

Asocial injustice: Refugees lost without translation

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Against the background of 9/11, “terrorism”, “crisis” and other political threat-discourses, immigrants and refugees in the United States and Canada are increasingly spending time in local, state and federal prisons for violation of a host of newly-enacted or newly-enforced laws in a context of heightened security. This incarceration is “justified” by a series of memos, laws, proposed laws and programs which, given their arbitrariness and the high level of discretion that leads to their application, are a kind of pernicious legal fiction. In effect, those ‘vulnerable people’ have no claim to rights. Barsky makes a claim that because there’s so much discretion at the ground level -- amongst police officers, clerks, jailhouse employees, prison guards, government officers – that translators and interpreters available at crucial moments could literally make the difference between survival and disappearance. A study of migrant incarceration practices in the Southern USA provides ‘live’ evidence.

The problem is that an activist agenda against vague laws and regulations might be absorbed in current policies, rather than changing creating policies that will be viable in the long run. But smaller efforts, like training interpreters and translators to respond adequately in the early phases of the process, when immigrants encounter officials, could make an immense difference and alleviate some of the ongoing suffering. Time is a major factor because refugees are now lost in legal arbitrariness, even before the official wheels begin to turn, a fact that is exacerbated because the migrants cannot defend themselves adequately because of language barriers. Therefore, appropriate interpretation of the migrants situation is crucial during the initial encounter, because it is during this period of negotiation that a sensitive and qualified interpreter can keep a claimant from incriminating herself or mis-communicating the situation to authority.