The criminalisation of diversity

Jon Burnett discusses increased state criminalisation of migrant communities and the social harm that results.

Throughout 2008 the Home Office has begun to instigate a series of wholesale reforms of the immigration and asylum system. With a concerted focus upon 'immigration crime' (Home Office, 2008), notable among these reforms has been the creation of a 'watch list' list of immigration offenders in the UK. This watch list is to be used in order to prevent people from accessing mainstream statutory services, to assist in gathering intelligence, and to track down 'illegal immigrants' (ibid). Its reach looks set to be vast. In 2005 the Home Office estimated that there were between 310,000 and 570,000 people in the UK who could, by definition, be included in its terms of reference. If the highest estimate was to be taken, that would roughly equate to nearly one in every 100 people in the county.

While this year may have seen a concerted increase in policy shifts in migration control, these reforms have however served to consolidate a series of avenues of criminalisation that have been developing throughout New Labour's period of government including, for example, failing to claim asylum immediately upon entry (which can lead to refusal to provide support). Establishing a watch list of 'irregular' migrants requires a variety of bodies, agencies, and departments to share information on the movement of an increasing number of people. Yet it forms only one part of a wider system of migration control that is articulated at both national and international level in a context of massively increasing global inequality.

In a world where thousands of people die every day for want of clean water and food, the Fortress Europe policies of the 1990s have responded only by developing even stricter regimes of exclusion. It is little secret that Western European states are actively seeking to utilise those migrants whose skills and abilities are deemed to fit labour needs. But for those who are considered unnecessary, or indeed 'irregular', an ever growing arsenal of criminal justice powers are available to prevent the breaching of European borders. The European Commission has suggested that 20 million migrants are required until 2020 in order to maintain its vision of economic growth. Yet in order to ensure that only those who are deemed necessary are permitted entry, measures agreed in the summer of 2008 have ushered in an 18 month prison sentence for irregular migrants who, if expelled, attempt to re-enter Europe's borders: a move that has been described by a coalition of leaders from poorer nations as 'legalised barbarism'.

This legalised barbarism, placing capital way above humanity, has already led to a purge of human destruction and in May 2008 *United Against Racism* documented 11,105 deaths since January 1993 that they attributed to Fortress Europe. Many, although not all, were of those who died attempting to reach another country (United Against Racism, 2008). Similarly, the Institute of Race Relations identified 742 people between January 2002 and June 2003 who had died 'attempting to reach Europe' (Fekete, 2003). While their immediate causes of death were attributed to a combination of factors including starvation, suffocation, drowning, hypothermia, heat exposure, and treading on landmines (ibid); as the author of the report suggested, 'EU policy is, quite literally, funnelling people to their deaths' (ibid).

New Labour's policies of criminalisation have emerged hand in hand with their reshaping of immigration and asylum law and procedure. Attempts to reduce the number of asylum applications have, in purely technocratic terms, been 'successful', and applications went from 32,500 in the year New Labour came to power, peaked five years later at 84,130 in 2002, and had been reduced to 23,430 in 2007—the lowest number of applications in 14 years. Yet this has been achieved, in part, through criminalising entry to unprecedented degrees. In July 2008 for example a senior judge remarked that criminalising the use of false travel documents—essential for many to leave their countries if they are being persecuted—could potentially have resulted in people being deported to their deaths (Verkaik, 2008). While for those whose claims are refused their very presence becomes 'illegal' and, in effect, their existence becomes a crime. Already denied the right to work, the Home Office has recently increased both resources and manpower in an attempt to track down those who have the audacity to find a job. And this will be likely to lead to an increase in the number of people who are deported each year; a figure that in 2006, including those not involved in the asylum process, was averaging at a removal every eight minutes. Yet this purge on 'illegal working' is rarely, if at all, discussed by the Home Office in the same context as a set of policies which have rendered undocumented labour the only option available for some other than absolute destitution; no matter how exploitative and dangerous working conditions can be. Nor is it discussed in a context of massive reductions in legal aid that, as a result, have forced certain 'refused' asylum seekers to work in an attempt to raise fees in order to pay solicitors for assistance.

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In this framework, the increased criminalisation of those seeking asylum has been fostered through a rising of tide of 'xeno-racism' that, as Sivanandan has explained:

> *[I]s a racism that is not just directed at those with darker skins, from the former colonial territories, but at those newer categories of the displaced, the dispossessed and the uprooted, who are beating at western Europe's doors, the Europe that helped displace them in the first place . . . It is a racism that is meted out to impoverished strangers even if they are white. It is xeno-racism (cited in Fekete, 2001).*

Xeno-racist reforms have underpinned concrete policy shifts that have, and continue, to utilise criminal law (whether nationally or internationally) as one force through which to 'manage' global movements of people; in part for the dictates of capital. Yet they in turn have been bolstered through a wide ranging attack on multiculturalism that, emerging synonymous with the instigation of the 'war on terror', has reduced what are perceived as the acceptable limits of diversity. Most succinctly, the Institute of Race Relations has analysed this attack on multiculturalism and its implications, and critiqued the manner through which multiculturalism has been cast as a, if not *the*, main contributing factor in a national sense of moral decline, fragmentation, and alienation. Bolstered by a wide range of researchers, politicians, journalists, and intellectuals; a perception has been consolidated that 'too much' diversity has underpinned a range of events from urban disorders in Northern cities in 2001 to terrorist attacks in London in 2005. The response has been to push through policy reforms that aim to rewrite and foster a form of national identity. Current Prime Minister Gordon Brown is by no means the only politician to champion a new form of Britishness, but he is one of the most vocal.

In this context, Muslims have borne the brunt of an increasing battery of legislative advances that have criminalised those perceived to exist beyond the boundaries of an undefined sense of national identity (Kundnani, 2007). The presumption of innocence has been fundamentally eroded; the Kafkaesque cells of Belmarsh prison have morphed into the house arrest confines of control orders; and it is predominantly Muslims (or Asians who have been assumed to be Muslims) who have been the target of massive increases in stops and searches using anti-terror powers.

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There is little doubt that new and emerging forms of criminalisation, inherently demonising and vilifying communities and individuals, have underpinned new forms of coercion and state activity (ibid). What this in turn requires analysis alongside though is a marked increase in incidences of popular racism. Government figures released earlier this year, for 2006/2007, showed over 61,000 reported racially motivated incidents: an increase of 28 per cent over the last five years. And these statistics reinforce concerns by a variety of anti-racist organisations and monitoring bodies. In the three and a half weeks after the 7 July terrorist attacks in 2005, for example, 269 'religious hate crimes' were reported by the police in London alone, compared with 40 in the same period in the previous year. Increased *reporting* of racist incidences may be one factor accounting for this rise; but it is extremely unlikely to be the only factor. As the New Labour government focuses attention on fostering a sense of community cohesion the implication, both explicitly and implicitly, is that diversity poses a problem for stability and security. In doing so, a general tone is set.

In 1999, William Macpherson emphasised the manner in which racism was embedded in the institutional structures of Britain in his enquiry into the brutal murder of Stephen Lawrence. The inference was that the two were linked. His report was welcomed at the time by the New Labour government yet nine years later this same government appears to have lost, or shrouded any analysis of institutional racism. It is vital that researchers, campaigners, and activists, through analysing new and emerging forms of criminalisation, do not do the same.

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