

17th century law revived to challenge indefinite detention

A new legal project is using the ancient common law of habeas corpus to challenge the indefinite detention of immigrants and asylum seekers in the UK. The Habeas Corpus Project, based at the charity Bail for Immigration Detainees, has taken the cases of four Algerian men to the High Court. Their cases will be heard on 21 January. All four have been incarcerated as immigration detainees for periods between 14 and 18 months despite making every effort to return to Algeria.

The men are now relying on the legal principle of habeas corpus which has existed since medieval times and was codified in the 1679 Habeas Corpus Act. It demands that a prisoner is brought before the courts to determine whether their imprisonment is lawful.

Jamie Beagent of the Habeas Corpus Project legal team says,

'Our clients are desperate to return to their native Algeria. However, they have become caught in a Kafkaesque situation. Through a combination of the administrative failings of the Home Office and the evasions of the Algerian authorities they have been left in limbo, denied their freedom and couped up in immigration detention centres that, whatever you think of them, simply were not designed for long term detention.'

The men have all served sentences for minor criminal convictions such as working illegally and possessing false documents. Instead of being deported or released at the end of their sentences, they have been held ever since as immigration detainees. There is no prospect of their return to Algeria as without travel documents the Algerian government will not accept them back. The UK Home Office has either managed to lose the men's identity documents, not progress their requests for voluntary return, mislay their biometric data or erroneously tell the bail courts that travel documents would be available imminently.

According to Amanda Shah, from the charity Bail for Immigration Detainees,

'This case shines a light on the scandal of indefinite detention in this country. It is totally unacceptable that people are detained by the government without any end date and without judicial scrutiny.'

MPs from all parties have condemned government plans to extend pre-trial detention to 42 days. Yet this case demonstrates that people are held in immigration detention for months and even years.'

Contact Amanda Shah (BID) 07962460956 amanda@biduk.org or Jamie Beagent (Habeas Corpus Project legal team) 07811203793 jbeagent@leighday.co.uk

Notes for editors

1. The Habeas Corpus Project is a group of solicitors and barristers providing legal representation for immigration detainees challenging the legality of their detention. The project is housed at the charity Bail for Immigration Detainees (BID) www.biduk.org which works with immigration detainees to secure their release from detention.
2. Every year around 30,000 men, women and children in the UK are subject to immigration detention. N.B. they should not be confused with people detained under terrorism legislation.
3. Immigration detainees are mainly asylum seekers awaiting decisions on their claims, or facing forcible removal from the UK; migrants facing removal; or time served foreign national prisoners awaiting deportation.
4. There is no maximum period for immigration detention. One man BID knew was incarcerated for just short of three years before removal to his country of origin.

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