

Exile on Varick Street

'Excludable Aliens' Fight a Desperate Battle

BY ELLEN PALL

DEAR SIR:
"WE THE UNDERSIGNED DETAINEES WHO HAVE APPLIED FOR REFUGEE POLITICAL ASYLUM... HAVE BEEN DETAINED FOR SEVERAL MONTHS AND WE CAN NO MORE BE DETAINED FOR THE REST OF OUR LIVES. THEREFORE WE ARE READY TO STARVE TO DEATH."

ALI AKBAR, whose name is one of 17 signed to this hand-lettered press release, boarded a plane for Montreal a year ago. Jailed in Iran three times for political reasons, Ali had fled the Khomeini regime with his family, found himself unable to obtain valid travel documents, and had spent his remaining money on air tickets and false Spanish passports purchased in Turkey. The plane to Montreal had mechanical trouble. It made an unscheduled stop at JFK. There the U.S. immigration officer who checked their papers spoke to them in Spanish.

"We didn't understand him," Ali's wife told me last week, "so he could tell something was wrong. We said we want to go to Canada. They said 'You must go back.' At that time I was crying, crying, because I know what will happen if we go back. My husband said, 'Don't worry, we are not going back.' He went to the bathroom and cut his hands. For each hand 66 stitches." Ali was taken to a hospital, his wife and son to the U.S. Immigration and Naturalization Service Processing Center at 201 Varick Street. Released two weeks later, with 45 Canadian dollars and no knowledge of Ali's whereabouts, the wife and son slept for two December

nights on the sidewalk in front of the center.

Since leaving the hospital, Ali himself has been at 201 Varick, as are the others who declared the hunger strike. Aliens from many parts of the world—Chad, Afghanistan, Ethiopia, Ghana, Iran, Nicaragua, and Zaire—all of them arrived at a U.S. port of entry (usually JFK) during the past 15 months and requested asylum. All, like Ali, were found to have either inadequate or falsified passports or visas. Because they had not yet officially entered the U.S., they were categorized "excludable aliens." Many could have afforded bail, but unlike the hundreds of thousands of aliens who make it across our borders each year before their documents, if any, can be examined, undocumented excludable aliens have by law no right to bond.

Most of the Varick Street hunger strikers can prove the "well-founded fear of persecution" requisite for the granting of asylum. The policy that nevertheless imprisons them while their cases are settled has an unsavory history. In 1954, citing fiscal as well as humanitarian reasons, the U.S. shut down its facilities at Ellis and Angel islands and ceased routine detention of refugees on entry. Thereafter, people were detained

only if deemed a threat to society or thought likely to abscond before their cases were resolved.

In 1981, however, alarmed by thousands of refugees fleeing Duvalier's Haiti and arriving in overcrowded, open boats on the coast of Florida, the Reagan administration proposed massive repatriations of these "excludable aliens." The refugees filed lawsuits charging discrimination. The government's response, in July 1982, was not to release them but to issue rules requiring the categorical detention of all arriving undocumented aliens—a response that, to paraphrase Arthur Helton, Political Asylum Project director for the Lawyers Committee on Human Rights, provided for the equal mistreatment of others. By seeking to deter refugees from coming to the U.S. without valid documents, the new policy appears to violate the intentions of both the U.N. Protocol relating to the Status of Refugees, to which the U.S. is a party, and the U.S. Refugee Act of 1980. The latter was meant, among other things, "to insure a fair... asylum policy which is consistent with this country's tradition of welcoming the oppressed." The associate attorney general in charge of immigration affairs at the time, who testified to Congress on the new policy and oversaw its codification, was Rudolph Giuliani. By Helton's estimate, the 1982 regulation now results nationwide in the protracted imprisonment of 200

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to 300 aliens a year, many from Africa and the Near East. Ira Kurzban, President of the American Immigration Lawyers Association, estimates the cost since 1982 of implementing this policy to be in the hundreds of millions of dollars.

The pale, brick government building at 201 Varick Street takes up a whole city block. The medium-security INS detention facility on its fourth floor was intended to hold people for short stays only. Its dark windows do not open and there is no prison yard—no fresh air, only fluorescent light. Its inmates sleep 50 to a room. There are no social programs; the center's library contains only Spanish-language illustrated novels.

Most of the people who pass through the center—usually immigrants with "permanent resident" status who, having been convicted of crimes here and served their sentences, now face deportation back to their countries of origin—stay no more than a month. But the asylum-seekers detained among them are typically held 16 months and longer while their cases are heard. A group of Marielitos—who had themselves tried a hunger strike first—rioted at 201 Varick last January, breaking windows and shouting down to the street: "We are human beings! Help us!"

In a waiting room there last Wednesday I sat next to

Ali Akbar's wife. She told me that her husband, weakened by fasting, was now in the infirmary. A few days before, he had been shackled to his bed by guards for trying, against their orders, to phone her.

In a large, guarded room I spoke with two other Iranians and three Ghanaians, all wearing the regulation yellow coveralls. After 16 days of fasting, all were thin; one Iranian briefly rested his head on a table to fight off dizziness. He and his friend, persecuted under Khomeini after expressing dissident political beliefs, stowed away on a Panamanian freighter and leapt into what they thought was the freedom of New York waters last January. Two of the Ghanaians, former soldiers, took part in an attempted coup against the regime of Flight Lieutenant Jerry Rawlings, for which they have been sentenced in absentia to death. The third, an architecture student at New York Institute of Technology, was visiting Ghana after six years in the U.S. when he was warned of his imminent arrest for involvement with an opposition group here. He fled at once, arriving without proper papers seven months ago.

On November 30, the Lawyers Committee filed a request with J. Scott Blackman, assistant district director for detention and deportation in New York, for the release of the hunger strikers on grounds that

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their detention is "not in the public interest." Blackman, at whose discretion the strikers could be released, said Thursday that he is reviewing the cases; but he also noted, "Most of these people have made prior parole requests which were denied." He considers the men essentially line-jumpers who cut ahead of "millions waiting patiently abroad."

The detained Cubans who

views of their cases. So far the nonviolent protesters on Varick Street have fasted for three weeks almost unobserved. They have been isolated, "So we can monitor their physical well-being," Blackman explained. Their use of the phone has been severely limited. Two are in the hospital, tied to their beds and forced to receive IVs. Some have been compelled by medical complications to quit the strike. The final perverse twist is

the U.S. government, recognizing their legitimate fears of persecution, will in most cases eventually grant them immigration parole—freedom. "These people are being used as examples," said New York AILA chair Allan Wernick, "punished to deter others from coming. Though overwhelmingly they will get out, they live in constant fear of being returned to face persecution in their countries. The conditions where they're held

only fluorescent light. Its inmates sleep 50 to a room. There are no social programs; the center's library contains only Spanish-language illustrated novels.

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The detained Cubans who rioted in Oakdale, Louisiana, and Atlanta last month have been assured “fair and equitable” individual re-

views of their cases. So far the nonviolent protesters on Varick Street have fasted for three weeks almost unobserved. They have been isolated, “So we can monitor their physical well-being,” Blackman explained. Their use of the phone has been severely limited. Two are in the hospital, tied to their beds and forced to receive IVs. Some have been compelled by medical complications to quit the strike. The final perverse twist is that even if the hunger strikers’ asylum claims are ultimately denied on the grounds of irregular entry,

the U.S. government, recognizing their legitimate fears of persecution, will in most cases eventually grant them immigration parole—freedom. “These people are being used as examples,” said New York AILA chair Allan Wernick, “punished to deter others from coming. Though overwhelmingly they will get out, they live in constant fear of being returned to face persecution in their countries. The conditions where they’re held are worse than most state and federal prisons. When you think about it, that’s a form of torture.” ■