

Notts Refugee Forum talk, 20 April 2004

Arun Kundnani, Institute of Race Relations, arun@irr.org.uk

Since new Labour came to power in 1997, the issue of asylum and immigration has risen to be one of the dominant areas of political debate in Britain. The government has published two white papers, passed two acts of parliament (with a third expected shortly) and announced countless policy initiatives. Liberals have been stunned by the pace at which the right to asylum has been eroded. In place of an asylum system based on rights, Labour has embraced a policy of 'managed migration', creating a new workforce with varying degrees of legal status and protection, from the worker without papers or rights of any kind, lucky to earn £3 per hour, to workers who enter under new migration programmes, which grant some legal rights.

On the right-wing of British politics, meanwhile, there has been a populist campaign against immigration, linking fears around terrorism, disease, crime, overcrowding and cultural identity to the idea that Britain is a 'soft touch' for migrants – a new popular racism has thus emerged. And the government increasingly links issues of race and immigration in its policies – witness the proposal to introduce citizenship tests and oaths of allegiance for new immigrants, as a response to the riots of summer 2001. The result is that the assumptions on which race and immigration policies have been based since the 1960s are unravelling. The old policy of zero immigration coupled with race relations legislation to integrate 'ethnic minorities' is being replaced by a new model of 'managed migration' coupled with so-called 'community cohesion'.

Whereas right-wing thinktanks such as Migration Watch have published widely on these areas, from a perspective which assumes immigration to be inherently dangerous, to date, there has been little co-ordinated thinking and acting from a Left perspective on these trends. In the absence of an overarching critique of new Labour's asylum and immigration policies, the Left's response has been reactive and piecemeal, falling back on a narrow liberal defence of the right to asylum as an important human right – or a blanket rejection of all borders which fails to comprehend what is new about the current arrangement. As a result, the Left has not even been able to halt the degradation of the right to asylum, let alone provide a wider challenge to the government's programme. A smattering of committed community organisations, such as Notts Refugee Forum, have been left to deal with the fallout from an increasingly barbaric asylum system.

Tonight I am going to speak about how we can understand what has happened and what can be done to counter it. As we speak the third of New Labour's asylum bills is passing through parliament. Along with the related policy of rationing access to legal aid for asylum seekers, the new Bill cuts through to the heart of the asylum process. There are four main aspects to it. **First**, is the new criminal offence of destroying documents. **Second**, the new criminal offence of refusing to co-operate with your own deportation. **Third**, is the withdrawal of welfare support for asylum seeking families who don't leave the country voluntarily. **Fourth** is the collapse of the right to appeal, denying asylum seekers the one lifeline that had still been available to them – the chance that a competent solicitor might successfully appeal on their behalf. Together, these measures threaten to abolish the right to asylum to all intents and purposes. The logic of the Act is to turn asylum seekers into nothing more than 'illegal immigrants': made by tighter border controls, to enter the country through increasingly hazardous routes; made, by the removal of the right to work or support, to survive in the illegal economy; and made, by the state's targeting of migrant communities as potential terrorists, into a new criminalized class.

Let us look at each of the four aspects of the Bill in turn. First, clause 2 of the Bill which states that if you can't produce a valid passport when you're interviewed on or after arrival in Britain, you are committing a criminal offence and could go to prison for two years. To understand why this is so dangerous, we need to understand why people arrive on false documents or destroy documents en route. First, very few asylum seekers have their own passports – in fact, in the past the Home Office has said that if you do have a valid passport then you cannot be a genuine refugee, on the assumption that the authorities in the home country would refuse to allow a genuine dissident to obtain one. But you need a passport or travel document to get out of the country. Airlines are fined £2,000 if they allow a passenger to travel without a passport. So you are forced to turn to an agent, who provides a false document to enable you to get on the aircraft, but wants it back to recycle, or wants you to dispose of it so the authorities can't examine it to learn the agent's modus operandi. But, under the new Bill, destruction or disposal of the passport on the instructions of the agent is an offence. So effectively the Bill proposes to make it a criminal offence to use the only practical method that genuine refugees have of escaping persecution. It is because the Geneva Convention recognises that entering a country without documents is necessary for refugees that Article 31 of the Convention prevents refugees from being penalised from entering the country in this way. The new Bill violates this principle.

The other new criminal offence introduced in the Bill means that you can be sent to prison for two years for refusing or failing to cooperate with arrangements for your own deportation. You will be expected to obtain travel documents from your Embassy so that you will be admitted back to your own country – if you don't fill in a form accurately and completely, attend an interview at the Embassy or submit to having your photo or fingerprints taken, then you could be prosecuted. The danger here is that many people rightly fear reprisals if the embassy officials of their country know they're here. In some countries, simply applying for asylum is seen as virtually treasonable. This clause creates very serious problems for some asylum seekers.

The third aspect of the Bill is the withdrawal of support from asylum seeking families who don't leave voluntarily once their claims are refused and their appeals rejected. This is already the position for single people, and the 2002 Act extended it to asylum seeking families who don't report at the airport for removal when they're told to. Now, the Bill proposes simply to deprive families of all support if they don't leave *before* being told to. All NASS support will end and local authorities will be unable legally to support families. Only children can be looked after, after separating them from the rest of the family. The aim presumably is to starve out those that the Home Office hasn't got around to deporting. It is unclear what people from countries such as Somalia and Iraq are supposed to do, as the government currently operates no returns to these countries in recognition of the instabilities there. Presumably they will be entitled to so-called hard cases support, which is an absolutely basic hostel accommodation. Generally, what this clause will do is to force families underground at the end of the asylum process, swelling the class of people forced to survive in the illegal economy, too frightened of being caught to seek health care or to send their children to school.

The last major part of the Bill is about reducing rights of appeal and review of asylum decisions. This part of the Bill has been severely criticised by senior judges and by three parliamentary select committees. The news is that this proposal has now been partly dropped in the House of Lords. But access to a fair hearing will still be restricted, not least because of a separate measure, introduced from this month, which imposes a 5-hour time limit on the legal aid work that solicitors' can provide in the initial decision-making process. The new legal aid system also means that an asylum seeker who's been screwed by one firm will find it very hard to get help from another, and asylum seekers will find it very difficult to have solicitors accompany them to Home Office interviews. Even under the system that has existed till now, one in five initial Home Office decisions were proven to be wrong on appeal. For some countries, such as Somalia, the error rate has been even higher, reaching two out of every

five. This is a shocking rate of error on decisions which are effectively matters of life and death. With the new limits on legal aid, the chance of a fair hearing will be even less. And the opportunity to appeal against an incorrect initial decision will be drastically curtailed. All of this is especially worrying given the government's plans to increase deportations and make destitute those it does not deport.

The distinction between genuine and bogus asylum seekers, which was once central to the government's rhetoric, has now been collapsed into the single category of an 'illegal entrant'. That is the logical outcome of Tony Blair's pledge last year to halve the number of asylum seekers over twelve months. Notice that he did not pledge to halve the number of false claims – it was genuine claims as well that needed to be reduced. It was a declaration of intent that Britain was no longer willing to commit itself to its obligations under the Geneva Convention. And it was all the worse for being done in order to please the newspapers who have mounted an unrelenting campaign against immigrants, particularly over the last five years.

Last year, you could have read articles blaming asylum seekers for terrorism, for TB, AIDS and SARS, for failing schools, for failing hospitals; you could have read articles blaming them for falling house prices, or for rising house prices. They were blamed for dwindling fish stocks in our rivers (asylum seekers are, apparently, involved in unlicensed fishing) and for the declining numbers of swans on the river Lea (apparently they are being stolen by asylum seekers). The *Daily Star* even blamed asylum seekers for missing donkeys – they were eating them, you see. If asylum seekers did not exist, they would have to be invented. And, as far as the popular image of asylum seekers is concerned, it is entirely invention.

Even after the government had met its target and introduced another asylum bill which practically makes it a criminal offence to claim asylum, the newspapers did not lay off. They merely accused the government of fiddling the figures by allowing asylum seekers in through other channels. The debate then became one about immigration in general rather than just asylum and the entrance of new countries into the European Union became a new front on which the newspapers could attack immigration. Fears were stoked of millions of Gypsies coming to Britain from eastern Europe. The metaphor used by the *Express* was that Gypsies were coming to 'leech' on us, which means they were coming to suck our blood.

The lesson of this episode was that the newspapers' agenda cannot be appeased by tougher legislation to tackle so-called abuses of the system. The fears and insecurities that the newspapers are

expressing go much deeper? What is the basis for these fears? They are connected, I would suggest, to changes in the global economy. Advances in information technology have provided for economic globalisation, a process led by trans-national corporations. Not only can industrial production be freely relocated to wherever labour is cheapest but even services can uproot themselves – as shown by the growing exodus of call-centre jobs to Asia. The old concept of the nation-state which, at least in principle, aimed at securing the highest welfare for the national community, has given way to a concept of the state aimed at maximising market opportunities for individuals.

Globalisation itself is eroding the boundaries of national sovereignty, by encouraging free trade across borders, through the forced displacement of large numbers of people around the world and through the threat of military intervention against those who oppose the dictates of Washington.

But there is little understanding of what drives these changes and still less opportunity to intervene in them. As power has shifted to the global level, democracy has withered within national boundaries. Which means that globalisation is experienced as an alien force over which we have no control. And immigrants, as the most obvious manifestation of the new global forces, are easy targets. In this hothouse of powerlessness, a new racism is sprouting.

It is a racism based on insecurity, anger and hysteria. It finds support in the suburbs or the countryside as easily as in the inner city. Its main focus is the new migrants to Britain – whether asylum seekers from the Middle East, Asia and Africa, workers from eastern Europe or undocumented migrant workers from outside the West. And Muslims come in for particular hatred. It is a racism that regards these groups as responsible for the erosion of the welfare state, even though there would not be a welfare state without them. It regards the loss of national sovereignty as somehow the fault of these groups, even though they too have been victims of globalisation. And it regards these groups as culturally inferior, having nothing to contribute to the world of political or cultural value.

This is what lies behind the policy of ‘community cohesion’ and the recent debates about ‘integration’, i.e. aggressively integrating immigrants by demanding that they adopt ‘British’ social norms. The recent oaths of allegiance ceremonies and the proposed citizenship and language tests are the most obvious manifestation of this shift. In the hands of home secretary David Blunkett, community cohesion has come to mean that not just immigrants, but non-white communities in general and Muslims in particular, should be pressured to show their loyalty to Britain. If you don’t speak English at home, you are in danger of suffering from schizophrenia. (That not only shows a complete

misunderstanding of multilingualism, but also of mental illness). If you exercise your right to appeal against a conviction, you are a whinger. If you marry someone from abroad, you are self-segregating. Rather than tackle the institutional problems that lie behind the segregation of some of our towns and cities, we have instead a sole focus on non-Western culture as backward. Obviously this trend has been greatly encouraged by the so-called 'war on terror' and the new patriotism which has sprung from it.

The reason I raise these connected issues is that they show how the question of refugee rights is inseparable from the questions of racism, of globalisation, of the rights of migrant workers. If we are to break through this climate of fear and hostility then we need to go further than legalistic campaigns based on individual cases. We need to connect the fight against deportations with the fight for the right to work legally and with proper protection. We need to connect the fight against detention of asylum seekers with the fight against detention of foreigners without trial at Belmarsh prison, under anti-terrorist laws. And we need to connect the fight against deadly border controls with the fight against the multinational corporations which displace people in the first place.

Let us start by building on the actions already being taken by refugees themselves: the hunger strikes, the acts of disobedience, and the other protests which often get ignored and isolated. Only in this way, I think, will we be able to offer an alternative to New Labour's new racism.

Thank you.