



Home Affairs Committee

Oral evidence: [Channel crossings, migration and asylum-seeking routes through the EU, HC 705](#)

Wednesday 11 November 2020

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Members present: Yvette Cooper (Chair); Ms Diane Abbott; Dehenna Davison; Laura Farris; Adam Holloway; Dame Diana Johnson; Tim Loughton; Stuart C McDonald.

Questions 390 - 449

Witnesses

[I](#): Frode Forfang, Director General, Norwegian Directorate of Immigration; and Halvor Frihagen, Lawyer, Andersen & Bache-Wiig AS.

[II](#): Madeline Gleeson, University of New South Wales; and Professor Natalie Klein, University of New South Wales.



Examination of witnesses

Witnesses: Frode Forfang and Halvor Frihagen.

Q390 Welcome to this evidence session for the Home Affairs Select Committee as part of our inquiry into channel crossings, migration and asylum-seeking routes. We are grateful to our witnesses this morning, joining us first from Norway and then from Australia, as we look at international experience of asylum-seeking routes.


First we have joining us Frode Forfang, the Director General of the Norwegian Directorate of Immigration, and Halvor Frihagen, a lawyer at Andersen & Bache-Wiig. Thank you both for joining us this morning.

I will begin by asking you first to introduce yourselves in terms of the work that you do on migration in Norway, and particularly your experience of people arriving for asylum seeking but through irregular routes into Norway. I will start with Frode Forfang.


Frode Forfang: Good morning. I am the head of the Norwegian Directorate of Immigration. Part of our task is to process asylum applications in the first instance. We have had a lot of experience with asylum seekers over the years. We have had very few asylum seekers the last few years. If you take a 20-year span, Norway has had more asylum seekers coming into the country than the average in Europe per capita.

We had an especially high influx in 2015 when we had the asylum process in Europe. We had more than 30,000 asylum seekers. In the years prior to 2015, we had typically between

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possible to fly to Norway from other Schengen countries, but most typically it would be crossing the land border. That is probably the way I think most people would arrive.



There are also some other exceptions. For instance, if we have an asylum seeker coming from visa-free European countries—typically the Western Balkans or other European countries—applying for asylum in Norway, we would not apply the Dublin regulation, even if we can prove that they have gone through or been registered somewhere else in Europe. We have accelerated procedures, 48-hour procedures, for people coming from visa-free countries, which are






of resettlements directly from refugee camps. If the asylum influx increases considerably, then probably the Government will reduce the quota from resettlement.

Q397

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Halvor Frihagen: Denmark to Norway, across the Skagerrak. In summer a lot of Norwegians just go there with pleasure boats. It is absolutely feasible, although it is longer than the Channel.

Whereas before they might have come across the bridge from Denmark and Sweden and across land into Norway as the more regular route?

Halvor Frihagen: Yes.


Frode Forfang: It should be added that it is correct that the border controls between Sweden and Denmark have had some influence on the influx to Norway, but still Sweden receives considerably more asylum seekers than Norway at the moment—about 10 times more. There are some other things that influence the asylum influx to Sweden. It gets more than 20,000—at least last year, it ~~g~~^g ~~h~~^h ~~o~~^o



we have returned some people to Somalia, even after they have first got asylum in Norway. It does not happen in many cases, but the principle that we can do it has been introduced in the Norwegian policy in recent years. But that would never apply to people who have been resettled through a resettlement scheme. That would only apply for people who have been accepted after a spontaneous asylum claim.

Halvor Frihagen: The right to family reunion for previous family members in the home country and the right to social welfare integration support and so on will be the same for those arriving to Norway and

apply to those accepted through the resettlement scheme. UN Doc. E/CN.4/Sub.2/1998/11/Add.1, para. 10.



Q405 Just to quickly follow up, suppose Norway was not part of Schengen, so suppose you were in a similar position to the UK's position, do you think Norway would still want to be part of the Dublin Agreement?

Frode Forfang: I think so, because we are in a



outside the Dublin agreement, just to clarify?

Frode Forfang: To be part of it.

Halvor Frihagen: I agree. I think that if you are not, you will have to make a lot of bilateral agreements and that would be a big job for your civil service to process all these different bilateral agreements. People will keep on coming and you will either have to process them or have an agreement with the other countries where they come from. I believe that it would be easier to have one Dublin Agreement than to have have



Q411


Professor



Convention Against Torture. The



EU countries. Therefore, anybody coming across in a boat is potentially




processing aspect from the broader relationship that Australia has with Papua New Guinea and Nauru but also other Pacific island nations.

Q423


It is interesting to know that there are only 150 in Nauru and another 150 in Papua New Guinea. As you will know, back in 2014 the United Nations Committee Against Torture expressed its concern about the policy of offshore processing and in particular expressed its concern about what it described as, "the harsh conditions prevailing at the centres, including mandatory detention, including for children; overcrowding; inadequate health care; and even allegations of sexual abuse and ill-treatment." Is that still the case? Has there been any improvement in conditions?

Madeline Gleeson: There has certainly been no improvement. I believe what you cited was from about 2014. To give a bit of an indication, in 2016 UNHCR medical experts found that the cumulative rates of depression, anxiety and PTSD among the refugees in both places were the highest recorded in the medical literature to date, with over 80% in both locations. That was in 2016. Still the policy continued. Then in 2018,




earlier that it was not effective in the policy goal that it was seeking to achieve, and on top of that, the legal and humanitarian concerns should be cause for great pause, certainly for any state that is a signatory to international conventions, but more than that, any state that considers itself to be a democratic society based on respect for common decency.

In reflecting on those statements, which I also read, I thought about a few of the structural aspects refl ET 1 0 3d ()Tj 6tself fo.26199341 0 Tj 85Td 40()Tj



private companies to manage the centres and provide all of the services. Holding people in detention is always far more expensive than providing them a residential alternative. Then there are other costs.


The big issue for Australia is that we have never had an exit strategy. There has never been an answer for what will happen to people once they are found to be a refugee. There was an aborted attempt to enter into a resettlement arrangement with Cambodia whereby Cambodia was



nobody was returning anyone to Syria, Syrians were being encouraged to return home and some Syrians did.

Q427 Do we know very much about what happened to people who voluntarily returned? I take it that it was just see them off and then that is it—no more interest?

Madeline Gleeson: Very little is known. We focus on boat turn-backs, and that is obviously the people who are at sea who are either pushed back to Indonesia or potentially handed over at sea to the authorities of another country, such as Sri Lanka. There are also people who are intercepted at sea, brought to Australia and then flown back to, say, Vietnam, perhaps, or China. Similarly, we find it very difficult to follow what has happened to any of those people once they have been returned. Policies that involve forcibly returning people to places they have fled, and places where they face harm, with no adequate follow-up.



offshore processing. There have been extensive reports on the damage it does to people and to communities to have large groups of people on rolling temporary visas rather than ever having a pathway to permanent residency. That is just another example. The temporary visas and the lack of family reunion are probably the two biggest differences that cause the greatest impact for people.


Q429 Are there legal questions over whether or not that is really consistent with the Refugee Convention? I do not know what other international laws might apply. Has that been challenged?

Madeline Gleeson: There are absolutely questions. The answer always comes back to the fact that in Australia we have absolutely no Bill of Rights or charter of rights. Our courts cannot hear these claims to the extent that they go to a violation of our international obligations. Any attempts to get cases up to the courts need to try through other routes, but they are not successful because they cannot bring a direct claim. That is a very real issue that we face.

Q430 Do the Government try to say that this has had a deterrent effect and that that justifies it?

Madeline Gleeson: They do. The second part of my answer to your previous question, which I should mention, is that our laws have been amended to explicitly state in various parts that the powers they grant are valid—validly executed, validly acted upon—even if they violate Australia's international obligations. Besides the fact that we do not have the legal framework or the courts to challenge violations of human rights, we have legislation that explicitly states that conduct by Australian officers is valid even if it is contrary to our international obligations. That is another concerning aspect to it.

In terms of the deterrent effect, yes, that is the argument. The



another because they have never been properly tested one by one. All we can say is that offshore processing did not do it.

Q432 I have two final questions. On the one hand, that is a critique of the justification about deterrence, but stripping asylum seekers of those rights must have a pretty horrible impact on their lives in the meantime. Has that been looked into and documented?

Madeline Gleeson: It has. Certainly, the first time around that we had temporary protection visas, there were comprehensive studies of, as I said, the damage that it does—not just to the people who are on those visas, I should say, but also to the communities they are in. If you come at this issue from a community cohesion perspective, if you are looking at having Australian societies that work well together and where all members of those societies participate equally and buy into the social contract of their community, there are strong advantages to having people who are permanently here with rights, engaging in Australian society and becoming Australian citizens. There is far more advantage to that than having people in indefinite temporary, precarious situations.

Q433 Finally, could I just take you back to the earlier discussion about Article 31 of the Refugee Convention and how it would apply to people in the Channel? My understanding is that it would only be if the people crossing the Channel had been granted refugee status and settled in a country in between times that the use of the term “illegal” would apply to them, but that if somebody had not been granted asylum or recognised as a refugee between the country they have escaped from and the United Kingdom, the use of the term “illegal” for that crossing would not apply at all. Is that right?

Madeline Gleeson: That would be my understanding, yes.

Q434




are in quite remote areas where people do not really see what is going on. Christmas Island,






in need of it or for children who are joining family members, and so on. Often, I think where the balance gets thrown out is—a similar point



The issue in Australia—there might not be the same issue in the UK, so this is where there could be a difference—as I have said, was that the main purpose of doing this offshore was to punish the people who had come



that as well. There are many other ways that people can access protection, not just through traditional channels. If half of the effort that Australia had spent on offshore processing was put into looking at those and working out whether they work and strategising in that way, that would relieve some of the pressure points where there are larger numbers of people in need of protection in our region. Then it would be building up the capacity of other countries in our region to also increase their ability to support asylum seekers there.


Again, Australia is in a very different position because when most people flee their country and travel to Australia, they do not hit a Refugee Convention country on the way. What we are dealing with there geopolitically is that there is nowhere along the way where they could stop and get protection. It is very different from the UK.

Professor Klein?

Professor Klein: I do not have anything to add to Madeline's answer.

Q442 Can I just ask a few quick follow-up questions? Stuart McDonald asked earlier if there was any evidence of a deterrent impact from the overall policy, in particular the processing centres and so on. We heard Madeline Gleeson's response. Professor Klein, is there any evidence of the turn-back policy and the boat interventions policy having any kind of deterrent impact?

Professor Klein: We do know that the numbers have decreased over the years. In the statistics that have been released from the parliamentary office that has assembled that, there have j 21.79 (fTj .60699463 0 Td (t5(know)Tj



Borders began that we started seeing the decrease. What we saw was a mix of operations being undertaken. We do not have all the full details. We know that in some instances it was just vessels being turned back. They were being prevented one way or another from continuing on their journeys to Australia.

In some instances they were what was known as “assisted returns”, so the vessel—perhaps in the context of a rescue—was provided with some assistance and facilitated in its return. We also had situations, as I think Madeline mentioned at one point, for example, of people arriving from Sri Lanka, where the Australian authorities would then enter into communications with Sri Lanka or India in order to be able to return people there. In some instances they were brought to Australia and flown back, or the vessels were taken back directly or on board Australian vessels at that time.

I do think we have to acknowledge that the physical activities of Operation Sovereign Borders absolutely decreased the number of boats coming, even though, as I have indicated, there are a range of concerns about how those policies were implemented and the consequences for the people concerned.

Certainly, I should also mention that Operation Sovereign Borders has had safety concerns for the Australian officials who have been involved in implementing this particular policy, because there were some reports in the media about the people who were on these particular vessels. They would sabotage their vessels at the point when they saw the Australian authorities. Fires were lit on these vessels to try to prevent them from being forcibly returned, which then triggered a rescue situation. There were concerns on some of these occasions for the safety and the security of the Australian personnel who were operating at the time. We do not have full details about that because of the security justification that is given for the lack of information around that.

Q444 Thank you. Madeline Gleeson?

Madeline Gleeson: I think Professor Klein has perfectly covered the second part of your question, which was explaining the decrease in numbers from 2013. I concur with her explanation.

The first part of your question was about the rise in numbers from about 2009 onwards. This is hotly contested and, because this is such a political issue in Australia and at that time it was such a hot political issue in Australia, there were all sorts of claims going back and forth, finger pointing and blame—that this policy or that policy was leading to the increase in boat arrivals. The short answer is that there is no evidence to support any of those claims. We do not yet have the full picture or understanding of why so many people were arriving by boat at that time.

We do know that if you look at how the trafficking and smuggling networks were operating in South East Asia at that time, they were operating incredibly efficiently and effectively at getting people through




The other reason is that since then we have had the US resettlement deal. We have had 800-and-something people be resettled to the United States, and that has not seen a massive increase in the number of people arriving by boat. That policy has been chipped away at, in the sense that people have been resettled elsewhere and there still has not been any change in the boat numbers.

There is no hard evidence one way or another that this policy does more or less in terms of deterrence. All we know is that the main indicator that has led to a change has been the introduction of Operation Sovereign Borders.

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the refusal to answer any real questions about what is going on. As a result, it becomes difficult to get information about the costs, but I can get information to the Committee about the costs of offshore processing.

That would be fantastic. Thank you. It would be very useful to have a sense of the cost over time and for different years, depending on the number of people involved.

Thank you very much for your time, particularly so late, and thank you for your patience. We have kept you late into the night. We very much appreciate your time, and we are very grateful for the evidence that you have both given us today. Thank you very much.