Introduction

This article addresses the issue of young separated refugees and their treatment in the context of UK asylum policy, international legal standards and the trend toward a harmonisation of asylum policy across the European Union. It draws on research into the experiences of young separated refugees in the UK, undertaken during 2000-2001 (Humphries & Mynott, 2001; Stanley, 2001), and discusses the findings in relation to the treatment of young separated refugees by local authority care professionals. The discussion goes on to place the development of general UK asylum policy in a wider historical and international context, focusing on Europe. It asks in what sense is asylum policy being Europeanised, and whether it is meaningful to describe this process as the construction of a fortress Europe that affects all categories of asylum seeker, adult or child, accompanied or separated.

We use the term ‘young separated refugees’ as recommended by the UNHCR/SCF (2000, para. 2.1), ‘children under 18 years of age who are outside their country of origin and separated from both parents or their legal/customary care-giver’. It includes those who are unaccompanied and those who are accompanied by an adult who is not their parent or legal customary care-giver. Recent figures show a significant increase in numbers of young separated refugees arriving in the UK, from 631 in 1996 to 3,349 in 1999. In 2000 the number of new asylum claims by unaccompanied minors fell to 2,735 (RDSD, 2001), the largest numbers coming from the Federal Republic of Yugoslavia, Afghanistan, Somalia, Sri Lanka and Turkey.

The UN Convention on the Rights of the Child

Any examination of experiences of young separated refugees must be in the context of the United Nations Convention on the Rights of the Child and the UK’s reservation on asylum and immigration. The UN Convention became part of international law in September 1990, made up of 54 articles stating the rights of the child in civil, political, cultural and social arenas. Articles 2, 3 and 12 have been singled out as the guiding principles, enshrining non-discrimination, the primacy in all circumstances of the best interests of the child, and the importance of the child’s views in matters concerning her or him. States Parties (countries which have ratified the Convention) are required to respect and ensure these rights to children within their jurisdiction, without discrimination towards those who possess citizenship and those who do not.

The UK’s ratification of the Convention lodged a number of reservations, including one pertaining to asylum and immigration policy:

The United Kingdom reserves the right to apply such legislation, in so far as it related to the entry into, stay in and departure from the United Kingdom of those who do not have the right under the law of the United Kingdom to enter and remain in the United Kingdom, and to the acquisition and possession of citizenship, as it may deem necessary from time to time.

This position, that the Convention should not be allowed to impinge upon national immigration and nationality law, is taken by the present government (Martin 1998). Article 22 of the Convention makes special reference to refugee children, and the responsibility of States Parties to:

“take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with international or domestic law and procedures, shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said states are parties, ...accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason.”
The intention is to ensure that children seeking asylum are entitled to rights in the same way as citizens, yet statistically children are less likely to be granted immigration status than adults, and in cases where they cannot provide documents verifying their age, there is inadequate provision made for the identification of minors. Case studies suggest that the principle that gives them the benefit of the doubt is frequently disregarded, resulting in the detention of children sometimes as young as thirteen (Martin, 1998). The Refugee Council identified 152 cases of children having been detained at Campsfield House Detention Centre between 1994 and 1997. Almost a third were detained for less than a month, forty per cent were held for between one and four months and a few for more than eight months (Refugee Council, 1998). Some children have been kept not in detention centres but in young offenders institutions and even adult prisons. The UK government’s reservation on the Convention of the Rights of the Child included the clause: “the United Kingdom reserves the right not to apply Article 37(c) in so far as those provisions require children who are detained to be accommodated separately from adults.

The Convention on the Rights of the Child is unequivocal: “no child shall be deprived of his or her liberty unlawfully or arbitrarily” and “in particular every child deprived of liberty shall be separated from adults unless it is considered in the child’s best interests not to do so” (Article 37[c]). To imprison children who may have experienced frightening, confusing and disturbing situations and who seek refuge in a foreign country without the support of a family is an abhorrent practice. Yet these areas of British asylum policy are protected from the full force of the provisions of the Convention, and the dominance of domestic law over international law is apparent in the experiences of the young people in our study.

Young separated refugees

Young separated refugees share many of the experiences of their adult counterparts, yet they are marked off from the general refugee population in two ways. They are among the minority who are children or young people (that is, under 18), and they are a minority among young refugees in that they have been separated from their parents before their arrival in the UK (MacFadyean, 2001 gives a moving account of their experiences).

Asylum-seekers in general have lesser legal and civil rights than other people living in the UK, including in the provision of welfare. The 1999 Immigration and Asylum Act, removed them from mainstream provision and set up the National Asylum Support Service (NASS) to provide accommodation and financial support. It also introduced special vouchers in place of cash benefits, and established a system of dispersal of asylum-seekers across England. The government has acknowledged that these latter two elements of the policy have been an abject failure and are to be discontinued (Guardian newspaper, 30 October 2001).

Recognition as an ‘unaccompanied asylum-seeking child’ gives an official status leading to a particular care regime. All unaccompanied children meet the definition of children ‘in need’ under Section 17 of the Children Act 1989, and should be registered with the social services department of the local authority where they first present themselves. They then become the responsibility of the local authority, which carries out a needs-led assessment to establish whether applicants are in fact children and are ‘in need’. This stage is critical because it determines the level of care and support provided to a child. Our study found many refugee children without the level of care and protection they need. The European Union is currently developing directives on minimum standards in asylum procedures, which include the treatment of separated children. These minimum standards will, one hopes, place pressure on the UK to improve its treatment to these young people.

The contradiction for refugee children in general and young separated refugees in particular is that between their immigration status and their status as children. The status of asylum-seeker brings lesser rights, and often antipathy and hostility. The status of child brings enhanced rights to social provision in certain areas, and a perception of someone in need of special care and protection. Where young separated refugees are defined as children first and foremost, they are regarded as entitled to having their needs assessed and met to the same standards as other children. Where they are defined as refugees or asylum-seekers first and children second, they are regarded as having inferior rights and can experience inferior treatment. Jones (1998) offers examples of the conflict between children’s legislation and immigration legislation. When these conflicts have been tested legally, the need for immigration control has been accepted as paramount over the rights
and ‘best interests’ of children.

The Home Office initiated discussion in 2000, on possible changes to treatment of separated asylum-seeking children aged over 16, to find ways of reducing abuse by adults claiming to be unaccompanied children, eliminating incentives which attract unaccompanied children, and to set limits on resources (Home Office, 2000). Such changes would signal greater emphasis on age-checking and harsher methods to deter children seeking safety in the UK.

Young separated refugees may be unaccompanied because their parents are dead, or because they have been smuggled out of a dangerous war situation by parents unable to accompany them (the more common experience in our research). Some of them are escaping from forced recruitment into the militia of governments waging war against their own people and certain death if they refuse; some flee beatings, rape, threat and constant fear. Parents often take enormous risks to get them to a safe country. For those who reach the UK, there is concern about their exploitation by traffickers in prostitution, child pornography, sweatshop labour, forced begging or drug trafficking (Ayotte & Williamson, 2001). They also face the consequences of the UK’s reservation on the Convention of the Rights of the Child, as well as the inferior treatment accorded to them as a result of the dominance of immigration legislation over children’s legislation.

Care professionals and the experiences of young separated refugees

A significant number of the young separated refugees who were interviewed had chaotic and disturbing experiences on arrival and received little or no support. Decisions about their asylum applications entailed a long wait and decisions were inconsistent, resulting in anxiety and inability to plan for the future. This pattern continued in their contact with professionals and services, including housing, social services, education and health.

Accommodation

Under the 1989 Children Act and the 1948 National Assistance Act, Social Service Departments are required to accommodate unaccompanied asylum-seeking children under sixteen. However, lack of clarity regarding the amount of grants to local authorities by central government for this purpose, has led to reluctance to become involved in the care of such children, to disputes between local authorities over responsibility for their care, and to unnecessarily prolonged detention of children (Russell, 1998). Those refugees we interviewed were in various types of accommodation. Some were with foster carers, or in hostel accommodation, or with relatives. One was living with his interpreter on a temporary basis. For some the arrangements were supportive, but there were instances of young people placed in settings intended for adult men, or in the private sector, leading to less public accountability and less control over the spending of resources (Humphries & Mynott, 2001). These practices appear to be widespread (Stanley, 2001).

Young people aged 16 and 17 are particularly disadvantaged. Our research found that most young people arriving in England aged 16 or 17 are not ‘looked after’ (that is, placed in public care) as a matter of policy and many are living in poor quality or inappropriate accommodation, with little money or even vouchers issued by the local authority. Some placements where young people were living unsupervised with adults raised child protection concerns.

Role of Social Service Departments and social workers

To supplement the children’s legislation, the British government launched a major three-year programme in 1998, to improve the management and delivery of social services to children. Quality Protects focuses on children who are ‘looked after’, in the child protection system, or disabled. If the local authority meets specific targets in relation to these children, ring-fenced money is released to further improve services. Young separated refugees can be included in Quality Protects targets, but few local authorities have named them specifically in their action plans. A large scale questionnaire study of local authorities (Barnardos, 2000), found that over 60% had not included asylum-seeking children in the Quality Protects plans. The explanation social services managers gave us for this, was that numbers were too small to merit explicit inclusion.

The National Assessment Framework introduced in 2000, contains statutory guidance for assessing children and their families. The framework notes that young separated refugees require particular care and attention during assessment. It is difficult to know the extent to which Quality Protects and the assessment framework influence the approach
to young separated refugees, but the study found that the services received by them varied greatly. Most of those who were ‘looked after’ had some contact with a social worker, although some of them said they had to wait up to three months to be allocated. They said they had benefited from contact with a social worker and would like more frequent contact. Those placed ‘out of area’ were the least likely to have any contact. Some social services departments failed to inform other local authorities of young separated refugees being sent to live in their area.

The way a local authority organises the provision of services and support to young separated refugees will affect the experiences of the young people. The three most important aspects of this organisation are the structure of the teams, the ratio of social workers to young people and the level of training and experience. Our evidence suggests that where children are supported through specialist workers in children’s services rather than through asylum teams, they are likely to be seen as children first, while their needs as asylum seekers are also appreciated (Stanley, 2001).

Generally amongst social workers there was a sense of insufficient support and training for the work. Some had scant knowledge of the legislation or the immigration status of the young people they supervised. They also had not thought through the ethical implications of liaison with the Home Office to check a child’s immigration status. The national study concluded that:

“lack of preparedness was not simply due to the unpredictable nature of arrivals ... Instead it appears to be the result of unwillingness by local authorities to recognise that the support of young separated refugees is a long term issue.” (Stanley, 2001: p.62)

**Education**

Local authorities have a duty to meet the educational needs of all young people up to age 16. Young people aged 16 and 17 are entitled to have access to learning, and social workers and careers guidance professionals should support them to enrol on appropriate courses. It is clear from our research that social workers and education professionals do not always work together to ensure a young person has a place on a suitable course. However, where there was close inter-agency working between social and education services, the young people benefited.

Education, especially learning English language, information technology and vocational courses including medicine and engineering, was a high priority for the young separated refugees, although access to opportunities and the level of support available varied from area to area. Many schools and colleges offer a good service, such as encouraging landlords and social workers to inform young people about their courses, but need more support to be able to cope with the needs of these young people. In one local authority in the study, Quality Protects funding had been used to appoint an educational support officer to designate teachers to monitor and promote the educational interests of ‘looked after’ children in their school. At the same time, bullying, harassment and racism had affected at least one third of those interviewed.

There were other examples of negative experiences at school. For example a young person was sent to school before he could communicate well in English, and another was in a class with much younger children.

**Health**

The young people did not raise health issues without prompting, and most said they were in good physical health. It was clear that although general medical practitioners and primary care trusts had received letters about the needs of young refugee patients, there was little awareness of money available from health budgets for, for example interpreters. However in one area the health authority had produced an information pack for health professionals and asylum seekers (Manchester Health Authority, 2001).

Very few of the young separated refugees were receiving emotional or mental health support due to inaccessibility of suitable facilities, yet their mental health needs were apparent. These children have experienced extreme trauma and fled from dangerous situations; they have worries about the fate of their relatives; they find themselves alone and confused in another country where they do not speak the language; they may face poverty and are not always welcome. They have needs for counselling and perhaps psychiatric treatment. The mental health of young separated refugees was a major concern for many of the adults - teachers, social workers, carers - interviewed. Some of them had taken on a pastoral role and felt responsibility for the young peoples’ welfare, but there is clearly a need for specialised help for this group of children.
The particular legal status of unaccompanied asylum seeking children means that they are not straightforwardly affected either by domestic UK legislation or by attempts to harmonise European asylum policy. For example, unaccompanied asylum seeking children are not subject to the provisions or regulations of the 1999 Immigration and Asylum Act, or any of the UK immigration and asylum legislation of the 1990s. They do come under the provisions and regulations of the 1989 Children Act, so under domestic legislation they should have more legal protection and more rights to advantageous treatment than adult asylum seekers or those children who are accompanying parents who are asylum seekers. Yet in practice they were receiving an inferior service and were often treated as asylum seekers primarily, rather than as children first.

The Europeanisation of asylum policy

It would be naïve therefore, to imagine that policy and practice on young separated refugees exists completely separately from general asylum policy. At the very least, being unaccompanied does not insulate asylum seekers from the widespread negative perceptions of asylum seekers in the UK, whatever the reasons for such perceptions. In examining what drives UK asylum policy, it is necessary to place its development in both a historical and an international context, which for our purposes here is restricted to Europe.

The historical context

In the 1990s the UK passed three major pieces of legislation on asylum: the 1993 Asylum and Immigration Appeals Act (the first piece of primary legislation dealing specifically with asylum in UK law, [Bloch, 2000]), the 1996 Asylum and Immigration Act and the 1999 Immigration and Asylum Act. This established a body of law that increasingly subsumed the issue of asylum into the already existing and long established tradition of UK immigration control.

The turn to a restrictive and punitive asylum policy followed three decades of legislation restricting immigration by black Commonwealth citizens. There is a considerable literature on this area, on the link created in public and political discourse between immigration and ‘race’ (e.g. Foot, 1965; Castles & Kosack, 1973; Sivanandan, 1982; Miles & Phizacklea, 1984; Layton-Henry, 1992; Hayter, 2000). Elsewhere we have discussed the racist nature of UK immigration controls, and the convergence between immigration control and welfare control (Cohen, Humphries & Mynott, 2001), and Dummett has provided an accessible overview of the development of racist immigration controls (2001).

While it is true that individual states have their own specific history and national peculiarities, it is possible to identify broad historical patterns in the construction and application of systems of immigration control by individual nation states. In post 1945 Europe there are roughly three phases:

1945 to the early 1970s: in the aftermath of war there was unprecedented economic expansion and a massive demand for labour which drove an increase in migration. European countries with colonies and ex-colonies (principally France, Britain and Holland) looked to them as a source of labour. West Germany with its lack of colonies turned to Italy, Greece and Turkey recruiting millions more workers (Webber 1991; Dale 1999). Capital’s need for labour created a door much more open to migration than closed, and was seen to be so.

The early 1970s to the late 1980s: the return of economic crisis saw a shift to more restrictive policies on inward economic migration and entrenchment of immigration control. It was not until the 1980s however, that the concern with asylum seeking became manifest. Joly (1994) characterises the period from the 1970s to the early 1980s as one of “uncoordinated liberalism” compared with the “harmonised restrictionism” to come (cited in Ucarer, 1997).

The late 1980s to the present: while national systems of immigration control continued in response to labour migration from former colonies and less developed countries, the new aspect of this phase was the ‘harmonised restrictionism’ in relation to asylum policy. This took different forms and proceeded at a different pace in individual states (for accounts of Sweden, the UK, Germany, France, the Netherlands, Italy and Greece, see contributions to Journal of Refugee Studies 2000). In the UK restrictionism might be dated from the concern with Tamil asylum seekers in the mid 1980s which led to the imposition of visa restrictions on Sri Lanka, the first time such restrictions had been applied to Commonwealth citizens (Bloch 2000). The imposition of visa requirements to various refugee-producing countries was accompanied by the imposition of carrier liability legislation in 1987, and led to the
full-blown asylum legislation of the 1990s. This too was the period of consolidation of what has long been described as ‘fortress Europe’ (see end note).

**The international context**

In the first few decades of post-war immigration control systems, the broad patterns of convergence in policy were the function of European states adopting similar strategies, in the face of an international capitalist economy. Whatever the particularities of a state’s relationship to the wider world, all faced the same general economic situation of labour shortage and a political situation in which international relations were dominated by the cold war and the project of what was then the European Economic Community was in its infancy.

Change, begun in the 1970s and 1980s and continuing today has been the attempt, slowly and uncertainly, to formalise the co-ordination of immigration and asylum policy, whether by intergovernmental agreement or through the supranational agency of the European Union. As we have seen, this has not dethroned the nation state as the key agency of political power but it is a reality which has developed to the extent that it has become meaningful to ask whether particular policy areas are becoming ‘Europeanised’.

‘Europeanisation’ can be understood in its strongest sense or in weaker senses. In its strongest sense it is the construction of a supranational entity which steadily takes over the powers of the nation states that set it up - or more accurately is granted those powers by its member states. For federalists, the logical end point of this process is the ceding of national sovereignty by member states to a regional supranational sovereign body. UK Eurosceptics popularised the phrase describing this, the creation of a ‘European superstate’. In its weaker sense, Europeanisation can be understood as the increasingly close co-ordination of policy by member states to the point of harmonisation. This could take place either through European Union institutions or in its weakest sense - through intergovernmental agreements between member states. In both cases sovereignty would be retained by the nation states that are members of the Union. In order to examine whether and in what sense it is possible to identify a Europeanisation of asylum policy, we must look at the reasons for, the means and the content of any attempted harmonisation.

**Reasons for harmonisation**

The attempt to seriously co-ordinate immigration and asylum policy across Europe began in earnest in the mid 1980s. Up to then, states had operated under a global refugee regime, whose key instrument was the 1951 UN Convention relating to Refugees and its 1967 protocol. Other Conventions potentially impact on asylum issues, such as the European Convention on Human Rights (ECHR) and the UN Convention on the Rights of the Child. We have addressed some of the debate surrounding the latter. For a more detailed discussion of the ECHR and international legal standards relating to migrants (see Geddes, 2000). An EU resolution on minimum guarantees for asylum procedures, including safeguards for women and unaccompanied children, is not binding on EU member states (Bloch, Galvin & Schuster, 2000).

While the 1951 Convention remains the key point of reference for European states, despite different interpretations by states of their responsibilities under it and periodic attempts at ‘reform’, it has increasingly been accompanied, and contradicted (Ucarer, 1997), by a process of policy harmonisation among member states of the EU.

It is common to identify the main cause of harmonisation as the rapid increase in asylum applications to European states in the late 1980s and early 1990s. The perception of this increase as a ‘crisis’ certainly accelerated the adoption of new national legislation by states and multilateral agreements among them. Yet the harmonisation process predated the general increase in asylum claims and persisted throughout the 1990s even while numbers of claims Europe-wide, greatly decreased (Bloch, Galvin & Schuster, 2000).

Rather than a simple response to an increase in asylum claims, it was more fundamentally a by-product of the core activity of the European project - the creation of a single market, defined in the Single European Act as “an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured...” (Geddes, 2000: p.70).

The Single European Act had a long gestation from its 1985 proposal by the European Commission to its eventually coming into force in 1992. However, for EU member states with their entrenched adherence to immigration control, the abolition of internal borders required the simultaneous strengthening of external borders. Thus was the exclusionary logic of nationally-based immigration
control systems extended to the regional arena; and since asylum seekers were the only category of migrant endowed with any meaningful rights to entry and settlement in a receiving state by virtue of the 1951 UN Convention, it is hardly surprising that efforts at harmonisation of immigration policy focused heavily on the issue of asylum, even before the increase in asylum claims. The Schengen agreement, signed by all EU member states except Britain and Ireland in 1990, committed the signatories to dismantling internal border controls, and brought about closer customs and police cooperation to monitor the movement of non-EU citizens. Procedures for reception and resettlement of asylum seekers and the asylum determination process have remained the responsibility of individual nation states.

The means of harmonisation

Ucarer (1997: 287-288) suggests a number of strategies available to EU states in formulating a response to the asylum ‘crisis’:

1. Act unilaterally by enacting domestic legislation, or bilaterally by negotiating executive agreements between receiving and sending, or receiving and transit countries.
2. Act multilaterally by engaging in intergovernmental negotiation in a broad arena containing receiving and sending countries outside as well as inside the EU.
3. Act multilaterally within the EU but not via the institutions of the EU, where the confines of the EU would delimit who was in and who was out of the negotiations, but nothing more.
4. Act multilaterally by using the community apparatus and charging the European Commission to take the lead in developing community legislation that would harmonise the plethora of national regulations pertaining to border crossing, asylum and the like.

Ucarer concludes that unilateral and bilateral approaches have tended to be the first choice for European states. However, strategies 1 to 3 were tried and found wanting so that pressure has mounted to push toward the fourth strategy and “to effectively supranationalise immigration policy throughout the EU” (1997: 2888). Clearly there have been moves in this direction since the early 1990s, represented by two major treaties, Maastricht, which came into force in 1993, and the Treaty of Amsterdam, signed in 1997. The UK under both Conservative and Labour governments has been fundamentally opposed to supranationalising immigration and asylum policy.

This is a reminder of continuing tensions among EU member states. These exist in all policy areas but are especially acute in immigration and asylum, because this is inseparable from the issue of the sovereignty of the nation state and because of the deeply entrenched commitment - at least in the most powerful northern European states - to a political tradition which emphasises the need for strong immigration control. The EU is far from being engaged in an unstoppable progress toward Europeanised immigration and asylum policy in its strongest sense, fully harmonised at EU level and with implementation closely directed by EU institutions. Nonetheless, harmonisation of asylum policy in the form of an agreement on the fundamental aims of policy and persistent attempts to implement those aims through intergovernmental co-operation is a reality.

The content of asylum policy

Since the process of harmonisation began in earnest in the 1980s, the formulation of asylum policy has been dominated by an over-riding commitment to restrictionism, with a focus on ‘control’ and ‘security’ (Gray, 2001). The election of centre left governments in 11 of the EU member states did not lead to a significant liberalisation of asylum practice or policy (Schuster, 2000). Instead of a coherent and comprehensive strategy for dealing with movements of people seeking protection, there was:

“a process of convergence around three practices in particular: restricting access to the state’s territory, restricting access to welfare as a means of discouraging applications and the substitution of temporary protection for permanent asylum. This convergence is not complete and there remain marked differences between the countries, but all are approaching and striving for this common policy.” (Schuster, 2000: p.120).

It is clear that despite the UK’s aversion to supranationalising immigration and asylum policy, its policy has been as firmly committed to restrictionism as that of its European partners, especially in the fields of entry and welfare. The 1999 Immigration and Asylum Act was premised on an explicit endorsement of the ‘honeypot’ theory that welfare benefits attract asylum seekers (recent research commissioned by the Home Office has found no evidence of this [Home Office, 2001]). Although the giving of asylum vouchers is to be abolished in response to a sustained campaign by trade unions and non-
governmental organisations, there is no evidence of any shift away from the underlying restrictionism principle. Changes to economic migration policy were announced by Home Secretary, David Blunkett at the end of 2001, but in the field of asylum a greatly expanded network of 'reception centres' for asylum seekers is planned, which will increase the segregation of adults and children from local populations. This suggests a continuing commitment to treat access to welfare within the restrictionist rubric. Close attention will have to be paid to the government white paper and new primary legislation on immigration and nationality, planned for 2002.

Conclusion

This brief excursion into the development of asylum policy within the EU since the 1980s has been necessary to provide the context for our earlier examination of the position of young separated refugees in the UK. Even for those categories of migrant, such as unaccompanied asylum seeking children, who escape some of the restrictionism embodied in the formal regulations and systems of the asylum regime, such a régime still provides the overarching context for individuals’ experiences and the making of policy. Their particular status profoundly shapes the social provision available to them, even where the possibility of a more liberal treatment exists. However they are classified, they are not immune from the general climate created by the hostile reporting of the news media and anti-asylum campaigns by political parties. Further, the status of unaccompanied asylum seeker is necessarily temporary. On reaching age 18, these young people are thrust into the systems created for adult asylum seekers.

Asylum policy is nowhere near being Europeanised in the strong sense, outlined above. There is no EU institution formulating policy and passing it down to the member states for implementation. A supranationalisation of asylum policy has not been achieved. If there is Europeanisation, it is in one of the weaker senses. We have witnessed a collaboration albeit beset by tensions, between EU member states to create an asylum policy with a central objective to restrict access to the territory of states and to the welfare systems within them. This is the case even where those seeking asylum are amongst the most vulnerable, and where their treatment contradicts other principles adopted under international agreements such as the UN Convention on the Rights of the Child. We are not dealing here with the construction of a fortress Europe in the strongest sense communicated by the term ‘Europeanisation’. We are not confronted by a pan-European polity which has decisively overcome the contradictions and tensions between its component states and is directing asylum policy - and everything else from the centre. The road to such an outcome would certainly be more fraught and possibly even more drawn out than the road travelled thus far from the Treaty of Rome. Nor are we confronted by a fortress Europe policy which makes no distinction between different types of migration. Clearly there are moves by individual states to formalise systems of restricted entry by certain types of migrant whose labour is useful to European-based capital. Nor should we forget that other types of migration, such as family reunion, continue to be a reality. Indeed, the extensive migration flows and economic interpenetration which characterise the world today (addressed by theories of globalisation) forbid any attempt to create a really functioning fortress Europe.

However, it is meaningful to use the term fortress Europe to describe the attempt of EU member states to create an asylum policy which is increasingly co-ordinated between them, by whatever means. Such a policy is predicated on the political assumption that uncontrolled forms of migration threaten economic catastrophe, the erosion of national culture, the deterioration of ‘race relations’ or the eviction of incumbent governments at the hands of irretrievably racist or xenophobic electorates. It is quite possible to reject the validity of these assumptions and to doubt whether a harmonised policy can ever achieve its stated aims, while also recognising that such assumptions are real, widespread and driving the development of asylum policy across the continent. We have seen some of their impact in the lives of young separated refugees. A set of erroneous and, frankly often racist, assumptions are being translated into policies and institutional practices which have a deleterious effect on all asylum seekers. In this sense, fortress Europe continues to be built and deserves to be the object of scrutiny, analysis and resistance.

End note

Some commentators have proposed that the developed capitalist countries of the west are now entering a new phase representing a partial liberalisation of immigration controls. Harris, for example, has described the partial
liberalisation of controls on the inward migration of skilled labour into Germany and the UK at the turn of the century as ‘a quite extraordinary reversal’ of policy sparked by a need to match similar moves made in the US in the 1990s: “Unwittingly, the American government launched a world competition for skilled labour, a kind of worker arms race” (Harris, 2002: pp. 96, 98). Harris is aware of the limited nature of what is taking place. He emphasises how the developed capitalist nations are responding to ‘the need for high skills in global competition with other powers, and the need for low skills to protect the welfare of the population’ (2002: 100) and describes the recruitment of skilled labour from developing countries without regard for its consequences on the sending country as ‘cherry picking’.

There has undoubtedly been a real change in policy but it remains to be seen how significant or secure is the shift to what has become known in the UK as a ‘managed migration’ policy. Even if the trend (which is already present in immigration control systems) to ease entry for skilled labour is extended to unskilled labour, it is quite compatible with regulations which allow entry only on a conditional or temporary basis and restricts the migrant’s social and political rights. Even more significantly, the limited easing of restrictions on certain types of migrant is also quite compatible with maintaining or increasing a policy of harmonised restrictionism regarding asylum.

References


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