

1 Pro-asylum Advocacy in the EU: Challenging the State of Exception

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In a landscape where the principle of deterrence is deliberately punitive, offering assistance becomes ever more problematic for an organization and for the individuals working within it, as the fight is not only for refugee rights but for resources and legitimacy (Cambridge/Williams 2004: 103).

History teaches us how practices first reserved for foreigners find themselves applied later to the rest of the citizenry.¹

1.1 Introduction²

This chapter explores examples of how pro-asylum advocates challenge the harsh measures used to punish those who try to enter or reside in the EU illegally, taking examples from The Netherlands and the UK. We explore organized resistance to the ‘3-Ds’, which are so typical of EU-wide migration policies: destitution, detention and deportation. Together these are the backbone of policies of deterrence. Sections 2 and 3 explore how ‘global apartheid’ and the ‘state of exception’ within the EU connect. Giorgio Agamben (2005) first theorized the “state of exception” and Kohler, “global apartheid” (1978). The state of exception is the regional context for pro-asylum advocacy work, and global apartheid is the global context within which the EU-wide state of exception can be understood (Webber 2000; Migreurop 2009)³. In section 4, the ‘shared injustice frames’, or common

worldviews, of pro-asylum advocacy networks in the EU, are briefly explored.

Section 5 presents examples of pro-asylum advocacy work from the UK and the Netherlands. These examples draw on our own background experience and research. We explore how two pro-asylum advocacy organizations, one a loose network, the other a small NGO, have tried to organize to protect those seeking sanctuary against the 3-Ds.⁴ The right not to be deliberately made homeless, not to be imprisoned at will, and not to be forcibly expelled to dangerous countries, are thus the main focus of these organizations, and of section 5. In section 6, we briefly explore some positive recent developments, such as the ‘sanctuary campaign’ in the UK, but also how resistance to deterrence policies has had to go ‘underground’ in the face of criminalization in both the EU and elsewhere, such as Canada (Fekete 2009; Nyers 2003). The first example we explore is the the *National Coalition for Anti-Deportation Campaigns* (NCADC), a UK-wide loose coalition of members and asylum support groups. We consider in particular NCADC’s 2007 anti-deportation campaign around a charter flight to

1 Giorgio Agamben: “No to Political Tattooing”, in: *Le Monde*, 10 January 2004; at: <http://www.ratical.org/ratville/CAH/totalControl.pdf> (24 June 2007).

2 This chapter draws on an earlier paper by Helen Hintjens, International Institute of Social Studies, The Hague and Ahmed Pouri, *Participating Refugees in Multicultural Europe* (PRIME), The Hague, entitled “Advocates in Fortress Europe: Working for Refugee Rights, which was presented at the International Conference on Migration at the Institute of Social Studies, on 30-31 August 2007.

3 See at: <http://www.poptel.org.uk/statewatch/news/2005/aug/crimes-of-arrival.pdf> (20 August 2009); <http://www.migreurop.org/article1574.html> (6 January 2010).

4 The UK Independent Asylum Commission (2008) proposes the term ‘sanctuary’ instead of asylum; at: <http://www.independentasylumcommission.org.uk/> (3 May 2010).

the Democratic Republic of Congo. In the Netherlands, our example is *Participating Refugees in Multicultural Europe* (PRIME), a Hague-based affiliate of Landelijke Ongedocumenteerde Stichting (LOS) [the National Organization for the Undocumented], an umbrella organization.⁵ We consider how PRIME worked with those who sought to benefit from the general pardon, or amnesty, announced for some failed asylum seekers in 2008. At the end of section 5, we also present two individual profiles, two women – one in PRIME, the other in the NCADC network in the UK – who reflect on the state of exception and how pro-asylum advocacy has impacted on their lives. These global, EU-wide, national, local and individual aspects of pro-asylum advocacy are all connected in this chapter, just as they are for many advocates and those seeking sanctuary.

Our research is based on pro-asylum research conducted in both the UK and the Netherlands over several years.⁶ The rise of racism in particular, explains our decision to connect global apartheid with the state of exception inside the EU. During our research, we became interested in how and why ordinary people, including refugees and asylum seekers, engage in pro-asylum advocacy. They encountered the harsh realities of deterrence policies, through experience and close contacts rather than by design or conviction alone. Section 6 reflects on how growing harmonization of deterrence policies in the EU poses a danger to legitimate, organized resistance to the 3-Ds. The conclusion shows that it is becoming more urgent, and more difficult to do this work in the EU today (Fekete 2009). Some of the many contradictory forces besetting pro-asylum rights advocates in the EU should become clearer by the end of this chapter.

5 Stichting *Landelijke Ongedocumenteerden Steunpunt* (LOS), or the National Advice Centre for Undocumented. Information about LOS from an interview with Rian Ederveen, Coordinator of LOS, The Hague, 2 April 2007.

6 By being involved in PRIME, in NCADC and other refugee organizations, including UNHCR, the three authors of this chapter have been involved in campaigns, challenges to new laws, faith-based organizations, schools, voluntary groups and trade unions that have resisted the rise of racism and indifference to the suffering of asylum seekers and the undocumented.

1.2 Why Global Apartheid?

Popularly referred to by Thabo Mbeki and Fidel Castro, among others, the term ‘global apartheid’ has also been used analytically by scholars like Anthony Richmond, Titus Alexander and Patrick Bond (Richmond 1994; Alexander 1996; Bond 2000). For Ali Mazrui, global apartheid resembles a global caste system (Mazrui 2007), and interestingly, during the formal apartheid era in South Africa the concept had already been theorized (Kohler 1978). In his classic: *Immigration Law and Practice*, Ian MacDonald compared UK nationality and immigration laws with apartheid laws, since both created different categories of ‘nationals’, with unequal resources and unequal access to the national territory (MacDonald 1983). Global apartheid usefully conveys not only the scale of global inequalities, but also laws and policies aimed at their legitimization, and processes of coercive state enforcement. Dominant and protective self-determination underlies global apartheid, as it did South African apartheid, with mainly white heartland populations claiming to be in danger (Kohler 1978; Richmond 1994). On the other hand, both global and South African forms of apartheid claim to protect the culture of the excluded peoples.

State-designed, racially encoded, religiously loaded and (mostly) legally sanctioned internal controls to prevent cross-border movement and exclude those defined as ‘undesirable’ have been intensifying internationally for some years (Bond 2000; Bauman 2004). “[F]orcible isolation of people who are different” was already part of colonial segregation and expulsion, and in this sense is nothing new (Richmond 1994: 206). Like colonial surveillance, today’s strategy is to screen entire groups of people out of entitlements and benefits, enforcing unequal life chances, this time in the hope of deterring future cross-border movements (Zureik 2001; Albrecht 2002). Surveillance and control, neglect and violent exclusion are affected through a global grid of changing laws, as well as walls, barriers, sanctions and surveillance techniques. Many state policing functions are contracted out to transnational security corporations, making the role of corporate capital in global apartheid analogous to the part it played in South African apartheid (Falk 2005; Bacon 2005).

The border controls, detention centres, deportations and internal controls and surveillance, are deliberate deterrence policies, as are the 3-Ds domestically (Weber 2000). Their success is limited, however, and it seems governments compete between each other

with ever-more draconian sanctions against undocumented people, seen as the source of insecurity (Bhagwati 2003; Bigo 2001). An estimated half million undocumented people reside in the UK, and around 150,000 in the Netherlands. Yet from 2002 until 2008, progressively fewer people were able to reach the UK or the Netherlands to claim asylum (Jandl 2004: 6).⁷ Fleeing one's 'homeland' does not imply reaching one's destination and gaining sanctuary.⁸ "Scooped up like so many fishes, expelled by new security and policing systems, migrants are redefined as smugglers or smuggled, traffickers or trafficked, and asylum seekers have a hard time reaching safety, whatever they pay for the journey" (Loescher 1993).

Almost by definition, "...the asylum seeker's flight...is tortuous...[and] is likely to be indirect, facilitated by commercial intermediaries and false documents" (Bhabha 2002: 156). This makes criminalization relatively easy for EU governments. Ever-wider circles of border controls have made the EU almost impenetrable (e.g. FRONTEX polices the seas off the Canaries; EU funding helps pay for detention centres in Libya and Morocco). Neighbouring countries thus detain people for the EU, as 'Fortress Europe' seeks to close Mediterranean and North Africa routes (Migreurop 2007; Maas 2007; van Houtum 2007; Bigo 2001, JRS 2010⁹). Even the principle of *non-refoulement* (not being sent back across a border before an asylum case is properly heard), is routinely violated, not by disobedient officials, but by obedient ones. There lies the heart of the problem of global apartheid and the state of exception for pro-asylum advocacy (Fekete 2001: 26; Helton 2002: 123; Maas 2007).

In the UK, Heaven Crawley talks of the emergence of a marked 'culture of disbelief' among Border Agency staff, including in relation to minors (Crawley 2006). Similar attitudes have been reported in the Netherlands (HRW 2003).¹⁰ Violent assaults during detention and deportation have been documented across Europe (Fekete 2005). Rejected asylum seek-

ers, especially those without children, tend to go underground rather than wait to be detained and forcibly deported. Unable to work, they cannot claim benefits, shelter or health care, and are subject to detention and deportation without notice if caught. Torture and rape victims experience re-traumatization, and families become separated, all in the name of effective border controls. As one lawyer explains:

...when people are subjected to routine fingerprinting, when they are locked up, when they are restrained by body belts and leg shackles and thirteen feet of tape, or forcibly injected with sedatives to keep them quiet as they are bundled on to an aircraft, it seems reasonable to ask: what have they done? The answer is that they have tried to come to Western Europe, to seek asylum, or to live here with their families, or to work here. And the whole panoply of modern policing, with its associated rhetoric, is applied against them (Webber 2000: 1).

Between Europe's heartlands and the impoverished homelands, are in-between places that grow in number and variety; refugee camps, confined lands, militarized border zones; deserts criss-crossed by barbed wire, gun posts and walls (Bhagwati 2003; Collyer 2007; Migreurop 2009). Meanwhile, governments and pliant media whip up collective insecurity, exaggerating the threats migrants pose, to justify new and more draconian exclusions imposed on undocumented migrants (Bhabha 2002: 160-161; Bauman 2004). Among many pro-asylum advocates in the EU today, a sense of urgency is tangible, in the face of organized human rights violations resulting from the 'state of exception' within the EU.

1.3 An EU-wide State of Exception

Along with the barbed wire, armed guards and walls, sophisticated biometric and satellite-tracking techniques combine to produce multiple zones of simultaneous entrapment and exclusion. 'Apartheid walls' slice through space, while high-tech monitoring techniques assist with random checks of civilian populations, for example at airports and checkpoints (at the US border with Mexico, across Palestine). Within the EU, detention camps mushroomed after the Cold War, as the state of exception grew and moved beyond the effective reach of international human rights norms and mechanisms. Free movement for goods and capital has meant more confinement for the world's poor and desperate (Andreas 2000; Richmond 1994; Alexander 1995; Cohen 1987). The philosopher Giorgio Agamben first developed the concept, 'state of exception', which refers to the combined might of state and

7 Jo Woodbridge, 2005: *Sizing the Unauthorized (illegal) Migrant Population in the United Kingdom in 2001*, Online Home Office Report No. 29.05; at: <<http://www.homeoffice.gov.uk/rds/pdfs05/rdsolr2905.pdf>>: 5.

8 For this kind of analysis applied to Uganda, see Himbara/Sultan (1995), and for a more critical view on the use of "bantustan" in this way, see the comment by Doornbos (1996).

9 See at: <<http://www.with.jrs.net/files/DoTheyKnow.pdf>> (4 January 2010).

10 See at: <<http://www.hrw.org/en/reports/2003/04/08/fleeing-refugee-0>> (4 January 2010).

corporate power to suspend normal rules of governance and legality, and to do so *wherever and whenever they so choose* (Agamben 2005; Migreurop, 2009).

Even prisoners have more rights than those held in this state in detention centres and camps across the EU.¹¹ Detention is supposed to be used only as a last resort, or immediately prior to deportation, but instead is routinely used as a form of deterrence, both in the UK and the Netherlands (Bacon 2005: 4). Even the sick, disabled and small children, can disappear through forced deportation. Those who struggle, fearful of deportation, are sometimes restrained and drugged during the removal process. Thus, every day on chartered and civilian long-haul flights international law is violated (Migreurop 2007; Fekete 2005, 2009). Pro-asylum advocates try to bring such stories of resistance to media attention, but often the media feels that these stories are not news. Only when the unusual and sensational occurs (a suicide or hunger strike among detainees or, a fire in a detention centre) do the media report on the detention centres (Hintjens/Jarman 2003; Athwal 2006).¹²

Under the state of exception, living conditions are made as harsh as possible for undocumented people, to encourage them to leave Europe voluntarily. But this strategy seems not to be working (Albrecht 2002; Bacon 2008). Governments can force people onto the streets, lock them away in detention centres, take their children into foster care, but conditions in their country of origin remain life threatening, and very few people will voluntarily return to DRC, Iraq or other dangerous places. In a world where increasing pressures push people to move, and where the displaced are denied “rights and equality as they do what they have to do to survive”, there is no obvious, politically acceptable solution (Bacon 2008: vi). Under such global conditions, the most likely response to deterrence is evasion and illegal flight (Bacon 2008; Athwal 2006).

A cat-and-mouse game ensues between private ‘fixers’, ships’ captains, border police and lifeguards, in which rescue at sea is reclassified as smuggling, and people can be locked up for helping those drowning off-shore. Private security firms are heavily involved in detention and deportation, and run most of the UK’s immigration centres (Bacon 2005). Their profits depend on government failure; however, since detention centres would be redundant if nobody could enter the UK, for instance. This is not likely to happen, as violent conflicts, human rights violations and growing global inequalities fuel these movements (Bhagwati 2003).

Overt physical and mental abuses are widely reported across EU detention centres (Migreurop 2009). In 2009, riot police attacked peaceful hunger strikers in Schiphol detention centre in the Netherlands without warning, causing serious injuries, not long after they began to refuse food.¹³ In a separate incident, families with children on hunger strike in Yarlswood in the UK, experienced almost exactly identical attacks (Fekete 2009: 89).¹⁴ Physical use of force is symptomatic of the state of exception, and of the deterrence logic underpinning migration policies across the EU (Agamben 2005; Migreurop 2009).

Agamben has compared torture in detention today with torture in Nazi concentration camps, and insists that, “...situation is legally speaking actually comparable [since]...the detainees of Guantanamo do not have the status of Prisoners of War, they have absolutely no legal status.... They are subject only to raw power; they have no legal existence.”¹⁵ Those in asylum detention are similarly forgotten, although less completely removed from the rule of law, and can find their basic rights arbitrarily suspended. There are some parallels between the ‘terror estate’ and the ‘detention estate’ (Bacon 2005). Images of ‘scrounging’

11 A map, regularly updated by the French migrants’ rights organization, MIGREUROPE, shows the number and types of open and closed detention centres and migration and refugee camps across Europe, and makes for horrifying comparisons with similar maps of concentration and forced labour camps during World War 2. See at: <<http://www.migreurop.org/IMG/pdf/carte-en.pdf>> (20 December 2009).

12 Helen Hintjens, 2007: “The War for Illegals”, in: Bad Subjects website special issue on ‘Hope’; at: <<http://bad.eserver.org/issues/2007/78/>> (29 November 2008).

13 Ahmed Pouri; Helen Hintjens: “Hunger Strikers attacked inside Schiphol’s Detention Centre”, in: PRIME Press Release, 9 March 2009; at: <<http://indymedia.nl/nl/2009/03/58112.shtml>> (2 June 2009).

14 Helen Hintjens: “Unveiling the Truth in The Netherlands: Attack on Hunger Strikers Inside Amsterdam’s Schiphol Airport Detention Center”, PRIME Press Release; at: <<http://theporcupine.org/?p=135>> (2009); *National Coalition of Anti-Deportation Campaigns* (NCADC), at: <<http://www.ncadc.org/>> includes a list of successful cases defended, 141 in all, totalling more than 300 people.

15 Giorgio Agamben: “No to political tattooing”, in: *Le Monde*, 10 January 2004; at: <<http://www.ratical.org/ratville/CAH/totalControl.pdf>> (24 June 2007).

and ‘criminal’ detainees are reinforced by media and public bias, creating an increased sense of insecurity and resentment against asylum seekers (Bigo 2001).

The state of exception explains how spaces created by governments, with corporate partners, can be placed outside normal ‘rules of the democratic game’ and beyond due process (Agamben 2005). In this state, a person can be moved about at will, mistreated and ignored. In Agamben’s terms, this is the human being in the condition of ‘naked life’ (*homo sacer*) (Agamben 1998). What the public sees is usually another side of the story, as when: “our television cameras [are] focused on the gallant policemen rounding up the ‘illegals’ and *sans papiers* and transporting them to the nearest refugee camp” (Bauman 2007: 22). Inside the camp, the cameras usually stop rolling, and there is “not much to report”.

Within the EU, the state of exception means enforced detention, forced destitution and implementation of annual deportation quotas and targets. Pro-asylum workers, including teachers, social workers, lawyers, doctors and family members, friends, church or mosque members, know about the state of exception, through experience, and through seeing the experience of others, and most recently through a range of ‘crimes of solidarity’ (Fekete 2009). Starting with a 2002 EU Directive and Framework Decision, which requires “member states to create offences of directly or indirectly aiding the unauthorized entry, movement or residence of non-EU nationals”, governments have been arresting and convicting those who support undocumented people, including in the UK (Fekete 2009).

Humanitarian NGOs and human rights advocates, and those living with anyone classified as illegal or liable to deportation, are themselves criminalized for helping undocumented migrants. Prosecutions have already begun in a number of EU countries (Fekete 2009: 84), and pro-asylum advocacy has become a riskier business (Black 2003; Nyers 2003; Fekete 2009; Webber 2000; Athwal Harmit 2006). Some common level of understanding of what confronts them has forged a kind of identity among pro-asylum advocates, in the form of a shared worldview.

1.4 Shared Injustice Frames and Pro-asylum Stories

The notion of a ‘shared injustice frame’, as elaborated by Olesen (2003), is a useful way to reflect on shared worldviews that arise among those involved in pro-

asylum advocacy networks in the EU. A common view is widely shared of how the world works, and what people confront in asserting their rights. These frames derive their power from their ability to bridge divisions of class, identity, refugee status, gender, professional training and political and religious ideas. As resistance to deterrence policies and laws has grown across the EU, shared understandings have risen that such policies and laws are both unjust and unworkable. For pro-asylum advocates, the state of exception is illegitimate, and involves impunity for state and corporate crimes against vulnerable people. A shared identity has thus started to emerge among pro-asylum advocates (Olesen 2005). How such shared injustice frames or transnational grievance perceptions, as Olesen calls them, produce shared forms of identification is interesting, since: “...in contrast to a legitimating frame, [a shared injustice frame provides]...an interpretation of what is happening that supports the conclusion that an authority system is violating the shared moral principles of the participants. An alternative to the legitimating frame, it provides a reason for non-compliance” (Olesen 2005: 31).

For pro-asylum advocates whether they support free movement or not, everyone seeking sanctuary in the EU have the right to claim protection and to fair and humane treatment in doing so. International law provides strong support for this premise (Loescher 1993; Helton 2002). For pro-asylum advocates, deterrence-based approaches to migration are clearly incompatible with human rights principles and practices, and with any sense of justice or fairness. Through a wide range of responses, such as media pressure, diplomatic dialogue, legal challenge, street demonstrations and public citizen campaigns, pro-asylum advocacy networks resist the official view that such policies can be justified. Cases are taken to court, debates organized in Parliaments, media and civil society training programmes conducted, and information communicated through radio, press, film and internet. While strategies may vary, the challenge of delegitimizing official claims that cruel policies are unavoidable to deter future inflows is a shared challenge. Inside knowledge of detention and deportation regimes helps to discount such official claims. Most advocates have first-hand evidence of the state of exception and the way it violates all basic human rights principles. The localized practices of contestation they use also have in-built connections to perceptions of global injustices. As Sassen puts it:

(these) types of political practice(s)...are not the cosmopolitan route to the global. They are global through the

knowing multiplication of local practices. These are types of sociability and struggle deeply embedded in people's actions and activities. They are also forms of institution-building work with global scope that can come from localities and networks of localities with limited resources and from informal social actors (Sassen 2004: 662).

Advocates thus inform the wider public about what they can do, tell harrowing, but also hopeful, stories of individuals, families and minority groups daring to challenge the deterrence logic and the state of exception. Advocates thus strategically make public what should otherwise remain private experiential or professional knowledge (Carpenter 2007; Athwal 2006). Through stories of what refugees can do in the face of official indifference and abuse, advocates can show how the deterrence regime dehumanizes both those subject to the state of exception, and those who enforce it. Senior policymakers, and others distanced from the harsh realities of the 3-Ds, can thus be confronted with firsthand stories, making advocates interlocutors of the undocumented, enabling them to speak directly in most cases by straddling several spheres through internet or other forms of media (Cambridge/Williams 2004). Charles Tilly explains that stories are a powerful instrument, since, "...like the plow [stories]...use a simple application of force to dig deep... they frustrate purists: they condense complex life into simple plots" (Tilly 2006: 95). If it suits their purposes, governments may be exposed as failing to meet their international legal obligations, and in extreme cases it may be easy to find public sympathy, especially where stories concern the most vulnerable, especially children (Crawley 2006).

By sharing a common view of what is wrong with the world, and by telling stories to highlight what is wrong, political identities of pro-asylum advocates are constructed upwards, as it were, from shared experiences and insights. Shared injustice frames thus work to produce broader, overlapping alliances and relationships, among pro-asylum advocacy networks within, and also beyond, the EU. As a "transnational advocacy network", those involved in pro-asylum advocacy are "bound together by shared values [and] a common discourse" (Keck/Sikkink 1998: 2). Our starting point is this shared analysis by pro-asylum advocates of the problems they confront both under global apartheid and under the EU state of exception. As they do their work, such advocacy networks also to persuade others that official policies are illegitimate, and seek to extend their shared injustice frames' through the media and greater public involvement.

1.5 Pro-Asylum Advocacy: Examples from the UK and the Netherlands

Advocacy can be defined as, "the process of identifying with and representing a person's views and concerns, in order to secure enhanced rights and entitlements..." (Cambridge/Williams 2004: 98). Locality, gender, class, profession, refugee status, training and politics will all influence the experience and practice of advocacy. Awareness is the product of lived experience and professional training, and since most pro-asylum advocacy networks operate informally and on a small scale, there are generally few material incentives to such work; on the contrary. Offices of migrant and refugee organizations are generally small, cluttered and open long hours; almost nobody is on a permanent salary, many people work on goodwill alone. A few core people generally do most of the work.

Even small organizations like NCADC and PRIME can have significant impacts on how national and more global immigration policies are imagined and resisted, and perhaps redefined (Sassen 2004). Translocal pro-asylum networks include a range of actors, from priests to politicians, lawyers to actors, office workers to poets, trade unionists, teachers, intellectuals, postal workers, unemployed and retired people, as well as lawyers and domestic workers. Many or most are themselves refugees, or asylum seekers. Others are locals who may consider themselves 'citizens of the world', but who work mainly in a highly localized way within their own city, region or neighbourhood. They often see themselves as engaged in a defensive war to protect basic human rights for some of the most vulnerable people in their society (Migreurop 2007).¹⁶

In one of the opening quotations to this chapter, Agamben suggests why people might get involved in pro-asylum advocacy networks, including for self-interested reasons. Enlightened self-interest and solidarity with those at the bottom of the social hierarchy are not necessarily opposed to one another. 'There but for the grace of God go I', is a common sentiment expressed whatever the original reason for getting involved. The question of how people get involved in pro-asylum advocacy networks is difficult to answer, and there may be an element of pre-disposition through identification, as the two individual profiles presented in this chapter illustrate. We will not repli-

16 Helen Hintjens, 2007: "The War for Illegals", in Bad Subjects website special issue on "Hope"; at: <<http://bad.eserver.org/issues/2007/78/>> (29 November 2008).

cate earlier survey work on social movement members in the European context (Della Porta/Tarrow 2005). Instead we focus on some limited cases, where our shared experience has made it possible to observe longer-term processes of engagement from within.

Campaigning involves the shared goal of making visible those whose experiences are denied in official migration deterrence policies (Cohen 2001; Sereny 2003). A common response is outrage at the cruelties of official policies among pro-asylum advocacy groups. However, a sense of horror can turn people off, as well as engaging them. Refugees and asylum seekers may both engage and withdraw, at different times, depending on the nature of their responses to the horror and disgust they feel on learning of some new injustice perpetrated. Some are paralysed as they are re-traumatized in the asylum process; others avoid depression by becoming even more actively engaged (Cohen 2001; MacDonald 2006). Those involved in pro-asylum advocacy networks tend to share not only a sense of being ‘in the know’, but also of having shared projects based on defending principles of human rights and solidarity. Individual and group deportations, hunger strikes and similar actions can help produce forms of resistance-based identities. These identities enable people involved in pro-asylum advocacy to remain engaged, even in the face of growing risks to themselves. Some pro-asylum advocates view “...autonomous migration [as]...a form of resistance to global apartheid enforced at nation-state [level]” (Spener 2008: 115), but this is not true of everyone. As with all ‘weapons of the weak’, resistance against the state of exclusion and global apartheid can take covert and sublimated forms. For PRIME in The Hague and NCADC across the UK, the focus is on protecting individuals, families, and groups of mostly undocumented, non-nationals from the triple threat of destitution, detention and deportation.

1.5.1 The UK case: NCADC

By 2007, the UK government claimed to have ‘mastered’ immigration flows, and was *Tipping the Balance*. As, “the number of failed asylum applicants removed each year exceeds the number predicted to have unfounded claims”, deportations exceeded applications from asylum seekers that were in 2006. A Home Office press release reported, “...in 2006 asylum applications reached their lowest level since 1993, while the number of removals and deportations by the Immigration and Nationality Directorate hit an all-time high”.¹⁷ A year later, Meg Hilliard, speaking for

the Border Agency that had replaced the Immigration and Nationality Department of the Home Office, stated, “We will be pressing on, not going backward...there is no need for an amnesty.”¹⁸ “A lot of hard work from a lot of people”, the Minister claimed, had gone into *Tipping the Balance*. Removals rose to 71 per cent of rejected and withdrawn asylum claims (‘unfounded’ in Home Office terms) in 2005, compared with just 49 per cent in 2004. In December 2006, deportations were 109 per cent of the target, averaging 103 per cent for 2006 as a whole. This meant that 18,235 forced or voluntary deportations took place from the UK, compared with the 17,780 people whose claims for asylum were denied or dropped.

In the press, Alibhai-Brown described this achievement as “policies and practices of institutionalised savagery, rebranded as efficiency”.¹⁹ Efficiency criteria like these, commonly used across Europe, are not peculiar to the UK and can be seen as part of the underpinning of global apartheid (Fekete 2005: 5–9). Pro-asylum advocates in the UK are becoming aware that refusal quotas and targets are part of inter-EU harmonization, and of agreements like the Dublin Convention, which have made matters worse for those seeking asylum. EU support for tighter controls may backfire, however, with questions starting to emerge – including in the European Parliament – about whether detention, expulsions and high refusal rates are inflicting too high a price.

The NCADC has been able to secure longer-term funding, but has come under pressure to change its campaigning style. For many years, NCADC had only one full-time, permanent campaigner, John O., who reluctantly retired in May 2010. The consistent emphasis of NCADC mailings has in the past been on connecting global, national, regional and individual

17 See at: <<http://www.ind.homeoffice.gov.uk/6353/aboutus/tippingpointsresults4amend.pdf>> (May 2009). UK Home Office, 2007: *Public performance target: removing more failed asylum seekers than new anticipated unfounded applications* (London: The Stationery Office)

18 The quotations in this paragraph derive from a letter sent in reply to Alan Williams (Swansea West) MP, 17 July 2007, in response to a letter on behalf of two constituents taken into detention.

19 Yasmin Alibhai-Brown: “The Brutal Reality of our Asylum Policy”, in: *The Independent*. 27 February 2007; at: <<http://www.independent.co.uk/opinion/commentators/yasmin-alibhai-brown/yasmin-alibhaibrown-the-brutal-reality-of-our-asylum-policy-437980.html>> (12 July 2009).

injustice issues. E-mails circulated weekly reported on media reports, on court rulings, official government reports, international NGO research on countries of origin, academic studies and cases from all over the world. John O. also circulates individual cases and group campaigns related to charter flights, which ask for support in the form of faxes, e-mails and letters to MPs, airlines and government ministers. Individual and group cases mainly relate to the UK context, although news on campaigns in other EU countries also circulates periodically, and are posted on the website. To safeguard its future, in 2008, NCADC secured National Lottery funding for three years, and became a registered charity. One condition of charitable status, however, is not to engage in political campaigning, and NCADC must therefore appear independent if it is to remain financially secure in the future. Most NCADC members feel uneasy with the forced political neutrality of the shared injustice frames because they blame the government for detentions and deportations as well as sharing a sense of moral outrage at the, unavoidably political, act of human rights violations. Three paid staff positions now depend on meeting charitable status conditions that tend to undermine the appeal of NCADC, which is precisely its interconnected, holistic and very political worldview.

Created in 1995, NCADC has engaged with the rise of forcible deportation policies, through a growing engagement with government ministers, but also with private security companies, regular and charter airlines. Since 1996, NCADC takes credit for preventing 165 deportations, as well as other (uncountable) cases where their intervention may have helped prevent deportation. Although this figure is tiny in relation to the numbers of deportations, NCADC claims that running a campaign using the NCADC website and e-mail list, writing letters, signing petitions, and sending faxes, involving MPs, neighbours and the media, can work. In recent years, national campaigns have also been mounted by NCADC affiliates against group deportations and charter flights, for example to Iraq, Afghanistan, Zimbabwe and the *Democratic Republic of Congo* (DRC). An outstanding example of such an NCADC campaign was the 2007 DRC (Congo-Kinshasa) anti-deportation charter flight campaign.

1.5.2 The DRC Charter Campaign: A Qualified Failure

Even after more than ten years of continuous warfare and violence, with millions of documented deaths

and hundreds of thousands of cases of rape, forced deportations to the DRC continue from most West European countries. Estimates suggest that up to 10 million Congolese have died due to chronic hunger, displacement, sexual violence and killings resulting from the war that started in 1998. Forced labour affects the population in mineral-rich areas, few public services operate at all, and hunger, disease, child labour and sexual violence are all rife. The regime in power views returned asylum seekers as political enemies who can be detained, tortured and even killed (Hintjens 2006b; Fekete 2006). In 2007 Rudi Vis, MP, tabled an early day motion in the UK House of Commons (EDM 926, 21.22007) demanding an end to deportations to DRC, because of human rights violations by the Kinshasa government. EDM 926 called for cancellation of a charter flight due to deport 30 Congolese on 26 February 2007, since their removal would constitute “a grave violation of their Article 3 human rights as provided for in the Geneva Convention”. Before 26 February, five MPs had signed EDM 926.²⁰ Forty-five more signed after the charter flight had left.

The NCADC campaign was significant for several reasons. As John O. reported, this campaign mobilized “the biggest and best response to an appeal to stop a deportation in the 12 years of [NCADC’s] existence”.²¹ A loose network of affiliated campaign groups shared the view that whatever could be done to prevent deportation, even at the last minute, should be done, in this case, and however slim the chances of success. Outrage at human rights violations involved was the basis for counter-politics of hope, since, as the NCADC website put it:

Unjust and inhumane deportations are tearing families apart, forcing asylum seekers back to countries where

20 The text is as follows: EDM 926 DEMOCRATIC REPUBLIC OF CONGO 21.02.2007, Vis, Rudi “That this House believes that further deportations to the Democratic Republic of Congo should be suspended with immediate effect based on evidence that failed asylum seekers risk being subjected to serious mistreatment and imprisonment on return and that this amounts to a grave violation of their Article 3 human rights as provided for in the Geneva Convention; and that, in particular, the mass removal of Democratic Republic of Congo asylum seekers on 26th February 2007 on a specially chartered XL Airways flight should not be allowed to proceed”. See at: <<http://edmi.parliament.uk/EDMi/EDMDetails.aspx?EDMID=32646&SESSION=885>>.

21 Personal E-mail from John O. in response to a question by the researcher, 27 February 2007.

they face persecution, denying gay and lesbian couples the right to a relationship. These are the reasons that motivated campaigners and supporters to get together with those facing deportation and do something about it... Never doubt that a small group of dedicated people can defeat an attempt to deport someone. An Anti-Deportation Campaign involves organizing resistance to restrictive immigration legislation, and simply means making the government change their minds regarding an individual case.²²

The central method of all NCADC advocacy is to write, send faxes and e-mail airline companies, government Ministers, private companies, and to contact MPs and media to support campaigns for people not to be deported, but to be allowed to remain in the UK. Court cases are also undertaken, concerning country-based deportation policies, for example in relation to the DRC. What was new about the DRC campaign was how it managed to mobilize existing, global and UK-wide networks of anti-corporate campaigners. A company called, XL.com, an on-line global travel company operated the DRC Charter. Mass faxing and letter writing was accompanied by both physical picketing of XL.com's headquarters, and heavy use of the customer complaints facility on the XL.com website.²³ The campaign letter appealed to XL.com's commercial self-interest as follows: "I would therefore urge you to reconsider your involvement, present and future, in such schemes, until your company has fully appraised itself of the available evidence. There seems a great risk that negative media attention to the outcomes of such 'deportation charters' to war zones could be commercially damaging for XL airlines."²⁴

22 *National Coalition of Anti-Deportation Campaigns* (NCADC); at: <<http://www.ncadc.org/>> includes a list of successful cases defended, 141 in all, totalling more than 300 people. See at: <<http://www.ncadc.org.uk/about/profile.htm>>.

23 XL.com's website was flooded with customer comments in the form of "polite complaints" from members of NCADC, NoBorders and anti-corporate networks used to challenging private corporations on their own commercial turf, as it were. Just 18 months later, XL.com filed for bankruptcy. See at: <<http://www.flyertalk.com/forum/british-airways-executive-club/865321-xl-com-now-collapses-3rd-biggest-uk-tour-operator.html>> (2 December 2008). A company with the same name continues to operate from a French-registered website in France. The controversy with XL Airlines and NCADC was later reported. See at: <<http://www.indymedia.org.uk/en/2007/08/379320.html>> (21 August 2007).

On 26 February 2007, in spite of the largest campaign in NCADC history to-date, the UK government forcibly deported "more than 40 people" back to DRC. They, "were loaded onto the plane that day, handcuffed and distressed, the children crying, and ... accompanied by around 150 police and escorts". Showing its more political side, the NCADC e-mail also commented that "the whole exercise smacked of conspiracy between the British and DRC authorities".²⁵ For example, a party held at the deportees' arrival in Kinshasa was reportedly filmed, footage that could have been used to show that those deported to DRC were not in any danger. Congolese in UK were meanwhile taking the government to court, disputing continued deportations to DRC. The UK government eventually won this case, after a hearing in 2008, and documented video evidence from the BBC of torture risks facing returned asylum seekers did not convince the judge that the UK government should stop deportations to DRC. The suggestion made by NCADC is of collusion between sending and receiving countries in denying basic rights to former asylum seekers (Fekete 2005). In Europe, as also "[i]n many African countries...refugees are accused of being the cause of economic hardship and social ills" (Kibreab 1999: 400), and refugee militarization can lead to former asylum seekers being accused of criminal activities (Muggah 2006).

Despite mounting evidence of serious human rights abuses, torture and killings on return, the UK Home Office (and other EU governments) continue to deport people by force to war zones in the DRC, Iraq and Afghanistan. The DRC anti-deportation campaign failed to achieve its goal, as expressed in EDM 962. Even so, the campaign can be considered successful. Considerable pressure was brought to bear on

24 Dear XL Airlines letter, from NCADC website. The decision to stop charter flights was reported in an article in the independent. See Verkaik: "Major airline refuses to help with forcible removal of immigrants", in: *The Independent, Monday, 8 October 2007*; at: <<http://www.independent.co.uk/news/uk/crime/major-airline-refuses-to-help-with-forcible-removal-of-immigrants-394451.html>> (18 December 2009). The article reports that "In an email to a campaign group which supports failed asylum seekers, XL said its chief executive had told the Government it had not 'fully understood' the political dimensions of these flights. In February, one of its aircraft was used to deport 40 failed asylum-seekers to the Democratic Republic of Congo as part of the Government's 'operation castor'".

25 NCADC e-mail, 5 March 2007, sent to NCADC list by Liz Atherton.

XL.com, because it had contracted to carry deportees, portrayed as innocent women and children. This threatened to damage the company's reputation, and XL.com soon announced that the company would no longer charter planes for deportation purposes. The company even declared its "sympathy for all dispossessed people in the world".²⁶ Here is a case where NCADC anti-deportation advocacy benefited from involvement of the Congolese themselves, mobilized and organized around the pending court case against the UK government, and involvement of mainstream anti-corporate protest movements, with their on-line and direct action tactics and strategies tried and tested. When airline (and other) companies accept contracts to deport and detain, they can expect to face public scrutiny, and as in this case, organized objections and direct protests. The nexus of rights advocacy formed during the DRC campaign enabled the NCADC campaign to reach the soft commercial underbelly of XL.com, using public interest and human rights arguments effectively.

Through John O., NCADC consistently reports human rights violations by private companies in the detention estate, companies such as Group 4 and GSL (*Global Solutions Ltd*). Official reports of Her Majesty's Prison Inspector, Anne Owens, find repeatedly that there is inadequate medical care, poor legal support and poor facilities, including for children's education. During the deportation process, the use of force has become evident across the EU (Fekete 2005). In mid-2008, Medical Justice, a UK charity connected with NCADC, released: *Outsourcing Abuse*, a report that documented dozens of cases of beatings and brutality against detainees, by private security company staff.²⁷ Home Secretary Jacqui Smith soon appointed Nuala O'Loan, former Police Ombudsman for Northern Ireland, and now in the House of Lords, to conduct an independent enquiry. Results were still awaited at the time of finalizing this chapter. However, new legal and financial sanctions for those who refuse voluntary removal indicate the direction of government thinking on the rights of deportees. A person who refuses to leave with the The Internatio-

nal Organization for Migration (IOM) can be denied re-entry to the UK for 5 to 10 years, and may even be charged the full cost of their deportation.

1.5.3 Netherlands: Generaal Pardon and Criminalization of PRIME

Meanwhile, in early 2007, the Netherlands announced a general pardon. After years of campaigning and petitioning the Queen, 26,000 undocumented people were to benefit from the regularization process. However, when viewed from within an organization like PRIME that works mainly with undocumented migrants themselves, most of them former asylum seekers, what followed the announcement was quite different. Just as success lay behind the failed DRC anti-deportation campaign, here there were mainly failings that prevented many who had hoped to be eligible from qualifying for amnesty. The way that the Generaal Pardon linked explicitly to speeding up deportation measures against those who were not eligible for legalization, belied the façade of generosity. The campaign backfired in a way, for it led to some gain at the expense of others who were more easily singled out and deported; the amnesty offer acted like a lure.

PRIME's tiny offices have moved several times in recent years, weakening an organization that has worked with the undocumented since the mid-1990's. PRIME suffers from chronic under-resourcing, and there are few full-time volunteers left. The organization has depended on only two or three people for many years for its core activities, which include visiting and phoning people in detention centres, liaison with the destitute, campaigns, publishing news and responding to urgent requests from those confronting destitution, detention and deportation. Some years ago, PRIME was quite a large organization, with a sizeable budget, including from the local municipality, ran several 'safe houses' for people forced into destitution. By 2005, the organization focused entirely on anti-detention and anti-deportation work, mostly with people who spoke Farsi or a related language. Research on this chapter started around 2006, right before amnesty. PRIME staff and volunteers were intensively involved in assisting individuals hoping to benefit from this new policy at this time.²⁸

PRIME estimates that less than half of the original figure of 26,000 were in fact regularized after 2007.²⁹

26 Robert Verkaik: "Major airline refuses to help with forcible removal of immigrants", *The Independent*, 9 October 2007; at: <<http://news.independent.co.uk/uk/legal/article3038391.ece>> (30 November 2009).

27 Robert Verkaik, "Investigations into claims of abuse on asylum-seekers", *The Independent*, Tuesday 30 September 2008; at: <<http://www.independent.co.uk/news/uk/home-news/investigation-into-claims-of-abuse-on-asylum-seekers-946106.html>> (16 November 2009).

28 Helen Hintjens, 2007: "The War for Illegals", in Bad Subjects website special issue on "Hope"; at: <<http://bad.eserver.org/issues/2007/78/>> (29 November 2008).

One Afghani man's experience highlights his vulnerability. PRIME supported his case, but in 2009, he received a refusal from the Dutch *Immigration and Nationality Department* (IND). Fearing deportation to Afghanistan, he decided to move to the UK, where he had discovered his brother had full refugee status. The Afghani was detained on arrival in UK, without papers, and placed in a private correctional facility. Here he was held for four months, unable to contact his brother. Yet by being in detention, he had fallen foul of a rule attached to the General Pardon, that anyone detained for more than three months (for any reason) was not eligible to be regularized. Detention for immigration purposes in the EU, however, does not imply any criminal activity (Bacon 2006). This man decided to continue living underground, but was now more vulnerable to deportation.

Using an amnesty to expose illegal migrants from their hiding places was a cynical ploy, but is understandable in the context of heightened surveillance and harassment of the undocumented across Europe. Rian Ederveen of Stichting LOS confirms that charities working with the undocumented were subjected to close police controls after *Generaal Pardon* was announced. Lia Matheu works on migrant's rights in The Hague, an advocate for Portuguese-speaking Africans. She explains starkly that "(t)hey are chasing people out; and deportations have been explicitly linked to the *Generaal Pardon* ruling" (interview, 11 June 2007). When central government, seeking to speed up deportations, tried to oblige local governments to hand over lists of undocumented people, however, almost all refused to comply.³⁰ As PRIME has tried to explain to policymakers, distrust is reinforced by such underhanded ways of operating.³¹

Even PRIME has received unwelcome police attention since 2007. One day in 2008, staff and volunteers who left the PRIME offices were picked up, one by one, and taken to the local police station. They were not allowed to phone anyone, and were told they

were being held under anti-terrorism legislation. This started at 4 p.m. and continued until 9 p.m., when Ahmed Pouri was the last to leave the building. The police released everyone, and later explained that under new anti-terrorism laws, they were obliged to follow up on all accusations. A man had gone to the police station, someone known to have mental health problems, and had alleged that PRIME were making bombs in their offices. Anti-terrorism procedures then required police to take everyone to the police station for questioning, before releasing them. The next day, flowers were sent to PRIME by way of an apology, but for some volunteers the whole experience proved too distressing and they stopped coming to PRIME. Some volunteers had no papers, and so felt especially terrified to be detained by police. While seasoned campaigners laughed the incident off, volunteers were intimidated in a perfectly legal way, thus undermining PRIME.

With fragility and under-funding of many pro-asylum advocacy organizations across the EU, it is hard to come across serious, legitimate leadership. Pro-asylum advocacy networks attract few resources, and working against the democratic government's policies is not an attractive option for society's most prominent, as well as most marginalized, people. Asylum advocates may be settled refugees who combine pro-asylum advocacy with a paid job, or may simply volunteer. They may be Europeans who find the inhumanity of the asylum regime disturbing enough to be galvanized to get involved. Lawyers, social workers and religious leaders may all get involved because they deplore the secrecy and lack of accountability they see in the immigration regime and in detention and deportation policies. In Australia, media people are prominent in pro-asylum advocacy, as are artists and intellectuals (Hintjens/Jarman 2003). Within the 'spaces outside the law', as Agamben calls them, it is very possible however to be forgotten by the rest of society (Agamben 2005).

29 Ahmed Pouri; Helen Hintjens: "Hunger Strikers attacked inside Schiphol's Detention Centre", PRIME Press Release, 9 March 2009; at: <<http://indymedia.nl/nl/2009/03/58112.shtml>> (2 June 2009).

30 Edestad, "Geen medewerking aan uitzetting vreemdelingen die buiten pardon vallen", 19 July 2007; at: <<http://www.edestad.nl/index.php/module\615>> (4 August 2008).

31 Interview with Lia Matheu, pro-asylum advocate, The Hague, 20 June 2009; Ahmed Pouri; Helen Hintjens: "Hunger Strikers attacked inside Schiphol's Detention Centre", PRIME Press Release, 9 March 2009; at: <<http://indymedia.nl/nl/2009/03/58112.shtml>> (2 June 2009).

1.5.4 Two Individual Advocates³²

The two women we will call Susan (UK) and Femke (the Netherlands) were each involved voluntarily in pro-asylum advocacy work for many years. Susan worked with Asylum Justice, a local organization in South Wales, loosely affiliated with NCADC. Femke has worked with PRIME in The Hague for many years and in pro-asylum advocacy for almost 30 years. Neither woman, however, had any formal legal training. Both Susan and Femke suffer from serious clinical depression, and must take medication. They have their depression in common with many failed asylum seekers. Although Susan has a full-time day job, Femke does not, and for both women, the work on asylum rights has become a way of life, something pivotal to their worldview. They both see asylum as a metaphor for the injustice in the world, but also for a politics of hope, which they share. Each identifies herself closely with the broader refugee experience of displacement and isolation. Each can make sense of the world and identify her own small, inter-connected, contribution to promoting the rights of those even worse off than herself. Susan's involvement with asylum issues started in 2005 following the forced dispersal of asylum seekers to her town in the UK. Femke began to help in a local detention centre during the 1970's. Each has been involved in all aspects of pro-asylum work, from the mundane, involving social events, to the most technical, assisting in legal cases and training in asylum law and human rights. They have translated documents, visited detained people, campaigned against deportations and helped destitute people and families.

Each woman now has a wealth of experience of the asylum regime, and as intermediaries between the system and the individual claimants. Femke makes this clear when she explains how she helped interpret between asylum seekers and officials in the detention centre, translating the asylum seekers' stated needs into terms understood by the officials, lawyers, bureaucrats, doctors and other professionals working in the centre. Susan also sees her work with Asylum Justice in terms of interpreting the law for asylum seekers who wish to lodge appeals, for example. Femke visits many individual detainees who phone her to tell her

of their experiences in the prison or detention centre. Her work has mainly involved facilitating access where possible to a lawyer, a doctor, somewhere to live. In South Wales and in The Hague, most charities hand out food donations, but rarely get involved in legal, housing, health or employment rights.

Susan became involved a few years after Asylum Justice was first set up to resist the claim of the official legal aid system that it "...sifts out worthy from unworthy forced migrants" (Bhabha 2002: 160). Susan and Femke each talked at length about how destructive the asylum process can be of individual applicants' personal potential and talents. Both women remarked on the chronic failure of the system to provide adequate legal aid. Each expressed frustration that without legal aid, asylum seekers could not convince the courts (or get bail in the UK). Few would win their appeals and many would be deported, or living in destitution once more. This depressed both women, but they were also determined to do something positive to influence the situation they found around them, together with others.

Susan and Femke share disgust at the mainstream media attitudes towards asylum seekers and undocumented people, and both admit to a deepening sense of outrage at public and political attitudes, which have worsened since a few years ago. Each expressed fear that the stress and anger their awareness of the asylum system brought had not only taken over their lives, but was also damaging their health. Campaigning against the 3-Ds, Susan and Femke knew many individuals and families who daily inhabited a state of exception, and were alternately destitute, detained and subject to deportation. Each woman described how this altered her previous sense of normality. The cruelty inflicted on people they knew, or had met and spoken to, shocked these women, and Susan helped—together with a refugee friend—to set up a group for refugee and asylum seeker women, caring for children while mothers met for shared activities. Volunteer work by women like Susan and Femke keeps most pro-asylum advocacy organizations going, and makes their networks operate in a way that is open and receptive to people in crisis. Both women consider it a waste of human potential, that destitute and detained people, women and children, and isolated and rootless young men remain trapped in the 3-Ds, or in fear of them, despite many already having experienced torture, rape and political persecution at home.

The two women report that their lives have changed completely through their growing involvement with pro-asylum advocacy in the UK and the

32 Interviews and discussions were conducted with Susan (not real name) and Femke (not real name) in Swansea and The Hague, respectively, in December 2008 and September 2009. We are grateful to both women for their insights, and for being so open with us. We hope to publish these interviews in full elsewhere, along with others gathered during this research.

Netherlands. Global and national injustices manifested in individuals, motivated them to become involved, and to become pro-asylum advocates. They both opposed what they saw as a globally designed, locally manifested system of separations, unjust laws and physical controls (global apartheid). It is interesting that both women, through their pro-asylum advocacy work, have re-evaluated their own depression, and have radically reorganized their worldviews, as well as their private lives, to hold a broad set of 'shared injustice frames'.

1.6 Harmonizing Exclusion

Across the EU, and beyond, serious rights violations are being justified in the name of the priority of secure borders (Huysmans 2006). Even to the point of compromising the right to seek asylum. Non-discrimination principles are flouted, the right to a fair trial and a fair hearing of one's case are ignored, and the right not to be arbitrarily detained is disappearing. Citizenship and the right to family life are being eroded, and most undocumented people have little or no access to education, health, work or legalization. Those seeking sanctuary can fall outside of the protection of international, regional and national human rights provisions, if they are refused. Under 'fast-track' asylum procedures in the UK, as in the Netherlands, deportations happen almost on arrival (Dummett 2001; Bhabha 2009, Webber 2000). Although Article 31 of the Geneva Convention specifically ensures that a person can seek asylum, and lodge their claim, whatever their documented status, legislation across the EU is making it a crime to enter a country with false papers. There are few signs that this 'migration deterrence regime' is weakening; on the contrary (Fekete 2001). EU harmonization has simply speeded up the process. As Helton reminds us, "Cooperation...is not necessarily synonymous with generosity. In Western Europe it has been directed mainly at enforcement measures designed to frustrate the arrival of asylum seekers and to encourage them either to remain in their home country or locate in a nearby country of asylum" (Helton 2002: 272).

And setting numerical quotas and rejection targets arguably violates the legal basis of refugee law, by promoting the speedy return of people to countries where they may face danger and further risk of persecution (Helton 2002: 123). The Congolese charter flight campaign is an example of where security concerns receive priority over human rights or even legal

procedures; the DRC court case was pending at the time of the 2007 deportation.

Ministers, and some policymakers, claim that all this harsh treatment is unavoidable to make life unpleasant for those who abuse the system. Bogus asylum seekers, criminal networks, smugglers, traffickers and all manner of scroungers and spongers are to be warned off by every greater cruelty. They must be stopped from exploiting loopholes in border controls; they must be deterred from misusing the asylum system. The claim is that in this way, asylum will be safe for 'genuine' asylum seekers. However, the question remains how the latter are to get through the minefield laid down for everyone else. By blaming supposedly 'bogus' claimants for their own policies of victimization, the government get off the hook, blaming the victim for using deterrence (Ryan 1971; Nyers 2003; Webber 2000). Victim blaming tends to "normalize or naturalize unjust and violent social and political conditions" (Leatherman 2005: 12). At the same time, welfare and employment guarantees for citizens have all but dried up, and states feel "[n]o longer in full charge of the economy, security or culture", unable to provide, "...the whole-life protection from the cradle to the grave which [they] not so long ago strove to provide" (Bauman 2007: 45). Victim-blaming occurs when "...refugees...[are] accused of being the cause of economic hardship and social ills" (quotation Kibreab 1999: 400; Muggah 2006). In the heart of 'Fortress Europe', growing "[i]gnorance, incredulity and indifference...may be as significant hurdles...as disagreement or hostility" (Bhabha 2002: 158). Media reports on illegal immigrants reinforces a climate of denial equated with, "...criminal organizations, terrorists and drug traffickers [that] threaten the citadels of civilization" (quotation Nederveen Pieterse 2004: 110; Bauman 2007: 128; Bhabha 2002: 161-2).

1.7 Conclusion

This chapter has tried to contextualize the shared perspectives and frames of pro-asylum advocates within the EU, using examples familiar to us. We proposed that both global apartheid and the EU-wide state of exception are underpinning deterrence policies of individual governments towards asylum seekers and other migrants. The 3-D strategy, based on destitution, detention and deportation, is a particular focus of pro-asylum advocacy and resistance to the existing legislation and policies. The state of exception, for example in asylum detention camps, makes sense as a

way of reinforcing global inequalities. We see crude physical barriers combine with increasingly sophisticated forms of internal surveillance of the population, to screen people out as well as in. In short, under global apartheid and the EU state of exception, “the institution of asylum has become a key pressure point, complicating the filtering process...designed to separate eligible from ineligible travelers” (Bhabha 2002: 161). At the same time, basic social and economic rights have been severely eroded across Europe, for everyone. As the quotation from Agamben at the start of this chapter made clear, ever more ingenious forms of exclusion and surveillance of non-nationals can end up being used against all EU citizens and those living in the EU, as wider processes of rights-erosion are facilitated and obscured (Fekete 2001, 2009, Webber 2000). Engaged in an unseemly ‘scramble to make themselves unattractive’, EU member states pay little attention to the European Convention on Human Rights (Harvey 2000: 368). Cross-EU harmonization snares innocents, as genuine refugees are caught in traps set for traffickers, smugglers and all manner of ‘illegal’ persons as if they were game animals (Harvey 2000; Collyer 2007). Across the globe, camps are “made permanent by a blocking of their exits” (Bauman 2007: 45), which works to “reinforce...the mouldy and decaying walls meant to guard the hallowed distinction between the ‘inside’ and the ‘outside’ [in a]...world that pays little if any respect” to this distinction (Bauman 2004: 58). Blatant contradictions result, with myths of inclusiveness and daily strategies of victim-blaming coexisting in, “a borderless economy and a barricaded border” (Andreas 2000: p. x).

Just as South African apartheid and colonial segregation were enshrined in law, so the ‘state of exception’ that underpins today’s deterrence regime across the EU is legally encoded and based on EU-wide provisions. The key starting point was a 2002 EU Directive and Framework Decision on, “Strengthening the penal framework to prevent the facilitation of unauthorised entry, transit and residence.” This has created more and more difficulties and obstacles for pro-asylum advocacy work as “the authorities have widened the net of those suspected of unacceptable solidarity” (Fekete 2009: 84). However, Fekete sees in this an “intention ... 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” (Fekete 2009: 84). Moreover,

...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 hous-

ing 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 (Fekete 2009: 84).

It is becoming illegal in more and more countries of the EU to help undocumented migrants, or to support struggles for their basic rights, including the right to legalization. In France, an underground movement has emerged. In the UK, grassroots support for the idea of sanctuary is growing. Already there are 11 or so ‘Cities of Sanctuary’ in the UK, including Sheffield, London, and Swansea in South Wales. As government threatens to convict those that campaign for undocumented people, whole cities are declaring themselves supportive.³³ Small pro-asylum advocacy organizations across the EU, like NCADC and PRIME, are struggling during the present financial crisis, besieged by an atmosphere of fire-fighting and stretched resources. Strategic and tactical alliances with progressive lawyers, well-meaning policymakers and various communities have become more urgent than ever. Working against the 3-Ds in the UK or the Netherlands has become more difficult as the deterrence regime is stepped up and the legacy of the ‘war on terror’ appears to merge with the ‘war on insecurity’. This painful and contradictory situation attracts new supporters, because of the mounting evidence of official abuses, of even children and the disabled (Crawley/Lester 2005; Bauman 2004). This frightens off otherwise well-meaning people from getting involved. When members of the UK Royal Society for the Protection of Birds, for example, are threatened with legal action, to prevent them demonstrating against environmental damage, it is high time everyone sat up and acted to protect our civil liberties.³⁴

Eventually, any system of segregation that excludes increasing numbers of people from its protective surveillance starts to lose legitimacy and finds itself confronted with widespread resistance (Richmond 1994; Cohen 1987). Failed asylum seekers, ‘illegals’, undocumented migrants and people *sans papiers* are *helots*, or as Bauman puts it “...the dregs, the waste and rejects of...global free trade and economic progress” (Bauman 2007: 22; Cohen 1987). Caught between the “unheard-of-affluence” of the few and the “unspeaka-

33 See at: <<http://www.cityofsanctuary.com/>> (13 January 2010).

34 Martin Hickman “Heathrow puts up legal barricades to keep away protesters”, *The Independent*, 27 July 2007. See at: <<http://www.independent.co.uk/news/uk/this-britain/heathrow-puts-up-legal-barricades-to-keep-away-protesters-459177.html>> (12 November 2009).

ble poverty and humiliation” of the many, pro-asylum advocates also are subjected to “fears and gruesome premonitions” of a world divided against itself (Bauman 2007: 22). In this context, pro-asylum advocacy is an increasingly uphill struggle, and increasingly indispensable.

Tentatively, then our conclusions are that, arising from global apartheid as reinforced by the state of exception at EU level, pro-asylum advocacy networks share common perceptions of the global system as fundamentally unjustifiable. They operate to resist the dominant logic of deterrence in the EU, and it is this, rather than shared tactics or strategies of resistance per se, that creates solidarities among such advocates. Today, within the EU, direct citizen action against the 3-Ds continues, within a context that requires close coordination. Even in a hostile legal and political climate, pro-asylum advocacy make sense to those involved, given the shared worldviews that have emerged to connect people across barriers of class, belief, legal status and local context to defend the right to sanctuary.

