



Amnesty International

DOWN AND OUT IN LONDON

The road to destitution for rejected asylum seekers

EXECUTIVE SUMMARY

To flee persecution and conflict in their own country, the majority of the world's refugees escape over a land border to a neighbouring country. Many abandon their families, homes and livelihoods to reach safety. A small proportion risk an often hazardous journey to the UK.

The vast majority of those who seek asylum in the UK are rejected. Each year around two-thirds of asylum applications made to the Immigration and Nationality Directorate (IND) at the Home Office are ultimately refused (including any appeal to the Asylum and Immigration Tribunal).¹

Once the applicant's claim has been rejected and there is no outstanding appeal they are expected to leave the country within 21 days. Financial support and accommodation provided by the National Asylum Support Service (NASS) are cut off after 21 days for single adults and childless couples and they are prohibited from working. Families with children continue to receive financial support and accommodation.² However, for a number of reasons – and often through no fault of their own – many do not leave but remain in the UK and at this point become destitute.³

The report examines what happens to rejected asylum seekers, why they do not leave the UK, and what can be done to avoid such destitution.

Disparity of numbers

There is a huge disparity between the number of people refused asylum and the number who are either removed by the Immigration Service or make a voluntary departure. The National Audit Office (NAO) estimated that based on data for failed applications and known removals as of May 2004, between 155,000 and 283,500 rejected asylum applicants were awaiting removal from the UK.⁴ The House of Commons Committee of Public Accounts concluded that on the basis of these figures and without any new unsuccessful applications, it would take between 10 and 18 years to tackle the backlog at the IND's removal rate.⁵

1 The latest statistics from the Home Office show that 80 per cent were refused asylum (and humanitarian protection or discretionary leave to remain). Of those who appealed against the refusal of asylum, 73 per cent had their appeals dismissed.

2 Asylum seekers and their dependants who are unable to support themselves during the asylum process are given financial support and accommodation by the National Asylum Support Service (NASS) and are dispersed out of London. For families with children whose asylum claims have been finally rejected, support continues under Section 94 (3A) of the Immigration and Asylum Act 1999 until the family leaves or is removed from the UK, or until the youngest child reaches 18. From December 2004 the Home Office piloted the cessation of support for families not cooperating with their removal, under Section 9 of the Asylum and Immigration (Treatment of Claimants etc) Act 2004. Currently this pilot is under review by ministers. For information on how this affected the families concerned, see: Refugee Council/Refugee Action, *Inhumane and ineffective – section 9 in practice*, January 2006 and Barnardo's, *The end of the road: the impact on families of section 9*, November 2005.

3 Section 95 of the Immigration and Asylum Act 1999 defines a person as destitute if they are unable to access adequate accommodation or meet the essential living expenses (food and other essential items) for themselves and their household for the next 14 days.

4 NAO, *Returning failed asylum applicants*, July 2005.

5 House of Commons Committee of Public Accounts, *Returning failed asylum applicants*, Thirty-fourth Report of Session 2005-6, HC 620, March 2006. The Public Accounts Committee acknowledged that the gap had narrowed between the number of newly unsuccessful applicants and removals effected, but this was due to the falling number of applications rather than more effective removal action.

THE REPORT

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Published by Amnesty International UK
© Amnesty International UK
November 2006

ISBN 1873328 67 2
ISBN 978 1 873328 67 5
£5

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'Where the removal of a failed asylum seeker is delayed through no fault of his own, it is morally unacceptable for him to be rendered destitute.'

Home Affairs Committee 2004

For the foreseeable future, thousands of rejected asylum seekers in the UK are condemned to live in abject poverty, stripped of their dignity and relying on others to subsist. Sometimes they go hungry and sleep in the streets. All avenues to a normal life are blocked. There is little incentive to remain in contact with the Home Office at this stage and therefore the whereabouts of many rejected asylum seekers are unknown.

Many have lived in this situation for long periods. There is some statutory provision for those who are destitute and temporarily unable to leave the country, so-called Section 4 support, which consists of accommodation and £35 of subsistence vouchers per week (no cash). But the majority of rejected asylum seekers do not apply for this or are not eligible.⁶ Those who do receive Section 4 support often wait months to access it and are left destitute in the interim.⁷

While an asylum claim is being processed, the applicant is entitled to free health care. Once appeal rights are exhausted, rejected asylum seekers are entitled to NHS primary health care. But since 1 April 2004 they are denied free health care at NHS hospitals unless it is for emergency treatment or to continue with treatment they were already receiving. All other secondary care treatment is chargeable. This applies to all rejected applicants, whether receiving Section 4 support or not, including pregnant women, cancer patients and diabetics.⁸ To protect the health of the public, many communicable diseases are exempt from charges. For HIV/AIDS, however, initial testing and counselling are free but treatment is chargeable. Rejected asylum seekers are denied treatment or are presented with a bill for their health care.

Living on charity

For the report, Amnesty International interviewed rejected asylum seekers who were predominantly living on the charity of others in London. Parallel research was conducted by Refugee Action, who focused on other areas in England.⁹

Those interviewed for the report came from Iraq, Iran, the Democratic Republic of Congo, Burundi, Somalia, Zimbabwe, Eritrea, and Sudan. All of them expressed a fear of returning home and faced the prospect of living in poverty indefinitely, or until their departure to their country of origin was enforced, as none would return voluntarily. The researchers also interviewed many of those who work with destitute asylum seekers on a daily basis.

The report does not argue the merits of the asylum claims to say whether the individuals whose cases are cited should qualify for Refugee Status or are deserving of international protection. Instead it attempts to show through illustrative case studies the desperate plight of many of the rejected asylum seekers who remain in the UK.

Reporting on asylum applications in January 2004 the House of Commons Home Affairs Committee noted 'where the removal of a failed asylum seeker is delayed through no fault of his own, it is morally unacceptable for him to be rendered destitute'. Yet the evidence from the case studies in this report suggests that the very aim of Home Office policy is to make rejected asylum seekers destitute to force them to go home. Clearly this policy is failing to achieve its aims.

⁶ For eligibility criteria for Section 4 support, see page 9. According to the Home Office statistical bulletin, 10,235 people were granted support under Section 4 in 2005. At the end of June 2006, 6,145 applicants excluding dependants were in receipt of Section 4 (Hard Case support).

⁷ For more details see Citizens Advice, *Shaming destitution: NASS section 4 support for failed asylum seekers who are temporarily unable to leave the UK* a Citizens Advice evidence briefing, June 2006.

⁸ For more details see Refugee Council/Oxfam, *First do no harm: denying healthcare to people whose asylum claims have failed*, June 2006.

⁹ Leicester, Manchester, Derby, Liverpool, Nottingham, Bristol, Plymouth, Southampton and Portsmouth.

Destitution – the human cost

DIMINISHED LIVES

SURVIVING WITH FRIENDS' HELP

Patrice, 38, Democratic Republic of Congo

Patrice, a TV and radio journalist from Kinshasa, applied for asylum in October 2004. His case was finally refused, and his financial support and accommodation ended in June 2005. Patrice has been homeless since then.

With no money to travel on public transport, he walks around London and survives on the charity of friends. He also receives some assistance from a voluntary organisation, which provides him with food parcels and contact with his community in London. He tries to keep busy and is learning English to take his mind off his situation.

After he separated from his wife and daughter whom he has not seen for a year and who live in another part of the UK, a friend put him up for some months but has now told him to leave. He moves around finding a bed for the night wherever he can.

He has had psychological problems as a result of being imprisoned and tortured in DRC. This remains untreated.

In June 2003, Patrice was covering a big political meeting at a stadium in Kinshasa when two men in civilian clothing grabbed his microphone. There followed a police assault which broke up the meeting. The recording equipment was destroyed in the process. Patrice managed to take the tape from the camera but was beaten up and arrested. He was initially taken to a detention centre, where he was drenched with water and held for seven days. All his tapes and archives were confiscated.

He was transferred to the south-east of the country, where he was detained and tortured for a year. He was eventually helped to escape. His original plan was to flee to another African country but he learned that his wife and daughter had escaped to the UK during the time he was detained.

An agent arranged his passage to the UK and once he arrived he was assisted to find his wife and daughter. He had his own legal representation but transferred to his wife's lawyer as her case was made on the basis of his persecution in the DRC.

In November 2004 he was interviewed at the Home Office in Croydon about his asylum claim. He complained that the interpretation was poor and the interviewer jumped from question to question, not giving him time to explain his story in full. At his interview he was asked 105 questions.

His claim was refused 12 days later because the Home Office did not think he was credible. He appealed, but this too was dismissed. An application was made to the High Court in July 2005. He heard nothing but was routinely reporting to the Immigration Service in February 2006 when he was told that his application to the High Court had been refused in November 2005. He has only recently received a copy of this refusal.

Patrice's mother has told him the security service is still looking for him in Kinshasa and that his brother has been arrested.

'I feel demoralised and lost.'

Patrice

Conclusion

Amnesty International believes that a clear analysis compels the conclusion that rejected asylum seekers are being made destitute to force them to leave the UK. This policy is clearly failing, as many destitute rejected asylum seekers remain in the UK. Almost all the people interviewed for this report were living from hand to mouth, surviving on the charity of others, their dignity stripped away by this existence. Some seemed to have lost the will to live.

At the end of the asylum process in the UK, the majority of rejected asylum seekers subsist without any statutory assistance, while a minority receive the cashless Section 4 support.

The rejected asylum seekers interviewed for the report expressed deep disappointment and dissatisfaction at the unfairness and poor quality of the asylum process, and in some cases, the legal advice and representation they received. When the asylum process was finished and their financial support and accommodation ended, they described a bare existence, sometimes endured for years. All expressed their fears about return to their home country and none had applied to return voluntarily.

The people who work with rejected asylum seekers in London describe an appalling situation for thousands of people. As well as destitution, many are ill and need health care to which, however, they are not entitled.

A number, most particularly the Iraqi Kurds who have been in the UK for many years, refused to apply for Section 4 support as they believed they were being coerced into making a 'voluntary' return to Iraq. One of the criteria for Section 4 support is that an otherwise destitute rejected asylum seeker is taking 'all reasonable steps to leave the UK, or to place themselves in a position in which they are able to leave the UK'. This includes where the person has applied to the IOM under the Voluntary Assisted Return and Reintegration Programme.

Amnesty International believes that voluntary return should not involve coercion but should include the provision of independent advice to people before they have consented to their departure. The NAO report previously mentioned recommended that the IND should encourage more voluntary returns and that not enough was being done to raise the profile of the voluntary returns programme among applicants. A Pilot Enhanced Returns Scheme has been introduced and in the first three months of its operation 1,376 people made a voluntary return, more than the Home Office expected.

Amnesty International believes that rejected asylum seekers should not be left in this limbo situation for indefinite periods and that many asylum seekers cannot be returned for reasons beyond their control; they should not be penalised for this. The UK Government must not oblige people to live in abject poverty indefinitely due to a failure of the system to either grant them leave to remain or to make them return. Such people are living on the margins of society and are susceptible to exploitation in the black economy.

There are many reasons why the return of rejected asylum seekers may be impeded, for example:

- People fleeing persecution in most cases cannot safely obtain travel documents or valid visas from the authorities that are persecuting them. They have to resort to the services of smugglers and traffickers and are often instructed to return or destroy the travel documents. Many countries of origin do not cooperate with the re-documentation and readmission of their nationals.
- A country may not be safe for people to be returned there, indeed the circumstances may be life-threatening, even though asylum seekers from that country are not granted protection.
- Difficulties with transporting people where the airport in the country of origin is not operational.

- Individuals are not well enough to travel or may not be able to access adequate health care on return.
- Children separated from their parents, who cannot be traced.

Many feel lost and abandoned at the end of the asylum process when their application has been refused and their appeal dismissed, and at this point they may become destitute. There is little incentive at this stage for such people to remain in contact with the authorities.

Ministers are open to exploring the conundrum regarding rejected asylum seekers who cannot return home through no fault of their own and are likely to be here for a substantial period of time. The Government should look at alternatives to return. The Government should also recognise where it is not possible to enforce the return of rejected asylum seekers, and it should grant people in this situation leave to remain, and allow them to contribute to society and live a normal life.

No rejected asylum seeker should be forced into destitution or have to make an application for support to avoid destitution. If the rejected applicant is unable to leave the UK voluntarily or otherwise, for reasons beyond their control, they should remain on the same financial support and accommodation as during the asylum process or be allowed to work. If within six months they have not left the UK voluntarily or otherwise, they should be granted temporary leave to remain, which can be renewed.

The New Asylum Model introduces a 'specialist Case Owner responsible for managing claimants and their cases right through to integration or removal'.¹⁰ The Case Owner will have worked on the asylum claim from beginning to end and will be aware when there is little prospect of an asylum seeker being able to leave the UK. This should be reflected in the decision-making process.

Under the New Asylum Model rejected asylum seekers should not be forced into destitution but should continue with financial support and accommodation, entitlements and rights as during the asylum process until returned, voluntarily or otherwise. There should be no more destitute rejected asylum seekers in the UK.

¹⁰ Home Office press release 18 January 2006.

Recommendations

No rejected asylum seeker in the UK should be forced into destitution.

Rejected asylum seekers who cannot be returned to their country of origin should be given a legal status in the UK.

A fair returns policy should be implemented.

Rejected asylum seekers should be allowed to stay and work if they have skills or experience needed in the UK economy.

The New Asylum Model should ensure that rejected asylum seekers are not forced into destitution.

- The UK Government should ensure that:
 - To avoid destitution, rejected asylum seekers should continue to receive financial support and accommodation with the same entitlements and rights as provided during the asylum process, or given permission to work until their situation is resolved.
- The UK Government should:
 - Grant a temporary renewable status to rejected asylum seekers who cannot be returned voluntarily or otherwise to their country of origin for reasons beyond their control within six months.
 - Grant a temporary renewable status to rejected asylum seekers who are destitute, who have proved not removable for a number of months and where through no fault of their own there remains little prospect of prompt removal.
 - Grant a legal status to rejected asylum seekers who have been in the UK for a number of years, due for example to a long asylum procedure.
(Exceptions include where the applicant presents a risk to security or their presence in the UK is otherwise not conducive to the public good.)
 - The above to include the right to work or to claim benefits, with full access to health care and education.
- The UK Government should:
 - Ensure that rejected asylum seekers are only returned to their country of origin when sufficient guarantees are in place to ensure that their return is safe and dignified, with full respect for human rights.
 - The Government should continue with the Enhanced Reintegration Package under the Voluntary Assisted Return and Reintegration Programme launched as a pilot in January 2006.
- The UK Government should:
 - Assess the claims of rejected asylum seekers to see if they possess experience and skills that meet the needs of the UK economy.
 - If they do meet these needs, rejected asylum seekers should be considered for eligibility for leave to enter or remain to work.
- Under the New Asylum Model the Case Owner should:
 - Ensure that no rejected asylum seeker is forced into destitution. The end-to-end contact with a single Case Owner offers an opportunity for end-of-process support packages to be embedded in the system. These should mirror the level of financial support and accommodation, rights and entitlements as during the asylum process until the rejected applicant is returned voluntarily or otherwise to their country of origin.