

Beyond 2015: Shaping the future of equality, human rights and social justice (12 and 13 February 2015)

Session 5: Where do we want to be? Future studies – how do we want UK society to look in ten years' time?

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I'm an academic and I'm here to talk to you from a more theoretical position perhaps. I am really a socio-legal scholar so I look at the law but I also look at the impact of law in society, and the impact of society on the law.

Thinking about the future, I thought well OK, in 2025, who might we want to benefit? I thought children, why don't we think about the young and what might be good for them in the future in terms of equality. A few days ago I read a very interesting case from the Court of Appeal which related to European Union law. So I am trying to bring in a global aspect here, thinking beyond the borders of this island.

This case is part of a continuing saga. Some of you might be familiar with the Zambrano case decided by the European Court of Justice in 2011, which basically said that national governments have to provide a right of residence for persons who do not have citizenship of an EU Member State, if they are the carer of a child that is a European citizen. In other words, this ruling prevented Member States from deporting any third country national or person without a nationality of the European Union who could demonstrate that if they had to leave they would also have to take their European Union citizen with them. In so doing, they would then deprive the European Union citizen of the genuine enjoyment, and that is the phrase that the Court of Justice used, the genuine enjoyment of the substance of citizenship – their citizenship rights under European Union law.

Then I thought, equality, citizenship, what does citizenship mean if you are a child? If we think about the substance of citizenship, you think about the trilogy set up by Marshall in the 50s, most of those things only apply to adult citizens. You can only really exercise your right to vote, you can only exercise the social rights if you are an adult. What is the substance if you are a child? Surely, the substance has to be a right for

your parents, whether they are citizens or not. Coming back to the decision that was taken a few days ago, this case related to a number of challenges that have been brought asking the Court to review the way in which the British government have decided to implement this European decision from 2011 i.e. to provide residency rights for a non-national parent of a child that is a European Union citizen.

What the government decided to do was to promulgate regulations which did provide a right to residence for these parents, but deprived them of access to basic benefits. So, these carers who are predominantly women from Africa – 57% are from Nigeria, Ghana, Tanzania, Gambia, also from Jamaica – they can stay but they can't gain access to any non-contributory benefits. Some have the right to work, but nonetheless, they have no access to non-contributory benefits. Some don't have the right to work, and don't have access to those benefits, so these women who are in need, have to rely upon emergency powers given for temporary assistance under Section 17 of the Children Act.

As I said, the Zambrano decision was in 2011. In 2025 the children of these women who are allowed to stay in the UK and in other parts of the European Union but don't have access to basic social assistance will be teens – 13, 14, 15, perhaps a bit younger, perhaps a bit older. So the question is: What is my vision of equality for them?

Obviously, well it seems obvious to me, my vision of equality for them has to start with equality for their parents. I think what we need to do at the present is to really look at policies and their impact on migrants, on welfare, and on education. Now I don't have any specific remedies but going back to migration, I think what we need to do is challenge this idea that we want Britain to be a place that is hostile to immigrants, which is the declared policy at present. I think we need to think very carefully about the claims that are being made that benefits are being abused and if we do agree that benefits are being abused, I think we need to think very carefully about the source of that abuse, and whether it is those who are coming to this country, rather than perhaps those who are already here.

I think we need to think about indirect racial discrimination, and what the sense of integration might be for these children when they reach their teens and they have had to watch their carer, predominantly their mother, struggle to exist and just survive rather than thrive. Coming back to academia, I think we need to think about how we can use academic research resources and our institutional connections to promote a fairer outcome for these children in 2025.

Summing up, I think for me the key thing to a fairer future is to look at citizenship from the eyes of the child, work at defining what citizenship means for children. Perhaps we should take the children of the so called Zambrano carers as a starting point and think about what citizenship means for them, and in so doing, return to the core values of the welfare state, which as I understand it was that the risks of capitalism should not lie where they fall. Then we should use our academic resources to conduct research, to collect evidence, to assess the impact of regulations and think about the long-term and short-term consequences for these mothers and their children, because in ten or twenty years' time, we wouldn't want to be in a situation where we have allowed our current laws to create a new under class that is likely to be predominantly black.