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Race Class 2009; 50; 83

DOI: 10.1177/0306396809103000

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Europe: crimes of solidarity

By *Liz Fekete*

Abstract: In response to increasing activism in support of migrants and asylum seekers across Europe, EU governments are seeking to criminalise acts of solidarity, in a number of different ways. Laws against the assisting of illegal migration – originally intended to target traffickers – are being deployed against those offering humanitarian support, such as accommodation or healthcare. And politicians who take a public stand in defence of migrants and asylum seekers face threats of prosecution. At the same time, criminal sanctions are increasingly being used against those who protest against deportations on planes and those who seek to rescue migrants stranded at sea.

Keywords: asylum, deportation, detention, healthcare, migration, protest

Over the last few years, an astonishing range of campaigns supporting ‘failed’ asylum seekers and undocumented migrants have emerged around Europe. Hunger-strikes of asylum seekers, protests in detention centres and strikes by migrant workers have been accompanied by a growth in solidarity initiatives, with many trade unions and professional

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Race & Class

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10.1177/0306396809103000 <http://rac.sagepub.com>

bodies (such as, in medicine and education) actively supporting the human rights of the undocumented or rejected. All this is worrying the EU and its member states and they are responding by trying to make it more difficult for people to support and assist rejected asylum seekers and those without papers. The 2002 EU Directive and Framework Decision on 'Strengthening the penal framework to prevent the facilitation of unauthorised entry, transit and residence' required member states to create offences of directly or indirectly aiding the unauthorised entry, movement or residence of non-EU nationals. As a result, those who provided assistance to the undocumented, in the form of housing or humanitarian aid, were prosecuted.¹ More recently, the authorities have widened the net of those suspected of unacceptable solidarity. The intention seems to be not so much to prosecute more people but to warn those in civil society and public office that the threat of prosecution is real and imminent. Hence, the threat of prosecution now hangs over those who take part in direct action in support of the refugee sanctuary movement or hunger strikers, those who provide housing for the undocumented or refuse to provide information to the authorities on their residence status, those who expose conditions within detention centres or simply defend the rights of detainees.

Take, for example, the comments of Belgium's immigration minister, Annemie Turtelboom, who told the Lower House in 2008 that, while 'we cannot prohibit by means of the law, people from going on hunger strike', the government could investigate means of making 'those who accompany and advise asylum seekers, as well as the religious authorities who grant permission for the occupation of churches, responsible for their acts'.² This was a direct response to an earlier decision by Marie Arena, the Socialist premier of the government of the French-speaking community, to allow a government building in Brussels to be used by a group of 162 irregular migrants. Such tacit support is no longer acceptable, according to the federal government.³

Similarly, in France, after Socialist deputy Michele Delaunay spoke in support of a young Kurd of Turkish nationality who had been ordered to leave the country, she was given an official reprimand and warned that helping 'illegal aliens' to stay in France risks a five-year prison term.⁴ And a number of lawsuits have been brought against those who supported the October 2007 National Day of Solidarity. Nevertheless, principled politicians are still prepared to support migrants: Nathalie Perrin-Gilbert, mayor of the first *arrondissement* of Lyons, told the press that she had sheltered *sans papiers* in her home and, though she was not a revolutionary but an 'elected person' with a duty to 'respect the country's law', she felt that when a conflict arose between respect for the law and providing assistance to people in danger, it was 'important for elected people' such as herself 'to set a good example'.⁵

Such acts of solidarity, however, now carry additional risks with the introduction of measures that allow governments to gather and store information about supporters of asylum seekers and undocumented migrants. For example, an official decree issued in France in December 2007 allowed for the creation of the ELOI file, a database aimed at facilitating the expulsion of migrants but which also allowed data to be stored on anyone providing accommodation to foreigners with no authorisation to stay and on anyone visiting foreigners in detention centres. Four leading NGOs opposed the decree and a legal case was taken against the interior ministry.⁶ This opposition won some amendments: in a new version of the decree, data on those who visit foreigners in detention centres will not be stored and data on those who provide accommodation to 'illegal immigrants' can only be stored for three months, rather than the original three years. But information can be stored on 'illegal migrants' for up to three years.⁷

Likewise, the premier of Lower Austria, Erwin Pröll (ÖVP) has proposed that the immigration and asylum authorities should, in future, be allowed to waive data protection laws in order to publicise any criminal offences committed by asylum seekers. The background to his remarks was the case of Arigona Zogaj, a 15-year-old Kosovan girl who had been provided with a place of sanctuary by a Catholic priest and whose campaign against deportation became a cause célèbre in the autumn of 2007, after she released a video threatening to commit suicide if her family were not reunited in Austria. In repeated press briefings, immigration officials alleged that the girl's family had paid human traffickers to smuggle them into the country and that Arigona's brother had a criminal record.⁸

Politicians supporting Arigona have also been threatened with prosecution. Madeleine Petrovic, a Green delegate in the Austrian lower parliament, spoke in support of Arigona Zogaj at a demonstration, prompting calls for tough action from extreme-Right and centre-Right politicians. Peter Westenthaler, the (then) chair of the Alliance for Austria's Future (BZÖ), adamantly demanded that Petrovic be prosecuted. But due to widespread support for Arigona Zogaj, police and politicians were forced into a hasty retreat, after initially threatening a prosecution under article 115 of the foreigners' law, which criminalises the aiding and abetting of immigrants who face removal from Austria. The Green Party is now calling for article 115 to be rescinded and a parliamentary motion was drafted to that effect. While the law does not seem to be widely used,⁹ its effect can be devastating. In December 2007, in Carinthia, the home of retired teacher Christa Janischek was turned upside down during a search for an 'illegal immigrant'. The 'crime' that had brought her to the authorities' attention was to offer free German language classes to asylum seekers.¹⁰ In another case, the relatives of an undocumented migrant were prosecuted under article

115: in August 2007, an undocumented migrant's wife and daughter, themselves both legally resident in Austria, were given a two-month suspended prison sentence for aiding his illegal immigration. Their crime was failing to disclose that he was living with them. Their lawyer Georg Bûrstmayr noted that, while charges had been brought against the relatives of 'illegals' in the past, prosecutors had previously tended to withdraw the charges before they came to court.¹¹ Another prosecution of this type was reported to me by a UK immigration lawyer: in September 2006, a Sudanese refugee from Darfur was sentenced to twelve months' imprisonment for aiding the illegal entry of his wife, also a refugee from Darfur, whom he brought to the UK on a false passport. She had been stranded on the border with Chad with no passport and no means of obtaining one.

The criminalisation of those who support anti-deportation campaigns is occurring in a number of other EU countries too. In Britain, two members of the Glasgow Unity Centre were charged with a breach of the peace in 2006 after they joined a community protest against a dawn raid on a Turkish family in the Cardonald area. The charges were brought one month after the protest took place. A judge eventually threw the case out of court as the prosecution had, on three occasions, failed to hand over to the defence copies of the dawn raid video by the Home Office Immigration Enforcement Team.¹² In Italy, Interior Minister Roberto Maroni has suggested that, in future, anyone helping an 'illegal immigrant' with a job or an apartment should be criminalised and that property let to 'illegal immigrants' should be confiscated.

In Ireland, the Immigration, Residence and Protection Bill, passing through parliament at the time of writing, includes a provision that imposes criminal sanctions on anyone who solemnises or permits a form of marriage which is not valid under the legislation. As presently drafted, it could even be used against priests who are now under pressure to report suspected marriages of convenience to the minister of justice. Father Kevin Doran described the proposed measure as 'distasteful', adding that it was unacceptable to check on the immigration status of couples in the context of celebrating the sacraments and that 'priests don't have national boundaries'. The maximum penalty for this offence would be a five-year prison sentence and a fine of €500,000.¹³ The same Bill also includes a provision allowing costs to be awarded against lawyers who bring 'frivolous' or 'vexatious' cases. The Law Society, the Irish Human Rights Commission, the Irish Council for Civil Liberties and the Irish Immigrant Council have made strong representations against the provision, which could act as an 'intimidation' to legal representatives. They say that, if enacted, the law would not only further limit migrants' access to effective judicial remedies but it would also make immigration the only area of law, civil or criminal, with such a provision.¹⁴

The boundaries of medical assistance

Tough action is also being taken against those who, for humanitarian reasons, provide financial support or health care to migrants who are sick and destitute. In Cyprus, the immigration authorities have brought a series of prosecutions, unprecedented in their severity, against the highly-respected NGO, Action for Equality, Support and Anti-Racism (KISA). The facts of the case date back to 2001 when KISA launched a public appeal on behalf of a seriously ill, legally-resident migrant domestic worker, who needed urgent surgery. She had been let down by her employer, who had refused to pay for her health care despite provisions under the Aliens and Immigration Law and her employment contract. As she could no longer work, the sick woman was at immediate risk of deportation. Despite having sought advice about the legality of the appeal in advance, the chair and treasurer of KISA found themselves facing a criminal prosecution for organising a financial appeal without official authorisation. In the past, such prosecutions were only brought in cases where a collection of money constituted embezzlement or fraud but, in 2004, the chair of KISA's steering committee was convicted and fined. The court also ordered the confiscation of the money, believed to be deposited in the Bank of Cyprus.

Nevertheless, as a result of KISA's public appeal, the Cypriot authorities had been subjected to a barrage of criticism. Moreover, the hospital that had initially refused to operate on the migrant domestic worker reversed its decision and gave the treatment free of charge. In its initial appeal, KISA had advised all those who responded to its call that, in the event that their contributions were no longer required for this specific migrant domestic worker, the money would be transferred to a separate account to pay the healthcare costs of other migrant workers facing similar problems. Thus, the money raised had been transferred from the Bank of Cyprus account long before the prosecution and subsequent court order of confiscation. As a result, the authorities proceeded to threaten a second prosecution, against KISA Chair Doros Polykarpou, who was accused, in his personal capacity, of fraud. Polykarpou was charged with disobeying a court order and receiving stolen goods, the maximum penalty for which was a two-year prison sentence. KISA pointed out that no other organisation had been prosecuted in this fashion before and that the charges amounted to serious intimidation and discrimination and a direct attack on the moral integrity of the organisation itself, and all those connected to it. This was the first time that a solidarity organisation in Europe, which had launched a financial appeal to cover the costs of healthcare for a migrant worker, had found itself prosecuted under the criminal law. KISA responded by launching an international campaign for the protection of its organisation and members against the state's attempt to harass its staff and

criminalise its human rights work. Thankfully, it seems that the case has now been dropped.¹⁵ But not before KISA had endured months of uncertainty due to what many perceived as a crude attempt by the state to set the limits of solidarity.

In Greece, the migrant support work of aid agency Médecins Sans Frontières (MSF) has faced less direct but equally incapacitating state opposition. In September 2008, MSF announced the closure of its humanitarian project on the island of Lesbos because of the authorities' total lack of cooperation. When MSF opened an office within the Lesbos holding centre, its intention was to provide urgent healthcare and improve squalid living conditions. But good intentions came to nothing, as neither the local authority nor the police were prepared to take responsibility for the squalid sanitation at the facility; as a result, repairs could not be made and the facilities were almost never cleaned.¹⁶ In October, the authorities announced that nearly all the immigrants held at the centre were receiving emergency care – they had been poisoned after drinking contaminated water from rusty and mouldy pipes.¹⁷

The medical profession in France is also increasingly worried that new pressures are being brought to bear there on doctors who certify patients too ill to be deported. A statement issued by the Union of Medical Inspectors of Public Health (SMISP) suggested that the government was undermining a 1998 law which recognised the right to stay for health reasons if, in a doctor's professional view, deportation of the seriously ill would be unsafe. (In the past, this has applied mostly to HIV/AIDS cases but medical opinions in cases involving serious mental health problems have also been taken into account.) In one high-profile case, psychiatrist Michael Remark found himself hauled before the regional medical association of Aquitaine after politicians complained about his intervention in support of a woman from Kosovo, whose deportation he considered unsafe on the grounds that she would not be able to obtain vital medical treatment if returned. Because Remark had informed his colleagues about the state of the woman's health and launched a petition on her behalf, he was reported to the medical association for disclosure of the confidential records of a patient. Remark is currently appealing a verdict against him.¹⁸ In another telling case, the prefect of Puy de-Dôme decided to strike off three psychiatrists and consultants, who are linked to MSF, from the list of medical experts consulted in deportation cases. They were thus barred from sending evaluations to the Department of Health and Social Services on the medical consequences of deportation in cases which were referred to them by NGOs. According to one of the psychiatrists dismissed: 'This decision will affect the most vulnerable, often individuals and families ... in danger of dying in their countries, including those who have psychiatric disorders.'¹⁹

Sowing confusion amongst public bodies

Over the last few years, more legislation has been introduced aimed at forcing those working in the public sector to carry out immigration control functions. In the past, organisations representing the medical and education professions have spoken out against these laws. But although professional organisations have resisted incorporation into an immigration control function, the laws tend to spread confusion, leading doctors, nurses and teachers to believe that providing a service to someone without papers constitutes a criminal offence.

In Sweden, officials in Malmö took a blanket decision several years ago to exclude all undocumented children from nursery provision on the grounds that it would 'protect' principals from having to make individual decisions. The Swedish medical profession is now concerned about the implications of a recent law which limits asylum seekers' rights to healthcare and, as a result, turns doctors into an extension of the Swedish Migration Board. Doctors, medical students and hospital employees held a protest demonstration outside the Swedish parliament but a medical journal featured an article which, while focusing on the increase in attempted suicides amongst asylum seekers, pointed out that those who attempt to take their life and are hospitalised end up with bills of as much as 125,000SEK.²⁰ Local authorities in Malmö, Scania and Västra Götaland are countering the high cost of medical care for the undocumented by introducing a subsidised patient fee (the same as applies to regular asylum seekers) for the undocumented.²¹

In France, the government has sought to make the country's labour inspectorate subordinate to the immigration ministry. A government decree resulted in the labour inspectorate being removed from the control of the General Directorate of Employment and placed under the authority of the recently inaugurated Ministry for Immigration, Integration, National Identity and Co-development. The four trade unions which represent the labour inspectorate issued a legal challenge, stating that it was not their duty to combat unauthorised stay but rather to combat 'illegal work' (which should not be confused with the employment of foreigners without a work permit, as its meaning is far broader). They added that it was wrong to force them to play an active role in the government's fight against illegal immigration or incorporate them into the Aliens Police Force.²²

Sweeping aside the critics of detention

Target-driven deportation policies have led to serious overcrowding and human rights abuses in Europe's detention centres. Acts of despair and anger, including self-mutilation, suicide attempts, hunger strikes and desperate protest measures (such as setting fire to mattresses) are multiplying. In the UK in 2008, repeated hunger strikes have taken place

at Yarl's Wood and Harmondsworth and there has been a 73 per cent increase in incidents of self-harm in the first six months of 2008.²³ In August 2008, in Belgium, violence erupted at the Steenokkerzeel detention centre.²⁴ Earlier, in May, police were called to the Merksplas detention centre when unrest erupted and mattresses were set on fire after the authorities reported that a Cameroon national had committed suicide following a failed deportation attempt.²⁵ In France, tear gas was used in August 2008 to stop protests at the Mesnil-Amelot detention centre at Charles de Gaulle Airport after two small fires broke out in one day. But the worst single incident occurred in June 2008 when France's largest Administrative Retention Centre (CRA), at Vincennes, was partially destroyed by fire. Protests had erupted after a Tunisian detainee died, allegedly of a heart attack. Fifteen days before the fire, the National Commission for the Control of Retention Centres wrote a report to Immigration Minister Brice Hortefeux describing a 'climate of tension and violence which reigns permanently in all the CRAs, especially Vincennes, where the slightest thing would be enough to light the fuse'.²⁶

Once again, the authorities are directing their ire at those who expose detention conditions, rather than correcting human rights abuses. No more so than in France, where the internationally respected Committee in Aid of Evacuees (CIMADE) is fighting tooth and nail against government attempts to restrict its mandate and limit its overseeing role in detention centres.²⁷ Currently, CIMADE is the only NGO allowed into France's twenty-seven CRAs but the immigration ministry has introduced new legislation which will restrict access as well as introduce a 'duty of neutrality and confidentiality' for any organisation that is willing to take on a new, more limited overseeing role.²⁸ At the same time, NGOs have been blamed by the governing Union for a Popular Movement (UMP) for the Vincennes fire and face a multiplicity of lawsuits. UMP spokesperson Frédéric Lefebvre said that the 'riot' at Vincennes was incited by sympathisers of undocumented migrants in the Réseau Education Sans Frontières (RESF) organisation, thirty of whose supporters, he said, were protesting outside the detention centre at the time of the fire. 'It is not acceptable that the collective organisations like RESF come making provocations outside these centres with the risk of endangering foreign detainees.' Lefebvre demanded 'the greatest firmness against these collectives' which carry out actions 'in proximity to areas where they have no reason to be ... All the consequences must be drawn, including judicial ones, if the responsibility of the members of RESF is established.' RESF stated that 'the words would be those of a vulgar comedian if they did not conceal a tragic reality; the fate reserved for the undocumented immigrants by government policy'.²⁹ The situation is so dire that, in August 2008, six associations issued a joint press statement pointing out that immigration officials are attempting to exonerate themselves of their responsibility

for the human rights crisis by seeking to blame aid groups rather than analysing what is wrong with asylum policy.

The French minister for immigration, Brice Hortefeux, has lodged a complaint against the association SOS Soutien aux Sans Papiers, citing an article in *Le Parisien* in which its president Rodolphe Nettiier was quoted as having called for the burning down of detention centres. (Nettier maintains that what he actually said was to express understanding for the reasons why those at Viennennes set fire to their mattresses and that opposition to detention was a form of legitimate protest since migrants held in detention centres were unfairly deprived of their liberty.)³⁰ This was all part of a multiplication of lawsuits against French migrant rights defenders. In February 2008, Romain Dunant, a member of RESF, was found guilty of slandering Nicolas Sarkozy and fined €800 plus the symbolic sum of €1, to be paid to Sarkozy. When Sarkozy was interior minister, Dunant had written an email message to the ministry in which he wrote: 'So this is Vichy coming back.' His crime, then, was to compare Sarkozy's deportation policies to the second world war expulsion of the Jews during the Vichy regime.³¹ Another prosecution was that of League of Human Rights activist Michael Guerin, who was charged with attacking the honour and esteem of civil servants. His crime was to have written a letter to the prefect of Loire-Atlantique asking him to waive an expulsion order. But because Guerin had copied others into the letter, and one of these recipients published his letter on the internet, Guerin was deemed liable and prosecuted.³²

Similar prosecutions have been launched in recent years in Germany. In September 2006, in Hamburg, the authorities closed down the local reception centre for asylum seekers (a ship) and transferred it to an isolated area in a forest, outside Hamburg. Members of the solidarity network Fluechtlingsrat-hamburg organised protests. In an article for the solidarity organisation's website about the demonstration, criticisms were made of the quality of decision-making within the Hamburg immigration service and the way in which interviews with asylum seekers were carried out, sometimes revealing a tendency towards racist stereotyping. One immigration official was named in this respect. The Hamburg public prosecutor launched an investigation with a view to bringing charges against the author of the article. The author, a social worker, only learnt about the investigation when she was contacted by the police, who telephoned her at her workplace. The official accusation against her was of giving the name of the immigration officer to the public and insulting him. But it was also rumoured that she was under investigation for violating her professional duties by giving personal data on young asylum seekers to the public. In the event, the case never came to court.

Penalising airline protests

Opposition to deportations is at its most passionate in the area of deportation flights and the associated brutality meted out to deportees. And it is here where domestic opposition marries up with international condemnation of Europe's declining human rights standards. It is here, too, that governments (as well as police, immigration authorities and some airline companies) are most implicated in attempts to criminalise those who protest. Some protesters have no links to NGOs but are just ordinary citizens sickened when they are forced to witness acts of extreme brutality. But others are linked to NGOs or campaigning organisations. In Sweden, nine activists from No One Is Illegal found themselves charged with the rather grand offence of 'airport sabotage' after a protest at Bromm airport on 15 April 2008 aimed at preventing the deportation of a 22-year-old man to Eritrea.³³

Over the last couple of years, solidarity groups have put airlines such as Air France, Brussels Airlines, British Airways, Virgin Nigeria and XL Airways under intense pressure not to take deportees on board. But while XL Airways has reacted to protest at its role in the return of rejected asylum seekers to the Democratic Republic of Congo by ceasing such returns (as has Virgin Nigeria), other airlines, such as Brussels Airlines and British Airways (which received more than £4.3 million from the UK Home Office in 2006 to carry rejected asylum seekers and their escorts),³⁴ have displayed a rigid approach towards passengers (mainly African citizens but also European citizens of African origin) who object to the mishandling of fellow black passengers. In some cases, too, African governments have intervened to protest the treatment of African airline passengers.

In June 2008, Brussels Airlines removed a man and his wife (a French national) from a flight after they protested against the treatment of a Cameroonian asylum seeker who was being forcibly expelled from Belgium. The female passenger says violence was used against the asylum seeker, which the airline denies. It also denies the female passenger's claim that they banned her from any future travel with the airline.³⁵ Earlier in April, three passengers who objected to alleged violence against Ebenezer Folefack Sontsa, a Cameroonian national on board a Brussels Airlines flight, were removed from the flight, prevented from catching another flight that day and detained at the airport for several days. The Human Rights League has initiated a legal action against Brussels Airlines on behalf of one of those removed. Serge Fosso, a Cameroonian national, was banned from travelling on Brussels Airlines for six months following his intervention. He had protested to the air hostess about the treatment of Sontsa, stating he was unable to travel under such conditions. Many passengers on board had reacted to the perceived mishandling of the deportee but Fosso believes he was singled out because he attempted to make a video recording. After the deportee was removed

from the flight, a team of policemen returned to remove Fosso and the other two perceived ringleaders. Fosso says he was kicked and punched in the head, before being dragged off the plane.³⁶

A number of similar prosecutions have taken place in France. In several cases, flights had to be cancelled, such was the level of protest on board the flight. In January 2008, Françoise Auguste, a Communist councillor and deputy president of the Rhône-Alpes regional council, was fined €5,500 after being found guilty of hindering the flight of an aircraft following an incident in 2006 in which she protested against the deportation of a Kosovan family on board an Air France flight.³⁷ In April 2007, Marie Françoise Durupt, a 60-year-old grandmother, was accused of inciting two *sans papiers* and other passengers 'to rebellion with a view to violently resisting people in public authority'. Durupt was on board an Air France flight to Mali when three Malian men were brought onto the flight at the very last moment. The escorting police officers violently restrained two of the Malians, who were resisting, and placed cushions over their mouths to stop them screaming. When Durupt heard the men complain that they could not breathe, she protested, declaring: 'I am ashamed to be French. I did not buy an air ticket to take part in such things.' Although many people protested, she was singled out for arrest alongside a French-Malian businessman, Youssouf Soumounou. Durupt had never been involved in any protest on behalf of *sans papiers* before. But her action was motivated by her belief in non-violence. The deputy mayor of the Parisian suburb Bagnolet, who was also on board the flight, confirmed Durupt's account in court. Although she and her co-defendant were acquitted of incitement to rebellion by the Bobigny correctional court, the state prosecutor has appealed the decision.³⁸

In November 2006, Kadidja, a French-Malian activist at Roissy airport for a family visit to Mali, mobilised other passengers in a peaceful protest of refusing to fasten seat belts, after discovering that a young *sans papier* was being deported on the same flight. Police were called, the young deportee was threatened with a three-month prison sentence if he left the plane and Kadidja's removal from the flight was only prevented by the support of other passengers. On her return to France, Kadidja was charged with interference with the movement of an aircraft, an offence carrying up to five years in prison and an €518,000 fine. On 29 February 2008, her ordeal ended with acquittal by the Bobigny court.³⁹ It would seem that the French government had growing passenger resistance to deportations in mind in 2007 when it introduced a law to increase the penalties for 'inciting violent resistance to people in authority'.⁴⁰

In Britain, a British Airways (BA) pilot on a flight bound for Lagos, Nigeria, ordered all 136 passengers in economy class to leave the plane after they protested at the treatment of a Nigerian asylum seeker who was forcibly held down in his seat by a team of police officers. Once all the passengers were removed, the asylum seeker was returned to the

plane and flown to Nigeria – the only passenger in economy class. One passenger, Ayodeji Omatade, singled out by airline staff as the ringleader of the protest, was arrested and held in police custody for ten hours. BA has banned him from travelling with the airline again. The treatment of the passengers became an issue in Nigeria, where the foreign affairs minister met with the British High Commissioner to request the protection of the Nigerian travelling public from the humiliation they face daily from foreign airlines.⁴¹

The UK case is not the only one in which a flight was seriously disrupted. In some cases, flights have been cancelled. An Air France flight from Paris to Bamako, Mali, had to be cancelled on security grounds due to opposition to the police treatment of Salif Kamate, a 50-year-old Malian man who had lived in France for thirty-five years but was being expelled for two drugs-related convictions. Once on board, Kamate was allegedly repeatedly hit by three policemen until he lost consciousness. He was carried off the plane with an oxygen mask and taken to a waiting ambulance. Passengers, believing the man was dead, were in a state of shock.⁴²

As a result of cases such as these, Air France and Brussels Airlines have come under intense pressure to stop their participation in deportation flights. Air France has resisted all such pressure, issuing a statement that it was not its role to question measures lawfully applied by the state. To this, Gérard Brisemeur of the *Confédération Générale des Employées* responded: ‘An individual bound and gagged in front of you is not the provision of a service that Air France should be offering.’⁴³

Criminalisation of sea rescues

The harsh new approach to those who, for humanitarian reasons, come to the aid of asylum seekers and those without papers has even percolated through to politicians’ treatment of the coastal rescue services, the maritime profession and ordinary fishermen, putting in jeopardy the oldest of all humanitarian laws, that of rescue at sea. In the most shocking case of all, seven Tunisian fishermen, who in August 2007 rescued a group of forty-four Eritrean, Sudanese and Ethiopian migrants whose inflatable dinghy was about to sink, were arrested when they landed on the Italian island of Lampedusa. The reward the fishermen received for their humanitarian intervention was immediate imprisonment in Agrigento on the southern coast of Sicily, where they were held until 10 September 2007, only being released after 100 MEPs signed an international appeal on their behalf. Five were eventually allowed to return to Tunisia, while the remaining two were placed under house arrest in Sicily. All the men were prevented from returning to their livelihoods as their boats were impounded. The trial on charges of aiding and abetting illegal

immigration (an offence that carries a maximum sentence of fifteen years imprisonment in Italy) has not taken place at the time of writing.⁴⁴

Similar pressures are being applied on the coastguard in Italy. Extreme-Right politicians seem intent on inciting the rescue services to exclude immigrants from their remit. Bernardino De Rubeis, mayor of Lampedusa, has described the coastguard as 'taxi-drivers for organised crime rackets' and accused them of 'perpetuating the phenomenon of illegal immigration by coming to the aid of migrants crossing the Sicilian channel'.⁴⁵ Strong words were followed by the promise of a hunger strike by Italian Northern League senator and deputy mayor, Angela Maraventano, who started her dramatic protest at the number of new arrivals from Libya on board a boat anchored in Lampedusa port.⁴⁶

This invective was backed by Interior Minister Roberto Maroni of the Northern League, who has promised to take an 'iron fist' to stem the flow, specifically by using the navy and coastguards to prevent immigrant boats entering Italian territorial waters. Such moves would be in violation of international law. Article 98 (1) of the UN Convention on the Law of the Sea requires states to 'render assistance to any person found at sea in danger of being lost', while regulation 33 (1) of the Safety of Life at Sea Convention binds all vessels to 'proceed with all speed' to the assistance of vessels in trouble. The 1979 International Convention on Maritime Search and Rescue (MSAR) demands that assistance be available 'regardless of the nationality or status of such persons or the circumstances in which that person is found'. The MSAR obliges provision to be made for medical needs and delivery to a safe place. Meanwhile, following a deal with Libya, the Italian government is increasing the number of boats patrolling the Mediterranean, with a view to turning the boats back before they reach Italian waters. Maroni told *L'Espresso* that he would personally be present the day the patrols begin, in order to ensure that Italy once again becomes 'master of its borders'.⁴⁷

Where does such invective lead? Already, Greek coastguards stand accused of deliberately damaging the inflatable dinghies of African boat people by slashing them with knives and pushing them back out to sea, leading to death for those on board.⁴⁸ And naval officers on board the French vessel *Arago*, taking part in an operation in the Mediterranean which had just intercepted two boats, were alleged to have directed their machine guns at the rescued migrants throughout the entire journey to the island of Lampedusa.⁴⁹ The constant demonisation of the boat people means that every sailor knows that a sea rescue brings with it unpopularity, hardship for the entire crew and possible imprisonment. They know full well what kind of leadership to expect from elected politicians who are more concerned with how to stop the survivors landing on their shores than how to prevent the deaths. This has led UNHCR representative Laura Boldrini to conclude that, between them, the various Mediterranean countries are turning the sea into a 'Wild West in which

human life has lost its value and people in danger are left to fend for themselves'.⁵⁰

Two incidents in particular underlined the UNHCR's concerns. In June 2006, a Spanish fishing vessel, the *Francisco Catalina*, spent a week sailing the seas between Malta and Libya. The captain and crew had saved the lives of fifty boat people, including a pregnant woman and several children, but the Spanish government would not let the boat land because, it said, the rescue operation had taken place in Libyan waters. The Libyan and Maltese governments objected that it was a Spanish vessel which had rescued the boat people, so Spain was responsible. No government would let the boat land. Then, in May 2007, a group of twenty-six African migrants were left for three days clinging to a fish pen belonging to a Maltese trawler in Libyan territorial waters after the trawler's owner had refused to take them on board. They were finally rescued by a Spanish vessel, which however was left drifting for days as the Spanish, Maltese and Libyan governments argued as to which of them was responsible for those rescued.⁵¹

The coastguard, at least, are not currently at risk of prosecution for aiding and abetting illegal immigration. But ordinary fishermen are. Shamefully, the seven Tunisian fishermen arrested in August 2007 still, at the time of writing, face prosecution under European laws which, even if these men are found not guilty, have had a deterrent effect against any fisherman who attempts to follow his conscience and save lives.

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I would like to thank Sara Prestianni of Migreurop and Hilka Becker of the Immigrant Council Ireland – Independent Law Centre for providing additional information.

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