Clear-eyed vision pro-migrants

Borderline Justice – The Fight for Refugee and Migrant Rights
By Frances Webber
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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 erosion 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 a 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.

Taimour Lay

Positive film of uncovered negatives

The Mexican Suitcase
Director: Trisha Ziff
212 Berlin & Mallerich Films Paco Poch (2011)

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...
Transport and General Workers Union and George Orwell, whose book, *Homage to Catalonia* highlighted the damage that a fractured left can do to itself.

Despite the support from ordinary people, most governments left the Republicans to their fate. It was only the Soviet Union and Mexico who supplied the Republican Government with arms to fight off its former soldiers.

The Civil War ended in 1939 when General Franco’s army finally defeated the Republicans. An estimated half a million people died and over 400,000 fled into exile. Many crossed the Pyrenees into France. Nevertheless, France had its own problems. It was still suffering from the economic crisis that had engulfed Europe throughout the 1930s and was about to be invaded on its Eastern front by other fascist forces. With little resources to assist, the French placed many of the Spanish refugees in concentration camps. Many, having fought against the fascists for three years, were finally defeated by the cold or starvation. Others went back to Spain, some to be tortured or executed, others to restart their lives under a regime that they had previously fought against.

Between 15,000 and 20,000 Republican refugees took up the offer of Mexico’s President at the time, Lazaro Cardenas, of refuge in Mexico. At that time in Mexico agrarian and social reform were accompanied by political debate and a flourishing artistic and cultural scene and the Spanish refugees were welcomed with open arms. Mexico hosted the Spanish Republican Government in exile until after Franco’s death.

Franco’s regime lasted from the end of the Civil War in 1939 until his death in 1975. In 1977, an Amnesty Law was passed that prohibited the prosecution of members of Franco’s Government for crimes committed during the Civil War and the regime that followed. This law was heavily criticised by the UN Human Rights Committee in 2008 and it caused outrage when Judge Baltasar Garzón was charged with breaching the Amnesty Law after he announced that he would investigate around 114,000 forced disappearances between 1936 and 1951. It is no wonder that it is still common for younger generations in Spain not to know much about the Civil War, despite many having living relatives who had lived through it.

The story of *The Mexican Suitcase* is perhaps an analogy for the Spanish Civil War. The documentary follows the history of the Spanish Civil War through the photographs taken by Robert Capa, Gerda Taro and David Seymour, known as Chim. The three photojournalists went to Spain to report on the war as it happened from the Republican side. Capa became famous for the photograph of the ‘Falling Soldier’ taken in 1936 during the war and went on to send photos from the Second World War and beyond.

Gerda Taro was Capa’s partner. The documentary casts her as a daring if not crazy photographer who ran across the battle while people were shooting in order to get a better picture. This type of war photography had been unheard of until that time. Taro died on 26th July 1937 from wounds after a tank reversed into her. Her photos for a long time were attributed to Capa despite their difference in style.

The negatives were sent back to Paris, where the three photographers were based at the time. The negatives left Paris with Capa’s assistant in 1939 when the threat of the German invasion was looming but after this the photographs disappeared. Capa’s brother spent years trying to find the negatives until they were uncovered in a suitcase in Mexico City in 2007. The negatives reveal the harrowing story of the Spanish Civil War from: the front; the murder of children; the flight of Republican refugees across the Pyrenees into France; and the concentration camps that were set up to host those refugees who made it.

The documentary presupposes some background knowledge of the Civil War. It takes the audience straight into the midst of battle with little explanation as to how the war started and what happened during the war itself. Nor does it give much information about the photographers themselves outside of their stint in Spain. Nevertheless, the stories told of exile in Mexico and the return to Spain by some of those photographs, some 70 years after the images were taken, make the documentary very moving.

Perhaps the story of *The Mexican Suitcase* will eventually encourage the Spanish Government to acknowledge the crimes that were committed during the Civil War. As one of those who were photographed said: ‘si olvidas tus fracasos, seguramente volveras a fracasar en lo mismo. No puedes forjar tu futuro sin memoria’ – ‘If you forget your failures, you will most likely fail again like you did before. That means you cannot build a future without your memories’.

**Siobhan Lloyd**

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