

# The view from the battlements: community work on the fringes of Fortress Europe

by Michael Collyer

It is a French peculiarity that the immigration debate is so politicised. Assuming that it is passed in early 1998, the French Draft Bill on Entry and Sojourn of Foreigners will be the 25th change to the original 1945 legislation.

Recent legislation, notably the laws commonly referred to as *loi Pasqua* (1993) and *loi Debré* (1997), have been widely criticised though they have not been more severe than immigration legislation elsewhere in Europe. On the other hand the French authorities have been inconsistent in their treatment of asylum. Particular criticism has focused on lack of recognition of asylum seekers fleeing persecution from non-state sources (eg [1]) - including refugees from Algeria and the former Yugoslavia - and a lack of clarity in the asylum system which Brachet [2] describes as a conscious policy decision, calling it 'clandestine asylum' (*asile au noir*).

## The 'summer of regularisations'

The *Projet de loi Chevènement* (*Projet de loi relatif à l'entrée et au séjour des étrangers en France et au droit d'asile*), named after the Minister of the Interior Jean-Pierre Chevènement, is part of the second stage of legislation introduced by the government of Lionel Jospin after their election victory of 1997. A preliminary stage was the publication of a set of criteria [3] in June 1997 which defines whether a foreign national living illegally in France is eligible for temporary residential status (*carte de séjour* of five or ten years). The publication of these criteria provoked a period of intense activity among the clandestine residents of Marseille, which became known as the 'summer of regularisations'. The application dead-

line was 1 November 1997 and all those who applied have now received a date for interview.

The guidelines, however, make no mention of asylum. They target immigrants who have been living in France illegally for a number of years and meet certain conditions which indicate a level of integration. These people, sometimes referred to as '*sans papiers*', fall into two groups. One group is those who have not sought asylum as they do not expect to get it although they fled their country principally for political reasons. The strict deterrents of *loi Pasqua* and *loi Debré* often have the effect of encouraging immigrants to enter and remain in France illegally rather than seeking asylum. The second group are those who have been through the application procedure for asylum and, though refused, have not been expelled from French territory. This is often simply because the immigration authorities have lost contact with them but in many cases it amounts to tacit acceptance that they cannot be forcibly returned to their country of origin for humanitarian reasons. A recent report to the *Assemblée nationale* stated that there were as many as 200,000 failed asylum applicants still living in France (quoted in [2]), though many believe this to be an exaggeration.

The case of Akhmad illustrates the situation of those who have preferred not to seek asylum. He is Algerian, of Touareg origin. Since 1991 only between one and four per cent of Algerians who have made a request for asylum have received it [4]. Touareg are Muslim but are often targeted by Islamic groups in Algeria for their interpretation of Islamic law. Akhmad felt himself to be particularly vulnerable since he had also been an officer in the Algerian army, seen as the enemy by Islamic groups. He had not been the victim of any direct persecution but certainly had legitimate cause for concern. He came to France clandestinely four years ago. Last year he heard that his entire family had been killed in a nocturnal raid on their village. Despite this he was well aware that he stood very little chance of receiving asylum and preferred to remain clandestine. Previous French asylum legislation did not recognise persecution by 'non-state agents' such as Islamic groups in Algeria as grounds for granting refugee status.

There is a category of temporary 'territorial asylum' for Algerians but the criteria governing it are unpublished, largely discretionary and seem only to apply to Algerians who entered France officially. Since January 1994, 2,500 Algerians have been granted this form of asylum [4] which allows only very limited possibilities for work.

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apply for temporary residency under the June 1997 guidelines.

Farika applied for asylum in 1993 when she arrived from Bosnia. Refugees from the former Yugoslavia were not recognised as fleeing government persecution so very few qualified for

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refugee status. In contrast to Algerians many were granted temporary protection. Farika was given a permit for three months, which was not renewed. When that expired she remained in France. She is Muslim and comes from Banja Luka in what is now the Serb-controlled Republika Srpska, and is still unwilling to return. She, and many others like her, remain *sans papiers* in France. Farika too has made an application for temporary residency under the June 1997 guidelines.

### **Asile au noir**

The authorities are well aware of the existence of these *sans papiers*. Farika pays her electricity bill and receives regular visits from the police to her squatter apartment. Ahkmad is registered for free medical assistance at the hospital. Now and again each will be asked for their papers on the street during police controls and both have spent the night in a police station only to be released in the morning. This sort of attitude could be considered as a kind of benevolent humanitarian tolerance. Amnesty International recently made a request that no Algerian be forcibly returned to Algeria [5]. Similarly, UNHCR has stated that the return of Bosnians should not be hurried until their security can be assured

(in [4]). Even so the State makes no provision for them. They live by begging and undeclared work. They have no security and at every contact with the police it is impressed upon them that their continued freedom is just because someone or other 'is in a good mood' and that next time they may not be so lucky.

Olivier Brachet, links this situation to "a veritable regime of clandestine asylum (*asile au noir*) in France, ...

the considered and known effect of a policy which is obviously applied unsystematically" ([2] p20). Manifestations of this policy range from temporary protection measures such as the territorial asylum in the case of the Algerians to a toleration of illegal residency. It is: "A policy of discouragement of migration which ... aims to make the situation very difficult for those who it is thought will grow weary of the struggle and leave, or disappear, but not without communicating to other potential candidates an impression of the difficulties encountered" ([2] p22). Rules governing this policy are unpublished and

confidential. A clearly stated set of regulations could result in the positive encouragement of asylum seekers whereas this discretionary case by case approach ensures that asylum requests continue to decline.

I see a lot of evidence of *asile au noir* through my work in the community.

## ***The idea that asile au noir is a conscious policy decision and not an accidental oversight is gaining ground.***

France recognises valid humanitarian reasons for not forcibly returning a certain number of illegal immigrants but at the same time it is not prepared to take responsibility for them. In the cases of Ahkmad and Farika, and many others like them, this implies a tolerance of their clandestine existence. Two reasons are apparent for this. The first, as Brachet suggests, is a wish to discourage further immigration. The number of Algerians seeking asylum has declined from a maximum of 2,303 in 1994 to 643 in 1996 [4], despite the further deterioration of the situation in Algeria. Secondly there is an awareness of the growing national hostility towards immigrants (the National Front gained 15 per cent of the vote in the 1997 elections) and it is felt that a clear support of the rights of asylum seekers would result in a loss of electoral support. There is obviously a strong argument for the fact that tougher immigration restrictions fuel racist feeling by criminalising immigrants, but it is rarely interpreted in this way.

### **The *Projet de loi Chevènement*, October 1997**

The guidelines of June 1997 were the first step in a new programme of legislation introduced by the administration of Lionel Jospin. The Draft Bill, which is strongly based on a policy report by the political scientist Patrick Weil [6], was presented to the *Assemblée nationale* on 15 October 1997. It was passed at its first reading in December 1997 and will probably be passed without any significant changes at the second (final) reading in February 1998. There are several disappointing omissions from this law. It was, for example, generally expected that *loi Pasqua* and *loi Debré* would be repealed, but no provision



Parc Bellevue estate in Marseille

photograph: Michael Collyer



has been made for this. However, two important changes are currently foreseen in the asylum system.

Firstly the difference between the right to asylum and general immigration policy has been clearly established. Previous legislation was criticised for considering asylum as an element of immigration policy, rather than a separate human rights issue. Secondly territorial asylum, incorporating residency for one year with the right to work, will be granted to several hundred people who are not eligible for asylum under the Geneva Convention. Not only does the State have fewer obligations towards refugees in this category but it has retained "the prerogative of sovereignty to be able to attribute territorial asylum according to its own criteria and its own will" ([6], p. 55). At this stage criteria of application are no clearer; discretion, flexibility and the mood of any par-

connected to the light in the stairwell. Their existence is extremely insecure; if they do not find work on the market, or have a bad day begging, they do not eat. On the other hand, many of the children go to one of the local schools and health provision is generally available through local charities. However the neighbourhood is very poor and local services are overstretched at the best of times. These refugees are forced to depend on the goodwill of small local charities. Immigrant associations in Marseille are extremely competent but they do no outreach work. I have met many refugees involved in administrative processes they barely understand. Although they can be put in touch with more experienced help, an *ad hoc* approach is far from ideal and many potential difficulties, such as poor health and transport problems, may prevent them from seeking qualified assistance.

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ticular official on any particular day will all remain important factors in granting this type of asylum.

So the system of *asile au noir* will remain in place. A group of well respected refugee organisations continues to call for completely open frontiers [7], although this is a practical impossibility. Even more modest proposals, such as the suggestion of the European Council on Refugees and Exiles for a broader definition of refugee [8], would currently include most of the population of Algeria of 27 million. It seems, for the moment, that France is stuck with a system of begrudging tolerance.

### **Implications for community work**

There are about a hundred individuals with no official revenue living in the estate where I work in Marseille. Many of these are families with young children. Materially their standard of living is alarming. The squatter apartments frequently have no running water and the only source of electricity is often a single cable precariously

The idea that *asile au noir* is a conscious policy decision and not an accidental oversight is gaining ground. There is growing frustration in the neighbourhood in which I work, because small local associations whose employees are unqualified and inexperienced in refugee work are having to cope with a situation that requires a national or European solution. Refugees themselves are bewildered that their very existence is not acknowledged by a country where they have been living for a number of years. At the same time everyone, both the refugees and the local community, is afraid to protest too loudly in case the result is the swift expulsion of the people concerned. Everything is undertaken cautiously which perhaps makes us all conspirators in the *asile au noir* system. If *asile au noir* is to be considered a solution to the delicate balance between humanitarian action and public relations that any government feels obliged to undertake, its costs must be more widely recognised. The *loi Chevènement* still has the potential to do this but, for the moment, it seems the most hopeful possibility is that the guidelines of June 1997 will be applied leniently.

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## **An Najah University, West Bank: Study of Involuntary Migration**

The Academic Programme for the Study of Involuntary Migration (APSIM) was founded in 1994 at An Najah National University, Nablus, West Bank. The multi-disciplinary programme researches and documents involuntary migration. In April 1995, at the first meeting of the UNESCO/UNITWIN network, APSIM was designated the regional centre responsible for the coordination of refugee studies among participating institutions in Palestine.

The programme has encouraged the introduction of two courses on involuntary migration into the An Najah curriculum and maintains a library of books and research papers on Palestinian, Tibetan and Kurdish refugee issues. APSIM has also organised several national conferences on various aspects of the Palestinian refugee problem. APSIM now publishes an academic journal, in Arabic and English, entitled *Involuntary Migration*, which addresses a wide range of issues pertaining to Palestinian refugees. Articles relevant to the academic discussion of Palestinian refugees are welcomed (maximum of 8000 words).

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