

## **ILLEGAL IMMIGRATION**

### **The Middle of the Road Approach**

Having been bred as a Jesuit child, I feel uncomfortable replying to Fr. P. Pace SJ's contribution (The Times 02/12/06) on immigrants and detention. I for one have never appealed for moderation on the part of non-governmental organizations (NGO's) committed to immigrants' welfare. On the contrary I recognize their dedication to the cause. But such dedication and commitment should never be pursued at the expense of giving a balanced and correct picture of the current situation.

I commend the activities and work of the Jesuit Refugee Service (JRS); What I perhaps respectfully question – being a member of Government – is JRS' s apparent 'amnesia' regarding the great strides forward regarding the rights of migrants in the past decade.

I distinctly remember the situation way back in 1998. Immigrants used to languish for years on end in closed detention centres, until the UNHCR Rome office decided their asylum application. The geographical reservation to the 1951 Geneva Convention on the status of Refugees was in full force-limiting refugees status to incidents and events occurring on the European continent. Recognized refugees were expected to beg for a living, since they were not allowed to work in Malta, and if they were granted a work permit on the same lines as other non-

refugee foreigners they were stripped of their refugee status. The enactment of the 2000 Refugee law which came into effect in October 2001 incorporated in our legal system a charter of refugees` rights, previously unknown in Maltese law, including the right to work, a travel document, free hospitalization and education to refugee and their families; the automatic right to reside in Malta during the enjoyment to their refugee status; and an asylum processing according to European Standards, including local appeal review.

It is not correct to state that detention of irregular immigrants who illegally arrive in Malta was introduced a decade ago; it has always been on our statute book; certainly since the Immigration Act 1970 was passed by our legislature and even before. Indeed what has happened since 1998 was that this detention policy based on law was trimmed and hedged within reasonable parameters; from unlimited detention in 1998 – which Fr Pace inexplicably omits to mention in his contribution – to one subject to cappings at different stages; and above all the setting up of an Immigration Appeals Tribunal empowered to renew any application by any immigration detainee who claims that the duration of his detention is unreasonable.

The eighteen-month maximum limit for detention period in actual fact applies **only** to those who, having arrived in Malta, apply for asylum, and their demand is rejected at least twice - i.e. - by the refugee Commissioner and the Refugee Appeals Board, and who cannot be repatriated to their place of origin.

Consequently the argument put forward by Fr. Pace that since a majority of asylum-seekers are granted some kind of protection, it is useless to detain them is fallacious and misleading; for the simple reason that those who **are** granted protection are released much before the 18-month detention limit, and on average remain in detention between 6-9 months, and are immediately released on being granted protection; indeed if for some reason or another their application is still pending – even if at appeal stage – after twelve months, they are immediately released and transferred to the open centres.

The same applies to the detention of children; children and their parents, and other vulnerable persons, are released at the end of a health - screening process, irrespective of whether they deserve protection or not; a move away from the indefinite detention of children and their parents eight years ago!

Indeed some may have considered these reforms as liberal to the cause of refugees and protected persons; as usually happens, those who like myself adopted the moderate middle of the road approach get criticized by both sides of the fence.

I have no doubt that Fr. Pace is doing his job as he thinks fit; and that his criticism and stand contributes to the debate of this problem; certainly the emergency situation imposed upon us has put enormous strain on our disciplined

forces, fine - tuning is still required, and requesting improvement in certain areas is in order.

But my commitment is to the general and public interest, and as I have stated in the past, so long as burden – sharing remains a distant utopia, there is no alternative to detention of persons, whether asylum seekers or not, who enter Malta illegally.

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