

Immigration detention in Northern Ireland

Robin Wilson reports on the lack of due process for asylum seekers.

Equality before the law is a fundamental legal principle. In the context of globalisation, it becomes even more so: in a world of moving people, individuals who are not citizens of the state in which they find themselves – women trafficked in the sex trade, for example – may otherwise fall into a legal black hole. Yet, when it comes to those seeking asylum in the UK, a system of shadow law has developed in recent years, to which normal rules of natural justice do not apply.

This legal erosion has followed from the ascendancy of a political and official discourse which has elided policy on immigration and asylum – even though one is discretionary (outside of the EU context) while the other is founded on mandatory state obligations – and is administratively embodied in the establishment of the UK Borders Agency (UKBA) to ‘control’ both. Alongside this has been the routine prefacing in the popular media of the word ‘asylum-seeker’ with the adjective ‘bogus’.

Together, these have had a dehumanising effect. Rather than the individual refugee evoking a reaction of empathy and hospitality from the public, a disposition of official suspicion and mistrust has been projected on to this stigmatised ‘other’.

Sepia image

Its most extreme manifestation is the UKBA's estate of 11 ‘immigration removal centres’, its size unparalleled in Europe. Here, asylum-seekers who have sought refuge in the UK – often based on a sepia image of the country as a beacon of human rights – may find themselves subject to indefinite administrative detention with no automatic judicial oversight,

as the Commissioner for Human Rights of the Council of Europe, Thomas Hammerberg, complained in a memo (Commissioner for Human Rights, 2008) following a visit to the centres.

Hammerberg

Mr Hammerberg called on the UK authorities to consider ‘drastically limiting’ resort to detention and he ‘strongly’ recommended a time limit, as in France and elsewhere. His memo urged on-site, expert legal advice, so that bail might easily be sought, and said detention of children should cease. In July 2010, the Deputy Prime Minister, Nick Clegg, announced that the family wing of Yarl's Wood in Bedfordshire was to close.

These concerns were echoed in a report from the Northern Ireland Human Rights Commission. This stressed that detention should be a last resort, subject to judicial oversight and a time limit. It called on the UK government to ‘challenge myths, stereotypes and xenophobic sentiments articulated in the media and by others around immigration and asylum, by consistently stating the benefits of migration and its duties in relation to people seeking asylum’ (Latif and Martynowicz, 2009).

Human stories

In June 2010, a report was launched at Stormont in Belfast which told

eight human stories of individuals who had arrived in that part of the UK – from various African countries and Iraq, Turkey and Bangladesh – but had found themselves in detention, mostly at the Dungavel centre in Scotland (Refugee Action Group, 2010). The report, which I had been commissioned to research, opened a window on a world not only obscured from the public gaze but also largely privatised: Dungavel, like seven of the other removal centres, is run by a private company, which also manages transport to and from it.

Many aspects of these narratives are deeply disturbing. First, there is the sheer arbitrariness of the process. Individual asylum-seekers who have been complying with requirements to report weekly to the police have

found themselves suddenly detained by immigration officers when they report or when large numbers of Police Service of Northern Ireland and UKBA personnel come to their home in a dawn raid. Others who have been travelling across

the Irish Sea, in either direction, have found themselves victims of a kind of internal immigration control, linked to a little-known arrangement known as Operation Gull.

Humiliation

Second, there is the disproportionality involved. A particular humiliation visited upon a number of the individuals in this report was being handcuffed as they were led on to, and off, the ferry to Scotland, in front of other passengers. Feeling one is being labelled, and perceived, as a criminal or even terrorist – particularly if one has a non-white skin colour – is a deeply hurtful stigma.

Third, there is the lack of accountability and due process. Again, these narratives tell of being

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Case study: Jamiu

Jamiu was a Nigerian citizen studying in London, who visited Belfast for the christening of a friend's baby girl. He said: 'Instead of spending eight lovely days in Belfast I spent ten days detained in an airport, a police cell, and a detention centre for illegal immigrants.' At Belfast International Airport, Jamiu was stopped by an immigration officer. He noted that the only other person taken out of the queue was a black woman. 'I was very uncomfortable about this fact as other people were looking at us.'

Reflecting on the experience which saw him being held in a detention centre in Scotland prior to his release, Jamiu said: 'I have never been in any trouble of any kind in my life ... No matter how long I live, this ordeal will be with me for the rest of my life.'

held in police custody without the automatic access to a lawyer to which individuals who have been suspected of a criminal offence are rightly entitled.

Finally, there is a general sense of bewilderment as to what is going on. Individuals are held for days, weeks or even months with no idea how long this process will last. They are moved from one centre to another at very short notice. Even release may come like a bolt from the blue.

The report, which was commissioned by the Refugee Action Group, a network of relevant NGOs in Northern Ireland, surveyed evidence of good practice in Scotland, Sweden and Australia before recommending what a 2006 paper on alternatives to detention for an all-party Westminster group (Bercow et al., 2006) called 'a supportive casework approach' of 'community-based support and welfare, rather than punishment'. Specifically, it recommended:

- the Northern Ireland Executive should follow Scotland in adopting an 'integration from day one' approach to all newcomers to the region;
- a small reception unit should be established to assess the complex needs of asylum-seekers, particularly in terms of legal representation, health and support, accommodating them while this assessment is made; and
- a contract should be secured with a specialist third-sector organisation (or consortium) which would offer wrap-around support to asylum-seekers, including accommodation in dedicated housing-association property, centred on an individual caseworker with whom each asylum-seeker would be required regularly to engage until given leave to remain or removed.

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These recommendations, equally applicable elsewhere, would seek

to rehumanise and individualise members of a group subjected to a pejorative collective label. Barbara Muldoon is a solicitor in Belfast who has handled many asylum and immigration cases and she encapsulated the issue in these terms: 'This,' she said, 'is transformative of people's lives.' ■

Dr Robin Wilson is an experienced policy analyst who works with public bodies and non-governmental organisations, with intellectuals and practitioners.

References

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