Clear-eyed vision pro-migrants

Borderline Justice – The Fight for Refugee and Migrant Rights
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Immigration has for so long been captured by the cynical myth-making of the right that any call for a world of ‘no borders’ faces summary dismissal as utopian and detached from public opinion. Even more cautious manifestos for a freer and more humane regime are today cast well outside the political mainstream.

But a progressive vision, backed up by common sense and reasoned analysis, still exists among a group of immigration lawyers who have, since the 1970s, waged an ever more ingenious ‘war of position’ against the bewildering rules, regulations and restrictions that make up the United Kingdom’s immigration and asylum system.

Frances Webber, formerly a barrister, has for 30 years been part of that fight and tells its story in a book that serves as an unapologetic defence of universal values at a time of ever narrower conceptions of rights and community. It is also a very practical guide to the system’s dysfunctions, how cases are won and lost, and why a clear commitment to the rights of others to seek economic opportunity or humanitarian protection in the rich world demands not just legal nous but political awareness.

Webber sketches the landmark cases that sought to expand the reach of international principles and, more recently, human rights into a field characterised by ever more regressive law-making. Some victories represented real advances in the scope of protection for refugees, including the recognition of gender-based persecution. Others were rearguard actions against the more egregious acts of the State, from the removal of social security from asylum seekers to the effective evisceration of appeal rights and criminalisation of ‘illegal entrants’.

The author is alive to the contradiction that each legal advance has been met by political reaction, for every step forward, very many pushes back, usually in the form of immigration statutes that are so much more difficult to challenge. ‘The floor of human rights protection became an ever lower ceiling,’ she writes. ‘The harsher climate for refused asylum seekers, undocumented migrants and ex-offenders post 2000 encouraged the right and tabloid press to raise demands for even more enforcement.’

She also stresses the lawyer’s role in ‘bringing the community into the courtroom’ – literally, through the presence of the appellant’s friends and family when so often our tribunals operate in a social vacuum and through advocacy, by putting ‘the reality of clients’ lives into focus to judges inevitably insulated by their position of privilege and under political, bureaucratic and time pressure to see cases as purely intellectual exercises’.

The ethical and economic arguments that underlie the challenge to our fortress-states have in fact never been more compelling; not the right-wing libertarian view that sees free movement of labour as the desirable concomitant to free movement of capital, but a socialist one which stresses each individual as more than a unit of labour, as a citizen protected by certain fundamental rights, as part of a community with whom free movement and association would not lead to the chaos and conflict of tabloid imagination, but rather to more prosperity, greater communication and interchange, more balanced demographics and material expansion.

The previous generation of radical lawyers has been accustomed to grounding its critique of the law explicitly in terms of race and class. Webber more than once approvingly quotes A Sivanandan – ‘We are here because you are there’ – and never loses sight of dynamics of power.

The regimes governing both economic migration and humanitarian protection, in different though connected ways, are a product of interests, prejudices and fears that run deep in British politics. We are now encouraged to see immigration as a question of management and technocracy – from ‘common sense’ quotas and rules for economic migrants to an effective restriction on refugee claims on grounds of realism and cost.

We are told we do not have the money or the space or the empathy to open the door to migrants, whatever their motivation. The danger is that even progressive lawyers fall into this reductive way of framing the debate, inside and outside the courtroom. Webber’s clear-eyed, pragmatic but always idealistic book is a firm reminder of the arguments we still need to ensure are made and heard.

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On 12th April 1931, municipal elections were held across Spain in which the Republicans gained a landslide victory. Two days later, the Spanish Republic was born and King Alfonso XIII fled Spain into exile. The progressive Republican constitution was promulgated on 9th December 1931. Article 1 defined Spain as ‘a democratic Republic of workers of all classes, which organises itself through the principles of liberty and justice.’ Workers were entitled to the minimum wage, the constitution protected freedom of association, thought, conscience and religion. It provided for the nationalisation of land, banks, services and the railways. Additionally, the constitution recognised women’s rights and stated that marriage was founded upon the equality of sexes. Women over the age of 23 were given the right to vote and illegitimate children were given the same rights as those born in wedlock.

Needless to say, the Republican Government was unpopular with both the Catholic Church and the army. After five tumultuous years in power, civil war broke out in 1936 following a failed coup.

Over 30,000 volunteers from across the globe, appalled at the way that the army were trying to usurp a democratically elected government, joined the International Brigades to fight against the rise of fascism in Spain. Many from the British left went to Spain to join the Republican cause including Jack Jones, who subsequently went on to become the General Secretary of the