

## Ousmane Saw is deported

MIQUEL HERREROS SALA, a friend of Ousmane, and member of the Social Rights Office (ODS) of Terrassa.

On August 10th, 2010 Ousmane Saw was arrested by the Spanish National Police Force in Terrassa [Barcelona province, Catalonia, Spain] and charged with having an expulsion order, issued against him on November 21st, 2008. On the day of his arrest, the Police lodged an application with the Judge at Magistrates' Court number 4 in Terrassa (duty court), requesting his internment at a Migrants Detention Centre (CIE) in Barcelona with a view to guaranteeing his expulsion. Ousmane was held in custody and taken to the Courthouse. After being locked up for hours in a cell at the Courthouse, he was asked to give a statement during which he was listened to for about five minutes. The Judge then issued a decree authorising his internment that same day. Ousmane was taken directly to the Barcelona CIE.

Within the three day period set down by law, he lodged a first appeal (an administrative appeal for review) against the internment order decreed by the Judge. This appeal was dismissed on August 16th by the Substitute Judge at Magistrate's Court number 4 in Terrassa, that is, the substitute judge that resolved the appeal had never seen Ousmane, she was not the same judge who took his statement.

On August 24th, an appeal against the decree was lodged at the senior court clerk's office in Terrassa, withdrawing the review appeal and requesting resolution by the Court of Appeal in Barcelona.

By this time, Ousmane has been confined for 14 days at the Migrant Detention Centre in Barcelona. Detainees can only receive visits in the afternoons, for a maximum of 10 minutes. Visits take place in booths, and detainees communicate through intercoms. The only activity that the inmates of the CIE engage in is waiting to be expelled. Apart from the foreigners pending expulsion, the only people inside the CIE are members of the National Police Force.

During the visits that we make to cheer up Ousmane, he tells us that the situation inside is very tough, and that the wait in there is unbearable. He also tells us about

some aggressive behaviour he has witnessed. We take him clothing and books so he can distract himself inside. On my first visit, Ousmane tells me that he feels bad that we are wasting our time going to see him there, and that he doesn't like people seeing him locked up. He feels as though he has done something bad. Then, he asks me about his acquaintances and friends who are outside, including my six year old nephew who he had met once. When it's time to say goodbye, he holds his fist up against the glass. I respond with the same gesture and when our two fists meet against the glass he looks at me and smiles gratefully.

Every time I leave the CIE I can't help thinking that perhaps Ousmane will be expelled the following day.

The only thing that can stop Ousmane's imminent expulsion is if the appeal lodged at the Barcelona Court of Appeal were to be resolved in favour of Ousmane's freedom. The days go by and there is no decision from the Barcelona Court of Appeal.

And on the 43rd day that Ousmane has spent at the CIE – more specifically, on September 22nd – we are informed that the Department of Expulsions of the Provincial Bureau for Immigration and Documentation has decreed the expulsion of the detainee Ousmane Saw from Madrid-Barajas airport in accordance with the execution of the original expulsion order.

The expulsion is to be carried out immediately.

Given the urgency, in an attempt to prevent the expulsion of Ousmane, we decide to go directly to the Barcelona Court of Appeal and request the resolution of the appeal lodged in favour of Ousmane. At the Court we are informed that they have no record of any appeal having being lodged. Then, we contact Terrassa Magistrate's Court number 4, where the appeal was lodged, and which was responsible for transferring it to the Court of Appeal. We are told that the appeal was lodged with the Court of Appeal on August 26th.

Ousmane is on the point of being expelled, and the only remaining hope is an appeal that has gone missing between the magistrate's courts, court of appeals, court clerks and internal delivery services.

In the midst of indignation and the powerlessness of the court bureaucracy, the unresolved appeal suddenly turns up at the Court of Appeal. The Court tells us that they have just received it from the Terrassa Magistrates' Court, which in turn informs us that it was sent by them and received by the Court of Appeal on August 26th.

Not wanting to lose any more time, we lodge a direct request with section 10 of the Court of Appeal asking for the immediate resolution of the appeal, given that Ousmane has already spent 43 days in the CIE and a plane is waiting in Madrid to carry out the expulsion.

They tell us they will do everything they can...

On the following day, that is, on September 23rd, we are informed that Ousmane is being transferred to Madrid. At the same time, the Court of Appeal schedules his appeal for resolution the following week. There is still a chance that Ousmane will be held at the CIE in Madrid for one more week, and that the Court of Appeal may rule in favour of his release.

But on the following day we are told that Ousmane has been expelled and that he is now in Senegal.

Given that the need is no longer there, the Barcelona Court of Appeal will never resolve the appeal for Ousmane's freedom. We will never know how the Court of Appeal would have ruled in Ousmane's case, but the fact is that Magistrates' Courts order hundreds of detentions every day, and, in many cases, these are later confirmed by Courts of Appeal.

Ousmane's story is simply one of thousands of people who are currently held in Migrant Detention Centres all over the Spanish territory. But Ousmane is a friend who has been arrested, who has spent hours in Police lockups, and who has been deprived of freedom for 43 days in a CIE. And who shall never know what the ruling would have been on the appeal he lodged with the appropriate Court within the required period.

The legal reasons that had led to the expulsion of Ousmane and his internment in the CIE were that Ousmane had an expulsion order issued against him on November 21st. Ousmane was never personally notified of said order. There is no acknowledgement

of receipt on record. But, as the internment order says, the expulsion order was duly published in the Official Gazette of the Government of Spain (BOP). And that's that.

The other reason alleged in the internment order is that Ousmane had no permanent residence.

Ousmane did not have a criminal record of any type.

Today my nephew wanted to know about Ousmane.

## Open Letter Regarding the European Union's "Returns Directive" [2008]

EVO MORALES AYMA, President of the Republic of Bolivia

On June 18, 2008, the European Parliament approved a Directive that the European Commission had put forward in 2005, as "the first step forward towards a common immigration policy for Europe." It consists of a series of guidelines that must mandatorily be incorporated into the legislation of all member states of the European Union. It includes "voluntary return": any undocumented immigrant that is identified as such will be ordered to "depart voluntarily" to his or her country of origin within a period that varies between 7 and 30 days. If the immigrant fails to depart within the specified period, a "temporary internment order" is issued, which leads to confinement in an internment centre for a maximum of six months, extendable to eighteen months if the immigrant does not cooperate in his or her repatriation. Once expelled, the immigrant is legally banned from returning to European Union territory for a period of five years. Minors, alone or accompanied, may also be repatriated under this legislation. This letter from Evo Morales was part of the international outcry against this legislation that thus became known as "the Directive of Shame."

Until the end of the Second World War, Europe was a continent of emigrants. Tens of millions of Europeans left for the Americas in order to colonize, escape famine, financial crises, wars and European totalitarianism and the persecution of ethnic minorities. Today, I'm following the process of the so-called "Returns Directive" with concern. The text, approved on June 5th [2008] by the Interior Ministers of the European Union's 27 member countries, must be voted on in the European Parliament on June 18th. I feel that it drastically hardens the conditions for detention and expulsion of undocumented migrants, whatever their length of stay in the European countries, their work situation, their family ties, their will and their achievements at integration.

Europeans arrived en masse in the countries of Latin America and North America, without visas or conditions imposed by the authorities. They were always welcome, and they continue to be, in our countries on the American continent, which therefore absorb the economic misery of Europe and its political crises. They came to our

continent to exploit its wealth and transfer it to Europe, with a very high cost for America's original population. Such is the case in our Cerro Rico, in Potosi, where the fabulous silver mines provided the European continent its coinage from the 16th to the 19th centuries. The goods and personal rights of the European migrants were always respected.

Today the European Union is the main destination for the world's migrants, as a consequence of its positive image as an area of prosperity and public freedom. The vast majority of the migrants come to the EU to contribute to this prosperity, not to take advantage of it. They occupy jobs in public works, construction, personal services and hospitals, which Europeans can't or don't wish to fill. They contribute to the European continent's dynamic demographic, to maintaining the relationship between the active and inactive that in turn makes possible its generous systems of social security, internal market stimulation and social cohesion. Migrants offer a solution to the EU's demographic and financial problems.

For us, our migrants represent the development aid that the Europeans don't give us - considering that few countries actually manage to achieve the minimum objective of 0.7% of their GDP in development aid. In 2006, Latin America received \$68 billion dollars in remittances; more than the total foreign investment in our countries. At a world level, they reach \$300 billion dollars, which surpasses the \$104 billion dollars granted through the concept of development aid. My own country, Bolivia, received more than 10% of its GDP through remittances (\$1.1 billion dollars), or a third of our annual natural gas exports.

This is to say that the migration flows are just as beneficial for the Europeans and marginally for those of us in the Third World, considering that we've also lost the equivalent of millions of skilled workers, in which our states, poor as they are, have invested human and financial resources in one way or another.

Unfortunately, the "Returns Directive" complicates this reality terribly. If we conceive that each state or group of states may define its fully sovereign migratory policies, we cannot accept that fundamental personal rights should be denied to our Latin American brothers and compatriots. The "Returns Directive" provides for the possibility of incarceration of undocumented migrants for up to 18 months before their expulsion - or "removal," according to the terms of the directive. 18 months! Without trial, or justice! As it is today, the Directive's text clearly violates Articles 2, 3, 5,

6, 7, 8 & 9 of the 1948 Universal Declaration of Human Rights. Specifically, Article 13 of the Declaration states:

**1. Everyone has the right to freedom of movement and residence within the borders of each state. 2. Everyone has the right to leave any country, including his own, and to return to his country.**

And worst of all, there is the possibility of imprisonment for mothers and children, without taking into account their family or school situation, in these detention facilities where we know depression, hunger strikes and suicides take place. How can we accept undocumented Latin American compatriots and brothers who've worked and integrated themselves over years, being put in concentration camps, without reacting? On what side is today's duty of humanitarian intervention? Where is the "freedom of movement," the protection against arbitrary imprisonment?

In parallel, the European Union is trying to convince the Andean Community (Bolivia, Colombia, Ecuador and Peru) to sign an "Association Agreement" which includes a Free Trade Agreement as its third pillar, with the same nature and contents as those imposed by the United States. We are under intense pressure from the European Commission to accept profoundly liberalized conditions for trade, financial services, intellectual property or our public services. Furthermore, under the heading of legal protection, we are being pressured over our process of nationalization of water, gas and telecommunications, as realized on International Workers Day [May 1st, 2006]. I ask, in this case, where is the "legal security" for our women, adolescents, children and workers who seek better horizons in Europe?

Freedom of movement is promoted for merchandise and finance, while we are faced with imprisonment without trial for our brothers who try to move freely. This is to deny the foundations of freedom and democratic rights.

Under these conditions, to approve this "Returns Directive," we would find it ethically impossible to extend the negotiations with the European Union, and we reserve the right to regulate European citizens through the same visa obligations that have been imposed on Bolivians since the first of April, 2007, according to the diplomatic principle of reciprocity. We have not exercised it until now, as we awaited favorable signs from the EU.

The world, its continents, its oceans and its poles face difficult global challenges: global warming, pollution, the slow but sure disappearance of energy resources and biodiversity, while hunger and poverty increase in all countries, weakening our societies. To make migrants, documented or undocumented, scapegoats for these global problems is no kind of solution at all. It doesn't correspond to any reality. The problems of social cohesion suffered by Europe are not the fault of migrants, but the result of a development model imposed by the North, which is destroying the planet and dismembering the society of mankind.

In the name of the Bolivian people, of all my brothers in the continental regions of the world such as Maghreb, Asia and the countries of Africa, I call on the conscience of the European leaders and parliamentary members, the people, citizens and activists of Europe, to reject the first draft of the "Returns Directive."

That which we have before us today, is a shameful directive. I also call on the European Union to elaborate, in the coming months, a migratory policy that is respectful of human rights, that would maintain this beneficial dynamism for both continents and might repair once and for all the enormous historical, economic and ecological debt that the European countries have with a large part of the Third World, which might close at once Latin America's still open veins. They must not fail today at "policies of integration," as they failed with their supposed "civilizing mission" in colonial times.

Fraternal greetings from Bolivia to all of you, authorities, Members of Parliament, and comrades. And in particular, our solidarity to all those who are "hidden" [clandestine].

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