

# IRR EUROPEAN RACE AUDIT

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## EUROPE ON TRIAL

An indictment of the violation of the human rights of refugees and asylum-seekers

by

Frances Webber

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*The document that follows is taken from the charges made by Frances Webber, a leading barrister and authority on immigration and asylum law, against the governments of western Europe for their systematic violations of the human rights of refugees and asylum-seekers. They were laid before the Basso Tribunal (since 1979, successor to the Bertrand Russell Tribunal) on the Right of Asylum in Europe, which met in Berlin between 8 and 12 December 1994.*

*The ten-strong jury, under the chairmanship of Professor François Rigaux, studied written and oral evidence from asylum-seekers themselves and representatives of refugee organisations. At the conclusion of the Tribunal, all the charges were found to be proved and a series of demands made, including compensation for those who had been victimised by EU policies.*

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I come before this Tribunal today to accuse the governments of western Europe of betrayal. A betrayal not only of the asylum-seekers who seek refuge in their countries, on whose behalf I speak as Prosecutor, but also a betrayal of the humanitarian ideals which gave rise to the Geneva Convention and to the Universal Declaration of Human Rights. In this betrayal of the aspirations of humanity is a betrayal of the peoples of Europe and the world, and of democracy itself.

The charges we lay against the governments of western Europe are that they have conspired together against refugees and asylum-seekers and have taken measures, individually and collectively, which violate the fundamental human rights these governments claim to uphold, such as the right to life, liberty and security of person, the right to dignity, to live in freedom from torture and inhuman and degrading treatment, the right to self-determination and to resist oppression, the right to freedom of thought, conscience and expression, the right to family life, the

right to enjoy an adequate standard of living, and the right of asylum itself. Further, that they have committed fraud on the people of Europe by falsely characterising refugees as illegal immigrants, criminals, scroungers and terrorists, and that they have incited racial hatred against them by these and other measures.

Interior and justice ministers of the EU states have conspired together in secret and unaccountable intergovernmental fora, sometimes with other parties, in order to keep refugees out of western Europe and to deal with those who get to western Europe by expelling as many as possible, as quickly as possible.

The results of these secret and unaccountable processes are then presented to national parliaments of member states as *faits accomplis* requiring changes to national law, and in some cases – like Germany and France – to the constitution.

To implement these intergovernmental agreements, member states of the EU have changed domestic law to introduce visa requirements, carrier

sanctions, pre-screening procedures with drastically reduced safeguards for asylum-seekers.

They have signed cooperation and readmission agreements with countries of origin and transit of asylum-seekers, to effect expulsion of rejected asylum-seekers and 'illegal immigrants'.

## THE VIOLATIONS

*'Everyone has the right to life, liberty and security of person.'* (Universal Declaration of Human Rights 1948 (UDHR) Article 3)

*'Everyone has the right to leave any country, including his own. Everyone has the right to seek and enjoy in other countries asylum from persecution.'* (UDHR Articles 13, 14)

### Asylum-seekers are prevented from leaving the country of their persecution

The citizens of 129 countries, including Iraq, Iran, Sri Lanka, Somalia, Zaire, Ghana, Algeria, Rwanda, Turkey, Bosnia, India and other refugee-producing countries, now require visas to enter EU or EFTA territory. The list has been compiled by the K4 Committee, formerly the Ad Hoc group of immigration ministers, meeting under the intergovernmental procedures set out in the Maastricht Treaty.

Refugees do not normally get visas. The Geneva Convention defines a refugee as someone 'outside the country of nationality and unable or unwilling to return there'. This provision allows European states to deny visas to would-be refugees who are still in their own country; once they leave, visas are refused on the ground that they are out of danger and can stay where they are.

The visa form which has to be used by Algerians wishing to come to France has literally no space for 'refugee' reasons: you can get a visa to come to France from Algeria only for tourism or business, not for political reasons.

Most western European countries have adopted carrier sanctions, which the Schengen and Draft External Borders Conventions require them to do. Carriers bringing undocumented or falsely documented passengers are fined, even if the passengers are subsequently recognised as refugees, in addition to

bearing the cost of the passengers' detention and repatriation.

The result of this exclusionary combination is that airlines and shipping companies refuse to carry passengers to Europe who have no papers, or whose papers are suspected forgeries. The Portuguese airline, TAP, admitted photocopying the passports of all non-white passengers coming to western Europe. In Moscow, travellers to the west go through three separate passport controls. Egyptair refuses as a matter of policy to take Somali passengers, even with visas.

### Asylum-seekers are forced to undergo the risks of illegal travel

Seven African refugees who stowed away on board a ship bound for France were killed and thrown overboard by the ship's captain when they were discovered, according to the sole survivor.

The visa and carrier sanctions policies force those fleeing persecution into illegal and dangerous forms of travel, often paying smugglers their life savings, only to drown in inadequate and overloaded boats in the Straits of Gibraltar or the Baltic, or, as stowaways on cargo ships, risking death at the hands of captains, or death by suffocation or inhalation of toxic fumes in container lorries.

A sealed container opened in Sweden in February 1994 contained sixty-four half-dead Iraqi asylum-seekers, including women and children, who had paid over \$2,000 each for the trip. The air temperature in the container was 70°C.

*'The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened, enter or are present in their territory without authorisation, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.'* (Geneva Convention on the Status of Refugees, 1951, Article 31)

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**Undocumented asylum-seekers are stigmatised as 'illegal entrants' and are systematically excluded from the territory of many western European states**

By imposing visa requirements but denying visas, the states of western Europe have turned refugees into illegal migrants. They then deny them entry and erect more and more barriers – military, electronic and bureaucratic – to ensure that they do not get in.

A paper prepared for the Council of Europe's Vienna Group in June 1993 characterised the movement of refugees without visas from eastern to western Europe as 'disorderly movements', contrasting them with 'lawful migrants' and thus equating them with illegality. The focus of European concern has been on the technology of border control.

The borders of western Europe have become more and more militarised in the past five years. The Austrian border is guarded by 2,000 soldiers, who turned away 77,000 undocumented refugees in the first six months of 1993. Since the abolition of the constitutional right to asylum in Germany, 1,700 extra border police have been recruited to provide temporary support for the eastern border police. At the beginning of 1994, an additional 1,000 officers from the old federal states were transferred. The eastern border is patrolled by two lines of police with 200 police dogs, using helicopters, heat detectors, radar and patrol boats. The number of people admitted to the country to claim asylum has dropped by 70 per cent between 1993 and 1994.

Some countries – Germany, Spain, Switzerland and France among them – have declared parts of their territory 'international zones' so they can detain undocumented asylum-seekers there before expelling them, and pretend that they have never entered the country.

A new mobile or flying brigade of frontier guards has been introduced in the Netherlands. The MTV checked the papers of over 50,000 people on the borders with Belgium and Germany in the month of August 1994.

In 1992, Spain entered into an agreement with Morocco whereby 2,000 Moroccan troops guard the coast to prevent the departure of the little fishing boats carrying asylum-seekers to the Spanish coast. Under the agreement, which also covers readmission, Spain also returned ten Moroccan children who had stowed away on a ship which docked in Spain in October

1993. The Spanish authorities at first refused to let the children off the ship, and then claimed that the children were not seeking asylum but were on a joy-ride, and that their parents wanted them back. They sent the children back to Morocco, where no one claimed them and they were locked up by the Moroccan authorities.

*'Asylum should not be refused solely on the ground that it could be sought from another state ... The intentions of the asylum-seeker as regards the country in which he wishes to request asylum should as far as possible be taken into account.'*  
(United Nations High Commission for Refugees (UNHCR) Executive Committee (ExCom) conclusion 15)

**Refugees who have travelled through countries deemed 'safe' are summarily expelled to those countries**

In April 1993, a Somali refugee who had flown to Britain via Rome collapsed on arrival and was found to have shrapnel lodged in his head and neck. He was given painkillers and sent back to Rome.

In June 1990, the twelve EC countries signed the Dublin Convention. Its full title is the **Convention Determining the State Responsible for examining Applications for Asylum lodged in one of the Member States of the European Communities**. It allows asylum-seekers the chance to make only one application and defines which country is responsible for processing it, regardless of the asylum-seeker's wishes, language, or connections with other European countries. Since then, squabbles between countries as to who should take responsibility for an application have led to an increase in what is called the RIO ('Refugees in Orbit') phenomenon, whereby asylum applicants are shuttled from one European port or airport to another.

A Ugandan woman, raped by soldiers who forced her to watch them kill her husband, fled to Britain, where her sister lived. Having travelled through France, she was told she had to go back there, where she had no relatives and did not speak the language.

A parallel Dublin convention has been prepared for signature by the EFTA states – Norway, Sweden, Finland, Austria, Switzerland, Iceland and Liechtenstein, and other partner countries.

The idea behind the Dublin Convention, that a refugee should seek refuge in the first country he reaches, has been broadened to include countries outside Europe, in the concept of 'host third country', enunciated by the immigration ministers of the Twelve in the **Resolution on a harmonised approach to questions concerning host third countries**, agreed in November 1992. The resolution, with its companion **Resolution on manifestly unfounded applications for asylum**, allows member states to expel asylum-seekers who have come through a country where asylum could have been claimed.

According to UNHCR, this is unlawful. The Geneva Convention allows the expulsion of refugees to a country where they already have asylum, not to a country of transit, where asylum might or might not be granted.

Danish, German, Austrian and Swiss border police are authorised to turn away asylum-seekers to the country they arrive from, with no consideration of their claim.

France has changed its constitution to legalise the same practice. Spain has a new asylum law which introduces immediate expulsion for 'manifestly unfounded' applicants. The Netherlands has set up rapid screening centres by the Belgian and German borders to process 'manifestly unfounded' claims within twenty-four hours.

*'Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations.'* (UDHR Article 10, European Convention on Human Rights and Fundamental Freedoms, 1950 (ECHR) Article 6)

*'Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.'* (UDHR Article 8; ECHR Article 13)

### **Refugees are denied access to refugee determination procedures**

Refugees whose claims are declared 'manifestly unfounded' because they have travelled through a third country are denied the fundamental safeguards envisaged by the Geneva Convention. The procedure is a summary one, rights of appeal are curtailed and, in

many countries, refugees are expelled before a review of the decision to expel them is carried out.

*'No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.'*  
(Geneva Convention Article 33)

### **Refugees are sent back to so-called 'safe' countries which send them back to the countries they have fled from ('chain deportations')**

All EU and EFTA states deem each other 'safe'. But Germany, Italy, Belgium and France have all been held unsafe on occasions by asylum judges in the UK because of gaps and exclusions from protection which have resulted in *refoulement* (return to the country of persecution). Greece is accused of deporting 70,000 refugees, and has returned Iraqis to Turkey, where they have been deported to Iraq. Britain has expelled Iranians to Turkey, from where they have been sent back to Iran. Denmark has returned Iraqis to Rome, where they have been sent on to Tunis, and thence to Iraq. Austria has returned Iraqi and Iranian asylum-seekers to Jordan and Turkey, Somalis and Ethiopians to Sudan.

Hungary, defined as a 'safe third country' for asylum-seekers, does not recognise refugees from outside Europe. A million foreigners were refused entry at its borders in 1992, and border police use sniffer dogs to search for humans concealed in freight in lorries. Inmates in holding camps have allegedly been beaten unconscious and teargas used to quell riots. In August 1992, twenty Africans and Asians, held in a camp outside Budapest for over a year, smuggled out a note saying they would commit mass suicide if refused refugee status.

Germany has an agreement with Poland which obliges Poland to take back asylum-seekers going to Germany via its territory. These are not only Poles but include groups such as Tamils from Sri Lanka. As a result, Poland has signed similar agreements with its eastern neighbours, the Czech Republic, Hungary, Slovakia, and plans further agreements with states of the former Soviet Union. Poland arrested 33,000

attempted 'illegal entrants' in 1992 and 18,000 in 1993. In February 1994, its interior minister announced a programme to fly back 'illegal immigrants' entering the country.

Under the Czech Republic's new asylum laws of December 1993, asylum must be claimed at the border and the authorities can reject, out of hand, claims which appear unjustifiable. Slovakia was holding 2,000 asylum-seekers in July 1993 to prevent their entry into Germany. Croatia, to where Bosnian asylum-seekers are being returned from Sweden, has admitted that it sends some on to Bosnia.

### **When asylum-seekers are not expelled to a 'safe' transit country, the procedures for deciding their claim are weighted against them**

An Angolan asylum-seeker, whose parents had been killed by Unita guerrillas, arrived in Britain exhausted, anxious and distressed. He was interviewed by an immigration officer in French, the asylum-seeker's fourth language (after his Angolan tribal language, the Angolan colonial language, Portuguese, and Linguala, another tribal language). There was no interpreter. Later on, he was interviewed again and gave more information. His claim was rejected on the ground that he had not given all the information in support of his claim immediately on arrival and had therefore fabricated it later.

In Germany, Bosnian rape victims have been cross-examined in great detail by men, in front of their husbands, about their experiences, and their claims later rejected on the ground of contradictions under cross-examination.

Under Britain's 1993 asylum law, low credibility, inconsistencies, insufficient details, use of false documents, delay in making an asylum application, failure to reveal a previous application in another country, failure to comply with obligations such as residence, reporting or fingerprinting, and rejection of a previous application in a third country, can all lead to refusal of an asylum claim.

The Resolution on manifestly unfounded applications for asylum of November 1992 would allow officials to deny refugees access to the asylum procedure on the basis of any of these factors, by declaring their claims 'manifestly unfounded'. This has been implemented in Spain, where border police

can exclude those whose claims are 'false' or 'unlikely' from the determination procedure.

### **The criteria for recognition as a refugee are restrictive and exclude many whose lives are endangered**

Despite recognition that the Geneva Convention definition of 'refugee', which centres on the concept of 'persecution', excludes victims of war, civil war or natural disaster from legal protection, European governments have consistently refused to extend the Geneva Convention to harmonise with the broader definition used by, for example, the Organisation for African Unity.

Although all western European countries claim to adhere to the Geneva Convention, there is no common interpretation of the criterion of 'well-founded fear of persecution owing to race, religion, nationality, membership of a particular social group or political opinion'. In many states, gender-specific persecution, such as rape used as military strategy (as in the former Yugoslavia), is not recognised. Persecution by a local population is frequently not recognised, even though the authorities' inaction makes them complicit, as in the treatment of Roma in Romania, Bulgaria, the Czech Republic and Hungary. In Germany, for example, persecution is not recognised unless it is carried out by the state. This also excludes those from countries where the state no longer exists, such as Somalia.

### **Refugees are returned to countries deemed 'safe' but which are not safe**

In the late 1980s, when the Jaffna peninsula was being bombarded by shelling, Britain returned Tamil asylum-seekers to Sri Lanka on the ground that the shelling was indiscriminate and did not therefore constitute persecution.

Torture victims have frequently been returned to their countries on the ground that there is no evidence that the regime they are fleeing from wishes to torture them again.

More and more governments are adopting legal presumptions of safety. The Conclusions on countries in which there is generally no serious risk of persecution, adopted by the immigration ministers at the November 1992 meeting, sets out the criteria for

'safety'. Asylum-seekers coming from, or through, a country defined as safe must rebut the legal presumption before being admitted to the refugee determination procedure.

The use of lists of *prima facie* safe countries is unlawful in that it prevents refugees from having their claims assessed as of right. To get into the asylum procedure, the burden of proof is placed on the asylum-seekers, contrary to the requirements of justice and equality before the law, and their claim is not determined on an individual basis. It also violates Article 3 of the Geneva Convention, which forbids discrimination against refugees on the ground of national origin.

There is no public debate over the definition of countries of origin as 'safe'. The European immigration ministers set up CIREA, a clearing house for information exchange on countries of origin, in 1993, but there is no public monitoring of the information collated and exchanged there. Most of the information comes from the diplomatic missions of member states, whose interests lie in maintaining good diplomatic relations with countries of persecution rather than exposing human rights abuses.

Switzerland defined Algeria as safe until four months after the state of emergency in which 1,000 people were detained and, even though it then removed Algeria from its 'no-persecution' list, in the two years to November 1994 not a single one of the 1,000 Algerians claiming asylum had been granted it. Switzerland defines as safe countries India, despite massive human rights violations in Punjab and Indian-occupied Kashmir; Angola, where thousands of political killings took place after renewed fighting broke out in November 1992; and Sri Lanka, where it proposes to repatriate Tamils.

The German federal interior minister has declared Turkey safe for Kurds and insists on their deportation, although interior ministers of several Länder are unwilling to do so. Kosovo has been declared safe for ethnic Albanians by Switzerland, Germany and Sweden. Switzerland expelled 1,300 Kosovo Albanians in 1993. A stop on deportations from Germany of Kosovo Albanians was rejected despite an admission by the German interior minister's parliamentary secretary that their situation in Serbia and Montenegro was 'very precarious' and 'characterised by repression and discrimination'. In a candid letter to the mayor of Bielefeld, the official continued that, since there was no indication of when repression and discrimination

against ethnic minorities in Serbia and Montenegro would cease, a temporary stop would become permanent, which was (he implied) politically unacceptable.

Bulgaria, the Czech Republic, Slovakia, Hungary and Romania have all been declared safe for Romanians, despite evidence of continuing persecution, of police complicity and of failure by governments to protect them. Concern expressed by Amnesty International reports in September and October 1993 was followed in November by the International Federation of Human Rights' request to Germany to suspend the repatriation of Romanians to Romania in the light of the lynchings, manhunts and burning of their homes. In the twelve months to October 1993, Germany had expelled 23,000 Romanians.

In June 1994, British immigration officials expelled an Algerian refugee to Algeria after he had been named by the immigration minister, and details of his asylum claim given, on TV. He has not been heard of since his expulsion.

The countries of Latin America are generally perceived as 'safe' by the governments of western Europe and very few asylum-seekers from those countries now obtain asylum. But there is still massive political repression: in Colombia, the police have killed 2,000 people in the past five years.

*'No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.'*  
(UDHR Art 5; International Covenant on Civil and Political Rights 1976 (ICCPR), Article 7, ECHR Article 3)

*'Everyone has the right to life, liberty and security of person.'* (UDHR Article 3)

*'No one shall be deprived of his liberty except on such grounds and in accordance with such procedures as are established by law.'* (ICCPR Article 9)

### **Refugees are fingerprinted on arrival like criminal suspects**

In November 1992, the interior ministers of the Twelve agreed to go ahead with feasibility studies into a computerised fingerprint-matching system which would enable all asylum-seekers to be fingerprinted and the prints checked for multiple, concurrent or consecutive applications in different European states.

The only other group of people to be systematically fingerprinted are criminal detainees.

Countries whose officials routinely fingerprint asylum-seekers include Britain, Germany, Switzerland, Norway and Denmark.

The fingerprinting system is part of a Europe-wide system of information exchange under the **Dublin and Schengen Conventions**, under which government agencies will have access to confidential details of asylum claims. No adequate data protection guarantees are in place.

### **Refugees are often locked up on arrival**

In Britain, there are 600 asylum-seekers in detention at any one time. In a 1994 study, Amnesty International found their detention was arbitrary, in that those detained were as likely to be granted asylum finally as those not detained. There is no limit on the length of time for which an asylum-seeker can be detained. The average length of detention in the Amnesty study was 154 days; one man, who had been tortured in Algeria, was detained in prison for almost 300 days.

Germany houses asylum-seekers who are subject to the 'accelerated' procedure in 'collection camps' and barracks. Rejected asylum-seekers can spend up to eighteen months in detention awaiting deportation in airport camps. Denmark uses anchored ships as detention centres. Sweden's so-called reception centres for refugees have been described as 'open prisons'. The Netherlands opened twelve new 'investigation and reception centres' for asylum-seekers in 1992 and, in 1994, two special centres for fast-track processing were opened. In Belgium, a new detention centre for asylum-seekers opened at Zaventem airport in 1992, and another in 1993. A further closed centre was opened near the international airport in March 1994. Interior minister Tobback stresses that detainees are not in prison: 'Whoever wants to leave may do so,' he says, 'but not into Belgian territory.'

Many asylum-seekers attempt suicide as a result of being detained on arrival in a country where they imagined they would be safe and free. In July 1993, a Lebanese woman killed herself in a Berlin prison on being told that she was to be deported. In December 1993, in the Netherlands, an asylum-seeker from the former Yugoslavia killed himself by jumping into the sea from the floating detention centre, Hellevoetsluis. Also in 1993, Kurdish asylum-seeker Turan Pekoz set

fire to himself in detention in Britain.

In February 1994, a sealed container was opened in Felixstowe, in the UK, and four dead Romanians and one live one were found inside. The five had stowed away after being refused asylum in France; four had died from inhaling the fumes used to clean out the container. The fifth was detained for deportation to France. His detention and proposed deportation was declared lawful by a court even though he swallowed razor blades in a suicide attempt.

*'All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.'* (ICCPR Article 10)

### **Asylum-seekers are often detained in inhuman and degrading conditions**

#### **Protests over detention are met with punishment**

Zairean asylum-seeker Kimpua Nsimba killed himself after five days in Harmondsworth detention centre, in Britain, in 1991. He was detained because immigration officials could find no one who could speak to him in his language, Linguala. He spoke to no one and no one spoke to him during the five days. No one told him why he had been placed in detention. After he hanged himself in a toilet, staff thought he had run away. They found his body only twenty-four hours later.

In the Netherlands, the Grenshospitium detention centre in Amsterdam became notorious after the death in April 1992, for want of proper medical attention, of Zairean asylum-seeker Jojo Muluta, who was seven months' pregnant.

In Germany and Spain, detention centres for 'immigration prisoners' awaiting deportation do not meet the standards of 'ordinary' penal prisons. In Switzerland, asylum-seekers are kept incommunicado in 'registration centres'.

Detainees at immigration detention centres in the UK are transferred to prison as a punishment if they go on hunger strike or perform any other protest against their detention. In prison, they are locked up for twenty-three hours each day and share cells and other facilities with convicted prisoners. Asylum-seekers are never told the reasons for their detention or given any opportunity to defend themselves. Their

lawyers are invariably not informed when they are moved from one place to another. Restrictions are placed on their visits and telephone calls.

An administrative court found the Belgian state guilty of three separate incidents of subjecting asylum-seekers to inhuman and degrading treatment, and violating their legal rights in detention centres. Interior minister Tobback said, in December 1993, 'It won't be the last time.'

Zairean asylum-seeker Omasase Lumumba was unlawfully killed in Pentonville prison, Britain, in October 1991, when seven or eight prison officers pinned him to the ground and forcibly stripped him. No prison officer has been charged or disciplined as a result of his death and the inquest jury's finding of unlawful killing.

### **Rejected asylum-seekers are subjected to inhuman and degrading treatment during deportation**

As the states of western Europe have become more and more obsessed with expulsion, such expulsion is carried out more and more brutally. Sedation of asylum-seekers, such as led to the death of Kola Bankole in Germany in August 1994, is increasingly common, as is the use of physical restraint and violence. The Nigerian Embassy complained that Bankole was the latest of twenty-five Nigerian asylum-seekers to die in police custody or during deportation.

In Germany, immigration officials proceeded with the deportation of the wife and children of a rejected Kurdish asylum-seeker who had just suffered a heart attack.

In the Netherlands, Romanian asylum-seeker Constantin Rudaru, restrained with hand and leg cuffs, sustained severe brain damage when his mouth was taped during attempted deportation in November 1992. He was left blind, spastic and with limited speech.

Since the death of Jamaican deportee Joy Gardner in Britain in September 1993, under restraint by officers from a special deportation squad of police, who used a body belt fitted with handcuffs and gagged her mouth with tape, the use of illegal restraints has been revealed in a number of other cases. A Zairean asylum-seeker, Meya Mangete, received injuries to his face, neck, chest and hands during an attempted deportation by private guards at Heathrow airport in August 1993. In June 1994, detainees at Campsfield

detention centre in Britain testified that mentally disturbed Nigerian asylum-seeker Elizabeth Blanchard was gagged and handcuffed when she was moved from the centre for deportation. Eventually she was admitted to hospital after spending sixteen hours at a police station banging her head against a wall.

Also in Britain, in October 1994, immigration officers tried to proceed with the deportation of a Pakistani man after he had slashed himself in his stomach, wrists and legs, and needed fifty-nine stitches. The airline captain refused to take him and he was taken to prison, where prison officers refused to detain him and sent him to hospital. He was deported the following day. A prison officer commented that the man's treatment was 'worse than inhuman'.

*'Everyone has the right to freedom of movement and residence within the borders of each State.'*  
(UDHR Article 13; ICCPR Article 12)

### **Asylum-seekers who are not detained are often obliged by law to stay in a particular place**

In several European countries, asylum-seekers are assigned to municipalities, cantons or Länder, and must live there. If they move, in some cases, such as Switzerland and Germany, they are subject to penalties and can be detained. Other countries, such as Belgium, link social welfare benefits with registration in an allocated place. In Switzerland, there have been cases of families split across cantons, with parents in one canton and children in another, without the means to travel to visit each other.

*'The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.'* (UDHR Article 16; ICCPR Article 23)

### **Western European governments seek to avoid their obligations to secure family reunification of refugees**

In Denmark, it was disclosed in early 1993 that applications from relatives of Tamil refugees were deliberately delayed, causing the deaths of some family members who were killed while waiting for permission to go to Denmark.

In Britain, a Bosnian asylum-seeker killed herself in



December 1993 after her husband was refused permission to come and join her. Asylum-seekers have no rights to have their families join them, and those granted humanitarian status or 'exceptional leave to remain' do not qualify for family reunion until four years after the grant of the status.

The Dublin Convention recognises only spouses, minor children and the parents of minor children as 'family members' who prevent asylum-seekers' removal to a country of transit, and then only if they themselves are full refugees.

*'Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family.'* (UDHR Article 25)

*'Everyone has the right to work.'* (UDHR Article 23)

### **Asylum-seekers are not usually allowed to work and are given hand-outs, in cash or in kind, below the minimum requirements for living**

Asylum-seekers in reception camps or centres in countries such as Germany and Switzerland are often given dole in kind, sometimes food or other products which are anathema to their religion. Whether in camps, lodgings or temporary accommodation, they are made to feel like parasites and are prevented from doing useful work. In Spain, asylum-seekers may neither work nor obtain state benefits, and they are totally reliant on charity for their subsistence. In Switzerland, no assistance at all is available for thirty days to asylum-seekers with no identity documents. Asylum-seekers who are sick have had to live on the streets, not entitled even to urgent medical assistance.

Refugees are, in addition, often stigmatised as 'economic migrants' by politicians, despite the fact that having an adequate standard of living is recognised as a fundamental human right. Senior politicians such as John Major, Jacques Chirac and Helmut Kohl have at various times described asylum-seekers as abusive or bogus, or have suggested that they are in some way fraudulent, economic migrants, ignoring the fact that the destruction of livelihood (conducted on a large scale in countries of Africa and elsewhere by the IMF and the World Bank) can in some cases found a claim of persecution, according to UNHCR.

They also ignore the role western governments have played in the laying waste of many of the countries from which the asylum-seekers have come, and their complicity in the persecution from which they flee.

*'Everyone has the right to resist oppression.'*  
(Declaration of the Rights of Man)

*'All peoples have the right to self-determination.'*  
(ICCPR Article 1)

### **Western European governments supply arms to repressive governments, keep dictators in power and often create the conditions from which refugees flee**

### **Then they describe the refugees as terrorists and deport them**

Switzerland, Italy, Britain and Germany are among the countries which sold arms to Saddam Hussein's Iraq. They have sold arms, too, to Sri Lanka, Somalia, Sudan, Cameroon, Chile, Israel, Argentina, Indonesia and the Philippines, and to Turkey.

Turkish Kurdistan has seen unprecedented repression in the past few years. More Kurds have been killed in the past two years than in the previous eight. Eight hundred Kurdish villages have been razed to the ground and depopulated since 1990. Germany was a large supplier of arms to Turkey in the three years to 1994. The Turkish prime minister, Mrs Ciller, visited Germany in October 1993 and, in the course of her visit, she promised to crush the Kurdish 'rebels' within a year. In response, the German government banned the PKK and thirty-five associated organisations in December 1993, conducting dawn raids on homes and workplaces across ten states. In north Rhine-Westphalia alone, 600 police were deployed raiding premises in nineteen cities. A show trial took place in Berlin in October-November 1994, in which five Kurdish activists were charged with the murder of a German neo-nazi. Germany's interior minister insists that Kurds can and should be deported to Turkey, despite protests from several Länder and despite the detention by Turkish police at Istanbul of returned Kurdish asylum-seekers.

In the wooing of Mrs Ciller, France followed suit, banning two PKK 'front' organisations and arresting 100 Kurds in dawn raids in 'Operation Red Rose'. In

Austria, demonstrations against the Turkish prime minister were banned and demonstrators violently arrested. In Switzerland, where the notorious Mucadele trial exposed the depth of the Swiss police's vindictiveness against Kurdish activists, the PKK was declared a 'real danger to Swiss internal security' and its officers were to be refused entry and dumped at the border. And in Britain, the Special Branch set up a squad in east London to investigate Turkish 'terrorists' and 'extortion rackets', and European PKK spokesman Kani Yilmaz was held for deportation in November 1994.

Political rather than human rights considerations have also influenced European contact with India, where uncontrolled gross human rights violations occur in occupied Kashmir and in the Punjab. Britain has held refugee Karamjit Chahal in detention for deportation to India for two years, claiming that he is a terrorist, and has signed a new extradition treaty with India which removes the exemption for political offences and so allows more refugees to be extradited to face torture and death.

Belgium was also accused of collaboration with repression when, having granted a visa to the head of the Jammu Kashmir Liberation Front to attend a meeting, the government held him on arrival for extradition to India on alleged terrorist matters. Belgium also stood accused of collaboration with Tunisia, when officials refused an asylum application unseen at the behest of the Tunisian police.

Political considerations have clearly influenced France's attitude towards Algerian asylum-seekers. Two thousand Algerians were deported in 1993, and 1994 has seen an intensification in the raids, detentions and deportations of suspected supporters of the FIS. In August 1994, twenty alleged FIS supporters, held in a barracks after raids reminiscent of Britain's detentions of Palestinians during the Gulf war, were expelled, under the 'absolutely urgent' procedure for grave threats to public order, to Burkina Faso. In the same month, 20,000 north Africans were subjected to random identity checks.

*'States Parties undertake to guarantee the right of everyone, without distinction as to race, colour or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: b) The right to security of person and protection by the State against violence and bodily harm, whether inflicted by government officials or by any individual, group or institution...'*

(International Convention on the Elimination of all forms of Racial Discrimination, Article 5)

### **Refugees from Africa and Asia and increasingly from eastern Europe are exposed to racist attacks by neo-nazis, racists and police**

As governments have adopted increasingly harsh and repressive measures against asylum-seekers, and have justified such measures by recourse to slurs on refugees as 'scroungers' or 'bogus', they have capitulated to (and in some cases mobilised) the popular racism which leads to racist violence. Politicians have often been slow to condemn racist violence, legitimising it further. Police have not offered adequate protection against racist attacks and have been guilty of violent and brutal racist acts themselves.

In Germany, where there were some fifty-two deaths involving racism in 1993, Chancellor Kohl has consistently failed to offer condolences to victims of racist arson attacks such as Solingen, while warning Turkish nationals not to react violently. The local MP for Mecklenburg said, in the wake of the Rostock events, that it was 'impossible' for the people of the town to tolerate the 200 asylum-seekers. In March 1993, the interior minister of Mecklenburg-Vorpommern gave in to villagers at Eichhof, who organised a blockade to keep asylum-seekers out. When the mob forced back buses carrying 156 refugees, the minister dispersed the refugees elsewhere. In May 1994, police in Magdeburg failed to take action to protect asylum-seekers, despite advance warning of a far-Right plan to attack them. In October 1994, after a Ghanaian asylum-seeker was stabbed, beaten and kicked off a moving train by six neo-nazis, the police released to the press information that the asylum-seeker had defrauded social security.

The police have themselves been accused of systematic racist brutality. In September 1994, for example, the Berlin police were accused of beating up Vietnamese asylum-seekers and former guestworkers. The interior minister for Hamburg resigned after revelations that a Senegalese man was beaten by police for wearing an anti-nazi hat and that eleven foreigners had been beaten in the cells. Several asylum-seekers have been shot 'resisting arrest', and many others have died in police cells. But, despite a survey disclosing that two-thirds of all police see asylum-seekers as a

social threat, the federal interior minister claimed in September 1994 that there was no evidence of 'particular xenophobia' in the police.

In Spain, asylum-seekers have been beaten by police; one Peruvian was beaten up and then, when he went to report this to another police station, he was beaten again, detained for four days and had his arm and leg broken, and was himself accused of assaulting police.

In Italy, neo-fascist minister Gianfranco Fini has called for immigrants and asylum-seekers to undergo medical tests for sexual diseases, on arrival in the country. Another fascist, Buontempo, has been accused of encouraging racist violence after his public attacks on travellers, his defence of the far Right and his labelling of black victims of racist attack as 'drug dealers'. In September 1994, the day after a fire destroyed a shanty town in Villa Literno housing some 2,000 African workers, the mayor organised a demonstration calling for the Africans' departure.

In Belgium, a mayor blamed the presence of a large number of Sikhs in the area for an arson attack on a house occupied by Sikhs in August 1993. In Austria, after an attack on a refugee centre near Vienna in September 1992, the mayors of Salzburg and Vienna called for 'no more refugees'. In France, a mayor joined residents' armed protest against the 'invasion' of their town by 150 Romanies, saying, 'We don't want this rubbish.'

In Spain, the mayor of Fraga refused to denounce an attack on a hostel for north Africans, and another mayor and ten councillors joined a mob in burning down the houses of six Romany families.

*'Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.'* (ICCPR Article 6; ECHR Article 2)

**Asylum-seekers and refugees are exposed to the risk of racist violence by politicians' use of popular racism**

**They are exposed to the risk of death by callous neglect in detention**

**They are exposed to the risk of death by being returned to unsafe countries**

**They are exposed to the risk of suicide from despair at the failure to protect them**

In Germany, in January 1993 a Ghanaian killed himself after being told he was to be deported. In February, a Senegalese asylum-seeker was found hanged in a police cell in Eislingen. In January 1994, a Vietnamese asylum-seeker set fire to himself and died of his burns after his asylum claim was rejected. In April, a Lebanese asylum-seeker in Freiburg stabbed himself in the stomach after hearing that he was to be deported. In the Netherlands, a Turkish asylum-seeker fearing deportation hanged himself in a police station in the same month.

The frequency of suicides among asylum-seekers has increased as the criteria for asylum have become stricter and the percentage of claims which succeed has shrunk from around 20 per cent to less than 5 per cent.

In October 1994, ten Tamils drowned trying to cross the river Neisse into Germany from Poland. Survivors said that Polish and German border guards watched impassively.

No one knows the numbers who have died trying to get to Europe. No one knows the numbers of people who have died after seeking and being denied asylum at the borders of Europe. No one knows the numbers who have died at the hands of officials of their own countries on being returned as rejected asylum-seekers from Europe.

## **THE MEASURES WHICH DENY ASYLUM TO THOSE IN NEED OF IT VIOLATE THE RIGHT TO LIFE OF ASYLUM-SEEKERS**