

ASYLUM CAMP LIMBO

A REPORT ABOUT OBSTACLES TO DEPORTATION



MICALA CLANTE BENDIXEN
REFUGEES WELCOME

INTRODUCTION BY THOMAS GAMMELTOFT-HANSEN

»I feel I missed half of my life. When I look at my Danish girlfriends I don't understand why they can have a life and I can't. I still don't know, after 12 years, if I will ever succeed.«

Helin, 23 years

ASYLUM CAMP LIMBO – a report about obstacles to deportation

Text & graphic design: Michala Clante Bendixen 2011

Thank you to all the asylum seekers who have shown courage and faith by exposing themselves in the report.

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DANISH ALIEN ACT:

§ 9 c

(2) Upon application, a residence permit may be issued to an alien whose application for a residence permit under section 7 has been refused, provided: -

- i) that it has not been possible to return the alien, see section 30, for at least 18 months;
- ii) that the alien has assisted in the return efforts for 18 months consecutively,* and
- iii) that return must be considered futile according to the information available at the time.

*) Danish National Police demands a signature to return voluntarily and actual cooperation in verifying the identity, obtaining travel documents and regarding the deportation itself "to the country decided by the immigration authorities".



Room in Center Sandholm for three single men.
Photo: Michala C. Bendixen

INTRODUCTION

Currently about 500 rejected asylum seekers who cannot be deported to their countries of origin live in Denmark. For a number of them, this implies yearlong stays in Danish asylum centers in continuous insecurity regarding their own and their children's future. The Danish situation is not unique. In these years, almost all European countries are faced with rejected asylum seekers who cannot be deported to their countries of origin due to protracted conflicts and insecurity, lack of collaboration with the authorities in these places, or lack of documents.

However, the Danish treatment of these people is a source of concern – both in relation to human rights standards as well as to the countries we usually compare ourselves with. First, the number is high in relation to the total number of asylum seekers in Denmark. This may partly be related to the countries of origin of the asylum seekers. But it is probably also a result of repeated restrictions of the Danish alien legislation during the last 15 years, meaning that a number of cases are rejected today which would previously have been accepted.

Second, Denmark has chosen to introduce “motivating measures” for persons who refuse voluntarily return. This means compulsory attendance at the National Danish Police, deprivation of pocket money, transfer to a deportation center, and in some cases imprisonment. So far, no studies show that these measures actually work. On the contrary, analyses from other countries point out that persons who have been activated through employment or education during their stay are much more likely to return voluntarily when the situation in the country of origin so permits.

Last but not least, the possibility of obtaining a residence permit based on obstacles to deportation is severely limited in the present Danish practice. As documented in this report, there are several examples of persons who have been kept in deportation position for more than ten years. This is a testimony of a national policy that neither recognizes the political and practical realities in the countries of origin, nor the legal and physical limbo of the individual asylum seeker.

Thomas Gammeltoft-Hansen
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“Asylum-seekers having received a final rejection of their application for asylum must leave Denmark according to the deadline stated on the decision. If a rejected asylum-seeker refuses to leave Denmark voluntarily by the set deadline, it is the responsibility of the National Aliens Division to ensure his/her departure. An asylum-seeker who has received a final rejection and await his/her departure, is registered as 'rejected asylum-seekers in return position'. It is the obligation of the asylum-seeker to cooperate with the police over his/her departure. If the asylum-seeker refuses to cooperate, precautions will be arranged to motivate the asylum-seeker to do so. The asylum-seeker will be covered by the food allowance programme and may be moved to a departure centre.”

Danish Immigration Service

(from Statistical Overview, Migration and Asylum 2010)



Young men in Asylum Center Sandholm.
Photo: Michala C. Bendixen

1 PREFACE

THE SUBJECT AND AIM OF THE REPORT

This report is about a limited but very important part of the asylum seekers in Denmark who end up in a limbo. They are the ones who are rejected but for some reason they cannot be returned to their country of origin. They fall into a gap in the system – obstacles to deportation. Some end up spending many years in asylum camps, even up to 15 years.

Most people would agree that when you are rejected you should be sent home. But Denmark is obliged to make sure the home country will accept the person. A certain part of rejected asylum seekers will inevitably find themselves in a hopeless situation where this is not possible. The Danish authorities say the problem is self-inflicted and that they could return voluntarily, or that they are lying. But sometimes the home country refuses to recognize them, and they are not always lying. The cases are often complex and the way the authorities handle them is far from perfect. The fact remains: they are not leaving. And the result is a breaking down of their human resources and not least of their children.

The new Thorning Schmidt government will provide better access to work and education and will offer accommodation outside the camps. These are very good promises that will have a positive effect, especially for the children. But the main problem is still unsolved for this group. If in the future we want to avoid that people spend 6, 8 or 15 years in constant anxiety and insecurity we have to change the criteria for obtaining residence permits because of obstacles to deportation.

The report looks at the actual consequences of the policy, the process of seeking asylum, the role of the police, the international criticism of Danish practice and the conditions in other countries. Eight case stories are presented with an average stay of nine years in an asylum camp, coming from eight different countries.

The problem can be solved politically, and we are speaking about a small amount of people – right now 248 persons, who have waited for more than 3 years. Out of these, 68 have waited for over 10 years, 12 for more than 15 years. The figures include minors, 27 children are born and raised in the camps. The report presents a number of recommendations on how to solve the problem. Some of these have been proposed earlier by The Danish Institute for Human Rights, The European Council and The Danish Refugee Council, complemented by the author's own. Some of these recommendations have already been included in the government declaration October 2011.

THE HUMAN CONSEQUENCES

The long times of stay have serious impact on human beings. It is well documented that there is a significant rise in sickness, mentally and physically, already after spending one year in a camp, and almost all of the children show signs of serious mental problems. This is due to uncertainty/anxiety about the future and untreated trauma combined with an institutionalized daily life without power over ones own situation and without meaningful occupation. Asylum seekers have, until now, not been allowed to work or educate themselves. Staying in the camps is compulsory. After rejection the allowances only include food and doesn't cover expenses like transport out of the camps. A large number of these people are traumatised but have no right to treatment. The Danish Red Cross that runs the camps has often warned that the camps are only appropriate for short time staying.

The fact remains that people who have asked Denmark for protection end up getting broken down during their stay in our country. As a paradox some of them have obtained a permit to stay on humanitarian grounds because of serious mental illness developed long after their arrival. This is not in anyone's interest, whether judging from a human or a practical point of view. This small group of people need a residence permit, or else any attempts to heal their trauma are useless. The cases being so different and unpredictable this will not lead to greater rush into Denmark. When reading the eight cases it is difficult to say how they could have “exploited” a more generous legislation, as it is often claimed.

CONSEQUENCES FOR THE CHILDREN

The children who live in the camps call for special concern. It has notably been proven in a recent screening study by The Red Cross that a large part of the children are traumatized even before arrival. Their stay in the camps considerably worsens their situation due to the uncertainty, forced moving between camps, limited contact to the outside world and inadequate schooling. The majority of the children born or growing up in the camps show signs of mental disorders and development problems.

Whether one considers that the responsibility for this problem lies with the parents or the Danish authorities the fact is that these children are damaged while growing up in our country under the present conditions. This situation cannot be defended in any way, and must be changed. According to The Convention on the Rights of the Child, the state must consider the best interest of all children and secure their development – these days we are doing the opposite, and Denmark lost a case at the European Court of Human Rights in June 2011, specifically about the best interest of a refugee child¹. Denmark has not implemented The Convention on the Rights of

the Child in the Alien Act, and this means, among other things, that the child's own attachment to Denmark is not considered, children's own asylum motives are not examined and children's diagnosis are not on the list for residency on humanitarian grounds.

Experiments with offering housing outside the camps for rejected families have shown some positive effect on the children. The uncertainty remains, however, and prevents children and parents to get better for real². See the Gargari family case page 44. By the spring 2011, 246 children have spent more than one year in the asylum camps, a few up to 14 years of whom 27 children were also born there.³

1) see Osman vs Denmark under Extracts in this report

2) see "Herre i eget hus" Red Cross 2009 under links/documentation

3) JyllandsPosten, January 28th 2011

ECONOMIC CONSEQUENCES

Another aspect of the long stays is economic. A large part of the budget for asylum seekers is spent on the small group concerned by this report – especially the children – due to the rise in expenses on health and social support following the length of stay. On average an asylum seeker costs a quarter of a million DKR (71.400 €) a year, much more than the benefits they would get if they got permission to stay. Many are resourceful and reasonably healthy at arrival, but the longer they stay in the camps the smaller are their chances of being self-supportive. See the case Shar-areh page 32. In a cost-benefit analysis Denmark (or the country of origin) would profit from a faster asylum procedure with access to work and education and a time limit of one year's stay as rejected. Research from Norway shows that among the Bosnian refugees who came in the 90s, the ones who quickly got a permit to stay also became the most active refugees on the labour market which in turn gave them sufficient resources to return on their own after the war had ended.

Asylum procedure in Denmark is very slow and bureaucratic, files are in paper archives instead of electronic registering. The police procedure is also costly, officers having a personal meeting with every rejected person 1-2 times every week and spending money on journeys to embassies abroad and meetings in airports.

The prohibition to work combined with small or no allowances force asylum seekers into illegal and unregulated work, earning down to 10-15 DKR per hour, or into crime. It is not possible to get on, month after month, on no income. An absurd situation considering the fact that almost every one of them wishes to work, and a certain amount even come with useful educations.

” *Living in a stalemate between the authorities' insistence on deportation and the impossibility to do so for a host of technical reasons (often including the foreigner's lack of cooperation, as pointed out by the Government), finally rejected foreigners nowadays have to face the prospect of having to stay in the Danish centres for what could be the rest of their lives.*

Thomas Hammarberg,
Council of Europe Commissioner for Human Rights 2007

” *Danish politicians have to face the realities in stead of hiding behind bureaucracy. It is clearly the asylum legislation that makes people sit for 10 years in the Danish asylum camps.*

After 10 years you cannot send these families back, they have nothing to return to. They live here without education or job, and the state pays”

Pannayiotis Demetriou,
chairman of the LIBE delegation, European Parliament 2008



"Amnesti Nu": delivering 90,469 signatures to the Minister Rønn Hornbech, Christiansborg Oct. 2007. Photo: Michala C. Bendixen

CRITICISM OF DANISH CONDITIONS

In 2004 the European Council's High Commissioner for Human Rights Alvaro Gil-Robles visited the asylum camp Sandholm. He was satisfied with the material conditions and the commitment of the staff, but shocked to find asylum seekers who had stayed for up to 11 years in this limbo outside society. He called for special attention to the negative effects this practice has on the children. The criticism was repeated in 2007 by his successor Thomas Hammarberg⁴.

The European Council has also criticised the composition of The Refugee Board and the fact that rejections cannot be appealed to a higher instance. Denmark demands that asylum seekers are in an individual and concrete risk of persecution, but this restriction has been overruled by the European Court of Human Rights in the case Salah Sheekh vs Holland 2007. The judgement rules that it is sufficient to belong to a persecuted group to get asylum⁵. This year the court has ruled against any deportation to Mogadishu, Somalia.

In 2006-2007 the activist group Amnesty Nu collected 90,469 signatures demanding residence permit for the 800 rejected asylum seekers who at that time had spent more than three years in the camps. On 23 October 2007 they were handed over to the Minister of Immigration. On the same day, Prime Minister Anders Fogh Rasmussen promised that 60 rejected families would be offered accommodation outside the camps, and the next day he called for election. The result was, however, that only 16 families accepted the offer, two of these appear in this report.

The following year the LIBE Committee from the European Parliament paid Denmark a visit and wrote a report about the asylum system, strongly critical of the length of stay and the demand to leave voluntarily. The chairman said, among other things: *"As a human being I sympathize with the refugees in Sandholm, and I am astonished that a civilized country can treat people like that."*

UNHCR, UN High Commissioner for Refugees, has contacted the Danish government directly several times since 2005 to ask that their recommendations be followed to grant protection to all Iraqis from Southern and Central Iraq – in vain⁶.

The UN examined human rights in Denmark (the UPR procedure) for the first time in May 2011. The result was no less than 133 points of criticism, a large part of these focusing on asylum seekers, refugees and immigrants. The government has consistently dismissed any criticism about the asylum practice.

4) 5) see under Extracts in this report

6) as mentioned in the book "De afviste" Anton & Esben Geist, Informations forlag 2011

THE SITUATION IN OTHER COUNTRIES

There are big differences between the situation of rejected asylum seekers in Denmark as compared to other European countries. The Danish asylum system is highly regulated and people are being cared for physically – the state offers housing, food and clothes at arrival and even if the asylum application is rejected. However, until now there has been no access to work or education, and staying outside the camps is not allowed. The material conditions are worse in most European countries (apart from Sweden and Norway), and a rejection asylum seeker faces the same situation as any undocumented migrant. These countries, however, sometimes offer other possibilities of obtaining a residence permit at a later stage based on e.g. marriage, children or work. This implies that most adults keep some power to act upon their own lives, as opposed to the Danish system which forces them into passivity and breaks down their dignity.

The Danish authorities are very rigid on the idea that rejected asylum seekers must return – there are no ways of appealing the case or staying on other grounds. A rejected asylum seeker cannot even apply for family reunification or a green card while still in Denmark, but must apply from the country of origin.

In 2005 a claim was signed by 157,000 Swedes, demanding amnesty to the many people in a similar situation in Sweden (where people are not staying in camps and allowed to work, though). In stead of amnesty the Swedish government decided to reopen 30,000 cases, and 17,000 of these were given a permit to stay, often because of long stays in Sweden and the hopeless situation in the country of origin.

In 2010 Denmark received 195 asylum seekers per 1 mio inhabitants. The equivalent number for Sweden was 635, for Norway 400⁷. The number of persons seeking asylum in Europe has dropped to half during the last ten years according to UNHCR, and no more than 10% of the world's refugees end up in Western countries. Jordan, with a population the size of Denmark, received 750,000 Iraqi refugees up till 2007.

7) Eurostat.

” *If we have rules – no matter how good they may be or what you may think of them – that collide with humanity, it's not humanity we should change, but the rules.”*

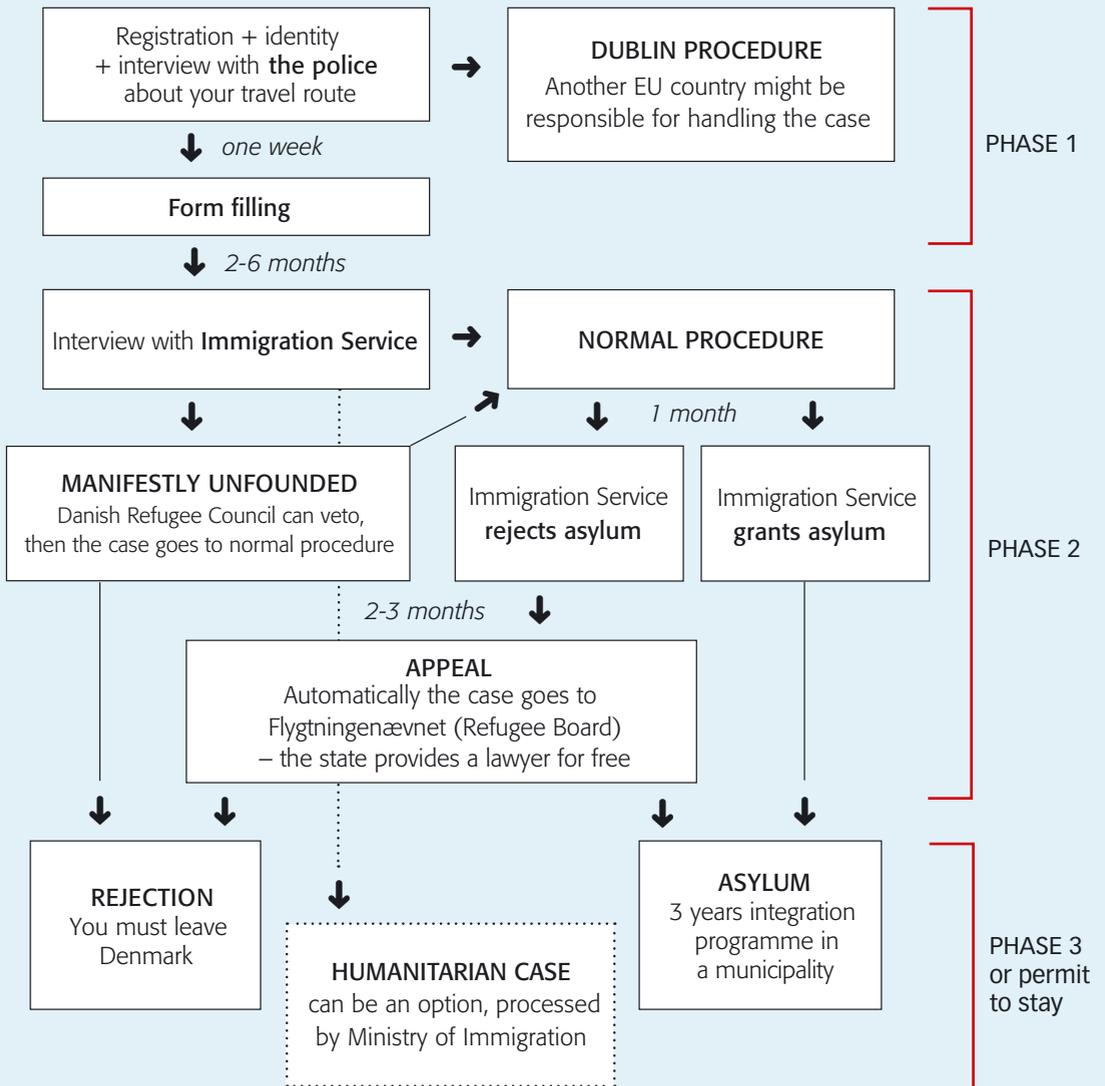
Isi Foighel (1927-2007), Danish minister for the Conservative Party and judge at The European Court of Human Rights



Right behind the fence of the kindergarten in Sandholm lies Ellebæk, the prison for asylum seekers. Photo: Michala C. Bendixen

ASYLUM PROCEDURE IN DENMARK

Time periods can vary more than in this diagram. It can take anything between 3 months and several years to get a final decision in a case.



2 OBSTACLES TO DEPORTATION

Currently, autumn 2011, there are about 4,500 asylum seekers in Denmark. 900 of them are in the “return position”, that is they have been rejected. A few years ago, the overall length of stay in the camps was 1,300 days on average – it has now fallen to 500 days because of a rising number of new arrivals and a somewhat more efficient case handling. The average time from final rejection to actual departure is 200 days. Around 500 persons refuse to leave voluntarily and most of these are subsequently met with “motivating measures”. Some disappear from the camps, the police presume that they have left the country, but others stay underground. The remaining have spent many years in the return position because it has not been possible to deport them – 258 persons for more than three years, some up to 15 years.

THE ASYLUM PROCEDURE

Asylum cases are determined in the first instance by the Immigration Service based upon a form in writing and an oral interview. Prior to this, the police is to determine the identity and the travel route of the asylum seeker. If the case is turned down in the first instance, it is automatically transferred to the Refugee Board in second instance (unless the case is considered Manifestly Unfounded) and the state provides a lawyer. A negative answer here is final and cannot be appealed to a court. Only very few cases are re-opened at a later stage .

Asylum cases are always a question of the applicant's personal appearance, presentation of her situation and therefore credibility. The decision in itself also consists of personal evaluations within both Immigration Service and the Refugee Board. It is far from an exact science with clear evidence and proof.

The Danish authorities do not necessarily follow recommendations from the UN-HCR, and criticism from a.o. the European Council has not been met, as mentioned on page 13. Rejected Iraqis and Somalis are actually supported by the UN when they refuse to return. The European countries also judge asylum cases very differently, e.g. Denmark only gave asylum to 2% of Iraqis in 2006 when most other European countries gave protection to around 80%. Seen in this light it may be easier to comprehend why many rejected asylum seekers do not accept their rejection and refuse to leave voluntarily.

Legislation expects the rejected person to leave voluntarily, but only a small number does. Even if the authorities have judged that the applicant does not have a right to asylum and is not in need of protection according to international law, this person might nevertheless feel very much in danger. The asylum seekers who are resourceful enough to come to Denmark are not fleeing from poverty. They have experienced abuse, war and persecution in their home country. According to a survey by Amnesty International in Denmark almost half of them have been exposed to torture*. A number of decisions are questionable, and fatal mistakes can be made as our case from Iran shows (page 32).

The EU Return Directive from 2008 sets new time limits after final rejection, typically of seven days, and if the person does not cooperate she will be given a ban on re-entry into the Schengen area for two years.

Asylum seekers can also apply for a permit to stay on humanitarian grounds, but this option has been extremely limited and is now only granted to a small number of people suffering from very serious diseases. It is a temporary status and is reevaluated every one or two years.

PROBLEMS WITH THE COUNTRY OF ORIGIN

At times deportation to certain countries can be impossible, and these countries may change. For many years there were no readmission agreements with Iraq, Kosovo and Russia, nor with Lebanon for stateless Palestinians. Right now no-one can be deported to Iran (unless they have a valid passport) nor to Somalia*. Other countries can deny any knowledge of persons who are stateless or belong to unrecognized minorities – very often they have never had any identity papers issued. This is the situation for Bidoons from Kuwait (see case page 34), Kurds (see case page 30) and Roma. Some citizens from former Soviet Union have never received papers from new republics. Certain countries refuse to accept citizens against their own will (Iran and previously Russia), others are citizens of a country which has no recognized government (Somalia), and some countries are in a warlike, unsettled situation forcing deportations to be put on hold (Syria and Somalia). It can also prove impossible to get identity papers from the embassy at all – some countries tend not to answer.

There may be a confounded risk for the deported to be tortured at return, simply on suspicion that she may be a spy or working for the opposition. April 2011 the UN Committee on Torture asked Denmark to stop the deportation of three Eritreans because of this risk. Persons living in Denmark on "Tolerated Stay" are in a similar position, but that is a topic requiring its own report.

*) Right now there are 90 rejected asylum seekers from Iran and 60 from Somalia in Denmark.

DOUBTS ABOUT THE IDENTITY

In certain cases the authorities have doubts about the identity and the actual country of origin, or no country feels obliged to receive the person in question. Circumstances are often that asylum seekers arrive without papers that prove where they come from – or with forged documents. Sometimes they had to use another name to get out of their country, sometimes the human smuggler who took them to Europe kept the passport. Many are also advised to destroy their passport.

When arriving in the asylum camp there is quite often nothing to support or prove the word of the person herself. The applicant may have taken the bad advice to lie about her nationality to obtain asylum. Others feel insecure whether to trust the Danish police and therefore hesitate to reveal their true identity – most applicants come from countries where the police are the last ones to be trusted. The Danish authorities do not offer any serious counselling upon arrival, and therefore a bad advice can be fatal for the case. Often there is no access to a relevant interpreter at the very first registration. Besides, applicants are questioned by the police about her identity and travel route at the same time, and many of them have been threatened by their smugglers to give a false route.

In spite of the fact that the police has no reason to ask about the asylum motive itself, they nevertheless systematically ask about it. The police has no training for carrying out this questioning, and their summary can therefore harm the case later.

Mostly, the police bases the summary on the information provided by the applicant at first, even if the questioning can reveal the agent's open suspicions. These suspicions can then be confirmed or disproved during the more thorough interview with the Immigration Service at a later stage. Some manage to obtain documents from their home country after arrival, e.g birth certificates. If the applicant gets a final rejection, the police may have to verify her identity in order to return her. This can be done by means of language tests and presentations at embassies. The result may be useless and contradictory. In one case in this report the police has tried no less than seven different countries – even if the person himself has maintained his statement persistently during 11 years. Language testing is not always reliable, and sometimes the police may even take the effort to travel to a certain country and present the person in the airport, not always with the desired result.

WHO GETS A PERMIT TO STAY ON §9 C (2)?

A very small number gets a permission to stay under §9 c (2) in the Danish Alien Act (obstacles to deportation). In 2009 six persons were concerned, in 2010 only one. To get a permit under this section there is a demand to sign on voluntary return and also cooperate regarding the return – read more about this on page 26. But what exactly is meant by "cooperation", and is the demand for signing voluntary return reasonable in any way? Another condition is that the police must have given up on the deportation, which they will only do after many years of trying. In the process they inform the Immigration Service whether the person has signed and whether they consider her to cooperate. Only at this stage does the Immigration Service decide whether she should obtain a permit to stay due to the obstacles to deportation. In almost all cases the decision will be negative because the demand to sign and cooperate is not fulfilled, even if deportation has not been possible for the last 18 months. Some could, however, be deported as soon as they sign – and then there would be no obstacles. The conclusion seems to be that the police has a stronger influence on these decisions than the Immigration Service.

A very drastic change has been made without public attention. In the year 2000 the Danish Home Office (who processed the cases at the time) recommended that residence permits should be given to 333 rejected asylum seekers from Northern Iraq, Afghanistan, former Yugoslavia, Ethiopia and Puntland. These permits were not to be issued on condition of cooperation and not to be withdrawn if the obstacles should cease to exist¹⁰. It has not been possible to find out how many of the 333 persons concerned actually ended up getting a permit.

Last but not least, this type of residence permit is only valid for one year at a time and it has to be re-evaluated every year. Therefore it seems even more odd that this type of permit is only granted in so few cases.

10) Note from the Immigration Service's meeting with the Home Office 18 April 2000.

” *It is not sufficient that the family gives its written consent on the police form P612-41 Cooperation Agreement to win some time and draw out the case, and then as a matter of fact does not respect the decision from the authorities that they have to leave Denmark after rejection on asylum.”*

Danish National police, December 2010, about Arman and Geretik Hakopjan

3 THE PRESENT PRACTICE: A CRITIQUE

MOTIVATING MEASURES

If a rejected asylum seeker refuses to leave voluntarily, a number of measures to motivate her return are enforced. These are: a) meetings with the police, once or twice a week, where the person is questioned about her refusal to leave Denmark voluntarily; b) transfer to an exit center; c) annulment of activation and pocket money and no cash whatsoever is handed out in centers equipped with a canteen.

By refusing to leave voluntarily many rejected asylum seekers are placed in the Ellebæk Prison¹¹, to enhance the pressure to leave as Amnesty International has described in the Danish member magazine 1/2011. To leave voluntarily involves a number of advantages. Some groups are offered larger amounts of money from the Danish state or given the opportunity to enter a short term education, free of charge. Nevertheless, several of them state that they would rather die in an asylum camp than face all the present dangers in their country of origin.

Only a minority chooses to leave shortly after rejection. Those who refuse to leave Denmark rarely give up under pressure. The police states that pressure has a certain yet modest effect on those who can be forced to leave, and some people, for instance from Somalia or Iran¹² are not likely to be returned quickly. The persons who risk to be deported eminently may choose to go underground or to go to another country illegally.

Asylum camp life affects everybody psychologically and makes it more and more difficult to imagine and hope for a return to one's home country. People become disillusioned and lose self confidence and energy when living an uncertain life for years. As time goes by the threats and dangers in their home country may be reduced. But if or when their old social network and family ties do not exist anymore, there will only be a vacuum to return to. A previous project, run by the Danish Refugee Council to assist returnees from Kosovo shows us that sthis initiative was seen as a help, but far from sufficient.

11) Ellebæk is a closed prison for asylum seekers only, not for criminal foreigners. Asylum seekers are incarcerated there according to the Alien Act (Udlændingeloven). This institution is managed by the Bureau of Prisons (Kriminalforsorgen).

12) According to the report by the Danish Police on the status of return work of rejected asylum applicants in 2010.

THE ROLE OF THE DANISH POLICE

As § 9c (2) (obstacles to deportation) is practiced it is de facto a police decision whether a case has a prospect of success or failure. It is only pro forma that this law operates with an 18 months specification, and the modification to 12 months in the governmental “2020 agreement” will have no effect. On average police casework took 239 days in 2010 for accompanied return and 201 days for unaccompanied return¹³. This period covers the time from rejection until removal. But it may also include weeks or days where a rejected person has disappeared. In the eight cases of this report it seems surprising that the police has not declared it pointless to pursue return at a much earlier stage. Apparently these cases were shelved for a long time. In 2010 only one person was granted a residence permit under this section.

Negotiations with a recipient country are evidently important. Yet another crucial element is the evaluation of the applicant's readiness to cooperate, where the police also makes the final decision, since it is not sufficient to sign a return approval. The approval has to concern the very country that the police considers to be the proper return country. To demonstrate her cooperation the rejected person has to submit to language tests and meetings in embassies, etc.

In sum the law is practiced in a way that gives the individual policeman the authority of a “judge”, who holds the power to decide whether a person should be given the permission to stay or not, as shown in the Gargari case p. 44. It is only when the police has given up the return process or deems that the person shows sufficient cooperation that the Immigration Service makes a formal decision.

It is evident that the de facto power of the police to “judge” and make decisions in the return procedure should be criticized. Indeed, no institution or committee control whether the police evaluates the cases and take decisions in a fair and reasonable manner. It is impossible to overrule the claim of a police officer that a person does not appear credible. There is a lack of clear definitions of the criteria used for dismissing or supporting a case. The very implementation of the law is unworthy of a democratic state that upholds the rule of law.

The police also transgresses its authority when asylum seekers are questioned upon their arrival in Denmark about their motives for coming. Being questioned in such a situation leads to errors in the report and may harm the case at a later stage.

13) Accompanied return entails that at least two policemen follow the rejected person to her homeland and hands her over to the authorities. A more moderate procedure is “assured departure”, which implies that the police follows the rejected person to the airplane before it takes off.

THE ROLE OF THE INTERPRETERS

To get a case through the asylum system is a long and complicated process. At all stages an applicant is very dependent on a competent interpreter. Both oral and written interpretations are an integral part of the process and are very important elements in the assessments of the applicant's personality and trustworthiness, and any doubt is to the disadvantage of the applicant. Here the very quality of the interpretations is of great significance. It is surprising that most interpreters are not certified as professionals, since they have no formal education or professional degree as interpreters. In most cases the only requirement in this specific field is that the language is the mother tongue of the interpreter and that they have a reasonable level of speaking and writing Danish. There are countless examples of misunderstandings, for instance about dates or "uncles" turning into "brothers". Different languages are often regarded as dialects, when in need of a specific interpreter. Even at the level of the Refugee Board Dari-speaking Afghanis may get a Farsi-speaking Iranian as an interpreter, because their languages appear to be so similar that they can understand each other.

The non-professional approach and lack of ethical training also result in instances where interpreters imprint their own views on a case to its detriment. The Danish Association of Immigration Lawyers has for many years propped that all interviews with the police, the Immigration Service and the Refugee Board ought to be recorded but so far without any success. Such recordings are normal procedure in the US, a state otherwise known for its harsh asylum procedures.

The standard of the interpreters is not only heterogeneous and their selection arbitrary. On top of this, the police are not consistent in its use of interpreters. An example among many is the one of an elderly lady from Eritrea whose reports show that she has been questioned by the police in English. In fact, her English is very limited, and both her lawyer and her doctor always find it necessary to call for an interpreter.

The state authorized education of interpreters in all languages ought to be introduced and a professional training made obligatory for all. A great number of cases are rejected because they "do not appear convincing" or because the applicant "has not answered consistently". When interpretations are incomplete or incorrect such decisions lose all legitimacy.



Entrance to the Ellebæk Prison.
Photo: Gerd Gottlieb

IMPRISONMENT

“An alien who does not cooperate to return can furthermore be detained to secure that this individual gives the necessary information about departure and contributes to provide the necessary travel documents and for departure in general (§ 36, section 5).”

From the Danish Police report on the status of returning rejected asylum seekers in 2010.

Especially when it comes to single men a shorter or longer part of their time as asylum seeker will often be spent in the Ellebæk Prison, even though they have committed no crime. Many are locked up for months, some for years, while the police are trying to establish their identity and get an agreement of return with a relevant country. If the police states to be working on the case a prolongation of the detention is almost automatically obtained every four weeks via a video transmission. In 2009 Manfred Nowark, UN's special rapporteur on torture, and in 2011 Amnesty International have launched sharp criticisms of this procedure and the extent of imprisonment.

In a national radio program “Vulnerable Asylum seekers are imprisoned indefinitely”, sent in February 2011 Ole Andersen, head of the Police's Alien Department, stated that *“there has to be reasonable prospect for return (...) within a limited time frame.”* *“There has to be a purpose and it has to be proportionate”*. However, he omitted to answer the interviewer's question about when imprisonment is inappropriate. He admitted that the police does not investigate whether a person is sick or vulnerable and therefore should not be imprisoned like other people according to international law. Due to the imprisonment practice a number of asylum seekers have become mentally ill, e.g. the two cases p. 34 and p. 38. Many years after they were released from prison these two men still live in Center Sandholm. The imprisonment harmed them mentally, but had no other effect. In sum, long imprisonments have no real purpose in cases where return is complicated. The two cases illustrate that detaining applicants in prison is rarely constructive, but always damaging.

Imprisonment is not only used in order to put pressure on people and to solve identity questions, but also to make sure that a deportee will be present at her date of departure. To secure that a family does not go underground, it is often the father of the family who is imprisoned. Seeing a father being handcuffed and taken away by the police leaves deep impressions in the minds of children. Furthermore, the prison is situated right next to the kindergarten of Center Sandholm.

THE DEMAND TO COOPERATE

It is indeed necessary to look into the human aspects of being granted stay according to the law, on grounds of obstacles to deportation. Is it really reasonable or realistic to expect that a family *voluntarily* wants to go back to a country, marked by chaos and war from which they barely escaped on a highly dangerous journey? Naturally a rejected person will think that by signing the papers for voluntary leave, they expose themselves as liars who now admit that their story was pure fabrication and that they are not really afraid to go back. Every nation state has the right to deport certain unwanted persons, but to demand that people leave voluntarily seems both absurd and unnecessary.

To demand a certain degree of cooperation is reasonable. But the extent should be more clearly defined. It is in the interest of most applicants to try to strengthen their own story and establish their identity, for example by showing up at meetings in the embassies or provide more documentation. But this is already a demand in the asylum procedure itself and that ought to be sufficient. Many lawyers encourage their clients to find crucial new documentation before meeting the Refugee Board. Hence, at this stage everything has been tried. Apart from this, cooperation could mean language tests, meetings at the embassies etc. which applicants rarely reject.

The demand for cooperation is presented as mandatory. However, when asked directly by a lawyer in 2008 the Immigration Service stated that: *“The Immigration Service can inform you that in such cases a residence permit has been granted in several instances and according to § 9 c (2) even if the applicant did not want to cooperate”*. And back in 2000 a number of resident permits were given without demanding further cooperation from the applicant, see page 20.

In a recent answer to a complaint the Ministry writes: *“The Ministry must point out that if a foreigner is able to leave voluntarily he has a duty to do so. Not leaving voluntarily will in that case be considered as a lack of cooperation regarding return.”* An unclear line of arguing.

When the 8 cases in this report have not been deemed to meet the requirements for exception, it is difficult to imagine the criteria. The principle of letting an accused person get the benefit of the doubt does not seem to comply within this field.

” *It seems paradoxical to put pressure on people to return voluntarily to a country when Denmark cannot deport them according to international law. ”*

Martine Roure, special rapporteur for
the LIBE-committee, European Parliament 2008



Room in Center Auderød for 4 single men.
600 asylum seekers are living in this very
remote former military training school.
Photo: Michala C. Bendixen



Reception barack in Center Sandholm.
Photo: Michala C. Bendixen

4 CASE STORIES

AMIRA M. MOHAMMAD AND FERHAD MELA ALI + TWO CHILDREN

KURDS FROM SYRIA

10 YEARS IN DENMARK

SHARAREH FEIZIFAR + DAUGHTER

IRAN

11 YEARS IN DENMARK

ALI JABER RASHEED AL-JARRAH

BIDOON FROM KUWAIT

10 YEARS IN DENMARK

ARMAN AND GERETIK HAKOPJAN + TWO CHILDREN

AZERBAIDJAN

6 YEARS IN DENMARK

PETRO MUSA NDEHEKIO

SOUTH SUDAN

12 YEARS IN DENMARK

MARYAM ALI NUR

SOMALIA

9 YEARS IN DENMARK

ABDALLAH AND ZAINAB TUMEH + TWO CHILDREN

WEST BANK & NORTHERN IRAQ

10 YEARS IN DENMARK

NARIMAN AND RASHID GARGARI + FIVE CHILDREN

KURDS FROM IRAQ

12 YEARS IN DENMARK

THE CHILDREN FROM THE CASE STORIES



**AMIRA M. MOHAMMAD AND FERHAD MELA ALI
+ TWO CHILDREN, KURDS FROM SYRIA
– WHO WOULD HOLD THEIR CHILDREN HOSTAGE?**

Amira and Ferhad are born and grown stateless Kurds in North East Syria where they and their families have been subject to malice and persecution. As stateless people, they do not hold any rights, official documents or entitlement to education, and the Kurdish language is prohibited. Early in their lives – and independently of each other – both of them became active in the Kurdish Yekiti party. They were subsequently threatened and Ferhad was imprisoned and tortured. Both of them therefore had to flee the country. Amira went to Turkey where she met Ferhad after three months. They married and moved to Denmark where they asked for asylum. Prior to this, Ferhad had stayed some time in Germany where he continued his work for the Yekiti party and unsuccessfully asked for asylum. He had also been in Denmark under false identity. This has subsequently made him appear untrustworthy in the eyes of the Danish police.

Since their arrival in Denmark, Amira and Ferhad have lived in different asylum camps – the last five years in asylum camp Kongelunden where their daughter Beri and their son Amin were also born in 2002 and 2006. The couple got final rejection of their case in 2003. Since then, lawyers have unsuccessfully asked for humanitarian residence permit several times. Amira has psychological problems and Amnesty International has described Ferhad's subjection to torture. In spite of a psychological-psychiatric examination of their daughter, Beri, their latest appeal was refused in 2010. The report paints a picture of a child in dire need of support and professional treatment. Beri is emotionally disturbed, suffers from insomnia and concentration difficulties, and is preoccupied by thoughts of police and death. Having experienced her friends disappear from

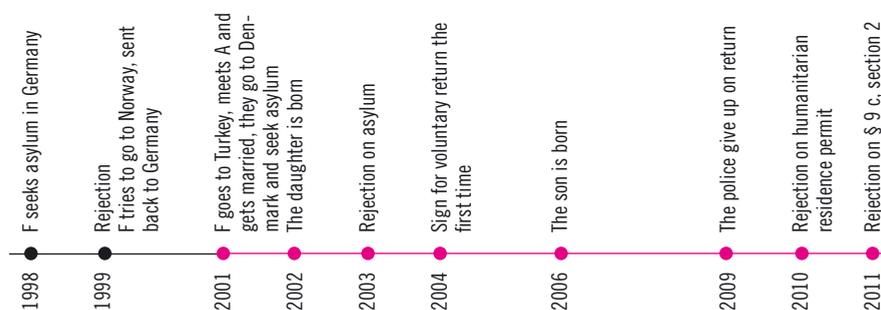
the asylum camp without any notice – because they were relocated to another camp, got asylum or were deported – she refuses to make new friends. During her entire life, the girl has witnessed the police knock on the door of a neighboring family early in the morning, ask them to pack their bags in 15 minutes and then take off to the airport. The youngest child, Amin, has started showing similar problems, making Amira and Ferhad very anxious.

The couple has kept on declaring their willingness to actively participate in their departure from Denmark to the Danish police. However, the last time, Amira refused to sign the papers, as she follows the news from Syria and is aware of the persecution of Kurds in the country. Likewise, Amira and Ferhad have heard about rejected Kurdish asylum seekers from Denmark who have been subjected to torture in Syria until they have succeeded in returning to Denmark. Ferhad is still active in the Yekiti party and it is possible that he will be subjected to torture and interrogation if he returns.

In spite of their fears, both Amira and Ferhad have cooperated with the police in relation to information about their identity and family relations, including providing an ID card. Neither the Syrian nor Turkish authorities have confirmed their identity. Furthermore, the Syrian authorities claim that the ID card is forged, refusing to receive the stateless Kurdish family. The National Danish Police therefore believes that the couple has not cooperated but furnished false information. However, an unannounced search of their home in the asylum camp for identity markers did not reveal anything in support of the family being Turkish Kurds. The police still suspects they are Turkish Kurds – perhaps because both their families live on the Turkish side of the Turkish-Syrian border – but a language test would have shown that they both speak and write fluent Arabic, as Turks do not usually master.

September 28, 2009, the Danish National Police declares that the investigation is finalized and the case is closed. However, the family and their psychologically damaged children continue their life in limbo, having lived 10 years in the asylum camp.

Thanks to Gerd Gottlieb



Overføy og tasker
må ikke medbringes
til næringsmodet.
No coats or bags
in the conference
room, please.



SHARAREH FEZIFAR + DAUGHTER FROM IRAN

– ASYLUM GRANTED AFTER 11 YEARS ON BASIS OF THE ORIGINAL CASE

Sharareh was arrested in 1999 when she was covering the big demonstrations in Teheran for an anti-government newspaper as a reporter. She was also participating in a demonstration for women's rights. Sharareh was imprisoned for three weeks and was tortured and raped. When she was released, she therefore fled Iran, leaving behind her husband and son but bringing along her 16-years old daughter. After three years in Denmark, their case was rejected, based on anonymous information. A document in their case was assessed to be forged but this assessment was since redrawn as unfounded. In the refusal, the Danish Refugee Board described the torture and rape in prison as "rough treatment".

The medical group of Amnesty International has since confirmed that Sharareh has been subjected to torture. Likewise PEN International – the worldwide association of writers – has severely criticized Denmark several times for not offering protection of Sharareh.

Nevertheless, in spite of the refusal, Sharareh and her daughter could not be returned because Iran does not accept deportees. And Sharareh knew that she would not survive if she returned voluntarily. She was suffering from the effects of torture, was depressive and suicidal and was hospitalized in the psychiatric ward for several periods of time. She was also operated for discusprolaps and breast cancer, being

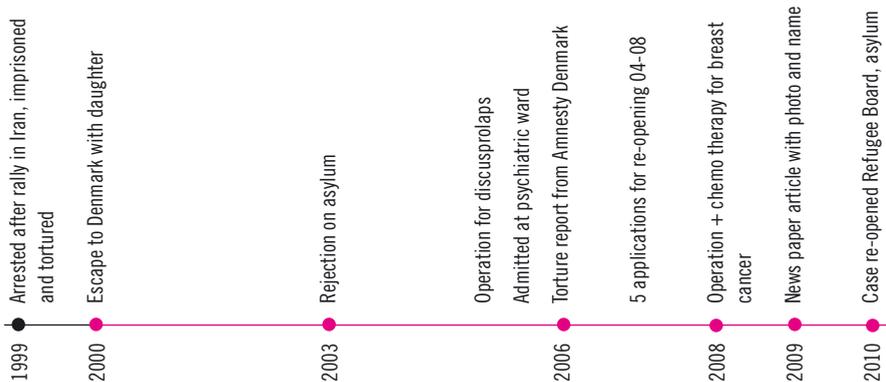
physically and mentally shattered by life in the asylum camps. Applications for humanitarian residence permit were refused as well, as the Danish authorities did not recognize her psychological problems to be of a serious nature and further claimed that her physical injuries had been successfully treated.

During these years, a number of Danes tried to bring attention to her case but to no avail. Not before a young journalist featured Sharareh in an article with her name and story. This was a risk – not only for her but also for her husband and son in Iran. However, Sharareh was desperate and wanted the world to know about her situation. Based on this article, her case was reopened with reference to the exposure that it had received by the Iranian authorities.

The Danish Refugee Board described the torture and rape in prison as “rough treatment”.

After a year, the Danish Refugee Board treated her case once again. To Sharareh’s surprise, they based it on her old story. This time, however, the board believed the story that they had refused ten years ago as untrustworthy. The media exposure constituted an additional risk. In other words, the first rejection was a mistake. No wonder that Sharareh’s first reaction to the positive response was to exclaim that “They believe me!”.

Now, one year after having been granted asylum, Sharareh lives in temporary housing. She has difficulties getting to Danish classes and only sees very few people. The damage after ten years might be irreversible. Sharareh came to Denmark because she had the courage to counter the suppressive regime in Iran. She was a strong woman with personal resources. Now she is sick and disillusioned. Her daughter, now 26 years old, has lived her entire youth in a vacuum. “I have only seen my daughter be really happy twice during the last ten years”, Sharareh says and continues, “How do you think that feels for a mother?”





ALI JABER RASHEED AL-JARRAH, BIDOON FROM KUWAIT – WRONG REGISTRATION AS IRAQI

Ali belongs to a Saharan desert tribe, which was displaced to Kuwait when oil was found in the desert. However, Kuwait does not recognize this group as citizens, characterizing them as “illegal”. The word bidoon is an abbreviated way of saying “without nationality” in Arabic. The bidoon neither have access to employment nor health care, and their children are not allowed to go to school. Since 1991, passports have not been issued to the bidoon and those of them who fled to Iraq during the war have not been able to return to Kuwait. Ali therefore left his wife and five children to look for employment in Denmark. He asked asylum but more than three years passed before he got a reply and he is still waiting to return home.

In 2002, Ali had acquired a forged Iraqi ID card, using his real name – as he thought his chances for obtaining asylum would be improved in this way. However he quickly regretted the forged ID card and told the police. In all cases, he was stateless and this was, he reasoned, his biggest problem. Nevertheless, in the following years, the police unsuccessfully attempted to return him to Iraq even though he had already explained that the ID card was forged and that he had only been to Iraq once on a very brief visit. Time passed. In 2003, Ali’s youngest son died of epilepsy because of the absence of access to health care for the bidoon in Kuwait. In 2004, Ali got the final decision – rejection. Furthermore, the Danish authorities insisted that he was an Iraqi citizen in spite of the objections from the attorney.

In the following years, the police unsuccessfully attempted to return him to Iraq even though he had already explained that the ID card was forged and that he had only been to Iraq once on a very brief visit.

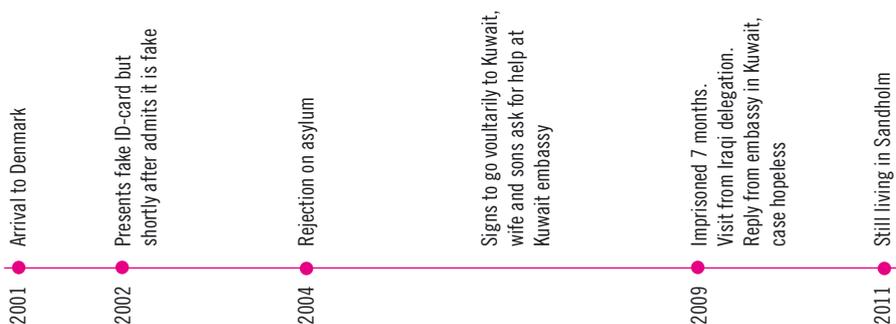
During the summer 2009, Denmark and Iraq made a readmission agreement and an Iraqi delegation came to Denmark to verify the identity of refused Iraqi asylum seekers. They declared that Ali's ID card was forged and refused to accept him in Iraq. But Ali was imprisoned in the Danish asylum prison Ellebæk for seven months to ensure his presence in case of expulsion. He is now on anti-depressive and insomnia medication, following psychological injuries from this period.

Prior to the visit of the Iraqi delegation, Ali cooperated persistently with the police to facilitate voluntary return to Kuwait. His wife and grown sons contacted the Danish representation in Kuwait. He can describe the streets of the Kuwaiti town of Jarrah in great details. But Kuwait does not recognize the bidoon and does not wish to accept them in the country. Therefore the Danish police still contemplates sending Ali to Iraq, as the Iraqi delegation promised to reopen the case, if necessary. His foreigner number still refers to Iraq, not Kuwait, even though he has no attachment to Iraq at all.

A quote from deputy chief constable Færgemann in October 2009 shows that the Danish Embassy in Riyadh assessed that it was out of the question that the Kuwait would readmit the case. Færgemann also states that the Danish National Police had not received a reply from the Kuwaiti authorities, nor notice about the time horizon of the case, and that the Danish embassy stated that they do not usually receive replies from the Kuwaiti authorities in such cases.

As many other asylum seekers, Ali had received bad advice: to say that he was from Iraq to have a better chance of obtaining asylum. In his eyes, this was not a complete lie: though his parents were bidoon, they originated from Iraq. However, his real story would have increased the opportunity of obtaining asylum, especially §9 (2). This mistake has come at the price of ten years of his life, separate from his family. And it could easily have been avoided if he had been offered serious counseling in the beginning of the asylum process.

Thanks to Mette Konow





ARMAN AND GERETIK HAKOPJAN + TWO CHILDREN + SISTER LILIT, ARMENIANS FROM AZERBAIJAN

– WORD AGAINST WORD

The family is ethnic Armenians, an ethnic group exposed to persecution and who is not recognized as citizens in Azerbaijan. There was a war between Armenia and Azerbaijan from 1988 to 1994 and there is still unrest between the two countries. Many ethnic Armenians were deported during the war and are still refused to enter Azerbaijan. When Arman was ten years old, he and his younger sister fled with their parents in 1988 during the massacre of Armenians in Sumgait.

Arman's family then lived irregularly and under precarious conditions in what is now Russia. He met Geretik and her parents who had the same ethnic background and who had also fled at the outbreak of war. They later married and got two sons, Kadik and Katik, now aged nine and eight. In 2005, the couple went to Denmark with Arman's sister, asking for asylum. Since the introductory stay in Sandholm, they have lived in asylum camp Avnstrup.

Arman had a serious accident in Russia, damaging his back and has subsequently been using a wheel chair. He is in pain night and day and is very dependent on the assistance of his wife.

Both have subscribed to expulsion to Russia but not Azerbaijan. The family was refused asylum in February 2007. However it was not before March 2009 that Russia responded that they would not accept the family, after they had been presented to the Russian embassy in Copenhagen.

Geretik had a birth certificate in possession at arrival – the only documentation the family brought along. Four years after their arrival in Denmark, the authorities in Azerbaijan respond that the certificate is forged. The police think that the family has made false

declarations and hence does not cooperate – in spite of their recent decision to accept voluntary return also to Azerbaijan.

Writes the police in December 2010: “It is not sufficient that the families give written consent to the Danish National Police form P612-41 Declaration of Assistance to gain time and procrastinate while in reality not respecting the decision of the immigration authorities that they have to depart from Denmark after refusal of their residence permit”.

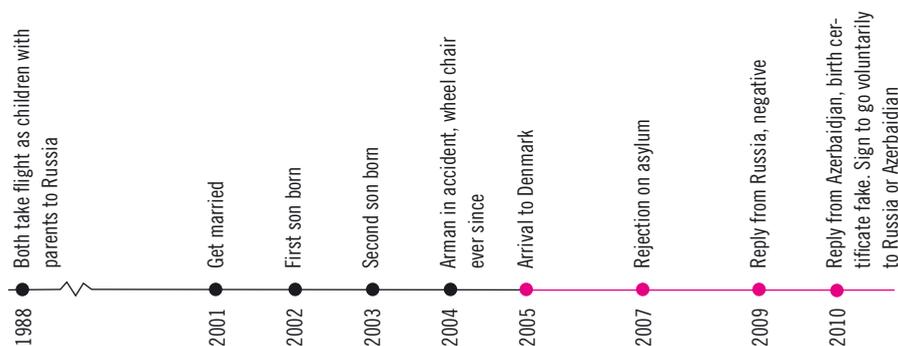
The police further writes that the couple never wished to assist in an inquiry to the public authorities in their country of origin but, according to Geretik, they have never been asked to do so. Since the beginning of their stay, they have explained that they do not have any relatives in their homeland. The parents of Geretik died before they left Russia, and the parents of Arman and Lilit are assumed dead. The human smuggler had promised to bring their parents to Denmark but they never showed up and they have not been able to contact them.

Hence word is again word. The family insists that the birth certificate is genuine and that they have never refused to contact the authorities in Azerbaijan. Arman is quick-tempered and this probably has not made their situation better, as he has lost his temper several times during police interrogations.

Arman og Geretik belong to a persecuted ethnic group and both left their home country when they were children themselves.

Lilit, the sister of Arman, was born in Russia and was only 15 years old when she came to Denmark with the family. She later married a German citizen and has given birth to a son who also is a German citizen. She and her son also live in Avnstrup but stay in the southern part of Jutland as much as possible to be able to be closer to the husband in Germany so that he can visit. They have asked for family reunification in Germany but so far without any luck, as she does not have any identification papers.

Thanks to Ruth Nielsen





PETRO MUSA NDEHEKIO FROM SOUTHERN SUDAN – OR FROM GHANA, UGANDA, KENYA, NIGERIA, TANZANIA ...?

Petro is 41 years old and has spent the last 12 years of his life in five different Danish asylum camps. He lives in Sandholm where he finally got his own room on the “hostel corridor”. Red Cross has established these rooms for single men who have been in Denmark for many years and often suffer from psychological problems. However, Petro recently lost his single room and is back in a four-bed room because he spends most of his time with a friend outside the camp. He has shared rooms with a lot of other single men during the last 12 years – sometimes up to eight men in one room. Men from different countries, cultures and ways of communication. Not to mention men who have been subjected to torture or war and therefore often are aggressive or unpredictable.

Petro and his father were active in a Christian resistance movement, struggling against the government in Northern Sudan. His family was killed during a raid and he fled to Egypt where he spent three years and then moved on to Russia, using a forged passport. From there he was smuggled to Denmark on a containership and asked for asylum in 1998. But already during the first police interrogation it was assessed that his statement was “completely untrustworthy” and his asylum case was refused. Several language experts have been asked to assess a tape recording of him speaking, concluding that he may be from West Africa, Kenya, or Uganda, due to his English pronunciation. Petro himself claims that his mother tongue is tabosa and that he originates from Southern Sudan.

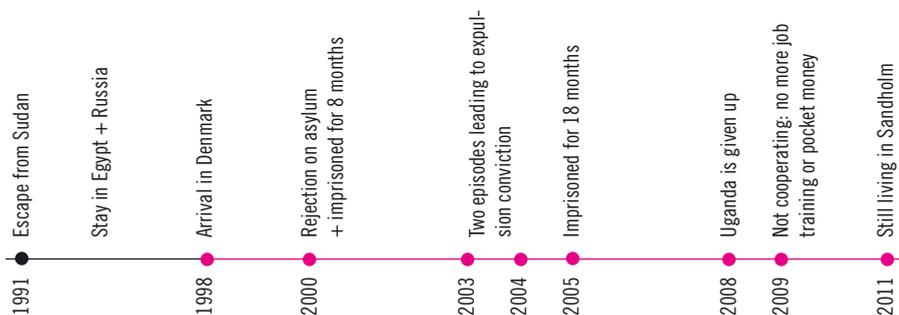
Not until 2008 the police give up Uganda as an option – after another visit at the Ugandan Embassy where the first secretary suggests trying Rwanda, Burundi or Congo.

Petro is detained in Ellebæk Prison for eight months in 2000 while the police is searching for him via Interpol in Ghana, Sudan, Kenya, Nigeria, Uganda, Egypt, and Tanzania among other places. No result. He is presented at selected embassies where nobody recognizes his language. In the end, he is released, as there are “no prospects for expulsion”.

In 2005, Petro is imprisoned again, as a new language test suggests he originates from northern Uganda. However, the Ugandan ambassador cannot identify where Petro originates from. A police officer travels to Kampala with a photo of Petro but the authorities refuse that he should originate from northern Uganda. Nevertheless, the police takes him to the airport, stating that “All language experts consulted assess that the linguistic background of Musa Petro is to be found in Uganda, more exactly in the northern part of the country” – notwithstanding that this is not the case. Petro is released from Vestre Fængsel (state prison) after one year and five months. However, it is not before 2008 that Uganda is abandoned after another visit at the Ugandan Embassy where the first secretary suggests trying Rwanda, Burundi or Congo.

Petro is a quiet and cultivated man who speaks English well but tends to stutter. He is obliged to reside in Sandholm, does not receive any money, and eats in the canteen. Work and education is prohibited. He tells about the good times when he was permitted to clean and work, packing bed linen for a weekly payment. He is no longer permitted to do that as the police believes that he is not co-operating. However, after years of loneliness, Petro now has some good Danish friends. When somebody pays for his transportation costs, he goes to town to follow Danish classes. Due to two minor fights – that Petro claims have been misinterpreted – he now has entry prohibition to Denmark, excluding humanitarian residence permit.

Thanks to Sebastian Gjerding, see www.information.dk/227713.





MARYAM ALI NUR FROM SOMALIA – A QUESTION OF SURVIVAL

Once Maryam was a nurse, married and surrounded by her seven children, and working on a children's clinic in Mogadishu. Now she spends most of her time in bed, living alone for the ninth year in asylum center Sandholm.

Maryam came to Denmark in 2002, being a victim of the civil war in Somalia. She belongs to the Gaaljecel clan and grew in up Mogadishu. She was internally displaced in Somalia with her husband and children, due to extreme violence and hunger. There had been two attempts on her husband's life. He had to hide and the spouses lost contact with each other. When chance arose, Maryam decided to flee the country, leaving her children with her mother with the desperate hope to once be able to save them. But now she has also lost contact with her children and today she knows nothing about the faith of her family. The international Red Cross search system has not shown any results either.

The Danish Refugee Board does not believe her story, as in their opinion her statements about her husband's disappearance in the chaotic civil war have been diverging. The board does not believe that she has been exposed to violence which can be characterized as persecution according to § 7(1) (convention status) or that she will be in risk of assault that will justify right of protection after §7(2) (protection status) in case of return.

Humanitarian residence permit has been applied for several times as Maryam has suffered from rheumatism in her hands, fingers, wrists and knees since 2005. Her disease requires injections of adrenal cortex and professional treatment by a specialist, and her physical mobility is strongly limited. At times she cannot even enter a bus without assistance. She furthermore suffers from diabetes, requiring insulin treatment which complicates the rheumatism treatment. Red Cross has given up all activation activities. But because her disease is not life threatening in itself, she is not entitled to humanitarian

residence permit. The Danish authorities are clearly not considering whether she has any chance to survive in her homeland, if you look at her situation as a whole.

Because of her disease, Maryam is excused from the otherwise mandatory weekly presentation at the police. She does not dare to sign the declarations of voluntary return as she fears not to survive living in the crime- and violence-ridden city of Mogadishu. How to find shelter, make a living and secure access to continued health care? As a returnee who has spent long time in Europe without protection from a strong clan, she is extremely exposed to assaults by Al-Shabab and other groups. UNHCR dissuades any expulsions to Somalia and as a single woman from a minority clan, she belongs to one of the most exposed groups. Furthermore, the general situation is deteriorating in the country.

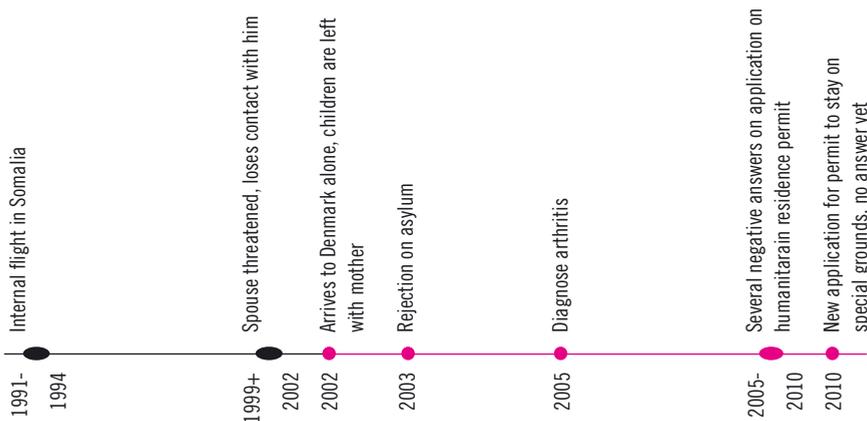
As years have passed, Maryam has become a dear Mama among the other Somali asylum seekers in the camp where everybody knows the small rheumatic woman who only moves around with crutches. She characterizes her situation as “paralyzed” and continues, “I am so afraid and anxious about things I cannot change. When I think about my life in Denmark, I cry alone. I have no future and there is nothing I can do to better my situation. I am psychologically dead. Where is humanity in this world?”

All Somali cases in Denmark were suspended in July 2011 when the European Court of Human Rights stated that no one must be deported to Mogadishu until further notice.

Thanks to Gerd Gottlieb

"Likewise contrary to the appeals from UNHCR the Danish Refugee Board has rejected a number of cases concerning single women without network in Somalia, or where the women are in conflict with or have lost contact with their husbands."

From Somalia country report 2010, Danish Refugee Council





En familie bliver skilt ad

En advokats angreb mod en palæstensk familiefar og en irakisk mor skaber vrede på et nyt lovløst for Danmark. Men i stedet skal familien med de to børn nu splittes op og transporteres til hver sit hjemland. Forskellene betyder nemlig for at modarbejde statens, men selv mener de, at de ikke har det en chance.

J

En advokat angreb i en avis i sidste uge en af de to sønner i familien. Han påstår, at de to sønner er blevet tvunget til at rejse til deres hjemland, fordi de ikke har det en chance. Han påstår, at de to sønner er blevet tvunget til at rejse til deres hjemland, fordi de ikke har det en chance.

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THE TUMEH FAMILY, THE WEST BANK & NORTHERN IRAQ – UNITED EXPULSION IMPOSSIBLE

Abdallah and Zainab have been married for 12 years. They have two daughters: Malak, nine, and Sara, four. The couple applied for asylum in Denmark ten years ago but the case was rejected in 2004 and they signed a declaration on voluntary return. Yet there is a problem: Abdallah is a Palestinian from the West Bank and Zainab comes from Kirkuk in Iraq. Where are they going to go? The authorities are not allowed to separate a family. Nevertheless The Refugee Appeals Board states that the couple can be deported to each their country.

The couple would like to go to the West Bank but being an Iraqi Zainab cannot enter via Israel. Iraq is not a possibility either, as Palestinians now constitute a persecuted group and Kirkuk is one of the most dangerous areas. According to UNHCR it would not be safe to send the family to Kirkuk. But that is what the police now pursues. Abdallah was recently summoned to a police interrogation, lasting for three hours.

The family has been refused §9 (2) because according to the police they do not cooperate, as they have only handed over copies and not their original passports. The father of Abdallah refuses to send the original passport to Denmark, fearing Zainab would not be allowed to join the family. Their lawyer has pressed charges to the Ombudsman.

The police suspects that Zainab comes from Turkey as she is an ethnic Turkoman. One morning at 6.30 AM the police searched their house to find identity proofs, confiscating all the family photos.

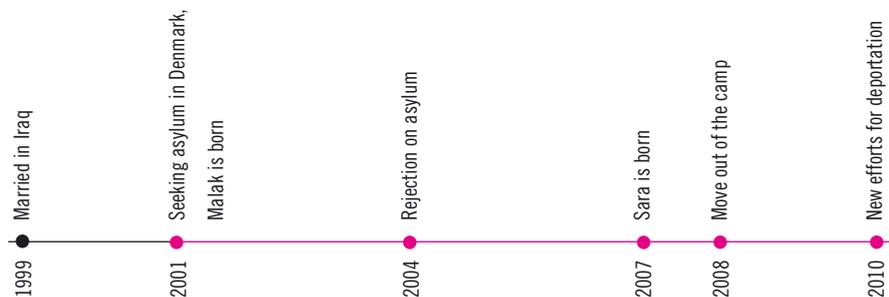
Since 2008 the family has lived in a house in Jelling where the girls live close to a normal life. But in November 2010, the police prepares for deportation again. Abdallah is summoned to a meeting with the police in Sandholm. During the interrogation a journalist notes the following word exchange: "Hey! I said, I couldn't – not that I wouldn't", Abdallah tells the police officer. And then: "how comes it says that country? It should be the West Bank. Otherwise you can change your mind and send us to Iraq!" The police officer deletes 'that country' and writes 'the West Bank' instead.

The family has repeated throughout the years that they would like to go voluntarily to the West Bank – but not Iraq.

Zainab is a trained micro biologist, Abdallah is a biochemist. Both of them could get employment in Denmark without any problems and Abdallah has learnt to speak and write Danish in spite of lack of access to Danish courses. However the pressure has almost broken down the otherwise well-functioning family – the youngest girl Sara refuses to eat and Zainab suffers from a severe depression, which is deteriorating day by day.

Thanks to Elisabeth Hamerik Schwartz.

"Hey! I said, I couldn't – not that I wouldn't", Abdallah tells the police officer.





NARIMAN AND RASHID GARGARI + 5 CHILDREN, KURDS FROM IRAQ

– 12 YEARS OF IDENTITY DISCUSSIONS

Nariman and Rashid are Kurds from the Mosul area in Iraq. In 1999, they and their four children came to Denmark where they got another daughter. They fled Iraq because of a vendetta. The father of Rashid was a member of the KDP (Kurdistan Democratic Party) and there was an Arab family spying on them because they were not supporting the regime of Saddam Hussein. One of Rashid's brothers was killed in the middle of the 1990s, probably by the authorities as an act of revenge for the opposition of the family. A member of the Gargari family revenged by killing a person whom they deemed responsible for the assassination.

Asylum was rejected by the Danish Refugee Board in February 2001. The Board did not believe that the family are Iraqi citizens. The police thought their identity papers were forged. The family cannot procure new papers from Iraq and claim that they have told the police everything. It is believed that the family hides something and therefore is not cooperating on establishing their identity. Several attempts to reopen the case have been made by attorneys, the Danish Refugee Council and friends of the family.

The Danish National Police has tried to unravel the family's identity since March 2001. However, it was not before 2007 that the police contacted Interpol to explore if the family were originating from other Middle Eastern countries. Lebanon, Syria, Jordan and Turkey replied that the applicants were unknown. In 2005, the family got an information letter from the Independent Electoral Commission of Iraq concerning electoral registration in Iraq in 2005.

In 2008, the family moved from asylum center Avnstrup to their own residence, normalizing their life – to some degree. However, the persistent insecurity about their future and their passive and continuous waiting has not disappeared. Since they left Iraq, the situation in the country has continued to aggravate.

The family would like to present themselves at the Iraqi Embassy to get the assessment on their documents and language by the consul. But not before 2009 – ten years after

their arrival – the police arranges a meeting at the embassy. After their visit, the consul concludes: “The man spoke bahdini and sorani, as spoken in Kurdish Iraq and speaks Arab like Arab is spoken in Baghdad.” He thereby confirmed the family’s information, while previous language tests had suggested that they were from Syria.

During a consultation the same day, the police nevertheless concluded that the father “... does not wants to contribute with more information about his person that can assist the authorities in establishing his identity. The alien thinks that he has offered enough information to make the Danish authorities establish his identity. The alien has been notified that this is not considered sufficient by the undersigned and is perceived as lack of cooperation” (Danish National Police, 11.11.2009).

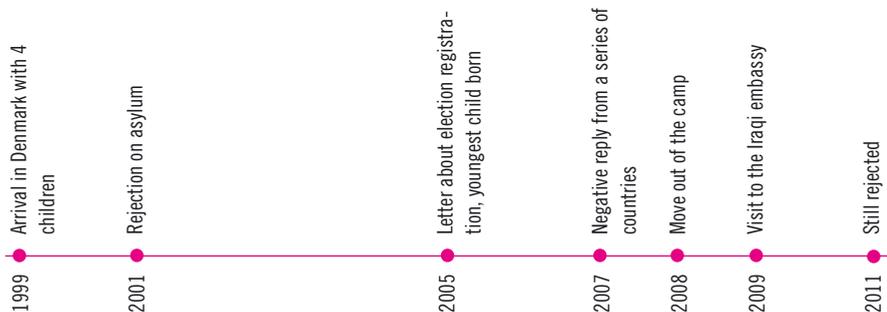
When the Iraqi delegation travels to Denmark during summer 2010, the family is not presented for them. The country code of their foreigner number refers to “unknown”.

The girl Helin was 11 years at arrival and had to attend the special asylum school in a perpetual reception class until she was 16 years old. At that point she – as one of the first asylum kids – was permitted to start in an ordinary 7th grade class, after the head of local municipality school had struggled for her inclusion throughout a year. But the beginning was hard and Helin often felt stupid. Now she is 23 years old and is a trained hairdresser and cosmologist – two of the very few educations available for asylum seekers – with top grades from the school but without permission to work.

“It feels like there is no room for us, as there is no country who wants us. Other people are deciding our lives all the time, like we are robots controlled by the government. We were subjected to the canteen arrangement* for three years, so other people even decided what we had to eat! My big brother has just given up, now, he doesn’t do anything. Every time we try to do something, it breaks down again.”

*The canteen arrangement means that the asylum seekers do not receive any food money but have to eat three times a day in the asylum centre canteen. One portion of food is delivered per person insofar a special food card is shown and checked off.

Thanks to Laura Raaschou.





THE CHILDREN FROM THE CASE STORIES

The 8 case stories include 12 children. From consideration to their surroundings and future life quotations below are made anonymous. Some of the children appear in the photos of the report, all with the consent of the parents.

From psychological testing of a 7 year old girl:

“During the test itself she shows easily aroused anxiety/insecurity. When an emergency vehicle passes in the street she reacts strongly, and several times I have to assure her that the police never comes into my office.”

“Regarding persona and emotions there are serious difficulties, as X in general show signs of depression, a very high level of stress and an on-guard basic attitude, meeting the surrounding world with hostility and suspicion (...) risk of cronic difficulties concerning mental and intellectual function.”

From child psychiatric certificate, the same girl:

“Adding to this come sleeping problems and anxiety. 3-4 times every month she lies awake for hours calling her parents because she is afraid. Sometimes they find her mentally blocked, turning up the volume on the TV and staying in “her own world”. Both parents think she suffers from a real depression, and they are worried because she has no energy to establish friendships with children of her age. (...) Diagnosis: F41.1: General anxiety. F32.1: Depressive single episode, moderate. F93.9: Emotional disturbance in childhood. Additional to this, considerable learning difficulties.”

Mother of 8 year-old:

Tells that she is embarrassed of her feelings, but she feels better when her daughter stays at school or in the childrens club as much as possible – she gets sad when she is with her daughter. She states, that this is not natural. Also tells that she would have committed suicide long time ago if it wasn't because she would not put her children through that experience.

Mother about her daughter, 16 at arrival :

"It was a shock when she turned 18. She had gone to asylum school for two years, but now as an "adult" she had no access to education beside short courses. She never made any Danish friends, and her childhood was taken away from her. (...) I was no longer able to give her hope. After five years we were even moved to different camps, and she had to share a room with three other women. We did not have money enough to visit each other often. Conversation between us faded out, we wanted to spare each other and we didn't have much to talk about anyway."

Mother about her small daughter:

"X did not eat from she was four months old. Psychologists said she was not feeling well. My bad mood affected her. It continued, and she got help in a special day care. But still it's a struggle to get her to eat, and now she is almost three years old."

7-year old girl about house search:

"The police took my school bag and turned it upside down, so that everything fell to the floor and I had to pick it up. I didn't understand why. And they took my glasses because there was some writing on the box. They wanted it for evidence, but I needed my glasses, and I didn't get them back until three weeks later."

Young woman:

"My youngest sister is only six years old, and she already understands what residence permit is. We are all depressed, but we try to hide it to keep each other up. But I have started to get anxiety attacks, the uncertainty makes you crazy. My other sister started crying the other day because she saw the bus we used to take to the asylum camp."

"I don't remember much from Iraq. Only that the police often came to our house looking for my father before the escape. A lot of things happende that I try to forget. When they killed my uncle we ran away. That was at the end of 1998. I was 11 years old. I don't know exactly why they killed him."

5 RECOMMENDATIONS

Not everyone is entitled to asylum according to international standards, and there has to be a procedure for determination. But as a minimum there should be a guarantee that asylum seekers do not end up in a condition worse than when they arrived. As it is, people get ill and lose their resources during their stay in the Danish asylum system, and the children are worse off than other children when it comes to school and education. This situation makes no sense, whether in view of their return or their possible future in Denmark.

The time perspective also has to be considered. After several years it becomes absurd to return a person to a country often weakened by war and where they have lost their network. The attachment to Denmark is a fact that cannot be disregarded, and special consideration should be given to children.

Danish Refugee Council recommends elements of a better return policy in an article in Danish newspaper Jyllandsposten, April 2011:

- that children should be admitted to state schools and offered native language training
- that adults should have access to labour market and education
- that accommodation provides a frame for living a normal and independent life

Danish Institute for Human Rights recommend the following in their report from 2009 on asylum seekers and others in the deportation phase:

- that a maximum time limit is set for being in the deportation phase. After a fixed amount of time in which deportation has not been possible an evaluation should be made of the future prospects of deportation and of the deportees secure stay in the country of origin.
- that rejected asylum seekers who according to this evaluation has no reasonable prospect of deportation be granted a special permit to stay.

Besides the Institute recommended a long list of changes or adjustments to secure that human rights are respected in this area. Among these, one finds motivating measures, work, mandatory lodging, detention, health care, education and school.

Council of Europe's Commissioner for Human Rights recommended the following in 2004 and 2007:

- that The Refugee Board should be more independent and hold greater expertise
- that a solution should be found to solve the unacceptable situation where the rejected end up staying too long in the camps, developing sickness because they have no access to a normal life.

– that special attention is given to the negative effects on children growing up in the camps.

The commissioner finally points to the fact that it is the government's responsibility to safeguard the health and dignity of these people, no matter which technical obstacles there may be for their deportation.

RECOMMENDATIONS OF THIS REPORT:

During the asylum process:

- follow recommendations from UNHCR when determining the need for asylum
- composing the Refugee Board so that actual independence is secured, e.g. by replacing the member from the Integration Ministry with a member of the Foreign Office and introducing an appeal institution
- make sound recordings of interviews to avoid errors in interpretation + mandatory training for interpreters
- access to state schools and native language training for children
- assess children's individual need for asylum or humanitarian residence permit
- give adults access to the work market and the education system
- close down the big camps and replace them with smaller accommodation units attached to day centres, and allow private accommodation (as in Sweden)

If the case is not determined one year after arrival:

- temporary residence permit e.g. for one year the first time – primarily to avoid physical and psychological strain by obtaining conditions for a normal life

If a rejected asylum seeker has not been deported one year after final decision:

- maximum time limit for how long after arrival to Denmark a person can be deported, e.g. three years after arrival
- in family reunification cases including asylum seekers the attachment obtained during the person's stay in Denmark should be recognized
- introducing a special residence permit if the prospect of a deportation in the near future seems unlikely, e.g. within the next year
- in the § 9 c (2) add a specification of the words "cooperation" and "futile" and also dismiss the demand for voluntary return
- special concern and even shorter time limits should be given for families with children – the child's best interest and the child's attachment to Denmark should be considered, no matter how the parents act
- removal of the "motivating measures" including the use of imprisonment as the minimal effect are in no proportion to the serious, negative impacts



Kitchen lockers, Center Kongelunden.
Photo: Michala C. Bendixen

6 LINKS/DOCUMENTATION

ACTORS:

www.politi.dk/da/service/menu/statistik/Asylansoegere/ (National Police)

www.nyidanmark.dk/da-dk/Statistik/ (Immigration Service)

www.drk.dk/roede+kors+i+danmark/asyl (Danish Red Cross)

BOOKS, REPORTS, RESEARCH:

Length Of Stay In Asylum Centres: A Retrospective Study From Denmark. Peter Hallas, Anne R. Hansen, Mia A. Stæhr, Ebbe Munk-Andersen, Henrik L. Jorgensen. 2007

Afvist. Asylansøgere i Danmark, Bedsteforældre for Asyl, Tiderne Skifter 2008.

Asylansøgere i Danmark – en undersøgelse af nyankomne asylansøgers helbredstilstand og traumatiseringsgrad. Amnesty Internationals danske lægegruppe + Dansk Røde Kors 2008

Afviste asylansøgere og andre udlændinge i udsendelsesposition i Danmark. Udredning nr. 6, Institut for Menneskerettigheder 2009

Status på arbejdet med udsendelse af afviste asylansøgere. Rigspolitiet 2010

Hjemsendelse – og hvad så? kronik af Andreas Kamm, Dansk Flygtningehjælp, Jyllandsposten 30. april 2011

De afviste. Historien om Danmark og asylansøgerne fra Irak. Anton & Esben Geist, Informations forlag 2011.

ABOUT CHILDREN:

Psykisk helbred blandt asylbørn i Danmark, forskningsassistent Signe Smith Nielsen, læge Marie Nørredam, psykosocialkonsulent Karen Louise Christiansen, lektor Carsten Obel, professor Allan Krasnik. Københavns Universitet, Institut for Folkesundhedsvidenskab 2007

Rastløshed, træthed og fortvivelse – asylsøgebørns liv i ventetid, Kathrine Vitus, sociolog ved SFI - Det Nationale Forskningscenter for Velfærd 2008

Kronik: Psykiatrisk undersøgelse og behandling af asylbørn, Peer Jansson og Sus Foldager, speciallæger i børne- og ungdomspsykiatri, Ugeskrift For Læger 171/21; 2009, 1804

Børn i risikozonen – psykologisk screening i Dansk Røde Kors Asylafdeling, maj 2010

The status of the asylum-seeking child in Norway and Denmark – comparing discourses, politics and practices, Vitus, Kathrine & Lidén, Hilde (2010). Journal of Refugee Studies, 23(1):62-81.

Asylbørn i Danmark – En barndom i udtagesestilstand, red. Kathrine Vitus og Signe Smith Nielsen, Hans Reitzels Forlag 2011

7 EXTRACTS

Osman v. Denmark, 16 June 2011, summary of judgement delivered by the European Court of Human Rights

The case concerned a Somali national who had been living in Denmark from the age of seven and who was expelled from various schools. At the age of fifteen, she was taken by her father to Kenya for what she (and her mother) thought would be a short stay with her paternal grandmother. Instead, her father left her in the Hagadera refugee camp for over two years, where she provided round-the-clock care to her very ill grandmother. She then left the camp and tried to apply for a new entry visa to return to her mother and siblings in Denmark, but was refused: under Danish law, her residence permit had lapsed, and in the meantime Danish immigration law had changed and she was now too old to be eligible for a new entry visa.

The applicant subsequently returned to Denmark clandestinely, where she has been living, with her mother and siblings, but without residence status. She unsuccessfully appealed the authorities' refusal to re-instate her residence status.

The Court found that this refusal engaged the applicant's right to respect for private life and family life. The Court concluded that the refusal violated Article 8 because it was 'not necessary in a democratic society', i.e. not proportionate to the aim of immigration control. The Court found that 'for a settled migrant who has lawfully spent all of the major part of his or her childhood and youth in a host country, very serious reasons are required to justify expulsion' (§ 65). The Danish authorities had failed to show that such reasons existed in this case. The Danish Government had argued that the refusal was justified because the applicant had been taken out of the country by her father, with her mother's permission, in exercise of their rights of parental responsibility. The Court agreed 'that the exercise of parental rights constitutes a fundamental element of family life', but concluded that 'in respecting parental rights, the authorities cannot ignore the child's interest including its own right to respect for private and family life' (§ 74). The Court found in this case that the applicant's interests as a child had not been sufficiently taken into account.

The AIRE Centre had argued that the applicant was a victim of human trafficking, because, as a child, she had been transported to Kenya and exploited there. The Court did not find that the Danish authorities were required to take this into account because it had not been raised at any point by the applicant at any time before the proceedings in Strasbourg. It is unfortunate that the Court did not consider the question of intra-familial human trafficking in the light of Denmark's obligations under the Council of Europe Convention on Action against Trafficking in Human Beings: Article 10 of that Convention places the obligation on the 'competent authorities' of States (including the immigration authorities and the courts) to identify victims of trafficking.

Extract from judgement Salah Sheeks v. Holland 2007 European Court of Human Rights:

148. (...) "It appears from the applicant's account that he and his family were targeted because they belonged to a minority and for that reason it was known that they had no means of protection; they were easy prey, as were the other three Ashraf families living in the same village (see paragraph 7 above). The Court would add that, in its opinion, it cannot be required of the applicant that he establishes that further special distinguishing features, concerning him personally, exist in order to show that he was, and continues to be, personally at risk. In this context, it is true that a mere possibility of ill-treatment is insufficient to give rise to a breach of Article 3."

Extract from the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, memorandum to the Danish state 2007: (author's selection)

The composition of the Refugee Board

25. In the 2004 report the Commissioner recommended that the possibility of appealing negative asylum decisions "before a qualified and independent authority" be ensured; as a minimum, the original composition of the Refugee Board should be restored. Indeed, the Commissioner regretted that the membership of the Refugee Board was reduced by the reform of the Aliens' Act with representatives of the Danish Refugee Council and of the Ministry for Foreign Affairs being removed.

26. In line with the first part of the Commissioner's recommendation, the 2005 Aliens Consolidation Act (echoed by the Board's Rules of Procedure) provides for a clarifying amendment asserting the independence of the members of the Refugee Board and providing that they can only be removed by judicial decision. The Commissioner highly welcomes that the independence of the members of the Refugee Board has been positively affirmed.

27. The Commissioner agrees with his predecessor that adding the competences of representatives of the Danish Refugee Council and of the Ministry of Foreign Affairs to those of the other members of the Board would reinforce and broaden its collective expertise.

Visit to the Sandholm reception and foreigners detention centres

28. In 2004 the Commissioner visited the Sandholm centre. He observed that the conditions in all respects were commendable but was concerned by the asylum and immigration statistics, which revealed the extent of the restrictions of new arrivals.

29. The delegation visited both the Sandholm reception centre and the foreigners' detention centre (where it had the possibility to speak in private with detainees). It also visited apartments for families as well as the school run by the Danish Red Cross with state financing and had the opportunity to talk with the Director of the Centre and a number of staff during the visit. The delegation found that the material conditions both at the reception centre and the detention centre were commendable. It was informed that in June 2006 the Government had allocated



Center Sandholm.
Photo: Signe Falck Diederichs

additional appropriations to the various asylum centres. The delegation was, however, made aware of two sets of concerns.

30. The first concern is the length of stay in the centres. An estimated 40 per cent of the asylum-seekers in Denmark stay more than three years in reception centres. Some of the people met in Sandholm had spent 11 years of their lives in Danish centres, isolated from the outside world, after final refusal of a residence permit which they had requested on one ground or another and in the impossibility of deporting them. Living in a stalemate between the authorities' insistence on deportation and the impossibility to do so for a host of technical reasons (often including the foreigner's lack of cooperation, as pointed out by the Government), finally rejected foreigners nowadays have to face the prospect of having to stay in the Danish centres for what could be the rest of their lives. This results often in serious consequences for their (mental) health. The delegation was informed about a considerable increase in the number of suicide attempts in the centres, alcohol addiction and a steep rise of medication expenses.

31. The second issue of concern is the prolonged stay of children in such conditions. Of the 2,374 inmates of Denmark's reception centres, around 400 are children. The Minister for Refugees estimated that 220 children have been held in reception centres for over four years, 97 of them for between three to four years. Revisions of the Aliens Consolidation Act and the Integration Act have improved the legal status of asylum-seeking children and ensure that more attention is paid to their needs. The delegation could witness that highly committed personnel try their best to offer quality schooling and social services to the children in the centres. Some children are allowed to attend schools outside the centres. But, as the delegation was told, there could be no doubt that their prolonged stay in the centres in the company of desperate adults puts huge mental strain on the children. In addition, being compelled to move from one centre to another prevents them from establishing durable relations both with other children and the adults (staff) who take care of them.

32. The Commissioner welcomes the commendable material conditions secured by the Danish authorities to the foreigners in the Sandholm reception centre and the particular effort made for the children there by devoted and qualified personnel. But he deplors a situation where the authorities insist on the absence of a legal entitlement to stay for the persons held in the centres and the obligation for them to leave the country, whereas this is technically impossible. While recognizing the legal right of the Danish Government to insist on the deportation of irregular migrants, the Commissioner points out the authorities' duty to safeguard the physical and mental health and the dignity of human beings in all circumstances and recommends to try to find alternative solutions to unlimited confinement of adults and children in reception centres.

” *You know, we are extremely grateful for the new house and all the help we got. . . but then, when we think about still not being allowed to work and still not determining our own future. . . then it feels like being a bird in a golden cage. . . it's a nice cage, but it doesn't make us more free.*

Asylum seeker, participant in the research Herre i eget hus

Extract from "Herre i Eget Hus", research project from Danish Red Cross 2009 on the 16 families living outside the camps:

(...) The adults tell that the worries about the future, limited access to meaningful activities and living close to many changing people present a heavy strain on the marriage during the asylum period. For many years, most of the families have been accommodated in one single room, and during this period it has not been possible to keep adult life and family life separated. This implies that the children have often had knowledge about parts of the family's circumstances that the parents consider unfit for children to know about.

A large part of the families blame the long time of stay in Denmark for resulting in a complete isolation from networks in the country of origin. Many families made relations with other asylum seekers or fellow countrymen during the years after arrival in Denmark, but their own and others' repeated movings have made it difficult to keep these relations. This means for many families that close relations to people outside the basic family are almost non-existent. Some of the adults state when moving out of the camp that the closest relation apart from the children and spouse is a staff member. (...)

Professor in law Jens Vedsted-Hansen, extract from the book "Afvist. Asylansøgere i Danmark" Tiderne Skifter 2008:

(...) As a third kind of disintegration can be mentioned something which a little crudely could be named administrative paralysis and political escape from responsibility. Even if in my opinion it has been unnecessary to change the legislation in order to grant asylum to many of the Iraqi asylum seekers who have been rejected through the later years, it is obvious that other sections of the Alien Act could have been relevant regarding some of these people. However, a rather unelegant play has been going on in the media, when none of the authorities involved would take responsibility for this problem. The Refugee Board has with its partly wrong focus on "individual" risk of persecution seen this as a problem which the asylum legislation could not solve.

At the same time it has been expressed loyally that it did not exclude the possibility of a solution following other articles – in other words, it could be someone else's responsibility. But this someone was the Ministry for Integration and Immigration Service, and on behalf of both the Minister stated on a crucial time that these instances could neither do nor say anything about the situation because this would mean an attack of the independency of the courts – again, another wrong line of arguing as the Refugee Board is not a court and in any case the existence of it could in no way exempt the Minister from the political and international responsibility for the situation.



About the author:

Michala Clante Bendixen has been working voluntarily with refugees for many years and is active in the debate about asylum policy in Denmark. The practical work with the asylum cases has given her great experience with legislation, practice and the personal aspects. She is part of the NGOs Refugees Welcome/The Committee for Underground Refugees and Eva Smiths campaign Asylbørnene Ud Nu.

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