

**SYMAAG (South Yorkshire Asylum and Migration Action Group) with
ASSIST (Asylum Seeker Support Initiative Short Term) and the NRC
(Northern Refugee Centre)**

**Submission to the Universal Periodic Review by the U.N. of the UK
government's Human Rights Record 2012**

Executive Summary

This submission argues from experience of working with and alongside asylum seekers in South Yorkshire that the U.K. government is failing to honour the human rights of migrants and asylum seekers. This submission covers the asylum system and its 'culture of disbelief' of the testimony of claimants, forcible returns to unsafe countries and the everyday destitution and neglect of 'failed' asylum seekers.

Sheffield City Council is one of the few local authorities to welcome refugees in recent years from Liberia, Ruanda (Congolese), Burma, Iraq, Ethiopia and Somalia under the UNHCR Gateway scheme. The city was the first City of Sanctuary in the U.K. In the view of our organisations, the UK would better demonstrate the spirit of the 1951 U.N. Refugee Convention by expanding its participation in this scheme.

Section One the Issues

The U.K. Asylum Seekers and Migrant Workers

Issue1. Fundamental international asylum rights are breached by the U.K. government because there is no legal way for many if not most refugees fleeing torture and persecution to actually present themselves in the U.K. to claim asylum. Even when they get to the U.K. it is made as difficult as possible for refugees to register a claim with only one centre in Croydon London, many miles away from areas like South Yorkshire in the North of England. This clearly breaches the spirit of article 14 of the Universal Declaration of Human Rights which states that everyone has the right to go to another country and ask for protection if they are being persecuted or are in danger of being persecuted.

This is a question also for the E.U. as a whole where FRONTEX the E.U.'s border agency treats any person seeking to gain entry to the E.U. without a visa as an 'irregular' or 'illegal' migrant who has been criminally trafficked..

Issue 2. The absolute right in Article 3 of the Universal Declaration of Human Rights and in the U.K. Human Rights Act 'not to be tortured or treated in an inhuman or degrading way' in our view is constantly ignored by the UKBA policy of forced returns of asylum seekers to war zones, and to states where they patently risk torture and / or inhuman treatment. In South Yorkshire we have experience of such deportations or threatened deportations to Iraq, Afghanistan, Ethiopia, the DRC, Sudan and Zimbabwe.

Issue 3 The U.K. is undermining fundamental human legal rights ‘to a fair trial’ for those claiming asylum by damaging cuts to legal aid for immigration cases and cuts in funding for advice services for asylum seekers and refugees. The U.K. is currently holding the chair of the Council of Europe and is actively seeking to restrict the jurisdiction of the European Court of Human Rights where the claimed infringement results from statute or a decision of a higher court. A key reason appears to be to prevent immigration cases from being heard by the European Court of Human Rights

Issue 4 The U.K. still refuses to ratify the ICRMW (International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families).and **is one of only a tiny number of states refusing to ratify the 2011 ILO convention on domestic workers.** SYMAAG along with other organisations in Sheffield has organised public meetings on these issues.

Issue 5 Child Detention.

Despite the U.K. being signatory to the U.N. Convention on the Rights of the Child and pledges from the current Coalition Government to end child detention in immigration cases the practice continues.

Issue 6 Rights to Family Life and Marriage

Regulations and government policies constantly threaten the rights of asylum seekers and refugees to find sanctuary with their families in the U.K. and to marry who they choose.

Issue 7 We would argue that the phrase ‘inhuman and degrading treatment’ in Human Rights declarations describes exactly the treatment of asylum seekers and many migrants by the U.K. government and the United Kingdom Borders Agency through inadequate support and destitution.

This has become clear in Sheffield and South Yorkshire over many years and certainly in the last four years since 2008.

- a) We and other Sheffield asylum rights and welfare organisations (in particular ASSIST) have extensive experience of asylum seekers left destitute, and homeless.
- b) Asylum seekers have as a matter of policy been refused access to health care,
- c) So called ‘failed asylum seekers’ are subject to degrading and inadequate forms of support and payments.
- d) Asylum seekers are refused the right to work to support themselves.

In our view the U.K. government is in clear breach of its own Human Rights Act guaranteeing the ‘Right not to be.....treated in an inhuman or degrading way.’

Section Two: the Evidence base

Issue 1 The problem of no legal route to claim is created by the combination of visa regimes, carrier sanctions and juxtaposed controls. This is compounded by the Crown Prosecution Service and defence lawyers not being well briefed on defences available

under the Refugee Convention to those who use false documents. Some wrongful convictions reach the appeal courts, (see e.g. *R v M, MV, M and N* [2010] EWCA Crim 2400 and *R v Jerdi* [2011] EWCA Crim 365) but our organisations meet many others who have not had the legal support or resources to make these challenges. Support organisations for asylum seekers in Sheffield and South Yorkshire have many examples of ‘irregular’ migrants forced to seek covert entry or to use inaccurate entry documents who have later been recognised as bona fide refugees fleeing torture, violence or inhuman treatment.

Regarding the access point for making a claim, we are seeing people in South Yorkshire who have been dropped off a lorry in the north of England with no English language, no awareness of where they are or what to do, yet they have to travel 200 miles south again to Croydon to claim asylum.

The practice and exclusionary policies of FRONTEX are documented in SUPPORTING DOCUMENT (p.11) with extracts from a recent Research Briefing from SYMAAG.

Issue 2 Amongst many recent cases in South Yorkshire which evidence this willingness to forcibly deport asylum seekers to manifest danger and violence (and also evidence a culture of disbelief of asylum seekers in the system) are those of two asylum seekers who are in effect stateless, and we contend should be treated as such, and asylum seekers from the DRC and Zimbabwe.

One a stateless young man of twenty born in Afghanistan who as a child escaped without his family to Iran and eventually to Sheffield where he lived and was educated and made a new life. The UKBA detained him for deportation to Afghanistan where he has no family Campaigners managed to get the courts to intervene and he is back in Sheffield.

The second a stateless disabled woman in her 60’s who was born in what is now Eritrea. Her whole family was murdered by Ethiopian forces due to their support for a group called the Eritrean Liberation Front (ELF) in 1988 but she was one of the few in her village who managed to escape. She fled to Sudan and then Saudi Arabia where she worked as a nanny/household helper for a Saudi family. She suffered an accident in 2000, which left her with difficulty walking and meant she could not carry out some tasks. The family she worked for stopped paying her wages, and then some years later (on a trip to the UK) they abandoned her alone in London with no money and no identification. The Home Office is currently planning to deport her to Ethiopia. This is despite the fact that she has never lived in Ethiopia and has no contacts there, and does not speak the language.

The third a Congolese asylum seeker and political refugee and a prominent volunteer worker, pastor and organiser in Sheffield over nine years who although found guilty of working whilst not entitled to work challenged his deportation as a ‘foreign criminal’ The judge not only halted his deportation but on the evidence of the real threat of torture and violence should he be sent to the DRC, gave him the right to remain as a refugee.

The fourth a mother and two daughters from Sheffield who were detained for several months in Yarlswood detention centre with a view to deportation to Malawi, because, although Zimbabweans, they had fled sexual violence in Zimbabwe and came to the UK on forged Malawian passports. CDAS and SYMAAG joined with many others in campaigning on their behalf. Following a successful judicial review of their cases, the Home Office granted them indefinite leave to remain.

Issue 3 Cuts in legal aid threaten human rights to a fair trial

In 2001/2, 458 solicitors held contracts to do legal aid work in immigration and asylum. Following cuts in public funding, by 2009/10 this had reduced to 170 (evidence given by the Law Society to the High Court in *R (on the application of Medical Justice)* [2010] EWHC 1925 (Admin)). Then in June 2010 cuts in legal aid forced the closure of a major provider of free legal advice and representation to asylum seekers: Refugee and Migrant Justice. In July 2011 cuts in legal aid resulted in the closure of a local office in Sheffield of the Immigration Advisory Service (the largest U.K. national agency which closed with 200 staff losing their jobs) with many asylum seekers losing legal support and delays in cases. The oldest national agency the Refugee Council faced cuts of 62% in April 2011 from government for its advocacy and asylum seeker and refugee support services. In Sheffield the main refugee agency the Northern Refugee Centre has faced serious cuts in government funding and has severely restricted its advice and advocacy work in the current year (2011)

The cumulative effect is that access to justice for asylum seekers is decimated. For impact on U.K. and ECHR Immigration cases see Frances Webber 'Human Rights : the assault continues' IRR News service 8th September 2011)

Issue 4 Migrant workers rights

The Coalition government is seeking to remove an essential safeguard for domestic workers coming to the U.K. in the abolition of the special visa for such workers.(See recommendations)

Issue 5 Child Detention

The present U.K. government still has a policy of detaining children during forced deportations. A Sheffield family was deported in October 2011 to the Gambia after detention of the children

'Due to the persistent refusal of the family to leave the UK, the returns plan proposed that if necessary the family could be split - with the father returning with the children if the mother attempted to disrupt the removal.

A team of arrest trained officers from South Yorkshire LIT (Local Immigration Team) attended the property in Sheffield and the family were removed to Cedars (a new 'family detention centre) for one night prior to their flight..

On arrival at the airport the following day, the mother had to be removed from the plane before take-off as her behaviour was disruptive and causing distress to the children and other passengers. As agreed by the panel, the children returned to Gambia with their father. Plans were quickly made to remove the mother on the next available flight, to ensure the family were re-united as quickly as possible.(UKBA United Kingdom Borders Agency 'Partnership and Engagement Update' October 2011)

Issue 6 Rights to family life and marriage

A Zimbabwean husband and wife face deportation from Sheffield – he as a ‘foreign criminal’ having served a prison sentence for working whilst an asylum seeker, and she simply as a ‘failed asylum seeker’. Their daughter has only known England as a home and has been educated there and will take important end of school exams and has been encouraged to apply for a bursary to go on to university. The UKBA say immediate removal of the whole family will not threaten the well being of the children. The U.K. government has been repeatedly challenged on its view of Zimbabwe as safe for any returning refugees from discrimination and violence

Issue 7 Inhuman and degrading treatment of asylum seekers

(a) Destitution

The clearest evidence for treatment of failed asylum seekers is in the work of ASSIST (Asylum Seekers Sheffield Intervention Short Term) which supports asylum seekers who are now destitute in Sheffield. There is also a small ASSIST group in Rotherham. They collaborate with SYMAAG and other local agencies and campaign groups. In 2010/11 nearly 25% of destitute failed asylum seekers clients were from Iran (57 of 219). The other large groups were from Eritrea, (25)Zimbabwe,(21)Iraq (18),Ethiopia (14),Congo Kinshasa (11),Afghanistan (10), and Somalia (10) – war zones or manifestly failed states or oppressive regimes. The ASSIST Helpdesk had 1183 enquiries an average of 25 a week with money (330) housing (312) and food (253) dominant. ASSIST found 41 rooms for 61 people, and with a local church provided a night shelter for up to 18 men and women daily – 76 over the year an 82% increase in men and a 45% increase in women from the previous year. From the Helpdesk 149 enquiries from asylum seekers said they were ‘rough sleeping’ on the streets.(Statistics from ASSIST Annual Report 2011 pp 5,8,16,26)

(b) Health Care

In April 2009 when the previous British government proposed even further restrictions on access to health care for asylum seekers the prestigious medical journal ‘The Lancet’ described the proposal as ‘Atrocious Barbarism’ and SYMAAG and other organisations held a large public meeting to mobilise opposition. Asylum seekers forced to seek treatment have often been presented with bills for excessive fees for treatment even though they were often without any funds. Sick or injured asylum seekers now face criminalisation with new regulations from the Coalition government

‘Changes made in October to the Immigration Rules in Parliament mean anyone with an outstanding bill of at least £1000 for NHS treatment will not be permitted to enter or remain in the UK until the debt is settled.. It is hoped that the £1000 threshold will recoup up to 94% of outstanding NHS charges.’(Migration Yorkshire Policy Update Nov. 2011 p.3)

The son of an asylum seeker in Sheffield who has had extensive hospital treatment and is still very ill, but now at home, has been presented with a hospital bill of over £100,000. His mother as an asylum seeker has no resources. (Source: worker with project November 2011)

(c) Degrading and inadequate forms of support and payment

In 2010 a national coalition of asylum and refugee agencies (Including the Refugee Council and the Scottish Refugee Council) published research on the Azure card which was a payment system for 'failed asylum seekers' awaiting appeals or unable to return to their countries. The research findings

'demonstrate that refused asylum seekers surviving on Section 4 support continue to experience hardship and deprivation as a result of the 'Azure' payment card....making it an inappropriate and inhumane form of support' (Sile Reynolds 'Your inflexible friend: the cost of living without cash' Asylum Support Partnership November 2010 p 49)

SYMAAG and the Northern Refugee Centre (NRC) did parallel research in South Yorkshire with evidence from local asylum seekers.

One woman asylum seeker in Rotherham "I cannot use the card outside the supermarkets and simply cannot get fresh African type vegetables from the local Rotherham market," She said she had 'feelings of anxiety or shame' when using the card.

Despite a series of approaches and lobbying from M.P.'s and other organisations the policy and the Azure cards still remain

(d) Asylum seekers and the right to work

'A political activist and asylum seeker from Doncaster/Iraqi Kurdistan had campaigned for the rights of asylum seekers and acted as an advisor for them in South Yorkshire since 2007. Like most asylum seekers he was not allowed to work legally. In 2010 he had been waiting seven years for a decision on his claim for asylum. Seven years of living on food vouchers. In February 2010, immigration officials came to his house to detain him for working illegally. At his first hearing at Doncaster magistrates court, he explained that by not allowing him to work 'the law makes me a criminal'.

On 17 March he appeared at Doncaster crown court for sentencing. The barrister representing him presented a thick file of supporting documents to the judge. This contained his history of persecution in Iraq; of his political activism there (he is a communist); character references and supporting letters from his many friends and comrades in the UK. The barrister had been briefed well –the experience of Iraq and what life is like for asylum seekers who cannot work while they wait years for a decision on their claim. A picture of the persecution experienced started to form: he had had to load the bodies of seventy villagers, killed by poison gas in Sewsenan northern Iraq in 1988; his brother was killed by Saddam Hussain's political police; he was tortured so much that he couldn't recall how some bones were broken; his family were harassed for their political beliefs. The judge started to take notice. He seemed shocked that this man was totally without cash and seemed to appreciate what it must be like to be separated from your friends and family for seven years. The Kurdish man from Iraq stood, proud

and dignified, behind a glass screen with an interpreter, as the judge gave his sentence. 'I have never heard such a testimony in my life' he said. 'Given such mitigating circumstances I am not going to send you to jail.' This appearance in court educated his barrister, the judge and everyone else about what life for an asylum seeker can be like in our civilised country.' (adapted from Stuart Crosthwaite SYMAAG secretary 'Why do they call me a criminal?' Institute for Race Relations (I R R) News Service April 8th 2010)

Section three: recommendations

(i) The 2008 Universal Periodic Review for the U.K.

On the last occasion when the U.K. was subject to a Universal Periodic Review in 2008. The Working Group recommendations relating to our concerns in the field of asylum rights in 2008 were rejected by the U.K. government

Recommendation 20 Protect the children and families of migrants and refugees and accede to the International Convention on Protection of the Rights of All Migrant Workers and Members of their families (ICMRW). Was met by a response from the U.K. government that it 'applauds the intention and spirit' of the recommendation but rejects the idea of the ICMRW as the answer.

(General Assembly Human Rights Council Eighth Session 25th August 2008 p.10)

Our experience in South Yorkshire suggests that ratification of the ICMRW and the ILO Convention on Domestic Workers 2011 by the U.K. government should be a necessary part of changes in policy in these fields

Recommendation 24 Withdraw its reservation against the Convention on the Rights of the Child concerning the provision that detained children be separated from adults while in detention as well as the withdrawal of their reservation concerning refugee and asylum seeking children.

(General Assembly Human Rights Council Eighth Session 25th August 2008 p.11)

Although the U.K. government withdrew its reservation to the CRC, there are still concerns about the use of detention even as a last resort for children. The Cedars is presented as not being detention, but it is run by G4S, whose employees were criticised by the Chief inspector of Prisons for a 'shamefully unprofessional and derogatory attitude', and some of whom are under arrest in connection with the death of an adult detainee during removal. We are very doubtful that the regime at The Cedars will be as 'family friendly' as it is presented by the government, while it is run by this security firm. G4S employees are on 24 hour guard, search detainees, and escort them to and from the visitors' lounge. Although the Cedars is locked and has a high perimeter fence, it appears from this that it is run internally as secure establishment. In the 2008 report of the Working Group the UK A/HRC/8/25 para 41,

Algeria noted that refused asylum seekers do not always receive support. The ASSIST experience Issue 7 para a above shows that this problem has not been addressed. See also *Coping with Destitution: Survival and livelihood strategies of refused asylum seekers living in the UK*, (2011) Crawley, Hemmings and Price, Centre for Migration Policy Research, Swansea University and Oxfam.

(ii) Recommendations on Human Rights and the ‘inhuman and degrading treatment’ of asylum seekers and migrants by the U.K. government

SYMAAG and other groups in Sheffield around the Westminster Parliamentary elections and local elections in South Yorkshire in May 2010 asked candidates to pledge their support for fundamental reforms of the Asylum and Immigration laws and practice of the U.K. These are still the key recommendations we would make

‘People seeking asylum have much to offer the communities of South Yorkshire but they are among the most vulnerable people in our region. They face a difficult life here, often with prolonged uncertainty about their future. They are not allowed to work. Some receive very limited financial support in the form of inflexible vouchers or personalised ‘azure cards’, but others are destitute. Legal support is inadequate. Fresh claims from within the UK have to be made personally in Croydon. Many of those seeking asylum suffer from mental and/or physical health problems, but their access to healthcare is restricted. They and their children can be detained for indefinite periods without the right of habeas corpus. Their efforts to become integrated into this country are often frustrated by a lack of classes in English.

It is sometimes suggested that we need to treat people in this way in order to deter others from seeking asylum here. Research evidence gives no support to this argument. We should rather be guided by our regional traditions of hospitality and generosity towards those who are vulnerable.

We are asking you to pledge yourself to a more humane system by supporting the following reforms:

- *Grant those seeking asylum the right to work;*
- *Replace vouchers and azure cards with adequate cash support;*
- *End the detention of children and seek an Inquiry into the use of detention for adults;*
- *Give those seeking asylum full access to healthcare and to English courses;*
- *Give adequate legal aid and enough time to make legal representations;*
- *Allow fresh claims and submissions to be lodged with the nearest Borders Agency office and meet related travel costs.*

(From a pledge letter sent to political candidates by SYMAAG, ASSIST, CDAS, STAR, City of Sanctuary April 2010)

The British Red Cross in a Report ‘Not gone, but forgotten: the urgent need for a more humane asylum system’ (June 2010)

Suggested four key changes ‘to the asylum system which would improve the humanitarian situation of this vulnerable group’

- The adoption of the principle that destitution should not be an outcome of the asylum system
- The provision of support for all destitute refused asylum seekers with dependent children
- An end to end asylum support structure, including permission to work, until the applicant is either removed or granted leave to remain’
- An entitlement to healthcare throughout the asylum process

SYMAAG and those organisations supporting our submission would certainly endorse this call for fundamental reform

‘The U.K. Government has decided not to opt into the European Commission’s amended proposals for asylum procedures and reception conditions directives. This would have allowed asylum seekers without an initial decision to work after six months, restrict detention, and restrict accelerated procedures and non-suspensive appeals (where a right of appeal can be exercised out of country only) - which would affect the UK’s detained fast track system.’ (Migration Yorkshire Policy Update November 2011)

We recommend from our experience that the U.K. government reverses this decision not to opt into European directives on the right to work and detention issues.

(iii) Recommendations on state asylum procedures in the U.K.

SYMAAG and other organisations supporting this submission have pressed for fundamental reform of asylum procedures and have met with the Deputy Prime Minister of the U.K. on a number of occasions (he is a Sheffield M.P.) to press for a fundamental review of asylum procedures to be independent of the enforcement agency the Home Office and the UKBA.

The ‘culture of disbelief’ has to end

This fundamental review of the asylum procedures in our experience, from cases of threatened deportation we have encountered, has to include an overhaul of a ‘culture of disbelief’ of asylum applicants to the U.K. and a reform of the way the Home Office gathers and uses ‘country of origin information’ in deciding applications. This same point was made in a July 2011 **report by the Independent Chief Inspector of the U.K.**

Border Agency who found

‘a lack of efficiency and consistency.... ‘the Agency (UKBA) did not produce country information reports for all the countries whose nationals may undergo ...the detained fast track.....17% of reasons for refusal letters from our file sample showed either the selective use of country information or unjustified assertions....Over 13%....included country information...at best tangential to the issues relevant to the asylum claim....Country information was poorly referenced in 33% of the cases sampled making

it exceptionally difficult for applicants and legal representatives to check the information.'

(John Vine 'The use of country of origin information in deciding applications: a thematic inspection October 2010 – May 2011' July 2011 p.3)

The U.K. government has to monitor forced returns

Cases of asylum seekers encountered in South Yorkshire particularly from Iraq, Zimbabwe, Sudan and the DRC have exposed a total neglect of any systematic monitoring of forced returns to war zones or 'failed states'. In correspondence with the current Immigration minister he has stated

'that the UK was 'under no obligation to monitor the treatment of individual failed asylum seekers who return to their country of origin.' (City of Sanctuary news report on meeting with Deputy Prime Minister 'Clegg concern over monitoring reports' August 30th 2011)

The U.K. has opted out of the European Return Directive which would have required them 'to 'provide for an effective forced-return monitoring system' by December 2010. The EU has disclosed that as a result of the Directive, 17 member states have monitoring systems in place and a further five have begun legislation to introduce systems.

From our experience we would strongly recommend the U.K. government to comply with the European Return Directive

(Word Count 4,411)

A summary of this submission was circulated to a range of organisations and agencies and individuals. The organisations and individuals below have pledged their support for the submission

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DEWA (Development and Empowerment for Women's Advancement), c/o NRC, Scotia Works, Leadmill Road, Sheffield S1 4SE

South Yorkshire Refugee Law and Justice: C/O Northern Refugee Centre, Castle Market, North Gallery, Exchange Street, Sheffield, S1 2AJ

Why Refugee Women (no postal address) www.whyrefugeewomen.org.uk

UAF (Unite Against Fascism) Barnsley Branch barnsley@yuaf.org.uk

Individuals:

Prof. Danny Dorling, Professor of Human Geography, University of Sheffield

Dave Gibson U.C.U. (University and Colleges Union) E.C. member for the North East

SUPPORTING DOCUMENT Extracts from:

Fortress Europe against the migrants – the role of FRONTEX A SYMAAG Briefing October 2011

Campaigners for asylum rights in Sheffield have witnessed a steady decline in the number of asylum seekers coming to the U.K. in recent years. There are two main reasons for this – firstly it is almost impossible to get to the U.K. to claim asylum ‘legally’. Secondly **many people who would wish to make a claim for asylum as a refugee under international treaties are simply prevented from entering the E.U. to make a claim.**

In November 2010 the European agency FRONTEX deployed 500 border guards from various EU countries to the Greek Turkish border where in their words 350 ‘illegal border crossings’ a day were bringing ‘irregular migrants’ into the E.U. This was **FRONTEX’s first Rapid Border Intervention Team (RABIT) deployment.** FRONTEX admitted that the majority of the migrants were from Afghanistan and Iraq, UNHCR monitoring added migrants from Iran, and Somalia to the main majority groups. The UNHCR and other rights organisations pointed out that these were the very categories of migrants who could plausibly make a case for asylum in the E.U. if they were allowed to enter. RABIT ensured few were allowed to cross the border.

Who is FRONTEX?

FRONTEX (the European Agency of Operational Cooperation at the External Borders of the Member States of the European Union) founded in 2005 is the ‘anchor stone of the European concept of Integrated Border Management (IBM)’. It is charged with implementing E.U. directives and policies in the area of border control, its headquarters are in Warsaw.

Up to July 2010 it answered to the Orwellian titled Directorate General for Justice, Freedom and Security. The Directorate was split and FRONTEX is now under the Directorate General for Home Affairs which interestingly covers immigration, organised crime, human trafficking and drugs and ‘the fight against terrorism’.

The budget of the agency in 2010 was 92.8 million Euro which had increased between 2006 and 2009 by 360 % (Source FRONTEX Annual Report 2011)

What does the Agency do?

In the U.K. FRONTEX is perhaps best known for its **programme of mass deportation flights** picking up deportees from different EU countries and flying them to various destinations which between January and September 2010 included 35 flights with 1800 deportees to countries including Nigeria, (14) Kosovo (8) Georgia (6) Iraq (3) at a cost of between 140,000 and 500,000 Euros per flight. The very legal basis for these flights has been challenged – immigration regulations are based on individual cases not mass removals, or collective expulsions. The flights are often kept secret and legal representation made difficult.

What E.U. policies does FRONTEX implement?

The U.K. Labour government in 1998 formally instituted a regime for immigration and asylum based on deterrence to ‘minimise the attraction of the U.K. to economic migrants’. At the **European Council summit in Tampere in October 1999 measures were formalised to**

ensure ‘refugee reduction’ which was to be achieved by policing borders prior to arrival in the E.U.

Within the E.U., the policy framework within which member states operate can seem to be based on hostility to migrants per se and a willingness to severely restrict rights to asylum. The **E.U. Returns Directive adopted on 16 December 2008 aimed to produce a Europe-wide policy for regulating the treatment and return of ‘illegal immigrants’**. This directive, anti-migrant and with a focus on national interests, marks a significant shift within the politics of the European Parliament that had hitherto “consistently argued for a comprehensive and migrant-friendly approach”. Migrants Rights International have summed up this process *‘Dominant considerations regarding displacement of people have deteriorated from assistance and hospitality to rejection and hostility’*

FRONTEX and ‘third countries’ agreements

Frontex has developed a policy of making agreements with third party countries to prevent migrants presenting themselves at E.U. borders. These agreements are based on the assumption that stopping migrants is somehow a fight against criminals. As the executive director of FRONTEX said in 2010

‘There should be no barriers between law enforcement in the Member States and Third Countries. In a way we are all on one side of the border together and on the opposite side are the criminal organisations who are exploiting and abusing people for their own purposes.’
(Source ‘FRONTEX the first five years’ 2010 p13)

Libya a ‘third countries’ agreement?

In June 2010, **the EU Commission and Libya** signed a Memorandum of Understanding undertaking to provide EU technical assistance and cooperation for the period from 2011 to 2013. The **Migration Cooperation Agenda agreed in October 2010 with Libya aimed to jointly address the challenge of managing migration and protecting refugees by offering 50 million Euros in aid to stop migrants and would-be refugees transiting through Libya on their way to Europe**. Meanwhile, with the full support of the EU, **Italy had negotiated two Protocols of technical and police cooperation with Libya dating back to December 2007 and aimed at combatting criminal organizations involved in the trafficking of human beings**. A **Partnership Treaty to strengthen mutual cooperation in various fields, signed on August 2008**, and providing for a \$5 billion compensation package putting an end to the dispute on claims arising from Italian colonialism, **was made conditional upon a reinforcement of Libya’s commitment to the containment of illegal immigration by sea**.

Bearing in mind that the costs of Libyan land borders and territorial waters’ patrols are jointly financed by Italy and the European Union, and are overseen by FRONTEX in the last two years hundreds of migrants and asylum seekers intercepted at sea have been driven back to Libya without any chance of setting foot on European soil to claim asylum. The conditions these returnees were held in caused constant international outrage, confined in overcrowded detention centres where they were exploited, beaten, raped, and abused. **The inadequacy of Libya’s response to the flow of migrants and refugees is so infamous and well documented that it simply cannot be the case that the EU member states are only now starting to gain an insight into Libya’s doubtful track record in human rights, rule of law, and democracy.**

Given this appalling history it is remarkable that **in June 2011 Italy signed an agreement with the Libyan NTC** The agreement provides for “**mutual assistance and cooperation in combating illegal migration, including repatriation of illegal immigrants.**”As an E.U. member FRONTEX will support Italy in this ‘policing’ of its borders.

- http://fortresseurope.blogspot.com/2006/02/immigrants-dead-at-frontiers-of-europe_16.html
- <http://heindehaas.blogspot.com/>
- www.freemovement.org
- www.ncadc.org.uk
- www.migrantsatsea.wordpress.com