

Jason Thomas Slade - No Borders Iceland 01/03/2013

In regards to the bill:

Þingskjal 917 — 541. mál. Frumvarp til laga um útlendinga.)

We have read over the bill in question and these are the demands from No Borders Iceland as to the necessary and required amendments to this bill.

NO BORDERS ICELAND DEMANDS FOR IMMEDIATE REFORM

In light of recent and ongoing violations of the Icelandic State concerning the rights of refugees and asylum seekers, and the current bill presented to the parliament. No Borders Iceland lays out the following demands for immediate reform on the issues concerning refugees and people seeking asylum. These demands already exist under

Article 14 of the UN Declaration of Human Rights states that everyone has the right to seek and enjoy asylum from persecution.

Article 31 of the 1951 Convention on the Status of Refugees states that: "The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of Article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence."

Under the disguise of bureaucracy there have been violations on the rights of refugees and asylum seekers in Iceland and those violations must stop. In accordance to the UN Declaration on Human Rights and the Convention on the Status of Refugees, No Borders Iceland demands that the issues of refugees and people seeking asylum in Iceland will be taken to immediate reform. This applies to both regulations and procedure. No Borders Iceland demands the following:

1. The time allowed for reviewing an application for asylum must be limited to a few months and resources made available if acceptable time limits can not be met. Recent guidelines from the UNHCR suggest that the asylum process should be made fast and fair, which would be of benefit for both the host country and the refugees. If an application for asylum is still being reviewed after 6 months asylum should immediately be granted on humanitarian grounds.
2. The process must be open and transparent. Transparency is essential for the sake of accountability. In current conditions asylum seekers face uncertainty for months or years on end while their fate is being decided behind closed doors. If an application for asylum is rejected, the rejection should be supported by a report detailing the reasons why. This report should be published at least three months before the deportation.
3. Deportations based on the Dublin Regulation should cease immediately. This procedure funnels people seeking asylum in Europe to the EU border states through which most asylum seekers enter the EU. Those states have a limited capacity to provide for the number of asylum seekers they are confronted with and thus most are

turned away.

4. As is clearly stated in Article 31 of the Convention on the Rights of Refugees, asylum seekers and refugees should not be detained or prosecuted for possessing false documents upon arrival. There may be several reasons for people not to have proper identification documents, and people fleeing possible persecution should not be put in harm's way by demanding official legal documents. Guy S. Goodwin Gill, Professor of International Refugee Law, at the University of Oxford, in his analysis of Article 31 states that: *"The 1951 Convention establishes a regime of rights and responsibilities for refugees. In most cases, only if an individual's claim to refugee status is examined before he or she is affected by an exercise of State jurisdiction (for example, in regard to penalization for 'illegal' entry), can the State be sure that its international obligations are met. Just as a decision on the merits of a claim to refugee status is generally the only way to ensure that the obligation of non-refoulement is observed, so also is such a decision essential to ensure that penalties are not imposed on refugees, contrary to Article 31 of the 1951 Convention."*

Based on this legal perspective, the asylum seekers case should be processed without penalization for not having these documents.

In light of the above argument, refugees and asylum seeker should not be arrested, criminalized or charged upon their arrival. Examination of their status should take precedence over the Icelandic state's grievances against them. Seeking asylum is not a crime but despite that asylum seekers are generally imprisoned upon arrival in Iceland. There is no justification for this procedure and it clearly violates the human rights of refugees. The before mentioned professor Gill states that: *"To impose penalties without regard to the merits of an individual's claim to be a refugee will likely also violate the obligation of the State to ensure and to protect the human rights of everyone within its territory or subject to its jurisdiction."*

UNHCR opposes the detention of people seeking international protection and in their guidelines it is made clear that seeking asylum is not a criminal act. It also states that there are "well-known negative and at times serious physical and psychological consequences for asylum-seekers in detention."

Therefore, amnesty should be given immediately to those who have already been criminalized by this process and reparations should be given to all asylum seekers present in Iceland for the grief that the imprisonment has caused them.

5. People seeking asylum must be provided legal representation by a lawyer of their choice who should have specialization in the issues of refugees and people seeking asylum.

No proceedings, interrogations or mediation of important information should be held or given without a provided interpreter present. Translation should always be in the appropriate native language.

At the current time, people seeking asylum in Iceland are given a lawyer at the time of their illegal arrest, in most cases the same lawyer who lacks qualifications and expertise on the situations of refugees and asylum seekers. They are often told to plea guilty to all charges that are made to them in a language that they do not understand and without adequate translation. This must stop and refugees and asylum seekers must be granted a translator and sufficient legal representation.

6. People seeking asylum should be allowed to apply for a work permit while their application is being processed. The right to work is a human right, as per article 23 of the Declaration of Human Rights. So is the right to join a labor union. Temporary work permit should be issued for refugees, including those falling under the Dublin Agreement. They should also be granted the possibility to seek education and vocational training.

7. People seeking asylum must be guaranteed access to basic social services such as healthcare, education, libraries, sporting facilities, public activities etc. equal to Icelandic citizens. At present many asylum seekers suffer from social isolation and deprivation of basic means for inclusion and participation in society. Various mental and health related issues have a strong correlation with such isolation.

Asylum seekers should be provided with adequate standard accommodation and living conditions while waiting for the application process to be completed. Accommodation should be in the capital city and within proximity of all necessary services. Transportation to less accessible services should be readily provided or made available.

At present people seeking asylum suffer from what amounts to systematic isolation and lack of means to form healthy social connections and participate in a community. Isolation idleness and boredom for long periods can lead to depression. When social deprivation is used systematically it amounts to nothing less than extreme violence.

8. Special consideration should be given to the children of people seeking asylum. According to the UN declaration of the rights of the child, every child without exception is entitled to social services and education and the child should in all circumstances be the first to receive protection and relief.

9. It should be required in the education system, to provide courses on issues of asylum, migration, immigration by a teacher or lecturer who is also working on issues of equality, to discourage racism and xenophobia. To learn about history of migration, and the corruption behind borders and conquests it took to displace people and build these borders to protect wealth for a few. Also, learn about the real causes of modern migration, and global inequalities in which create refugees, these people fleeing in mass numbers to the west which more often than not creates the conditions of these people to move away from their homes. If we are to reach any progressions on racism, xenophobia, or even sexism, etc. We need to evaluate our whole education system and how we are teaching our children and youth. For us to create a more humane society, education is paramount, to ending the ignorance in our society.

10. We demand the demise of the UTL, which at its foundation, is built on xenophobic and racist principles. We all know that you cannot build on a faulty foundation. So we demand a completely new system to be organized in an open, and transparent way, that has at its foundation mutual respect, mutual aid, equality, and a compassion that is aimed to help people and all regulations regarding the issues of refugees and people seeking asylum should aim to make the wait for asylum as short and easy as possible. **We also demand in light of the recent unresearched and irresponsible comments by Directorate of Immigration Director Kristín Völundardóttir on asylum**

seekers in Iceland. A review of all of her and UTL's actions during her tenure, and beyond, be investigated to the fullest.

Detailed discussion

War, poverty, persecution and other calamities that force people to flee their homes are often the result of economic and social processes based upon inequality and corruption. Colonialism, Imperialism and proceeding exploitation of non western countries on behalf of western states has had a significant influence. Iceland has and still benefits from this order, but refuses to shoulder the responsibility for the consequences by admitting the victims of this system into the country. While resources and capital are allowed to move around the globe without limits so should human beings.

Fundamental problems result from the organization of the world into nation-states. Minorities and individuals who do not belong to the "nation" become stateless and have thereby no access to a political community. The stateless person has a kind of nonexistence within the nation-state. That person does not receive the protection and benefit of the law. It is only as an offender against the law that the stateless person can even be recognized by it.

Human rights are supposedly inalienable but in reality unequally distributed and many are denied such rights and other basic rights by affluent societies. The obligation to guarantee human rights falls on nation-states. Being stateless is thus to be alienated from even the most basic human rights.

These issues are serious and fundamental and some of them cannot be addressed by the Icelandic state alone but must be dealt with by the global community. They should however be addressed and thoroughly discussed in Iceland and ultimately solutions should be agreed upon in an open democratic process. Icelandic authorities should lend their weight to solving the issues facing immigrants and asylum seekers around the world.

UNHCR Guidelines:

<http://www.unhcr.org/505c461f9.html>

Goodwin-Gill.

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s%2520and%2520Global%2520Politics%2Fdocument%2520about%2520detention.pdf&ei=3rYnUcG5Llez0
QWdpCwDg&usg=AFQjCNG6SMY3ihJoS8LXJ3iMw8zmzCsNwg&bvm=bv.42768644,d.d2k