

# **They are Children Too**

**A study of Europe's deportation policies**

**Liz Fekete**



---

# **They are Children Too**

## **A study of Europe's deportation policies**

---

‘A child: every human being under the age of 18’

*The Convention on the Rights of the Child. UN Rules for the Protection of Juveniles Deprived of their Liberties*

Institute of Race Relations, 2–6 Leeke Street, London WC1 X 9HS, UK.  
Tel: +44 (0)20 7837 0041  
Fax: +44 (0)20 7278 0623  
Web: [www.irr.org.uk](http://www.irr.org.uk)  
Email: [info@irr.org.uk](mailto:info@irr.org.uk)

---

# Acknowledgements

---

We would like to acknowledge the financial support of the Joseph Rowntree Charitable Trust during the researching of this report.

This could not have been written without the help of many people, but particular thanks are due to Tim Cleary who did much of the work collating the case studies for the report as well as translating articles from French. Vincent Homolka and Terese Jonsson also deserve special thanks for the extraordinary amount of work they did translating articles from German and Swedish newspapers respectively. Other voluntary help with compilation of case-studies and translations has also been provided by Norberto Laguia Casaus, Liz Cross, Steve Deegan, Rhona Desmond, Imogen Forster, Margaret Goff, Sofia Hamaz, Trevor Hemmings, Andrew Hickman, Lotta Holmberg, Simon Katznellenbogen, Louisa O'Brien, Virginia MacFadyen, Sarah Parker and Chris Woodall.

My thanks also to the following for providing information, clarification and editorial support: Antirassistische Initiative (Germany), Jenny Bourne, Nadine Finch, Emma Ginn, Martine Lachet, Jean Lambert MEP, Pro Asyl (Germany), Terre des Hommes (Switzerland), Sanna Vestin and Frances Webber.

## Notes

---

All cases cited in this report have either been documented by a human rights NGO or a national newspaper. In a few cases lawyers in this report 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.

This is a double issue of the *European Race Bulletin*, Nos 58 and 59.

© Institute of Race Relations 2007  
ISSN 1463 9696  
ISBN 0 85001 067 5

Design by Harmit Athwal  
Printed by Russell Press Ltd

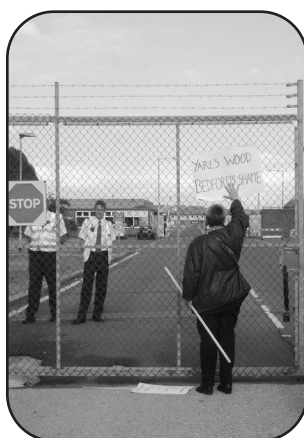
Cover picture: Howard Davies/ reportdigital.co.uk  
Back cover drawing courtesy of Jubaer Alam, an asylum seeker from Bangladesh  
All other pictures © IRR Race & Refugee News Service/ [www.irr.org.uk](http://www.irr.org.uk)

---

# Contents

---

<b>Acknowledgements</b>	<b>ii</b>
<b>Contents</b>	<b>iii</b>
<b>List of abbreviations</b>	<b>iv</b>
<b>Foreword</b>	<b>v</b>
<b>Introduction</b>	<b>vi</b>
<b>1. Arrested</b>	<b>1</b>
Sudden and violent dawn raids ■ entrapment techniques ■ seizing children at school ■ civil disobedience movements	
<b>2. Detained</b>	<b>9</b>
No monitoring of child detention ■ increase in family detention ■ treatment of separated/unaccompanied children ■ abuses at the border ■ minors imprisoned for document crimes ■ growth of pre-deportation detention ■ health implications of detaining minors ■ treatment of pregnant and nursing mothers ■ child protection measures removed ■ protection not prison for children	
<b>3. Deported</b>	<b>34</b>
New approach to separated/unaccompanied children ■ charter flights ■ family rights sacrificed ■ denial of humanitarian protection ■ deportation of vulnerable and sick children ■ deported to an uncertain future ■ right to stay ■ right to education	
<b>4. Destitute</b>	<b>58</b>
Europe's young vagrants ■ treatment of failed asylum-seeking families ■ new underclass ■ shanty-towns and squats ■ humanitarian Europe responds	



# List of abbreviations

<b>AI</b>	Amnesty International
<b>ANAFE</b>	Association Nationale d'Assistance Aux Frontières pour les Étrangers (National Association of Assistance for Foreigners at Borders (France)
<b>APHDA</b>	Asociación Pro Derechos Humanos de Andalucía (Andalusian Association for Human Rights) (Spain)
<b>CEAR</b>	Comisión Española de Ayuda al Refugiado (Spanish Commission of Aid to Refugees)
<b>CERD</b>	UN Committee/ Convention on the Elimination of all forms of Racial Discrimination
<b>CONAFE</b>	Coalition of NGOs working for African Children (France)
<b>CPT</b>	Centro di permanenza temporanea (Centre for temporary stay) (Italy)
<b>C-Sur</b>	Refugee Emergency Support Collective (Calais)
<b>DCI</b>	Defence for Children International
<b>DRC</b>	Democratic Republic of the Congo (formerly Zaire)
<b>Dublin II/ Dublin Regulation</b>	Council Regulation 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national
<b>ECHR</b>	European Convention for the protection of Human Rights and fundamental freedoms (1950)
<b>ECRE</b>	European Council on Refugees and Exiles
<b>EU</b>	European Union
<b>Gardai</b>	Irish police
<b>GISTI</b>	Groupe d'Information et de Soutien des Immigrés (Information and Support Group for Immigrants) (France)
<b>IND</b>	Immigration and Nationality Directorate (of the Home Office) UK
<b>IND</b>	Immigratie en Naturalisatie Dienst (Immigration and Naturalisation Service) (Netherlands)
<b>International Detention Coalition</b>	International Coalition on the Detention of Refugees, Asylum Seekers and Migrants
<b>IRC</b>	Immigration Removal Centre
<b>IRR</b>	Institute of Race Relations
<b>KISA</b>	Action for Equality, Support and Anti-Racism in Cyprus
<b>Medical Foundation</b>	Medical Foundation for the Care of Victims of Torture
<b>MRAP</b>	Mouvement contre le Racisme et pour l'Amitié entre les Peuples (Movement against racism and for friendship among peoples) (France)
<b>MRAX</b>	Mouvement contre le Racisme, l'Antisémitisme, la Xénophobie (Movement against Racism, Anti-semitism and Xenophobia) (Belgium)
<b>MSF</b>	Médecins sans Frontières
<b>NCADC</b>	National Coalition of Anti-Deportation Campaigns (UK)
<b>NRUC</b>	National Register for Unaccompanied Children
<b>OFPRA</b>	Office for the Protection of Refugees (French refugee agency)
<b>PAF</b>	Police Aux Frontières (French border police)
<b>Qualification Directive</b>	Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third-country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted
<b>RESF</b>	Réseau Education Sans Frontières (Education Without Borders Network) (France)
<b>SCEP</b>	Separated Children in Europe Programme
<b>SCIFA</b>	Strategic Committee on Immigration, Frontiers and Asylum (EU)
<b>UNCRC</b>	United Nations Convention on the Rights of the Child 1989
<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>UNICEF</b>	United Nations Children's Fund
<b>UNJD rules</b>	United Nations Rules on Juveniles Deprived of their Liberty
<b>UNMIK</b>	United Nations Interim Administration Mission in Kosovo
<b>WWB</b>	Wij Willen Blijven (We Want to Stay) (Netherlands)
<b>XENION</b>	Psychotherapeutische Beratungsstelle für politisch Verfolgte (Psychotherapeutic Counselling Centre for Politically Persecuted Refugees) Germany

---

# Foreword

---

**T**here is no such thing as your children and my children. Children are children are children. They are the measure of our possibilities; how we treat them is the measure of our humanity. The moment we categorise them as foreign is the moment we lose both.

For asylum seekers, living on the edge of life, children are the most precious belonging. It is to save their children's lives by safeguarding their own that they flee the mayhem of their countries and seek asylum in Europe. But once asylum is refused, often on the most arbitrary grounds, and the logistics of deportation take over, the children are subjected to the same summary treatment as their parents. In fact, worse, because they are sometimes the clue to the whereabouts of their parents who, in a last desperate attempt to save the family from deportation, go into hiding. Children are plucked out of their schools, subjected to sudden and violent dawn raids on their 'homes', and detained in immigration removal centres for inordinate lengths of time.

Manuel Bravo, an Angolan asylum seeker who fled to Britain with his 13-year-old son after his parents were killed and sister raped, hanged himself in Yarl's Wood Immigration Removal Centre where he and his son were being detained before being deported, so that the boy could remain in Britain as an 'unaccompanied minor'.

But even 'unaccompanied minors' come of deportation age by 18 and are sent back to their countries of origin. More to the point, however, is that they are so vulnerable and unprotected that they often fall prey to child trafficking and prostitution.

If the criterion of a Christian society is Christ's injunction – 'suffer the little children to come unto me, and forbid them not, for of such is the kingdom of heaven' – the nations of Europe can only be judged apostate. If the criterion of a civilised country is the treatment of children who come to it for refuge, the nations of Europe can only be judged barbaric.

And yet, Europe mouths 'values', 'Enlightenment', 'tolerance'. As Sartre said in another context, the mouths open, but the words die on the tongue.

Only in the heroic efforts of religious and secular groups and individuals to defy the state and take 'illegal' children into their protection, in any way they can, is there any evidence that Europe once had a soul.

*A. Sivanandan*



---

# Introduction

---

**T**wo years ago, the IRR published *The Deportation Machine*, an investigation based on over 200 case studies of the EU's target-driven deportation policy on asylum seekers and its impact on human rights. In *They are Children Too*, we attempt to bring the story up to date by examining in greater detail the treatment of minors, whether children of asylum-seeking families, separated/unaccompanied minors seeking asylum or the children of *sans papiers*. This report draws on nearly 150 cases involving the abuse of children's rights which have largely occurred since 2005 because these children are foreign and with disputed immigration status.

*They are Children Too* is a tale of two Europes. The first Europe consists of government-created bureaucratic machines which reduce officials to automatons. In this Europe, the demands of states' Executives to speed up deportations can only be met if non-citizens are treated as a species apart, for example, by removing children, on no other grounds than their nationality, from the universal protection of the United Nations Convention on the Rights of the Child. In this Europe, officials seize children for deportation on their way to school and police officers terrorise them in their homes during dawn raids. In this Europe, officials see nothing wrong in putting children's health at risk either by incarcerating them in pre-deportation detention centres or by rendering their families homeless and destitute. In this Europe, it is even legitimate to extend this kind of heartlessness to lone children, even though the state is officially supposed to act as their parent and legal guardian.

Thankfully, though, there is another Europe. In the second Europe are ordinary people, often acting in defiance of the law and with great courage, reminding governments what humanitarianism and social solidarity mean in practice. Drawing their inspiration from citizens' networks formed to protect Jews from deportation during the Nazi period, 'native' parents are risking prosecution by hiding 'foreign' children. Schoolchildren, too, go to extraordinary lengths to protect their friends from removal. These grassroots movements for asylum rights are supported by faith organisations, doctors, social workers, teachers and organisations for children. In an echo of the nineteenth and twentieth century European movements to extend child protection to the children of the outcast poor, NGOs today are drawing attention to the plight of foreign and asylum-seeker children, persuading a world which demonises the groups they come from, that they are children too.

*Liz Fekete*

---

# 1. Arrested

---

‘Society is very concerned about the safety and protection of children. Yet here is the State snatching children for purposes of deportation. It is outrageous in a civilised society.’

*Professor Aynsley-Green, Children’s Commissioner, England*

‘They are our friends, we are learning with them and from them – and then from one day to the next, they’re torn from the class and flown to a country whose language they often don’t even know.’

*Christian Lapp, Frankfurt Municipal Pupils’ Council*

‘Stop terrorising children’





---

**T**he policy of European governments to reduce the number of asylum claims and increase the rate of removals of failed asylum seekers and other families with immigration irregularities, results in enormous pressure on state officials and police officers to meet pre-determined deportation targets.<sup>1</sup> In the Netherlands, regional police forces have even been offered financial incentives for stepping up the removal rate.<sup>2</sup> And one local authority in the Spanish province of Bolzano has gone still further by offering a bonus of €500 to any individual police officer who succeeds in catching an 'illegal immigrant'. According to opponents, this has created a 'man-hunt' for third country nationals.<sup>3</sup>

While opinion polls suggest that there is widespread support for such hard-line approaches, public opinion is clearly no longer all in one direction. The way that families are being targeted for arrest in terrifying dawn raids horrifies more and more Europeans, as does the way in which children are snatched from classrooms for deportation. Schoolchildren, parents and teachers are attempting to protect children from brutal arrest by invoking traditions of civil disobedience and sanctuary. This has been strongest in France, where public outrage forced the government to draft a circular giving families with children at school temporary protection from removal, and in Scotland, where community pressure has forced a comprehensive review of 'best practice on family removals'. The Home Office has promised that, in future, family welfare experts in Scotland will be allowed to intervene in a deportation case if they believe a child's health or welfare would be seriously harmed.<sup>4</sup>

### **Sudden and violent dawn raids**

The sudden violence of arrest by a large number of immigration and police officers in the early hours of the morning has been described by England's first Children's Commissioner, Professor Aynsley-Green, as 'outrageous in a civilised society'.<sup>5</sup> And in Scotland, where protests against heavy-handed 'dawn raids' have prompted the intervention of the Scottish Executive to protect vulnerable minors, Children's Commissioner, Professor Kathleen Marshall, has urged the government to stop 'terrorising children of failed asylum seekers'. Speaking on BBC Radio's Good Morning Scotland, Professor Marshall told listeners: 'What can happen is immigration officers and police, big groups of them, 11 to 14, go to a family's house at seven o'clock in the morning, sometimes earlier, and waken the children in their beds. The officers in bullet proof vests waken the children, not the parents, they handcuff the parents in front of the children and then they remove them by van on long journeys down to these prisons.'<sup>6</sup>

The arrest, in 2005, of the Vucaj family, who had lived in Glasgow for five years after fleeing ethnic violence and persecution in Kosovo, led to protests by the family's neighbours, school friends and others. Their outrage eventually forced the Home Office to carry out a review of the way in which families living in Scotland were removed from the UK. A protocol between the Westminster and Scottish governments was issued securing some protection for children facing removal.

**On 13 September 2005, a large group of uniformed officers wearing body armour carried out a dawn raid on the home of the Vucaj family in Glasgow during which they kicked down the front door. They took the family in their pyjamas and in handcuffs, including Saida, 13, Nimet, 16 and Elvis 18, to Yarl's Wood immigration removal centre (IRC) in Bedfordshire, England. Saida later commented, 'In the living room, my father, my brother in handcuffs. My father is pure crying, my mother is crying. I never saw my father cry. I told the lady "What is wrong with you? I can't go to detention. I'm 13 and I'm going to school today."'**

However, in September 2006, following yet another arrest, this time of the Benai family, the Glasgow Labour MSP Bill Butler said that the protocol over the removal of failed asylum seekers (agreed after the Vucaj case) had been disregarded, particularly the aspect relating to children suffering from illness.<sup>8</sup>

**Two Algerian children were taken to Dungavel detention centre after being seized with their parents during a dawn raid on their Glasgow home. Oussama Benai, aged 11, suffers from severe diabetes and needs regular blood checks and insulin injections and Mayssa, aged 2, has problems breathing through her nose and was also receiving treatment.**<sup>9</sup>

Donal Currie, the headteacher at St Brendan's Primary, which Oussama attended, said, 'The removal of asylum-seeker children in this way is not only traumatic for them, but is also extremely distressing for the rest of the school community.' 'We at St Brendan's have been in this situation several times now and it creates anguish, worry and great sadness for everyone involved with the school.'<sup>10</sup>

The tactics deployed in dawn raids in Scotland have led to grassroots campaigns, street protests and incidents where residents have blockaded flats lived in by families under threat of deportation. Residents in areas where asylum seekers are housed have even set up early morning street

---

patrols to thwart raids on the homes of asylum-seeking families. As a result, the Home Office has reappraised its policies and the Immigration and Nationality Directorate (IND) has set up two specialist teams to deal specifically with local asylum cases and work directly with local social workers, schools and courts. But, at the same time, immigration officials have announced that they will increase efforts to persuade failed applicants to return home. What appears to be happening in Scotland now is that families are being issued with 'voluntary removal notices'; they are asked to report to Glasgow airport and deport themselves. Families are given up to two weeks notice of the flight and little or no further information.<sup>11</sup>

In Germany, certain Länder have reputations for particularly harsh approaches to failed asylum-seeking families. Lothar Kuschnik, superintendent of the Arnsberg church district in Germany, sharply criticised deportation practices in the Hochsauerland in North Rhine-Westphalia. 'The night-time deportations remind me of fascist methods', he said.<sup>12</sup> The tactics deployed create panic and confusion, sometimes with tragic results. Quite often, families are targeted for deportation to fill up seats on specially chartered deportation flights. As the flights have already been booked, the authorities need to fill up the planes to make them financially viable. A person can be targeted for arrest in the morning and deported that night.

**When the police went to arrest a Kurdish family from the town of Brilon (North Rhine-Westphalia), in panic the 31-year-old father climbed onto the balcony and fell fifteen feet to the ground, suffering severe injuries. The deputy district council clerk, Winfried Stork, defended the authority's action, saying that there were deadlines for collective flights set by the interior ministry.<sup>13</sup>**

The manner in which these sudden violent arrests are carried out is particularly distressing for those suffering from Post-traumatic Stress Disorder (PTSD) and others who have been traumatised in the process of seeking asylum.

**On the afternoon of 17 October, the home of Menaka Thadchanamoorthy, who is from Sri Lanka and had lived in Warendorf (Westphalia) for eight years with her three German-born children, was raided by the police who were targeting the family for removal. Mrs Thadchanamoorthy, who suffers from PTSD as a result of her war experiences and who is considered to be at risk of suicide, was not even given time to dress. Barefoot and scantily clad she was**

**taken to the Warendorf local court, where she suffered a nervous breakdown during the legal proceedings. She was thereupon admitted to the hospital of Fröndenberg prison, where she was to remain until her expected deportation to Sri Lanka. Her husband was taken to a pre-deportation prison in Büren.<sup>14</sup>**

**Despite the fact that they had not exhausted the appeals process, a Chechen couple and their three young children were arrested at their home in April 2005 in the early hours of the morning. The couple, who were both receiving treatment for PTSD, were given just twenty minutes to pack their belongings, before being taken to the Polish border. Dr Maria Kobayishi, who later treated the couple in Poland, said that the whole manner of arrest and deportation proved particularly traumatic for the mother and her children who had been attacked on a bus in Chechnya before fleeing to Germany. The mother suffered from a severe form of anxiety. When German officials raided her home she had passed out.<sup>15</sup>**

The counselling service Xenion provided therapy for another family from Chechnya with three children who were similarly deported from Brandenburg to Poland in the Summer of 2005. It provided this account.

**When police officers entered the home of a Chechen family with three young children in Brandenburg, the family were in such a state of shock that they were, literally, unable to move. Recognising that the mother was incapable of packing her things, the police allowed her to phone her sister who notified Xenion which then spoke to a police officer involved over the telephone. Xenion informed the police that the mother was traumatised and undergoing psychiatric treatment and that her ability to travel should be medically assessed. This advice was ignored.<sup>16</sup>**

No-one involved in the deportation process seems to consider the psychological impact on children of watching their parents being handcuffed, restrained and, in various ways, degraded.

**In May 2006, a five-member Turkish-Kurdish family from Stendal (Saxony-Anhalt) were deported to Istanbul after being arrested at their home. The mother, who had been raped and tortured in Turkey, had made a number of suicide attempts**

---

and was considered to be severely mentally ill and had been due to start treatment at the Centre for Victims of Torture. She was taken from her home in handcuffs – ‘for her own safety’, according to the Aliens Office.<sup>17</sup>

Officials seem to have lost sight of the fact that arresting families means arresting children. In one French case, the children were simply forgotten altogether.

The Réseau Education Sans Frontières (Education Without Borders Network, RESF) condemned the arrest in July 2005 of Joséphine Matondo, a Congolese asylum seeker, by gendarmes who arrested her at the Santa Maria hotel in Willerwald (Moselle département), where she was living with her two children. The children, 15-year-old Gladys and 7-year-old Samuel, were ‘forgotten about’ during the arrest and some people took them into their care to ensure that they weren’t left to fend for themselves.<sup>18</sup>

In one UK case, the dawn raid on a family who had not in fact exhausted the asylum process was deemed unlawful and the family, who had subsequently been deported, were returned to the UK after legal intervention.

The Q family, from Kosovo, were subjected to an early morning raid in which several officers in riot gear arrested them at their home and took them to Oakington reception centre for removal the following day, even though the mother’s claim for asylum had not been determined and both she and her teenage daughter were suffering from severe PTSD and were receiving weekly treatment at the Medical Foundation for the Care of Victims of Torture. The family were brought back from Kosovo after the Home Office accepted that they should not have been removed – only to be redetained and sent to Dungavel removal centre for a further five days before, finally, being released.<sup>19</sup>

### Entrapment techniques

There has been strong criticism of authorities for deploying entrapment techniques to effect arrest and, in some cases, children have even been used as ‘bait’.

Governments target families for removal because it is much harder for adults, who are not single but have children, to evade detection. Paradoxically, families are most likely to comply

with asylum law by reporting regularly to the immigration service. It is this very compliance which is used against the heads of families. They may be called to a meeting – ostensibly a routine interview to discuss an asylum claim – only to find themselves whisked away to a detention centre pending deportation.

When, in summer 2006, Alexandre and Inna Kotsyuba received a letter summoning them to the government office for the Essonne (region, south of Paris), they were full of hope, believing they were being called to pick up their immigration papers. Instead, they were detained with their 3-year-old son, Vladislav, and deported to Ukraine within 48 hours. An official for the Essonne region claimed that the family had not been warned in the letter of their pending deportation. The administration claimed that the family had trouble integrating, the father spoke very poor French and the 3-year-old son was in a pre-school class for 2-year-olds.<sup>20</sup>

In September 2005 in France, the wife of an Algerian man, who had been placed in detention at Mesnil-Amelot for over a week, went with her two children to the gates outside the detention centre, intending to hand over her husband’s passport. She then found herself detained and separated from her children who were taken into the care of an aunt.<sup>21</sup>

Dédé Mutombo Kazadi is an asylum seeker from the Democratic Republic of Congo (DRC) and a prominent member of the Union pour la Défense des Sans-papiers in Belgium. The day before Dédé was due to give a press conference on 15 September 2005 denouncing police raids on asylum centres, he was called with his wife and 3-month-old baby to the Office des Etrangers. The authorities claimed that the meeting was an administrative one to take a photo of the young child. However, the Congolese family found themselves under arrest and were taken, without clothes or belongings, to the 127bis transit centre at Steenokkerzeel, near Brussels. A demonstration of over 300 people managed to secure the family’s release and a promise to re-examine their case.<sup>22</sup>

In Scotland, Kurdish asylum seekers, Zubeyde Doldur and Mehmet Saban and their 5-year-old son were detained when they reported to the immigration offices and taken to Dungavel IRC. Their 4-year-

---

old daughter was then arrested at her aunt's house in Glasgow, despite being ill with flu. Residents say the girl, who was born in Glasgow, was 'screaming' as she was taken out of the house. The family were detained at Dungavel for thirty-four days before being released.<sup>23</sup>

In some instances, where an asylum seeker has not exhausted the appeals process, this method of entrapment constitutes an attack on his/her legal rights. In France, a judges' organisation and several non-governmental organisations (NGOs) have submitted an application to the Supreme Court challenging a ministerial circular to all prefects and public prosecutors on the 'conditions of arresting a foreigner without a valid residence permit'. According to the legal application, the circular places upon prefects and public prosecutors a duty to use methods which amount to a misuse or abuse of procedures. Summoning foreigners without a valid residence permit to present themselves with a view to examining their situation and then placing them under arrest pending expulsion, is one such procedural abuse. It amounts to an 'ambush' which jeopardises, *inter alia*, the appeal rights of failed asylum seekers. Under current law, such asylum seekers must present themselves at the offices of the prefecture of residence to obtain an authorisation of residence without which their claims for protection cannot be re-examined by the French Office for the Protection of Refugees and Stateless Persons (OFPRA). They could not find themselves summarily arrested and deported.<sup>24</sup>

In a UK case, the High Court similarly criticised the Home Office for an abuse of administrative procedure which amounted to contempt of court.

**Fadile Parmaksiz and her three children were Turkish asylum seekers who travelled to the UK via Germany in July 2002. The family reported regularly to immigration services, but their case was allowed to drift. On 2 July 2006, the family reported to immigration services but were immediately detained pending removal to Germany. The mother's lawyer contacted the duty high court judge and secured an injunction by telephone blocking her removal for three working days. Nevertheless, the family were deported on 5 July. Later, the courts found the Home Office in contempt of court and awarded damages to the family. Judge Collins said that it was not the first time that a deportation had gone ahead despite a high court injunction blocking the removal pending judicial review.<sup>25</sup>**

## Seizing children at school

Even more emotive is the practice of taking children from school for the purpose of deportation. Police and immigration officials have seized children on the way to school, demanded access to pupils in school to interview them about the whereabouts of their parents and, even, in some cases, apprehended them at school in order to take them into pre-deportation detention. This has outraged teachers' unions which, mindful of teachers' pastoral responsibilities toward children, have condemned such practices in the strongest possible terms. According to Austin Corcoran, president of the Irish National Teachers' Organisation, 'Our schools should be given the status of embassies. Parents should have an assurance that when their children are placed in a school, they will not be abducted from their place of learning by the state.'<sup>26</sup>

In some cases, children appear to be taken from the classroom as a way of teasing their parents out of hiding.

**In June 2006 in France, two Turkish-Kurdish children, Jonas, 3 and Chabar, 6, were taken to a police station in Le Mans (Sarthe) after police officers came to the school they were attending. The mayor of Le Mans, Jean-Claude Boulard, described the manner of their removal as 'humanly unacceptable' and the Fédération des Conseils de Parents d'Élèves des écoles publiques (FCPE), an association of parents of pupils, called it a 'disgrace'. Eventually, the two children with their mother were deported, under the Dublin Regulation (Dublin II), to Norway.<sup>27</sup>**

Taking children from school in this way can have profound consequences, as revealed by the following case, also in France.

**In the middle of a lesson on the morning of 2 February 2005, Ahmed and M'Ahmed, 16 and 14, were called to the headteacher's office at the Charles-de-Gaulle school in Fameck (Moselle) to find the police waiting for them. Their undocumented father from Iraq was facing deportation. The police had tried to take him in for questioning that morning, but did not find him at the family home – an emergency housing hostel. According to the French Human Rights League, the police took the two brothers to the police station where their rights to legal representation were ignored. In the evening, the police went back to the hotel with the brothers, where there was still no sign of the father. At this point, the police**



---

left the boys at the hotel.

The next day, according to the boys' social worker, the brothers arrived at school 'in a state of shock'. Their father had not been seen since the police went looking for him and the children were now alone. They were placed in a hostel for abandoned children. The school pledged to do all in its power to allow the boys to continue their education as 'the school is their only point of reference'.<sup>28</sup>

Refugee support organisations in Berlin say on many occasions children are taken from the classroom direct to the pre-deportation prison in Berlin-Köpenick.<sup>29</sup> A case in Dresden involved the police taking a 3-year-old boy from a crèche in order to put pressure on his mother to comply with a deportation order. This case was described by Pro Asyl as 'particularly scandalous and unscrupulous' and as tantamount to 'hostage taking' whereby a child is used to put pressure on an adult.

On 6 March 2006, police officers arrived at a crèche in Dresden's Gorbitz district (Saxony) and took away a 3-year-old Angolan boy. The crèche staff had contacted the boy's mother to inform her of the arrival of the police and she sent a person to the crèche whom she authorised to look after her son. But the police sent the person away and took the boy to the police station. When the mother did not appear, the boy was taken back to the crèche.

Following criticism, a spokesman for Dresden police admitted that 'this wasn't a brilliant performance'. Saxony's interior minister, Albrecht Buttolo (CDU) described the police action as a case of overkill. The Dresden public prosecutor's office initiated an investigation into the police who were accused of deprivation of liberty, removal of a minor, unlawful compulsion and trespass.<sup>30</sup>

In France, where the RESF is turning public opinion against such arrests and deportations, the trade union SUD Education has written to the minister of education denouncing the collaboration between school inspectors and police, which led to the arrests of families in several French cities. On occasion, the chief education officer issued descriptions of missing persons (usually only done in cases of abuse or kidnapping) to be able to find an undocumented child. When a school principal or teacher replied, the police went to the school to arrest the child and then placed the child in a detention centre with his or her parents.<sup>31</sup> Similarly, the Trades Union Ireland 2005

congress passed a motion deploring the way in which gardai entered classrooms and the 'subsequent disruption to our pupils'. Amongst cases cited was that of a 3-year-old removed from a crèche and a 7-year-old taken from school.<sup>32</sup> In the Netherlands, teachers' unions are concerned about a proposal by immigration minister Verdonk to carry out research into the possibility of detecting undocumented children via the educational system.<sup>33</sup>

In Cyprus, Democratic Rally of Cyprus deputy Stella Kyriakides has called for an investigation into immigration officials' 'unacceptable' treatment of two minors deported to Russia after they were seized by immigration officials on their way to school.

**Russian Vera Yudina and her three children aged 16, 11 and 10 had lived in Limassol for thirteen years and there was considerable local support in favour of the family's right to remain in Cyprus. After the father of the family was deported, Mrs Yudina went into hiding, but the children, the youngest of whom is said to have only one kidney and suffers from severe health problems, continued to go to school. Immigration police allegedly grabbed the two youngest children as they set off to school accompanied by a family friend and then used the children as a lever to force the mother out of hiding.**<sup>34</sup>

According to Stella Kyriakides, the Yudina family's case raised 'a number of questions such as why were the children seized and under such stressful conditions, particularly as one of the children suffers from a serious health condition, who gave instructions for this treatment, why was a social welfare services officer not present, and why were the children used as a measure of blackmail to arrest the mother'.<sup>35</sup>

These arrests are not only traumatic for the families involved, they leave a deep sense of anger and mistrust of the authorities amongst school-children. Some schools report that children have had to be given counselling following deportations. In other cases, as we shall see later, children are channelling their anger in positive ways and campaigning for the release or return of their fellow pupils. Students at Mayfield school in Portsmouth were jubilant when a campaign for fellow pupil, Lorin Sulaiman, 15, her mother, Amina Ibrahim, 51, and sister Eva, 16, who are Syrian Kurds led to the Home Office reviewing the case and granting permission for the family to stay in Britain for two years. Mayfield's head-teacher Derek Trimmer told the *Guardian*, 'It is still the school holidays but all the pupils have been texting each other with the good news ... This is

---

not just good news for Lorin but for the rest of the pupils too. If she had been plucked away from her friends the effect on them doesn't bear thinking about.<sup>36</sup>

### **Civil disobedience movements emerge**

In France, such is the anger at the manner in which the children of *sans papiers* are seized for deportation, that a civil disobedience movement, which draws its inspiration from the citizens' networks formed to protect Jews from deportation during the second world war, was formed in 2006 under the coordination of RESF. Committees to support asylum seekers and migrants sprang up all over France and a petition to defend *sans papiers* children and their families from deportation at the end of the school year, entitled *Nous les prenons sous notre protection* (We'll take them under our protection), was launched by RESF, with the backing of dozens of celebrities, artists, writers, filmmakers, trade unionists, and members of associations and political parties. Proposing civil disobedience, the petitioners stated that 'if they seek asylum from us, we will not close our doors to them, we will house them and feed them. We will not turn them in to the police.'<sup>37</sup> MPs and senators from Socialist and Green parties held a ceremony of support for the children at risk, saying that the start of the school holidays must not turn into 'a hunt for children'.

**For several weeks from April to June 2006 in an act of civil disobedience, families in Brittany helped to hide an asylum-seeking girl from Dagestan who had been attending the Jean-Macé school in Brest (Finistère). The teacher of 6-year-old Patimat Amirelieva said that the little girl was 'perfectly integrated' at the school, where the progress of her French language skills had been remarkable. Posters at the school read 'Patimat is one of our children'.<sup>38</sup>**

In December 2005, parents of pupils at the Victor-Hugo school in Angers formed a collective to provide a roster of accommodation (on an anonymous basis) to which a family could be switched as the need arose. It was to protect the Akzamova family from deportation to the Central Asian Republic of Kirghizstan where the family were part of a Russian-speaking minority. The father of the family, Ramil Akzamov, had already been placed in administrative detention in Mesnil-Amelot (Seine-et-Marne) but owing to resistance on the aeroplane had avoided deportation in December 2005. Kseniya Akzamova and her three sons, aged 1, 2 and 4, all of whom were born in

France, were in hiding and attending school 'assiduously'. The collective was supported by the Socialist Party mayor of Anvers as well as a Union pour un Mouvement Populaire (UMP) European deputy.<sup>39</sup>

For those who 'disobey' government orders by protecting children from deportation, there are penalties. To express such solidarity is for many people a religious or ethical imperative, and yet it is being criminalised. Specific crimes have been drafted to cover such support and protestors can find themselves facing a hefty fine or even a prison sentence.

**In Germany, in the case of a Vietnamese family taken for deportation in December 2004 after police violated church sanctuary at a building of the St Jakobi parish in Peine, criminal charges were brought against the priest, who had refused to break the church sanctuary.<sup>40</sup>**

**In Glasgow, Scotland, the neighbour of a Ugandan single mother and her children has been charged with obstructing the police after she refused to allow them into her flat to look for the family who were due to be deported.<sup>41</sup>**

For many French people hiding asylum seekers is reminiscent of resistance during the Second World War, when many French people hid Jewish children to prevent them from being deported to Nazi death camps. Campaigners today run the risk of falling foul of government legislation that introduced a maximum five-year prison sentence for those found guilty of the crime of solidarity.

Nicole Mussle, a member of the Mouvement contre le Racisme et pour l'Amitié entre les Peuples (MRAP) went to a police station to mediate after the Congolese asylum seeker Joséphine Matondo was arrested in July 2005 (see p 4). The next day, the police contacted Nicole on her mobile phone and asked her to bring Joséphine's children to the police station. Nicole said that she did not have the children and then went to the gendarmerie to pick up the necessary documents to make an appeal against the deportation order. At this point, Nicole was taken into custody, with no evidence and no complaint lodged against her, for holding the children. She was released the next day for medical reasons.<sup>42</sup>

Nicole Mussle's case was taken up by RESF which stated that 'For the first time in the Moselle

département and, to our knowledge, in France, the much talked-about crime of solidarity has been enforced against a campaigner ... The authorities ... are today directly attacking people who defend those without rights, criminalising their actions and incarcerating campaigners.<sup>43</sup>

Despite such laws, the number of children being hidden in France, is said to be increasing sharply. René Datry, a campaigner against deportations, claims that as many as 40,000 French families have volunteered to shelter those at risk.<sup>44</sup> According to one such volunteer, Christine Pitiot 'I prefer talking about *protecting* children rather than *hiding* them ... Nobody leaves their country without a good reason, whether they have been persecuted or whether it is for economic reasons. And everyone has a right to improve their condition.'<sup>45</sup>

## References

- 1 This has been acknowledged by the Norwegian police who say they are under extreme pressure to enforce a target number of deportations as rapidly as possible. In France, interior minister Nicolas Sarkozy has put pressure on local authorities, warning them that unless they stepped up expulsions they risked failing to meet a target for 2006 of 25,000 deportations.
- 2 Regional police forces which sign a contract promising to arrest a certain number of illegal immigrants will receive extra money if they reach these targets. See Liz Cross, 'Letter from the Netherlands', 2 November 2006, *IRR News*, <<http://www.irr.org.uk/2006/november/ha000003.html>>.
- 3 *El Mundo* (29 October 2006).
- 4 Home Office press release 'Home Office Minister visits Scotland' (26 October 2006).
- 5 *Hansard HC* (10 January 2006), col. 26WH.
- 6 *BBC News Online*, 1 September 2005, <<http://news.bbc.co.uk/1/hi/uk/default.stm>>.
- 7 Indymedia Scotland website, 29 September 2006, <<http://www.imscotland.org/>>.
- 8 *BBC News Online*, 28 September 2006, <<http://news.bbc.co.uk/1/hi/uk/default.stm>>.
- 9 Ibid and *The Scotsman* (28 September 2006).
- 10 As quoted in *The Scotsman*, Ibid.
- 11 'Voluntary removal notices: the new dawn raids', 24 September 2006, news items posted on Indymedia UK website, <<http://www.indymedia.org.uk/>>.
- 12 *Jungle World* (13 July 2006).
- 13 Ibid.
- 14 *Jungle World* (25 October 2006).
- 15 *Kein Flüchtlingsschutz in der EU Die verheerende Wirkung der Dublin II – Verordnung am Beispiel tschetschenischer Flüchtlinge* (Potsdam, Brandenburg Refugee Council, 2005).
- 16 Ibid.
- 17 *Jungle World* (24 May 2006).
- 18 Réseau Education Sans Frontières press release (28 July 2005).
- 19 Cases of UK lawyer.
- 20 *Guardian* (14 August 2006).
- 21 *Le Nouvel Observateur*, 28 September 2005, <<http://tempsreel.nouvelobs.com/>>.
- 22 MRAX – Mouvement contre le Racisme, l'Antisémitisme et la Xénophobie (Belgium) web story, 25 October 2005, <<http://www.mrax.be/>>.
- 23 *Guardian* (27 October 2006).
- 24 *Migration News Sheet* (May 2005).
- 25 *Guardian* (16 August 2006).
- 26 Schools Against Deportation website <[www.irr.org.uk/sad/briefing.html](http://www.irr.org.uk/sad/briefing.html)>.
- 27 *Reuters* (7 June 2006); *Le Monde* (7, 8 June 2006).
- 28 *Libération* (12 February 2005).
- 29 *Die Tageszeitung* (10 December 2004).
- 30 *Frankfurter Rundschau* (24 March 2006).
- 31 *PICUM Newsletter* (January 2005).
- 32 *Irish Times* (1 April 2005).
- 33 *PICUM Newsletter* (March 2005).
- 34 *Cyprus Mail* (21 September 2006).
- 35 Ibid.
- 36 Diane Taylor, 'Kurdish girl wins battle to stay in Britain', *Guardian* (2 April 2005).
- 37 *Le Nouvel Observateur*, 14 April 2006, 26 May 2006, <<http://tempsreel.nouvelobs.com/>>.
- 38 Patimat's mother, Sakinat, fled Dagestan with her daughter in 2001 after being sacked from her teaching job for 'immorality' because Patimat was born out of wedlock. The Dagestan authorities do not recognise the girl as a resident because her mother did not register her birth due to her fear of ostracism. *Libération* (29 April 2006); *Observer* (4 June 2006).
- 39 *Le Monde* (20 December 2005).
- 40 *Jungle World* (15 December 2004).
- 41 Positive Action in Housing news release (30 November 2006).
- 42 Réseau Education Sans Frontières press release (28 July 2005).
- 43 Ibid.
- 44 See Diane Taylor, 'How far would you go?', *Guardian* (4 November 2006).
- 45 Ibid.



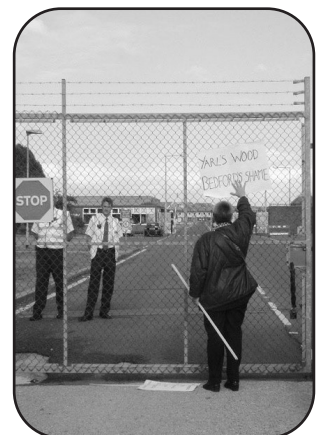
---

## 2. Detained

---

‘Detention is like a cage, and I was like a small bird with no food in it. I wished I could fly.’  
*Navid, 7, in detention at Yarl’s Wood IRC*

‘No Place for a Child’



**R**ich industrialised societies place a high premium on ensuring that their children are safe from harm. Yet, unbelievably, every year, European states do untold harm to foreign children by locking them up in immigration detention and removal centres. 'These are', in the words of Zimbabwean asylum seeker, Nellie de Jongh, the 'forgotten children, whose only crime is their parentage'.<sup>1</sup>

Under Article 5 of the European Convention of Human Rights (ECHR), immigrants (including asylum seekers) can be detained for short periods at the border (to prevent unauthorised entry) or for a limited period in pre-deportation detention (to aid removal). Crucially, to be lawful under Article 5, deportation must take place within a reasonable time-scale otherwise detention is not for the purpose of deportation but another purpose.

Immigration detention arises for a number of reasons and the site of detention varies. Asylum-seeking families, as well as unaccompanied children, could be detained alongside other migrants at a border, while asylum claims are considered, or while the identity or age of an applicant is verified. Asylum seekers can also be subjected to administrative detention even after they have applied for asylum. Following the refusal of an asylum claim and prior to deportation, asylum-seeking families could find themselves held in pre-deportation removal centres. Children of immigrant families who have overstayed their visas could also be detained. In addition, in some European countries, such as Greece, unaccompanied children and victims of trafficking are treated in much the same way as adults and detained.

Even though the EU is experiencing a substantial decrease in asylum claims, the number of people held in detention centres is rapidly increasing. As immigration detention is for administrative rather than punitive purposes, detainees are not prisoners in the formal sense. Paradoxically, though, as there are few laws and rules regulating the treatment of detained asylum seekers, they have fewer rights than convicted prisoners. Independent scrutiny of detention and removal centres is limited in many European countries, as is access to visitors, including journalists, lawyers and parliamentarians.

International law places the needs of children (defined as those under the age of eighteen) above the requirements of immigration control. When used other than as an exceptional measure of 'last resort' the detention of children for the purposes of immigration control violates international standards for the treatment of children set out by the UN Convention on the Rights of the Child (UNCRC),<sup>2</sup> the UNHCR and the UN Rules on Juveniles Deprived of their Liberty (UN JDL Rules). It even goes against the grain of a recent EU Council Directive which states that 'the best inter-

ests of the child shall be a primary consideration' when dealing with minors seeking asylum.<sup>3</sup>

But such vital instruments of international and European law have not stopped governments from treating foreign children as though they were extensions of migrant or asylum-seeking adults, who are believed to have fabricated claims. And the 'culture of disbelief', that has taken hold in immigration services, now extends to unaccompanied and separated children.

### **No monitoring of child detention**

No single EU body collates information on the number of migrant children detained.<sup>4</sup> Nor do EU member states publish such statistics. In the UK, in the absence of government statistics, the campaigning umbrella group, 'No place for a child' estimates that around 2,000 children are detained each year.<sup>5</sup> In one case, a child was held for 268 days. A UNHCR study suggests that the UK detains more people for longer periods and with less judicial supervision than any other comparable country in Europe.<sup>6</sup> The UK has, in fact, 'the most open-ended and unsupervised detention system in Europe'.<sup>7</sup>

This unmonitored detention of children has galvanised those concerned with human rights to form international and European coalitions to fight against increased detention and particularly for the rights of children. On World Refugee Day, the International Coalition on Detention of Refugees, Asylum Seekers and Migrants was launched by one hundred groups, including Amnesty International (AI), Human Rights First, Human Rights Watch, the World Council of Churches and national NGOs, in thirty-six countries. And in Europe, a coalition of NGOs, faith groups and concerned individuals launched a European appeal against detention and forced removal of minors. Both coalitions reaffirm the principle that minors should neither be detained nor removed by force.

In some European countries, accommodation of asylum seekers in 'open centres' that resemble military barracks is an integral part of reception procedures. The long-term accommodation of asylum seekers in such centres is leading to the kind of trauma in children that has been experienced by children held in 'closed centres'. This is, at long last, being discussed in Denmark and Norway.

In Denmark, the detention of asylum seekers is common, with an estimated 50 per cent of all asylum seekers detained at some point in 2000.<sup>8</sup> In addition, a June 2001 amendment to the Aliens Act expanded the grounds for detention of asylum seekers. Asylum seekers not detained are referred to Danish Red Cross reception centres, from where they are formally assigned to accommodation centres within six weeks. The Danish Institute of

---

Social Research says that, on average, a child is moved six times during the refugee determination procedure and that this is causing considerable distress.<sup>9</sup>

**Denmark has been sharply criticised by the Committee for the Elimination of Racial Discrimination (CERD) for its treatment of child asylum seekers. The minister for refugees, immigration and integration Rikke Hvilshøj could not give an accurate answer to parliamentarians about the number of children living long-term in reception facilities. She informed parliament that only five children had been held in such centres for over four years and eleven for between three and four years. The true figure, she later conceded, was that 220 children had been detained for over four years and ninety-seven for between three and four years.<sup>10</sup>**

In 2004, the Norwegian government announced a one-off amnesty allowing the families of children who had spent over three years in a reception centre, to stay in the country. Despite this, the long-term accommodation of children in such centres continues. According to Sejdefa Kurgas, who lived in a reception centre in Bergen for five years from 11 to 16, children suffer enormously in the centres, particularly when parents develop psychological problems and are unable to care for their children, leaving them to fend for themselves.<sup>11</sup>

**In Norway, in March 2006, after concern about the length of time children were spending in reception centres, it was revealed that at least 400 children had spent three years in an asylum reception centre. Of these, 204 had had their asylum claims refused.<sup>12</sup>**

The failure to effectively monitor the number of children detained is even more culpable when it comes to unaccompanied children. As these children have no parent in Europe to protect them, the state takes on the role of guardian and, as such, has an even greater responsibility to act in the best interests of the child. The Separated Children in Europe Program (SCEP) states that no separated child should be detained. The fact that it happens shows the need for a specific legislative framework to address the needs of unaccompanied children.<sup>13</sup>

In fact, a new legislative framework is needed for all foreign children. European immigration and asylum laws are not drafted in a way that even pays lip service to the UN Convention on the Rights of the Child. Far from observing its fundamental principle, that in all decision-making, gov-

ernments should prioritise the 'best interests of the child', legislation designed to deter asylum claims and expel a fixed quota of failed asylum seekers seems drafted so that maximum harm is done to children. The December 2005 reform to the Swiss asylum law, according to UNHCR, makes Swiss policies towards asylum seekers amongst the harshest in Europe. And it is children who will suffer the most. 'Young people and children ... are being rejected and abandoned to their fate', argues the Swiss branch of Terre des Hommes. 'Their marginalisation has reached unacceptable levels in the light of the Convention on the Rights of the Child.'<sup>14</sup>

**Amendments to the asylum law passed by the Swiss parliament in December 2005 and later ratified by referendum increased the period for which adult asylum seekers, whose claims have failed, can be held in pre-deportation detention to two years. Children over the age of 15 can be imprisoned for twelve months if they, or their families, refuse to leave the country voluntarily. The Asylum Law also introduced a new form of detention for 'insubordination' (ie refusal to cooperate with your own return). Though children under 15 will not be detained for 'insubordination', they could still suffer emotionally because the law allows for fathers to be detained for two years.<sup>15</sup>**

### **Increase in family detention**

Governments have expanded criteria for detaining families, particularly in pre-deportation detention, without providing any statistical evidence that families are prone to abscond. In a target-driven climate of deportation at all costs, the potential to harm children earmarked for removal grows. Governments are expanding units for families within immigration removal centres, as well as increasing the period of time that families can be held prior to deportation. (This is in line with policies to increase the removal of failed asylum seekers by detaining them sooner in order to avoid the problem of absconding.) But governments also increase the likelihood that foreign children will be harmed when they accommodate increased numbers of asylum seeking families awaiting decisions on claims for longer periods in reception centres that resemble prisons. (This is in line with a deterrent asylum system that seeks to grind an applicant down by prohibiting socialisation and integration.)

Responding to public pressure over the detention of children, governments have promised to make centres more 'child friendly'. But this is disingenuous. Adding a few toys, a dab of paint or pro-

---

viding play facilities does not make a detention centre less of a prison. According to Alvaro Gil-Robles, Commissioner for Human Rights of the Council of Europe, the 'French authorities appear to completely underestimate the legal and humanitarian problems posed by the presence of children in holding centres.'<sup>16</sup>

**In France, the number of families detained increased after the government set a target for a 50 per cent rise in expulsions. Even when the interior ministry announced, in June 2006, a limited amnesty for around 720 families of undocumented migrants, the detentions continued.<sup>17</sup>**

Concern about the welfare of children detained at Yarl's Wood IRC was expressed in the UK by the Chief Inspector of Prisons, Anne Owers, who stated that the centre needed a 'complete overhaul of the detention of children, informed by a proper understanding of the vulnerability of children and the safeguards required in domestic and international law'.<sup>18</sup>

**In the UK, the number of detention places designed for families has increased substantially since a new family centre opened at Yarl's Wood IRC in Bedfordshire in January 2005. With the new unit, the number of spaces for immigration detainees doubled to 456. Children detained at Yarl's Wood can be held indefinitely. In August 2006, sixteen families at Yarl's Wood went on hunger strike in a desperate bid to draw attention to the suffering of their children.<sup>19</sup>**

According to a report authored by Belgian NGOs, there was a dramatic increase in the detention of children in 2005.<sup>20</sup>

**Belgian NGOs believe that 600 children were detained in 2005.<sup>21</sup> Out of 121 asylum seekers detained in one week in December, sixty-six were children. Some had been detained for several months. Until the start of 2006, children were detained only in Centres 127 and 127bis, both of which are located alongside the runways at Brussels Zaventem airport. At the start of the year, only one wing at Centre 127bis was used for families. But by April, two wings were used and by September, the whole centre was used for the detention of families. In addition to this, the interior minister proposed other sites for the detention of children in family units. However, public concern seems to have prevented the continuing use of the**

**Vottem centre for illegals (Liège) as a site for family detention. In November 2006, several security guards working at Vottem voiced their concern at the treatment of adult detainees to a journalist on the condition that the 'Ciné Télé Revue' did not publish their names. Amongst other things, they alleged that detainees with psychiatric problems were locked up in solidarity confinement, left naked for several days wallowing in their excrement and urine.<sup>22</sup>**

In Italy, CPTs (Centro di permanenza temporanea, centre for temporary stay) are multifunctional, in that they provide initial reception centres, identification centres and custody pending deportation centres, all in one.

**Two new CPTs were opened in Italy in 2006, increasing spaces for family detention. The Gradisca d'Isonza CPT in Gorizia, constructed on the site of a former military barracks, close to the border with Slovenia, is now the largest multifunctional CPT in northern Italy. It can accommodate up to 250 people.<sup>23</sup>**

In parts of southern Europe, indefinite detention of migrant families in reception centres that are designed for short-term stay and do not have the necessary infrastructure and facilities to accommodate families long-term, has become commonplace. In Greece, the Ombudsman for Children, the UNHCR and AI have all condemned this.

**UNHCR Athens conducted an investigation of conditions at twelve reception centres between January 2001 and August 2003. At the Lavrion centre, children were treated in much the same way as adults. They lived alongside adults, other than family members, in overcrowded rooms. Some children had no beds and slept on the balcony.<sup>24</sup>**

**A journalist's investigation found that there were only five rooms, two lavatories and one shower for almost one hundred migrants accommodated at the Amygdaleza detention centre, north Athens, which is designated specifically for holding women, minors and expectant mothers. Campaigners say that as many as sixteen women and children live in tiny cells no bigger than 10 square metres. They do not have daily access to heating or hot water and hygiene is said to be almost non-existent.<sup>25</sup>**

---

## Treatment of separated/unaccompanied children

According to UNICEF more than half the world's children are suffering extreme deprivations from poverty, war and HIV/AIDS.<sup>26</sup> But while media images of suffering children may lead individuals in Europe to donate generously to charitable schemes abroad, governments may be less keen to respond positively to such children when they arrive alone at European ports.

As an estimated 20 million children are displaced by armed conflict or human rights violations,<sup>27</sup> EU countries have been forced to acknowledge the specific problems that arise when separated/unaccompanied children seek asylum. Asylum-seeking children are not the only ones for whom solutions need to be found. Other children may travel to Europe, sometimes at great risk in rickety boats or in the back of lorries, to escape conditions of serious economic deprivation in their home countries. Yet other minors may come to the attention of the immigration authorities after being trafficked to Europe for sex or labour exploitation.

In 2004, UNHCR reported that there were 12,800 asylum applications from separated/unaccompanied children in twenty-eight industrialised countries with available data. A total of 73 per cent of all these claims were lodged in Europe: in the United Kingdom (2,800), Austria (2,050), Switzerland (1,330), the Netherlands (1,220), Germany (980) and Norway (920).<sup>28</sup> According to Save the Children, there are around 100,000 children living in Europe today who have arrived here unaccompanied.

### *Unaccompanied and separated children*

**'Unaccompanied children'** (also referred to as 'unaccompanied minors') are defined by UNHCR as children under 18 who have been separated from both parents and are not being cared for by an adult who, by law or custom, is responsible to do so. Separated children are children under 18 who are separated from both parents or from their previous legal or customary primary caregiver, but may be cared for by extended family members. Child experts have also pointed out that some children arrive in Europe with adults (hence they are not strictly unaccompanied) who are not their parents or legal or customary primary caregivers as the result of being trafficked or smuggled.

But in comparison to Europe's wealth and resources, the number of separated/unaccompanied children who need specialist care within the asylum system, or foreign children, arriving in Europe abandoned and destitute, is small. 'Whatever the circumstances behind the child's departure from their home country', states the SCEP, the 'most important consideration must be to find a durable solution' to his/her problems.<sup>29</sup> It is a sentiment reiterated by Save the Children which analysed the cases of 218 separated children and showed that their motivation for flight included: fear of child torture; the impact of armed conflict in which 300,000 child soldiers are estimated to be involved; sexual exploitation of girls being trafficked into the European sex industry; death, imprisonment or disappearance of parents in the home country.<sup>30</sup>

According to Save the Children, its research shatters 'the illusion' that children 'come in search of Europe's riches'. Sadly, though, the myth that children, like adults, are seeking European riches is growing in government circles. Instead of offering protection they are moving towards a new legislative approach which would remove asylum-seeking children and other foreign minors from many of the protections of international law. In the Netherlands, for instance, in 2001, the government announced a more restrictive policy towards unaccompanied minors in response to an increase in the number of young people arriving. (Seventeen per cent of all asylum claims in 2001 were those of unaccompanied minors.)<sup>31</sup>

Suspicion about children who seek asylum seems to be developing within immigration services which appear either to be ignorant of or complacent about the causes for the flight of children. Government officials increasingly voice the view that the child, manipulated by adults, has applied for asylum to gain preferment rather than because of a real need for protection.<sup>32</sup> In the UK, a government draft consultation paper leaked to the *Guardian* newspaper seemed based on precisely such a premise.<sup>33</sup> Children come to the UK to 'take advantage of the benefits of migration to a richer country' it said, and children who refuse to give immigration officers details of the whereabouts of their parents may be doing so as part of a strategy to avoid being returned to their country of origin. By defining them as 'economic migrants' and not as 'vulnerable children' the government legitimises a view that these children do not have the same need for protection as other children in care. And underpinning such an approach, is an assumption that child asylum seekers have a family hidden away awaiting them when they choose to return home. As Jacqueline Bhabha and Nadine Finch have argued, 'the impact of this culture of disbelief' in the UK 'is presently attenuated in part by the fact that unaccompanied or separated chil-



dren are cared for within the general framework and long established UK child protection framework. But the government's proposals for a fundamental shake-up of the treatment of unaccompanied asylum-seeking children suggest that it is seeking to move away from this approach.<sup>34</sup> The Children's Society warns that the government's ultimate aim is to propose some type of inferior fostering support for unaccompanied asylum-seeking children. It is feared that unaccompanied asylum-seeking children may have to leave foster care at 16 and then go into shared housing or some sort of supported living.<sup>35</sup>

Different EU states have different standards vis-a-vis the care of unaccompanied children by authorities. In recognition of this, Article 19.2 of the EU Council Directive laying down minimum standards for the reception of asylum seekers allows member states to choose to place unaccompanied or separated children who have made an application for asylum a) with adult relatives, b) with a foster-family, c) in accommodation centres with special provision for minors, or d) in other accommodation suitable for minors. Thus, the Directive opens up the possibility of segregating separated/unaccompanied children from the child protection system to which native-born children have access on account of 'foreign' children's immigration status. In fact reception arrangements in some EU countries, particularly in southern Europe, are deplorable and put separated/unaccompanied children at grave risk. But no EU country has a clean record in this respect.

Needless to say, of all the options available to states in dealing with separated/unaccompanied children, the worst possible, is detention. In recognition of this, EU states do not, as a rule, detain separated/unaccompanied children save as an 'exceptional measure' or in cases when the age of an unaccompanied asylum-seeking minor is disputed. Some states though are resorting to detention in cases other than the exceptional, and particularly, as a pre-deportation measure. And in all countries the trend moves towards disputing the age of unaccompanied minors, as the culture of disbelief about asylum claimants extends to children.

#### *Southern Europe*

In Spain, Italy and Greece the authorities do not have adequate reception facilities to deal with unaccompanied children. It results in foreign children being detained, sometimes in the most deplorable conditions and in clear violation of internationally-recognised rights.

**In September 2006, Deputy Ombudsman for Children's Rights, Giorgos Moschos,**

accused Greece of treating unaccompanied minors like common criminals and detaining them in extremely poor conditions. He said that in Athens alone, forty-two asylum-seeking children had been held in terrible conditions in detention over the previous few months.<sup>36</sup>

According to UNHCR, 302 separated/unaccompanied children arrived in Greece in 2004, mostly from Albania and other neighbouring countries, but also from Asia and Africa. The Children's Ombudsman George Karminis has said that these children were not being afforded the same rights as Greek children who were abandoned by their parents. Some of the children, who may have been abandoned at border crossings and were as young as 12, were routinely detained for weeks and months in concrete cells and other prison-like facilities that were completely bare except for bedding. Awaiting deportation, they were denied access to lawyers and held without anyone to protect them and their rights. The government sought to deport nearly 200 of these children each year in the interests of securing the nation's borders from illegal migration.<sup>37</sup>

The Council of Europe's Commissioner for Human Rights and AI have expressed concern that in Italy, because of a shortage of specific reception facilities for minors, unaccompanied children are being placed in adult accommodation. AI has pointed out that despite the fact that detention of unaccompanied children is prohibited under Italian law, between January 2002 and August 2005, twenty-eight unaccompanied minors were detained. AI also had evidence that an additional 275 unaccompanied young people, possibly minors, were detained and was concerned that NGOs were being denied access to them. There have also been allegations that body searches were conducted on children and that accommodation was provided with non-family member adults.<sup>38</sup>

The number of Moroccan minors, mostly boys whose average age is 16, arriving in the Canary Islands (Spain) seems to increase each year, as does the number of sub-Saharan children (1,000 arrived from January to mid-September 2006). The situation they face was described by an official delegation of Eurodeputies reporting to the European Commission as a 'real emergency'.<sup>39</sup> The Ombudsman for the Autonomous Community of the Canary Islands said there was 'institutional ill-treatment' of minors in the Canary Islands.<sup>40</sup> The

---

Executive Director of UNICEF in Spain, Jaime Gomez Pineda, called the situation in the Canaries 'out of control' and said it required a response that prioritised 'the protection of the minors concerned'.<sup>41</sup> The Asociación Pro Derechos Humanos de Andalucía (APHDA) pointed out that the lack of infrastructure to deal with these unaccompanied children did not entitle the authorities to break Spanish and international legislation protecting minors.

**Between January and September 2005, 1,398 unaccompanied minors entered 'protection' centres in the Andalusia region of Spain.<sup>42</sup> In April 2006, a group of ten NGOs, including SOS Racismo, the Comisión Española de Ayuda al Refugiado (Spanish Commission of Aid to Refugees, CEAR) and Save the Children, presented a complaint to the Ombudsman accusing the government of not complying with legal requirements in the treatment of unaccompanied children.<sup>43</sup>**

According to a report by the Commissioner for Human Rights for the Council of Europe, there is a lack of coordination between different authorities and the central government with regard to unaccompanied minors. In particular he called for the Llanos Pelados centre for unaccompanied foreign minors in Fuerteventura, which is next to a municipal tip, to be closed down due to its poor condition (in particular, communal lavatories and washing facilities). 'The situation in Llanos Pelados is incompatible from all points of view with proper protection for foreign minors and I appeal to the island and autonomous authorities to rectify it with the utmost urgency.'<sup>44</sup>

Despite these interventions, it seems that the solution to the 'crisis' posed by Moroccan migrant children may be to change the law so that these children can be immediately repatriated, irrespective of whether they can be reunited with their families. In Spain, centre-Right politicians, in particular, use the media to project an image of Moroccan minors as the dishonest and grasping tools of their parents.<sup>45</sup> The premier of the Canary Islands Adán Martín Menis says these children should not be protected as they are part of a deliberate ploy whereby families cold-heartedly send them to Spain in the hope that they receive education and employment which will enable them to send money back to their parents. There seems to be support for a call by the government of the Canary Islands to the central government and the other regional governments to agree to changes in their reception arrangements so they are treated the same way as adults. The argument

is that good reception conditions offered to these minors are encouraging even more of them to make the dangerous journey at the instigation of their parents.

A battle is taking place between local politicians, like Menis, who would like to see the treatment of these minors removed from the protection afforded by international law and other voices in Europe which resist these moves and point out, with UNICEF, that a child is a child whatever part of the world s/he comes from. The proper approach to those unaccompanied children who cannot be reunited with their families, they say, is to provide accommodation, schooling and socialisation rather than detention and deportation.<sup>46</sup>

#### Northern Europe

In both France and Belgium there has been concern about border control programmes which allow for the detention of unaccompanied children. In Belgium, children who arrive in the country alone and without papers via an airport or a port, have been detained at the Centre 127 in Melsbroek, where they sleep in the same dormitories as adults (girls being with women and boys with men). According to NGOs, a total of seventy-five unaccompanied children were held in 2004.<sup>47</sup> The government claims that since May 2006, it has only detained unaccompanied children whose age is disputed. It adds that the situation for young asylum seekers, subsequently verified as underage, has improved under recent asylum legislation (children are appointed a guardian and are held in a so-called observation and orientation centre, under the responsibility of the Ministry of Social Integration). But such claims are disputed by NGOs which say that the government modified its treatment of separated/unaccompanied children only after a case against Belgium was taken to the European Court of Human Rights on behalf of an unaccompanied 5-year-old Congolese child who was detained in Belgium for nearly two months.

**In October 2006, the European Court of Human Rights ruled that the treatment of 5-year-old Tabitha Kaniki Mitunga, who was refused entry into Belgium in August 2002 and held in a detention centre, alongside adults, for nearly two months, before being sent back to the DRC unaccompanied, amounted to 'inhuman treatment'. Tabitha's mother had refugee status in Canada. She asked her brother, a Dutch national living in the Netherlands, to go to DRC to collect Tabitha and look after her until mother and child could be legally reunited in Canada. But at Brussels airport, Tabitha was detained for travelling without documentation and taken to the remand**



---

centre near the airport, where foreigners are held after being denied entry into the country. She was separated from her uncle (who was allowed to travel on to the Netherlands) on the grounds that he had no papers to prove parental authority. From this point, Tabitha was treated as an unaccompanied minor and detained.<sup>48</sup>

In France, foreigners including asylum seekers denied entry at the border, may be kept in so-called 'waiting zones' or remand centres. The situation in France seems to be unique in that, in addition to children seeking asylum, many separated foreign children arriving in France do so in the hope of joining family members living lawfully in the country but denied the legal possibility of family reunification. The authorities refer to this as 'unauthorised family reunification' and classify such minors as 'rejoignants'. According to the Council of Europe's Commissioner for Human Rights, parents who resort to this practice do not act in the best interests of their children. He acknowledges, however, that the practice has grown because of legal measures that restrict family reunification rights.<sup>49</sup> The Groupe d'Information et de Soutien des Immigrés (Information and Support Group for Immigrants, GISTI) points out that impossible hurdles are being introduced for families seeking reunification. Overcome by desperation, the families give up on the bureaucracy and call for their children to come.

In 2004, about 727 lone children arrived at Roissy airport in Paris where they were detained in a 'waiting zone' while the authorities decided whether to grant them permission to enter the country.<sup>50</sup> The law on admission to French territory does not distinguish between minors and adults. Minors are not automatically admitted and are subject to the same procedures as adults. Children over 13 are kept alongside adults, while those under 13 are cared for by a childminder in a nearby hotel.

The Association Nationale d'Assistance Aux Frontières pour les Étrangers (National Association of Assistance for Foreigners at Borders, ANAFE), which has an agreement with the government to offer legal assistance to detainees held at Roissy, experienced great difficulty getting access to these children. Statistics provided by the border police suggested that the number of children detained was increasing. In the first four months of 2005, 401 minors were held at the Roissy holding centre, 259 of them were unaccompanied children.<sup>51</sup> The Council of Europe's Commissioner for

**Human Rights is concerned that unaccompanied asylum seekers are being excluded from essential safeguards such as the right to claim asylum.**

The situation has deteriorated to such an extent that the Commissioner for Human Rights has warned that unaccompanied children are generally speaking 'surrounded by greater mistrust than adults and are almost systematically regarded as abusing the system'.

In Sweden, in 2005, Save the Children reported that only 13 per cent of unaccompanied children arriving in the country were granted asylum – as opposed to 80 per cent two years previously.<sup>52</sup> More recently, in response to a growing number of minors arriving unaccompanied into the country, the government has tried to encourage more local authorities to play a greater role in their accommodation. But local authorities are resisting this, saying that they will not accommodate the children on a permanent basis as the central government is not making the proper financial support available. The Swedish Migration Board's official policy is to keep unaccompanied children in temporary accommodation for no longer than one week while seeking a more long-term solution. In reality, children have lived in temporary accommodation for up to two months. Mölndal Council has resorted to placing these children temporarily in the same institutions as Swedish young offenders.<sup>53</sup>

In Switzerland, a parliamentary committee inquiry into forced expulsions has criticised the increasing pre-deportation detention of unaccompanied children. The inquiry report noted that between 2002 and 2004, a total of 355 minors, aged between 15 and 17, were held in detention pending expulsion and that the duration of detention of such children was generally longer than that of adults. In almost sixty per cent of cases, the detention of minors exceeded four days. Eighteen per cent were detained for more than three months. In one case, a minor was detained for fourteen months.

The resort to detention is not uniform across the country with a small minority of cantons banning the practice. One canton, Valais, refused to provide any statistics, suggesting that the figure could be higher. More than half the number of cases mentioned in the report were children detained in Zurich. The committee called on the Federal Government to intervene and apply pressure on the cantons to harmonise practice.<sup>54</sup>

Austria gives officials powers to detain unaccompanied minors, including children under 14, pending their deportation, provided that appropriate facilities are available, as do certain regions in Germany where unaccompanied minors are detained in juvenile detention facilities prior to

---

removal. (Although Germany has signed the UNCRC, it has issued a reservation whereby foreign children are considered of age to undergo removal proceedings at 16, rather than 18, as stated in the Convention.) The courts, however, have intervened to afford these children some protection.

**In March 2005, the Berlin court of appeal, in declaring that the pre-deportation detention of a 16-year-old Liberian girl was illegal, asserted that the care of minors must be a higher priority, particularly as regarded standards of accommodation and education. The Berlin Refugee Council called on Berlin's senator for interior affairs to follow these principles and order the immediate release of all minors from pre-deportation detention and accommodate them instead in appropriate youth welfare facilities in accordance with the UNCRC.<sup>55</sup> In another German state, the Palatinate higher regional court ruled, in March 2006, that minors might not be held in pre-deportation detention as such imprisonment heightened the danger of permanent psychological damage.<sup>56</sup>**

#### *Inaccurate techniques to assess age*

A climate in which children are mistrusted has led the authorities to cast doubt on whether minors are really underage, with very little recognition of the potential harm that disbelief could cause to a traumatised adolescent. Disbelief could reinforce young people's mistrust of authority. They may well arrive in Europe with a keen sense that they have been betrayed by adults who have failed to protect them in their own country.<sup>57</sup> Throughout Europe, the number of children whose ages are disputed is increasing rapidly. In the UK in 2004, for instance, 1,456 of 3,867 referrals were age disputed.<sup>58</sup>

In the first instance, the decision to challenge the age of a child will be based on the subjective judgements made by an immigration officer during the initial screening process. But the outcome of an erroneous judgement, as we document throughout this report, can be catastrophic for a young person who may be denied entry to the appropriate asylum determination process and may end up in detention or homeless and destitute. And this is why children's organisations throughout Europe are unanimous in their belief that age-disputed children should, in the first instance, be given the benefit of the doubt until a more holistic age assessment is carried out (ie an assessment that takes into account factors other than physical appearance).<sup>59</sup>

However, tests to determine age are seldom

'holistic'. In the case of bone and teeth tests favoured by so many EU states, they are known to be scientifically inaccurate. As the Royal College of Paediatrics and Child Health points out in guidelines for paediatrics, 'age determination is an inexact science and the margins of error can sometimes be as much as 5 years either side [and] estimates of a child's physical age from his or her dental development are [only] accurate up to within + or - 2 years for 95% of the population'. The four Children's Commissioners for Scotland, Northern Ireland, England and Wales have called on the Home Office to stop the detention of children whose age is disputed. For the first time, the Home Office has revealed that it disputed 2,425 cases in 2005 alone, with the vast majority of cases relating to young people from Afghanistan and Iran – two countries which top the list of asylum applications from minors. Judith Dennis, policy advisor for unaccompanied children at the Refugee Council, is concerned that minors may unfairly have their age disputed because officials do not recognise that ethnic differences and experiences of trauma can mean children will appear physically and psychologically older than their age.

**The Medical Foundation for the Care of Victims of Torture in the UK is concerned that new Home Office proposals could enable the use of X-ray age determination methods in contradiction to clinical ethics and EU directives.<sup>60</sup>**

**In June 2005, the National Consultative Committee on Ethics in France expressed reservations on the bone and tooth tests conducted to determine young foreigners' age, declaring these techniques unsuitable, especially as they were usually used on young people between 15 and 20 where uncertainty was greatest.<sup>61</sup> ANAFE stated that 'All foreigners declaring themselves to be minors must be presumed to be so until there is evidence that suggests otherwise, and the status of being a minor should not be able to be questioned other than by a legal decision.'<sup>62</sup>**

**In Denmark, an expert medical team concluded that the Directorate of Immigration's methods for deciding the age of young asylum seekers by painting the hand's skeleton was unreliable because of variations in bone formation, depending on factors such as nutrition, genetic disposition and living conditions.<sup>63</sup>**

**An official delegation of Eurodeputies which visited Tenerife and Fuerteventura in**

---

June 2006 questioned the method used by the Spanish government to determine the age of unaccompanied young foreigners arriving in the Canary Islands on small boats and canoes, which was based on examining whether wrist bones displayed adult characteristics. The delegation asked the Spanish government to look for a better method.<sup>64</sup>

In Sweden, the radio news programme 'Ekot' investigated age assessments and found that the Migration Board made decisions on a young person's age without being sure of the methods they used. The documentary found that the Board used x-rays of a person's teeth and hands, even though such methods were unreliable. In some cases, officials even decided a person's age just by looking at them. In response to criticism, the Migration Board asked the National Board of Health and Welfare to investigate new, more reliable methods of age assessment.<sup>65</sup>

The constant doubts raised over age, mean that some minors are classified as adults, which in practice deprives them of the administrative and judicial safeguards afforded children and opens up the way to detention. This is being challenged in Germany and in the UK where the home secretary has conceded that the government had, prior to November 2005, operated an 'unlawful' policy in relation to the detention of age-disputed children.

The High Court in the UK is due to hear four test cases for compensation involving detained children who said they were under 18 and are now seeking damages for loss of liberty. Another 40 cases are in the pipeline and human rights lawyers say that the numbers seeking compensation could top 100. None of the claimants can be identified by court order. Some are alleged to have suffered psychological damage after being held for weeks with adults in inappropriate conditions in detention centres. Claimants were treated as adults, ordered to be detained and their asylum claims fast-tracked if their 'appearance or demeanour' strongly suggested they were 18 or over.<sup>66</sup>

The Berlin House of Representative decided in 2001 that the imprisonment of minors should be avoided as much as possible, stating that three months detention was the maximum period. But this decision is often being subverted by the Aliens Office which, according to the Refugee Council,

adopts procedures to determine a minor's age which are 'incomprehensible' and 'not transparent'.<sup>67</sup> According to the Berlin Action Group on Pre-deportation Detention, young people are being detained after classification as non-minors merely on the basis of 'visual inspection or the controversial medical determination of age'.<sup>68</sup> A judge in the Federal Administrative Court commented that when 'the Aliens Offices arbitrarily assign nationalities to people and ages to the young, then I doubt the supremacy of the rule of law in this country'.<sup>69</sup>

The Palatinate higher regional court decision of 21 March (see p 17) also stressed that if a person's age was uncertain it was the duty of the court to do everything in its power to establish it.<sup>70</sup>

Children, whose ages are disputed, have been deported to the first EU state they passed through under the Dublin rules (the details of which are discussed in greater detail in the section on deportations). As there are time limits to removal under the Dublin regulations, it is not always possible to ensure that evidence to verify age is available prior to the minor's deportation.

Yusuf, who came to the UK from Iran, was detained because the immigration officer felt that his appearance suggested he was an adult. The Refugee Council attempted to intervene to ensure that Yusuf had the correct specialist support, but Yusuf was removed to Greece within 47 hours of arriving in the UK. Despite his claim to be a child, he had never been offered any legal advice or been spoken to by a child care professional. The Refugee Council was particularly worried about Yusuf as it was likely he would be detained and/or denied access to the asylum procedure in Greece.<sup>71</sup>

Criticism is having an impact on health professionals.

Save the Children and the Norwegian Organisation for Asylum Seekers (NOAS) have published a report criticising the nature of age testing of unaccompanied children. In response, Ulleval University Hospital in Oslo announced that it would consider ending the skeleton testing of unaccompanied asylum-seeking children to determine their age.<sup>72</sup>

The European Coalition Against the Imprisonment and Expulsion of Foreign Minors has argued that there should be a presumption of minority for a foreign national who declares him or herself a

---

minor, until proved otherwise. In fact, presently the presumption goes entirely the other way, the child is deemed to be an adult and to be lying, unless proved to the contrary. For instance, in the UK, if an immigration officer does not believe an applicant's claim to be a child, then the applicant will be treated as an adult until credible documentary or other persuasive evidence, such as an assessment by social services, demonstrates that the applicant is, in fact, under 18. The European Council on Refugees and Exiles (ECRE) has reported that while in the UK there are no available Home Office statistics on how often an initial decision is proved wrong, in some areas it has been found to take place in at least fifty per cent of cases.<sup>73</sup>

### **Abuses at the border**

Migrants and asylum seekers are detained at a border while authorities decide whether to give them permission to enter the country and the asylum determination procedure. In many southern European border zones subject to large group arrivals, there is no special department designated for minors. When NGOs are denied access, it is impossible to know whether separated/unaccompanied children, as well as asylum-seeking families are being denied the opportunity to make asylum claims.

**In September 2006, AI drew attention to the fact that over 100 individuals had been detained in Chania on the Greek island of Crete for two weeks, without access to lawyers or non-governmental organisations, after their boat sank near the Cretan coast.<sup>74</sup>**

Overcrowded detention centres filled with desperate people are not suitable for holding children.

**According to AI Italy, conditions in which young children are detained at the maritime border are not always age-appropriate. Minors (including new-born babies) are often treated inhumanely in prison and, during transfers, endure long waiting periods and lack information on their detention and transfer. Another problem cited by AI Italy is the lack of female personnel amongst border staff.**

**The Spanish Ombudsman, Enrique Múgica, has opened a formal investigation into the situation of migrants housed in the temporary detention centre of Las Raíces, Tenerife, an old barracks where overcrowding is said to be rife. An estimated 800 immigrants were, in 2006, being housed in**

**one part of the centre, guarded by two police officers, and 2,300 in the other, under the control of four other officers.<sup>75</sup>**

But this is not an issue confined to southern European maritime borders. AI and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment have criticised the conditions in the transit zone at Frankfurt airport in Germany, and detention centres in Calais have also come under scrutiny.

**Children have been detained in three immigration detention centres at the ferry port of Calais in France in cells that are so small that staff dubbed them 'dog kennels'. A report drawn up by the UK Chief Inspector of Prisons, Anne Owers, concluded that on busy days as many as six people can be held in each of the 3m x 3m cells, with no provision for separating men from women and children.<sup>76</sup>**

Many border officials are not equipped to deal with the tensions that arise in such overcrowded facilities. In some cases, police and immigration officials exert personal power over inmates in ways that are overtly racist or sexist.

**In France, ANAFE has accused airport border authorities of harassment, humiliation, racist insults and threats against air passengers denied entry. It cited the testimonies of four women, including KM in her fourth month of pregnancy, who was held with her children in an airport waiting zone for eleven days before being expelled on 19 July 2006. She tells how her family was taken several times to the airport departure gate and made to wait up to nine hours for a flight that never came. During their detention, she heard insults such as 'Niggers, we are going to chain you if you refuse to leave'. She alleges that her family and others were sometimes prevented from eating, not given water and even prevented from going to a toilet. When forced to urinate in glasses, they were watched by a policeman through a glass door.<sup>77</sup>**

The EU has failed to meet its responsibility to assist southern European countries – Malta, Spain and Cyprus – which are being left to deal with mass arrivals of boat people. Human rights abuses are now reaching epidemic proportions. It is quite clear that many families are being quickly processed and deported, and denied access to the asylum determination procedure altogether, in contravention of the Geneva Convention.



---

In Cyprus, the immigrant support group KISA, commenting on the case of a Lebanese mother and her two children denied political asylum at Larnaca airport, pointed out that not a single application had been registered as being made at that airport since 2000.<sup>78</sup>

From April 2005 until the end of February 2006 only 6,945 persons applied for asylum in Italy. Lawyers say that asylum seekers are regularly disenfranchised at sea borders. At Lampedusa, police officers on duty make the decision as to whether a person can be admitted to the asylum procedure. 'As a matter of principle refugees are treated as *clandestini*', says Fulvio Vassalo, a lawyer from Palermo.<sup>79</sup>

Migrants attempting to scale the border fence at the Spanish North African enclaves of Melilla and Ceuta have been beaten back by force. Spanish authorities claim that the aliens' law does not 'fully' apply between the border fences. AI has repeatedly expressed concern over allegations of ill-treatment and excessive use of force by the Spanish Civil Guard, including use of firearms and heavy rubber bullets at close range, when confronting migrants and asylum seekers attempting to climb over the fences in Ceuta and Melilla. On occasion, armed police have opened fire on these desperate people. The consequences can be deadly. Amongst thirteen migrants killed (hundreds of others were wounded) when attempting to scale the fences at Ceuta and Melilla between August and October 2005 was 17-year-old Joe Ypo.

It is still disputed as to whether Spain or Morocco was responsible for the death in August 2005 of Joe Ypo, a 17-year-old Cameroonian boy, whose body was found near the heavily-guarded fence separating Morocco from Melilla. Joe Ypo was part of an estimated 300 migrants who, on attempting to scale the border fence, were beaten back by Spanish and Moroccan border guards. Eyewitnesses allege that the teenager was on the Spanish side of the fence and beaten with rifle butts by Civil Guards who then placed his body and that of another injured immigrant on the Moroccan side of the fence, where he died shortly afterwards. Médecins sans Frontières conducted an autopsy, which revealed that the teenager had died of internal bleeding caused by a ruptured liver.<sup>80</sup>

## Minors imprisoned for document crimes

Across Europe, laws which allow for the penalisation of those who arrive without papers or with false documentation are also being applied to minors. Arriving without travel documents can lead to automatic detention in Austria and Belgium pending a decision on whether to admit the applicant to the asylum process. It can lead to prosecution in the UK, where it is now a criminal offence; it can lead to a refusal to hear an asylum claim, and therefore deportation in Switzerland. Unbelievably, unaccompanied minors and other children are finding themselves either detained or prosecuted under laws designed to penalise traffickers, or immediately refused entry at the border on the grounds that they arrived in the country using false documents. In these cases, the authorities have justified their harsh stance on the grounds that there is only one law and it applies equally to adults and children.

The Coalition of African NGOs in Favour of Children (CONAFE) has condemned the treatment of Mamadou Soumaré, an 8-year-old boy from Mali, who arrived at Roissy airport in Paris on 22 December 2005, accompanied by a woman of unknown nationality, only to be immediately detained for having travelled on false papers. His mother, Silla Soumaré, is employed full time in France by a registered association of childminders and had struggled for months to find accommodation which would allow her to bring her two sons (8 and 10, in the care of Silla's mother since she left Mali in 2003) to the country 'along the legal path'. But the authorities refused her request to be reunited with her sons on the grounds that the size of her accommodation did not fulfil the government's family reunification requirement. Despite his mother being at the airport to meet him, Mamadou was placed on a plane on 24 December travelling to Bamako via Tripoli without any opportunity to see his mother. On arrival in Bamako, Mamadou was placed in the care of the Malian children's brigade.<sup>81</sup>

For ANAFE, the case raised fundamental questions about the protection of children. 'Can one consider that the safety of the child is better ensured by the Malian children's brigade than by his mother who lived in France?', it asked. But the border police (PAF) were adamant that they had made the right decision. 'We do not see a difference between a child trying to enter France illegally and any other irregular immigrant. Being a child is not a magic pass. We are applying the law', it stated.<sup>82</sup>

---

In the case of Tabitha Kaniki Mitunga (see p 15), the 5-year-old child who was detained shortly after arriving at Brussels airport with her uncle, her detention was authorised on the grounds that she did not have the necessary documents to enter Belgium.<sup>83</sup>

In the UK, lawyers argue that a considerable number of children and young people have been wrongly sentenced to prison terms for using false documents, deception or no documents.

In *K v Croydon Crown Court* in 2005, the defendant was 16 when she arrived in the UK from Ethiopia. During an interview (without a responsible adult present), she denied seeking asylum in the UK before. But her fingerprints were found on an earlier refused application for entry clearance and she was arrested, tried and convicted of using deception to enter and sentenced to four months detention. The Court of Appeal accepted that she had obeyed the instructions of the agent who had been paid to bring her to safety, and quashed the custodial sentence, substituting a conditional discharge.<sup>84</sup>

In the case of Bei Bei Wang in 2005 the defendant was 18 when she pleaded guilty to arriving with no travel documents under Section 2 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 after claiming asylum. She was sentenced to ten months, a sentence reduced to two months by the Court of Appeal.<sup>85</sup>

### The growth of pre-deportation detention

A growing number of international organisations, such as UNICEF, Defence for Children International and Save the Children, are calling for the end of the policy of detaining children and families awaiting deportation. Governments justify the detention of failed asylum seekers by citing the danger of absconding – and yet there is absolutely no evidence available to support this view. In detaining families, the need to safeguard immigration controls is prioritised over safeguarding children's rights. We have moved very far from a situation where children, subject to immigration control are treated as children first and migrants second.

Detention to enforce 'voluntary return'

Asylum-seeking families, whose cases have been rejected but cannot be deported because they have no papers, can be held in special exit centres. This is a form of 'coercive detention' which is

intended to pressure a 'voluntary return' on those who cannot be returned in the normal way. Although many of the German Länder have closed their *Ausreisezentrum* after public outcry, exit centres still exist in some Swiss cantons.<sup>86</sup>

In Denmark, failed asylum seekers who cannot be forcibly deported, because they have no travel documents for example, are held at camps in Sandholm and Avnstrup, both near Copenhagen. These centres are run by the Red Cross and are not officially considered detention centres as, in theory, the inmates are free to come and go. In practice, however, there is very little possibility for this as the rejected asylum seekers have no money, being denied all government benefits. According to the UNHCR, it is not unusual for those awaiting deportation from Denmark or establishment of identity to face detention exceeding a year. This is despite the fact that the law stipulates that the continued detention of asylum seekers awaiting deportation is subject to the requirement that deportation be carried out 'in the near future'.

The Avnstrup and Camp Sandholm 'open' centres in Denmark were built to accommodate families for up to one year. However, the average length of stay has risen from 300 to 1,000 days. Many of the inmates are Iraqis or Kosovo Albanians, including children, who cannot or will not return to their countries of origin.

The authorities, allegedly, describe the set-up for failed asylum seekers at the Avnstrup camp as 'motivation furthering'<sup>87</sup> which suggests that the intention is to make conditions so miserable that asylum seekers are forced to return to their countries of origin.<sup>88</sup> Measures in such centres seem deliberately designed to depress people. For instance, at Avnstrup the authorities decided to deny rejected asylum seekers access to the centre's cooking facilities. Instead, inmates were given a food bag every fortnight. Parents were forced to sell the food in order to get money for other necessities and children were left hungry.<sup>89</sup>

In 2006, Romana, an advocacy group in support of Roma people filed lawsuits against the Danish Red Cross for its alleged maltreatment of rejected Roma asylum seekers from Kosovo at Sandholm and Avnstrup. According to Romana, the camps hold around 1,200 individuals, including about thirty Roma families from Kosovo, with fifty-three children. It points out that entire families have been forced to live in single rooms in the camps for several years and are subjected to a range of pressures to force them to leave Denmark, even though the UN Mission in Kosovo has warned

---

against return. Around 40 per cent of adults have developed severe psychiatric problems. The Red Cross admits that psychiatric problems are on the increase, that there were fifty-two attempted or threatened suicides in 2004 and that the consumption of medicine to treat psychological problems is a matter of concern.<sup>90</sup> Ejvind Vesselbo MP who led a delegation from the parliamentary integration committee to camp Sandholm and another camp at Kongelunden commented: 'If there is a limit for how miserably people can live, I think we've passed it here.' Minister for refugees, immigration and integration, Rikke Hvilshøj, conceded only that some changes needed to be made, stating that, 'We are now running a process to secure that there will be more activities for the children.'<sup>91</sup>

In the Netherlands, the law states that rejected asylum seekers awaiting deportation can be detained for a period not exceeding one month provided removal is possible and documentation is required. However, some families have been detained in a manner which suggests that the real purpose of detention is to enforce a 'voluntary return'.

The case of 8-year-old Hui Chen, who was born in the Netherlands but was detained with his Chinese mother whose asylum claim was rejected, became an issue in the run-up to the Dutch general election in November 2006. Dutch immigration minister Rita Verdonk had said, in relation to the case, that imprisonment was a 'vital component' of government policy aimed at the departure from the Netherlands of all unlawfully present foreigners.

Lawyers for the family said that there was no chance that the Chens could be deported in the near future and that they were being detained indefinitely as a way of enforcing their voluntary return. Psychologists warned that the young boy was suffering from depression; he was lonely and having trouble sleeping. The Labour party shadow spokesman on immigration, Klaas de Vries, said that Verdonk had claimed to 'listen to her heart' in cases such as Hui's. 'I'd like to know why this case doesn't hit her in the heart', he said.<sup>92</sup>

Eventually, on 14 October 2006, Hui and his mother were released. It was not clear why the authorities made the U-turn but it was presumed the authorities were influenced by the fact that Ms Chen was not registered in China and could therefore not be returned.<sup>93</sup>

## Health implications of detaining minors

Psychiatrists have warned that 'detention places children's normal psychosocial development at risk by exposing them to isolated, deprived and confined conditions'.<sup>94</sup> It is an extremely stressful experience for any child, but for children with earlier experiences of trauma and loss, it is also a cause of retraumatisation. In the UK, the Children's Commissioners of England, Scotland, Ireland and Wales have asked the government to pay more attention to the views of asylum-seeking children. A Ugandan asylum seeker, detained when he first arrived in Britain, told English Children's Commissioner, Professor Aynsley-Green, that detention was a form of 'child abuse'. 'When the authorities put young people in detention they don't know what the kids have already gone through. Some may have been imprisoned in their country of origin. When they are locked up, their mind goes back to those earlier experiences. When they are released, they are never the same.'<sup>95</sup>

Some of the side-effects experienced by detained children, as documented by health professionals, include lack of sleep and nightmares, bed wetting, weight loss, skin complaints and persistent respiratory conditions. Long-term consequences include depression, behavioural changes and an undermining of the ability to learn.

The mental and physical health of children is also directly affected by the distress, depression and anger of adults. Sometimes, parents are under so much pressure themselves that they cannot offer their children the protection they need. Francine Dal, a child psychologist who visited Centre 127bis in Brussels on behalf of NGOs and met parents and children observed:

**'A father says that his son is now even more ill, is eating badly and is having nightmares. The son says that his mother's food is better and he misses it. But the most difficult thing for him is the knowledge that his parents can no longer fulfil their role as parents ... Parents can no longer step in and protect their children. One mother tells of how it is annoying that a member of staff tells her child off in her presence. She feels that she is no longer the child's mother ... One of the children we have spoken to expresses clearly that his mother needs help. Here, we are seeing a role reversal, with the child assuming the role of the protector with regard to the mother.'**<sup>96</sup>

Despite much international research on the impact of detention on a child's emotional and physical health, the needs of the child continue to be ignored.



---

In the UK, Jess, aged 5, and Benny, her 2-year-old brother, were locked up for three months at Yarl's Wood IRC in Bedfordshire. While Jess experienced repeated nightmares and became anxious and withdrawn, Benny lost 8 lbs in weight. He could not stomach the diet and started vomiting and having diarrhoea. Despite numerous trips to the health centre – each time accompanied by guards who had to negotiate the family through ten sets of locked doors – the mother, Sonya Obote, an asylum seeker from Uganda, was told to keep giving Benny water. After two weeks, he was hospitalised. Five guards reportedly accompanied him to hospital.<sup>97</sup>

A woman who was the victim of sexual violence in Nigeria and her 4-year-old daughter were detained twice at Yarl's Wood for a total of fourteen days. The mother said that the little girl was so traumatised by her incarceration that she had repeated nightmares, became fearful of authority figures and started to self harm, hitting herself in the face, biting herself, hiding and crying for prolonged periods.<sup>98</sup>

A report by several Belgian NGOs including Refugee Work Flanders suggests that the length of time that asylum seekers, including children, are held in detention is increasing. Detainees – a quarter of whom are later released – are described as often being anguished, broken and depressed by their 'degrading' experiences. Children in particular are likely to suffer long-term harm from the effects of such treatment.<sup>99</sup>

The European Court of Human Rights ruled that the conditions in which Tabitha Kanikia Mitunga (see pp 15, 21) was held caused her 'considerable distress'. 'The authorities who detained her could not have been unaware of the serious psychological effects that detention in such conditions would have on a 5-year-old child. In the Court's view, her detention demonstrated a lack of humanity to a degree that amounted to 'inhuman treatment'.<sup>100</sup>

Detention centres are seldom equipped to respond to the needs of sick children, or those with disabilities or special needs.

Fanta Diabi, a 25-year-old woman from Guinea, who had lived in France for eleven years, was placed in the Bobigny detention centre (Seine-Saint-Denis), alongside her three children (aged 2, 4 and 5), pending

deportation in July 2005. When the youngest child was hospitalised with a fever, the other infants spent a night in a cell all by themselves.<sup>101</sup>

At Yarl's Wood in July 2005, inspectors found that a neglected 5-year-old autistic girl had not eaten properly for four days. She was subsequently released with her family after staff informed managers of her condition.<sup>102</sup> A Ugandan asylum seeker, detained from October 2005 to February 2006, told the No Place for a Child campaign that despite the fact that her two-and-a-half-year son had allergies to wheat, gluten, some nuts and some milk products, the centre did not provide appropriate food.<sup>103</sup>

### *A destructive environment: psychological impact*

Detention is an austere, authoritarian, intimidatory and insecure environment in which to place children. They often emerge confused, fearful and fragile. In Belgium, this was acknowledged by a medical centre within the Université Libre de Bruxelles which concluded in 1999 that the detention of children for administrative reasons constituted 'psychological abuse'.<sup>104</sup> The English Children's Commissioner listened to the views of children who spoke of an overwhelming sense of humiliation and insecurity provoked by constant searches, handcuffing and the issuing of identity cards. These children said that they were being treated as criminals, that they were being punished for a crime they could not understand. At Yarl's Wood IRC, children are expected to carry identity cards 'at all times' which 'must be produced on request to officers to obtain access to the centre facilities'.<sup>105</sup> Some of the children at Yarl's Wood told the Prisons' Ombudsman that they feared they would be killed, while one 10-year-old said she felt like a 'species in danger'. A 13-year-old told of being handcuffed in transit, while three other children spoke of vomiting in vans.<sup>106</sup>

On some occasions, children witness attempts at self-harm and know of inmates who have attempted suicide. They may have witnessed hunger strikes, or been caught up in violent events, including break-out attempts or other disorder. An undercurrent of violence is an everyday reality in many detention centres. As the regional secretary of the Spanish Confederation of Police commented after five police officers were injured at a detention centre in the Canary Islands, it 'will happen again because these centres are becoming more and more overcrowded and there are very

---

few police officers. It was always a matter of time before it erupted.<sup>107</sup> According to the UK charity Bail for Immigration Detainees (BID), hundreds of detained immigrants claim to have been physically assaulted or abused by staff at privately-run detention centres, but many are afraid to speak out because they fear that to do so would adversely affect their cases. In response, a Home Office spokesman said that any staff found not to treat detainees with respect and dignity could be dismissed.<sup>108</sup>

In a recent case, the Norwegian Psychological Association (NPA) criticised police tactics during a raid on a reception centre which accommodated children in Norway.

**At the beginning of November 2006, Norwegian police raided the Dale reception centre in Sandnes, near Stavanger, in order to find identification papers and travel documents to enable them to deport rejected asylum seekers living there. The NPA said that the brutal actions of the police could have left children severely traumatised and urged them to find methods other than a full scale invasion for detecting those staying illegally in the reception centres.<sup>109</sup>**

Children's vulnerability is heightened when adult carers cave into despair and attempt to self-harm. Self mutilation and attempted suicides, rarely acknowledged by governments, are growing in detention centres. In Denmark, Red Cross figures reveal that the number of suicide attempts of asylum seekers rose dramatically in 2006. By June, the number of suicide attempts was already more than that for the whole of 2005.<sup>110</sup> A report by the Danish Immigration Service also showed that the cost of medication for asylum seekers held in asylum centres rose 64 per cent from 2000 to 2004, despite the fact that the number of asylum seekers fell by nearly one half.<sup>111</sup>

**On 24 February 2005, UK immigration officials took Iraqi asylum seeker Ruir Thaha and her two daughters, Sebrin, 14 and Hannah, 12, from their home in Plymouth to Tinsley House Removal Centre near Gatwick airport. Over the following weeks, the sisters were first separated from their distraught mother and put in foster care and then allowed to join her at another detention centre. At Yarl's Wood IRC, their mother Ruir, attempted to take her life on three separate occasions during her detention.<sup>112</sup>**

Belgian NGOs have noted the traumatic impact of detention on unaccompanied asylum seekers at

Centre 127 (Melsbroek-Brussels), where there are no educational opportunities and where children cannot understand why they have been deprived of their freedom.<sup>113</sup>

**A 16-year-old Lebanese boy arrived by plane alone and was detained in Brussels because he did not have the necessary documents to enter the country. He then claimed asylum, was given a guardian and taken to Centre 127. After six weeks in detention, he had a tantrum and broke a bed. The reaction was to place him in another closed centre.<sup>114</sup>**

The absence of suicide-prevention measures in detention also affects children and young people who are at risk of self-harm due to the destructive nature of the environment they are in. The scale of self-harm amongst children is difficult to ascertain since no government publishes statistics on suicide and self-harm. In fact, governments pride themselves on taking a hard line on asylum seekers who attempt suicide, even, on occasion, presenting self-harm as evidence of self-destructive or manipulative behaviour. In Sweden, immigration minister Barbro Holmberg (speaking in a televised debate) linked a rise in attempted suicides (from 0 to 25 per cent) to manipulations for concessions whereby a risk of suicide would enhance the possibility of being granted asylum. On all counts, Holmberg was wrong. In 1997, the risk of 'serious self-destructive actions' amongst young children only, was added to a list of humanitarian reasons for granting asylum. Annual statistics issued by the Aliens Appeals board has shown no real change in the number of appeals for asylum on this sole ground.<sup>115</sup>

The case of the Gambian teenager Yankuba Ceesay, who died in Linz, Austria in October 2005, became the subject of an official investigation which ruled that Ceesay's constitutional right to protection against inhuman treatment had been violated. The decision to detain Ceesay prior to deportation, rather than asking him to report regularly to the authorities, was a factor in his death which could have been prevented.

**In Austria, an investigation was launched following the death in detention of Yankuba Ceesay, an 18-year-old failed asylum seeker from Gambia. Ceesay, whose case had been rejected and who had been convicted of a drugs offence, was detained on release from prison on 12 September 2005, pending deportation. The teenager then started a hunger strike (neither eating nor drinking) on 23 September and within eleven days had lost nine kilos. On 4 October 2005, he was taken to Linz gener-**

---

al hospital for medical examination. Police claimed he became aggressive when a blood sample was taken and kicked a nurse. As a result, he was taken back to the holding centre and locked in a 'safety cell'. Two hours after being returned to the detention centre, he was pronounced dead. It seems that heart failure due to sickle cell anaemia and a lack of fluids was the cause of death.<sup>116</sup>

The sense that to be removed is the end of life creates fear and anxieties so great as to lead young people to self-mutilate.

In despair at his approaching deportation from Bavaria, **Somalian Adil Mahamed Ali Salah**, aged 18, inflicted injuries on himself while in detention in Regensburg prison. Following this, he was 'pacified' in a one-person cell, but his lawyer was not permitted any contact with him. Despite further self-injury and a plea to the petition committee of the Bavarian Landtag on which a decision had not yet been reached, Salah was deported to the Yemen (a return to Somalia was not possible) in February 2005.<sup>117</sup>

In the UK, in the last five years alone according to IRR research, there have been fifteen suicides of asylum seekers in detention. Eighteen-year-old **Ramazan Kumluca** was amongst those who took his life.

**Ramazan Kumluca**, an 18-year-old Kurdish asylum-seeker from Turkey, was found hanged in Campsfield House removal centre in Oxford in June 2006. He had been detained for over four months and was said to be depressed after bail was rejected. An inquest found that he had taken his own life. Police read out a statement from fellow detainees who spoke of his fears for the future as he faced deportation to Italy.<sup>118</sup>

Another tragic UK case was that of the Angolan **Manuel Bravo**, who committed suicide at Yarl's Wood IRC in order to secure the future in Britain of his son as an unaccompanied minor. Manuel had decided that his son, as an orphan in the UK, had a better future than if both of them were deported to Angola. Manuel's last words to his son were 'be brave, work hard, do well at school'. At the inquest in July 2006, one of the lawyers involved commented that 'Nothing anyone could say would more graphically illustrate the desperation felt by many asylum seekers and the sacrifices that a parent will make to secure a better future for their child.'<sup>119</sup>

**Manuel Bravo**, an Angolan asylum seeker who had fled to Britain after his parents were murdered and his sister raped and killed, was detained in Yarl's Wood IRC in Bedford on September 2005 with his 13-year-old son. On the day father and son were due to be deported, Manuel was found hanged in a stairwell. His young son was transferred to the care of members of his father's church in Leeds. Campaigners and members of the church have called for a public inquiry into the death and the 'illegal detention' of Manuel who claimed he had not even received a decision on his asylum appeal and therefore could not understand why he had been served with a deportation order.<sup>120</sup>

### *Treatment of pregnant and nursing mothers*

Pre-deportation detention even of very young infants takes place and pregnant women can be detained in most countries unless they have exceeded the seventh month of pregnancy. In some cases, the specific needs of pregnant and nursing mothers, toddlers and new-born babies have been ignored.

The **Commission Nationale de la Déontologie de la Sécurité (CNDS)** in France was shocked by the case of **David**, who was only a month old when his **Somalian** mother was placed in a detention centre. The premises were not suitable for a mother and young baby. The mother had to change the baby's nappy on the floor, food was not organised for the infant and the police vehicle for the journey from Rouen to Orly Airport did not have a baby seat. At the airport, the mother and child waited several hours in the car, with no water, food, or medical assistance, before being taken back to Rouen because all the necessary documents for the deportation had not been collated. The CNDS believes the baby was the victim of 'abuse' and has referred the matter to the state prosecutor.<sup>121</sup>

In Belgium, at the **Centre 127** in Melsbroek-Brussels, female asylum seekers have given birth to children a few days after arriving. They are taken to the hospital to give birth, but then sent back to the centre with the child. The stress, anxiety and constant noise in the centre is said to be particularly traumatic for nursing mothers.<sup>122</sup>

That children of asylum seekers are being born in British jails and then locked up in detention cen-

---

tres and that there are no official statistics of their number was the subject of an *Independent on Sunday* investigation on 30 July 2006. At the time, around sixteen families were on hunger strike at Yarl's Wood protesting against the detention of children.

By July 2006, baby Aliyah Benoni, had spent all forty-six days of her short life behind bars at Yarl's Wood. Her mother, Mia, 34, whose political activist husband is imprisoned in Uganda, gave birth in handcuffs flanked by two prison officers.<sup>123</sup>

Aboubacar Bailey Junior was born on 16 April 2006 at Holloway prison where he stayed for seventy-nine days before being transferred, with his mother, Halama Aboubacur, to Yarl's Wood IRC. According to his mother, the standard of care was better at Holloway prison where breast-feeding mothers were given extra milk for the baby every night. At Yarl's Wood, she claims she was told there was no milk available and the baby should drink lots of water.

Pregnant women and women nursing new-born babies also suffer from the lack of proper medical attention in detention.

In Spain, a three-month pregnant Brazilian woman, who was a witness in a sexual abuse scandal at the Remand Centre for Foreigners in Malaga, (see below) was kept at the detention centre despite her condition and despite the serious nature of her allegations against prison officials. On 17 August 2006, her lawyer states, she suffered 'severe haemorrhaging' following an argument with a police officer. It is alleged that she had to wait an hour to receive care from ambulance staff. It is also claimed that when she finally arrived at a hospital she had one of her hands handcuffed to the bed. These claims have been denied by the hospital and the Malaga government which says that the detainee received good care.<sup>124</sup>

The Brazilian woman was supported by AI, which launched an urgent campaign requesting that her expulsion from Spain be suspended. Several NGOs criticised the 'lack of humanity' in keeping the young woman detained in the same centre where the sexual abuse and her miscarriage had occurred.<sup>125</sup>

The UK government has now instructed immigration officers to stop separating breastfeeding mothers from their babies in detention after they

were advised that the practice was in breach of UN Conventions.

**In the UK, a Vietnamese asylum seeker and a Turkish asylum seeker, both of whom were breastfeeding, were separated from their children, aged 6 months and 15 months respectively (the infant was still being breastfed on medical advice). Publicity around these cases forced immigration minister, Liam Byrne to issue new instructions to prevent the separation of rejected asylum-seeking mothers from their babies requiring breast feeding, but the instruction does not go as far as an outright ban as it allows for separation in 'compelling and exceptional circumstances'.<sup>126</sup>**

### **Child protection measures removed**

States have a duty to protect children who are detained or accommodated in state-run reception facilities, yet, when it comes to foreign children, states neglect their responsibilities, leaving children vulnerable to abuse, violence and sometimes irreparable harm.

In the UK, the failure to build child protection measures into immigration and asylum law is incorporated into the Children's Act, which exempts immigration and asylum from the duty of care placed on all other statutory bodies to protect the welfare of children. In the absence of legal protection, the Chief Inspectors, in a report issued in 2005, criticised the lack of effective child protection systems in immigration removal centres, noting, in particular, the failure to establish effective protocols with relevant local agencies and the absence of independent assessments about the welfare and development needs of detained children.<sup>127</sup> In response, the government pledged that detained children would be subject to welfare checks, but the Chief Inspector of Prisons found no evidence that such a system had been put in place at Yarl's Wood. On the contrary, the sole social worker at the centre had resigned (it appears that the child welfare assessments she wrote had been ignored). Similarly, the Council of Europe's Commissioner for Human Rights has pointed to the absence of child protection perspectives in France. Separated children over the age of 13 are taken to the waiting zone at Roissy airport on arrival in France. This 'is particularly traumatic for a separated child faced with a world of sometimes violent adults. I call on the French authorities to be more humane and regard separated children as children in danger, which means sparing them a stay in a waiting zone', he said.<sup>128</sup>

In detention, a child could be at risk from staff, other detainees, or the lack of safety procedures at centres. This has been a particular prob-



---

lem in the Spanish North African enclaves of Melilla and Ceuta. In 2002, Human Rights Watch released a report documenting serious abuses of migrant children in Spain, particularly in Ceuta and Melilla. Among the abuses cited were overcrowding, unsanitary conditions, extortion, theft, physical attacks and denial of health and education services and other legal rights. The problem persists. In November 2006, fifty Moroccan minors, lodged in the Esperanza centre in Ceuta, staged a protest outside the Autonomous Government headquarters and the Law Courts. The minors presented a letter complaining about the management centre and excessive security measures.<sup>129</sup>

In recent years, more unaccompanied children are arriving in the Canary Islands with the same tensions arising from overcrowding and violence.

**In Spain, a 16-year-old boy was beheaded by another teenager at a centre in Las Palmas on Gran Canaria, Canary Islands in May 2005. The killing allegedly took place after an argument between ten Moroccan youths. There were claims that the argument was over the sale of drugs, but a judge issued an order banning details from being disclosed to the media. The authorities insisted that regular checks were made to prevent youngsters bringing weapons into the centre.<sup>130</sup>**

Five Spanish policeman have been remanded in custody accused of sexually abusing asylum seekers at a centre in Malaga. Although the exact age of the young women who alleged abuse is not known – it is presumed that they were not minors – the story is included here as indicative of the vulnerability of young women held in detention centres. They were described by the Spanish newspapers as 'girls', as being very young and from the Ukraine, Brazil and Morocco.

**Five Spanish policemen allegedly abused female asylum seekers at a centre in Malaga by manhandling them and demanding sex. The police officers organised parties where the young women were invited to 'drink, dine and get down' (there were allegations that their drinks might have been spiked). Those who did not participate were insulted while those who did were given gifts and favourable treatment.<sup>131</sup> Three of the young women who made the complaint were quickly deported, despite the vital importance of their testimony.<sup>132</sup>**

Children are being separated from parents in detention. To leave a young child alone in an adult environment is a clear failure of child protection.

**In the case of Tabitha Kaniki Mitunga (see pp 15,21,23), the 5-year-old child was detained alone and in the same condition as adults for nearly two months at the remand centre near the airport ('centre de transit 127') where foreigners, essentially adults, are held after being denied entry into the country. Shortly after she was detained, Tabitha's lawyer asked the Aliens Office to place Tabitha in the care of foster parents, but did not receive a reply. No one was assigned to look after her, nor were any measures taken to ensure that she received proper counselling or educational assistance. Tabitha remained at the remand centre until 17 October 2002, when she was sent back to the DRC. When taken before the European Court of Human Rights, the Belgian government acknowledged that the place of detention was not adapted to her needs and that there were no structures in place to care for her.<sup>133</sup>**

The incidents in February 2002 at Yarl's Wood reveal that children are also at risk because of the failure to maintain safety standards at detention centres.

**In the UK, in February 2002, children, including a 5-week-old premature baby, were amongst those detained at Yarl's Wood at the time of the major disturbance and fire which gutted a wing of the detention centre. The Prisons and Probation Ombudsman, Stephen Shaw, in his subsequent investigation, stated that these were highly traumatic events for 'families with young children, who played no part in the disturbance but were terrified by it'.**

**In response to the disturbance and fire, the police took control of the operation to evacuate all detainees to a single area. While fire raged in the building, staff and inmates were trapped inside. A member of the playroom staff told the official inquiry how scared she felt. 'If it wasn't for [a detainee] I don't think I would have got out of the building. I had never been shown round the building. I didn't know where any of the exits were apart from the playroom. No staff came to help us, even though we had contacted the control room. I feel very angry and upset by this. I have never been told what the procedure is for dealing with fires or any evacuation procedure.'**

**As detainees emerged from the building, they were taken to the visitors' area. Women, children and babies were amongst those detained outside in the cold for several hours. A member of the prison riot squad recalled: 'The visitors' area eventually**

---

became packed with detainee families of various nationalities. There were babies wrapped in silver foil and numerous women and children including fathers wrapped in blankets.' The Asylum Education and Legal Fund (AELF) criticised the fact that detainees (including women, children and the ill) were kept outside in sub-zero temperatures until 5am.<sup>134</sup>

#### *Left vulnerable to trafficking networks*

In most EU countries, unaccompanied minors and separated children, who do not have a family to stay with, are placed under the guardianship of the authorities and are usually housed in special reception centres for children. But an alarmingly large number of unaccompanied children simply disappear from state-run reception centres. The fear is that these children, some of whom may have been victims of trafficking rings in the first place, could have fallen prey to traffickers. The evidence is that this is a growing European-wide problem linked to the growth of 'modern child slavery' based on the exploitation of children for sexual and labour purposes. It is ironic that governments justify harsh asylum laws as a way of combating the evil of trafficking, while, at the same time, leaving some of the most vulnerable children open to it. This is another aspect of asylum policy which underlines the dangerous lack of child protection.

The UNHCR estimates that approximately 50 per cent of children who apply for asylum in Belgium and are not detained during the process or pending deportation are lost to human trafficking and prostitution.<sup>135</sup>

The Danish Red Cross states that more than half of the unaccompanied asylum-seeking children who arrive in the country disappear without trace. Out of 113 such children who came to Denmark in 2005, fifty-seven disappeared. Of eighteen children who disappeared between January and the end of April 2006, six were from China and went missing from the Red Cross asylum centre in Gribskov.<sup>136</sup>

The UN Special Rapporteur on Child Trafficking, Prostitution and Pornography, Juan Miguel Petit, has called for improved protection of children in Greece. Statistics suggest that there were 158 unaccompanied asylum-seeking children registered in Greece in 2005, but there is only one centre for such children in Anogeia, Crete, which has no more than twenty-five places. Consequently, most unaccompanied asy-

lum-seeking children end up being declared missing. Between 1998 and 2001, 539 children disappeared from the Aghia Varvara shelter in Heraklion.<sup>137</sup>

The Dutch NGO Nidos, which acts as legal guardian for unaccompanied asylum-seeking children, has expressed concern that only two of the twenty children who disappeared from reception centres have been found.<sup>138</sup> Since October 2004, there has been concern about unaccompanied male asylum-seeking children from India who have gone missing from asylum centres and are believed to have ended up in the sex industry. By October 2005, a total of 125 Indian boys aged between 13 and 18 were believed to have gone missing.<sup>139</sup>

Between January and the end of April 2006, seven children disappeared from Norwegian reception centres compared with fourteen in 2005, according to the Directorate of Immigration.<sup>140</sup> In the Autumn of 2005, two Chinese unaccompanied children disappeared from the Våril reception centre in Moss. Police had been concerned about trafficking in Chinese children.<sup>141</sup>

Between November 2004 and April 2005, around sixty Chinese asylum-seeking children, aged between 13 and 18, went missing from the Swedish Migration Board's reception centres. Two of twelve children who went missing in March, were found in the UK before being sent back to Sweden.<sup>142</sup> Then, in November 2005, after evidence linked more disappearances to trafficking for sexual purposes, the Green party criticised the Migration Board for its failure to immediately report cases to social services and the police, and called for the resignation of its director general. The Migration Board agreed that in future it would submit reports to social services as to whether allegations had been made about exploitation of children. It was later revealed that at least eight people were to be charged with child trafficking, rape and serious child abuse. Furthermore, the social services were being investigated to see whether or not they made sufficient effort to help the children who had been in contact with them.<sup>143</sup>

In the UK, forty-eight children trafficked into the country have disappeared while in the care of social services according to the authors of a 2007 study of five local

---

authorities which all warned that this is only 'the tip of the iceberg'. All of the children were aged between 10 and 17, and most came from Africa and east Asia.<sup>144</sup>

In Ireland, there is no safe house for child victims of trafficking, despite the fact that there is widespread concern that some, if not many, of the 250 separated children who have disappeared from care placements over the past six years may have fallen into the hands of traffickers.<sup>145</sup> The International Centre for Missing and Exploited Children says that of the 3,568 cases of disappeared children in Ireland outstanding, many involve foreign nationals.<sup>146</sup>

In the Netherlands and the UK, in response to such concerns, some new measures have been brought in. A pilot scheme has been brought in in the Netherlands, targeting children in high-risk groups, who are being placed in smaller centres with more supervision and care.<sup>147</sup> And in the UK, the Home Office has launched 'the Safeguarding Vulnerable Persons Team', with asylum screening units set up to help identify the particular needs of separated/unaccompanied children and protect their welfare. A National Register for Unaccompanied Children (NRUC) has also been set up in order to maintain a comprehensive database of information from the IND and local government social services departments on unaccompanied asylum-seeking children. However, it has been revealed that eleven councils looking after unaccompanied asylum-seeking children are not even using the database.<sup>148</sup>

### Protection not prison for children

For years, asylum seekers and *sans papiers* in Europe have been portrayed as economic migrants, welfare scroungers and illegal immigrants, resulting in a demonisation that denies them both individuality and human dignity in the public imagination.

This dehumanisation has proved useful to governments as they expand the criteria for detention, holding more and more people in fast-track reception centres or pre-deportation removal centres. But recently, as special family units are purpose-built within removal centres and vulnerable and isolated children are among those incarcerated, it has become harder to reify the detained. A large amount of documentation is now available detailing the abuse of detained children. These cases add up to a terrible indictment of government policy, revealing the crass inhumanity built into a 'deterrent' asylum system and spotlighting the bureaucratic indifference to the suffering of children and minors.

More and more organisations and individuals are now speaking out against detention as a fundamental abuse of children's rights and a serious violation of international law. Thousands and thousands of people across Europe have joined the 'No Place for A Child' campaign, signing petitions against the detention of children and lobbying MPs. Utilising slogans like 'No place for a child' and 'Protection, not prison for children', they are demanding an entirely different legislative framework which is child-centred. Responsibility for unaccompanied children, for instance, should not rest with the immigration authorities and social workers should play a greater role in looking after children's welfare. While the number of children detained seems to be growing, so too is the opposition. The scale of protest has led to a number of official and unofficial inquiries and promises by governments to improve detention conditions.<sup>149</sup> The EU Council's Qualification Directive states unequivocally that the best interests of the child should be a primary consideration when dealing with minors seeking asylum. The Medical Foundation's legal and policy officer for children, Syd Bolton, sees this directive as 'a milestone along the way to securing full and equal rights' for asylum-seeking children. It ensures that, in future, officials will have to 'consciously keep the best interests of the child uppermost in mind, actively investigating their experiences and listening to their views.'<sup>150</sup>

There have been other positive responses, particularly in relation to unaccompanied children. In Norway, the government has promised to transfer responsibility for unaccompanied children from the immigration ministry to the ministry of children and family affairs. And in Sweden, where an estimated 300-400 unaccompanied children enter the country each year, new rules transfer responsibility for these children away from the Migration Board to local authorities. (Unfortunately, many of these, citing inadequate government funding and lack of suitable accommodation, are refusing to sign up to long-term agreements to find government-funded placements for these children.)<sup>151</sup> Nevertheless, such moves show that approaches and decisions about children can be embedded within a rights perspective, rather than one of immigration and national security.

But these changes, no matter how tentative, have also attracted their own backlash. Politicians have attempted to turn the tables on campaigners for children's rights by resorting to the old tactic of dehumanising asylum-seeking families, as well as planting the seeds of suspicion against separated/unaccompanied children. Some politicians have argued that the state, far from being to blame for the abuse of asylum-seeking children, is a victim of the manipulative activities of parents. The Dutch immigration minister, Rita Verdonk, epitomises this.



mised this when she accused migrant parents of using their children as a 'ticket to stay'.<sup>152</sup> So did the Danish prime minister, Anders Fogh Rasmussen, when he argued that it is parents who are to blame if children are in detention, because they won't return to their country of origin.<sup>153</sup> He further demonstrated his failure to empathise with asylum-seeking children by refusing a request from a parliamentary committee to visit the asylum centres where children were held. The Belgian interior minister Patrick Dewael displayed a similar attitude when he told parliament that, 'Holding a foreign minor in detention is neither contrary to the United Nations' Convention on the Rights of the Child nor contrary to the European Convention on Human Rights.' If fault were to be found, he added, it lay with the families who, by resisting repatriation, allowed for the period spent in detention to be increased.<sup>154</sup>

## References

- 1 *Independent* (30 July 2006).
- 2 To detain children for the administrative convenience of immigration authorities does not constitute last resort and is itself a violation of the Convention. EU countries like UK and Germany have sought to get round this by issuing reservations to the UNCRC in relation to immigration.
- 3 EU Council Directive 2004/83/EC on minimum standards for determining the status of those needing international protection (Qualification Directive). Implemented in the UK by regulations on 9 October 2006.
- 4 When the UK Green MEP Jean Lambert asked the European Commission to provide data or statistics on the number of child asylum seekers detained in Europe, the Commission side-stepped the question, referring her to data from UNHCR on the number of unaccompanied children seeking asylum. Written Question P-3638/06 by Jean Lambert. Answer given by Mr Frattini on behalf of the Commission P-3638/06EN.
- 5 *Society Guardian* (12 July 2006).
- 6 *Reception Standards for Asylum Seekers in the European Union* (Geneva, UNHCR, 2000).
- 7 A. Baldaccini, *Providing Protection in the 21st century* (London, Asylum Rights Campaign, 2004). This study was cited in an excellent study of UK practices by Christine Bacon, *The Evolution of Immigration Detention in the UK: The involvement of Private Prison Companies* (University of Oxford, Refugee Studies Centre Working Paper No. 27, 2005).
- 8 *Review of states. procedures and practices relating to detention of asylum seekers* (Lawyers Committee for Human Rights, 2002).
- PDF version downloadable from website of International Detention Coalition <<http://idcoalition.org/portal/downloads/reports/LCHR%20Country%20Review.pdf>>.
- 9 *PICUM Newsletter* (December 2006).
- 10 *UNHCR Baltic and Nordic Headlines* (15-18 April 2006; 19-20 April 2006; 21 April 2006).
- 11 *NRK* (31 October 2006).
- 12 *UNHCR Baltic and Nordic Headlines* (29-29 March 2006).
- 13 Terry Smith, *Hearing the Voices of Unaccompanied Asylum Seeking Minors and Refugees – a look at policy and practice within participating countries of the above EU-project* (Brighton, European Social Network, 2005).
- 14 Terre des Hommes Switzerland press release (21 December 2005).
- 15 Correspondence with Martine Lachat, Terre des Hommes. Details of the law at Federal Office for Migration <<http://www.migration.ch/index.php?L=3>>.
- 16 *Report by Mr Alvaro Gil-Robles, Commissioner for Human Rights on the effective respect for human rights in France following his visit from 5 to 21 September 2005* (Strasbourg, Office of the Commissioner for Human Rights, 15 February 2006).
- 17 *Le Nouvel Observateur*, 6 June 2006, <<http://tempsreel.nouvelobs.com/>>; *Le Monde* (7 June 2006).
- 18 Refugee Council online news, 26 July 2006, <<http://www.refugeecouncil.org.uk/>>.
- 19 *NCADC News Service*, 6 February 2006, <<http://www.ncadc.org.uk/>>.
- 20 Frédérique Mawet, 'Centres fermés pour étrangers: Etat des lieux' (Brussels, CIRÉ, 2006).
- 21 *Ibid.*
- 22 *Migration News Sheet* (December 2006).
- 23 Melting Pot, 'Italy – Closing detention centres: the struggle is always on', Global Project, <<http://www.globalproject.info/art-7522.html>> and *il manifesto* (26 February 2006).
- 24 *Migration News Sheet* (March 2005).
- 25 *PICUM Newsletter* (March 2005); *Press Times* (15 December 2006); *Athens News* (11 March 2005).
- 26 *Annual Report, The State of the World's Children* (UNICEF, 2004).
- 27 *Forced Migration Review* (no. 15, 2002).
- 28 *Trends in separated and unaccompanied children seeking asylum in industrialized countries, 2001-2003* (Geneva, UNHCR, 2004).
- 29 *Position Paper on Returns and Separated Children* (Save the Children and the Separated Children in Europe Programme, 2004).
- 30 *Separated children coming to western Europe* (London, Save the Children, 2000).
- 31 Lawyers Committee for Human Rights, op.cit.

- 32 See Jacqueline Bhabha and Nadine Finch, *Seeking asylum alone: unaccompanied and separated children and refugee protection in the UK* (Human Rights at Harvard, 2006). Lucy Ward, 'Not every child matters', *Guardian* (22 January 2007).
- 33 Melanie McFadyean, 'A lapse of humanity', *Guardian* (16 November 2006).
- 34 Jacqueline Bhabha and Nadine Finch, op.cit.
- 35 *Community Care*, 16 November 2006, <<http://www.communitycare.co.uk>>.
- 36 *Migration News Sheet* (October 2006).
- 37 *PICUM Newsletter* (November 2005); *Migration News Sheet* (November 2005); *Athens News* (21 October 2005).
- 38 *Italy: Invisible children – The human rights of migrant and asylum-seeking minors detained upon arrival at the maritime border in Italy* (Amnesty International, 2006).
- 39 *El País* (5 July 2006).
- 40 *World Report* (Amnesty International, 2006).
- 41 *Migration News Sheet* (May 2006).
- 42 *PICUM Newsletter* (December 2005).
- 43 *Morocco Times* (23 August 2006).
- 44 *Report by Alvaro Gil-Robles, Commissioner for Human Rights on his visit to Spain 10-19 March 2005* (November 2005).
- 45 *Migration News Sheet* (September 2006).
- 46 *Migration News Sheet* (July 2005).
- 47 Frédérique Mawet, 'Centres fermés pour étrangers: Etat des lieux', op.cit.
- 48 European Court of Human Rights press release issued by the Registrar. Chamber judgment *Mubilanzila Mayeka and Kaniki Mitunga v Belgium*. Directorate of Communication. Press release – 582 (2006); *Migration News Sheet* (November 2006).
- 49 *Report by Mr Alvaro Gil-Robles, Commissioner for Human Rights on the effective respect for human rights in France following his visit from 5 to 21 September 2005* (Strasbourg, Council of Europe Office of the Commissioner for Human Rights, February 2006).
- 50 Ibid.
- 51 ANAFE press release (30 June 2005).
- 52 *Artikel 14* (no. 4, 2005).
- 53 *Dagens Nyheter* (23 October 2006).
- 54 *Migration News Sheet* (December 2006).
- 55 Berlin Refugee Council press release (24 March 2005).
- 56 *Frankfurter Rundschau* (22 March 2006).
- 57 See Helen McCormack, 'Unaccompanied asylum seeking children from Afghanistan and Iran: a special report', *Community Care*, 29 August 2006, <<http://www.communitycare.co.uk>>.
- 58 As cited by Jacqueline Bhabha and Nadine Finch, op.cit.
- 59 Jacqueline Bhabha and Nadine Finch outline best practice in this respect. They state that a holistic approach developed by the London Borough of Hillingdon involves taking into account the unaccompanied or separated child's demeanour, ability to interact with adults, cultural background, social history and family composition, life experiences, and educational history. Medical evidence of age is also said to be useful, as are the views of other adults with whom the child has had contact, such as foster carers, residential workers, teachers, Refugee Council Panel Advisers, interpreters and legal representatives. Furthermore, para 31 of the Committee on the Rights of the Child's General Comment No. 6 (2005) states that age assessments should not only take into account the physical appearance of the individual, but also his or her psychological maturity. Moreover, the assessment must be conducted in a scientific, safe, child – and gender-sensitive and fair manner, avoiding any risk of violation of the physical integrity of the child; giving due respect to human dignity; and, in the event of remaining uncertainty, should accord the individual the benefit of the doubt such that if there is a possibility that the individual is a child, s/he should be treated as such.
- 60 Medical Foundation for the Care of Victims of Torture news service, 17 May 2006, <<http://www.torturecare.org.uk>>.
- 61 As cited in *Report by Mr Alvaro Gil-Robles, Commissioner for Human Rights on the effective respect for human rights in France following his visit from 5 to 21 September 2005* (Strasbourg, Council of Europe Office of the Commissioner for Human Rights, February 2006).
- 62 ANAFE press release (30 June 2005).
- 63 *Aftenposten* online, 20 June 2006, <[www.aftenposten.no](http://www.aftenposten.no)> as cited by *UNHCR Baltic and Nordic Headlines* (20 June 2006).
- 64 *El País* (5 July 2006).
- 65 Information posted on website of Sverige Radio International – P4, June 2005, <<http://www.sr.se/international/>>.
- 66 *Guardian* (26 January 2007).
- 67 Berlin Refugee Council press release, 24 March 2005, <<http://www.fluechtlingsrat-berlin.de/>>
- 68 *Jungle World* (24 May 2006).
- 69 *Junge Welt* (1 October 2005).
- 70 *Frankfurter Rundschau* (22 March 2006).
- 71 *Unaccompanied children and the Dublin II regulation* (London, Refugee Council, 2006).
- 72 *UNHCR Baltic and Nordic Headlines* (30 March 2006).
- 73 As reported in *Summary Report on the Application of the Dublin II Regulation in Europe* (ECRE/ELENA, 2006).

- 74 AI press release, AI Index: EUR 25/008/2006 (21 September 2006).
- 75 *EFE* (22 September 2006).
- 76 *Migration News Sheet* (May 2006).
- 77 *Migration News Sheet* (August 2006).
- 78 *Cyprus Mail* (3 August 2006).
- 79 Judith Gleitze and Alice Schultz, 'In lawless zones', PRO ASYL – National Working Group for Refugees <[www.proasyl.de/en/online-signature/the-italian-system-of-asylum/index.html](http://www.proasyl.de/en/online-signature/the-italian-system-of-asylum/index.html)>.
- 80 *Migration News Sheet* (September 2005); *El País* English language version (31 August 2005; 1 September 2005).
- 81 *PICUM Newsletter* (February 2006); *Le Nouvel Observateur*, 29 December 2005, <<http://tempsreel.nouvelobs.com/>>; *Le Monde* (30 December 2005).
- 82 Ibid.
- 83 Chamber judgment *Mubilanzila Mayeka and Kaniki Mitunga v Belgium*, op.cit.
- 84 Cases of UK lawyer.
- 85 Cases of UK lawyer.
- 86 See Liz Fekete, *The deportation machine: Europe, asylum and human rights* (London, IRR, 2005).
- 87 'Roma advocates sue Danish Red Cross', AdvocacyNet special investigation, 12 June 2006, Advocacy Project, available at <<http://uk.oneworld.net/article/view/134829/1/5795>>
- 88 Criticism about the conditions for children living in asylum centres forced the Danish government to set aside 37.5million Danish kroner for an improvement of conditions. However, an intervention by the Danish People's Party ensured that none of this money would be used to provide better conditions for rejected asylum seekers who refused to leave the country, which would, of course, include families. *Politiken* (2 September 2005) as cited in *UNHCR Baltic and Nordic Headlines* (2 September 2006).
- 89 Danish Radio (4 August 2006) as cited in *UNHCR Baltic and Nordic Headlines* (4 August 2006).
- 90 *Migration News Sheet* (July 2006).
- 91 *Copenhagen Post* (19 April 2006); *UNHCR Baltic and Nordic Headlines* (15-18; 19-20; 21 April 2006).
- 92 *Associated Press* (13 October 2006).
- 93 *Migration News Sheet* (November 2006).
- 94 Mina Fazel and Derrick Silove, 'Detention of Refugees', *British Medical Journal* (Vol.332, no. 7536, 2006).
- 95 Medical Foundation for the Care of Victims of Torture news service, <<http://www.torturecare.org.uk/>>.
- 96 Frédérique Mawet, *Centres fermés pour étrangers: Etat des lieux*, op.cit.
- 97 *Society Guardian* (12 July 2006).
- 98 Refugee Council in Yorkshire and Humberside press release (28 June 2006).
- 99 *Expatica News* (20 October 2006).
- 100 European Court of Human Rights press release issued by the Registrar. Chamber judgement *Mubilanzila Mayeka and Kaniki Mitunga v Belgium*, op.cit.
- 101 *PICUM Newsletter* (August 2005, September 2005); *Le Nouvel Observateur*, 28 July 2005, 3, 11 August 2005 <<http://tempsreel.nouvelobs.com/>>.
- 102 *BBC News Online*, 27 July 2005, <<http://news.bbc.co.uk/1/hi/uk/default.stm>>.
- 103 'Joanna's story', No Place for a Child website <[www.noplaceforachild.org/jstory.htm](http://www.noplaceforachild.org/jstory.htm)>
- 104 Frédérique Mawet, *Centres fermés pour étrangers: Etat des lieux*, op.cit.
- 105 Bianca Brigitte Bonomi, 'Parents on hunger strike strengthen calls to end child detention', 27 July 2006, *IRR News*, <<http://www.irr.org.uk/2006/july/ha000028.html>>.
- 106 *BBC News Online*, 25 July 2006, <<http://news.bbc.co.uk/1/hi/uk/default.stm>>.
- 107 *El País* (7 September 2006).
- 108 *BBC News Online*, 10 April 2006, <<http://news.bbc.co.uk/1/hi/uk/default.stm>>.
- 109 *NRK* (2, 3, 4 November 2006) as cited in *UNHCR Baltic and Nordic Headlines* (4-6 November 2006).
- 110 Urban p.2 News (20 June 2006) as cited in *UNHCR Baltic and Nordic Headlines*.
- 111 *DR online*, 10 May 2006, <<http://www.dr.dk/>> as cited in *UNHCR Baltic and Nordic Headlines* (10-11 May 2006).
- 112 Schools Against Deportation website <[www.irr.org.uk/sad/briefing.html](http://www.irr.org.uk/sad/briefing.html)>.
- 113 The cabinet has said that in future only unaccompanied children whose age is disputed will be detained at Centre 127.
- 114 Frédérique Mawet, *Centres fermés pour étrangers: Etat des lieux*, op.cit.
- 115 *Artikel 14* (no. 3, 2005).
- 116 'Linz: Hunger-strike refugee died', no-racism.net, 6 October 2005, <<http://no-racism.net/print/1380/>>; Benedikt Kommenda, 'Detention prior to deportation: against law and human rights', *Die Presse* (20 March 2006).
- 117 Adil Mahamed Ali Salah was from Somalia, but had travelled to Germany on false documents bought in Yemen. The Bavarian Refugee Council said that the deportation was a 'scandal' and that if a careful investigation of his nationality had been made, the deportation would not have been possible. *Junge Welt* (19 February 2005); *Jungle World* (23 February 2005).
- 118 Harmit Athwal, *Driven to desperate measures* (London, IRR, 2006.) Download at

- <<http://www.irr.org.uk/pdf/Driventodesperate measures.pdf>>.
- 119 John Billiot and Zoe Brennan, 'Focus: the ultimate sacrifice', *Sunday Times* (24 September 2006).
  - 120 Harmit Athwal, op.cit.
  - 121 AP (12 April 2006). CNDS report available at Commission Nationale de Déontologie de la Sécurité <<http://www.cnds.fr/>>.
  - 122 Frédérique Mawet, *Centres fermés pour étrangers: Etat des lieux*, op.cit.
  - 123 NCADC News Service, 20 July 2006, <<http://www.ncadc.org.uk/>>.
  - 124 *Migration News Sheet* (September 2006).
  - 125 *El País* (20 August 2006).
  - 126 *Society Guardian* (25 October 2006); *Migration News Sheet* (November 2006).
  - 127 *Safeguarding Children: The second joint Chief Inspectors' Report on Arrangements to Safeguard Children* (Newcastle, Commission for Social Care Inspection, July 2005).
  - 128 Alvaro Gil-Robles drew attention to a new provision whereby an ad hoc administrator is appointed, responsible for assisting the minor concerned and representing him or her in all legal and administrative procedures concerning the stay in a waiting zone and the asylum application.
  - 129 *Bulletin APHDA* (13 November 2006).
  - 130 *Expatica News* (12 May 2005).
  - 131 *Expatica News* (24 July 2006); *El País* (29 July 2006).
  - 132 *Migration News Sheet* (September 2006).
  - 133 Chamber judgment *Mubilanzila Mayeka and Kaniki Mitunga v Belgium*, op.cit; *Migration News Sheet* (November 2006).
  - 134 Stephen Shaw CBE, *Report of the inquiry into the disturbance and fire at Yarl's Wood Removal Centre* (London, Prisons and Probation Ombudsman, October 2004).
  - 135 Lawyers Committee for Human Rights, op.cit.
  - 136 *UNHCR Baltic and Nordic Headlines* (15-18 April 2006).
  - 137 *PICUM Newsletter* (December 2005); *UN News Centre* (16 November 2005); *Migration News Sheet* (March 2006).
  - 138 *Migration News Sheet* (May 2005).
  - 139 *Migration News Sheet* (May 2006).
  - 140 *UNHCR Baltic and Nordic Headlines* (19-20 April 2006).
  - 141 *UNHCR Baltic and Nordic Headlines* (17 March 2006).
  - 142 *Migration News Sheet* (April 2005, May 2005).
  - 143 *UNHCR Baltic and Nordic Headlines* (1, 6, 9 December 2005).
  - 144 *Guardian* (19 January 2007).
  - 145 Children's Rights Alliance, Presentation by the Children's Rights Alliance – Republic of Ireland to the Pre-Sessional Working Group of the United Nations Committee on the Rights of the Child (7 June 2006).
  - 146 *Irish Independent* (26 May 2006).
  - 147 *PICUM Newsletter* (December 2006).
  - 148 *Community Care*, 27 July 2006, <<http://www.communitycare.co.uk>>.
  - 149 *PICUM Newsletter* (September 2005).
  - 150 Medical Foundation for the Care of Victims of Torture news service, 19 October 2006, <<http://www.torturecare.org.uk/>>.
  - 151 *Dagens Nyheter* (5 July 2006); *Svenska Dagbladen* (23 March 2006) as cited in *UNHCR Baltic and Nordic Headlines*.
  - 152 As cited in *Migration News Sheet* (December 2005); *PICUM Newsletter* (December 2005).
  - 153 *Jyllands Posten* online (3 May 2006) as cited in *UNHCR Baltic and Nordic Headlines* (3 May 2006).
  - 154 Interior minister Patrick Dewael's responses in the Chamber of Representatives to questions from Benoît Drèze on families with children in closed detention centres. See 'Les familles avec enfants en séjour illégal détenues en centre fermé', Centre Démocrate Humaniste <<http://www.lecdh.be/docparlement/pa4053.htm>>.



---

## 3. Deported

---

‘I can’t stand it. I can’t stand not knowing if she’s okay or not. I’ve emailed her, sent her text messages, and nothing. What I feel is not frustration. It goes beyond that. I feel like I’m in a war, that I’ve been shot and am dying.’

*Svetlana Voitovich, a mother deported from Cyprus to Moldova without her daughter.*

‘We’ll take them under our protection’





---

**V**iolations of the rights of children during the deportation process are now endemic.<sup>1</sup> Deportation officials, desperate to meet targets, ignore the vulnerability of children. Families are broken up, with parents deported without their children and siblings separated. Governments are also launching new programmes, which remove previous restraints preventing the removal of separated/unaccompanied minors. The result of all these moves is untold misery and suffering.

But there is another side to the story. None of these violations are going unchallenged. Strong national movements for children's right to stay and right to education are taking root. Teachers and educationalists are often at the forefront of grassroots campaigns. It is impossible to over-emphasise the disruptive impact that deportation policies are having on school environments. The fact that individual schools have rallied in support of their pupils is leading to a national debate in which many teachers profess that their professional ethos demands that they take a stand against the deportation of schoolchildren.

### **New approach to separated/unaccompanied children**

Save the Children estimates that there are as many as 100,000 unaccompanied children living in Europe today. While, in the past, they might have been allowed to stay in Europe, at least until the age of 18, today, many EU states are developing special returns programmes for unaccompanied minors which undermine previous legal safeguards and have but a thin veneer of legitimacy. The Dutch government, for instance, has created its own 'reception facility' for Angolan unaccompanied children in Luanda. The Spanish government is in the process of constructing two 'reception centres' in Moroccan territory and the regional governments of Catalunya and the Canary Islands have announced similar plans. In the UK, the IND has launched a pilot programme for the return of unaccompanied children to Vietnam, despite the fact that Vietnam is recognised as a source country for child trafficking.

Such schemes pose very real dangers to the rights of children, a point underlined by UNICEF, Save the Children and other concerned parties. In the Netherlands, returns of children to Angola, a war-torn country with poor human rights, has already commenced.

**Over 5,000 unaccompanied children applied for asylum in the Netherlands during the Angolan civil war and the Dutch courts have, in the past, ruled that they could not be returned as there were no safe orphanages in Angola to accommodate**

**them. The Dutch justice ministry has now financed the modernisation and expansion of the Mulemba orphanage in Luanda – which means that Angolan children are returned to what is considered by the Dutch as a 'safe zone'.<sup>2</sup> However, this is far from the case. Research by the academic Joris van Wijk suggests that, as of May 2005, only one Angolan child deported from the Netherlands actually took shelter at the Mulemba orphanage. Nevertheless, unaccompanied children from Angola applying for asylum in the Netherlands, are now being denied protection because of the orphanage's existence.<sup>3</sup>**

A Moroccan-Spanish working group on immigration has been set up to consider ways of returning the increasing number of Moroccan children who make the perilous sea-crossing to mainland Spain either via the Strait of Gibraltar, or, in more recent years, from Tarfaya to the Canary Islands. Those who arrive in this way are mostly boys from districts on the outskirts of Moroccan cities or the poorest rural areas, the average age being 16.<sup>4</sup> There is a general climate of mistrust of these young people and a popular belief that their parents encourage them to migrate in order to take advantage of the Spanish welfare system. When these minors are viewed not as individual children but a mass movement, a single overarching solution is imposed. Once again, the 'best interests of the child' principle of international children's conventions is ignored.

**A Spanish proposal to set up reception centres for unaccompanied children in Morocco has been criticised by UNICEF which warned that once such centres became operational, Moroccan children who arrived unaccompanied in Spain would be repatriated on a large scale, without taking care to safeguard individual needs. Several Spanish NGOs, including SOS Racismo, Save the Children and CEAR have pointed out that many Moroccan children in Madrid, aware of plans for their return, are now escaping from reception centres in order to live on the streets and avoid deportation.<sup>5</sup>**

Many might doubt Spain's ability to set up children's homes in Morocco given its lamentable record to properly accommodate children in the Canary Islands. In March 2006, the public prosecutor called on the authorities in Gran Canaria to close an overcrowded 'first step' children's home (it housed seventy-two minors, more than three times its capacity). The regional government responsible for the Canary Islands

---

had threatened to report the town council for its failure to act as a proper guardian and custodian to the children. María de la Salud Gil, the town councillor whose responsibility it was to oversee the children's home, had exposed the conditions at the centre, saying that she did not know how the director of the Child and Family Department of Gran Canaria could 'sleep at night when anything tragic could happen to those children'.<sup>6</sup>

A network of Spanish lawyers offering free services has been formed to assist such children. The lawyers say that the regional government of Madrid is systematically carrying out the repatriation of Moroccan minors without respect for their rights. In particular, they are bypassing that aspect of domestic law which stipulates that minors may be sent back to their home country 'only if the conditions of effective reunion' with the family are met.

**Three times in three months, judges halted the deportation of Moroccan minors. On 22 June 2006, a judge in Madrid stopped the expulsion of a Moroccan minor already inside an aircraft. It was a temporary halt to provide the judge with the time to decide whether the youth's return to Morocco would be in his best interests. According to the judge, during the entire procedure of repatriation no attempt had been made by the regional government or prefect of Madrid to find out the personal and family situation of the youth. Furthermore, the law stipulates that a minor must be granted a hearing in the repatriation procedure. In this case, the minor had been granted only one interview with the authorities, which took place when he arrived in Spain. The judge considered that this interview could not be counted as the obligatory hearing in the repatriation procedure and that there was 'a certain degree of non-compliance with the procedural norms'.<sup>7</sup>**

In the UK, Home Office officials are using Vietnamese children as a test case for an 'unaccompanied asylum-seeking returns programme'. (A previous attempt to send children back to Albania foundered when the Albanian authorities refused to accept them.) Many of the Vietnamese children considered for forced removal under the Home Office's proposals are likely to be girls, in their early teens, smuggled into Britain by human traffickers to work in nail bars, brothels and cannabis factories.

Home Office officials investigating the possibility of returning children to Vietnam are believed to have visited several potential reception centres including a state-run orphanage deemed unacceptable. NGOs have pointed out that if the Home Office is planning to return these children to their families, their future may not be safe. Bali Hothi, a representative of Dost, an east London project that deals with young refugees and victims of trafficking, says that Vietnamese children could end up being returned to the families and communities that sold them into trafficking in the first place.<sup>8</sup> Save the Children raised the same objections over the plans to send children back to Albania despite evidence of trafficking of children into crime and prostitution in Albania.<sup>9</sup>

Minutes of a Home Office consultative meeting in May 2006 reveal that the UK authorities are considering extending the returns programme to children from Angola and the Democratic Republic of Congo. Officials are said to be assessing the possibility of directly funding care organisations in host countries.<sup>10</sup>

Whether these programmes are fully implemented or not, the removal of unaccompanied minors is already taking place. This underlines the point made by the European Social Network that asylum determination procedures are designed for adults without cognisance of the needs of children.

**Lavendah Nyambura, a 7-year-old Kenyan girl who arrived in the UK in April 2006 and spent several months in the care of Hillingdon Council, was returned to Kenya in October 2006. It is also claimed that the Home Office failed to check rigorously enough the validity of a claim that her mother was living in Glasgow and was seeking to be reunited with her daughter. The Home Office, which claims that there was no proof that Joan Kinyanjui was the mother, only informed her of Lavendah's whereabouts seven days before the little girl was deported, thereby denying her the opportunity to take a DNA test and challenge the Home Office's claim that she was not her mother. The Children's Legal Centre has launched a judicial review and hopes that mother and daughter may eventually be reunited.<sup>11</sup>**

In Greece, the removal of minors seems to be taking place in the absence of any official programme. Sometimes, it seems to consist of little more than 'dumping' unaccompanied minors at border crossings.

---

In 2005, the Greek Ombudsman issued a report which recommended an immediate halt to the deportation of unaccompanied children in violation of the UN Convention on the Rights of the Child. According to the Greek Ombudsman, the practice of dumping undocumented migrant minors across the border was 'totally unacceptable'. George Moschos, deputy ombudsman responsible for the rights of children said, 'We encountered cases of children as young as 11 and 12 years old who were deported'. 'They were discharged at the border crossing and no one knows what happened to them afterwards.'<sup>12</sup>

Once unaccompanied or separated children reach 18, the authorities move quickly to remove them. This is very harsh given the ties that a lonely young person may have built up in their country of refuge and the fact that the friends they will have made might constitute a substitute family. In 2001 in the Netherlands, in the wake of increasing asylum claims of minors (17 per cent of all asylum claims were made by unaccompanied minors), the government announced a more restrictive policy. Unaccompanied minors, whose asylum claims are rejected, are granted a revocable residence permit, valid for three years. If the minor turns 18 before the three-year period has expired, s/he must return to her/his country of origin.

In the German state of Hamburg, a programme to remove failed Afghan asylum seekers was extended in May 2005 to any single male over the age of 16.<sup>13</sup>

In February 2006, Moghim Rahmato, an 18-year-old traumatised asylum seeker from Afghanistan living in Flensburg (Schleswig-Holstein), was honoured by the German president for his contribution to the Anne Frank competition 'War children'. Then he became the subject of a deportation order. Moghim was smuggled into Germany when he was 15. His father was killed in the Afghan civil war and his two younger brothers died in a missile attack. He fled to Pakistan together with his mother and sister. The mother was subsequently killed by relatives, the sister has disappeared. Physician Christiane Boysen-Honsel called Moghim 'severely traumatised'.<sup>14</sup>

In the UK, Norway and Denmark, there is evidence that the authorities have threatened unaccompanied children with removal even before they reach 18.

In March 2006, popular and talented Lowestoft student Amanuel Weldemichael (a 17-year-old who fled Eritrea as a 14-

year-old child soldier) who was living with foster parents, was told he would have to leave the UK for Italy, the country from whence he was initially smuggled into the UK. But the principal at his East Norfolk Sixth Form College in Gorleston, who had been supporting him in his education, said that his removal 'would be criminal'. 'He was failed by the authorities in Italy who did nothing to help him and treated him like he didn't exist, letting a child live on the streets. And now there's this threatening letter from the immigration service, which is an affront to humanity.' Students and staff at his college signed a petition in his support to which Great Yarmouth College, City College Norwich and local schools contributed. His lawyers subsequently obtained an injunction stopping his removal.<sup>15</sup>

Parents of schoolchildren said they would take legal action against the authorities if they went ahead with the irresponsible deportation of a 13-year-old Sri Lankan boy who arrived in Norway unaccompanied and without documents. Classmates launched a petition on his behalf and the Children's Ombudsman and the Red Cross spoke out against the deportation. Ashok came to Norway via Malaysia and France in 2002 and was eventually settled in Fjellhamar with foster parents. It is said that his father was kidnapped by the Tamil Tigers and his mother has not been seen since December 2004 when the tsunami hit Sri Lanka.<sup>16</sup>

In Denmark, a 15-year-old Sri Lankan boy went into hiding after becoming the first minor to be ordered out of Denmark despite an immigration law which forbids the forcible return of unaccompanied children to war-torn countries in which they have no proper family network. After considerable public pressure, the order was later rescinded.

In October 2006, 'Rams' Ramachandran, a 15-year-old Tamil boy, was ordered to leave Denmark. He had lost his mother and two brothers in the tsunami and his father committed suicide soon afterwards. He has one remaining brother in Sri Lanka, who has joined the Tamil Tigers. The orphaned boy had been living with his aunt and uncle in Ronde, Jutland, and had no family to care for him in Sri Lanka. When the UN rebuked the Danish authorities for proposing to send a young boy back to a country in chaos, the minister of integration, Rikke Hvilshøj was initially unimpressed. But

---

**after public pressure she agreed to look at the case again and at the beginning of November 2006 Rams was granted permanent residency.<sup>17</sup>**

Hvilshøj denied that she bowed to media pressure in granting the boy residency, claiming that she based her decision on a new evaluation of the conditions in Sri Lanka by UNHCR. But a number of politicians – including those from her own government – had criticised her stance. As the Social Democrats' spokeswoman on immigration, Lotte Bundsgaard, pointed out 'It's a cause for concern when we see that it takes a week-long media blitz to persuade the immigration authorities to change their mind.'<sup>18</sup> The Norwegian Children's Ombudsman, Reidar Hjermann, has called for an enquiry to be opened into what happens to unaccompanied children after they have had their asylum applications refused and been deported.<sup>19</sup>

### **Charter flights: pressure and abuse**

As already noted, families of specific nationalities are sometimes targeted for deportation to fill up seats on specially chartered flights. The Italian environmental minister, Alfonso Pecoraro Scanio, has argued against such charter flights on the grounds that it would be far more useful to direct the money towards development aid. 'With the money spent on repatriation flights we could finance development initiatives able to maintain an African family for years or support sustainable projects to slow down desertification, for example, a phenomenon which every year forces entire communities of sub-Saharan Africans into immigration.'<sup>20</sup>

In France, when the authorities have chartered a flight to a specific country and seats are empty, the police have been known to hunt out people of the relevant nationality to fill the charter, even stopping people on the Paris subway system to carry out identity checks.

**According to the French migrants' solidarity group Cimade, police identity checks on places such as the underground have negated an interior ministry circular of 31 October 2005 which instructed prefects not to carry out expulsions of families with children until the end of the academic year. Cimade reported that since the circular, sixty families had been detained in remand centres pending expulsion. Members of these families had been apprehended during identity checks because they were not in possession of valid residence permits. The intervention of Cimade managed to secure the release of all but eight of these families.<sup>21</sup>**

*The Deportation Machine* points out how difficult it is to monitor the use of force during deportations on chartered flights, which tend to be sudden and very secret. These flights, which are carried out like a military operation, must be absolutely terrifying for a child. In some cases, adults will have been sedated and in others they will be so traumatised that they are unable to meet the needs of their children.

**Neslihan Celik was the legal representative for a Kurdish family who had lived in Germany for fourteen years but were deported one night in June 2005. She reported that of the seventy people removed from Düsseldorf airport that night, the majority were men, all of whom were handcuffed. But there were also many women and children, including her clients, onboard the flight. Celik claims that the adult deportees 'had been given psychiatric drugs. They were forced or pressed to take tablets while they were in the vehicles'. A neighbour of the deported family told Celik that the mother of the family she represented had been given a tranquillising injection before she and the family were taken out of the flat.<sup>22</sup>**

Needless to say, it is impossible to ascertain just how many children are deported on chartered flights. And this very secrecy allows all sort of undemocratic and secret processes to flourish.

**The Spanish government has confirmed that it has been quietly deporting hundreds of migrants from the Canary Islands to Mali despite there being no repatriation agreement with the West African state. Between 4 and 9 August 2006 alone, three flights took off carrying 160 migrants. The Malian government permitted the deportation flights on the condition that Spain did not publicise them.<sup>23</sup>**

### **Family rights sacrificed**

Officials intent on meeting deportation targets are playing fast and loose with international law that upholds the right to family life.

The consequences of separating children from their parents in detention centres were already noted in Chapter 2. Children also suffer when adults are deported and they are left behind (or vice versa). Such deportations are a violation of the right to family unity. In Germany, in particular, countless cases have been documented which involve the separation of asylum-seeking and migrant families during the deportation process. In December 2004, Pro Asyl reported on seventeen



---

such cases which occurred over a short period. It claimed that underage children remained in Germany on their own while their parents were deported and parents often did not know where their children had disappeared to. 'The trend is unmistakable', commented Pro Asyl spokesperson Marie Pelzer. The 'Aliens Offices fail to use the discretion available to them; rather, they produce unnecessary suffering by tearing families apart.'<sup>24</sup>

Such deportations can lead to needless separation, as the following German cases demonstrate.

Gazale Salame and Ahmed Siala, who belong to the Arabic-speaking Mahalmi ethnic group, went to Germany in the 1980s. They have four children aged between 1 and 9. After the government contested Gazale's claim that she was stateless, and refused to extend her husband's residence permit, she was deported alongside her 14-month old daughter. However, in June 2006 a court ruled that the government acted unlawfully when it refused to extend Ahmed Siala's residence permit. This should have entitled Gazale and her two small children (she was pregnant at the time of deportation and had subsequently given birth) to return to Germany. But at this point, the Lower Saxony interior minister Uwe Schünemann (CDU) intervened, instructing the local authorities to appeal the court's decision. Gazale Salame's lawyer said: 'In complete ignorance of the legal bases and in deliberate infringement of the basic right to a family, Mr Schünemann is continuing to forbid the re-entry of Mrs Salame and her two children, under the pretext that Mr Siala doesn't earn enough to make it possible for his family to join him.'<sup>25</sup>

A Bosnian family of four were separated for two years. In August 2004, the Ristic family's 'tolerated' status as Bosnian war refugees in Germany was withdrawn and the family were put into pre-deportation detention. A lawyer put in a fresh asylum application for the youngest daughter, 13-year-old Tanja and she was allowed to stay with her mother pending the outcome of the application. Her father, Zoran Ristic and her elder sister, Sanja were both expelled. Eventually, mother and daughter, Tanja, were granted leave to remain on humanitarian grounds.

In the summer of 2005, Sanja was allowed to return to Berlin to complete her studies interrupted in 2004. Then, in May 2006, the father secured a job in the

### **German construction industry and finally the family were reunited.<sup>26</sup>**

In other cases, one member of a family is deemed to have successfully integrated, while others have not, with the result that the family are separated.

In July 2006, Düsseldorf's Committee on Humanitarian Cases recommended that the 17-year-old Roma teenager from Kosovo, Semra Idic, be granted a long term residence permit on account of her 'exemplary integration achievement'. However, the committee also decided that the other members of her family – mother and three siblings, all born in Germany – should be expelled. The father had already been forcibly removed to Serbia in November 2005.<sup>27</sup>

In one recent controversial case, where a mother and daughter resisted deportation, the German authorities decided to press on with the deportation of the other children in the family.

The Togolese Kpakou family from Cölbe (Hesse) were to be deported from Germany. The authorities accepted that the father of the family could not be immediately deported as he had been declared unfit to travel due to injuries sustained in a suicide attempt. On 16 September 2006, the mother, two of her children and one grandchild were taken to Frankfurt airport for deportation. But the mother and eldest daughter resisted so forcibly that their deportation was halted. The 6-year-old son and 2-year-old granddaughter were handed over to the youth welfare officer. However, the six other children in the family were flown on their own that night from Hamburg to Lomé. The authorities said that the children were met at the airport by representatives of the German Embassy and by relatives. Subsequently, on 3 October, Mrs Kpakou and the remaining children were deported from Frankfurt airport on a specially chartered aeroplane.

Possibly because the case of the Kpakou family had aroused much indignation the deputy chief administrator of the region took the unusual step of issuing a press release justifying the extraordinary deportation on the grounds of ongoing investigations into theft and drug offences. This then angered Hesse's data protection officer who subsequently demanded that disciplinary action be taken against the administration for a serious infringement of data protection rules.<sup>28</sup>



---

In Ireland, a number of deportations have similarly led to the separation of asylum-seeking families.

In Ireland, 8-year-old Emmanuel Wanze was taken into hiding to avoid the fate of his mother and brother, who had been deported. In an interview broadcast on the RTE 1 TV slot Prime Time, the youngster revealed that he was moved from house to house, often staying with strangers. 'I miss my mother and brother and I wish all of them could come back', he said.<sup>29</sup>

In 2005, garda officials went to the Holy Family School to pick up 7-year-old Eduardo Kovaci so that he could join his Roma parents and 4-year-old brother who were due to be deported on a charter flight to Romania. But his aunt had already collected him. Despite not finding him, the authorities went ahead with the deportation of his parents and brother, who had been living in Tralee, County Kerry for three years. They were deported to Bucharest on a charter flight alongside fifty other families.<sup>30</sup>

Despite the fact that the French authorities are not meant to deport parents without their children, cases have been recorded.

In France, Michel Myemba, of Angolan origin, was deported after being taken into custody during a visit to the police station to give evidence about an attack he had witnessed. At the police station he is believed to have told the authorities that he did not want to be deported without his 10-year-old son, Isaac. Isaac had to be taken into the care of friends of the family. Parents occupied the Joseph-Lotte primary school in Rennes in protest.<sup>31</sup>

It seems almost unbelievable that the authorities would stoop to deporting parents without their children. Again, one can only presume that the pressure of meeting removal targets leads to the kind of callous, unreasonable and inhumane behaviour documented in the following cases from Germany, UK and the Netherlands.

In the case of Gazale Salame and baby daughter (see p 39) who were deported from Germany to Turkey on 10 February 2005, her husband and two other daughters remained in Germany. The immigration authorities and police had waited in front of the family's home in the town of Algermissen until the father took the two elder girls to school and then, without warning, took Gazale Salame and her

daughter into pre-deportation detention. A few hours later, before the other children had even returned from school, their mother and sister were on a deportation flight to Turkey.<sup>32</sup>

Mr and Mrs Durakus from Kosovo, who had lived in Germany for twelve years and whose four children were all born there, were issued with a deportation order. In 2005, one day before their scheduled deportation, the father suffered a nervous breakdown and was taken to a psychiatric clinic. Even so, his wife and four children were taken to the airport for deportation. It was then discovered that the asylum applications for the two youngest children were still being processed and these two children were taken to relatives while the mother and the two eldest children were deported. Eventually, the two younger children were deported as well. The father remained temporarily in Germany.<sup>33</sup>

In the UK, in a case believed to be the first of its kind, Rose Nammi was seized while signing as part of her bail conditions at a police station and sent back to Uganda in September 2005 without her three children. The youngest child was only three years old and Rose claimed that she and her eldest child, who was 16, were raped and tortured in Uganda. After the deportation of their mother, the children went into hiding. Lawyers applied for the children to be made wards of court to prevent their removal.<sup>34</sup>

Mr Kaba, of Turkish origin, had lived in the Netherlands since 1984. His first marriage failed and the two daughters, Sumeyra (16) and Ceyda (14), both of whom were born in the Netherlands, returned to Turkey to live with their mother. She then remarried and decided that she did not want the girls to live with her any more. Mr Kaba was granted custody. In 1995 Mr Kaba, who had by this time gained Dutch nationality and remarried, brought the girls back to the Netherlands to live with him and his new family. Despite his repeated attempts to get the girls residence permits, the Dutch immigration authorities (IND) ruled in November 2006 that they should be deported back to Turkey because, at the time of their reentry into the Netherlands, they did not possess valid visas. Staff and pupils at Hervormd Lyceum-West secondary school asked the mayor of Amsterdam to intervene. The family have been at their

---

wits' end and the girls were said to have been distraught at the possibility that they might be separated from their parents and half-brother and sister. In Turkey, their mother still does not want them and they will have to live with their stepmother's parents. After a public outcry, integration minister Verdonk temporarily halted the deportation, saying they could stay but only until she answered parliamentary questions on the issue. Then, after Verdonk lost her immigration brief in November 2006, the new minister announced that the girls might stay in the Netherlands after all.<sup>35</sup>

In the case of the Benai family living in Scotland (see p 2), the father who feared he would be killed if returned to Algeria, managed to avoid the dawn raid. Nevertheless, the mother and three children were deported to Algeria in October 2006.<sup>36</sup>

The authorities appear to calculate that, not being able to bear the separation, other family members will soon 'voluntarily' follow those already deported. According to Lower Saxony Refugee Council, the case of a Lebanese family, the final members of which were deported in July 2006 exemplifies this 'cleverly thought out policy' devised 'to break the resistance of remaining family members and thus pressure them into "voluntary departure"'.<sup>37</sup>

The Lebanese authorities refused to take back a family of seven that had fled to Germany from the civil war in Lebanon fifteen years earlier. But as the family belonged to the ethnic minority of the Mahalmi, many of whom still appear in government registers in Turkey on account of their Ottoman ancestors, the mother and three of her daughters were deported from Hildesheim (Lower Saxony) to Turkey on 28 June 2005. As the father had no papers, he remained in Germany as did a daughter who had mental health problems. A married, employed son with a residence permit also remained in Germany.

However, shortly after the deportation, the father, whose health was so impaired that life on his own was virtually impossible, was pressured into signing a 'voluntary agreement' to leave Germany. The daughter, who had been committed to a closed psychiatric ward, was visited by an official from the Aliens Office who tried to convince her of the hopelessness of the situation, whereupon she agreed to 'voluntary departure'.<sup>37</sup>

Under the Dublin II regulation, asylum seekers can be deported to the EU state in which they first applied for asylum, the idea being that a single member state should take responsibility for a full substantive examination of an asylum claim. According to ECRE, the Dublin system is so profoundly unfair that it should be scrapped and replaced with an alternative system that ensures genuine responsibility-sharing and fully respects the protection needs of refugees. The Dublin regulation is having a particularly harsh impact on children, both unaccompanied/separated children and on families who are prevented from joining relatives who may already have settled in a particular European country.<sup>38</sup> In the case of the Avdija family from Kosovo, the Bavarian Refugee Council condemned in the strongest possible terms 'the application of the Dublin II regulation, which ruthlessly tears a family apart and plunges them into despair'.

**The Avdija family, members of the Ashkali minority in Kosovo, first fled to Slovakia. But when their daughter, now 16, was threatened with abduction into forced prostitution, the family applied for asylum in Germany but were refused under the Dublin II regulation.**

Police officers took Mrs EljHEME Avdija, who was a suicide risk, from the psychiatric clinic in Erlangen at four in the morning. At the same time, her husband, Aziz Avdija and their four children aged 9 to 16 were taken from the Central Repatriation Centre for Upper Bavaria in Zirndorf to Munich airport. The pilot of the Adria Airways plane refused to fly the Avdija family from Munich airport, temporarily delaying the deportation. But on 1 July 2005 they were deported to Slovakia, after the authorities chartered a plane.<sup>39</sup>

An EU directive adopted in November 2003 concerning the status of long-term resident third-country nationals is meant to protect long-term residents from such brutal removals. Not so in Cyprus. The suffering caused by the separation of a mother from her daughter after the mother was deported to Moldova was taken up by the media.

Svetlana Voitovich, who had been working in Cyprus since 1998, became subject to a deportation order after divorce from her Greek-Cypriot husband. She went into hiding and for several months managed to avoid deportation. She was returned from Cyprus to Moldova in September 2006. Irena, her 16-year-old daughter, who was determined to complete her education in Cyprus, slipped out of their Larnaca flat

---

before immigration authorities could find her and deport her too. Despite Svetlana Voitovich's pleas to be reunited with her daughter, the mother was deported alone. A distraught Mrs Voitovich pointed out that she had been deported even before she had time to collect her mobile phone, which had a list of her daughter's friends' telephone numbers in it. 'I can't stand it. I can't stand not knowing if she's okay or not. I've emailed her, sent her text messages, and nothing. What I feel is not frustration. It goes beyond that. I feel like I'm in a war, that I've been shot and am dying. I told them that they should have let me stay there so that I could change her mind because I'm her mum. How can I do that from here? I really don't know what to do.'<sup>40</sup>

Mrs Voitovich had been, during her marriage, legally resident in Cyprus; nevertheless, the breakdown of her marriage led to the denial of citizenship rights to her and it would seem, her daughter. In another case in Göttingen, Germany, the authorities attempted to withdraw German nationality from a child, in order to effect the family's removal. The background to the case can be found in the legally controversial German practice of withdrawing refugee status from families from countries such as Kosovo, Iran and Iraq.

According to the Refugee Council, the authorities in Göttingen withdrew nationality from a 3-year-old girl and changed it to 'Serbian-Montenegrin', in order to deport her parents. The father, who is from Kosovo and had been in Germany since 1994, was initially recognised as a refugee and given an unlimited residence permit, but his refugee status was later revoked. When their little girl was born in Germany in 2001 she automatically got German nationality, to which any child born in Germany is entitled if at least one of the parents has an unlimited residence permit. The authorities withdrew the child's nationality without even informing the parents and told them to obtain a Serbian-Montenegrin passport for her.<sup>41</sup>

The Refugee Council in Berlin has exposed the fact that the Senate has passed legislation to allow refugees, without valid passports, to be denied birth certificates for children born in Germany. The fundamental right to protection of the family is sacrificed to the policy interests of the Aliens Office, says the Berlin Refugee Council.<sup>42</sup> This can give the green light for the deportation of the father of the family, who is treated as a single man.

Branislav S, a Rom from Serbia, who lived with his partner and their 2-year-old daughter, was arrested on 13 July 2005. The Aliens Office did not consider that Branislav S was a part of a family, because he was not married and no birth certificate had been issued for his daughter. Because his partner was sick and could not look after their little girl, the child was placed with a foster family.<sup>43</sup>

In fact, the removal of the fundamental right to family protection by individual German states goes against a federal constitutional court ruling of December 2005 that foreign fathers may not be deported if this is harmful to the wellbeing of a child living in Germany. The principle, according to the court, holds true even if the fathers are not living with their children and only see them every two weeks. The court was ruling against Regensburg administrative court and in favour of a man who was to be deported to Kosovo but had challenged the deportation on the grounds that it would be impossible for him to maintain a relationship with his 5-year-old daughter. Although the mother had custody of the child, the father saw her every two weeks and talked to her regularly on the phone. The constitutional court said that if the relationship between father and daughter was intact, then the protection of the family guaranteed by the German Constitution would take precedence.<sup>44</sup>

Dutch NGOs, like their German counterparts, have been extremely active highlighting the threat deportations pose to family life. In July 2006, Defence for Children International (DCI) and the organisation Wij Willen Blijven (We Want to Stay WWB) launched legal proceedings against the state on three counts of violating the UN Convention on the Rights of the Child. They said that by seeking to deport children who had lived in the Netherlands for more than five years, the government violated international law. A deportation, furthermore, caused a hiatus in the lives of children who were already extremely vulnerable. For children who had been refused asylum, it became more difficult to access all sorts of basic facilities, such as health care, accommodation and education. Some asylum-seeking children might need special care because they had mental or psychological problems or because they were haunted by their war experiences or traumas encountered during flight. Finally, these children were at risk of being held in detention for the purpose of deportation, in violation not just of their right to freedom but also their rights to education and leisure activities.

The war on terror is also impacting on the fundamental rights of families through the EU's introduction of a list of proscribed organisations which

---

describes a whole host of overseas groups – some of which may be fighting for self-determination in their own countries – as terrorist. Membership of a proscribed organisation can lead to exclusion from the Refugee Convention if it can be assumed from membership that the person is a terrorist. But more and more cases suggest that member states are interpreting provisions in such a way as to remove protection from a number of individuals, beyond those assumed to have engaged in terrorism. The blacklisting, which can also be retrospective, is particularly affecting Turkish-Kurds in Germany who are routinely linked to the banned Kurdish Workers' Party (PKK).

**In the Summer of 2006, the thirteen-member Aydin family, the parents of whom had lived in Germany for seventeen years, were at risk of separation as the Berlin interior minister had announced that he would expel some members of the family if a fresh claim for asylum failed. Previously, the chairman of the Petitions Committee of the Berlin regional parliament told the media that the family's 'tolerated' status would not be renewed in view of the fact that the father of the family participated in a pro-Kurdish demonstration in Berlin shortly after the abduction and arrest of the PKK leader, Abdullah Ocalan in Nairobi in 1999, which led to the storming of the Israeli embassy in Berlin.<sup>45</sup>**

**Of the eleven children, only the four younger ones are, like their parents, faced with expulsion to Turkey. Three daughters have been granted permission to stay until the end of their educational training and the four eldest children have their own independent residence permits.**

### **Denial of humanitarian protection**

In some European countries, the inflexibility of asylum law results in an unbending attitude towards refugees with 'tolerated status'. (These would be people who had lived in the country for years, but on renewable short-term residence permits.) The deportation of such families, whose children might have been born in the country and knew no other home, is particularly harsh. Yet, in the past, some authorities have not yielded to humanitarian arguments on their behalf, even when given the opportunity to do so.

In Germany, an estimated 200,000 asylum seekers, including thousands of war refugees, have been granted temporary protection. Of these, 120,000 have been in Germany for more than five years and 50,000 for more than eleven years. They are mostly Kosovars, Roma, Bosnians and other ex-Yugoslavs, Kurds, mainly from Turkey, Afghans and

Iranians. Their residence permits are renewed every three, six or twelve months and, on account of this very precarious situation, they have hardly a chance to obtain employment. Because the federal minister and regional ministers do not agree about a law setting out the conditions for eligibility to stay, the authorities are constantly confronted with strong humanitarian cases involving families with children attending school. Even so, more and more families face a bleak future as they are ordered to leave the country voluntarily or be expelled by force.

In recognition of this, in 2004 the (then) interior minister Otto Schily introduced into federal law the so-called 'hardship case rule'. Under this provision, individual states could set up a hardship case committee and, in cases of 'unacceptable hardship', could recommend to the interior minister the granting of permanent residence. By so doing, Schily gave local interior ministers the opportunity to protect children and 'well-integrated' young people born in Germany with no first-hand knowledge of their parents' country. Now your chance of receiving justice from a hardship committee depends on where you live. According to Pro Asyl, some German states are 'almost completely refusing to apply the regulations for a right to remain in Germany on humanitarian grounds'.<sup>46</sup>

For instance, the interior minister of Hesse, Volker Bouffier, along with counterparts in several other states, has rejected a 'hardship case rule' for cases involving the deportation of children. According to Green Party deputy Jürgen Frömmrich this amounts to an 'inhumane preoccupation with principles'. The Frankfurt Municipal Pupils' Council has responded to this unbending attitude by repeatedly standing up for the rights of their fellow pupils. 'We appeal to politicians not to push through any more deportations at the expense of the children', said Frankfurt student Anne Juliane Alke.<sup>47</sup>

The administration's harsh response affects around 10,000 people living in Hesse who have been issued with a series of temporary residence permits for at least five years. Many of these are refugees from the former Yugoslavia who came to Germany ten or fifteen years ago and have since had families. The hardship case committee set up in Hesse had by August 2005 'uncompromisingly and cold-heartedly' rejected all but one case presented to it. The reason, according to Timmo Scherenberg of the Hesse Refugee Council, lay in the composition of the committee. Other states had used the possibility afforded by the law to include specialists from the churches and from support organisations, whereas in Hesse, on the wishes of the CDU and FDP, only Landtag deputies from a specially convened Petitions Committee were included.<sup>48</sup>



---

The Begaj family, from Kosovo, had lived in Wiesbaden, Hesse, for thirteen years. They had three children, aged 12, 13, and 14, who knew no country other than Germany. Despite the fact that Mr Raif Begaj had a good job as a cook and his employer had expressed himself disappointed at losing a 'reliable' and 'honest' member of staff, the family had been told to leave Germany voluntarily by June 2006 or face repatriation. Mrs Begaj suffered trauma on account of her experiences of violence in Kosovo and the threat of expulsion had, according to psychiatrists, depressed her so much that she experienced suicidal thoughts.<sup>49</sup>

Another state to set its face against a humanitarian response to hardship cases is Lower Saxony. Unlike most other German states, it has not even established a hardship case committee after the federal ruling. Instead, a hardship case consultative group was formed to consider cases which were then passed on to a Petitions Committee for a decision (a similar approach seems to pertain in Bavaria). In February 2006, Green Party members withdrew from the group (calling it an 'alibi body') because the Petitions Committee, which had a CDU-FDP majority, rejected virtually all the cases in which the consultative group recommended a positive decision.<sup>50</sup>

There are signs, however, that the federal government wants individual states to adopt a more flexible approach. In November 2006, the Conference of German interior ministers opened up the possibility for individual states to grant a two-year renewable visa and the possibility of eventual citizenship, to asylum-seeking families who could match certain criteria and had been in the country for six years. Berlin immediately took this as an opportunity to halt the deportations of foreigners long resident in Germany on short-term residence permits. Families, who have been in Germany for over six years and have young children or children who have attained majority while in Germany, would not be deported before the end of 2006. Similar concessions were made for unaccompanied minors. But Berlin's approach has not been followed by other states such as Schleswig-Holstein, North-RhineWestphalia and Lower Saxony which are still maintaining a rigid inflexibility.

On 23 November 2006, with the approval of Lower Saxony's interior ministry, the administrative district of Rotenburg/Wümme ordered the deportation to Serbia of Baskim Berisha, a 44-year old Rom and his 13-year old son Orhan. Baskim Berisha had lived in Germany for fifteen years. The district of Rotenburg justified the deportation on the grounds that the family did not fulfil the

criteria for being allowed to remain because they had 'misled' the authorities by claiming to be from Kosovo whereas in fact they were from Novi Sad in Serbia. The Lower Saxony Refugee Council pointed out that this accusation was incorrect, as Mr Berisha's birth certificate shows he was born in Pristina – the Berisha family had simply been living in Novi Sad for a considerable period. Confronted with this information, the interior ministry said that while it was true that the family hadn't made any false statements regarding where they came from, they had failed to disclose that they had passports issued by Serbia, and in this way had delayed or prevented their deportation. A decision on 26 November by the administrative court in response to an urgent application has now temporarily halted the deportation. The court pointed out that Mr Berisha's son, if only because of his age, could not be accused of misleading the authorities.<sup>51</sup>

The Refugee Council fears that accusations of 'deception' and 'hindering deportation' could be systematically used in future, with the blessing of the Lower Saxony interior ministry, to thwart application of the new policy agreed by the interior ministers. The Council fears that in this way ninety per cent of refugees entitled to remain in Germany could be prevented from so doing.

German states are not the only ones to take an inflexible attitude to cases which would obviously fall under a humanitarian principle. Italy is taking an unbending attitude to young people who may have lived in the country since they were infants, or are Italian-born, if they have committed a criminal offence. A nationwide amnesty at the beginning of August designed to cut prison overcrowding allowed for the early release of certain categories of prisoners. But immediately on their release, 'foreign' prisoners faced the 'double punishment' of deportation and were intercepted by the immigration authorities and taken to the Rome CPT at Ponte Galeria, prior to deportation.

Malkija C, a 28-year-old Roma, who had been living in Rome since the age of 4, and has four Italian-born children, was imprisoned for eighteen months for theft and faced deportation to Bosnia and separation from her children (the Prefect announced that the children would not be deported). However, the expulsion order was temporarily suspended because the woman did not possess a Bosnian passport.<sup>52</sup>

Zaklina H, an 18-year-old Roma woman, born in Italy, was also awaiting, in 2006,



---

deportation to Bosnia, a country she has never visited. Zaklina, who was hospitalised after the prison amnesty release, had appealed to stay in Italy on health grounds.<sup>53</sup>

As a mother of Italian children, Malkija's right to family life should be protected under the European Convention on Human Rights. For even when a foreign long-term resident has committed a crime, international law stipulates that punishment should be proportionate to the offence and also take into account the right to family life. But in other cases, where the doctrine of proportionality has been cited, the Italian authorities have simply ignored the European Convention on Human Rights.

In Switzerland, as in Germany, specific cantons have responded to public support for long-term residents by adopting a humanitarian approach to hardship cases. These cantons have been prepared to back families threatened by deportation.

Following protests by residents in Wiesen, the Grison cantonal government publicly backed a mother and five children, aged between 6 and 16 (the youngest was born in Switzerland), who were forcibly taken from their home and deported to the Federal Republic of Yugoslavia on 25 October 2005. The cantonal authorities said it would allow the family members to submit a fresh application for family reunification in order to join the father, who had been working in Switzerland for seventeen years.<sup>54</sup>

In a similar case in April 2005, the Protestant parish of Bubendorf (Basel) voted in favour of granting sanctuary to a rejected asylum-seeking family from Kosovo who had initially fled to Germany where the two sons, aged 8 and 10, were born. When their asylum claim was rejected, the family moved to Switzerland and had lived there since 1998.<sup>55</sup>

### Deportation of vulnerable and sick children

The notion that the removal of families, even where there is overwhelming evidence of hardship, is vital to retain the integrity of asylum and immigration systems has now hardened into an unbending principle which spills over into the treatment of sick children and young people, some of whom may have severe health problems untreatable in their home countries. This is a subject that concerns health professionals such as the Dutch Association of Paediatrics, which has urged its members to oppose the deportation of any child exposed to the risk of damaging conse-

quences in the home country.<sup>56</sup> Nevertheless, such deportations do take place. The following cases show the extreme lengths to which elected politicians and civil servants will go to justify their callous approach to sick children.

In Ireland, Evelyn Agho and her 8-month-old son Leslie, seriously ill with life threatening mucocutaneous lymph node syndrome, received a deportation order on 18 November 2005. Justice minister Michael McDowell refused to allow the baby to remain on humanitarian grounds, despite warnings from doctors that Leslie was unlikely be able to receive vital treatment if deported to Nigeria. (Leslie's disease can cause swelling of the coronary arteries, arthritis and meningitis.) Instead, the department of justice sent a photocopy of a page in a medical dictionary which said aspirin might help to prevent possible heart problems associated with the disease. Evelyn arrived in Ireland in January 2005 and Leslie was born in June of the same year.<sup>57</sup>

On 17 November 2005, the Krasniqi family, who had lived in Bersenbrück (Lower Saxony) since 1998, were deported to Pristina. One of the family's four children, a 7-year-old boy, had been receiving treatment for extensive burns and his doctor had certified that he needed follow-up treatment in Germany and that a premature return to Kosovo would bring the risk of inflammation that could endanger his life. Despite the fact that the UN interim administration Mission in Kosovo (UNMIK) had expressed reservations about the family's return, the authorities justified the deportation on the grounds that a court had described the boy's follow-up treatment as a 'cosmetic correction'.<sup>58</sup>

In February 2005, the ECHR requested Sweden to suspend an expulsion order against a failed asylum-seeking family from Kyrgyzstan. Lawyers for the family had argued that the deportation order would constitute cruel and degrading treatment as one of the children, aged 14, had been bed-ridden for months and was being tube-fed. The Swedish government was asked to submit information as to whether healthcare facilities in Kyrgyzstan were adequate for the treatment of the boy.<sup>59</sup>

In Norway, there were strong reactions when a Russian family with a 3-year-old

---

brain-damaged son received a deportation order. The family had lived for almost five years at the reception centre in Ulsteinvik, but had been denied residence permits. A senior physician said that travelling back to Russia would put the health of the boy at great risk.<sup>60</sup>

In the UK, an Iranian girl, aged 15, who has severe congenital heart disease which requires constant monitoring to avoid fatal complication, as we write, faces deportation with her mother, a failed asylum seeker. The girl collapsed during an earlier deportation attempt and had to be taken to hospital. The family's lawyer is bringing a civil action against the Home Office citing the UN Convention on the Rights of the Child. The Home Office states that it intends to remove the pair to Iran, despite a suicide attempt by the mother.<sup>61</sup>

In some cases, lawyers, in support of a humane resolution of an asylum claim, have pointed out that a local culture stigmatises disabled children.

In Ireland, the justice minister ordered the deportation of the family of 5-year-old Great Agbonlohar, who suffers from an attention-deficit hyperactivity disorder. His mother Olivia feared that she and her two children (who are twins) would be ostracised and stigmatised in Nigeria because of Great's disability. Supporters in Clonakilty, including the town councillor, intervened to stop their deportation in October 2005 after the family's home was raided in the early hours of the morning, securing a promise from the justice minister to review the case.<sup>62</sup>

There has also been criticism of some countries' attitudes towards rape victims and their children.

In May 2005, the UN Committee against Torture criticised the decision to deport from Sweden a Bangladeshi woman, T. A. and her 9-year-old daughter, S. T. who claimed asylum in Sweden in 2000. The mother had been raped and tortured by members of the Awami League for being an active member of the Jatiya Party. Documents revealed that the mother was suffering from post-traumatic stress disorder and that the daughter was in need of a long period of psychotherapeutic treatment.<sup>63</sup>

Lawyers are pointing out that, in many such cases, deportation does not serve the best interests of the child.

In the UK, at the time of writing, a 10-year-old child faces removal with his mother to Lebanon, where he will be forcibly transferred from his mother to his violent father with whom he has never lived. This is because Lebanese law, in cases of marriage breakdown, requires the mother to surrender the child to the father at the age of seven. The Court of Appeal reluctantly ruled that the proposed removal was lawful despite acknowledging the institutional discrimination in the custody law in the Lebanon and the fact that removal would not be in the best interests of the child.<sup>64</sup>

Other Dublin regulation cases from Sweden highlight the dire impact for sick children of deportation orders.

**The family of an 11-year-old Chechen boy went into hiding to avoid deportation after being told that they would be deported from Sweden to Poland. The boy was on kidney dialysis and attended hospital once a week. The kidney had to be removed very soon or the boy would have died.<sup>65</sup>**

In fact, criticism of Sweden's attitudes toward sick children goes further than the few cases cited here. For there, some asylum-seeking children facing deportation have become apathetic and withdrawn, often refusing to eat, drink, talk, walk and care for themselves. (In some cases they are only kept alive through being drip-fed.) This state, known as Pervasive Refusal Syndrome, usually affects girls between the ages of 8 and 15, but also some boys and younger children. Some 85 per cent of the 424 children treated for this in Sweden come from the former Soviet Union and former-Yugoslavia.

Whereas cases of Pervasive Refusal Syndrome have also been reported in Finland, Germany and Australia, it has generated more debate in Sweden due, it would seem, to the number of children involved. But the public sympathy generated for these children, has led to an amazing counter-attack from the authorities who seem to have thrown caution to the wind in their attempts to demonise the families of these children and blame them for their condition.

The government seems to have completely lost sight of the fact that, whatever the facts of an individual case, it is dealing with extremely vulnerable children who need support, not stigmatisation. A concerted attempt to blame the families *en masse* for the condition of their children started after 160,000 people signed a petition calling for an end to the deportation of the families of apathetic children. The government refused the

---

petitioners' demands in February 2005, but under public pressure from church groups and charities, it agreed to a temporary change of the law granting such families fresh asylum hearings. Immigration minister Barbro Holmberg argued that if an amnesty was granted, more children would simply become ill.<sup>66</sup>

Towards the end of 2005, stung by public criticisms, the immigration services and the government took a much more aggressive approach to the families of children with Pervasive Refusal Syndrome. The Migration Board called for a more 'balanced' debate and immigration minister Holmberg criticised those who assumed it was asylum policy making the children ill, thereby contributing to a very 'un-nuanced picture'.<sup>67</sup> Politicians and Migration Board officials began to talk in terms of children being used 'as tools in the asylum process'. There were claims that parents were either deliberately manipulating them to feign illness, or had gone so far as to poison them with prescribed and non-prescribed drugs in order to intensify the apathy, or throw away the contents of a drip for the children, in order to weaken them. In this way, according to Gustav Fridolin of the Green Party, the government was 'throwing suspicion on desperate people'.<sup>68</sup> Doctors and psychiatrists had also warned of the dangers of 'bringing an entire group of desperate people into dispute'.<sup>69</sup>

Things came to a head in November 2005, when immigration officials reported the families of thirteen apathetic children to the police alleging abuse. Migration Board officials told the newspapers of their 'frustration' that social services had ignored tip-offs of starving and poisoning. An official investigation into apathetic children – whose condition was now hotly disputed – was launched. One year later, the Migration Board's allegations had been discredited, the police investigation wound up. But not before untold damage had been done to the reputation of the children's families. The Migration Board appeared to have gone out of its way to feed stories to the media on an issue that revolved around the protection of vulnerable children.

It was a hard-hitting TV investigation into official reports on apathetic children broadcast on Sveriges Television (SVT) on 18 September 2006 that finally brought the Migration Board's duplicity to light. After the programme was broadcast, members of nearly all the opposition parties called on the government-appointed investigator on apathetic children to resign and for the entire investigation to be dropped. The Swedish Medical Association was considering taking disciplinary action for breaking the ethical code against three doctors who cast doubt on apathetic children in the media.

During the TV documentary, the government's official investigator into apathetic children, psychologist Marie Hessle was alleged to have presented the government with a report based on unsubstantiated facts and distorted quotes.

Hessle, with psychologist Peter Engelsoy, first reported her suspicions to a parliamentary committee which was considering whether to grant asylum to the families of children with Pervasive Refusal Syndrome. Then in autumn 2004, when it became clear that a formal investigation into the phenomenon was needed, interior minister Holmberg appointed Hessle national coordinator of the investigation. An initial report by Hessle supported allegations that the children had been poisoned or were faking illnesses. But it was shown that she had come to her conclusions on the basis of suspicions of doctors who had barely any experience of dealing with apathetic children.

In May 2006, Hessle produced a second report which focused on theories of manipulation, either through poisoning or simulation of symptoms. The report's conclusions about the children were based on the statements of only one named doctor, Tomas Eriksson, who had been quoted in the media on several occasions saying that he has treated children who have exhibited symptoms which suggested poisoning by bromide powder. But no tests have ever shown any traces of bromide, and none of the side effects common with bromide have ever been seen. The TV documentary included interviews with doctors and nurses who had treated a lot of apathetic children and none of them had ever come across a single case which supported Eriksson's theories. The documentary also took up claims made by Eriksson and interior minister Barbro Holmberg to the effect that children had immediately become well once deported. Investigative journalist Gellert Tamas was unable to track down a single case of this happening. According to Tamas, a rumour to this effect had been started by a journalist called Mats Strandberg, a former member of the far-right National Democrats, who, when challenged, admitted that he based his observation on 'intuition' rather than fact.<sup>70</sup>

Sven Brus, speaking for the Christian Democrats, said Hessle had decided on her conclusions one week into the investigations.<sup>71</sup> In August 2006, prosecutor Lise Tamm dropped the investigation of eleven possible cases of abuse of apathetic chil-

---

dren by family members, launched in November 2005. Tamm said she dropped the investigation due to lack of evidence and an unwillingness from the Social and Health Services to cooperate.<sup>72</sup>

Clearly a climate of disbelief has developed within the immigration services, *vis à vis* apathetic children. The coarseness of the culture in which they work has led to behaviour amongst immigration officials that even immigration minister Barbro Holmberg described as 'unacceptable'.

**After a failed asylum-seeking family whose child was severely ill, was deported to Russia, staff at the Solna branch of the Swedish Migration Board celebrated by drinking champagne. At the same time as exposing the officials' behaviour, the media reported that in an earlier case in March 2004, staff at the Kristianstad office of the Swedish Migration Board were officially invited by a senior official to celebrate with coffee and cakes the expulsion of a single mother with three sick children.<sup>73</sup> Several senior officials were suspended following the revelations, but Janna Valik, who headed the Immigration Office, resisted calls for her resignation, saying she intended to strengthen 'awareness of ethical matters' in her department.<sup>74</sup>**

And in this climate, officials have once again, started deporting apathetic children. It is a response all the more callous given that the number of apathetic children seeking asylum is falling. An official government inquiry found that in September 2006 there were only fourteen children under 15 suffering from the condition. Many young children regained their health after being granted asylum under the temporary asylum law. But thirty-eight older children granted asylum under the law were still receiving treatment.<sup>75</sup>

### **Deported to an uncertain future**

It is very difficult to document what happens to children after they are deported as no government monitors the consequences of its deportation policies. But the terrible impact on children of the denial of humanitarian protection, the refusal to make allowances for the seriously ill or the vulnerable, can be gleaned from the following cases from Germany, Belgium, the Netherlands, Sweden and the UK.

According to the Antirassistische Initiative in Berlin, which has managed to document cases from 1993 to 2005, at least eighty-eight children were detained, questioned or ill-treated in their country of origin after removal from Germany.<sup>76</sup> In two recent cases from Germany involving return to Africa, the mother of the family died in the

aftermath of deportation, leaving the future survival of her children uncertain.

**The Refugee Council of Lower Saxony says that the deaths of Congolese asylum seeker Tshiana Nguya and her stillborn child, were the result of maltreatment and rape in prison, after her forced return to Kinshasa from Germany. It called on the authorities to make provision for her two surviving children to return to Germany to be reunited with their father and brother who were still in the country, having managed to avoid deportation.**

Tshiana Nguya was forcibly repatriated on 26 August 2004, together with two of her three children. She died on 7 December 2004, at the birth of her fourth child. In August 2004, Mrs Nguya, in the seventh month of pregnancy, was deported from Germany, together with one of her two sons and her daughter. Without any money to bribe officials in Kinshasa, she was imprisoned upon arrival and maltreated, raped and humiliated. She was not released until the state of her health deteriorated considerably. The government of Lower Saxony has ordered an inquiry into the circumstances of her death.<sup>77</sup>

**The Schotten Refugee Initiative says the case of the Poba family exemplifies the 'dramatic consequences' of asylum policy. Araloyin Poba and two of her children, aged 12 and 7, were deported from Schotten (Hesse) to Nigeria in July 2003 (it seems that her husband and two other children had already gone underground to avoid deportation). The deportation went ahead despite the fact that Mrs Poba was believed to have been suffering from what was diagnosed as a 'severe schizo-affective disorder with paranoid and depressive elements'. Psychiatrist Klaus-Dieter Grothe considered the mother and daughter unfit for deportation because 'even under central European conditions' the mother was no longer in a position to look after the child.**

After she was deported, the woman is reported to have gone to live with relatives in Nigeria. She died there in an emaciated state in March 2004. Her daughter Beatrice lives with an aunt in Nigeria and has no contact with her father or siblings.<sup>78</sup>

There have been several attempts by human rights organisations and journalists to monitor the fate of sick children subjected to forced removal.

**When Hàna Tserensodom and her son Anar,**



---

aged 10 were returned from Belgium, where they had been living for over five years, to Mongolia in December 2005, they were forced to go into hiding. (The mother, who was a journalist, had left Mongolia after publishing an article exposing corruption.) In March 2006, Anar was taken to hospital in an emergency and was signed in under a false name. He was found to be suffering from cardiac insufficiency, which was probably the result of an illness he picked up in Belgium and which was not followed up during the 132 days he and his mother were detained at 127 bis in Brussels.<sup>79</sup>

Journalists from the Swedish newspaper *Dagens Nyheter* investigated the deportation of a family (whose son suffers from Pervasive Refusal Syndrome) to Russia. It was found that the family was living in a house without a toilet or running water and the son, Vlad, was still ill and devitalised and was not receiving the necessary medical treatment. Prior to the family's deportation, the boy was being drip-fed and could only stand up for short periods. His Swedish doctor had stipulated that it was vital that, if returned to Russia, the drip-feeding of the young boy should continue. This did not happen.

The family had initially been refused residence permits by the Swedish authorities because it was considered that the boy could receive this care in Russia. Vlad was removed from his hospital bed in Sweden, where he was being drip-fed and, upon his arrival in Russia, was not offered any help. The Swedish Aliens Appeal Board stated that the country has no obligation to ascertain the care received by rejected asylum seekers in the countries to which they have been deported.<sup>80</sup>

In one recent UK case, a judge ruled the deportation of an asylum-seeking family, who were in great fear and in hiding abroad, unlawful and ordered the Home Office to take all reasonable steps to bring the family back to the UK.

Mrs Justice Black said the government's unlawful acts in swiftly deporting an asylum-seeking family over an Easter Bank Holiday weekend in 2006 without giving them a proper opportunity to seek legal advice to challenge the removal had resulted in a 'very scared' family of four being placed in danger. In order to protect the family, a husband and wife, their 18-year-old daughter and 22-year-old mentally ill

son, the judge ruled that neither they nor the country to which they were returned could be identified.<sup>81</sup>

In the UK, the government stands accused of condemning failed asylum seekers who are HIV-positive to death by deporting them to Africa and thereby undermining the government's commitment to tackling Aids in Africa. The Refugee Council has called on HIV-positive asylum seekers to be treated as special cases since antiretroviral drugs, which could extend their life expectancy indefinitely, are not yet available in their own countries. For the Home Office, though, allowing several hundred HIV-positive Africans to stay in the UK could create a 'pull factor', attracting other 'health tourists' to UK.<sup>82</sup>

A Ghanaian mother of two young children, suffering from advanced HIV/Aids and kept healthy by advanced anti-retroviral drugs, lost her appeal against removal with the children in 2005. The tribunal held that the mother's family, who farmed a small rural plot in rural Ghana, would look after the children after her inevitable death.<sup>83</sup>

A Malawian couple discovered they were HIV-positive after arriving in north-east England. Their 4-year-old son, who was born in the UK, was free of the virus. The family were earmarked for deportation. Immigration officers went as far as to force the woman onto the bus taking her to the airport. She received a last-minute reprieve after the family mounted a judicial review of the decision to remove them.<sup>84</sup>

France could be moving towards a similar approach to HIV/Aids patients and other sick failed asylum seekers. For a circular concerning the protection of foreigners who are ill removes existing safeguards against removal to a country where appropriate medical care is not available. In future, a seriously ill foreigner could be deported if appropriate care is 'in theory' available.<sup>85</sup>

It can be a breach of human rights, including rights to family and private life, to send asylum-seeking families back to countries where they know no-one and have no ties. Such principles were certainly not observed in the following cases.

A family, consisting of Gabriela Codreanu, a law student in Bonn, her 15-year-old brother and her parents, who had been living in Germany for thirteen years, became stateless in 1993 and were deported from Germany to Romania on 10 March 2003. For nearly two years they lived in appalling conditions in the departure lounge of

---

Bucharest's Otopeni airport. On 24 January 2005, thirty police officers forcibly removed the family from the departure lounge and the airport building. Their winter clothing, blankets and sleeping bags were confiscated. At the time of a report in *Junge Welt*, the family had been living outdoors in the cold and snow for over a week. The family instituted proceedings in the European Court of Human Rights and were seeking to return to Germany.<sup>86</sup>

According to Flüchtlingsrat im Kreis Coesfeld, an Afghan family from a Hindu religious background with three children were deported from Coesfeld (North Rhine-Westphalia) to Afghanistan on 21 May 2006. They were not given an opportunity to contact anyone before boarding the plane and as a result were forced to stay in the ruins of a temple, resulting in all the children becoming seriously ill. The president of the Afghan Hindu community in Germany, a doctor from Cologne and the executive director of the Refugee Council of Coesfeld protested against this deportation which endangered the life of the family since there was no basis for living in Kabul and Hindus and Sikhs were being pursued by the government and Islamic forces in Afghanistan. Campaigners said that the family were in grave danger and pleaded for them to be allowed to return to Germany.<sup>87</sup>

A Vietnamese family with a 10-year-old autistic child, who had lived in Germany for thirteen years, were deported after sanctuary at the St Jakobi church in Peine was violated. The Lower Saxony Refugee Council said that medical reports had warned that deportation could lead to retrogression in the autistic child's development. The court had previously agreed to a deportation only if accompanied by a doctor or first-aid attendant and only if a so-called 'patient's cabin' were set up. The Refugee Council found it impossible to determine whether these conditions were adhered to during the deportation to Hanoi via Singapore on 7 December 2004.<sup>88</sup>

*The Deportation Machine* highlighted the danger posed to rejected asylum seekers by governments presenting deportees, who have no travel documents, to representatives of foreign embassies in order to identify their nationality. Recently, in the Netherlands, the government came under severe criticism, even from its coalition partners, when it emerged that Syrian officials were allowed to interrogate 181 rejected Syrian asylum seekers in

the premises of the Immigratie en Naturalisatie Dienst (Immigration and Naturalisation Service, IND) without any Dutch official being present. This was all the more scandalous in that the government had already been severely rebuked for passing on information to the Congolese authorities about failed asylum seekers who were subsequently detained and mistreated in Kinshasa.

The lawyer for a Syrian family of six claims that the father and his son were detained upon their arrival in Damascus on 30 January 2006. Ten minutes after the accompanying Dutch officials handed over documents to the Syrian authorities, the father and son were taken away. Immigration minister Rita Verdonk said that an investigation into the allegations uncovered no evidence that any family member was detained. The opposition was not satisfied with her assurances and has called for further investigation to ascertain whether the Dutch authorities are passing on information to the Syrian officials about returnees' asylum claims.<sup>89</sup>

When returning an unaccompanied minor, states are under a positive duty to ensure that a child is returned to appropriate family care. This did not happen in the case of Tabitha Kaniki Mitunga (see pp 15, 21, 23, 27).

The European Court of Human Rights ruled that the deportation of 5-year-old Tabitha Kaniki Mitunga unaccompanied to the DRC amounted to inhuman treatment. Tabitha was repatriated a day after a Belgian court had ruled her detention unlawful and the UNHCR had provided the authorities with relevant new information about her case.

On 17 October 2002, Tabitha was accompanied by a social worker from Transit Centre no. 127 who placed her in the care of the police at Brussels airport. She was then put on board a flight for Kinshasa, without any official Belgian representative to accompany her. (The airline which had transported her to Brussels and was therefore obliged, under Belgian law, to take her back at its own cost, requested an air hostess on board to look after her.) Tabitha travelled with three Congolese adults who were also being deported. Upon arrival at Kinshasa airport there was, apparently, nobody to greet her. The Belgian authorities blamed this on one of her uncles, who they say agreed to be present at the airport but was not. Tabitha, it seems, was left alone at the airport for six hours before a female secretary working

---

for the Congolese intelligence agency decided to take charge of her.

The day after Tabitha's expulsion to Kinshasa, the Belgian authorities received a message from the Canadian Embassy in the Hague, informing them that Tabitha's mother, being a Convention refugee, had been holding a permanent resident permit in Canada since 2002 and was therefore eligible for family reunion. Five days after being expelled to Kinshasa, Tabitha was put on board a flight for Canada accompanied by the Congolese official who had taken her into her family's care.

The court found that the Belgian authorities had neither sought to ensure that Tabitha would be properly looked after nor had regard to the real situation she was likely to encounter when she returned to her country of origin. 'In view of the conditions of its implementation, her removal was bound to have caused her extreme anxiety and demonstrated such a total lack of humanity towards a very young unaccompanied minor as to amount to inhuman treatment.' The Belgian authorities had failed to facilitate her reunion with her mother and failed to ensure that she would be cared for on arrival in Kinshasa. Accordingly, Belgium had failed to comply with its positive obligations and had disproportionately interfered with the applicants' rights to respect for their family rights.<sup>90</sup>

The UNHCR stipulates that failed asylum seekers should only be returned when circumstances deem it safe to do so. But returning failed asylum seekers, not to their home country but any country that will take them, certainly does not constitute a safe return.

In the case of Gazale Salame and her 1-year-old child, deported to Turkey on 10 February 2005 (see pp 39,40), supporters say that she was not from Turkey but from Lebanon, being a member of the Arabic-speaking Mahalmi minority (related to the Kurds). There are several thousand Mahalmi in Germany who fled the Lebanese civil war and now, after living in Germany for decades, are to be deported to Turkey. In Turkey, Gazale lives in a very poor district of Izmir, with no relatives, not knowing the language and with no means of support. Basic living expenses are met by money sent from Germany by her husband and by a well-wisher. Her personal situation is deteriorating daily and there are fears that she could die before seeing her husband and two daughters again.<sup>91</sup>

On 31 May 2006, Macedonian mother Flora Vila and her two young children, Romina (9) and Ronaldo (7) were deported after living for four years in Peterborough, England. However, they were removed to Pristina and told to make their own way back to Macedonia.<sup>92</sup>

Such an approach is even more inexcusable when it involves the removal of an unaccompanied teenager.

The Bavarian Refugee Council was scandalised by the deportation of Adil Mahamed Ali Salah, 18, from Regensburg (Bavaria) to Yemen, despite the fact that he was from Somalia. The Refugee Council said that if a careful investigation of Salah's nationality had been made, the deportation would not have been possible. (There is no functioning government in Somalia and hence no receiving authority for returns.) 'This highlights the Bavarian practice, in cases of doubt, of deporting first while turning a blind eye to the facts.' The Aliens Office was under pressure because a permit Adil had to enter Yemen issued by the Yemeni embassy was due to expire on 16 February 2005. The young man had bought the Yemeni pass on the black market. For the Aliens Office, however, all that mattered was that a deportation to Yemen was possible, while deportation to Somalia was not.<sup>93</sup>

There are similarities in these deportations to those under the Dublin rules. Designed to ensure that asylum seekers can only claim asylum in one EU state, the Dublin regulations hold that the asylum claim of a refugee must be heard in the first country that asylum seekers arrive in (there are some exceptions, both for asylum seekers with family members in other countries and for unaccompanied children). Claimants in one EU state, who have passed through another, will be returned to any member state they have passed through or where they have made an asylum claim.

However, not each member state assesses the claims of asylum seekers from particular regions of the world in the same way. And, according to a coalition of seventy-three European refugee groups which have come together to challenge the Dublin regulations, they are putting lives at risk and causing unnecessary suffering to families, children and survivors of torture.<sup>94</sup> Protest is having some effect. The European Commission is currently undertaking a comprehensive evaluation of the Dublin regulations, paying particularly attention to maintaining family unity and taking care

---

of the needs of unaccompanied minors.

In the meantime, though, deportations under the Dublin regulations continue. In the UK, the Refugee Council is concerned about the application of Dublin II in the case of unaccompanied children. In fact, unaccompanied children are meant to be exempted from some of the provisions of the Dublin regulations. For instance, if a child who arrives unaccompanied has a parent in another member state, the child's application should be considered in that country, providing it is in the child's interest. However, in the absence of a parent, the asylum claim will be determined in the country in which the child first claimed asylum. This puts many unaccompanied children at risk, as EU states vary greatly in their assessments of whether or not a particular child is in need of international protection. Hence, it is quite possible for an unaccompanied child to be refused asylum by one member state and returned to his/her country of origin, while another would recognise the same child as a refugee and grant him/her status. For instance unaccompanied children returned from the UK to Greece under the Dublin II regulation are being treated as having abandoned their asylum claim, and are therefore not looked after.

**Michael, an unaccompanied child from the Middle East, had sought asylum in Greece where he was held in detention for three months and allegedly beaten and exploited. He was released from detention after signing a document saying he would leave Greece immediately, despite no decision having been made on his claim for asylum. Michael then fled to the UK. The Home Office asked Greece to take Michael back despite being aware of his experiences there. The Refugee Council reported that Michael was removed to Greece in early 2006. 'We do not know what happened to him on return and we fear that Greece never fully examined his asylum claim.'**<sup>95</sup>

Refugees from the war in Chechnya, many of whom are single mothers with children, find it almost impossible to gain asylum in Poland or Slovakia, where the recognition rate for Chechen asylum seekers is extremely low. Yet any Chechen who makes an asylum claim in Germany, having travelled through Poland or Slovakia, is automatically returned to these countries under the Dublin rules. It is a practice that, according to NGOs, does not take into consideration family ties or the physical and psychological problems of war refugees from Chechnya. Three German social scientists carried out research in Poland which found that traumatised Chechens and those who have been tortured were particularly affected by the

rigid German practice of deportation. Once sent back to Poland, they were likely to face desperate situations.

**In the case of the Chechen family arrested in April 2005, the parents of which were being treated for post traumatic stress disorder and were receiving counselling from Xenion (see p 3), the Brandenburg Refugee Council reported that they were taken to the Polish-German border where they were held one night in detention by the Polish Border authorities. The next day, the family were told to take a train to Warsaw, but were given neither money nor tickets. Eventually, a Polish man took pity on them and bought them tickets. Security guards initially denied them entry to the Debak refugee reception centre near Warsaw, but after other refugees exerted pressure, they were given accommodation.**

**Another Chechen family being treated by Xenion, suffered similar treatment. They were detained for one night in an extremely small, unheated cell and were offered no food. As their luggage with their clothing had been confiscated, the children spent a night with no warm clothes. Mr C gave a guard €50 to buy food, and was given, in exchange, crisps and fizzy drinks and no change. The family were left to arrange their own passage to the refugee centre in Warsaw.**

Since the family were removed to Poland, they have been moved to accommodation in Mozna. However, the oldest child is not allowed to attend school because the school requires a certain command of the Polish language.<sup>96</sup>

Local communities, including schoolchildren, have campaigned vociferously against such deportations and, in some cases, for the return of deported families to live safely in Europe free from fear.

**Members of the local community in the Telemark district of northern Norway called for the return of the Omeri family, who were deported to Kosovo in October 2005 and were found to be living in a border town between Macedonia and Albania, which lacked most facilities as a result of the war. The children were unable to attend school, there were no shops, health clinics or employment opportunities. To make matters worse, the family belonged to a small minority group that is unpopular among both Serbs and Albanians. Steinar Miland, chair of the local district Labour**



---

party backed the family who had lived in Norway for three years prior to their deportation.<sup>97</sup>

On 5 November 2005, over 350 people, including children, marched from their schools to the town centre of Wigan, north-west England, calling for five classmates to be brought back from Uganda. Sara Hata and her five children (Dennis, 15, Hope, 14, Maureen, 13, Peace, 11 and Moris, 9) claimed asylum in the UK in 2002. Sarah said she had been raped, tortured and imprisoned by Ugandan government forces. Despite the fact that Dr Frank Arnold of the Medical Justice Network said that the children were suffering from post traumatic stress disorder, their asylum claim was rejected and they were taken from their home in Wigan and deported to Uganda on 16 October 2005. Since being deported, the family has allegedly been attacked by a mob and been caught up in a riot, with two members injured as a result. Ruth Fisher, chair of governors at St Cuthbert's Junior School, spoke of 'the distress and confusion that staff and children are experiencing over this family's removal'.<sup>98</sup>

In Ireland, a campaign by students and teachers at Palmerstown Community School in Dublin for the return of fellow student Olunkunle Elukanlo resulted in success, leading the president of the Irish trades union congress Paddy Healy to praise the teachers involved. 'You are the real Ireland', he said. 'You are a credit to our union and you are a credit to our country'.<sup>99</sup>

In March 2005, higher education student Olunkunle Elukanlo (19), who arrived in Ireland when he was 14, reported to the Garda National Immigration Bureau only to find himself sent back to Nigeria. He arrived in Lagos in his school uniform, with no money, no possessions, no friends or relatives in the city. His fellow students immediately launched a vociferous campaign and by the end of the month the minister of justice, Michael McDowell announced that Olunkunle had been issued with a six-month visa to return and sit his final school exams.<sup>100</sup>

The mobilisation of these school students and the resulting press coverage succeeded in shaming the government into returning Olunkunle to Ireland. However, once the young man had completed his studies, his situation became precarious and he was, once again, sent back to Nigeria even though,

by this stage, he was the father of an Irish-born baby boy.<sup>101</sup>

### **Right to stay, right to education**

More and more people across Europe are becoming horrified about their states' treatment of asylum-seeking children and movements against deportations and for refugee rights are growing. Individual cases highlighted by the media, like that of the Sri Lankan orphan Rams in Norway, the Nigerian school student Olunkunle Elukanlo in Ireland and Taida Pasik in the Netherlands (see below), are revealing the inhumanity of government policies to an audience beyond the already committed. New national movements, such as the Organisation Against the Deportation of Children Without Papers in Belgium and the National Network in Sweden, have been launched. Television, theatre and music have all been harnessed to the cause of refugee rights. In the Netherlands, over 1,000 film-makers initiated the extraordinary film-documentary experience, 'The 26,000 Faces Project', which involved filming individual asylum seekers' stories which were then broadcast in a rolling series on prime time television. In Sweden, the SVT television station devoted a whole evening to programmes about refugees and some of the most celebrated pop artists brought out an album, the proceeds of which were given to asylum seekers in hiding. In Norway, too, several celebrities have threatened to give up their citizenship unless a more humane approach to asylum is adopted. And in France, the Secretary General of the Confédération Française Démocratique du Travail (French Democratic Confederation of Labour) announced that some Air France members had made it clear that cabin crew would not participate in the 'dirty job' of expelling families with children and that the CFDT and two other unions representing staff members of Air France were considering strike action against the deportation of children.

Campaigners are not only demanding children's 'right to stay'; they are also demanding their right to complete their education free from the fear of deportation. When parents are forced underground, children suffer by being withdrawn from school.

**A study of Roma educational needs by the Roma Support Group in Ireland found that hundreds of Roma were failing to get an education in Ireland because of fears over deportation and inadequate family support. The study identified 'the stress of the asylum process and an inability to plan for the future' as the main barriers to participation in education.<sup>102</sup>**

This report also drew attention to the way that once minors turn 18, the authorities serve them with deportation orders. The deportation machine ruthlessly hastens to return these young people, even if they have not completed their studies. 'Do not these young people have a right to an education?' asked the Réseau Education sans Frontières in France, to which Sarkozy replied that to recognise such a right would be to encourage illegal immigration. 'It would be irresponsible to be the only country in the world where the education of a child, alongside no other criteria, would automatically give parents the right to stay.'<sup>103</sup>

But just as some people felt that the deportation of very young children was inhumane, others now feel the same about the deportation of higher education students. Groups are moving to protect teenagers who may have little or no family in countries to which they are to be deported. As Cimade pointed out, these deportations cause unnecessary suffering as it is within the power of governments to issue temporary residence permits for young students if they confirm that they have been in education since at least the age of 16 and are continuing their studies.

In Ireland, as previously noted, the case of Olunkunle Elukanlo became a national issue after students from Palmerstown Community School in Dublin lobbied for his return. But according to Rosanna Flynn of Residents Against Racism, 'It is fast becoming tradition now for the State to throw more pressure on the shoulders of some Leaving and Junior Cert students by issuing deportation orders to them or their families at exam time.'<sup>104</sup>

**In June 2005, Palmerstown Community School student, Tunde Yinusa Omoniye, 20, who had lived in Ireland for four years with his family, received a letter from the Garda National Immigration Bureau asking him to attend an appointment to discuss arrangements for his deportation. John White, general secretary of the Association of Secondary Teachers of Ireland, said it was 'completely unfeeling' on the part of the Department of Justice to issue such a letter to a student about to sit his Leaving Certificate and Jim Dorney, general secretary of the Teachers' Union of Ireland, said the timing of the meeting was 'inappropriate and needlessly insensitive'.<sup>105</sup>**

In both France and the UK there have been strong student campaigns in support of higher education students.

**A campaign by teachers and pupils at the Paul Bert high school in Paris (fourteenth district) led to a temporary halt on the**

**deportation of an 18-year-old Ivorian pupil Naboudou Bamba. Naboudou lived in France with her sister, who was her only relative since both her parents are dead. The teenager asked for a re-examination of her case so that she could 'finish her studies in peace and dignity'.<sup>106</sup>**

**Teachers and students at the Jacques Feyder high school in Epinay-sur-Seine launched a campaign for student, Guy Effeye, aged 19, under threat of deportation to Cameroun to be allowed to complete his baccalaureat. On 16 September 2005, following Guy's arrest, they went on strike. His deportation was subsequently postponed after passengers on the deportation flight refused to fasten their seatbelts and the pilot refused to fly.<sup>107</sup>**

**Within a day of his detention at Dover Removal Centre, the entire sixth form at Canterbury high school had mobilised to get fellow school student Amin Buratee released. Along with staff, they held vigils outside the centre, wrote press releases, gave newspaper interviews, appeared on local radio and television and lobbied their MP. Amin, a 19-year-old who lost his family in Afghanistan and fled for his life, had been living with two other 'unaccompanied' Afghan teenage asylum seekers until he turned 18 in November 2004. He then became liable for deportation and was detained. In the end, Amin was allowed to return to his home and school and was given permission to stay until he finished his exams in June 2005.<sup>108</sup>**

The sympathy and support that these young people are receiving is unprecedented, as is the criticism of the government ministers and officials responsible for their treatment.

**The case of Jeff Babatundé-Shittu, aged 19, from Nigeria, described as a model student, became particularly well-known in France. When he was threatened with deportation, his teacher gave him shelter. He was finally arrested in August 2006 and deported to Nigeria. During the attempt to deport him, activist and opposition politicians including Jack Lang, a former Socialist education minister, demonstrated at Paris' Charles de Gaulle Airport and two passengers were arrested when a protest erupted on the plane.**

**Jeff, who arrived in France illegally in 2004, said his mother was shot dead during a demonstration in 2004 and he had no**

---

family in Nigeria to support him. The French government disputed this and justified his deportation on the grounds that he lied about his identity in his residency application. Catherine Bayru, a Paris teacher, said she was shocked by the decision upholding his expulsion and that his return to Nigeria would be a 'catastrophe'. The deportation order she said 'takes no account of all he has done to integrate himself. He is a pleasant, energetic and dynamic boy and would be an asset to France.'<sup>109</sup>

In the Netherlands, the case of 18-year-old Taida Pasic, a Serbian Muslim from Kosovo, became a *cause célèbre*, prompting debates in parliament, media attention and a split in public opinion. After Taida Pasic was taken handcuffed from the De Driemark School in Winterswijk and detained in a removal centre, 70,000 people signed a petition in her support.

Taida Pasic and her family fled Kosovo and went to the Netherlands in 1999 when she was 12. By 2005, when the family's asylum application was finally rejected, Taida was an A-grade student, only a year away from gaining her pre-university education diploma, which would have allowed her to study at universities throughout Europe. At this point, the family agreed to return to Kosovo on a Dutch government resettlement scheme because, they said, they had been given erroneous information from the Dutch authorities which persuaded them that, if the family left voluntarily, Taida would be able to finish her education in Kosovo. But once they returned to Kosovo, the family learnt that Taida would have to start her education again from scratch.

In August 2006, Taida returned to the Netherlands on a tourist visa, applied for a temporary residence permit and settled down to finish school, staying with a Dutch foster family. But on 18 January 2006, she was taken, handcuffed, out of her class by the foreigners' police and detained in Zestienhoven departure centre near Rotterdam. Following a vociferous campaign, the district court in Groningen ruled that imprisoning the schoolgirl was disproportionate and ordered her release.

Riled by accusations that she was heartless and intransigent, immigration minister Rita Verdonk gave an interview to a national newspaper accusing Taida of 'blackening the name of the immigration services' and released detailed information about the case which accused the school-

girl of fraud and misuse of Dutch facilities because she had entered the country on a tourist visa from France. (The story was reported under the heading 'Verdonk: Taida is a fraud'.)

But such was the public sympathy for Taida Pasic, that the education and justice ministries announced that she would be allowed to sit her exams at the Dutch Embassy in Sarajevo. In April 2006, Taida left the country voluntarily in order to avoid deportation. But the case had a happy ending. A Dutch foundation offered to pay for her to study law at Leiden University. And the Data Protection Authorities formally criticised Verdonk for acting unlawfully for revealing information from an alien's dossier to the public via the media.<sup>110</sup>

The case of Taida Pasic highlighted the growing polarisation of public opinion towards migrants and asylum seekers in Dutch society. On the one hand, many Dutch people argued that Verdonk was to be admired for sticking to her guns, even when under pressure. They interpreted this trait as a sign of honesty and integrity. But many other people were appalled at Verdonk's intransigence and asked why she should take such a hard line against a young girl who only wanted to stay long enough in the country to sit the exams that could give her a future.

## References

- 1 This section deals with deportation and with threats of deportation which were averted by community and/or legal action. The legally correct term is 'removal', as in the UK, since 2000 'deportation' is reserved for those who have committed criminal offences or otherwise threaten the public good, but we prefer to use the term 'deportation' in its popular meaning.
- 2 Belgium and Switzerland are apparently considering funding a number of beds in the Mulemba orphanage.
- 3 Joris van Wijk, 'Dutch "safe zone" in Angola', *Forced Migration Review* (no.23, 2005).
- 4 Moroccan girls arrive in a different way and are more vulnerable to sexual and economic exploitation.
- 5 *Morocco Times* (20 April 2006).
- 6 *El País* (4 March 2006).
- 7 *Migration News Sheet* (July 2006).
- 8 *Guardian* (18 August 2006).
- 9 *Migration News Sheet* (March 2005).
- 10 *Guardian* (18 August 2006).
- 11 *Community Care*, 15 November 2006, <<http://www.communitycare.co.uk>>.

- 12 *Athens News Online* (21 October 2005).
- 13 *Jungle World* (31 August 2005).
- 14 *Jungle World* (6 September 2006).
- 15 *Eastern Daily Press* (2,15 March 2006); NCADC News Service, 23 March 2006, <<http://www.ncadc.org.uk/>>.
- 16 *Aftenposten* (29 March 2006), *TV2* (29 March 2006) as cited in *UNHCR Baltic and Nordic Headlines* (29 March 2006); *Migration News Sheet* (April 2006).
- 17 *Jyllands Posten* and *Politiken* (19 October 2006) as cited in *UNHCR Baltic and Nordic Headlines* (19-20 October 2006); *JP* (1 November 2006) as cited in *UNHCR Baltic and Nordic Headlines* (1 November 2006); *The Copenhagen Post* (31 October 2006).
- 18 *Politiken* (2 November 2006) as cited in *UNHCR Baltic and Nordic Headlines* (2 November 2006).
- 19 *TV2* (28 March 2006) as cited in *UNHCR Baltic and Nordic Headlines* (29 March 2006).
- 20 *Migration News Sheet* (November 2006).
- 21 *Migration News Sheet* (March 2006).
- 22 Interview with Neslihan Celik (30 June 2005).
- 23 *El País*, English language version (15 August 2006).
- 24 *Jungle World* (22 December 2004).
- 25 *Junge Welt* (13 September 2006).
- 26 *Migration News Sheet* (June 2006).
- 27 *Migration News Sheet* (August 2006).
- 28 *Jungle World* (27 September 2006; 4, 11 October 2006).
- 29 *Irish Independent* (9 June 2005).
- 30 *Irish Independent* (3 June 2005).
- 31 *Le Nouvel Observateur*, 8 September 2005, <<http://tempsreel.nouvelobs.com/>>.
- 32 *Junge Welt* (4 March 2005).
- 33 *Junge Welt* (1 April 2005).
- 34 *Community Care*, 13 October 2005, <<http://www.communitycare.co.uk>>.
- 35 *Het Parool* (25 November 2006); *Expatica News* (28 November 2006, 8 January 2007).
- 36 *The Scotsman* (28 September 2006), 'Update on Benai family of Kingsway, Glasgow', Positive Action in Housing, (16 October 2006).
- 37 *Junge Welt* (15 July 2005).
- 38 Memorandum to SCIFA, Improving the functioning of the Dublin system (AD7/8/2006/EXT/CN/RW), ECRE.
- 39 *Junge Welt* (2 July 2005); *Jungle World* (22 June 2005, 13 July 2005).
- 40 *Cyprus Mail* (29 September 2006).
- 41 *Junge Welt* (10 January 2005).
- 42 *Frankfurter Rundschau* (2 August 2005).
- 43 Ibid.
- 44 *Frankfurter Rundschau* (23 December 2005).
- 45 *Migration News Sheet* (July 2006).
- 46 *Frankfurter Rundschau* (29 December 2005).
- 47 *Frankfurter Rundschau* (25 August 2005).
- 48 Ibid.
- 49 *Migration News Sheet* (July 2006).
- 50 *Junge Welt* (17, 22 February 2006).
- 51 *Junge Welt* (27 November 2006).
- 52 *il manifesto* (6, 7 September 2006).
- 53 Ibid.
- 54 *Migration News Sheet* (December 2005).
- 55 *Migration News Sheet* (May 2005).
- 56 *Migration News Sheet* (June 2006).
- 57 *Irish Independent* (27 March 2006).
- 58 *Jungle World* (30 November 2005).
- 59 *Migration News Sheet* (March 2005).
- 60 *NRK* (9 August 2006) cited in *UNHCR Baltic and Nordic Headlines* (9-10 August 2006).
- 61 Cases of UK lawyer.
- 62 Indymedia Ireland, 18 October 2005, <<http://www.indymedia.ie/>>; *Irish Independent* (22 February 2006, 5 March 2006)
- 63 *Migration News Sheet* (July 2005).
- 64 *EM Lebanon v Secretary of State for the Home Department* (2006) EWCA Civ 1531 (21 November 2006).
- 65 *PICUM Newsletter* (August 2005).
- 66 Her comments were not made directly but caught off camera. As cited on the Sveriges Television (SVT) programme, 'Uppdrag granskning' – an investigation into the official reports on apathetic children (18 September 2006). Summary of the programme in English provided by Terese Jonsson.
- 67 As quoted by *Reuters* (23 November 2006).
- 68 *UNHCR Baltic and Nordic Headlines* (24 November 2005).
- 69 *Frankfurter Rundschau* (26 November 2005).
- 70 Sveriges Television, 'Uppdrag granskning', op.cit.
- 71 *Svenska Dagbladet* (21 September 2006).
- 72 *Svenska Dagbladet* (20 September 2006) as quoted in *UNHCR Baltic and Nordic Headlines* (20 September 2006).
- 73 *UNHCR Baltic and Nordic Headlines* (20 December 2005); *Migration News Sheet* (January 2006).
- 74 *Frankfurter Rundschau* (21 December 2005).
- 75 *Dagens Nyheter* (13 September 2006).
- 76 *Bundesdeutsche Fluechtlingspolitik und ihre-toedlichen Folgen* (Berlin, Antirassistische Initiative, 2005).
- 77 *Migration News Sheet* (June 2006).
- 78 *Frankfurter Rundschau* (21 June 2005).
- 79 *Le Mensuel*, publication of Union des Progressistes Juifs (January, June 2006).
- 80 *Migration News Sheet* (May 2005).
- 81 *This is London* website, 20 December 2006, <<http://www.thisislondon.co.uk/home/>>.
- 82 Nigel Morris, 'Britain accused of sending HIV refugees to die', *The Independent* (1 December 2006).
- 83



- 
- 84 Nigel Morris, op.cit.
- 85 *PICUM Newsletter* (December 2006).
- 86 *Junge Welt* (3 February 2005).
- 87 *PICUM Newsletter* (June 2006).
- 88 *Jungle World* (15 December 2004).
- 89 *Migration News Sheet* (April 2006).
- 90 European Court of Human Rights press release issued by the Registrar, Chamber judgment *Mubilanzila Mayeka and Kaniki Mitunga v Belgium*. Directorate of Communication. Press release – 582 (2006); *Migration News Sheet* (November 2006).
- 91 *Junge Welt* (13 September 2006); *Migration News Sheet* (February 2007).
- 92 *Peterborough Evening Telegraph* (6 June 2006).
- 93 *Junge Welt* (19 February 2005); *Jungle World* (23 February 2005).
- 94 ECRE press release, 'Europe's asylum rules put lives at risk and cause suffering' (ECRE PR 3/6/02006/Ext/AK).
- 95 *Unaccompanied children and the Dublin II regulation* (London, Refugee Council briefing, November 2006).
- 96 *Kein Flüchtlingsschutz in der EU Die verheerende Wirkung der DUBLIN II – Verordnung am Beispiel tschetschenischer Flüchtlinge* (Potsdam, Brandenburg Refugee Council, September 2005).
- 97 *NRK* (20 November 2005) as cited in *UNHCR Baltic & Nordic Headlines* (20 December 2005).
- 98 *PICUM Newsletter* (December 2005); *BBC News Online*, 6 November 2005, <<http://news.bbc.co.uk/1/hi/uk/default.stm>>; *IRR News*, 6 December 2005, <[www.irr.org.uk](http://www.irr.org.uk)>.
- 99 *Irish Times* (1 April 2005).
- 100 *Irish Times* (17 March 2005).
- 101 *Irish Times* (17 March 2005); *Migration News Sheet* (May 2005); *Irish Independent* (6 April 2006).
- 102 *Irish Times* (16 June 2005).
- 103 *Le Nouvel Observateur*, 6 June 2006, <<http://tempsreel.nouvelobs.com/>>.
- 104 *Irish Independent* (9 June 2005).
- 105 *Irish Independent* (3 June 2005).
- 106 *VousNousIls*, 9 November 2005, <<http://www.vousnousils.fr/>>.
- 107 *Le Nouvel Observateur*, 20 September 2005, <<http://tempsreel.nouvelobs.com/>>; *20minutes*, 20 September 2005, <<http://www.20minutes.fr/>>; *PICUM Newsletter* (October 2005).
- 108 Schools Against Deportation website <[www.irr.org.uk/sad/index.html](http://www.irr.org.uk/sad/index.html)>.
- 109 *Daily Telegraph* (10 August 2006); *BBC News Online*, 30 August 2006, <<http://news.bbc.co.uk/1/hi/world/europe/default.stm>>; *International Herald Tribune* (3 September 2006).
- 110 Summary provided by Liz Cross. Other sources of information are *Times* (10 March 2006; *Expatica News* (28 March 2006, 24 April 2006); *Volksrant* (2 June 2006); *Telegraaf* (29 March 2006).
-

---

## 4. Destitute

---

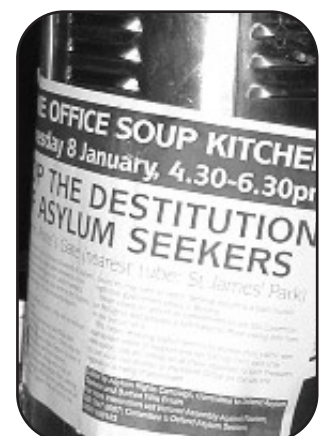
‘We came for protection, we found discrimination and hunger.’

*Banner at Cypriot tent protest*

‘Giving food to destitute asylum seekers here is not very different from handing out food from the back of lorries in the Sudan. The humanitarian need is the same.’

*International aid worker, commenting on the situation in the UK*

‘Regularisation now’



---

**A**s already indicated, many who receive deportation orders are refusing to leave voluntarily. Others cannot leave, even if they wanted to. There may be no viable return route, or their government may refuse to issue travel documents. In the case of an unaccompanied minor, it may not be possible to trace the child's family. But governments have shown that they will not be frustrated by such obstacles. By removing all state support in a bid to get failed asylum seekers to leave 'voluntarily', governments render the recalcitrant hungry and homeless.

Destitution, according to NGOs, has become an official tool of public policy. Other chosen methods to encourage rejected asylum seekers to leave include restricting hospital care to all but emergencies and threatening to take children into care if parents refuse to cooperate with their family's removal.

### Legal changes since the 1990s

The issue of extreme poverty, homelessness and lack of health care amongst asylum seekers and other migrants without papers, is not a new phenomenon. Throughout the 1990s, as EU countries reduced expenditure on welfare and brought market principles into national health systems, the notion that welfare states should be inclusive and based on universal provision declined. At the same time, in popular discourse at least, the idea grew that 'bogus asylum seekers' were really 'economic migrants' seeking to enjoy the benefits of Europe's generous welfare provision.

The move away from universal inclusive welfare states was also matched by changes to immigration law across Europe during the 1990s. New immigration laws rescinded the rights of migrant workers – many of whom had lived in Europe for a decade and paid regular social security contributions and taxes. These legal migrants, transformed into *sans papiers*, began to face conditions similar to those of failed asylum seekers.<sup>1</sup> For, during the same period, laws had been introduced that systematically removed asylum seekers from mainstream welfare provision and corralled them in alternative systems linked to immigration controls characterised either by reduced benefits that fall well below the poverty line or benefits in kind (food parcels or vouchers).<sup>2</sup>

Not surprisingly, the result of such legal changes, since the 1990s, has been an increase in misery and deprivation. What we witness today is a situation where even those asylum seekers still in the refugee determination procedure are living in abject poverty. For instance, Norwegian Social Research (NOVA) found in 2006 that families living in reception centres received half the welfare benefits of the native born, with children suffering most from the resulting poverty and lack of

social interaction.<sup>3</sup> The Crusaid Hardship Fund in the UK provides financial assistance and support to people living with HIV. It found severe poverty amongst HIV-positive asylum seekers an increasing problem. In fact, 54 per cent of applicants to the hardship fund in 2006 were at some point within the asylum and immigration system. One applicant, an African asylum seeker and her daughter, aged 4, were surviving on less than £4 a day.<sup>4</sup>

In many of the southern European countries, with different welfare traditions and less state support for all vulnerable groups, charities have long been the mainstay for those within the asylum process. This is so, too, in France where charities and NGOs have had to plug the holes in state provision, due to the inadequate number of reception centres for asylum seekers which are commonly at full capacity and with a six month long waiting list. This lack of provision partially explains why the Red Cross was compelled to set up a camp at Sangatte, Calais (now closed). It also explains why so many asylum seekers in France are accommodated in emergency centres for the homeless or huddled into squats already occupied by the *sans papiers*.

Now specific legislation is being passed to target asylum seekers' access to benefits and housing. There have been several important changes in this respect in the UK. Under Schedule 3 of the Nationality Immigration and Asylum Act (2002) single adults were excluded from all support including National Asylum Support Service (NASS) and social services support if they failed to comply with removal directions. Following this, Section 9 of the Asylum and Immigration (Treatment of Claimants) Act 2004 extended the exclusion to asylum-seeking families who were henceforth denied the support of NASS as well as all other forms of social services. In severe cases, failed asylum seekers can apply for what is described as 'hard cases' support under Section 4 of the Asylum and Immigration Act 2004. While this comprises accommodation on a no-choice basis, and food or vouchers, it is only available to those who agree to return to their home country 'voluntarily'.

According to AI, many destitute asylum seekers are not eligible for Section 4 'hard cases' support and others choose not to apply for it, mainly because they see it as a ploy to force them to return to their countries of origin. The majority therefore rely on the help provided by voluntary organisations, refugee community groups, faith organisations, friends and family to survive. Others are forced into overcrowded housing with the most desperate turning to crime, drugs and prostitution.

Similar laws introduced in other EU countries include, in Poland, the 2006 amendment to the

---

Act on Granting Protection to Aliens. This ensures that asylum seekers with 'tolerated' status will be thrown out of designated accommodation. (An estimated 1,500 asylum seekers could be affected when the law comes into effect in early 2007.) Already, in Austria, in 2002, an estimated one thousand people, including women, children and the elderly, were evicted from reception centres and excluded from any state support when the government introduced a safe country list, holding that asylum seekers from any of the listed countries would be subjected to a fast-track procedure and excluded from any state support. In response, NGOs increased the capacity in emergency shelters and accused the government of starving asylum seekers out of the country.<sup>5</sup>

### **Europe's young vagrants**

Today, an increasing number of unaccompanied and separated children are joining the ranks of the homeless. This happens either because their age is in dispute, or because, on reaching the age of eighteen, the permission to stay in Europe that they enjoyed as minors, is removed. Others, as in the case of the Moroccan street children of Spain, run away from official reception centres because they fear deportation. In France, foreign children who arrive illegally end up destitute in cities such as Marseilles, Montpellier, Paris and Strasbourg. There, officialdom is seriously concerned at the growing problem of its 'young vagrants'.

Most of these young people are from North Africa and Eastern Europe. According to the Council of Europe, 'the overwhelming majority of these children are lost, have little sense of identity and lead a completely hand-to-mouth existence on the streets. Not surprisingly, they become delinquents or, worse still, victims of prostitution networks.'<sup>6</sup> Before 2003, there was a possibility that some of these children would obtain French nationality if they had, for instance, been taken into the care of the Child Welfare Agency or of someone with French nationality. But a new law has excluded various categories of foreign children from such citizenship rights, and many adolescents now find themselves in a completely illegal situation once they have reached the age of eighteen.

In the UK, unaccompanied minors, on reaching the age of eighteen, find that their discretionary leave to remain in the UK expires. Virtually overnight, they lose the support and accommodation offered to them by local authorities and are rendered destitute. Refugee Action carried out an in-depth national survey into destitution and talked to many of these young people. According to some of those interviewed, the Home Office disputed their age on arrival. As they were considered to be over eighteen, they were treated as

adults and denied the discretionary leave to remain in the UK afforded to minors. This then forced them into a rootless and peripatetic existence.

**A young man, now aged 21, told Refugee Action that he came to the UK when he was 17, but his age was disputed and he soon found himself homeless. 'I spent two years living on the streets. Sometimes I slept in parks, sometimes in abandoned cars. My friend worked at a car wash and he let me sleep in the cars there sometimes.' Unbeknown to the young man, his asylum claim had gone through the system and he had been awarded refugee status. He only found this out after being arrested and taken into pre-deportation detention. He was at the time of interview living in a hostel for people with mental health problems.<sup>7</sup>**

Other young people interviewed by AI were initially given local authority support but dropped out of the system once their asylum claim failed.

**Fawzia, who is Eritrean, was 15 when she arrived in the UK in mid-2003, but her age was disputed. After asylum was refused, financial support was withdrawn in spring 2005. For almost a year Fawzia stayed with friends in their NASS accommodation. As immigration rules state that any asylum seeker caught harbouring a failed asylum seeker will lose their right to stay in NASS accommodation, Fawzia had to hide when staff came in. She also sometimes slept on the streets. She did not know where her parents were and believed they might have been arrested for sending her away to avoid military conscription.<sup>8</sup>**

### **Treatment of failed asylum-seeking families**

At least there has been municipal opposition at a local level in the Netherlands, the UK and Switzerland to the policy of evicting failed asylum-seeking families from state-run accommodation.

#### *Eviction policies*

In the UK, thirty-three local authorities have contested the infamous Section 9 rule whereby failed asylum-seeking families lose entitlement to financial or material support if they fail to take 'reasonable steps' to leave the country. By evicting such families from their local authority homes, the councils argue, they would breach their duties under the Children Act 1989 and the Human Rights Act 1998.<sup>9</sup>



---

In Greater Manchester, UK, a vociferous local campaign supported by the *Bolton Evening News* was formed around the Sukulas, a Congolese family with six children, ranging from 7 months to 18. The family were informed that they would lose all support and risk their children being taken into care after losing their appeal against the NASS at the Asylum Support Adjudicators. Bolton Council have so far chosen not to evict the family.<sup>10</sup>

In February 2006, it was reported that Masroor Raja, the baby of Pakistani failed asylum-seeking parents in Glasgow, was living in cold and unsuitable accommodation and surviving on the charity of others after his parents were forced to live without NASS support in April 2005.<sup>11</sup>

In response to mounting criticisms of eviction policies that place children at risk, the Home Office has resorted to demonising parents and arguing that manipulative adults 'cannot be allowed unfettered recourse to children's resources'. The Home Office says that the government is the real victim of these families' manipulative behaviour, and 'section 9 provides a legal framework, allowing local authorities to defend themselves from adults, who might be seeking to misuse the children's welfare system.'<sup>12</sup> Just how defenceless are these 'manipulative adults' is revealed by numerous heartbreaking cases.

Prudence, a 31-year-old single mother from Angola who is HIV-positive, was asked to leave her council accommodation after her asylum claim was rejected. A friend's sister agreed to take Prudence and her baby in, but, noticing that she was not breastfeeding, became suspicious that she might be HIV-positive and subsequently asked her to leave. Prudence ended up on the street in the middle of winter and soon became ill. She collapsed in a doorway with her young child and was rushed to hospital. The baby was taken into the care of social services. 'I tried so hard to make a new life. When my child was taken away I was finished', said Prudence. After Prudence recovered from her illness and another friend provided her with accommodation, she was reunited with her son. Prudence was still awaiting deportation to Angola at the time of writing.<sup>13</sup>

In both Switzerland and the Netherlands cantons and local authorities have similarly resisted government-sponsored eviction policies. Rotterdam, Amsterdam, the Hague and Utrecht had held out

against such policies until 2004 when they extracted a promise from the government that any family evicted would not be forced onto the streets but afforded accommodation in special centres. But the relationship between local and central government remained tense in the Netherlands. Immigration and integration minister Verdonk had been angered by local authority objections to new schemes and in June 2006 she accused councils of 'administrative disobedience', arguing that local authorities which provided homeless foreigners with shelter were providing them with 'false hope'. She made her comments after a call by local authorities for an amnesty for 26,000 rejected asylum claimants who arrived in the Netherlands prior to April 2001.<sup>14</sup>

**After their asylum claim was rejected, a family with three children were asked to leave a centre for asylum seekers in the Netherlands. It was only after the intervention of the mayor of Baexem that shelter was provided for the family until the moment when they could effectively leave the country.<sup>15</sup>**

#### *Taking children into care*

Those governments which evict families from accommodation risk leaving children homeless and hungry. The Dutch and the UK governments seem to believe that they will be complying with international obligations towards children, if they take the children of failed asylum-seeking families who refuse to leave 'voluntarily' into care (and therefore do not allow the children to starve). Such an approach undermines the fundamental principle that a state should respect the right to family life and only use its powers to take children away from their families when it is in the best interests of the child. Instead, the fundamental right to family life is being sacrificed to the government target to increase deportations.

In the UK, Section 9 is based on the fundamentally inhumane notion that it is acceptable to use withdrawal of support for families as a way of 'encouraging' them to give up their fight for asylum and return home. Ian Johnson, director of the British Association of Social Workers believes that such legislation is unacceptable in a civilised country.<sup>16</sup> 'The thinking behind the policy is that it will encourage desperate families in this situation to "change their behaviour" and agree to go back to the countries from which they have fled', says Maeve Sherlock, Director of the Refugee Council.<sup>17</sup> But, instead of this, some families, threatened with the removal of support and the prospect of losing their children, have simply disappeared.

---

A Refugee Council and Refugee Action survey into the cases of around thirty-five families affected by a pilot scheme for the 2004 Asylum Act found that at least four children had been taken away from their families and placed in the care of social services as a result of Section 9.<sup>18</sup>

In the Netherlands, the Christian Democrats, stung by criticism of its policies of detaining children while awaiting deportation, have said that, in future, those parents who do not cooperate and 'threaten to disappear' into illegality to avoid deportation, could have their children taken from them and placed in foster care.<sup>19</sup>

The Austrian Aliens Law seems to go even further by providing for the children of foreign parents with unclear residence status (and not just failed asylum seekers) to be taken into care. This, according to the European Court of Human Rights', ruling in the case of Zlatica Moser, represents a violation of Article 8 of the European Convention on Human Rights which upholds respect for private and family life.

Shortly after Zlatica Moser, a Yugoslav national and mother of three, gave birth to her fourth baby in June 2000, Luca was taken from her and placed in the care of foster parents because she lacked the appropriate accommodation and financial means and her residence status was uncertain. The European Court of Human Rights was critical of the fact that Ms Moser was not given any opportunity to comment on reports of the Youth Welfare Office and the Juvenile Court on her situation. Austria did not contest the fact that there had been interference with Ms Moser's right to family life, but said that this was justified to protect baby Luca's 'health and morals' and 'rights and freedoms'. Yet, as the ECHR pointed out, the reason for transfer of custody of Luca did not lie in his mother's incapacity to care for him or any physical or mental illness or evidence of violent or abusive conduct. 'It was based solely on her lack of appropriate accommodation and financial means and her unclear residence status.'<sup>20</sup>

#### *Limiting access to health care and education*

As access to health care is linked to immigration status and hospitals, obeying market principles, are forced to charge 'foreigners' for health care, hospital care is becoming difficult to access. For instance, in 2004, NHS regulations in the UK were

revised to exclude failed asylum seekers from free hospital health care (with an exception for certain infectious diseases). Accident and emergency treatment remains free, as does, for the time being at least, primary care from GPs. All sorts of inconsistencies and injustices are developing and pregnant women in particular are proving vulnerable.

According to Refugee Action, most pregnant women believe that they cannot apply for 'hard case' support until they are seven months pregnant. Medical evidence suggests that foetal development is affected by malnutrition, anxiety and other stresses throughout pregnancy. Even once pregnant women obtain 'hard case' support, they get no extra provision for their needs and are expected to live on vouchers – which could be around £38 per week.<sup>21</sup>

Linh, a 24-year-old failed asylum seeker from Vietnam says she was turned away from ante-natal treatment at a hospital in Bromley, Kent, despite being seven months pregnant, for non-payment of a £2,750 bill for a 24-week scan.<sup>22</sup>

In some cases, those whose immigration or asylum status is disputed, are simply too frightened of detection to seek medical attention. And in others, hospitals and doctors, driven by a mistaken belief that they should deny all care to foreigners, are refusing patients, including children, even the emergency care which they are legally entitled to. According to Médecins Sans Frontières' (MSF), children in Sweden are being refused treatment because they have no papers, while others have been forced to pay 2,000 Kroner (about £150) to see a doctor or 9,000 Kroner (about £670) for an operation.

An 11-year-old boy was injured while playing football but his mother was too scared to take him to the emergency department to get treatment. By the time he arrived at the MSF surgery in Stockholm, three months later, he could barely walk. Another 1-year-old infant brought to MSF needed an operation on his testicle. The hospital refused to give him the operation and asked the family to pay. The hospital eventually relented, after the intervention of the MSF.<sup>23</sup>

Mattias Ohlson, who manages the MSF project, said that some parents are too frightened to take their children to hospital for fear that the receptionist will call the police.

Parents, who go into hiding, may remove their children from school because they fear that by

---

sending them they risk detection. According to the UN Convention on the Rights of the Child, all children should be entitled to an education. In Sweden, the government allowed individual schools to decide whether to accept 'hidden children'. The previous (Social Democrat) government ordered an investigation to be released in 2007 into how education could be provided for rejected asylum-seeking children in hiding. (Presently, the state reimburses local education authorities which accept undocumented children from a central fund.) But the current situation seems to resemble something of a geographical lottery.

**The Swedish education authorities in Malmo ruled that 'hidden children' should not be allowed to go to school. As there is no law which states that undocumented children have a right to education, the Malmo authorities are not deemed to have breached the law. The Social Democrats, the Left Party and the Green Party have all condemned the authorities, saying that the decision goes against the Children's Convention.<sup>24</sup>**

The 2002 EU Directive and Framework Decision on 'Strengthening the Penal Framework to prevent the Facilitation of Unauthorised Entry, Transit and Residence' requires member states to create offences of directly or indirectly aiding the unauthorised entry, movement or residence of nationals of third countries. It permits (but does not require) states to refrain from prosecuting those helping people enter or remain in breach of immigration laws for humanitarian motives. But, in at least one German case, these strict new laws have been applied to those working with children.

**In June 2005, the Bonn public prosecutor's office was said to be investigating kindergarten teachers in the city on suspicion of aiding illegal residence, because of their failure to report children without valid residence documents to the authorities. The local authority had issued a letter to kindergarten heads in April urgently recommending that they demanded to see passports or registration certificates before enrolling children, to determine their residence status.<sup>25</sup>**

### **A new underclass**

'The laws of this land have created a new underclass. Not allowed to work, not allowed to claim support, not allowed to exist', a UK church group has commented. (This observation is not confined to the UK, for every major European city has such an underclass.) But having created the problem in

the first place, the government's unofficial policy seems to be to ignore the social consequences. In the absence of any proper system for recording and collating information on the socially marginalised, NGOs and researchers are attempting to record the scale of the problem and counter its worst excesses. It is a mapping exercise that brings to mind the efforts of social reformers in the 19<sup>th</sup> century to improve the conditions of the urban poor.

**Refugee Action's 2006 survey of asylum destitution in the UK, included 125 interviews in Bristol, Derby, Leicester, Liverpool, Manchester, Nottingham, Portsmouth, Plymouth and Southampton. Almost one in three of those interviewed were women, several of whom were pregnant or had children in the UK.<sup>26</sup> In Leicester, a partnership of six organisations, attempting to survey the numbers of destitute asylum seekers and refugees asking for assistance during one month in 2005, recorded that 168 people were destitute. Of these, 18 per cent had dependants (children or adults).**

**Of 300 destitute asylum seekers in Newcastle, twenty to thirty were believed to sleep rough. Thousands more people living 'illegally' in Newcastle supported themselves by working in the black economy. They were effectively 'underground' and extremely vulnerable to exploitation.<sup>27</sup>**

**The Leeds Destitution Steering Group estimated that over a one-year period there could be 1,650 newly destitute and non-removed asylum seekers in Leeds.<sup>28</sup>**

**In 2005, Restore of Birmingham Churches Together and the Churches Fund commissioned a local survey of the number of destitute asylum seekers. It found that there were between 1,000 and 2,000 destitute asylum seekers in Birmingham, the majority coming from Iraq, Afghanistan, Somalia, Iran, Zimbabwe and other African countries.<sup>29</sup>**

Paradoxically, in France, the number of families pursuing a life of illegality as part of a hidden underclass appears to have grown following a recent amnesty and regularisation process. A circular issued in June 2006 encouraged 'unlawfully resident families' to apply for residence permits. Of the 30,000 families who applied, only 7,000 were successful in a process which, French NGOs believe, was not based on an individual assessment of claims but was subjected to a predetermined official quota with a ceiling on the number of permits. NGOs believe that, as a result of the flawed amnesty, the 23,000 rejected applicants were more vulnerable than before. For one thing, they sup-

---

plied the government with all their personal details in their applications for residence permits. And the government, having shut the door finally on humanitarian cases, is, once again, intent on speeding up the rate of removals. Indeed, Sarkozy declared an acceleration of deportations in order to reach the target for 2006 of 25,000 removals.

A similar regularisation process in Sweden has been described as flawed. There, a total of 20,000 asylum seekers, mostly families, had their claims re-examined under a temporary law which was put in place between November 2005 and March 2006. Families with children of school age who had been in the country for over two years, qualified for a re-examination. But when the newspaper *Aftonbladet* carried out a statistical review of the cases, it found that the majority of those granted asylum were from countries to which deportation was not possible. Forty-one per cent of applicants were either denied residence permits or given time-restricted visas and only 59 per cent of children's cases were approved.<sup>30</sup> Once again, the conditions were there to speed up the removal of families who had come out of hiding and surrendered their details to the authorities.

**Save the Children in Sweden reported on a family from the former Yugoslavia with three young children who had lived in Sweden for five years, but had been to Norway for one day. Because of this, they were not considered to have lived in Sweden for five years and they were denied the benefits of the temporary asylum law.<sup>31</sup>**

**A couple from El Salvador with a 4-year-old child born in Sweden were awaiting a decision on their asylum claim. When their claim was rejected, they went into hiding but made another claim in November 2005 under the temporary asylum law. However, the case was rejected on the grounds that Sebastian Soriano was too young to have developed a connection with Sweden. Gustav Fridolin of the Green party said the law only stipulated that babies do not have a connection with the country and that a 4-year-old child could hardly be considered a baby.<sup>32</sup>**

Furthermore, hundreds of families granted the right to stay under the temporary asylum law have started life as legal citizens with severe debts, as they are now required to pay for all medical treatment received from the state while in hiding. Different local authorities are taking a variety of approaches to this, giving rise to a situation where refugees' ability to integrate varies between areas. For instance, the local authority in Västmanland has written off all debts, but Västra Götaland has

passed on information on unpaid debts to debt collectors.<sup>33</sup>

**During a radio interview broadcast in Gothenburg, a medical official cited the case of an undocumented woman who had an emergency caesarean section while in hiding. Having now been granted asylum under the temporary asylum law, she was required to pay 150,000 kroner (approximately £11,000) for the operation.<sup>34</sup>**

As most families cannot afford to pay back such debts, this negatively affects their attempts to borrow money and buy and rent property.

### **Shanty-towns and squats: life at Europe's margins**

Not everyone forced into illegality disappears into the inner city and is hidden from view. In fact, in many European countries, *sans papiers* and other 'unlawful residents' are perfectly visible in the shanty-towns and makeshift camps that exist on the margins of towns and cities.

Perhaps, the best-known of these was, until recently, the Red Cross camp set up at Sangatte, Calais in 1999 to offer a modicum of help to hundreds of migrants and asylum seekers whose only other option was to sleep rough. Although it was meant to house 600 people, it was taking in about 1,300 when, in December 2002, the British and French governments finally reached an agreement to shut it down. But now, over four years after its closure, the situation is worse than ever, with exactly the same number of people living in shanty-towns. As war grips the Sudan, Somalia and, intermittently, Eritrea, an increasing number of new arrivals are women and children from east Africa.

**Volunteers from the Refugee Emergency Support Collective (C-Sur) say that the migrants are now gathering on a patch of sandy heathland they call 'the jungle', situated even further from the town centre where they live in 'slum huts'.<sup>35</sup> One fifth of the 500 migrant juveniles logged in 2006 in Calais came from sub-Saharan Africa or east Africa and almost half were girls. Between April and September 2006, doctors working with Médecins du Monde in Calais saw ninety-six women, seven of whom were pregnant, and 80 children.<sup>36</sup>**

**According to Médecins du Monde, amongst a hundred women living in appalling conditions in the countryside around Calais, hiding from police and surviving on virtually nothing, were three**



---

families who lived in a hut they built on the dock. The hut was bulldozed in December and the families disappeared.<sup>37</sup>

The conditions in Calais are replicated in many parts of southern Spain and Italy. Here, it is largely North African, sub-Saharan African and eastern European undocumented workers, eking out a precarious existence by gathering in Europe's fruit and olive harvests, who live in abandoned buildings, overcrowded houses and makeshift camps, often without access to running water or sanitation. Most of these undocumented workers are young and some are minors.

Médecins sans Frontières became so concerned about conditions among migrants in Calabria, where undocumented migrants work on Italian orange harvests and in the juice and candied peel factories that supply northern Europe, that it sent a team to assess the situation. It found that most migrants were living in conditions that did not even meet the minimum standards set by the UN High Commissioner for Refugees for refugee camps in Africa.<sup>38</sup>

In June 2006, in Italy, a makeshift village home to over 100 people in the Ponte Mammolo district on the outskirts of Rome, was destroyed by fire believed to have been caused by an electrical short-circuit.<sup>39</sup>

To live 'inside', so to speak, may seem more desirable than a life in a shanty-town, exposed to the elements. But in France this has proved to be a dangerous and hazardous existence.

Eleven children were among the dead when twenty-four people died in a fire at the Paris-Opéra Hotel on 14 April 2005. There were two further fires in Paris on 25 and 29 August, killing fourteen and four children respectively, this time in accommodation where people had lived for many years.

The Paris Opéra Hotel was contracted by government-financed agencies (SAMU) to house asylum seekers or foreigners whose requests for residency had been denied.<sup>40</sup>

Even when failed asylum seekers and migrants manage to avoid a life on the street by setting up squats, the authorities move in to deprive them of a roof over their heads.

In December 2005, sixty-two Ethiopian, Eritrean and Sudanese men, women and children, squatting a derelict building in Via Lecco, Milan, Italy, appealed to the

police to halt eviction proceedings which would return them to the sub-freezing conditions of the streets. Despite the fact that they were all legally-recognised refugees and had residence permits, they received no support and had nowhere to sleep, nothing to eat, no money and no access to employment. Having lived on the streets and in abandoned farmhouses for a number of months, they had occupied a long-term abandoned and derelict building. There, with the help of some kind neighbours, they had begun to reorganise their lives.<sup>41</sup>

Nevertheless, the squatters were evicted, whereupon Milan City Council provided accommodation in containers and makeshift lodging. In January 2006, the Sudanese refugees attempted to march to the UN headquarters in Geneva to publicise their predicament, but were turned back at the Swiss border where border guards had discovered them in woods, suffering from extreme cold.<sup>42</sup>

In Italy, in May 2006, forty-five migrants, including seven children, were evicted from the Casa dei diritti negati (House of the Denied) in Rome. There was anger at the eviction from the squat which had stood empty for three years prior to being taken over. In recent local elections, mayoral candidate Gianni Alemanno had campaigned around the need to carry out more evictions.<sup>43</sup>

In order to rid Paris of its squats, interior minister Sarkozy gave the green light for a programme of evictions. The tragic fire at the Paris-Opéra Hotel and the other fires were used to justify evictions carried out, ostensibly, on health and safety grounds. Already, at the beginning of April, three children, aged 6 and 7, were among those sprayed with tear-gas during the police evacuation of the premises of the Pont Neuf Association in Paris.

As many as 1,000 squatters, including 200 children, many from Ivory Coast, Mali and Senegal, had since 2001, been crammed into 300 small, damp student rooms, with improvised wiring and poor sanitation at a disused hall of residence on the campus of the Ecole Normale Supérieure in the south Paris suburb of Cachan. This was probably the largest squat in France and the occupants, describing themselves as 'les Mille de Cachan' (the Cachan Thousand), were not only asylum seekers and *sans papiers*, but security guards, builders, nannies and cleaners who had legal status to remain in France, but could not find housing because of racism and discrimination. According to Mariama Diallo, who ran a local

---

women's support group, conditions inside the squat 'tested the limits of human endurance'. She added, 'When I come out, I scrub myself but I can still feel fleas. The place has never been fumigated. You can't breathe from the smell of damp, leaks and decaying building. It's nauseating. I see children covered in rashes, kids with allergies or asthma, but what can their parents do?'<sup>44</sup>

In 2004, the local student accommodation agency won a court order to evacuate and demolish the Paris building occupied by 'les Mille de Cachan' in order to make way for a car park. Eventually, on 17 August 2006, the authorities proceeded to evict the residents. A massive number of riot police and gendarmerie stormed the building, just after many of the men had left for work, leaving the women and children behind. The police, using a battering ram to break down doors, evicted 508 people, including 141 children. Those with residence permits were told to apply for social housing and offered temporary accommodation in hotels. Illegal immigrants, estimated at around sixty, were taken to holding centres prior to deportation. NGOs accused Sarkozy of staging the squatter clearance for publicity.<sup>45</sup>

In Greece, seventeen minors between the ages of 15 and 17 were said to be among several dozen Afghan asylum seekers who were abused by police and allegedly tortured following a raid on a house, apparently in search of an illegal immigrant, in the Agios Panteleimonas area of Athens on 13 December 2004. On 17 January 2006, it was revealed that two Athens police officers had been suspended from work in relation to the incident. They have been charged with offences arising from their maltreatment of the asylum seekers, including beating and photographing them naked and putting them through mock executions.<sup>46</sup>

#### Breaking up the protests

Increasingly, the protests by asylum-seeking families and *sans papiers* against their conditions are being beaten back. Over the last two years, there have been numerous protests in Belgium, including a five-month occupation of the St Boniface Church in Ixelles, Brussels which led to other protests in Mons, Charleroi, Namur and Ghent.

In the early hours of the morning of 4 July 2006, police, acting on a request by the local mayor, forcibly evicted forty-eight

migrants and asylum seekers, including four children, from a church in the Brussels borough of Anderlecht which they had been occupying to obtain residence permits. Lawyers say that the evicted were beaten and insulted. Minister of Interior, Patrick Dewael, said that the local mayor had acted on public welfare grounds because there were problems, including physical aggression, inside the church. Dewael claimed that the local parish priest had reported such problems to the mayor. But the parish priest, Abbot Jean Claes, denied this, whereupon the mayor called him a liar. The abbot has launched a complaint against the local mayor for, *inter alia*, arbitrary and unlawful arrest, alleging that the official reason for the police eviction was the arrest of those found to be disturbing the peace. Yet, at the time of the raid, all those inside, including children, were sleeping peacefully in their beds.<sup>47</sup>

Malta is the only country in Europe to enforce mandatory detention of all asylum seekers and undocumented migrants entering the country. It can take years to process their claims, with asylum seekers, living in closed centres such as the Al-Safi Detention Centre. Some are selected for release, which seems to consist of nothing more than life in a tent and absolute economic deprivation.

On 26 June 2006, in order to draw attention to their predicament, around 700 asylum seekers living in Malta in various centres attempted to march to the capital, Valletta. But while previous, peaceful protests had been tolerated, this time the demonstrators were stopped at Paola, six miles from the capital, by hundreds of policemen and soldiers, some wearing riot gear. The demonstrators were pushed back to the detention centre two miles away at Safi, near the international airport. Three policemen and two soldiers were injured. It was reported that around fifty demonstrators were hospitalised and people had arms and legs broken.<sup>48</sup>

It is becoming more and more difficult to conceal the devastation and misery that a public policy of destitution promotes. The only way to rectify this is to provide for a thorough-going amnesty for those without papers. But many of the destitute simply cannot wait for the amnesty argument to be won. Failed asylum seekers are occupying churches and other sites and engaging in hunger-strikes – the final weapon of those without rights or choices. In the past year, there have been dramatic sit-ins and hunger strikes of Afghans in Oslo

---

and Dublin, of Africans in France, of Iranians in Copenhagen and of asylum seekers of various nationalities in Cyprus. Amongst those protesting have been children.

A hunger strike and occupation at St Patrick's Cathedral, Dublin was forcibly broken up by the police on 19 May 2006. Amongst the forty protestors were eight minors, all of whom were made wards of court the day before the police eviction occurred. During the occupation, one of the minors was hospitalised after he attempted to slit his wrists with razor blades. Irish newspapers had at one point reported that a 17-year-old hunger striker was taken to hospital with a kidney complaint. Justice minister Michael McDowell attempted to demonise the protestors, portraying them as violent and as dupes being manipulated by outside organisations.<sup>49</sup>

Many of the forty-four people, mostly from Algeria and Guinea, who occupied a former police station and started a hunger strike in Limoges, France in August 2006, had children too young to qualify for the recent French amnesty. They were demanding a one-year residence permit. According to spokesman Houssni el-Rherabi, 'We don't work, we flee the boss, the bailiffs. We go to charities for our food, especially food for our children. It's better to die in dignity.'<sup>50</sup>

The largest asylum-seeker mobilisation Cyprus has ever seen took place in May 2006.

Around 150 asylum-seeking families, many with young children, pitched their tents in Eleftheria Square, Nicosia and said they would stay until solutions to their problems were found. Many said they were too poor to feed their children and demanded access to a genuine asylum process independent of the police, housing, benefits and health care agencies and an end to police harassment and deportations. The protestors relied on food donations to keep going. They visited bakeries before closing time, for produce to be thrown out and cooked food in the square. But the situation became so bad, that some children became sick, developed skin irritations, tooth ache and swollen feet.<sup>51</sup>

### Humanitarian Europe responds

The picture painted above may seem bleak, but it is not without relief. The absolute deprivation of foreign families and the suffering of children who

live in fear of deportation are impacting directly on local communities. It is at a grassroots level and often from small beginnings – from parents, schoolchildren and teachers – that new opposition movements are kick-starting campaigns for refugee, migrant and children's rights. For instance, in Denmark, in less than two months, a small group of women collected close to 40,000 signatures for a petition against forced returns of asylum seekers who have lived in the country for longer than five years. A similar petition is circulating in Norway, instigated by the filmmaker Margreth Olin and other well-known personalities. In the UK, citizens from faith communities who have befriended irregular migrants have similarly launched the regularisation campaign, 'Strangers into Citizens'. 'Like the campaign to abolish the slave trade, which finally succeeded 200 years ago, "Strangers into Citizens" is driven by a religious and humanist consciousness of the innate human dignity of all human beings and an indignation at the denial of that dignity.'<sup>52</sup>

From such grassroots campaigns, national movements – backed by NGOs – have emerged. For example, in Sweden there has been huge public support, including a national demonstration and mobilisations in about thirty cities involving an estimated 30,000 people, for an amnesty whereby asylum-seeking families in hiding would be issued with residence permits. Many individuals within movements such as these are deeply affected by the hardships and the fears that young people face and, in offering to hide children from the deportation authorities, they see themselves as linked to the humanitarian tradition and resistance that emerged in occupied Europe during the Nazi period. This feeling is nowhere more prevalent than in France. Forced into hiding, many of those refused regularisation under the recent French amnesty are now supported by collectives, whose key members are parents and teachers from the schools their children attend. René Datry, a campaigner against deportations, claims that as many as 40,000 people have volunteered to shelter those at risk.<sup>53</sup> The system is a simple one: when a child is identified as being at risk, he or she is moved from family to family to avoid detection, all the while attending the same local school. Campaigners are taking considerable personal risks bearing in mind the strict new laws aimed at penalising those who aid illegal immigrants backed up by the EU Directive and Framework Decision on 'Strengthening the Penal Framework to prevent the Facilitation of Unauthorised Entry, Transit and Residence'. In France, hiding foreign children is considered an act of civil disobedience punishable by up to five years in jail.

Little by little, the politicians who demonise asylum seekers are being challenged by movements that are showing that public attitudes and

opinions towards refugees can change. And when public opinion changes, parliamentarians are emboldened! Following the November 2006 general election, the new Dutch parliament issued a challenge to the caretaker cabinet (which sits while a new coalition government is formed), by passing a motion in favour of a general amnesty for thousands of asylum seekers who came to the country before April 2001 and for an immediate freeze on all deportations. When the infamous integration and immigration minister Rita Verdonk (the cases arising from her callous attitude to asylum-seeking children pepper the pages of this report) refused to heed the will of parliament, parliament passed a no-confidence motion in her. A cabinet crisis ensued. Eventually, Verdonk was forced to hand over her immigration portfolio to another minister. At the time of writing, it seems that we may have seen the end of Verdonk's approach to asylum.

Such moves are welcome but, in the meantime, the destitution policies of European governments continue. What does it say about European societies when international organisations like Médecins sans Frontières, well-known for setting up field hospitals in the South, are opening up such hospitals in southern European agricultural regions as well as starting up free health clinics in major cities, from Stockholm and Gothenburg to Brussels and London. According to the Italian MSF social worker Sarah Khouda, 'There is poverty where they live in Africa, but what is different here is the desperation. They feel without hope.'<sup>54</sup>

In the late 19th century, philanthropists, shocked by the filth and deprivation of the urban poor, began to set up foundations to support children whose lives were blighted by poverty, labour and sex exploitation. Out of these beginnings, some of the most famous of Europe's children's charities were born. Thomas Barnardo, Samuel Barnett and others who set up homes, schools, settlements and public spaces for London's out-cast poor had first to persuade society that these were people too. Two centuries on, it is the same fight but with a new constituency. Today, it is the lot of Europe's children's rights lobby to draw European attention to the plight of foreign and asylum-seeker children – to persuade a world which demonises the groups they come from, *they are children too*.

## References

- 1 See Liz Fekete, 'Blackening the economy: the path to convergence', *Race & Class* (Vol. 39, no. 1, 1997). Without the right to work and reside in Europe, these migrant workers were subsequently stripped of all social rights and systematically excluded from all social provision. The Pasqua laws, for instance, placed a
- 2 duty on state officials to report on the immigration status of those who sought health-care – as did legislation in Italy, where by January 1995, 76,000 regular documented workers had lost their rights to health care. The 1998 Dutch Linking Act prevented unauthorised migrants from obtaining public housing, or medical care (except in emergencies). Even in countries where the law was less harsh (as, until very recently, Belgium, in terms of health care), access to services has existed in theory, but not in practice.
- 3 'Asylum seekers, welfare and the politics of deterrence', *European Race Bulletin* (no. 38, 2001).
- 4 NRK (2 November 2006) as cited in *UNHCR Baltic and Nordic Headlines* (2 November 2006).
- 5 *Poverty and Hardship: Findings from the Crusaid Hardship Fund 2006* (London, National Aids Trust & Crusaid Hardship Fund, 2006).
- 6 *European Race Bulletin* (no. 42, 2003).
- 7 *Report by Mr Alvaro Gil-Robles, Commissioner for Human Rights on the effective respect for human rights in France following his visit from 5 to 21 September 2005* (Strasbourg, Council of Europe Office of the Commissioner for Human Rights, February 2006).
- 8 *The destitution trap: research into destitution among refused asylum seekers in the UK* (London, Refugee Action, 2006).
- 9 *Down and out in London: the road to destitution for rejected asylum seekers* (London, Amnesty International UK, 2006).
- 10 Nancy Kelley and Lise Meldgaard, *The end of the road: the impact on families of Section of the Asylum and Immigration (Treatment of Claimants) Act 2004*, (London, Barnardo's, 2005). Available at [http://www.barnardos.org.uk/what\\_we\\_do/campaigns.htm](http://www.barnardos.org.uk/what_we_do/campaigns.htm)
- 11 Campaign covered extensively on *IRR News* <[www.irr.co.uk](http://www.irr.co.uk)>.
- 12 NCADC News Service, 6 February 2006, <<http://www.ncadc.org.uk/>>.
- 13 The Home Office's argument is unpicked by Melanie McFadyean, 'A policy that exposes a brutal absence of humanity', *Guardian* (16 November 2005).
- 14 National Aids Trust and Crusaid Hardship Fund, op.cit.
- 15 *Expatica News* (22 June 2006).
- 16 *PICUM Newsletter* (June 2005).
- 17 Interview on BBC Radio 5 Live (23 August 2005) as cited by Nancy Kelley and Lise Meldgaard, op.cit.
- 18 Maeve Sherlock, 'Without hope or money: responding to the needs of refugees and asylum seekers' *Coracle* (no. 4/20, December 2005).



- 
- 18 Refugee Action, *The destitution trap*, op.cit.  
 19 *Hague Amsterdam Times* (29 September 2006).  
 20 *Migration News Sheet* (October 2006).  
 21 Refugee Action, *The destitution trap*, op.cit.  
 22 *Guardian* (14 December 2005).  
 23 Médecins Sans Frontières Sweden website  
 (29 April 2005). <<http://www.lakareutan.granser.se/>>  
 24 *Artikel 14* (No. 3, 2005).  
 25 *Frankfurter Rundschau* (1 June 2005).  
 26 Refugee Action, *The destitution trap*, op.cit.  
 27 Julian Prior, *Destitute and desperate: a report on the numbers of 'failed' asylum seekers in Newcastle upon Tyne and the services available to them* (Newcastle upon Tyne, Open Door, 2006).  
 28 *Destitution of asylum seekers in Leeds* (Leeds, Leeds Destitution Steering Group, 2005).  
 29 Malfait, R. and Scott-Flynn, N, *Destitution of asylum-seekers and refugees in Birmingham* (Birmingham, Restore of Birmingham Churches Together and the Churches Urban Fund, 2005).  
 30 *Aftonbladet* (14 November 2006).  
 31 Ibid.  
 32 *Artikel 14* (No. 1, 2006).  
 33 *Artikel 14* (No. 2, 2006).  
 34 *Dagens Nyheter* (17 February 2006).  
 35 *The Tocqueville Connection* (8 November 2006).  
 36 Jason Burke, 'Sangatte's criminal gangs now hold the key to reaching Britain', *Observer* (24 December 2006).  
 37 Jason Burke, op.cit.  
 38 Felicity Lawrence, 'The dark side of the Christmas orange harvest', *Guardian* (19 December 2006).  
 39 *il manifesto* (21 June 2006).  
 40 *Migration News Sheet* (May 2005 and September 2005).  
 41 *il manifesto* (27 December 2005).  
 42 *il manifesto* (12 January 2006).  
 43 *il manifesto* (11 May 2006).  
 44 *Guardian* (18 August 2006).  
 45 Ibid; *World Socialist* website, 6 September 2006, <<http://www.wsws.org/>>.  
 46 *Migration News Sheet* (January 2006, February 2006, June 2006).  
 47 *Migration News Sheet* (August 2006).  
 48 See noborders-brum, <<https://lists.aktivix.org/pipermail/noborders-brum/2006-June/000127.html>>; *Reuters* (27 June 2006).  
 49 *Irish Independent* (22 May 2006); *UTV Newsroom* (15 May 2006); *Migration News Sheet* (June 2006).  
 50 *Agence France Presse* (28 August 2006); *BBC News Online*, 28 August 2006, <http://news.bbc.co.uk/1/hi/world/europe/default.stm>.  
 51 *Cyprus Mail* (14 May 2006).  
 52 'Strangers into citizens' – for the regularisation of UK people without status', *NCADC News Service*, 4 December 2006, <<http://www.ncadc.org.uk/>>.  
 53 See Diane Taylor, 'How far would you go?', *Guardian* (4 November 2006).  
 54 As cited by Felicity Lawrence, op.cit.
-

£10



INSTITUTE OF  
**RACE**  
RELATIONS