



SESSION 4 (Thursday, 1 July, 11:30 - 13:15, BST)

4B - Asylum Determination and Adjudication in the UK

Chair: Susan Reardon-Smith (RLC, University of London, UK) susan.reardon-smith@london.ac.uk

Legal silo's and indifference: The wrongful prosecution of refugees and asylum seekers in the UK

John R. Campbell

Emeritus Reader (Anthropology)

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This paper explores the situation in the United Kingdom where the government has consistently prosecuted and convicted asylum-seekers who have entered the country in contravention of its obligations under Art. 31 (1) of the 1951 Refugee Convention. This paper looks at the history of these prosecutions by examining how the United Kingdom's Criminal Justice System (CJS) and the UK's Asylum and Immigration System has handled these cases. At the center of the CJS lies the Criminal Cases Review Commission (CCRC), which reviews wrongful convictions, and Criminal Court of Appeal, which has the power to quash wrongful convictions. The paper concludes that there are three major reasons why asylum seekers continue to be prosecuted and convicted: (a) only a 'patchwork' of protections exists to protect asylum-seekers from prosecution; (b) all state/legal institutions operate in policy silos and fail to communicate with one another, and (c) legal institutions are indifferent to and deeply hostile towards asylum-seekers.

Keywords: Art. 31(1) Refugee Convention, miscarriage of justice, UK Home Office, UK

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Dr. John Campbell (he/him/his) is a social anthropologist who undertook his doctoral research in West Africa before teaching urban sociology at the University of Dar es Salaam, Tanzania in the early 1980s. Subsequently he taught at Queen's University Belfast, Northern Ireland, at the University of Swansea, Wales and at the School of Oriental and African Studies (SOAS), London from where he retired in 2018. He has written two monographs about refugees and asylum, and third about the quality of justice in London's magistrate's courts. John has published widely and has also worked as a consultant in international development.

**Conducting disembodied online ethnographies of disembodied legal processes:
Loitering with (research) intent in digital spaces**

Jo Hynes

PhD candidate (Geography)

University of Exeter, UK

Prior to COVID-19, my primary methodology was conducting in-person ethnographies of immigration bail hearings in the UK. Following Jeffrey (2020), this was a heavily embodied process, reliant on organic, in-person interactions, rapport building, waiting and atmosphere: in other words, loitering with intent to conduct research. As a result of the pandemic, both the hearings and my ethnographies of them have moved online, conducted via video conferencing software. This presents a number of challenges for a method that places such an emphasis on embodiment, ad-hoc interaction and open-endedness. Is conducting ethnographies in the form of loitering with (research) intent even possible in digital spaces? It is helpful to reflect on these challenges of disembodiment in order to acknowledge how my research has changed and what new avenues of research may open up as a result.

I suggest that the methodological challenges are twofold. Firstly, there is an enforced narrowing of sensory engagement with the hearing. Only audio and visual engagement are possible, and even these are prescribed for the observer. Secondly, there is a loss of informal, ad hoc conversation (the 'conversation in a corridor'). The ethnography generally takes only as long as the hearing itself, with a consequent loss of interaction with participants around the edges of the hearing. Following Gill et al (2020) I hope to explore what these 'absences' might mean for online ethnographic methodology in the context of immigration bail hearings.

Keywords: ethnography, digital justice, immigration bail, embodiment, UK

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Ms. Jo Hynes (she/her/hers) is an ESRC funded PhD candidate at the University of Exeter, exploring the legal geographies of immigration law. Using ethnographies of tribunal hearings and interviews with their key actors, she examines the impact of space and technology on access to justice in immigration bail hearings. She is also a Research Fellow in Online Courts at Public Law Project, where her work focusses on online courts and tribunals, digital justice and related access to justice issues.

**Imaginings of the other: Home Office assertions of culture and their implications for
Kurdish asylum seekers (NOT INCLUDED IN VIDEO)**

Kaveh Ghobadi

Former PhD student, Expert Witness

University of Exeter, UK

This paper explores the Home Office's selective and reductionist presentation of the Other and their culture to cast doubt on the credibility of Iraqi Kurdish asylum seekers' accounts. I have worked as an expert witness since 2017 and have prepared over 200 reports for courts in the UK ever since. The present paper examines the cases of 50 asylum seekers whose claims the Home Office refused,

and for whom I was instructed to provide country expert reports. Drawing on post-colonial theory and Edward Said's orientalism, I will conduct a close textual analysis to lay bare some assumptions with which the Home Office imagines asylum seekers from Kurdish backgrounds, by closely examining their reasons for refusal. An essentialist discourse on culture figures in nearly all the refusal letters studied for this paper, examined here against the backdrop of a long history of colonialism and Orientalism. Ultimately, this paper argues that the Home Office treats Kurdish culture as a monolithic entity equally inherited and practised by all its members. Denying the cultural diversity of Kurdish people enables the Home Office to refuse an asylum seeker's application simply by arguing that their account contradicts what they imagine to be Kurdish culture, i.e., a backward, patriarchal, and uniform society.

Keywords: Orientalism, post-colonialism, UK Home Office, Kurdish asylum seeker, Kurdish culture, UK

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Dr. Kaveh Ghobadi (he/him/his) received his PhD in Kurdish Studies in 2016 from the University of Exeter. Since 2017 he has been working as an expert witness. He has published works on Kurdish fiction and gender. His main areas of research are Kurdish culture and literature, gender, Kurdish nationalism, and Kurdish refugees.

Cooperation and kindness in the immigration and asylum chamber

Susannah Paul

PhD candidate (Law)

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My paper draws on the findings from my PhD research which involved an autoethnographic study of the First-Tier-Tribunal Immigration and Asylum Chamber (FTTIAC) in Glasgow. My research has yielded insights into the interactions of the workgroup in the meeting place of the FTTIAC. I explore the link between cooperation and connection within the working group and the changes that the digitalisation reforms are likely to bring to the workgroup of the FTTIAC. I come to reflect that the values of cooperation and connection will become increasingly relevant in the digital tribunal. Finally, I open a discussion about the opportunity to consider the incorporation of kindness into the ethos of the FTTIAC. In Scotland, 'kindness' has been included in the National Performance Framework; research and policy discussions have begun to consider how kindness might be incorporated into public policy in Scotland. I consider what an infrastructure of kindness could involve in the FTTIAC and how dimensions of kindness may be a prerequisite for cooperation.

Keywords: Behaviour and emotions, digitalisation reforms, tribunal workgroup, UK

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Ms. Susannah Paul (she/her/hers) is a final year PhD candidate at the University of Glasgow. She has previously studied Law and Sociology and her research involves a socio-legal study of hearings in the Immigration and Asylum Chamber of the First-Tier-Tribunal in the UK. She is also interested in a range of issues including access to justice, emotions in legal spaces and procedural justice.