

Knowing-and-yet-not-knowing about European border deaths

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Rapid changes associated with globalisation have led to the violent policing of territorial borders across the Global North. In Europe, the ongoing project of constructing a unified identity for an expanding European Union (EU) has created further pressure to separate included groups from surplus populations. The resulting fortification of external borders and intensification of internal controls have led to thousands of fatalities. But despite this mounting death toll, no EU agency is held to account for border-related deaths, and the carnage has failed to capture the attention of a seemingly unaware or uncaring public. In this article I acknowledge the efforts of NGOs to monitor and mourn the many deaths occurring at Europe's physical, internal and external borders, and draw on post-Holocaust literatures on moral exclusion and the sociology of denial to identify systemic processes that prevent these deaths from being recognised as large-scale human rights abuses.

Contours of European border control

Controlling border crossing has become a prime governmental concern under conditions of globalisation, leading governments of the Global North to introduce increasingly coercive border control measures ranging from visa regimes to electronic surveillance and military fortification. These border defences operate at multiple sites of enforcement, both at and beyond the physical border, creating 'functional borders' which are not merely lines on a map, but are located wherever and whenever border protection functions are performed (Weber 2006). Functional borders can be located on the high seas (for example, through naval interdiction) or deep inside sovereign territory (through administrative detention, surveillance and forced deportation).

Contemporary European borders present a complex and evolving picture. Responsibility for external border controls shifted to the EU with the Treaty of

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Amsterdam in 1999, while migration and asylum policies remained with individual states (Dauvergne 2008). Since then, external border fortification has been linked to the building of a new pan-European identity, with responsibility for blocking entry from the east passing to successive waves of aspiring EU members (Green and Grewcock 2002). Before responsibility for border control shifted to its eastern neighbours, the Polish border with Belarus and Ukraine was described as the 'new iron curtain', boasting 156 watchtowers and an 18,000-strong border patrol (Webber 2004). Sections of the border between Greece and Turkey, with its longstanding status as a buffer between Europe and the Middle East, are still fortified with minefields. To the south, Spain and Italy have been seen as the weak links in the European fortress, being open to unauthorised entry by sea routes from Albania and Montenegro to Italy; from Libya to Malta and the Italian island of Lampedusa; from Morocco across the narrow straits of Gibraltar; and by land into the Spanish enclaves of Ceuta and Melilla, which are defended by security fences, electronic surveillance and armed guards. Entry through airports is tightly controlled without the need for visible fortification, through selective issuing of visas backed up by carriers' liability legislation that creates a visa policing role for airlines.

Increased surveillance of the maritime border by both Spanish (SIVE) and EU (FRONTEX) patrols has resulted in routes for illegalised migration¹ being diverted to longer voyages up the west coast of Africa to the Canary Islands, another outpost of Spanish sovereignty. According to one source, there were 1500 arrivals in the Canary Islands during the first weekend of September 2006 alone (Maccanico 2006). As well as multiplying the hazards of the sea journey, displacement to less intensively monitored times and places has concentrated illegalised arrivals in areas where there is less humanitarian support available (Carling 2007). The establishment of a 'militarised Mediterranean' (Fekete 2003) has been seen as part of a wider strategy of 'non-arrival' that includes a series of bilateral agreements with a 'circle of friends' including Morocco (Carling 2007), Senegal (Spijkerboer 2007) and Libya (Green 2006). These agreements are aimed at preventing unauthorised arrivals and facilitating the forced return of those who succeed in arriving in Europe. Efforts to prevent departures or disrupt onward journeys through North Africa have left many left-Saharan Africans and other transit travellers stranded as de facto immigrants, often struggling to survive in desperate circumstances (Carling 2007). A 'next generation of carriers sanctions' (Webber 2004, 136) that requires airlines to obtain advance authority to carry passengers has achieved the same purpose of immobilising illegalised travellers in even more distant places of origin or transit.

1 The term 'illegalised' is used in preference to illegal, irregular or spontaneous to emphasise that this status is actively constructed by governments through the denial of opportunities for legal entry.

Despite all their efforts to create smarter and more fortified borders, governments of the Global North have failed to eradicate unauthorised border crossing, but have succeeded instead in creating people-smuggling markets and fuelling a deadly cycle of deviancy amplification. Strategies of non-arrival, backed up by sophisticated technologies of detection and surveillance, force those who are not deterred from making illegalised journeys into ever more clandestine modes of travel, such as concealment in containers and lorries, and into convoluted routes by both land and sea which increase the length and peril of their ordeals (Morrison and Crosland 2001; Green and Grewcock 2002; Pickering 2004; Cornelius 2005; Spijkerboer 2007). Particularly dangerous strategies for clandestine journeys by sea that have emerged in response to the increased risk and costs of detection include deliberately making departures during bad weather; offloading boat passengers some distance from shore (Spijkerboer 2007); employing purpose-built substandard vessels for increasingly overcrowded one-way voyages that are expected to end in interception; and leaving vessels in the inexperienced hands of paying passengers (Carling 2007). Moreover, stepping up penalties for people smuggling and increasing the risk of detection turn illegalised travellers — already liable to be thought of as mere human cargo — into incriminating evidence, at risk of being disposed of at the sight of approaching patrols (Carling 2007).

In addition to these efforts to prevent arrival, punitive post-arrival practices — such as administrative detention, denial of legal access to any means of support, and systematic programs of forced deportation — have become increasingly entrenched across Europe (Bloch and Schuster 2005). New enforcement strategies announced in 2007 by British Home Secretary John Reid were openly designed ‘to make living and working illegally ever more uncomfortable and constrained’ (Home Office 2007). The setting of expulsion targets has been linked with increasing use of force during deportations (Fekete 2009b) and could also increase the risk of returning individuals to danger. Most recently, European governments have sought to criminalise those who assist illegalised migrants after arrival, provide medical or legal assistance, or rescue them at sea (Fekete 2009a). According to one commentator, the threatened prosecution of the captain of the rescue ship *Cap Anamur* under Italian law after the rescue of 37 Africans from a sinking inflatable near Lampedusa in June 2004 was intended to send the message that ‘the only permitted response is to sail right past their sinking boats’ (Kreickenbaum 2004). In addition, there is considerable doubt about the capacity, and sometimes the willingness, of maritime surveillance patrols to rescue those in distress. Spijkerboer (2007, 132) notes that while the Global Approach to Migration adopted by the European Council in December 2005 is said to have the dual aims of saving lives at sea and tackling illegal immigration, ‘the measures aimed at tackling illegal immigration greatly increase risks to migrants, including loss of life’, while ‘the policy outlines do not address how they will protect migrants from the risks they face’.

Knowing about 'deaths by policy'

The legacy of these exclusionary measures is a mounting toll of border deaths, both at and beyond Europe's physical borders. These deadly effects of European border controls have been described as 'death by policy' (Webber 2004). Even a bureaucratic act as simple as the denial of a visa can, and does, have fatal consequences, as observed here by Spanish writer Garcia Benito (2003):

The large majority of sub-Saharan and Moroccan citizens who apply for entry visas to Europe have their applications denied. With a visa, they would cross the Strait in a ferry, which would result in the problem of corpses disappearing.

In the largely descriptive section that follows, I draw on data collected by European NGOs to illustrate *where* people die as a result of European border controls, *how* they die, *why* they die and *who* are the main casualties.²

An online map based on data collected by the European NGO United for Intercultural Action (<www.unitedagainstracism.org>) and hosted on the No Fortress Europe website (<www.no-fortress-europe.eu/showPage.jsp?ID=2507> [2009, May 16]) shows intense clusters of drowning fatalities at all major entry routes by sea, with significant concentrations of border-related deaths at the English Channel, along the eastern EU frontier, and also at the eastern border of Turkey. The geographical displacement effect of the militarised Mediterranean is demonstrated by a large cluster of drownings encircling the Canary Islands, leading one commentator to argue that 'EU policy is, quite literally, funnelling people to their deaths' (Fekete 2003, 3). The creation of a land buffer across North Africa has also come at a high cost in migrant deaths, taking policies of 'non-arrival' to their logical and literal conclusion. Data on deaths in these regions is hard to come by, but at least 27 Sudanese asylum seekers were reportedly killed by police in Cairo during a protest against their treatment on 27 December 2005 (Maccanico 2006). In the same year, more than a dozen sub-Saharan Africans were fatally shot by border guards as they stormed the barricaded borders of Ceuta and Melilla (Carling 2007). One Nigerian woman, whose dream of making use of her English language skills in Europe was thwarted by a six-year involuntary stay in North Africa, told an interviewer she had seen many people perish while walking the vast deserts of Algeria, and reported receiving severe beatings by police in both Algeria and Morocco (Cabrera 2009). Altogether, deaths at

2 Unless otherwise stated, all the cases cited in this section are from the United for Intercultural Action list of deaths, supplemented by the Institute of Race Relations 'Roll call of deaths of asylum seekers and undocumented migrants', which lists individual deaths from 1989 (<www.irr.org.uk/2006/december/ak000014.html>, <www.irr.org.uk/2006/december/ak000015.html>, <www.irr.org.uk/2006/december/ak000016.html>).

the externalised border accounted for about 90 per cent of known European border deaths listed in the NGO data between 2000 and 2006.

The consequences of stepped-up *internal* borders have also been documented by European NGOs. Research by the Institute of Race Relations (Athwal and Bourne 2007) identified the following connections between border control policies and in-country deaths in Britain: promotion of work-related deaths through work bans and employer sanctions; deaths due to exposure, protest, starvation and self-harm following withdrawal of government support; exposure to racist violence arising from internal dispersal policies; and choosing death over deportation in the face of publicly announced removal targets effected through early morning raids by 'snatch squads'. It is notable that almost a quarter of the 132 deaths in detention recorded by United for Intercultural Action (henceforth United) from 2000 to 2006 were in Britain, which has maintained the highest levels of administrative detention in Europe. Outside the controlled environment of detention centres, other deaths arising from labour exploitation, hate crimes and suicides in the community have also been attributed to the enforcement of internal borders. The British Refugee Council began to monitor racially motivated assaults and murders following dispersal of asylum seekers away from established centres of support in London. Deaths have also been linked to lack of access to either legal work or welfare for those without legal status. The 18 Chinese cockle pickers who drowned while working illegally in north-west England in 2004 can be seen as victims of the illegalised economy as well as the rising tide. Deaths listed in the United data that could be directly related to policies of deliberate destitution include the death by hypothermia of an Iraqi man forced to sleep rough in London in 2004, and the death in 2000 from acute asthma of an Algerian man living unlawfully in France, who reportedly failed to seek medical help for fear of deportation. Reluctance to seek medical and financial help could be expected to increase in response to new laws being introduced across Europe that criminalise those who assist undocumented migrants (Fekete 2009b).

Some border-related deaths occur far away from even the outer reaches of Europe's external borders, as a result of forced deportation to places of origin. By their very nature, these deaths are particularly difficult to verify. In one example from the United data, 19 Angolan conscientious objectors were listed as missing presumed dead in 1999 after deportation from Portugal. Forcible deportation brings returned citizens to the attention of their home government in a way that potentially links these deaths to policies of return. In other cases, 'failed asylum seekers' may be *refouled* to face generalised risks in war zones. Solyman Rashed is said to have been 'so ground down by his experiences in the UK' that he accepted 'voluntary' return to Iraq, where he survived just two weeks before being killed by a car bomb (Fekete 2009b, 5).

European border policies also influence *how* illegalised migrants die. Drowning is by far the most frequent cause of death, accounting for well over half the deaths recorded by NGOs (notwithstanding estimates that only one in three bodies is ever recovered). Fekete's (2003) graphic description of bodies 'piling up' in 'nautical graveyards off Gran Canaria' evokes a dramatic image of Europe as a medieval fortress with the bodies of repelled intruders filling the moats. Other significant causes of death in the recorded data are suffocation, vehicle accidents and suicide. People die from hypothermia attempting to cross mountain passes between Greece and Turkey; of dehydration in the Moroccan desert; or while trying to swim across rivers and bays. The hardships of unregulated modes of transport, such as unseaworthy vessels, unventilated and overcrowded lorries and containers, and inadequate food and water, add to the misery and peril. Even an examination of the deaths due to car accidents reveals scenarios of desperation, such as concealed passengers falling or jumping from moving vehicles, that would not be expected among records of everyday road fatalities.

People die alone and they die en masse attempting to evade European border controls. Drownings often claim large numbers of lives, as with the shipwreck off the coast of Mauritania in 2006 in which 132 sub-Saharan Africans reportedly died. Two hundred and nine people are said to have drowned in 2003 when a boat capsized between Libya and Italy. Other modes of transport can also claim multiple lives. A collision in Turkey reportedly killed 42 Afghans and Bangladeshis who were concealed in a lorry; and 58 Chinese men and women were asphyxiated in a refrigerated lorry en route to the English port of Dover in 2000. The death toll is also made up of the collective tragedy of many lonely deaths. From 2000 to 2006, individual stowaways on ships and lorries accounted for more than 300 known deaths en route to Europe. In 2001 the skeleton of a Turkish man was found in minefields between Greece and Turkey, and the body of an unknown woman was found frozen on Mt Falakon in 2006 in a remote section of the Greek-Bulgarian border. The United death list also records the desperation of individuals who take their own lives to escape destitution or return to their countries of origin — through hanging, jumping from buildings or in front of trains, drowning, or setting themselves alight. And while suicide is perhaps the most solitary of deaths, some victims of border controls have orchestrated their deaths as overtly political acts — such as the Turkish man who set himself on fire in the headquarters of the UK Immigration Service in 1993, and the Iranian man who did the same in Manchester in 2003. After all else had failed, an Angolan man hanged himself in Yarl's Wood detention centre in September 2005 in the belief that this was the only way his son would be allowed to stay in the United Kingdom. In a particularly cruel twist, reports immediately after the tragedy suggested the boy might still face deportation once he turns 18 (Refugee Council Online 2005).

I now turn to the question of *why* people die. The majority of border-related deaths can be attributed to the 'structural violence' of border controls — that is, to systemic effects that multiply the risks of death and injury faced by illegalised travellers. However, a minority die as a direct result of the deliberate actions or negligence of others. While 'people smugglers' are widely portrayed as the most culpable third parties, Fekete (2003) has estimated that nearly 15 per cent of recorded border deaths in Europe can be attributed to the direct actions of border guards, police or other officials. Again, reliable data is hard to find. The well-documented shootings in Ceuta and Melilla in 2005 appear to be the only fatal incident at the external border which has been subject to an official inquiry.³ Other examples of border violence by state agents arise from tactics employed to disrupt people-smuggling operations. One Statewatch (2008) article alleges that the Moroccan navy deliberately pierced an inflatable dinghy, causing the deaths of 29 occupants, and also implicates the Spanish Guardia Civil and the Greek coastguard in the deliberate sabotaging of boats. It is important to acknowledge that in some of these reports, other vessels are said to have come to assist, although genuine attempts to rescue have sometimes led to the inadvertent swamping of unstable and overloaded vessels (Spijkerboer 2007).

Commentators have also charted rising violence associated with forced deportations, in which police and immigration officers are directly implicated. An early example is the death of Joy Gardner in 1993 at the hands of UK police and immigration officials after her hands and mouth were bound with metres of tape. The United data records that inappropriate use of restraints was also a factor in the death of a Nigerian man said to be 'taped up like a parcel' during a flight from Vienna in 1999, and of another Nigerian man deported from Spain in June 2007, who reportedly died after police placed a gag in his mouth. A recent report by the Institute of Race Relations identified deaths during deportation as the fastest growing category of border-related deaths across Europe (Fekete 2009b). The report cites a British NGO, Medical Justice, which has documented 300 alleged assaults by private escorts and three deaths by shooting in Greece, Cyprus and Morocco as deportees ran from police.

The damaging effects of confinement and fear of deportation are clearly crucial factors leading to self-inflicted deaths in immigration detention. But many deaths in detention have been directly attributed by NGOs to official action or inaction. According to the United list of deaths, police in Malaga are said to have failed to open doors when detainees lit a fire that killed three Moroccans in 2002. A Kosovan baby died in an Austrian refugee camp in 2001, having reportedly been denied adequate medical care. After a near-fatal fire at Yarls Wood Detention Centre in England, the

3 Personal communication, Migreurope, 23 June 2009.

managers of Group 4 Security who ordered that the doors should remain locked were initially investigated for corporate manslaughter until police were satisfied that no detainees had died in the fire (Webber 2004).

It remains for us to consider *who* dies at the borders of Europe. Most of those who die trying to penetrate the European border are sub-Saharan Africans, but other Africans, Iraqis, Kurds, Afghans, Albanians, Eastern Europeans and people from the Indian subcontinent also perish in significant numbers (Fekete 2003). Carling (2007) has noted that the ratio of sub-Saharan Africans amongst passengers undertaking unauthorised Mediterranean crossings has increased as a direct result of interception policies, including bilateral agreements that facilitate the swift return of citizens from Europe's 'circle of friends'. The knowledge that they are more difficult to return, Carling argues, means that sub-Saharans are less influenced by the threat of an increased risk of interception. For the same reason, coupled with the ease of melding in among a boatload of compatriots, North African people smugglers have been known to use boats carrying sub-Saharans as decoys to allow vessels loaded with North Africans to slip through a cordon of patrols. All this, along with a near universal inability to swim, exposes sub-Saharan Africans to a greatly elevated risk of drowning (Carling 2007).

Although the popular image of 'illegal immigrants' is of young impoverished men 'chancing' the dangerous journey for the promise of a new life, the European border has claimed the lives of people of different ages and both genders. The United list of deaths makes distressing reading. It includes a Sierra Leonean baby said to have died of starvation after the parents were thrown overboard during a sea voyage between Libya and Italy. In 2003 the frozen body of a young Congolese boy was found in the undercarriage of a plane flying from Brazzaville to Paris. Five Iraqi Kurdish minors suffocated in a truck in Italy in 2002. An unknown boy fell from under a lorry onto a motorway in France in 2001. In the same year, the decaying bodies of two African children were found in the hold of a Panamanian vessel bound for Spain, and an Algerian minor died of cold and exhaustion attempting to swim to Ceuta. As the likelihood of immediate repatriation has increased for adult Moroccans, increasing numbers of unaccompanied minors from Morocco are reportedly making the dangerous journey (Carling 2007). Border controls have also claimed unborn victims. According to the death list, a pregnant Algerian woman died by hanging in a Spanish police station in 1998 and a Sierra Leonean woman miscarried while in detention in a French airport in 2000. Several pregnant women were known to be among a group of 70 sub-Saharan Africans who drowned in August 2008 when their dinghy overturned near the coast of Malta. The growing number of pregnant women embarking on illegalised journeys in recent years has sometimes been attributed to beliefs, usually mistaken, that giving birth in Europe is a guaranteed route to permanent residence

(Carling 2007). It seems that nationality law, as well as border control policies, also plays a role in determining who dies at the borders of Europe.

'Knowing-and-yet-not-knowing' about border deaths

Apart from the NGOs whose efforts to bear witness to border-related deaths have prompted the writing of this paper, there is little sign of public concern about fatalities arising from European border control. An Institute of Race Relations press release on 29 July 2003 entitled 'The other asylum statistics' noted that governments count the numbers of asylum seekers coming in, but asked 'who counts the numbers that do not make it?' (Institute of Race Relations 2003). The absence of official data reflects a lack of pressure for public accountability which, in turn, helps to keep border-related deaths away from the public eye. This raises the question of what it would take to 'wake up Europe's conscience' (<www.unitedagainstracism.org/pages/campfatalrealities.htm> [2009, April 16]). Although dwarfed in number by the estimated 11 million avoidable human deaths that occur annually worldwide due to systemic poverty and other forms of structural violence (Roberts 2008), the moral invisibility of these deaths at the doors of Europe demands an explanation. Research on moral exclusion and obedience to authority arising from post-Holocaust scholarship has identified the linked processes of *neutralisation* and *dehumanisation* (where the humanity of targeted groups is devalued or denied); *authorisation* (whereby official pronouncements are accepted uncritically as guides to legitimate action); and *distanciation* (which separates actions from their consequences and meanings) as key elements in the 'normalisation' of systematic harm against specified groups (Kelman and Hamilton 1989). I argue in the first part of this section that each of these plays a role in keeping border-related deaths outside the boundaries of moral concern.

Distanciation in the case of border controls is both literal (that is, mediated by geographic separation between the sites at which border deaths occur and any potentially concerned observers) and conceptual (due to the obfuscation of chains of responsibility). In relation to literal distanciation, it should be evident from the earlier discussion that the deadly effects of border control policies can be significantly displaced in both space and time, where they are 'hidden even further from the European gaze' (Fekete 2003, 4). Furthermore, the outsourcing of border control functions to the governments of Morocco or Libya, or to private security companies operating immigration detention centres or escort services for deportees, helps to foster conceptual distanciation. Conceptual distanciation may even prevent observers from connecting the tangible reality of bodies lying on the beach with the various policy decisions and human interventions that produced them. This effect is illustrated by this eyewitness account from the writer Garcia Benito, who is a resident of southern Spain:

Dead people appear, who haven't been killed by anybody. Who truly kills them? The dinghy-captain, another wretched person who undertakes the journey as well? The law? Rather, it seems like a horror story in which the culprit fails to appear. They say the local people are showing solidarity, when what they are doing is cleaning up the beaches of dead people. The complaints that are voiced never receive any answer. [Benito 2003.]

These consequences are much less visible to Europeans living away from the Mediterranean coast, whose governments point to reduced numbers of asylum applications as proof of the 'success' of their non-arrival policies. Onshore deaths that occur in detention or directly at the hands of border officials have some potential to elicit public outrage, but never result in serious examination of border control objectives or the systemic chains of action and causation that produce fatalities. For example, the inquiry into Joy Gardner's death through asphyxiation (reported earlier) led to recommendations for improved training and tighter controls on restraint techniques, rather than a fundamental questioning of the policy of forced removals. Similarly, repeated spectacles of bound and struggling deportees escorted onto commercial flights, which have elicited both sympathetic and self-interested concern from other passengers, have led to the increased use of private charter flights rather than an abandonment of forced removal policies.

Acceptance of overt or structural violence may be rendered more likely where psychological distance between subject and observer results in *neutralisation* of the victims. Opatow (1990, 2) observes that moral exclusion arises where social actors 'perceive others as psychologically distant, lack constructive moral obligations toward others, view others as expendable and undeserving, and deny others' rights, dignity and autonomy'. In compiling their data on border-related deaths, the Institute of Race Relations relied primarily on press reports, which have the potential to bring border fatalities to the notice of wider populations. However, the authors noted 'these deaths of un-named, un-British, un-white men are not news' (Athwal and Bourne 2007, 107). It is as if asylum seekers are invisible, or exist somehow in a perpetual state of 'unknowability' (Malloch and Stanley 2005). The setting of removal targets is an example of a border control policy with the capacity to neutralise the humanity of those targeted by it, as argued here by Fekete (2009b, 3): 'As failed asylum seekers and immigration "overstayers" come to be viewed by the authorities as mere statistics for removal, a callous culture develops amongst state officials and police agents and the use of excessive force becomes normalized.'

Whereas *neutralisation* can be equated to the psychological absence of a victim, whereby those who are the object of harm are simply beneath notice, *dehumanisation* represents a more active process of exclusion, effected through persistent derogatory labeling. Kelman and Hamilton (1989) note that dehumanisation produces exclusion,

not just from a particular moral community, but from all bonds of human empathy and protection. Stripped of their humanity, excluded groups do not necessarily disappear but may become unrecognisable as bearers of human rights. This effect in relation to asylum seekers is suggested in this passage from Malloch and Stanley (2005, 54):

In the UK, public concerns have been heightened by media coverage that portrays those seeking asylum as a problematic, homogenous group. Media coverage of the numbers of foreign nationals entering the country illegally is juxtaposed with suppositions of the burden 'they' will undoubtedly incur on 'our' health and welfare services. Such representations, meted out to the public on a daily basis, suggest that few of those seeking asylum are 'genuine', while the broader influx of 'claimants' have the potential to pose a very real risk to liberal democratic states.

The very act of labeling migrants and asylum seekers as 'illegal' has proven to be a powerful form of dehumanisation in itself. The Transatlantic Trends survey published in 2008 reveals a sharp bifurcation in opinions about authorised and unauthorised immigration. While 60–70 per cent of respondents approved of more open immigration policies, around 80 per cent said they supported tough measures against illegal immigration (Transatlantic Trends 2008). It would seem that 'illegal immigrants', or simply 'illegals', are easily relegated to a category wholly defined by their unlawful status, where they are liable to be designated as threatening and undeserving.

The processes of moral exclusion just described often operate as a precondition for the *authorisation* of officially sanctioned harm. Opatow (1990, 4) notes that 'adverse social circumstances create the conditions necessary for ordinary people to dehumanise, harm, and act with incredible cruelty toward others'. The destabilising conditions of globalisation and the concomitant preoccupation with uncertainty and risk could be seen to create suitably adverse conditions. Moreover, systemic harm is often perpetrated under the guise of a 'transcendent mission, which supersedes the usual moral standards and automatically justifies whatever human costs it may necessarily or inadvertently entail' (Kelman and Hamilton 1989, 336). In the context of border control, Dauvergne (2008, 99) has described how post-September 11 conditions have shifted border security to the 'unquestionable plane of exceptional security measures' to such an extent that she finds her audiences 'fact resistant' to messages that are at odds with the official discourse of unmitigated threat. In a globalising world where national identities may be under threat, extreme nationalist ideology can also elevate border control to the level of a transcendent mission. An extraordinary readiness to ignore the human costs in pursuit of this mission is clearly evident in the following statement made by Northern League politician Umberto Bossi, when he was a minister in the former Berlusconi government:

Either our ships will tackle the illegal immigrants' vessels and take onboard only women and children, or else we write down in black and white that force will be used, and that is the way I want it. After the second or third warning, boom ... the cannon roars. The cannon that blows everyone out of the water. Otherwise the business will never end. [Cited in Fekete 2003, 5.]

On other occasions, the authoritative messages may be more measured, but their apparent reasonableness within the context of the generally accepted right to protect borders gives their exclusionary rhetoric even greater justificatory force. Announcing yet another ratcheting up of internal border controls in the UK in 2007, the British Home Secretary John Reid cast illegal workers as an unmitigated threat to social harmony, and the government as thereby compelled to act in response to serious public concern.

... the fact that many immigrants, at the end of their journey, end up in shadowy jobs in the grey economy undermines the terms and working conditions of British workers. That's not fair. It chips away at the social fabric of our country. Resentment of it breeds discontent and racism ... The public want people to play by the rules, and they don't like people who don't. [Home Office 2007.]

Increasing the salience of victims, both as human beings and as targets of authorised harm, has often been suggested as an antidote to these exclusionary processes. This has led NGOs to engage in strategies of 'rehumanising' those who die at Europe's borders. An item on the United website explaining its campaign against border deaths asserts: 'These deaths are not isolated incidents ... We must make sure that all these deaths are known and mourned' (<www.unitedagainstracism.org/pages/info14.htm> [2007, March 15]). As for the mainstream media, multiple fatalities do have the potential to attract a shocked, and sometimes sympathetic, media coverage. Webber (2004, 134) notes that the asphyxiation of 58 Chinese asylum seekers during a clandestine crossing of the English Channel, and the drowning of 18 Chinese cockle pickers discussed earlier, attracted 'blanket coverage' in the British press. Yet she observes that media stories 'focused on the distress of those who had found the bodies and on the criminality of those who had brought them, rather than attempting to understand the issues thrown up by the deaths' (Webber 2004, 134). More recently, when body parts were washed ashore in Dubrovnik, raising fears that they belonged to missing Australian backpacker Britt Lapthorne, early reports in the Australian press quoted Croatian police explaining that it was 'not unusual' to find the bodies of asylum seekers along that part of the coast (Alberici 2008). Sadly for Britt Lapthorne's family, the remains were later confirmed to be those of the missing woman. But the contrast in the reactions to the named and anonymous deaths is striking. It seems

that mere knowledge about border-related deaths does not guarantee public understanding or concern.

The work of Stanley Cohen (2001) on the 'sociology of denial' provides further insight into how it can be possible for governments and populations to know, and yet at the same time to not-know, about border-related deaths. Faced with reports of atrocities or suffering, and allegations of state responsibility for them, Cohen observes that governments often resort to *literal* denial, by claiming that the reported events simply did not happen; *interpretive* denial, by acknowledging the events but seeking an interpretation that absolves them of blame; or *implicatory* denial, which downplays the significance of the reported events or subordinates them to higher imperatives. Elements of each of these official strategies are likely to coexist, even when they are seemingly contradictory. Collectively they constitute what Cohen calls a 'deep structure' that is 'ideological' rather than 'logical'. The subversion of logic by belief makes it possible, he argues, to simultaneously know-and-yet-not-know about atrocities and human suffering. The remainder of this section provides examples of literal, interpretive and implicatory denial by European governments in relation to border deaths.

According to Cohen, *literal* denial in authoritarian regimes is effected through open suppression of information. Democratic regimes with an interest in appearing to adhere to human rights norms may use less direct methods, such as attacking the credibility of the observer. In the case of border control, where the observers may have illegal immigration status, there is a powerful option available to governments to suppress inconvenient information by removing the observers themselves. In the case of the alleged sinking of a dinghy in April 2008 by the Moroccan navy, the Moroccan NGO AFVIC claimed that survivors were expelled to the remote desert location of Ouja to prevent them giving evidence (Carling 2007). Similar accusations about the rapid removal of potential witnesses have been leveled at the British government in relation to the Yarls Wood fire, discussed earlier, and other serious disturbances in immigration detention centres, although none of these incidents involved fatalities. Furthermore, according to Fekete (2009b), not one of the 12 deaths during deportation documented by the Institute of Race Relations since 1993 has resulted in the successful criminal prosecution of a British official. The fact that no proactive effort has been made by the EU or its member states to monitor border deaths systematically and to publicly account for the fatalities suggests that democratic governments can operate under conditions of far weaker public accountability in relation to their treatment of those outside their sphere of protection than would be possible in relation to their own citizens.

Cohen considers *interpretive* denial to be more common than literal denial in liberal democracies confronted with accusations of human rights abuse. According to Cohen, literal denial occurs where raw facts are admitted, but the interpretation adopted by complainants is rejected in favour of terminology that is less pejorative to governments. Interpretive denial is fundamentally a *rhetorical* strategy. There is considerable evidence of interpretive denial in the discourse surrounding border deaths and border control more broadly. For example, the international obligation of non-refoulement creates an incentive for democratic governments to mask the coercive nature of forced removal and the degree of resistance encountered. The bureaucratic language of 'removal targets' deliberately sanitises the reality of coerced removal. The violence of the process is described in more honest terms here by a British immigration officer who has seen the practice firsthand: 'people struggle to go sometimes you know, and they're tied up and handcuffed and you think, well what happens to these people when they get back to their countries?' (Weber and Gelsthorpe 2000, 100). Similar arguments have been made about official masking of the punitive effects of detention and other enforcement measures through the use of the term 'administrative':

You might say I am cheating, that this is not crime and punishment but administrative detention. But when people are subjected to routine fingerprinting, when they are locked up, when they are restrained by body belts and leg shackles and thirteen feet of tape, or forcibly injected with sedatives to keep them quiet as they are bundled onto aircraft, it seems reasonable to ask: what have they done? The answer is that they have tried to come to western Europe, to seek asylum, or to live here with their families, or to work here. And the whole panoply of modern policing, *with its associated rhetoric*, is applied against them. [Webber 1996, emphasis added.]

Another rhetorical strategy noted by the NGO United is the avoidance of the term 'deportation' by governments of continental Europe, where the word still evokes powerful memories of the systematic transportation of excluded populations during the Holocaust with the deliberate intention of causing their deaths.

When media talk about 'expulsion orders' and 'repatriations', they make a wide use of euphemism. When it comes to countries where human rights are daily violated, where life is not respected, where minorities are persecuted, countries in war or famine, repatriation becomes a euphemism for deportation. [At <www.unitedagainstracism.org/pages/campfatalrealities.htm> [2008, April 16].]

Equally, deliberate policies of destitution, described in firm yet euphemistic terms by the British Home Security as intended to make life 'uncomfortable and constrained' for asylum seekers, are given a far more 'pejorative' interpretation by critical

commentators. Fekete (2009b) describes the abject conditions faced by rejected asylum seekers not merely as ‘uncomfortable’, but as ‘designed to break their will and resolve’, leading increasing numbers to make so-called ‘voluntary’ departures to their countries of origin.

Cohen’s final category of *implicatory denial* applies where governments actively seek to justify harmful actions, or at least deny moral responsibility for them. Events may be attributed to natural forces beyond any human control, or responsibility displaced onto non-state actors, onto the victims themselves and, increasingly, onto those who support them (Fekete 2009a). In relation to border deaths, it might be admitted that people did perish en route or die in custody — but the events can easily be construed as tragic accidents or attributed to the wrongdoing of deviant others, such as people smugglers or private security companies. The media focus on the responsibility of people smugglers for the asphyxiation of 58 Chinese asylum seekers at the British port of Dover, which was discussed earlier, is a case in point. Alternatively, those who died may be portrayed as having exposed themselves to unnecessary risks by engaging with people smugglers in the first place, or may be accused of extending their detention unnecessarily by exercising their legal rights to oppose deportation. The ready attribution of blame to the victims is apparent in the following statement from eminent political theorist David Miller, who recounts here his personal response to the fatal shootings in Melilla that were reported earlier:

I find my sympathy for the young African men who are trying to cross the fence tempered by a kind of indignation. Surely, they must understand that this is not the way to get into Europe. What clearer indication could there be of the proposition that illegal immigrants are not welcome than a double fence up to six metres tall with rolls of razor wire along the top? Do they think they have some kind of natural right to enter Spain in defiance of the laws that apply to everyone else who might like to move there? [Cited in Cabrera 2009, 112.]

While it is true that illegalised travellers may defy efforts to pre-empt their arrival or expel them, may be treated with cruelty and indifference by unscrupulous facilitators, may take additional risks themselves to invite rescue, or may take their own lives, the role of European border policies in creating conditions that lead to avoidable deaths remains wholly unacknowledged in these individualised accounts. This section has identified a number of ways in which border-related deaths may be normalised by European populations and denied by governments. This is an important step in understanding the systemic processes that prevent these deaths from being recognised as large-scale human rights abuses that can be linked to the border protection policies adopted by European states. However, as Cohen argues, ‘[t]he empirical problem is not to uncover yet more evidence of denial, but to discover

the conditions under which information is acknowledged and acted upon' (Cohen 2001, 249). It is to that complex question that I now turn.

Preventing death by sovereignty

At the time of writing, the list of known deaths since the mid 1990s attributed by European NGOs to border control policies stands at over 13,000. This is an order of magnitude higher than the death toll from the earthquake that devastated parts of central Italy in April 2009, and led to immediate demands to investigate whether anomalies in building standards had caused unnecessary deaths. An official from Italy's Civil Protection Agency reportedly observed: 'In California, an earthquake like this one would not have killed a single person' (Aloisi 2009). There is clearly a seismic gap between this 'gold standard' of protection demanded by citizens of the Global North and the levels of risk faced by those attempting to penetrate Europe's heavily surveilled and barricaded borders. In fact, United Nations High Commissioner for Refugees representative Laura Boldrini has claimed that the Mediterranean is being turned into a 'Wild West in which human life has lost its value and people in danger are left to fend for themselves' (cited in Fekete 2009a, 96).

The NGOs referred to in this article have worked persistently to acknowledge and mourn those who die avoidable deaths at the internal and external borders of Europe, and to assert their value and humanity. This is a vital contribution towards recognition and accountability for border fatalities. And yet there are reasons to doubt that obtaining more accurate body counts (Spijkerboer 2007) or developing more sophisticated quantitative measures of risk (Carling 2007) would be sufficient to force a serious re-think of European border policies. As Cohen (2001, 9) observes: 'knowledge itself is not at issue, but doing the "right" thing with this knowledge'. Even faced with inescapable knowledge about border deaths, there will still be opposing views about what is the 'right thing to do'. In the remaining paragraphs, I will outline what seems to be the right thing to do from a human rights perspective, broadly conceived. A comprehensive review of the relevant international law on the matter is beyond the scope of this article.

There is, as yet, no universally recognised right to cross borders. On the contrary, access to territory is considered the sole prerogative of nation states and it is not clear in what way individual human rights may be brought to bear against the claims of national sovereignty. Article 13 of the Universal Declaration of Human Rights guarantees only the right to move freely *within* state borders and the unconditional right to leave. Liberal-nationalist conceptions of governance therefore support David Miller in questioning the 'natural right' of sub-Saharan Africans, or uninvited others, to enter Europe in defiance of laws that are intended to keep them out. The right

to seek (but not necessarily obtain) asylum and the associated prohibition against refoulement to danger are two of the few recognised points of leverage. But this route is available only to a small proportion of those who cross borders illegally, and has failed to protect many of those. Joseph Nevins (2001) and Satvinder Juss (2004) have separately advocated the recognition of an individual right to cross-border mobility. Juss bases his argument on the right to work and the frequent necessity in a globalising world of crossing borders to do so. As promising as this line of argument is, its capacity to challenge the Leviathan of national sovereignty seems rather tenuous at present. But individuals do have a well-recognised right to life. Spijkerboer (2007, 138) argues that states should be held responsible for the 'foreseeable consequences' of border control policies that increase the risk of migrant deaths and should therefore 'exercise their border controls in such a way that loss of lives is minimised'. On this basis, doing the right thing about border deaths must include, at minimum, ensuring that state agents do not directly imperil the lives of illegalised border crossers by using dangerous restraints and disproportionate levels of force during deportation; by capsizing their boats, whether deliberately or through lack of training or reckless indifference to their safety; by shooting them as they try to escape custody or protest their exclusion; or by deliberately withholding from them the means to sustain life. This list may seem disappointingly limited, given the wide-ranging examples of structural violence associated with European border controls that have been provided here. However, it serves at least to shift attention away from the sovereign rights of states, towards a debate about the human rights of those who are not their citizens.

Human rights protections for illegalised border crossers could be expanded, beyond the circumstances of direct liability just described, if responsibility could also be attributed for the unconscious, systemic harm arising from border controls. This is an ambitious undertaking, since the law has difficulty incorporating even individual responsibility that operates beyond consciousness (Lacey 2007). Indeed, Spijkerboer (2007) concludes that there does not seem to be a broad legal responsibility for border-related fatalities where those deaths arise from lawful measures to control borders. However, Lacey has argued that 'outcome responsibility' can be attributed where individuals play any part in 'risk creating activity', including through lawful acts. The difficulty in attributing outcome responsibility is amplified in situations of diffused responsibility involving collectivities such as corporations or states. But Lacey (2007, 267) considers the techniques often used by states to obfuscate lines of responsibility to be patently illegitimate, drawing parallels with problems in attributing corporate responsibility:

To say that the risks or dangers had not been present to the mind of any particular corporate executive — or to claim that they had been 'repressed', or that the corporation

was in a 'state of denial' about them because its corporate focus was so firmly on the business environment — is unconvincing or even unconscionable. The corporate example makes more vivid what is already true in the individual case, and this perhaps explains why so many of the most compelling examples of unconvincing arguments about 'denial' have arisen in the context of actions by collectivities such as states. [Lacey 2007, 267.]

The reported inclusion of 'sacks for transport of corpses' among budget items provided by the Italian government to Libya to fund the expulsions of intercepted travellers (Trucco 2005, cited in Baldwin-Edwards 2006) would seem to indicate prior knowledge of possible deadly consequences arising from these policies. Added to this calculus of responsibility, it must be noted that some border control measures, although not having caused deaths directly, have been considered to be unlawful. For example, the European Parliament condemned as illegal the mass expulsions to Libya carried out by the Italian government from Lampedusa between October 2004 and March 2005 (Baldwin-Edwards 2006).

It might be suggested, quite reasonably, that assessments of state responsibility for border deaths should be offset by attributing some responsibility to illegalised migrants themselves. Indeed, illegalised migrants have been known to deliberately place themselves in increased danger in order to attract rescue, knowing that the vessels in which they are travelling will be prevented from reaching shore (Carling 2007). However, shifting responsibility towards victims has been identified among the techniques of denial used by governments to disclaim *any* responsibility for harm and suffering arising from border controls. An over-emphasis on individual agency is also apparent in the attempts by some governments and NGOs to deter would-be migrants from making illegalised journeys through the dissemination of information about the associated risks (Carling 2007). While it is important to acknowledge the agency of those who choose to make unauthorised border crossings, it is clear that these decisions are often made within pressing constraints that are not of their own choosing.

This returns us to the vexed question of the extent to which sovereign states should be entitled to imperil the lives of others in order to protect their citizens from real or imagined danger. Catherine Dauvergne has considered this question with respect to the militarisation of the US–Mexico border, concluding that border fatalities indicate a need for 'reexamination of whether we have the balance right between letting people in and keeping people out' (Dauvergne 2008, 102). This calculus is spelled out in more utilitarian terms by Spijkerboer (2007, 139) when he argues that '[i]ncreased human costs from intensifying border controls should factor into the debate about the future of European border control. What weight the human costs should have can only be determined when more information becomes available'. Aside from

the problem of the incalculability of these human costs, such a utilitarian equation is inherently unappealing from a human rights point of view, and is premised on the favoured status of citizens over others within the present world system. So the British Home Secretary can feel fully justified in asserting that '[a]ccess to the benefits of UK residence and citizenship should be earned. It's not uncivilized to treat our own nationals differently from overseas citizens' (Home Office 2007, 2). This view would find widespread acceptance in relation to citizenship rights, but how does the calculus fall where the fundamental right to life is in conflict with the accepted rights of states? For an example where state sovereignty is accorded such ascendance that it may justify deliberate killing by governments of the citizens of other countries, we need to look to the practice of war. Indeed, some commentators have likened the militarisation of European border controls to a form of 'war at the border' (Webber 2004). And yet, even in this last bastion of *realpolitik*, critical commentators such as Wendt (2005, 595) have begun to question the utility of continuing to allow state sovereignty to trump the fundamental rights of non-citizens:

Would human beings have 'more agency' if they persisted in the sovereignty regime despite its rising costs, refusing to recognize Others outside their borders and instead retaining the sovereign right to kill them if necessary? This hardly seems right.

This discussion has identified some limited avenues by which European governments could be held to account in the short term for deaths that result from the defense of their borders. However, the main barrier to recognising the full implications of the structural violence associated with border controls is the system of state sovereignty itself. In a world where the fundamental rights of all human beings were recognised without distinction, the wellbeing of citizens could not be weighed more heavily in the balance than the lives of non-citizens. Alternative solutions to questions of human security would have to be found, rather than concentrating solely on keeping unwanted migrants out.⁴ Such a vision is implicit in this statement by Gready (2004, 352):

The violence of population mobility and immobility; conflicts, intervention and non-intervention; the global economy and contemporary politics, is nothing if not a call for genuinely *human* rights, accessible on the borders, carried across borders.

The realisation of this vision requires a degree of inclusivity that may seem unattainable in the present moment. Cohen (2001, citing Bauman) notes that our

4 I include under this description policies of development that are motivated by the desire to stem migration, since the development objectives are readily subsumed by the border protection objectives.

capacities for moral acknowledgment have not kept pace with the technologies of the modern era. This became apparent, initially, in the state bureaucracies whose potential for the routinisation of harm reached a pinnacle during the Holocaust, and is now emerging in the complex and often unaccountable networks of governance and information exchange that characterise late modernity. Under these conditions, Cohen (2001, 293) argues, we need constantly to 'stretch our imagination beyond its limits to grasp the chains of causation and possible intervention'. Whether our imaginations can stretch far enough to conceive of a world where countries may still have borders but human rights do not may be an open question, but it is a vitally important question for our time. ●

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