



Banished on the Bases:

Refugees and Asylum Seekers Denied Rights in Europe

by Michelle Berg

Once the head of a massive colonial empire, the United Kingdom retains as overseas territories only a fraction of its former lands. Among these are the Sovereign Base Areas (SBAs) situated on the east and west sides of the island of Cyprus. Although it enjoys imperial privileges in such territories, the United Kingdom refuses to take responsibility for a group of asylum seekers and refugees trapped in legal limbo on the SBAs. The Republic of Cyprus has also refused to grant rights to the refugees and asylum seekers, even though some entered through its territory. The European Union (EU) and other resettlement nations have ignored pleas to accept this small group of about 100 persons. The refugees' uncertain fate, their unsettled lives, the restrictions of life on the bases, combined with their powerlessness over their future is a source of daily frustration. The international community has kept them on the fringes of Europe—warehoused and forgotten.

Background

In 1960, the United Kingdom, Greece, Turkey, and the Republic of Cyprus signed the Treaty of Establishment creating the independent Republic of Cyprus and releasing the island from British colonial rule. Under the Treaty, the United Kingdom retains sovereignty over two SBAs that span some 99 square miles (256 square kilometers)—about three percent—of the island and include several Cypriot villages. The Western base area includes Royal Air Force Akrotiri and the Episkopi Garrison. The eastern base area includes Dhekelia Garrison. Under the terms of the Treaty, the United Kingdom retains the land in perpetuity so long as it uses it for military purposes only. The Treaty prohibits it from setting up or administering colonies and forbids the

permanent settlement of residents on the bases. Unlike other administrators of other overseas territories who report to the Foreign and Commonwealth Office in the United Kingdom, the chief administrative officer of the SBAs is a senior military officer who reports to the Ministry of Defense. Further, the British Overseas Territories Act of 2002, which permits residents of other British territories such as Montserrat or the British Virgin Islands to apply for citizenship, specifically excludes the SBAs since they have no residents other than the villagers who are Cypriot citizens and the soldiers who are citizens of the United Kingdom.

The SBA administration has a separate legal system on the bases that, save for military exceptions, substantively mirrors the Cypriot one. The bases have their own attorney general and judge, and an appeals judge is periodically brought in to review cases. Although the Republic of Cyprus is set to join the EU in May 2004, and some EU law applies to Cypriots living on the bases, the accession treaty does not extend to the bases. Recently, however, the United Kingdom—on behalf of the SBAs—agreed to apply the European Convention on Human Rights to the SBAs when the Republic of Cyprus joins the EU in May 2004.

The island of Cyprus is itself divided into two parts. The international community recognizes the Republic of Cyprus, which controls the southern part of the island, as the legitimate government. The Turkish Republic of Northern Cyprus (TRNC) controls the northern part of the island and, although it conducts state affairs and governs, no nation except Turkey recognizes it. The eastern SBA borders the TRNC.

The bases themselves combine military installations with a slice of England, with street names such as

Nottinghill Gate, and Maple Lane. The Dhekelia Garrison web site boasts of readily available saddle, sailing, golf, gliding, and theatre clubs, as well as line dancing, scouts, and brownie troupes.

Asylum Seekers on the SBAs

The first group of just over 70 asylum seekers—including Iraqis and stateless Kurds—arrived on the SBAs in October 1998 when their sinking boat, en route to Italy, arrived off-shore of the Akrotiri SBA. Seeing a large flag with a red cross on it—and thinking it was that of the Red Cross society (it was a hospital’s flag)—they headed towards it, British helicopters interdicted and rescued them from their unseaworthy vessel. As legal entry to the SBAs or the Republic of Cyprus can only be made through the Republic of Cyprus’ ports or airports, the SBA officials planned to transfer the individuals to the Cypriot care as illegal migrants. Neither the Cypriots nor the SBAs could deport them to their home countries, however, due to unstable conditions there, nor to Lebanon, the boat’s point of departure, which denied any record of it. Initially neither wanted to take responsibility for them, but soon after they arrived and claimed asylum, both the Cypriots and the SBAs claimed responsibility with officials debating who would take them. One source told the U.S. Committee for Refugees (USCR), “At first no one wanted them, and then, when they realized it was a question of sovereignty and territorial claims, everyone wanted them.” The Cypriots maintained that they have jurisdiction to deal with the asylum seekers and the SBA officials concluded that they retain sovereignty over the SBAs where the boat landed.

The arrival of the asylum seekers caught the SBA officials off guard. They had no legal mechanism to determine refugee status. At the time, the office of the UN High Commissioner for Refugees (UNHCR) handled asylum claims in the Republic of Cyprus. (In 2002, the Cypriot government began processing its own claims.) After meeting the immediate needs of rescue, food, and water, the bases were ill-equipped to handle the asylum seekers’ legal protection needs.

For around 18 months, the SBA authorities detained them—each family with a room and access to common areas within a fenced compound. Single asylum seekers shared rooms. According to the asylum seekers, the children had no formal schooling. Some of the asylum seekers who spoke English taught it to the children, and base officials provided school materials and educational toys.

Unfair Process

When the asylum seekers arrived, UNHCR in Cyprus discussed with the SBA authorities how to conduct refugee determinations appropriately and fairly. The SBA adminis-

trators initially advised them that the United Kingdom’s Home Office would second caseworkers to interview the asylum seekers and give the SBAs their assessments and recommendations. The SBAs asked UNHCR to examine cases on appeal and submit assessments and recommendations.

Instead, several months after the arrival of the first group of asylum seekers, fiscal officers untrained in asylum law made ad hoc refugee status determinations. They relied on questions faxed to them by the Home Office, generally without probing for claim-specific information, country conditions, or evidence of individualized persecution. Some asylum seekers told USCR that they did not get to fully explain their claims or individual circumstances, but simply answered general questions. Sources told USCR that the interviewers simply “ticked boxes without adequately understanding what questions to ask, country conditions, or how to properly assess the asylum seekers’ credibility.” They then faxed the answers back to the Home Office, which either made recommendations or faxed back clarifying questions, which were asked in the same manner with further responses faxed back. The second officer in command on the SBAs made the initial refugee status decisions, following recommendations of the Home Office. The asylum seekers did not have any access to legal counsel, and many received cursory denials without specific reasons upon which to appeal.

After reviewing their files, UNHCR conducted full personal refugee status determination interviews with all the asylum seekers on appeal. However, the asylum seekers told USCR that they had neither legal counsel nor copies of their case files or transcripts of the original interviews. In the end, the chief administrative officer, who is also the commander of the SBAs, decided the appeals: accepting UNHCR’s recommendations and also granting refugee status to a few UNHCR did not recommend. Even so, only about 20 out of some 70 received refugee status.

For those denied refugee status, there was no review by a court. The SBAs advised USCR that they tried to return some of the rejected asylum seekers to Lebanon, where the boat had reportedly begun its journey. Lebanon refused to accept them because the SBAs could not prove that the journey had started there. In any event, Lebanon is not a party to either the UN Refugee Convention or the Protocol and has a record of *refoulement*. The SBAs granted them three-month temporary permits to remain and has renewed them ever since.

But even for the small number granted refugee status, the situation is not really any better. They remain on the base, uncertain of their fate. Although the Home Office had a role in their status determinations, the United Kingdom has refused to accept them for resettlement and states that they are only “refugees” *on the SBAs*. Their refugee status documents are not transferable to the United Kingdom and lack case numbers and stamps, making them of questionable value. The SBAs give the refugees a travel



document, in the spirit of the 1951 UN Refugee Convention, but since the SBAs are not states, virtually no country recognizes it or will grant its bearers visas—rendering the document useless. One refugee observed that, “In England, even a dog has a passport, but here I am denied.”

New Arrivals

Since the first group of asylum seekers landed, other groups of asylum seekers have crossed into the bases from the TRNC. The first group that arrived by land again met base officials unprepared. The SBAs asked the Republic of Cyprus to adjudicate their claims as the recognized government of all of Cyprus. The Cypriots responded that this may be the case *de jure*, but *de facto* they exercised no control over the TRNC; furthermore, since the SBAs were the first legal entity in which these individuals claimed asylum, the SBAs were the responsible authority. (The TRNC has no procedure for determining refugee status and often summarily deports asylum seekers.) One asylum seeker from the first group to cross into the SBAs by land told USCR that they waited for about 24 hours without food or water, while Cypriot and British officials discussed what to do.

After a prolonged standoff, the SBA officials agreed to house the asylum seekers, but refused to conduct refugee status determinations, arguing that this was a Cypriot responsibility. Instead, the SBAs prosecuted them for illegal entry—contrary to the spirit of Article 31 of the UN Refugee Convention—sentencing them to two months imprisonment (in addition to one month they had already spent in detention). The asylum seekers pled guilty, unaware of their rights in international law. The attorney general of the SBAs indicated that they could be pardoned, but without legal counsel or procedures it would be difficult.

More asylum seekers arrived through the TRNC later but none have had refugee status determinations. According to the attorney general, however, following instructions of the Home Office the SBAs did not prosecute those who arrived after the initial group from the TRNC, and gave them three-month, renewable, temporary permission to stay. Like those who arrived in 1998, they are not allowed to reside in the Republic of Cyprus or work.

Conditions on the Base

The bases are better than most refugee camps. The refugees and those with temporary permits reside in an isolated area of Dhekelia base known as Richmond Village with free housing, including electricity, formerly used as married quarters for British soldiers. The location limits social contact and makes it difficult to get to stores and services. However, many residents also told USCR that the houses are adequate.

They have no legal right to move outside the bases,

bring their families, or work. One refugee who remains on the base, separated from his wife and children for five years, told USCR, “Sure, I have a television, but does a television ask me how I am feeling, or how my day went? Can a television feel my feelings? I need my family.”

The SBAs provide the children with schooling, which almost every parent characterized as minimal and inadequate. Administrators told USCR that the school has two teachers, one of who has taught school on the base for many years to the dependents of the soldiers. Parents told USCR that the SBAs put children in two groups for schooling with diverse age ranges, for roughly two-and-a-half hours a day. The children told USCR that they studied English, spelling, and mathematics. One teenager, when asked if he studied science, replied, “What is science?” Another teen did not know what geography was and believed that it was drawing.

Administrators told USCR that they provide what they can with the money they have. Children who finish school cannot attend universities, take vocational training, or work legally. Like their parents, they have to work illegally in menial jobs without security or protection, and risk arrest for doing so.

According to one parent, the children are “passing time at school rather than getting an education.” The SBAs provide comprehensive education for the children of the base officials and soldiers at schools such as King Richard School (KRS). According to its web site,

KRS is well resourced: it has an excellent pupil/teacher ratio, all staff being British trained and fully qualified. The school buildings are up to date, with well-equipped classrooms. KRS has the full range of facilities for ICT, creative arts, design, technology and science. The library is generously resourced with a full time librarian; we have our own playing fields and gym, but also ready access to the Garrison's new gym, athletics track, and swimming pool.

The SBA officials also provided the exiles a living allowance—£40 (\$77) a week for the head of the household and for family members—and medical and dental care. While grateful for the assistance, the isolation, idleness, and uncertainty of their fate contributes to depression, and other maladies common to warehoused refugee populations. One refugee who had arrived in 1998 told USCR, “before, when we were in detention, we hoped to get out, but now, what can we hope for?”

Women perhaps suffer from the isolation most. One described her life in the village: “In the morning, we are waiting for the evening and in the evening, we are waiting for the morning.” Although grateful to have homes, and safety, they told USCR that the social isolation is profound and because they have no transportation, they rarely leave Richmond Village and only see each other. They do occasionally go to stores in the Cypriot villages, but they can-

A Mother's Story

I arrived on the SBAs in 1998, when my husband and children and I fled Iraq. We were forced to leave because of the fighting between Kurdish groups in Iraq and my husband was in danger.

We took a small boat bound to Italy where we hoped to find security and freedom. The boat was only about 70 meters large, and held about 75 people. When the boat started sinking the smugglers on board threw us overboard like animals telling us to swim to shore. Fortunately a British helicopter spotted us and came to our rescue. We spent the first night sleeping in the military airport hall, uncertain of what was to come. After that we were detained for about a year and seven months. We filled out paper work hoping to be accepted as refugees, but after nine months we got a reply that we were rejected. We tried again, and after six months we were rejected again. We had no lawyers and no idea about the process. This was the final rejection and we did not know what would happen. We were told that we would be deported to Lebanon as soon as possible. This was a shock and was the worst three months in jail as we agonized about being returned to Iraq. The children had nightmares every night.

We were eventually released from the jail and were taken to Dhekelia to live in Richmond Village. But this now

has become our prison. There is nothing for the children here. They go to school only around two hours a day and there is nothing for them to play with here but sand and stones. As a mother, I ask for better for my children.

My family is not intact. When a husband is not psychologically at peace or is frustrated it affects the family. When children are neglected and not schooled, it is hard to watch as a mother.

As women, too, we are neglected here. We have asked to learn English but were refused a teacher. Sometimes we pass our sicknesses at home because we need a female translator to feel comfortable to speak with the doctor.

My life is unstable, I don't have freedom to leave the bases, we don't know what will happen to us, and we fear being sent back to Iraq. Once when my husband tried to go to Larnaca to buy clothes for the children the police stopped him. When he presented his identification they threw it back at him and told him to go to England. But we can't go there because the British refuse us. We have nowhere to go.

All we do is eat and drink and sit like animals. We need freedom and a normal life. We have committed no crimes, yet we remain in this prison.

not speak English or Greek. The women have requested English classes, but base officials refused citing lack of funds. Some have asked for a female translator to accompany them to the doctor so that they may speak more freely but this was also denied. One woman stated, "We are deaf and dumb."

Their only social contact remains each other and their children. One woman said, "We are like animals, we drink, eat and sleep, and day and night become the same." Another said, "We are getting lost, we have no future," and that she felt abandoned and forgotten by the world, and that there would never be a solution to their plight.

Other than a small play structure with a slide, there is little for the children to do. Those whose parents have managed to buy televisions watch a great deal of it. Mothers said their children were listless, bored, aggressive, and frustrated. One teenager, who had been on the base for five years told USCR, "I need friends, my only companions are grown ups or small children." Another teenager asked, "What future do I have? My grown up years will go for nothing."

Many of the children feel that they do not fit in anywhere. One teenager explained that he loves soccer, but is not allowed to play with either the Cypriot or the British teams. A mother of a child who paid for Cypriot school in the morning and sent her child to the base school in the afternoon added, "Where shall I send my daughter? She belongs to no one."

Family Life

Refugees and asylum seekers on the base may marry, but may not bring their children or spouses from outside. The SBAs maintain that given the limitations of the SBAs, it would be irresponsible to encourage further families. The refugees say that life is more bearable with a family, but agree that subjecting the family to the anguish of living on the base would be difficult. Many young men on the base expressed the desire to marry and have families, but said that they could not because their lives are on hold.

Article 12 of the UN Refugee Convention recognizes a refugee's marital and family rights according to the laws of his or her home countries. By denying this right, the SBAs are going against the spirit of the Convention. And, the Cypriots could improve the situation by allowing the individuals to temporarily reside off of the base but has not done so, failing equally in allowing Convention rights.

Employment

Many of the men on the base work illegally in the Republic of Cyprus; because of this, Cypriot labor laws do not protect them. The money provided by the SBAs is insufficient,



they told USCR, and enforced idleness is intolerable. Many reported being arrested and harassed by the Cypriot police initially, but told USCR that later and in 2003 the Cypriot officials ignore their working. Since they only have permits to reside on the bases, the possibilities for business or self-employment are negligible.

Legal Status of Asylum Seekers on the SBAs

Base officials maintain that the base does not have current obligations under the 1951 UN Refugee Convention even though the United Kingdom signed the UN Refugee Convention in 1956 and applied it to several of its colonies at the time, including Cyprus. Base officials acknowledge that the UN Refugee Convention which protects those uprooted as “a result of events occurring before January 1951” may arguably apply to the SBAs as remnants of the British colony, but not the 1967 Protocol that extends protections to modern day refugees. The United Kingdom has instructed the base officials to abide by the spirit of the UN Refugee Convention and the Protocol, but denied any obligations under them. Officials do agree, however, that they are bound by customary international law, including the principle of *nonrefoulement* and the prohibition against returning anyone to a place where they would face torture.

Fundamentally, however, the states that ratify the UN Refugee Convention and Protocol have acknowledged their obligations to refugees. It is hypocritical of the United Kingdom to maintain military bases, set up court systems, and interdict and detain migrants and then to deny the legal force of the refugee protection agreements they signed. To deny their application lessens the commitment of the United Kingdom and its territories to protect refugees.

It is shocking that a European power should deny refugee rights such as proper schooling, the right to work, a family life, and freedom of movement. It would also be avoidable should the United Kingdom accept the responsibility concomitant with the benefits of sovereign territory.

Newspaper reports of interviews with base officials reveal deterrence rather than protection to be the driving force of policy. Newspaper reports have quoted SBA officials stating that the bases should not be routes to the United Kingdom. “If someone believes this is a shortcut to migrating to Britain, I hope we have proven that this is not the case.” Another official was quoted as saying, “Anything that would give the impression of providing an easy back door into Europe must be discouraged.” The Associated Press quoted the base spokesperson as saying, “The situation proves that the bases are an awful place to come if you are an illegal immigrant or refugee...there is no way out.”

The Republic of Cyprus, however, is a party to both the UN Refugee Convention and the Protocol and could easily extend UN Refugee Convention rights to the refugees, pending a durable solution. Basic rights such as work and education, as well as allowing them to rent homes off of

the bases would make life better for these people, and would not have a detrimental impact. Many already work illegally in the Republic of Cyprus. Offering UN Refugee Convention rights does not oblige Cypriot officials to offer a durable solution, but simply fulfills its Convention obligations.

Future Prospects

The British High Commission on behalf of the SBAs, and the Republic of Cyprus entered into a Memorandum of Understanding (MOU) that addresses who will assume responsibility future asylum seekers who arrive in the SBAs, the details of which had not been published in early 2004. The SBAs have also enacted asylum law that mirrors much of Cypriot refugee law, but not recent amendments such as the right to appeal expedited procedures applied to cases deemed manifestly unfounded.

The MOU, however, does not address those who arrived on the bases years ago and still remain. SBA officials told USCR that they had reached an agreement in principle with the Cypriots where the Cypriots would admit them. An official at the Ministry of Foreign Affairs in Cyprus would not confirm this, but stated that the matter was still under discussion and that no conclusions had been reached.

Regardless of which nation admits them, numerous questions remain. Will it recognize those granted refugee status? Will it take into account the five years spent on the base in granting citizenship? Will it grant new, fairer refugee status determinations to rejected asylum seekers and to those who have not had refugee status determinations? Will those who prevail have their time in limbo be counted towards time needed to acquire citizenship? Will it recognize their marriages?

Base officials have offered tickets for persons wishing to return to Iraq (where the majority originate), plus \$2,500 for the head of the family, and \$200 for the spouse and \$100 per child to return. Most told USCR that they are afraid to return. In early 2004, Iraq was unstable. UNHCR and the Coalition Provisional Authority were not actively encouraging refugees to return, and urged countries to delay repatriation.

These individuals seeking freedom from persecution in the EU remain in limbo, while officials argue nuances of law and hold them as an example to deter others. Despite talk of “burden sharing,” among resettlement nations, none has offered a permanent solution for this small group of people who, despite a complex legal situation, need a simple solution. Until one is found, the SBAs and Cyprus must respect UN Refugee Convention rights, including the right to work, self-employment, property, freedom of movement, and adequate education. As signatories to the UN Refugee Convention, the United Kingdom and the Republic of Cyprus have failed in their recognized obligations.