

An amnesty by any other name...

Austen Ivereigh

A report published this week by the Home Affairs Committee claims that the number of asylum seekers who have been granted leave to remain in the UK means that 'in practice an amnesty has taken place', although this has been denied by ministers. Austen Ivereigh of Strangers into Citizens, who have been campaigning since 2006 for an 'earned regularisation' for status-less migrants, explains the evolution of government policy and practice with regard to migrants. Is this 'amnesty' a step in the right direction?

Shortly after London Citizens / Citizens UK launched the 'Strangers into Citizens' campaign at the end of 2006, we went to meet the then immigration minister, Liam Byrne. Rather disarmingly, he told us that Home Office officials had stumbled on a warehouse of close to 500,000 asylum applications that had never been processed, many of them dating back to the early 1990s. He knew that it would be impossible to track all the people concerned, and even less possible to process their cases through the courts. And it was unthinkable that half a million 'illegal immigrants' – the preferred tabloid term for any asylum-seeker who had not been granted leave to remain in the UK – could ever be rounded up and forcibly deported. Only a totalitarian state with an unlimited budget – forcible removals then cost around £11,000 per person – could ever even contemplate such a move.

The paper mountain Byrne had stumbled upon was the result of a breakdown in the Home Office's capacity for processing asylum applications in the years 1999-2002. A paper system designed for a pre-globalised world had been overwhelmed by a sudden, dramatic increase in people on the move – a consequence of wars and poverty in the developing world and of increasingly cheap air travel. An expanding UK economy in need of labour, combined



with a policy of closing down non-EU immigration while allowing (as EU integration demanded) an open door to east Europeans, led developing-world migrants to attempt to enter via the asylum channel, knowing that once in the UK they could make a legal case.

A cumbersome, evidence-based legal process designed to assess the veracity of each applicant's story simply couldn't cope. The Home Office, anxious to fend

off mounting popular fury at the rise of what the tabloids called 'bogus asylum-seekers', tried to deter applicants by a new policy of simply refusing almost all new applicants. But that just added to the bureaucracy, as asylum seekers lodged (often successful) appeals.

By the time we met Byrne in early 2007, new asylum applications were being dealt with far more swiftly. But the old cases had simply languished. Tens of thousands had been waiting seven, eight or nine years on a decision. These were not just statistics. They were people. Many of them worshipped in Catholic churches in big cities like London, where they were supported by parishioners and church charities. It seemed grotesque that human beings who had already suffered anxiety and insecurity in their lives before coming to Britain should live in a state of near destitution and psychological fragility year after year.

Priests would often raise the issue with the then Archbishop of Westminster, Cardinal Cormac Murphy-O'Connor. At the first Migrants Mass (since then an annual fixture) in May 2006, organised by London Citizens, he called gently for some kind of regularisation scheme that would allow those who had put down roots in the UK to be granted legal status. That call, drawn explicitly from Catholic social teaching and Vatican documents, inspired the Strangers into Citizens campaign, calling for a pathway to citizenship ('earned regularisation') for those who had put down roots in the UK (we argued for a residence requirement of at least five years), who formed part of our communities and had no realistic prospect of being returned.

Byrne was sympathetic. The year before, in fact, he had responded positively to a think tank report that made the practical and economic case for an immigrant 'amnesty'. But he had been forced quickly to deplore the idea and the word, which were politically toxic. (We knew it too; hence our call for an 'earned regularisation' – a term used by the Liberal-Democrats when they adopted a version of our policy – based on evidence of duration of stay in the UK among other criteria). On the other hand, Byrne knew that the immigration controls had earlier collapsed, and that half a million people (at least; we estimated it to be closer to 800,000 if you included those who had entered through other channels) had been living in a status-less condition in the UK for more than five years, and would never be deported.

The meeting convinced us that, if nothing else, Strangers into Citizens needed to make the moral, economic and practical case for regularisation, partly to help soften public opinion to the idea, and partly to demonstrate – in contraposition to the MigrantWatch lobby's alarmist press releases poured onto the front pages of the *Express* and the *Mail* – that there was strong civil-society backing for the idea. What followed were years of major rallies, press articles, petitions, council motions, early day motions, a parliamentary debate and much else, in which the Catholic Church (appropriately, given the origin of the campaign) earned a reputation as a prominent backer, along with the Mayor of London, Boris Johnson, and key supporters in all the major parties. In April 2008, the Catholic bishops of England and Wales issued a major policy document, ['Mission of](#)

[the Church to migrants in England and Wales'](#) which included a call for regularisation, without specifying conditions. Noting that, 'Many of these [undocumented] migrants have been here for several years; some have even set down roots and started families', the bishops said:

Without condoning illegal immigration, the Church's position on this, as in other fields of human endeavour, does not allow economic, social and political calculations to prevail over the person, but on the contrary, for the dignity of the human person to be put above everything else, and the rest to be conditioned by it. The Church will continue to advocate compassion to allow the 'undocumented' an opportunity to acquire proper status, so that they can continue to contribute to the common good without the constant fear of discovery and removal.

The campaign has not succeeded in practical terms. We were calling for a one-off earned regularisation for all status-less migrants (that is, economic migrants as well as asylum seekers) who could demonstrate more than a five year length of stay in the UK and could show, through testimonials, their commitment to society. But in another way our campaign succeeded brilliantly, for it created (we were told as much by more than one high-level Home Office source) essential political space for the Government – both the last and the current one – to carry out what a parliamentary committee earlier this week said in effect amounts to an 'amnesty'. Rather than announcing a one-off scheme to regularise on the basis of a residence requirement, the Government quietly wrote to the languishing applicants who could still be contacted, granting them leave to remain 'on the basis of your long association with the UK'.

When I first saw one of these Home Office letters, I smiled. The official line had been that amnesties encouraged further illegal immigration; by announcing that someone who had evaded the authorities for long enough could be regularised, it was argued, we would be effectively renouncing our border controls. Yet here was the Government, doing exactly that – telling a migrant that the length of time they had lived in the UK had given them the right to continue doing so legally. When the *Daily Mail* – correctly – named this as an 'amnesty by stealth' the reply came back that this was not a 'blanket amnesty' because each

application was being considered on a 'case-by-case basis' and 'on its merits'. The coalition Government has simply continued and speeded up this policy, vowing to clear the backlog by this summer.

In its report this week the cross-party Home Affairs Committee found that since 2006 some 40 per cent of outstanding (or so-called 'legacy') cases dealt with by the UK Border Agency (UKBA) have led to individuals being allowed to stay. It said the UKBA also had 'no idea' what happened to tens of thousands of others, whose cases had to be shelved. Such numbers were obtained, said the Committee, 'largely through increasing resort to grants of permission to stay', and by changing the rules to allow those grants to be given to applicants who had been in the UK for between six and eight years – aligning with the call of Strangers into Citizens – rather than 10 to 12 years previously.

So far most (403,500) applications from the backlog of approximately 450,000 have been fully processed. Less than one in ten of the legacy cases – 38,000 – have been removed while four in ten – 161,000 – have been granted indefinite leave. The latter was 'such a large proportion that it amounts in effect to an amnesty', the MPs said. (Of the remaining 205,500 applications, 40,500 were effectively shelved simply because 'the applicants cannot be found'; the others were duplicates and errors – but on that scale? It stretches credulity.)

The Coalition immigration minister, Damien Green praised the Strangers into Citizens campaign when we met him before the last election, but stuck to the Conservative line that amnesties 'don't work'. This week he has rejected the Committee's accusation, insisting that 'there's absolutely no amnesty' because this was a backlog clearance exercise in which each case is considered on its merits. But amnesties also consider each application on its merits. A series of criteria are applied, and those that fulfil them are granted leave to remain. That is what has happened here. What makes it an amnesty – or one-off regularisation – is the recognition that with roots come rights, and that staying in a place over time, forming an attachment to it, should bring with it legal recognition.

It is an idea central to all regularisation schemes, one that the Select Committee noted when it said that the

reason the Government had granted leave to remain to so many was because they have now been in the country so long that removing them could breach their human rights and family life.

Rather than an angels-on-pins argument about whether or not this an amnesty, it would be far better for Government and UK society to take the next step, one consequent with the moral principle behind the below-the-radar policy the Governments have operated since 2006.

The step that follows is to allow all those who have been living in the limbo of illegality (not just asylum seekers caught in the legacy logjam) for more than six or seven years to be allowed the chance to earn citizenship – not just to clear an unsightly bureaucratic pile, but to free people to live full, human lives. There are many benefits which flow from such a move – legal, financial, practical, and moral – which Strangers into Citizens has often explained. The idea that such a scheme would act as a green light to illegal immigration – an objection illustrated by pointing, in a very misleading fashion, to Spain's 2007 measure – betrays a profound ignorance about who immigrants are, and why they choose to move.

If you know migrants, whether the kind fleeing persecution or poverty, or simply those who find themselves, through unexpected bonds, putting down roots, you know that they do not come to another country in the hope of becoming a citizen in eight years' time. Their horizons are much shorter, and their focus much narrower, than that. And if you have heard the stories of vulnerable migrants, you will find it impossible to see them as criminals evading capture, preying on taxpayers. But as long as they are imagined and depicted as such, no Government can afford, politically, to consider an 'amnesty'. That is why we will continue to have 'backlog clearance exercises' which are amnesties in all but name yet never named as such; and why we cannot afford ever to admit that sometimes human beings do, in fact, come before laws.

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