

Crossborder Forum - Study Day, 10 November 2021

“Deconstructing the border and building bridges: Towards a critical collective analysis of the French-British-Belgian border”

[ENGLISH VERSION]



Photo: Abdul Saboor

The UK's border with France and Belgium has been increasingly visibilised over the last year, particularly with the increased number of crossings of the Channel in small boats and the ever-worsening situation of people stranded in this cross-border area.

This study day brought together activists, NGO representatives and researchers from different sectors and disciplines to discuss various aspects of border-building, including new forms of control, but also ways in which different actors can challenge them together.

The study day was organised by the Crossborder Forum, a collective of organisations from the UK, France and Belgium working on issues of asylum and migration policy. The aim of this event was, on the one hand, to collectively deconstruct the legal and political foundations of this border and, on the other hand, to build bridges beyond it.

The interventions and exchanges, which were recorded and are available on video, have been summarised in this document.

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Introduction

What is the Crossborder Forum?

The Crossborder Forum is a collective of around thirty organisations from the UK, France and Belgium that are working on migration issues at the shared borders of the three countries.

Since significant changes including Brexit and the rise in Channel crossings, states have begun developing policy quickly. Updated policy and upcoming legislation on the UK side regarding “irregular” crossings and the border with France have already had enormous impacts on migrants’ rights. Likewise, on the French side, the increased mediatisation of crossings has pushed governmental action and a resistance to further bilateral agreements with the UK point to shifts in domestic policy on the issue. In Belgium, the border is gaining increasing salience with a rise in boat crossings, and increased cooperation with its neighbours on questions of immigration control. Whilst many civil society organisations from different sides of the border are already working on these issues, there is a need for collaboration between these groups, in order to build united and effective advocacy efforts and ensure campaigns and actions reinforce rather than undermine one another.

Out of this need has sprung the Crossborder Forum, first established in late 2020 as discussions began to try and develop common positions prior to Brexit. Post-Brexit, the need for a good understanding of political dynamics and policy changes in the respective countries, as well as coordinated action, are even more urgent. Organisations on all three sides of the border have identified the Forum as a space for exchanging information on policy developments, policy impacts on the ground and respective advocacy efforts.

Objectives of the study day on 10 November 2021

The day conference, hosted by the Crossborder Forum of civil society organisations from France, Belgium and the UK, aimed to provide an opportunity to explore in-depth cross-border policy developments over the last thirty years that have resulted in the rights abuses we are now seeing at the shared borders between the three countries. It brought together expertise from academics, lawyers, NGOs and individuals with lived experience on thematic areas vital to better understanding and constructing a collective analysis of how this particular border operates.

ROUND-TABLE 1: A historical perspective on border controls and the externalisation of the British border

Video recording: <https://www.youtube.com/watch?v=d24bs0YSA8E>

A look back at the development of British immigration controls, the way they have been externalised into France and Belgium via bilateral agreements, and the impact this has had for the region and those migrating through it.

Lucy Mayblin (Sociology Lecturer, Sheffield University): *A critical postcolonial perspective on how forms of immigration control have been experimented in and externalised from the UK over the last decades.*

Crossings of the Channel by migrants are not new. In the 17th Century, during the many wars waged by Louis XIV in the north of the country, 40,000 refugees crossed the Channel from Calais; during the First World War, more than 250,000 Belgian refugees made the journey, and Folkestone took in more than 35,000 refugees at that time. But these crossings have always been viewed with hostility on both sides of the border.

France and Britain, as well as Belgium, were colonial empires based on the idea of a racial hierarchy on a global scale, both in the metropolis and in the colonies. The second half of the 20th Century saw the gradual fall of these empires, which resulted in a change of status from empire to nation-state, and the question of asylum became an obsession. Several factors explain the current situation: newly created post-colonial countries have undergone a series of conflicts; the development of air traffic allows people to flee these countries; there is a continuity of racism and orientalism in Europe; the fall of the Berlin Wall and the Soviet Union also has an impact, as does the proliferation of databases and information sharing within the framework of European cooperation.

States signed a series of human rights conventions in the mid-20th century, but have always been reluctant to implement them for people from the colonies. When refugees from the former colonies arrived some 50 years later, they were presented as economic migrants in disguise, posing a threat to the system. Colonialism created a repertoire of representations of these people as threatening individuals whose movements had to be stopped. An example of this is the British passport in 1981, which applied only to British Island nationals. An important precursor to the closing of British borders to refugees was the removal of citizenship and right of movement from people who had previously been 'co-citizens' of the Empire (Pakistan, Jamaica, ...), and therefore became migrants. This is what led to the Windrush scandal and racist bordering, as a response to decolonisation.

The word "border" is misleading - it would be better to speak of a "filter", because at a border some people see their movement accepted and legitimised, while others see theirs entirely prevented. Migration routes are becoming more dangerous, more expensive, even deadly, as migrants are forced to find "clandestine" ways to get to the other side of the Channel (ferry would be cheaper). The number of informal living spaces is increasing along the coast (the main impact of the Sangatte Protocol). Far from making asylum seekers invisible, these policies only increase the flaws in the whole system. States are actively producing a crisis while claiming to provide "solutions".

The current situation at the border is the product of cultural repertoires of dehumanisation, which legitimise border control on the basis of the exclusion of racialised people.

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Olivier Cahn (Lecturer in criminal law, Cergy Paris University): *Analysis of the UK-France bilateral agreements: what do these agreements contain, how were they constructed, and why?*

Until the early 1990s, migration was not a main concern for the British authorities. The 1986 Canterbury Agreement, which formalised the construction of the Channel Tunnel between the two countries, only mentioned the fight against terrorist threats. The fact that the European Communities had no competence in border management at that time, combined with the UK's refusal to participate in the Schengen Agreement, meant that border issues had to be dealt with through bilateral agreements.

Between 1991 and 2003, the UK succeeded in externalising the border onto the French coast. In 1991, the Sangatte Protocol was signed between Paris and London, reflecting a desire to speed up the border controls of both countries by putting in place a system of on-board control in trains. Later, in 1993, a tripartite agreement with Belgium was signed (on the modality of controls on the Brussels-London line), in which the Belgian government demanded compliance with the Schengen and Dublin agreements (which France had not done). In 1995, for the first time, the UK stated that it did not want France controlling its border, and therefore demanded an amendment to the Sangatte Protocol. In 1995 a 'Gentleman's Agreement' was negotiated: if a person was discovered by the British authorities before arriving in the UK, he or she would be returned to the French authorities. With the opening of the Sangatte camp in 1999, the British threatened to close the Tunnel, and a long period of negotiations followed. The 2001 Cahors Agreement paved the way for an Additional Protocol to the Sangatte Protocol. This enshrined the French government's first renunciation of its own sovereignty: the UK Border Force would henceforth be able to carry out delocalised controls on French soil, including at the Gare du Nord in Paris. With the Eurotunnel no longer a viable option, migrants began to attempt to pass via the Eurostar at Calais Fréthun station, taking advantage of the fact that locomotives need to be changed before crossing into the UK. The ports also started to become departure points. In July 2002 Nicolas Sarkozy, then Interior Minister, was convinced by his British counterpart David Blunkett to reinforce the militarisation of the Calais area and to put in place stricter border controls in order to fight against smugglers (although at that time, there were hardly any smuggling networks there). A cooperation arrangement signed in autumn 2002 provides for the development of police cooperation between the three countries to secure the Fréthun railway station and the port of Calais.

The 2003 Le Touquet agreements made the port of Calais even more secure. Its perimeter was sealed by a military air base-style protection system. From 2003 onwards, the border was definitively moved to French territory and customs officers and Border Force guards were present on French territory, within the ports.

These bilateral agreements have three main consequences: they have increased the time and the risks for migrants to cross to Britain; they have intensified the tension with the transport companies, as well as between the two governments; finally, they have caused tension between France and its European partners. They effectively use an internal Schengen territory as an external border.

Tensions rose in the late 2000s, paving the way for a new round of agreements, as the UK authorities considered that the French were not capable of managing the border. From 2009 onwards, the British authorities would gradually begin to co-manage the border on French soil. The

British government wished to promote a policy of active deterrence, so that individuals would choose not to cross. The Besson-Green agreement of 2010 was the first agreement to mention the co-management of the border. It allows British officers to intervene directly on French soil, in order to deter individuals from crossing the Channel and to encourage them to apply for asylum in France. French public authorities also began an aggressive policy of deporting migrants at this time, which the administrative courts sanctioned. The agreements reached in 2015 between the two Prime Ministers Bernard Cazeneuve Theresa May enshrined a police cooperation centre for co-management of the border, which aims to coordinate decisions relating to border controls. We are also witnessing a reinforcement of the criminalisation of migrants. The Taubira circular of December 2016 asks prosecutors to systematically prosecute migrants suspected of participating in smuggling networks. The Sandhurst Treaty in 2018 provides for a "more flexible" policy regarding unaccompanied minors, but these measures are very limited.

In short, France acts on behalf of the UK for the management of its border, in exchange for a financial contribution that varies between EUR 65 and 80 million per year.

Marley Morris (Associate Director for Migration, Trade & Communities, Institute for Public Policy Research): *An insight into the UK-France diplomatic negotiations in the early 2000's.*

From the summer of 2001 onwards, there was very hostile media coverage in the UK about the people living in the Calais camps and those trying to cross the Channel (Daily Mail headlines from the time read "500 immigrants storm the Channel" or "invasion of asylum seekers"). This was compounded by strong opposition from the UK Conservatives in the run-up to the 2001 general elections, as well as pressure from Eurotunnel to close the camp due to disruption of services and threats of sanctions from the carriers. David Blunkett felt compelled to act, and he believed that Sangatte was an 'attractive' spot, which had become a political symbol of France's inability to manage their asylum system. The UK government needed to change this, to "reduce the attractiveness of the UK", and new measures were proposed to limit the rights of asylum seekers with the Immigration Act.

France announced the closure of the camp in November 2002, and facilitated UK-funded voluntary returns. Despite the small number of people involved (1,200 reportedly came to the UK on a 4-year residence permit and 200 Afghan nationals via family reunion), there has been a strengthening of the juxtaposed border controls. The British government began to impose a distinction between asylum seekers and migrants who came to work, and tried to sell a positive image of workers to the UK by saying that people were coming to contribute.

There is still now a tug of war between the British and French governments in the Calais area, and the British Home Secretary is doing everything to discourage people from making the journey by introducing asylum legislation that is even more difficult to understand. In addition, there has been a significant media focus on relatively small numbers of people and joint efforts focused on increasing security and deterrence. But there is currently less motivation for a comprehensive UK-France following Brexit. Solutions are seen only from a security perspective, including on boat crossings, despite the fact that pragmatic solutions could be found.

Olivier Clochard (CNRS researcher, former president of Migreurop): *Consequences of British border externalisation on migration trajectories.*

With the development of the Schengen area in the mid-1980s, the evolution of cross-Channel transport modes and the strengthening of migration controls, transit migration has continued to impact the Channel and North Sea coastal regions. Tensions relating to these migratory movements are present in the Calais region, but also in many other ports and even on highways and rail stations linking the continent to the United Kingdom. Thus, migrants wishing to cross the Channel are constantly employing various routes and spaces that have developed strategic characteristics, resulting in numerous fatal accidents.

The French border police (PAF) noted in their reports in the early 2000s that many groups of migrants were taking the Eurostar. Despite a spread of controls, many people were not intercepted, and lorries remained the main crossing means. According to official figures, 12,000 foreigners were intercepted at the border in 2001, 1,500 people were found in coaches and 500 people in passenger vehicles and freight trains.

Research was carried out in Sangatte, during distributions of beds and blankets, by the Red Cross to draw a map of people's rough migration routes within France. They were asked to give their SNCF ticket and 4,500 tickets were collected during this period, which made it possible to draw up a map showing the migration routes. The study showed that train ID checks were carried out over different regions, and that by increasing border surveillance at authorised crossing points, the authorities simply pushed people into more dangerous routes. It is very important to remember that these events concern human beings, and that "[in Calais, the border kills](#)".

There are a multitude of temporary camps around Calais with degrading living conditions. Only two places were ever set up by the state, including the Sangatte camp (initially presented as a "humanitarian emergency reception centre"). It was from this date that the term "camp" began to be used. Informal camps developed, as did squats, which ended up changing the urban life of Calais; some of these places were walled off.

In the beginning, when the police came, they did not always destroy the peoples' shelters, whereas today, repression has intensified. This has worsened with the creation of the detention centre (CRA) in Coquelles. Later, when Nicolas Sarkozy became Interior Minister, the creation of legal offences against the conditions of entry and residence provided for in the CESEDA was synonymous with a strengthening of repression in the region.

Summary of the Q&A discussions

Apart from financial considerations, what can explain France's renunciation of its sovereignty? Can we come back to the question of complicity in the pushbacks?

There is a very violent balance of power in the British attitude and there is a difference in the image that the two countries try to project on the international scene. The UK does not go to great effort to claim to be a model of virtue or the country of human rights.

There is no other consideration, it was long thought that the British had put in other elements (such as counter-terrorism intelligence, as a gateway to the US), but this has been disproved. The imbalance between the two countries is due to the fact that the British did things seriously but the French did not (e.g. Nicolas Sarkozy sent David Martinon to the bilateral negotiations negotiating with police chiefs, despite having no experience in this area).

How can we break out of this vicious circle of anti-migrant political and media discourse?

It is very difficult to break this circle, the presentations today have shown that this issue dates back a long time, and that the British authorities have always been responding to media pressure. Now there is less media and political pressure, but the UK government is still taking a very similar approach. Whereas in the early 2000s the British and French authorities were willing to work together, now this is much less the case.

How can we frame this situation in a different way? How do we focus on resolving people's legal status rather than just taking it from a security perspective?

We should not fall into the media trap, nor should we think that actions on migration are totally disconnected from the political situation of countries. While using mass media is very important, we should not forget about alternative forms of media that can also be used.

It appears impossible for the French government to think of alternatives to a situation that has been going on for 30 years. If there was a small glimmer of hope with the arrival of Bernard Cazeneuve who organised a mission on the issue, this quickly dissipated. During meetings bringing together all the actors involved in France, there was no real dialogue between the police/administration and charities. The authorities are very quiet, because there is no political will to change the situation.

We sometimes hear that Brexit has not changed anything. To what extent is this true?

One of the most important questions surrounding the Brexit vote was immigration, even though it had nothing to do with Europe! There was a lot of concern about increases in migration, and yet Brexit won't have any concrete effect on the situation we see today at this border.

Legally, Brexit has no effect, as this border is governed by bilateral agreements; on the other hand, it leads to a change in European partners' attitudes towards France: they no longer have any reason to accept France's non-compliance with the Schengen acquis in managing Calais. On the other hand, a change of discourse is taking place on the French side: Gérald Darmanin wants to move away from bilateral relations and is talking about a European-wide agreement.

Further reading:

- [Relations franco-britanniques : après le Brexit, un avenir incertain. Avec Sylvie Bermann et Olivier Clochard \(franceculture.fr\)](#)
- [Traite Touquet 2003 RU.pdf \(fortunes-de-mer.com\)](#)
- [Protocole et protocole additionnel de Sangatte entre la France et le Royaume-Uni · GISTI](#)
- [Border procedure \(border and transit zones\) - Asylum Information Database | European Council on Refugees and Exiles \(asylumineurope.org\)](#)
- [Sangatte refugee camp | Immigration and asylum | The Guardian](#)
- [« La France est dans une position qu'on pourrait comparer à celle du Maroc ou de la Turquie » \(lemonde.fr\)](#)
- [« La Grande-Bretagne nous paie pour que nous gérons, sur notre territoire, son immigration » | Terre d'Errance Steenvoorde \(wordpress.com\)](#)
- [Migrants en transit - Qui sont-ils ? Citoyens solidaires - Que pouvons-nous faire ? - CAI Namur](#)
- [Colonial Fantasies of the Offshore – History Workshop](#)
- 'Exporting the Hostile Environment': [Microsoft Word - DISSERTATION_FINAL \(ox.ac.uk\)](#)

ROUND-TABLE 2: Criminalisation and containment - what the border generates

Video recording: <https://www.youtube.com/watch?v=Hs-qZgyKehU>

An analysis of the different forms of criminalisation of migrants and those who support them at the UK-France-Belgium border. This criminalisation sits within a logic of control and dissuasion of movement and of solidarity.

<p>Speakers</p> <ul style="list-style-type: none">● A presentation of the British short-term holding facilities in northern France: Carceral spaces as a form of externalised border control.● Selma Benkhelifa, Progress Lawyers Network, Belgium - Criminalisation of solidarity towards “transmigrants” in Belgium.● Zoe Gardner, Joint Council for the Welfare of Immigrants, UK - The criminalisation of Channel crossings and the punitive logic behind the Nationality and Borders Bill.
<p><u>Summary of presentations and discussion</u></p> <p>At the UK-French border, the criminalisation of border crossings is achieved through the outsourcing of border controls, including through short-term UK detention centres in the border zone (‘Short-Term Holding Facilities’, STHFs) in concealed, secure but flexible prison spaces.</p> <p>STHFs have received less attention than Immigration Removal Centres (IRCs), even though they are an integral part of a large and complex architecture of immigration control. The four sites in Northern France (Calais, Coquelles and Dunkirk), which very little is known of, operate under the system of "juxtaposed controls". They are subject to British legislation, although located in France.</p> <p>These facilities are designed to hold people for what is supposed to be a short and finite period of time before they are detained in an IRC, released, questioned, returned or deported. These facilities are included in the 'escort contract', which includes 35 short-term detention units, including the Northern France locations. Like the majority of IRCs, these sites are managed by private security companies on behalf of the Home Office, including Mitie Care and Custody.</p> <p>All the sites look the same and follow similar processes. They are secure rooms that people cannot leave without permission, and where staff (Border Force and private sector) have control and restraint powers. On arrival, people are searched and their belongings are confiscated. They are placed in a small room with a TV and books behind a glass wall with chairs attached to the floor, and supervised by on-site staff. Detention units usually include a separate 'family room'.</p> <p>Unlike IRCs, the STHFs are mixed-sex, with separation of unaccompanied minors from adult men where possible. There is no access to outdoor space, and no religious provision other than books and prayer mats. People are not allowed visitors. There is no medical care, with some exceptions, and people are not allowed to receive even named medication (except from French emergency services, technically on the other side of the border) except for an asthma inhaler.</p> <p>On arrival, people are usually allowed to make a phone call. They are often advised to give the number of the facility so that their contacts can call them. People held in STHFs are offered 'ambient meals' that can be kept at room temperature until reheated in a microwave.</p>

The sites are equipped with single-sex toilets and usually a shower. They have lists of telephone numbers of specialist lawyers or immigration advice agencies on the wall. In all cases, the numbers refer to firms located in the UK, which limits their usefulness.

As with regular detention sites, the STHFs are all subject to the control of human rights bodies: in the UK the Independent Monitoring Board (IMB) and Her Majesty's Inspectorate Prison (HMIP); but despite being on French soil, only visits from the *Contrôleure générale des lieux de privation de liberté* (CGLPL) are authorised.

These facilities are clearly part of the border securitisation infrastructure. They are difficult to locate and to obtain information on. They are also easy to open and close down, which gives them a flexible character that is very useful for the authorities. Unlike the visible spectacle of the border which, in its public articulation of violence, requires effort and justification and can be challenged, these mundane sites of administrative detention evade scrutiny and criticism.

In Belgium, both migrants and those standing in solidarity with them are targeted for criminal proceedings - and even sanctions - that are applied differently depending on nationality and legal status.

The Belgian authorities claim to prioritise fighting smuggling networks, but in reality simply target migrants, who receive heavy sentences for trafficking in human beings,¹ sometimes even for "self-trafficking" and endangering their own lives. We regularly see heavier penalties for migrants or foreigners, as demonstrated in the Mawda case.²

In general, there is no serious investigation to find out the identities of traffickers. Many orders to leave the country are issued to migrants involved in a case before an investigation is launched, and in some cases, traffickers have been denounced without being arrested.

During the reception crisis in 2015, many migrants ended up in the Parc Maximilien in Brussels following one early dismantling of part of the then Calais 'Jungle'. For the government at the time, and in particular the Flemish nationalist extreme right, the aim was to avoid migrants forming a camp in Brussels, and thus by extension also to restrict the work of those assisting them.

Faced with this state failure, the *Plateforme Citoyenne* (Citizens' Platform) was formed and took over the coordination of humanitarian support. However, four people hosting migrants in their houses were prosecuted for human trafficking, receiving different treatment depending on their origin. Those who were not Belgian were held in pre-trial detention for several months, while the French-Belgians were released at the end of their custody. At the end of the trial, no charges were brought and all were released. However, the migrants received suspended sentences for human trafficking.

The trial of these hosts caused outrage, and since then no Belgian citizen has been prosecuted for human trafficking. On the other hand, people of non-Belgian origin are still prosecuted on these grounds. Thus, migrant-to-migrant solidarity is still severely repressed in Belgium.

¹ Smuggling is different from trafficking in human beings: smuggling is the fact of helping a person to cross a border, and so the border or the State is the victim; trafficking aims at exploiting a person, and so the person is the victim. However, it is mainly human trafficking that is prosecuted in Belgium.

² The alleged driver of the van carrying a 2-year-old girl who was shot in the head by a Belgian policeman in 2018, as her family attempted to travel to the UK, was sentenced to eight years in prison. The police officer who fired the fatal shot received a 10-month suspended sentence.

In the UK, the criminalisation of migration has been achieved through the introduction of increasingly repressive measures. The key moment in the UK's punitive system came in 2012, when Theresa May, the then Home Secretary, introduced the 'hostile environment' policy for foreigners in the UK. The aim of this was to restrict the day-to-day rights of foreigners and reinforce criminalisation at all levels (work, housing, healthcare) via outsourcing migration controls, for example to employers. The policies also created new ways to deport people, most notably 'foreign national offenders' (foreigners having committed crimes).

This repressive approach has never been effective but has continued to be developed by subsequent governments. Priti Patel has been under a lot of pressure to 'tackle' Channel crossings, but the figures show that asylum applications did not increase in 2021 even though crossings were more visible due to new routes being used.

British newspapers have been behind much of this political pressure. Priti Patel has responded with various different proposals, such as the new Nationality and Borders Bill, which would allow for people who facilitate crossings to be prosecuted (increasing prison sentences from 6 months to 4 years), and for asylum seekers who drive boats to be considered smugglers, traffickers or facilitators. New restrictions on the right to asylum in the UK will be introduced, including a differential assessment of applications depending on "legal" or "illegal" entry, and a categorisation of people (trafficked or not), to make denying asylum claims easier. Despite Brexit, and the end of the application of the Dublin Regulation, the UK claims that it can send these people back to other European countries, although no agreement has been signed.

Beyond historical criminalisation trends, there is also the question of the image countries wish to portray of themselves: France wants to be seen as a rights defender, whilst the UK has a different posture, with border officials wanting to present themselves as good workers. The UK government believes that 51-52% of citizens agree with the removal of foreigners. But the reality is probably more nuanced and there is scope for advocacy.

Summary of audience discussions

Are there such UK-run detention facilities in Belgium?

The detention of migrants in these kinds of facilities creates a sense of punishment for the latter. It trivializes them and depoliticizes those who manage them. The existence of such sites linked to juxtaposed controls in Belgium is not certain. However, other sites exist on the Franco-British border. At the Dover site, because of the way the French controls function, there is no real detention. So there is no explanation as to why these sites exist in some places and not in others.

Is the UK strategy to disqualify newcomers from seeking protection?

From January 2020, asylum applications from people who arrived in the UK "irregularly" may be classed "inadmissible": they will receive a notification telling them that they have 6 months to be removed to in another country. The UK can then send them back to any other country. However, in the majority of cases, the UK government cannot find another country that will agree to take them.

What is the status of negotiations on bilateral or multilateral readmission agreements?

European states are opposed to any bilateral negotiations, while the British government continues to push for this. Immigration arrangements have been made with India and Vietnam but no real agreement has been put in place.

Are there any developments regarding the UK's exit from the Dublin Regulation?

After the UK's exit from the EU and the Dublin Regulation, the UK government replaced the 6-month rule for transferring an asylum seeker to another EU country with another 6-month procedure. The main objective remains deportation, but with return agreements not yet functioning it has simply reproduced the deterrent function of the regulation with the reproduction of the same 6-month period for the inadmissibility procedure.

Officially, these short-term detention facilities are not considered to be prisons. However, two decisions of the CJEU dating from 2011 prohibit the use of police stations in the context of criminal proceedings based solely on the offence of illegal residence. Despite these decisions, member states continue to use these places on a recurrent basis. This use seems inherent to detention and removal procedures. It has been in place since the 1970s-1980s despite clear legal and legislative texts.

The whole legal framework around migration is contradictory. The protection of fundamental rights is defended although the current migration policy does not respect them. In Belgian law, the crime of trafficking in human beings for people who help the illegal entry and stay of migrants without financial interest should not be retained. The vulnerability of migrants is used as an aggravating circumstance, as was the case during the trial of the solidarity hosts in Belgium. However, none of these migrants were included in the judicial proceedings and they were no longer on the territory.

Further reading :

- [Entre la France et la Grande-Bretagne, de l'entente à la méfiance cordiale ? \(france24.com\)](https://www.france24.com/fr/actualites/20200923-entre-la-france-et-la-grande-bretagne-de-l-entente-a-la-me-fiance-cordiale)
- [« La localisation de la frontière franco-britannique à Calais est un obstacle à la demande d'asile au Royaume Uni » \(lemonde.fr\)](https://www.lemonde.fr/actualites-europe/article/2020/09/23/la-localisation-de-la-frontiere-franco-britannique-a-calais-est-un-obstacle-a-la-demande-d-asile-au-royaume-uni_6059164_0_0.html)
- [Londres va injecter jusqu'à 40 millions pour ses contrôles à Calais - Le Soir](https://www.lesoir.com/actualites/londres-va-injecter-jusqu-a-40-millions-pour-ses-contr-oles-a-calais-1108286)
- [Royaume-Uni: "L'environnement hostile" qui vise les migrants illégaux \(rtbf.be\)](https://www.rtf.be/france/actualites/royaume-uni/2020/09/23/l-environnement-hostile-qui-vise-les-migrants-ill-egaux)
- [Priti Patel, la Dame \(de fil\) de fer \(barbelé\), prête à tout pour repousser les migrants - La Libre](https://www.libre.be/actualites/priti-patel-la-dame-de-fil-de-fer-barbel--pr-te-a-tout-pour-repousser-les-migrants-1108286)
- [British Border Control on the French North Coast | Oxford Law Faculty](https://www.oxfordlawfaculty.com/news/2020/09/23/british-border-control-on-the-french-north-coast)
- [Immigration detention and juxtaposed border controls on the French north coast - Mary Bosworth, 2020 \(sagepub.com\)](https://www.sagepub.com/journalsPermissions.nav?lang=en&path=/journals/immigration-detention-and-juxtaposed-border-controls-on-the-french-north-coast/volume-2020-1/issue-1-2020-1/10.1080/17513758.2020.1864441)
- [Report \(amnesty.org\)](https://www.amnesty.org/en/latest/news/2020/09/immigration-detention-and-juxtaposed-border-controls-on-the-french-north-coast/)
- [Migration: les «hébergeurs» de migrants sont acquittés - Le Soir](https://www.lesoir.com/actualites/migration-les-hebergeurs-de-migrants-sont-acquitt-1108286)
- [Mawda Shawri - When truth, justice and humanity are in short supply - Institute of Race Relations \(irr.org.uk\)](https://www.institutofrace.org.uk/news/2020/09/23/mawda-shawri-when-truth-justice-and-humanity-are-in-short-supply)
- [Affaire Mawda: deux des trafiquants d'êtres humains rejugés à Liège \(sudinfo.be\)](https://www.sudinfo.be/actualites/affaire-mawda-deux-des-trafiquants-d-etres-humains-rejug-1108286)

ROUND-TABLE 3: Funding the border and the delegation of control to non-state actors

Video recording: <https://www.youtube.com/watch?v=Hs-qZgyKehU>

An examination of the different forms of the outsourcing of border control duties, from criminal sanctions placed on transport drivers, up to current forms of private security apparatus including surveillance.

<p>Speakers :</p> <ul style="list-style-type: none">● Lucy Mayblin (Sociology Lecturer, Sheffield University): <i>The delegation of border control responsibilities to non-state actors, and the re-demarcation of national borders.</i>● Dariusz Sokolov (Director of Corporate Watch): <i>The role of private companies & security infrastructure in controlling the UK-France-Belgium border.</i>● Antonella Napolitano, (Network coordinator, Privacy International) : <i>Surveillance as border control: new forms of technology being experimented in the Channel, how they work and what dangers they hold.</i>
<p><u>Summary of presentations and discussion</u></p> <p>The border has been constructed around a system relying on specific actors and processes, and on the interrelationships between states, private companies, humanitarian actors and migrants. Developments in recent years raise many issues in terms of the involvement of non-state actors in the processes of surveillance, control and oppression, and raise doubts regarding democratic and citizen control over the ways in which the border between France, Belgium and the UK operates.</p> <p>The delegation of the externalisation of the border by the state manifests itself firstly in the pressure or outsourcing of state responsibilities onto other actors. Some are forced to carry out control operations under risk of sanctions, in particular freight or commercial transport companies: railway companies, road transport companies, airlines, etc. The case of lorry drivers in particular shows how the responsibility of border control is delegated to an individual who can be heavily penalised if "illegal" migrants are found on board their vehicle.</p> <p>The state can also delegate control by involving actors from the charity or humanitarian field, for example by mandating associations to carry out distribution operations, or to help with emergency accommodation. This allows the state to create a form of supervision of the latter's action over time, often to the detriment of other voluntary organisations. <i>La Vie Active</i> in Calais is a good example of this mechanism: a local association with no particular expertise in work with migrants, it is mandated by the state to operate food distributions and manage water points in places far from the centre of Calais.</p> <p>However, control goes beyond state-mandated charities. Suspected attempts to direct the actions of field actors emerged following instructions given by Choose Love (formerly Help Refugees) in May 2021, which was then funding the majority of field actors in Calais. At the time, it banned partner groups from distributing flyers on safety at sea for migrants, and warned against providing housing for individuals before their departure for the UK, thus limiting the information and options available to migrants in the area. Choose Love has since stopped funding almost all charities based in northern France.</p> <p>The border regime can be seen not only as pressure from the state, but also as an architecture under</p>

which many **private companies** offer and provide their services. Whether it is the management of detention centres (Eamus Cork Solutions and Mitie), the training of detection and guard dogs (Wagtail), or the construction of high security fences (Jacksons Fencing), privatisation is being deployed on a massive scale in the management and surveillance of the border. The British government is planning to award **more than £385 million in new security contracts** over the next few years. These will include its advanced ground and air surveillance technologies, especially the use of drones, which have become more heavily used in recent years.

Other companies have an even more proactive role in the security and control processes. The competition for security between Eurotunnel and the Société des Ports du Détroit proves this. With a vested interest in the continuation of trade across the Channel Strait, these companies have played a significant role in creating a security escalation in the region, significantly increasing the presence of private security guards on their sites, and increasing anti-migrant rhetoric and apparatus.

The new technologies employed allow border control agents, whether or not they work directly for the state, to implement repressive and liberticidal practices that are not widely publicised, such as the **extraction of mobile data** by the UK Border Force. The power to do this has been extended to immigration officials and raises concerns that data sharing between private companies and government institutions is occurring without any form of democratic oversight. The data mining technology was purchased by the Home Office from a Swedish security company. Other technologies proposed by companies specialising in intelligence and artificial intelligence (satellites, biometrics, etc.) would entail a substantial use of individuals' personal information, posing a risk to fundamental and individual rights.

These dynamics need to be understood in the context of the broader **securitisation of the border**: there has been harsh anti-migration rhetoric over the past three decades that has shaped a security-based image of the border, implying the use of necessary and relevant technologies to counter crossings to the UK. Many widely-read newspapers and tabloids have continued to launch aggressive media campaigns against migrants ever since the opening of the Sangatte camp in 1999. Transport and freight companies are involved in securitising the discourse to ensure the viability of trade and tourism. In addition, private security companies feed this narrative and the need for security by offering "solutions" to governments.

One of the main issues is the absence of democratic and citizen control over these mechanisms, practices and contracts that link states' migration policies to private actors, whose activities are not always transparently communicated. On the French side in particular, there is not enough known concerning the role and nature of the influence of private companies on the policies implemented at the borders.

Further reading :

- [Record. « Nous ne sommes pas des passeurs de migrants » :... – Lien social et Politiques – Érudit \(erudit.org\)](#)
- [The UK Border Regime - Corporate Watch](#)
- [Choose Love: why is the charity funder quitting Calais this Christmas? - Corporate Watch](#)
- [Home Office set to advertise £385 million private border security contracts - Corporate Watch](#)
- [The Policing Bill: Immigration Officers to get phone data extraction powers | Privacy International](#)
- [Space: The Final Frontier of Europe's Migrant Surveillance | Privacy International](#)
- [10 threats to migrants and refugees | Privacy International](#)
- [Xénophobie business. A quoi servent les contrôles migratoires ?, Claire Rodier, Editions La Découverte](#)
- [Evolution of Immigration Detention \(ox.ac.uk\)](#)

ROUND-TABLE 4: Pathways for action and advocacy

Video recording: <https://www.youtube.com/watch?v=MsZ0wKfPGJw>

This roundtable offered a discussion of different approaches to creating change regarding the issues identified at the French-British-Belgian border. We explored an array of projects being led by different groups of activists challenging the border set-up, and how these approaches might complement each other and be reproduced in new ways.

Lily Parrott (Duncan Lewis legal firm): *A legal analysis of bilateral agreements, Channel pushbacks, and new forms of immigration deterrence in the UK: how we can use the law to challenge the border set-up?*

Lily Parrott is working closely on the UK government's proposed Nationality and Borders Bill, which would drastically limit the rights of asylum seekers, and on the practice of *refoulement* at the UK/French border, which is contrary to European and international law. When considering the possibilities for legal challenge of this Bill, the anti-discrimination clause of Article 31 of the Geneva Convention is key, since the proposal to create a two-tier system for asylum seekers based on the way they reach the territory is discriminatory by nature. These practices also allow for the return of minors, in contradiction with the UK's obligation to consider the best interests of the child, which is fundamental to UK law.

A possible challenge to UK short-term holding facilities on French soil: set up in four locations in northern France and comparable to detention centres (normally used for a short period of time, around 24 hours), they are not governed by the short-term holding facilities rules that apply on UK territory. In addition, people detained at these sites have difficulty accessing their personal data, in breach of GDPR.

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Bella Sankey (Director, Detention Action): *The role of policy and campaigning and the question of 'safe routes' in the UK.*

Detention Action is working with other charities in the UK and in Calais to find pragmatic solutions for the UK to comply with international refugee protection laws, including a proposed "humanitarian visa". This would allow individuals in France to apply for a visa that would allow them to cross the border safely to then claim asylum in the UK. The aim is to convince the public and politicians of the humanitarian visa proposal, and an amendment to this effect has been discussed during a reading of the Nationality and Borders Bill in the UK Parliament in November 2021. Although it is highly unlikely that this amendment would be passed by the UK government, given the Conservative majority in Parliament, it opens up political space to discuss other proposals. There may be another opportunity to do this again with the House of Lords in early 2022. In time, therefore, this humanitarian visa proposal could gather quite a lot of support, especially within the non-governing parties. It is not going to happen overnight, but it is nevertheless important to develop this strategy in light of the vacuum on these issues for decades.

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Anne-Catherine de Neve (Coordinator of the regional antenna of the *Plateforme Citoyenne*, Belgium): *The role of lobbying at a local level in Belgium on the rights of "transmigrants".*

Faced with a serious reception crisis in Belgium over the past few years, a citizen movement has emerged since 2015, thanks to which certain policies, particularly at the non-federal level, have gradually evolved. In 2015, in response to the encampment of Iraqi and Syrian families in the heart of Brussels, a huge citizens' mobilisation movement was set up, giving birth to the *Plateforme Citoyenne* in Belgium, to coordinate all citizens' initiatives. In 2017, the *Plateforme Citoyenne* in Belgium again called for mobilisation in support of migrants following the dismantling of the Calais 'Jungle' and the new presence of around 800 people (mainly Sudanese) in Maximilian Park. Faced with a federal state that continued a hostile policy towards migrants from 2017 to 2020, this mobilisation made it possible to obtain an accommodation structure and then structural funding from the Brussels region. New citizens' initiatives were launched at transit points, which moved increasingly south on the motorway with migrants coming north from France to attempt crossings and taking refuge in the woods. Finally, the Covid pandemic of 2020 gave rise to a third wave of citizen engagement to protect migrants' rights during this period, and led to a collaboration with the Walloon federal region, which now grants subsidies to citizen collectives in support of transit migration.

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Kenan (Founder of 'Camp Residents of Penally' and of Life Seekers Aid, former resident of Penally military barracks in the UK): *An experience of organising from within Penally military barracks.*

Kenan recounted his time in the Penally military barracks in Wales, a former camp where living conditions were inhumane and no medical care was provided, even during the pandemic. In addition, residents faced harassment from the local far-right. The "camp residents" sought to organise themselves internally and set up their own charity. They created workshops and cultural activities despite the limited resources available to them. The self-mobilisation effort served to compensate for the total absence of basic services in the barracks and made it possible to initiate a campaign to close the camps. They contacted the media, representatives, authorities, MPs and NGOs to raise public awareness of the living conditions. Thanks to these and other actions, the camp was closed in March 2021.

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Watch the Channel: *Ground activism and the monitoring of small boat crossings in the Channel.*

Watch the Channel is an activist group created in 2018 in response to the increase in the number of boat crossings in the English Channel. This initiative supports various existing projects - Watch the Med, Alarm Phone and Calais Migrant Solidarity - to organise solidarity and ensure that they are maintaining pressure on the authorities' own search and rescue response. As such, Watch the Channel collects and shares information for people making the crossing on safety at sea, what to do in case of emergency, and asylum procedures in the UK. As well as working on the ground, Watch the Channel tries to bring the issue of sea crossings into the public debate as much as possible. By working with those who make the crossings, and by monitoring state practices and the security measures put in place, they are trying to build a campaign in addition to day-to-day solidarity. Its aim is, through data collection and monitoring, to highlight the violence that has been instilled and to point out the political injustices as well as the criminalisation of people who try to cross.

Summary of audience discussions

What legal recourse is there against the ban on seeking asylum in the UK juxtaposed control zones in France and Belgium?

This ban is based on the Le Touquet Treaty which has been updated over the years. It is complicated to attack a treaty because unlike a law or practice, the treaty is left to the discretion of governments. That said, one angle of attack would be to denounce the fact that people within the short-term holding facilities (see Roundtable 2) do not have access to the National Referral Mechanism which protects victims of trafficking in the UK, whereas under the Short-Term Holding Facilities Rules, people should have access.

It is important to underline the importance of the struggles of exiles who are mobilised for their rights and thus become actors of change, and the importance of cross-border actions that allow to strengthen the mobilisation on both sides of the border, as the Crossborder Forum does.

We need to connect with people who work at every stage of the migration journey and one of the most effective ways to do this is to work in solidarity with people in migration themselves who are directly affected by border violence.

What role for advocacy?

The difficulty of convincing people who are already aware of the effects of the policies they pursue was highlighted. Faced with authorities who know what they are doing, there is no point in convincing them, policies are designed to destabilise, to dissuade, so how can the balance of power be reversed and the situation changed with regard to migrants who are living in situations that are getting worse every day? At the same time, sometimes the feeling on the ground is that we spend our time running around to make up for the measures that are taken and that, in the end, we fail to tackle the root of the problem, which are national and European policies.

For further reading:

- [Challenge to the Home Office's new plan for immigration \(duncanlewis.co.uk\)](http://duncanlewis.co.uk)
- [Priti Patel faces three legal challenges over refugee pushback plans | Immigration and asylum | The Guardian](https://www.theguardian.com/uk-news/immigration-and-asylum/2021/nov/04/priti-patel-faces-three-legal-challenges-over-refugee-pushback-plans)
- [New clause 25 proposes a...: 4 Nov 2021: Public Bill Committees - TheyWorkForYou](https://www.theyworkforyou.com/bills/2021/11/04/comm/25/)
- [Border Securitisation in the Channel | Oxford Law Faculty](https://www.oxfordlawfaculty.com/border-securitisation-in-the-channel/)
- [Les initiatives citoyennes en faveur des réfugiés et migrants – CIRÉ asbl \(cire.be\)](http://www.cire.be/)
- [A Calais, après la grève de la faim : « On préfère s'arrêter avec toute cette énergie positive » – Libération \(liberation.fr\)](http://liberation.fr/)
- [Calais Migrant Solidarity | The people want to bring down the border \(wordpress.com\)](http://wordpress.com)
- [These Asylum Seekers Started Their Own Union \(vice.com\)](http://vice.com)
- [@LSA_Art / Twitter](https://twitter.com/LSA_Art)

Conclusion

Continuities and rupture(s)?

This study day reminded us of the extent to which the existence of this border is rooted in a historical perspective, whether it be the relationships of colonial domination (Lucy Mayblin) or the chronology of bilateral relations between France and the United Kingdom or the United Kingdom and Belgium (Olivier Cahn).

There is also continuity in the violence that public policies have been producing for years in this cross-border area, whether it be the policy of the 'hostile environment' on the British side or the logic of harassment and dissuasion in force on the French side, which flout the rights of migrants on a daily basis and keeps people in inhuman living/survival conditions (Olivier Clochard).

There are forms of violence that translate into a process of criminalisation of migrants and their supporters that is found on all sides of the border (Zoe Gardner, Selma Benkhalifa).

However, several speakers pointed out that the Brexit (and the exit from the Dublin Regulation in particular) could possibly be synonymous with a rupture.

The question of alliances

The study day also provided an opportunity to analyse how and where the border is materialised (eg. the "short-term holding facilities") and which actors, particularly private ones, are involved in the externalisation of control (Antonella Napolitano). It also provided an opportunity to question the place and role of charity and activist actors, and in particular to examine the links between the logic of humanitarianism and security (Dariush Sokolov).

There are ways of resisting and challenging this regime of border-related violence. They take shape through litigation (Lily Parrott), advocacy (Bella Sankey), local solidarity (Anne-Catherine de Neve) and, first and foremost, the autonomous struggles of migrants themselves (Kenan).

Looking to the future

This study day represents an important first step for the Crossborder Forum, in the work towards building a dynamic of cross-border solidarity. It is crucial that it be followed by other similar cross-border meetings in the near future.

Finally, to conclude this study day, the organising committee would like to warmly thank the speakers, the interpreters and the financial support that made this event possible.