Their parents had previously been detained.⁸⁹

TREATMENT OF UNACCOMPANIED CHILDREN

As we have seen, there is a hardening attitude towards unaccompanied children. In the UK, the Home Office, which, till now, had given 'leave to remain' to unaccompanied minors whose asylum claims had failed (until they reached the age of 18), is developing a pilot scheme to return unaccompanied minors whose asylum claims have failed. Currently, this applies to Albanian children. But Save the Children and the Medical Foundation have voiced grave concerns, pointing out that in Albania there is no statutory child care or protection structure and that children

have been trafficked into crime and prostitution there.⁹⁰

In France, the new law which allows for children to be detained in airport waiting zones on a par with adults, is leading to arbitrary decision-making and the deportation of children to an uncertain future. In one case, an unaccompanied Congolese child was actually deported on the orders of the ministry of interior and against the express wish of a judge on children's matters. The fact that children arrive in France with forged documents is used as a justification for deportation in violation of the Geneva Convention.

- **Christelle, a 13-year-old Haitain girl, who was sent to France on forged documents by her father (her mother lived in France) and arrived in Paris on 27 May 2004, was held in the waiting zone of Roissy International Airport in Paris for six days. There, the authorities X-rayed her to determine her age (they claimed she was 17), before rejecting her asylum application and repatriating her to Haiti on 2 June. The girl's mother was legally resident in Paris, she had a birth certificate proving her daughter's age. But by the time the mother gained access to the waiting zone, the child had been deported. The 'guardian' appointed to represent her interests did not contest the decision to deny her asylum nor the decision to keep her in the waiting zone for six days.**⁹¹

- **Aïcha, a Congolese girl, aged 8, arrived at Paris International Airport from Benin on 18 April 2004 and was kept in the waiting zone for weeks on end while the authorities attempted to expel her. The authorities said Aïcha had attempted to enter France illegally on a forged diplomatic passport. They were also not convinced that her parents, who were both asylum seekers legally resident in France, were in fact her parents. On Aïcha's second court appearance, the court was presented with documents and other evidence proving that she was the daughter of the couple. However, the court of appeal considered the documents insufficient and sent her back to the waiting zone. The judge said that 'it must not be forgotten that the so-called parents had organised her arrival in a totally illegal way'.**⁹²

- **On 1 October 2004, an unaccompanied Congolese boy who had arrived without documents at Roissy Airport in Paris on 24 September, was expelled despite the fact that a judge for children's matters at the court in Bobigny had concluded that the boy was in danger if returned. The only family the boy has**

now resides in France, and the judge had ordered that he be placed in the care of his aunt for three months while his case was further examined. But the ministry of interior intervened, disputing the boy's claim to be under 18, and obtained from a judge authorisation to continue holding the boy in the waiting zone of Roissy Airport.⁹³

During the weekend of 8-9 January 2004, four children aged between 4 and 15 were detained in Roissy's waiting zone.

- **Emilie, a 14-year-old Congolese, had two experiences of the waiting zone. According to ANAFE, Emilie was seeking to enter France as an asylum seeker, in order to be reunited with her German father who already lived in France. Arriving on Christmas Day, the French authorities deported her 'handcuffed for the entire journey' to China as she had transited through China en route to France. The Chinese sent her straight back to France where she attempted to claim asylum again. It was only after Emilie refused to board another flight to China, that she was taken to the detention centre at Roissy where the authorities refused to allow her access to her father's solicitor.⁹⁴**

As in so many other areas covered in this report, there seems to be a total absence of monitoring or review procedures to assess the human rights impact. This is even more culpable when it comes to children, for whom the state has a duty of care, no matter their nationality or immigration status. In Ireland, the Children's Rights Alliance had repeatedly called on the minister of justice to undertake a Child Impact Review to look at any obstacles that might prevent children, awaiting deportation, from accessing their constitutional and human rights. For example, some children would not be accorded citizenship in their parents' countries of origin, while in countries such as Romania and Moldova, the parents would have to pay a monthly fee for a temporary visa so that their children could live in their countries of origin. Three Irish children, forcibly removed to Nigeria, a country for which they required visas, would be treated as foreigners, according to CADIC. But when it tried to raise this and the separation of parents from children with the minister, he said that he refused to be 'blackmailed' by parents. The Irish minister is not alone in deploying the 'blackmail' argument. The idea that parents are using their children as pawns to force through asylum applications is a refrain repeated time and time again by ministers across Europe.

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5. Destitution, detention and human rights

Politicians may well respond to allegations of human rights abuses in forced deportations by arguing that force is only used as a last resort. If failed asylum seekers would only leave voluntarily, then force would not have to be used. But the distinction between a voluntary and a forced deportation is, in any event, becoming blurred as European governments adopt methods such as the removal of benefits which effectively compel rejected asylum seekers to leave. And the conditions of pre-deportation detention are themselves so harsh as to arguably constitute cruel and degrading treatment, in violation of international law. The increasing incidence of suicide and self-harm amongst asylum seekers, both in detention and on the streets, is the final indicator of the inhumanity at the heart of the EU's target-driven Deportation Programme.

CONSTRUCTIVE REFOULEMENT

In its Standing Committee document 'Legal Safety Issues in the Context of Voluntary Repatriation' and other documents, the UNHCR states that the decision of a refugee to return to her/his country of origin should be based on a 'free and informed choice', and that the situation in their country of asylum must be sufficiently secure to permit free choice. The deliberate denial of economic, social and cultural rights by the host country or region, UNHCR notes, could result in a 'constructive refoulement'. It is not a voluntary repatriation if, for example, a decision to leave is predicated on a denial of the right to food, to work, or to education.

Yet, throughout Europe, asylum seekers have been denied all these rights. Over the last ten years, European governments have brought in legislation denying asylum seekers access to employment, social security and public housing. What asylum seekers have been offered instead are reduced benefits and accommodation in sub-standard hostel accommodation resembling a system of poor relief rather than a system of welfare. But rejected asylum seekers are excluded from all benefits and health care (save emergency care) and must rely on emergency shelters, hardship funds and charitable institutions to survive. Rejected asylum seekers who cannot return to their countries of origin, through no fault of their own, owing to war and ongoing conflict, are also subjected to this

harsh regime. European governments are reducing benefits even further for Iraqi asylum seekers, openly using welfare as a lever to pressurise them to return. This is deplored by UNHCR which has issued an advisory, calling on all countries hosting Iraqis to refrain from sending them back to their home country by force or with the use of financial incentives or punitive rules, pointing out that subsequent returns hardly constitute 'voluntary repatriation'.

One of the results of this harsh regime is the increase in destitution amongst asylum seekers, now reaching crisis point in some European cities. European governments, in pursuing policies based on constructive refoulement, are ignoring the human cost as evidenced by the increasing incidents of suicide and self harm amongst rejected asylum seekers.

- **Shortly before Christmas 2003, Samuel Ambaryan, a 28-year-old Georgian asylum seeker who came to Norway in 2000, set fire to himself outside the Norwegian parliament in a suicide attempt. He had been living in a church in Hamarøey where he had suffered several breakdowns and was in poor health. He survived, but was subsequently deported.¹**

- **In May 2004, Zekria Ghulam Mohammed, a 27-year-old Afghan, hanged himself in his flat in Glasgow. Mohammed had been living in Scotland for four years and, prior to his death, his asylum claim had been refused and his benefits stopped. He was also facing eviction from accommodation provided by the National Asylum Support Service. The Afghan asylum seeker had been studying to be a dentist in Afghanistan. His friends commented that his life in the UK had left him 'ashamed' and 'broken'. And that he felt as if there was 'no hope left'.²**

- **In September 2003, Israfil Shiri, a destitute Iranian asylum seeker, died six days after pouring petrol over his body and setting himself alight in the offices of Refugee Action in Manchester. In Iran, he had been a dissident member of the Basij, a volunteer army concerned with enforcing Iran's Islamic code. When the authorities obtained documented evidence of his life as a gay man, he fled to avoid exposure. In the UK, Mr Shiri's asylum application had been rejected and he was homeless and penniless. He suffered from a**

painful bowel complaint but, after his asylum claim was refused, he was unable to get medical treatment and was in constant pain. In fact, he was unable to eat without bleeding and vomiting. While sometimes he stayed with friends, on other occasions the Iranian's only shelter was a wheelie bin.³

- In August 2004, the Kurdish Iraqi asylum seeker Ako Mahmood Ahmed died after jumping from a bridge at a Coventry shopping centre. After his asylum claim was rejected, the Kurdish asylum seeker was unable to fund an appeal due to legal aid limits. As a result, he faced destitution in Coventry or deportation to Iraq.⁴

SUICIDE: THE RECOURSE OF THE DESPERATE

Those who have run the legal course of application and appeal only to meet with refusal, know that deportation is their fate. Their desperation is evidenced in self-harm.

- In March 2003, Mohsen Amri, a 27-year-old Iranian asylum seeker committed suicide at his home in Handsworth, Birmingham, after having a work permit refused and asylum application rejected. He had been in the UK for two years and made repeated requests for work permits (he did not want to work illegally). His asylum application had been refused on a technicality.⁵

- In October 2003, Lewon A., a 47-year-old asylum seeker from Georgia living in Biedenkopf (Hesse), set himself on fire after being threatened with deportation, and losing his job due to immigration legislation. He left a widow and two children. Another rejected asylum seeker, David Kapadnadze, also killed himself around the same time by setting himself on fire.⁶

- In May 2004, Ibrahim C. from Sierra Leone was taken to hospital in a critical condition after pouring petrol over himself and setting himself on fire in the Aliens Office in the Tiergarten district of Berlin. He had come to Germany eleven years before, and his asylum application had been repeatedly rejected.⁷

- In July 2003, Hüseyin Dikec, died by pouring petrol over himself and setting himself on fire in the regional Aliens Officer of Gütersloh, Germany in the presence of his wife and five children. An official was quoted in the newspaper as saying, 'It is unbelievable the lengths that these people will go to to avoid deporta-

tion'. Several months after his death, his wife and children were issued with a deportation order.⁸

- In July 2003, an Iranian asylum seeker slashed his wrists outside the North of England Refugee Centre. Moments earlier he had scribbled a note saying, 'You have to kill yourself in this country to prove that you would be killed in your own.' He was immediately taken to hospital, and survived.⁹

Lawyers and coroners at inquests held in the UK into suicides have criticised the immigration authorities for failing vulnerable asylum seekers.

- In January 2002, Souleyman Diallo, a 28-year-old Guinean asylum seeker committed suicide by jumping off Redheugh Bridge, Tyneside, a few weeks after being told he was to be deported to Guinea. Mr Diallo, who spoke little English, was dispersed to the northern town of Gateshead soon after he arrived in July 2000 and was not provided with any translation services. He felt that the interpreter at his appeal hearing had misinterpreted him. His solicitor commented that 'inability to access competent legal advice, difficulties in communicating his case and tight deadlines for submission of statements have contributed to his case not being properly heard'. She made a complaint to the Immigration Commissioners about his death. The coroner recorded an open verdict.¹⁰

- In May 2002, Shiraz Pir, a Pakistani asylum seeker died five days after being found hanged in his Bristol home after his asylum claim was rejected. An inquest recorded a verdict of suicide whilst the balance of his mind was temporarily disturbed. The coroner criticised the Home Office for the delay with his asylum application.¹¹

- In the case of the Iranian asylum seeker Israfil Shiri, cited above, as he collapsed on the floor, in agony as his body burned, he screamed that he did not want to die and that he did not want to be sent back to Iran. In recording an open verdict, the coroner said 'I have heard a lot of what the deceased may have been trying to do... It was the act of a desperate man.'

Two cases from Denmark involve the suicide of young people under the age of eighteen.

- The International Council for the Rehabilitation of Victims of Torture has said that the suicide of a sick 17-year-old Iraqi asylum seeker in a Red Cross centre in Copenhagen, in February 2002, was because of the denial of his asylum claim, which should have been accepted on humanitarian grounds.¹²

- On December 28 2002, five days before he was due to be deported, 16-year-old Afghan asylum seeker Zafar Mohammad, set himself on fire outside the Gribskov refugee centre. He was rescued, but not before he had scorched his hands and feet. Mohammad, had fled Afghanistan, unaccompanied in 2001, but the authorities had wanted to deport the youth to Austria, because it was the first EU country he had entered after fleeing Afghanistan. He had just found out that he had two cousins living in Denmark, and the Danish Refugee Council had been lobbying on his behalf.¹³

THE IMPACT OF TARGETS ON PRE-DEPORTATION DETENTION

The momentum from the EU Deportation Programme and the deportation targets in member states put strain on detention facilities for asylum seekers. Governments are violating the human rights of asylum seekers in detention. They stand specifically accused of breaching the ICCPR which prohibits in absolute terms inhuman or degrading treatment or punishment, as well as the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. The UN Working Group on Arbitrary Detention pointed out in 1998 that immigration detention should always be in line with internationally recognised standards.

The Jesuit Refugee Service-Europe (JRS) has compiled a preliminary inventory of 218 facilities for detaining migrants and asylum seekers in twenty-three European countries.¹⁴ It points out that in Europe there is neither a common definition of 'detention' nor of 'detention centres' and no EU system for monitoring the numbers actually detained at any one time. Not all the facilities cited by JRS will be removal centres for failed asylum seekers, since detention centres can also accommodate new arrivals (particularly those subjected to fast track procedures), those without travel documents, or act as residence/accommodation centres or be a combination of any of the above.

Overcrowding and unhygienic conditions

Deportation targets are leading to increased overcrowding across the board. This is not just due to the increased number of people held, but the fact that some member states have changed the law to increase the time period under which an individual can be held, prior to removal, in pre-deportation detention. This is leading to a rapid deterioration in conditions in detention centres. Although no European country is exempt from issues relating to overcrowding and lack of hygiene, the problem is proportionately worse in countries where prison facilities already fail to meet international standards.

- In France, the 2003 Aliens Law (known as the Sarkozy law after the interior minister who presented it), increased the maximum period of detention pending removal from twelve to thirty-two days. This has resulted in a rapid deterioration in conditions in detention centres including overcrowding, serious lack of hygiene, and increasing tensions amongst detainees. At the Le Mesnil-Amelot detention centre at Seine-et-Marne, the number of detainees has increased from 68 in 2003 to 144 in 2004. Women detainees complain of a lack of privacy and sexual harassment.¹⁵

- In Spain in 2002 the organisation Médecins Sans Frontières was expelled from the Fuerteventura detention centre on the Canary Isles after it released pictures of the overcrowded and dirty facilities which it described as 'a warehouse of people'. HRW provided evidence that detainees had no access to fresh air and had to use the same sheets and blankets for forty days.¹⁶

- In the UK, a study carried out by Independent Custody Visitors found that the government's deportation crackdown had resulted in immigration detainees being held, on behalf of the immigration services, in rudimentary police cells for periods of up to ninety-six hours.¹⁷ A report by the chief inspector of prisons published in June 2004 criticised the 'filthy and dilapidated' immigration removal centre at Lindholme, Doncaster, which held up to 100 people in the weeks prior to their removal.¹⁸

- In November 2004, Sinn Fein alleged that overcrowding at Cloverhill prison in Dublin meant that some deportees, including children, were 'sleeping on the floor during their period of detention' which could be for up to fifty-six days.¹⁹

- According to AI, conditions in a number of Italian temporary holding centres, commonly known as 'Cpts' (Centri di permanenza temporanea) fall below international standards, with frequent overcrowding, unsuitable infrastructure, unhygienic living conditions, inadequate access to fresh air, unsatisfactory diets and inadequate or inappropriate medical care.²⁰

- In November 2003, the Dutch Refugee Council accused the government of detaining rejected asylum seekers in small dark cells at the Rotterdam airport removal centre for periods far in excess of the twenty-eight days stipulated by law. Despite the fact that immigration minister Verdonk had promised that no child would be detained at a pre-deportation centre for more than one and a half days, a mother and child were detained at Rotterdam airport for three months, and without sufficient access to daylight.²¹

- The chair of Alternattiva Demokratika has said that the living conditions at the detention facility at the Safi Barracks, Malta, were inhumane and driving detainees to insanity. The UNHCR has also said that conditions at Maltese detention centres are unacceptable. At Safi Barracks, asylum seekers live in tents with little protection from the winter cold. There is no separation of non-related men, women and children – a standard practice to safeguard against sexual abuse – and in many detention centres the bathrooms are mixed with no doors on toilets or showers.²²

Overcrowding in and of itself, according to the ECtHR, does not constitute cruel and degrading treatment. On the other hand, it has upheld complaints against prison conditions in a number of cases.²³ And the incidence of filthy and unhygienic living conditions, the treatment of asylum seekers en masse as opposed to as individuals, are clear violations of the ICCPR's condemnation of cruel and degrading treatment and stipulation that 'All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person'. Principle 6 of the UN Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment also states that persons deprived of their liberty should not 'be subjected to any hardship or constraint other than that resulting from the deprivation of liberty'.

Warehousing

There is increasing concern that removal centres and prisons are being used as warehouses for 'non-returnable refugees' who are treated as though they were little more than an unwanted commodity.²⁴

- Malta is alone amongst European countries in following a policy of mandatory detention of all asylum seekers – a policy the government claims is necessary due to the smallness of the island and the numbers of asylum seekers arriving compared to the overall population. In 2004, both the Council of Europe's Commissioner for Human Rights and AI condemned systematic detention as unacceptable. AI Report 2004 deplored the fact that asylum seekers, including pregnant women, nursing mothers and children, had been held in detention for periods ranging between one and two years.²⁵

- In Greece, a Bangladeshi man was left in a cockroach-infested, filthy and overcrowded prison cell from July 2000 to July 2001, as travel documents could not be obtained for his expulsion. He was finally released after pressure from the Greek Ombudsman and the Greek Helsinki Monitor.²⁶

- In July 2004, the UN Human Rights Committee called on the Belgian government to end the practice of confining rejected asylum seekers, who could not be deported, in the transit zone of Brussels national airport, sometimes for several months 'in precarious sanitary and social conditions'. The Committee considered such a practice to amount to arbitrary detention which could result in inhuman and degrading treatment.²⁷ Those asylum seekers detained at the airport would previously have been held in detention pending expulsion. But such detention is subject to a time limit, and the courts would have ordered a release if someone could not be deported in the foreseeable future. It appears that the authorities now remove such people from the detention centre to the Brussels International airport in order to compel them to leave the country. AI reports that those detained at the Brussels national airport have been denied beds, fresh air, and proper washing facilities. Frequently, they are forced to rely for subsistence on the charity of passengers and airport staff.²⁸

- In April 2004, a spokesman for the Spanish State Commission for Aid to Refugees said that

as far as he could see ‘there was no law in Fuerteventura’ where migrants were treated ‘like boxes of bananas’.²⁹ The UN special rapporteur for irregular immigrants also concluded that in the Canary Islands there was ‘a disregard of rights and guarantees which can end in possible violation of human rights’ and a ‘risk of defencelessness in the face of possible abuses and violations owing to the absence and insufficiency of legal assistance’.³⁰ The cells in El Matoral detention centre in Fuerteventura have been compared by NGOs to ‘animal cages’ and conditions are so appalling that the centre is now popularly known as Treblinka. Another detention centre at the old airport terminal was known as ‘Guantánamo 2’. Thankfully, the Spanish Socialist administration has closed it down on the grounds that a foreigner has ‘a right like any citizen from this country to have their dignity and most elementary human rights respected’.³¹

Increase in protests and disturbances

Many European governments are responding to problems of overcrowding in pre-deportation detention facilities with a prison buildings programme. Yet such target-driven prison building programmes, as well as the greater length of time deportees spend in detention, are exacerbating existing tensions, as well as putting detainees’ lives at risk by bypassing domestic laws on health and safety. Today, in Europe protests and disturbances at removal centres are becoming more commonplace.

- In Italy, the Turco-Napolitano immigration law of 1998 created detention centres to hold migrants for up to thirty days prior to deportation. In 2000 protests by Italian human rights groups following five deaths and repeated rioting in reception and detention facilities forced the government to issue a charter on living conditions and a pledge that facilities for asylum seekers and other undocumented migrants must guarantee safety and human dignity.³² Protests had focused particular on brutality and violence at the via Corelli detention centre in Milan which was subsequently closed down.

Despite the charter, the safety of detainees at temporary holding centres, where individuals can now be held for up to a maximum of sixty days prior to expulsion, continues to cause grave concerns and AI has recorded that tensions are high with frequent outbursts of violence and protests.³³

- In France, the introduction of the 2003

Sarkozy law, which increased the period of detention pending removal from twelve to thirty-two days, has been linked to an increased number of incidents of violence and rebellion on the part of detainees, exasperation, frustration and even indignation on the part of police officials working there, many of whom have asked to be transferred to other duties. The centre with the highest number of violent incidents in the first six months of 2004 was located in the basement of the Paris courthouse where it was often so dirty that rats moved between rooms and toilets, according to the humanitarian group CIMADE.³⁴

- In the UK, the prison ombudsman Stephen Shaw carried out an inquiry into disturbances at the Yarl’s Wood immigration removal centre in February 2002, which caused an estimated £38m damage. He concluded that there was so much pressure from ministers to achieve the ‘ambitious’ and ‘unachievable’ target of removing 30,000 failed asylum seekers that the 1,000-bed detention centre, near Bedford, had been built at ‘breakneck’ speed. The result was that the building – at the time the biggest detention centre in Europe – was ‘astonishingly flimsy’ and ‘not fit for its purpose’.³⁵

- AI has called on the Maltese government to carry out an investigation into the events of 13 January 2005 when Maltese armed forces intervened to prevent a peaceful protest at the Safi army barracks detention facility. Over ninety inmates at the detention facility, some of whom had apparently been detained for over eighteen months, were protesting about the length of their detention; lack of information about the progress of their applications for refugee status or humanitarian protection; and, in the case of those whose asylum applications for asylum had already been rejected, lack of information concerning their future.³⁶

It is possible that the Dutch government could repeat the mistakes of its European counterparts as it embarks on an ambitious programme of prison building to meet its target of removing 26,000 failed asylum seekers each year. Other European governments are already undermining their own domestic laws as regards the expansion of pre-deportation facilities. In Italy, for example, it will be lawful for councils to ignore health and safety standards, as well as measures governing transparency of accounts, when it comes to the building of new detention centres for those awaiting deportation. And if the terms of an inquiry, launched by

the Spanish National Ombudsman into allegations that an illegal detention centre was set up by the interior ministry at Madrid's Barajas airport, are anything to go by, Spain has been in serious violation of international law. It seems that at Madrid Barajas, migrants (including asylum seekers) flying into the airport, but refused entry, were being secretly held. In breach of international law, they were denied access to a lawyer, medical attention, consular officials or friends and family.³⁷

INAPPROPRIATE OR INADEQUATE MEDICAL CARE

That detainees in pre-deportation detention should have access to appropriate medical care, one would have thought, was obvious given the 'dignity of the human person' as stipulated by the ICCPR. The ICCPR also states that 'the protection of the detainee requires prompt and regular access to doctors'. It could also be argued that the denial of medication amounts to 'inhuman treatment' under the UN Convention Against Torture and other Cruel, Inhuman Degrading Treatment or Punishment in that inhuman treatment has been defined by the ECtHR as 'conduct that causes substantial mental or physical suffering without any necessary intention to cause it'.

Medical treatment in pre-deportation detention seems to consist of either the over-medication of inmates, presumably to pacify them, or no medication at all.

- **In the UK, Dr Christina Pourgourides carried out a study among staff and asylum seekers in five UK detention centres and found that staff indiscriminately handed out painkillers or low dose anti-depressants and tranquillisers.**³⁸

- **In Ireland, Sinn Fein alleges that some deportees at Dublin's Cloverhill prison are routinely denied medication. In the case of a male Romanian epileptic, his medication was removed from him upon arrival at the facility and he was denied access to the medication during his six day detention, as a result of which he suffered multiple seizures, during which he broke his front teeth. He was not provided with any dental or medical treatment prior to his deportation.**³⁹

- **At the Choicy le-Roi removal centre in Val-de-Marne, France, medical services are not provided and detainees can only visit a doctor if they can pay.**⁴⁰

- **On the island of Fuerteventura in the Canary Islands, there is no doctor. One based on the neighbouring island of Tenerife visits the detention centre fortnightly, to supervise the needs of all detainees.**⁴¹

Denial of specific medical attention to detainees who are either terminally ill or suffering from a life-threatening illness or injury reflects an abdication of the duty of care towards asylum seekers.

- **In February 2005, an inquiry was launched to establish the cause of the death of Zeray Okbaledet, a 43-year-old Eritrean detained at the Safi Barracks, Malta. Mr Okbaledet was, it seems, detained as a new arrival despite the fact that his case should have been treated with sympathy given that he was one of those Eritreans forcibly deported in March 2002 from Malta to Eritrea where he was imprisoned and tortured. He escaped from prison and back to Malta but ended up once again in mandatory detention at the Safi Barracks. The JRS said that Mr Okbaledet suffered from asthma which would have been worsened by detention.**⁴²

- **In May 2004, Kabeye Dimuka Bijoux, 35, an asylum seeker from the DRC, died in Haslar removal centre in Gosport, Hampshire, while exercising. But friends have linked his death to injuries sustained after he was allegedly beaten at Reliance House Immigration Centre in Liverpool on 2 March 2004. The police launched an investigation after a post-mortem examination proved inconclusive.**⁴³

Hospital staff in Scotland have identified a further issue of concern: namely the effect the treatment of failed asylum seekers as criminals by immigration officials has on their ability to access appropriate medical care if hospitalised.

- **Scottish NHS staff have compiled a dossier on incidents where asylum seekers brought to their hospitals from the Dungavel detention centre have been degraded and humiliated in ways that have compromised the treatment they were receiving in hospital. They are routinely treated as criminals, and handcuffed throughout treatment. Medical workers at Wishaw General Hospital and Halmyres Hospital in East Kilbride have raised concerns about a number of cases including that of a woman being shackled to her bed while awaiting surgery, and a man who was escorted from a psychiatric unit by armed guards following treatment for mental health problems.**

In 2004, the Scottish National Party deputy shadow minister for social justice raised the case of a young woman from Cameroon who was chained to a bed in Hairmyres hospital while she waited for an operation.⁴⁴

NO MONITORING OF SUICIDE RISK

Asylum seekers are not just prey to the diseases associated with the physical hardships, including destitution, that they have undergone, they are also, by virtue of the fact that they have reached the end of the road in term of their asylum hopes, extremely vulnerable to suicidal thoughts once in detention. To acknowledge this is basic common sense, but the authorities appear to take scant measures to protect asylum seekers from self-harm. This is just another indicator of the failure to provide clear procedures for the medical care of asylum seekers in removal centres.

The authorities do not appear to collect statistics on self harm and suicide, although some countries will have national suicide prevention strategies for prisons that should flag asylum seekers up as at 'high risk'. Could it be that foreigners' lack of citizenship status and perceived illegality defines them as 'lesser breeds' whose very humanity is devalued? Without official statistics on suicides in detention, one is reliant on cases compiled by NGOs and incidents reported in papers. One cannot, therefore, provide authoritative, comprehensive figures. The IRR in London and the Anti-Racist Initiative (ARI) in Berlin have attempted to provide something of an overview vis-à-vis suicide in the UK and Germany. ARI found that in Germany while forty-eight asylum seekers died in a deportation prison from 1993 to 2004, during the same period there were at least 372 incidents of self-harm.⁴⁵ The IRR has documented thirteen apparent suicides of immigration detainees in the five-year period from 2000-2005. It has no figures on suicide-attempts.⁴⁶

- In May 2003, Anni Ndipe, a 38-year-old Kenyan, drank a poisonous hair product in an attempt to commit suicide at the central deportation prison in Eisenhüttenstadt, Germany. Her suicide attempt was prompted by her uncertain residence status and the fact that she had been held at the centre for four months.⁴⁷

- On 5 May 2003, Liu Jin Wu, a rejected Chinese asylum seeker on remand for attempted murder but told he would be deported, whatever the verdict, committed suicide at Barlinnie prison, Scotland. The Scottish Racial Equality

Council (SREC) said that the man who was a Mandarin speaker had only been given access to an interpreter three times during his ten weeks in prison. A provisional diagnosis of paranoid psychosis had been made in prison, but the SREC said that despite his mental health problems he was given almost no opportunity to communicate with prisoners and staff. An investigation cleared the prison authorities of any wrong-doing, saying that the suicide was due to the man's mental health.⁴⁸

- On 10 February 2003, a 28-year-old Russian attempted to take his life at Köpenick-Grünau (Berlin); this was followed by two other suicide attempts by Russian inmates. One man, aged 33, was placed in solitary confinement after a suicide attempt. There, the man, who suffered from a heart condition, injured himself again, whereupon he was transferred into psychiatric care.⁴⁹

- In October 2003, Mohammed bin Durhi, a 20-year-old Palestinian asylum seeker, was found hanged at Belmarsh maximum-security prison, UK. He had been held at Dover Immigration Removal Centre but, after he allegedly assaulted a guard, he was moved to Belmarsh prison in London. Three prison officers were suspended after filing reports that he was still alive after his death.⁵⁰

- In Malta, on 3 November 2003, the body of 31-year-old Algerian, Abdul Hakim Ghgernout, was discovered hanging from a window at a police detention centre in Floriana. Originally, the Algerian had been at the Hal Far detention centre, while the authorities awaited the necessary travel documents to secure his deportation. After attempting suicide several times, he was sent to the psychiatric wing of Mount Carmel hospital, and then back to the Hal-Far detention centre after doctors stated that he was not suffering from any psychological problems. There, he set about cutting himself with a blade, and set fire to a mattress. He was hospitalised, but once recovered, Abdul was sent back to the Floriana police depot where he hanged himself with his wrist bandages.⁵¹

- In April 2004, there were three suicide attempts, two of them successful in Hamburg prisons by inmates awaiting deportation. An Albanian hanged himself in the Fuhlsbüttel detention centre, and a Kurdish asylum seeker was found hanged in the Holstenglacis prison.⁵²

• In July 2004, Sergey Baranuyck, a Ukrainian asylum seeker was found hanged in the shower room of Harmondsworth removal centre, UK. It is believed that the man killed himself after receiving bad news about his fight to stay in the UK. News of his death spread around the removal centre and there were serious disturbances, leading to the transfer of all detainees to prisons and other detention centres.⁵³

• Tung Wang, a 22 year old Vietnamese asylum seeker was among those dispersed from Harmondsworth after the death of Sergey Baranuyck and resulting disturbances. He hanged himself in Dungavel removal centre in Scotland.⁵⁴

• In 2004, a 50-year-old Iranian transsexual, whose asylum claim had failed, committed suicide in a detention centre in Carlsund, near Stockholm, Sweden. Despite previous suicide attempts, Kian had been left without supervision during the weekend. In Iran, Kiam had been whipped on account of being a transsexual.⁵⁵

• On 7 November 2004, Kenny Peter, an asylum seeker from Nigeria died in Charing Cross hospital, London, nearly three weeks after sustaining injuries during an apparent self-harm attempt at Colnbrook Immigration Removal Centre. It is believed that on 19 October, he had jumped from a landing and sustained serious injuries – from which he later died.⁵⁶

• During a 2004 inspection of Oakington Immigration Reception Centre by Anne Owers, the chief inspector of prisons, an inmate detained in the Detainee Departure Unit (a special block for asylum seekers thought likely to abscond) made a serious, near fatal, suicide attempt. He had previously self-harmed by burning his arm. In her report, Owers called on the centre to improve procedures for identifying and looking after asylum seekers who could be at risk, stressing the vulnerability of detainees facing imminent deportation.⁵⁷

In response to such cases, human rights groups in the UK have called for the creation of an independent watchdog to monitor the UK's nine asylum centres and similar demands have been made in Belgium. This would be in accordance with Article 29 of the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment which stresses the importance of independent supervision of detention conditions.

DETENTION OF CHILDREN AND YOUNG PEOPLE

EU countries have been moving away from international standards as well as undermining their own domestic law on family rights, by detaining more and more children. The detention of children and young people awaiting deportation is in clear violation of the UN Convention on the Rights of the Child which stipulates that the primary consideration for any action undertaken by a member state must be the best interests and protection of the child. Far from their best interests being taken into account today, children seem to be locked up solely for the administrative convenience of governments.

Targets increase detention of families

There is mounting concern in the UK about the impact of detention on children who can now be detained without time limit and under the same rule as adults. Until 2001, children were rarely detained and then as close to removal as possible and for no more than a few days. However, a 2002 White Paper stressed that, in future, families could be detained for longer periods than immediately prior to removal. As we have already seen, the EU's target-driven deportation policy is leading to the building of more detention centres. And within those detention centres, there are now specific units for families.

• On 27 January 2005, a new family unit was opened at Yarl's Wood Immigration Removal Centre in Bedfordshire. It has 232 beds for families and more than doubles the family detention spaces that are available in the UK to a total of 456 places.⁵⁸

HM Inspectorate of Prisons in the UK has stated that the detention of children should be an exceptional measure; that it should be for a short period, no more than a matter of days. The government has also promised independent welfare assessments for all children detained past twenty-one days. Bail for Immigration Detainees (BID), however, has pointed out that statistics provided by the government on child detentions are extremely limited and that there are no mechanisms in place for promised welfare assessments in the family units of three English detention centres (the exception being Dungavel in Scotland).⁵⁹

• The detention of Mrs Ay and her four children at the Dungavel detention centre provoked outrage in Scotland. For one year and nineteen days, the children and their mother shared one small room, into which they were shut for

twenty-two hours a day. A respected emeritus professor of child and adolescent psychiatry at University College, London, examined the children after six months and concluded that they were effectively being held as prisoners in a high-security jail. Medical experts documented that the hair of 14-year-old Newroz was falling out and that she had developed a hand tremor, stopped eating, and effectively stopped talking. Teachers in Gravesend, Kent where the family had lived for one year had described Newroz as an exceptional pupil.⁶⁰

Detention of unaccompanied children

In Spain and Italy there have been similar allegations about failure to meet obligations on the care and protection of unaccompanied children.

- The UN Committee on the Rights of the Child has expressed concern about the detention of young minors in Italian temporary holding centres, the lack of adequate structures to receive them, and ‘an increase in repatriations without adequate follow up’.⁶¹

- In July 2003, four prosecutors attached to the juvenile section of the High Court of Canarias claimed that forty-two children at a secure reception centre in Galdar, Gran Canaria had been subject to ‘humiliating’ treatment. In one case an African child had allegedly been beaten and held naked and in chains for a whole night by one of the centre’s teachers.⁶²

No monitoring of health concerns

All the evidence shows that children held in detention fail to thrive emotionally and physically. Hidden away from normal support structures, social services may be either unwilling or unable to respond to their needs.

- BID commissioned research into the effects of detention on children in fifteen families in Tinsley House, Oakington, Harmondsworth and Dungavel. Common children’s medical problems were anaemia, headaches, nose-bleeds, anorexia, asthma and eczema, all of which can be induced or exacerbated by stress. The majority of children were also having trouble sleeping. Poor appetite, oral infections, weight loss, boredom, listlessness, incontinence and disturbed sleep patterns were amongst the more tangible symptoms reported by children and their parents.⁶³

The German NGO Pro Asyl has drawn attention to the impact of the German regime on young people under the age of eighteen. It has

documented six cases where children or young people have committed suicide out of fear of deportation.⁶⁴

- In December 2000, Arumugasamy Subramaniam, a young Tamil asylum seeker (whose age is disputed), hanged himself in the Hannover-Langenhagen detention centre in Lower Saxony. The young man, who said he was 17, had lived in Germany for five years, and had an uncle in North-Rhine Westphalia. Subramaniam’s fortunes changed when his asylum application was rejected. He applied to be adopted by his uncle but, even before his application could be considered, the immigration office told him to leave the country voluntarily. Of his own volition, he went to the immigration office on 10 December to discuss his situation, only to be arrested – immigration officer having surreptitiously phoned the police. He was arrested and taken to the detention centre for deportation the following day.⁶⁵

A VIOLENT AND PUNITIVE REGIME

The harsh regime being imposed in pre-deportation centres goes beyond the cruel and degrading treatment that results from lack of sanitation, medical care, overcrowded and filthy living conditions. From all over Europe come reports that detainees have been subjected to methods of punishment or restraint that violate their human rights. The Standard Minimum Rules for the Treatment of Prisoners, which forms part of the UN Body of Principles for the Protection of All Persons under Any Form of Detention prohibits the use of instruments of restraint, such as handcuffs, chains, irons and strait-jackets as a punishment, and prohibits the use of chains or irons as restraints.

- In Germany, in 2001, AI likened the use of solitary confinement at the Büren pre-deportation prison, situated in the middle of a forest in the Sauerland, North-Rhine Westphalia, to a kind of torture. The magazine ZAG drew attention to a special punishment regime at Büren which included the use of special detention cells to punish detainees for the most minor infringements of regulations. Detainees were also sent, allegedly for their own protection, to a ‘high-security custody room’ where they in some cases were kept completely naked, under video surveillance. A facility also existed to bind the detainee hand and foot to a wooden frame.⁶⁶

- The Brandenburg Refugee Council says that

instead of psychological help, detainees at the Eisenhüttenstadt pre-deportation detention centre are being subjected to 'punitive measures'. Between March 2001 and January 2004, nineteen people were held for periods of several hours, sometimes repeatedly, in the so-called 'calming cell', where they were tied to a bed frame with straps to 'pacify' them. The longest a person was bound in this way was 29 hours and 25 minutes. In one case, a mentally-ill Kenyan woman was chained to her bed.⁶⁷

- In the UK, 'troublesome' detainees at Lindholme, Doncaster, were thrown into the punishment cells or the segregation unit of the neighbouring prisons without proper authorisation.⁶⁸

The vulnerability of women in pre-deportation detention to sexual violence due to overcrowding and integrated facilities has already been noted.

- In 2003 in Germany, the *Bild-Zeitung* newspaper reported that over several years, a Bremen police officer subjected women held in pre-deportation detention to sexual attacks. An investigation was launched into an allegation that a police officer sexually abused at least five detainees (described by the police as 'mainly prostitutes') in pre-deportation custody. The newspaper said that the accused had 'numerous helpers and people who knew what was happening'. A former colleague said that a standard question asked by the officer was 'Has any fresh meat arrived?' In another case cited by the newspaper, a second police officer was accused of having taken nude photos in the police detention facility in 1996.⁶⁹

There have also been repeated allegations of violence in detention centres by guards (usually employees of private companies), providing a climate of fear which can also be a contributory factor in suicide attempts. Chechen refugees in Germany's biggest pre-deportation centre in Bramsche near Osnabrück (Lower Saxony) have compared the brutality of detention officials there to that of Russian troops, the only difference being that the latter wore masks and didn't handcuff women.⁷⁰ There have been repeated allegations in the UK of violence at Yarl's Wood and Harmondsworth Immigration Removal Centre at Heathrow where, in May 2002, detainees took part in a hunger strike protesting, among other things, about assaults by staff. In her 2003 report, Inspector of Prisons Anne Owers described Harmondsworth as 'essential-

ly an unsafe place for both staff and detainees', drawing attention to 'increasing levels of disorder, damage and escape attempts, with an average of seven assaults a week', as well as 'an average of one self-harm incident a week'.⁷¹

- In the UK, lawyer Harriet Wistrich has documented the case of a woman from the DRC who had sought asylum on the basis of having been tortured and raped. One night deportation officers burst into her room, despite the fact that no removal notice had been served on her (a legal requirement), pushed her to her knees while she was naked, twisted her arm behind her back and struck her. She was taken to another room, and left alone; whereupon she attempted suicide by tying a torn sheet around her neck. Despite this, she was handcuffed, given a dress to wear and taken to Heathrow. The pilot refused to let her on board because of her excessive distress and lack of proper clothing.⁷²

- Anne de Loisy's book on her experience working at the ZAPI 3 holding centre at Roissy, in France, documents several cases involving the use of excessive force and violence against detainees. Her appendices include cases with medical certificates identifying the injuries detainees allegedly suffered at the hands of the police. Those injured included minors and a pregnant woman.⁷³

- In January 2005, a Roman Catholic priest employed as the director of Regina Pacis temporary holding centre in Lecce (Puglia province) Italy, five administrative personnel, two doctors and eleven carabinieri providing the centre's security service were ordered to stand trial in connection with the physical assault and racial abuse of inmates in November 2002. The proceedings followed an investigation into a complaint lodged by seventeen young North African men who alleged that, after attempting to escape from the holding centre, they were among some forty North African inmates who were kicked, punched, slapped, spat and subjected to verbal abuse directed at Islam – their religion. They claimed some inmates were pinned down by their arms and legs, while their assailants tried to force them to eat pork by pushing it down their throats with a truncheon.⁷⁴

Racist abuse by French and British officials has been noted in investigative exposures of conditions at Roissy in Paris and Yarl's Wood detention centre in Bedfordshire. At Roissy,

some police officers would refer to Arabs as 'rats' and black people as 'monkeys'.

- In December 2003, a *Daily Mirror* reporter went undercover as a security guard at Yarl's Wood detention centre. He later described as vulnerable and depressed sixty women whom the security guards called 'scum of the scum', 'bitches' and 'scrubber'.⁷⁵

- Undercover journalists working for a BBC documentary secretly filmed employees of Global Solutions Limited espousing racist views and talking of assaulting detainees. The film shows two employees at the Oakington detention centre in Cambridgeshire saying that asylum seekers are not 'worth anything'; another employee tells a detainee to 'get out of bed before I do you some fucking damage... my grandfather shot your great grandfather and nicked his fucking country off you for 200 years.'

Previously prisons ombudsman Stephen Shaw had criticised Global Solutions Limited for having some racist staff and had voiced concern about the vetting of employees after it emerged one was a British National Party member.⁷⁶

In Malta, specific brutality has been alleged in excessive reaction to protest by detainees.

- AI received eyewitness reports, backed up by photographic evidence, that the peaceful protest at the Safi army barracks in Malta was violently broken up when soldiers, dressed in riot gear and armed with batons and shields, charged the protestors who had refused to return to barracks after an exercise period on the football pitch. Detainees, who carried banners with the words, 'I am not a criminal' and 'We are not animals' were subjected to deliberate and gratuitous violence, leading to the hospitalisation of an estimated twenty-six people. Army personnel who witnessed the violence are said to have egged the soldiers on with comments such as 'Smash those black faces in' and 'Hit him in the head'. The Jesuit Refugee Service and the UNHCR were prevented from visiting the detainees in hospital.⁷⁷

THE ROLE OF EXIT CENTRES

One further detention issue relates to the use of 'coercive detention' which, through psychological pressure, is intended to force a 'voluntary' return on those who cannot be returned in the normal way. In Germany and Switzerland specif-

ic *Ausreisezentrum* (exit centres) have been created for failed asylum seekers who cannot be deported because they have no identity papers. Here they are 'induced' to co-operate (by leaving voluntarily) through being deprived of any prospect of a life in the country and psychological pressure. It is a form of 'coercive detention' that has been challenged by the Trier Administrative Court which deemed such centres unlawful since harassment or treatment that resembles punishment or is aimed at breaking the will, is not allowed.⁷⁸ This is in compliance with the UN Convention Against Torture. The ECtHR has described degrading treatment as 'conduct such as to arouse in ... victims feelings of fear, anguish and inferiority capable of humiliating and debasing them and possibly breaking their physical or moral resistance'. The closed nature of these German institutions, and the lack of concrete information about the 'wearing down tactics' employed there, mean that data on incidents of self-harm are unavailable. In a few instances campaigners have managed to make links with inmates.

- The first exit centre in the state of North-Rhine-Westphalia was closed in 1999 after the suicide of an asylum seeker and the subsequent rioting of inmates who threatened to completely burn down the facility.⁷⁹

- In 2003, inmates of the Fürth exit centre in Bavaria established links with the Caravan for the Rights of Refugees and Migrants in Nuremberg which supplied the press with information direct from the isolated camp. The 'wearing down tactics' of the camps authorities caused occupants in a short time to display symptoms of depression, anxiety, insomnia and loss of appetite. Alcohol abuse and aggressive behaviour also developed. A human rights organisation Res Publica said that all the indicators pointed to 'camp madness'. Bavarian welfare associations unanimously refused to work with the camp authorities on the grounds that they would become part of a repressive system and no 'psycho-social care' was available for inmates.⁸⁰

Despite the Trier Administrative Court's injunction against exit centres, some Länder continue to follow a policy of 'coercive detention'. Now, some Swiss cantons are adopting the German model. Berne, for instance, has interpreted its obligation to provide emergency shelter to those asylum seekers stripped of welfare benefits, by opening up a detention centre in a

former military bunker in the remote Jaunpass (1,500m high) in the Bernese Oberland – an isolated spot in the Alps. The only clue to its existence is a large concrete door on the mountainside. The accommodation is windowless and without natural light, yet whole families are held here. Bunker residents must be inside by curfew time of 20.00 hours and during the day they are allowed only a few steps from the bunker's entrance. They are forbidden from entering the nearby village of Jaun, where the population of just twenty people say that their presence may destroy the tourist industry. As in Germany, the living conditions at the 'departure centre' are such as to induce a voluntary return. Dora Andras director of Bern police explained: 'The asylum seekers we bring up here are ones that should leave Switzerland. By putting them in the country, they will not feel comfortable and they will realise Switzerland doesn't want them anymore – so they will have to accept the decision and leave.'⁸¹ She added, 'The accommodation we provide for refugees is already very basic. So for rejected asylum seekers I had to find something of an even lower standard, and that meant it had to be underground.'⁸²

RECASTING DESPAIR AS MANIPULATIVE BEHAVIOUR

How can governments, which pride themselves on Europe's humanitarian tradition, justify the hardships and deprivations endured by asylum seekers in pre-deportation detention? How can those in authority fail to see the link between suicide and pre-deportation detention, and destitution? How can societies immunise themselves against such devastating tales of human misery? As we saw in chapter three, governments are moving towards a situation where medical assessments of the seriously ill are ignored so that illness is no longer considered an impediment to deportation. Similarly, when it comes to asylum seekers at risk of suicide, there is a corresponding tendency to invalidate suggestions that they are experiencing a mental anguish which could lead to suicidal thoughts. Governments argue that decisions on asylum claims are fair and that if a person is rejected it is because they have a 'manifestly unfounded claim'; return is safe, not life-threatening. It is only a short step from denying that self-harm could be the genuine response of an individual under extreme distress, to recasting it as the manipulative behaviour of neurotic and demanding individuals who are 'burdening' the system and 'testing the hospitality' of the nation.⁸³

In order to understand how the stereotype of the asylum seeker as manipulator and black-mailer is being created, it is necessary to examine politicians' responses to a wave of church occupations and hunger-strikes involving asylum seekers and another category of people under threat – the *sans papiers* (although those without papers and failed asylum seekers are not exclusive categories). For no member state has been left untouched by collective and individual actions that have involved, among other things, asylum seekers stitching up their eyes and mouths and refusing to eat. In both France and Belgium, there have been long-term occupations of former Somali embassies, and in Spain, in the Summer of 2004, occupations by more than 2,000 *sin papeles* of Barcelona Cathedral and the Santa Maria church were broken up by the police, with several of the protestors deported. Iranians and Iraqi Kurds have staged hunger-strikes in the UK; and in Norway, Ethiopians have protested in Oslo and Svolvær; in the Netherlands asylum seekers organised the 'long march', travelling 234 km from Groningen in the far north to the parliament in The Hague. The very fact that people have no choice but to resort to tactics that place excruciating demands on their bodies, indicates their absolute desperation and dread of deportation. But such governments, which are strangers to compassion, are also deaf to despair, and the protests are recast as acts of intimidation.

- **For several weeks in 2003, the Belgian government refused to enter into any negotiations with 300 Afghans – accompanied by 120 children – who staged a hunger strike at the Holy Cross church in Ixelles commune, Brussels, in protest at the government's target to expel a total of 800 Afghan asylum seekers within nine months. By the fifteenth day of the hunger strike, the Red Cross confirmed that several of the protestors were in an advanced stage of starvation. In a letter read to parliament on the ninth day of the protest, prime minister Guy Verhofstadt ruled out any mediation, arguing that 'A hunger strike and organising the occupation of a church is not acceptable'.⁸⁴ Interior minister Patrick Dewael described the protest as blackmail and rejected an offer from Johan Leman, director of the Centre for Equal Opportunities and Against Racism to act as a mediator, whereupon the director resigned, pointing out that his official role to manage contact with new immigrants had been undermined by the government.⁸⁵ Eventually, the government did appoint a mediator and some concessions were made.**

• **When eighty-eight Iranians staged a protest in 2003 at the University of Brussels, during which thirty-one went on hunger-strike, the interior minister refused to negotiate, calling the hunger strike blackmail. The government insisted that Iran was not a dangerous place for asylum seekers. ‘If he thinks this is blackmail then that’s his problem’, a hunger-striker told the press. What we want is to make our voices heard and a hunger-strike is the ultimate way we have found to do this.’⁸⁶ Dirk Van den Bulk, the acting Commissioner for Refugees and Stateless Persons, said ‘Many of these refugees are lying. They are free and safe to go back.’⁸⁷**

Throughout all these incidents, the authorities have been at pains to point out that the protests did not result from human misery and desperation. Protestors are portrayed as parasites, so determined to cling to Europe that there is nothing to which they would not resort. And then they use a further argument that the protestors are not actors in their own right, but mere puppets of liberal or left-wing activists. Thus, following the Afghan hunger-strike in Ixelles, interior minister Dewael accused an employee at the Centre for Equal Opportunities and Against Racism of acting ‘subjectively’ and an investigation was launched into claims that the hunger-strikers were being manipulated by political organisations.⁸⁸ The former UK home secretary David Blunkett, in response to the protest of Naseh Ghafor, a 20-year-old Iraqi Kurd who had staged a hunger strike in the Summer of 2004 after his claim was rejected and was seriously ill, wrote to his trade-unionist supporters accusing them of acting irresponsibility in encouraging asylum seekers ‘to believe that they can simply overturn the process by self-mutilation’.⁸⁹ Dutch interior minister Rita Verdonk responded to criticism that her deportation target was inhumane and she lacked compassion by describing asylum seekers as ‘protected by an iron ring of lawyers and social workers who are taking advantage of people’s emotions and have thus unleashed media hype’.⁹⁰ The media was concentrating on distressing stories about asylum seekers but such stories did not correspond with the facts as recorded in IND case dossiers, she said.

The fact that the picture that government officials paint is often challenged locally by municipalities, churches, trade unionists, schools and other groups supporting the protestors, gives some cause for hope. The Ixelles hunger-strikers were backed by the Socialist-led local municipality, while thirty leading cul-

tural figures and politicians, including Christian Democrats, urged the government to open up lines of communication. French civil servant Jean-Marie Delarue, who acted as a negotiator between the government and 460 sans papiers who staged a hunger strike in Lille in May 2004, told the press ‘if people are treated rightly, we will avoid hunger strikes, which are an act of absolute despair’.⁹¹

Refugees were publicly demonised as bogus, illegal immigrants and economic migrants scroungers when the EU undermined Article 31 of the Geneva Convention that guarantees the right to cross international borders to seek asylum. But now, as member states set impossible deportation targets to expel thousands of rejected asylum seekers a new stereotype of ‘failed asylum seekers’ is being coined: they are blackmailers, manipulators and self-mutilators.

It is a stereotype that not only ignores the very real human misery that prompts suicidal thoughts, adding a deeply offensive dimension to the growing xeno-racist discourse against asylum seekers and refugees, but also conveniently turns reality on its head: states are victims and asylum seekers their victimisers.

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6. Appendix: Deaths during forced deportation

CASE DETAILS OF ELEVEN DEATHS DURING FORCED DEPORTATIONS FROM SWITZERLAND, GERMANY, BELGIUM, HUNGARY, FRANCE, AUSTRIA AND THE UNITED KINGDOM.

MARIAME GETU HAGOS

- * *Undocumented Somali national*
- * *Aged 25*
- * *Died 16 January 2003, France*
- * *No official cause of death*

Case details: On 16 January, Mariame Getu Hagos died after being taken ill on board an aircraft awaiting departure to Johannesburg from Roissy-Charles de Gaulle airport. According to reports, Mariame Getu Hagos, a Somali, had arrived in France five days earlier from South Africa, and was placed in the waiting area at Roissy. After his application for asylum was rejected, the authorities sought to deport him to Johannesburg. However, he refused to board the plane, saying that he was ill. The doctor who examined him on two occasions claimed that he was feigning illness and malingering. But, after his death, a doctor attached to the emergency medical services said that the Somali's condition should have been taken more seriously.

Deemed fit to leave, another attempt was made to force the Somali to board the flight. Mariame Getu Hagos was accompanied onto the aircraft by three frontier (PAF) police officers, placed at the rear of the aircraft. He was handcuffed and his feet shackled. According to the interior ministry, before take-off the Somali, whose handcuffs had been removed, again made efforts to resist deportation and was restrained by the 'customary techniques'. The police are alleged to have bent him over his seat, his hands on his shoulder blades, his torso pinned against his knees. According to flight crew members, a half hour after boarding, Mariame Getu Hagos was inanimate and inert. He was then removed from his seat and attempts were made to resuscitate him. He was taken, in a coma, to hospital, where he died two days later. An interior ministry spokesperson has since acknowledged that 'the immobilising techniques employed by the police escort may have contributed to the asphyxiation and the death of this man'.

Action taken: An investigation by the public prosecutor of Bobigny was opened. Three police officers were suspended, pending the results of this investigation. Amnesty International called for a full and impartial investigation into the causes of Mariame Getu Hagos' death.

RICARDO BARRIENTOS

- * *Undocumented Argentinean national*
- * *Aged 54*
- * *Died 30 December 2002, France*
- * *Official cause of death: cardiac arrest*

Case details: On 30 December 2002, at Roissy-Charles de Gaulle airport, Ricardo Barrientos, an undocumented Argentinean national, was taken on board an aircraft bound for Buenos Aires by two officers from the French border police. He was placed in the rear section of the craft with his hands cuffed behind his back. According to the police, the deportation was carried out in accordance with normal procedures. When the Argentinean resisted deportation, the deportation officers forced his upper body onto his legs and his head between his knees, at the same time as restraining his arms. On discovering that Mr Barrientos had fainted, medical emergency personnel were called. Later, police issued a statement claiming that Barrientos' death was due to a cardiac arrest and natural causes.

However, the National Association for Assistance to Foreigners at the Borders claimed that eye-witness accounts contradicted the police's version of events. Refugee support groups say that death was due to the unnatural position in which they deportee was forced. Amnesty International (AI) says that 'existing expert advice on postural asphyxia has proved that handcuffing a person behind their back can restrict their ability to breathe, while any weight applied to the back in this position – such as pressure applied by a police officer – can increase breathing difficulty further'.

Action taken: An inquiry by the public prosecutor of Bobigny was undertaken. AI called for its results to be made public and demanded a full and impartial investigation into the circumstances of Ricardo Barrientos' death.

SAMSON CHUKWU

- * *Nigerian asylum seeker*
- * *Aged 27*
- * *Died May 2001, Switzerland*
- * *Official cause of death: positional asphyxia*

Case details: This was the second attempt to

deport Samson Chukwu as a previous attempt, several weeks earlier, failed when the aeroplane pilot refused to take him on board. In this, the second deportation attempt, anti-terror unit officers from the canton of Valais arrived in the early hours of the morning at the detention centre in Valais to escort Chukwu onto a specially chartered flight. He died in the detention centre at the start of this forced deportation operation.

The police version of events was that, as Chukwu resisted deportation, it was necessary to hold him face down on the ground and handcuff him, with his hands placed behind his back. A final autopsy report states that Chukwu's death by suffocation was provoked by the position in which he was placed. It points out that Chukwu was highly agitated and that, in a struggle that lasted for several minutes, Chukwu's physical exertion may have completely drained his oxygen supply. The fact that his hands were then cuffed behind his back, placed him in a position in which it was hard to breathe. And the partial weight of one of the officers on his thorax was a further hindrance to his respiratory system.

Action taken: Police launched an inquiry but its impartiality was immediately undermined by persistent police reports that Chukwu was a convicted drug dealer.

Prosecutions: Authorities ordered that no police officer should be prosecuted for Chukwu's death. In September 2001, the Valais investigating magistrate ruled that no criminal investigation should be opened against the officers. This was based on police statements indicating that the officers had not violated standard procedures and had not been trained in, and were unaware of, the dangers of the restraint methods they had used. An appeal lodged on behalf of Samson Chukwu's family was dismissed.

CHRISTIAN ECOLE EBUNE

- * *Cameroonian asylum seeker*
- * *Aged 31*
- * *Died 18 December 2000, Hungary*
- * *Official cause of death: natural causes as a consequence of chronic cardiac hypertrophy. (An alternative report commissioned by the Hungarian Helsinki Commission suggested that death was most probably due to a combination of heart failure, panic and stress.)*

Case details: When deportation police arrived at the community shelter of the Nyirbátor border guard directorate to carry out the deportation, Ebune started to shout and cry. At this point, according to other detainees, two police officers

and six border guards handcuffed him and 'dragged him on the floor like a dead goat' into the police van. At the Budapest Ferihegy International Airport, two officers from the National Police Alert Squad Anti-Terrorist Service arrived to escort Ebune to his flight. When these officers tried to replace Ebune's metal handcuffs with plastic ones, Ebune attempted to escape. At this point, seven police officers forced him on to a table, closed the handcuffs, cuffed his feet and put him on a luggage trolley before pushing him into the transit zone. At first, the Sabena airline pilot agreed to take him on board but, when he continued to shout and protest, the pilot refused to go through with the deportation. Ebune was then taken into a service corridor away from passengers where, it appears, he was beaten and his feet wrapped with tape. When one of the officers noticed that he was unconscious, the airport emergency physician was called. Ebune could not be revived. (As compiled by Hungarian Helsinki Committee in its report 'Death at the airport: the case of Christian Ecole Ebune'.)

AAMIR MOHAMED AGEEB

- * *Sudanese asylum seeker*
- * *Died 30 May 1999, Germany*
- * *Official cause of death: asphyxiation*

Case details: Aamir Mohamed Ageeb was taken on board a flight to Cairo, bound hand and foot and wearing a motorbike helmet tightly strapped onto his head. He died shortly after boarding the flight. After physicians on board made an unsuccessful attempt to revive him, the plane made an emergency landing in Munich where Ageeb was pronounced dead. There are indications that Ageeb died of suffocation as a result of his upper body being violently pushed downwards. There are allegations, based on witness reports, that the three BGS officers who carried out the deportation had refused to untie the lifeless Ageeb so as to enable effective attempts at resuscitation to be made by doctors on board. It has also been claimed that Ageeb's appeals that he could not breathe did not lead to any cessation in the police officers' violence and that the Lufthansa crew made no efforts to intervene to stop the violence.

Action taken: The three federal border guards involved were removed from deportation duties, but not suspended from police duties. An investigation by the federal ministry of the interior cleared them of any fault.

A temporary embargo on forced deportations was lifted after one month.

Immediately after Ageeb's death, police

claimed that he had been so violent as to bring about his own death. None of the police allegations about Ageeb's violent criminal record were ever substantiated.

Prosecutions: Three federal border guards were charged with 'manslaughter through culpable negligence' and received suspended sentences of nine months.

MARCUS OMOFUMA

- * ***Nigerian asylum seeker***
- * ***Aged 25***
- * ***Died 1 May 1999, Austria***
- * ***Official cause of death: suffocation***

Case details: Marcus Omofuma, an Ogoni asylum seeker from Nigeria, was taken for deportation on board a Balkan-Air flight at Vienna. He was due to be deported to Nigeria, via Sofia, Bulgaria. Due to resistance Omofuma put up in the car on the way to the runway, a decision was taken to tape his mouth and bind his feet. He was carried to the plane 'taped up like a parcel' and the binding process continued inside the aircraft. His upper body as well as his head were bound to the seat with tape so that his head was almost immobile. His mouth was taped, and his nostrils were also partially sealed. An eye witness at the trial of the three police officers involved testified that at one point an officer sitting in the seat behind Omofuma pressed his foot on the back of Omofuma's seat in order that he could pull the tape as tightly as possible around his chest. Probably out of panic, Omofuma banged the seat in front of him, in which an employee of Balkan Air was seated. The employee then landed Omofuma a blow to the head, whereupon the police officers bound Omofuma's head yet again ten or perhaps twenty times – adding a further ten metres of tape around his body. Passengers objected when the officers hit Omofuma as he attempted with extreme strength, to exhale through his nose. After about half an hour of flight time, Omofuma became strangely still. Concerned passengers repeatedly asked the officers to check Omofuma's state of health. They took his pulse and said he was still alive. On arrival in Sofia, an emergency doctor was summoned and Omofuma pronounced dead. The lawyer for Omofuma's family said at the trial of the three police officers involved, 'Omofuma's supposed resistance was, in reality, his death struggle'. (These are the details as they emerged at the trial of three police officers in April 2002. Two women passengers on board the deportation flight agreed to give evidence on condition of anonymity.)

Immediate action taken: Forced deportations were temporarily suspended. The interior minister refused to resign but announced an investigation. At first, the three police officers involved in the deportation were not suspended. The interior ministry were also perceived to have undermined the independence of the investigation by claiming that Omofuma died because he put up 'heavy resistance'.

Prosecutions: It took three years to bring three police officers from the Viennese unit of the foreigners' police to court, charged with 'torture of a prisoner resulting in death'. On 15 April 2002, they were found not guilty on this charge, but guilty of the lesser charge of 'negligent manslaughter in particularly dangerous conditions'. The three police officers were given eight months suspended prison terms and continued to serve in the police force.

KHALED ABUZARIFEH

- * ***Palestinian asylum seeker***
- * ***Aged 27***
- * ***Died 3 March 1999, Switzerland***
- * ***Official cause of death: positional asphyxia***

Case details: On a previous attempt to deport Khaled Abuzarifeh, he had protested so vociferously that the airline pilot refused to take him on board and the deportation failed. On the second attempt, he was to be deported from the detention centre at Zurich Kloten airport to Egypt. Abuzarifeh, who was accompanied by three police officers, was given a sedative, had his mouth sealed with adhesive tape, was bound hand and foot and strapped into a wheelchair in preparation for deportation. He was accompanied by three deportation officers. He died in a lift at Switzerland's Bern airport after suffering a panic attack, causing him to choke on his own vomit and suffocate. By this stage he was being taken for deportation restrained in a wheelchair and with his mouth sealed with adhesive tape.

Action taken: No halt on deportations, but the Swiss police announced that in future adhesive tape would not be used; instead deportees would have to wear a specially-designed deportation helmet (the type already banned in Germany). Immediately after Abuzarifeh's death, police issued a press statement describing him as a 'convicted drugs dealer' and implying that he could have taken drugs prior to deportation.

Prosecutions: In June 2001, two police officers were acquitted of manslaughter and the case

against the third, in charge of the deportation, was sent back to the prosecutor's office for re-examination and possible additional charges.

However, in June 2001, a doctor employed by the canton of Bern was found guilty of manslaughter and given a five-months suspended prison sentence (the sentence was later reduced to a three months suspended sentence on appeal) and ordered to pay compensation to the Palestinian's family. During the court case, it was revealed that the doctor had ignored complaints from Abuzarifeh that he could not breathe properly when the adhesive tape was used to seal his mouth. The court ruled that the doctor had failed to observe a nasal deformation that reduced Abuzarifeh's breathing capacity and that this should have been observed during a thorough medical examination prior to deportation.

Further action: The civil rights group Augenauf immediately initiated legal proceedings for manslaughter against the Zurich cantonal minister for police as well as against the unnamed police officers involved in the deportation.

SEMIRA ADAMU

- * *Nigerian asylum seeker*
- * *Aged 20*
- * *Died September 1998, Belgium*
- * *Official cause of death: asphyxiation*

Case details: This was the sixth attempt to deport Semira Adamu from Belgium. In the early hours of the morning, eleven members of the gendarmerie's National Airport Unit had taken her to Zaventem airport in an armoured unit. On board, as Adamu attempted to draw attention to herself by singing, officers used the so-called 'cushion technique' to restrain her. One gendarme gripped her hands while the other one held her head down on the cushion, covering her nose and mouth for several minutes.

As it is normal practice to film 'difficult deportations', the deportation was recorded on video. (There are claims that some parts of the video have since been doctored.) The video records the gendarmes cracking jokes while holding a cushion over Adamu's face.

She fell into a coma, emergency services were called and she was transferred to hospital where she died of a brain haemorrhage.

Action taken: Interior minister Louis Tobback resigned after Semira Adamu's death – in recognition of the fact that he was politically accountable for the misdeeds of the judiciary. A judicial inquiry, which was completed in February 2000, was launched and the Vermeersch Commission set up

to evaluate instructions and techniques relating to forced deportations. In 2000, new guidelines were laid down, banning control and restraint methods that block breathing and the use of sedatives. But other methods of forced deportation that are equally dangerous were put in place.

In 2000, Amnesty International criticised the Belgian authorities for failing to publish the results of its investigation into the death of Semira Adamu. The judicial investigation was closed by the investigating magistrate and a dossier sent to the Public Prosecutions office.

Prosecutions: In March 2002, a court ordered that the three escorting officers should stand trial for deliberately causing grievous bodily harm resulting, unintentionally, in death. Another two officers who had supervised the operation on board the plane were charged with committing the same offence through failure to take precautionary measures. In September 2003, four officers received suspended sentences for charges relating to involuntary manslaughter and assault. No disciplinary charges were brought.

KOLA BANKOLE

- * *Nigerian asylum seeker*
- * *Died 31 August 1994, Germany*
- * *Official cause of death: heart failure*

Case details: Kola Bankole was due to be deported from Frankfurt to Nigeria. In order to deport him, police officers at Frankfurt airport bound, gagged and injected him with a large dose of sedatives.

Action taken: An investigation was launched into Bankole's death but the prosecuting authorities concluded that charges of manslaughter through negligence could not be brought against any of the officers concerned and that the use of physical force and restraints were sanctioned by law.

The death led to angry representations from the Nigerian Embassy which claimed that twenty-five Nigerians had died in police custody in Germany over the past three years.

Prosecutions: No police officer was ever charged in connection with Bankole's death. However, a doctor involved in the attempted deportation was ordered to pay DM5,000 to a charitable organisation after being charged with 'failing to render assistance'.

JOY GARDNER

- * *Jamaican immigration overstayer*
- * *Aged 40*
- * *Died 1 August 1993, United Kingdom*
- * *Official cause of death: brain damage caused by lack of oxygen*

Case details: Deportation police from the SO1(3) squad arrived at the north London home of Joy Gardner in the early hours of the morning of 8 July 1993. In front of her 5-year-old son, they held her down to stop her struggling and placed a body belt around her waist, bound her wrists to handcuffs attached to a belt and tied her thighs and ankles with leather belts. They then wrapped 13 feet of tape around her mouth to stop her screaming. She was taken to hospital in a coma from which she never recovered.

Action taken: Home Office and Metropolitan police launched a joint review of procedures for deportation and, shortly afterwards, the home secretary banned the use of gags and adhesive tape to restrain deportees. Many newspapers depicted Joy Gardner as a dangerous and violent criminal.

Prosecutions: In 1995, three police officers stood trial, charged with the manslaughter of Joy Gardner, but were acquitted. No disciplinary action was taken against any of the officers involved in the actual deportation and a supervisory officer who faced a disciplinary charge was cleared of any wrong-doing.

Further action: In 1999, the family of Joy Gardner issued a writ against the home secretary and the Metropolitan police commissioner for 'unlawful killing'. The family sought compensation for the psychological suffering caused to Joy Gardner's son by witnessing the deportation attempt.

ARUMUGAM KANAPATHIPILLAI

- * *Tamil asylum seeker*
- * *Aged 33*
- * *Died 1991, France*
- * *Official cause of death: asphyxiation*

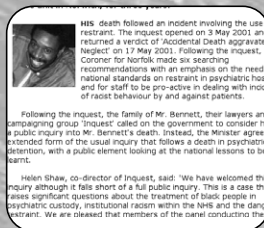
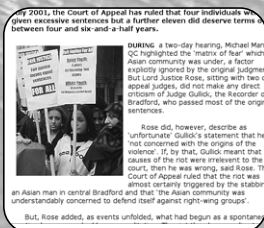
Case details: Arumugam Kanapathipillai was taken for deportation, gagged and wrapped up in a blanket, on a Paris to Colombo flight. He died later in the hospital at Aulnay-sous-Bois.

Any action: There was no publicity about this death at the time and there are allegations that the authorities deliberately tried to cover the death up. Seven years later, after the ministry of interior

launched an inquiry into the use of gags and tranquillisers by Diccilec, the immigration police, it emerged that no police officer had ever been charged following the death of Arumugam Kanapathipillai.

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