

ASYLUM

A PEACE & PROGRESS BRIEFING PAPER

“[The] traditional tolerance [of the people of this country] is under threat. It is under threat from those who come and live here illegally by breaking our rules and abusing our hospitality”

Tony Blair, February 2005

There are two main reasons for primary immigration to the UK: people are either coming because they are forced to leave their own countries due to the risk to their lives or liberty (“refugees”) or in response to the need for both skilled and unskilled workers (“migrants”). This briefing paper looks at the situation facing refugees who come to the UK.

Refugees are defined in the 1951 UN Convention (the Refugee Convention) as people who have a well-founded fear of persecution due to their race, religion, nationality, political opinion or social group. They are people who cannot obtain the protection they need in their own country and require international protection. Most of those who arrive in the UK are from the most devastated countries of the world, often those blighted by war or internal conflict.

The UK is a signatory to the Refugee Convention and, in 1993, the Conservative government, with Michael Howard as Home Secretary, incorporated the Convention into British law. Both the Convention and the 1993 Act prevent the UK from returning people to a country where they fear persecution. It was followed by the Human Rights Act in 1998, when Jack Straw was Home Secretary in a Labour government, whereby the 1950 European Convention on Human Rights (the Human Rights Convention) became part of British law. The Human Rights Convention includes a prohibition on torture, inhuman or degrading treatment or punishment, preventing people being returned to face that kind of treatment in their own country.

Whilst a person is going through the assessment process to determine whether they are entitled to refugee status, they are defined as an “asylum seeker”, a term which The Daily Mail and The Sun frequently confuse with “illegal immigrant”. It is accepted by the international community, including the British government, that refugees can rarely arrive in the UK legally. When the Human Rights Bill was being discussed in parliament, Jack Straw stated that “the Government accepts that it is often very difficult for those who do have a well-founded fear of persecution to arrive in the UK legally to seek our help”. The irony is that if a refugee arrives in the UK with a valid passport without exercising deception to leave their country, their claim to be at risk - from a government that granted them exit and a passport - will be discredited. The Refugee Convention declares that a refugee should not be penalised for entering a country illegally but if the law does not allow it, the media and hence popular public opinion will condemn those who, by law, are forced to act illegally.

Since 1993 the system for both assessing an asylum claim and supporting asylum seekers has changed dramatically, with new systems rarely having an opportunity to be properly thought through or tested before a new one is introduced.

Since April 2000 the main system of support for asylum seekers has been through the National Asylum Support Service (NASS). NASS support is provided at 70% of income support (a

“subsistence benefit” and therefore intended to be the minimum income needed to survive). The bulk of public money administered through NASS does not go to asylum seekers but to the vast bureaucracy required to maintain it and to those providing accommodation. Asylum seekers are often dispersed to any part of the UK at short notice, with no guarantee that they will be allowed to remain at any address for any length of time. “Dispersal” is a system of forced internal migration whereby asylum seekers are placed into an area with no preparation for them or for the community into which they are placed. As landlords can accommodate more asylum seekers and obtain a higher rent than they could from the local population, preference in the allocation of accommodation by property owners or accommodation providers may be given to asylum seekers. The standard of the accommodation can vary considerably, with some being forced to live in overcrowded, sub-standard accommodation. There is little incentive to raise or maintain standards. Asylum seekers have no right to occupy and therefore no basis in law to challenge the quality of their accommodation or the number of people forced to occupy it. Local authority accommodation is usually from the ‘hard to let’ list and therefore must have been offered three times to people on the council’s waiting list before being allocated to asylum seekers.

Asylum seekers have no choice but to accept this limited form of state support because, from July 2001, they have not been allowed to work, despite their preference to do so. They are then labelled “scroungers”. Again the law sets the framework for the abusive terminology used by the media.

The vast majority of asylum applications are rejected leading to the description of “bogus asylum seekers” as though there is no merit in their claims. There are a variety of reasons why so many are rejected, including the political climate which is so antagonistic towards refugees that the Home Office essentially looks for reasons to refuse applications rather than making a fair and independent assessment of asylum claims.

In addition, the system for deciding an asylum application itself leads to the strong possibility of rejection. Two weeks after claiming asylum, an asylum seeker must submit a completed ‘questionnaire’ in English, describing exactly why they have left or cannot return to their own country. Any supporting documents must also be submitted with the questionnaire, with an English translation if appropriate. Shortly after the questionnaire is submitted the asylum seeker is called for an interview which is usually a cursory examination of their claim. In the vast majority of cases the Home Office rejects the application using out-dated sources of country information. All of this is now often done without the benefit of quality advice and assistance from a specialist immigration adviser due to the severe restrictions on legal aid for immigration and asylum work introduced by the present Labour government.

The result is that the UK is failing in its obligations towards refugees and is either removing people (sometimes quite brutally) to countries where they face imprisonment, torture or even death or forcing them to go ‘underground’ and join a ‘black economy’ of workers who are open to abuse and exploitation as their only means of surviving, in the knowledge that they cannot safely return to their country whatever the view of the Home Office.

The way in which we treat those who are the most vulnerable in our society, which includes those who are victims of war, conflict, imprisonment and torture, is a measure of the type of society we are living in. Like the anti-terror laws, what we do today against foreigners, will be done tomorrow against British citizens. We need to acknowledge the damage that the asylum laws and system are doing to ordinary people who are simply seeking refuge and a chance of a life free from fear. That is the starting point for an ethical asylum system that honours our obligations under the international conventions designed after the second world war to recognise the humanity and need for life of every person.